

STUDENTS IN NON-DISTRICT PLACEMENT

EHBAC  
(REGULATION)

TEXAS SCHOOL  
FOR THE DEAF  
(TSD)

Services for TSD will be available if:

1. The student meets the criteria developed by TSD and Texas Education Agency (TEA).
  - a) The student has needs the local district or regional program cannot adequately meet and,
  - b) The student has long-term or short-term needs that can be appropriately met at TSD.
2. The local district shall list those services on the Individual Education Plan (IEP) which they cannot provide and which TSD can.
3. The District shall make one on-site visit to determine that the TSD can offer these services. This visit is required annually if students are continued in placement, or if new placements occur. The placement of more than one student may be considered in the same onsite visit; however, the IEP of each student must be reviewed and a determination of appropriateness of placement and service must be made for each student.
4. The local district will establish criteria and estimated timelines for returning the student to the local district.
5. The local ARD committee will review the placement annually and determine:
  - that the placement should continue with documentation in the IEP and,
  - that TSD continues to offer an appropriate program for the Auditorily Impaired (AI) student.
6. A written cooperative agreement shall be developed between TSD and the district specifying the general responsibilities of each agency in the delivery of appropriate and mutually supportive services to the student.
7. The Texas School for the Deaf, through their Admission, Review and Dismissal (ARD), committee process shall determine eligibility of referred student and shall determine if the respective school is a appropriate instructional placement for that student. If the TSD Admission, Review and Dismissal committee fails to concur with the recommendation for placement by the local district ARD committee, an ARD committee will be convened to consider other options such as the Regional Day School Program

for the Deaf.

8. For students placed in a residential setting based upon the district's ARD committee recommendations, Local Education Agency (LEA) will be responsible for transportation at the beginning and end of the term for regularly scheduled school holidays, and on a monthly basis. When the ARD committee determines that it is necessary for an adult to accompany the student round trip transportation for the adult will also be provided.
9. Students enrolled in TSD under section 89.240(e) who are not referred by local ARD committee shall not be considered as a placement by the school district. The district shall not be responsible for free appropriate education and related services (e.g., tuition, transportation, room and board) for such children, but such responsibilities shall be incumbent on TSD.
10. When a hearing impaired student is placed outside the district of legal residence, the district shall forward copies of the ARD report from the district to the receiving district for use in developing the IEP.

ACCESS TO  
VISUALLY  
IMPAIRED  
SERVICES

The school district shall establish a comprehensive system of personnel development concerning personnel serving students with visual impairments.

Texas School for the Blind and Visually Impaired (TSBVI) Services from the Texas School for the Blind and Visually Impaired (TSBVI) shall be available if:

- The student has long-term or short-term needs that can be appropriately met at TSBVI.
- The local district shall list those services on the IEP which it cannot provide and which TSBVI can.

The District shall make one on-site visit to determine that TSBVI can offer these services. This visit is required annually. The placement of more than one student may be considered in the same onsite visit; however, the IEP of each student must be reviewed and a determination of appropriateness of placement and service must be made for each student.

- a. The local district will establish criteria and estimated timelines for returning the students to the local district.
- b. The local ARD committee will review the placement annual-

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ly and determine that the placement should continue with documentation in the IEP, and that TSBVI continues to offer an appropriate program for the Visually Impaired (VI) student.

- c. A written cooperative agreement shall be developed between TSBVI and the local district of the VI student specifying the general responsibilities of each agency in the delivery of appropriate and mutually supportive services to the student.
- d. TSBVI, through their ARD committee process, shall determine eligibility of referred students and shall determine if the respective school is an appropriate instructional placement for that student. If the TSBVI ARD committee for placement fails to concur with the recommendation for placement by the local district ARD committee, an ARD will be convened to consider other placements.
- e. For students placed in a residential setting based upon the local school district ARD committee recommendations, the LEA will be responsible for transportation at the beginning and end of the term, and for regularly scheduled school holidays and on a monthly basis. When the ARD committee determines that it is necessary for an adult to accompany the student, round trip transportation for the adult will also be provided.
- f. Students enrolled in TSBVI who are not referred by local ARD committee shall not be considered as a placement by the school district. This district shall not be responsible for their free appropriate education and related services (e.g., tuition, transportation, room and board, etc.) for such children but such responsibility shall be incumbent of TSBVI.
- g. When a visually impaired student is placed outside the district of legal resident, the district shall forward copies of the ARD report from the district to the receiving district for use in developing the IEP.

1 Texas Commission for the Blind (TCB)

- 1.1 A TCB representative will participate in the individual transition plan planning meeting for all TCB eligible students when given thirty (30) days advanced notice by the school district and/or parent regarding that meeting. Courtesy participation for those students not yet determined to be eligible for TCB services may occur based on the local representative's discre-

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tion. TSBVI will be served by the TCB representative.

- 1.2 Appropriate elements of the ARD transition goals will be included in TCB's plan of services for eligible students consistent with TCB's manual of services.
  - 1.3 Students who have not been referred to TCB may be referred at the ARD meeting. All students will receive information regarding TCB services.
  - 1.4 The TCB representative will provide follow-up for eligible students upon graduation to complete vocational rehabilitation (VR) services.
- e. The local TCB staff will be available to present information about services to educational/administrative staff, parents, and children who are blind and visually impaired upon request.

PROVISIONS OF  
SERVICE TO  
RESIDENTS OF  
RESIDENTIAL CARE  
FACILITIES

School-age individuals residing in a Residential Care Facility, RCF are, for purposes of education, residents of the school district in which the RCF is located. The responsibilities for the provision of educational space, educationally related services and non-educational treatment services for those individuals are as follows:

1. Provision of educational space:
  - a) Each school district in which a RCF is located shall ensure that all school-age residents of the RCF are provided free appropriate public education in the least restrictive environment. The decision as to the least restrictive educational arrangement for such a resident must be based on the individual's needs and cannot be based on other issues, such as the most convenient arrangement for the RCF and/or the school district.
  - b) If the school district's ARD committee determines in accordance with these applicable federal regulations that the RCF is the least restrictive instructional arrangement for a RCF resident and the committee documents, in the resident's individual education plan, that such an educational arrangement is consistent with the resident's medical and active treatment needs, the following provisions shall apply:
    - i. the RCF is responsible for providing adequate educational space;
    - ii. the costs of providing this educational space,

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- including the costs related directly to the operation and maintenance of the educational space itself, are an allowable Medicaid expense and may be reported as such on the RCF's Medicaid cost report; and
- iii. the RCF shall not charge the school district for any of the costs set forth in this section. Any such charge would constitute an illegal supplementation of the Medicaid vendor rate.
2. Provision of educationally related services and non-educational treatment services:
    - a. School-age individuals placed in a RCF by any party other than a school district are deemed to be placed primarily for care and treatment purposes. The RCF shall determine the individual's care and treatment needs prior to the determination of the individual's educational needs by the school district.
    - b. Pursuant to federal law:
      - i. a RCF shall not reduce or fail to provide treatment services solely because such services are or may be included in a school-age resident's individual educational plan; and
      - ii. a school district shall not reduce or fail to provide educationally related services solely because such services are or may be included in a school-age resident's individual program plan.
    - c. The RCF shall act pursuant to 42CFR483.440 and provide a copy of each school-age resident's current assessment report(s) and individual program plan to the school district.
    - d. Upon receipt of the RCF's assessment reports and individual program plan and with any additional data the district has collected, the district's admission, review, and dismissal committee shall review and update the student's individual educational plan as appropriate.
  3. Coordination of Services:
    - a) To ensure the provision of appropriate services and to eliminate or minimize duplication of services, the RCF and the school district shall share all appropriate client/student records pursuant to the rules and regulations of the department and the agency relating to

the protection of confidential information.

- b) The RCF and the school district shall ensure that respective representatives are allowed to attend and participate as resource persons in all ARD meetings.
- c) In accordance with their respective responsibilities the RCF and the school district shall enter into a written agreement concerning ongoing functions and services. The agreement must contain procedures for resolving problems in a timely manner and must contain the names of the respective contact persons to which problems should be addressed. Such agreements shall be consistent with state and federal laws, rules and regulations relating to the state medical assistance program and the education of all students with disabilities program and shall be binding upon both parties.

4. Resolution of problems:

- a) In the event that a problem cannot be resolved at the level to the mutual satisfaction of either party, a written request for technical assistance may be submitted to the appropriate state agency.

The RCF should send the request to:

Institutional Policy Unit, W-519  
Long-term Care Department  
Texas Department of Human Services  
P.O. Box 149030  
Austin, Texas 78714-9030

The school district should send the report to:

Texas Education Agency  
Division of Special Education Programs  
1701 North Congress Avenue  
Austin, Texas 78701-1494

- b) Upon receipt of a request for technical assistance, the department and the agency will jointly review the problem(s) indicated in the request. Following this review, a recommended resolution, coordinated between the department and the agency, will be provided to the requestor.
- c) Concerns by either the RCF or the school district con-

cerning the appropriateness of care, treatment, or educational services are subject to the procedural safeguards (client/students rights) as established for school-age individuals served by an RCF and a school district respectively.

5. Special Provisions:

- a. The Socorro Independent School District will provide to RCF personnel the opportunity to participate in, and provide information to, the ARD committee when the educational needs of students on the respective settings are being considered, to include the formulation, implementation, and review of the student's IEP.
- b. The location and procedures for delivery of the instructional and/or related services to a student as specified on the IEP will be determined in accordance with the guidelines concerning placement in the least restrictive environment for all other disabled students in the District.
- c. Socorro ISD will serve eligible school-age clients in a RCF certified by the Texas Department of Human Resources as a level I facility in instructional settings within the district and outside of the facility unless a more restrictive setting is necessary. In such cases, permission will be obtained from the TEA. The ARD committee will determine the length of the instructional day.
- d. For students in facilities designated by the Texas Department of Mental health and Mental Retardation as Level V or Level VI facilities, the ARD committee will follow the same procedures for determining the least restrictive environment as are used for other disabled students in the district in deciding if the student will receive instruction in a school or facility setting. Special consideration will be given to the safety and health needs of the student. The ARD committee will determine the length of the instructional day.
- e. If the ARD committee determines that a student is to be instructed within the RCF, provision of the instructional setting will be the responsibility of the RCF, not the District.
- f. If the ARD committee recommends that the provision of educational services to a disabled student be contracted to TEA approved day or residential facility, the following will be documented in the student's IEP:
  - i. The services which Socorro ISD is unable to provide and those which the facility is able to provide;
  - ii. The overall appropriateness of the facility; and the criteria and timeline for returning the student to the District.

6. Monitoring and Evaluation of the IEP:
  - a. To ensure the continued appropriateness of a student's IEP and optimum student success, monitoring and evaluation of the plan are necessary. The procedures are as follows:
    - i. The ARD committee, at the time of a student's IEP is developed, will establish and document in the committee minutes the time frame for monitoring and evaluating the IEP. Each student's IEP will be evaluated at least once annually.
    - ii. Written program reports provided to parents of students receiving special education services on the same timely basis as those to parents of students in regular education will be based on the student's progress toward the goals and objectives in the IEP.
    - iii. Each teacher involved in a student's instruction has the opportunity to provide input and request assistance regarding the implementation of the student's individual educational plan.
    - iv. Each teacher may, formally or informally, submit requests for further consideration of the student's individual educational plan or its implementation. In response to this request, the District shall determine whether further consideration is necessary and whether this consideration will be informal or will require an ARD committee meeting. If the District determines that an ARD committee meeting is necessary, the student's current regular and special education teachers shall have an opportunity to provide input. The school district shall also ensure that each teacher who provides instruction to a student with disabilities receives relevant sections of the student's current individual educational plan, such as goals and objectives, modifications, and accommodations.

ASSISTIVE  
TECHNOLOGY  
DEVICES AND  
SERVICES

Assistive technology devices and services are used to adapt conditions to improve the student's functioning when needed to implement the student's IEP. The ARD committee shall review recommendations for assistive technology from the full and individual evaluation or reevaluation and include in the IEP those devices and services determined to be educationally necessary.

1. The full and individual evaluation will include formal or informal evaluation and recommendations regarding the need for



assistive technology devices and services.

2. The full and individual evaluation will address assistive technology needs based on competencies identified during evaluation. The report will specify one of the following:
  - a) assistive devices and services are not recommended for this student at this time;
  - b) referral to the assistive technology team is recommended; (see referral section)
  - c) referral to the assistive technology team has been made, please refer to the report for detailed recommendations (specify the date of the report you are referencing);
  - d. list other referral if recommended;
  - e. list modifications which have been recommended and refer to the modification section of the full and individual evaluation report for further details.

Assistive technology devices or services will be made available to students with disabilities if required as part of the student's special education, related service, or supplemental aids and services as determined by the ARD committee.

1. The term assistive technology device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain or improve functional capabilities of children with disabilities.
2. The term assistive technology service means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes:
  - a. the evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
  - b. purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
  - c. selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;
  - d. coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
  - e. training or technical assistance for a child with a disabili-

- ty or, if appropriate, that child's family; and
- f. training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.
3. Assistive technology devices and services are used to adapt conditions to improve the student's functioning when needed to implement the student's IEP.
  4. The ARD committee shall:
    - a. review recommendations for assistive technology devices and services from the full and individual evaluation report include in the IEP devices and services determined to be educationally necessary;
    - b. discuss assistive technology needs and give consideration to the competencies, strengths and weaknesses and recommendations from the assessment report;
    - c. The ARD committee may recommend additional evaluation by the assistive technology team;
    - d. The team member(s) will make written recommendations in an evaluation report for assistive technology services or devices including specific modifications which are needed to implement the student's individual education program; and
    - e. The ARD committee will then consider the recommendations.
  5. Assistive technology devices and services assigned in the IEP do not replace necessary medical treatment or individually fitted or prescribed prosthetic or corrective devices such as hearing aids and glasses.
    - f. Assistive technology devices may be transferred or sold to other school districts, state agencies or to a student or his/her parent. The consent of the parent/guardian or student is necessary when the device is transferred. The transfer may take place if a student exits the school system or transfers to another school district. If the transfer is a sale, the sale will be evidenced by a Uniform Transfer

Agreement.

- g. For private school or homeschooled students, a service plan may be developed which outlines the specific assistive devices or services needed by the student.