



LEAST RESTRICTIVE ENVIRONMENT COMPOSITE

McKinney ISD

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Broad Category: FREE APPROPRIATE PUBLIC EDUCATION

I. LRE (Least Restrictive Environment - Placement)

§300.114 LRE requirements.

(a) General.

(1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.

(2) Each public agency must ensure that--

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) Additional requirement-State funding mechanism.

(1) General.

(i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section ; and

(ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) Assurance. If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as feasible to ensure that the mechanism does not result in placements that violate that paragraph.

§300.115 Continuum of alternative placements.

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must--

(1) Include the alternative placements listed in the definition of special education under §300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

(2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

§300.116 Placements.

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that--

(a) The placement decision--



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(1) Is 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; and

(2) Is made in conformity with the LRE provisions of this subpart, including §§300.114 through 300.118;

(b) The child's placement--

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home, unless the parent agrees otherwise;

(c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;

(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and

(e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum. (regular = public schools K-12th)

§300.117 Nonacademic settings; §300.118 Children in public or private institutions;

§300.119 Technical assistance and training – SEA

Click link to review the Region 20 ESC "Access General Curriculum (AGC)" Statewide Leadership Project which TEA supports.

MISD will consider the general education classroom first when determining the least restrictive environment for a student receiving special education services. Whenever a student is removed from the general education setting, the ARD/IEP committee will discuss and document in the IEP why the removal is in the best interest of the student.

The student will be educated in a school as close to the student's home school as possible, unless the services identified in the child's IEP require a different location. The MISD makes available a full continuum of alternative placement options that provides opportunities for students with disabilities to be educated with nondisabled peers to the maximum extent appropriate. If a student's IEP requires services that are not available at the school closest to the home, the student may be placed in another school that can offer the services that are included in the IEP and necessary for the student to receive FAPE. If needed to benefit from special education, transportation as a related service will be provided at no cost to the parent to the location where the IEP services will be provided. All LRE discussions will be documented in the IEP on district forms and filed by campus special education staff in the student's special education eligibility folder.

§300.320 Definition of individualized education program.

(a) **General.** As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include--

(1) A statement of the child's **present levels of academic achievement and functional performance**, including--

(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or

(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;

§300.110 Program options.

The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the



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area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education. (Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))

LRE Questions the ARD/IEP Committee may Discuss :

The following are points for discussion and documentation as an ARD/IEP committee determines the appropriateness of the Least Restrictive Environment for a student with disabilities. {based on Daniel R.R. v. State Board of Education, 874 F.2d 1036(5th Cir. 1989)}

- Can education in the general classroom, with the use of supplementary aids and services be achieved satisfactorily for the student?
- Has the MISD provided a range of supplementary aids and services which might include some of the following: assistive technology supports; supports from specialists such as behavior support or speech and language supports; and supports from special educators through direct instruction or consultation?
- Have a range of accommodations been considered and tried?
- Have efforts been made to modify the curriculum expectations, if appropriate?
- What educational benefits might the student receive from the general classroom?
- It is allowable to consider the impact of the included student on other peers in the classroom and on the classroom teacher. The ARD will collect data to support this area and to describe the steps taken to ameliorate concerns.
- It is important to consider the sufficiency of efforts which have been taken to support the student within general education. These efforts should be documented and more than mere "minimal efforts".
- If education in a general classroom cannot be achieved satisfactorily, determine whether the student has been included to the maximum extent appropriate for that student and if all academic and non-academic classes in general education with non disabled peers have been considered or tried. This could include times such as lunch or recess.

Placement decisions are made on a case by case basis depending on each child's unique educational needs and circumstances, rather than by the child's category of disability, and must be based on the child's IEP. Students with disabilities will have access to curriculum based on the TEKS in the least restrictive environment appropriate to meet their unique needs. MISD uses an internal monitoring system to evaluate placement decisions, which includes data collection, performance analysis, and observations. A district guidance document is utilized to help ensure that accommodations are addressed by the ARDC for extracurricular and nonacademic activities when appropriate.

Student service time identified in IEPs is tracked with utilization of inclusion and service logs, as well as by regularly addressing campus schedules and master schedules. Should a student not receive the services agreed upon by the ARDC, then the ARDC will address compensatory services through the ARD/IEP process and will include parent input.

II. PRIVATE NONPUBLIC SCHOOL PROVISIONS

§300.2 Applicability of this part to State and local agencies.

(c) Private schools and facilities. Each public agency in the State is responsible for ensuring that the rights and protections under Part B of the Act are given to children with disabilities--

- (1) Referred to or placed in private schools and facilities by the public agency; or
- (2) Placed in private schools by their parents under the provisions of §300.148



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§300.118 Children in public or private institutions.

Except as provided in §300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that §300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures). (Authority: 20 U.S.C. 1412(a)(5)) (§300.114 is LRE)

A. Placed by the District

§300.325 Private school placements by public agencies.

(a) Developing IEPs.

(1) Before the public agency places a child with a disability in, or refers a child to, a private school or facility, the public agency must initiate and conduct a meeting to develop an IEP for the child in accordance with §§300.320 and 300.324 (§300.320 is Definition of IEP and §300.324 is Development of IEP)

(2) The public agency must ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the public agency must use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

(b) Reviewing and revising IEPs.

(1) After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency.

(2) If the private school or facility initiates and conducts these meetings, the public agency must ensure that the parents and an agency representative--

(i) Are involved in any decision about the child's IEP; and

(ii) Agree to any proposed changes in the IEP before those changes are implemented.

(c) **Responsibility.** Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA. (Authority: 20 U.S.C. 1412(a)(10)(B))

Placed by District: The district special education department has followed all requirements to ensure the private facility is appropriate and the private school administration and appropriate staff are involved and participating in the ARD/IEP process. All Notices, Consents and district ARD/IEP forms for documentation of the process will be completed.

B. Placed by the Parent

§300.37 Services plan. Services plan means a written statement that describes the special education and related services the public agency will provide to a parentally-placed child with a disability enrolled in a private school who has been designated to receive services, including the location of the services and any transportation necessary, consistent with §300.132, and is developed and implemented in accordance with §§300.137 through 300.139. (Authority: 20 U.S.C. 1412(a)(10)(A))

§89.1075. General Program Requirements and Local District Procedures.

(g) School districts that contract for services from non-public day schools must do so in accordance with 34 Code of Federal Regulations, §300.147, and procedures developed by the TEA.

TAC §89.1096. Provision of Services for Students Placed by their Parents in Private Schools or Facilities.



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(a) Except as specifically provided in this section, in accordance with 34 Code of Federal Regulations (CFR), §300.137, no eligible student who has been placed by his or her parent(s) in a private school or facility has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school district. Except as specifically set forth in this section, a school district's obligations with respect to students placed by their parents in private schools are governed by 34 CFR, §§300.130-300.144.

(1) For purposes of subsections (a) and (d) of this section only, private school is defined as a private elementary or secondary school, including any pre-school, religious school, and institutional day or residential school, that:

(A) as required by 34 CFR, §300.13 and §300.130, is a nonprofit entity that meets the definition of nonprofit in 34 CFR, §77.1; and

(B) provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress.

(2) A home school must meet the requirements of paragraph (1)(B) of this subsection, but not paragraph (1)(A) of this subsection, to be considered a private school for purposes of subsections (a) and (d) of this section.

(b) When a student with a disability who has been placed by his or her parents directly in a private school or facility is referred to the local school district, the local district shall convene an admission, review, and dismissal (ARD) committee meeting to determine whether the district can offer the student a free appropriate public education (FAPE). If the district determines that it can offer a FAPE to the student, the district is not responsible for providing educational services to the student, except as provided in 34 CFR, §§300.130-300.144, or subsection (e) of this section, until such time as the parents choose to enroll the student in public school full time.

(c) Parents of an eligible student ages 3 or 4 shall have the right to "dual enroll" their student in both the public school and the private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's public school kindergarten program, whichever comes first, subject to paragraphs (1)-(3) of this subsection. The public school district where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.

(1) The student's ARD committee shall develop an individualized education program (IEP) designed to provide the student with a FAPE in the least restrictive environment appropriate for the student.

(2) From the IEP, the parent and the district shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment set forth in 34 CFR, §§300.114-300.120, and the policies and procedures of the district.

(3) For students served under the provisions of this subsection, the school district shall be responsible for the employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the school district.

(d) Parents of an eligible student ages 3 or 4 who decline dual enrollment for their student may request a services plan as described in 34 CFR, §§300.130-300.144. The public school district where the private school is located is responsible for the development of a services plan, if the student is designated to receive services under 34 CFR, §300.132.

(e) The school district shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.



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(f) Complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district under subsection (c) of this section may be filed with the Texas Education Agency under the procedures in 34 CFR, §§300.151-300.153. Additionally, parents may request mediation as outlined in 34 CFR, §300.506. The procedures in 34 CFR, §§300.300, 300.504, 300.507, 300.508, and 300.510-300.518 (relating to due process hearings) do not apply to complaints regarding the implementation of the components of the student's IEP that have been selected by the parent and the district under subsection (c).

For the TEA "Guidance on Parentally-Placed Private School Children with Disabilities" and "Frequently Asked Questions Proportionate Share/State Guidance on 89.1096 Private Schools," please see the website: https://tea.texas.gov/sites/default/files/Parentally%20Placed%20Frequently%20Asked%20Questions_2018%20%282%29.pdf

III. RESIDENTIAL PLACEMENTS

§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. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))

See TEA website for PowerPoint on Residential Facilities if needed.
<http://tea.texas.gov/pmi/SPEDRFmonitoring/>

CONTRACTING FOR EDUCATIONAL PLACEMENT

A. Residential Placements

TAC §89.1115. Memorandum of Understanding Concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities.

§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. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))

TEC §29.008. Contracts for Services; Residential Placement.

(a) A school district, shared services arrangement unit, or regional education service center may contract with a public or private facility, institution, or agency inside or outside of this state for the provision of services to students with disabilities. Each contract for residential placement must be approved by the commissioner. The commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The commissioner may approve either the whole or a part of a facility or program.

(b) Except as provided by Subsection (c), costs of an approved contract for residential placement may be paid from a combination of federal, state, and local funds. The local share of the total contract cost for each student is that portion of the local tax effort that exceeds the district's local fund assignment under Section 42.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that amount remaining after subtracting the local share. If the contract involves a public facility, the state share is that amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services. For purposes of this subsection, "local tax



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effort" means the total amount of money generated by taxes imposed for debt service and maintenance and operation less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

(c) When a student, including one for whom the state is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the school district, the portion of the costs that includes appropriate education services, as determined by the school district's admission, review, and dismissal committee, shall be paid from state and federal education funds.

(d) A district that contracts for the provision of education services rather than providing the services itself shall oversee the implementation of the student's individualized education program and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom the MISD contracts shall periodically report to the district on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the district requires in order to fulfill its obligations under this subchapter.

For any student in a RF facility in MISD, the district will oversee the implementation of the student's IEP and annually reevaluate the appropriateness of the placement. If contracting becomes necessary, reports will be obtained each 6 weeks on the services the student receives.

<https://tea.texas.gov/student-assessment/monitoring-and-interventions/program-monitoring-and-interventions/special-education-in-residential-facilities>

TAC §89.61. 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 free appropriate public education (FAPE).

(1) A school district may contract for a residential placement of a student only with either public or private residential facilities which 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 (c)(3) of this section.

(2) Subject to subsections (b) and (c) 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 (c) of this section.

(3) A school district which 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 (b) 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, §§300.342-300.347, state statutes, and commissioner of education rules.

(B) For each student, the services which the school district is unable to provide and which 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.



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- (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 an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the student's IEP which 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 on-site 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 residence to another Texas school district, and the student continues in the contracted placement, the school district which negotiated the contract shall be responsible for the residential contract for the remainder of the school year.
- (b) 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 the 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; and/or
 - (F) residential facility provides unfundable/unapprovable services.
 - (2) The residential placement, if approved by the 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 subsection (b)(2)(B) of this section shall not exceed the daily rate recommended by the Texas Department of Protective and Regulatory Services for the specific level of care in which the student is placed.



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

(1) 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 a local school district, the school district should notify the TEA in writing of its intent to place a student at the facility. The TEA shall begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the 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 of education shall renew approvals and issue new approvals only for those facilities which have contract students already placed or which have a pending request for residential placement from a school district. This approval does not apply to residential facilities which 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 which 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 the commissioner of education in Texas.

TEC §29.012. Residential Facilities

(a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is an open-enrollment charter school; or

(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(b) An agency or political subdivision that funds, licenses, certifies, contracts with, or regulates a residential facility must:

(1) require the facility to comply with Subsection (a) as a condition of the funding, licensing, certification, or contracting; or

(2) if the agency or political subdivision places a person in a residential facility, provide the notice under Subsection (a) for that person.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the open-enrollment charter school in which the facility is located.

(c-1) The commissioner by rule shall require each school district and open-enrollment charter school to include in the district's or school's Public Education Information Management System (PEIMS) report the number of children with disabilities residing in a residential facility who:

(1) are required to be tracked by the Residential Facility Monitoring (RFM) System; and

(2) receive educational services from the district or school.

SECTION 2. This Act applies beginning with the 2017-2018 school year.

SECTION 3. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

(d) The Texas Education Agency, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory



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Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission by a cooperative effort shall develop and by rule adopt a memorandum of understanding. The memorandum must:

- (1) establish the respective responsibilities of school districts and of residential facilities for the provision of a free, appropriate public education, as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and its subsequent amendments, including each requirement for children with disabilities who reside in those facilities;
 - (2) coordinate regulatory and planning functions of the parties to the memorandum;
 - (3) establish criteria for determining when a public school will provide educational services;
 - (4) provide for appropriate educational space when education services will be provided at the residential facility;
 - (5) establish measures designed to ensure the safety of students and teachers; and
 - (6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.
- (e) This section does not apply to a residential treatment facility for juveniles established under Section 221.056, Human Resources Code.
- (f) Except as provided by Subsection (g), a residential facility shall provide to a school district or open-enrollment charter school that provides educational services to a student placed in the facility any information retained by the facility relating to:
- (1) the student's school records, including records regarding:
 - (A) special education eligibility or services;
 - (B) behavioral intervention plans;
 - (C) school-related disciplinary actions; and
 - (D) other documents related to the student's educational needs;
 - (2) any other behavioral history information regarding the student that is not confidential under another provision of law; and
 - (3) the student's record of convictions or the student's probation, community supervision, or parole status, as provided to the facility by a law enforcement agency, local juvenile probation department or juvenile parole office, community supervision and corrections department, or parole office, if the information is needed to provide educational services to the student.
- (g) Subsection (f) does not apply to a:
- (1) juvenile pre-adjudication secure detention facility; or
 - (2) juvenile post-adjudication secure correctional facility.

SECTION 2. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

The McKinney Independent School District will follow the federal and state rules when serving students with disabilities in the residential facilities located within or outside of our district boundaries. The District aligns with TEA requirements for Non-Public and Residential placements.

§300.320 Definition of individualized education program.

(a) **General.** As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include--

- (1) A statement of the child's present levels of academic achievement and functional performance, including--



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- (i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or
- (ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;
- (2) (i) A statement of measurable annual goals, including academic and functional goals designed to--
 - (A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
 - (B) Meet each of the child's other educational needs that result from the child's disability;
- (ii) For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;

If the ARD Committee determines an alternate state assessment is appropriate, the ARD will develop short term objectives in addition to the measurable annual goals required in (2)(i) above.

If appropriate, any specialized services or supports such as 504 accommodations , G/T, Bilingual / ESL, or Dyslexia will be provided to the RF student.

Progress Monitoring: The federal and state rules will be followed for all students including those in a residential facility residing in the MISD. Progress toward mastery of the goals and objectives will be documented and reported to the parent/guardian/adult student in the same timely manner as students who do not have a disability. Annual review of the IEP which includes placement in the least restrictive environment appropriate for the student will be conducted by the ARD/IEP Committee following all state and federal regulations.

Program Evaluation: The district will continually review the implementation of RF requirements and update the database of RF facilities on an annual basis.

B. Texas School for the Blind and Visually Impaired (TSBVI)

TEC §30.021. Purpose of Texas School for the Blind and Visually Impaired. (TSBVI)

(a) The Texas School for the Blind and Visually Impaired is a state agency established to serve as a special school in the continuum of statewide alternative placements for students who are 21 years of age or younger on September 1 of any school year and who have a visual impairment and who may have one or more other disabilities. The school is intended to serve students who require specialized or intensive educational or related services related to the visual impairment. The school is not intended to serve:

- (1) students whose needs are appropriately addressed in a home or hospital setting or in a residential treatment facility; or
- (2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit.

(b) The school district in which a student resides is responsible for assuring that a free appropriate public education is provided to each district student placed in the regular school year program of the school and that all legally required meetings for the purpose of developing and reviewing the student's individualized educational program are conducted. If the school disagrees with a district's individualized education program committee recommendation that a student be evaluated for placement, initially placed, or continued to be placed at the school, the district or the school may seek resolution according to a procedure established by the commissioner or through any due process hearing to which the district or school is entitled under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

C. Texas School for the Deaf (TSD)



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TEC §30.051. Purpose of Texas School For the Deaf (TSD)

(a) The Texas School for the Deaf is a state agency established to provide educational services to persons who are 21 years of age or younger on September 1 of any school year and who are deaf or hard of hearing. The school shall provide:

- (1) comprehensive educational services, on a day or residential basis;
- (2) short-term services to allow a student to better achieve educational results from services available in the community; and
- (3) services for any student who is deaf or hard of hearing and also has an additional disability and who requires a specialized support program but does not require a residential treatment facility.

TEC §30.057. Admission to Texas School for the Deaf (TSD)

(a) The Texas School for the Deaf shall provide services in accordance with Section 30.051 to any eligible student with a disability for whom the school is an appropriate placement if the student has been referred for admission:

- (1) by the school district in which the student resides under the student's individualized education program;
 - (2) by the student's parent or legal guardian, or a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is age 18 or older, at any time during the school year, if the referring person chooses the school as the appropriate placement for the student rather than the placement in the student's local or regional program recommended under the student's individualized education program; or
 - (3) by the student's parent or legal guardian through the student's admission, review, and dismissal or individualized family service plan committee, as an initial referral to special education for students who are three years of age or younger.
- (b) The commissioner, with the advice of the school's governing board, shall adopt rules to implement this section. The rules adopted by the commissioner may address the respective responsibilities of a student's parent or legal guardian or a person with legal authority to act in place of the parent or legal guardian, or the student, if age 18 or older, the school district in which the student resides, and the school.

D. Regional Day School Program for the Deaf (RDSPD)

TEC §30.083. Statewide Plan.

(a) The director of services shall develop and administer a comprehensive statewide plan for educational services for students who are deaf or hard of hearing, including continuing diagnosis and evaluation, counseling, and teaching. The plan shall be designed to accomplish the following objectives:

- (1) providing assistance and counseling to parents of students who are deaf or hard of hearing in regional day school programs for the deaf and admitting to the programs students who have a hearing loss that interferes with the processing of linguistic information;
- (2) enabling students who are deaf or hard of hearing to reside with their parents or guardians and be provided an appropriate education in their home school districts or in regional day school programs for the deaf;
- (3) enabling students who are deaf or hard of hearing who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the deaf for daily commuting to be accommodated in foster homes or other residential school facilities provided for by the agency so that those children may attend a regional day school program for the deaf;
- (4) enrolling in the Texas School for the Deaf those students who are deaf or hard of hearing whose needs can best be met in that school and designating the Texas School for the Deaf as the statewide educational resource for students who are deaf or hard of hearing;



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- (5) encouraging students in regional day school programs for the deaf to attend general education classes on a part-time, full-time, or trial basis; and
 - (6) recognizing the need for development of language and communications abilities in students who are deaf or hard of hearing, but also calling for the use of methods of communication that will meet the needs of each individual student, with each student assessed thoroughly so as to ascertain the student's potential for communications through a variety of means, including through oral or aural means, fingerspelling, or sign language.
- (b) The director of services may establish separate programs to accommodate diverse communication methodologies. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §30.081 - TEC §30.086.

MISD staff follow District procedures for students placed at the TSBVI, TSD, and RDSPD. District staff collaborate and attend ARD meetings held for students at the RDSPD and TSBVI and provide special transportation to and from school when determined by ARDC. The District collaborates with TSD to develop student IEPs and follows all TEA procedures related to TSD.

IV. Virtual Learning

§300.327 Educational placements.

Consistent with §300.501(c), the public agency must ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

§300.328 Alternative means of meeting participation.

When conducting IEP Team meetings and placement meetings pursuant to this subpart, and Subpart E of this part, and carrying out administrative matters under section 615 of the Act (such as scheduling, exchange of witness lists, and status conferences), the parent of a child with a disability and the public agency may agree to use alternative means of meeting participation, such as video conferences and conference calls.

According to the McKinney ISD Instructional Plan, for students who are eligible for Special Education under IDEA, ARD Committees will convene and make appropriate recommendations to meet individual student needs to ensure continued growth in the general education curriculum and on individual goals and objectives. The district is currently implementing an in-person learning model. In an effort to plan for all possible learning modalities, possible quarantines, and emergency closure, the ARDC will also consider a virtual learning schedule that will be implemented in the event of school closure lasting longer than ten consecutive school days. The schedule of services for students reflects the appropriate services that the student receives when the student is in typical face-to face instruction.

In addition, service time and associated statements regarding virtual instruction will need to be included as a part of the Schedule of Services for all students. Virtual schedules of services should reflect the same times/services as in-person instruction to the maximum extent possible. In the rare event that there is a change/reduction/difference in time for virtual vs in-person services, the ARD committee must include a statement in the minutes as to why there is a change in service time.

STAFF RESPONSIBLE:

District Level: Special Populations Department



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Campus Level: Campus Administrators and staff

TIMELINES FOR ACTIVITIES:

- Annual visits to facilities
- District guidance documents
- Locally developed checklists
- Periodic communication with residential facilities

EVIDENCE OF PRACTICE:

- Internal system used to monitor placement decisions in the least restrictive environment
- Training artifacts
- TEA application for a residential facility
- District guidance documents
- Locally developed checklists
- Communication logs with parents