

# Administration

## RESIDENTIAL FACILITY WITHIN A DISTRICT

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Model operating procedures created by



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## Residential Facility Within a District

### What is Required

The District in which the residential facility is located must provide a FAPE for all eligible students residing in the residential facility, unless the student was placed in the residential facility by another LEA for educational purposes. The residential facility must notify the District not later than the third day after the date that a student age 3-22 is placed in the residential facility. This does not apply to a residential facility that is an open-enrollment charter school or the residential facility has been designated as an LEA (e.g., TYC correctional facilities, Texas School for the Deaf, the University of Texas Medical Branch).

### Exchange of Records

With the exception of a juvenile pre-adjudication secure detention facility or a post-adjudication secure correctional facility, the residential facility will provide the District any information retained by the residential facility relating to:

- The student's school records, including any records related to special education eligibility or services, BIPs, school-related disciplinary actions, and other documents related to the student's educational needs;
- Any other behavioral history information regarding the student that is not confidential under another provision of the law; and
- The student's conviction record or probation, community supervision, or parole status, as provided to the residential 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.

Within a reasonable period of time and to the extent permitted by law, the District and the residential facility are required to share all appropriate records and relevant information relating to the student with a disability, including, but not limited to:

- Birth certificate or other identifying document that proves the student's age;
- Medical history and medical records, including current immunization records and a history of infectious disease (e.g. hepatitis B, tuberculosis), including a description of any behavioral characteristics related to the transmission of such disease;
- Social history;



- Vision and hearing screening and evaluation;
- Evaluation reports including psychological, educational, related service, assistive technology and vocational evaluations, and behavioral assessments;
- Treatment plan of care or service;
- Educational history (e.g., previous educational placement information);
- Any relevant court orders (e.g. orders related to placement in a residential facility, guardianship or conservatorship, or court-ordered services);
- Information related to the student's movement from a residential facility to a subsequent residence, including, but not limited to, the date the student left the residential facility and the location of the student's subsequent residence; and
- Name and phone number of contact persons representing both the residential facility and the District.

### **Placement and Staffing**

The ARD Committee is responsible for determining the appropriate educational placement for a student residing in a residential facility. See [PLACEMENT IN A RESIDENTIAL FACILITY]. In making this determination, the ARD Committee must consider all available information regarding the student's educational needs and the non-educational needs that may restrict the District's ability to serve the student on a public school campus or other instructional setting. These non-educational needs could include the student's health and safety (e.g., substance abuse) and/or the student's placement in a restrictive residential facility program (e.g., juvenile incarceration or restrictive court-ordered placements). The ARD Committee's educational placement determination must be an individualized decision based on the student's current needs and not be made on a categorical basis, such as the disability or residence in the residential facility. The ARD Committee may not determine educational placement based on what is most convenient to the District or the residential facility.

### **Coordination of IEP and Treatment**

When educational services will be provided at the residential facility, the student's ARD Committee must determine whether the space available at the residential facility is appropriate for the provision of FAPE based on the individual student's needs and the residential facility's available space. If the ARD Committee or residential facility determines that the residential facility lacks appropriate available space to provide these services, the ARD Committee must identify alternative locations for the provision of special education services.

The District and the residential facility must coordinate the student's IEP and treatment



plan of care or service by communicating responsibilities and timelines related to the development and implementation of the IEP and treatment plan, including permanency planning.

The District is responsible for providing:

- The name and phone number of the contact person representing the residential facility to a surrogate parent (if such person is assigned) upon assignment of the surrogate parent;
- The name and phone number of the surrogate parent to the contact person representing the residential facility upon assignment of the surrogate parent; and
- Designation and training of the surrogate parent. See [PARENT].

The District and the residential facility must agree in writing to the staffing levels that will be maintained by both the residential facility and the District to ensure the safety of students and teachers while providing educational services at the residential facility.

## **Dispute Resolution**

Resolving a dispute between the District and another district or between the District and a residential facility concerning the implementation of educational services to students residing in a residential facility should first be addressed at the local level. The specific issues involved in the dispute, as well as any possible solutions, will be identified and referred to District Special Education Personnel authorized to make decisions necessary to resolve the dispute. If a resolution cannot be reached after a reasonable period of time—not to exceed 45 calendar days unless the disputing parties agree otherwise—the District or residential facility may refer the dispute to the TEA for further negotiations toward a mutually agreeable resolution. The referring entity must identify the nature of the dispute, any resolutions agreed upon, the issues that remain unresolved, and the contact persons representing the disputing entities.

## **Definitions**

A “residential facility” is a facility that provides 24-hour custody or care of students with disabilities 22 years of age or younger for detention, treatment, foster care, or any non-educational purpose. It does not include traditional foster homes licensed by the Texas Department of Family and Protective Services as Foster Family Homes.

## **Additional Procedures**

The District must provide special education and related service to all eligible students residing in a residential facility located within the district’s boundaries, unless the student was placed in the residential facility by another LEA for educational purposes.



In that case, the sending LEA maintains responsibility for FAPE and the student is still enrolled in the sending LEA. The District shall annually contact the facility to offer services to eligible students as well as meet its child find obligations. See [CHILD FIND DUTY]

Unless the student was placed in the residential facility by another LEA for educational purposes (and is thus still enrolled in the sending LEA), all students age 3-21 who enter a residential facility within the District for an anticipated period of 10 consecutive days or longer must be enrolled in the District within three (3) school days (unless already an enrolled student) from the notification of admission of the student by the residential facility. Residential facility personnel will facilitate the student's enrollment by providing the necessary information to District Special Education Personnel, including educational history, social history, assessment/evaluation reports, and any court order authorizing placement in the residential facility.

### **Residential Facility Tracker and Monitoring**

The Residential Facility Tracker (RF Tracker) is a tool used by the TEA to collect data for students with disabilities residing in residential care and treatment facilities within the geographic boundaries or jurisdiction of the District. The RF Tracker was established to improve school district performance and compliance with federal and state special education requirements for this unique and vulnerable population of students who often have limited access to family members who can advocate for the student's educational needs. The data from the RF Tracker is used to inform stakeholders, including educators, parents, and legislators, about the effectiveness of educational programs and student outcomes for students residing in residential facilities.

The District must report the number of students with disabilities residing in a residential facility through the the Residential Facility Tracker by the deadline set by TEA each year. After the initial submission of data, District Special Education Personnel will maintain the database with current information upon the enrollment and withdrawal of residential facility students within the District. The Residential Facility Tracker is available as a reporting feature in the Texas Student Data System ("TSDS").

The District is subject to monitoring of residential facilities if it serves students with disabilities residing in residential facilities within its geographic boundaries or jurisdiction. The following facilities are considered residential facilities for the purpose of residential facility monitoring: state supported living centers; residential facilities for specific purposes (drug treatment, emotional/behavioral needs, abuse, etc.); emergency shelters; detention facilities and jails; group homes; therapeutic foster homes (except for traditional foster homes licensed as foster family homes).

Monitoring activities include data analysis by the District and the TEA to determine and address factors causing program ineffectiveness or noncompliance. The TEA may conduct on-site visits to review program effectiveness and compliance. Further, the TEA may require the District to develop and implement any identified support needs, an



improvement plan, and/or a plan for corrective actions, if needed.

Monitoring is intended to improve school districts and charter school performance and compliance with federal and state special education requirements, particularly for students with limited access to family members who can advocate for their educational needs.

### **Transferring From a Residential Facility**

If a student transfers from a residential facility to a campus within the District, the Registrar should contact the residential facility to learn about why the student was being served in the residential facility and to request the student's records. Campus Special Education Personnel will schedule a transfer ARD meeting to be held within one week of the student's transfer and invite the appropriate related service providers to the transfer ARD meeting. If the District learns that the student will be transferring while the student is still receiving services in the residential facility, Campus Special Education Personnel may consider contacting the residential facility to see if a student observation at the residential facility is possible.

### **Evidence of Implementation**

- Residential Facility Tracker data
- ARD/IEP
- Documentation of Communication with Residential Facility

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Residential Facility Within a District - Region 18](#)

[Special Education in Residential Facilities - Texas Education Agency](#)

[Texas Education Data Standards - Texas Student Data System](#)

[Residential Facility Tracker Presentation - Texas Education Agency](#)

[Residential Facility Monitoring - Texas Education Agency](#)

[Required Residential Facility Tracker Data Collection: Students with Disabilities \(Nov. 5, 2020\) - Texas Education Agency](#)

[OSERS Dear Colleague Letter \(Dec. 5, 2014\) - U.S. Department of Education](#)

### **CITATIONS**



Board Policy EHBAC, EEM, and EHBA; Texas Education Code 29.012; 19 Texas Administrative Code 89.1115(d); 97.1072