



NON-PUBLIC AGENCIES & SCHOOLS INFORMATION SHEET

Prepared by:

The El Dorado County SELPA



Girard, Edwards, Stevens &
Tucker LLP



Non-Public Agencies & Schools

Local educational agencies (“LEAs”) throughout the state utilize non-public schools (“NPS”) and non-public agencies (“NPA”) to provide educational placements and services to students who receive special education services. This document will alert you of the required essential elements of contracting with NPA/S. Adherence to the guidance below will help schools avoid funding and programmatic problems, and to prevent any disruption to the educational program of the students being served.

Distinction Between NPA and NPS Services

There are several important distinctions between NPA and NPS services.

NPS services are utilized when an **LEA needs to *place a student*** in a private school or facility, residential or non-residential, because an appropriate public school placement is not available.

NPA services **are not placements** but Designated Instruction and Services (“DIS”) (“Related Services” under federal law) such as speech therapy, occupational therapy counseling, ABA, transportation, etc. which assist a student in benefitting from his/her education. (34 C.F.R. § 300.34(a); Ed. Code §§ 56035 and 56363 (a)).

Specialized Academic Instruction (“SAI”), which refers to special education rather than DIS or Related Services, may only be provided by an NPS. (Ed. Code § 56035; 34 C.F.R. § 300.34(a) and 300.39(b)(3).) (See Note under special education funding, below).

Special Education Funding

LEAs may not use special education funding to pay for services provided by an NPA/S unless the NPA/S is certified by the state and is also certified for any services that an NPA/S is being contracted to provide. While LEAs may use general funds to pay for NPA/S services, the LEA should still follow the requirements outlined in this document.

Note: In order to use special education funds, specialized academic instruction (“SAI”) must be provided by an individual employed by the contracting LEA, a different LEA (e.g., county office of education, charter school, or school district), or an NPS (Ed. Code § 56836.04, 56836.20).



CDE Certification

The California Department of Education (“CDE”) certification process is intended to ensure that the NPA/S meets the standards prescribed in federal and state statutes and regulations. The CDE certification is approval for the NPA/S to contract with LEAs to provide related services to eligible students. An NPA/S may apply for initial certification at anytime throughout the year. (Ed. Code § 56365)

Monitor Certification

LEAs are required to ensure that the NPA/S with whom it contracts has met state certification standards. (Ed. Code §§ 56366 (d), and 56366.1)

Before entering or renewing a master contract or individual services agreement (“ISA”), the LEA should determine that the NPA/S has met the following criteria:

- a. Has an “Active” designation with CDE. (Found in CDE database, see below.)
- b. Is certified for the grade level of the student(s) who will be served;
- c. Is providing services in facilities certified by CDE;
- d. Has verified NPA/S staff have received training in evidence-based practices and interventions (see following section for details); and
- e. For NPS placements, has conducted an onsite monitoring visit(s) (see section on monitoring visits for details);

The fee and Intent to Renew must be filed with CDE by October 31, or the renewal application will not be accepted. The **master contract should state that the agreement is null and void if NPA/S loses certification** (and does not possess a waiver).

Verify That All NPA/S Staff Working with Students Have Received Training in Evidence-Based Practices and Interventions

As of the 2020-21 school year, each NPA/S must provide documentation showing that it “will train staff who will have contact or interaction with pupils during the school day in the use of evidence-based practices and interventions specific to the unique behavioral needs of the [NPA/S’s] pupil population.” (Ed. Code § 56366.1. (a)(4)(A))



Before entering or renewing a master contract or ISA, the LEA must verify that the NPA/S has complied with this requirement as follows:

- a. The LEA will require the NPA/S to provide written documentation showing that it has complied with the detailed training requirements set forth in Education Code section 56366.1 (a)(4);
- b. The LEA will review this documentation and determine whether the NPA/S has complied with the specific statutory requirements listed in the Verification Checklist (see Attachment A);
- c. If the LEA determines that the NPA/S has not provided sufficient documentation, then it shall not execute/renew the master contract or ISA until the NPA/S has addressed any deficiencies;
- d. Once the LEA determines that the NPA/S has complied with these requirements, it shall provide the NPA/S with written verification of its determination and may execute the master contract and ISA. The NPA/S is responsible for forwarding the LEA's verification to CDE.

(Ed. Code § 56366.1 (a)(4)(D)(i).)

Additional Requirements for LEA Verification

- If the LEA is attempting to contract with an NPA/S that is in the process of seeking its *initial* certification through CDE, the LEA must also “verify that the plan and timeline for training provided pursuant to this paragraph are included in the master contract” (Ed. Code § 56366.1 (a)(4)(D)(ii), underline added).
- If the LEA is attempting to contract with an NPA/S that was not in existence as of January 1 of the immediately preceding the current school year, the LEA must:
 - Verify that the NPA/S has met the training requirements within 30 days of the start of the school year; and
 - Submit the verification to CDE at that time. (*Note:* This is the exception as typically the NPA/S is responsible for submitting the verification.)



NPS Onsite Monitoring Visits

As of the 2020–21 school year, the LEA must conduct onsite monitoring visits of any NPS with which it contracts as follows:

Frequency of Monitoring Visits

- Preplacement: Prior to placing any student at an NPS, the LEA is required to conduct a monitoring visit. Exception: A monitoring visit is not required if the LEA already has a student enrolled at the NPS and has previously conducted a monitoring visit; and
- Annual: If an LEA student is attending an NPS pursuant to a master contract, the LEA must conduct, at minimum, one onsite monitoring visit during each school year.

Scope of Monitoring Visits

For each monitoring visit, the LEA must:

- Review the services provided to each student through the student's ISA;
- Review the progress each student is making toward the goals set forth in the student's IEP;
- If a student has a behavioral intervention plan (BIP), review the progress the student is making toward the goals set forth in the BIP;
- Observe the student during instruction; and
- Conduct a walkthrough of the NPS facility.

Reporting Requirements

- The LEA must report the findings from each monitoring visit to CDE within 60 calendar days of the onsite visit.
- LEAs should document each visit using the CDE reporting form found at: <https://www.cde.ca.gov/sp/se/ds/documents/leaonsitemonitoring.pdf>
- Onsite monitoring visit information may be submitted to the CDE via the NPS email: NPSA@cde.ca.gov.

(Ed. Code § 56366.1(e)(3))



Master Contract and Individual Services Agreement (“ISA”)

An **LEA is required to develop and utilize a master contract** when procuring services through an NPA/S. The master contract must include the following:

- a. The general administrative and financial agreements, including teacher-to-pupil ratios, between the LEA and NPA/S;
- b. Procedures for recordkeeping and documentation, and maintenance of school records to ensure appropriate high school graduation credits;
- c. A description of the process the LEA will use to oversee and evaluate NPS placements.

(Ed. Code § 56365)

In addition, the LEA and NPA/S must sign an Individual Services Agreement (“ISA”) **for each pupil being served by the NPA/S.** The ISA must include all services, including the cost and duration of each service that the NPA/S will provide for that student. Changes to the services being provided may only be made by the IEP team (Ed. Code § 56366 (a)(3)).

Resources

1. CDE Database: NPA/S Certification Information can be found at [here](#).
2. SELPA approved Master Contract Templates and ISA are available on the Business Office Support web page [here](#). Scroll Down to the ERMHS Resources section.



Attachment A

Verification Checklist for Evidence-Based Practices and Interventions

The LEA verification requires that the NPA/S provide written documentation showing all the following:

Staff Requirements (Ed. Code § 56366.1 (a)(4)(A).)

For all NPA/S staff who have any contact or interaction with students:

- New Staff are trained within 30 days of employment;
- Current staff are trained annually; and
- If agency was in existence on January 1 prior to the current school year, documentation must show that all current staff have been trained.

Training Requirements (Ed. Code § 56366.1 (a)(4)(B).)

The training shall be selected and conducted by the NPA/S and shall satisfy all the following conditions:

- Conducted by persons licensed or certified in fields related to the evidence-based practices and interventions being taught;
- Taught in a manner consistent with the development and implementation of individualized education programs; and
- Consistent with the Education Code requirements for student discipline (Ed. Code §§ 49005 et seq.).

Training Content (Ed. Code § 56366.1 (a)(4)(C).)

The content of the training must include, at minimum, all the following:

- Positive behavioral intervention and supports, including collection, analysis, and use of data to inform, plan, and implement behavioral supports;
- How to understand and address challenging behaviors, including evidence-based strategies for preventing those behaviors; and
- Evidence-based interventions for reducing and replacing challenging behaviors, including de-escalation techniques.

