



Nonpublic School and  
Off-Campus Program

# Preliminary Approval Guide

November 2023

## About This Guide

This guide is for day and residential facility representatives who are seeking **preliminary approval** of their facility as a nonpublic day or residential school or off-campus program.

The Texas Education Agency (TEA) approves the educational programs of nonpublic schools and qualifying off-campus programs that meet both federal and state special education program requirements.<sup>1</sup> The TEA reviews both day and residential programs with which local education agencies (LEAs) may contract for the provision of special education instructional and related services. However, the legal responsibility for providing appropriate educational services to students remains with the LEA. Full **initial approval** of your nonpublic school or off-campus program is only possible in the context of an LEA's notification to the TEA of its intent to contract with your program for special education and related services for one or more students. The TEA then reviews your facility to determine your ability to provide the services listed in the student's IEP.

If you wish to explore your potential ability to meet initial approval requirements, prior to an LEA's intent to contract, you may seek **preliminary approval** of your facility for a specific age range and one or more disabilities. Initial approval will still be contingent on your ability to implement a specific student's IEP, and on ongoing compliance with state and federal requirements. **Preliminary approval status indicates that, at the time of preliminary approval monitoring, the TEA found your facility to be in compliance with the requirements outlined in this guide.**

**Please note that preliminary approval is not available to previously approved facilities whose approval has been revoked and who have not yet met requirements outlined in the notice of revocation.**

## Preliminary Approval Monitoring Process

TEA preliminary approval monitoring includes **documentation review** and a **monitoring visit**.

### Documentation Review

As part of preliminary approval monitoring, you will submit the following documents for TEA review:

- Nonpublic Schools Application for Approval and/or Renewal (available upon request)
- State licensing documents (required for residential programs, optional for day programs)
- Campus master schedule, bell schedule, school calendar
- Restraint and discipline policies
- Summary of professional development offered to staff
- Training logs for any mandatory staff trainings
- Summary of TEKS-based curriculum
- Parent/student handbook

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<sup>1</sup> [19 Texas Administrative Code \(TAC\) §89.1094, §89.1092](#); [34 Code of Federal Regulations \(CFR\) §300.146, §300.147](#)

## Monitoring Visit

During the scheduled monitoring visit, the TEA nonpublic/off-campus program team will participate in a **facility tour** and conduct **interviews**.

### Facility Tour

The TEA nonpublic team will tour facility grounds, campus buildings, classrooms, other areas accessible to students, and sleep/living areas, if applicable. The purpose of this tour is to verify the facility's safety, security, accessibility, and appropriateness for the prospective age range and disabilities.

### Interviews

The TEA nonpublic team will interview facility administration, as well as a selection of teachers, paraprofessionals/direct care staff, and related services providers. The purpose of these interviews is to understand the facility's program model, educational curriculum, behavior intervention practices, and IEP implementation strategies.

## Requirements for Preliminary Approval

The TEA will consider preliminary approval of a nonpublic day or residential school or off-campus program when documentation review and the monitoring visit provide evidence of compliance in the following areas.

**Please note that this is not an exhaustive list; nonpublic day and residential schools and off-campus programs must comply with state and federal regulations for the education of students with disabilities. Nonpublic schools and off-campus programs contacting with LEAs for special education and related services are subject to unannounced monitoring visits from the TEA at any time.**

## Program Description

TEA will review documentation of the following to identify your program's potential appropriateness for the target population:

- Program/clinical model
- Educational model
- Program type: nonpublic day school, nonpublic residential school, or off-campus program
- Age range
- Disabilities served

## Building Requirements

Nonpublic and off-campus programs must meet the same fire safety, building code, health, and sanitation requirements that apply to Texas public schools. TEA will review the following:

- Facility layout
- Number of buildings, sites, or campuses
- Location of educational and, if applicable, residential programs
- Building safety, security, accessibility, and appropriateness for population served
- Occupancy certificate (required)

## Accreditation/Licensing

Nonpublic residential facilities are required to be licensed by Texas Health and Human Services Commission, Texas Department of Family and Protective Services, or other relevant state agency.

No accreditation or licensing requirements exist for nonpublic day and off-campus programs. However, accreditation with Texas Private School Accreditation Commission (TEPSAC) is an optional, recommended step for your facility to take to demonstrate certain curriculum standards are met. Your day facility is also encouraged to pursue state licensure as a child care facility through the Texas Department of Family and Protective Services, or as a day services provider through the Texas Health and Human Services Commission, if either is suitable for the age range and characteristics of your program.

## Student Health and Safety

TEA will review your facility's student health policies, including:

- Medication administration procedures, including assurance that your facility does not require families to consent to medication administration as a condition of enrollment
- Emergency health/safety protocols and training
- Protocols for the use of PRN medications, including assurance that your facility adheres to Texas Education Code prohibitions against the use of chemical restraint

## Staff Licensure/Certification

As a nonpublic or off-campus program contracting with LEAs to provide special education and related services, your facility will be required to adhere to the same staff certification and licensure requirements that apply to public school staff. TEA will review your facility's staffing model to ensure:

- Your facility employs general education, special education, and related services personnel that are certified, endorsed, or licensed in the area of assignment
- Personnel employed by your facility are subject to a criminal background check (to include fingerprinting) in a manner consistent with and applied to LEA employees

## Education Program

TEA will review your facility's education program to ensure it meets criteria applicable to Texas public schools, including:

- Commensurate instructional minutes (length of school day, number of school days)
- Structured, written curriculum that is aligned with the Texas Essential Knowledge and Skills (TEKS)
- For students who have met educational requirements, curriculum that is aligned with [Transition services](#)
- Evidence that students are prepared for graduation with a regular diploma and, if applicable, completion of the IEP as determined by the IEP team
- Description of special areas (i.e. physical education, art, music) and electives provided or available
- Number of classrooms, student to teacher ratio, and education program capacity

## Special Education Processes, Records, and Confidentiality

Nonpublic and off-campus programs contracting with LEAs to provide special education and related services must meet all state and federal special education standards applicable to Texas public schools. TEA will review special education processes at your facility, including but not limited to:

- Record maintenance and confidentiality
- Review and dissemination of special education records
- IEP implementation, including academic and behavioral services, accommodations and modifications, IEP goals, and Behavior Intervention Plans (BIPs)
- Documentation of student progress, including short-term academic and behavioral progress, and IEP progress reporting

## Discipline, Restraint, and Seclusion Policies

Nonpublic and off-campus programs contracting with LEAs to provide special education and related services must abide by all state and federal guidelines for discipline, restraint, and seclusion of students with disabilities. **In the case that a state agency licensing the residential portion of a nonpublic residential school allows practices that are disallowed in public school settings, these practices may not be used with students from contracting LEAs at any time or in any setting (regardless of whether the student is in the educational or residential setting at the time of behavior intervention.)** TEA will conduct an extensive review of your facility's discipline, restraint, and seclusion policies to ensure:

- Written policies, procedures, and operating guidelines include steps to be followed in conjunction with the contracting LEA when taking disciplinary action with respect to students with disabilities
- Staff are trained, and maintain certification, in evidence-based emergency intervention practices
- Any staff that may be involved in time-out or restraint practices have received required training
- The facility has protocols for documenting removal of students from the educational setting (e.g. removal to alternate locations within the facility, removal from the classroom to the residential setting, home suspension) and communicating removals to LEAs and families
- The facility follows state reporting timelines for reporting restraints and other serious incidents to parents and contracting LEAs
- The facility does not use seclusion practices as defined in [Texas Education Code \(TEC\) §37.0021](#) – *or, if these practices are used in accordance with DFPS rules for non-LEA placed students, protocols exist to ensure these practices are not used under any circumstances for LEA-placed students*
- The facility does not use prohibited aversive techniques listed in [TEC §37.0023](#), including prone or supine restraint, mechanical restraint, and chemical restraint – *or, if these practices are used in accordance with DFPS rules for non-LEA placed students, protocols exist to ensure these practices are not used under any circumstances for LEA-placed students*

## Reintegration Process

TEA will review your facility's processes for developing reintegration criteria and estimated timelines for students from contracting LEAs. TEA will seek evidence that reintegration planning is student-centered, individualized, and developmentally appropriate. Criteria should be measurable and clearly linked to student IEP goals, regardless of any program exit or completion criteria that may exist as a programmatic feature of your facility.

## Resources

For more information about the nonpublic and off-campus program approval and monitoring process, please view the resources available on the [Special Education in Nonpublic and Off-Campus Programs](https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/special-education-in-nonpublic-and-off-campus-programs) website (<https://tea.texas.gov/academics/special-student-populations/special-education/programs-and-services/special-education-in-nonpublic-and-off-campus-programs>).

For general information and guidance about special education in Texas, please view the TEA [Special Education](https://tea.texas.gov/academics/special-student-populations/special-education) website (<https://tea.texas.gov/academics/special-student-populations/special-education>).

You may also reach out to the Nonpublic and Off-Campus Programs team by email at [NPSDayandRes@tea.texas.gov](mailto:NPSDayandRes@tea.texas.gov), or by phone at 512.463.9414.