

Funding

USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS

February 1, 2021

Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2021 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.

Customized by [insert school district logo here]

CONTENTS

Use of Funds for Contract Services Including Residential Placements 1

 What is Required 1

 Costs for Residential Placement 1

 Funding Mechanism for Residential Placement 1

 Non-Public Day Schools 2

 Definitions..... 2

 Additional Procedures..... 2

 Unilateral Placements 2

 Evidence of Implementation 3

 Resources..... 3

CITATIONS 3

Customized by [insert school district logo here]

Use of Funds for Contract Services Including Residential Placements

What is Required

If placement in a public or private residential program is necessary to provide special education and related services to a student with a disability, the District must provide the program, including non-medical care and room and board, at no cost to the parent of the student.

Costs for Residential Placement

The District may use a combination of federal, state, and local funds to pay costs of an approved educationally-based contract for residential placement. The local share of the total contract cost for each student is the portion of the local tax effort that exceeds the District's local fund assignment, divided by the average daily attendance ("ADA") in the District.

The District must fund the education cost of residential contracts with state funds on the same basis as nonpublic day school contract costs. If the contract involves a private facility, the state share of the total contract cost is the amount remaining after subtracting the local share. If the contract involves a public facility, the state share is the amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services.

State special education funds may be used for transportation, but only to and from residential placements. The District must use state or local funds based on actual expenses up to the state transportation maximum for private transportation contracts before using any federal funds for transportation costs to and from a residential facility.

After expending any other available funds, the District must expend its local tax share per ADA and 25% of its 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 may receive additional IDEA-B discretionary funds to pay the balance of the residential contract placement costs through the residential application process. Any funds generated by the formula for residential costs must not exceed the daily rate recommended by the Texas Department of Family and Protective Services ("DFPS") for the specific level of care in which a student is placed.

Funding Mechanism for Residential Placement

Customized by ~~[insert school district logo here]~~

The District must only contract for the residential placement of students with either public or private residential facilities which maintain current and valid licensure by the Texas Department of Aging and Disability Services, the DFPS, or the Department of State Health Services for the particular disabling condition and age of the student.

If the District intends to contract with a residential facility for residential placement of a student for educational purposes to meet some or all of the student's special education needs, it must notify the TEA of its intent to do so through the residential application process. The District must submit any requests for approval of state and federal funding for residentially-placed students to the TEA through a residential application. Each request must be negotiated on an individual student basis.

When a student who is residentially placed by the District changes residence to another district in Texas and the student continues in the contracted placement, the District that negotiated the contract remains responsible for the residential contract for the remainder of the school year. Similarly, if a student who is residentially placed by another district in Texas changes residence to the District and the student continues in the contracted placement, the previous district remains responsible for the residential contract for the remainder of the school year.

All residential facilities that provide educational services must have their educational programs approved for contracting purposes by the Commissioner of Education. Out-of-state residential facilities must be approved by the appropriate agency in the state in which the facility is located, and the District must follow the TEA application process.

Non-Public Day Schools

If the District contracts for services from non-public day schools, it must comply with procedures developed by the TEA for monitoring the provision of special education and related services at no cost to the parent in conformance with the student's IEP.

Definitions

"Local tax effort" is 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.

Additional Procedures

Unilateral Placements

Customized by [insert school district logo here]

The District is responsible for funding a residential placement if such placement is necessary to provide special education and related services to a student with a disability within its jurisdiction. Therefore, even if a parent unilaterally places the student in a residential placement, the District may be responsible for funding the placement if it is necessary to provide the student FAPE and if FAPE cannot be provided within one of the District's programs.

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

Evidence of Implementation

- ARD/IEP
- Documentation of Communication with Residential Facility
- Residential Application
- Approval of Residential Facility
- Residential Facility Tracker, when applicable
- [DISTRICT FORMS]

Resources

[The Legal Framework for the Child-Centered Special Education Process: Use of Funds for Contract Services Including Residential Placements - Region 18](#)

[Special Education in Nonpublic Schools - Texas Education Agency](#)

[Nonpublic School Monitoring and Guidance Resources for Special Education - Texas Education Agency](#)

[Nonpublic Placement Notification and Application - Texas Education Agency](#)

[Student Attendance Accounting Handbook - Texas Education Agency](#)

[ADDITIONAL DISTRICT RESOURCES]

CITATIONS

Board Policy EHBA and EHBAC; 34 CFR 300.103–300.104, 300.146–300.147; Texas Education Code 29.008(b)–(c), 48.102; 19 Texas Administrative Code 89.1050(h), 89.1125, 89.61(a)–(c)