

# **BRAZOS INDEPENDENT SCHOOL DISTRICT SPECIAL EDUCATION OPERATING PROCEDURES: EMOTIONAL DISABILITY**

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BRAZOS ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of BRAZOS ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. BRAZOS ISD *Special Education Operating Procedures* are not to be for the purpose of creating a requirement that is not otherwise imposed by the Individuals with Disabilities Education Improvement Act (“IDEA”), together with its implementing federal regulations, state statutes and rules, as they shall from time to time be amended, and shall not be construed to create a higher standard than that established by IDEA. These *Special Education Operating Procedures* will be posted on BRAZOS ISD’s website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. BRAZOS ISD’s *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. BRAZOS ISD will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to state policy, or new legal interpretation as are necessary to bring BRAZOS ISD into compliance with the requirements of IDEA. BRAZOS ISD maintains systems to ensure that all students with disabilities residing in the District, including students with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education. BRAZOS ISD maintains systems to ensure that students with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.

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## **EMOTIONAL DISABILITY**

A student may be eligible for special education and related services as a student with an emotional disability if the student exhibits one or more of the following characteristics over a long period of time and to a marked degree that adversely affects educational performance<sup>1</sup>:

- an inability to learn, which cannot be explained by intellectual, sensory, or health factors;
- an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- inappropriate types of behavior or feelings under normal circumstances;
- a general pervasive mood of unhappiness or depression; or
- a tendency to develop fears or physical symptoms associated with personal or school problems.

The term "emotional disability " also includes students with schizophrenia. The term does not include a student who is socially maladjusted unless the ARD Committee determines based on evaluation by a group of qualified professionals that the student has an emotional disability consistent with the criteria outlined above.<sup>2</sup> The term “social maladjustment” is a persistent pattern

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<sup>1</sup> The term emotional disability is synonymous with the term emotional disturbance and serious emotional disturbance, as these terms are used in federal or state law pertaining to students eligible for special education and related services

<sup>2</sup> 34 C.F.R. § 300.8(c)(4)

of violating social norms with truancy, substance abuse, perpetual struggle with authority or manipulation.<sup>3</sup>

With respect to the criterion that the student manifest one or more characteristics of emotional disability to a “marked degree,” this generally refers to the frequency, duration, or intensity of a student’s emotionally disturbed behavior in comparison to the behavior of peers and can be indicative of either degree or acuity or pervasiveness.<sup>4</sup>

The definitions of conditions or categories that are used for purposes of establishing an individual’s eligibility for mental health services, as found in the Diagnostic and Statistical Manual of Mental Disorders (DSM), are not synonymous with criteria used for determining whether a child is a “child with a disability” for purposes of establishing eligibility for services under the IDEA.<sup>5</sup> IDEA neither requires nor precludes the application of the DSM criteria in making eligibility determinations. The DSM classification system may assist the group of qualified professionals in evaluating and diagnosing disability conditions in students, including the disability condition of emotional disability.<sup>6</sup>

The group of qualified professionals conducting an evaluation of a student suspected of having an emotional disability will conduct assessments and observations, and collect data, as necessary for the ARD Committee to make an eligibility determination.

The group of qualified professionals must ensure that the written evaluation report includes specific recommendations for behavioral supports and interventions.<sup>7</sup>

**PRACTICE GUIDE**—When evaluating a student suspected of having an emotional disturbance, the group of qualified professionals conducting the evaluation may consider components such as observation during structured and unstructured times and/or a behavior rating scale including ratings by more than one rater. The group may consider additional components such as a functional behavioral assessment (FBA), disciplinary history, and the student’s history of in-patient or other hospitalizations or therapeutic placements. The group completing the evaluation may consider specifying examples of how the student manifests the characteristics that may be the basis of the student’s serious emotional disturbance eligibility. If appropriate to understand private evaluation reports, their recommendations or conclusions, or the student’s placement history, the District may seek the parent’s or guardian’s consent to release and exchange confidential information with the private provider. Recommendations in the evaluation report should be based upon the student’s unique needs rather than the area of eligibility.

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## For more information

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<sup>3</sup> *Hansen v. Republic R-III School District*, 632 F.3d 1024 (8<sup>th</sup> Cir. 2011); *Springer v. Fairfax County School Board*, 134 F.3d 659 (4<sup>th</sup> Cir. 1998).

<sup>4</sup> *Letter to Anonymous* (OSEP 8/11/1989)

<sup>5</sup> *Letter to Coe* (OSEP 9/14/1999)

<sup>6</sup> *Letter to Woodson* (OSEP 4/5/1989)

<sup>7</sup> 19 TEX. ADMIN. CODE §89.1040(c)(4)

In Texas, eligibility is determined by the student's Admission, Review and Dismissal (ARD) committee.<sup>8</sup> The phrase *multidisciplinary team* refers to the group of District staff tasked with using a variety of assessment tools and strategies to gather relevant functional, academic and developmental information about the student, including information provided by the parent, as part of the special education evaluation process.<sup>9</sup> For more information, please contact The Director of Specialized Instruction.

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**Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:**

- Multi-Tiered Systems of Support or Intervention Data Reports
- Student specific data collection and monitoring
- Observation data
- Evaluation Reports
- Collection of information from parents and independent service providers
- ARD committee reports

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<sup>8</sup> 19 TEX. ADMIN. CODE § 89.1040(b); 19 TEX. ADMIN. CODE § 89.1050(a)(5)

<sup>9</sup> 34 C.F.R. § 300.306