



BACK TO SCHOOL UPDATES

FOR SPECIAL EDUCATORS, ADMINISTRATORS, AND OTHER PROFESSIONALS:

This document is an update to the original [Back to School Updates](#) document published earlier this month and is intended to describe some of the changes resulting from commissioner rule amendments to the Texas Administrative Code (TAC), effective August 22, 2024. Make sure to read the rules in their entirety to fully understand the requirements.

SCOPE AND APPLICABILITY:

[19 TAC §89.1001](#)

Child Find outreach activities for residential facilities are now:


2
times a
year



- ◆ Defines residential facility.
- ◆ Increases school district Child Find outreach activities to residential facilities from once a year to twice a year.


INSTRUCTIONAL ARRANGEMENTS AND SETTINGS:

[19 TAC §89.1005](#)

Refers back to the statutory authority to establish these instructional arrangements, which is found at [TEC §48.102](#).

-  Clarifies that **instructional day** needs to be commensurate to that of students without disabilities and only modified when determined necessary by the admission, review, and dismissal (ARD) committee.

-   Adds to **mainstream instructional arrangement** that monitoring student progress in and of itself is not a special education service.

-  Clarifies the **homebound instructional arrangement** text as follows:

- ◆ Used for medical reasons when a student is expected to incur full-day absences from school for a minimum of four weeks (weeks do not have to be consecutive) for medical reasons, which could include psychological disorders. The ARD committee must consider medical documentation from a physician and

would need to determine that this placement is necessary to provide the student a free appropriate public education (FAPE).

- ◆ Home-based instruction may also be used for children three through five years of age when determined appropriate by the child's ARD committee and as documented in the IEP.
- ◆ Can be used for students who are confined to or educated in hospitals, including those school districts described by [TEC §29.014](#).

-   **Hospital class instructional arrangement** is clarified as follows:

- ◆ These are services provided by district personnel at a hospital or other medical facility, or at a residential care and treatment facility not operated by the district.
- ◆ If the student resides at a residential care and treatment facility but receives services at a school district campus, they are not considered to be in this instructional arrangement.

-   **Speech therapy** is clarified as follows:

- ◆ If a student receives speech therapy and the student's individualized education program (IEP) indicates that a special education teacher is involved in the implementation of the student's IEP but there is no indication of how that teacher provides special education services, the student is in the speech therapy setting.
- ◆ When a student receives speech therapy and another related service (no other instructional service), the student is in the speech therapy setting.

-   **Resource room and self-contained instructional arrangements** are clarified to align with descriptions in the Student Attendance Accounting Handbook (SAAH).

-   **Off-home campus instructional arrangement** is clarified as follows:

- ◆ This includes students at South Texas ISD or Windham School District.
- ◆ This is used for a student who is one of a group of students from one or more districts served in a single location in another district when FAPE is not available in the sending district.

- ◇ This is used for a student in a community setting, facility, or environment **operated by a 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.
- ◇ This is used for a student in a community setting or environment **not** operated by a 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 provide by district personnel.
- ◇ This is used for a student in a facility not operated by a school district with instruction provided by district personnel.
- ◇ This is used for a student in a self-contained program at a separate campus operated by the district that provides only special education and related services.

Nonpublic day school is clarified to add specific reference that this instructional arrangement is for students placed in nonpublic or non-district operated day placements in accordance with [19 TAC §89.1094](#).

Vocational adjustment class is clarified in that, although referred to as a class, this arrangement is a support program for providing special education and related services to a student who is placed on a job (paid or unpaid) with regularly scheduled direct involvement by special education personnel in the implementation of the student’s IEP. This will 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 (CTE) work-based learning programs.

Residential care and treatment facility is clarified in that this arrangement is used for students who reside at such a facility but are receiving special education and related services on a district campus, were not placed at the facility by the student’s ARD committee, and the parent does not reside in the district providing the services.

Children from birth through the age of two who have visual impairments, who are deaf or hard of hearing, or who are deafblind must be enrolled at parent’s request and the instructional arrangements could be coded as home-based instruction or center-based instruction.

GENERAL PROGRAM REQUIREMENTS AND LOCAL DISTRICT PROCEDURES

[19 TAC §89.1075](#)

- ⊕ Adds an explicit statement that districts must develop policies, procedures, programs, and practices that are consistent with the state’s policies, procedures, programs and services to implement the Individuals with Disabilities Education Act (IDEA).
- ⊕ Adds an existing statutory requirement that the district’s transition and employment designee (TED) must complete required training as developed by the commissioner and provide information to parents, students and appropriate state agencies about transition requirements.

TEDs must complete required training and must provide information about transition requirements.

INTERVENTIONS AND SANCTIONS:

[19 TAC §89.1076](#)

- ⊕ Updates statutory cross references.
- ⊕ Clarifies and aligns interventions and sanctions that are under Texas Education Agency’s (TEA’s) responsibilities under federal law.

REFERRAL FOR THE TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED (TSBVI) AND TEXAS SCHOOL FOR THE DEAF (TSD) SERVICES:

[19 TAC §89.1085](#)

- ⊕ Clarifies that if a student was enrolled in an open-enrollment charter school at the time of referral and placement at TSBVI or TSD, the charter school is the resident school district and responsible for assuring that FAPE is provided to the student.

TRANSPORTATION OF STUDENTS PLACED IN THE TSBVI OR TSD

[19 TAC §89.1090](#)

- Clarifies that the resident school district is responsible for the transportation of students placed at TSBVI or TSD's residential program at the beginning and end of the school terms and for regularly scheduled holidays when all students are expected to leave the residential campus.

CONTRACTING FOR NONPUBLIC RESIDENTIAL PLACEMENTS FOR THE PROVISION OF FAPE

[19 TAC §89.1092](#)

- Clarifies the definition of nonpublic residential program as a program that includes the provision of special education and related services to one or more Texas public school students by someone other than school district personnel at a facility not operated by a school district, and the student's ARD committee has determined that this residential placement is necessary to provide the student FAPE.
- A nonpublic residential program provider is a public or private 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 those services.

CONTRACTING FOR NONPUBLIC OR NON-DISTRICT OPERATED DAY PLACEMENTS FOR THE PROVISION OF FAPE

[19 TAC §89.1094](#)

- Changed terminology of these programs from off-campus programs to nonpublic or non-district operated day placement programs.
- A nonpublic or non-district operated day program includes the provision of special education and related services to one or more

Texas public school students during school hours by someone other than school district personnel in a facility not operated by a school district, and the student's ARD committee has determined that this placement is necessary to provide the student FAPE.

- Clarifies that an entity that contracts with a school district for the provision of FAPE to a student is subject to this rule, even if the entity is providing the services at a facility owned by the district. The applicability of the rule is dependent on who is operating the program (the school district or the contracted entity).

APPLIES TO BOTH §89.1092 AND §89.1094:

- New provisions include the school district's responsibility to verify:
 - That the program provider's staff who work with the student have been subject to criminal background checks that meet standards applicable to public school employees.
 - That the program provider has developed written policies, procedures, and operating guidelines that set forth necessary standards and steps to be followed 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 as defined by [TEC §37.0023](#).
- Adds that:
 - TEA may place conditions on the provider to ensure the provision of FAPE.
 - If TEA does not approve, or does not reapprove, or withdraws an approval, the district must take steps to remove any students currently placed at the facility.
 - TEA may conduct announced or unannounced visits.
- Contracts between districts and approved providers must not begin prior to August 1 and must not extend past July 31. Amendments to a contract must be submitted to TEA.