

# MODESTO CITY SCHOOLS Board Policy

BP 6159.2

## INSTRUCTION

### Nonpublic, Nonsectarian School and Agency Services for Special Education

→ The Governing Board recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education **to students with disabilities** 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 **(NPS/A) to meet student needs consistent with the comprehensive local plan of the Special Education Local Plan Area to meet the students' needs.**

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

→ ~~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.~~

→ Prior to entering into a contract to place any student in **an NPS/A** ~~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 **and complies with staff training requirements** in accordance with Education Code 56366 **and 56366.1**. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any **NPS/A** ~~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 **an NPS/A** ~~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. **(Education Code 56342.1)**

*(cf. 6159 - Individualized Education Program)*

**Bold Black Underline = MCS Language**

**Bold Red = CSBA Language**

Regular Black = Common Language

→ Denotes changes being suggested

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**The district shall pay to the NPS/A the full amount of the tuition or fees, as applicable, for students with disabilities who are enrolled in programs or receiving services provided by the NPS/A. (Education Code 56365)**

→ In accordance with law, any student with disabilities placed in **an NPS/A** ~~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 **the student's** ~~his/her~~ IEP. ~~(Education Code 56195.8, 56342.1)~~

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

→ During the period when any student with disabilities is placed in **an NPS/A** ~~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 **the** ~~his/her~~ IEP.

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

→ ~~The~~ **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.

**(Education Code 56366.2)**

*(cf. 1431 - Waivers) (N/A)*

**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

**56836.20-56836.21 Special education funding; SELPA contracts with nonpublic nonsectarian schools**

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BP 6159.2 (b)

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FAMILY CODE

7911-7912 Interstate compact on placement of children

GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to **disabled** 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

**3051-3051.24 Special education; standards for related services and staff qualifications**

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>

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ADOPTED: December 10, 2018

REVIEWED:

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