

## INSTRUCTIONAL ARRANGEMENTS

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**INSTRUCTIONAL ARRANGEMENTS**  
**(SBOE §89.63, 89.61 and 34 CFR §300.551)**

34 CFR §300.551

CISD provides a Free Appropriate Public Education (FAPE) for students with disabilities in order to meet the need for special education and related services. The free, appropriate public education must include the alternative placements listed in §300.26 (instruction in general classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with general education classroom placement.

CISD will provide services with special education personnel on an itinerant, resource, or self-contained basis to students with disabilities in order to meet the special needs of those students.

- \* Students with disabilities have available to them the variety of educational programs and services available to students without disabilities including but not limited to art, music, industrial arts, and vocational education.
- \* Physical needs of the student including accessibility will be provided (ex: water fountains, library, nurse's office, etc.). Facilities for students with disabilities are comparable to facilities for students without disabilities.
- \* Each student will have available the same instructional school day as is provided all other students, unless a shorter day is deemed appropriate by the ARD committee and is reflected in the IEP. The ARD/IEP committee may determine a student's instructional day should be shortened based on the individual educational plan (IEP). TAC §89.1075

**I. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS (SBOE §89.63) effective 9-1-00**

- A. CISD shall be able to provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with Federal Regulations 34.CFR §300.550-300.554.
- B. For the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review and dismissal (ARD) committee (subject to §89.1075(e) which states: Students with disabilities shall have available an instructional day commensurate with that of students without disabilities.) The ARD/IEP committee

shall determine the appropriate instructional setting and length of day for each student, and these shall be specified in the student's IEP.

- C. Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEP) of eligible students receiving special education services and shall include the following:
1. **Mainstream** is an instructional arrangement/setting for providing special education and related services to a student in the general classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's general classroom teacher(s) necessary to enrich the general classroom and enable student success. The student's IEP specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, , team teaching, co-teaching, interpreter, education aids, curricular or instructional modifications/ accommodations, special materials/equipment, consultation with the student and his/her general classroom teacher(s) regarding the student's progress in general education classes, staff development, and reduction of ratio of students to instructional staff.
  2. **Homebound** is an instructional arrangement for providing special education and related services to eligible students with disabilities who are served at home or hospital bedside. These students who are served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside Instruction may also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the U.S. The student's ARD/IEP committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (B) above.

Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD/IEP committee. This also applies to students who receive services from a school district that provides education solely to students confined to or educated in hospitals.

3. **Hospital Class** is an instructional arrangement/setting for providing special education instruction in a classroom in a hospital facility or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class.
4. **Speech Therapy** is an instructional arrangement for providing speech therapy services whether in a general education classroom or in a setting other than a general education classroom. When the only special education or related service provided to a student is speech therapy, this instructional arrangement may not be combined with any other instructional arrangement.
5. **Resource room** is an instructional arrangement for providing special education and related services to a student in a setting other than general education for less than 50% of the regular school day (includes Content Mastery program services).
6. **Self-contained (mild, moderate, or severe) regular campus** is an instructional arrangement/setting for providing special education and related services to a student who is in a special education program for 50% or more of the regular school day on a regular school campus.
7. **Off-home Campus** is an instructional arrangement for providing special education and related services to the following:
  - a. a student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
  - b. a student whose instruction is provided by school district personnel in a facility (other than a nonpublic day school) not operated by the school district; or
  - c. a student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.
8. **Nonpublic Day School** is an instructional arrangement/setting for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.
9. **Vocational Adjustment Class/Program** is an instructional arrangement/setting for providing special education and related services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used only after the school district's career and technology classes have been considered and determined inappropriate for the student.
10. **Residential Care and Treatment Facility (RCTF)** ~ (not school district resident). This instructional arrangement/setting is for providing special education instruction to a student with disabilities who reside in approved care and treatment

facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

§89.1001(c)

A residential care and treatment facility that is licensed by appropriate state agencies and located within our school district's boundaries will be provided special education and related services to eligible students residing in the facility, unless the facility meets the standards, as monitored by the TEA, for the purpose of offering contract day and / or residential special education and related services.

**Intermediate Care Facilities**

§29.012 The Texas Education Agency and TDMHMR have developed a Memorandum of Understanding that establishes the respective responsibilities of school districts and of ICFMR persons for the provision of classrooms and educationally related therapy for students who reside in those facilities.

11. **State School for Persons with Mental Retardation:** an instructional arrangement/setting for providing special education and related services to a student who reside at a state school when the services are provided at the state school location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.
- D. The appropriate instructional arrangement for students from birth through the age of two with visual and/or auditory impairments shall be determined in accordance with the IFSP, current attendance guidelines, and the agreement memorandum between the Texas Education Agency (TEA) and the Texas Interagency Council on Early Childhood Intervention.
- E. For nonpublic day school placements, the school district or shared service arrangement shall submit information to the TEA indicating the student identification numbers, initial dates of placement, and the names of the facilities with which the school district or shared service arrangement is contracting. The school district or shared service arrangement shall not count contract students average daily attendance as eligible. The TEA shall determine the number of contract students reported in full-time equivalents and pay state funds to the district according to the formula prescribed in law.
- F. Other program options to be considered for the delivery of special education and related services to a student may include the following:

1. contracts with other school districts; and
2. other program options as approved by the TEA.

## **II. INSTRUCTIONAL PROGRAMS / SERVICE DELIVERY**

CISD shall take steps to ensure that its students with disabilities have available to them the variety of educational programs and services available to non-disabled students in the area served by the district, including art, music, industrial arts, consumer and homemaking education, and vocational education. (34 CFR §300.305)

### **A. Speech Therapy**

The speech/language pathologist utilizes a service delivery system that has a range of services from least to most restrictive. An important component of this model is the option of providing service in general classroom through collaboration with the general education teacher.

The amount of therapy time set out in the IEP establishes a legal contract that these services will be provided. Therefore, it is essential that therapy **not** be canceled unless absolutely necessary. Careful planning is required to allow for ARD/IEP meetings and testing time. Whenever possible, missed therapy sessions should be made up on another day, unless the student receiving the services was absent.

1. Relative to ARD/IEP committee meetings, the speech pathologist:
  - a. should send home a DRAFT IEP at least one week prior to the ARD. A cover letter with name, conference time and phone number should accompany the IEP.
  - b. must attend the ARDs for students with a “speech impairment only”;
    - (1. copy and distribute the modification checklist to all the student’s teachers that are SI only.
    - (2. collaborate with special education teachers on the best means for distribution of students who are SI as a secondary disability.
  - c. may attend ARDs for students that have the SI label in addition to another disability.
2. Other responsibilities:
  - a. Full-time pathologists traditionally schedule a set time per week to use for testing, ARD/IEP committee meetings and paperwork.
  - b. Our goal is for full-time therapists serve approximately 60 to 65 students per week. There may be circumstances in which this caseload is not possible.
  - c. Lesson plans should be used as a guide for the implementation of the IEP.

### **B. Adapted Physical Education (34 CFR §300.307)**

Physical Education services, specially designed where necessary, will be provided as an integral part of the educational program of each student with disabilities. The ARD/IEP committee should consider three options when making decisions about the physical education needs of identified students with disabilities. These decisions may be based on an adapted physical education evaluation.

1. The APE evaluation will provide the ARD/IEP committee with the following information:
  - a. identification of student's problems,
  - b. identification of areas of needed improvements,
  - c. identification of areas of competencies,
  - d. documentation of the student's need for adaptive physical education.

NOTE: An adapted physical education evaluation is not necessary when the student with disabilities can participate in regular physical education with no modifications.
2. Regular Physical Education with No Modifications or Adaptations
 

The Federal law is clear on the fact that every student with disabilities should be afforded the opportunity to participate in the regular physical education program available to non-disabled students unless:

  - a. the student is enrolled in a full time separate facility; or
  - b. the student needs specially designed physical education as prescribed in the student's individualized physical education program (§300.307).
3. Regular Education with Modifications or Adaptations
 

Regular PE should be considered when modifications would make it possible for the student with disabilities to be successful in a regular physical education program. The specific modifications must be described in the student's IEP. It would be the responsibility of the special education teacher to assist the regular physical education teacher with modifications for the student and to monitor the progress of the student.
4. Adapted Physical Education
  - a. An adapted physical education program with IEP objectives should be provided when the adapted physical education evaluation determines that the student cannot be successful in a regular physical education class with modifications. When the ARD/IEP committee has made the recommendation and the arrangements are specified in the student's IEP, physical education for the students with disabilities may be provided by the following personnel:
    1. Special education instructional or related service personnel who have the necessary skills and knowledge;
    2. Physical education teachers;
    3. Occupational therapist;
    4. Physical therapist;
    5. Occupational therapy assistant or physical therapy assistant working under supervision in accordance with the standards of their profession.
  - b. When these services are provided by special education personnel, the district must document that they have the necessary skills and knowledge. Documentation may include, but not be limited to, in-service records, evidence of attendance at seminars or workshops, and/or transcripts of college courses.
  - c. If specially designed physical education is prescribed in a student's IEP, CISD will provide the services directly or make arrangements for those services to be provided through other public or private programs.

- d. If CISD enrolls a student with a disability into a facility, CISD ensures that the student receives appropriate physical education services.

### **C. Content Mastery Program Overview**

The Content Mastery program is designed to assist students to achieve to their maximum potential in the mainstream.

The Content Mastery program is a problem-solving model, constantly analyzing student performance in the general education classroom. The Content Mastery teacher works with the general education teacher to match the demands of the class with the skills of the student.

The Content Mastery Teacher will be proactive - obtaining lesson plans, materials, etc., ahead of time to plan a quality support system for both the general education teacher and the student. Increased stimulus variation is offered to students by utilizing as many different strategies as necessary to teach an objective.

1. There are two underlying principles of the program that are essential to its success:
  - a. Students with disabilities can learn and succeed in the mainstream with appropriate accommodations and support.
  - b. To be successful in the mainstream, the special student may need special help in several subject areas - not just reading and/or math.
2. Services include but are not restricted to the following:
  - a. taped textbooks;
  - b. high-lighted materials (textbooks, worksheets, etc.);
  - c. reading test to students and/or assisting teachers with test adaptation;
  - d. help with a packet, worksheet, written assignment, or anything involving textbooks;
  - e. study group for exams;
  - f. discussing individual student's strengths and weaknesses with regular teachers;
  - g. monitoring student progress and placement;
  - h. aiding in student organizational skills;
  - i. vocabulary files for mainstreamed courses;
  - j. supplementary materials for courses;
  - k. modified materials; and
  - l. problem solving between regular and special education teachers.
3. The student may leave his/her general classroom and go to the Content Mastery Center when independent student work is being done. The student may not use the Content Mastery Center during the teacher's direct instruction, class discussion, group work, lab, or a film. Examples of when a student might use the Content Mastery Center:

- a. when working independently on a packet, written assignment, worksheet, or questions from the textbook;
  - b. when the student is assigned to read a chapter in class; or
  - c. when students are studying for a test or a test is being given.
4. The time spent in the Content Mastery Center may vary from ten minutes to the entire class period, depending on what the student needs to accomplish. Recommended guidelines for general education teachers utilizing the Content Mastery Center for students placed into this setting:
- a. Consistently Low Grades  
If a student's grades are consistently low in a subject (70's or below), then the student needs to use the Content Mastery Center on a regular basis.
  - b. Poor Student Performance  
The student's performance during the lesson cycle provides the most accurate assessment of appropriate use of Content Mastery. There are two critical checkpoints in the lesson cycle:
    - (1) check for understanding, and
    - (2) guided practice.
 If a student is experiencing academic difficulty at either of these two checks, then he/she should go to Content Mastery for a re-teach.
  - c. Gaps in Student Skills  
If the general education teacher and the content mastery teacher determine that a student is missing vital prerequisite skills for a lesson, then the student may need a "pre-teach" at some point in the lesson cycle for tomorrow's lesson. The most appropriate step for this to occur is during independent practice, which would need to be reduced in order for there to be adequate time for a "pre-teach". This method requires coordination and agreement between the regular and content mastery teachers.

***It is inappropriate to send a student to content mastery because of behavior problems unless so determined by ARD.***

#### **D. Homebound Program**

CISD provides homebound instruction for special education students who are unable to attend school because of medical reasons. The general classroom teacher on the student's home campus determines academic course work for the homebound program.

- 1. It is the responsibility of the ARD/IEP committee to determine:
  - a. the curriculum that is appropriate for homebound instruction;
  - b. modifications of the student's schedule.
- 2. The ARD/IEP committee must receive the following documentation:
  - a. student will be unable to attend the regular school program for a minimum of four weeks;
  - b. a written medical report from the physician stating the length of homebound service. Duration of service can only be extended as indicated by physician.
- 3. It is important for the ARD/IEP committee to stress to the parents that an adult must be present in the home when a homebound teacher is providing instruction.

4. Dismissal procedures for homebound students are outlined in the initial ARD/IEP committee meeting. A homebound student will return to school:
  - a. when the medical release from the physician indicates
  - b. when the medical report from the physician expires.

**E. Preschool Program for Children with Disabilities (Special Education Early Childhood Program)**

The Preschool Program for Children with Disabilities ages three through five is offered on select elementary school campuses. Parents are encouraged to be active participants in all phases of the educational process. Instruction is based on an individual education plan that is determined after evaluation has been completed. There may be several instructional personnel working together for the benefit of the student. These staff members may include, but are not limited to, an educational diagnostician, speech pathologist, nurse, special education teacher, special education, instructional aide, occupational and/or physical therapist. Early Childhood placement is based on evaluation, eligibility and the student's IEP.

**F. Life Skills Classroom Program**

The Life Skills program is the name given to describe a service delivery option, which may be considered by the ARD/IEP committee. The Life Skills curriculum focuses on training and instruction in functional daily living skills with a strong vocational emphasis at the secondary level to prepare students for work in a supported employment environment when they leave school. The academic areas of reading, writing, and mathematics are included with an emphasis on functional skills to become as independent as possible. The term Community-based Instruction (CBI) is a term used to describe teaching and learning the functional skills in the actual real environment of the community versus inside the classroom. Community-based Instruction is not a field trip; rather it is an instructional trip specifically to teach the goals and objectives of the IEP on a consistent basis in the real environments.

**G. Vocational Adjustment Class/Program**

The Vocational Adjustment Class (VAC) is a special education vocational program that is offered on the high school campus. This instructional arrangement is designed for students with disabilities who desire vocational training and are unable to make progress in regular vocational programs. The curriculum of the VAC program includes on-the-job training and frequent supervision at work sites in the community.

Employment opportunities and training are based on vocational evaluation, student needs and abilities, teacher recommendations and parental preference.

Admission to the Vocational Adjustment Program is made by the Admission, Review and Dismissal (ARD/IEP) committee.

### **III. CONTRACTING FOR EDUCATIONAL PLACEMENTS**

#### **A. Placement**

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 program, including non-medical care and room and board, must be at no cost to the parents of the student. (34 CFR §300.302)

#### **B. Private/Nonpublic School Provisions (SBOE §89.1080)**

For more detailed information on private/nonpublic school provisions, see the ARD/IEP section.

#### **C. Regional Day School for the Deaf (SBOE §89.1080)**

In accordance with the TEC, §30.081-.087, CISD students shall have access to Regional Day School Programs for the Deaf operated in the Birdville Independent School District as established by the Commissioner of Education. Any student who has a hearing impairment which severely impairs processing linguistic information through hearing even with recommended amplification and which adversely affects educational performance shall be eligible for consideration for the Regional Day School Program for the Deaf subject to the ARD/IEP committee recommendations.

#### **D. Residential Educational Placements (TAC §89.61)**

CISD may contract for residential placement of a student when the student's admission, review, and dismissal (ARD) / Individualized Education Program (IEP) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education (FAPE). CISD may contract for residential placement only with facilities which are approved by the commissioner of education and will follow all requirements in TAC §89.61.

CISD may contract for a residential placement of a student through notification of the TEA. An application process will be followed and approval granted by the TEA.

#### **E. Texas School for the Blind and Texas School for the Deaf (SBOE §89.1085)**

CISD, through the ARD/IEP committee may request the provision of services through the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf provided that the student is eligible for the services of the school from which services are being requested according to criteria developed by the TSBVI or TSD.

In the event that a student is placed by the ARD/IEP committee at either TSBVI or the TSD, the student's "resident school district," is responsible for assuring that a free appropriate public education (FAPE) is provided to the student at the TSBVI or the TSD.

If the representatives of the resident school and the TSBVI or TSD disagree, as members of a student's ARD/IEP committee, with respect to a recommendation by one or more members of the ARD/IEP committee that the student be evaluated for placement, initially placed, or continued to be placed at the TSBVI or TSD, as applicable the representatives of the resident school district and the TSBVI or TSD, as applicable, may seek resolution through the mediation procedures adopted by the TEA or through any due process hearing to which the resident school district or the TSBVI or the TSD are entitled under IDEA.

1. If CISD requests services from TSBVI or TSD, these special education requirements will be discussed in the ARD/IEP meeting:
  - a. For each student, CISD shall list those services in the student's IEP which CISD cannot appropriately provide in a local program and which the TSBVI or the TSD can appropriately provide.
  - b. CISD may make an on-site visit to verify that the TSBVI or the TSD can and will offer the services listed in the individual student's IEP and to ensure that the school offers an appropriate educational program for the student.
  - c. For each student, CISD shall include in the IEP the criteria and estimated time lines for returning the student to CISD.
2. For students who are deaf or hard of hearing for which the TSD may be an appropriate placement, the following will be implemented in accordance with TEC§30.057 (Admission to the Texas School for the Deaf):
  - a. A referral to the TSD may occur at any time during the school year if the school is chosen as the appropriate placement for the student rather than placement in CISD or regional program recommended under the student's IEP. The IEP must include all requirements of federal and state law. The student's parent, legal guardian, a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is 18 years of age or older, may initiate the referral at any time during the school year.
  - b. CISD may initiate a referral to the TSD at any time during the school year under the student's IEP. The IEP must include all requirements of federal and state law. CISD is responsible for FAPE and related services in accordance with federal and State law, and SBOE and commissioner of education rules.
  - c. The TSD will accept referrals according to federal and State law. The TSD and CISD will mutually develop a cooperative agreement relating to the implementation of the student's IEP. For students accepted by TSD, the TSD will be responsible for FAPE and related services in accordance with all federal and State laws and rules.
  - d. Students enrolled in TSD under this section will be supported in accordance with TEC§30.003 (funding codes).
3. Students shall be admitted to the TSBVI or the TSD according to the criteria developed by TSBVI and TSD.
  - a. Only those students who have been referred to the TSBVI or the TSD by CISD ARD/IEP committee, (except as provided in d. below), may be eligible to be considered for placement.

- b. The TSBVI or TSD, through their ARD/IEP process, shall determine eligibility of referred students and shall determine if the respective school is an appropriate instructional placement for that student.
  - c. When a student is admitted, a written cooperative agreement shall be developed, specifying the general responsibilities of each agency in the delivery of appropriate and mutually supportive service to the student.
  - d. When CISD ARD/IEP committee recommends placement of a student at TSBVI or TSD, but the ARD/IEP committee of the TSBVI or TSD fails to concur with the recommendation, CISD may seek resolution in accordance with procedures established by the commissioner of education.
4. For students placed in the TSBVI or TSD by CISD, the initial/annual review shall verify that:
    - a. such placement is still needed and that the need is documented in the IEP; and
    - b. the TSBVI or the TSD continues to offer an appropriate program for the student.
  5. Determine whether it is necessary for the safety of the student, for an adult to accompany the student when transporting the student at the beginning and end of the term and for regularly scheduled school holidays when students are expected to leave the residential campus. If yes, designate the adult to accompany the student.

For additional transportation guidelines for students at TSBVI or TSD, see the Related Services section of this document.

#### **F. Least Restrictive Environment (LRE) Placement**

For all out of district, non-public or residential placement, TSBVI and TSD, the ARD/IEP includes a statement regarding:

1. The services CISD is unable to provide which the contract facility, TSBVI or TSD was able to provide,
2. A plan with time lines and criteria for returning the student to CISD,
3. Assurance that the contract facility, TSBVI or TSD continues to meet minimum health and safety standards,
4. Documentation of the continuing need for out-of district placement.
5. A discussion of the visit to the approved facility which includes a report that documents:
  - a. that visits were made yearly to the contract facility before the ARD/IEP committee placement decisions were made,
  - b. that the facility can and will provide services listed in the IEP, and
  - c. that the facility offers an appropriate program for the student and is the least restrictive placement.

#### **G. Residential Care Facilities (RCF) for the Mentally Retarded (TAC §89.1115) Definitions**

Residential care facilities are facilities which provide 24-hour care to more than six students between the ages of birth and 22 years who have been placed for non-educational reasons. These facilities include: child care facilities or institutions, foster group homes, therapeutic foster group homes, habilitative foster group homes or agency group homes regulated by TDPRS, ICF's-MR, psychiatric treatment centers, therapeutic campus or ranches, residential treatment centers, and nursing or convalescent homes.

### **CISD Responsibilities to Students Residing in RCF's**

The "child find" activities will include identifying, locating and evaluating students with disabilities residing within our jurisdiction in residential care facilities. Before a student is placed in special education, a full and individualized evaluation is completed to determine eligibility and the nature of the disability. The ARD/IEP committee:

1. Will develop the IEP after considering the results of the evaluation. All federal and State laws regarding the ARD/IEP process will be followed. Ensure that a representative of the RCF attends the meeting. If the representative cannot attend, CISD will ensure participation in one or more of the following ways:
  - a. individual or conference telephone calls
  - b. written correspondence regarding input
2. Will follow all notice and consent requirements and parents are informed of the procedural safeguards.
3. After the student enters the facility, any meetings to review and revise the student's IEP may be initiated and conducted by the facility at the discretion of CISD. If the facility initiates the meeting, CISD will ensure that the parents and a representative from CISD:
  - a. are involved in any decisions about the student's IEP; and
  - b. agrees to any proposed changes in the program before those changes are implemented.
4. Base its LRE decision on the individual needs of the student and not what is most convenient for CISD and the RCF.
5. CISD is responsible for implementing the IEP. Related services are intended to support the provision of special education services and are only provided when they are necessary for the student to benefit from special education instruction.
6. Document the following conditions:
  - a. an initial on-site visit and annual on-site visits verify that the facility can, and will provide the services listed in the student's IEP;
  - b. the specific services which CISD is unable to provide and which the facility will provide;
  - c. verify during the initial ARD/IEP meeting and each subsequent annual ARD/IEP meeting that the facility:
    - ❖ meets minimum standards for health and safety;
    - ❖ the placement is needed and the need is continued at the annual; and
    - ❖ the educational program provided at the facility is appropriate and the placement is the least restrictive environment for the student.
  - d. the criteria and estimated timelines for returning the student to CISD.

### **Child Find Notification to CISD and Sharing Information**

1. All health and human services agencies will notify CISD (in writing within three working days) of admitting an individual between the ages of birth and 22 into a Residential Care Facility (RCF) for an educationally significant time period.
2. Sharing of Information. All appropriate client and student records will be shared to the extent permitted by the applicable confidentiality statutes and regulations. A “universal” consent form will be used.
3. Records Shared. The RCF will share records to the extent permitted by the applicable confidentiality statutes and regulations within 14 working days of the school-age resident’s admission to the RCF. CISD will provide available records to the extent permitted by the FERPA and Part 99 regulations within 14 working days to the RCF.

### **Educational Needs**

1. While many RCF placements are made primarily for non-educational reasons, CISD must assure that the LRE requirements are met for these placements.
2. The ARD/IEP committee will consider the non-educational needs of the student that restrict the ability of CISD to serve the students on campus in a less restrictive placement and must be individualized including health and safety (i.e. medically fragile), the type of RCF program (i.e. restrictive juvenile incarceration), student’s participation in intensive care and treatment (i.e. intensive substance abuse).
3. The ARD/IEP committee will consider:
  - a. the care and treatment plan,
  - b. the nature or conditions of the RCF program,
  - c. the RCF preference to where the student should be educated in light of the student’s care and treatment needs,
  - d. the RCF’s description of available space should the student need to be educated at the RCF.
4. The ARD/IEP committee will determine if the space at the RCF is adequate for the education of the individual student(s).
5. If the ARD/IEP committee determines that the space at the RCF is not adequate for the education of the individual student(s), the ARD/IEP committee shall find alternative locations for providing educational services.
6. If the RCF decides to eliminate or reduce space made available, the RCF will notify CISD at least 30 days with regard to an individual student or 90 days if the RCF decision impacts more than one student prior to taking any action regarding this space.
7. This notice in #6 does not apply when an RCF must interrupt use of space due to regulatory actions beyond their control.
8. If the ARD/IEP committee determines the RCF is the appropriate placement and the space is adequate, the RCF will:
  - a. assure the space will be made available, and
  - b. not charge CISD any costs related to this space.
9. Any disputes may be handled as described in subsection (h) of MOU §89.1115.
10. It is the responsibility of CISD to provide educational and related services as set out in the IEP. The RCF is not required to construct space if it does not exist.

### **Impact of Residential Care Facility on CISD**

When a new RCF that serves school age students opens or expands the impact may be substantial to a school district. A new or expanding RCF will provide CISD with prior written notice within a reasonable time period of its intentions. This notice must be given within a reasonable time period so that CISD can plan accordingly.

### **Parental Participation**

1. Many school age residents placed in RCF's are under the conservatorship of the State of Texas (usually through TDPRS). For these residents, the following surrogate parent requirements:  
CISD would ensure that properly trained surrogate parent with no conflicts of interest is appointed for these residents. (*See Surrogate Parent requirements also in Section 7 - Procedural Safeguards.*)
  - a. CISD decides as to when and who to appoint as surrogate parents.
  - b. The appointment is not restricted to circumstances in which parental rights have been formally terminated by a court. In fact, the requirement to appoint a surrogate parent will be triggered by placing a child under the temporary or permanent conservatorship of the state.
  - c. The appointment does not necessarily terminate parental rights under IDEA unless parental rights have been terminated under the Texas Family Code. Parents do not lose their rights to participate in the educational process of their children as the result of the appointment of a surrogate parent.
  - d. The obligation to appoint a surrogate parent is not necessarily eliminated when a student turns 18 years old. In some instances, a surrogate parent can be appointed for a student with a disability who is between 18 and 22 years old if needed to assure that this student receives FAPE.
  - e. The surrogate parent appointed must have the knowledge and skills to ensure adequate representation of the child and no personal or professional interest which would create a conflict of interest in his or her representation of the child. (*See Surrogate Parent requirements also in Section 7 - Procedural Safeguards.*)
  - f. The surrogate may not be an employee of a public agency that is involved in the education or care of the child. (*See Surrogate Parent requirements also in Section 7 - Procedural Safeguards.*)
2. The surrogate will have an opportunity to discuss the student's educational needs with state caseworkers and the appropriate RCF personnel prior to the ARD/IEP committee meetings, or at a mutually agreeable time. The caseworker representing the state agency having conservatorship of the student and the appropriate RCF representative may participate in the deliberations of the ARD/IEP committee, but in no circumstances in place of the required surrogate parent or make the decisions belonging to the surrogate parent.

### **Dispute Resolution**

1. Disputes between CISD and a party to this MOU, will first be resolved at the local level. Specific issues involved in the dispute and possible solutions will be identified and referred to the local officials authorized to make the decisions necessary to resolve the dispute.

2. If local resolution is not possible after a reasonable time period, the dispute will be referred to the executive officers of the respective state agencies for further negotiations towards a mutually agreeable resolution. CISD will identify the:
  - a. nature of the dispute,
  - b. resolutions agreed upon at the local level,
  - c. issues that remain unresolved at the local level, and
  - d. local contact person(s)
3. The state officials will seek resolution of the dispute.
4. If resolution is not possible at the state level, the executive officers may pursue resolution through the use of mediation or refer the local parties to mediation. The mediation is non-binding unless the parties agree otherwise.

**Contact Persons**

For the phone number and position of the contact person for each state agency involved, see TAC §89.1115 (i).