

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION**

The Board of Trustees recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs.

*(cf. 0430 - Comprehensive Local Plan for Special Education)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 3541.2 - Transportation for Students with Disabilities)*

*(cf. 4112.23 - Special Education Staff)*

*(cf. 6146.4 - Differential Graduation and Competency Standards for Students with Disabilities)*

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent/Principal or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent/Principal 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. In addition, the Superintendent/Principal 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.

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 an appropriate public education alternative does not exist 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 56195.8, 56342.1)

*(cf. 6159 - Individualized Education Program)*

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/her IEP.

The Superintendent/Principal or designee shall notify the Board prior to approving an out-of-state placement for any district student.

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION** (continued)

In accordance with Education Code 56366.2, the Superintendent/Principal 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.

(cf. 1431 - Waivers)

*Legal Reference:*

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*

FAMILY CODE

7911-7912 *Interstate compact on placement of children*

GOVERNMENT CODE

7570-7587 *Interagency responsibilities for providing services to disabled children; 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:*

FEDERAL REGISTER

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

WEB SITES

*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>

Policy

adopted: December 11, 2019

**CUDDEBACK UNION ELEMENTARY SCHOOL DISTRICT**

Carlotta, California

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION****Master Contract**

Every master contract with a nonpublic, nonsectarian school or agency shall be made on forms provided by the California Department of Education and shall include an individual services agreement negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and 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)

*(cf. 3541.2 - Transportation for Students with Disabilities)*

*(cf. 3580 - District Records)*

*(cf. 5125 - Student Records)*

*(cf. 6146.1 - High School Graduation Requirements)*

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)

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 as outlined in his/her individual services agreement. (Education Code 56366)

**Placement and Services**

The Superintendent/Principal 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 school 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)

*(cf. 6159 - Individualized Education Program)*

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. (5 CCR 3069)

AR 6159.2(b)

## **NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION** (continued)

Prior to the annual review of a student's IEP, the Superintendent/Principal 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 prescribed course of study as designated in the student's IEP, the district shall award the student a diploma of graduation. (5 CCR 3070)

*(cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)*

### **Out-of-State Placements**

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent/Principal 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, the 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)