

Non-Public Schools (NPS) and Residential Treatment Centers (RTC)
(Adapted from Riverside SELPA Policies and Procedures)

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Legal Reference- [AB 1172](#)
CDE Approved [Non-Public Schools](#)
[SELPA Resources](#) including NPS/NPA Rates, Master Contracts and Forms

Non-Public School/Agency Placement Process

Before a LEA or Sonoma County Office of Education (SCOE) places a student with a disability in, or refers a student to, a non-public school (NPS), the LEA or SCOE shall hold an IEP team meeting to review the IEP.

The IEP team may recommend a NPS placement when a public school placement cannot be identified, which will appropriately meet the student's needs. It is recommended that the IEP team uses [NPS Entry/Exit Rubrics](#) in determining the student's support needs for either placement in, or return from an NPS. These are guidelines only and the IEP team retains the right to make placement decisions based on the individual needs of the student.

The IEP team shall take steps to find an appropriate placement in a public program operated by another LEA or the SCOE special education programs. Following determination by the IEP team that the student requires a NPS placement, the LEA in consultation with parents and other public agencies, (which may have financial responsibilities for the placement of the student) will select one or more non-public schools to determine which one can implement the student's IEP. (EC 56342)

Out-of-State Non-Public Placements

Before contracting with a NPS outside of California, the LEA or SCOE shall document its efforts to utilize public schools or to locate an appropriate NPS within the state.

If a LEA or SCOE decides to place a student in a NPS outside of this state, the LEA shall indicate the anticipated date for the return of the student to a public school or NPS or a combination thereof, located in the state and shall document efforts during the previous placement year to return the student.

If a LEA or SCOE places a student with a NPS outside of this state, the student's IEP team shall submit a report to the superintendent (State Superintendent of Public Instruction) within 15 days of the placement decision. The report shall include information about the special education and related services provided by the out-of-state program placement and the costs of the special education and related services provided, and shall indicate the efforts of the LEA to locate an appropriate public school or NPS or a combination thereof, within the state. The superintendent shall submit a report to the State Board of Education on all placements made outside of this state. (E.C. 56365(a))

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Transition of Students from Elementary District to High School District

An elementary school district shall notify a high school district of all students placed in non-public schools prior to the annual review of the IEP for each student, who may transfer to the high school district.

When a student with a disability meets LEA requirements for completion of a prescribed course of study and adopted differential proficiency standards, as designated in the student's IEP, the LEA, which developed the IEP, shall award the diploma.

Change of Pupil Residence

Transfer of Student Receiving Services in Non-Public School: when a student, receiving services in a NPS, moves outside of the boundaries of the local district, the parent shall immediately report the change of residence to the administrator of both the former and new public school and the NPS. As agreed by the terms of the contract, the contracting NPS shall immediately notify the LEA in both the former and new residence areas. The superintendent (or designee) of the local district making payment to the NPS must immediately notify the new local district of the transfer and provide a copy of the student's records, including the IEP, and the contract for services with the NPS. The fiscal responsibility of the former local district shall terminate on the last day of the student's residence in that district.

Within (15) working days of receiving the student's records, the receiving district in the SELPA shall conduct a review of the student's IEP to determine whether or not the NPS placement is still appropriate. The following factors shall be considered in determining the appropriateness of the pupil's current placement:

- No appropriate public education program is available.
- To move the student at the time of change of residence would be harmful to the health, welfare or educational progress of the individual.
- The NPS continues to be within a reasonable distance and/or travel time from the home of the student.
- Other contingencies that necessitate the individual remaining at the NPS as determined by the IEP team.

If the student's NPS placement is considered appropriate in keeping with the federal mandate of the least restrictive environment, the receiving LEA shall negotiate a new contract for services with the NPS. If the placement is considered inappropriate, the new LEA shall, after a review of the IEP and with the consent of the parent/guardian, provide the needed special education services and facilities.

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Residential Treatment Center (RTC) Placements

Determining the responsibility for payment for costs for students in residential treatment centers requires consideration of two factors: (1) which agency placed the student (i.e., the purpose of the placement); and (2) where the student was placed.

Residential Treatment Center Placements by LEAs: If an LEA places a student in a residential treatment center (RTC) through an IEP process, the LEA is responsible for paying for the board and care, educational costs, parent travel considerations, and any related services including school-based mental health services.

Residential Treatment Center Placements by Courts, Social Services, Regional Center and Other Public Agencies

Placements made by courts, social services and regional centers and are not made by LEAs are not necessary for the student to receive a free appropriate public education; in most of these cases, the student's district of residence (i.e. the district in which their parents or legal guardians reside) is not financially responsible for the costs associated with the residential placement.

In those cases where an educational agency did not make the placement decision, the court, regional center for the developmentally disabled, or public agency (other than an educational agency) placing the individual in the institution or home will be responsible for the residential and other non-educational costs. (EC 56159, EC 56155)

Educational Costs for Non Public School Placement

Licensed Children's Institutions (LCIs): If the IEP team determines that NPS placement is necessary to meet the goals of the IEP and the student is placed in a licensed children's institution (LCI) the educational costs will be the responsibility of the Sonoma County Office of Education.

Foster Family Home: If the student is in a foster family home (FFH) the NPS costs are the responsibility of the Sonoma County Office of Education.

For all residential placements of students with disabilities, pursuant to an IEP, LEAs may consider the following options when contracting for residential care:

- Contract with a Residential Care Facility that is Affiliated with a California-certified Nonpublic School Through a Master Contract or Individual Services Agreement.
- To the extent that a California-certified NPS is owned, operated by, or associated with a California Licensed Children's Institution ¹ (LCI) or residential care facility outside of California, and placement in the affiliated LCI or residential care facility is determined by the IEP team to be the least restrictive environment and

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necessary for the student’s educational benefit, LEAs may include residential care in the master contract with the California-certified NPS. Any residential care provider attached to or associated with a California-certified NPS must be lawfully authorized to provide residential care services in its respective state. A waiver pursuant to Section 56366.2 of the Education Code (EC) is not required before adding residential care to the master contract with the NPS. The residential care should be listed in the master contract and/or ISA as a related service provided pursuant to the IEP, with the respective service activities and rates readily identifiable. In accordance with Section 56366 (a)(5) of the EC, if the provider of residential care is a separately named entity that is attached to or affiliated with the NPS, it should be identified as such in the master contract or ISA.

- The requirements of Section 56366.1(l) relating to separation of educational and residential costs still apply. A common entity operating both an NPS and an LCI or other residential care facility (outside of California) must maintain separate financial records for each and ensure that costs associated with various aspects of each program are distinguishable. Section 56366.1(l)(D) requires:

The relationship between various entities operated by the same entity are documented, defining the responsibilities of the entities. The documentation shall clearly identify the services to be provided as part of each program, for example, the residential or medical program, the mental health program, or the educational program. The entity shall not seek funding from a public agency for a service, either separately or as part of a package of services, if the service is funded by another public agency, either separately or as part of a package of services.

The master contract and/or ISA should reflect this requirement of a clear delegation of costs associated with each part of the program to be funded by the LEA. The LEA is not responsible for costs of residential care associated with the placement of a student with a disability if it, or another LEA, was not part of the placement decision or if it, or another LEA, was not the placing agency. Section 7581 of the GC specifies:

- The residential and noneducational costs of a child placed in a medical or residential facility by a public agency, other than a local educational agency, or independently placed in a facility by the parent of the child, shall not be the responsibility of the state or local educational agency, but shall be the responsibility of the placing agency or parent.
- The residential care provider attached to or affiliated with a California-certified NPS is not currently required to seek separate certification from the CDE. The NPS currently provides information about the residential care provider on the application for certification, pursuant to Section 3060(c)(22) of Title 5 of the CCR: (22) For each nonpublic school with a residential component the application shall include: (A) the name of the residential program attached to the nonpublic school; (B) the proprietary status of the residential program; (C) a list of all

residential facilities affiliated with the nonpublic school; (D) the total capacity of all the residential facilities affiliated with the nonpublic school; and (E) the rate of care level (California schools only) for each residential facility affiliated with the nonpublic school.

Contract with a Residential Care Facility that is a California-certified Nonpublic Agency

In addition to contracting for residential care through an NPS, an LEA may contract directly with a residential care facility, either in or out of state, that is certified as an NPA by the CDE, pursuant to sections 56365–56366 of the EC, when placement in the residential care facility is determined by the IEP team to be the least restrictive environment and necessary for the student’s educational benefit. Contracts with NPAs are subject to the specific contracting requirements in sections 56365–56366 of the EC. Residential care facilities, both in and out of state, wishing to seek certification as an NPA, should visit the CDE NPS/A Certifications Applications Web page at <http://www.cde.ca.gov/sp/se/ds/npsacrtapp.asp> or contact the Interagency-Nonpublic Schools/Agencies Unit, Special Education Division, by phone at 916-327-0141, or by e-mail at npsa@cde.ca.gov.

Contract with a Residential Care Facility that is a Vendor or Contractor of the State Department of Mental Health or any Designated Local Mental Health Agency

LEAs may contract directly with a residential care facility, both in and out of state, that is a vendor or contractor of the State Department of Mental Health, or any designated local mental health agency (5 CCR §3051) when placement in the residential care facility is determined by the IEP team to be the least restrictive environment and necessary for the student’s educational benefit. Such contracts are not subject to the specific contracting requirements of EC sections 56365–56366 (relating to NPSs and NPAs). LEAs may work with their counties to obtain a current list of vendors or contractors who provide residential care.

As a source of information, LEAs may also visit the following Web page search engine for residential care facilities licensed by the California Department of Social Services at http://cclid.ca.gov/docs/cclid_search/cclid_search.aspx. Residential care facilities that are vendors or contractors of the State Department of Mental Health, or any designated local mental health agency, are not required to seek certification as an NPA through CDE at this time. When conducting its monitoring process, the CDE will verify that the LEA has documentation that such contractors or vendors are contractors or vendors of a state or local public mental health agency in the current fiscal year.

In addition, LEAs are responsible for ensuring and maintaining documentation that the entities providing related services are qualified pursuant to sections 3060–3065 of Title 5 the CCR.

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Please note that LEAs are not precluded from seeking a waiver, pursuant to Section 56366.2 of the EC, for any scenario that is not addressed by the content of this notice. If you have any general questions regarding this subject, please contact the Special Education Division by phone at 916-445-4613, or the Interagency Nonpublic Schools and Agencies Unit of the Special Education Division by phone at 916-327-0141.