

# Special Education 101

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Disability Rights Texas



# Special Education Law and Purpose



- Sources of Special Education Law:
  - IDEA 20 U.S.C. §1400 et. seq. (34 C.F.R. §300)
  - Texas Education Code, Chapters 29 (Special Ed) and Chapter 37 (Discipline)
  - Commissioner of Education's Rules and State Board of Education Rules (19 TAC §89.1001 et. seq.)
- Purpose: To ensure that all children with disabilities have available to them a free appropriate public education ("FAPE") that emphasizes special education and related services designed to meet their unique needs and **prepare them for further education, employment, and independent living.** 42 U.S.C. § 1400(d)(1)(A)



# Entitlement and FAPE



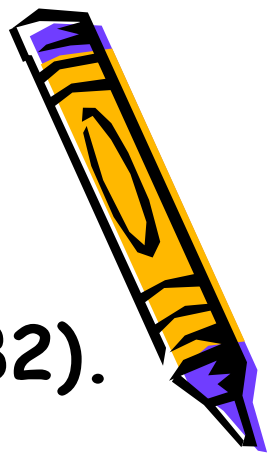
- IDEA guarantees that all students with disabilities age 3 through 21 have the right to a “free and appropriate public education” (FAPE). 21 means 21 at the beginning of a school year. Thus, 22 year olds can often be served in a district.
- The right to a FAPE ends when a student graduates with a regular high school diploma. This does not include students who have received a certificate of attendance or a certificate of graduation that is not a regular high school diploma. 34 C.F.R. §300.102(a)(3)(ii)
  - School districts deliver FAPE by providing “special education services” and “related services.”



# Services Standards

*Board of Ed. of the Hendrick Hudson  
Sch. Dist. v. Rowley, 458 U.S. 176 (1982).*

- The IEP must confer "meaningful benefit," which means that it must provide for "significant learning"
- IEP reasonably calculated to enable the child to benefit
- NOT a maximization of child's potential



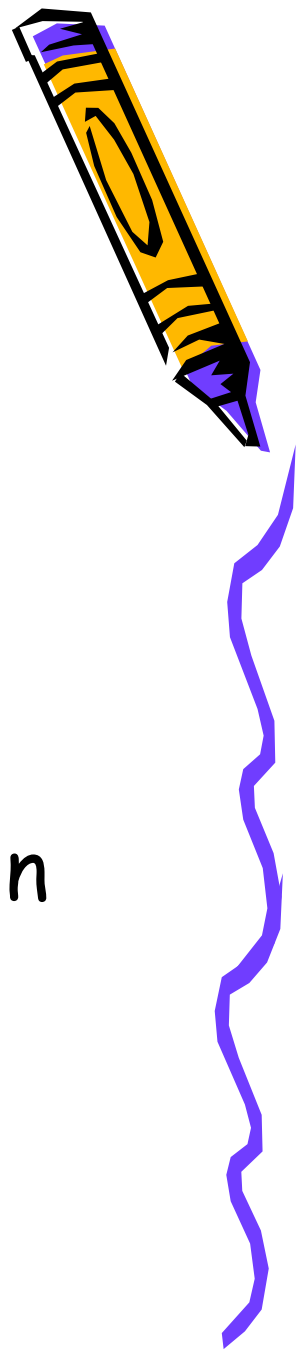
# Four Parts of the Special Education Process

1. Evaluations

2. Eligibility

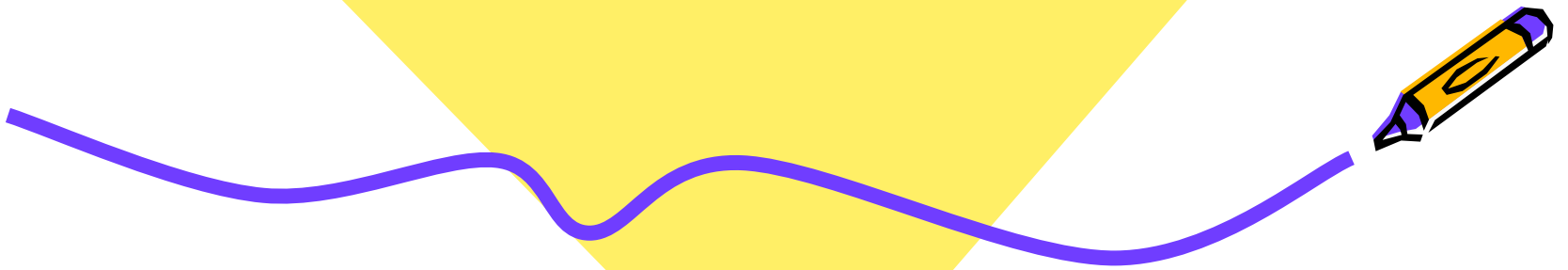
3. Individualized Education  
Programs (IEPs)

4. Placement





Evaluations



# Evaluations

Initial evaluation =

Full and Initial Individual Evaluation (FIE)

Any subsequent evaluations =

Full Individual Evaluation - School may refer to this as FIE or Reevaluation

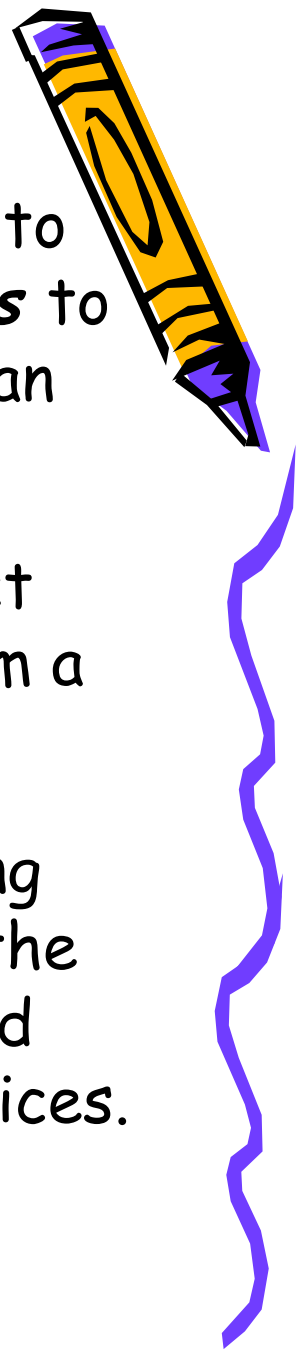
Review of Existing Evaluation Data (REED) =

School may do this instead of Reevaluation



# Initial Evaluations

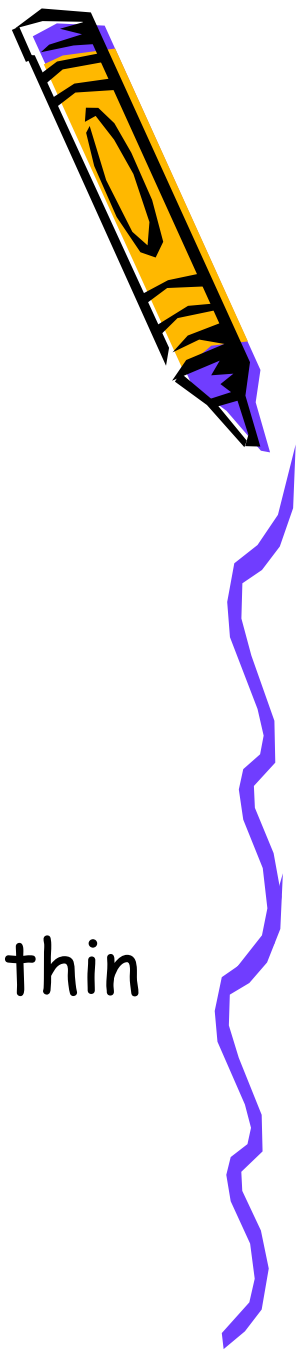
- Once a request for initial evaluation is submitted to the school district, the school has **15 school days** to obtain written consent from the parent or guardian to conduct the evaluation.
- The school district has **45 school days** to conduct the evaluation after receiving signed consent from a parent or guardian.
- The school has **30 calendar days** after completing the evaluation to hold an ARD meeting to review the results of the evaluation, determine eligibility, and develop an IEP if a child is found eligible for services.



Remember 15 - 45 - 30



# Reevaluations/REEDs



- Must be done every 3 years unless the parents and school agree otherwise
- Can be done once a year at parent's or school's request
- All reevaluations must be completed within a *reasonable amount of time*



# Prior Written Notice

If the school decides that they will not perform an evaluation, they must inform the parent or guardian in writing and explain what information they considered when making that decision and why they decided not to perform the evaluation



# Independent Educational Evaluation (IEE):

- If the parent or guardian disagrees with the school's evaluation, they can request an evaluation be conducted by an independent evaluator at the school's expense.
- Parent or guardian is entitled to one independent evaluation each time the school district conducts an evaluation. If it's been a year or more since the school district conducted an evaluation, they may request that they be given the opportunity to conduct a reevaluation before granting an independent evaluation.



# IEE Cont'd...

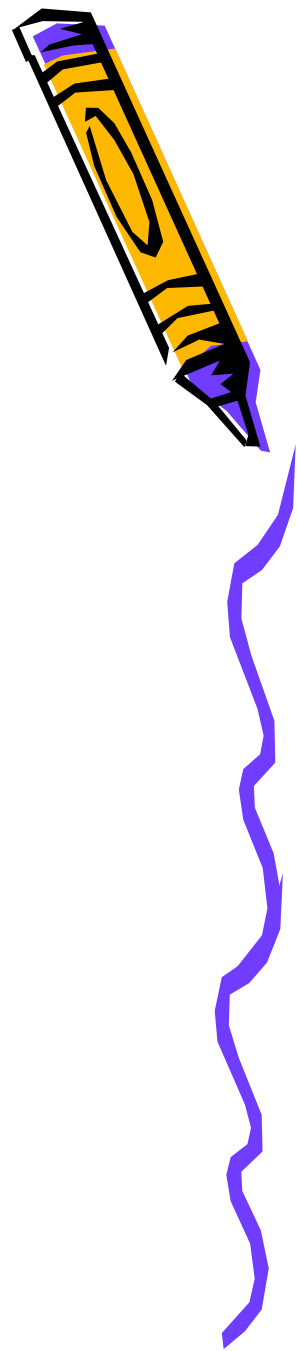
School has 2 options if you request an IEE:

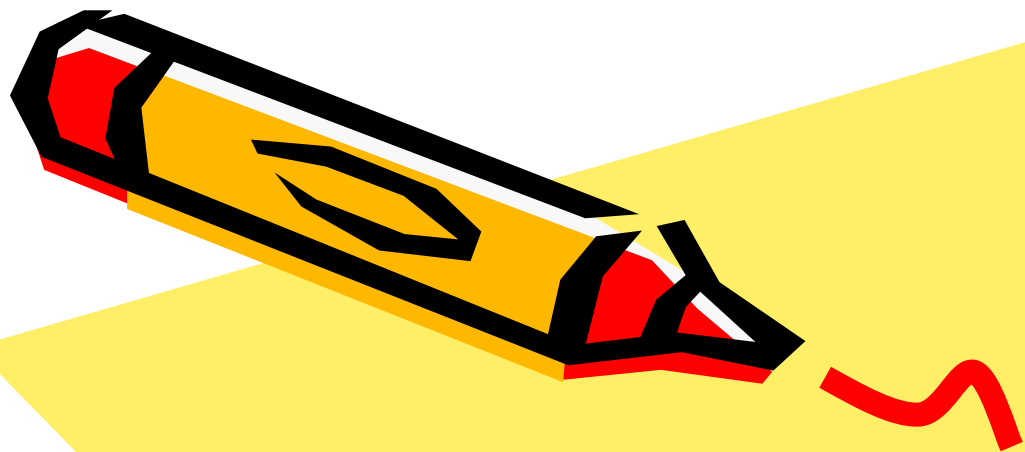
- Agree to conduct the IEE and pay for it
- File for a Request for Due Process Hearing to show that their evaluation is appropriate
  - Note: Usually less expensive and time consuming for the district to grant the IEE than file a request for a due process hearing



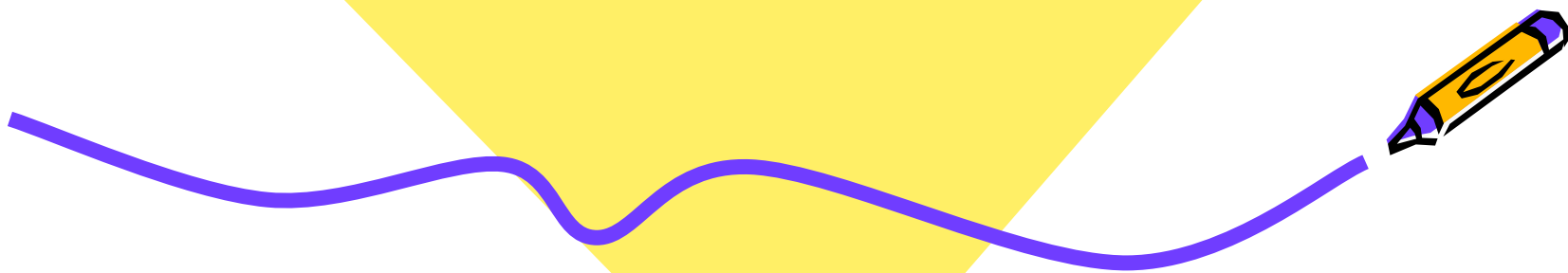
## IEEs Cont'd...

- You do not have to choose an evaluator from the school's list
  - Note: If you choose your own evaluator, they will have to meet the school's criteria
- You do not have to tell the school why you disagree
- The IEE must be completed within a reasonable amount of time





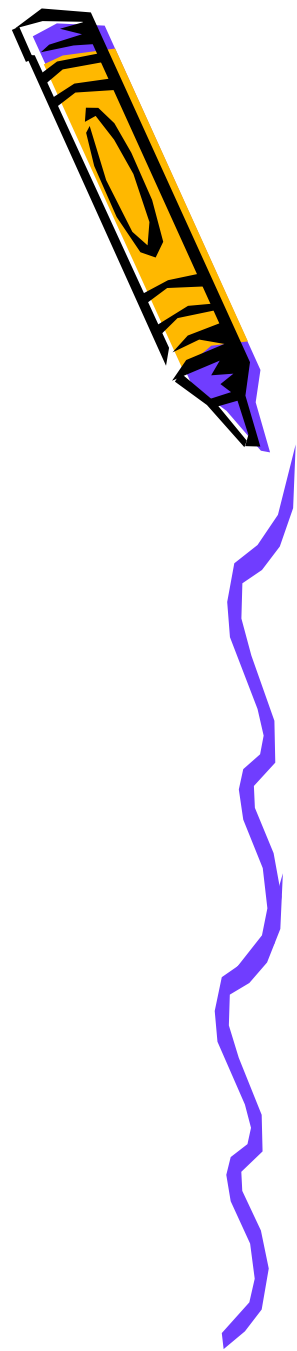
Eligibility



# Eligibility

## 2 part test:

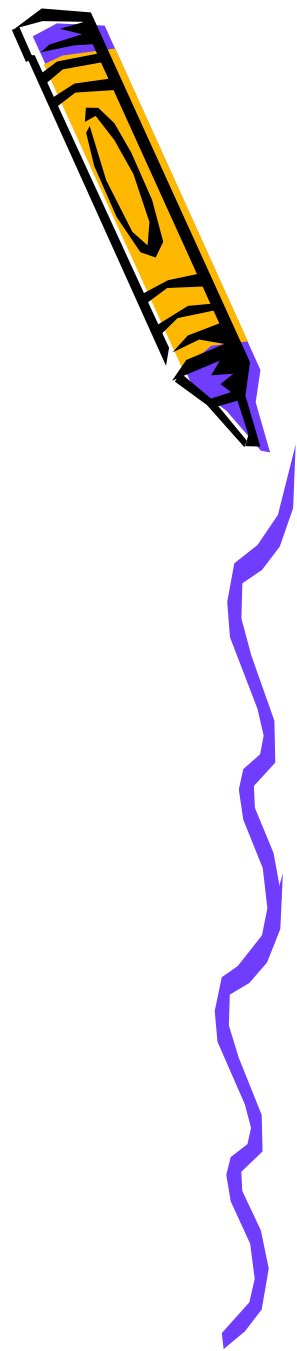
1. Child has been found to have a disability
2. "By reason thereof, needs special education and related services"



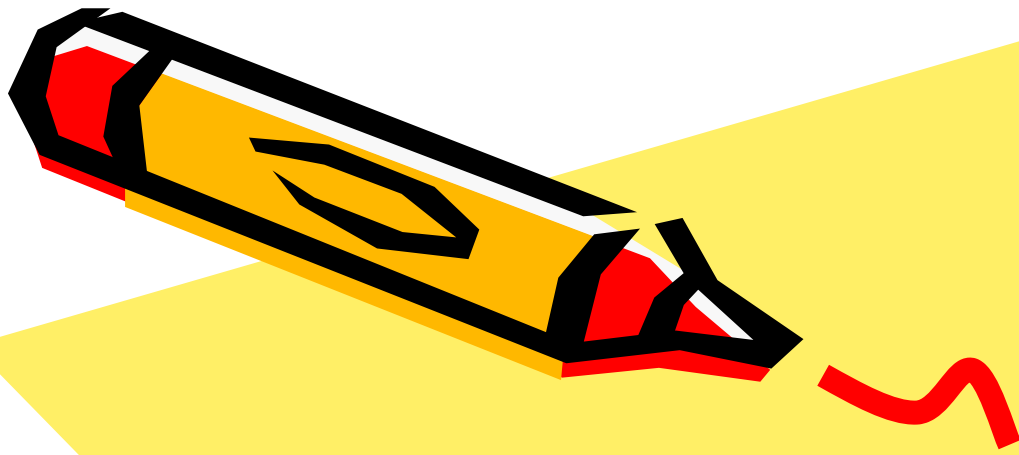
# Eligibility Cont'd...

Which Disabilities Qualify?

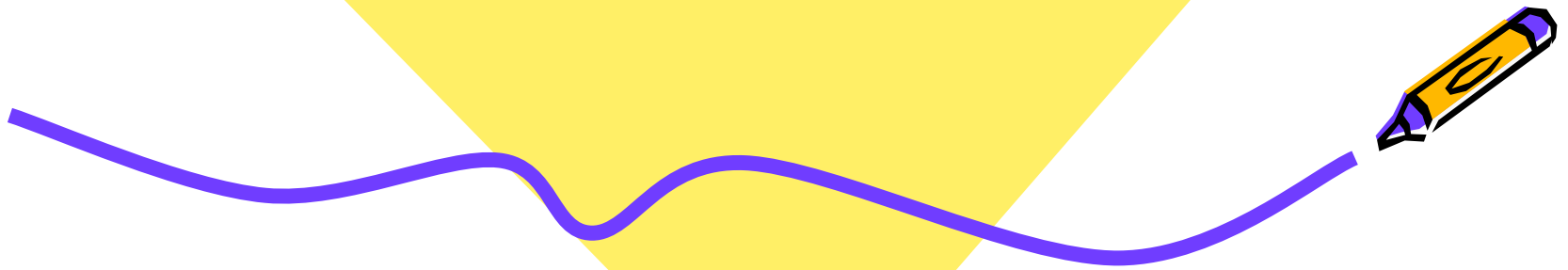
- Intellectual Disability
- Hearing Impairment
- Speech or Language Impairment
- Visual Impairment
- Serious Emotional Disturbance
- Orthopedic Impairment
- Autism
- Traumatic Brain Injury
- Other Health Impairment
- Specific Learning Disability
- Deaf-Blindness
- Multiple Disabilities







# Individualized Education Programs (IEPs)



# Individualized Education Programs (IEPs)

A written plan setting forth the agreement between the parents and the school on how the student will be educated, which can include:

- **Goals** (academic, behavioral, social, speech, etc.)
- **Placement**
- **Behavior Intervention Plan (BIP)**, if appropriate
- **Related Services**, if needed (speech therapy, occupational therapy, physical therapy, transportation, counseling and/or psychological services, etc.)
  - **Transition Services** (age 14 and older)
- **Supplements**, if appropriate (Autism and graduation supplements)



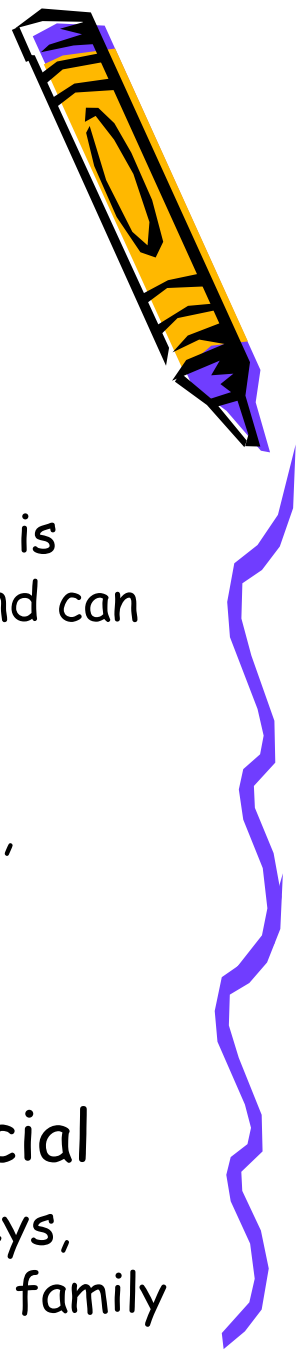
# Admission, Review, and Dismissal (ARD) Meetings



- The school district ***must*** conduct an ARD meeting at least once a year (annual ARD), but the parent or guardian can request an ARD meeting anytime to review the IEP, make requests for additional services and/or changes.
- The school district ***must*** provide the parent or guardian with a notice of the meeting ***5 school days*** in advance. The notice must state the purpose of the meeting and list who is invited.
- Parents and guardians have the right to be provided with copies of the student's records prior to an ARD.



# ARDs Cont'd...



- Required Members of the ARD Committee:
  - Parents or Legal Guardians
  - General Education Teachers
  - Special Education Teachers
  - School District Representative - person who is knowledgeable about the school district's resources and can commit those resources to the student
  - An individual who can interpret evaluation results - LSSP or Diagnostician, Speech Pathologist, Occupational Therapist, etc.
  - Student (when appropriate)
- Other Participants
  - Individuals who have knowledge or special expertise regarding the child - attorneys, advocates, outside therapists, family, friends of family
  - Other school personnel



## ARDs Cont'd...



### What Can You Ask for at an ARD Meeting?

- Additional evaluations
- Additional data
- Independent Educational Evaluation (IEE)
- Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)
- Different Placement
- Related Services
- Extended School Year Services (ESYS)
- Compensatory Education

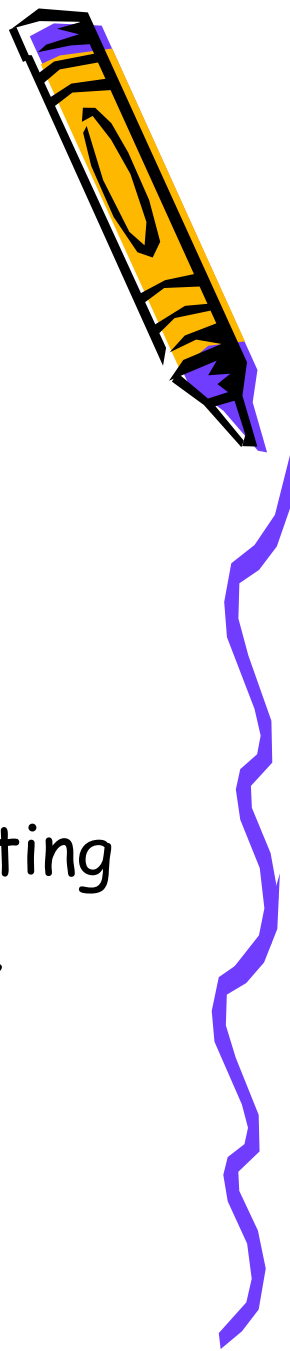


- Bottom Line: Parent or guardian can ask for anything at an ARD meeting

# ARDs Cont'd...

## ARD Meeting Minutes

- EVERYTHING asked for at an ARD meeting needs to end up in the minutes
- Make sure the minutes include the school's positive responses, negative responses, promises, responsible party, and timelines
- Review the minutes before you leave the meeting
- Submit an addendum after the meeting if the minutes are incorrect or something is missing
  - Get a copy of the minutes for your records before leaving the meeting



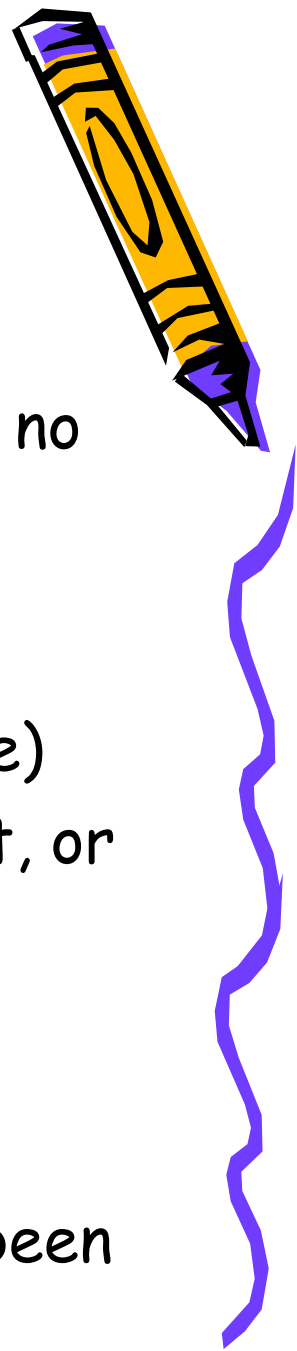
# Agree or Disagree with the IEP

- A parent or guardian has the right to disagree with their child's current or proposed special education services
- Alternatives to disagreement:
  - Take a break or table the ARD for a few days
  - Request to review the minutes and then decide to agree or disagree with proposed services

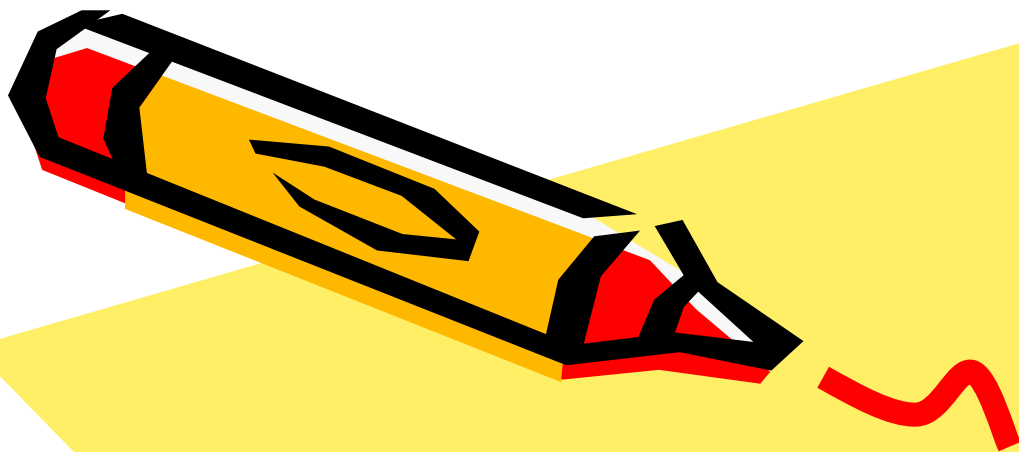


# Agree or Disagree Cont'd...

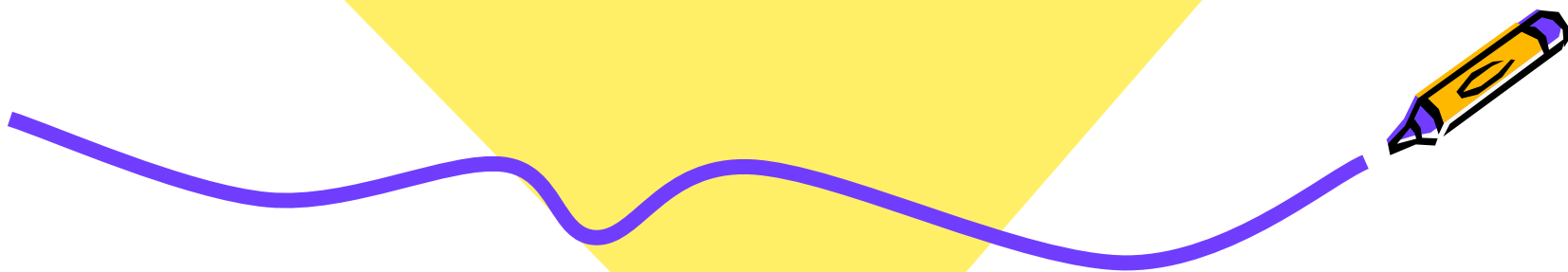
- If a parent or guardian agrees with absolutely everything in the IEP, they should sign agree
- If a parent or guardian disagrees with anything, no matter how small, they should sign disagree
- If parent disagrees, school must offer a 10-day reconvene ARD meeting; parent can attend the reconvene ARD or waive it (only parent can waive)
- Parent can prepare a statement of disagreement, or if they believe the minutes reflect what they specifically disagree with, they can waive the statement
- School cannot withhold services until agreement is reached; whatever has been agreed to, the school must implement







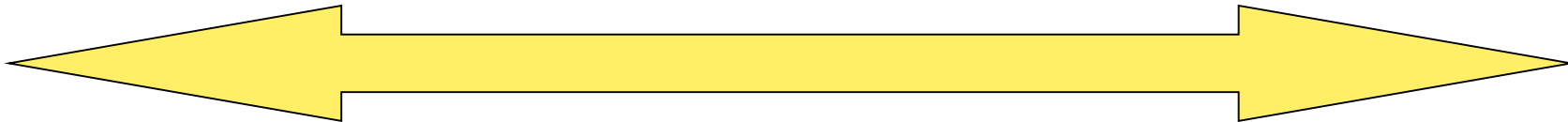
Placement



# Placement

Least Restrictive

Most Restrictive



Regular Class

Self-Contained Class

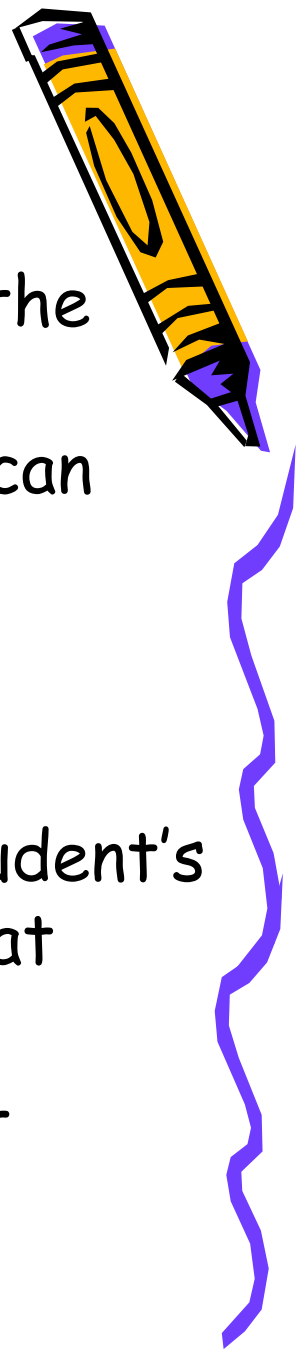
Separate Campus

Residential

- School districts are supposed to maintain a continuum of placements, i.e, general education setting with appropriate supports and services, content mastery rooms, resource rooms, life skills, behavior classes, autism classes, etc.
- Student can be in any combination of these settings needed to properly implement the IEP



# Placement Cont'd...

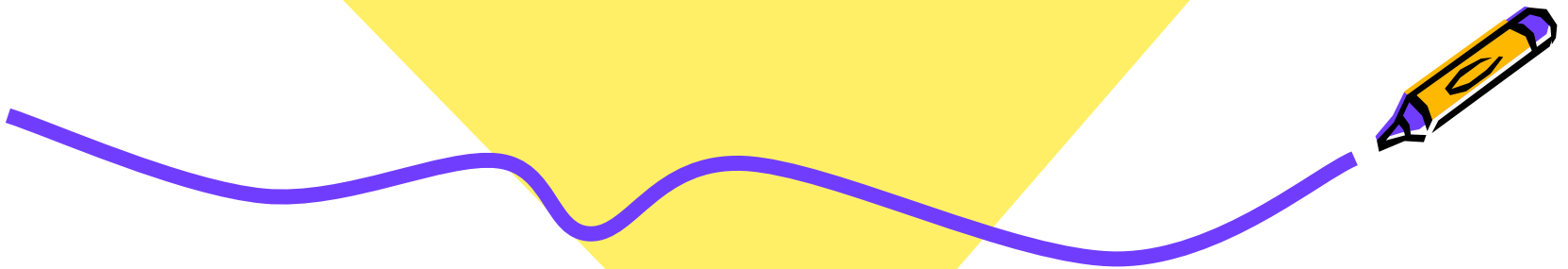


- After an ARD committee develops the IEP, the school is supposed to determine the Least Restrictive Environment where the student can work on their goals with accommodations, modifications, and supplementary aides and services
- If the IEP cannot be implemented at the student's home school, the school may place the child at another school within the district
  - If this is the case, the district must provide transportation

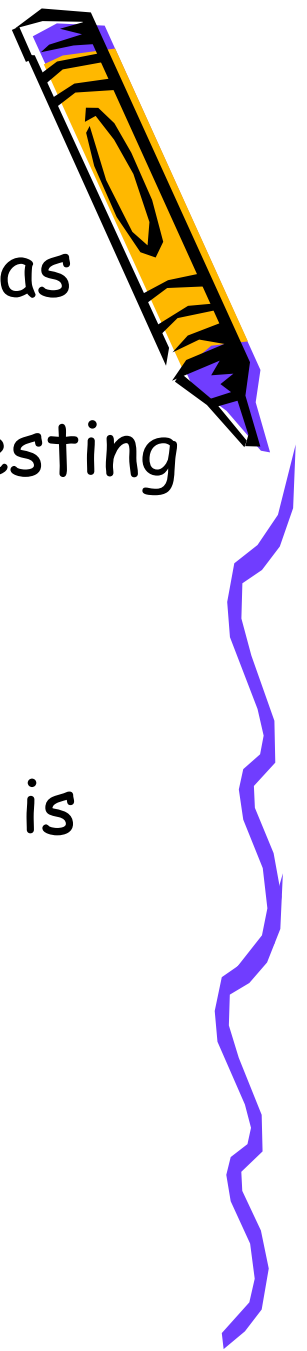




# Administrative Remedies



# Texas Education Agency (TEA) Complaint Process



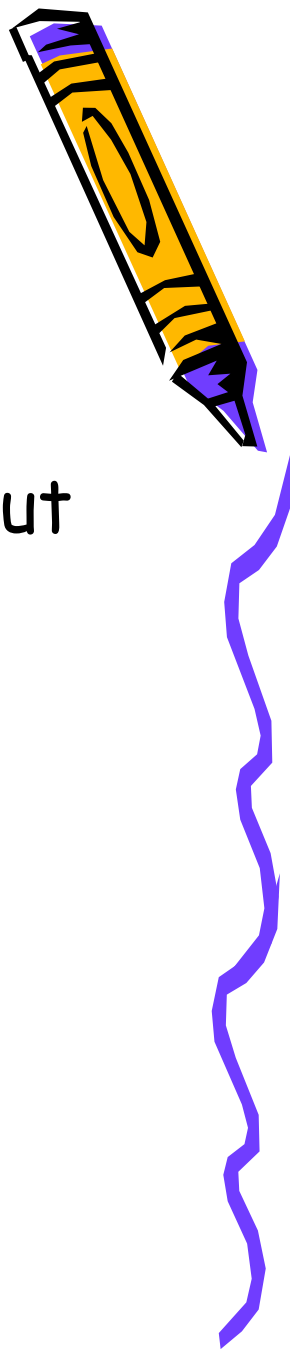
If a parent or guardian believes the school has violated their child's rights, they can:

- Write Letter of Complaint to TEA requesting investigation
- State the violations you believe have occurred
- State the facts on which your complaint is based **Be specific!**
- Attach important documents (ARD documents, evaluations, etc)
- State your proposed resolution
- Sign the complaint
- Send copy to the school district



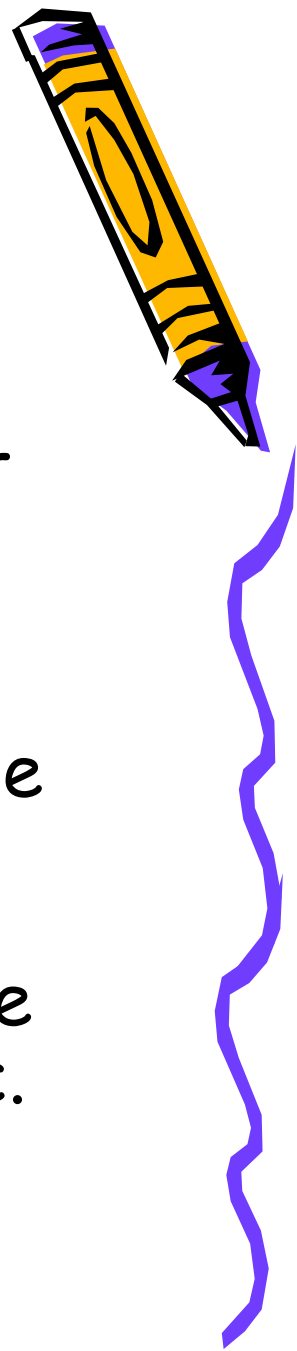
# Mediation

- Parents may request mediation whenever there is a complaint or disagreement about special education services
- Mediation is FREE
- School district must agree to mediation



# Due Process Hearing

- A parent or guardian may request an impartial due process hearing as a last resort when they feel the school district has violated their child's rights
- This is usually done when there is a disagreement between the parent and the school over placement, the type and/or amount of services, type of special education program, general denial of Free Appropriate Public Education (FAPE), etc.



# Due Process Hearing Cont'd...



- Resembles a trial, but a lawyer is optional; school district will most likely have their lawyer at the hearing
- Must present evidence, examine witnesses, may need an expert, etc.
- Must request hearing within *one year* of the time you knew, or should have known, of the wrongful action





# Due Process Hearing Cont'd...

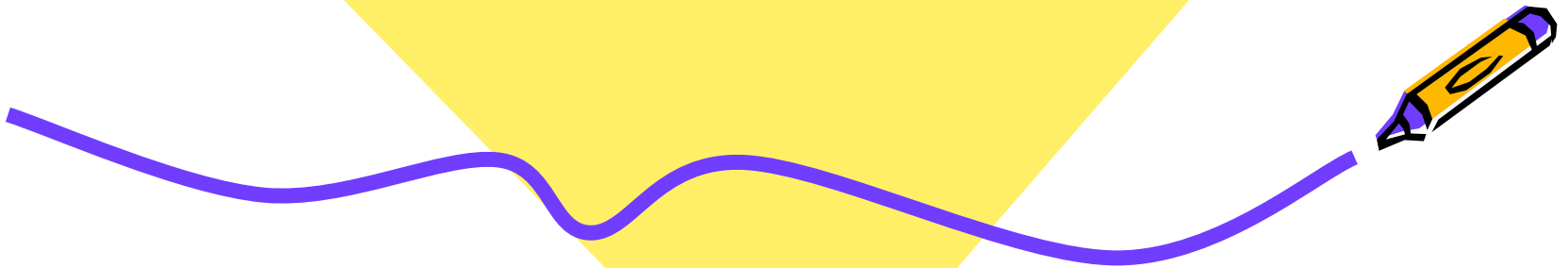
- Parent must first attend a resolution session
  - Held within 15 days from time district receives hearing request
- Can choose mediation, but school district has to agree
- If no agreement is reached within 30 days of hearing request, due process hearing can occur



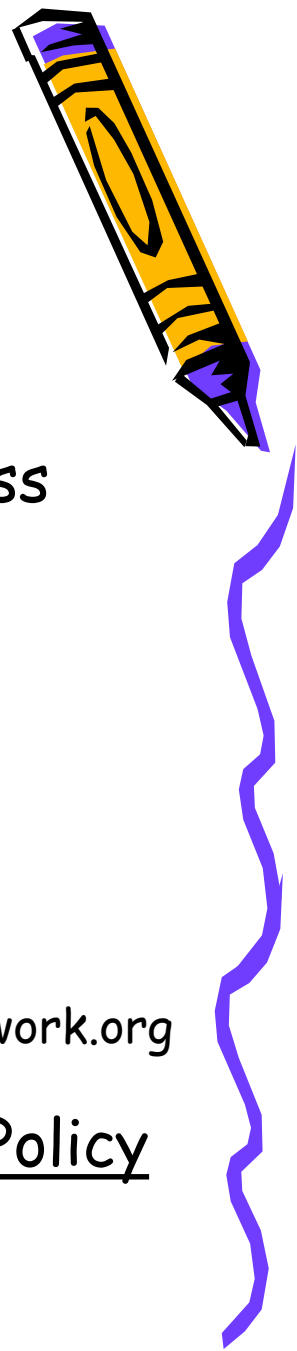


# FINDING HELP:

Resources and Contact  
Information



# Resources



- Texas Education Agency
  - Special Education Dispute Resolution Processes  
<http://www.tea.state.tx.us/index2.aspx?id=2147491399> (scroll down to "Dispute Resolution Systems Handbook")
  - Guide to Admission, Review, and Dismissal Process  
<http://www.tea.state.tx.us/index2.aspx?id=2147491399> (scroll down to "A Guide to the ARD Process")
  - Side by Side Guide  
<http://www.tea.state.tx.us/index2.aspx?id=2147497444> (scroll down to "Special Education Rules and Regulations (side-by-side)")
- Texas Project First - <http://texasprojectfirst.org>
- Family to Family Network - <http://www.familytofamilynetwork.org>
- Earl Carl Institute for Legal and Social Policy at Texas Southern University
  - Representation for School Tickets
  - Intake: 713-313-1139



# How Disability Rights Texas Can Help

- Types of cases for which we offer assistance:
  - Discipline
  - Ending and preventing illegal seclusion or restraint
  - Inclusion
  - Transition Planning
  - Assistive Technology
  - Advice and Tech Support on other issues
- Resources: <http://www.disabilityrightstx.org/resources/education>
  - How to Request an Initial Evaluation, How To File a TEA Complaint, IDEA Manual 2012, Independent Evaluations, School Transfer for Victims of Bullying, and Instructional Videos

**For help, call: (800) 252-9108**

