
Non-Public School and Non-Public Agency Services Policy 3-402b

Purpose

When appropriate services are not available within the District or SELPA, the District may contract with a certified Nonpublic School (NPS) or Nonpublic Agency (NPA) to meet the individual needs of a student with an Individualized Education Program (IEP).

Scope

Sometimes, students with disabilities need special education services that the District cannot provide in its own schools. When that happens, the District may place a student in a certified nonpublic school (NPS) or use a nonpublic agency (NPA) to provide those services. All NPS and NPA placements require parent involvement and assurances that the placement complies with the law.

Placement Requirements

1. The District shall use NPS/NPA placements only when no appropriate public program is available.
2. The placement decision must be based on a student's individualized needs, determined by the IEP team.
3. NPS/NPA services shall be documented in the IEP and reviewed at least annually.

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The policies are developed in collaboration with the Small School Districts' Association for general informational, educational and procedural purposes only and are not intended to constitute legal advice for any specific situation.

4. All contracts with NPS/NPA providers shall be approved by the Governing Board and conform to California Department of Education (CDE) certification requirements.
5. The District shall ensure that any NPS/NPA it contracts with:
 - Is certified and maintains good standing with the CDE
 - Adheres to student record privacy and special education procedural safeguards
 - Provides qualified personnel with appropriate licenses and credentials
6. Parents shall be informed of their due process rights and the rationale for any recommendation for NPS/NPA placement.
7. The District shall ensure that the IEP team maintains responsibility for monitoring the students' progress towards meeting the goals specified in their IEP.
8. The District shall ensure that decisions related to NPS/NPA placements are made without discrimination based on race, ethnicity, language, disability severity, economic status, or family background.

Administrative Regulations

9. Definitions

- **Nonpublic, Nonsectarian School (NPS):** A private, nonsectarian school certified by CDE to enroll students with disabilities per an IEP when no public placement is available (Ed Code § 56034).
- **Nonpublic, Nonsectarian Agency (NPA):** A certified agency that provides designated instruction and services (DIS) per a student's IEP, such as OT, speech, counseling, etc. (Ed Code § 56035; 34 CFR § 300.34).
- **Individual Services Agreement (ISA):** A legally binding agreement between the District and an NPS/NPA detailing the specific services to be provided to a student based on their IEP, including cost, frequency, and duration.
- **Special Education Local Plan Area (SELPA):** A regional agency that supports local school districts in delivering special education services and compliance.

10. IEP Team Responsibilities

- The IEP team shall determine the need for NPS/NPA services only after considering all appropriate public options.
- The decision must be supported by assessment data and documented in the IEP, including:
 - The specific services required
 - The rationale for placement
 - Goals and methods for monitoring progress

11. Contracting and Oversight

- All contracts must comply with all legal requirements, including:
 - Be executed using the SELPA-approved master contract template;
 - Terms for service delivery, billing, confidentiality, and complaint resolution;
 - Require compliance with IDEA and state law; and

- Be paired with an Individual Services Agreement (ISA) for each student, outlining all services and associated costs.
- No change to services may occur except through the IEP process.
- Prior to approval, the District shall confirm that the NPS/NPA:
 - Has an active certification with CDE;
 - Is certified for the grade level of the student; and
 - Is operating in CDE-certified facilities.

12. Out-of-State Placements

- The District shall only contract with an out-of-state NPS or NPA if no appropriate in-state public or private program is available.
- The District must:
 - Document efforts to locate in-state options.
 - Ensure dual certification from both California and the host state.
 - Submit a report to the State Superintendent within 15 days of placement, including:
 - a. Description of services
 - b. Cost of services
 - c. Documentation of efforts to find a placement in California
 - Determine a projected return date and maintain efforts to return the student to a California placement.

13. Site Visits and Monitoring

- The District shall conduct at least one annual visit to each NPS where students are placed.
- Monitoring reports shall address:
 - Student safety and engagement;
 - How well the student's IEP is being followed;

- Staff qualifications; and
- Facility compliance with education codes and ADA accessibility.

14. Waivers

When necessary to implement a student's individualized education program and as authorized by law, the Superintendent or designee may petition the Superintendent of Public Instruction for a waiver of applicable requirements governing nonpublic, nonsectarian school or agency placements. Any such petition shall comply with applicable legal requirements.

15. Conflict of Interest Protections

- It shall be a conflict of interest for any attorney or advocate representing a student to recommend an NPS or NPA in which they have a financial interest or contractual relationship.
- District personnel must report suspected conflicts to the Superintendent.

16. Small District Considerations

- The Superintendent or designee may act as the special education administrator if staffing is limited.
- The District may coordinate with its SELPA to:
 - Access a shared pool of approved NPS/NPA providers
 - Receive support for monitoring and site visits
 - Review master contracts and legal compliance
- Any required oversight duties may be delegated or supported by SELPA staff under a Memorandum of Understanding (MOU).

17. Parent Notification and Rights

- Parents shall be informed in writing of:
 - The proposed NPS/NPA placement;
 - Their right to consent or disagree with the placement;
 - Their due process rights under IDEA; and

- The timeline for implementation and review of services.

18. Data Reporting

- The District shall maintain accurate data on:
 - Number of students placed at each NPS or served by NPAs;
 - Annual cost per student; and
 - Contract status and service compliance.
- Required data shall be submitted to the SELPA and CDE in accordance with legal requirements.