

## **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 schools or agency (NPS/A) to meet the student needs consistent with the comprehensive local plan of the Special Education Local Plan Area.

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

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 56366.1. 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 placed in an NPS/A unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the placement is appropriate for the student. (Education Code 56342.1)

*(cf. 6159 - Individualized Education Program)*

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.

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

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 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)

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES  
FOR SPECIAL EDUCATION (continued)**

(cf. 1431 - Waivers)

*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

56342.1 Individualized education program; placement

56360-56369 Implementation of special education

56711 Computation of state aid

56740-56743 Apportionments and reports

56760 Annual budget plan; service proportions

56775.5 Reimbursement of assessment and identification costs

56836.20-56836.21 Special education funding; SELPA contracts with nonpublic nonsectarian schools

GOVERNMENT CODE

7570-7588 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

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

3061-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.400-300.487 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

WEB SITES

CDE: <http://www.cde.ca.gov>

US Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/offices/list/OSERS>