SECTION 1.10R

CHILDREN IN PRIVATE SCHOOLS

REGULATION

STUDENTS WITH DISABILITIES ENROLLED BY THEIR PARENTS IN PRIVATE SCHOOL

Definitions

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

District of Location, (“DOL”): As used in this part, the district of location refers to the school district where the private school or facility is located.

Private School Children with Disabilities: As used in this policy, “private school children with disabilities” means a child with disabilities enrolled by their parents in private schools, including religious schools or facilities.

Private School or Facility: As used in this policy, “private school or facility” means: (1) private, including religious, schools or facilities which are nonprofit institutional day or residential schools that provide education consistent with California law full-time day school pursuant to California Education Code section 48222 (including religious schools); and/or (2) any other California Department of Education (“CDE”) identified or authorized educational institution, program, arrangement, or facility not sponsored, maintained, or managed by the school district and for which the school district does not collect average daily attendance funds.

Procedures

The following procedures shall be followed by the school districts in the Merced County Special Education Local Plan Area (“SELPA”) to ensure that the District:

Locates, identifies, and evaluates all children ages three (3) to twenty-two (22) with disabilities enrolled by their parents in private schools including religious schools who may be eligible for special education services;

Offers a free and appropriate public education (FAPE) to all children ages three (3) to twenty-two (22) with disabilities, enrolled by their parents in private schools including religious schools who are determined to be eligible for special education services.

Consultation

The district of location shall 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, regarding:
1. 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;

2. 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;

3. The consultation process among the district of location, 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;

4. 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

5. How, if the district of location disagrees with the views of the private school officials on the provision of services or the types of services, whether provide 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.

When timely and meaningful consultation as described above has occurred, the DOL shall obtain a written affirmation signed by the representatives of participating private schools, and if such representatives do not prove such affirmation within a reasonable period of time, the DOL shall document the attempt to consult. A private school official has the right to submit a complaint to the California Department of Education (CDE), if:

1. The district of location’s consultation was not meaningful and timely, or

2. The district of location did not give due consideration to the views of the private school official.

If a complaint is filed:

1. The private school official must provide the basis of the complaint of noncompliance, and

2. The district of location must forward the appropriate documentation to the CDE.

If the private school official is dissatisfied with the decision of the CDE, he/she may appeal the decision to the U.S. Department of Education.

Child Find
1. The district of location shall undertake the following child-find activities with regard to private school children ages three (3) to twenty-two (22):

   a. Consult with representatives of private school children with disabilities (including private school administrators, teachers, parents, and students) regarding the child-find process, including, but not limited to, criteria for special eligibility and special education referral procedures under federal and state laws and regulations.

   b. Distribute materials to representatives of private school children with disabilities (including private school administrators, teachers, parents and students) regarding issues, including but not limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations.

   c. The proportionate share of federal funds shall not be used for child-find activities.

2. The district of location shall ensure child-find activities undertaken for private school students are comparable to activities undertaken for children with disabilities ages three (3) to twenty-two (22) with disabilities in public schools.

**Special Education Referral**

1. Students must be referred for special education instruction and services only after the resources of the general education program have been considered and, where appropriate, utilized.

2. If after considering and where appropriate, utilizing general education resources, representatives of private school children with disabilities (including private school administrators, teachers, and parents) determine that a private school child may be eligible for special education services, a referral, along with an exchange of information form, shall be directed to the special education contact at the district of location.

3. IDEA 2004 requires districts where private schools are located to be responsible for conducting child-find and assessment activities to determine eligibility for special education and related services. The district of residence of the child is responsible for developing the IEP and offering a free, appropriate public education (FAPE).

4. The districts in Merced County SELPA have agreed that the district where the private school is located will assign the task of conducting the assessment to determine eligibility for special education and related services to the district of residence of the child. The district of residence will conduct the assessment, develop the IEP, and offer FAPE, if appropriate.

If a referral is made by a private school parent or a private school to the district where the private school is located and the district is different than the district of residence...
1. The district of location will inform the parent and/or the private school that the assessment will be conducted by the district of residence.

2. The district of location will obtain parent consent to exchange any personally identifiable information about the child with the district of residence and fax a copy to the district of residence of the completed form entitled “Private School Referral for Assessment by District where the Private School is Located.”

3. The district of residence will obtain parent consent to exchange any personally identifiable information about the child with the district of location.

4. The district of residence will conduct the assessment, develop the IEP, and offer FAPE, if appropriate, following all applicable timelines and legal procedures. The district of residence will invite the district of location to the IEP meeting.

5. The district of residence will provide copies of the assessment, the IEP and any other relevant documents to the district of location.

If a referral is made by a private school parent or private school to the district of residence and the district of residence is different than the district of location

1. The district of residence will inform the parent and/or the private school that while the responsibility for assessment rests with the district where the private school is located, the assessment will be conducted by the district of residence.

2. The district of residence will obtain parent consent to exchange any personally identifiable information about the child with the district of location and fax a copy to the district of location with the completed form entitled “Private School Referral for Assessment by District of Residence.”

3. The district of residence will conduct the assessment, develop the IEP, and offer FAPE, if appropriate, following all applicable timelines and legal procedures. The district of residence will invite the district of location to the IEP meeting.

4. The district of residence will provide copies of the assessment, the IEP and any other relevant documents to the district of location.

*Initial Individual Education Program (IEP) Team Meeting*

1. If the parents of a private school child with a disability are clearly not interested in enrolling their child in public school, and if the child is eligible for special education and related services as a child with a disability, the District of Residence shall request the district of location to develop and Individual Service Plan (“ISP”) in accordance with this policy and federal and state laws and regulations.

2. The district of residence shall make the eligibility decision in accordance with applicable state and federal laws and regulations.
3. In order to ensure that the parents’ intention are clear, the District of Residence shall request that the parents sign the following statement on a form entitled Certification of parent’s Decision Not to Enroll in Public School: Parents of ______________________ hereby certify that we are not interested in enrolling our child, ____________________________, in the District. We are not interested in the development of an IEP for our child, the District’s offer of a free appropriate public education, and are only interested in an ISP from the district of location, the school district where the private school in which we are unilaterally placing our child is located. We have received the Notice of Parents’ Rights, and we understand the notice.

4. If the parents of a private school child with a disability are interested in enrolling their child in public school, or are unsure of their intentions, the IEP team shall develop an IEP for the child.

   a. If the parents of a private school child with a disability agree with and consent to the IEP developed by the IEP team, the IEP shall be implemented without undue delay following the IEP team meeting.

   b. If the parents of a private school child with a disability agree with, but decline the IEP developed by the IEP team, the IEP team shall:

      1) Ask the parents to indicate their agreement with the following statement on the student’s IEP form: “I agree that the District of Residence has offered to my child a free appropriate public education, including appropriate services in special education. However, I am voluntarily placing my child in a private school.”

5. Request the district of location develop and ISP in accordance with this policy and federal and state laws and regulations.

6. In cases where the district of residence is located outside Merced County, the district of location is encouraged to collaborate with the district of residence in the same manner as addressed above. If this is not feasible, the district of location continues to be responsible for the initial assessment. The district of location shall contact the district of location and invite the district of residence to the eligibility IEP meeting. If the parent states that he/she intends to enroll in public school, the district of location will contact the district of residence and inform them of the need to convene an IEP meeting in order to develop the full offer of FAPE.

Child Count

1. The district of location shall conduct the annual count of the number of private school children with disabilities.
   a. The child count shall be conducted for attendance on December 1 of the prior year.
   b. The child count shall be used to determine the amount that the district of location must spend on providing special education and related services to private school children with disabilities in the fiscal year following the
ISP Policy

1. No private school child with a disability has an individual right to receive some or all of the special education services that the child would receive if enrolled in public school.

2. Pursuant to federal and state law and regulations, the district of location shall spend a proportionate share of federal funds to provide special education and related services to private school children with disabilities ages three (3) to twenty two (22) eligible for special education services. Decisions about the services that shall be provided to private school children with disabilities are made after consulting, in a timely and meaningful way, with representatives of private school children with disabilities (including private school administrators, teachers, parents and students) in order to determine:

   a. Which disabling conditions will be served;
   
   b. What services will be provide;
   
   c. How and where and by whom services will be provided; and
   
   d. How services will be evaluated.

3. Following timely and meaningful consultation, the district of location will issue the following report to the respective private schools.

   After consulting with representatives of private school children with disabilities, it has been determined that the following services shall be provided to private school children with disabilities ages three (3) to twenty-two (22) who are determined to be eligible for special education services.

   a. Following the consultation with representatives of private school children with disabilities, as required by law, the following services were determined to meet the prioritized needs of the eligible private school students with disabilities in the ________________ District within the Merced County SELPA:

      1) __________________________________________________________
         __________________________________________________________
         __________________________________________________________
         __________________________________________________________
         __________________________________________________________
      2) __________________________________________________________
         __________________________________________________________
         __________________________________________________________
b. Transportation: If the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the child’s ISP, a private school child with a disability shall be provided transportation depending on the scheduling of the services:

1) From the child’s school or home to the service site other than the private school; and/or

2) From the service site to the private school or child’s home.

The district of location shall not provide transportation from the child’s home to the private school.

The cost of transportation shall be included in calculating whether the district of location has spent a proportionate amount of funding on private school children with disabilities.

4. Each private school child with a disability who has been designated to receive services under this policy shall have an ISP that describes specific special education and related services that the district of location shall provide to the child as determined by the LEA in this policy. The DOL shall ensure that a representative of the private school attends each meeting involving and individual child’s ISP. If the private school representative cannot attend, the DOL shall use other methods to ensure participation by the private school, including individual or conference telephone calls.

5. The services offered in this policy shall be reviewed by the District of location at least annually by means of a survey initiated by each DOL and/or consultation with representatives of private school children with disabilities ages three (3) to twenty-two (22) (including private school administrators, teachers, parents, and students).

6. The services provided pursuant to the policy may be provided at a private school, including a religious school, to the extent consistent with law. The location of the services shall be set out in the student’s ISP. Service providers shall be hired and supervised by DOL. The DOL shall also control all property, equipment, and supplies allocated to benefit private school students with disabilities. However, the district of location shall not use its proportionate share of federal funding to finance the existing level of instruction in a private school or to otherwise benefit the private school.

IEP Meetings after the Initial IEP Team Meeting

1. All children with disabilities eligible for special education who reside in the District of Residence are entitled to receive a FAPE from the 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 child’s parents in writing that the District of Residence:

a. Continues to offer a FAPE in accordance with federal and state laws and regulations;

b. 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, if the parents express an interest in enrolling their child in public school.

Unless Paragraph 2, below, applies, the parents shall be requested to send the document back to the District of Residence and indicate their agreement with one of the following statements:

a. I understand that the District of Residence continues to offer my child a free appropriate public education (including appropriate special education and related services) if he/she is enrolled in public school. I continue to unilaterally place my child in a private school; and:

   _____ I would like my child to continue to receive services pursuant to his/her ISP. I am not interested in enrolling my child in public school. (In this case, the District of Residence will forward within 3 business days a copy of this document to the district of location).

or

   _____ I would like to schedule an IEP for my child.

b. I am interested in enrolling my child in public school. I would like to schedule an IEP team meeting for my child. Please call me at: [parent inserts phone number] in order to schedule the IEP meeting.

2. Notwithstanding Paragraph 1, above, the District of Residence shall convene an IEP team meeting at least every three years in order to determine continuing eligibility for special education.

Private Preschool Students with Disabilities (Age 3.0-5.11)

If the parent of a preschool child with a disability declines the IEP developed for the child and elects to unilaterally enroll his/her child in a private preschool, the eligible preschool child with a disability shall be considered a unilaterally placed private school student. In this case, the LEA shall offer an ISP for the student consistent with Federal and State laws and implementing regulations. The private preschool must meet the definition of private school or facility (described on page 1 of this document).
Dispute Resolution

1. Pursuant to federal regulations, parents are not entitled to a due process hearing involving disputes over the contents of the services plans, their quality, or their implementation. A parent’s right to seek a due process hearing is limited to the issue of the district of location’s failure to identify, locate, and assess a privately placed student.

2. Disputes regarding this policy and procedures may be resolved pursuant to local uniform complaint policies and procedures, and/or by filing a complaint with the California Department of Education pursuant to Title 5 of the California Code of Regulations Section 4600 et seq.

3. 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.

Timeline to Ensure Timely and Meaningful Consultation

By April 1

1. Districts of location send letter (PS1) to principals of Private Schools including attachments (PS1a), relevant code from IDEIA. (PS1b) Private Schools Questionnaire, and time and date of service meeting to discuss input. A listing of private schools can be accessed at www.cde.ca.gov/sp/ps/rq/ap/coe_logon.asap

By May 1

2. District of location will meet with representatives from private schools and parents of parentally placed private school students. Use agendas/check list (PS2) to guide completing of required content of consultation.

At Consultation meeting

3. Obtain written affirmation that timely and meaningful consultation has occurred with representatives of private schools and parents parentally placed private school students. (PS3)

June 1

4. District of location sends letter to private school outlining services to be provided to parentally placed private school students with disabilities. (PS4)

Ongoing

5. District of location receives referrals for evaluation from private schools throughout the year. If disability is suspected, the district of location shall forward referral to the district of residence, along with an exchange of information form. Eligible students will have
access to DOL determined services identified in their Individual Service Plan based on availability of proportionate share of funds.

6. Each district of location shall collect and maintain data relating to referrals, evaluations and services provided under this law.

Notification

District of residence will notify district of location of parent decision not to access FAPE by enrolling in public school. District of residence will send completed copy of Certification of Parent Decision Not to Enroll in Public School (PS5) to district of location in which private school is located.

Federal References:

Section 1412(a)(10)(A)(ii)(IV)
Section 1415(d)(1)(A)
Section 1414(b)(5) and Section 300.306() of Title 34 of the Code of Federal Regulations
Section 300.300(d)(4) of Title 34 of the Code of Federal Regulations
Title 34 of the Code of Federal Regulations
Sections 300.611 to 300.627

Adopted BOD??--Revised (Previous version approved 2/27/01)
Student Name: _______________________________________________________
Birthdate: ___________________________________________________________
Grade: ______________________________________________________________
Private School: _______________________________________________________
Parent(s) Name(s): _____________________________________________________
Address: ____________________________________________________________
Date Referral Received: ________________________________________________
Reason(s) for Referral: _________________________________________________

TODAY’S DATE: _______________________________________________________

TO: ________________________________________________________________
    (District Where Private School is Located)

FROM: _____________________________________________________________
    (District of Residence)

The above student is attending a private school located within your district boundaries and has been referred for an assessment to determine eligibility for special education and related services.

Per IDEA 2004, the responsibility for child find and assessments rests with your district. However, as a result of a SELPA agreement, we will begin the process for determining the need for an assessment and conduct the assessment, if necessary, on your behalf. If necessary, we will schedule an IEP meeting, to which you will be invited, to determine eligibility for special education and related services.
Exhibit

Private School Referral for Assessment
By District Where Private School is Located

FAX

Student Name: _______________________________________________________
Birthdate: ___________________________________________________________
Grade: ______________________________________________________________
Private School: _______________________________________________________
Parent(s) Name(s): _____________________________________________________
Address: ____________________________________________________________
Date Referral Received: ________________________________________________
Reason(s) for Referral: _________________________________________________

TODAY’S DATE: ______________________________________________________

TO: ________________________________________________________________
   (District of Residence)
FROM: _____________________________________________________________
   (District Where Private School is Located)

The above student is attending a private school located within our district boundaries and has been referred for an assessment to determine eligibility for special education and related services.

Per IDEA 2004, the responsibility for child find and assessments rests with your district. However, as a result of a SELPA agreement, we will begin the process for determining the need for an assessment and conduct the assessment, if necessary, on your behalf. If necessary, we will schedule an IEP meeting, to which you will be invited, to determine eligibility for special education and related services.

Adopted BOD??—NEW
CERTIFICATION OF PARENT DECISION NOT TO ENROLL IN PUBLIC SCHOOL

Parents of, ___________________________________ hereby certify that we are not interested in enrolling our child, ________________________, in the ____________________________________ District. We are not interested in the development of an IEP for our child or in the District’s offer of a free appropriate public education. We are only interested in an Individual Service Plan from the Local Education Agency, ________________ _______________ which is the district where, ____________________, The private school, in which we are unilaterally placing our child, is located.

We have received the Merced County SELPA Notice of Parents’ Rights and we understand the notice.

________________________________________      ___________________
(Parent’s Signature)                                                     Date

________________________________________
(Print Name)
DATE:  ________________________________________

TO:    Principals of Private Schools in Merced County

FROM: ________________________________________

Special Education Director-District

RE:  Special Education Services for Disabled Students Attending Private School

Districts are required to receive input from private schools and representatives of students with disabilities enrolled in private schools regarding the design and development of special education and related services for the students regarding the following:

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 local educational agency, 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 paced 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 fund are insufficient to serve all children, and how and when these decision will be made; and

V. How, if the local educational agency 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 local educational agency shall provide to the private school officials a written explanation of the reasons why the local educational agency chose to provide services directly or through a contract.

Federal law requires that the amount expended by local district to serve parentally-placed students in private schools shall be equal to a proportionate amount of federal funds made available under Part B provisions of the IDEA. The IDEA Does not impose an obligation on the state or local districts to spend their money on such services.
In order to facilitate this requirement, a service questionnaire is attached so that you may provide your input. Your assistance in providing information will be most helpful in developing policies and practices for the provision of services to students with disabilities enrolled in private schools through the County. In addition, please share the questionnaire with teachers and parents so that we will receive their input as well.

Also enclosed are the relevant provisions of the IDEA 2004.

Should you have any question or have any additional information to provide, please feel free to give me a call at ______________________.

Please return the attached questionnaire by _________________. A meeting will be held on _________________ to further discuss your input. Please invite the parents of students with disabilities to this meeting. Following this meeting, a summary of the results of the input and a description of the services to be provided for the _________________.

Return the questionnaire by ________________ to:

________________________________
Special Education Director

________________________________
District

________________________________
Address

________________________________
City, State, ZIP
Consultation Meeting Regarding
Parentally Placed Private School Students with Disabilities

DATE: _____________________________________________________________

TIME:  ______________________________________________________________

PLACE:  ____________________________________________________________

Representative of the ________________________________________________

School District

the _____________________________________________________________ and

School

_________________________________________ held

Parent(s)

A meeting to consult regarding the provision of special education services to
parentally placed children with disabilities in private schools.

AGENDA

☐ 1. Introductions

☐ 2. Legal Requirements of IDEA, 2004

☐ 3. Child find
   • Criteria for special education eligibility
   • Referral procedures for special education

☐ 4. Child Count
   • December 1 prior year pupil count

☐ 5. Determination of Proportionate Share (Administrative Regulations)

☐ 6. Consultation Process (Administrative Regulations)

☐ 7. Provision of Services discussed:
   • Types of models of service delivery for the ________ school year
   • Decision making and private school notification

☐ 8. Disagreements about service: LEA will submit a written explanation of the
   private school of decision(s) in cases of disagreement on provision or type of
   services
Exhibit

Affirmations

On _________________________, the _________________________________ held (date) (school district) A meeting to discuss the special education service needs of parentally placed private school students with disabilities. Private school representatives and parental representatives were invited to participate in meaningful and timely consultation. Consultation occurred on the following items:

- Child Find Activities and Process
- Proportionate Funding Formula
- Child Count
- Consultation Process
- Special Education services to be provided in the upcoming school year, including, but not limited to:
  - Type of special services to be provided
  - Extending the offering of special education services (FAPE)
  - Frequency of the special services
  - Location(s) where the special education services may be delivered
  - District contact personnel for each of the special education services

Please check the appropriate box:

☐ I was able to attend and participated in the meeting

☐ Comments:
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

_______________________________________________       __________________________
Name and Title of Representative of Private School                                           Date

_____________________________                _________________          __________________
Received by:  Name and Title                                      District                              Date

Adopted BOD??--NEW
Dear: (insert private school contact name)

1. After consulting with representatives of private schools and parents of parentally placed private school children with disabilities, the LEA determined that the following services meet the prioritized needs of the eligible private school students with disabilities age 3-22 who are enrolled in a private school in the

________________________________________

(school district)

_______________________________ District within the Merced County
SELPA.

   a. __________________________________________________________

   b. __________________________________________________________

   2. Transportation: If the Individual Service Plan (ISP) team determines that transportation is necessary for the child to benefit from or participate in the services provided in the child’s ISP, a private school child with a disability shall be provided transportation depending on the scheduling of the services.*

   a. From the child’s school or home to the service site other than the private school; and/or

   b. From the service site to the private school or child’s home

*The cost of transportation shall be included in calculating whether the LEA has spent a proportionate amount of funding on private school children with disabilities. The LEA shall not provide transportation from the child’s home to the private school.

Sincerely,

(insert name and title of special education administrator)