

Nonpublic Schools Definition:

NPS: A private, nonpublic, nonsectarian school that enrolls individuals with exceptional needs pursuant to an Individualized Education Program (IEP).
EC §56034

Placement in an NPS

Students may not be placed in an NPS unless they have a valid IEP requiring placement at the NPS, or the person holding educational rights consents. EC §48853 (see Education Rights fact sheet)

A student must have an IEP and be assessed for special education services prior to placement in a NPS. EC §§56342.1, 56320

- The assessments conducted must conform with state and federal law.
- The student may not be assessed for special education services unless the person who holds educational rights has provided consent, *with certain exceptions*. EC §56321

Exceptions:

- The school district has prevailed at a due process hearing. EC §§56321(c), 56506.
- IDEA does not require parental consent for the initial evaluation of a child who is a ward of the state and not living with his/her parents if the LEA cannot find the parent, the parent's rights have been terminated, or a judge has removed the parent's educational decision-making rights and appointed another person to represent the child. 20 USC §1414(a)(1)(d)(iii); EC § 56321.1

Consent for an initial assessment is not consent for placement in an NPS or provision of any other special education services. EC §56321(d)

Least Restrictive Environments (LRE)

Students *must* be placed in the *least restrictive environment* to meet his/her needs. A child shall not be placed in a special class or NPS unless the severity of the disability is such that education in a regular class with the use of supplementary aids and services cannot be achieved satisfactorily. EC § 56040.1

Foster Children (LRE): School Districts/SELPA/County Office of Education shall first consider placement and services through programs operated by public education – regardless of whether the child is placed with a relative, foster parent, or group home/licensed children's institution. Foster youth with special needs may only be placed in a nonpublic school if the district/SELPA does not have a public program that can meet the child's needs. EC §56157(a)

Children Placed in Group Homes / Licensed Children's Institutions (LCI)



A Group Home/Licensed Children's Institution may *not* condition placement at the LCI on attendance at a nonpublic school owned or operated by an agency associated with the LCI. EC §56366.9

A licensed children's institution or nonpublic, nonsectarian school, or agency may *not* require as a condition of placement that educational authority for a child, as defined in Section 48859, be designated to that institution, school, or agency. EC §48854

When a child is placed in a licensed children's institution with an on-grounds nonpublic school, the child may attend the on-grounds school *only* if the SELPA's IEP Team has determined that there is no appropriate public program in the community (i.e. RSP, Special Day class, etc) and the on-grounds program is appropriate and can implement the child's IEP. 2 CCR §60510(b)(2)

Assembly Bill 1858

Assembly Bill 1858 was passed in 2004. AB 1858 requires that an NPS provide access to:

- The same instructional materials used by the district in which the NPS is located. EC §56366.10(b)
- College preparation courses. EC §56366.10(b)(2)
- Extracurricular activities such as art, sports, music, and academic clubs. EC §56366.10(b)(3)
- Career preparation and vocational training. EC §56366.10(b)(4)
- Supplemental assistance, including academic tutoring, psychological counseling, and career and college counseling. EC §56366.10(b)(5)
- Teachers and staff who provide academic instruction and support services with the goal of integrating the students into the least restrictive environment. EC §56366.10(c)

The California Foster Youth Education Task Force is a coalition of more than 35 organizations dedicated to improving educational outcomes for foster youth. For more information, please contact Erin Saberi, Casey Family Programs, at 916.503.2950 or esaberi@casey.org.

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