

# Minimum Standards and Conditions for TEA Consideration to Operate as a Day or Residential Placement Program

## Purpose

These minimum standards establish the conditions and requirements that a public or private facility, institution, agency or business, both in-state and out-of-state, must meet and demonstrate through the TEA review and approval process to be approved to contract with school districts to provide services to Texas public school students with disabilities who have been placed by their ARD committee in a day or residential placement program. Meeting the minimum standards alone does not guarantee approval.

TEA will periodically solicit proposals to increase the capacity of high-quality day and residential placement programs in Texas and will establish an application process through which prospective providers may apply for TEA approval.

## Responsibility

The school district, which includes independent school districts established under Texas Education Code (TEC), Chapter 11, Subchapters A-F, and open-enrollment charter schools established under TEC, Chapter 12, Subchapter D, that contracts with the placement program provider to provide services to a Texas public school student with a disability retains the obligation to ensure those students are provided with a free appropriate public education (FAPE) in accordance with the student's individualized education program (IEP). As these placements are educational placements, Texas public school students with disabilities placed by their school district's ARD committee in day or residential placement programs maintain the same rights as other Texas public school students with disabilities.

School districts that contract for out-of-state residential programs shall ensure the program provider is approved by the appropriate agency in the state in which the facility is located and that the program meets the requirements of the minimum standards.

## Program Minimum Standards

This section describes the minimum standards applicable to providers seeking approval from TEA to contract with school districts to provide a day or residential placement program serving one or more ARD committee-placed Texas public school students with disabilities. Providers seeking approval must be able to demonstrate at the time of application that they meet or, if no students are currently placed in the program, will meet all standards. TEA may require a school district to move an ARD committee-placed Texas public school student from a non-approved program or program provider unable to demonstrate compliance with these minimum standards.

Demonstrated evidence may include, but is not limited to, issued licenses, permits, certifications, program policies or procedures, operating manuals, guidance documents, forms, templates, reports or attestations.

### I. Legal Status, Approval, and Program Identity

The provider must be a public or private entity that is legally authorized to operate and to contract for the services it proposes to provide, which includes meeting any state, federal, or local regulatory or licensing requirements for the program and the facility(ies) where Texas public school students with disabilities may be placed by an ARD committee.

The provider must have never had any license, approval, or certification for any program or facility the provider administered or owned revoked or voluntarily surrendered in lieu of revocation by an oversight body.

To be considered for initial approval, if the program has experienced an adverse finding, sanction, or required corrective action related to the health, safety, or welfare of children issued by a state, federal, or local regulatory or licensing authority, at least 24 months must have passed since the resolution of the finding, sanction, or corrective action.

The provider must accurately identify the type of program it is operating, or plans to operate, and may not describe a program in a way that avoids the approval requirements that otherwise apply.

The provider must provide TEA with current organizational, ownership, and contact information and update the information as necessary, and must promptly report material changes that affect operations, staffing, facilities, licensing and service delivery.

## II. Appropriate certification and licensure requirements for those who will work with students placed in the program.

The provider must provide assurances that:

- All individuals providing instruction or related services to an ARD committee-placed Texas public school student hold the certifications, credentials, or professional licenses required for the services they deliver.
- Staffing assignments are sufficient in number and expertise to implement each ARD committee-placed Texas public school student's IEP as written.
- Its hiring, supervision, and personnel documentation practices verify qualifications before a staff member begins serving Texas public school students placed by an ARD committee.
- It maintains substitute and coverage plans so that staffing shortages do not interrupt required IEP services.

Staff working with ARD committee-placed Texas public school students are expected to:

- Receive the same professional development and pre-service required of certified teachers, when those staff are certified teachers and working in that capacity.
- Receive ongoing professional development in:
  - implementation of high-quality instructional strategies, curriculum, and teaching practices to support students with complex and intensive needs.
  - analysis and tracking of data, documentation of IEP services, and progress monitoring.
  - administration of state assessments in accordance with contractual agreements, including test security protocols; and
  - how to support instructional quality, consistency, and alignment to TEKS.
- Receive annual training in
  - [Behavior Intervention and Crisis Response Training](#)

- [Staff and Superintendent Abuse and Misconduct Reporting Requirements](#)
- [Child Abuse Prevention and Awareness](#)
- [Student Records and Confidentiality](#)
- Medication administration and storage; training must include safe-handling practices, proper dosage verification, documentation, and emergency response procedures, secure storage, controlled-substance safeguards, and parent/physician authorization.

### III. Requirements & Expectations: academic and behavioral curriculum, content and instructional materials

Program providers must be able to demonstrate:

- Academic curriculum that complies with the Texas Education Code, State Board of Education (SBOE) rules, and commissioner of education rules, including the use of high-quality instructional materials (HQIM).
- Procedures related to how continuity of the ARD committee-placed Texas public school student’s current educational program (e.g., graduation plan, delivery schedule of grade-level TEKS lessons) will be prioritized, including if and how asynchronous, virtual, or remote instructional methods are used by the provider.
- School day schedules and annual minutes of instruction closely mirror that of school districts in order to provide each ARD committee-placed Texas public school student a commensurate school day as they would receive at their home campus/district and in accordance with their IEP and to ensure reintegration plans align with typical school schedules.
- Progress monitoring, data collection, and reporting on an ARD committee-placed Texas public school student’s IEP goals and academic outcomes are conducted in accordance with a student’s IEP.
- Data is provided to the ARD committee in order to drive instructional planning and decision-making with IEP goals, services, and reintegration planning.
- Clearly defined behavior management practices, positive behavioral intervention strategies, and discipline management that comply with protections required by federal and state law for students with disabilities are conducted in accordance with a student’s IEP and/or Behavior Intervention Plan (BIP).
- How specialized personnel or providers (BCBAs, counselors, social workers, etc.) are used, in addition to any IEP-required support, to support behavior, discipline, de-escalation, crisis management and response.

### IV. Criminal background check and reporting misconduct requirements

A provider must ensure that criminal background checks are completed for every employee, contractor, or volunteer who will regularly interact with ARD committee-placed Texas public school students, which must be at least equivalent to those required of Texas public school employees.

The provider must have written procedures documenting how employee/educator misconduct will be reported, and the procedures must comply with any required in-state or out-of-state (in the case of an approved program outside of Texas) reporting structures when the employee is a certified educator or when the employee is licensed by a specific licensing authority.

### V. Health and safety standards

The provider must demonstrate proof of compliance with any local or state accreditation and permit requirements.

A program administrator, director, or supervisor must be onsite during operating hours.

The provider must have documented procedures regarding medication management, administration, and storage, along with documentation of staff training and those authorized to administer medication.

The provider must have policies and procedures in place to address the following regarding video and audio recording:

- Video and audio surveillance during all program hours in all areas accessible to ARD committee-placed Texas public school students, with the exception of changing areas and restrooms.
- Audio surveillance in changing areas and restrooms, only to the extent that staff must be present to assist or supervise an ARD committee-placed Texas public school student.
- Retention of video and audio surveillance for at least three months except in the case of a claim of misconduct, abuse, or other wrongdoing, in which case the surveillance would be retained until any related investigation or legal proceeding has concluded.
- Staff who would be authorized to view recordings, respond to requests to view recordings, as well as how to report and respond to alleged violations of law or local or state regulatory requirements based on behaviors observed through the recordings.

All employees, contractors, and volunteers must receive ongoing training related to emergency protocols, and the provider must have procedures in place for responding to critical incidents affecting the health, safety, or welfare Texas public school students placed by an ARD committee.

Providers must have written procedures regarding how to respond in various emergencies, including fire, evacuation, lockdown, and medical emergencies.

## VI. Physical plant and equipment requirements

The facility/physical site must comply with all applicable fire and building codes, safety, security, accessibility, and occupancy standards applicable to educational settings and as required by any licensing authority.

The facility/physical site must have emergency evacuation routes posted in locations required by law.

## VII. Requirements to ensure students maintain the same rights as other Texas public school students with disabilities while placed in the program

A provider must operate under written policies, procedures, and operating guidelines that include necessary standards and steps to be followed to ensure each ARD committee-placed Texas public school student maintains the same rights as other Texas public school students with disabilities, including when an ARD-committee placed Texas public school 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.

Providers must report and share data with TEA as required and established by statute, or administrative rule, or TEA program guidance.

All employees and contractors who will interact with students must receive ongoing training on state and federal law, as well as commissioner of education rules, regarding the use of restraint, seclusion, and timeout.

## VIII. Transparent fee schedules and guidelines around establishing fees for services

A provider must provide the methodology or basis used to establish rates, tuition, and fees, including factors considered in determining those costs, and make available the following:

- A tuition and program fee schedule that defines any differentiated rates by service model or student need.
- An itemized fee schedule associated with educational services provided by the program.
- An itemized fee schedule associated with related services to be delivered in accordance with the IEP of a Texas public school student placed in the program by an ARD committee, if applicable.
- An itemized fee schedule for room and board, if applicable.

A provider must identify any services, supports, or costs not included in the above fee schedules that the provider expects a contracting school district to remain directly responsible for, such as transportation or related services not delivered by the program provider.

A provider must describe additional fees that may be charged to contracting school districts that are dependent on various circumstances, student needs, or service needs, such as rates charged for extended school year (ESY) programming.

## **IX. Commitment regarding reintegration of student**

Each IEP for a Texas public school student placed by an ARD committee in a day or residential placement program must have a reintegration plan, and any provider wishing to operate a program must demonstrate how it will work toward this goal and monitor progress on each ARD committee-placed Texas public school student's reintegration plan. A provider must commit to reporting an ARD committee-placed Texas public school student's progress on their reintegration plan at least quarterly.