



# SACRAMENTO CITY UNIFIED SCHOOL DISTRICT BOARD OF EDUCATION

Agenda Item# 11.2

**Meeting Date:** November 18, 2021

**Subject:** Public Hearing: First Reading of Revised Board Policy 6159.2,  
Nonpublic, Nonsectarian School and Agency Services for Special Education

- Information Item Only
- Approval on Consent Agenda
- Conference (for discussion only)
- Conference/First Reading (Action Anticipated: \_\_\_\_\_)
- Conference/Action
- Action
- Public Hearing

**Division:** Legal Services and Academic Office

**Recommendation:** Approve Board Policy 6159.2

**Background/Rationale:** In accordance with the California Department of Education (CDE) Significant Disproportionality Comprehensive Coordinated Early Intervening Services (CCEIS) four-phase Programmatic Improvement Process, SCUSD is conducting a review and, if appropriate, revisions of the policies, practices, and procedures used in identification, placement in particular education settings, and disciplinary actions. SCUSD is reviewing special education related board policies as a part of our CCEIS plan. The goal is to review and revise policies, practices, and procedures which may be contributing to our significant disproportionality.

The CCEIS Stakeholder team will be reviewing Special Education board policies throughout the fall and winter. The team will transition to reviewing and revising Administrative Regulations in the Spring.

**Documents Attached:**

1. Executive Summary
2. Draft – BP 6159.2

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| <p><b>Estimated Time of Presentation:</b> 5 minutes<br/><b>Submitted by:</b> Geovanni Linares, Director SELPA<br/><b>Approved by:</b> Raoul Bozio, In-House Counsel</p> |
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# Board of Education Executive Summary

## Special Education

Proposed Board Policy (BP) 6159.2 Nonpublic, Nonsectarian School And Agency Services For Special Education  
November 18, 2021



### I. Overview/History of Department or Program

The Board desires to provide all district students, including students with disabilities, a free appropriate public education 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 to meet the students' needs.

Currently, the Sacramento City Unified School District board policy concerning the utilization of Nonpublic, Nonsectarian School and Agency services for special education is from 2002. By adopting this revised policy, the District will provide updated guidelines for adults for the utilization of such services when services within the District are not available.

As a part of the District's efforts to address and eliminate disproportionality, the Comprehensive Coordinated Early Intervening Services (CCEIS) Plan adopted in September of 2021, identifies that the CCEIS team will review, and if needed, revise policies, practices, and procedures that may contribute to the District's Significant Disproportionality.

The language within this policy has been reviewed by our CCEIS team as well as our legal partners.

### II. Driving Governance:

Pursuant to California Education Code 56034:

"Nonpublic, nonsectarian school" means a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program and is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, or a public university or college. A nonpublic, nonsectarian school also shall meet standards as prescribed by the Superintendent and board.

Pursuant to California Education Code 56035:

"Nonpublic, nonsectarian agency" means a private, nonsectarian establishment or individual that provides related services necessary for an individual with exceptional needs to benefit educationally from the pupils' educational program pursuant to an individualized education program and that is certified by the department. It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public

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hospital. The nonpublic, nonsectarian agency shall also meet standards as prescribed by the superintendent and board.

### III. Budget:

This board policy is intended to provide a frame for selecting, contracting with, and monitoring the use of Nonpublic, Nonsectarian Schools and Agencies to support the implementation of a free appropriate public education for students with disabilities.

### IV. Goals, Objectives and Measures:

The goal for the District is to adopt a board policy for the equitable education of students with disabilities.

### V. Major Initiatives:

This IEP board policy is critical for implementation of evidence- based and legally compliant supports and services for students with disabilities.

### VI. Results:

Adopt revision of Board Policy 6159.2. Support CCEIS plan to review & revise policies, practices, and procedures that may contribute to our significant disproportionality.

### VII. Lessons Learned/Next Steps:

Adoption revision of Board Policy 6159.2. Information and guidance will be provided as necessary.

# Sacramento City USD

## Board Policy

### Nonpublic Nonsectarian School And Agency Services For Special Education

BP 6159.2

#### Instruction

The Board of Education recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. The district seeks to be able to educate all students with disabilities in regular classes within the district with appropriate aids and supports. The removal of students with disabilities from the regular educational environment within the district shall occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved. In these instances, when the district is unable to directly provide special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency when necessary to appropriately meet the students' needs.

~~The Governing Board shall contract with state certified nonpublic nonsectarian schools or agencies to provide special education services or facilities when an appropriate public education program is not available.~~

- (cf. 0430 - Comprehensive Local Plan for Special Education)
- (cf. 1312.3 - Uniform Complaint Procedures)
- (cf. 3541.2 - Transportation for Students with Disabilities)
- (cf. 4112.23 - Special Education Staff)
- (cf. 6146.4 - Differential Graduation and Competency Standards for Individuals with Exceptional Needs)
- (cf. 6159 - Individualized Education Program (IEP))
- (cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)
- (cf. 6164.4 - Identification of Individuals 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 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 in accordance with Education Code 56366. In addition, the Superintendent or designee shall monitor, on an ongoing basis, the certification of any 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 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. In accordance with law, any student with disabilities placed in 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 his/her IEP. (Education Code 56195.8, 56342.1)

~~When entering into agreements with nonpublic, nonsectarian schools or agencies, the Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The IEP team shall remain accountable for monitoring the progress of students placed in nonpublic, nonsectarian programs towards the goals identified in each student's IEP.~~

During the period when any student with disabilities is placed in 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 his/her IEP.

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, 56366.6.  
(cf. 1431 - Waivers)

#### Legal References:

##### 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
- 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

##### GOVERNMENT CODE

7570-7588 Interagency responsibilities for providing services to children with disabilities, especially:

7572.55 Seriously emotionally disturbed child; out-of-state placement

##### FAMILY CODE

7911-7912 Interstate compact on placement of children

##### 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

3061-3069 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:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to Parents

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

WEB SITES

CDE: <http://www.cde.ca.gov>

US Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/offices/OSERS>

Policy SACRAMENTO CITY UNIFIED SCHOOL DISTRICT

adopted: November 16, 1998 Sacramento, California

revised: April 15, 2002