

**2021-2022 IDEA-B  
Residential Reimbursement  
Program Guidelines**



## Statutory Authority

P.L. 108-446, Individuals with Disabilities Education Act (IDEA-B), as amended, Part B, §611; Texas Education Code (TEC), §§29.008(b) and 48.102; 19 Texas Administrative Code (TAC) §89.1092

## Purpose

The IDEA-B Residential Reimbursement Program provides supplemental resources to local educational agencies (LEAs) to ensure that qualified students with disabilities, ages 3-21, in residential facilities, are provided with a free appropriate public education (FAPE) as required by federal and state law.

## Program Description

An LEA may contract for residential placement of a student with a disability when the student's admission, review and dismissal (ARD) committee determines that a residential placement is necessary for the student to receive a FAPE. Request for approval for state and federal funding for residentially placed students with disabilities shall be made on an individual student basis through the student residential application submitted by the LEA to the Texas Education Agency (TEA).

## Funding

19 TAC §89.1092(c)(2) provides how residential placements, if approved by TEA, shall be funded. The education costs of residential contracts shall be funded with state funds on the same basis as nonpublic day school contract costs, per 19 TAC §89.1092(c)(2)(A), as authorized by TEC, §48.102.

Related services and residential costs for residential contract students shall be funded from a combination of fund sources. After expending any other available funds, the district must expend its local tax share per average daily attendance and 25% of its IDEA-B formula tentative entitlement (or an equivalent amount of state and/or local funds) for related services and residential costs. If these funds are not sufficient to cover all costs of the residential placement, the LEA, through the residential application process, may receive additional IDEA-B discretionary funds to pay the balance of the residential contract placement costs. These funds may be approved to assist applicant agencies to return students from residential placement to their home districts.

In addition, funds generated by the formula for the residential costs described above shall not exceed the daily rate recommended by the Texas Department of Family and Protective Services for the specific level of care in which the student is placed.

## Eligible Applicants

Contingent on approval of a Nonpublic Placement Notification and Application, LEAs and fiscal agents of shared services arrangements (SSAs) eligible for assistance under IDEA, Part B, Section 611 or 619, and who meet the requirements established in TEC, 29.008(a) and (b), and 19 TAC, 89.1092, are eligible for discretionary funding.

Additional documents and information about the Nonpublic Placement Notification and Application can be found on the [Nonpublic Webpage](#).

## Application Requirements and Assurances

This section identifies two types of requirements in which the applicants must comply to be eligible for funding:

- 1) Statutory Requirements (requirements defined in the authorizing statute)
- 2) TEA Program Requirements (requirements defined by TEA)

### Statutory Requirements:

Per TEC, § 22.0834, any person offered employment by any entity that contracts with TEA or receives funds administered by TEA is subject to the fingerprinting requirement. TEA is prohibited from awarding funds to any entity, including nonprofit organizations, that fails to comply with this requirement. For details, refer to the [General and Fiscal Guidelines](#), Fingerprinting Requirement.

The following requirements are defined in the statute that authorizes this program. The applicant must comply with each of these requirements in the application to be considered for funding:

- 34 CFR §300.104–If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.
- 34 CFR §300.202–Federal regulations stipulate that each program must demonstrate that it meets the excess cost requirements of IDEA-B. The excess cost requirement prevents an LEA from using funds provided under Part B of IDEA to pay for all the costs directly attributable to the education of a child with a disability. An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the act are used. The amount referred to above is determined in accordance with the definition of excess costs in 34 CFR §300.16 and may not include capital outlay or debt services.
- 34 CFR §300.325–Before an LEA places a child with a disability in, or refers a child to, a private school or facility, the LEA must initiate and conduct a meeting to develop an IEP for the child in accordance with 34 CFR §§ 300.320 and 300.324. The LEA must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the LEA must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

The following requirements are defined in the Texas Administrative Code. The applicant must also adhere to all of these requirements:

- 19 TAC §89.1092 Contracting for Residential Educational Placements for Students with Disabilities.
  - (a) Residential placement. A school district may contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a FAPE.
    - (1) A school district may contract for a residential placement of a student only with either public or private residential facilities that maintain current and valid licensure by the Texas Department of Aging and Disability Services, Texas Department of Family and Protective Services, or Department of State Health Services for the particular disabling condition and age of the student. A school district may contract for an out-of-state residential placement in accordance with the provisions of subsection (d)(3) of this section.

(2) Subject to subsections (c) and (d) of this section, the district may contract with a residential facility to provide some or all of the special education services listed in the contracted student's individualized education program (IEP). 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 in accordance with subsection (d) of this section.

(3) A school district that intends to contract for residential placement of a student with a residential facility under this section shall notify the Texas Education Agency (TEA) of its intent to contract for the residential placement through the residential application process described in subsection (c) of this section.

(4) The school district has the following responsibilities when making a residential placement.

(A) Before the school district places a student with a disability in, or refers a student to, a residential facility, the district shall initiate and conduct a meeting of the student's ARD committee to develop an IEP for the student in accordance with 34 Code of Federal Regulations (CFR), §§300.320-300.325, state statutes, and commissioner rules.

(B) For each student, the services that the school district is unable to provide and that the facility will provide shall be listed in the student's IEP.

(C) For each student, the ARD committee shall establish, in writing, criteria and estimated timelines for the student's return to the school district.

(D) The appropriateness of the facility for each student residentially placed shall be documented in the IEP. General screening by a regional education service center is not sufficient to meet the requirements of this subsection.

(E) The school district shall make one announced initial visit 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 to the student.

(F) For each student placed in a residential facility (both initial and continuing placements), the school district shall verify, during the initial residential placement ARD committee meeting and each subsequent annual ARD committee meeting, that:

- (i) the facility meets minimum standards for health and safety;
- (ii) residential placement is needed and is documented in the IEP; and
- (iii) the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the student.

(G) The placement of more than one student in the same residential facility may be considered in the same onsite visit to a facility; however, the IEP of each student must be individually reviewed and a determination of appropriateness of placement and service must be made for each student.

(H) When a student who is residentially placed by a school district changes his or her residence to another Texas school district and the student continues in the contracted placement, the school district that negotiated the contract shall be responsible for the residential contract for the remainder of the school year.

(b) Notification. Within 30 calendar days from an ARD committee's decision to place a student in a residential education program, a school district must electronically submit to the Texas Education Agency (TEA) notice of and information regarding the placement in accordance with submission procedures specified by TEA.

(1) If the residential education program is on the commissioner's list of approved residential education programs, TEA will review the student's IEP and placement as required by 34 CFR, §300.120, and, in the case of a placement in or referral to a private school or facility, 34 CFR, §300.146. After review, TEA will notify the school district whether federal or state funds for the residential education program placement are approved. If TEA does not approve the use of funds, it will notify the school district of the basis for the non-approval.

(2) If the residential education program is not on the commissioner's list of approved residential education programs, TEA will begin the approval procedures described in subsection (d)(1) of this section. School districts must ensure there is no delay in implementing a child's IEP in accordance with 34 CFR, §300.103(c).

(3) If a residential education program placement is ordered by a special education hearing officer or court of competent jurisdiction, the school district must notify TEA of the order within 30 calendar days. The residential education program serving the student is not required to go through the approval procedures described in subsection (d)(1) of this section for the ordered placement. If, however, the school district or other school districts intend to place other students in the residential education program, the residential education program will be required to go through the approval procedures to be included on the commissioner's list of approved residential programs.

(c) Application approval process. Requests for approval of state and federal funding for residentially placed students shall be negotiated on an individual student basis through a residential application submitted by the school district to TEA.

(1) A residential application may be submitted for educational purposes only. The residential application shall not be approved if the application indicates that the:

(A) placement is due primarily to the student's medical problems;

(B) placement is due primarily to problems in the student's home;

(C) district does not have a plan, including timelines and criteria, for the student's return to the local school program;

(D) district did not attempt to implement lesser restrictive placements prior to residential placement (except in emergency situations as documented by the student's ARD committee);

(E) placement is not cost effective when compared with other alternative placements;  
or

(F) residential facility provides unfundable or unapprovable services.

(2) The residential placement, if approved by TEA, shall be funded as follows:

(A) the education cost of residential contracts shall be funded with state funds on the same basis as nonpublic day school contract costs according to Texas Education Code, §42.151;

(B) related services and residential costs for residential contract students shall be funded from a combination of fund sources. After expending any other available funds, the district must expend its local tax share per average daily attendance and 25% of its Individuals with Disabilities Education Act, Part B, (IDEA-B) formula tentative entitlement (or an equivalent amount of state and/or local funds) for related services and residential costs. If this is not sufficient to cover all costs of the residential placement, the district through the residential application process may receive additional IDEA-B discretionary funds to pay the balance of the residential contract placement(s) costs; and

(C) funds generated by the formula for residential costs described in subparagraph (B) of this paragraph shall not exceed the daily rate recommended by the Texas Department of Family and Protective Services for the specific level of care in which the student is placed.

(d) Approval of the education program for facilities that provide educational services. Residential facilities that provide educational services must have their educational programs approved for contracting purposes by the commissioner.

(1) If the education program of a residential facility that is not approved by the commissioner is being considered for a residential placement by a local school district, the school district should notify TEA in writing of its intent to place a student at the facility. TEA shall begin approval procedures and conduct an onsite visit to the facility within 30 calendar days after TEA has been notified by the local school district. Approval of the education program of a residential facility may be for one, two, or three years.

(2) The commissioner shall renew approvals and issue new approvals only for those facilities that have contract students already placed or that have a pending request for residential placement from a school district. This approval does not apply to residential facilities that only provide related services or residential facilities in which the local accredited school district where the facility is located provides the educational program.

(3) School districts that contract for out-of-state residential placement shall do so in accordance with the rules for in-state residential placement in this section, except that the facility must be approved by the appropriate agency in the state in which the facility is located rather than by TEA.

## TEA Program Requirements

See the [General and Fiscal Guidelines](#), TEA Nonpublic/Off-Campus Program Requirements found on the [Nonpublic Webpage](#).

In addition to the statutory requirements, TEA has established program requirements. The applicant must comply with each of these requirements in the application to be considered for funding.

To the greatest extent allowable by state and federal laws, regulations, rules, and policies, monies funded through this application should be designed and operated to assist LEAs with improving student outcomes.

## Activities and Use of Funds

Residential and related services costs are allowable when a student’s ARD committee determines that residential placement is necessary for the student to receive a FAPE.

Allowable activities and use of funds for this program may include but are not limited to the following:

### General Allowable and Unallowable Activities and Use of Funds:

Allowable	Unallowable
<p>IDEA-B authorizes expenditures to help LEAs ensure that children with disabilities, ages 3–21, have access to a free, appropriate public education to meet each child’s unique needs and prepare him or her for further education, employment, and independent living.</p>	<p>Unallowable activities and use of funds for this program may include but are not limited to the following:</p>
<ul style="list-style-type: none"> <li>• IDEA-B funds may be used to provide compensatory services. Compensatory services are those services an LEA is required to provide due to the LEA’s failure to provide the special education and/or related services necessary for the student to be provided a FAPE.</li> <li>• IDEA-B funds may only be used for items that are supplemental to those used by all students and/or address the unique needs of the child that results from the child’s disability. IDEA-B funds must be used only to pay the excess cost of providing special education and related services to children with disabilities and must not be used to pay for all costs directly attributable to the education of a child with a disability.</li> </ul>	<ul style="list-style-type: none"> <li>• Debt service (lease-purchase)</li> <li>• Field Trips</li> <li>• Advisory Councils</li> <li>• Cost of membership in any civic or community organization</li> <li>• Hosting or sponsoring of conferences</li> <li>• Out-of-state travel</li> <li>• Travel costs for officials such as executive directors, superintendents, or board members</li> <li>• Administrative costs, including direct administrative costs and indirect costs</li> </ul>

## Distribution of Funds

Costs of an approved educationally-based contract for residential placement may be paid from a combination of federal, state and local funds. \*

The educational costs of residential contracts are funded with state funds on the same basis as nonpublic day school contract costs, per 19 TAC §89.1092(c)(2)(A), as authorized by TEC, §28.102.

Related services and residential costs are funded from a combination of fund sources. After expending any other available funds, the LEA must expend its local tax share per average daily attendance (ADA) and 25 percent of its IDEA-B formula tentative entitlement, or an equivalent amount of state and/or local funds, for related services and residential costs. If this is not sufficient to cover all costs of the residential placement, the LEA through the residential application process may receive additional IDEA-B discretionary funds to pay the balance of the residential contract placement costs via TEA reimbursement.

All residential applications submitted will be reviewed by the Division of Nonpublic School staff. Once residential applications are reviewed, TEA will determine award amounts and provide notification of award or denial to the superintendent of the single member district or the superintendent of the fiscal agent of an shared services arrangement (SSA), the special education director of the LEA, and to the special education contact of the regional education service center (ESC). Notification of award will be provided upon completion of the application review. Awards will be made no later than July 1 of each fiscal year.

## Helpful Links

[Nonpublic Day and Residential Webpage](#)

\* [TEC, §29.008\(b\), and 19 TAC §89.1092\(c\)](#)