

Policy and Procedures for Serving Pupils with Disabilities Enrolled by Their Parents in Private School (Aligned with IDEA 2004)

**Adopted by OSC February 2009
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The Marin County Special Education Local Plan Area (SELPA) will ensure that school districts locate and identify all children with disabilities enrolled by their parents in private, including religious, elementary schools and secondary schools, pursuant to Education Code 56170.

The SELPA will ensure that each school district will accept and consider referrals for assessment and will offer a free appropriate public education (FAPE) to such children who are determined to be eligible for special education services. These procedures are intended to ensure compliance with all federal and state laws and regulations.

A. Child Find, Referral and Assessment

1. The Marin County SELPA will:

- a) Provide information for local private schools about the provisions in the Federal Law for students enrolled by their parents in private schools who may be eligible for special education services. Information will include criteria for special education eligibility and special education referral procedures.
- b) Ensure that child find activities undertaken for private school students are comparable to activities undertaken for children with disabilities in public elementary and secondary schools.

2. Districts of Location (DOL) - districts that have private schools within their boundaries, will:

- a) Identify all private schools within their boundaries that have an affidavit on file with the California Department of Education (Education Code 33190) and have six or more students enrolled.
- b) Between October 1 and December 1 each year, ask private schools to list all students enrolled in the school who are eligible for special education services, with and without ISPs, and the districts of residence of those children.
- c) Provide the district of special education accountability (DSEA) within the Marin County SELPA names of those students identified in each private school who are from their district.
- d) Hold at least one annual meeting at which representatives of the private school (including parents) will be given an opportunity to give input about:
 - i) The child find process
 - ii) How the consultation process will operate through the school year. If the private school representatives do not attend, the information will be mailed to them.

- e) Obtain written affirmation from each private school within their boundaries that they were given opportunity to participate in a timely and meaningful consultation with the district.
- f) Upon request, provide a written explanation to the private school if the district disagrees with the input of the private school.
- g) Follow all appropriate policies and procedures for assessment for eligibility for special education services, including:

- i.) All Child Find responsibilities for a student whose DSEA is outside of Marin County. If the DSEA is located within Marin County, the DSEA will be responsible for initial and ongoing Child Find obligations following notification by the DOL to the DSEA.
- ii.) Obtain all information from local private schools regarding pupils with suspected disabilities, obtain the Release and Exchange of Information form from the parent and notify the DSEA.
- iii.) Complete the assessment and determine eligibility if the DSEA is a district located outside of Marin County. If a Release and Exchange of Information is obtained by the DOL, the DSEA will be invited to the IEP/ISP meeting.

- h) If the DSEA is a district within Marin County, the DSEA will complete the assessment and determine eligibility.

If the parent expresses an interest in having the student attend public school, the DSEA will develop an IEP.

If the parent does not wish to consider an offer of public school, the DSEA will refer the parent back to the DOL to consider development of an Individual Service Plan.

- i) The DOL will offer an ISP and review the plan annually, as appropriate.

3. Private schools will:

- a) Refer students for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.
- b) Direct referrals to the district in which the private school is located for assessment for eligibility if the DSEA is outside Marin County, or to the DSEA if the DSEA is within Marin County.
- c) Participate on an ongoing basis with the district in which they are located to give input on the provision of special education services.

4. Students in Preschool and of Kindergarten Age:

- a) Students of preschool age who attend a private school will be served by their DSEA through the IEP process.
- b) Students of kindergarten age but who continue to be enrolled in a preschool program in a private school will be served by their DSEA through the IEP process.
- c) Students of kindergarten age and who are enrolled in a private kindergarten program will be served by the DOL (where the private school is located) through the Individual Services Plan.

B. Guidelines for Services

Each district in the Marin County SELPA shall spend a proportionate share of federal funds to provide special education and related services to children with disabilities in private schools as to those spent on children in public schools. These funds may not be used for repair, remodeling or construction of private school facilities. Annually the SELPA Director shall inform each district of the amount of federal special education dollars to be spent on private school students (ages 6-21), based on Fall 1 Census.

Each district that has private schools located within its boundaries in the Marin County SELPA shall develop guidelines regarding the special education and related services to be provided to special education eligible students in private schools. Such decisions shall be made after consulting in a timely and meaningful way with representatives of private school(s) within their boundaries and shall include:

1. Which eligible children may receive services;
2. Types of services to be provided (including direct and alternative methods of service delivery);
3. How, where and by whom the services will be provided;

Guidelines will be forwarded to the SELPA. The SELPA will make a compilation of all guidelines available to all districts within the SELPA.

C. Initial Individualized Education Program (IEP) Team Meeting

When all assessment is completed, the DSEA shall convene the initial IEP team meeting within 60 calendar days, excluding school holidays in excess of 5 days of receipt of the signed Assessment Plan. Representatives of private schools will be invited, with parent permission.

If the IEP team determines that the student is eligible for special education services, the IEP team shall develop an appropriate IEP for the student, which serves as an offer of FAPE in accordance with federal and state laws and regulations. Such offer shall be recorded on appropriate IEP forms.

If the parent agrees that the IEP would be the appropriate program if the child were enrolled in the public

school, and consents to the IEP developed by the IEP team, the IEP shall be implemented by the DSEA without undue delay following the IEP meeting.

If the parent agrees that the IEP would be appropriate but declines the IEP developed by the DSEA, the parent shall indicate in writing that they are voluntarily placing their child in a private school. An Individual Services Plan may be developed according to district guidelines.

D. Individual Services Plan (ISP)

The ISP will be developed by the district in which the private school is located. The ISP will specify services that the district has determined it will make available, according to its guidelines. No parentally placed private school child with a disability has an individual right to receive some or all of the special education services that the child would receive if enrolled in a public school.

A representative of the private school will be invited to attend the ISP meeting. If the representative of the private school cannot attend the meeting, the district special education case manager will consult with the private school representative by other methods such as sending a copy of the ISP (with parent permission) and/or individual or conference calls.

The services provided pursuant to an ISP may be provided at a private school, including a religious school, to the extent consistent with law. Services must be provided by personnel meeting the same standards as personnel providing the services in public schools. These personnel shall be employees of the district or contractors of the district. However, the Marin County SELPA and/or the district shall not use federal special education funds to finance the existing level of instruction in a private school or to otherwise benefit the private school or the general needs of other students enrolled in the private schools.

If necessary for the child to benefit from or participate in the services provided pursuant to the ISP, a private school child with a disability must be provided transportation to/from the service location. However, districts are not required to provide transportation from home to the private school. The cost of the transportation may be included in calculating whether the district has met the obligation to spend a proportionate share of federal funds on providing special education and related services to private school children with disabilities eligible for special education services as it spends on its children enrolled in public schools.

Any specialized equipment provided to benefit private school children with disabilities shall remain the property of the district and must be able to be removed without remodeling the private school facility. It shall be returned to the district when no longer required by the child, the child is no longer enrolled in the private

school, or removal is necessary to avoid unauthorized use.

The district does not have the responsibility to develop/continue an ISP if:

- a) The proportionate share of federal funds has been expended
- b) The student's needs do not fall within district guidelines for services.

E. Review

If an ISP is developed, it will be reviewed and updated on an annual basis.

F. Due Process and Complaints

Parents will be informed that as long as they continue to place their child in a private school their rights for due process are limited.

A school district is NOT required to pay for the cost of educating a child with a disability at a private school (including special education and related services) if the school district made FAPE available to the child and the parents voluntarily elected to place the child in a private school. No parentally placed private school child is entitled to any service or amount of service that he or she would receive if enrolled in a public school.

Disputes regarding whether a school district made FAPE available to the child via the IEP, as well as disputes about identification and evaluation of parentally placed private school children with disabilities, may be resolved pursuant to due process procedures specified in the "Parent Rights for Special Education."

Due process procedures DO NOT apply to disputes regarding provision of services specified in the ISP.

Parents have the right to file a complaint alleging a violation by the SELPA or district in implementation of state or federal law on any other issue, according to complaint procedures specified in the "Parent Rights for Special Education."

Private Schools may submit a complaint to California Department of Education if they believe that the district did not:

1. Engage in meaningful and timely consultation.
2. Give due consideration to the view of the private school official.

G. Record Keeping

The DOL (where the private school is located) will report through CALPADS each parentally placed privateschool student evaluated to determine eligibility for special education services. They also will report each child found eligible.

The DOL will report through CALPADS each student who is served through an ISP.

EDUCATION CODE

56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publiclyfinanced nonpublic placements

56506(c) Due process rights of pupil and parent

CALIFORNIA CODE OF REGULATIONS, TITLE 5

3022 Assessment Plan.

UNITED STATES CODE, TITLE 20

1415(b)(1)

CODE OF FEDERAL REGULATIONS, TITLE 34

300.502 Independent Educational Evaluation