



Nonpublic/Non-District
Operated Program
**Preliminary
Approval Guide**

August 2025

About This Guide

This guide is for day and residential facility representatives who are seeking **preliminary approval** of their facility as a nonpublic day or residential school or non-district operated day program.

The Texas Education Agency (TEA) approves the educational programs of nonpublic and non-district operated programs that meet both federal and state special education program requirements.¹ TEA reviews both day and residential programs with which local education agencies (LEAs) may contract for the provision of special education instructional and related services. However, the legal responsibility for providing appropriate educational services to students remains with the LEA. Full **initial approval** of a nonpublic or non-district operated program is only possible in the context of an LEA's notification to TEA of its contract with the program for special education and related services for one or more students. TEA then reviews the facility to determine their ability to provide the services listed in the student's IEP.

If a program wishes to explore their potential ability to meet initial approval requirements, prior to an LEA's contract, they may seek **preliminary approval** of their facility. Initial approval will still be contingent on the ability to implement a specific student's IEP, and on ongoing compliance with state and federal requirements. **Preliminary approval status indicates that, at the time of preliminary approval monitoring, TEA found the facility to be in compliance with the requirements outlined in this guide.**

Please note that preliminary approval is not available to previously approved facilities whose approval has been revoked.

Preliminary Approval Monitoring Process

TEA preliminary approval monitoring includes **documentation review** and a **monitoring visit**.

Documentation Review

As part of preliminary approval monitoring, the program will submit the following documents for TEA review:

- Nonpublic Schools Application for Approval and/or Renewal (available upon request)
- State licensing documents (required for residential programs, optional for day programs)
- Campus master schedule, bell schedule, school calendar
- Restraint and discipline policies
- Summary of professional development offered to staff
- Training logs for any mandatory staff trainings
- Summary of TEKS-based curriculum
- Parent/student handbook

Monitoring Visit

During the scheduled monitoring visit, the TEA nonpublic program team will participate in a **facility tour** and conduct **interviews**.

¹ [19 Texas Administrative Code \(TAC\) §89.1094, §89.1092](#); [34 Code of Federal Regulations \(CFR\) §300.146, §300.147](#)

Facility Tour

The TEA nonpublic team will tour facility grounds, campus buildings, classrooms, other areas accessible to students, and sleep/living areas, if applicable. The purpose of this tour is to verify the facility's safety, security, accessibility, and overall appropriateness for the population it is designed to serve.

Interviews

The TEA nonpublic team will interview facility administration, as well as a selection of teachers, paraprofessionals/direct care staff, and related services providers. The purpose of these interviews is to understand the facility's program model, educational curriculum, behavior intervention practices, and IEP implementation strategies.

Requirements for Preliminary Approval

TEA will consider preliminary approval of a nonpublic day or residential school or non-district operated program when documentation review and the monitoring visit provide evidence of compliance in the following areas. **Please note that this is not an exhaustive list; nonpublic day and residential providers and non-district operated programs must comply with state and federal regulations for the education of students with disabilities. Nonpublic schools and non-district operated programs contracting with LEAs for special education and related services are subject to unannounced monitoring visits from TEA at any time.**

Program Description

TEA will review documentation of the following to identify the program's potential appropriateness for the target population:

- Program provider overview
- Provider organizational history
- Ownership and governance
- Program description
- Educational model description
- Program type: nonpublic day school, nonpublic residential school, or non-district operated program
- Age range served
- Disabilities served

Building Requirements

Nonpublic and non-district operated programs must meet the same fire safety, building code, health, and sanitation requirements that apply to Texas public schools. TEA will review the following:

- Facility layout
- Number of buildings, sites, or campuses
- Location of educational and, if applicable, residential programs
- Building safety, security, accessibility, and appropriateness for population served
- Occupancy certificate (required)

Accreditation/Licensing

Nonpublic residential facilities are required to be licensed by Texas Health and Human Services Commission, Texas Department of Family and Protective Services, or other relevant state agency.

No accreditation or licensing requirements currently exist for nonpublic day and non-district operated programs. However, accreditation with Texas Private School Accreditation Commission (TEPSAC) is an optional, recommended step for day programs to take to demonstrate certain curriculum standards are met. Day programs are also encouraged to pursue state licensure as child care facilities or adult day services providers through the Texas Health and Human Services Commission, if either is suitable for the age range and characteristics of the program.

TEA will review the program's compliance history, including:

- Past or current licensure sanctions or corrective actions
- Past or current actions taken by a regulatory body

Student Health and Safety

TEA will review the facility's student health policies, including:

- Medication administration procedures, including assurance that the facility does not require families to consent to medication administration as a condition of enrollment
- Emergency health/safety protocols and training
- Protocols for the use of "as needed" or "PRN" medications, including assurance that the facility adheres to Texas Education Code prohibitions against the use of chemical restraint

Staff Licensure/Certification

As a nonpublic or non-district operated program contracting with LEAs to provide special education and related services, the facility will be required to adhere to the same staff certification and licensure requirements that apply to public school staff. TEA will review the facility's staffing model to ensure:

- The facility employs general education, special education, and related services personnel that are certified, endorsed, or licensed in the area of assignment
- Personnel employed by the facility are subject to a criminal background check (to include fingerprinting) in a manner consistent with and applied to LEA employees

Education Program

TEA will review the facility's education program to ensure it meets criteria applicable to Texas public schools, including:

- School day operational minute requirements
- Structured, written curriculum aligned with the Texas Essential Knowledge and Skills (TEKS)
- Curriculum aligned with [transition services](#) for students who have met graduation requirements
- Description of special areas (i.e., physical education, art, music) and electives provided or available
- Number of classrooms, student to teacher ratio, and education program capacity

Special Education Processes, Records, and Confidentiality

Nonpublic and non-district operated programs contracting with LEAs to provide special education and related services must meet all state and federal special education standards applicable to Texas public schools. TEA will review special education processes at the facility, including but not limited to:

- Record maintenance and confidentiality
- Review and dissemination of special education records
- IEP implementation, including academic and behavioral services, accommodations and modifications, IEP goals, and Behavior Intervention Plans (BIPs)
- Documentation of student progress, including short-term academic and behavioral progress, and IEP progress reporting

Discipline, Restraint, and Seclusion Policies

Nonpublic and non-district operated programs contracting with LEAs to provide special education and related services must abide by all state and federal guidelines for discipline, restraint, and seclusion of students with disabilities. **In the case that a state agency licensing the residential portion of a nonpublic residential school allows practices that are disallowed in public school settings, these practices may not be used with students from contracting LEAs at any time or in any setting (regardless of whether the student is in the educational or residential setting at the time of behavior intervention.)** TEA will conduct an extensive review of the facility's discipline, restraint, and seclusion policies to ensure:

- Written policies, procedures, and operating guidelines include steps to be followed in conjunction with the contracting LEA when taking disciplinary action with respect to students with disabilities
- Staff are trained, and maintain certification, in evidence-based emergency intervention practices
- Any staff that may be involved in time-out or restraint practices have received required training
- The facility has protocols for documenting removal of students from the educational setting (e.g., removal to alternate locations within the facility, removal from the classroom to the residential setting, home suspension) and communicating removals to LEAs and families
- The facility follows state reporting timelines for reporting restraints and other serious incidents to parents and contracting LEAs
- The facility does not use seclusion practices as defined in [Texas Education Code \(TEC\) §37.0021](#) – *or, if these practices are used in accordance with DFPS rules for non-LEA placed students, protocols exist to ensure these practices are not used under any circumstances for LEA-placed students*
- The facility does not use prohibited aversive techniques listed in [TEC §37.0023](#), including prone or supine restraint, mechanical restraint, and chemical restraint – *or, if these practices are used in accordance with DFPS rules for non-LEA placed students, protocols exist to ensure these practices are not used under any circumstances for LEA-placed students*

Reintegration Process

TEA will review the facility's processes for developing reintegration criteria and estimated timelines for students from contracting LEAs. TEA will seek evidence that reintegration planning is student-centered, individualized, and developmentally appropriate. Criteria should be measurable and clearly linked to student IEP goals, regardless of any program exit or completion criteria that may exist as a programmatic feature of the facility.

Resources

For more information about the nonpublic and non-district operated program approval and monitoring process, please view the resources available on the [Special Education in Nonpublic Programs](#) website.

For general information and guidance about special education in Texas, please view the TEA [Special Education](#) website.

The Nonpublic Programs team is available by email at NPSupport@tea.texas.gov, or by phone at 512.463.9414.