ATTACHMENT I

Statutory Citations Relating to Emergency and Amendment to 19 TAC Chapter 89, Adaptations for Special Populations, Subchapter AA, Commissioner's Rules Concerning Special Education Services, Division 2, Clarification of Provisions in Federal Regulations and State Law, §89.1070, Graduation Requirements

Texas Education Code, §28.025, High School Diploma and Certificate: Academic Achievement Record, as amended by Senate Bill 149, Section 2, 84th Texas Legislature, Regular Session, 2015 (excerpts):

(c) A person may receive a diploma if the person is eligible for a diploma under Section 28.0251. In other cases, a student may graduate and receive a diploma only if:

(1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) and complies with Section 39.025; or

(2) the student successfully completes an individualized education program developed under Section 29.005.

(c-6) Notwithstanding Subsection (c), a person may receive a diploma if the person is eligible for a diploma under Section 28.0258. This subsection expires September 1, 2017.

Texas Education Code, §28.0258, High School Diploma Awarded on Basis of Individual Graduation Committee Review, as added by Senate Bill 149, Section 3, 84th Texas Legislature, Regular Session, 2015 (excerpts):

(a) This section applies only to an 11th or 12th grade student who has failed to comply with the end-of-course assessment instrument performance requirements under Section 39.025 for not more than two courses.

(k) The commissioner shall adopt rules as necessary to implement this section not later than the 2015-2016 school year.

(l) This section expires September 1, 2017.

Texas Education Code, §29.001, Statewide Plan:

The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(1) ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities;

(2) facilitate interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;

(3) periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of
representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4) ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of students with disabilities who cannot be appropriately served in their resident districts;

(5) allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Section 42.006, are accurate and complete;

(6) ensure that appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district admissions, review, and dismissal committees;

(7) ensure that an individualized education program for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;

(8) ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes;

(9) ensure that each student with a disability is provided necessary related services;

(10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b), is required to:

(A) complete a training program that complies with minimum standards established by agency rule;

(B) visit the child and the child's school;

(C) consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;

(D) review the child's educational records;

(E) attend meetings of the child's admission, review, and dismissal committee;

(F) exercise independent judgment in pursuing the child's interests; and

(G) exercise the child's due process rights under applicable state and federal law; and

(11) ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

(A) to request a review of the student's individualized education program;

(B) that provides for a timely district response to the teacher's request; and

(C) that provides for notification to the student's parent or legal guardian of that response.
Texas Education Code, §29.005, Individualized Education Program (excerpts):

(a) Before a child is enrolled in a special education program of a school district, the district shall establish a committee composed of the persons required under 20 U.S.C. Section 1401(11) to develop the child's individualized education program.

(b) The committee shall develop the individualized education program by agreement of the committee members or, if those persons cannot agree, by an alternate method provided by the agency. Majority vote may not be used to determine the individualized education program.

Texas Education Code, §39.025, Secondary-Level Performance Required, as amended by Senate Bill 149, Section 4, 84th Texas Legislature, Regular Session, 2015 (excerpts):

(a-2) Notwithstanding Subsection (a), a student who has failed to perform satisfactorily on end-of-course assessment instruments in the manner provided under this section may receive a high school diploma if the student has qualified for graduation under Section 28.0258. This subsection expires September 1, 2017.

(a-4) The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.