

**SANTA CLARA COUNTY  
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA**

**CHILDREN WITH DISABILITIES ENROLLED IN PRIVATE  
SCHOOLS BY THEIR PARENTS**

**Policy**

The Child Find process in Santa Clara County SELPAs shall be designed to ensure equitable participation of parentally placed private school children with disabilities and an accurate count of such children. **It is also the policy of Santa Clara County SELPAs for Districts of the parent or guardian's Residence (“DOR”) to stand ready to offer a free appropriate education (“FAPE”) to identified students ages 3 to 21 if and when a parent/guardian requests development of an IEP.** Compliance with this policy and its procedures is intended to ensure evidence of compliance with all federal and state laws and regulations concerning children so identified.

**Procedures**

(For the purposes of this policy, “LEA” means district where the private school is located and “DOR” where the parent of the child resides.)

**A. Consultation**

LEA shall consult with private school representatives and representatives of parents during the design and development of special education and related services for parentally placed children in private schools, including regarding:

1. The child find process and how 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 including how the amount was calculated.
3. The consultation process will:
  - a) define how the process will operate throughout the year.
  - b) ensure that parentally placed private school children with disabilities can meaningfully participate in special education.
4. The LEA will consult regarding how, where, and by whom special education and related services will be provided including a discussion of:
  - a) direct services and alternate service delivery mechanisms.
  - b) how services will be apportioned if funds are insufficient to serve all children.
  - c) how and when these decisions will be made.
  - d) how the LEA will provide the private school officials a written explanation of the reasons why the LEA chose not to provide services directly or through a contractor if the LEA disagrees with the views of the private school officials regarding the provision or types of services.

**B. Child Find Requirements**

The LEA will conduct Child Find activities that will be:

1. conducted in a time period comparable to Child Find for public school children.
2. designed to ensure “equitable participation” of parentally placed children in private school and an accurate count.
3. designed to include activities similar to those activities undertaken for public school children.

*\*\*Costs for Child Find activities are not part of the proportionate share of federal funding.*

**C. Calculation of Proportionate Share of Federal Funding**

In calculating the proportionate share of federal funding, the LEA will:

1. consult in a timely and meaningful manner with representatives of private schools.
2. conduct a thorough and complete child find process to determine the number of parentally placed children with disabilities attending private schools located in the LEA.
3. Maintain, (and provide to CDE), records of the number of children evaluated, found eligible, and served.

**D. Written Affirmation Form Signed by Private School Representatives**

1. The LEA will obtain written affirmation signed by the representatives of the participating private schools.
2. If the private school officials do not provide such affirmation within a reasonable period of time, the LEA will forward the documentation to the CDE.

**E. Private School Officials Right to Complain**

A private school official will have the right to complain to the CDE that:

1. the LEA did not engage in consultation that was meaningful and timely, or
2. the LEA did not give due consideration to the view of the private school official.

If a complaint is filed:

1. The private school official will provide the CDE with a basis for the complaint.
2. The LEA must then forward the appropriate documentation to the CDE.
3. If dissatisfied with the decision of the CDE, the private school official may appeal to the USDOE.

**F. Initial Individualized Education Program (IEP) Team Meeting**

1. In cases in which the LEA locates/identifies a child suspected of being a child with a disability, upon identifying and locating such a child, the LEA shall conduct an initial assessment of the child as well as any SST meetings preceding assessment. Consistent with 34 CFR 300.622(b) (3), the LEA shall request of the parent written consent to an exchange of information between the LEA and the DOR (in cases where the LEA where the private school is located is not the DOR) The LEA and the DOR will further collaborate in regard to the initial meeting to address eligibility of the child for special education, and the development of an IEP and a services plan, as appropriate. This collaboration is intended to ensure that assessments and meetings take place in a timely

fashion, the LEA has the opportunity to offer a services plan, as appropriate, and that the DOR has the opportunity to develop an offer of FAPE *as appropriate*. Thus, the two agencies may decide to hold one meeting where representatives of both agencies are present to ensure compliance by each agency.

2. In cases where the DOR is located outside Santa Clara County, the LEA continues to be responsible for initial assessment. The LEA shall contact the DOR after receipt of written parental consent and invite the DOR to the eligibility IEP meeting. If the parent states that he/she intends to enroll in public school, the LEA will contact the DOR to convene an IEP meeting in order to develop the full offer of FAPE.
3. In cases in which a referral for assessment is made directly to the DOR (as opposed to the LEA), the DOR has the obligation to assess the child, assuming that assessment is appropriate/necessary. This duty to assess is in addition to/concurrent with any duty to assess on the part of the LEA.
4. If the parents of a private school child with a disability are clearly not interested in enrolling their child in public school, the LEA shall develop a services plan in accordance with this policy and federal and state laws and regulations. The DOR may elect not to develop an IEP and offer FAPE. However, in order to ensure that the parents' intentions are clear, the DOR shall request that the parents sign the following statement on the SELPA 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 a services plan from the LEA, the school district where the private school in which we are unilaterally placing our child is located. We have received the Santa Clara County SELPA Notice of Parents' Rights, and we understand the notice.

5. The DOR will develop an IEP and offer FAPE if the parent demonstrates the intent in writing to enroll the child in public school or if the parent is or appears uncertain of his/her course of action.
6. Pursuant to this policy, assistive technology or augmentative communication devices will not be transferred to private schools or purchased for students enrolled in private schools.
7. The LEA shall not provide transportation from the child's home to the private school. The LEA may provide transportation from the child's school or home to the service site other than the private school and/or from the service site to the private school or the 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.

#### **G. IEP Meetings after the Initial IEP Team Meeting**

1. All children with disabilities eligible for special education who reside in the DOR are entitled to receive an offer of FAPE from the DOR if the child's parents forward a request to the DOR, in writing, requesting development of an IEP. The DOR has no obligation to develop an IEP for a private school child absent such a request.
2. The LEA will review the Services Plan annually and conduct a triennial assessment for students on Services Plans. The LEA will consult with the DOR prior to the triennial evaluation.
3. Unless paragraph G (4) below applies, the parents shall be requested to send the document referred to in G (1) back to the DOR and indicate their agreement with one of the following statements:

- a) I understand that the DOR 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 services plan. I am not interested in enrolling my child in public school. (In this case, the DOR will forward within 3 business days a copy of this document to the LEA)

OR

- 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.
4. Notwithstanding paragraphs G (1) and (2) above, the DOR shall convene an IEP team meeting at least every three years in order to determine continuing eligibility for special education.

## H. Dispute Resolution

- 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 LEA's failure to identify, locate, and assess a privately placed student.
- 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.
- 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.

*Approved by Executive Council:*

<i>SELPA I</i>	<i>2/13/06</i>	<i>10/19/06</i>	<i>1/24/08</i>	<i>5/22/08</i>	<i>06/19/12</i>	<i>01/19/23</i>
<i>SELPA II</i>	<i>2/17/06</i>	<i>10/20/06</i>	<i>1/25/08</i>	<i>5/23/08</i>	<i>06/19/12</i>	<i>01/20/23</i>
<i>SELPA III</i>	<i>2/09/06</i>	<i>10/12/06</i>	<i>1/08/08</i>	<i>5/22/08</i>	<i>06/19/12</i>	<i>01/19/23</i>
<i>SELPA IV</i>	<i>2/16/06</i>	<i>10/16/06</i>	<i>1/14/08</i>	<i>5/19/08</i>	<i>06/20/12</i>	<i>01/20/23</i>
<i>SELPA VII</i>	<i>2/16/06</i>	<i>10/16/06</i>	<i>1/14/08</i>	<i>5/19/08</i>	<i>06/20/12</i>	<i>01/18/23</i>

Santa Clara County  Office of Education