

**STUDENT-MISCELLANEOUS**  
*Nonpublic Schools and Nonpublic Agencies***Adopted: 6/6/2023**  
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This section applies specifically to individuals with exceptional needs who are or have been placed in or referred to nonpublic, nonsectarian schools, or recommended for services by a nonpublic agency, by a public entity as a means of providing the student a free appropriate public education (FAPE)<sup>1</sup>.

It shall be the policy of the local education agency (LEA) members of the Tuolumne County Special Education Local Plan Area (SELPA) to provide students with exceptional needs with services from a nonpublic, nonsectarian school (NPS) or nonpublic, nonsectarian agency (NPA) certified by the California Department of Education (CDE) as needed and only when the student's individual education program (IEP) team has made the determination that an appropriate public education program is not available.

Placement recommendation of a student in a NPS is made by the IEP team after it determines that a NPS is necessary to meet the needs of the student, and that the placement in a NPS is the least restrictive environment appropriate for the student. All available public school programs, however, must be considered and evaluated in an effort to meet the student's needs prior to a final placement recommendation.

Before recommending placement outside of the state, a survey shall be conducted that includes all NPS in the state. Only licensed NPS certified by the State of California will be considered unless deemed otherwise by the IEP team.

The IEP Team shall notify the parents that they are responsible for keeping the placing LEA notified of any changes of residence when a pupil is placed in a NPS.

It is the responsibility of the LEA to communicate with the NPS during referral, evaluation, and placement of such students. Additionally, the IEP Team is responsible for communications with nonpublic schools as well as with individuals, organizations, and public private agencies.

The LEA IEP Team shall coordinate the annual reevaluation of NPS students. A representative from the LEA shall attend all IEP team meetings for students attending NPS programs and/or receiving services through an NPA. At the meeting, the IEP Team shall determine the future programming of the student. The student's program may be continued, modified, or discontinued at the option of the IEP Team. No modification, change or discontinuation of a student's program can be made without consent of the parent.

<sup>1</sup>Provisions related to parentally placed private school children are addressed in Private School Policy.

A master contract shall not be initiated with an NPS or NPA unless the NPS or NPA is certified as meeting the standard relating to the required special education and related services and facilities for individuals with exceptional needs.

**PROCEDURES:**

The Tuolumne County SELPA shall develop a master contract for use with NPS and NPA programs and providers to ensure special education and related services are available to eligible students with exceptional needs when an appropriate public education program is not available. All master contracts shall be developed in accordance with EC 56365 and 56366.

Contracts with nonpublic schools and agencies shall include:

1. The general administrative and financial agreements to
  - a. Provide the services specified in the IEP including special education related services, including transportation and student teacher ratios.
  - b. The length of time for which nonpublic, nonsectarian services are specified in each IEP and the anticipated date for the return for students placed in out-of-state nonpublic schools.
  - c. A provision to ensure that changes in instruction, services or placement provided under this contract may only be made through revisions in the student's IEP. However, changes in the contract which do not alter educational instruction, services or placement may be made at any time during the term of the contract, if mutually agreed upon.
  - d. Assurances that there are appropriate credentialed/qualified teachers as specified by IEP and/or individual service agreement.
  - e. A description of the process being utilized by the LEA to oversee and evaluate the placement of a student in the nonpublic, nonsectarian schools. The description shall include a method for evaluating whether each student is making appropriate educational progress.
  - f. Procedures for record keeping and documentation to assure that appropriate high school graduation credit is received by the pupil.
  - g. A provision to ensure that the contract may be terminated for cause with either party giving twenty (20) days' notice.
  - h. A provision to ensure that the nonpublic school shall provide all services specified in the IEP unless the parties agree otherwise in the contract.
  - i. Appropriate billing procedures in accordance with EC 56366(c) (1) and 56366.5.

The LEA shall develop an individual services agreement for each student placed by the LEA into a NPS or recommended for services by an NPA.

The LEA shall consider the needs of the individual student and the recommendations of the IEP team when entering into agreements with any NPS or NPA. Individual services agreements shall be for the length of time for which an NPS or NPA is specified as the service provider in the student's IEP, not to exceed one year.

### **Monitoring of an NPS and NPA**

The master contract shall include a description of the process being utilized by the LEA to oversee and evaluate placements in an NPS or receiving services through an NPA, which shall include a method for evaluating whether the student is making appropriate educational progress.

The LEA will ensure that a student's IEP team annually reviews the IEP of a student placed in an NPS or receiving services through an NPA. At each annual IEP team meeting for a student receiving services from an NPS or NPA, the IEP team shall include a representative of the LEA, and the NPS or NPA shall provide documentation as to the student's progress towards annual goals and objectives. The annual data provided by the NPS or NPA shall be authentic, curriculum-based measurements, in accordance with state-adopted grade level standards. The IEP team shall remain accountable for monitoring the progress of students placed in an NPS or receiving services through an NPA, and ensure that such programs work towards the goals identified in each student's IEP.

At least once every year, the LEA shall do the following as part of an IEP meeting for a student provided with special education and/or related services from an NPS or NPA:

- Evaluate the educational progress of each student placed in an NPS or NPA, including all state assessments.
- Consider whether the student continues to require a placement in the NPS or services through an NPA and whether the student should be transitioned to a public school setting or public services.

The LEA may choose to administer additional assessments as necessary, with parent consent, to determine whether the student is making appropriate educational progress.

At any time during the term of the contract or individual services agreement, the parent, the NPS or the LEA may request an IEP team meeting to review student progress and to make determinations as to whether a change in placement or program is appropriate.

## **Ensuring Monitoring Requirements are met for NPS/NPA Staffing**

The LEA or SELPA shall evaluate the NPS and NPA staffing qualifications and staffing levels required as set forth in the Master Contract at least annually, as part of the renewal of the Master Contract process, and also when new staff are added. The LEA or SELPA shall review and document these monitoring efforts to ensure that all services agreed upon and specified in the IEP are provided by highly qualified staff.

## **Out-of-State Placements**

Before contracting with an NPS or NPA outside California, the LEA shall document its efforts to find an appropriate program offered by an NPS and/or NPA within California.

Within 15 days of any decision for an out-of-state placement, the LEA or SELPA shall 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 LEA's efforts to locate an appropriate public school or NPS within California.

If the LEA decides to place a student with a NPS outside the state, the LEA shall 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.

**References**

- EC 56034-56035
- EC 56042
- EC 56101
- EC 56168
- EC 56195.8
- EC 56205
- EC 56360-56361
- EC 56365-56366.12

Title 34 C.F.R. 300.145-300.147