Nonpublic Day and Residential Notification of Placement and Funding Application Process

Division of IDEA Support
Introduction/Overview

Public schools must provide a free appropriate public education (FAPE) to students aged 3-21 who are eligible for special education. If a district cannot provide a student’s special education and related services, the district may contract with an approved nonpublic facility to provide FAPE in accordance with the Individuals with Disabilities Education Act (IDEA). **School districts are required to ensure that each student receives all services specified in his or her individualized education program (IEP) regardless of who provides the services.** In accordance with state requirements at 19 Texas Administrative Code (TAC), §89.61 and with federal requirements at 34 Code of Federal Regulations (CFR), §§300.146-300.147, the Texas Education Agency (TEA) approves the educational programs of nonpublic schools that meet both federal and state special education program requirements. If a nonpublic school provides any or all educational services listed in a student’s IEP, the commissioner of education must approve the nonpublic school’s education program. An admission, review, and dismissal (ARD) committee may not place students in a nonpublic school that has not had its educational program approved by TEA. More information on the nonpublic school approval process can be found on the Nonpublic School Monitoring and Guidance Resources for Special Education website.

When a school district contracts with an approved nonpublic facility, the district retains full responsibility for the nonpublic facility’s compliance with all applicable state and federal laws, including isolation and restraint requirements found at 19 TAC §89.1053 and TEC §37.0021. School districts are not permitted to allocate IDEA Part B funds or state special education funds to a nonpublic facility for the provision of special education services until the commissioner of education approves the nonpublic facility.

An approved nonpublic facility must notify TEA – Division of IDEA Support and contracting school district(s) of any major changes to the program that occur during the approval period. Major changes include any program changes that may affect the nonpublic facility’s ability to fulfill a contract, and of any complaints against the nonpublic facility regarding the provision of services to students eligible for special education services. Any nonpublic facility that is unable to continue to provide services in accordance with state regulations will be removed from the state approved list of nonpublic facilities.

TEA’s Division of School Improvement provides a [list of nonpublic schools currently approved](#) on its website. When selecting a currently approved nonpublic facility for placement, school districts must ensure that the particular nonpublic facility is able to provide services required to meet the unique needs of the student(s) to be served by the nonpublic facility. The nonpublic school approval process is not required for a facility that provides only related services and/or whose special education instructional program is the responsibility of an accredited Texas public school.
District Initial Request for Approval of a Nonpublic School

If a district intends to contract with a nonpublic school that is not currently approved by TEA, the district must notify the agency of its intent to place a student in the nonpublic school by providing the required information via the Nonpublic/High Cost Funds TEASE Application.

To begin the initial approval process, the district will need to complete the steps outlined below.

**Step 1. Initial Visit to the Nonpublic School**

The district must visit the nonpublic school to ensure that the facility meets health and safety standards, employs appropriately certified or licensed staff to provide appropriate services to students, has a written curriculum that includes the Texas Essential Knowledge and Skills, and that it is appropriate for the placement of students.

**Step 2. Student’s ARD/IEP Documentation**

The district must convene an ARD committee meeting, including a representative from the intended nonpublic school, to develop an IEP for the student that meets federal and state requirements. The IEP must include the services the district is unable to provide in which the nonpublic school will provide, and the criteria and estimated timelines for the student’s return to the school district.

**Step 3. Letter of Intent to Contract**

The district must draft a letter of intent, signed by the superintendent, to contract with the nonpublic school. The letter must include the following information:

- the name of the nonpublic school;
- the nonpublic school director’s name, contact number, and email address;
- the specific program location(s);
- the proposed date of placement; and
- the type of placement requested (day or residential).

**Step 4. Complete and Submit Required Documentation to TEA through the Nonpublic/High Cost Funds (NP/HCF) TEASE application**

The district must upload the following documents into the application.

1. The Nonpublic Submission Checklist
2. An electronic or scanned copy of the student’s relevant IEP
3. The letter of intent to contract

**Step 5. Approval and Finalization**

Once TEA receives the required documentation, the Division of IDEA Support notifies the Division of School Improvement of the pending approval request. More information on the nonpublic school approval process conducted by the Division of School Improvement is on the Nonpublic School Monitoring and Guidance Resources for Special Education website.

If the nonpublic facility and its education program do not meet the requirements for approval, TEA will notify the district and the nonpublic school that TEA cannot approve the nonpublic school placement. TEA will provide an explanation for the decision, and the district may reconvene the
ARD committee to revise the student’s IEP to meet federal and state requirements.

If the commissioner of education approves the nonpublic school’s education program, the district must:

1. complete the application process by amending the original submission;
2. upload any required documents that contain changes from the initial submission;
3. upload the signed contract with the facility; and
4. certify and submit the completed application

**Contracting with a Previously Approved Nonpublic School**

The district may contract with an approved nonpublic facility to provide FAPE in accordance with IDEA. The district has the following responsibilities when making a nonpublic day or residential placement.

A. Before a student is placed in or referred to a nonpublic school, the district must initiate and conduct a meeting of the student’s ARD committee to develop an IEP for the student. A representative of the nonpublic school must participate in the ARD committee meeting.

B. The district must ensure that the student’s IEP includes the services the district is unable to provide in which the nonpublic school will provide.

C. The district must ensure that the ARD committee establishes, and includes in the IEP, the criteria and estimated timelines for the student’s return to the school district.

D. The district must ensure that the ARD committee documents the appropriateness of the nonpublic school in the IEP. The ARD committee must justify the restrictive environment of the nonpublic school.

E. The district must ensure that the student receives FAPE. The district must make an initial and an annual on-site visit to verify that the nonpublic school can and is providing the services listed in the student’s IEP. It will be necessary for the district to continue to follow-up with the nonpublic school throughout the year to ensure that the student is receiving services as written in the IEP and that the student is receiving educational benefit.

**District Notification of Placement and Use of Funds at an Approved Nonpublic School**

If a district contracts for services with a nonpublic school that is currently approved by TEA, the district must notify the agency of its decision to place a student in the nonpublic school by providing the required information via the Nonpublic/High Cost Funds TEASE Application.

To begin the notification process, the district will need to complete the steps outlined below.
Step 1. Access the Nonpublic/High Cost Funds TEASE application

Appropriate district personnel will obtain account access through the TEASE environment by requesting access to the Nonpublic/High Cost Funds application. Information on obtaining a TEASE account or on adding an application can be located on the TEA Secure Applications Information website.

Step 2. Complete and Submit Required Documentation to the Agency

After obtaining account access, appropriate district personnel will enter the required student level and educational services data documented in the IEP and nonpublic contract and will upload the following documents into the application.

1. The Nonpublic Submission Checklist
2. An electronic or scanned copy of the student’s relevant IEP
3. The contract for services with the approved nonpublic

Step 3. Certification and Submission

Appropriate district personnel will verify the accuracy and completeness of the application data and required documents by completing the assurances, certifying, and submitting the application to TEA.

Once submitted, a district must communicate any subsequent changes to the submission to TEA via an amendment to the application.

Step 4. TEA Approval for Funding

Upon receipt of the required documentation, TEA will review the student’s IEP to ensure that it meets federal and state requirements.

If requirements are met, the Nonpublic/High Cost Funds TEASE application will be placed in final status and will be considered in compliance for use of funds, and if applicable, eligible for additional funds. TEA will notify districts of the final status.

If the IEP does not meet federal and state requirements, TEA will notify the district of that fact. TEA will provide an explanation for the decision, and the district may reconvene ARD committee meeting to revise the IEP in order for it to meet federal and state requirements. The district may then resubmit the IEP to TEA for review.