

L R E including Residential Placement

Fort Sam Houston ISD

CD# 015914

Legal Framework: Least Restrictive Environment

3.5 How does a student's ARD committee make a placement decision?¹

To the maximum extent appropriate, students with disabilities must be educated with students who are nondisabled, and special classes, separate schooling, or other removal of students with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.² Once a student's IEP is fully developed, the Special Education Coordinator, Speech Pathologist, and/or Campus Administrator shall ensure that the student's ARD committee considers, and the student's IEP documents, a placement determination based upon the individual needs of the particular student and the appropriate and least restrictive educational environment in which the IEP can be implemented. When making a placement decision, the Special Education Coordinator shall ensure that the ARD committee considers a continuum of alternative placements.

PRACTICE GUIDE—Location of a particular classroom or program is an administrative decision not within the purview of an ARD committee. Location is different from the determination of an individual student's special education placement. The location of classrooms and programs is an administrative decision within the discretion of the District. School district administration may centralize the location of certain programs to efficiently use the District's resources in the service of students with disabilities.

3

What does it mean to have a continuum of placement options for students? The District shall make available a continuum of alternative placements listed in the definition of special education under 34 C.F.R. § 300.38 (e.g., instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and make provision for supplementary services to be provided in conjunction with placement in the general education setting to facilitate such placement.⁴ The IEP, evaluations and other relevant data guide the ARD committee in making placement decisions.

¹ *A.B. v. Clear Creek ISD*, 75 IDELR, 787 F.App'x 217 (5th Cir. 2019); *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989); *J.H. v. Fort Bend Indep. Sch. Dist.*, 482 Fed. Appx. 915 (5th Cir. 2012)

² 34 CFR § 300.114 (a)

³ *White ex rel. White v. Ascension Parish School Board*, 343 F.3d 373 (5th Cir. 2003).

⁴ 34 C.F.R. § 300.115(b); 34 C.F.R. § 300.115(b); 19 TEX. ADMIN CODE §89.63

PRACTICE GUIDE—The ARD committee may determine that additional evaluations, updated assessment or other information are needed to make a placement decision. Consider having the student’s evaluation team review the continuum of placements within the District for potential recommendations to the student’s ARD committee, as appropriate. The student’s ARD committee shall ensure that the student is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general curriculum.

Before moving a student to a more restrictive environment⁵, the student’s ARD committee shall consider ---

- Has the District taken steps to accommodate the student with disabilities in general education?
- Were these efforts sufficient or token?
- Will the student receive an educational benefit from general education?
- What will be the student’s overall educational experience be in the general education environment, balancing the benefits of general and special education?
- What effect does the student’s presence have on the general education classroom environment?⁶

PRACTICE GUIDE—The ARD committee will take steps to accommodate the student in general education and may document attempted services and accommodations. The District is not required to provide every conceivable aid or service to assist the student. General education instructors are not required to devote all or most of their time to one student or to modify the general education program beyond recognition. Data may be collected to determine the student’s overall educational experience in the general education environment. Should the student’s presence be so disruptive in the general education classroom that the education of other students is significantly impaired, then the needs of the student with a disability cannot be met in that environment.

Residential Treatment Centers (RTCs) or private residential programs are included in the continuum of placements.⁷ The District is not required to place a student in a private residential program unless such placement is necessary to provide special education and related services. In order for a residential placement to be appropriate under the IDEA, the placement must be (1)

⁵ 34 C.F.R. § 300.116(e)

⁶ *Daniel RR v. State Bd. of Ed.*, 874 F.2d 1036 (5th Cir. 1989)

⁷ 34 C.F.R. § 300.115

essential in order for the student to receive a meaningful educational benefit, and (2) primarily oriented toward enabling the student to obtain an education. The District is not required to bear the costs of private residential services that are primarily aimed at treating a student's medical difficulties or enabling the student to participate in non-educational activities.^{8 9}

⁸ *Richardson ISD v. Michael Z*, 580 F.3d 286 (5th Cir. 2009); 34 C.F.R. § 300.104

⁹ Tex. Ed. Code § 29.008; Tex. Ed. Code § 29.012; 19 TEX. ADMIN. CODE § 89.61; [TEA's Residential Treatment Center \(RTC\) application process](#); 34 C.F.R. § 300.325(a)