The Individuals with Disabilities Education Act, Part B (IDEA-B) requires Texas public schools to provide a free appropriate public education (FAPE) to students aged 3-21 who are eligible for special education services in the least restrictive environment (LRE) appropriate for the student. If a student’s admission, review, and dismissal (ARD) committee determines that a nonpublic placement is necessary to provide special education and related services, the local education agency (LEA) may contract with a nonpublic facility to provide FAPE. An LEA that contracts for the provision of educational and related services shall oversee the implementation of the student’s IEP and is responsible for compliance with 34 Code of Federal Regulations (CFR) §300.325. The LEA must reevaluate the appropriateness of the arrangement annually.

**Prior to Nonpublic Placement**

LEAs should consider coordinating with the Local Intellectual Disability Authority, Mental Health Authority, Community Resource Group, or group of people knowledgeable about the student to determine whether noneducational support services are available that would enable the student to remain in or return to the community.

Prior to placing a student in a nonpublic facility, the LEA must make an initial (and annual) on-site visit to verify the nonpublic facility can, and will, provide the services listed in the student’s individualized education program (IEP) for which the facility is contracted to provide.

**Admission, Review, and Dismissal (ARD) Committee Meeting**

Before an LEA places a student with a disability in, or refers a student to, a nonpublic facility, the LEA must initiate and conduct an ARD meeting to develop an IEP for the student in accordance with 34 CFR §§300.320 - §§300.325, state statutes, and commissioner of education rules.

When making a nonpublic placement, the ARD committee must address the following:

- document the lesser restrictive placements (continuum of services) attempted prior to nonpublic placement (except in emergency situations) - emergency situations must be documented by the ARD committee;
- list the services which the LEA is unable to provide and which the facility will provide;
- establish, in writing, criteria and estimated timelines for the student’s return to the LEA (Reintegration Plan);
- document the appropriateness of the facility;
- during the initial placement ARD and each subsequent ARD, the LEA shall verify that;
  - the facility meets minimum standards for health and safety;
  - residential placement is needed;
  - the educational program provided at the facility is appropriate; and
  - the placement is the least restrictive environment for the student
- document the appropriate instructional setting code (50-residential placement, 60-day placement); and
- document that a representative of the facility participated in the ARD.
**Contracting with Nonpublic Facilities**

If a student’s ARD committee determines a nonpublic placement is necessary for the student to receive FAPE, an LEA may contract with a nonpublic day or residential facility to provide some or all the special education services listed in the student’s IEP. Nonpublic residential facilities must maintain current and valid licensure from the appropriate state agency for the disabling condition(s) and age of the student. If the facility provides any educational services listed in the student’s IEP, the facility’s education program must be approved by the commissioner of education. This approval does not apply to facilities which only provide related services or those in which the LEA where the facility is located provides the educational program.

The Texas Education Agency (TEA) maintains a list of Nonpublic Schools for Students with Disabilities Approved for Contracting Purposes on its website. If the education program of a nonpublic school which is not approved by the commissioner of education is being considered for a nonpublic placement, the LEA must notify TEA of its intent to place a student at the facility through the online Nonpublic Placement Notification and Application. TEA will begin procedures to determine approval and conduct an on-site visit to the facility within 30 calendar days after receiving the notification. Information concerning the approval process can be found on the [Nonpublic School Monitoring and Guidance Resources for Special Education](https://www.tea.texas.gov) website.

The commissioner of education issues new approvals and renews approvals only for those facilities which have students already placed at the facility or which have a pending request from an LEA.

To be processed for approval of state and federal funding, an LEA’s contract with the nonpublic facility must:

- include the beginning and ending dates of placement (dates cannot overlap with a previous contract);
- include the number of days for the student’s placement;
- contract for no more than 365 days;
- fall within the LEAs fiscal year that coincides with the application year;
- include signatures from both the LEA and nonpublic facility; and
- include a cost analysis of all services to be provided by the nonpublic facility (residential placements only).

A new or amended contract must be submitted online as part of the application amendment process if an ARD committee develops an IEP for a student that changes the services for which they have contracted. The amended application must be submitted within 30 calendar days of the ARD decision.

**Nonpublic Placement Notification and Application**

19 Texas Administrative Code §89.61 (a)(3) requires LEAs to notify TEA if the LEA intends to place a student with a disability in a nonpublic placement. The process for notification is made through the Nonpublic Placement Notification and Application in [Texas Education Agency Login (TEAL)](https://www.tea.texas.gov) and submitted as follows:
• Within 30 calendar days of the ARD decision, if the student was placed in a nonpublic facility after the school year began
• Within 60 calendar days from the date the Nonpublic Placement Notification and Application opens, if the student was in a nonpublic placement on the first day of the school year.

Upon receipt of the application, TEA conducts a review for approval of state and federal funding. State and federal funding are approved for educational purposes only. Per 19 Texas Administrative Code 89.61 (b)(1), funding shall not be approved if the application indicates:
• placement is due primarily to the student’s medical problems;
• placement is due primarily to problems in the student’s home;
• the LEA does not have a plan, including timelines and criteria, for the student’s return to the local school program;
• the LEA did not attempt to implement lesser restrictive placements prior to nonpublic placement (except for emergency situations as documented in the student’s IEP);
• placement is not cost effective when compared with other alternative placements; and/or;
• the nonpublic facility provides unfundable/unapprovable services.

Adherence to submission timelines is necessary to ensure timely approval for use of funds. Failure to meet submission timelines may delay the approval for use of funds.

For additional information on the submission process, refer to the Nonpublic Placement Notification and Application TEAL Application Guidance document.

**Funding for Nonpublic Placements**

TEA’s Division of Special Education conducts a programmatic review of the Nonpublic Placement Notification and Application to ensure federal and state requirements are met. If requirements are met, the application will be considered in compliance for use of funds.

Funding for nonpublic placements, if the application meets federal and state requirements, is derived from several sources.

**Nonpublic Day Placements**
• LEAs receive an annual allotment from state funds for nonpublic day placements based on the LEA’s adjusted basic allotment multiplied by 1.7 (instructional arrangement weight for nonpublic day school).

**Nonpublic Residential Placements**
Nonpublic Residential Placements are funded through a combination of local, state, and federal funds.
• **Education Cost**: The education cost for a residentially placed student is funded on the same basis as a nonpublic day placement.
• **Related Services and Residential Costs**: After expending any other available funds, the LEA must expend its local tax share per average daily attendance and 25% of its IDEA-B formula tentative entitlement (or equivalent amount of state and/or local funds) for the related services and residential costs associated with a residentially placed student.
• **Limit on Residential Costs Reimbursement:** Reimbursement for residential costs cannot exceed the daily rate recommended by the [Texas Department of Family and Protective Services](https://www.dpfs.texas.gov).

• **Additional IDEA-B Discretionary Funding:** If the funding sources listed above are not sufficient to cover all the costs of the residential placement, the district may receive additional IDEA-B discretionary funding.

**Resources**

- **Websites**
  - [Nonpublic Placement Notification and Application](#)
  - [Special Education in Nonpublic Schools](#)
  - [Progress in the General Curriculum Statewide Network: Least Restrictive Environment (LRE)](#)
  - [Texas Education Agency Login (TEAL)](#)
  - [Community Resource Coordination Groups](#)

- **Code of Federal Regulations**
  - [34 CFR §300.325 Private School Placements by Public Agencies](#)

- **Texas Administrative Code**
  - [19 TAC §89.61 Contracting for Residential Educational Placements for Students with Disabilities](#)

**Contacts**

An LEA’s first point of contact is the regional Education Service Center (ESC). A list of the ESC Special Education contacts for each region can be found on the [Education Service Center Technical Assistance](#) webpage.

**Program Information**
Division of Special Education  
512-463-9414  
nidayandres@tea.texas.gov

**Funding Information**
Grants Administration Division  
512-463-8525  
grants@tea.texas.gov
Nonpublic Placement Notification and Application Flowchart

1. LRE Continuum of Placements as Determined by ARD
2. LEA Visits Potential Nonpublic Facility
3. ARD Committee Determines Nonpublic Placement
4. LEA Contracts with Nonpublic Facility to Provide FAPE
5. LEA Submits Nonpublic Placement Notification and Application
6. TEA Conducts Review of Application

   - Application Meets Federal and State Requirements
     - LEA and ESC Notified of Approval for Use of Funds
       - LEA Submits Amended Application
         - ARD Committee Develops IEP Which Changes Contracted Services, Student Returns to Campus, Student Moves from District.
   - Application Does Not Meet Federal and State Requirements
     - Application is Placed in Clarification Status
       - LEA and ESC are Notified
         - ESC Contacts LEA to Provide Technical Assistance
         - LEA Makes Clarifications to Application