

**Policy 6159.2: Nonpublic, Nonsectarian School And Agency Services For Special Education**

**Status:** DRAFT

**Original Adopted Date:** 09/20/2001

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 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 with a disability shall be referred to, or placed in, an NPS/A unless the student's individualized education program (IEP) team has determined that the placement 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 pursuant to the contract. (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)

The Governing Board may contract with state-certified nonpublic, nonsectarian schools or agencies to provide special education services or facilities when an appropriate public education program is not available.

{cf. 0430 – Comprehensive Local Plan for Special Education}

{cf. 1312.3 – Uniform Complaint Procedures}

{cf. 3541.2 – Transportation for Students with Disabilities}

{cf. 4112.23 – Special Education Staff}

{cf. 6146.4 – Differential Graduation and Competency Standards for Students with Disabilities}

{cf. 6159 – Individualized Education Program}

{cf. 6159.1 – Procedural Safeguards and Complaints for Special Education}

{cf. 6164.4 – Identification of Individuals for Special Education}

When entering into agreements with nonpublic, nonsectarian schools or agencies, the Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The IEP team shall remain accountable for monitoring the progress of students placed in nonpublic, nonsectarian programs towards the goals identified in each student's IEP.

#### 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

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

#### 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

3061-3069 Nonpublic, nonsectarian school and agency services

#### UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

#### CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 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

## FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

## WEB SITES

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

US Department of Education, Office of Special Education and Rehabilitative Services:  
<http://www.ed.gov/offices/OSERS>

## Policy SAN JOSE UNIFIED SCHOOL DISTRICT

adopted: September 20, 2001 San Jose, California

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**Policy Reference Disclaimer:** These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

### State References

	Description
5 CCR 3001	<a href="#">Definitions</a>
5 CCR 3051-3051.24	<a href="#">Special education; standards for related services and staff qualifications</a>
5 CCR 3060-3070	<a href="#">Nonpublic, nonsectarian school and agency services</a>
Ed. Code 56034-56035	<a href="#">Definitions of nonpublic, nonsectarian school and agency</a>
Ed. Code 56042	<a href="#">Placement not to be recommended by attorney or advocate with conflict of interest</a>
Ed. Code 56101	<a href="#">Waivers</a>
Ed. Code 56163	<a href="#">Certification</a>
Ed. Code 56168	<a href="#">Responsibility for education of student in hospital or health facility school</a>
Ed. Code 56195.8	<a href="#">Adoption of policies</a>
Ed. Code 56342.1	<a href="#">Individualized education program; placement</a>
Ed. Code 56360-56369	<a href="#">Implementation of special education</a>
Ed. Code 56711	<a href="#">Computation of state aid</a>
Ed. Code 56740-56743	<a href="#">Apportionments and reports</a>
Ed. Code 56760	<a href="#">Annual budget plan; service proportions</a>
Ed. Code 56775.5	<a href="#">Reimbursement of assessment and identification costs</a>
Ed. Code 56836.20-56836.21	<a href="#">Special education funding; SELPA contracts with nonpublic nonsectarian schools</a>
Fam. Code 7911-7912	<a href="#">Interstate compact on placement of children</a>
Gov. Code 7570-7587	<a href="#">Interagency responsibilities for providing services to children with disabilities</a>
Gov. Code 7572.55	<a href="#">Seriously emotionally disturbed child; out-of-state placement</a>
W&I Code 362.2	<a href="#">Out-of-home placement for IEP</a>
W&I Code 727.1	<a href="#">Out-of-state placement of wards of court</a>

**Federal References**

20 USC 1400-1487  
 34 CFR 300.129-300.148

**Description**

[Individuals with Disabilities Education Act](#)  
[Children with disabilities in private schools](#)

**Management Resources References**

Court Decision  
 Website  
 Website  
 Website

**Description**

[Agostini v. Felton \(1997\) 521 U.S. 203, 117 S.Ct. 1997](#)  
[CSBA District and County Office of Education Legal Services](#)  
[U.S. Department of Education, Office of Special Education and Rehabilitative Services](#)  
[California Department of Education](#)

**Cross References**

0430  
 0500  
 1312.3  
 1312.3  
 1431  
 3541.2  
 3541.2  
 3580  
 3580  
 4112.23  
 5125  
 5125  
 6146.1  
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 6146.4  
 6159  
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 6164.4  
 6164.4

**Description**

[Comprehensive Local Plan For Special Education](#)  
[Accountability](#)  
[Uniform Complaint Procedures](#)  
[Uniform Complaint Procedures](#)  
[Waivers](#)  
[Transportation For Students With Disabilities](#)  
[Transportation For Students With Disabilities](#)  
[District Records](#)  
[District Records](#)  
[Special Education Staff](#)  
[Student Records](#)  
[Student Records](#)  
[High School Graduation Requirements](#)  
[Reciprocity Of Academic Credit](#)  
[Differential Graduation And Competency Standards For Students With Disabilities](#)  
[Individualized Education Program](#)  
[Individualized Education Program](#)  
[Procedural Safeguards And Complaints For Special Education](#)  
[Procedural Safeguards And Complaints For Special Education](#)  
[Appointment Of Surrogate Parent For Special Education Students](#)  
[Appointment Of Surrogate Parent For Special Education Students](#)  
[Identification And Evaluation Of Individuals For Special Education](#)  
[Identification And Evaluation Of Individuals For Special Education](#)