

<b>TULARE COUNTY/DISTRICT SELPA</b>	<b>POLICY #</b>	<b>9700</b>
<b>SPECIAL EDUCATION -- SERVICES –</b>	<b>Adopted:</b>	<b>12/13/23</b>
<b>MISC.</b>		
<b>SRP</b>	<b>Revised:</b>	

## **Services to Students Enrolled in Private Schools**

There are two major categories of private school students – “publicly placed” and “parentally placed”.

- In the first instance, the educational agency places a student in a private facility in order to meet its requirement of free appropriate public education (FAPE) and the District's obligation to serve the student is exactly the same as if the student attended the public school.
- In contrast, the special education rights of the parentally placed private school student are considerably more limited. A parentally placed private school student with a disability does not have an individual right to FAPE. There are no instances when the District of Residence will be required to provide a service to such a child. However, there are particular obligations that the District of Location must fulfill as explained herein.

These SELPA procedures and supporting documents apply to all SELPA member school districts but not necessarily to other school districts outside of the SELPA boundaries. It is recommended that each school district develop a school board policy and procedural administrative regulations whether there is a private school within its boundary or not. To assist in that endeavor, this document (1) explains the key definitions used herein, (2) defines child find through identification procedures, (3) delineates differences in provision of services, (4) describes obligations for meaningful consultation, and (5) explains proportionate share,

### **Key Definitions Used Herein**

**District of Residence (DOR):** As used in this policy, refers to the school district within which the child with a disability resides.

**District of Location (DOL):** As used in this policy, refers to the school district within which the private school is located.

**Individualized Education Program (IEP):** As used in this policy, refers to the DOR offer of a free appropriate public education.

**Individual Service Plan (ISP):** As used in the policy, is a plan created by the DOL when a parent voluntarily places an eligible student with a disability in a private school.

**Private School Students with Disabilities:** As used in this policy, mean students with disabilities enrolled by their parents in a private school or facility.

**Private School or Facility:** As used in this policy, means: (1) private full-time day school pursuant to California Education Code section 48222 (including religious schools); (2) any other California Department of Education (CDE) identified educational institution, program, arrangement, or facility not sponsored, maintained, or managed by an LEA and for which the LEA does not collect average daily attendance funds; (3) CDE authorized private school affidavit. This includes 'for-profit' private schools.

## **Private School Consultation**

"Consultation" involves discussions between the DOL, private school representatives, and parents of parentally-placed private school students with disabilities on key issues that affect the ability of eligible private school children with disabilities to participate equitably in federally-funded special education and related services.

Effective consultation provides a genuine opportunity for all parties to express their views and to have those views considered by the DOL. Successful consultation establishes positive and productive working relationships that make planning easier.

## ***Legal Requirements***

To ensure timely and meaningful consultation, the DOL should consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children. Such consultation shall include:

- (I) The child find process and how parentally placed private school children suspected of having a disability can participate equitably, including how parents, teachers, and private school officials will be informed of the process;
- (II) The determination of the proportionate amount of federal funds available to serve parentally placed private school children with disabilities under this subparagraph, including the determination of how the amount was calculated;
- (III) The consultation process among the DOL, 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;

- (IV) 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
  
- (V) How, if the DOL 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 DOL shall provide to the private school officials a written explanation of the reasons why the DOL chose not to provide services directly or through a contract.

### ***Invitation to Provide Input***

DOLs with a private school within their boundaries must consult with appropriate representatives of the private school and their representative parents of children with disabilities on how to locate, identify, evaluate and provide services to children with disabilities enrolled in private schools.

## **Proportionate Share of Funds**

This section explains the calculation method used by SELPA, the sample calculation for proportionate share.

### ***Calculation***

One time each year a pupil count of the number of eligible parentally-placed private school students with an ISP will take place. Each DOL will determine the number and location of parentally-placed private school children eligible for special education within the DOL's jurisdiction and report the information in CALPADS. SELPA will then calculate the proportionate share of federal dollars generated from the Census day

pupil count to be allocated to provide special education and related services to private school students.

To calculate the proportionate share that a DOL must spend, the SELPA uses the Federal Part B, IDEA section 611 (6-21 year olds) grant awards and the pupil count from the most recent December 1 count.

Parentally placed private school students receive notification annually about the provision of special education services via the Individual Service Plan (ISP).

### **Child Find through Identification Procedures**

The 2006 regulations in 34 CFR 300.131(a) provide that each DOL must locate, identify and evaluate all children with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools located within any given school district. This includes both the DOR and the DOL, as they each hold responsibility for Child Find. Within Tulare County, the DOR has primary responsibility for Child Find unless both the DOR and DOL mutually agree to delegate the initial assessment to the DOL.

The Child Find process must be designed to ensure the equitable participation of parentally-placed private school children with disabilities and an accurate count of such children. In carrying out this clause, the DOL is required to undertake activities similar to those activities undertaken for the agency's public school children (i.e., problem solving team documentation of interventions considered and utilized, as appropriate). Such Child Find process shall be completed in a time period comparable to that for other students attending public schools in the DOL. Given these obligations, the cost of carrying out Child Find activities, including individual evaluations, may not be considered in determining whether a DOL has met its obligations under private school proportionate share allocations.

The SELPA encourages collaboration between DOL and DOR to determine assessment responsibilities based on the individual circumstances of each student.

### ***Problem-Solving Team Process***

Prior to pursuing a formal special education assessment, private schools are encouraged to establish a pre-referral problem-solving team intervention process, (i.e., Educational Monitoring Team [EMT], Response to Intervention [RtI], Student Study Team [SST]) to address support within the classroom. Training for this process, including the required forms, will be offered by the DOL and SELPA.

The private school needs to complete the problem solving team process and document interventions considered and/or utilized in the private school setting. A systematic record of the meetings, recommendations, and follow-up services of the pre-referral intervention process should be maintained by the private school to monitor student progress.

If the child continues to struggle and the problem-solving team suspects a disability might exist, the private school needs to notify the DOL of the potential need for an evaluation. The private school will submit copies of the results of the interventions to the DOL on the forms agreed to in the private school consultation meeting process. If the DOL in collaboration with the private school determine that a disability is suspected the DOL will contact the DOR to discuss initial assessment responsibility.

### ***Procedures for Processing Referrals for Special Education Evaluation***

The DOR will initiate a proposed *Assessment Plan with Prior written Notice* and explain the forms to the parent within 15 days of the referral.

The DOR will complete the assessment, including writing a written report, within 60 days of receiving parental consent to conduct the evaluation

### ***IEP Team Determination of Eligibility***

The school district that completed the initial evaluation, typically the DOR, shall invite the student's teacher and an administrator from the private school and a representative from the DOL to attend a team meeting to share the assessment results and develop an IEP by the DOR. The student's eligibility for special education services will be determined by the IEP team.

### **Provision of Services**

There are two ways a student with an identified disability can receive special education services: via an Individualized Education Program (IEP) or an Individualized Service Plan (ISP).

### ***Services via the IEP Process***

Should the student be found eligible for special education services, the student's DOR is responsible for completing the IEP process within 60 days of the parent's consent for assessment. This process includes, among other things, the development of goals to address identified needs, consideration of special factors, supplementary aids and services, and an offer for a free appropriate public education (FAPE) in the least restrictive environment (LRE).

When the IEP team has determined that the appropriate services are those provided in a private school setting, such services shall be provided at no cost to the parents. In these instances, the DOR obligation to serve the student is exactly the same as if the student attended the public school. If the student is preschool age the IEP may be applicable to the private school setting until the age of 5.

In other cases, the DOR may complete the IEP process and determine that the offer of FAPE in the least restrictive environment is a public school program. It is important that the parent understand that (1) the IEP will get implemented should the parent enroll their child in the public school setting and (2) that they have no individual right to such services should they maintain their child's enrollment in the private school setting.

- In the first instance, the IEP will be implemented upon enrollment in the public school.
- In the second instance, the parent should indicate on the ISP as appropriate and indicate their intent to maintain private school enrollment, and accept or decline the Individual Service Plan (ISP).

The DOR must annually offer the child FAPE by developing an IEP and/or offering service(s) via a Prior Written Notice (PWN).

No parentally placed private school student 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.

No school district is required to pay for the cost of educating a child with a disability at a private school if the DOR made FAPE available to the child and the parents voluntarily elected to place the child in a private school.

At each evaluation and IEP team meeting, the parents will be given a copy of the *Notice of Parental Rights and Procedural Safeguards*. Disputes regarding whether a DOR offered FAPE to the child (as well as the initial identification and evaluation of parentally placed private school children with disabilities) may be resolved pursuant to local and state policies and procedures.

### ***Services via the ISP Process***

If the private school where the student is enrolled is within the DOR boundaries, the DOR is also considered the DOL and shall develop the ISP.

If the private school where the student is enrolled is outside the DOR boundaries, the DOR shall refer the case to the DOL where the private school is located for development of an ISP.

The DOL will contact the family to develop an ISP for the student. Appendix A contains a Notice of Individual Service Plan Meeting (Form 14a) and the Individual Service Plan is in SEIS. During this meeting, the ISP team will review the offer of FAPE from the DOR and develop an ISP (in SEIS) accordingly.

The parent has a right to accept or decline the service offered through the ISP.

If the parents maintain enrollment in the private school, the DOL will invite the parents to attend an ISP meeting to review their child's ISP and progress on an annual basis. A copy of the signed ISP must be provided to the student's DOR. The DOL is responsible for CALPADS reporting of the ISP via SEIS.

**NOTE:** For preschool students on an IEP who transition into a private school for kindergarten, a meeting must be held to develop an ISP by the 5th birthday to transfer services from the IEP to an ISP..A transition meeting should be held in the spring prior to the transition to kindergarten to determine if the student will attend public or private school and project the appropriate educational setting and plan (IEP or ISP) for kindergarten.

## ***Compliance Monitoring Obligations***

After the initial offer of FAPE, when the educational rights holder does not provide consent and/or respond to the IEP, the DOR is **NOT** responsible for making an annual offer of FAPE via the IEP process. The DOL reports students with disabilities who attend private schools located within district boundaries in their CALPADS as one of the following Plan Types (the type of plan by which the student is receiving special education services):

- Individual Service Plan (ISP) – Annual Review Required
- Eligible: no IEP, IFSP, or ISP, Parentally placed in private school (student does not need services to be provided using proportionate share or parent declines offer of services to be provided via proportionate share)
- Eligible: no IEP, IFSP, or ISP, other reasons or no services delivered – Need for Annual Review meeting determined on individual case-by-case basis
- Not eligible for special education or related services – Annual Review not required

The DOL is legally responsible for conducting reevaluations of children with disabilities enrolled by their parents in a private school located in the LEA unless an agreement is made with the DOR to complete the reevaluation.

The DOL may consult with the DOR to coordinate such a reevaluation.

School districts must ensure that a reevaluation of each child with a disability is conducted if (1) the LEA determines that the child's educational or related services needs, in light of the child's academic achievement and functional performance, warrant a reevaluation; or (2) the child's parent or teacher requests a reevaluation. A reevaluation may occur not more than once a year, unless the parent and LEA agree otherwise; and must occur at least once every three years, unless the parent and LEA agree that a reevaluation is unnecessary. (OSERS Q & A Document, April 2011)

If the private school suspects another disability and requests additional assessment on a student, the DOR will complete the evaluation. If the DOR is providing special education services as the DOL, the student's CALPADS data will be collected and reported so the timelines are easy to track. Only the DOL can claim the student for CALPADS purposes.

A student who is attending private school who does not have a "current" IEP or triennial assessment will continue to be considered eligible for special education until they exit from special education through the assessment process, graduate with a regular high school diploma, or reach the age of 22.

If a parent/adult student enrolls in a public school from a private school with an outdated IEP/Triennial, the DOR will need to gather new assessment information by offering an assessment plan for updated eligibility determination.



## **List of Appendices**

- A. Notice of Individual Service Plan Meeting (Form 14a)

NOTICE OF MEETING

INDIVIDUAL SERVICE PLAN FOR PARENTALLY PLACED STUDENTS IN PRIVATE SCHOOL

The use and distribution of this form is limited to employees of public school agencies within the Tulare County Special Education Local Plan Area (SELPA)

Student's Name: \_\_\_\_\_ Birthdate: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Address: \_\_\_\_\_

Dear \_\_\_\_\_ Today's Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

An Individual Service Plan (ISP) Meeting has been scheduled for the above student. Your participation is important in the development of an ISP. During this meeting there will be a review of your child's ISP and progress. This review must be held annually. Your child may participate in the development of the ISP.

You are requested to attend this meeting as a participating member of the ISP team.

The meeting I scheduled for:

ISP Meeting Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ Time: \_\_\_\_\_ Begin: \_\_\_\_\_ End: \_\_\_\_\_

School/Location: \_\_\_\_\_ Room: \_\_\_\_\_

We anticipate that the following members will also attend:

- Private School Administrator/Designee
- District of Service Administrator
- Private School Teacher
- Special Education Teacher
- Student
- Specialist
- District of Residence Administrator
- Other

If you would like further information about your Procedural Safeguards or the purpose of this meeting, please call:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

School/District: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_