

## **GBP 19 Policy and Procedures for Serving Pupils with Disabilities Enrolled By Their Parents in Private School**

The Butte County Special Education Local Plan Area (SELPA) will ensure that school districts locate and identify all children with disabilities enrolled by their parents in private, including religious, elementary schools and secondary schools, pursuant to Education Code 56170.

The SELPA will ensure that each school district will accept and consider referrals for assessment and will offer a free appropriate public education (FAPE) to such children who are determined to be eligible for special education services. These procedures are intended to ensure compliance with all federal and state laws and regulations.

### **A. Child Find, Referral and Assessment**

1. The Butte County SELPA will:
  - a. Provide information for local private schools about the provisions in the Federal Law for students enrolled by their parents in private schools who may be eligible for special education services. Information will include criteria for special education eligibility and special education referral procedures.
  - b. Ensure that child find activities undertaken for private school students are comparable to activities undertaken for children with disabilities in public elementary and secondary schools.
2. Districts that have private schools within their boundaries will:
  - a. Identify all private schools within their boundaries that have an affidavit on file with the California Department of Education (Education Code 33190) and have six or more students enrolled.
  - b. Between October 1 and December 1 each year, request private schools to list all students enrolled in the school who are eligible for special education services, with or without Individual Service Plans (ISPs), and the districts of residence of those children. The district of residence is the district where the child resides.
  - c. Provide the districts of residence within the Butte County SELPA names of those students identified in each private school who are from their district.
  - d. Hold at least one annual meeting at which representatives of the private school (including parents) will be given an opportunity to give input about:
    - The child find process
    - How the consultation process will operate through the school year.

If the private school representatives do not attend, the information will be mailed to them.

- e. Obtain written affirmation from each private school within their boundaries that they were given opportunity to participate in a timely and meaningful consultation with the district.
  - f. Upon request, provide a written explanation to the private school if the district disagrees with the input of the private school.
  - g. Follow all appropriate policies and procedures for assessment for eligibility for special education services. If eligible, forward all assessment reports to the district of residence.
  - h. The district of location is the school district where the private school is located. The district of location shall be responsible for locating, identifying, and assessing all private school children with disabilities in need of special education and related services and who are attending private school located within the service area of the district of location.
  - i. The district of location is responsible to obtain all information from local private schools regarding pupils with suspected disabilities, obtain the Release and Exchange of Information form from the parent and notify the district of residence. If a Release and Exchange of Information is obtained, the district of residence will be invited to the IEP/ISP meeting and to participate in the assessment of the student.
  - j. The district of location will complete the assessment and determine eligibility, in collaboration with the district of residence as appropriate (see above).
  - k. The district of location will hold the IEP/ISP meeting to determine eligibility. The district of residence may attend and collaborate at the IEP/ISP meeting.
    - If the parent agrees to attend public school, the district of residence will develop an IEP
    - If the parent declines the offer of public school, the district of location continues the private school process.
  - l. The district of location will offer an Individual Service Plan (ISP) and review the plan annually, as appropriate.
3. Private schools will:
- a. Refer students for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.
  - b. Direct referrals to the district in which the private school is located for assessment for eligibility.

- c. Participate on an ongoing basis with the district in which they are located to give input on the provision of special education services.
4. Students in Preschool, Kindergarten, and Transitional Kindergarten of Kindergarten Age under age 6.
  - a. Students of preschool age who attend a private school will be served by their district of residence through the IEP process.
  - b. Students of kindergarten age who continue to be enrolled in a preschool program in a private school will be served by their district of residence through the IEP process.
  - c. Students of kindergarten age who are between the ages of 5 and 6 and who continue to be enrolled in a private kindergarten program will be served by the district of location through the IEP process until they reach age 6.
  - d. Students age 6 and above who are enrolled in a private kindergarten program or transitional kindergarten program will be served by the district of location through the Student's Individual Services Plan.

### **B. Guidelines for Services**

Each district in the Butte County SELPA shall spend a proportionate share of federal funds to provide special education and related services to children with disabilities in private schools as to those spent on children in public schools. These funds may not be used for repair, remodeling or construction of private school facilities.

Each district that has private schools located within its boundaries in the Butte County SELPA shall develop guidelines regarding the special education and related services to be provided to special education eligible students in private schools. Such decisions shall be made after consulting in a timely and meaningful way with representatives of private school(s) within their boundaries and shall include:

1. Which eligible children may receive services;
2. Types of services to be provided (including direct and alternative methods of service delivery);
3. How, where and by whom the services will be provided:
  - Guidelines will be forwarded to the SELPA.
  - SELPA will make a compilation of all guidelines available to all districts within the SELPA.

### **C. Initial Individualized Education Program (IEP) Team Meeting**

In accordance with Child Find, Referral and Assessment (Section A.2(h)), the district of location is responsible for the initial assessment. The district of residence, however, is responsible for the offer

of FAPE based on the initial assessment. Both districts are encouraged to collaborate together to complete the initial assessment. An IEP team meeting will convene within 60 calendar days, excluding school holidays in excess of 5 days, of receipt of the signed assessment plan. The District of Location will schedule the IEP meeting and seek permission to invite representatives from both the Private School and the District of Residence. The District of Residence will be invited to the IEP meeting, as they are responsible for providing the offer of FAPE to the parent, if the child is eligible for services. If the parent refuses to allow the district of residence to participate in the IEP meeting and present their offer of FAPE, this shall constitute the student's refusal of FAPE from the district of residence.

If the IEP team determines that the student is eligible for special education services, the IEP team shall develop an appropriate IEP for the student, which serves as an offer of FAPE in accordance with federal and state laws and regulations. Such offer shall be recorded on appropriate IEP forms. The district of residence shall be responsible for the offer of FAPE to the eligible student.

If the parent agrees that the IEP would be the appropriate program if the child were enrolled in the public school, the parent initials "yes" to all statements and signs the IEP.

If the parent wants to continue to enroll the child in the private school, the "Private School" box will be checked and an Individual Services Plan may be developed according to district guidelines for children age 6 and above.

The following statement shall be written on the IEP document: "I agree that the LEA has offered my child a free and appropriate public education (FAPE), including appropriate special education and related services. However, I refuse the LEA's offer of FAPE on my own accord and am voluntarily placing my child in a private school."

#### **D. Individual Services Plan (ISP)**

The ISP will be developed by the district of location on the SELPA ISP form. The ISP will specify services that the district has determined it will make available, according to its guidelines.

A representative of the private school will be invited to attend the ISP meeting. If the representative of the private school cannot attend the meeting, the district special education case manager will consult with the private school representative by other methods such as sending a copy of the ISP (with parent permission) and/or individual or conference calls.

The services provided pursuant to an ISP may be provided at a private school, including a religious school, to the extent consistent with law. Services must be provided by personnel meeting the same standards as personnel providing the services in public schools. These personnel shall be employees of the district or contractors of the district. However, the Butte County SELPA and/or the district shall not use federal special education funds to finance the existing level of instruction in a private school or to otherwise benefit the private school or the general needs of other students enrolled in the private schools.

If necessary for the child to benefit from or participate in the services provided pursuant to the ISP, a private school child with a disability must be provided transportation to/from the service location. However, districts are not required to provide transportation from home to the private school. The cost of the transportation may be included in calculating whether the district has met the obligation to spend a proportionate share of federal funds on providing special education and related services to private school children with disabilities eligible for special education services as it spends on its children enrolled in public schools.

Any specialized equipment provided to benefit private school children with disabilities shall remain the property of the district and must be able to be removed without remodeling the private school facility. It shall be returned to the district when no longer required by the child, the child is no longer enrolled in the private school, or removal is necessary to avoid unauthorized use.

The district does not have the responsibility to develop/continue an ISP if:

- a) The proportionate share of federal funds has been expended.
- b) The student's needs do not fall within district guidelines for services.

#### **E. Review**

1. ISP Review: If an ISP is developed, it will be reviewed and updated on an annual basis. Students who are age 5 who are enrolled in a private school kindergarten and served on an IEP will be reviewed upon reaching age 6. If at the IEP meeting, it is determined that the child is eligible for special education services and the parent declines the offer of FAPE in public school and chooses to continue their student's enrollment in the private school, an ISP shall be developed.
2. Annual Offers of FAPE:  
All students with disabilities eligible for special education who reside in Butte County SELPA are entitled to receive a FAPE from the student's 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 district of residence shall notify the parents of eligible students in writing of the following (see Private School Notice of Annual Review):
  3. The district of residence continues to offer a FAPE in accordance with federal and state laws and regulations;
  4. The district of residence 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, whereupon 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. If the parents do not return the form and cannot be reached by phone, an IEP meeting notice shall be mailed to parents, an IEP meeting shall be convened, and an offer of FAPE made in an IEP. For the parents who choose to decline the offer of FAPE and have the student remain at the private school, the following statement shall be written on the IEP document:

“I agree that the LEA has offered my child a free and appropriate public education (FAPE), including appropriate special education and related services. However, I refuse the LEA’s offer of FAPE on my own accord and am voluntarily placing my child in a private school.”

5. Triennial Review: 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. See forms: Private School Notification of Parental Intent (Annual Review) and Private School Notification of Parental Intent (Triennial Review).
6. The parents shall be requested to send the documents(s) back to the district of residence. If the parents do not return the form and cannot be reached by phone, an IEP meeting notice shall be mailed to parents, and IEP meeting shall be convened, the district will review records to determine eligibility for special education services, and an offer of FAPE made, if the student continues to qualify. The district of residence shall notify the district of location of the child’s eligibility for special education or related services, if the parent continues enrollment in the private school setting.

#### **F. Due Process and Complaints**

Parents will be informed that as long as they continue to place their child in a private school their rights for due process are limited.

A school district is NOT required to pay for the cost of educating a child with a disability at a private school (including special education and related services) if the school district made FAPE available to the child and the parents voluntarily elected to place the child in a private school. 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.

Disputes regarding whether a school district made FAPE available to the child via the IEP, as well as disputes about identification and evaluation of parentally placed private school children with disabilities, may be resolved pursuant to due process procedures specified in the “Parent Rights for Special Education.”

Due process procedures DO NOT apply to disputes regarding provision of services specified in the ISP.

Parents have the right to file a complaint alleging a violation by the SELPA or district in implementation of state or federal law on any other issue, according to complaint procedures specified in the “Parent Rights for Special Education.”

Private Schools may submit a complaint to California Department of Education if they believe that the district did not:

- Engage in meaningful and timely consultation.
- Give due consideration to the view of the private school official.

**G. Record Keeping**

1. The district of location will report through CALPADS each parentally placed private school student evaluated to determine eligibility for special education services. They also will report each child found eligible.
2. The district of location will report through CALPADS each student who is served through an ISP.

**Legal Citations:**

34 Code of Federal Regulations sections 300.130-144

California Education Code Sections 56170-56174.5

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