

Nonpublic School and Agency Services for Special Education Policy

NONPUBLIC SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION POLICY

Nonpublic school (NPS) and agency (NPA) services shall be available to pupils in the Shasta County SELPA. When no appropriate public educational services are available within the Shasta County SELPA, neighboring counties or SELPAs, or state special schools, a designated member of the IEP team or the Shasta County SELPA Director shall contact the LEA Superintendent/designee if this type of placement might be considered at an upcoming IEP meeting.

The LEA may contract with state-certified nonpublic schools or agencies to provide special education services or facilities when an appropriate public education program is not available. The LEA shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities and complies with staff training requirements in accordance with Education Code 56366 and 56366.1. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any NPS/A with which the district has a contract to ensure that the certification has not expired.

When entering into agreements with nonpublic schools or agencies, the LEA shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. No student shall be placed in an NPS/A unless the student's IEP team has determined that an appropriate public education alternative does not exist and that the placement is appropriate for the student. The IEP team shall remain accountable for monitoring the progress of student placed in nonpublic programs towards the goals identified in each student's IEP.

In accordance with law, any student with disabilities placed in an NPS/A shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, procedural safeguards, due process rights, and periodic review of the student's IEP.

Legal References:

EDUCATION CODE

- 56034-56035 Definitions of nonpublic school and agency
- 56042 Placement not to be recommended by attorney with conflict of interest
- 56101 Waivers
- 56163 Certification
- 56168 Responsibility for education of student in hospital or health facility school
- 56195.8 Adoption of policies
- 56360-56369 Implementation of special education
- 56711 Computation of state aid
- 56740-56743 Apportionments and reports
- 56760 Annual budget plan; services proportions
- 56775.5 Reimbursement of assessment and identification costs

GOVERNMENT CODE

757-7588 Interagency responsibilities for providing services to children with disabilities, especially:

7572.55 Seriously emotionally disturbed child; out-of-state placement

FAMILY CODE

7911-7912 Interstate compact on placement of children

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3061-3069 Nonpublic, school and agency services

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to parents

FEDERAL REGISTER

Rules and Regulations, August 114, 2006, Vol. 71, Number 156, page 46539-46845

WEB SITES

CDE: <http://www.cde.ca.gov>

Us Department of Education, Office of Special Education and Rehabilitative Services:

[http://www. Ed.gov/offices/OSERS](http://www.Ed.gov/offices/OSERS)

Master Contract

Every master contract between the district and a nonpublic school or agency (NPS/A) shall specify the general administrative and financial agreements for providing special education and designated

instruction and services. The master contract shall be for a term not to exceed one year and shall be renegotiated prior to June 30. Provisions of the contract shall include, but not be limited to: (Education Code 56366; 5 CCR 3062)

1. Student-teacher ratios

2. Transportation specified in a student's individualized education program (IEP)

The contract shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by the district for students enrolled in the NPS/A unless provided directly or subcontracted by that NPS/A.

3. Procedures for recordkeeping and documentation

4. The maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student

5. An individual services agreement for each student, which will be negotiated for the length of time for which NPS/A special education and designated instruction and services are specified in the student's IEP

6. A description of the process to be utilized by the district to oversee and evaluate placements in the NPS/A, including a method for evaluating whether each student is making appropriate educational progress

7. Procedures and responsibilities for attendance and unexcused absences

8. General provisions related to modifications and amendments to the contract, waivers, disputes, contractor's status, conflicts of interest, termination, inspection and audits, compliance with applicable state and federal laws and regulations, and indemnification and insurance requirements

9. Payment schedules, including, but not limited to, payment amounts, payment demand, right to withhold, and audit exceptions

The contract may allow for partial or full-time attendance at the NPS/A. (Education Code 56366)

With mutual agreement of the district and NPS/A, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in the student's individual services agreement. (Education Code 56366)

The master contract or individual services agreement may be terminated for cause if either party gives 20 days' notice. However, the availability of a public education program initiated during the period of the contract shall not give cause for termination unless the parent/guardian agrees to transfer the student to the program. (Education Code 56366)

Placement and Services

Note: As amended in Register 99, No. 13, 5 CCR 3060 and 3061 specify new requirements regarding special education classes offered in non-public schools and agencies. These requirements detail the staffing requirements for instructors, including the credentials that instructors must hold; the eligibility requirements for such credentials; and the number of instructors required per school or agency. Pursuant

to 5 CCR 30664, the California Department of Education may issue conditional certifications to allow agencies and schools time to comply with the new requirements.

Procedures specified in law shall govern the selection of appropriate nonpublic school or agency services.

Note: Additional requirements related to contracts and personnel with nonpublic schools or agencies are specified in Education Code 56366 and 56366.3

Contracts with a nonpublic school or agency shall include an **individual services agreement (ISA) negotiated for each student**. Individual services agreements shall be for the length of time for which nonpublic school services are specified in the student's individualized education program (IEP), not to exceed one year. Changes in educational instruction, services or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

The master contract shall specify the general administrative and financial agreements between the nonpublic school or agency and the LEA to provide the special education and designated instruction and services, as well as transportation specified in the student's IEP. The administrative provisions of the contract shall also include procedures for record keeping and documentation, and the maintenance of school records by the contracting LEA to ensure that appropriate high school graduation credit is received by the student. The contract may allow for partial or full-time attendance at the nonpublic school. (Education Code 56366)

Note: **The nonpublic school or agency must be certified** as meeting state standards pursuant to Education Code 56366. Contracts may be terminated for cause with 20 days' notice; however, the availability of a public education program initiated during the period of the contract cannot give cause for termination unless the parent/guardian agrees to transfer the student to the program.

The master contract shall include a description of the process being utilized by the LEA to oversee and evaluate placements in nonpublic, schools. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Education Code 56366)

The LEA Superintendent or designee of an elementary LEA shall notify a high school LEA of all students placed in nonpublic school or agency programs prior to the annual review of the IEP for each student who may transfer to the high school LEA. (5 CCR 3068)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student's IEP, the district which developed the IEP shall award the diploma. (5 CCR 3069)

Out-of-State Placements

Before contracting with a nonpublic school or agency outside California, the LEA Superintendent or designee shall contact the SELPA Office and document the district's efforts to find an appropriate program offered by a nonpublic school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall complete the RTC placement packet and submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic school or agency within California (Education Code

56365)

If the LEA Superintendent decides to place a student with a nonpublic school or agency outside the state, the LEA shall work collaboratively with the SELPA and indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California (Education Code 56365)

Placement Procedures

The LEA Superintendent or designee shall review all documented efforts to utilize all public school options prior to utilizing an NPS or NPA. The LEA will process referrals and locate an appropriate nonpublic school to meet the student's needs. The Shasta County SELPA will assist and/or collaborate with the LEA to locate an appropriate NPS.

Each LEA agrees to use the Master Contract and ISA adopted by the Shasta County SELPA. The SELPA office will ensure that the Master Contract has been approved by the Shasta County SELPA legal counsel and is updated per federal or state requirements. The NPS is required by the Master Contract and the IEP to minimally evaluate the pupils (formally and informally) to determine if the student is making appropriate educational progress. As part of the IEP review process, each LEA that contracts with a NPS shall evaluate the placement of its pupil(s) in such a school on at least an annual basis. The LEA representative shall collaboratively review the NPS evaluation data to ensure that the results are appropriate, reliable, and valid for measuring pupil progress. The LEA may determine to conduct the evaluation(s) and/or choose to administer additional assessments with parent consent.

On-Site Visits

The Superintendent or designee shall conduct an on-site visit to an NPS/A before the placement of a student at the school or agency, if the district does not have any other students currently enrolled at the NPS/A. (Education Code 56366.1)

At least once per year, the Superintendent or designee shall conduct an on-site monitoring visit to each NPS/A at which the district has a student attending and with which it maintains a master contract. The monitoring visit shall include, but is not limited to: (Education Code 56366.1)

1. A review of services provided to the student through the individual services agreement
2. A review of progress the student is making toward the goals set forth in the student's IEP
3. A review of progress the student is making toward the goals set forth in the student's behavioral intervention plan, if applicable
4. An observation of the student during instruction
5. A walkthrough of the facility

The district shall report the findings resulting from the monitoring visit to CDE within 60 calendar days of the on-site visit. (Education Code 56366.1)

Legal References:

EDUCATION CODE

56205(c)

56198(b)(1)

56365

56366

56366.1

CODE OF REGULATIONS

5 CCR 3062

5 CCR 3069