

## L R E including Residential Placement

**Lackland ISD**

**CD# 015913**

### **Legal Framework: Least Restrictive Environment**

#### **3.5 *How does a student's ARD committee make a placement decision?***<sup>1</sup>

To the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.<sup>2</sup> Once a student's IEP is fully developed, the Special Education Coordinator, Speech Pathologist, and/or Campus Administrator shall ensure that the student's ARD committee considers, and the student's IEP documents, a placement determination based upon the individual needs of the particular student and the appropriate and least restrictive educational environment in which the IEP can be implemented. When making a placement decision, the Special Education Coordinator shall ensure that the ARD committee considers a continuum of alternative placements.

What does it mean to have a continuum of placement options for students? The District shall make available a continuum of alternative placements listed in the definition of special education under 34 C.F.R. § 300.38 (e.g., instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services to be provided in conjunction with placement in the general education setting to facilitate such placement.<sup>3</sup> The IEP, evaluations and other relevant data guide the ARD committee in making placement decisions.

Before moving a student to a more restrictive environment<sup>4</sup>, the student's ARD committee shall consider ---

- Has the District taken steps to accommodate the student with disabilities in general education?
- Were these efforts sufficient or token?
- Will the student receive an educational benefit from general education?

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<sup>1</sup> *A.B. v. Clear Creek ISD*, 75 IDELR, 787 F.App'x 217 (5<sup>th</sup> Cir. 2019); *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5<sup>th</sup> Cir. 1989); *J.H. v. Fort Bend Indep. Sch. Dist.*, 482 Fed. Appx. 915 (5<sup>th</sup> Cir. 2012)

<sup>2</sup> 34 CFR § 300.114 (a)

<sup>3</sup> 34 C.F.R. § 300.115(b); 34 C.F.R. § 300.115(b); 19 TEX. ADMIN CODE §89.63

<sup>4</sup> 34 C.F.R. § 300.116(e)

- What will be the student’s overall educational experience be in the general education environment, balancing the benefits of general and special education?
- What effect does the student’s presence have on the general education classroom environment?<sup>5</sup>

Residential Treatment Centers (RTCs) or private residential programs are included in the continuum of placements.<sup>6</sup> The District is not required to place a student in a private residential program unless such placement is necessary to provide special education and related services. In order for a residential placement to be appropriate under the IDEA, the placement must be (1) essential in order for the student to receive a meaningful educational benefit, and (2) primarily oriented toward enabling the student to obtain an education. The District is not required to bear the costs of private residential services that are primarily aimed at treating a student’s medical difficulties or enabling the student to participate in non-educational activities.<sup>7 8</sup>

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<sup>5</sup> *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5<sup>th</sup> Cir. 1989)

<sup>6</sup> 34 C.F.R. § 300.115

<sup>7</sup> *Richardson ISD v. Michael Z*, 580 F.3d 286 (5<sup>th</sup> Cir. 2009); 34 C.F.R. § 300.104

<sup>8</sup> Tex. Ed. Code § 29.008; Tex. Ed. Code § 29.012; 19 TEX. ADMIN. CODE § 89.61; [TEA’s Residential Treatment Center \(RTC\) application process](#); 34 C.F.R. § 300.325(a)