
Note: The policies in the EHBA series are statements of principles governing special education programs for Texas school districts. In no way are these policies intended to cover the entire scope and detail involved in administering any special education program.

Nondiscrimination

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any district service, program, or activity. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 C.F.R. 104.4(a)* [See also FB]

**Free Appropriate
Public Education
(FAPE)**

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a)*

“Free appropriate public education” (FAPE) means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student’s individualized education program (IEP).

20 U.S.C. 1401(9); 34 C.F.R. 300.13, .17, .36

**Least Restrictive
Environment**

A district shall ensure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when 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. *20 U.S.C. 1412(a)(5); 34 C.F.R. 300.114(a)(2)*

Discipline

All disciplinary actions regarding students with disabilities shall be in accordance with federal requirements, Education Code Chapter 37, and 19 Administrative Code 89.1053. *19 TAC 89.1050(k)* [See FOF]

**Instructional
Arrangements and
Settings**

Instructional arrangements/settings shall be based on the individual needs and IEPs of eligible students receiving special education services and shall include the following:

1. Mainstream: providing services in a regular classroom;
2. Homebound: providing services at home or hospital bedside;
3. Hospital class: providing services in a classroom, hospital facility, or residential care and treatment facility not operated by a district;
4. Speech therapy: providing speech therapy services in a regular education classroom or other setting;
5. Resource room/services: providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;
7. Off-home campus: providing services to nondistrict students in a single location, through district personnel at a nondistrict facility, or at a district campus that provides only special education and related services;
8. Nonpublic day school: providing services through a contractual agreement with a nonpublic school for special education;
9. Vocational adjustment class/program: providing services to a student who is placed on a job (paid or unpaid) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not district resident): providing services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the district; or
11. State supported living center: providing services to a student who resides at a state supported living center when the services are provided at the state supported living center location.

**Other Program
Options**

Other program options that may be considered for the delivery of special education and related services to a student include contracts with other districts and programs approved by TEA.

19 TAC 89.63(c), (f)

**Shared Services
Arrangements**

A 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*

Related Services

Definition

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive FAPE as described in the child’s IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device’s functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 C.F.R. 300.34

Extended School
Year Services

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities.

A district shall ensure that ESY services are available as necessary to provide a student with a disability with FAPE.

ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for FAPE. A district may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 C.F.R. 300.106; 19 TAC 89.1065