

SPECIAL EDUCATION

OPERATING PROCEDURES

Administration

ADMINISTRATION OF EQUIPMENT

June 2022



Administration of Equipment

What is Required

If the Secretary of Education determines that a program authorized under the IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, the Secretary is authorized to allow the use of those funds for those purposes.

“Equipment” includes machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:

- Instructional equipment and necessary furniture;
- Printed, published, and audio-visual instructional materials;
- Telecommunications, sensory, and other technological aids and devices; and
- Books, periodicals, documents, and other related materials.

The ARD Committee for a student must also consider whether a student with a disability needs an assistive technology device (ATD) to receive FAPE. *See* [SPECIAL FACTORS – Assistive Technology]. An ATD means any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of the student with a disability. The District is responsible for providing the assistive technology device (“ATD”) that is required by the student’s IEP. If the student’s ARD Committee determines that the student needs access to school-purchased ATDs in the student’s home or in other settings in order to receive a FAPE, the District must provide it. This determination should be made on a case-by-case basis. Furthermore, when the student with a disability using an ATD that the District has purchased for the student enrolls in another campus within the District or leaves the District altogether, the District may transfer the ATD to the school or district in which the student enrolls, a state agency that provides services to the student following graduation from high school, or to the student’s parents or the adult student. *See* [CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES].

The District must comply with state and federal funding requirements when acquiring equipment and supplies. *See* [FUNDING].

Equipment in Private Schools

The District must control and administer the funds used to provide special education and related services to students with disabilities parentally-placed in private schools, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the IDEA. *See* [CHILDREN IN PRIVATE SCHOOLS] and [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS]. Any special education and related services provided to students with disabilities parentally-placed in private schools, including materials and equipment, must be secular, neutral, and nonideological.

The District may place equipment and supplies in a private school for the period of time needed for the IDEA Part B program. However, the District is responsible for ensuring that equipment and supplies placed in a private school are used only for IDEA Part B purposes and can be removed from the private school without remodeling the private school facility. Furthermore, the District must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for IDEA Part B purposes or removal is necessary to avoid unauthorized use of equipment and supplies for other than IDEA Part B purposes.

Transfer of an ATD

When a student with a disability using a device changes the school of attendance in the District or stops attending a school within the District, the District may transfer an ATD. Transfer means the process by which the District that has purchased an ATD may sell, lease, or loan the device for the continuing use by the student with a disability changing the school of attendance in the District or leaving the District.

The District may only transfer an ATD to:

- The school or District in which the student enrolls;
- A state agency that provides services to the student following graduation from high school; or
- The student's parent or the adult student, if the student has the legal capacity to enter into a contract.

All transfers must be in accordance with a transfer agreement. Specifically, in the transfer agreement, the transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles. The transfer agreement must also include the informed consent of the parent and adult student before transferring an ATD. *See* [CONSENT TO TRANSFER ASSISTIVE TECHNOLOGY DEVICES].

If the transfer is a sale, a Uniform Transfer Agreement must be completed. The Uniform Transfer Agreement must include the following:

- The names of the transferor and the transferee;
- The date of the transfer;
- A description of the ATD being transferred;
- The terms of the transfer, including the transfer of warranties, to the extent applicable; and
- The signatures of authorized representatives of both the transferor and the transferee.

Nothing in this section:

- Alters any existing obligation under federal or state law to provide ATDs to children with disabilities;
- Requires the District to transfer an ATD to any person or entity;
- Limits the District’s right to sell, lease, loan, or otherwise convey or dispose of property as authorized by federal or state laws, rules, or regulations; or
- Authorizes any transfer of an ATD that is inconsistent with any restriction on transferability imposed by the manufacturer or developer of the ATD or applicable federal or state laws, rules, or regulations.

Additional Procedures

If the ARD Committee determines that a student with disabilities requires ATDs in order to receive a FAPE, the IEP must include a specific statement of such services, including the nature and amount of the services. *See* [SPECIAL FACTORS – Assistive Technology]. The District does not satisfy its responsibility to provide an ATD required by the student’s IEP by allowing the student to use a personal device, absent an agreement to that effect.

Any decision as to whether a student may take home an ATD issued by the District must be made by the ARD Committee based on a student’s individual needs and circumstances. The District may not implement a blanket policy prohibiting students with disabilities from bringing their ATDs home.

Responsibility for Acquisition and Maintenance of Devices

The District is responsible for the acquisition and maintenance of an ATD belonging to the District. Furthermore, all ATDs provided for in the student’s IEP must be provided at no cost to the parents and parents cannot be charged for normal use, wear and tear. While the District cannot consider the cost of an ATD to select a device that is inconsistent with the student’s needs, the District does not need to select a more costly device that may provide more or better assistance to the student and maximize the student’s education.

Texas Assistive Technology Network

The Texas Assistive Technology Network (TATN) is a partnership between Education Service Center (ESC) Region 4 and the TEA. Contacts from each of the 20 ESCs collaborate to provide statewide assistive technology (AT) training and technical assistance. The purpose of the assistance and training is to build school district capacity related to AT and to improve literacy skills of all students who need access to instructional materials in alternate formats. Training modules, assistive technology resources, and other useful links can be accessed on the TATN website at www.texasat.net.

Transitions and Transfers

The TEA will develop and annually disseminate standards for a school district's transfer of an ATD. The standards will include a uniform transfer agreement to convey title to an ATD and applicable warranty information, a method for computing the fair market value of an ATD, including a reasonable allowance for use, and a process for obtaining written consent to the transfer from the student's parents or the adult student. In accordance with these standards, District Special Education Administration will determine whether the District will donate, loan, sell, or lease the device during the transfer. Should the District decide to transfer the device, District Special Education Administration will determine the current fair market value of the ATD, in accordance with these standards.

After the current fair market value is determined, the District must determine whether a financial obligation to the TEA exists if the ATD was purchased with federal funds. If the ATD has a current per-unit fair market value of less than \$5,000, the District may sell or otherwise transfer the ATD with no obligation to the TEA. However, if the ATD has a current per-unit fair market value of more than \$5,000, the TEA will have a right to an amount calculated by multiplying the current market value or proceeds from the sale by the TEA's share of the equipment.

The District must continue using equipment it purchases with Part B funds for as long as it needs the equipment to carry out the purposes of its Part B program. Since transition planning and services are essential aspects of a Part B program, students with disabilities who are provided ATDs should continue to use the devices as needed during their transition. Once the student leaves the District, the District can transfer ownership of the equipment to the state agency if the District has determined that it no longer needs the device in connection with its Part B program or for any other Federally-supported project or activity that the District conducts.

ATDs are often customized or otherwise modified to suit the individual needs of a particular student with a disability. Thus, it may be possible that the District will no longer need the ATD once the student leaves the District. If that is the case, the District may transfer the device to the new district or state agency that is serving the former student for whom the device was originally purchased.

Evidence of Implementation

- ARD/IEP
- Withdrawal Paperwork
- Enrollment Paperwork From New School
- Request for Transfer of ATD
- Transfer Agreement
- Uniform Transfer Agreement
- Consent to Transfer ATD
- Communication Log

Resources

[The Legal Framework for the Child-Centered Special Education Process: Administration of Equipment - Region 18](#)

[OSEP Letter to Picard \(June 22, 2006\) - U.S. Department of Education](#)

[OSEP Letter to Picard \(Apr. 5, 2005\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Nov. 27, 1991\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Serving Children with Disabilities Places by Their Parents in Private Schools \(April 2011\) - U.S. Department of Education](#)

[OSEP Letter to Goodman \(June 21, 1998\) - U.S. Department of Education](#)

[Uniform Transfer Agreement - Texas Education Agency](#)

[Assistive Technology - SPEDTex](#)

[Texas Assistive Technology Network \(TATN\)](#)

CITATIONS

Board Policy EHBAE; 34 CFR 300.105, 300.138, 300.14, 300.144, 300.718(a); 2 CFR 200.313;
Texas Education Code 30.0015(a)-(d); 19 Texas Administrative Code 89.1056(b),(d)

STAFF RESPONSIBLE

For questions about Administration: Administration of Equipment contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION

OPERATING PROCEDURES

Administration

ADMINISTRATION OF PROGRAM INFORMATION

June 2022



Administration of Program Information

What is Required

The District must provide the Texas Education Agency (TEA) with necessary information relating to the performance of students with disabilities participating in programs carried out under the IDEA in order for the TEA to carry out its own duties under the IDEA. Specifically, according to the IDEA, the TEA must have in effect established goals and performance indicators to assess progress toward achieving these goals for the performance of children with disabilities in the state of Texas that:

- Promote the purpose of the IDEA which is to ensure that all students with disabilities have available to them a FAPE that emphasizes special education and related services designed to meet the student's unique needs and prepare them for further education, employment and independent living; to ensure that the rights of students with disabilities and their parents are protected; to assist states, localities, educational service agencies and federal agencies to provide for the education of all students with disabilities; and to assess and ensure the effectiveness of efforts to educate students with disabilities;
- Are the same as Texas' long-term goals and measurements of interim progress for students with disabilities under section 1111(c)(4)(A)(i) of the ESEA;
- Address graduation rates and dropout rates, as well as such other factors as Texas may determine; and
- Are consistent, to the extent appropriate, with any other goals and academic standards for students established by Texas.

However, it is important to note that the TEA does not have a performance indicator in any agency monitoring system, including the Results Driven Accountability (RDA), formerly Performance-Based Monitoring Analysis System (PBMAS), that solely measures a District's aggregated number or percentage of enrolled students receiving special education and related services.

Information Regarding Disproportionality

The TEA collects and examines data through the Public Education Information Management System ("PEIMS") to determine if there is significant disproportionality based on race and ethnicity occurring within the state and Texas school districts with respect to:

- The identification of students as students with disabilities, including the identification of students as students with particular impairments;
- The placement of students with disabilities in particular educational settings of such children; and

- The incidence, duration, and type of disciplinary removals from placement, including suspensions and expulsions.

If it is determined by TEA that there is significant disproportionality related to the identification of students as students with disabilities or the placement of such students in particular educational settings, including disciplinary removals of such students, the District will be required to publicly report on the revision of policies, practices, and procedures consistent with the requirements of FERPA.

Information Regarding the Provision of a FAPE

Annually, the District must provide the TEA data through PEIMS regarding the number and percentage of students with disabilities receiving FAPE, disaggregated by race, ethnicity, limited English proficiency status, gender, and disability category. The TEA will then report this information to the secretary of education and the public.

Information Regarding Least Restrictive Environment (“LRE”)

Annually, the District must provide the TEA data through PEIMS regarding the number and percentage of students with disabilities who are (1) participating in regular education; and (2) in separate classes, separate schools or facilities, or public or private residential facilities, disaggregated by race, ethnicity, limited English proficiency status, gender, and disability category. The TEA will then report this information to the secretary of education and the public.

Information Regarding the Termination of Services

Annually, the District must provide the TEA data through PEIMS regarding the number and percentage of students with disabilities ages 14-21 who have stopped receiving special education and related services because of program completion including graduation with a regular secondary school diploma, or other reasons, and the reasons why those students stopped receiving special education and related services. This information must be disaggregated by race, ethnicity, limited English proficiency status, gender, and disability category. The TEA will then report this information to the secretary of education and the public.

Information Regarding Children Parentally-Placed in Private Schools

The District must maintain in its records and provide to the TEA information regarding the number of students parentally-placed in private schools who were evaluated, who were determined to be students with disabilities, and who were served. The District must provide this information to the TEA

Information Regarding Participation in State or Districtwide Assessments

With the same frequency and in the same detail as it reports on the assessment of students without

disabilities, the TEA, or the District in the case of a District-wide assessment, will make available and report to the public the following:

- The number of students with disabilities participating in regular assessments, and the number of those students who were provided accommodations that did not result in an invalid score in order to participate in those assessments;
- The number of students with disabilities participating in alternate assessments aligned to the state’s content and achievement standards in school years prior to 2017-2018;
- The number of students participating in alternate assessments based on modified academic achievement standards prior to 2016-2017;
- The number of students with disabilities participating in alternate assessments aligned to alternate achievement standards; and
- The performance of students with disabilities on regular assessments, modified assessments prior to 2016-2017, and on alternate assessments prior to 2017-2018, if statistically reliable information does not reveal personally identifiable information about an individual student, compared with the achievement of all students, including students with disabilities, on those assessments.

Information Regarding Discipline

Annually, the District must provide data to the TEA through PEIMS regarding the number and percentage of students with disabilities who are in each of the following separate categories:

- Removed to an interim alternative educational setting (“IAES”);
- The acts or items causing removals to an IAES;
- The number and percentage of students with disabilities who are subject to long-term suspensions or expulsions; and
- The incidence and duration of disciplinary actions including suspensions of one day or more; and
- The number and percentage of students with disabilities who are removed to alternative educational settings or expelled compared to students without disabilities who are removed to alternative educational settings or expelled.

This information must be disaggregated by race, ethnicity, limited English proficiency status, gender, and disability category. The TEA will then report this information to the secretary of education and the public.

The state may require the District to include a statement of any current or previous disciplinary

action that has been taken against the student in the student's records and to transmit such statement to the same extent that the disciplinary information is included in, and transmitted with, the records of students without disabilities. The statement may include a description of any behavior that the student engaged in that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals involved with the student. If the student transfers from one school to another, the transmission of any of the student's records must include both the student's current IEP and any such statement of current or previous disciplinary action that has been taken against the student.

Information Regarding Children Who Are Migratory

The District must cooperate in the secretary of education's efforts to ensure the linkage of records related to students with disabilities who are migratory for the purpose of electronically exchanging health and educational information regarding such students among the states.

Information on Direct Services by the TEA

If the TEA determines that the District has not provided the information needed to establish eligibility of the District or State agency under the IDEA or if the District has elected not to apply for its Part B allotment, the TEA will use payments that would otherwise have been available to the District to provide special education and related services directly to students with disabilities residing in the area served by the District.

Additional Procedures

Special education services shall be provided to eligible students in accordance with all applicable federal law and regulations, state statutes, rules of the State Board of Education (SBOE) and the State Plan under IDEA Part B.

The District must make available to the TEA, parents of children with disabilities and to the general public all documents relating to the eligibility of the District under IDEA Part B.

Public Education Information Management System ("PEIMS")

PEIMS contains all public education personnel, financial, and organizational data requested and received by TEA. The District will collect and generate the student data necessary to be reported through PEIMS through a standard, district-wide system. Personnel entering this data into PEIMS should ensure that all data are entered accurately and timely. Additional information on PEIMS coding is provided in the Student Attendance Accounting Handbook, available for download at <https://tea.texas.gov/finance-and-grants/financial-compliance/student-attendance-accounting-handbook>.

Results Driven Accountability (RDA)

Results Driven Accountability (RDA), formerly Performance-Based Monitoring Analysis System (PBMAS), is an automated data system of the TEA that reports annually on the performance of school districts in selected program areas including special education. The RDA framework is utilized by the TEA to assign required intervention activities to a school district based on annual performance on individual indicators or patterns across indicators. The 2020 SPED RDA report includes 18 indicators across Domains I through III that are used to measure and ensure the academic success of students receiving special education services in Texas. A school district's performance is compared to the RDA cut points on applicable indicators and Performance level (PL) standards are applied.

Indicators included in SPED Domain I relate to student academic achievement as measured on the STAAR and include the following indicators:

- SPED STAAR 3-8 passing rate
- SPED Dyslexia STAAR 3-8 Reading passing rate
- SPED Year-After Exit (YAE) STAAR 3-8 passing rate
- SPED STAAR EOC passing rate
- SPED STAAR Alternate 2 participation rate.

Indicators included in the SPED Domain II relate to post-secondary readiness as measured by four-year longitudinal graduation and annual dropout rates and include the following indicators:

- SPED graduation rate
- SPED annual dropout rate (grades 7-12)

Indicators included in SPED Domain III relate to disproportionate and significant disproportionate analysis measured in difference rates and risk ratios for certain indicators. Some of these indicators are applicable as Report Only to provide school districts and the TEA with an opportunity to review results and ensure policies and procedures are not discriminatory, creating over or under representation in these populations. For some indicators, a school district's performance is compared to the RDA cut points and PL standards are applied. The indicators in this domain include:

- SPED Dyslexia representation (ages 6-21)
- SPED Regular Early Childhood Program rate (ages 3-5)
- SPED Regular Class \geq 80% rate (ages 6-21)
- SPED Regular Class $<$ 40% rate (ages 6-21)
- SPED Separate Settings rate (ages 6-21)
- SPED Representation (ages 3-21)
- SPED OSS and expulsion \leq 10 days rate (ages 3-21)
- SPED OSS and expulsion $>$ 10 days rate (ages 3-21)
- SPED ISS \leq 10 days rate (ages 3-21)
- SPED ISS $>$ 10 days rate (ages 3-21)
- SPED Total disciplinary removals rate (ages 3-21)

Performance indicator information from the RDA and other available data are used by TEA to identify school districts and charter schools with potential concerns related to student performance, program effectiveness, program compliance and data integrity and accuracy. *See below regarding interventions and sanctions.*

Addressing Disproportionality

Districts must take steps to address disproportionate representation in special education. These reporting requirements allow for a more extensive examination of disproportionality, as the IDEA requires TEA to review the District to determine the extent to which the disproportionate representation and racial and ethnic groups in special education and related services is due to inappropriate identification. The TEA may determine what constitutes significant disproportionality. TEA's definition of significant disproportionality must be based on an analysis of numerical information, and may not include consideration of state or district policies, procedures or practices.

If disproportionality is identified in the same area for three consecutive years, the TEA must require the District to correct the noncompliance, including revising deficient policies, procedures, and practices. The TEA must also require the District to reserve the maximum amount (15%) of IDEA Part B funds to be used for early intervening services to serve students in those groups who have not been identified as a student with a disability and students in those groups that were significantly over-identified. The District must also publicly report on the revision of policies, procedures, and practices through school board meetings, public notices, letters to parents, the District's website, etc.

Interventions and Sanctions

The TEA has established and implemented a system of interventions and sanctions, as necessary, to ensure program effectiveness and compliance with federal and state requirements regarding the implementation of special education and related services.

The system of interventions and sanctions may include, but is not limited to, the following:

- On-site review for failure to meet program or compliance requirements;
- Required fiscal audit of specific program(s) and/or of the district, paid for by the district;
- Required submission of corrective action(s), including compensatory services, paid for by the district;
- Required technical assistance from the education service center, paid for by the district;
- Public release of program or compliance review findings;
- Special investigation and/or follow-up verification visits;
- Required public hearing conducted by the local school board of trustees;
- Assignment of a special purpose monitor, conservator, or management team, paid for by the district;
- Hearing before the Commissioner of Education or designee;

- Reduction in payment or withholding of funds; and/or
- Lowering of the special education monitoring/compliance status and/or the accreditation rating of the district.

Evidence of Implementation

- PEIMS data
- State Performance Plan data and reports
- Results Driven Accountability data and reports
- Audits or On-Site Reviews
- Corrective Action Plans
- Publications of Data or Reviews

Resources

[The Legal Framework for the Child-Centered Special Education Process: Administration of Program Information - Region 18](#)

[OSEP Letter to Woolsey \(June 26, 2012\) - U.S. Department of Education](#)

[OSEP Memorandum to State Directors of Special Education \(Apr. 24, 2007\) - U.S. Department of Education](#)

[Results Driven Accountability Overview - Texas Education Agency](#)

[Local Educational Agency Reports and Requirements - Texas Education Agency](#)

[PEIMS Standard Reports - Texas Education Agency](#)

[District Profile of State Performance Plan Indicators - Texas Education Agency](#)

CITATIONS

20 USC 1418(a)(1)(A), 6311, 6398(b), 7801(20); 34 CFR 300.1, 300.132(c), 300.157, 300.160, 300.170(a), 300.211, 300.213, 300.227, 300.229, 300.27, 300.645(a), 300.646(a),(c); Texas Education Code § 29.0011(a)-(b), 48.008

STAFF RESPONSIBLE

For questions about Administration: Administration of Program Information contact the Department of Special Education.

(281) 396-2630

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Updated 2022

SPECIAL EDUCATION OPERATING PROCEDURES

Administration

FACILITIES CONSTRUCTION AND ALTERATION

June 2022



Facilities Construction and Alteration

What is Required

If the Secretary of Education determines that a program authorized under the IDEA will be improved by allowing program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary of Education may allow the use of those funds for those purposes.

Compliance with Other Laws

Any construction of new facilities or alteration of existing facilities with authorized IDEA program funds must comply with Appendix A of Part 36 of Title 28 (commonly known as the “Americans with Disabilities Accessibility Standards for Buildings and Facilities”) or Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the “Uniform Federal Accessibility Standards”).

Definitions

A “facility” is all or any portion of buildings, structures, and equipment, roads, walks, passageways, parking lots, or other real or personal property (including the site where the building, structure, property, or equipment is located).

Additional Procedures

Approval of Costs

For approval of costs under the IDEA, the expenditures must relate to the provision of special education and related services. Further, to be allowable under Federal awards, costs must meet the general principles for determining allowable costs set forth by the Executive Office of the President, Office of Management and Budget (“OMB”). According to the OMB, costs must meet the following general criteria to be allowable under Federal awards:

- Be necessary and reasonable for proper and efficient performance and administration of Federal awards;
- Be allocable to Federal awards under the provisions of OMB Circular Number A-87;
- Be authorized or not prohibited under State or local laws or regulations;
- Conform to any limitations or exclusions set forth in these principles, Federal laws, terms and conditions of the Federal award, or other governing regulations as to types or amount of cost items;

- Be consistent with policies, regulations, and procedures that apply uniformly to both Federal awards and other activities of the governmental unit;
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost;
- Except as otherwise provided for in OMB Circular Number A-87, be determined in accordance with generally accepted accounting principles;
- Not be included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation;
- Be the net of all applicable credits; and
- Be adequately documented.

Access to Facilities

The District must ensure that no qualified individual with a disability is excluded from participation in or denied the benefits of the services, programs, and activities of the District or is subject to discrimination because the District's facilities are inaccessible to or unusable by the student. However, the District is not required to make each existing facility or every part of the facility accessible to and usable by individuals with disabilities.

The District may comply with these requirements by:

- Redesigning or acquisitioning equipment;
- Reassigning classes or other services to accessible buildings;
- Assigning aides to qualified individuals with disabilities;
- Home visits;
- Delivery of services at alternate accessible sites;
- Alteration of existing facilities;
- Constructing new facilities that comply with federal laws relating to new construction and alterations; and
- Any other methods that result in making services, programs, and activities accessible to individuals with disabilities.

Evidence of Implementation

- Facility blueprints
- Vendor contracts

Resources

[The Legal Framework for the Child-Centered Special Education Process: Facilities Construction and Alteration - Region 18](#)

[Information and Technical Assistance on the Americans with Disabilities Act - U.S. Department of Justice](#)

[OSEP Letter to Stevens \(March 26, 2004\) - U.S. Department of Education](#)

[OSEP Letter to Inos \(Oct. 25, 2004\) - U.S. Department of Education](#)

[About the Architectural Barriers Act Accessibility Standards - U.S. Access Board](#)

[ADA Checklist for Existing Facilities - ADA National Network](#)

[Appendix A of Part 36 of Title 28](#)

[Appendix A of Subpart 101-19.6 of Title 41](#)

[2010 ADA Standards for Accessible Design](#)

[Uniform Federal Accessibility Standards \(UFAS\) Checklist](#)

CITATIONS

Board Policy CS; 34 CFR 300.718(a)-(b); 28 CFR Part 36, Appendix A - Americans with Disabilities Accessibility Guidelines for Building and Facilities; Appendix A to Subpart 101-19.6 of Title 41 CFR - Uniform Federal Accessibility Standards

STAFF RESPONSIBLE

For questions about Administration: Facilities Construction and Alteration contact the Department of Special Education.

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Updated 2022

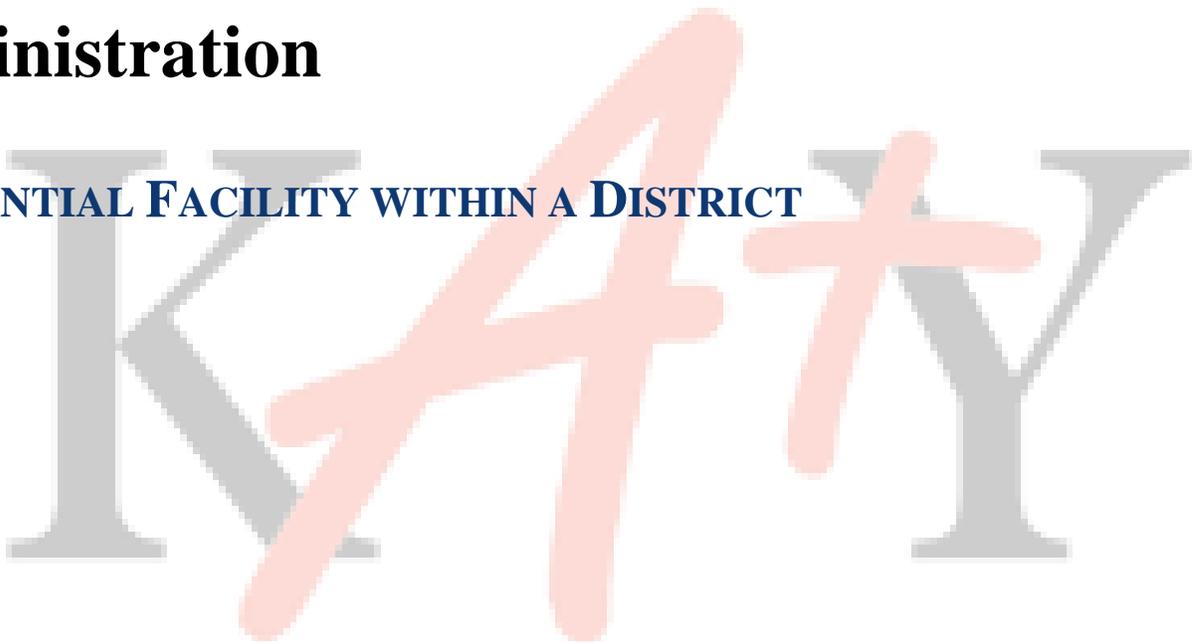
SPECIAL EDUCATION

OPERATING PROCEDURES

Administration

RESIDENTIAL FACILITY WITHIN A DISTRICT

June 2022



Residential Facility Within a District

What is Required

The District in which the residential facility is located must provide a FAPE for all eligible students residing in the residential facility, unless the student was placed in the residential facility by another LEA for educational purposes. The residential facility must notify the District not later than the third day after the date that a student age 3-22 is placed in the residential facility. This does not apply to a residential facility that is an open-enrollment charter school or the residential facility has been designated as an LEA (e.g., TYC correctional facilities, Texas School for the Deaf, the University of Texas Medical Branch).

Exchange of Records

With the exception of a juvenile pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the residential facility will provide the District any information retained by the residential facility relating to:

- The student's school records, including any records related to special education eligibility or services, BIPs, school-related disciplinary actions, and other documents related to the student's educational needs;
- Any other behavioral history information regarding the student that is not confidential under another provision of the law; and
- The student's conviction record or probation, community supervision, or parole status, as provided to the residential facility by a law enforcement agency, local juvenile probation department or juvenile parole office, community supervision and corrections department, or parole office, if the information is needed to provide educational services to the student.

Within a reasonable period of time and to the extent permitted by law, the District and the residential facility are required to share all appropriate records and relevant information relating to the student with a disability, including, but not limited to:

- Birth certificate or other identifying document that proves the student's age;
- Medical history and medical records, including current immunization records and a history of infectious disease (e.g. hepatitis B, tuberculosis), including a description of any behavioral characteristics related to the transmission of such disease;
- Social history;
- Vision and hearing screening and evaluation;
- Evaluation reports including psychological, educational, related service, assistive

technology and vocational evaluations, and behavioral assessments;

- Treatment plan of care or service;
- Educational history (e.g., previous educational placement information);
- Any relevant court orders (e.g. orders related to placement in a residential facility, guardianship or conservatorship, or court-ordered services);
- Information related to the student’s movement from a residential facility to a subsequent residence, including, but not limited to, the date the student left the residential facility and the location of the student’s subsequent residence; and
- Name and phone number of contact persons representing both the residential facility and the District.

Placement and Staffing

The ARD Committee is responsible for determining the appropriate educational placement for a student residing in a residential facility. *See* [PLACEMENT IN A RESIDENTIAL FACILITY]. In making this determination, the ARD Committee must consider all available information regarding the student’s educational needs and the non-educational needs that may restrict the District’s ability to serve the student on a public school campus or other instructional setting. These non-educational needs could include the student’s health and safety (e.g., substance abuse) and/or the student’s placement in a restrictive residential facility program (e.g., juvenile incarceration or restrictive court-ordered placements). The ARD Committee’s educational placement determination must be an individualized decision based on the student’s current needs and not be made on a categorical basis, such as the disability or residence in the residential facility. The ARD Committee may not determine educational placement based on what is most convenient to the District or the residential facility.

Coordination of IEP and Treatment

When educational services will be provided at the residential facility, the student’s ARD Committee must determine whether the space available at the residential facility is appropriate for the provision of FAPE based on the individual student’s needs and the residential facility’s available space. If the ARD Committee or residential facility determines that the residential facility lacks appropriate available space to provide these services, the ARD Committee must identify alternative locations for the provision of special education services.

The District and the residential facility must coordinate the student’s IEP and treatment plan of care or service by communicating responsibilities and timelines related to the development and implementation of the IEP and treatment plan, including permanency planning.

The District is responsible for providing:

- The name and phone number of the contact person representing the residential facility to a surrogate parent (if such person is assigned) upon assignment of the surrogate parent;
- The name and phone number of the surrogate parent to the contact person representing the residential facility upon assignment of the surrogate parent; and
- Designation and training of the surrogate parent. *See* [PARENT].

The District and the residential facility must agree in writing to the staffing levels that will be maintained by both the residential facility and the District to ensure the safety of students and teachers while providing educational services at the residential facility.

Dispute Resolution

Resolving a dispute between the District and another district or between the District and a residential facility concerning the implementation of educational services to students residing in a residential facility should first be addressed at the local level. The specific issues involved in the dispute, as well as any possible solutions, will be identified and referred to District Special Education Personnel authorized to make decisions necessary to resolve the dispute. If a resolution cannot be reached after a reasonable period of time—not to exceed 45 calendar days unless the disputing parties agree otherwise—the District or residential facility may refer the dispute to the TEA for further negotiations toward a mutually agreeable resolution. The referring entity must identify the nature of the dispute, any resolutions agreed upon, the issues that remain unresolved, and the contact persons representing the disputing entities.

Definitions

A “residential facility” is a facility that provides 24-hour custody or care of students with disabilities 22 years of age or younger for detention, treatment, foster care, or any non-educational purpose. It does not include traditional foster homes licensed by the Texas Department of Family and Protective Services as Foster Family Homes.

Additional Procedures

The District must provide special education and related service to all eligible students residing in a residential facility located within the district’s boundaries, unless the student was placed in the residential facility by another LEA for educational purposes. In that case, the sending LEA maintains responsibility for FAPE and the student is still enrolled in the sending LEA. The District shall annually contact the facility to offer services to eligible students as well as meet its child find obligations. *See* [CHILD FIND DUTY]

Unless the student was placed in the residential facility by another LEA for educational purposes (and is thus still enrolled in the sending LEA), all students age 3-21 who enter a residential facility within the District for an anticipated period of 10 consecutive days or longer must be enrolled in the District within three (3) school days (unless already an enrolled student) from the notification

of admission of the student by the residential facility. Residential facility personnel will facilitate the student's enrollment by providing the necessary information to District Special Education Personnel, including educational history, social history, assessment/evaluation reports, and any court order authorizing placement in the residential facility.

Residential Facility Tracker and Monitoring

The Residential Facility Tracker (RF Tracker) is a tool used by the TEA to collect data for students with disabilities residing in residential care and treatment facilities within the geographic boundaries or jurisdiction of the District. The RF Tracker was established to improve school district performance and compliance with federal and state special education requirements for this unique and vulnerable population of students who often have limited access to family members who can advocate for the student's educational needs. The data from the RF Tracker is used to inform stakeholders, including educators, parents, and legislators, about the effectiveness of educational programs and student outcomes for students residing in residential facilities.

The District must report the number of students with disabilities residing in a residential facility through the the Residential Facility Tracker by the deadline set by TEA each year. After the initial submission of data, District Special Education Personnel will maintain the database with current information upon the enrollment and withdrawal of residential facility students within the District. The Residential Facility Tracker is available as a reporting feature in the Texas Student Data System ("TSDS").

The District is subject to monitoring of residential facilities if it serves students with disabilities residing in residential facilities within its geographic boundaries or jurisdiction. The following facilities are considered residential facilities for the purpose of residential facility monitoring: state supported living centers; residential facilities for specific purposes (drug treatment, emotional/behavioral needs, abuse, etc.); emergency shelters; detention facilities and jails; group homes; therapeutic foster homes (except for traditional foster homes licensed as foster family homes).

Monitoring activities include data analysis by the District and the TEA to determine and address factors causing program ineffectiveness or noncompliance. The TEA may conduct on-site visits to review program effectiveness and compliance. Further, the TEA may require the District to develop and implement any identified support needs, an improvement plan, and/or a plan for corrective actions, if needed.

Monitoring is intended to improve school districts and charter school performance and compliance with federal and state special education requirements, particularly for students with limited access to family members who can advocate for their educational needs.

Transferring From a Residential Facility

If a student transfers from a residential facility to a campus within the District, the Registrar should contact the residential facility to learn about why the student was being served in the residential facility and to request the student's records. Campus Special Education Personnel will schedule a

transfer ARD meeting to be held within one week of the student's transfer and invite the appropriate related service providers to the transfer ARD meeting. If the District learns that the student will be transferring while the student is still receiving services in the residential facility, Campus Special Education Personnel may consider contacting the residential facility to see if a student observation at the residential facility is possible.

Evidence of Implementation

- Residential Facility Tracker data
- ARD/IEP
- Documentation of Communication with Residential Facility

Resources

[The Legal Framework for the Child-Centered Special Education Process: Residential Facility Within a District - Region 18](#)

[Special Education in Residential Facilities - Texas Education Agency](#)

[Texas Education Data Standards - Texas Student Data System](#)

[Residential Facility Tracker Presentation - Texas Education Agency](#)

[Residential Facility Monitoring - Texas Education Agency](#)

[Required Residential Facility Tracker Data Collection: Students with Disabilities \(Nov. 5, 2020\) - Texas Education Agency](#)

[OSERS Dear Colleague Letter \(Dec. 5, 2014\) - U.S. Department of Education](#)

CITATIONS

Board Policy EHBAC, EEM, and EHBA; Texas Education Code 29.012; 19 Texas Administrative Code 89.1115(d); 97.1072

STAFF RESPONSIBLE

For questions about Administration: Residential Facility Within a District contact the Department of Special Education.

(281) 396-2630

Updated 2022

SPECIAL EDUCATION OPERATING PROCEDURES

Administration

SPECIAL EDUCATION AND RELATED SERVICE PERSONNEL

June 2022

Special Education and Related Service Personnel

What is Required

All Campus Special Education and Related Service Personnel must be certified, endorsed, or licensed in the area or areas of assignment in accordance with federal and state law or appropriate state agency credentials. This includes, but is not limited to, any individual employed as a: teacher, teacher intern or trainee (only in the area for which the intern certificate is issued), librarian, educational aide, paraprofessional, administrator, educational diagnostician, school counselor, audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, licensed professional counselor, marriage and family therapist, social worker, and speech language pathologist. However, an individual employed by the District prior to September 1, 2011 to perform marriage and family therapy is not required to hold a license as a marriage and family therapist to provide marriage and family therapy with that district.

The Texas Education Agency will establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of the IDEA are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve students with disabilities. The qualifications must include qualifications for Related Service Personnel and Paraprofessionals that are consistent with State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services. In addition, Related Service Personnel who deliver services in their discipline or profession may not have their certification or licensure requirements waived on an emergency, temporary, or provisional basis.

Special Education Teacher Qualifications

A qualified special education teacher is one that:

- Has obtained a full state certification as a special education teacher, including alternative certification, or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;
- Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- Holds at least a bachelor's degree.

Alternative Certification

The District may consider a teacher in an alternative certification program who is not yet fully certified as qualified if the teacher is participating in an approved State Board of Education certification alternative route to special education certification program under which the teacher:

- Receives high-quality professional development that is sustained, intensive, and classroom focused to ensure the teacher has a positive and lasting impact on classroom instruction, before and while teaching;
- Participates in a program with intensive supervision consisting of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
- Assumes functions as a teacher only for a specified period of time not to exceed three years; and
- Demonstrates satisfactory progress toward full certification as prescribed by the state.

Assignment

The District may assign a teacher who holds a special education certificate or an endorsement to any level of basic special education instructional program serving students with disabilities ages 3 to 21, as allowed by certification, with the following exceptions:

- Individuals assigned to provide speech therapy instructional services must hold a valid Texas Education Agency certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist;
- Teachers holding only a special education endorsement for early childhood education for students with disabilities can only be assigned to programs serving infants through grade 6;
- Teachers certified in educating students with visual impairments must be available to students with visual impairments, including deaf-blindness, through one of the District's instructional options, a shared services arrangement with other districts, or an education service center, and teachers assigned full-time or part-time to instruct children from birth to age two with visual impairments, including deaf-blindness, must be certified in the education of students with visual impairments:
- Teachers certified in educating students who are deaf or hard of hearing must be available to students who are deaf or hard of hearing, including a regional day school program for the deaf, or a shared service arrangement; and teachers assigned full-time or part-time to instruct children from birth to age two who are deaf, including deaf-blindness, must be certified in education of students who are deaf and severely hard of hearing;
- Teachers with secondary certification with the generic delivery system may only be assigned to teach grades 6-12; and
- When the ARD Committee has specified arrangements for physical education in the student's IEP, physical education may be provided by:
 - Special Education and Related Service Personnel who have the necessary skills and

knowledge (which must be documented by the District by in-service records, evidence of attendance at seminars or workshops, or college transcripts);

- Physical education teachers;
 - Occupational therapists;
 - Physical therapists; or
 - Occupational therapy assistants or physical therapy assistances working under supervision in accordance with the standards of their profession.
- A certified orientation and mobility specialist who is certified by the Academy for Certification of Vision Rehabilitation and Education Professionals must provide orientation and mobility instruction.

Paraprofessional Personnel

All Paraprofessional Personnel employed by the District must be certified.

Certified Paraprofessional Personnel may be assigned to work with eligible students with disabilities, general education and special education teachers, and related service personnel. Paraprofessional Personnel may also be assigned to assist students with special education transportation, serve as a job coach, or serve in support of community-based instruction. If the Paraprofessional Personnel are paid from state administrative funds, they may be assigned to special education clerical or administrative duties such as the Special Education Resource System, the Special Education Management System, or other special education clerical or administrative duties.

Personnel for the Deaf or Hard of Hearing

A student who is deaf or hard of hearing must have an education in which teachers, psychologists, speech therapists, progress assessors, administrators, and others involved in educating the student understand the unique nature of deafness and the hard-of-hearing condition. A teacher of students who are deaf or hard of hearing either must be proficient in appropriate language modes or use an interpreter certified in appropriate language modes if certification is available. Interpreting services for students who are deaf or hard of hearing must be provided by an interpreter who is certified in the appropriate language modes, if certification in such modes is available. If certification is available, the interpreter must be a certified member of (or certified by) the Registry of Interpreters for the Deaf (RID), the Texas Board for Evaluation of Interpreters (BEI), or the Texas Health and Human Services Office for Deaf and Hard of Hearing Services.

Definitions

A “Special Education Resource System (SERS)” is a local school district's clearinghouse for all

instructional materials used to teach handicapped students in any given instructional arrangement. It gives teachers ready access to instructional resources that correlate with the district's curriculum objectives and the student's individual educational plan. Services offered by a SERS may include loaning materials and equipment, training personnel to use materials and educational technology, providing access to information retrieval programs, disseminating information, and providing other services related to instructional materials.

A "Special Education Management System" is a school district's computer program designed to collect and maintain data to implement the IDEA and other related educational laws and regulations.

Additional Procedures

Certification to Teach Students with Visual Impairments

To be eligible to be issued a certificate to teach students with visual impairments, a person must complete either:

- All course work required for that certification in an approved educator preparation program; or
- An alternative educator certification program approved for the purpose by the Board.

The person must also perform satisfactorily on certification exams for certification to teach students with visual impairments after completing the requisite course work or program and satisfy any other requirements prescribed by the Board. These eligibility requirements only apply to applications for the initial certificate submitted after September 1, 2011.

Special Education Instruction

While general education teachers may provide accommodations and modifications to students with disabilities under the direction of Special Education Personnel, special education services (i.e., specially designed instruction) required in the IEP must be provided by appropriately certified Campus Special Education Personnel and/or Related Service Personnel.

Notice to Parents

At the beginning of each school year, the District must notify the parents of each student that the parents may request, and the District must provide upon request (and in a timely manner), information regarding the professional qualifications of the student's teachers, including, at a minimum, the following information:

- Whether the student's teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction; is teaching under emergency or other provisions status through which state qualification or licensing criteria have been waived; and is teaching in the field of discipline of the certification of the

teacher; and

- Whether the student is provided services by paraprofessionals, and if they are, the qualifications of the paraprofessionals.

The District must also provide each parent timely notice that the student has been assigned, or has been taught for thirty (30) or more consecutive instructional days by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. The District should make a good-faith effort to ensure that all notices are provided in a bilingual form to any parent or guardian whose primary language is not English. Campus Special Education Personnel shall place a copy of the notice in the student's special education file.

Professional Development

Campus Special Education Personnel teaching students with disabilities must participate in evidence-based professional development that:

- Relates to the instruction of students with disabilities, including students with disabilities who also have other intellectual or mental health conditions; and
- Is designed for educators who work primarily outside the area of special education.

The District must provide such training to Campus Personnel who work primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the IEP developed for the student receiving instruction from the educator. The District may determine the time and place at which the training is delivered.

The District should consult with persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the District when developing or maintaining this training.

Evidence of Implementation

- SBEC Certification Documents
- Notice to Parents Related to Certification
- Professional Development Transcripts
- Job Assignments
- Offer Letters/Contracts

Resources

[The Legal Framework for the Child-Centered Special Education Process: Special Education and Related Service Personnel - Region 18](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter \(Dec. 5, 2014\) – U.S. Department of Education](#)

[OSEP Letter to Stern \(Sept. 30, 2011\) - U.S. Department of Education](#)

[Certification - Texas Education Agency](#)

[Becoming an Educational Aide in Texas - Texas Education Agency](#)

[Approved Educator Standards - Texas Education Agency](#)

[Certificate Look Up - Texas Education Agency](#)

[Official Record of Educator Certificate Search - SBEC](#)

[Hiring Information for School District Personnel - Texas Education Agency](#)

[Interpreter Certification Guidance - Texas Education Agency](#)

[Guidance for Staff Development - Texas Education Agency](#)

CITATIONS

Board Policy DBA, DK, and DMA; 20 USC 1412(a)(14)(C), 6312(e)(1); 34 CFR 156(a)–(c); Texas Education Code 21.003, 21.0485, 21.057, 21.451, 29.304(a); 19 Texas Administrative Code 89.1131(a)–(e); Texas Occupations Code 502.002

STAFF RESPONSIBLE

For questions about Administration: Special Education and Related Service Personnel contact the Department of Special Education.

(281) 396-2630