

Telephonic Meeting

Superintendents Council Agenda
January 22, 2021
2:00

NOTICE: This meeting will be held **TELEPHONICALLY** only. If you wish to participate in the meeting and/or make public comment, please call the telephone number below and use the passcode provided: All public comment registration cards will be accepted **15 minutes prior** to the beginning of the meeting.

PARTICIPATE BY PHONE:

Access Number: 1-415-655-0003 Access Code: 177 875 6271 Pass Code: Jansupt

Follow Directions as a Participant, Attendee I.D. not needed

Due to the high volume of telephonic calls, if you receive a busy signal,
please continue trying to connect.

A. ADMINISTRATIVE ITEMS:

1. Acceptance of the Agenda for January 22, 2021 * Ted Alejandre

B. PUBLIC COMMENT:

The West End SELPA Superintendents' Council welcomes comments from visitors. Should anyone wish to make comments, he/she may voluntarily complete a telephonic registration card to address the Council located online at: <https://weselpa.sbcss.k12.ca.us/>

The Registration Card forms must be submitted **15 minutes prior** to the beginning of the meeting. The forms will be sent electronically to karen.johnson@sbcss.net.

The Public comment period is the opportunity for the public to address the members on (1) non-agenda items within the jurisdiction of the members, (2) items listed on the agenda. All public comment will be allowed (3) three minutes per item, if a member of the public desires to be heard on more than (3) three items appearing on the agenda, he/she will be allowed up to a total of (9) nine minutes to address all items non-agenda and agendized. Each agenda item will have a total of 20 minutes for public comment on one agenda item.

There will not be a separate opportunity to comment at the time each agenda item is addressed by the Committee, unless the item specifically involves an agendized public hearing. All public comment will be heard during the agendized public comment section B.

C. SUPERINTENDENTS' BUSINESS CONSENT ITEMS

1. Minutes of November 20, 2020
2. Consent Agenda #2020010595
3. Consent Agenda #2020010595
4. Consent Agenda #2020090830
5. Consent Agenda ADR #1
6. Consent Agenda #2020090971

D. SUPERINTENDENTS BUSINESS ACTION ITEMS:

1. Program Transfer Review and Recommendation for 2021-22 Year * Ricky Alyassi
2. Nonpublic, Nonsectarian School and Agency Services for Special Education AR 6159.2 and BP 6159.2 Revision 2nd Reading and Approval * Royal Lord

E. COUNCIL MEMBERS REPORTS

F. FUTURE AGENDA ITEMS

G. ADJOURNMENT

Meeting location for Superintendents' Council are virtual at this time. Agenda packets are available on the WESELPA website weselpa.sbcss.k12.ca.us or you may request an agenda packet by calling (909) 476-6131, 72 hours before the scheduled meeting. A fee of ten cents (.10) per page will be charged for copied agenda packet.

*** Handout Included ** Handout to be distributed at meeting - No Handout**

NOTICE: Individuals requiring special accommodation, including but not limited to an American Sign Language interpreter, accessible seating or documentation in accessible formats, should contact Karen Johnson at (909) 476-6131, at least two days before the meeting date.

West End Special Education Local Plan Area
SUPERINTENDENTS' COUNCIL
Virtual Meeting
November 20, 2020

District	Present	Absent
Alta Loma	James Moore	
Central	Donna Libutti	
Chaffey Joint Unified	Mathew Holton	
Chino Valley Unified	Norm Enfield	
Cucamonga	Richard Dahlin	
Etiwanda	Shawn Judson	
Mountain View	Douglass Moss	
Mt. Baldy Joint	Nancy Sirski	
Upland Unified	Arik Avanesyans for Lynn Carmen-Day	
SBCSS	Myrlene Pierre for Ted Alejandre	
SBCSS	Jennifer Alvarado, Peggy McFee, Ralph Alba, Olivia Dahlin, Jessica Hurst	
WESELPA	Ricky Alyassi, Tim Chatkoo, Karen Johnson	

Meeting called to order by Myrlene Pierre at 9:35 a.m.

A. ADMINISTRATIVE ITEMS:

1. Acceptance of the Superintendents' Council Meeting Agenda for November 20, 2020

Motion made by Mathew Holton to accept the Superintendents' Council meeting agenda for November 20, 2020, second by Richard Dahlin, motion carried on a 9-0-0-0 vote.

Ayes: James Moore, Mathew Holton, Donna Libutti, Norm Enfield, Richard Dahlin, Shawn Judson, Nancy Sirski, Douglass Moss, Arik Avanesvans

Nays: 0

Abstain: 0

Absent: 0

2. SELPA Administrators Report

Ricky Alyassi presented a PowerPoint with the following information: Local Plan Section B going for final reading and approval with the revisions presented. WESELPA is in the process of redesigning their website for a modern overall design that continues to have ADA and Section 508 compliance, video embedding along with the SELPA logo redesign. This website has a tentative release date for January 2021.

B. PUBLIC COMMENT:

The following public comment was read by the recording secretary:

Debra Kamm wrote regarding unlawful and unethical actions.

Marianne Gosner wrote regarding non agenda item and items D-3 and D-8 consent items.

Peter Attwood wrote regarding D-3, D-8 consent items and a non-agenda item

Jessica Martinez wrote regarding a non-agenda item, consent agenda settlements and the local plan.

Rita Loof spoke on a non-agenda item along with comments on C-5 Fiscal notification and E-1 Local Plan

Martina Ortega spoke on a non-agenda item

Sharon Neault spoke regarding the resent CAC presentations and the districts pushing the presentation information out to parents to have a good turnout for that presentations. Members of the public have reached out to CAC with CAC members changing the next presentation to accommodate the request from parents.

C. DISCUSSION ITEMS:

1. Program Transfer Request for 2021-22

The Program Transfer Committee met and reviewed the transfer requests brought forward by Cucamonga School District. The following request were reviewed, Occupational Therapy, 1:1 aides and Adaptive Physical Education will be provided by Cucamonga for their students attending County operated programs.

2. Nonpublic, Nonsectarian School and Agency Services for Special Education AR 6159.2 and BP 6159.2 Revision 1st Reading

Legislation AB1172 was past early in the year, amendments to non-public and residential education placements needed to be updates. West End SELPA Administrative Regulations and Board policies were revised to reflect the changes in this area. This item will be brought back for a second reading and recommendation.

2. 2021-22 Dorothy Gibson Intensive Therapeutic Services Fee-for-Services Program

Historical information was reviewed regarding the mental health services provided by County schools at the Dorothy Gibson site. Due to the increase of cost and limited revenue received, County has been diligent in seeking out grants and support from Department of Behavioral Health with no results. These services offered at Dorothy Gibson will be moving to a fee-for-service model in the 2021-22 year. Olivia Dahlin, Manager of Clinical Services at San Bernardino County Superintendent of Schools reviewed all services offered at this site. The fee-for-service model will be separated from other County fee-for-service programs. The fee will be a flat fee each year due to the fluctuation of the Medi-Cal billing. It was stated if there is no approval from Superintendent later in the year, district will need to send in their staff to provide the mental health services at this location.

3. COVID Impact to Enrollment in County Operated Preschool Intensive Autism & First CLASS Program

The County rates established for these programs are based on projected actual expenses minus applicable off-setting revenue divided by the number of students served in each program. Due to COVID the service count reflects a significant decline in the number of students served in the program compared to prior year. This program model is a shared cost model that will result in an increase in the cost per student and depends on the total number of students counted on December 1 and April 1 as well as the actual costs incurred. There is anticipation of some salary and benefit savings to offset the increase.

4. Fiscal Notifications

The following fiscal notifications were brought forward: a)2020-21 Mental Health Funding Model Projections b) 2020-21 1st Interim Administrative Budget c) 2019-20 Final Transportation Excess Cost d) 2020-21 Initial 50% Transportation Excess Cost e) Maintenance of Effort SEMA/SEMB/SYT/Excess Cost/Table 8 f)2020-21 Initial 50% Preschool Facility Costs Transfer g) 2020-21 Initial 50% Joint Risk Fund Contribution h)2020-21 Initial 50% SEIS Contribution i) 2020-21 1st Quarter NPS/NPA/Joint Risk Fund Reimbursement Transfer

D. SUPERINTENDENTS BUSINESS CONSENT ITEMS:

Motion made by Mathew Holton to approve consent items as presented, second by Douglass Moss, motion carries on an 9-0-0-0 vote

Ayes: James Moore, Donna Libutti, Mathew Holton, Norm Enfield, Richard Dahlin, Shawn Judson, Nancy Sirski, Douglass Moss, Arik Avanesvans

Nays: 0

Abstain: 0

Absent: 0

Items approved on the consent agenda are as follows: Minutes of October 2, 2020, 1 Alternative Dispute Resolution, 6 legal consents.

E. SUPERINTENDENTS BUSINESS ACTION ITEMS:

1. Local Plan Revision 2nd Reading & Approval a) Section B Governance & Administration

Motion made by Shawn Judson to approve the Local Plan as presented, second by Norm Enfield, motion carries on a 9-0-0-0 vote.

Ayes: James Moore, Donna Libutti, Mathew Holton, Norm Enfield, Richard Dahlin, Shawn Judson, Nancy Sirski, Douglass Moss, Arik Avanesvans

Nays: 0

Abstain: 0

Absent: 0

F. COUNCIL MEMBERS REPORTS: None

G. FUTURE AGENDA ITEMS – None

H. ADJOURNMENT:

Motion made by Douglass Moss to adjourn the meeting, second by Mathew Holton, motion carries on an 9-0-0-0 vote.

Ayes: James Moore, Donna Libutti, Mathew Holton, Norm Enfield, Richard Dahlin, Shawn Judson, Nancy Sirski, Douglass Moss, Arik Avanesvans

Nays: 0

Abstain: 0

Absent:

Meeting adjourned at: 11:10 a.m.

Consent Agenda
OAH Case 2020010595

Background: In accordance with the current agreement regarding alternative dispute resolution, the Program Manager for the Alternative Service Unit is bringing forth any and all settlements to the Superintendents' Council. All settlements are arrived at in collaboration with district directors who have followed recommended SELPA policies, regulations and guidelines. These agreements are the result of formal alternative dispute resolution.

The following settlement has been entered into:

Due Process Resolution
Student and Chaffey Joint Union High School District

This agreement was the result of a resolution session. The resolution agreement contains conditions / terms at no expense to the Joint Risk Fund and \$75,000.00 parental reimbursement for educational services and attorney fees.

Action: It is the belief of WESELPA that this settlement agreement is in compliance with state and federal laws as well as in the best interest of the districts and the West End SELPA. It is recommended that the Superintendents' Council ratify this agreement.

Consent Agenda
OAH Case 2020010595

Background: In accordance with the current agreement regarding alternative dispute resolution, the Program Manager for the Alternative Service Unit is bringing forth any and all settlements to the Superintendents' Council. All settlements are arrived at in collaboration with district directors who have followed recommended SELPA policies, regulations and guidelines. These agreements are the result of formal alternative dispute resolution.

The following settlement has been entered into:

Due Process Resolution
Student and Chaffey Joint Union High School District

This agreement was the result of a resolution session. The resolution agreement contains conditions / terms at no expense to the Joint Risk Fund and \$60,000.00 parental reimbursement for educational services and attorney fees.

Action: It is the belief of WESELPA that this settlement agreement is in compliance with state and federal laws as well as in the best interest of the districts and the West End SELPA. It is recommended that the Superintendents' Council ratify this agreement.

Consent Agenda
OAH Case 2020090830

Background: In accordance with the current agreement regarding alternative dispute resolution, the Program Manager for the Alternative Service Unit is bringing forth any and all settlements to the Superintendents' Council. All settlements are arrived at in collaboration with district directors who have followed recommended SELPA policies, regulations and guidelines. These agreements are the result of formal alternative dispute resolution.

The following settlement has been entered into:

Due Process Resolution
Student and Chino Valley Unified School District

This agreement was the result of a resolution session. The resolution agreement contains conditions / terms at no expense to the Joint Risk Fund and 50 hours of academic services and \$5,900.00 attorney fees.

Action: It is the belief of WESELPA that this settlement agreement is in compliance with state and federal laws as well as in the best interest of the districts and the West End SELPA. It is recommended that the Superintendents' Council ratify this agreement.

Consent Agenda

Alternative Dispute Resolution #1

Background: In accordance with the current agreement regarding alternative dispute resolution, the Program Manager for the Alternative Service Unit is bringing forth any and all settlements to the Superintendents' Council. All settlements are arrived at in collaboration with district directors who have followed recommended SELPA policies, regulations and guidelines. These agreements are the result of formal alternative dispute resolution.

The following settlement has been entered into:

Alternative Dispute Resolution
Student and Upland Unified School District

This agreement was the result of a resolution session. The resolution agreement contains conditions / terms at no expense to the Joint Risk Fund and \$8,000 parent reimbursement for educational services and 50 hours of academic tutoring.

Action: It is the belief of WESELPA that this settlement agreement is in compliance with state and federal laws as well as in the best interest of the districts and the West End SELPA. It is recommended that the Superintendents' Council ratify this agreement.

Consent Agenda
OAH case # 2020090971

Background: In accordance with the current agreement regarding alternative dispute resolution, the Program Manager for the Alternative Service Unit is bringing forth any and all settlements to the Superintendents' Council. All settlements are arrived at in collaboration with district directors who have followed recommended SELPA policies, regulations and guidelines. These agreements are the result of formal alternative dispute resolution.

The following settlement has been entered into:

Due Process Resolution
Student and Upland Unified School District

This agreement was the result of a resolution session. The resolution agreement contains conditions / terms at no expense to the Joint Risk Fund and \$21,185 parent reimbursement for educational services.

Action: It is the belief of WESELPA that this settlement agreement is in compliance with state and federal laws as well as in the best interest of the districts and the West End SELPA. It is recommended that the Superintendents' Council ratify this agreement.

Program Transfer Approval**Background:**

The WESELPA Program Transfer timelines were met per WESELPA BP/AR0430.406 Program Transfer. The program transfer requests are summarized on the next page.

Program transfer requests for 2021-22 were submitted to the WESELPA in September 2020. The WESELPA Governance committees reviewed the requests at meetings held in September through January.

The Program Transfer Committee met and reviewed the requested program transfers and confirmed they conform to the requirements of EC 56207. Each district requesting a program transfer informed the SELPA of its intentions to hold a meeting to provide information to the parents and obtain input regarding the proposed transfer.

Per the West End SELPA Local Plan: "The day on which the transfer of programs will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the Superintendents' Council, unless the Superintendents' Council unanimously approves the transfer, then the transfers take effect on the first day of the first year following the date of receipt of notification."

Provided the request are approved unanimously, they will become effective on July 1, 2021. Otherwise, the transfers will take effect on July 1, 22, if there is a majority in favor of the transfers requested.

Fiscal Impact: WESELPA

None

Fiscal Impact: SBCSS West End County Schools

It is anticipated the fiscal impact of SBCSS West End Student Services programs may increase the fee-for-service amount for remaining districts.

Recommendation:

It is recommended the transfer requests received by the West End SELPA districts in September 2020 be approved to begin on July 1, 2021.

Program Transfer Requests

D-1

District Requesting	Program	Location	#Teacher	# Aide(s)	# of District Students	# of non-District Students
Cucamonga	OT	SBCSS classes with Cucamonga Students			39	0
Cucamonga	1:1 Aides	SBCSS classes with Cucamonga Students			3	0
Cucamonga	APE	SBCSS classes with Cucamonga Students and district students			23	0
Total					65	0

WEST END SPECIAL EDUCATION LOCAL PLAN AREA

AR 6159.2

CLASSIFICATION: Instruction

SUBJECT: NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Adopted:
Revised: 10/28/20
First Reading: 11/20/20
Second Reading: 1/22/21
Adopted:

Master Contract

Every master contract with a nonpublic, nonsectarian school or agency shall include an individual services agreement (ISA) negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for the provision of special education and related services; including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366) **Commencing 2020-21, and in accordance with AB 1172, prior to entering into a master contract with a NPS/RTC, LEA/SELPA must conduct at least one onsite visit if the LEA does not currently have any students enrolled in the NPS/RTC. Additionally, LEA/SELPA must conduct a minimum of one onsite visit per school year to the NPS/RTC for the purpose of: (1) reviewing the services provided to the students and the student's progress toward IEP and behavior plan goals, (2) to observe the student during instruction, and (3) to conduct a walkthrough of the facility. LEA/SELPA must report its findings to CDE within 60 days of the onsite visit.**

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement in his/her individual services agreement. (Education Code 56366)

Placement and Services

The Superintendent or Designee shall develop an individual services agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the

student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5CCR 3069)

Elementary School Districts

Prior to the annual review of a student's IEP, the Superintendent or designee shall notify any high school district to which the student may transfer of the student's enrollment in a nonpublic, nonsectarian school or agency. (5 CCR 3069) When a special education student meets the district requirements for completion of the prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5

CCR
3070)

Out of State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

Verification of LEA/RTC Staff Training

Commencing with the 2020-21 school year, LEAs/SELPA must verify that an NPS/RTC with which it contracts has trained staff who will have contact with students in the use of evidence-based behavior practices and interventions. LEAs/SELPA must ensure that appropriately licensed and certified persons conduct the training and that the training is consistent with California law governing restraint and seclusion (Education Code sections 49005 *et seq.*).

Referral Process for Nonpublic School Consideration

1. If all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include the West End SELPA Program Manager or West End SELPA Psychologist. In order to schedule a meeting, the referring district shall submit the following to the West End SELPA Alternative Services Unit office:
 - Referral for Placement Consideration cover sheet (WESELPA 014) signed by the district office
 - Current IEP with goals and objectives
 - Current psycho-educational report
 - Assessment data supporting a change in placement (observations, academic progress)

monitoring, behavioral intervention data, FBA, private evaluations)

- Immunization record
 - Behavior Intervention Plan (BIP)
 - Other agency reports, if applicable
 - Transcripts for high school age students, if on diploma track
 - Vision/Hearing screening
 - Signature required – District director of special education
2. The West End SELPA Program Manager or West End SELPA Psychologist will review the student's file and confer with referring staff as needed.
 3. The West End SELPA Program Manager or West End SELPA Psychologist will confer with appropriate nonpublic schools to determine placement openings, admission procedures, and availability of staff to attend the IEP meeting.
 4. At the IEP meeting, team members will review data relative to assessment, program needs, and appropriate program options, both public and nonpublic.
 5. Based on the information presented, the team may recommend any of the following:
 - Additional assessment, modifications, and/or related services.
 - A district or county operated program within the West End SELPA.
 - A public program outside the West End SELPA.
 - State schools.
 - Nonpublic schools.

The school District of residence is responsible for coordinating and completing any triennial assessments.

Legal References:

EDUCATION

CODE

56034-56035	Definitions of nonpublic, nonsectarian school and agency
56042	Placement not to be recommended by attorney with conflict of interest
56101	Waivers
56163	Certification
56168	Responsibility for education of student in hospital or health facility school
56195.8	Adoption of policies
56342.1	Individualized Education Program; placement
56360-56369	Implementation of Special Education
56711	Computation of state aid
56740-56743	Apportionments and reports
56760	Annual budget plan; service proportions
56775.5	Reimbursement of assessment and identification costs

[Assembly Bill 1172 - Amended Ed. Code sections 51225.2, 56365, 56366.1, 56366.4, and 56366.10](#)

FAMILY CODE

7911-7912	Interstate compact on placement of children
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GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to children with disabilities, especially:
7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP
727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions
3060-3070 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools

COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL

ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers>

WEST END SPECIAL EDUCATION LOCAL PLAN AREA**BP 6159.2****Adopted:****CLASSIFICATION: Instruction****Revised: 10/28/20****First Reading: 11/20/20****Second Reading: 1/22/21****SUBJECT: NONPUBLIC, NONSECTARIAN SCHOOL AND
AGENCY SERVICES FOR SPECIAL EDUCATION****1/11/21 Adopted:**

The Superintendents' Council recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. It further recognizes that public schools cannot provide services to meet the needs of all exceptional children. Some children will need such individualized and specialized services as can only be provided outside public education. When the district is unable to provide direct special education and/or related services to students with disabilities, the West End SELPA may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs as determined through the individualized education program (IEP) process. Nonpublic school services are an instructional component of the WESELPA administrative unit. Nonpublic school services will be provided only when the IEP team determines that no appropriate public education alternative placements exist to meet the individual student's needs.

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation. When entering into agreements with nonpublic, nonsectarian schools or agencies, the Council shall consider the needs of the individual student and the recommendations of the IEP team. Services will be provided in accordance with the NPS or NPA Master Contract and Individual Services Agreement (ISA). The Superintendent or designee shall notify the Board prior to approving an out-of-state placement for any district student.

In order to ensure that the student is being provided such a program within the least restrictive environment, the IEP team shall utilize such nonpublic school services only after exploring all public school program alternatives. After thoroughly reviewing available services, and if all resources and options have been exhausted, the case must be scheduled for an IEP meeting to include a West End SELPA Program Manager or West End SELPA Program Specialist and District Special Education Director or representative. When the IEP Team determines that nonpublic school services are required, a contract for such services shall be developed and entered into by the West End SELPA Administrator. Such contracts will be developed only after the parent has agreed to the placement.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 5619.8, 56342.1)

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366 and conduct a

minimum of one onsite visit to an NPS/RTC with which they have a master contract before placing a student in the NPS/RTC if the LEA does not currently have any students enrolled in the NPS/RTC.

In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

The West End SELPA will ensure that the nonpublic school meets the following standards:

- The agency has adequately trained personnel
- The agency has appropriate facilities and equipment
- The agency meets local health, fire, and safety standards

In most areas, the West End SELPA will monitor the progress of pupils in nonpublic school services **and/or placed at residential treatment centers and will conduct a minimum of one onsite visit per school year**. This review will consist of evaluating nonpublic school quarterly reports of student progress toward IEP and behavior plan goals and objectives established by the IEP team in written instructional plans, observing student during instructional time, conducting a walkthrough of the facility, report cards, and incident reports. During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall remain accountable for monitoring the student's progress towards meeting the goals identified in each student's IEP.

Every attempt will be made to assure pupil progress so that a pupil may ultimately be able to return to some form of public school program. The West End SELPA Program Manager or designee shall be responsible to monitor the progress of children placed in nonpublic school programs. This Program Manager or designee shall also act as a liaison between the West End SELPA and the nonpublic school in all matters concerning a student's placement.

Individuals with exceptional needs may be enrolled concurrently in both public and nonpublic school services, provided one is the major enrollment and the other is supplemental. This determination will be made by the West End SELPA/Individual Education Program team based upon the educational needs of the exceptional student and will be provided only when this arrangement best meets these needs.

Students placed in nonpublic secondary schools must complete graduation requirements of their districts of residence, which will issue a diploma. Students will be able to participate in their districts' graduation ceremony. Students who are attending a non-public school out-of-state, and are eligible to graduate from high school, can choose to receive a diploma from the state where they are attending non-public school.

Students placed in a nonpublic school by their parents or guardians may be evaluated for special education eligibility and services by public school staff upon referral in the manner previously described for all students.

Rationale for Nonpublic School Referral

- Must be documented that there is no available public program that can appropriately meet the student's needs, even with modification.
- Must be documented that the Local Education Agency (LEA) attempted supports and services.

- Must be documented the impact of the attempted supports and servi
- Must be documented that no existing contracting agency (e.g. CCS, Regional Center) can meet the student’s needs appropriately.
- Must be documented that the service is required for the student to benefit from an educational program.
- All public resources must be considered and found to be inappropriate.
- Must have statement on IEP indicating, “Student should be considered for a more restrictive placement.” District should not indicate the name of a specific non-public school.

In accordance with Education Code 56366.2, the Superintendent or designee may apply to the Superintendent of Public Instruction to waive any of the requirements of Education Code 56365, 56366, 56366.3, and 56366.6.

Legal References:

EDUCATION CODE

- 56034-56035 Definitions of nonpublic, nonsectarian school and agency
- 56042 Placement not to be recommended by attorney with conflict of interest
- 56101 Waivers
- 56163 Certification
- 56168 Responsibility for education of student in hospital or health facility school
- 56195.8 Adoption of policies
- 56342.1 Individualized Education Program; placement
- 56360-56369 Implementation of Special Education
- 56711 Computation of state aid
- 56740-56743 Apportionments and reports
- 56760 Annual budget plan; service proportions
- 56775.5 Reimbursement of assessment and identification costs
- Assembly Bill 1172 - Amended Ed. Code sections 51225.2, 56365, 56366.1, 56366.4, and 56366.10

FAMILY CODE

- 7911-7912 Interstate compact on placement of children

GOVERNMENT CODE

- 7570-7587 Interagency responsibilities for providing services to children with disabilities, especially:
- 7572.55 Seriously emotionally disturbed child; out-of-state placement

WELFARE AND INSTITUTIONS CODE

- 362.2 Out-of-home placement for IEP
- 727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- 3060-3070 Nonpublic, nonsectarian school and agency services

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- 1400-1487 Individuals with Disabilities Education Act

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300.129-300.148 Children with disabilities in private schools
COURT DECISIONS
Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL

ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

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Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEBSITES:

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osers>