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FAPE

LEAST RESTRICTIVE ENVIRONMENT
PLACEMENT IN A RESIDENTIAL FACILITY
PLACEMENT IN A NON-PUBLIC DAY PLACEMENT

SANTA FE ISD

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LEAST RESTRICTIVE ENVIRONMENT

What is Required

District and Campus Special Education Personnel must educate a student with a disability in the least restrictive environment (LRE) which means that the student is educated with students who are not disabled to the maximum extent appropriate. Students should only be placed in special classes or separate schooling, or otherwise be removed from general education classes when the student cannot be appropriately educated in general education classes with the use of supplementary aids and services. Campus Special Education Personnel must also ensure that students with disabilities are able to participate with nondisabled students in extracurricular or nonacademic activities or services to the maximum extent appropriate to the needs of the student. See [FAPE - SUPPLEMENTARY AIDS AND SERVICES].

Continuum of Alternative Placements

District and Campus Special Education Personnel must make a continuum of alternative placements for special education and related services available to meet the needs of students with disabilities. The continuum ranges from the least restrictive setting to the most restrictive setting and must include instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions along with the provision for supplementary services such as resource room or itinerant instruction provided in conjunction with general education placement. Generally, the farther removed the student is from the general education classroom, the more restrictive the setting.

Placement Decisions

Decisions regarding placement of students with disabilities must be made by the ARD Committee, including the parents, at least annually based on the student's IEP, in conformity with the least restrictive environment, and as close as possible to the student's home. Unless the IEP requires some other arrangement, the student should be educated at the school that the student would attend if nondisabled. The placement or instructional setting for a student with a disability must be specified in the student's IEP. The IEP must also include an explanation of the extent, if any, to which the student will not participate with nondisabled peers in the general education class and in extracurricular and other nonacademic activities. The instructional settings/placements include:

- Mainstream
- Homebound
- Hospital class
- Speech therapy
- Resource room or services
- Self-contained (mild, moderate, or severe) regular campus
- Off home campus
- Nonpublic day school
- Vocational adjustment class or program
- Residential care and treatment facility (not school district resident) See below [LRE - PLACEMENT IN RESIDENTIAL FACILITY]
- State supported living center.

Preschool-Aged Students

The requirement that District and Campus Special Education Personnel provide students with FAPE in the least restrictive environment also applies to preschool-aged students regardless of whether the district provides free preschool programs to all preschool-aged students. See [CHILD FIND - AGES 0-5]. Children from birth through age 2 with visual impairments ("VI"), who are deaf or hard of hearing ("DHH") or who are deaf blind ("DB") must be enrolled at the parent's request by the district when the district becomes aware of the child needing services. The ARD Committee shall determine the instructional arrangements for students from birth through age 2 with VI, DHH, or DB in accordance with the individualized family services plan ("IFSP"), current attendance guidelines, and the agreement memorandum between TEA and Texas Health and Human Services Commission Early Childhood Intervention ("ECI") services. However, the following applies:

- Home-based instructional arrangement/setting is used when the child receives services at home and would generate the same weight as the homebound instructional arrangement/setting. Average daily attendance ("ADA") funding will depend on the number of hours served per week.
- Center-based instructional arrangement/setting is used when the child receives services in a day care center, rehabilitation center, or other school/facility contracted with the Health and Human Services Commission ("HHSC") as an ECI provider/program. This arrangement/setting generates the same weight as the self-contained, severe instructional arrangement/setting. ADA funding will depend on the number of hours served per week.
- The district may only claim funding if the district is involved in the provision of ECI and other support services for the child. Otherwise, the child shall be enrolled and indicated as not in membership for the purpose of funding. If the District contracts with HHSC as an ECI provider, funding shall be generated under that contract.

Career and Technical Education ("CTE") Programs

Campus Special Education Personnel may provide Career and Technical Education ("CTE") services to a student with a disability in a separate program specifically designed to address the student's individual occupational or training needs if a student is unable to receive a FAPE in a general education CTE classroom using supplementary aids and services. When determining placement in a CTE classroom, the ARD Committee will consider the student's graduation plan, the content of the IEP including transition services, and classroom supports. See [FAPE - GRADUATION & TRANSITION SERVICES].

Regional Day School Program for the Deaf
The district has access to regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. In addition, any student who has a hearing impairment which severely impairs processing linguistic information through hearing, even with recommended amplification, and which adversely affects educational performance will be eligible for consideration for the Regional Day School Program for the Deaf, subject to ARD Committee recommendations.

Students Residing in a Residential Facility
Students residing in a residential facility must also be educated in the least restrictive environment to the greatest extent appropriate. See [RESIDENTIAL FACILITY WITHIN A DISTRICT].

Definitions
"General education setting" includes general education classrooms and other settings on a campus, including lunchrooms and playgrounds, in which students without disabilities participate.

"Inclusion" is a personalized special education program delivered to a student with a disability in conjunction with a general education curriculum where support is provided to the student within the general education classroom.

"Mainstream" is an instructional arrangement/setting for providing special education and related services to a student in the general education classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's general education classroom teacher(s) necessary to enrich the general education classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her general education classroom teacher(s) regarding the student's progress in general education classes, staff development, and reduction of ratio of students to instructional staff. Monitoring student progress in and of itself is not a special education service and cannot be listed as the only specially designed instruction documented in a student's IEP.

“Homebound” is an instructional arrangement/setting for providing special education and related services to students who are served at home or hospital bedside.

- Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive or cumulative weeks in a school year as documented by a physician licensed to practice in the United States. Documentation by a physician does not guarantee the placement of a student in a Homebound setting. Rather, the student's ARD Committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations.
- Home instruction may also be used for services to infants and toddlers (birth through age 2) and young students (ages 3-5) when determined appropriate by the student's individualized family services plan (IFSP) committee or ARD Committee.
- This instructional arrangement/setting also applies to students confined to or educated in hospitals.

“Hospital class” is an instructional arrangement/setting for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If a student residing in the facility is provided special education and related services on a District campus but the student’s parent does not reside within the district’s boundaries, the student is considered to be in the residential care and treatment facility instructional arrangement/setting. If a student residing in the facility is provided special education and related services at the District and the parent, including a surrogate parent, resides within the District’s boundaries, the student’s instructional arrangement/setting shall be based on the services provided at the campus on the same basis as a resident student residing with his or her parents.

“Speech therapy” is an instructional arrangement/setting for providing speech therapy services whether in a general education classroom or in a setting other than a general education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement. If a student’s IEP indicates that a special education teacher is responsible for implementing the student’s IEP but does not indicate how that teacher provides a special education service, the student is in the speech therapy instructional arrangement/setting. Likewise, when a student receives speech therapy but no other special education service, the student is in the speech therapy instructional arrangement/setting.

“Resource room or services” is an instructional arrangement/setting for providing special education and related services to a student in a setting other than general education for less than 50% of the regular school day.

“Self-contained (mild, moderate, or severe) regular campus” is an instructional arrangement/setting for providing special education and related services to a student who is in a setting other than general education for 50% or more of the regular day on a regular school campus. For funding purposes, mild/moderate will be considered at least 50% but no more than 60% of the student’s instructional day, and severe will be considered more than 60% of the student’s instructional day.

“**Off home campus”** is an instructional arrangement/setting for providing special education and related services to the following, including, but not limited to, students at Santa Fe Independent School District:

- A student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
- A student in a community setting, facility, or environment operated by a school district that prepares the student for postsecondary education/training, competitive integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives;
- A student in a community setting or environment not operated by a school district that prepares the student for postsecondary education/training, competitive integrated employment, and/or independent living in coordination with the student’s individual transition goals, with regularly scheduled instruction or direct involvement provided by school district personnel;
- A student in a facility not operated by a school district with instruction provided by school district personnel; or
- A student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.

“**Nonpublic day school”** is an instructional arrangement/setting for providing special education and related services to students through a contractual agreement with a nonpublic school for special education when the district is unable to provide FAPE for the student.

"Vocational adjustment class" is a support program for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's transition plan, as documented in the student's IEP, and may include special education services received in career and technical education work-based learning programs.

"Residential care and treatment facility (not school district resident)" is an instructional arrangement/setting for providing special education and related services to students who reside in care and treatment facilities, who were not placed at the facility by an ARD Committee, and whose parents do not reside within the boundaries of the school district providing educational services to the students. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement will be considered the hospital class arrangement/setting rather than this instructional arrangement, or if the student resides at a state-supported living center, the instructional arrangement will be considered the state school arrangement/setting. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

"State supported living center (referred to as state school in Texas Education Code § 48.102)" is an instructional arrangement/setting for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.

Additional Procedures

The student's ARD Committee and District and Campus Special Education Personnel will ensure that a student with a disability spends as much time as possible with peers who do not receive special education instruction. District and Campus Special Education Personnel will tailor the environment in which the special education and related services are provided to the student's individual needs and disabilities.

The student's ARD Committee will only consider placing the student in special classes or a separate school—or otherwise remove the student from the general education classroom—where the ARD Committee determines that the district cannot provide an appropriate education within the general education classroom with supplementary aids and services.

Continuum of Alternative Placements

District and Special Education Personnel will provide a continuum of alternative placements that includes instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. Where appropriate, District and Special Education Personnel will offer the opportunity for the student to receive supplementary services, including instruction in a resource classroom or inclusion instruction, in conjunction with placement in the general education setting.

The following continuum of services is provided for special education students enrolled in the district:

PLACEMENT	DESCRIPTION
General education classroom.	· On a full-time basis, student is placed in the classroom he would attend if he did not have a disability. · Student does not receive supplementary aids or services. · A special education teacher may monitor the student on a daily or weekly basis.
General education classroom with accommodations and modifications.	· Student attends a general education classroom on a full-time basis. · Student receives accommodations and modifications to the instructional program.
General education classroom with individualized instruction.	· Student attends a general education classroom on a full-time basis. · Student receives specialized instruction from special education personnel in that classroom during a portion of the day.
General education classroom with pull-out services.	· Student attends a general education classroom for most of the school day. · Student receives specialized instruction for part of the day in a resource room or self-contained classroom.
Part time in a general education classroom with most of the day in another setting.	· Student attends a general education classroom for part of the school day. · Student receives specialized instruction in another setting (a resource room or self-contained classroom) for most of the day.

PLACEMENT	DESCRIPTION
Self-contained special education classroom.	· Student attends a regular public school, but he is placed in a self-contained classroom only for students with disabilities. · Student has opportunities for participation with nondisabled peers in nonacademic and extracurricular activities.
Special day school.	· Student does not attend a regular public school. He attends a separate school solely for students with disabilities, usually with no opportunity to participate with nondisabled peers.
Residential treatment facility or hospital.	· Student receives treatment, instruction, and services at a facility where he resides or in a hospital, usually because the student's disability causes him to require round-the-clock services to make educational progress.
Home instruction.	· Student receives all his instruction at home from an itinerant teacher, usually on a temporary basis due to severe medical or psychological issues. · Student is likely to have little or no interaction with other students.

Placement Decisions

The ARD Committee, including District and Campus Special Education Personnel, the student's parent or guardian, and other persons knowledgeable about the student, will hold an annual ARD Committee meeting to determine the student's placement. The ARD Committee will first consider whether placement in the general education classroom is possible by asking the following questions:

- Can the student be appropriately educated in the general education classroom?
- What efforts has the Campus made thus far to determine whether the student can be appropriately educated in the general education classroom and were those efforts successful?
- Has the whole range of aids, services, or additional supports necessary to allow the student to receive FAPE in the general education classroom been considered including resource rooms and additional inclusion support? See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

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- Has the Campus made efforts to modify the general education program to accommodate the student and were those efforts successful?
- Has the Campus considered both the education benefits as well as the social and communication benefits of a general education setting?
- What are the negative effects on the education of other students in the general education classroom if the student with a disability were integrated in the classroom? Does it significantly impair the education of other students, or does it require so much of the teacher's time that the teacher will be unable to educate the other students?
- Is the cost of integrated placement, with appropriate supplementary aids and services, so great that it would significantly impact the education of the other students in the district?
- Is it possible to place the student in general education for some academic programs?
- Is it possible to place the student in general education non-academic classes?
- Is it possible to provide interaction with nondisabled students during lunch and recess?

The ARD Committee will make an individualized placement determination for each student, considering all relevant evaluation data and placement options. This will include balancing the student's overall educational experience in a general education setting with the benefits the student would receive in a special education setting. For example, a student may greatly benefit from the social aspects of a general education classroom while absorbing limited educational information in that setting. The ARD Committee will also consider any potentially harmful effects on the student or the quality of services when selecting the placement. The ARD Committee should not place a student outside of the general education classroom solely because of needed modifications to the general education curriculum. However, a student with a disability need not fail in the general education environment before the ARD Committee can consider or implement a placement in a more restrictive setting. Moreover, the ARD Committee can consider the student's past record of performance in a mainstream environment elsewhere in the district or even another school district.

Placement decisions must be based on the individual needs of the child, as determined by the student's IEP. Placement decision may not be based solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, or availability of space. In addition, administrative convenience is never a legitimate consideration in determining LRE. The ARD Committee will not consider lack of personnel or resources as an excuse to relieve the district of the obligation to make FAPE available to students in the LRE.

The ARD Committee will consider whether the student needs to attend a campus or placement other than the campus that the student would attend if nondisabled. The district may choose to centralize services where it is necessary to serve the needs of the student, utilize personnel effectively, and provide a comprehensive and consistent program. If possible, however, the ARD Committee will place the student in the campus that the student would attend if nondisabled. Additionally, for all students that may require placement in a setting outside of the student's home campus, the Campus Special Education Personnel should consider having knowledgeable staff from the particular centralized site or outside placement attend the ARD Committee.

The ARD Committee will outline the placement decision in the student's IEP and explain the extent, if any, that the student will not participate with nondisabled peers in the general education setting and/or in extracurricular and other nonacademic activities. The ARD Committee should consult with the parent or guardian to ensure that placement is as close as possible to the student's home.

Following the placement decision, Campus Special Education Personnel will provide the student's parent or guardian with Prior Written Notice regarding the placement decision following the ARD Committee meeting and wait the required 5 school days before implementing the student's new placement, unless the parent waives the 5-day notice.

The student's placement will be reviewed at least annually by the student's ARD Committee and the continued appropriateness of the placement will be based on the individual student's progress on his or her IEP and current and unique needs. In addition, the ARD Committee will consider any potential harmful effects on the student or on the quality of services that the student needs as well as the student's access to non-disabled peers when analyzing the appropriateness of the placement.

Should the ARD Committee determine that the district failed to provide a continuum of alternative placements and/or placement in the appropriate setting, the ARD Committee shall determine the type, duration, frequency, and amount of compensatory services, if any, necessary to provide the student. This determination does not require a minute-for-minute computation but rather a qualitative analysis of the services necessary to make up for the skills or learning lost by the previous placement decision. The ARD Committee shall consider what services must be provided to fill a gap between where a student's present level of performance is and where it would have been if the student had been appropriately placed.

Preschool-Aged Students

District and/or Campus Personnel will provide special education and related services in the least restrictive environment to any student between the ages of 3 through 5 that qualifies for special education services in any eligibility category, and any student from birth through age 2 who has a visual impairment, who is deaf or hard of hearing, or who is deaf-blind once the District becomes aware of the child needing services. The preschool-aged student's placement will be outlined in the student's IFSP (for a student ages 0 through 2) or IEP (for a student ages 3 through 5). However, a home-based instructional arrangement/setting shall be used when the child receives services at home, and a center-based instructional arrangement/setting shall be used when the child receives services in a day care center, rehabilitation center, or other school/facility contracted with the HHSC and an ECI provider/program.

If the District does not provide preschool programs to nondisabled preschool students, District Special Education Administration will consider whether the district will provide FAPE through other preschool programs operated by public agencies or a private school program. In addition, the ARD Committee may also determine that the least restrictive environment for a preschool-aged student is home instruction where appropriate. See [AGES 0-5].

Extracurriculars and Nonacademic Services

Pursuant to the IDEA, the District must take steps, including the provision of supplementary aids and services determined appropriate and necessary by a student's ARD Committee, to provide nonacademic and extracurricular services and activities necessary to afford students with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include athletics, special interest groups and clubs sponsored by the district, health services, recreational activities

counseling, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available. While the IDEA does not require the District to establish extracurricular activities and nonacademic services to students with disabilities, the District is required to take the steps necessary to afford students and equal opportunity for participation in these activities, including informing students of opportunities and providing aids and services for those activities, as determined by the student's ARD Committee.

The ARD Committee shall review at a student's ARD Committee meeting, at least annually, the available extracurricular and nonacademic activities appropriate for the student's age and grade level to ensure each student receiving special education services has equal opportunity to participate in nonacademic and extracurricular activities. While a specific extracurricular activity does not generally need to be included in the student's IEP, the IEP should include any reasonable supplementary aids and services, including transportation, necessary to allow the student equal opportunity to participate in the desired or selected activity. Provision of equal opportunity to participate does not mean every student with a disability has the right to be on an athletic team or that a student is entitled to a particular accommodation. Moreover, the District may require a level of skill or ability of a student in order for that student to participate in a selective or competitive program or activity, as long as the selection or competition criteria are not discriminatory. However, the Special Education Department shall monitor the rates of participation of students with disabilities in extracurricular and nonacademic activities and ensure that there are no generalizations, assumptions, or stereotypes about students with disabilities preventing equal opportunity for participation.

Career and Technical Education ("CTE") Programs

The ARD Committee will include a representative from the CTE program as a member of the student's ARD Committee when determining placement in a CTE program. The ARD Committee will also consider whether current enrollment numbers in the CTE classroom could have a harmful effect on the student's ability to learn.

For a student with disabilities placed in the CTE program, Campus Special Education Personnel will communicate with the CTE teacher and any state rehabilitation agencies (where necessary) regarding planning for the student.

Campus Special Education Personnel will monitor the instruction provided to the student in the CTE program to ensure that the instruction is consistent with the student's IEP. Where necessary and appropriate, Campus Special Education Personnel will provide supplementary aids and services, including, but not limited to, modified instruction and instructional aids and devices, in CTE programs. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

Regional Day School Program for the Deaf

Should the ARD Committee determine that placement in the Regional Day School Program for the Deaf is appropriate for a student with a hearing impairment, the ARD Committee will outline the services that the district cannot appropriately provide on a campus and that a regional day school program can provide in the student's IEP.

For placement of a hearing impaired student in a regional day school program for the deaf operated by school districts at sites previously established by the State Board of Education, the ARD Committee will consider additional factors, such as distance to the nearest regional day school program, before recommending placement at such program.

A member of the ARD Committee and the parent may visit the regional day school program campus to verify that the student will be able to receive FAPE in accordance with their IEP prior to assigning the placement. Campus Special Education Personnel will communicate any potential placement in a regional day school program to District Special Education Administration prior to any final decision regarding the placement.

Students Residing in a Residential Facility

The ARD Committee will make decisions related to placement in a residential facility on an individualized basis considering the student's unique needs, and the district will comply with all requirements related to residential placements. See below [LRE-PLACEMENT IN RESIDENTIAL FACILITY]. The ARD Committee will consider both educational and non-educational needs, including health and safety, of the student that may impact the student's ability to receive FAPE on a District campus. However, the ARD Committee should not consider convenience to the district or to the residential facility in the determination to place a student in a residential facility. During an ARD Committee meeting in which residential placement is discussed, the ARD Committee will provide information to the parent developed by the Health and Human Services Commission (HHSC) about educational residential placement options for children who may qualify for a state supported living center (SSLC).

District Special Education Administration will consult with the proposed residential facility to determine whether the facility has space available for the student and whether such space, if available, is appropriate for the provision of FAPE based on the student's individual needs. The ARD Committee will identify additional placement options if the ARD Committee determines that the proposed residential facility is not appropriate. Furthermore, Campus Special Education Personnel will communicate any potential placement in a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

For information relating to District procedures for placing a student at the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf, see below [LRE - PLACEMENT IN A RESIDENTIAL FACILITY].

The district will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- FIE
- ARD/IEP
- Continuum of Instructional Settings
- Documentation Regarding Special Education Students Participation in Extracurricular & Nonacademic Activities
- Documentation of Communication with Regional Day School for the Deaf
- Documentation of Communication with Residential Facility
- Documentation of Coordination Between Campus Special Education Personnel and CTE teacher
- Documentation for the state in TSDS, PEIMS, and SPP

Resources

The Texas Legal Framework for the Child-Centered Special Education Process: Least Restrictive Environment - Region 18
Student Attendance Accounting Handbook – Texas Education Agency
OSERS Letter to Anderson (Dec. 4, 2012) – U.S. Department of Education
OSERS Letter to Anonymous (Mar. 30, 2009) – U.S. Department of Education
OSERS Letter to Wohle (Feb. 1, 2008) – U.S. Department of Education
OSERS Letter to Spitzer-Resnick (June 22, 2012) – U.S. Department of Education
OSERS Dear Colleague Letter on Children with Disabilities Residing in Nursing Homes (Apr. 26, 2016) – U.S. Department of Education

Citations

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBF; Board Policy EHBH; 20 USC 1412(a)(5)(A); 34 CFR 300.101, 300.102(a)(1), 300.107, 300.114(a)(2), 300.115(a)-(b), 300.116, 300.117, 300.320; 19 TAC 75.1023, 89.63, 89.1050(a)(6), 89.1075(e), 89.1080

PLACEMENT IN A RESIDENTIAL FACILITY

What is Required

The district must provide a residential placement to a student with disabilities at no cost to the parents if the ARD Committee determines that such placement is necessary for the student to receive FAPE. During an ARD Committee meeting in which residential placement is discussed, the ARD Committee will provide information to the parent developed by the Health and Human Services Commission (HHSC) about educational residential placement options for children who may qualify for a state supported living center (SSLC).

District Special Education Administration may contract with a residential facility to provide some or all of the special education services listed in a student's IEP if the student cannot obtain an educational benefit in a less restrictive setting. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and see above [LEAST RESTRICTIVE ENVIRONMENT]. Prior to placing a student in a nonpublic residential program, District Special Education Personnel shall initiate and conduct an in-person, onsite review of the program provider's facility and program to ensure that the program is appropriate for meeting the student's educational needs.

When the ARD Committee determines that a residential placement is necessary for FAPE, the ARD Committee must list the services in the IEP which the District is unable to provide and which the residential facility will provide, document the appropriateness of the facility, and verify during the initial ARD Committee meeting and each subsequent annual ARD Committee meeting that the nonpublic or non-District operated day program remains necessary, appropriate, and the student's least restrictive environment. The ARD Committee must also establish, in writing, criteria and estimated timelines for the student's return to the district. Within 30 calendar days from an ARD committee's decision to place a student in a residential education program, the district must electronically submit to TEA notice of and information regarding placement in accordance with the submission procedures specified by TEA.

When making a residential placement, the district must comply with the use of funds for contract services requirements of the law. See [USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS].

Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD)

Where appropriate based on the student's disability, the ARD Committee may determine that placement at the TSBVI or TSD is necessary. The ARD Committee must include in the IEP the services that TSBVI or TSD can appropriately provide and the criteria and estimated timelines for the student's return to the district. District Special Education Personnel may make an on-site visit to verify that TSBVI or TSD can and will offer the services listed in the student's IEP and to ensure an appropriate educational program for the student can be offered.

Should the ARD Committee place the student at either TSBVI or TSD, the student's "resident school district" (generally, the district) shall be responsible for assuring that FAPE is provided to the student at TSBVI or TSD. [Note: If a student is enrolled in an open-enrollment charter school at time of placement at TSBVI or TSD, the open-enrollment charter school is considered the resident school district]. If representatives of the District and TSBVI or TSD who are members of the student's ARD Committee disagree about any issue related to the student's placement in TSBVI or TSD, the representatives may seek resolution through the mediation procedures adopted by TEA or through a due process hearing.]

Following placement at TSBVI or TSD, the student's ARD Committee shall list the services that TSBVI or TSD can appropriately provide, as well as estimated timelines for returning the student to the district, in the student's IEP.

Students may also be placed directly at TSD (but not TSBVI) following referral for admission by the student's parent, should the parent determine that TSD is an appropriate placement of the student. In those situations, TSD shall be responsible for the provision of FAPE, not the district.

If the District is the resident school district, the District is responsible for transportation from the campus and the return to the campus at the beginning and end of school terms and for regularly scheduled school holidays when all students are expected to leave the residential campus for each student placed by the student's ARD Committee. This includes round-trip transportation for an adult if deemed necessary for the safety of the student by the ARD Committee and documented in the student's IEP.

In-State Versus Out-of-State Placements

The district may only enter into a contract with an in-state public or private residential placement that maintains current and valid licensure for the particular disabling condition and age of the student. The facility must be approved by the Texas Commissioner of Education. The same applies for out-of-state placements, so long as the facility is approved by the appropriate agency in the state in which the facility is located.

Residential Approval and Application Process

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the Commissioner of Education. Approval may be for one, two, or three years, as determined by the TEA. The Commissioner will renew approvals and issue new approvals only for those facilities which have students already placed or which have a pending request for approval from the district.

If a residential facility which has not been approved by the Commissioner of Education is being considered by the District the District Special Education Administration will notify TEA in writing of its intent to place the student at the facility. TEA will begin the approval procedures and conduct an on-site visit within 30 calendar days after notification.

However, prior approval is not required where a residential facility is only to provide related services or where District or Campus Special Education Personnel are to provide the education services within the residential facility.

District Special Education Administration must submit an application to TEA to receive approval from the Texas Commissioner of Education prior to placing a student in a residential facility where the facility will provide educational services listed in the student's IEP. A residential application may only be submitted for educational purposes.

If nonpublic residential program placement is ordered by a special education hearing officer or court, District Special Education Administration must notify TEA of the order within 30 calendar days. The program provider serving the student is not required to go through the approval process for an ordered placement. However, if the district intends to place any other students in the program, the approval process is necessary.

Should TEA deny, not reapprove, or withdraw an approval from a program provider, the district shall take steps to remove any students currently placed at the provider's facility or cancel the student's planned placement as quickly as possible.

Reporting and Responsibility

The residential facility must periodically report to District Special Education Administration regarding the services the student has received or will receive in accordance with the contract, as well as any diagnostic or other evaluative information that is required to fulfill the district's obligations under the IDEA. In addition, District Special Education Personnel must make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the residential facility can, and will, provide the services listed in the student's IEP that the facility has agreed to provide the student, that the educational program provided at the facility is appropriate, and that the placement is the least restrictive environment for the student. During these visits, District Special Education

Personnel shall also obtain written verification that the facility meets minimum standards for health and safety, holds all applicable local and state accreditation and permit requirements, and verify that the program provider's staff who work with the student have been subject to criminal background checks (to include fingerprinting) that meet the standards applicable to public school employees. Further, District Special Education Personnel must verify that the program provider has developed written policies, procedures, and operating guidelines to ensure the student maintains the same rights as other public school students with disabilities, including when the student is subject to emergency behavioral interventions or disciplinary actions, as well as to ensure the prohibition of aversive techniques. If more than one student is placed by the district in the same facility, District Special Education Personnel may review the appropriateness of the students' placement and services during the same visit.

If a student residentially placed by the ARD Committee changes residence to another Texas school district during the school year but remains in the residential facility, the district that placed the student remains responsible for the residential contract for the remainder of the school year.

Additional Procedures

The ARD Committee will consider several different factors related to the student's individual needs when determining if residential placement is needed, including, but not limited to:

- ·The district's efforts to provide special education services in a placement within the district, including the curriculum offered and the supplemental services provided;
- ·The educational benefits of receiving services on a traditional campus versus the educational benefits of receiving services in a residential facility;
- ·Any possible consequences, both for the individual student and for other students, of having the student educated in a placement within the district;
- ·Any physical or mental conditions or behavioral challenges prohibiting the student from receiving FAPE in a placement within the district;
- ·Any recommendations by evaluators or medical professionals in previous assessments related to residential placement; and
- ·Whether the demand for residential placement is primarily to provide educational benefit.

District or Campus Special Education Personnel must communicate any potential placement at a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

The ARD Committee will determine appropriate placement. If the ARD Committee determines that placement at a residential facility is necessary for the student to receive FAPE, the District will offer the program at no cost to the parents of the student. This may include transportation costs associated with travel to and from the residential facility for the student and/or the parents, as determined necessary and appropriate by the ARD Committee. During an ARD Committee meeting in which residential placement is discussed, the ARD Committee will provide information to the parent developed by the Health and Human Services Commission (HHSC) about educational residential placement options for children who may qualify for a state supported living center (SSLC).

After the ARD Committee determines that a student requires a residential placement and the services and supports needed at the residential facility, following the facility visit by District Special Education Personnel, the District will select the appropriate residential facility with input from the parent.

The District Special Education Administrator(s) and/or designees will select the residential facility that is able to meet the needs of the student, in accordance with the student's IEP, including ensuring that the residential facility can provide the services required in the child's IEP and that the facility employs general education, special education, and related service personnel who are certified, endorsed, or licensed to meet the needs of the student in accordance with the student's IEP.

The Special Education Department will maintain a list of residential placement facilities approved by Texas Commissioner of Education in Texas and the services available at those facilities. The District Special Education Department will periodically send representatives of the district to visit all the residential facilities in Texas that are approved by the Texas Commissioner of Education to ensure that up to date information is available regarding the characteristics, services, cost, and available resources for the various residential facilities in Texas. During the visit, the District Special Education Personnel will gather the following information:

- ·the special education services available at the facility for students;
- ·the age, disabilities, and needs served by the facility;
- ·the personnel at the facility, including the number, role, qualifications, certifications, endorsements, and/or licenses of each person;
- ·the procedures the facility used regarding emergency behavior interventions
- ·the instructional curriculum and interventions the facility uses;
- ·the supervision or monitoring offered for the students throughout the day and night;
- ·the cost; and
- ·any and all certifications, approvals, and/or licenses held by the facility.

The district will ensure that any in-state facility that the district seeks to place a student maintains current and valid licensure and has been approved or is in the process of being approved by the Texas Commissioner of Education prior to determining that a student will be placed in the facility.

The district will also ensure that any out-of-state facility in which the district seeks to place the student maintains current and valid licensure and has been approved by the appropriate state agency in the state in which the facility is located.

If an out of state residential facility is needed because there are no in-state facilities available to meet the needs of the student, the District Special Education Director will notify TEA in writing of its intent to place the student at the facility and request approval. The district will also send a representative to the out-of-state facility before recommending the facility to ensure that the specific needs of the child as identified in the student's IEP can be met.

District and Campus Administrators will receive annual training about placements in residential facilities. This training shall include information regarding the ARD Committee's role in placing students in residential facilities, the various types of residential placements, the application process, and reporting and monitoring responsibilities.

Residential Application Process

District Special Education Administration will notify the TEA of its desire to contract with a residential facility through the residential application process for each individual student the district seeks to place in a residential facility. District Special Education Administration will also submit any request for approval of state and federal funding for residential placement through the residential application process.

District Special Education Administration will indicate the following in its request for approval:

- ·Placement is not due primarily to the student's medical problems;
- ·Placement is not due primarily to problems in the student's home;
- ·The ARD Committee has established criteria and timelines for the student to return to District;
- ·The ARD Committee has attempted to implement lesser restrictive placements prior to determining that this placement is necessary and appropriate, except in emergency situations as documented by the ARD Committee;
- ·Placement in the residential facility is more cost effective than alternative placements considered; and
- ·The residential facility does not provide unfundable/unapprovable services.

Procurement Process for Residential Facility Contract

If a student with a disability needs a residential program to receive special education and related services as determined by the student's ARD Committee, the District must provide that program, including non-medical care, room and board, education-related expenses, transportation to and from the residential facility, and travel expenses for visiting the student at no cost to the parents. After the District Special Education Administration determines the residential facility in which a student needs in accordance with the student's IEP, the District will contract with the residential facility to provide the special education services and placement for the student.

Reporting and Responsibility

District Special Education Administration will communicate with the residential facility at least once per District grading period to ensure that the student has received or will receive the services outlined in the student's IEP, gather all progress documentation for the student, and discuss any diagnostic or other evaluative information where necessary. The District Special Education Administration will also communicate with the residential facility and the parent regarding any need for an ARD Committee meeting to discuss any additions or revisions needed to the student's IEP to address any lack of progress and/or current needs of the student. District Special Education Administration will also ensure that the residential facility is continuing to employ general education, special education, and related services personnel who are certified, endorsed, or licensed in the area of assignment and that it uses appropriate emergency behavioral interventions with the student that comply with state and federal requirements and meet the needs of the student in accordance with the student's IEP.

In addition, District Special Education Personnel must make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the residential facility can, and will, provide the services listed in the student's IEP that the facility has agreed to provide the student. During these visits, the District Special Education Personnel will review the student's IEP with the residential facility personnel and obtain documentation verifying that all accommodations, services, modifications, goals and objectives, and other provisions of the student's IEP have been provided.

District Special Education Administration will report all students placed in residential facilities to TEA through the Residential Facility Tracker by the end of the school year annually.

The district will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- ·ARD/IEP
- ·Continuum of Alternative Placements Considered
- ·List & Characteristics of Approved Residential Facilities
- ·Documentation of Communication with Residential Facility
- ·Documentation of Site Visits Prior to Placement
- ·Residential Application
- ·Approval of Residential Facility
- ·Documentation of Services & Accommodations Provided by Residential Facility
- ·Progress Documentation of Student's Goals & Objectives
- ·Residential Facility Tracker
- ·Documentation for the state in TSDS, PEIMS, and SPP

Resources

The Legal Framework for the Child-Centered Special Education Process: Placement in a Residential Facility - Region 18

Student Attendance Accounting Handbook (TEA)

Special Education in Nonpublic Programs – (TEA)

Residential Facility Tracker - Texas Education Agency

Special Education in Residential Facilities - Texas Education Agency

Texas School for the Blind and Visually Impaired

Texas School for the Deaf

Citations

Board Policy EHBAC; Texas Education Code 29.008(d); 19 TAC 89.1085(c), 89.1092

PLACEMENT IN A NONPUBLIC DAY PLACEMENT

What is Required

The districtmust provide placement to a student in a nonpublic or non-District operated day program to a student with disabilities at no cost to the parents if the ARD Committee determines that such placement is necessary for the student to receive FAPE. District Special Education Administration may contract with a nonpublic or non-District operated day program provider to provide some or all of the special education services listed in a student's IEP if the student cannot obtain an educational benefit in a less restrictive setting. See [ADMISSION, REVIEW AND DISMISSAL COMMITTEE] and see above [LEAST RESTRICTIVE ENVIRONMENT].

A "nonpublic or non-district operated day program provider is an entity with one or more facilities that contracts with a school district for the provision of some or all of a student's special education and related services when the school district is unable to provide these services. These providers include a county system operating under application of former law as provided in Texas Education Code § 11.301, a regional education service center, a nonpublic day school, or any other public or private entity with which a school district enters into a contract for the provision of special education services under Texas Education Code § 11.157(a) in a facility not operated by a school district.

Prior to placing a student in a nonpublic or non-District operated day program, District Special Education Personnel shall initiate and conduct an in-person, onsite review of the program provider's facility and program to ensure that the program is appropriate for meeting the student's educational needs.

When the ARD Committee determines that a nonpublic or non-District operated day program placement is necessary for FAPE, the ARD Committee must list the services in the IEP which the District is unable to provide and which the nonpublic or non-District operated day program will provide, document the appropriateness of the program, and verify during the initial ARD Committee meeting and each subsequent annual ARD Committee meeting that the nonpublic or non-District operated day program remains necessary, appropriate, and the student's least restrictive environment. The ARD Committee must also establish, in writing, criteria and estimated timelines for the student's return to the district.

Within 30 calendar days from an ARD Committee's decision to place a student in a nonpublic or non-District operated day program, the district must electronically submit to TEA notice of and information regarding placement in accordance with the submission procedures specified by TEA.

When placing a student in a nonpublic or non-District operated day program, the district must comply with the use of funds for contract services requirements of the law.

Approval and Application Process for Nonpublic or Non-District Operated Day Programs

Nonpublic or non-District operated day programs which provide educational services must have their educational programs approved by the Commissioner of Education for contracting purposes. Approval may be for one, two, or three years, as determined by the TEA. The Commissioner will renew approvals and issue new approvals only for those facilities which have students already placed or which have a pending request for approval from the district.

If a nonpublic or non-District operated day program which has not been approved by the Commissioner of Education is being considered by the District, the District Special Education Administration will notify TEA in writing of its intent to place the student in the program. TEA will begin the approval procedures and conduct an on-site visit within 30 calendar days of the notification.

District Special Education Administration must submit an application to TEA to receive approval from the Texas Commissioner of Education prior to placing a student in a nonpublic or non-District operated day program where the facility will provide educational services listed in the student's IEP. An application for approval of a nonpublic or non-District operated day program may only be submitted for educational purposes.

If nonpublic or non-District operated day program placement is ordered by a special education hearing officer or court, District Special Education Administration must notify TEA of the order within 30 calendar days. The program provider serving the student is not required to go through the approval process for an ordered placement. However, if the district intends to place any other students in the program, the approval process is necessary.

Should TEA deny, not reapprove, or withdraw an approval from a program provider, the district shall take steps to remove any students currently placed at the provider's facility or cancel the student's planned placement as quickly as possible.

Reporting and Responsibility

District Special Education Personnel must make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the nonpublic or non-District operated day program can, and will, provide the services listed in the student's IEP that the program provider has agreed to provide the student, that the educational program provided is appropriate, and that the placement is the least restrictive environment for the student. During these visits, District Special Education Personnel shall also obtain written verification that the program provider meets minimum standards for health and safety, holds all applicable local and state accreditation and permit requirements, and verify that the program provider's staff who work with the student have been subject to criminal background checks (to include fingerprinting) that meet the standards applicable to public school employees. Further, District Special Education Personnel must verify that the program provider has developed written policies, procedures, and operating guidelines to ensure the student maintains the same rights as other public school students with disabilities, including when the student is subject to emergency behavioral interventions or disciplinary actions, as well as to ensure the prohibition of aversive techniques. If more than one student is placed by the district in the same program, District Special Education Personnel may review the appropriateness of the students' placement and services during the same visit.

If the student who is placed in a nonpublic or non-district operated day program by the District changes his or her residence to another Texas school district during the school year, District Special Education Administration shall notify TEA within 10 calendar days of the date on which the school district ceased contracting with the program provider for the student's placement. The student's new school district is then responsible for providing comparable services to the student until the new school district either adopts the student's IEP from the District or develops, adopts, and implements a new IEP.

<u>Additional Procedures</u>

The ARD Committee will consider several different factors related to the student's individual needs when determining if nonpublic or non-District operated day program placement is needed, including, but not limited to:

- ·The district's efforts to provide special education services in a placement within the district, including the curriculum offered and the supplemental services provided;

- ·The educational benefits of receiving services on a traditional public-school campus versus the educational benefits of receiving services in a nonpublic or non-District operated day program;
- ·Any possible consequences, both for the individual student and for other students, of having the student educated in a placement within the district;
- ·Any physical or mental conditions or behavioral challenges prohibiting the student from receiving FAPE in a placement within the district;
- ·Any recommendations by evaluators or medical professionals in previous assessments related to nonpublic or non-District operated day program placement; and
- ·Whether the demand for nonpublic or non-District operated day program placement is primarily to provide educational benefit.

District or Campus Special Education Personnel must communicate any potential placement at a nonpublic or non-District operated day program to the District Special Education Administration prior to any final decision regarding the placement.

The ARD Committee will determine appropriate placement. If the ARD Committee determines that placement in a nonpublic or non-District operated day program is necessary for the student to receive FAPE, the District will offer the program at no cost to the parents of the student. This may include transportation costs associated with travel to and from the nonpublic or non-District operated day program for the student and/or the parents, as determined necessary and appropriate by the ARD Committee.

After the ARD Committee determines that a student needs a nonpublic or non-District operated day program placement and the services and supports needed at the nonpublic or non-District operated day program, following the program visit by District Special Education Personnel, the District will select the appropriate nonpublic or non-District operated day program with input from the parent. The District Special Education Administrator(s) and/or designees will select the nonpublic or non-District operated day program that is able to meet the needs of the student, in accordance with the student's IEP, including ensuring that the nonpublic or non-District operated day program can provide the services required in the child's IEP and that the program employs general education, special education, and related service personnel who are certified, endorsed, or licensed to meet the needs of the student in accordance with the student's IEP.

The Special Education Department will maintain a list of nonpublic or non-District operated day programs in Texas approved by the Texas Commissioner of Education, and the services available at those facilities. The District Special Education Department will periodically send representatives of the District to visit all the nonpublic or non-District operated day programs in Texas that are approved by the Texas Commissioner of Education to ensure that up to date information is available regarding the characteristics, services, cost, and available resources for the various nonpublic or non-District operated day programs facilities in Texas. During the visit, the District Special Education Personnel will gather the following information:

- ·the special education services available at the facility for students;
- ·the ages, disabilities, and needs served by the program;
- ·the personnel within the program, including the number, role, qualifications, certifications, endorsements, and/or licenses of each person;
- ·the procedures the program uses regarding emergency behavior interventions;
- ·the instructional curriculum and interventions the facility uses;
- ·the supervision or monitoring offered for the students throughout the day;
- ·the cost; and
- · any certifications, approvals, and/or licenses held by the program.

The district will ensure that any program that the district seeks to place a student maintains current and valid licensure and has been approved or is in the process of being approved by the Texas Commissioner of Education prior to determining that a student will be placed in the program.

District and Campus Administrators will receive annual training about placements in nonpublic or non-District operated day programs. This training shall include information regarding the ARD Committee's role in placing students in nonpublic or non-District operated day programs, the various types of nonpublic or non-District operated day programs, the application process, and reporting and monitoring responsibilities.

Application Process

District Special Education Administration will notify the TEA of its desire to contract with a nonpublic or non-District operated day program through the application process for each individual student the district seeks to place in a nonpublic or non-District operated day program. District Special Education Administration will also submit any request for approval of state and federal funding for nonpublic or non-District operated day program through the application process.

District Special Education Administration will indicate the following in its request for approval:

- ·Placement is not due primarily to the student's medical problems;
- ·Placement is not due primarily to problems in the student's home;
- ·The ARD Committee has established criteria and timelines for the student to return to the district;
- ·The ARD Committee has attempted to implement lesser restrictive placements prior to determining this placement is necessary and appropriate, except in emergency situations as documented by the ARD Committee;
- ·Placement in the nonpublic or non-District operated day program is more cost effective than alternative placements considered; and
- ·The nonpublic or non-District operated day program does not provide unfundable/unapprovable services.

Reporting and Responsibility

District Special Education Administration will communicate with the nonpublic or non-District operated day program at least once per District grading period to ensure that the student has received or will receive the services outlined in the student's IEP, gather all progress documentation for the student, and discuss any diagnostic or other evaluative information where necessary. The District Special Education Administration will also communicate with the nonpublic or non-District operated day program and the parent regarding any need for an ARD Committee meeting to discuss any additions or revisions needed to the student's IEP to address any lack of progress and/or current needs of the student. District Special Education Administration will also ensure that the nonpublic or non-District operated day program is continuing to employ general education, special education, and related services personnel who are certified, endorsed, or licensed in the area of assignment and that it uses appropriate emergency behavioral interventions with the student that comply with state and federal requirements and meet the needs of the student in accordance with the student's IEP.

In addition, District Special Education Personnel will make an initial and two subsequent onsite visits annually, one announced and one unannounced, to verify that the nonpublic or non-District operated day program can, and will, provide the services listed in the student's IEP that the program has agreed to provide the student. During these visits, the District Special Education Personnel will review the student's IEP with the nonpublic or non-District operated day program personnel and obtain documentation verifying that all accommodations, services, modifications, goals and objectives, and other provisions of the student's IEP have been provided.

The district will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

Evidence of Implementation

- ·ARD/IEP
- ·Continuum of Alternative Placements Considered
- ·Documentation of Communication with Nonpublic or Non-District Operated Day Program
- ·Documentation of Site Visits Prior to Placement
- ·Application
- ·Approval of Nonpublic or Non-District Operated Day Program
- ·Documentation of Services & Accommodations Provided by Nonpublic or Non-District Operated Day Program
- ·Progress Documentation of Student's Goals & Objectives
- ·Documentation for the state in TSDS, PEIMS, and SPP

Resources

Student Attendance Accounting Handbook (TEA)

Special Education in Non-public Programs – (TEA)

Nonpublic/ Non-District Operated Program Guidance – Texas Education Agency

Citations

Board Policy EHBAC; 19 TAC 89.1094