SHARED SERVICES ARRANGEMENTS

The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. *Education Code 29.007*

PRIVATE SCHOOL—DISTRICT PLACED

STUDENT RECEIVES IEP

If the District places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, the District shall ensure that the child is provided special education and related services, in accordance with an IEP, at no cost to the parents. *20 U.S.C. 1412(a)(10)(B)(i)*

PRIVATE SCHOOL—PARENT PLACED

When a parentally placed child with a disability is referred to the District, the District shall convene an admission, review, and dismissal (ARD) committee to determine whether the District can offer the child a free appropriate public education (FAPE). If the District determines that it can offer FAPE, it is not responsible for providing educational services to the child, except that the District must develop and implement an individualized services plan (ISP). *19 TAC 89.1096(b)*

OFFER OF FAPE REJECTED

STUDENT RECEIVES ISP

If the District made FAPE available to a child with a disability and the parents elected to place the child in a private school or facility, the District is not required to pay for the cost of education, including special education and related services. However, the District must develop and implement an ISP. *20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a)*

FAPE OFFERED BUT NOT PROVIDED

REIMBURSEMENT

If the parents of a child with a disability, who previously received special education and related services under the authority of the District, enroll the child in a private school without the consent or referral by the District, a court or a hearing officer may require the District to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the District had not made FAPE available to the child in a timely manner before the enrollment. This right of reimbursement is subject to the notice and other requirements set forth at 34 CFR 300.148(d). *20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c)*

HOME SCHOOL STUDENTS

A home school student is considered a private school student, for purposes of the District's obligations under IDEA, if the home school 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. *19 TAC 89.1096(a)(2)*

INDIVIDUALIZED SERVICES PLAN (ISP)

Each parentally placed private school child with a disability who has been designated to receive services shall have an ISP that describes the specific special education and related services that the District will provide the child.

Parentally placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools. No parentally placed private school child has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

Decisions about the services that will be provided must be made in accordance with 34 CFR 300.134(c) (consultation process) and 300.137(c) (attendance of private school representatives at services plan committee meetings). The District must make the final decisions with respect to the services to be provided.

34 CFR 300.137, .138

DUAL ENROLLMENT

Parents shall have the right to "dual enroll" an eligible student age three or four in both the public school and a 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 the District's kindergarten program, whichever comes first, subject to the following:

1. The student's ARD committee shall develop an IEP designed to provide the student with FAPE in the least restrictive environment (LRE).
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 LRE and the policies and procedures of the District.
3. The District shall be responsible for employing and supervising 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 District.

19 TAC 89.1096(c)

RESPONSIBLE DISTRICT

The District where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.

If the parents decline dual enrollment, but request an ISP, the district where the private school is located is responsible for development of the ISP for a student designated to receive services.

19 TAC 89.1096(c), (d)

DISTRICT CHARTER SCHOOLS

The District shall serve children with disabilities attending District charter schools in the same manner as it serves children with disabilities in its other schools and shall provide federal special education funds to those schools in the same manner as it provides those funds to its other schools. *20 U.S.C. 1413(a)(5); 34 CFR 300.209(b)*

RESIDENTIAL FACILITIES

IDENTIFICATION OF STUDENTS

If a residential facility that is licensed by appropriate state agencies is located within the District's boundaries, the District must provide special education and related services to eligible students residing in the facility.

If, after contacting the facility to offer services to eligible students with disabilities, the District determines that educational services are provided through a charter school, approved non-public school, or a facility operated private school, the District is not required to provide services. However, the District shall annually contact the facility to offer services to eligible students with disabilities.

19 TAC 89.1001(c)

DISTRICT PLACEMENTS

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for residential placement for a student with a disability when the ARD committee determines that a residential placement is necessary for the student to receive FAPE. Contracts for residential placement must be approved by the Commissioner. *Education Code 29.008(a); 19 TAC 89.61(a)*

If placement in a public or private residential program is necessary to provide special education and related services, the program, including non-medical care and room and board, must be at no cost to the parents. *34 CFR 300.104*

If the District contracts for education services, rather than providing the services itself, it shall oversee the implementation of the student's IEP and shall annually reevaluate the appropriateness of the arrangement. *Education Code 29.008(d)*

Further, the District shall have the responsibilities set forth at 19 Administrative Code 89.61 regarding students in residential placements.

OUT-OF-STATE PLACEMENTS

If the District contracts for an out-of-state residential placement, it shall do so in accordance with the rules for in-state residential placement, except that the facility shall be approved by the appropriate agency in the state in which the facility is located rather than by the Texas Commissioner of Education. *19 TAC 89.61(c)(3)*

SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED AND SCHOOL FOR THE DEAF

The District shall share the cost of education (excluding the summer program) for each of its students enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf.

Before considering the student's educational placement for special education services, the District shall provide each parent of a student with visual or auditory impairments the following written information regarding the Texas School for the Deaf or Texas School for the Blind and Visually Impaired:

1. The availability of programs offered.
2. The eligibility and admissions requirements.
3. The student's rights to admission and to appeal admission decisions.

Education Code 30.003(a), .004(a); 19 TAC 89.62

The District may request services through the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf in accordance with 19 Administrative Code 89.1085. *19 TAC 89.1085*

ADULT PRISONS

If a child with a disability is convicted as an adult under state law and incarcerated in an adult prison, the child's ARD committee may modify the child's IEP or placement, notwithstanding the LRE requirements, if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

1. Federal requirements pertaining to participation of students with disabilities in general assessments;
2. Requirements concerning transition planning and transition services, if the children's eligibility will end, because of their age, before they will be released from prison.

20 U.S.C. 1414(d)(7)