

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### COORDINATION OF FUNDS TO PURCHASE INSTRUCTIONAL MATERIALS

June 2022

# **Coordination of Funds to Purchase Instructional Materials**

## **What is Required**

If the District chooses to coordinate with the National Instructional Materials Access Center (“NIMAC”) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the TEA acquires print instructional materials.

However, the District is not required to coordinate with the NIMAC. If the District chooses not to do so, the District must provide an assurance to the TEA that the District will provide instructional materials to blind persons or other persons with print disabilities in a timely manner.

## **Additional Procedures**

### **National Instructional Materials Access Center**

Created by the IDEA, NIMAC is a federally funded, online file repository of K-12 print textbooks in accessible formats for students with disabilities. Should the District coordinate with NIMAC, it will sign a user agreement with NIMAC, directing publishers to provide National Instructional Materials Accessibility Standard (“NIMAS”) files of materials they order to NIMAC and designating authorized users who will have access to the NIMAC database.

### **National Instructional Materials Accessibility Standard**

NIMAS is a standard used by publishers to produce files in XML format that may be used to develop multiple specialized formats for students with print disabilities. Specialized formats include:

- Braille, audio, or digital text—exclusively for use by blind or other students with disabilities; and
- With respect to print instructional materials, large print formats distributed exclusively for use by blind or other students with disabilities.

## **Evidence of Implementation**

- Coordination with and Acquisition of Materials from National Instructional Materials Access Center
- Assurance to TEA Regarding Provision of Instructional Materials

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Coordination of Funds to Purchase Instructional Materials](#)

[Accessible Instructional Materials - Texas Education Agency](#)

[National Instructional Materials Access Center - NIMAC](#)

[National Center on Accessible Educational Materials - AEM](#)

[National Instructional Materials Accessibility Standard - AEM](#)

[Questions and Answers on the National Instructional Materials Accessibility Standard \(Aug. 2010\) - U.S. Department of Education](#)

## **CITATIONS**

Board Policy CMD; 34 CFR 300.210(a)–(b)

## **STAFF RESPONSIBLE**

For questions about Funding: Coordination of Funds to Purchase Instructional Materials contact the Department of Special Education.

(281) 396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### DISTRIBUTION OF IDEA PART B FORMULA FUNDS TO LEAS

June 2022

# Distribution of IDEA Part B Formula Funds

## What is Required

For each fiscal year for which funds are allocated to states, the District (if eligible) will first be awarded the base payment amount it would have received for fiscal year 1999 if the TEA had distributed 75 percent of its grant for that year according to what was then in effect. After making base payment allocations, the TEA will then allocate:

- 85 percent of any remaining funds to eligible districts—including the District—on the basis of the relative numbers of students enrolled in public and private elementary schools and secondary schools within the District’s jurisdiction,
- 15 percent of any remaining funds to eligible districts—including the District—in accordance with the relative numbers of students living in poverty, as determined by the TEA.

## Additional Procedures

### **Reallocation of Federal IDEA Part B Funding**

If the TEA determines that the District is providing a FAPE to all students with disabilities in the District using only state and local funds, the TEA may reallocate any unneeded federal IDEA Part B funds to other districts in the state that are not able to adequately provide FAPE to all students with disabilities within the other districts’ jurisdictions.

## Evidence of Implementation

- PEIMS Data
- Attendance Documentation
- Policies Related to Recording Attendance
- Policies and Procedures Related to Maintaining Attendance Records

## Resources

[The Legal Framework for the Child-Centered Special Education Process: Distribution of IDEA Part B Formula Funds to LEAs - Region 18](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-B Formula, pg. 12\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-B Preschool, pg. 13\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-D Deaf-Blind, pg. 13\) - Texas Education Agency](#)

[Guidelines, Provisions, and Assurances - Texas Education Agency](#)

**CITATIONS**

34 CFR 300.705(b)

**STAFF RESPONSIBLE**

For questions about Funding: Maintenance of Effort contact the Department of Special Education.

(281) 396-2630

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# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### DISTRIBUTION OF IDEA PART B PRESCHOOL FUNDS TO LEAs

June 2022

# **Distribution of IDEA Part B Preschool Funds to LEAs**

## **What is Required**

The District must provide special education and related services to students ages 3 through 5 within its jurisdiction. Funds from IDEA Part B (“IDEA-B”) are designed to supplement and increase services beyond the level of state and local funds expended for preschool students ages 3 through 5 with disabilities. The TEA will distribute all grant funds it does not reserve to the District, if eligible, to fund these services.

## **Base Payment Allocations**

If the District is eligible to receive grant funds from the TEA, it will first be awarded the base payment amount it would have received for fiscal year 1997 if the TEA had distributed 75 percent of its grant for that year according to what was then in effect.

## **Use of Best Data**

In determining the amount of funds to distribute, the TEA will use the best data available to them on the numbers of students enrolled in public and private elementary and secondary schools and the numbers of students living in poverty.

## **Allocation of Remaining Funds**

After making base payment allocations, the TEA will allocate 85 percent of any remaining funds to the eligible districts on the basis of the relative numbers of students enrolled in public and private elementary schools and secondary schools within the District’s jurisdiction. It will also allocate 15 percent of those remaining funds to eligible districts in accordance with the relative numbers of students in poverty, as determined by the TEA.

## **Reallocation of Funds**

The TEA may reallocate any portion of IDEA-B funds that are not needed by a district who is providing a FAPE to all students with disabilities, aged 3 through 5 residing in the area served by the district, to other districts that are not adequately providing special education and related services to all students with disabilities aged 3 through 5 residing in the areas the other districts serve.

## **Limitations**

Part C of the IDEA does not apply to any student with a disability receiving FAPE using IDEA-B funds.

## **Additional Procedures**

### **Allocating Funds**

The funds will be allocated based on three components:

- The *base* amount is a frozen amount adjusted by statute as varying circumstances occur;
- The *population* amount is the 85% of the remaining funds available from the Federal government for flow-through funds to districts. This amount is based on the relative number of students enrolled in public and private schools within the District’s jurisdiction; and
- The *poverty* amount is the 15% of the remaining funds available from the Federal government for flow-through funds to the districts. This amount is based on the relative numbers of students living in poverty within the District’s jurisdiction.

### **Evidence of Implementation**

- PEIMS Data
- Attendance Documentation
- Policies Related to Recording Attendance
- Policies and Procedures Related to Maintaining Attendance Records

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Distribution of IDEA Part B Preschool Funds to LEAs - Region 18](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-B Formula, pg. 12\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-B Preschool, pg. 13\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(IDEA-D Deaf-Blind, pg. 13\) - Texas Education Agency](#)

[General and Fiscal Guidelines - Texas Education Agency](#)

### **CITATIONS**

34 CFR 300.815–300.818

## **STAFF RESPONSIBLE**

For questions about Funding: Distribution of IDEA Part B Preschool Funds to LEAs contact the Department of Special Education.

(281) 396-2630

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# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### DISTRIBUTION OF STATE SPECIAL EDUCATION FUNDS TO LEAs

June 2022



# Distribution of State Special Education Funds to LEAs

## What is Required

The District must use a uniform accounting system adopted by the Commissioner of Education for the data required to be reported in the Public Education Information Management System (“PEIMS”).

### **Average Daily Attendance**

The Commissioner of Education will develop the procedures for counting the Average Daily Attendance (“ADA”) of students receiving special education services in various instructional settings. These procedures shall also be included in the daily register for student attendance accounting.

State special education funds are distributed to LEAs based on the ADA of full-time equivalents (“FTEs”) of eligible students served in accordance with the requirements for student attendance accounting for state funding purposes.

### **Full-Time Equivalents**

Special education attendance is first converted to contact hours by instructional arrangement before being converted to FTEs. Contact hours for any student receiving special education services may not exceed six (6) hours per day—or thirty (30) hours per week—for funding purposes. The total contact hours generated per week are divided by thirty (30) to determine the FTEs.

For funding purposes, the number of contact hours credited per day for each student in the off-home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year. Additionally, the contact hours credited per day for the student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

For purposes of the regular education allotment, special education FTEs generated are deducted from the District’s ADA. Funds generated by FTEs in one instructional arrangement may be spent on the overall special education program and are not limited to the instructional arrangement that generated the funds.

### **Allotment for Special Education**

For each FTE student in ADA in a special education program and a mainstream instructional arrangement:

- The District may receive an annual allotment equal to the basic allotment, or, if applicable,

the sum of the basic allotment and the allotment under small and mid-sized district allotment to which the District is entitled, multiplied by 1.15.

- The attendance cannot be converted to contact hours/FTEs as with the other instructional arrangements.

For each FTE student in ADA in a special education program in an instructional arrangement other than a mainstream instructional arrangement:

- The District may receive an annual allotment equal to the basic allotment, or, if applicable, the sum of the basic allotment and the allotment under small and mid-sized district allotment to which the district is entitled, multiplied by a weight determined according to instructional arrangement as follows.:
  - Homebound – 5.0;
  - Hospital class – 3.0;
  - Speech therapy – 5.0;
  - Resource room – 3.0;
  - Self-contained, mild and moderate, regular campus – 3.0;
  - Self-contained, severe, regular campus – 3.0;
  - Off-home campus – 2.7;
  - Nonpublic day school – 1.7; and
  - Vocational adjustment class – 2.3.

A special instructional arrangement for students with disabilities residing in care and treatment facilities whose parents or guardians do not reside in the District providing education services must be established by Commissioner rules. The funding weight for those other than state schools will be 4.0 for those students who receive their education service on the District campus, but the funding weight for students with disabilities residing in state schools will be 2.8.

If the District provides an extended school year (“ESY”) program, it may receive funds up to 75 percent of the applicable allotment for each FTE student in ADA, multiplied by the amount designated for the student’s instructional arrangement for each day the program is provided and divided by the number of days in the minimum school year. The District may use funds received for ESY only in providing an extended year program. However, the District is not eligible for reimbursement of ESY services provided to students for any reason other than the fact that the student exhibited severe or substantial regression that cannot be recouped within a reasonable period of time. *See* [EXTENDED SCHOOL YEAR SERVICES].

Children from birth through age 2 with a visual impairment or who are deaf or hard of hearing, or both, who are provided services by the District according to an individual family services plan (“IFSP”) are to be enrolled on the home or regional day school campus and are to be considered eligible for ADA on the same basis as other students receiving special education services. Students ages 3-21 on September 1 on the current scholastic year who participate in the regional day school program for the deaf may be counted as part of the District’s ADA if they receive instruction from the District’s basic program for at least 50 percent of the school day.

The Commissioner will withhold an amount specified in the General Appropriations Act and distribute that amount to the District if the District provides education solely to students confined to or educated in hospitals. This program is only required in the District if the program is financed by funds distributed under this section and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the Commissioner will reduce each District’s allotment proportionately and allocate funds accordingly.

A special education fund balance may be carried over to the next fiscal year but must be expended on the special education program in the subsequent year. State special education carryover funds cannot be used for administrative costs.

### **Allotment for Dyslexia**

For each student that the District serves who has been identified as having dyslexia or a related disorder, the District may receive an annual allotment equal to the basic allotment multiplied by 0.1 or a greater amount provided by appropriation. The District may receive the allotment for dyslexia only for a student who:

- Is receiving services for dyslexia or a related disorder in accordance with an IEP or Section 504 plan;
- Is receiving instruction that meets applicable dyslexia program criteria and is provided by a person with specific training in providing that instruction, *see* [DYSLEXIA SERVICES]; or
- Is allowed, on the basis of having dyslexia or a related disorder, to use modifications in the classroom or accommodations in the administration of assessment instruments.

The District can only receive funding for a student if it satisfies the requirements of this section, as well as requirements related to allotment for special education. *See* [ALLOTMENT FOR SPECIAL EDUCATION].

### **Additional Procedures**

Texas law requires the District to adopt an attendance accounting system, whether manual or automated, that includes procedures that ensure the accurate taking, recording, and reporting of attendance accounting data. District Personnel must report attendance information to the TEA

through PEIMS, and the TEA will then use the attendance data to determine the allocation of state funding to the District.

The Texas Education Data Standards (“TEDS”), which are standards used for the PEIMS data collection, include all the data elements, code tables, business rules, and data validation necessary to load District education data.

## **Foundation School Program**

The primary source of state funding for the District is the Foundation School Program (“FSP”). For the District to claim a student for funding purposes, the District must complete all documentation that proves the eligibility of the student for the FSP and that is required by the TEA. This requires District Administration, District Special Education Personnel, and Campus Personnel to work together to establish and implement systems to assemble and collect the required documentation .

## **Taking and Recording Student Attendance**

The District must ensure attendance is recorded in accordance with the Student Attendance Accounting Handbook. Campus Personnel will create the original documentation of attendance at the time of the attendance. Documentation created after the time of attendance will not be accepted by agency auditors, and the TEA will retain 100 percent of the District’s FSP allotment for such attendance. District Administration will verify that the software or platform used to record attendance meets the requirements for attendance accounting in the Student Attendance Accounting Handbook.

The Superintendent is responsible for the safekeeping of attendance records for the District and may determine the best method for storing such records. These records must be retained for at least five (5) years from the completion of the school year for audit purposes.

## **Evidence of Implementation**

- PEIMS Data
- Compliance with the Student Attendance Accounting Handbook
- Attendance Documentation
- Policies Related to Recording Attendance
- Policies and Procedures Related to Maintaining Attendance Records
- ARD Committee/IEP Documentation of Student Instructional Arrangement Decisions

## **Resources**

**[The Legal Framework for the Child-Centered Special Education Process: Distribution of State Special Education Funds to LEAs - Region 18](#)**

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

[Special Education Funding - Texas Education Funding](#)

[19 Texas Administrative Code 129.1025, Student Attendance Accounting Handbook](#)

[19 Texas Administrative Code 129.1, Free Attendance in General](#)

[19 Texas Administrative Code 129.21, Requirements for Student Attendance Accounting for State Funding Purposes](#)

## **CITATIONS**

Board Policy CBA and FEB; Texas Education Code 29.014, 48.008(b), 48.101–48.103; Texas Government Code 392.002(b-1); 19 Texas Administrative Code 89.1065(9); 89.1121, 129.21

## **STAFF RESPONSIBLE**

Questions about Funding: Distribution of Special Education Funds can be directed to:

The Department of Special Education

281-396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### EXCESS COSTS

June 2022



## Excess Costs

### What is Required

Excess costs are those costs that are in excess of the average annual per student expenditure in the District during the preceding school year for the elementary or secondary school student, as may be appropriate. Excess costs may be computed:

- After deducting amounts received under the Part B of the IDEA (“IDEA-B”), Part A of Title I, and Part A of Title III of the Elementary and Secondary Education Act (“ESEA”); and
- Any state or local funds spent for services under the IDEA-B, Part A of Title I, and Part A of Title III of the ESEA, excluding any amounts spent for capital outlay for debt services.

### Requirements

To meet the excess cost requirements, the District must have spent at least a minimum average amount for the education of its students with disabilities before using IDEA-B funds. The District cannot use IDEA-B funds to pay for all the costs directly attributable to the education of the student with a disability, except that it may use IDEA-B funds, in compliance with the nonsupplanting and other requirements of this section, to pay for all costs directly attributable to the education of the student with a disability ages 3 to 5 or 18 to 21, if no local or state funds are available for nondisabled students of these ages.

### Excess Costs Calculation

Before accessing IDEA-B funds, the District must calculate the minimum average amount it must spend separately for students with disabilities in elementary schools and for students with disabilities in secondary schools.

To calculate the minimum amount the District must spend on the average for each elementary school student with disabilities before it may use IDEA-B funds:

- Determine the total amount of expenditures for elementary school students from all local, state, and federal sources, including IDEA-B, in the preceding school year, excluding capital outlay and debt services:
  - Subtract from the total expenditures any amounts spent for:
    - IDEA-B allocation;
    - Title I, Part A of the ESEA allocation;
    - Title III, Parts A and B of the ESEA allocation;

- State and local funds for students with disabilities; and
  - State or local funds for programs under Title I, Part A and Title III, Parts A and B of the ESEA; and
- Divide by the average number of students enrolled in the District’s elementary schools during the preceding year, including students with disabilities.

The District may only use IDEA-B funds for elementary school students with disabilities for excess costs over and above the minimum obtained when the District multiplies the number of elementary school students with disabilities in the District by the average annual per student expenditure.

To calculate the minimum amount the District must spend on the average for each of its secondary school students with disabilities before it may use IDEA-B funds:

- Determine the total amount of expenditures for secondary school students from all local, state, and federal sources, including IDEA-B, in the preceding school year, excluding capital outlay and debt services:
  - Subtract from the total expenditures any amounts spent for:
    - IDEA-B allocation;
    - Title I, Part A of the ESEA allocation;
    - Title III, Parts A and B of the ESEA allocation;
    - State and local funds for students with disabilities; and
    - State or local funds for programs under Title I, Part A and Title III, Parts A and B of the ESEA; and

Divide by the average number of students enrolled in the District’s secondary schools during the preceding year, including students with disabilities.

The District may only use IDEA-B funds for elementary school students with disabilities for excess costs over and above the minimum obtained when the District multiplies the number of elementary school students with disabilities in the District by the average annual per student expenditure.

## **Additional Procedures**

### **Excess Costs Calculation Timeline**

To ensure compliance with the excess costs requirements each year, the District should perform

both a preliminary and final calculation. The preliminary calculation, which should be completed as soon as possible after submission of the annual final expenditure report for the prior year, will be an estimate of excess costs. To complete the preliminary calculation, the District should use financial information available from its unaudited general ledger.

The District should then complete the excess costs final calculation after their annual audit is finalized. To do so, the District must use previous year expenditures based on the audited annual financial report.

The District should maintain supporting documentation related to the data and calculations for audit and monitoring purposes.

### **Evidence of Implementation**

- Excess Cost Calculator Tool
- Preliminary Excess Costs Calculation
- Final Excess Costs Calculation
- Documentation Related to Excess Cost Data and Calculations

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Excess Costs - Region 18](#)

[Appendix A to 34 CFR Part 300 - Excess Costs Calculation](#)

[Excess Cost - Texas Education Agency](#)

[IDEA-B LEA Maintenance of Effort \(MOE\) Guidance Handbook - Texas Education Agency](#)

[IDEA-B Excess Costs Guidance Handbook - Texas Education Agency](#)

[Excess Cost Calculator Tool \(Interactive\) - Texas Education Agency](#)

### **CITATIONS**

Board Policy EHBD; 34 CFR 300.16, 300.202; Appendix A to 34 CFR Part 300 – Excess Costs Calculation

**STAFF RESPONSIBLE**

Questions about Funding: Excess Costs can be directed to:

The Department of Special Education

281-396-2630

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# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### FUNDING FOR NONEDUCATIONAL SERVICES

June 2022

# **Funding for Noneducational Services**

## **What is Required**

The state has appropriated funds for non-educational community-based support services to help families better care for their student with a disability.

## **Noneducational Community-Based Support Services**

The TEA will establish procedures and criteria for allocating funds to the District for the provision of noneducational community-based support services to certain students with disabilities and their families to enable those students to receive a FAPE in the least restrictive environment. The District may only use these funds for eligible students with disabilities who would remain or would have been placed in residential facilities primarily for educational reasons without the provision of noneducational community-based services.

Noneducational community-based support services may include in-home family support, respite care, and case management for families with a student who the District otherwise would have placed in a private residential facility. These services may not be used for a student with a disability who is currently placed in, or who needs to be placed in, a residential facility primarily for noneducational purposes.

Providing such services does not supersede or limit the responsibility of any other agency to provide or pay for costs of noneducational community-based support services necessary to enable students with disabilities to receive FAPE in the least restrictive environment.

## **Noneducational Public Agencies**

The state has clearly identified the responsibilities of each agency relating to the provision of services, or other appropriate written materials, to ensure that the agencies coordinate services to provide FAPE to students with disabilities. This includes:

- Identification of, or method for defining, the financial responsibility of each agency for providing services;
- Conditions, terms, and procedures under which the District must be reimbursed by other agencies;
- Procedures for resolving interagency disputes to secure reimbursement from other agencies or otherwise implement the provisions of the agreement; and
- Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely and appropriate delivery of services to ensure the provision of FAPE for students with disabilities.

The financial responsibility of noneducational public agencies that provide services to ensure a FAPE, including the state Medicaid agency and other public insurers of students with disabilities, must precede the financial responsibility of the District. If a public agency other than an education agency must provide or pay for services that are also considered special education and related services, the agency must fulfill its obligation either directly through contract or through another arrangement. A noneducational public agency may not disqualify an eligible service for Medicaid reimbursement because that service is provided in a school context.

The Health and Human Services Commission will reimburse a provider under the school health and related services program for audiology services provided to a student who is eligible for such related services. *See* [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

If a public agency other than an educational agency fails to provide or pay for special education and related services necessary to ensure a FAPE, the District must provide or pay for these services in a timely manner. The District may claim reimbursement for the services from the noneducational public agency that failed to provide or pay for these services. Further, the noneducational public agency must reimburse the District in accordance with the terms of the agreement or other mechanism developed by the state.

## **Additional Procedures**

### **Noneducational Community-Based Support Services**

Funds for noneducational community-based support services are used to provide services and supports in the home, to allow a student currently in residential placement for educational purposes to return home, or to prevent an at-risk student from placement in a residential facility for educational purposes. This legislation was passed to allow the District to provide services that are not allowable purchases from education funds and will assist families in caring for these students. These services are intended to be periodic and short-term, rather than intensive or long-term.

According to the TEA, current noneducational community-based support services include: attendant care, psychiatric and psychological consultations, management of leisure time, peer support groups, parent support groups, socialization training, individual support, family support, family dynamics training, respite care, transportation to access approved noneducational services, and generalization training.

These services generally cannot be provided for students with autism. However, attendant care and respite care services are allowed, if appropriate. Any in-home training or viable alternatives and parent training to support the student's IEP must be paid with educational funds instead.

Any parent training that supports the student's IEP is related to the student's education and must be paid using special education funds. However, noneducational support services funds can be used for generalization training necessary to teach parent(s) effective parenting skills and how to manage the student in the home and community.

Transportation that is necessary for families to receive services approved in the LEA's application and for students to receive noneducational services, such as socialization, is allowable. However, transportation specifically for educational reasons, including transportation and per diem for staff to receive training at a residential facility, is not an allowable use of such funds.

The District will determine whether respite or attendance caregivers are qualified and may contract with agencies licensed by the Texas Department of State Health Services and Texas Department of Aging and Disability Services. Family members who are not the primary caregiver may serve as respite or attendance caregivers.

While funds may be used to pay for psychiatric services, such as family consultation and for teaching parents effective management or parenting skills, these funds may not be used to pay for a psychiatrist providing treatment for a student, writing prescriptions for medications for students, or any other medical or treatment-related services.

Additional unallowable expenditures include: direct payment to parents; equipment; sheltered workshop services; babysitting (including attendant care when no family member is available or caring for a student while the parent is at work); remodeling and construction of the student's classroom and home; food; transportation to any educational service or any service being provided by another public agency; medicine, medical prescriptions, doctor and dentist visits, medication therapy, evaluations; and all special education and related services allowable by the IDEA in implementing a student's IEP (including adaptive equipment, art therapy, corrective therapy, music therapy, orientation and mobility training, school health services, recreation therapy).

### **Application Process**

The District decides which noneducational support services, if any, will be provided. If a parent wishes to access services, the parent will contact Campus Special Education Administration and request a meeting to discuss the need for noneducational services.

Before providing services, Campus Special Education Administration, including those individuals with knowledge about the student and other agencies' responsibilities, as well as staff from local agencies and the parent and/or adult student, will have a planning meeting to discuss options for noneducational services. District Special Education Personnel with knowledge about the student or other agencies' responsibilities should also be included. This decision should not be made by a student's ARD Committee.

Once it has been determined that services are necessary and appropriate, Campus Special Education Administration will contact the regional education service center to learn how to apply. The Superintendent—or another designee—must approve the District's noneducational funds application.

As the continued use of noneducational funds is based on documented progress made by the student in the previous year on these services, it is important that Campus Special Education Personnel or Administration document the services utilized and progress towards these services throughout the year. When requesting the continued use of such funds, the District must justify

and provide a detailed explanation regarding the requested services.

### **Payment and Misuse of Funds**

The District will pay service providers directly rather than paying the parents directly. The District is liable for any misuse of noneducational funds by a family. Therefore, the District must closely monitor the activities and services utilized by the family.

### **Evidence of Implementation**

- Application
- Provision of Services
- Documentation Regarding Provision of Services
- Progress Monitoring Documentation

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Funding for Noneducational Services - Region 18](#)

[Non-Educational Community-Based Support Services - Texas Education Agency](#)

[Noneducational Community-Based Support Services Frequently Asked Questions - Texas Education Agency](#)

[Community Resource Coordination Groups](#)

### **CITATIONS**

Board Policy EEL and GA; 34 CFR 300.154(a)–(b); Texas Education Code 29.013(a)–(d), 38.003(b)

### **STAFF RESPONSIBLE**

For questions about Funding: Funding for Noneducational Services contact the Department of Special Education.

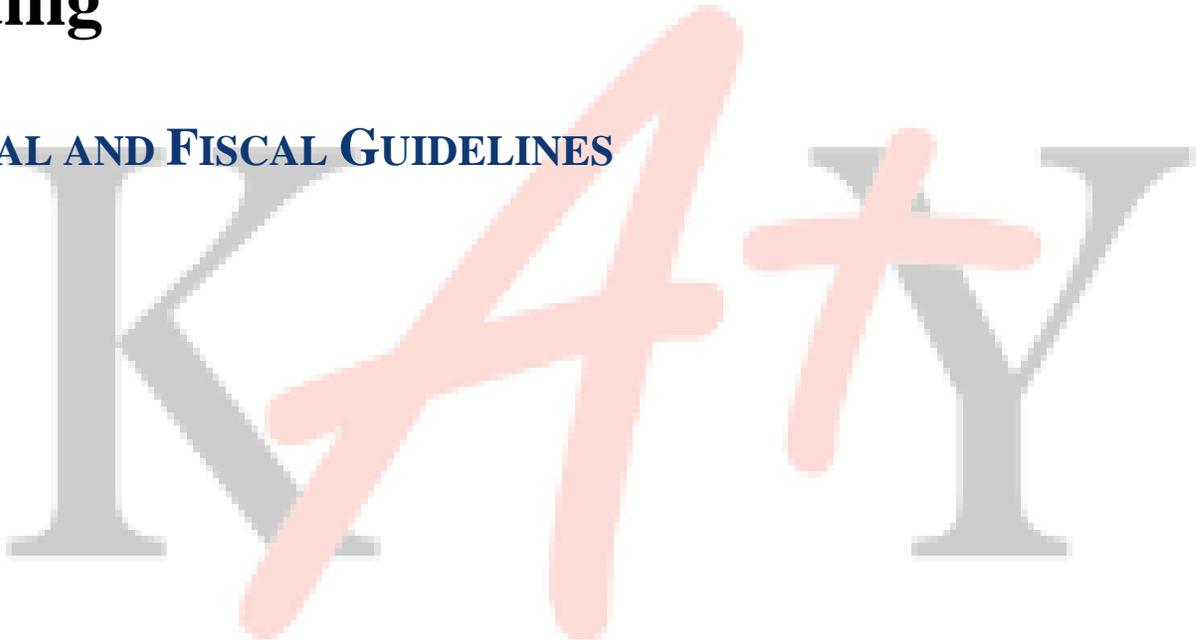
(281) 396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### GENERAL AND FISCAL GUIDELINES

June 2022



# General and Fiscal Guidelines

## What is Required

The District must comply with the TEA’s General and Fiscal Guidelines, which describe grant application procedures, as well as general processes for distribution and management of grant funds based on the Education Department General Administrative Regulations (“EDGAR”). These guidelines apply to all grants administered by the TEA and are a part of every Request for Application (“RFA”) published by the TEA.

Costs may be charged to a special education grant if the costs follow the District’s local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and can be allocated under the applicable cost principals;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state-funded activities and activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are determined in accordance with generally accepted accounting principles;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

A cost may be reasonable if:

- It is of a type generally recognized as ordinary and necessary for the operation of the District or grant performance;
- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting prudently in the circumstances of responsibility to the District and federal and state government; and

- There are no significant deviations from established practices of the District that may unjustifiably increase grant costs.

A cost may be allocated to the special education grant in accordance with the relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstances. The cost must also:

- Be incurred specifically for the grant;
- Benefit both the grant and other work and be able to be distributed in reasonable proportion to the benefits received; and
- Be necessary to the overall operation of the District and be assigned in part to the special education grant award in accordance with the principles of this framework.

## **Additional Procedures**

### **Guidelines, Provisions, and Assurances**

The TEA is responsible for publishing general, fiscal, and program-specific guidelines for all grants administered by the agency. The District must ensure that funds will be spent in accordance with the grant procedures outlined in the guidelines and with federal and state regulations. Further, the District will follow a grant's Program Guidelines, which supplement the General and Fiscal Guidelines by providing specific information relating to the grant's purpose, eligibility or review criteria, program description, statutory and TEA requirements, critical dates, and information about allowable or unallowable costs. By accepting a grant administered by the TEA, the District also agrees to abide by the General Provisions and Assurances required for every TEA grant agreement, as well as any program-specific provisions and assurances included with the grant.

The District is responsible for following the most recently updated versions of the guidelines. The TEA maintains prior versions of the guidelines that are applicable to already published grants.

## **Evidence of Implementation**

- Compliance with General and Fiscal Guidelines
- Compliance with Program Guidelines
- Compliance with General Provisions and Assurances
- Compliance with Program-Specific Provisions and Assurances
- Grant Applications
- 

## **Resources**

**The Legal Framework for the Child-Centered Special Education Process: General and Fiscal Guidelines - Region 18**

**Special Education Funding - Texas Education Funding**

**General Provisions and Assurances - Texas Education Agency**

**General and Fiscal Guidelines - Texas Education Agency**

**Guidelines, Provisions, and Assurances - Texas Education Agency**

**TEA Grant Opportunities - Texas Education Agency**

**Grant Compliance and Administration - Texas Education Agency**

**CITATIONS**

Board Policy CBB; 2 CFR 200.403-200.405

**STAFF RESPONSIBLE**

Questions about Funding: General and Fiscal Guidelines can be directed to:

The Department of Special Education

281-396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### MAINTENANCE OF EFFORT

June 2022



# Maintenance of Effort

## What is Required

The District is required to maintain the level of state and local funds it spends to support federal programs from one fiscal year to the next. This means that the District generally may not reduce the amount of local, or state and local, funds that it spends for the education of students with disabilities below the amount it spent for the preceding fiscal year. There are two components of the LEA Maintenance of Effort (“MOE”) requirements: (1) the eligibility standard and (2) the compliance standard.

### Eligibility Standard

To establish the District’s eligibility for an award for a fiscal year, the TEA will require the District to budget for the education of students with disabilities *at least the same* amount as the District spent for that purpose from the same source for the most recent fiscal year for which information is available from at least one of the following sources:

- Local funds only;
- The combination of state and local funds;
- Local funds only on a per capita basis; or
- The combination of state and local funds on a per capita basis.

When determining the amount of funds that the District must budget to meet the eligibility standard, the District may consider, to the extent the information is available, the exception and adjustment to local fiscal efforts that the District took in the intervening year (or years) between the most recent fiscal year for which information is available and the fiscal year for which the District is budgeting. The District may also consider the exception and adjustment to local fiscal efforts that the District reasonably expects to take in the fiscal year for which the District is budgeting.

In determining whether the District meets the eligibility standard, the TEA may not consider expenditures made from funds provided by the federal government for which the TEA must account to the federal government or for which the District must account to the federal government directly or through the TEA.

### Compliance Standard

Except as provided in this section, the District may not use funds provided to it under IDEA-B to reduce the level of expenditure for the education of students with disabilities made by the District from local funds below the level of those expenditures for the preceding fiscal year. To comply with MOE requirements, the District should not reduce the level of expenditures for the education

of students with disabilities made by the District from at least one of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in this section:

- Local funds only;
- The combination of state and local funds;
- Local funds only on a per capita basis; or
- The combination of state and local funds on a per capita basis.

In determining whether the District complies with MOE requirements, the TEA may not consider expenditures made from funds provided by the federal government for which the TEA must account to the federal government or for which the District must account to the federal government directly or through the TEA.

### **Subsequent Years**

If the District fails to comply with MOE requirements, the level of expenditure required by the District for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the District's reduced level of expenditures.

If the District fails to comply with MOE requirements in expenditures from local funds only or local funds only on a per capita basis, and the District is relying on that basis to meet the eligibility and compliance standard, the level of expenditures required of the District for the fiscal year subsequent to the year of the failure is the amount that would have been required from local funds only or local funds only on a per capita basis in the absence of that failure, not the District's reduced level of expenditures.

If the District fails to comply with MOE requirements in expenditures from the combination of state and local funds or the combination of state and local funds on a per capita basis, and the District is relying on that basis to meet the eligibility or compliance standard, the level of expenditures required of the District for the fiscal year subsequent to the year of the failure is the amount that would have been required from a combination of state and local funds or the combination of state and local funds on a per capita basis in the absence of that failure, not the District's reduced level of expenditures.

### **Exception**

The District may reduce the level of expenditures by the District under IDEA-B below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following causes:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of Campus Special Education Personnel;

- A decrease in the enrollment of students with disabilities;
- The termination of the District’s obligation to provide a program of special education to a particular student with a disability that is an exceptionally costly program, as determined by the TEA, because the student (1) has left the District’s jurisdiction, (2) has reached the age at which the District’s obligation to provide a FAPE has terminated, or (3) no longer needs the special education program.
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities; or
- The assumption of cost by the high cost fund operated by the TEA.

If the District spends reimbursements from federal funds, such as Medicaid, for IDEA-B services, those funds are not considered to be state or local funds for purposes of MOE.

### **Early Intervening Services**

Any funds that are offered to provide early intervening services that are coordinated and aligned with activities funded by and carried out under the Elementary and Secondary Education Act (“ESEA”) must supplement, and not supplant, funds available under the ESEA. *See* [USE OF IDEA PART B FORMULA AMOUNTS PERMISSIVE].

### **Adjustment to Local Fiscal Efforts**

For any fiscal year in which the IDEA-B formula fund allocation received by the District exceeds the amount the District received for the previous fiscal year, the District may reduce the level of expenditures by not more than 50 percent of the amount of such excess. The District may also use an amount of local funds equal to the reduction of expenditures to carry out activities under the ESEA when exercising its authority to reduce funding.

The District may not reduce the level of expenditures for that fiscal year if the TEA determines that the District is unable to establish and maintain programs of FAPE or if the TEA has taken action against the District as part of its monitoring, technical assistance, and enforcement responsibilities.

The amount of IDEA-B formula funds expended by the District will count toward the maximum amount of expenditures that the District may reduce.

### **Definitions**

“Per capita” in this section refers to the total amount of local, or state and local, funds either budgeted or expended by the District for the education of students with disabilities, divided by the number of students with disabilities served by the District.

## **Additional Procedures**

### **Compliance Review**

To ensure that the District is meeting the MOE requirements, TEA will conduct an annual compliance review. TEA will determine if the District met compliance by passing at least one of the four following test methods:

- The total amount the District expended in local funds must equal or exceed the amount it expended from that source for special education during the preceding fiscal year;
- The total amount the District expended in the combination of state and local funds must equal or exceed the amount it expended from those sources for special education during the preceding fiscal year;
- The per capita amount the District expended in local funds must equal or exceed the amount it expended per capita from that source for special education during the preceding fiscal year;
- The per capita amount the District expended in the combination of state and local funds must equal or exceed the amount it expended per capita from those sources for special education during the preceding fiscal year.

TEA will review data from PEIMS, SHARS Reimbursement Form, Summary of Finance, and the special education student count to determine if the District met the compliance standard. TEA will first conduct a data analysis to determine a preliminary compliance result and will notify the District of the preliminary result. The District will then be able to submit federal exceptions, voluntary MOE reduction, state reconsideration, or local methodology and supporting documentation to be considered in the final calculation. TEA will review and evaluate the District's responses and notify the District of final compliance results, as well as the refund amount due if the District is out of compliance.

### **Evidence of Implementation**

- Determination of Eligibility
- Compliance with MOE Efforts
- Annual Compliance Review
- Calculation of Expenditures

### **Resources**

**[The Legal Framework for the Child-Centered Special Education Process: Maintenance of Effort](#)**

**[Appendix D to 34 CFR Part 300 - Maintenance of Effort and Early Intervening Services](#)**

[Appendix E to 34 CFR Part 300 - Local Education Agency Maintenance of Effort Calculation Examples](#)

[IDEA-B LEA Maintenance of Effort - Texas Education Agency](#)

[IDEA Maintenance of Effort Factsheet - Texas Education Agency](#)

[IDEA-B LEA Maintenance of Effort \("MOE"\) Guidance Handbook - Texas Education Agency](#)

[IDEA-B Maintenance of Effort \(MOE\) Calculation Tool for LEAs - Texas Education Agency](#)

[IDEA-B LEA MOE Exceptions Workbook - Texas Education Agency](#)

[IDEA-B LEA MOE Compliance Review Process - Texas Education Agency](#)

[Final Rule to IDEA-B Regulations \(Apr. 28, 2015\) - U.S. Department of Education](#)

[OSEP Memo to Chief State School Officers and State Directors of Special Education - Issuance of Guidance on Final LEA MOE Regulations under IDEA-B \(July 27, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Boundy \(Apr. 4, 2012\) - U.S. Department of Education](#)

**CITATIONS**

34 CFR 300.203–300.205 300.226(e); Appendix D to 34 CFR Part 300 – Maintenance of Effort and Early Intervening Services; Appendix E to 34 CFR Part 300 – Local Education Agency Maintenance of Effort Calculation Examples

**STAFF RESPONSIBLE**

For questions about Funding: Maintenance of Effort contact the Department of Special Education.

(281) 396-2630

Updated 2022

# **SPECIAL EDUCATION OPERATING GUIDELINES**

## **Funding**

### **PROPORTIONATE SHARE FUNDING FOR STUDENTS PARENTALLY-PLACED IN PRIVATE SCHOOLS**

**June 2022**

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.

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# Proportionate Share Funding for Students Parentally-Placed in Private Schools

## What is Required

Under the IDEA, the District must provide special education services to students with disabilities who are parentally-placed in private schools located within the District’s boundaries.

## Administration of Funds

The District is responsible for controlling and administering IDEA-B funds used to provide special education and related services to students with disabilities parentally-placed in private schools, as well as the title to materials, equipment, and property purchased with IDEA-B funds. *See* [CHILDREN IN PRIVATE SCHOOLS] and [ADMINISTRATION OF EQUIPMENT].

Amounts expended to provide services to students with disabilities parentally-placed in private schools must be equal to a proportionate amount of IDEA-B funds.

## Consultation

The District must consult with private school representatives and representatives of the parents of students with disabilities parentally-placed in private schools regarding the determination of the proportionate amount of federal funds available to serve such students and the manner in which the amount was calculated. *See* [CHILDREN IN PRIVATE SCHOOLS]. The parties must also discuss how services will be apportioned if funds are insufficient to serve all students, as well as how and when these decisions will be made.

## Proportionate Share Calculation

After the consultation, the District must determine the number of students with disabilities parentally-placed in and attending private schools located in the District. This count, which must be taken on the last Friday in October, will be used to determine the amount the District must spend on providing special education and related services to students with disabilities parentally-placed in private schools in the subsequent fiscal year.

For students ages 3 through 21, the proportionate share is the same proportion as the number of private school students with disabilities ages 3 through 21 who are enrolled by their parents in private schools—including religious, elementary schools, and secondary schools located within the District—to the total number of students with disabilities in the District ages 3 through 21.

For students ages 3 through 5, the proportionate share is equal to the ratio of the number of students with disabilities parentally-placed in private schools who are enrolled by their parents in private schools—including religious, elementary schools located within the District—to the total number of students with disabilities ages 3 through 5 in the District. Only students with disabilities enrolled

in a private school that meets the definition of elementary school as determined by state law will be considered to be students with disabilities parentally-placed in private schools.

The District must carry over any unused proportionate share funds for one additional year to be used in providing special education and related services, including direct services, to students with disabilities parentally-placed in private schools.

The cost of transportation for a student with a disability parentally-placed in a private school from the student's school or home to a site other than the private school and from the service site to the home or private school, depending on the timing of the services, may be considered in determining whether the District has satisfied the requirement to provide proportionate share services to the student.

## **Limitations**

The District may use state and local funds to supplement, but not to replace, the proportionate amount of IDEA-B funds that must be expended for students with disabilities parentally-placed in private schools. The District must use IDEA-B proportionate share funds to meet the special education and related services needs of students with disabilities parentally-placed in private schools.

However, the District may not use such funds for meeting other needs of a private school or for the general needs of the students enrolled in the private school. The District also may not use IDEA-B proportionate share funds for repairs, minor remodeling, or construction of private school facilities. Finally, the District may not use these funds to finance the existing level of instruction in a private school or to otherwise benefit the private school or for any costs of carrying out child find requirements, including individual evaluations, to satisfy its obligation to provide proportionate share services to students with disabilities placed by their parents in private schools.

## **Additional Procedures**

### **Proportionate Share Calculation**

The proportionate share amount will be automatically calculated once the District submits the data via the districts IDEA-B grant application. The first step in the calculation is to calculate the average allocation per eligible student, which includes students enrolled in public school (ages 3-21), students dually enrolled in public and private school (ages 3-4), and students parentally placed in private schools (ages 3-21). The second step is to calculate the amount to be expended for parentally-placed students with disabilities.

This is the average allocation multiplied by the number of students with disabilities parentally-placed in private schools as of the last Friday in October. Proportionate share funds are not calculated for students identified after the last Friday in October. For example, a student identified on the last Friday in October of Year 1 will be used in calculating the proportionate share funds to be spent for Year 2. However, a student identified on November 1<sup>st</sup> of Year 1 will be used in

calculating the proportionate share funds to be spent for Year 3.

Note that the count is not used to determine whether a parentally-placed private school student needs to be served, as services should not be limited to those students who were included in the count that determined the amount of proportionate share funds.

To calculate proportionate share for preschool students, the average allocation per eligible student will first be calculated. This includes students enrolled in public schools (ages 3-5), students dually enrolled in public and private schools (ages 3-4), and students parentally placed in private schools (ages 3-5).

### **Unused Proportionate Share Funds**

The District must dedicate any proportionate share funds not expended on parentally-placed private school students with disabilities by the end of the fiscal year for which Congress appropriated such funds to parentally-placed private school students with disabilities during a carry-over period of one additional year. If it is apparent that the funds still will not be spent by the end of the carry-over year, the District may use such funds for other allowable costs for students with disabilities in the public schools. However, because the IDEA is designed for the District to spend proportionate share funds on providing special education and related services to students with disabilities parentally-placed in private schools, this situation should be the exception. The District should carefully document how all proportionate share funds (current year and carryover) are expended.

During the consultation process, the District must be diligent to ensure that every effort is made to use proportionate share funding to provide special education and related services for students with disabilities parentally-placed in private schools . The District should have documentation supporting these efforts before using carry-over proportionate share funds for expenditures for students with disabilities in public schools.

### **Consultation**

The consultation process must be timely, meaningful, and ongoing. The District must obtain a written affirmation signed by the representative of the private school confirming that timely and meaningful consultation had occurred. An attendance sign-in sheet is not a sufficient method of affirmation. Should the District not receive this affirmation within a reasonable period of time, the District will forward to the TEA a description of all attempts made by the District to obtain the affirmation. *See [CHILDREN IN PRIVATE SCHOOLS].*

### **Funds, Property, Equipment, and Supplies**

The District may place equipment and supplies in a private school for the period of time such equipment and supplies are needed for the IDEA-B program if it is only used for IDEA-B purposes and can be removed from the private school without remodeling the private school facility. Once the equipment and supplies are no longer needed for IDEA-B purposes, or if the removal is

necessary to avoid unauthorized use of the equipment and supplies, the District must remove the equipment as soon as possible.

## **Evidence of Implementation**

- Private School Contact Database
- Database of Private School Students Evaluated and Identified as Students with Disabilities and Services Currently Received, if any
- Proportionate Share Amount Calculation
- District-wide Plan for Proportionate Share Amount
- Record of All Private School Contacts and Responses
- Consultation Agenda and Minutes
- Written Affirmation Statement
- ISP or ARD/IEP for Private School Student
- Budget Reports Detailing Proportionate Share Expenditures
- Resources

[The Legal Framework for the Child-Centered Special Education Process: Proportionate Share Funding for Children Parentally-Placed in Private Schools - Region 18](#)

[Appendix B to 34 CFR Part 300 - Proportionate Share Calculation](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Appendix B. Proportionate Share Calculation, pg. 69\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Unused IDEA-B Proportionate Share Funds, pg. 32\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Funds, Property, Equipment, and Supplies, pg. 33\) - Texas Education Agency](#)

[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(Apr. 2011\) - U.S. Department of Education](#)

[ESSA Private School Equitable Services - Texas Education Agency](#)

[FAQ: Parentally-Placed School Children with Disabilities - Texas Education Agency](#)

[Guidance on Parentally Placed Private School Children with Disabilities - Texas Education Agency](#)

## **CITATIONS**

Board Policy EHBAA and EHBAC; 34 CFR 300.133–134, 300.139, 300.141, 300.144; Appendix B to 34 CFR Part 300 – Proportionate Share Calculation

**STAFF RESPONSIBLE**

Questions regarding Funding Proportionate Share, please contact:

Department of Special Education

281-396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### SHARED SERVICES ARRANGEMENTS

June 2022



# Shared Services Arrangements

## What is Required

The District's Board of Trustees may contract with a public or private entity for the provision of educational services for the District through a shared services arrangement. A shared services arrangement ("SSA") must operate in accordance with the procedures developed by the TEA. The District's regional education service center may serve as the fiscal agent for SSAs in compliance with general program requirements and local district procedures under state law.

## **Definitions**

"Shared services arrangement" is an agreement between two or more school districts, open-enrollment charter schools, and/or educational service centers.

## Additional Procedures

### **Shared Services Arrangements**

SSAs are allowed for all grants in the Special Education Grant Application except IDEA-D and SSVI. The SSA agreement should include how eligible carryover funds will be distributed if a member leaves the SSA or if the SSA dissolves. Should a member leave the SSA or the SSA dissolve, the SSA and its members are responsible for handling the accounting and for documenting any transfers of funds. The TEA may request documentation regarding these transfers at any point.

### **Fiscal Agents**

For each SSA, a fiscal agent will be designated by the SSA members to be ultimately responsible for the compliance with grant requirements and conducting administrative duties. The fiscal agent is the applicant that completes and submits a composite application with input from and on behalf of its members. The application may be submitted by completing the TEA's "Application Designation and Certification" form for most eGrants.

The fiscal agent must ensure that funds are used in accordance with grant provisions and will maintain all SSA financial and personnel records required for the TEA, in accordance with Financial Accounting and Reporting ("FAR"). The fiscal agent may be responsible for financial consequences concerning SSA instances of noncompliance or any SSA member unable to repay respective portion of misappropriated funds in question.

### **Excluded Entities**

The following entities cannot provide services through an SSA:

- Colleges/universities;
- Community-based organizations;
- Councils of governments; or
- Other local governments, such as cities and counties.

However, these entities may contract with the SSA’s fiscal agent to provide services or enter into a collaborative partnership with the fiscal agent to conduct grant activities but will not be members of the SSA.

### **Written Agreements**

A formal, written SSA agreement that defines the composite entity and outlines the responsibilities of the fiscal agent and each SSA member is required. At a minimum, the SSA will contain the following information:

- Legal requirements, including:
  - Organization of the SSA;
  - Ownership of assets;
  - Policies and procedures addressing disposition of assets if the SSA is terminated by one or all members;
  - Policies and procedures addressing carryover funds if the SSA is terminated by one or all members;
  - Liabilities, including legal fees;
  - Basis for allocation of costs of the fiscal agent; and
  - Uncontrollable costs that impact the fiscal agent.
- Responsibilities of the designated fiscal agent, such as:
  - Services to be provided to SSA members;
  - Employment of personnel;
  - Budgeting and accounting; and
  - Reporting; and
- Responsibilities of members of the SSA, including:

- Employment or personnel;
- Budgeting and accounting; and
- Reporting.

The fiscal agent is responsible for complying with these requirements and for filing the written SSA agreement for audit and monitoring purposes.

### **Evidence of Implementation**

- Written SSA Agreement
- Designation of Fiscal Agent
- Applicant Designation and Certification form (for LEAs eligible for the Special Education Consolidated Grant)

### **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Shared Services Arrangements - Region 18](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Shared Services Arrangements, pg. 9\) - Texas Education Agency](#)

[Guidelines, Provisions, and Assurances - Texas Education Agency](#)

[Shared Services Arrangements Procedures - Texas Education Agency](#)

[Applicant Designation and Certification - Texas Education Agency](#)

[IDEA Fiscal Compliance - Texas Education Agency.](#)

[Sensory Impairments - Texas Education Agency](#)

### **CITATIONS**

Board Policy GNB; Texas Education Code 11.157; 19 Texas Administrative Code 89.1075(f), 89.1141(f)

### **STAFF RESPONSIBLE**

For questions about Funding: Shared Service Arrangements contact the Department of Special Education.

(281) 396-2630

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# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS

June 2022

# **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**

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**

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.

### **Evidence of Implementation**

- ARD/IEP
- Documentation of Communication with Residential Facility
- Residential Application
- Approval of Residential Facility

- Residential Facility Tracker, when applicable

## **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](#)**

## **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)

## **STAFF RESPONSIBLE**

For questions about Funding: Use of Fund for Contract Services Including Residential Placements contact the Department of Special Education.

(281) 396-2630

# SPECIAL EDUCATION OPERATING GUIDELINES

## Funding

### USE OF IDEA PART B FORMULA AMOUNTS IN GENERAL

June 2022

# Use of IDEA Part B Formula Amounts in General

## What is Required

Part B of the IDEA (“IDEA-B”) authorizes expenditures to help the District ensure that students with disabilities, including students ages 3 through 21, have access to a FAPE to meet each student’s unique needs.

## Methods and Payments

The TEA may use whatever state, local, federal, and private sources of support are available to the state, including the use of joint agreements between agencies involved, to provide a FAPE for students with disabilities. The TEA will ensure that there is no delay in implementing a student’s IEP, including any case in which the payment source for providing or paying for special education and related services to the student is being determined. Nothing in the IDEA-B relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a student with a disability.

The District must use all IDEA-B funds it receives for the following purposes:

- To supplement state, local, and other federal funds—and to not supplant such funds;
- To comply with excess costs requirements, *see* [EXCESS COSTS];
- To comply with general and fiscal guidelines, *see* [GENERAL AND FISCAL GUIDELINES]; and
- To comply with maintenance of effort requirements, *see* [MAINTENANCE OF EFFORT].

## Private Schools

To provide services for parentally-placed private school students with disabilities, the District must use IDEA-B funds in a manner that is consistent with proportionate share funding requirements for students with disabilities parentally-placed in private schools. *See* [PROPORTIONATE SHARE FUNDING FOR CHILDREN WITH DISABILITIES PARENTALLY-PLACED IN PRIVATE SCHOOLS] and [CHILDREN IN PRIVATE SCHOOLS]. The District may use IDEA-B funds to make District Special Education Personnel available for students with disabilities parentally-placed in private schools. *See* [SPECIAL EDUCATION AND RELATED SERVICE PERSONNEL].

## Use of Public Benefits and Insurance

Prior to accessing the student’s or the parent’s public benefits or insurance for the first time, the District must provide the parent written notice in the parent’s native language or other mode of communication and obtain written consent from the parent. Annually thereafter, the District must

provide the parent written notice that includes the required elements. *See* [CONSENT TO ACCESS PUBLIC BENEFITS]. The District must notify the parent that the parent’s withdrawal or consent or refusal to provide consent to disclose personally identifiable information to Medicaid does not relieve the District of its responsibility to ensure that it provided all required services to the student at no cost to the parent.

If and when consent is obtained, the District may use state Medicaid or other public benefits or insurance programs in which a student participates to provide or pay for IDEA-B services. However, the District may not:

- Require the parent to sign up for or enroll in public benefits or insurance programs for the student to receive FAPE;
- Require the parent to incur an out-of-pocket expense, such as the payment of a deductible or co-pay amount incurred in filing a claim for services;
- Use a student’s benefits under a public benefits or insurance program if that use would:
  - Decrease available lifetime coverage or any other insured benefit;
  - Result in the family paying for services that would otherwise be covered by the public benefits or insurance program and that are required for the student outside of the time the student is in school;
  - Increase premiums or lead to the discontinuation of benefits or insurance; or
  - Risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.

To be able to use the public benefits or insurance, the District may pay any cost the parent would be required to pay, including a payment of a deductible or co-pay amount incurred in filing a claim for services provided under the IDEA.

### **Use of IDEA-B Funds**

The District may use IDEA-B funds to pay for a specified service required under the IDEA to ensure a student receives FAPE if the District cannot obtain parental consent to use the parent’s private insurance or public benefits or insurance and the parent would incur a cost for a specified service required under the IDEA. The District may also use IDEA-B funds to pay the cost that the parent otherwise would have to pay to use the parent’s benefits or insurance, such as the deductible or co-pay amounts, if the parent would incur a cost where the parent would consent to use private insurance or public benefits to pay for services required to ensure the student with a disability receives a FAPE if the parent could avoid financial cost.

### **Additional Procedures**

## **Use of Funds**

The District must only use IDEA-B funds in accordance with applicable federal regulations. If the TEA, after reasonable notice and an opportunity for a hearing, determines that the District has failed to comply with applicable federal requirements related to funding, the TEA will reduce or cease further payments to the District until it is satisfied that the District has complied with the requirements.

## **Evidence of Implementation**

- Compliance with General and Fiscal Guidelines
- Compliance with Excess Costs Requirements
- Compliance with Maintenance of Effort Requirements
- ARD/IEP
- Signed Parent Consent to Access Public Benefits (Initial Notification)
- Use of Funds for Students with Disabilities Parentally-Placed in Private Schools
- Annual Notification Requesting Access to Private Benefits and Insurance Form

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Use of IDEA Part B Formula Amounts in General](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(General Allowable Activities and Use of Funds, pg. 24\) - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Unallowable Activities and Use of Funds, pg. 27\) - Texas Education Agency](#)

[IDEA Part B Issue Brief: Uses of Special Education Funds - ASHA](#)

## **CITATIONS**

34 CFR 300.103(a)–(c), 300.154, 300.202

## **STAFF RESPONSIBLE**

For questions about Funding: Use of IDEA Part B Formula Amounts in General contact the Department of Special Education.

(281) 396-2630

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Updated 2022

# **SPECIAL EDUCATION**

# **OPERATING GUIDELINES**

## **Funding**

### **USE OF IDEA PART B FORMULA AMOUNTS PERMISSIVE**

**June 2022**

# Use of IDEA Part B Formula Amounts Permissive

## What is Required

The District must comply with all funding guidelines, including general and fiscal, excess costs, and maintenance of effort guidelines. *See* [GENERAL AND FISCAL GUIDELINES], [EXCESS COSTS], and [MAINTENANCE OF EFFORTS].

When the District has complied with all excess cost and maintenance of effort guidelines, the District may use IDEA-B funds for the following activities:

- For the costs of special education and related services, as well as supplementary aids and services, provided in a regular class or other education-related setting to a student with a disability in accordance with the student’s IEP, even if nondisabled students benefit from such services;
- To develop and implement coordinated, early intervening educational services, including early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12, with a particular emphasis on students in kindergarten through grade 3 who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment. *See* [CHILD FIND] and [ADMINISTRATION].
  - The District may not use more than 15 percent of the amount received under IDEA-B for any fiscal year, minus any adjustments by the District to local fiscal effort, if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services; and
- To establish and implement cost or risk-sharing funds, consortia, or cooperatives for the District itself, or for districts working in consortium of which the District is a part, to pay for high-cost special education and related services.

The District may use IDEA-B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of Campus Special Education Personnel providing services described in the IEP that are needed for the implementation of such case management activities.

## Additional Procedures

### **Early Intervening Services**

In implementing early intervening services, the District may carry out activities that include professional development to enable Campus Special Education Personnel to deliver scientifically-based academic and behavioral interventions and, where appropriate, instruction on the use of

adaptive and instructional software. The District may also provide educational and behavioral evaluations, services, and supports.

Annually, the District must report to TEA on the number of students who received early intervening services, as well as the number of students who received early intervening services and subsequently receive special education and related services under IDEA-B during the preceding two year period.

## **Evidence of Implementation**

- Compliance with General and Fiscal Guidelines
- Compliance with Excess Costs Guidelines
- Compliance with Maintenance of Effort Guidelines
- Use of Funds for Early Intervening Services
- Records of Students Who Received Early Intervening Services
- Annual Reports Sent to TEA

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Use of IDEA Part B Formula Amounts Permissive - Region 18](#)

[Requirements of Coordinated Early Intervening Services - Texas Education Agency](#)

[Topic Brief on Early Intervening Services - IDEA Partnership](#)

[EDGAR Materials and Resources - Texas Education Agency](#)

[Program Guidelines 2018-2019 Special Education Consolidated Grant Application \(Appendix A. Allowable and Unallowable Expenditures, pgs. 36-69\) - Texas Education Agency](#)

## **CITATIONS**

2 CFR 200.403; 34 CFR 300.208, 300.226

## **STAFF RESPONSIBLE**

Questions regarding Funding IDEA B Formula Amounts Permissive, please contact:

Department of Special Education

281-396-2630

Updated 2022



# **SPECIAL EDUCATION OPERATING GUIDELINES**

## **Funding**

### **USE OF STATE SPECIAL EDUCATION FUNDS**

**June 2022**

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.

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## Use of State Special Education Funds

### What is Required

#### Special Education Grant

Special education grants will be made available to the District from funds appropriated, federal funds, or any other funds available to assist districts in covering the cost of educating students with disabilities. The District may apply for a special education grant if it does not receive sufficient funds, including state funds and federal funds, whether for the student with disabilities to pay for the special education services provided to the student or for all students with disabilities in the District to pay for the special education services provided to the students.

If the District applies for a special education grant, it must provide a report comparing the state and federal funds received by the District for students with disabilities and the expenses incurred by the District in providing special education services to students with disabilities. The District may include the cost of training Campus Special Education Personnel to provide special education services to students with disabilities when applying for a special education grant.

If the District receives a special education grant, it must educate all students with disabilities in the least restrictive environment that is appropriate to meet the student's educational needs. *See* [LEAST RESTRICTIVE ENVIRONMENT].

#### Accountability for Funds

To receive special education funds, the District must operate an approved comprehensive special education program in accordance with state and federal laws and regulations. At least 55 percent of the state special education funds must be used in the special education program. The District may not use special education funds for other purposes, except for administrative costs relating to maximum indirect cost allowable on certain Foundation School Program ("FSP") allotments.

Funds generated by full-time equivalents ("FTEs") in one instructional arrangement may be spent on the overall special education program and are not limited to the instructional arrangement which generated the funds.

The District is required to maintain separate accountability for the total state special education program fund within the general fund. In prescribing the qualifications that a mainstream instructional arrangement must meet, the Commissioner of Education ("Commissioner") will prescribe the qualifications an instructional arrangement must meet to be funded as a particular instructional arrangement. The Commissioner will establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable the success of the student.

The District may carry over a special education fund balance to the next fiscal year if the balance

is expended on the special education program in the subsequent year. Any state special education carry-over funds cannot be used for administrative costs.

### **Use of Funds for Personnel**

The District must assign District and Campus Special Education Personnel paid from special education funds to instructional or other duties in the special education program and/or to provide support services to the regular education program in order for students with disabilities to be included in the regular program. Support services must include, but are not limited to, the following: collaborative planning, co-teaching, small group instruction with students in special education and regular education, direct instruction to students in special education, or other support services determined necessary by the ARD Committee for an appropriate program for the student with disabilities.

Assignments may include duties supportive to school operations equivalent to those assigned to regular education Campus Personnel. Campus Personnel assigned to provide support services to the regular education program may be fully funded from special education funds. If Campus Personnel are assigned to special education on less than a full-time basis, only that portion of time for which the Campus Personnel are assigned to students with disabilities may be paid from state special education funds.

### **Use of Funds for Materials, Supplies, and Equipment**

The District may use state special education funds for special materials, supplies, and equipment which are directly related to the development and implementation of students' IEPs and which are not ordinarily purchased for the regular classroom. However, state special education funds may not be used for office and routine classroom supplies.

The District must abide by all state and federal requirements relating to the administration of equipment when using special equipment. *See* [ADMINISTRATION OF EQUIPMENT].

### **Use of Funds for Contract Services**

The District may use state special education funds to contract with consultants to provide staff development, program planning and evaluation, instructional services, assessments, and related services to students with disabilities. The District may use any amount—not to exceed 20 percent of the allotment for dyslexia services provided for a qualifying student—to contract with a private provider to provide supplemental academic services to the student that are recommended under the student's IEP or Section 504 plan. However, a student may not be excused from school to receive these supplemental academic services provided by contract with a private provider.

### **Use of Funds for Travel**

The District may use state special education funds to pay for staff travel to perform services directly related to educating eligible students with disabilities. These funds may also be used to pay for travel of staff, including administrators, general education teachers, and special education teachers and service providers to improve performance in assigned positions directly related to educating eligible students with disabilities. However, these funds may not be used to pay for staff development meetings where the time is spent on performing functions relating to the operation of professional organizations.

Additionally, the District may use state special education funds to pay for joint training of parents and Campus Special Education Personnel. Should the District wish to use state special education funds for transportation to and from a residential facility, the District must comply with all state and federal requirements relating to the use of funds for contract services, including residential placements. *See* [USE OF FUNDS FOR CONTRACT SERVICES INCLUDING RESIDENTIAL PLACEMENTS].

## **Additional Procedures**

### **Use of Funds**

The District must comply with all state rules and regulations related to the use of state special education funds. The District is responsible for remaining current with legislation related to the use of state special education funds.

## **Evidence of Implementation**

- Grant Applications
- Use of Funds for Special Education Services
- Report Relating to Use of Funds
- Education of All Students in Least Restrictive Environment
- Operation of Approved Comprehensive Special Education Program
- Appropriate Use of Funds for Materials, Supplies, and Equipment
- Appropriate Use of Funds for Contract Services
- Appropriate Use of Funds for Travel

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Use of State Special Education Funds - Region 18](#)

[Financial Accountability System Resource Guide - Texas Education Agency](#)

[Grant Compliance and Administration - Texas Education Agency](#)

[Special Education Funding - Texas Education Funding](#)

[Appendix A. Allowable and Unallowable Expenditures from Program Guidelines - Texas Education Agency](#)

**CITATIONS**

Board Policy DMA, EEL, EHB, EHBA, and EHBAC; 34 CFR 300.114(b); Texas Education Code 29.018(a)–(e), 48.102-48.103; 19 Texas Administrative Code 89.1121(d), 89.1125, 89.63, 105.11

**STAFF RESPONSIBLE**

Questions about Funding: Use of Special Education Funds can be directed to:

The Department of Special Education

281-396-2630