

Instruction**BP 6159.2 (a)****NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION**

The Governing Board recognizes its responsibility to provide a free appropriate public education to students with disabilities in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency (NPS/A) to meet student needs consistent with the comprehensive local plan of the Special Education Local Plan Area.

Prior to entering into a contract to place any student in an NPS/A, the Superintendent or designee 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 5366.1. 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.

No district student shall be referred to, or placed in, an NPS/A unless the student's individualized education program (IEP) team has determined that is appropriate for the student. (Education Code 56342.1)

The district shall pay to the NPS/A the full amount of the tuition or fees, as applicable, for students with disabilities who are enrolled in programs or receiving services provided by the NPS/A. (Education Code 56365)

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.

During the period when any student with disabilities is placed in an NPS/A, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in the IEP.

The Superintendent or designee shall ensure that any contract with an NPS/A contains a requirement for the NPS/A to comply with district policy, procedures, and practices related to student rights, health, and safety, including the use of seclusion and restraint. All NPS/A staff that serve district students shall be made aware of, and trained in such policies, procedures, and practices.

The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

The Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, and 56366.6. (Education Code 56366.2)

Instruction

BP 6159.2 (b)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Legal Reference:

State

5CCR 3001: Definitions

5 CCR 3051-3051.24: Special education; standards for related services and staff qualifications

5 CCR 3060-3070: Nonpublic, nonsectarian school and agency services

Ed. Code 56034-56035: Definitions of nonpublic, nonsectarian school and agency

Ed. Code 56042: Placement not to be recommended by attorney or advocate with conflict of interest

Ed. Code 56101: Waivers

Ed. Code 56163: Certification

Ed. Code 56168L: Responsibility for education of student in hospital or health facility school

Ed. Code 56195.8: Adoption of policies

Ed. Code 56342.1: Individualized education program; placement

Ed. Code 56360-56369: Implementation of special education

Ed. Code 56836.20-56836.21: Special education funding; SELPA contracts with nonpublic nonsectarian schools

Fam. Code 7911-7912: Interstate compact on placement of children

Gov. Code 7570-7587: Interagency responsibilities for providing services to children with disabilities

W&I Code 362.2: Out-of-home placement for IEP

W&I Code 727.1: Out-of-state placement of wards of court

Federal

20 USC 1400-1487: Individuals with Disabilities Education Act

34 CFR 300.129-300.148: Children with disabilities in private schools

Management Resources

Court Decision: *Agostini v. Felton*, (1997) 521 U.S. 203, 117 S.Ct. 1997

US Dept of Ed Office for Civil Rights Settlement: Department of Education, Davis Joint Unified School District Resolution Agreement, OCR No. 09-19-5001, December 7, 2022

Website: CSBA District and County Office of Education Legal Services

Website: U.S. Department of Education, Office of Special Education and Rehabilitative Services

Website: California Department of Education

Policy Adopted: 9/13/23

ORCUTT UNION SCHOOL DISTRICT
Orcutt, California