

SELPA Administrative Regulation

Students with Disabilities Enrolled by Their Parents in Private Schools

Definitions

District of Location (DOL)

As used in these regulations, the district of location (DOL) refers to the school district within which boundaries the private school is located.

District of Residence (DOR)

As used in these regulations, the district of residence (DOR) refers to the school district within which boundaries the child with a disability resides.

Local Educational Agency (LEA)

As used in this part, the Local Educational Agency, (LEA), refers to a school district.

Private School Children with Disabilities

As used in these regulations, private school children with disabilities means children with disabilities enrolled by their parents in private, including religious schools or facilities. Children with disabilities ages three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, only if they are enrolled in private schools or facilities that meet the definition of "elementary school" in 34 CFR § 300.13 (see below). All other preschool children will be considered public school referrals under the IDEA.

Elementary School

Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.

Private School or Facility

For the purpose of this policy, a private school is defined as an institutional day or residential school that provides elementary education, as determined under

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State law (CFR 300.13). In order for a pre-school to be considered a private school it must meet the definition described above (see attached letter from OSEP dated 12-1-06). Private day care centers do not meet this requirement and therefore are not considered private schools for the purpose of these requirements.

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SELPA Administrator

As used in these regulations, the Special Education Local Plan Area (SELPA) Administrator is the person responsible for coordinating special education services for the districts within the Tehama County SELPA.

Overview

According to federal and state statute, the DOL is responsible for processing special education referrals for students attending a private school located within the district's boundaries. The DOR is ultimately responsible for the provision of a free and appropriate public education (FAPE) to all eligible students residing within their attendance area.

The school districts in the Tehama County Special Education Local Plan Area ("SELPA") agree to comply with the following:

The DOL shall locate, identify, and assess all private school children with disabilities, including religiously affiliated school age children, ages three (3) through twenty-one (21), who have disabilities and are in need of special education and related services attending private school.

The DOR will offer a free and appropriate public education (FAPE) to all children ages three (3) through twenty-one (21) with disabilities, enrolled by their parents in private schools, including religious schools, who are determined to be eligible for special education services.

Consultation

The SELPA Administrator and representatives from the districts where private schools are located shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities annually regarding the design and development of special education and related services for the children, regarding:

1. The child find process and how parentally placed private school children, suspected of having a disability, can participate equitably and how parents, teachers, and private school officials will be informed of the process;

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2. The determination of the proportionate amount of Federal funds available to serve parentally placed private school children with disabilities under these regulations, including the determination of how the amount was calculated;
3. The consultation process among the SELPA Administrator, local educational agencies, private school officials, and representatives of parents of parentally placed private school children with disabilities, including how such 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 these decisions will be made; and
5. How, if the local educational agency disagrees with the views of the private school officials on the provision of services or the types of services, whether provided directly or through a contract, the local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose not to provide services directly or through a contract.

When timely and meaningful consultation, as described above, has occurred, the SELPA Administrator shall obtain a written affirmation (SAE 10d) signed by the representatives of participating private schools and if such representatives do not provide such affirmation within a reasonable period of time, the SELPA Administrator shall forward the documentation of the consultation process to the California Department of Education.

A private school official has the right to submit a complaint to the California Department of Education (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.

If a complaint is filed:

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1. The private school official must provide the CDE with the basis of the complaint of noncompliance; and
2. The SELPA Administrator must forward the appropriate documentation to the CDE.

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.

The SELPA Administrator shall also send a letter to private schools outlining the services to be provided to parentally placed private school students with disabilities.

Child Count

1. The SELPA Administrator shall conduct an annual count of the total number of private school children with disabilities enrolled in private schools physically located within the boundaries of the Tehama County SELPA regardless of where the child resides. The count will include a survey of private school administrators and an analysis of data contained in the SELPA Management Information System.
2. The child count shall be conducted for attendance on December 1 of the current year for private schools within the Tehama County SELPA boundaries.
3. The child count shall be used to determine the amount that the Tehama County SELPA must spend on providing special education and related services to private school children with disabilities in the current fiscal year.

Private School Funding Calculation

Pursuant to federal and state law and regulations, the Tehama County SELPA shall spend a proportionate share of federal funds to provide special education and related services to private school children with disabilities ages three (3) to twenty-two (22) eligible for special education services. The calculation is based on Federal Grants allocated during the current school year. The procedure for determining the proportionate amount of Federal Funds available to serve parentally placed private school students with disabilities is:

Formula for ages 3-22:

$$\frac{\text{Eligible Parentally Placed Private School Students (3-22)}}{\text{Students with Disabilities Enrolled by their Parents in Private Schools}} \times 611 \text{ Grant} = \text{Total amount to}$$

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Total SELPA (3-22) Eligible Unduplicated Pupil Count (including above number)	Amount	expend for private school students (3- 22)
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Example:

$$\frac{8}{1012} = 0.008 \quad X \quad \$1,250,000 \quad = \quad \mathbf{\$10,000}$$

Formula for ages 3-5:

Eligible Parentally Placed Private School Students (3-5) Total SELPA (3-5) Eligible Unduplicated Pupil Count (including above number)	X 619 Grant Amount	= Total preschool amount to expend for private school students (3-5)
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Example:

$$\frac{2}{80} = 0.025 \quad X \quad \$36,000 \quad = \quad \mathbf{\$900}$$

Total Federal funds to be expended based on # of privately placed children = \$10,900.

For the purpose of calculating the 'formula for ages 3-5' above, children aged three through five are considered to be parentally placed private school children with disabilities if they are enrolled in a private school that meets the definition as stated in this regulation.

Child-Find

1. The SELPA Administrator shall undertake the following Child-Find activities with regard to private school children ages three (3) to twenty-two (22):
 - a. Consult with representatives of private school children with disabilities (including private school administrators, teachers, parents, and students) 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.

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2. Distribute materials to representatives of private school children with disabilities (including private school administrators, teachers, parents and students) regarding issues, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.
3. The Local Education Agencies shall ensure that Child-Find activities undertaken for private school students are comparable to activities undertaken for children with disabilities ages three (3) to twenty-two (22) with disabilities in public schools.

Note: The proportionate share of federal funds that private schools are entitled to shall not be used for Child-Find activities.

Special Education Referral

1. Students may be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.
2. If after considering and, where appropriate, utilizing general education resources, representatives of private school children with disabilities (including private school officials, teachers, and parents) determine that a private school child may be eligible for special education services, a referral shall be directed to the District of Location. The DOL will forward referrals for preschool children to the Tehama County Department of Education.

Evaluation

1. The DOL shall respond to the request for assessment with a written assessment plan or a written refusal to assess within 15 days of the date of receipt of referral.
2. If an evaluation is deemed appropriate, the DOL shall complete a comprehensive evaluation as per EC 56320.

Note: The DOL shall request permission from the parent to share assessment results with the DOR at the same time that consent is obtained for the evaluation. (EC 56515(c)(3))

Initial Individual Education Program (IEP) Team Meeting

1. Upon completion of the evaluation the DOL shall conduct an IEP meeting.

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Note: The DOL shall also invite the DOR to attend the IEP.

2. The IEP Team shall share the results of the evaluation and make the appropriate determination regarding eligibility. If the IEP Team finds the student is eligible for services, the district will advise the parents regarding the rights of students placed by their parents in private schools and do one of the following:
 - a. If the parents of a private school child with a disability are interested in enrolling their child in public school or are unsure of their intentions, the IEP team shall develop an IEP for the child. If the parents agree and consent to the IEP, the IEP shall be implemented without delay following the IEP meeting and following the proper enrollment of the student at the DOR. If the parents agree with the IEP but decide to have their child attend the private school, the IEP Team shall have the parents sign the appropriate certification (see attachment SAE 10f) and offer to develop a Service Plan for the student.
 - b. If the parents of a private school child with a disability are clearly not interested in enrolling their child in public school but request that special education services be provided, the IEP Team shall have the parents sign the appropriate waiver and develop a Service Plan ("SP") in accordance with these regulations, and federal and state laws and their regulations.
 - c. If the parents of a private school child with a disability indicate that they do not intend to enroll their child in a public school and do not want special education services for their child, the IEP Team shall have them sign the appropriate waiver but will not develop an IEP or Service Plan.
 - d. If the parents do not sign the waiver, an IEP should be developed.

Students Residing Outside the SELPA and Attending a Private School Inside the SELPA

In cases where the DOR is located outside the Tehama County SELPA, the DOL will collaborate with the DOR in the same manner as addressed above. If this is not feasible, the DOL shall assume responsibility for the initial assessment. The DOL shall contact the DOR and invite the DOR to the IEP meeting.

Students Residing Inside the SELPA and Attending Private Schools Outside the SELPA

Federal law requires that the district where the private school is located be

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responsible for the Child-Find and processing of referrals. Therefore, the district of location for a private school located outside of the boundaries of the Tehama County SELPA may or may not include the DOR in the evaluation process. If contacted, the DOR will collaborate with the DOL as appropriate and be prepared to offer FAPE at the IEP meeting. The DOR may conduct its own assessments as appropriate with parental consent.

When a DOR receives a referral for a student attending a private school outside the SELPA, the DOR shall refer the parent to the DOL. The DOR shall collaborate with the DOL and be prepared to offer FAPE at the IEP meeting.

Service Plan

1. Each private school child with a disability, who has been designated to receive services under this policy, shall have a SP that describes specific special education and related services that the DOL shall provide to the child. The services available on a Service Plan are determined by the SELPA Administrator in consultation with private school representatives. The DOL shall ensure that a representative of the private school attends each meeting involving an individual child's SP. If the private school representative cannot attend, the DOL shall use other methods to ensure participation by the private school, including individual or conference telephone calls.
2. If the Service Plan (SP) team determines that transportation is necessary for the child to benefit from or participate in the services provided in the child's Service Plan, a private school child with a disability shall be provided transportation, depending on the scheduling of the services:
 - a. From the child's school or home to the service site, other than the private school; and/or
 - b. From the service site to the private school or child's home.Transportation shall not be provided from the child's home to the private school. The cost of transportation shall be included in calculating whether the Tehama County SELPA has spent a proportionate amount of funding on private school children with disabilities.
3. No 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 (E.C. 56174.5).
4. The services provided pursuant to a Service Plan 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 SP. Services and, when appropriate, materials and equipment must be secular, neutral and non-ideological. The SELPA shall not use its proportionate share of federal

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funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.

5. Services must be provided by personnel meeting the same standards as personnel providing services in the public schools. Services may be provided by employees of a public school or through contract with an individual, agency, organization or other entity. The district may contract with private school personnel to provide services if the services are provided outside that person’s regular school day and under the supervision of district personnel.

Note: Upon the initial development of a service plan, and each year after, the DOL shall send copies of the service plans to the DOR with consent from the student’s parents.

Annual Offers of a Free and Appropriate Public Education

1. All children with disabilities eligible for special education who reside in the Tehama County SELPA are entitled to receive a FAPE from the District of Residence, if they are enrolled in public school. One year after an eligible private school child’s initial IEP team meeting and annually thereafter, the DOL shall obtain parent consent and shall send the DOR copies of service plans for all students currently receiving service and a list of students who are eligible for special education and not currently receiving services. Annually, the DOR shall notify the parents of eligible children in writing (see attachment SAE 10g) that the District of Residence:
 - a. Continues to offer a FAPE in accordance with federal and state laws and regulations;
 - b. Is ready, willing, and able to schedule an IEP team meeting for their child in order to offer the child a FAPE, subject to assessment, if appropriate, if the parents express an interest in enrolling their child in public school.

The parents shall be requested to send the document back to the District of Residence and indicate their agreement with one of the following statements:

- a. I understand that the District of Residence continues to offer my child a free and appropriate public education (including appropriate special education and related services) if he/she is enrolled in public school. I choose to continue to parentally place my child in a private school; and:
 - I am not interested in receiving any special education

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services under either a Service Plan or IEP, at this time.

Or

___ I would like my child to continue to receive services pursuant to his/her SP. I am not interested in enrolling my child in public school.

b. ___ I am interested in enrolling my child in public school and/or discussing service and placement options in the public school. I would like to schedule an IEP team meeting for my child. Please call me at: [parent inserts phone number] in order to schedule the IEP meeting.

If the parents do not return the form, an IEP meeting notice shall be mailed to parents, an IEP meeting shall be convened, and an offer of FAPE made in an IEP.

- 2. On the year when the triennial evaluation is due, the District of Residence shall conduct the triennial evaluation, as necessary, and convene an IEP team meeting. The IEP Team shall determine the student’s continuing eligibility for special education and, if the student continues to be eligible for services, either develop an IEP or service plan, as appropriate.

Private Preschool Students with Disabilities (Age 3.0 - 5.11)

All preschool referrals shall be directed to the Tehama County Department of Education (TCDE). TCDE staff will conduct a comprehensive special education evaluation based on each student’s unique needs. At the completion of the evaluation the TCDE will convene an IEP meeting with the District of Residence. If found eligible, the student will be offered a free and appropriate public education in the least restrictive environment. If the parent declines the IEP developed for the child and elects to enroll his/her child in a private preschool, the eligible preschool child with a disability shall be considered a parentally placed private school student. In this case, the DOL shall offer an SP for the student consistent with Federal and State laws and implementing regulations. The private preschool must meet the definition of private school or facility described in the section on definitions.

Dispute Resolution

- 1. Pursuant to federal regulations, parents are not entitled to a due process hearing involving disputes over the contents, quality, or implementation of

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Services Plans (SP). A parent's right to seek a due process hearing is limited to the issue of the SELPA/LEA's failure to identify, locate, and assess a parentally placed private school student.

2. Disputes regarding this policy and procedures may be resolved pursuant to local uniform complaint policies and procedures, and/or by filing a complaint with the California Department of Education, pursuant to Title 5 of the California Code of Regulations Section 4600 et seq.
3. No parentally placed private school child with a disability has an individual right to receive some or all of the special education and related services that he/she would receive if enrolled in a public school.

Timeline to Ensure Timely and Meaningful Consultation

- (By April 1) 1. The Tehama County SELPA Administrator will send letter (SAE 10a) and attachment (SAE 10b), relevant code sections from IDEIA, to administrators of private schools. A listing of private schools can be accessed at: www.cde.ca.gov/sp/ps/rq/ap/coe_logon.asp.
- (By May 1) 2. The Tehama County SELPA Administrator and representatives from DOLs will meet with representatives from private schools and parents of parentally placed private school students. Use agenda/check list (SAE 10c) to guide completion of required content of consultation.
- (Date of Meeting)3. Obtain written affirmation that timely and meaningful consultation has occurred with representatives of private schools and parents of parentally placed private school students. (SAE 10d)
- (By June 1) 4. The SELPA Administrator sends letter to private schools outlining the services to be provided to parentally placed private school students with disabilities. (SAE 10e)
- (On-going) 5. The DOL receives referrals for evaluation from private schools throughout the year. Eligible students will have access to SELPA determined services identified in their Service Plan, based on availability of proportionate share of funds.

Legal References:

CALIFORNIA EDUCATION CODE
 Sections 56170 – 56174.5
 Sections 56515(c)(3)

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UNITED STATES CODE

TITLE 20 Section 1412(a)(10) (A)

CODE OF FEDERAL REGULATIONS

Sections 300:130-144

Forms needed:

Consultation letter and format

Annual Offer of FAPE and parent response

IDEA statute

Report of consultation result

Survey prior to consultation

Affirmation