

POLICY

PARENTALLY PLACED PRIVATE SCHOOL STUDENTS WITH DISABILITIES

Definitions

District of Location (“DOL”): As used in this policy, “District of Location (DOL)” refers to the school district where the private school or facility is located. “DOL” is referred to as “Local Educational Agency (LEA)” in federal and state laws regarding parentally-placed private school students.

District of Geographic Residence (“DOGR”): As used in this policy, “District of Geographic Residence (DOGR)” refers to the school district within which boundaries the child with a disability resides.

Parent: “Parent” Parent means any of the following:

- (1) a biological or adoptive parent of a child
- (2) a foster parent if the authority of the biological or adoptive parents to make educational decisions on the child’s behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations
- (3) a guardian generally authorized to act as the child’s parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the California Welfare and Institutions Code
- (4) an individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child’s welfare
- (5) a surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the California Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

Private School or Facility: As used in this policy, “private school or facility” means:

- (1) private full-time day school pursuant to California Education Code Section 48222 (including religious schools)
- (2) private tutor pursuant to California Education Code Section 48224

and/or

- (3) any other educational institution, program, arrangement, or facility not sponsored, maintained, or managed by the school district and for which the school district does not collect average daily attendance funds.

Private School Children with Disabilities: As used in this policy, “private school children with disabilities” means children with disabilities enrolled by a parent in a private elementary or secondary school or facility, other than students with disabilities placed by the school district in a nonpublic, nonsectarian school pursuant to EC 56365. (EC 56170)

Representatives of Private School Students: As used in this policy, “representatives of private school students” may include private school administrators, teachers, students, and parents.

Local Education Agencies within the Sonoma County Special Education Local Plan Area (“SELPA”) shall:

Locate, identify, and evaluate all students ages three (3) to twenty-two (22) with disabilities voluntarily enrolled by their parents in private schools, including religious schools, who may be eligible for special education services.

and

Offer a free appropriate public education (“FAPE”) to all students ages three (3) to twenty-two (22) with disabilities voluntarily enrolled by their parents in private schools, including religious schools, who are determined to be eligible for special education services. Local education agencies shall provide FAPE to all students ages three (3) to twenty-two (22) with disabilities who are determined to be eligible for special education who are enrolled in public schools.

I. Consultation with Private School Representatives

A. To ensure timely and meaningful consultation, the Sonoma County SELPA (“**SELPA**”) shall consult with representatives of private schools and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for children with special education needs. Such consultation shall be pursuant to PL 108-446 Section 612 (10)(A)(ii)(V)(iii)(I-V) and Education Code Section 56172(b) & (c):

1. The child find process and how parentally-placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
2. The determination of the proportionate amount of Federal funds available to serve parentally-placed private school children with disabilities, including the determination of how the amount was calculated;
3. The consultation process among the **SELPA**, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed private school children with disabilities identified through the child find process can meaningfully participate in special education and related services;
4. How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of types of services, including direct services and alternate service delivery mechanisms, how such services will be apportioned if funds are insufficient to serve all children, and how and when those decisions will be made; and
5. How, if the **SELPA** disagrees with the views of the private school officials on the provision of services or the types of services, the **SELPA** will provide to the private school officials a written explanation of the reasons why it was decided not to provide such services directly or through a contract. (20 U.S.C. 1412(a)(10)(A)(iii))

B. A private school official has the right to submit a complaint to the CDE, if:

1. The **SELPA's** consultation was not meaningful and timely, or
 2. The **SELPA** did not give due consideration to the views of the private school official.
- C. If a complaint is filed:
1. The private school official must provide the basis of the complaint of noncompliance, and
 2. The **SELPA** must forward the appropriate documentation to the CDE.
- D. If the private school official is dissatisfied with the decision of the CDE, he/she may appeal the decision to the U.S. Department of Education.

II. Child Find

- A. The **SELPA** shall undertake the following child find activities with regard to private school students ages three (3) to twenty-two (22):
1. Consult with representatives of private school children with disabilities regarding the child find process, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations, and
 2. Distribute materials to representatives of private school children with disabilities regarding the child find process, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.
- B. The proportionate share of federal funds described in Section VI (B), below, shall not be used for child find activities.
- C. The **SELPA** shall ensure child find activities undertaken for private school students are comparable to activities undertaken for students with disabilities ages three (3) to twenty-two (22) in public schools.

III. Special Education Referral

- A. Students must be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.
- B. If after considering and, where appropriate, utilizing general education resources, representatives of private school students with disabilities, determine that a private school student may be eligible for special education services, a referral shall be directed to the Director of Special Education of the **DOGR**.
- C. If the private school conducted a Student Study/Success Team ("**SST**") meeting, the **DOGR** shall request that the private school provide a copy of the **SST** documents to the **DOGR** when private school representatives determine that a private school student may be eligible for

special education services.

IV. Initial Individualized Education Program (IEP) Team Meeting

- A. Upon identifying and locating a student suspected of having a disability, the **DOGR** shall conduct an appropriate and timely initial assessment within assessment timelines for an initial assessment of the child's eligibility for special education services. EC 56043(a); EC 56321(a); EC 56043(c); EC 56302.1; EC 56344(a)
- B. The **DOGR** shall hold an Initial IEP meeting within applicable timelines and make the eligibility decision in accordance with applicable state and federal laws and regulations.
- C. If the parents of the private school child consent to the eligibility of the child for special education services, the **DOGR** will offer to develop an **IEP** and make an Offer of **FAPE**, to be implemented if the child enrolls in a public school district. Parents may decline, in writing, the offer to develop an **IEP**. Otherwise, the **DOGR** will develop an **IEP**, make an Offer of **FAPE** including, but not limited to, appropriate goals, services and supports, and placement.
- D. If the parents of the private school student consent to the offer of **FAPE** and enroll their student in the **DOGR**, then the **IEP** will be implemented by the **DOGR**, in accordance with applicable Federal and State laws and regulations.
- E. If the parent of the private school student expresses in writing that they will not enroll and/or do not consent to the **DOGR's** Offer of **FAPE** their student in the **DOGR**, even though their student is eligible for special education services, the **DOGR** will offer the parents an Individual Service Plan (**ISP**), which may include any services available to private school students as determined annually by the **SELPA**.
- F. If the parents of the private school student consent to the **ISP**, the **DOGR** shall inform the **SELPA**, and implement the **ISP**, in accordance with applicable Federal and State laws and regulations.
 - 1. The **DOGR** shall not be required to pay for the cost of education, including special education and related services, of a student with a disability at a private school or facility if the district made a free appropriate public education available to the student and the parent of the child elected to place the child in the private school or facility. (EC 56174)

V. The Individual Service Plan

- A. 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 public school.
- B. A private school student with disabilities may receive a different amount of services than a student with disabilities enrolled in a public school receives pursuant to paragraph (2) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations. No private school student with disabilities is entitled to any amount of service the student would receive if enrolled in a public school pursuant to paragraph (3) of subsection (a) of Section 300.455 of Title 34 of the Code of Federal Regulations.

- C. Pursuant to federal and state law and regulations, the **DOGR** shall spend a proportionate share of federal funds made available under the Part B grant program for local assistance to provide special education and related services to private school students with disabilities ages three (3) to twenty-two (22) eligible for special education services. Decisions about the services that shall be provided to private school children with disabilities are made after consulting, in a timely and meaningful way, with representatives of private school children with disabilities, as described in Section I(A) (1-4) of this policy.
 - 1. If and when the **DOGR** has exhausted its proportionate share funds, then any services to private school students with an **ISP** shall cease for the school year
- D. Following timely and meaningful consultation, the **SELPA** will, on an annual basis, before the start of the relevant school year, determine the services to be offered to private school students under an **ISP** and provide such information to private schools located within Sonoma County, as well as its member **LEAs**. No other services, except those approved by the **SELPA**, shall be offered and included on an **ISP**.
- E. Each private school student with a disability who has been designated to receive services under this policy shall have an **ISP** that describes specific special education and related services that the **DOGR** shall provide to the student as determined by the **SELPA** pursuant to this policy. The **DOGR** shall invite a representative of the private school to attend an individual student's **ISP** meeting, if held.
- F. The services offered pursuant to this policy shall be reviewed by the **SELPA** at least annually by means of a **SELPA**-wide survey and/or consultation with representatives of private school students with disabilities ages three (3) to twenty-two (22).
- G. The services provided pursuant to this policy may be provided at a private school, including a religious school, to the extent consistent with law. The location of the services shall be set out in the student's **ISP**.
- H. The **DOGR** shall not use its proportionate share of federal funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.

VI. IEP Meetings/Assessments After the Initial IEP Team Meeting

- A. All students with disabilities eligible for special education who reside in the **DOGR** are entitled to receive **FAPE** from the **DOGR** if they are enrolled in public school. One year after an eligible private school student's initial **IEP** team meeting and annually thereafter, the **DOGR** shall notify the student's parents in writing that the **DOGR** continues to offer a **FAPE** to the student if and only if the student is enrolled in a public school district.
 - 1. In this notification the **DOGR** will provide an option to parents to hold an **IEP** meeting to review and update the **DOGR** offer of **FAPE**
 - 2. If parents choose to have an **IEP** meeting, the **DOGR** will schedule an **IEP** meeting and make an appropriate offer of **FAPE**.
 - 3. If the parents of the private school student consent to the offer of **FAPE** and enroll their student in the **DOGR**, then the **IEP** will be implemented by the **DOGR**, in accordance with applicable Federal and State laws and regulations.

4. If the parent of the private school student expresses in writing that they will not enroll their student in the **DOGR**, even though their student is eligible for special education services, the **DOGR** will offer the parents an Individual Service Plan (**ISP**), which may include any services available to private school students as determined annually by the **SELPA**.

- B. Notwithstanding Paragraph VII (A) and (B), above, the **DOGR** shall conduct an assessment at least every three (3) years to determine the student's continuing eligibility for special education.

VII. Private Preschool Students with Disabilities

- A. If the IEP team determines that a preschool child with a disability is eligible for special education services and develops an IEP offering only related services, (i.e., placement is not a component of FAPE), the eligible preschool child shall be considered a public school student. The **DOGR** shall provide the eligible preschool child with a disability with FAPE in accordance with federal and state laws and regulations.

Legal Citations: Title 20 United States Code Section 1412(a)(10)(A) California
Education Code Sections 56170-56177