

Georgia Department of Education
Residential Facilities approved for services under O.C.G.A § 20-2-133
Frequently Asked Questions

All information contained in this document pertains only to those residential facilities approved for services by the Georgia Department of Education and served by the local education agency (LEA) in which the facility is geographically located as provided for in O.C.G.A § 20-2-133(b). For a list of these LEAs and approved residential facilities, please visit the Georgia Department of Education's Web site at http://public.doe.k12.ga.us/pea_policy.aspx?PageReq=PEAResidentialTreatmentFacilities.

1. How does a residential facility apply for services under O.C.G.A § 20-2-133(b)?

The local education agency (LEA) and the residential facility that wishes to apply for services must jointly submit an Application for Services to the Georgia Department of Education (GaDOE). The GaDOE will use the submitted information and documents to approve or deny the application and will send an official letter of approval or denial to the LEA superintendent and residential facility executive director.

Note: Residential facilities applying for services under O.C.G.A § 20-2-133(b) after October 1, 2009, will only be approved by the GaDOE for services as a program within the LEA in which it is geographically located.

2. What is a Memorandum of Agreement (MOA)?

The MOA is a collaborative agreement between the local education agency and an approved residential facility that details all important obligations and responsibilities of each entity in providing the required educational services for the eligible children in the residential facility and does not violate federal or state law.

3. Must residential facilities have a Memorandum of Agreement (MOA) with the Local Educational Agency (LEA)?

The Georgia Department of Education (GaDOE) strongly encourages all approved residential facilities and LEAs to execute an MOA or some other binding agreement that addresses all obligations and responsibilities of both entities in providing the eligible students in the residential facility the opportunity to meet State standards as every other student enrolled in the LEA.

The LEA must monitor the implementation of the MOA and, in collaboration with the residential facility, review and renegotiate these agreements annually to ensure that it addresses all necessary provisions and does not violate federal or state law.

4. Will approved residential facilities receive a Quality Basic Education (QBE) Allotment?

- An approved residential facility functioning as a "school" prior to October 1, 2009, generates a QBE Allocation for the site.
- An approved residential facility functioning as a "program" generates QBE funding through the local education agency in which it is geographically located.

Note: Residential facilities applying for services under O.C.G.A § 20-2-133(b) after October 1, 2009, will only be approved by the GaDOE for services as a program within the LEA in which it is geographically located.

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5. What federal programs are approved residential facilities eligible to receive?

Approved residential facilities are eligible to receive a school-based allocation for the children that meet the “eligibility” requirement of O.C.G.A § 20-2-133(b) for:

- Title I, Part A funding when served by the local education agency (LEA) as a “school” approved prior to October 1, 2009.
- Title I, Part A reservation when served by the LEA as a “program”.
- Title I, Part D, Subpart 2
 - Only approved residential facilities receiving served as “schools” approved prior to October 1, 2009 are eligible for this formula grant as determined by federal regulations.

LEAs may also receive LEA allocations for some federal programs. However, LEAs may or may not allocate direct funding to schools. If direct funding and/or services from these federal programs are extended to other schools of the LEA, the LEA must also include the approved residential facilities functioning as a school of the LEA prior to October 1, 2009. Examples of federal programs that fit this description are:

- Title II, Part A – Teacher Quality
- Title II, Part D – Enhancing Technology Through Education (Competitive Application)
- Title III, English Language Learners
- Title IV, Safe and Drug-Free Schools
- Title VI, Rural Education Achievement Program (REAP)
- Individuals with Disabilities Education Act (IDEA)

6. What are the implications for local education agencies (LEAs) with approved residential facilities that do not have teachers who meet the highly qualified standard?

The requirement for “highly qualified teachers” is a federal, No Child Left Behind Act of 2001 (NCLB) requirement and is not optional. This means that approved residential facilities or LEAs are not allowed to use any Title I, Part A funding to pay salaries for teachers and paraprofessionals that are not “Highly Qualified”.

The relationship in regards to operating procedures between the residential facility and the LEA is determined at the local level; therefore, hiring responsibilities must be determined between the two entities and clearly delineated in a Memorandum of Agreement or other service agreement.

7. Would the local education agency (LEA) be responsible for hiring a highly qualified teacher to provide services to the targeted students for Title I, Part A in an approved residential facility?

This would depend upon the service agreement or Memorandum of Agreement (MOA) between the LEA and the approved residential facility.

Regardless of who bears the responsibility for hiring staff at approved residential facilities, Title I, Part A funds may not be used to pay the salary of non-highly qualified teachers and paraprofessionals.

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8. Are teachers of an approved residential facility eligible to participate in the Teacher Retirement System (TRS)?

Participation is governed by TRS. For details, please visit <http://www.trsga.com>.

In order to qualify for TRS, a teacher must be certified, highly-qualified in the field in which they are working, and they must be an employee of the school district. Based on these requirements, employees of an approved residential facility would not be eligible unless their employees are employees of the local education agency.

9. Are local education agencies (LEAs) responsible for providing instruction, instructional and administrative support for eligible students residing in an approved residential facility (e.g. teachers, administrators, clerical, counseling, paraprofessionals, basic supplies, textbooks)?

LEAs are required to assist Georgia Department of Education approved residential facility with state and federal funding. However, O.C.G.A § 20-2-133(b)(5) holds LEAs are harmless for expending local funds for the education of the “eligible” students unable to leave the approved residential facility.

The LEA receives a Quality Basic Education (QBE) allotment based on the number of eligible children served by the approved residential facility and reported in the required Full-Time Equivalent (FTE) submissions. This funding provides for many of the instructional and administrative support of the eligible students.

In order to assist LEAs with the education requirements in lieu of local funds, the statute provides for an annual state grant to be regulated by the Georgia State Board of Education. This provides another source of funding for assisting LEAs with providing educational services as required by law.

Federal Title I, Part A funds may be to supplement the instructional and administrative support of the eligible students but must be used for highly qualified teachers and paraprofessionals. The Individuals with Disabilities Education Act (IDEA), and other federal funding sources are accessible to LEAs to assist with funding the education of eligible children served by a residential facility.

The LEA and the approved residential facilities should agree upon and clearly delineate in a Memorandum of Agreement (MOA) or other service agreement, the responsibilities of the LEA and the approved residential facility in meeting the requirement of state and federal law.

10. Could an approved residential facility purchase additional textbooks using the local education agency (LEA's) discount as textbooks prices are so costly when ordered in such small quantities?

The LEA should treat an approved residential facility as any other school or program in its district. Therefore, eligible children should be provided textbooks and the LEA should assist the approved residential facility in providing additional textbooks using other residential facility funding sources as needed.

However, that is a local school district decision and might be best addressed in a Memorandum of Agreement (MOA) or services agreement.

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11. Are teachers in approved residential facilities eligible to participate in certification classes and Professional Learning Units (PLUs) provided by the local education agency (LEA)?

Yes. Professional learning is included in the Quality Basic Education (QBE) funding allocated to the residential facility approved for services under O.C.G.A § 20-2-133(b) based on the Full-Time Equivalent (FTE) report of “eligible” children. The facility should work with the LEA to determine the use of these professional learning dollars. The terms of ongoing professional learning should be clearly delineated in the Memorandum of Agreement (MOA) or other service agreement with the LEA.

12. May the approved residential facility use the local education agency’s (LEA) substitute teacher procedures?

There is nothing in O.C.G.A § 20-2-133(b) that prohibits an approved residential facility from using the LEA substitute teacher procedure. However, this is a decision determined best at the local level and should be considered for inclusion in the MOA or other service agreement with the LEA.

13. If an approved residential facility is served as a “school” by its local education agency (LEA) and educates some children on-site and sends some children to the LEA schools, are those select students attending the LEA schools eligible for services from the LEA?

Students served in an approved residential facility and educated in the regular schools of the LEA rather than on-site would be served in the same manner as any other student in the LEA.

14. Are services for Occupational Therapy, Physical Therapy, and speech provided by the local education agency (LEA) for students in approved residential facilities

LEAs are responsible for the provision of all educational services identified in a student’s Individualized Education Program (IEP).

15. May the GaDOE provide waivers for Adequate Yearly Progress (AYP) and other testing requirements for students served in an approved residential facility

NCLB requires all schools to have an AYP determination. The Georgia Department of Education does not have the authority to waive this federal requirement. Please see State Board Rule 160-3-1-.07 concerning testing requirements at <http://www.gadoe.org/documents/doe/legalservices/160-3-1-.07.pdf> and the following document on the testing requirements for Students with Disabilities found at the following Web address: http://www.gadoe.org/DMGetDocument.aspx/nclb_exceptional.pdf?p=4BE1EECF99CD364EA5554055463F1FBB77B0B70FECF5942E12E123FE4810FFF5B440E78DF74A7BADF3B974243674EA76&Type=D

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16. Are graduation coaches provided for an approved residential facility?

The provision of a graduation coach is no longer a line item in the Georgia Department of Education (GaDOE) budget.

In the 2009 Legislative Session, the General Assembly passed and the Governor signed into law, the FY10 Appropriations Bill. Funding for Graduation Coaches are now included in the Quality Basic Education (QBE) formula. Basically this means that local education agencies (LEAs) are no longer required to hire a graduation coach.

Approved residential facilities and served as “schools” prior to October 1, 2009, by an LEA receives this funding through their QBE allocation. Approved residential facilities served as “programs” by the LEA should discuss the need for adding this service for inclusion in the Memorandum of Agreement (MOA) or other service agreement with the LEA.

17. Are local education agencies (LEAs) required to monitor and/or evaluate approved residential facilities?

The LEA is responsible for providing all educational programs, including special education and related services [O.C.G.A § 20-2-133(b)(1)].

Therefore, since the education of students residing in an approved residential facility is under the authority of LEA, the LEA should use the same process to monitor and evaluate educational services provided by or to these residential facilities as it would any school or program located in the LEA.

18. Who is responsible for issuing a Georgia High School diploma for students graduating from an approved residential facility and served as a “school” prior to October 1, 2009, by a local education agency (LEA)?

Since students may enter an approved residential facility in a variety of ways: Enrollment by the Department of Human Resources (DHR) or the Department of Juvenile Justice (DJJ); enrollment by parents or guardians; enrollment by other school districts in Georgia; and enrollment by public agencies and school districts in other states, the responsibility for issuing a diploma will depend on how a student is enrolled in an approved residential facility.

- A student placed in an approved residential facility by the DHR or DJJ and meets the requirements for receiving a high school diploma should receive a high school diploma from the LEA in which the approved residential facility is geographically located. [O.C.G.A. § 20-2-133(b)(1)]
- A student placed in an approved residential facility by another Georgia school district would not be eligible for receiving a Georgia high school diploma from the LEA in which the residential facility is geographically located. [O.C.G.A. § 20-2-133(b)(2)] Therefore, the LEA **placing** a student in an approved residential facility is responsible for addressing the issuance of a high school diploma for the students it places in an approved residential facility. The LEA placing the student may issue a diploma on its own accord, or it may contract with the LEA in which the approved residential facility serving the student is located to do so. [O.C.G.A. § 20-2-133(a), 20-2-293(a), and 20-2-150(a)].

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- A student placed in an approved residential facility by an agency from another state would not be entitled to a high school diploma from a Georgia public school district as no school district would have the obligation to serve the student. Students placed by other states may be entitled to earn a diploma issued by their originating state depending on the laws of that state.
- Students placed in a residential facility by parents are not the responsibility of the LEA in which the student would have resided since the parent has the authority to choose to enroll his or her child in a non-public course of study [O.C.G.A. § 20-2-690.1] nor does the LEA have the authority to issue a Georgia high school diploma to a student that did not complete the high school graduation requirements under its authority. Accordingly, parentally placed students in an approved residential facility would not be entitled to be issued a Georgia high school diploma.

The Georgia Department of Education lacks the authority to issue Georgia high school diplomas beyond its operation of the three state schools.

19. When a local education agency (LEA) is accredited by the Southern Association of Colleges and Schools (SACS) and elected to serve a residential facility approved prior to October 1, 2009 as a “school after the accreditation process had been finalized, is the approved residential facility considered to be accredited?

Unlike a new school started by the LEA in the middle of an accreditation cycle, the approved residential facility functioning as a school would not automatically be considered accredited; rather, SACS would consider accreditation for these facilities on an individual basis. Among other things, SACS would consider:

- If the approved residential facility functioning as a school is part of the LEA plan for accreditation.
- If the educational program takes place in an acceptable learning environment.
- If the hiring practices and the qualifications of teachers are in line with SACS expectations.
- If the approved residential facility functioning as a school was previously accredited under the Department of Juvenile Justice (DJJ).
- If the approved residential facility functioning as a school provides instruction that follows the Georgia Performance Standards (GPS) and/or leads to a high school diploma.

20. Do all students served in an approved residential facility qualify for free or reduced-priced meals?

Students placed in an approved residential facility by the Department of Human Resources (DHR) or the Department of Juvenile Justice (DJJ) are considered eligible for free or reduced-priced meals. Students placed by parents or by other local education agencies (LEAs) must have an approved free or reduced meal application based on the National School Nutrition Program eligibility requirements to qualify for free or reduced-priced meals. The LEA should not require the approved residential facility to use the LEA’s free or reduced meals form if the residential facility already participates in the National School Lunch Program.

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21. Can a “for-profit” approved residential facility participate in the National School Lunch Program?

A "for profit" agency is not eligible for the National School Lunch Program (NSLP) or School Breakfast Program (SBL) reimbursement for meals served. Under the definition of “school” in the Title 7 Code of Federal Regulations (CFR) 210.2 of the (National School Lunch Program) regulations, an approved residential facility can participate in the NSLP/SBL if the approved residential facility:

- Is an educational unit recognized in the State and operating under public or nonprofit private ownership.
- Has public or non-profit private classes of preprimary grades.
- Operates a public or nonprofit private Residential Child Care Institutions (RCCI).

The Title 7 Code of Federal Regulations (CFR) 210.2 defines a “school” as “an educational unit of high school grade or under, recognized as part of the educational system in the State and operating under public or nonprofit private ownership, or any public or nonprofit private residential child care institution...”

Further information can be accessed at the Georgia Department of Education’s (GaDOE’s) School Nutrition Division Web site at: http://www.gadoe.org/fbo_nutrition.aspx or the U.S. Department of Education’s Web site for the CFR at: <http://law.justia.com/us/cfr/title07/7-4.1.1.1.1.1.2.html>.

22. What stipulations are required for a “non-profit” approved residential facility to participate in the National School Lunch Program?

A public approved residential facility must have:

- An approved 501(c)(3) tax exempt nonprofit status with the Internal Revenue Service (IRS).
- An approved “Articles of Incorporation” to operate a residential child care facility in Georgia.
- An educational unit of “high school grade or under” recognized as part of the educational system in Georgia and operating under the public ownership in a single or complex of buildings or a distinct part of such institution, which operates principally for the care of children.

A private approved residential facility must have:

- An approved 501(c)(3) tax exempt nonprofit status with the IRS.
- An approved “Articles of Incorporation” to operate a residential child care facility in Georgia.
- An educational unit of “high school grade or under” recognized as part of the educational system in Georgia and operating under the private ownership in a single or complex of buildings or, distinct part of such institution, operating principally for the care of children and licensed to provide residential child care services under the appropriate licensing code of Georgia.
 - Exceptions are residential summer camps, Job Corps Centers, and private foster homes.