



In this Issue: Monitoring Trends and Frequently Asked Questions

Notes on Terminology: In this newsletter, the term “Nonpublic” is interchangeable with “Off-Campus” in accordance with the program type listed in TEC 89.1094.

Funding

- [High Cost Funds Updates and Reminders](#)
- [Extended School Year Planning and Potential Funding Implications](#)
- [Nonpublic Contracting Requirements Related to Funding](#)

Monitoring

- [TEA’s Nonpublic Facility Approved List – Reminders and Limitations](#)
- [Nonpublic/Off-Campus Facility Staffing Requirements](#)
- [LEA Annual Onsite Guidance](#)

Notification and/or Application

- [Students Transitioning Between Nonpublic Facilities and LEAs](#)
- [Nonpublic Application Resources and Reminders](#)
- [Disciplinary Determinations and Nonpublic Placements](#)

Nonpublic Placement Requirements

- [Reintegration Planning Requirements, Resources, and Reminders](#)
- [Nonpublic Contracting Requirements and Reminders](#)

LEA Reporting Requirements

- [PIEMS Restraint Reporting for Students Placed in Nonpublic Facilities](#)

Funding

High Cost Funds Update and Reminders

- The High Cost Fund application will **open 3/15/2021** and **close 5/15/2021***. **Applications must be submitted during this timeframe.**

**HCF materials distributed prior to the February winter storm may show an open date of 3/1/2021 and close date of 5/1/2021; open and close dates were pushed out due to school and TEA office closures during the week of 2/15.*

- [2020-2021 HCF Information and Updates](#)
- [Directions for submitting a High Cost Fund application](#). For additional assistance email the HCF team at HCF@tea.texas.gov

Extended School Year Planning and Potential Funding Implications

- **LEA Question: My application was put in clarify status pending determination of ESY services. Why is it taking so long to receive determination of eligibility for state and federal funding?**

Any special education services that are provided beyond the regular LEA school year are considered ESY services and must be determined on an individual basis by the admission, review, and dismissal (ARD) committee. **It is common practice for nonpublic facilities to contract on a year-round basis. This impacts the LEAs ability to access funding in a timely manner**, as applications are typically submitted in the Fall, at a time that ESY determinations have yet to be made. **It is recommended that nonpublic contracts reflect actual services outlined in the ARD at time of placement. Projecting potential ESY services will delay funding**, as the LEA application will be placed in on-hold until ESY has been determined on an individual basis.

Nonpublic Contracting Requirements Related to Funding

- **Reminder that LEAs are required to follow general procurement standards** when contracting with Nonpublic and/or Off-Campus Facilities.
- **Reminder that LEAs are required to meet Nonpublic/Off-Campus notification timelines** ([Notification Requirements page 4](#)) in order to be considered **in compliance for the use of state and federal funds**. **LEAs who do not meet notification requirements** will be considered for **partial funding** based on the date of LEA application submission to the TEA.

Monitoring

TEA's Nonpublic Facility Approved List – Reminders and Limitations

- **LEA Question: If a nonpublic facility is on the TEA Approved List for Contracting Purposes, can I assume the facility meets minimum requirements for placement?**

No. When a student with a disability is considered for placement in an off-campus facility, it is the LEA's responsibility to review the [Nonpublic Assurance Checklist](#) and ensure that all state and federal requirements have been maintained, and that the facility is able to meet the individual needs of each student with a disability under consideration. **The Nonpublic Assurance Checklist is not an exhaustive list.** LEAs are responsible for ensuring that facilities are held to the same standard as LEAs, regarding educational programming, behavioral programming, discipline programming, and reporting requirements.

- **LEA Question: What should the LEA do if a nonpublic or off-campus facility is on the approved list but does not cover the age range or disability category of the student under consideration for placement?**

The LEA can apply for a modification or addition to the off-campus facilities' approval status. Contact the NP team at NPSDayandRes@tea.texas.gov for additional information.

Nonpublic/Off-Campus Facility Staffing Requirements

- **LEA Question: Are students with disabilities in off-campus placements required to be served by a certified teacher?**

Yes. The TEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency is provided an education that meets the standards that apply to the education by the local education agency. Nonpublic personnel must be certified or licensed in the area of assignment.

- **LEA Question: If the nonpublic or off-campus employee is in a teacher certification program, is that sufficient to meet the certification requirement?**

No. LEAs are responsible for ensuring that individuals serving in nonpublic teaching positions hold the appropriate Texas credential.

LEA Annual Onsite Guidance

- **LEA Question: LEAs must make two visits (one announced and one unannounced) per school year to verify that the nonpublic school can and is providing the services listed in a student's IEP. The form on TEAs website does not reference scheduled and unscheduled visits. Is there a specific form to complete?**

The NP team is in the process of updating several of our monitoring forms, in the meantime we ask that LEAs use this [annual visit form](#) as a framework for annual visits. The annual visit form is not an exhaustive list. Additional areas the NP team has identified as needing closer review include:

- **Verifying teaching credentials** in area of assignment
- Ensuring the facility is held to the **same standard** as the LEA for **background checks and fingerprinting** and verifying this practice is taking place.
- Ensuring facility staff are **maintaining current restraint training and certification.**
- Ensuring **facilities have knowledge** of and are **adhering to** requirements outlined in [TAC Sec. 37.0023. PROHIBITED AVERSIVE TECHNIQUES.](#) ★

Notification and/or Application

Students Transitioning Between Nonpublic Facilities and LEAs

- **LEA Question:** If a student transitions from the off-campus facility back to the LEA, what steps does the LEA need to take in the TEAL application?

The LEA should update the student's placement status and upload supporting documentation. Specifically, LEAs should upload the most recent IEP reflecting the change of placement and an amended contract, if appropriate.

Nonpublic Application Resources and Reminders

- **LEA Question:** I need to submit clarifications for a residential application, but I am not able to click the add button or submit clarifications. How do submit requested information?

The NP Team has created several application instructional videos. You can find the [Submitting Clarifications instructional video](#) and others on the [Special Education in Nonpublic and Off-Campus Programs](#) website.

Disciplinary Determinations and Nonpublic Placements

- **LEA Question:** Our district is conducting a Manifestation Determination Review for a student whose disciplinary infraction would normally warrant consideration for placement in the Disciplinary Alternative Education Program. Can we consider a nonpublic or off-campus placement instead?

A nonpublic or off-campus program **cannot be used as a disciplinary placement**. The ARD committee must follow state and federal regulations and TEA program guidance, including reintegration planning guidance, when considering nonpublic or off-campus placement. However, there may be situations in which an ARD committee determines that a behavioral incident is a manifestation of the student's disability, and this is used as **one of multiple pieces of data** when considering the need for nonpublic or off-campus placement. However, in these situations, it is especially important that the LEA, student, and family understand the placement to be a special education placement, not a disciplinary placement.

Nonpublic Placement Requirements

Reintegration Planning Requirements, Resources, and Reminders

- **LEA Question:** The nonpublic program we are considering has its own level system for behavior, and a student must earn a certain number of points to be recommended for release from the program. How do we document this in the reintegration plan?

Reintegration plans must be individualized for the student and must meet TEA program guidance for

reintegration planning. Reintegration plans should not be based on programmatic features of the nonpublic or off-campus program. In addition, throughout the student's placement, the LEA must ensure the student's IEP and BIP are being implemented as written, and that data is being collected on the student's individual IEP goals and reintegration criteria, regardless of any additional behavior programming provided as a programmatic feature of the nonpublic school.

Nonpublic Contracting Requirements and Reminders

- **Reminder to LEAs: To be processed for approval of state and federal funding, an LEA's contract with the nonpublic facility or off-campus program must:**
 - include the **beginning and ending dates of placement** (dates cannot overlap with a previous contract);
 - **include the number of days** for the student's placement (for both day and residential);
 - contract for **no more than 365 days** (the need for ESY services must be determined on an individual student basis by the ARD committee);
 - **fall within the school year** that **coincides** with the **application year**;
 - **include signatures** from both the LEA and nonpublic facility or off-campus program; and
 - **include a cost analysis** of all services to be provided by the nonpublic facility (for residential placements, and as requested for day placements).

LEA Reporting Requirements

Restraint Reporting for Nonpublic Placements

- **Please ensure your LEA is using accurate instructional setting codes for all students placed in nonpublic or off-campus programs.**
- **For students in off-campus programs (instructional setting frequently, but not always, 97):** please include all instances of restraint in LEA restraint reporting for the summer TSDS submission.
- **For students in nonpublic day or residential programs (instructional settings 50 or 60):**
 - TSDS does not currently include these instructional settings in the summer restraint data submission.
 - At the time of the LEA's summer TSDS submission, please also use the Nonpublic Day and Residential Restraint Reporting spreadsheet (available on the TEA Special Education in Nonpublic and Off-Campus Programs website) to record all instances of restraint for students in instructional settings 50 or 60.
 - Please submit the completed Nonpublic Day and Residential Restraint Reporting spreadsheet to TEA via secure Sharefile upload (instructions and Sharefile link are found within the reporting spreadsheet.)
 - Stay tuned for updated guidance regarding restraint reporting for instructional settings 50 and 60 in the 2021-2022 school year.