

Sec. 1. SPECIAL EDUCATION STUDENTS PLACED IN PRIVATE SCHOOL

a) *Placement by Texas Works*

If Texas Works places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, Texas Works shall ensure that the child is provided special education and related services, in accordance with an individualized education program (“IEP”), at no cost to the parents. *20 U.S.C. 1412(a)(10)(B)(i).*

b) *Placement by the Parent*

When a student with a disability who has been placed by his or her parent directly in a private school is referred to Texas Works, Texas Works shall convene an admission, review, and dismissal (“ARD”) committee to determine whether Texas Works can offer the child a free appropriate public education (“FAPE”). If Texas Works determines that it can offer a FAPE to the student, Texas Works is not responsible for providing educational services to the student, except as provided in 34 CFR 300.130–300.144 or 19 TAC 89.1096(e), until such time as the parents choose to enroll the student in Texas Works full time. *19 TAC 89.1096(b).*

Sec. 2. REJECTION OF OFFER OF FAPE

a) *Student Receives ISP*

If Texas Works offers to provide a FAPE to a child with a disability and the parents elect to place the child in a private school or facility, Texas Works is not required to pay for the cost of education, including special education and related services. However, Texas Works must develop and implement an individualized services plan (“ISP”) for the child. *20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a).*

b) *Reimbursement*

If the parents of a child with a disability, who previously received special education and related services under the authority of Texas Works, enroll the child in a private school without the consent or referral by Texas Works, a court or a hearing officer may require Texas Works to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that Texas Works had not made a FAPE available to the child in a timely manner before the enrollment. *20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c).*