

K. Students with Disabilities Enrolled in Private School

The following procedures shall be followed by the school districts in the Solano County Special Education Local Plan Area ("SELPA")⁵:

The district where a private school is situated shall: locate, identify, and evaluate all children suspected as having a disability enrolled by their parents in private, including religious, elementary schools and secondary schools who may be eligible for special education services.

The district of parent residence has a continuing obligation to locate, identify, and evaluate all children suspected as having a disability who may be eligible for special education services and offer a free and appropriate public education (FAPE) to all children ages three (3) to twenty-two (22) with disabilities, enrolled by their parents in private, including religious, elementary schools and secondary schools, who are determined to be eligible for special education services.

This policy focuses on addressing the responsibilities of the district where the private school is located.

K1. Definitions

Parentally placed private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school within district boundaries, including children who are attending a private, nonprofit elementary or secondary school within district boundaries but who reside in another district or state. (34 CFR 300.130, 300.131)

Private school means a private, nonprofit, elementary or secondary, full-time day school, including a religious school, located within district boundaries.

K2. Consultation with Private School Representatives

The Superintendent or designee shall consult with all private school representatives and representatives of parents/guardians of parentally placed private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: (20 USC 1412(a)(3); 34 CFR 300.134; Education Code 56301)

1. The child find process and how parentally placed private school children suspected of having a disability can participate equitably
2. How parents/guardians, teachers, and private school officials will be informed of the child find process
3. The determination of the proportionate share of federal funds available to serve parentally

⁵ See corresponding member LEA board policy and administrative regulation 6164.41

placed private school children with disabilities and how this share is calculated

4. How the consultation process will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services
5. How, where, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made
6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services

When meaningful and timely consultation has occurred, the district shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the district shall forward documentation of the consultation process to the California Department of Education. (34 CFR 300.135; Education Code 56172)

After the consultation has occurred, the district shall ensure an annual count of the number of parentally placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

K3. Provision of Services

A child with a disability parentally placed in a private school has no individual right to receive some or all of the special education and related services that he/she would receive if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR 300.137, 300.138)

The district shall evaluate all identified parentally placed private school children with disabilities for purposes of considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311, including providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 300.504)

In order to ensure that each child entitled to special education and related services receives an offer of a free appropriate public education (FAPE), the district where parents reside, which may also be the district where the private school is located, shall develop an individualized education program (IEP) for each identified child.

However, the district shall not develop an IEP if the parent/guardian makes clear his/her intention to keep the child enrolled in private school. In such situations, the district shall obtain written certification

confirming the parent/guardian's intention to keep his/her child enrolled in private school, including the fact that he/she is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

The district shall develop and implement an individual services plan (ISP) for each identified private school child with a disability that describes the equitable services that the district will provide, as agreed to by the district and private school representatives during the consultation process. (34 CFR 300.138)

The ISP shall, to the extent appropriate, be developed, reviewed, and revised consistent with 34 CFR 300.121-300.324. A representative of the private school shall be invited to attend each ISP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

The district may provide services on the private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school. The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the property of the district and must be able to be removed without causing damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

K4. IEP Meetings after the Initial IEP Team Meeting

Districts shall not prepare an IEP for pupils enrolled by their parents in private schools unless a parent requests that an IEP be developed.

K5. Dispute Resolution

With the exception of disputes related to child find, special education due process procedures are not available to parents for resolving disagreements about the services provided to private school children with disabilities who are placed by their parents in private schools when FAPE is not at issue.

No LEA or District of Residence is required to pay for the cost of educating a child with a disability at a

private school (including special education and related services) if: (1) the District of Residence made a FAPE available to the child, and (2) the parents voluntarily elected to place their child in a private school.

Disputes regarding whether the LEA complied with child find requirements (such as the initial location, identification, and assessment of the parentally placed private school child with disabilities by the LEA and/or the District of Residence, as appropriate) may be resolved pursuant to local policies and procedures and/or by filing a request for a due process hearing with the Office of Administrative Hearings.

Disputes regarding the LEA's policy regarding *Children with Disabilities Enrolled by their Parents in Private Schools* Policy may be resolved pursuant to local 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.