

**2024–2025 IDEA-B Discretionary
Residential Reimbursement
Program Guidelines**



Statutory Authority

Authorized by the [Individuals with Disabilities Education Act \(IDEA\)](#), as amended by the IDEA Improvement Act of 2004 (Public Law [P.L.] 108-446), Part B, Section 611; [Texas Education Code \(TEC\) §29.008\(b\)](#) and [TEC §48.102](#); [19 Texas Administrative Code \(TAC\) §89.1092](#).

Purpose

The IDEA-B Discretionary Residential Reimbursement Program provides supplemental resources to local educational agencies (LEAs) to ensure that qualified students with disabilities, ages 3–21, placed in nonpublic residential programs based on their admission, review, and dismissal (ARD) committee decision, are provided a free appropriate public education (FAPE) as required by federal and state law.

Program Description

An LEA may contract with a nonpublic residential program provider when the student's ARD committee determines that a residential placement is necessary for the student to receive a FAPE. The LEA must comply with the requirements outlined in 19 Texas Administrative Code (TAC) §89.1092. To comply with the 30-calendar day placement notification requirements of 19 TAC §89.1092(c) and to request approval for state and federal funding for nonpublic residential program placements, the LEA must submit the Nonpublic Residential APEX application via the Texas Education Agency Login (TEAL) for each student with disabilities in residential placement, according to the timeline designated by the Texas Education Agency (TEA).

The APEX application for **initial placements** must be submitted within 30 calendar days of the ARD committee placement decision. If the **initial placement occurs during the summer** when the APEX application window is closed, the application must be submitted within 30 calendar days from the date the APEX application opens for the new application year. The APEX application for **continuing placements** must be submitted annually within 30 calendar days from the date the APEX application opens for the new application year. The Nonpublic Residential APEX application opens the first business day of September each year and closes the first business day of July.

An amendment to the Nonpublic Residential APEX application must be submitted within 30 calendar days of any action that results in a change in placement costs, e.g., an ARD committee decision changes the services to be provided by the nonpublic residential program provider and the contract is amended accordingly; the student returns to the local school program; the student leaves the LEA and is not remaining in the contracted placement. However, if the student changes 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.

Contracts between LEAs and approved nonpublic residential program providers shall not begin prior to August 1 of the contracted program year and must not extend past July 31.

Funding

19 TAC §89.1092(e)(2) outlines how residential placements, if approved by TEA, shall be funded. The education cost of nonpublic residential program contracts shall be funded with state funds on the same basis as nonpublic day program contract costs according to Texas Education Code (TEC) §48.102.

Related services and residential costs for nonpublic residential program contracts 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 base planning amount (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 placement, the LEA, through the nonpublic residential application process, may receive IDEA-B Discretionary Residential reimbursement funds to pay the balance of the nonpublic residential contract placement costs.

Funds generated by the formula for residential costs described above shall not exceed the daily rate recommended by the Texas Department of Family and Protective Services (DFPS) for the general residential operation intense service level of care.

High Cost Fund (HCF) Optional Funding: If the student's Nonpublic Residential application is in finalized status during the High Cost Fund application window, the LEA may opt to submit a High Cost Fund APEX application via TEAL to request a High Cost Fund reimbursement award if HCF eligibility criteria are met. Refer to the [High Cost Funds](#) webpage for information about this potential source of additional funding.

Eligible Applicants

LEAs and fiscal agents of special education shared services arrangements (SSAs) eligible for assistance under IDEA, Part B, Section 611 or 619, are eligible for discretionary residential funding if the Nonpublic Residential APEX application is approved. This applies only if the application meets requirements of TEC §29.008(a) and (b), and 19 TAC §89.1092, and if the funding sources specified in 19 TAC §89.1092(e)(2)(A–B) are insufficient to cover the full cost of the placement.

Additional documents and information about the Nonpublic Residential APEX application can be found on the [Special Education in Nonpublic Programs](#) 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 program staff)

Statutory Requirements

See the [General and Fiscal Guidelines](#), Statutory Requirements. The General and Fiscal Guidelines provide information relevant to all TEA grant programs.

Per [TEC §22.0834](#), any person offered employment by any entity that contracts with TEA or receives grant funds administered by TEA (i.e., a grantee or subgrantee) is subject to the fingerprinting requirement. TEA is prohibited from awarding grant 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 federal statute that authorizes this program. The applicant must comply with each of these requirements to be considered for funding:

- [34 Code of Federal Regulations \(CFR\) §300.104](#) Residential placement: 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 §300.116](#) Placements: In determining the educational placement of a child with a disability, the placement decision must be made in conformity with the least restrictive environment (LRE) provisions of [34 CFR §§300.114 through 300.118](#). The placement decision must be made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; be determined at least annually; be based on the child's individualized education program (IEP); and be as close as possible to the child's home.
- [34 CFR §300.202](#) Use of amounts: 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 IDEA are used. The amount is determined in accordance with the definition of excess costs in [34 CFR §300.16](#) Excess Costs and may not include capital outlay or debt services.
- [34 CFR §300.325](#) Private school placements by public agencies: 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 individualized education program (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 (TAC). The applicant must adhere to all these requirements:

19 TAC §89.1092 Contracting for Nonpublic Residential Placements for the Provision of a Free Appropriate Public Education (FAPE)

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings unless the context clearly indicates otherwise.

(1) School district—The definition of a school district 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.

(2) Nonpublic residential program—A nonpublic residential program 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. A student placed in this program has been determined by his or her admission, review, and dismissal (ARD) committee to require a residential placement in order to facilitate the student's attainment of reasonable educational progress and to provide the student a free appropriate public education (FAPE). It is not a placement intended primarily for the provision of medical care and treatment.

(3) Nonpublic residential program provider—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 and maintains current and valid licensure by the Texas Department of Family and Protective Services, the Texas Health and Human Services Commission, or another appropriate state agency. A provider that a school district contracts with only for the provision of related services is not subject to the requirements of this section.

(b) Nonpublic residential program requirements. A school district may contract with a nonpublic residential program provider when the student's ARD committee determines that a residential placement is necessary in order for the student to receive a FAPE in accordance with the requirements of this section.

(1) Before a student's ARD committee places a student with a disability in, or refers a student to, a nonpublic residential program, the ARD committee shall initiate and conduct a meeting to develop an individualized education program (IEP) for the student in accordance with 34 Code of Federal Regulations (CFR), §§300.320–325, state statutes, and commissioner of education rules in this chapter.

(2) Before a student's ARD committee places a student with a disability in, or refers a student with a disability to, a nonpublic residential program, the district shall initiate and conduct an in-

person, onsite review of the program provider's facility and program to ensure that the program is appropriate for meeting the student's educational needs.

(3) The appropriateness of the placement and the facility shall be documented in the IEP annually. The student's ARD committee may only recommend a nonpublic residential program if the committee determines that the nature and severity of the student's disability and special education needs are such that the student cannot be satisfactorily education in the school district.

(A) The student's IEP must list which services the school district is unable to provide and which services the nonpublic residential program will provide.

(B) At the time the ARD committee determines placement, the ARD committee shall establish, in writing, criteria and a projected date for the student's return to the school district and document this information in the IEP.

(C) The school district shall make a minimum of two onsite, in-person visits annually, one announced and one unannounced, and more often if directed by the Texas Education Agency (TEA); to:

(i) verify that the program provider can and will provide the services listed in the student's IEP that the provider has agreed to provide to the student;

(ii) obtain written verification that the facility meets minimum standards for health and safety and holds all applicable local and state accreditation and permit requirements;

(iii) verify that the program provider's staff who work with the student have been subject to criminal background checks (to include fingerprinting) that meet the standards applicable to public school employees;

(iv) verify 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; and

(v) verify that the educational program provided at the facility is appropriate and the placement is the least restrictive environment for the student.

(4) The placement of more than one student in the same facility may be considered in the same onsite visit to the 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.

(5) When a student who is placed by a school district in a nonpublic residential program 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.

(c) Notification. Within 30 calendar days from an ARD committee’s decision to place or continue the placement of a student in a nonpublic residential program, a school district must electronically submit to TEA notice of, and information regarding, the placement in accordance with the submission procedures specified by TEA.

(1) If the nonpublic residential provider is on the commissioner’s list of approved providers, 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 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 nonpublic residential program provider is not on the commissioner’s list of approved vendors, TEA will begin the approval procedures described in subsection (d) 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 nonpublic residential 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 program provider serving the student is not required to go through the approval procedures described in subsection (d) of this section for the ordered placement. If, however, the school district or other school districts intend to place other students in the program, the program provider will be required to go through the approval procedures to be included on the commissioner’s list of approved providers.

(d) Approval of a nonpublic residential program. Nonpublic residential program providers must have their educational programs approved for contracting purposes by the commissioner. Approvals and reapprovals will only be considered for those providers that have a contract already in place with a school district for the placement of one or more students or that have a pending request from a school district. Reapproval can be for one, two, or three years, at the discretion of TEA.

(1) For a program provider to be approved or reapproved, the school district must electronically submit to TEA notice of, and information regarding, the placement in accordance with the submission procedures specified by TEA. TEA shall begin approval procedures and conduct an onsite visit to the provider’s facility within 30 calendar days after TEA has been notified by the school district and has received the required submissions as outlined by TEA. Initial approval of the provider shall be for one calendar year.

(2) The program provider may be approved or reapproved only after, at minimum, a programmatic evaluation and a review of personnel qualifications, adequacy of physical plant and equipment, and curriculum content.

(3) TEA may place conditions on the provider to ensure the provision of a FAPE for students who have been placed in a nonpublic residential program during the provider's approval period or during a reapproval process.

(4) If TEA does not approve, does not reapprove, or withdraws an approval from a program provider, a school district must take steps to remove any students currently placed at the provider's facility, or cancel a student's planned placement, as expeditiously as possible.

(5) TEA may conduct announced or unannounced onsite visits at a program provider's facility that is serving one or more Texas public school students in accordance with this section and will monitor the program provider's compliance with the requirements of this section.

(e) Criteria for approval. Requests for approval of state and federal funding for nonpublic residential program placements 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 criteria and a projected date, 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 placement, if approved by TEA, shall be funded as follows:

(A) the education cost of nonpublic residential program contracts shall be funded with state funds on the same basis as nonpublic day program contract costs according to TEC, §48.102;

(B) related services and residential costs for nonpublic residential program contracts 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 base planning amount (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 placement, the district through the residential application process may receive IDEA-B discretionary residential funds to pay the balance of the nonpublic 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 general residential operation intense service level of care.

(3) Contracts between school districts and approved nonpublic residential program providers shall not begin prior to August 1 of the contracted program year and must not extend past July 31.

(4) Amendments to a contract must be electronically submitted to TEA in accordance with submission procedures specified by TEA no later than 30 calendar days from the change in placement or services.

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

TEA Program Requirements

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

1. The [General and Fiscal Guidelines](#) that apply to all grants administered by TEA.
2. The program assurances and the certification and incorporation statement within the Nonpublic Residential application.
3. The nonpublic residential program guidance and requirements located on the [Special Education in Nonpublic Programs](#) webpage.
4. If the Nonpublic Residential application is not submitted within the required notification timeline, the LEA will be subject to reduced funding, based on the application submission date versus the contract start date.
5. If the student's IEP for an initial placement does not include a reintegration plan, the LEA may be subject to reduced funding.
6. The Discretionary Residential award for eligible LEAs will be funded by reimbursement once the application has been finalized and the eligible LEA submits required payment request(s) to TEA according to the timelines established by TEA.

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

Contracts between LEAs and approved nonpublic residential program providers shall not begin prior to August 1 of the contracted program year and must not extend past July 31 of that year. If

the contract extends beyond the regular LEA school year through July 31, the student’s IEP must recommend summer Extended School Year (ESY) for that timeframe.

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"> Contracted (6200) residential and related services costs are allowable when a student’s ARD committee determines that nonpublic residential placement is necessary for the student to receive a FAPE. 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. 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. 	<ul style="list-style-type: none"> Field Trips Advisory Councils Cost of membership in any civic or community organization Hosting or sponsoring of conferences Out-of-State travel Travel costs for officials such as executive director, superintendent, or board members Administrative costs, including direct and indirect administrative costs Indirect costs Pre-award costs Payroll (6100) Supplies and Materials (6300) Other Operating Costs (6400) Debt service (lease-purchase) (6500) Capital Outlay (6600)

Distribution of Funds

Costs of an approved contract for nonpublic residential program placement may be paid from a combination of federal, state, and local funds, in accordance with [TEC §29.008\(b\)](#) and [19 TAC §89.1092\(e\)\(2\)](#). Refer to the Funding section of this document for additional information.

Distribution of State funds for the education costs of nonpublic residential program

contracts: The state funding data for the education cost to be funded from the Foundation School Program (FSP) will be incorporated in the LEA's Near-Final (NF) Summary of Finances (SOF) report generated after the end of the fiscal year.

Distribution of IDEA-B Discretionary Residential Award: Once the specific student's Nonpublic Residential APEX application is reviewed, approved, and finalized by TEA staff, the LEA will be notified by email. The 'Agency Use Only' table in the student's Nonpublic Residential application will display the various fund sources and amounts to be used toward the placement cost. If the LEA qualifies for an IDEA-B Discretionary Residential reimbursement award, that amount will be displayed in the last row of the table.

LEAs eligible for an IDEA-B Discretionary Residential reimbursement award will be provided several opportunities throughout the year to request a reimbursement payment for actual expenditures incurred, not to exceed the amount of the award. Eligible LEAs will receive an email with a link to the payment request form during the applicable time of the year. After the payment request form is submitted by the LEA and approved by TEA, payment will be direct deposited. If the LEA with the residential placement is a member of a special education shared services arrangement (SSA), the payment will go to the fiscal agent of the SSA.

- Mid-Year payment requests, for expenditures from August 1, or the contract start date, whichever date is later, through January 31, will be paid by the first business day in April.
- End-of-Year payment requests, for expenditures from August 1, or the contract start date, whichever date is later, through June 30, will be paid by mid-to-late-August. If the LEA received a Mid-Year reimbursement payment, the End-of-Year payment request will be limited to the remaining balance of the award through June 30.
- Final payment requests for July expenditures will be paid by August 31.

Helpful Links

[General and Fiscal Guidelines](#)

[High Cost Funds \(HCF\)](#)

[Special Education in Nonpublic Programs](#)

[19 Texas Administrative Code \(TAC\) §89.1092](#) Contracting for Nonpublic Residential Placements for the Provision of a Free Appropriate Public Education (FAPE)

[Texas Education Code \(TEC\) §29.008](#) Contracts for Services; Residential Placement

[Texas Education Code \(TEC\) §48.102](#) Special Education

[34 Code of Federal Regulations \(CFR\) Part 300 IDEA-B Regulations](#)