



Chapter 18: Nonpublic Schools and Agencies

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Introduction

Nonpublic, nonsectarian school and agency (NPS/NPA) services are provided when the needs of a child are more intensive than can be met in the public-school setting. All program options and modifications should be exhausted prior to an Individualized Education Program (IEP) team recommending consideration of a NPS/NPA placement. This chapter contains information regarding the placement of children with disabilities in NPS/NPA placements.

Each Local Education Agency (LEA) that contracts with a NPS shall evaluate the placement of children attending such schools on at least an annual basis as part of the annual IEP review. The LEA representative shall review the Master Contract, Individual Service Agreement (ISA), and the IEP to ensure that all services agreed upon and specified in the IEP are provided.

NPS' are required by the Master Contract and the IEP to annually evaluate children attending the NPS, to determine if they are making appropriate educational progress. The LEA representative shall collaboratively review with the NPS the evaluations conducted by the NPS to ensure that they were appropriate and valid for measuring student progress. The LEA may choose to administer additional assessments as necessary with parent consent, to determine whether the child is making appropriate educational progress.

Definitions

California Education Code § 56034. *“Nonpublic, nonsectarian school” means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, or a public university or college. A nonpublic, nonsectarian school also shall meet standards as prescribed by the Superintendent and board.*

California Education Code § 56035. *“Nonpublic, nonsectarian agency” means a private, nonsectarian establishment or individual that provides related services necessary for an individual with exceptional needs to benefit educationally from the pupils’ educational program pursuant to an individualized education program and that is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public hospital. The nonpublic, nonsectarian agency shall also meet standards as prescribed by the superintendent and board.*

California Education Code § 56366. *It is the intent of the Legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to a local educational agency and parents.*

Section A – Nonpublic, Nonsectarian School Services

NPS services are an instructional component of the Desert/Mountain Special Education Local Plan Area (SELPA) administrative unit. It is recognized that public schools cannot provide services to meet the needs of all children with disabilities. Some children will need such individualized and specialized services as can only be provided outside public education. NPS services will be provided only when the IEP team determines that no appropriate placement is available in the public school to meet the individual child’s needs.

In addition, NPS services can be used when the resources available to the SELPA LEA staff are not sufficient to adequately identify the child's needs. A child may be referred with parent consent to a public or private agency for diagnosis. If payment for such diagnostic services is required, the SELPA and LEA will coordinate to provide such payment. Reports from these agencies will become a permanent part of the child's records. Such referrals will be made on an individual case basis and only when the service cannot be provided through public school services available within the SELPA. The SELPA will ensure that the NPS or NPA meets the following standards:

- The agency has adequately trained personnel to do the diagnostic work;
- The agency has appropriate facilities and equipment' and
- The agency meets local health, fire, and safety standards.

The SELPA Nonpublic School Coordinator will annually monitor NPS' for compliance with the provisions set forth in Assembly Bill (AB) 1858. AB 1858 includes requirements for NPS' that provide special education and related services to children with disabilities residing in a Licensed Children's Institution or Foster Family Home (FFH).

Every attempt will be made to assure student progress so that a child may ultimately be able to return to some form of public school program. It is the LEA's responsibility to monitor the progress of children placed in NPS programs. The SELPA Nonpublic School Coordinator shall act as a liaison between the SELPA, the LEA, and the NPS in all matters concerning a child's placement.

Children with disabilities may be enrolled concurrently in both a public and NPS, provided one is the major enrollment and the other is supplemental. This determination will be made by the SELPA/IEP team based upon the educational needs of the child with a disability and will be provided only when this arrangement best meets these needs.

Children placed in a NPS must complete graduation requirements of their LEAs of residence, which will issue a diploma. Children will be able to participate in their LEA's graduation ceremony.

The SELPA will consider NPS/NPA placement and/or services for all children who require such services in order to benefit from their educational program as determined by the IEP team. In order to ensure that the child is being provided such a program within the least restrictive environment (LRE), the IEP team shall utilize such NPS/NPA services only after exploring all public-school program alternatives.

NPS/NPA contracts are developed to meet state and federal mandates, including approval by the California Association of Health and Education Linked Professions Joint Powers Authority (CAHELP JPA) Chief Executive Officer (CEO). The NPS/NPA contracts are to include, but not be limited to:

- Negotiation of length of service time;
- Provisions of change in the agreement;
- Provisions for termination of the contract;

- Financial agreements for the services; and
- Description of services to be provided.

Further, each NPS/NPA site must furnish the following information to the SELPA on at least an annual basis:

- Evidence of compliance with local fire, sanitation, and building safety standards;
- Current written procedures for Behavioral Emergency Interventions (*Title 5 of the California Code of Regulations § 3052(k)*);
- Copies of the special education credentials for each staff member providing direct or indirect services to children placed by the in that NPS/NPA site;
- Copies of the NPS/NPA state certification; and
- Other items as specified in the Master Contract.

It is the intent of the SELPA to abide by, carry out, and implement its responsibilities regarding NPS/NPA facilities as per California Education Code §§ 56365 et seq.

After thoroughly reviewing available services, some children with disabilities will need intensive, individualized, and specialized educational services that can only be provided outside public education.

Rationale for Nonpublic School/Agency (NPS/NPA) Referral

- Must be documented that there is no available public program that can appropriately meet the child’s needs, even with modification;
- Must be documented that no existing contracting agency (California Children’s Services (CCS), Inland Regional Center (IRC)) can meet the child’s needs appropriately;
- Must be documented that the service is required for the child to benefit from an educational program; and
- All public resources must be exhausted and proven inappropriate.

Section B – Placement and Services

Procedures specified in law shall govern the selection of appropriate NPS/NPA services.

NOTE: As amended in Register 99, No. 13, Title 5 of the California Code of Regulations §§ 3060 and 3061 specify new requirements regarding special education classes offered in nonpublic, nonsectarian schools and agencies. These requirements detail the staffing requirements for instructors, including the credentials that instructors must hold; the eligibility requirements for such credentials, and the number of instructors required per school or agency. Pursuant to Title 5 of the California Code of Regulations § 3064, the California Department of Education (CDE)

may issue conditional certifications to allow agencies and schools to comply with the new requirements.

Contracts with a NPS/NPA shall include an Individual Service Agreement (ISA) negotiated for each child. ISAs shall be for the length of time for which NPS/NPA services are specified in the child's IEP, not to exceed one year. Changes in educational instruction, services, or placement shall be made based only on revisions to the child's IEP (*Education Code § 56366*). NOTE: *Additional requirements related to contracts and personnel with NPS/NPA are specified in Education Code §§ 56366 and 56366.3.*

The Master Contract shall specify the general administrative and financial agreements between the NPS/NPA and the LEA/SELPA to provide the special education and related services, as well as transportation specified in the child's IEP. The administrative provisions of the contract shall also include procedures for record keeping and documentation, and the maintenance of school records by the contracting LEA/SELPA to ensure that appropriate high school graduation credit is received by the child. The contract may allow for partial or full-time attendance at the NPS (*Education Code § 56366*). NOTE: *The NPS/NPA must be certified as meeting state standards pursuant to Education Code § 56366. Contracts may be terminated for cause with 20 days' notice; however, the availability of a public education program initiated during the period of the contract cannot give cause for termination unless the parent agrees to transfer the child to the program.*

The Master Contract shall include a description of the process being utilized by the LEA/SELPA to oversee and evaluate placements in a NPS. This description shall include a method for evaluating whether the child is making appropriate educational progress (*Education Code § 56366*).

The LEA superintendent or designee of an elementary LEA shall notify a high school LEA of all children placed in NPS/NPA programs prior to the annual review of the IEP for each child who may transfer to the high school LEA (*Title 5 of the California Code of Regulations § 3068*).

When a child with a disability meets the LEA requirements for completion of the prescribed course of study as designated in his/her IEP, the LEA, which developed the IEP, shall award the diploma (*Title 5 of the California Code of Regulations § 3069*). Children with disabilities shall be able to participate in their LEA's graduation ceremony.

Section C – Out-of-State Placements

Before contracting with a NPS/NPA outside California, the LEA/SELPA shall document the LEA's efforts to find an appropriate program offered by a NPS/NPA within California (*Education Code § 56365*). NOTE: *Government Code § 7572.55 and Welfare and Institutions Code §§ 362.2 and 727.i, as amended by SB 933 (Ch. 311, Statutes of 1998) relate to the out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court. Such placements may be made only after in-state alternatives have been considered and found not to meet the child's needs.*

Within 15 days of any decision for an out-of-state placement, the child's IEP team shall submit to the California Department of Education (CDE) Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the LEA's efforts to locate an appropriate public school or NPS/NPA within California (*Education Code § 56365*).

If the LEA decides to place a child with a NPS/NPA outside the state, the LEA shall indicate the anticipated date of the child's return to a placement within California and shall document efforts during the previous year to return the child to California (*Education Code § 56365*).

Section D – Placement Procedures

The LEA CEO or designee shall review all documented efforts to utilize all public-school options prior to utilizing a NPS/NPA. NPS/NPA services are provided when the needs of a child are more intensive than can be met in the public-school setting. All program options and modifications should be exhausted prior to an IEP team recommending consideration of a NPS/NPA placement. The LEA/SELPA shall review the Master Contract, ISA, and the IEP to ensure that all services agreed upon and specified in the IEP are provided. The LEA/SELPA will process referrals and locate an appropriate NPS to meet the child's needs. The SELPA may assist and/or collaborate with the LEA to locate an appropriate NPS.

Each LEA agrees to use the Master Contract and ISA adopted by the SELPA. SELPA administration will ensure that the Master Contract has been approved by the California Association of Health and Education Linked Professions, Joint Powers Authority (CAHELP JPA) Governance Council and/or legal counsel and is updated per federal or state requirements.

NPS' are required by the Master Contract and the IEP team to annually evaluate the child (formally and informally) to determine if the child is making appropriate educational progress. As part of the IEP review process, each LEA that contracts with a NPS shall evaluate the placement of its student(s) in such a school on at least an annual basis. The LEA representative shall collaboratively review the NPS evaluation data to ensure that the results are appropriate, reliable, and valid for measuring student progress. The LEA may determine to conduct the evaluation(s) and/or choose to administer additional assessments with parental consent.

Section E – Children Residing in Group Homes/Foster Homes

LEAs within the SELPA have an obligation to place children who are homeless or who are foster children in school as required under the McKinney-Vento Education for Homeless Children and Youths Program. Under McKinney-Vento, these children must be provided access to a free appropriate public education (FAPE) and other services needed without following standard enrollment practices. No proof of residency, immunization records, tuberculosis skin-test results, school records, or legal guardianship papers are required for a child under McKinney-Vento to receive educational services. This process will also apply to Administrative Transfers into the LEA from a LEA, NPS, or county-operated programs. The following are guidelines that LEAs should

follow for processing and expediting the enrollment of foster placed/homeless children with disabilities:

1. The LEA will notify the SELPA immediately upon obtaining knowledge of a child who meets the criteria of homeless and/or foster youth with special needs who has transferred into the LEA.
2. Based upon the information available to the LEA (e.g., child's current IEP), the LEA will immediately consider a range of possible placement options for the child, including LEA options, if appropriate, and notify the SELPA. If the child is appropriate for a LEA program, the LEA will immediately enroll the child.
3. If the child's IEP indicates that the child previously attended a NPS, the LEA will do the following:
 - a. Complete the Transfer into LEA form (D/M 52) and obtain the parent and/or guardian signature.
 - b. Complete the NPS Referral form (D/M 134) and obtain the signatures of the person making the referral and the Director of Special Education. Specify the IEP team's preference for a specific NPS, if applicable.
 - c. Juvenile Hall/NPS Students: If the child's last placement was a local NPS prior to being moved to a juvenile detention center, only complete form D/M 134 upon the child's return to the LEA in lieu of preparing a new transfer NPS referral packet.
 - d. Forward the following completed documents to the SELPA Nonpublic School Coordinator:
 1. D/M 52 Transfer into LEA form;
 2. D/M 134 Nonpublic School Placement Referral form;
 3. IEP or IEP Addendum dated within one year of the transfer referral for NPS placement that documents the previous NPS placement;
 4. Psycho-educational evaluation dated within three years of the transfer referral for NPS placement;
 5. If the last triennial was completed with a Triennial Assessment Determination form (D/M 119), include the last full psycho-educational report; and
 6. Any additional information.
 - e. With 10 business days of receipt of the completed referral packet, the SELPA Nonpublic School Coordinator will review the packet for completion and forward it to the LEA's NPS school of choice. The NPS will contact the parent and/or guardian and placement will be made within 10 business days.

The NPS will work directly with the LEA to schedule an IEP within 30 days of the child's placement at the school. The placement should be listed on an IEP or IEP Addendum including the NPS, start date, duration, and frequency. The IEP or IEP Addendum should be forwarded to the Nonpublic School Coordinator at the SELPA.

NOTE: Within 30 days of placement, the LEA will make every effort to locate student records including IEPs, psychological assessments, immunization records, and birth certificates. If no school records can be located, the LEA will assess the child in all suspected areas of disability. Every effort will be made to assess these children within the 30-day placement.

Within five business days of receipt of the Addendum to the IEP, the SELPA Nonpublic School Coordinator will develop a Master Contract with the NPS if one does not currently exist and an ISA. The ISA will be forwarded to the appropriate NPS for signature. The SELPA will enter the NPS placement into the SELPA Management Information System (MIS) database.

The LEA may access additional support from the SELPA psychologist for group home and foster-placed children.

The federal McKinney-Vento Homeless Assistance Act requires schools to enroll new students who are homeless even if their immunization records are missing or unavailable at the time of enrollment. California law requires schools to immediately enroll foster children transferring to their school even if a foster child is unable to produce immunization records normally required for school entry. LEAs, parents, caregivers, foster parents, and group home staff should work with their local county health agencies to assist children in obtaining immunization records and/or immunizations for those children who are identified as needing additional immunizations. The law still requires that the school obtain the child's immunization record and ensure that the foster child has met all immunization requirements (i.e., Senate Bill (SB) 277 requirements, June 2015). LEAs must also track children they admit without proof of immunization so that they can be protected in case of an outbreak of any vaccine-covered disease.

California school immunization law allows schools to give students who are transferring in from other states up to 30 days to produce their immunization records. LEAs, parents, caregivers, foster parents, and group home staff should work with their local county health agencies to assist children in obtaining immunization records and/or immunizations for those children who are identified as needing additional immunizations. LEAs must also track children they admit without proof of immunization so that those children can be protected in case of an outbreak of any vaccine-covered disease.

Legal References

California Education Code Sections

- 56034-56035; 56365-56366; 56366.3

Title 5 California Code of Regulations (CCR)

- 3060-3061; 3064; 3068-3069

Government Code

- 7572.55

Welfare & Institution Code

- 362.2; 727.i

APPENDIX A: Guidelines for Parent Reimbursement for Reunification Visits

Introduction

The following information is established to provide guidelines to participating Local Education Agencies (LEAs) regarding authorized travel-related expenses/reimbursement of parent reunification visits for residentially-placed children receiving special education services.

The role of the Desert/Mountain Special Education Local Plan Area (SELPA) in this process is primarily to facilitate the assessment and referral process for residential placement for mental health purposes on behalf of participating LEAs. Parent reunification visits are family meetings that are agreed upon through an IEP and arranged by the SELPA, LEA, and the parent. The LEA is the authorized agent to approve all necessary parent reimbursements relating to the reunification visit(s). Therefore, parent reimbursement claims should be submitted to the LEA for verification and reimbursement.

Parent reimbursement will only be provided when the child's IEP specifies a residential placement located outside the boundaries of the SELPA member LEAs. Reimbursement may include transportation, lodging, and meals.

Additionally, parent reimbursement claims for additional family member(s) participation at approved family meeting(s) is not uncommon and has been accommodated for reimbursement based on the IEP team's determination of the child's needs and/or the IEP team's approval of the recommendation of the mental health treatment plan. The approval of additional requests for reimbursement beyond those determined to be educationally necessary by the IEP team will be at the discretion of the LEA under its adopted policy.

Reimbursement to Parent (Children receiving mental health services)

The LEA is financially responsible for reasonable expenses associated with the transportation of a pupil with a disability to and from the mental health services that are specified on the pupil's IEP. The determination of the appropriate number of trips home from a residential facility as well as the frequency of reunification visits required in order for a child to benefit from special education, should be determined by the IEP team on a case-by-case basis (Letter to Dorman, 211 IDELR 70 (OSEP 1978); Letter to Anonymous, 213 IDELR 164 (OSEP 1988)).

The residential facility may arrange for transportation of the child to the residential facility. Cost for this transportation is to be submitted as an invoice and paid directly by the LEA. In some instances, however, it may be necessary for a parent to transport their child to the residential facility. In this case, the following parameters and procedures for parent reimbursement shall apply:

A. Transportation of Student to/from Residential Placement Facility

1. Parent reimbursement will be provided for transportation costs for the initial delivery or final return of the child to or from the residential facility. Reimbursement will be for the child and one parent escort using one of the following modes of transportation: airplane, personal vehicle, bus, train, or rental car. If a rental car is used, original receipts for gas purchased must be submitted and documented in the parent reimbursement claim form. The LEA may cap the allowable reimbursement.

Should the IEP team determine that a child needs to be transported to or from the residential facility using an escort service, the need for this service shall be documented in the child's IEP, and the LEA will reimburse the Nonpublic School (NPS) for actual escort services or will pay the escort company directly if there is enough lead time to initiate a transportation contract. If the parent chooses to pay for the escort service, the parent should submit the reimbursement claim form directly to the LEA and the LEA will reimburse the parent within 60 days of receiving/verifying the claim form. The dated, itemized, original receipt should be attached to the claim form.

2. If the parent elects to drive their personal vehicle, reimbursement will be provided for mileage at the established governmental rate per LEA policy. The total reimbursement amount for mileage shall not exceed the cost of economy airfare for the parent and child to the residential placement site. Example, if parent's roundtrip airfare and child's one-way airfare plus airport parking and ground transportation to the residential placement site would be \$650 and the mileage reimbursement to the residential facility site is \$700; the mileage reimbursement will be reduced to the \$650 amount.
3. Mileage reimbursement for personal vehicle mileage will be provided for the roundtrip distance between the child's home and the residential facility site. Parent should document the vehicle mileage in the parent reimbursement claim form and submit the form to the LEA. An independent mileage website (i.e., Yahoo maps, MapQuest, etc.) will be used by the LEA to verify the mileage calculation.
4. Lodging expenses will be reimbursed for no more than one night during the trip to either deliver or pick the student up from the residential facility located at least 200 miles from the child's home. Maximum reimbursement for lodging is \$100 per night and does not include phone calls, in-room movies, room service, or other miscellaneous expenses incurred. Under no circumstances may personal expenses be reimbursed other than those specified in this policy. Parent should complete the reimbursement claim form and attach the dated, itemized, original lodging receipt, and submit the documents to the LEA for reimbursement.
5. If travel is by airplane, parking at the departure airport and ground transportation (the lesser expense for either a shuttle or taxi) from the destination airport to the residential facility will be reimbursed with submission of the original receipt(s).

NOTE: Many residential facilities provide ground transportation from the airport to their facility. Parent should check with the residential facility prior to making ground transportation arrangements.

6. Rental cars must be selected from the Economy or Compact class. Additional CDW insurance coverage on the rental car will not be reimbursed.
7. Requests for reimbursement must be submitted to the LEA within 30 days of travel. Parent must complete and submit the attached Parent Reimbursement Claim form to the LEA. Original itemized receipts for allowable expenses for the date(s) of travel must be attached to the claim form.
8. Reimbursement payment will be made within 50 days of the LEA's receipt of the properly completed claim form and original receipts. No claim form will be processed without the original itemized receipts.

B. Parent Visitation to/from Residential Placement Facility

1. Reimbursement will only be provided by the LEA for parent(s) visitation to the residential facility if the purpose of the visit is specifically related directly to the child's education and/or reunification and is documented in the child's IEP.
2. The costs of additional visitations, which are not included in the child's IEP, will be the responsibility of the parents. Consideration may be given for an additional visit(s) if recommended by the residential facility, considered programmatically required, and documented in the child's IEP.
3. Reimbursement for parent visitation specified on the IEP will only be provided for the custodial parent(s). Reimbursement may be for the following: air, train, bus, personal vehicle, or rental car; lodging; and meals. If using a rental car, actual cost of gas will be reimbursed if original gas receipts are provided.
4. If the parent elects to drive their personal vehicle, reimbursement will be provided for mileage at the established governmental rate per LEA policy. However, the total reimbursement amount may not exceed the cost of economy airfare for the parent to the residential placement site. Example, if parent's roundtrip airfare plus airport parking and ground transportation to the residential placement site would be \$350 and the mileage reimbursement to the residential facility site is \$600; the mileage reimbursement will be reduced to the \$350 amount.
5. Mileage reimbursement for private vehicle mileage will be provided for the distance between the child's home and the residential facility site. An independent mileage website (i.e., Yahoo maps, MapQuest, etc.) will be used by the LEA to verify the mileage calculation.
6. Lodging expenses will be reimbursed for no more than two nights during the approved visit to the residential facility located at least 200 miles from the child's home. Maximum reimbursement for lodging is \$100 per night and does not include phone calls, in-room movies, room service, or other miscellaneous expenses. Under no circumstances may personal expenses be reimbursed other than those expenses specified in this policy. The dated, itemized, original lodging receipt is required for reimbursement and must be attached to the reimbursement claim form.

7. If travel is by airplane, parking at the departure airport and ground transportation (the lesser expense for a shuttle, rental car or taxi) from the destination airport to the residential facility will be reimbursed with submission of the original receipt(s).

NOTE: Many residential facilities provide ground transportation from the airport to their facility. Parent should check with the residential facility prior to making ground transportation arrangements.

8. Rental cars must be selected from the Economy or Compact class. Additional CDW insurance coverage on the rental car will not be reimbursed.
9. Parent must submit requests for reimbursement to the LEA within 30 days of travel. The parent must complete and submit the attached Parent Reimbursement Claim form to the LEA. Original itemized receipts for allowable expenses must be attached.
10. Reimbursement payment will be made within 50 days of the LEA's receipt of the properly completed Parent Reimbursement Claim form and original receipts prepared and submitted as specified herein. No claim form will be processed without the original itemized receipts.

APPENDIX B: Parent Reimbursement Claim Form - Student in Residential Care

**School District LEA Name
Parent Reimbursement Claim for Student Residential Care**

Please forward this reimbursement claim form to:	LEA School District: _____ Address: _____ _____
INSTRUCTIONS: Parent <i>MUST</i> : (1) Complete all information requested below; (2) attach original itemized receipts for all expenses; (3) sign and date the claim form; and (4) mail the completed form and receipts to the district. If requested information is omitted, reimbursement payment will be delayed.	
Student Name: _____	Parent Name: _____
Student's Home Address: _____	
Parent's Home Address: _____	Work or Cell No.: _____
Residential Placement Facility: _____	
Travel Dates: From: _____	To: _____

ITEM DESCRIPTION (Receipts Attached)	AMOUNT REQUESTED
Air travel, train, bus, rental car *	\$ _____
Lodging *	\$ _____
Meals *	\$ _____
Airport Parking	\$ _____
Ground Transportation to Residential Placement Facility	\$ _____
Private Vehicle Mileage _____	\$ _____
Rental Car Gas	\$ _____
Escort Service as documented in Student's IEP	\$ _____
<i>* Reimbursement amount and/or limit s shall be determined according to the district's travel policy.</i>	
TOTAL REIMBURSEMENT REQUESTED	\$ _____

I certify that the above information is true and accurate.	_____ Parent Signature _____ Date
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