

PLACEMENT IN A RESIDENTIAL FACILITY

Authorities: Texas Education Code; 19 TAC Chapter 89

[Additional Resources](#)

DOCUMENT/ PRACTICE	FEDERAL AND STATE REQUIREMENTS	CITATIONS
P	Subject to the provisions of the ADMISSION, REVIEW, AND DISMISSAL COMMITTEE frameworks, including the LEAST RESTRICTIVE ENVIRONMENT framework, and this framework, the local education agency (LEA) may contract with a residential facility to provide some or all of the special education services listed in the contracted child's individualized education program (IEP).	89.611092(a)(2)
P	The LEA must comply with the USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS framework.	
P	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 parent of the child.	89.1092(a) 300.104
	TEXAS EDUCATION AGENCY (TEA) APPROVAL OF FACILITY REQUIRED	
P	If the residential facility provides any educational services listed in the child's IEP, the facility's education program must be approved by TEA.	89.1092(a)(2) 89.1092(b)(1) 89.1092(b)(2) 89.1092(b)(3) 89.1092(c) 89.1092(d)
P	<ul style="list-style-type: none"> If the education program of a residential facility that is not approved by TEA is being considered by an LEA, the LEA should notify TEA in writing of its intent to place a child at the facility, so that TEA may begin approval procedures. 	89.1092(b) 89.1092(d)(1)
P	<ul style="list-style-type: none"> For out-of-state residential facilities, the facility must be approved by the appropriate agency in the state in which the facility is located, and the LEA must follow the TEA application process. 	89.1092(d)(3)

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P	<u>If the residential education program is not on the commissioner's list of approved residential education programs, TEA will begin the approval process.</u>	<u>89.1092(b)(2)</u>
P	<u>The approval does not apply to residential facilities that only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program.</u>	<u>89.1092(d)(2)</u>
	<u>ADMISSION, REVIEW, AND DISMISSAL (ARD) COMMITTEE DETERMINATION OF RESIDENTIAL PLACEMENT</u>	
P	When the ARD committee determines that a residential placement is necessary in order for the child to receive a free appropriate public education, the ARD committee must:	<u>89.61(a)(4)(A)89.1092(a)</u> <u>89.1092(a)(4)(A)</u>
D	<ul style="list-style-type: none"> • List the services in the child's IEP that the LEA is unable to provide and that the facility will provide; 	<u>89.61(a)(4)(B)89.1092(a)(4)(B)</u>
D	<ul style="list-style-type: none"> • Establish, in writing, criteria and estimated timelines for the child's return to the LEA; 	<u>89.61(a)(4)(C)89.1092(a)(4)(C)</u>
D	<ul style="list-style-type: none"> • Document in the child's IEP the appropriateness of the facility for the individual child; and 	<u>89.61(a)(4)(D)89.1092(a)(4)(D)</u>
P	<ul style="list-style-type: none"> • Verify during the initial residential placement ARD committee meeting and each annual ARD committee meeting that: 	<u>89.61(a)(4)(F)89.1092(a)(4)(F)</u>
P	<ul style="list-style-type: none"> ○ The facility meets minimum standards for health and safety; 	<u>89.61(a)(4)(F)(i)89.1092(a)(4)(F)(i)</u>
P	<ul style="list-style-type: none"> ○ The residential placement is needed and is documented in the IEP; and 	<u>89.61(a)(4)(F)(ii)89.1092(a)(4)(F)(ii)</u>
P	<ul style="list-style-type: none"> ○ The educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the child. 	<u>89.61(a)(4)(F)(iii)89.1092(a)(4)(F)(ii)</u>
P	<u>Within 30 calendar days from an ARD committee's decision to place a child in a residential education program, the LEA must electronically submit to TEA</u>	<u>89.1092(b)</u>

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	notice of and information regarding placement in accordance with submission procedures specified by TEA.	
	TEXAS SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED (TSBVI) AND TEXAS SCHOOL FOR THE DEAF (TSD)	
P	When placing the child at the TSBVI or the TSD, the ARD committee must include in the child's IEP:	89.1085(c)
D	<ul style="list-style-type: none"> Those services which the TSBVI or the TSD can appropriately provide; and 	89.1085(c)(1)
D	<ul style="list-style-type: none"> The criteria and estimated timelines for returning the child to the resident LEA. 	89.1085(c)(3)
P	When placing the child at the TSBVI or the TSD, the LEA may make an on-site visit to verify that the TSBVI or the TSD can and will offer the services listed in the child's IEP and to ensure that the school offers an appropriate educational program for the child.	89.1085(c)(2)
P	The LEA may contract for an in-state residential placement of the child only with public or private residential facilities which maintain current and valid licensure for the particular disabling condition and age of the child.	89.61(a)(1)
P	The LEA may contract for an out-of-state residential placement in accordance with this framework.	89.61(a)(1)
P	The LEAs which contract for an out-of-state residential placement must do so in accordance with the rules for in-state residential placement in this framework, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.	89.61(c)(3)
P	When making a residential placement, the LEA must:	89.61(a)(4)
P	<ul style="list-style-type: none"> Comply with the USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS framework; and 	

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P	<ul style="list-style-type: none"> • Make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the child's IEP which the facility has agreed to provide to the child. 	<u>89.61(a)(4)(D)</u> <u>89.61(a)(4)(E)</u> <u>89.61(a)(4)(G)</u>
RESIDENTIAL APPLICATION PROCESS		
P	If the facility provides any educational services listed in the child's IEP, the facility's education program must be approved by the commissioner of education.	<u>89.61(a)(2)</u>
P	The LEA which intends to contract for residential placement of the child with a residential facility under this framework must notify the Texas Education Agency (TEA) of its intent to contract for the residential placement through the residential application process.	<u>89.61(a)(3)</u>
P	The LEA must comply with the <u>USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS</u> framework.	
P	Requests for approval of state and federal funding for residentially placed children must be negotiated on an individual basis through a residential application submitted by the LEA to the TEA.	<u>89.61(b)</u>
P	A residential application may be submitted for educational purposes only.	<u>89.61(b)(1)</u>
P	The residential application will not be approved if the application indicates that the:	<u>89.61(b)(1)</u>
P	<ul style="list-style-type: none"> • Placement is due primarily to the child's medical problems; 	<u>89.61(b)(1)(A)</u>
P	<ul style="list-style-type: none"> • Placement is due primarily to problems in the child's home; 	<u>89.61(b)(1)(B)</u>
P	<ul style="list-style-type: none"> • The LEA does not have a plan, including timelines and criteria, for the child's return to the local school program; 	<u>89.61(b)(1)(C)</u>
P	<ul style="list-style-type: none"> • The LEA did not attempt to implement lesser restrictive placements prior to residential placement, except in emergency situations as documented by the child's ARD committee; 	<u>89.61(b)(1)(D)</u>

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P	<ul style="list-style-type: none"> Placement is not cost effective when compared with other alternative placements; and/or 	89.61(b)(1)(E)
P	<ul style="list-style-type: none"> Residential facility provides unfundable/unapprovable services. 	89.61(b)(1)(F)
RESIDENTIAL APPROVAL PROCESS		
P	Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education.	89.61(c)
P	If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by the LEA, the LEA should notify the TEA in writing of its intent to place the child at the facility.	89.61(c)(1)
P	The TEA will begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the LEA.	89.61(c)(1)
P	Approval of the education program of a residential facility may be for one, two, or three years.	89.61(c)(1)
P	The commissioner of education will renew approvals and issue new approvals only for those facilities which have contract children already placed or which have a pending request for residential placement from the LEA.	89.61(c)(2)
P	The approval does not apply to residential facilities which only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program.	89.61(c)(2)
REPORTING AND RESPONSIBILITY		
P	An approved facility, institution, or agency with whom the LEA contracts must periodically report to the LEA on the services the child has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the LEA requires in order to fulfill its obligations under the Individuals with Disabilities Education Act. When the child who is residentially placed by the LEA changes residence to another Texas LEA, and the child continues in the contracted placement, the LEA which negotiated the contract must be responsible for the residential contract for the remainder of the school year.	89.61(a)(4)(H)TEC 29.008(d)

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P	<p><u>The LEA must make one announced initial visit and two subsequent onsite visits annually, one announced and one unannounced, onsite to verify that the residential facility can, and will, provide the services listed in the child's IEP that the facility has agree to provide to the child.</u></p>	<p>TEC 29.008(d)89.1092 (a)(4)(E) 89.1092(a)(4)(G)</p>

Last Updated: ~~Friday, February 09, 2018~~Thursday, November 18, 2021