



Nonpublic, Nonsectarian School and Agency Services for Special Education SELPA Policy 24/AR 24

Issue

SELPA Policy 24 and Administrative Regulation 24 addressing nonpublic, nonsectarian school (NPS) and agency (NPA) services for special education need to be updated to align with Ed Code. We have included both the redline version of Policy 24 and AR 24 highlighting the suggested revisions, along with the proposed Policy 24 and AR 24 incorporating the suggested revisions. The attachments are as follows:

- 4c.1 – Copy of SELPA Board Policy 24 with suggested revisions highlighted in red.
- 4c.2 – Copy of recommended SELPA Board Policy 24.
- 4c.3 – Copy of SELPA Administrative Regulation 24 with suggested revisions highlighted in red.
- 4c.4 – Copy of recommended Administrative Regulation 24.

Recommendation

The SELPA recommends that SELPA Superintendents' Council approve the revision of El Dorado County SELPA Policy 24 and Administrative Regulation 24, Nonpublic, Nonsectarian School and Agency Services for Special Education.

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

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

Each member district's ~~g~~ Governing ~~b~~ Board may contract with ~~a state-certified nonpublic, NPS nonsectarian schools or agencies or NPA~~ to provide special education services or facilities when an appropriate public education program is not available.

When entering into agreements with ~~nonpublic, nonsectarian schools or agencies~~ an NPS or NPA, each member district's ~~g~~ Governing ~~b~~ Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The ~~member district's~~ IEP team shall remain accountable for monitoring the progress of ~~any~~ any student placed in ~~nonpublic, nonsectarian~~ an NPS toward his/her IEP goals. programs towards the goals identified in each student's IEP.

Legal References:

EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian 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, nonsectarian 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)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

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Each member district's governing board may contract with a state-certified NPS or NPA to provide special education services or facilities when an appropriate public education program is not available.

When entering into agreements with an NPS or NPA, each member district's governing board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The member district's IEP team shall remain accountable for monitoring the progress of any student placed in an NPS toward his/her IEP goals.

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- 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
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3001 Definitions

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UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

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

Revision Pending SELPA Superintendents' Council 2-7-19

Revision Approved by Executive Committee 1-24-19

September, 2008

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

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, nonsectarian 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 Applicable provisions of California and federal law shall govern the provision of special education and related services by selection of appropriate non-public schools (“NPS”) ~~and non-public agencies (“NPA”).~~ 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~~ NPS or NPA shall include an individual services agreement (“ISA”) negotiated for each student. ~~Individual services agreement~~ ISAs shall be for the length of time for which ~~nonpublic, nonsectarian school services~~ NPS and/or NPA services are specified in the student’s individualized education program (“IEP”), but 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~~ Ed. Code § 56366.)

The master contract shall specify the general administrative and financial agreements between the ~~nonpublic, nonsectarian school or agency~~ NPS or NPA and the member district 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 master contract shall also include procedures for record keeping and documentation, and the maintenance of school records by the contracting district to ensure that the NPS provides appropriate high school graduation credit ~~to is received by~~ the student. The master contract may allow for partial or full-time attendance at the ~~nonpublic nonsectarian school~~ NPS. (~~Education Code~~ Ed. Code § 56366.)

~~Note: The nonpublic school or agency~~ In order for a member district to contract with an NPS or NPA, the NPS and NPA must be certified as meeting state standards. ~~pursuant to (Ed. uation Code § 56366.)~~ A master contracts may be terminated for cause with 20-days’ notice. ~~;~~ However, the availability of a public education program initiated during the period of the master contract cannot give cause for termination unless the parent/guardian agrees to transfer the student to the public program.

The master contract shall include a description of the process being utilized by the member

district to oversee and evaluate placements in ~~nonpublic, nonsectarian schools~~ the NPS. This description shall include a method for evaluating whether the student is making appropriate educational progress. (~~Education Code~~ Ed. Code 56366)

The LEA Superintendent or designee of an elementary district shall notify a high school district of all students placed in ~~nonpublic school or agency~~ NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district. (5 CCR ~~§~~ 30698.)

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 ~~§~~ 306970.)

Out-of-State Placements

~~Note: Government Code 7572.55 and Welfare and Institutions Code 362.2 and 727.i, as amended by SB 933 (Ch. 311, Statutes of 1998) relate to the~~ Out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court. ~~Such placements may be made~~ only be made after in-state alternatives have been considered and found not to meet the child's needs. (Gov. Code § -7572.55; Welf. & Inst. Code §§ 362.2 and 727.1.)

Before contracting with ~~a nonpublic, nonsectarian school or agency~~ an NPS or NPA outside California, the LEA Superintendent or designee shall document the member district's efforts to find an appropriate program offered by ~~an nonpublic, nonsectarian school or agency~~ NPS or NPA within California. (~~Education Code~~ Ed. Code § -56365.)

Within 15 days of ~~any decision for a decision to place a student in~~ an out-of-state placement, the student's IEP team 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 district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California (~~Education Code~~ Ed. Code § 56365.)

If the member district decides to place a student with ~~an NPS or NPA nonpublic, nonsectarian school or agency~~ outside the state, the member district 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. (Ed. Code ~~§education Code~~ 56365.)

LEAs Shall Ensure that NPS -Has Written Seclusion and Restraint -Policy

Prior to executing a Master Contract with an NPS, the LEA shall ensure that the NPS has a written policy governing the use of seclusions and restraints by NPS personnel. The NPS's written seclusion and restraint policy shall include, at minimum, the following:

1. Require all staff working with students receive comprehensive training in the safe and appropriate use of seclusion and restraint. Comprehensive training includes, but is not limited to ~~list any specific courses; e.g. CPI~~ Non-Violent Crisis Intervention or a course of comparable scope and depth;
2. Prohibits untrained staff from restraining students;
3. Authorizes the use of seclusion or restraint only when there is an emergency involving the immediate risk of physical harm to student or others;
4. Requires staff members to end the- restraint and/or seclusion when the emergency justifying the restrain and/or seclusion has ended;
5. Requires the NPS to contact ~~Emergency services/ Responsible LEA~~ the responsible LEA and/or law enforcement, as appropriate, whenever a restraint exceeds ~~30, 45, 60 minutes~~ 30 minutes in length;
6. Requires direct continuous observation of all students placed in seclusion;
7. Prohibits the use of chemical ~~restraints or any restraint technique, such as prone restraints~~^[01], that obstructs breathing or is otherwise harmful to the student based on the individual needs of the student including any medical or health related conditions; ^[02]
8. Prohibits NPS staff members from using seclusion or restraint to discipline students; and
9. Requires the NPS staff to notify the responsible LEA within ~~time~~ one school day whenever an LEA's student has been secluded or restrained.

The master cContract shall not be executed until an ~~LEA administrator or an appropriately trained designee~~ has reviewed the policy and determined that it complies with the requirements of this section.

Placement Procedures

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

Each member district agrees to use the Master Contract and ~~Individual Service Agreement (ISA)~~ adopted by the ~~El Dorado County~~ SELPA. The SELPA office will ensure that the Master Contract has been approved by the ~~El Dorado County~~ SELPA's -legal counsel and is updated per federal or state requirements. The NPS is required by the Master Contract and the IEP to

annually evaluate the pupils (formally and informally) to determine if the student is making appropriate educational progress. As part of the IEP review process, each member district that contracts with an NPS shall evaluate the placement of its pupil(s) ~~in such a school~~ on at least an annual basis. The member district representative shall collaboratively review the NPS evaluation data to ensure that the results are appropriate, reliable, and valid for measuring pupil progress. The member district may ~~elect determine~~ to conduct the annual evaluation(s) and/or ~~choose to~~ administer additional assessments with parent consent.

Legal References:

EDUCATION CODE

56205(c)

56198(b)(1)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Placement and Services

Applicable provisions of California and federal law govern the provision of special education and related services by non-public schools (“NPS”) and non-public agencies (“NPA”). Contracts with an NPS or NPA shall include an individual services agreement (“ISA”) negotiated for each student. ISAs shall be for the length of time for which NPS and/or NPA services are specified in the student’s individualized education program (“IEP”), but 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. (Ed. Code § 56366.)

The master contract shall specify the general administrative and financial agreements between the NPS or NPA and the member district 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 master contract shall also include procedures for record keeping and documentation, and the maintenance of school records by the contracting district to ensure that the NPS provides appropriate high school graduation credit to the student. The master contract may allow for partial or full-time attendance at the NPS. (Ed. Code § 56366.)

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The master contract shall include a description of the process being utilized by the member district to oversee and evaluate placements in the NPS. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Ed. Code 56366.)

The LEA Superintendent or designee of an elementary district shall notify a high school district of all students placed in NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district. (5 CCR § 3069.)

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 § 3070.)

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Out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court may only be made after in-state alternatives have been considered and found not to meet

the child's needs. (Gov. Code § 7572.55; Welf. & Inst. Code §§ 362.2 and 727.1.)

Before contracting with an NPS or NPA outside California, the LEA Superintendent or designee shall document the member district's efforts to find an appropriate program offered by an NPS or NPA within California. (Ed. Code § 56365.)

Within 15 days of a decision to place a student in an out-of-state placement, the student's IEP team 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 district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California (Ed. Code § 56365.)

If the member district decides to place a student with an NPS or NPA outside the state, the member district 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. (Ed. Code § 56365.)

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2. Prohibits untrained staff from restraining students;
3. Authorizes the use of seclusion or restraint only when there is an emergency involving the immediate risk of physical harm to student or others;
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5. Requires the NPS to contact the responsible LEA and/or law enforcement, as appropriate, whenever a restraint exceeds 30 minutes in length;
6. Requires direct continuous observation of all students placed in seclusion;
7. Prohibits the use of chemical restraints or any restraint technique, such as prone restraints, that obstructs breathing or is otherwise harmful to the student based on the individual needs of the student including any medical or health related conditions;

8. Prohibits NPS staff members from using seclusion or restraint to discipline students; and
9. Requires the NPS staff to notify the responsible LEA within one school day whenever an LEA's student has been secluded or restrained.

The master contract shall not be executed until an LEA administrator or designee has reviewed the policy and determined that it complies with the requirements of this section.

Placement Procedures

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

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56205(c)
56198(b)(1)

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Revision Approved by Executive Committee on 1-24-19
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