Nonpublic Schools/Nonpublic Agencies

Intent of Policy

To meet the educational needs of students with disabilities enrolled in the District, District may, when an appropriate public program or placement is not available, use the services of a properly certified nonpublic school ("NPS") and/or nonpublic agency ("NPA"). (Ed. Code § 56365.)

Definitions

Nonpublic, Nonsectarian School ("NPS")

A private, nonsectarian school certified by the California Department of Education ("CDE") to enroll students with disabilities pursuant to an individualized education program ("IEP"). NPS services are used when the District needs to place a student in a private school or facility, residential or non-residential, because an appropriate public school placement is not available. (Ed. Code §§ 56034, 56366.)

Nonpublic, Nonsectarian Agency ("NPA")

A private, nonsectarian agency certified by CDE to provide designated instruction and services ("DIS") to students with disabilities pursuant to an individualized education program ("IEP"). NPA services are not placements but DIS ("Related Services" under federal law), such as speech therapy, occupational therapy, counseling, behavior services, transportation, etc., that assist a student in benefitting from his/her education. (34 C.F.R. § 300.34(a); Ed. Code §§ 56035 & 56363, subd. (a).)

District Responsibilities Prior to Using NPS or NPA Services

Prior to using the services of an NPS or an NPA, the District shall do each of the following:

1. Ensure that the student's IEP team has determined that an appropriate program or placement is not available and that the particular NPS or NPA services are required for the student to receive a free and appropriate public education;

2. Ensure that the NPS and NPA services being offered are the least restrictive program/placement option meeting the individual needs of the student; and

3. Ensure that the NPS and/or NPA are properly certified by the State of California.

(Ed. Code § 56365.)

For NPS or NPA Placements Outside of California

For NPS and NPA placements outside of California the District shall do each of the following:

1. Prior to contracting with an NPS or NPA located outside of California, the District will document its efforts to locate an appropriate public school, NPS, and/or NPA within California; and

2. Ensure that the out-of-state NPS or NPA is properly certified by both the state of California and the state where it is located.

District Responsibilities After Placing Student in an NPS or NPA Outside of California

After placing a student in an NPS or NPA outside of California, the District shall do each of the following:

1. Within 15 days of making the decision to place the student in the NPS or NPA, submit a report to the State Superintendent of Public Instruction that includes the following information:

    a. A description of the specific special education and related services provided by the out-of-state program placement;

    b. The costs of the special education and related services provided; and

    c. A description of the District's efforts to locate an appropriate public school, NPS, and/or NPA within California.

2. Determine the date on which the student is anticipated to return to a placement within California; and

3. Document its efforts to return the student to an appropriate placement located in California.

(Ed. Code § 56365.)

Required Master Contract and Individual Services Agreement ("ISA")

The District shall develop and utilize a master contract when procuring services through an NPS or NPA. The master contract shall, at minimum, include the following:

1. The general administrative and financial agreements, including teacher-to-student ratios, between the District and the NPS or NPA;

2. Procedures for recordkeeping and documentation as well as maintenance of school records to ensure appropriate high school graduation credits; and

3. A description of the process the District will use to oversee and evaluate NPS placements.

(Ed. Code § 56365.)

In addition, the District and NPS or NPA will sign an Individual Services Agreement ("ISA") for each student being served by the NPS or NPA. The ISA shall include all services, including the cost and duration of each service, that the NPS or NPA will provide for that student. (Ed. Code § 56365.)

Changes to services provided by the NPS or NPA may be made only by the IEP team. (Ed. Code § 56366(a)(3).)

Before entering or renewing a master contract or ISA, the District shall determine that the NPS or NPA meets the following criteria:

1. Has an "Active" designation with CDE, i.e., a designation that is found in CDE database;

2. Is certified for the grade level of the student(s) who will be served; and

3. Is providing services in facilities certified by CDE.

(Ed. Code §§ 56366 (d), 56366.1.)

Requirements for NPS Placement of Students with Disabilities Residing in a Licensed Children's Institution ("LCI") or Foster Family Home

For an NPS placement for a student currently residing in an LCI or foster family home, the District shall do all of the following:

1. Place the student in the NPS only if his/her IEP team determines that it is appropriate;

2. If a student is placed in an NPS, at the time of the student's annual IEP team meeting, evaluate whether the NPS is the least restrictive placement for the student; and

3. Ensure that the NPS, on a quarterly or trimester basis, as determined by the parties, reports to the District on the progress the student is making on his/her IEP goals and objectives.

(Ed. Code § 56157.)

If the LCI where the student resides also operates an NPS, the LCI may not require the student to attend its NPS as a condition of the student's continued residence in the LCI. (Ed. Code § 56366.9.)

Waiver of NPS or NPA Requirements

Under circumstances where the District is unable to locate an appropriate public placement for a student and an available private school or private service provider does not meet Education Code requirements, the District may petition the Superintendent of Schools to waive one or more of the requirements under Education Code sections 56365, 56366, 56366.3, and 56366.6. The District's petition shall state the reasons for the waiver request. (Ed. Code § 56366.2.)

Conflict of Interest of Attorney or Advocate Representing Student

Pursuant to California law, it is a conflict of interest for an attorney or advocate representing a student to recommend placement in an NPS or NPA in which the attorney or advocate is employed, is contracted with, receives a benefit from, and/or whose relationship with the NPS or NPA otherwise creates a conflict of interest. District staff are required to immediately report any suspected conflicts of interest to the District's Special Education Director. (Ed. Code § 56042.)

LCI, NPS or NPA May Not Require Designation of Educational Authority

Any placement in an NPS, NPA or LCI may not be made on the condition that the educational authority for the student will be transferred to the school or agency where the student is to be placed. (Ed. Code § 48854.)