

## CHAPTER 6 - ADAPTED PHYSICAL EDUCATION IN PRIVATE NON-PUBLIC, AND CHARTER SCHOOLS

**6.1 KEY PROVISION:** A child, who has been placed in a private school by parents, will be assessed if referred to special education.

**Legal Reference:** 20 U.S.C. Sec. 1412(a)(3)(A) *All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.*

Sec. 56301 (2)(d)(1) *Each district, special education local plan area, or county office shall establish written policies and procedures for a continuous child-find system, which addresses the relationships among identification, 34 CFR sec. 300.453 - 300.462, assessment, planning, implementation, review, and the triennial assessment.*

**Discussion:** All children, who are suspected of having a disability, must be assessed, according to equitable child-find procedures of the LEA. (Sec. 56301(c)(1).)

**Best Practice:** The adapted physical education teacher should be familiar with all child-find procedures as he or she is part of the educational team. When a referral comes to the LEA, the adapted physical education teacher will help develop an appropriate assessment plan when the areas of suspected disability include areas specific to adapted physical education.

**6.2 KEY PROVISION:** A student enrolled by a parent in a private school is entitled to the amount of support provided to individuals in public schools in the SELPA.

**Legal Reference:** 20 U.S.C sec. 1412 (a)(10)(A)(i) *In general To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the participation of those children in the program assisted or carried out under this subchapter by providing for such children special education and related services in accordance with the following requirements, unless the Secretary has arranged for services to those children under subsection (f):*  
*(I) Amounts to be expended for the provision of those services (including direct services to parentally placed private school children) by the local educational agency shall be equal to a proportionate amount of Federal funds made available under this subchapter.*

### **Consultation**

*20 U.S.C sec. 1412 (a)(10)(A)(iii) To ensure timely and meaningful consultation, a local educational agency, or where appropriate, a State educational agency, shall consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children, including regarding—... [ goes on to list the different areas of consultation.]*

**Discussion:** Once a child has been assessed and has been found eligible for special education, an IEP must be developed which offers a free and appropriate public education (FAPE). If the parent agrees that the IEP does offer FAPE but wants the child to attend a private school, the LEA is not responsible to provide special education. However, private school individuals who qualify for special education services are allotted a dollar amount for services. This dollar amount, usually not substantial, can be used at their discretion. The number of individuals in the district that are attending private schools determines this amount. “The LEA” has a responsibility to provide consultation to the private school staff. The type of consultation to be provided needs to be determined by the LEA. Often the SELPA will establish procedures for consultation on behalf of individuals in a private school.

**Best Practice:** The role of the adapted physical education teacher with individuals enrolled in a private school may be to provide a limited amount of consultation and in-service training on behalf of the student in a private school setting. Adapted physical education teachers should take the initiative to be informed about local policies and procedures for provision of services to children with a disability in private schools.

Examples:

- One large urban district provides a maximum of 10 one-hour consultations per year on behalf of a child parentally placed in a private school, who is eligible for special education and services.
- Some LEAs also offer fee for service to a private school for a child who is parentally placed in that school, and who is eligible for special education and services.

**6.3 KEY PROVISION:** A child, who has been found eligible for special education and in need of adapted physical education services and who attends a non-public school, shall receive adapted physical education when the IEP specifies the service.

**Legal Reference:** Sec. 56366(a)(5) *The non-public, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local planning area, or county office agree otherwise in the contract or individualized services agreement.*

Sec. 56366 *It is the intent of the legislature that the role of a nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service*

*available to a local educational agency and parents.*

**Discussion:** The state legislature has made it clear that non-public, non-sectarian schools (NPS) can be appropriate special education placements. Also, the law requires the NPS to provide services specified in the IEP. Therefore, if adapted physical education is specified in the IEP for a child who is placed (by the LEA) in an NPS, the service should be provided. A contract is written between the LEA and the NPS to provide special education and related services/designated instruction and services. In addition, the master contract shall include an individual services agreement. (Sec. 56366 (a) (1 through 2)). Therefore, it is the responsibility of the LEA to ensure that the NPS provides all the services specified in the individual services agreement for the pupil, including adapted physical education if so specified.

**Best Practice:** It is the responsibility of the LEA to ensure that the nonpublic school provides all the services within the individual services agreement. The district, SELPA or county office may be identified as the service provider. When that occurs, the adapted physical education teacher should assist the local education agency in establishing the method and procedures for service delivery (e.g., location, times, transportation if necessary).

When the LEA is not going to be the service provider, the adapted physical education teacher may need to attend the IEP team meeting that provides for transfer of a student from the LEA to the NPS, to explain the individual's needs and past progress in adapted physical education. Local policies may also allow for some informal consultation to the NPS staff receiving a student, and or preparation of summary documents.

**6.4 KEY PROVISION: Adapted physical education will be provided to children with a disability who attend a charter school when indicated on the child's IEP.**

**Legal Reference:** Sec. 47646 (a) *A charter school that is deemed to be a public school of the local educational agency that granted the charter for purposes of special education shall participate in state and federal funding for special education in the same manner as any other public school of that local educational agency. A child with disabilities attending the charter school shall receive special education instruction or designated instruction and services, or both, in the same manner as a child with disabilities who attends another public school for that local educational agency. The agency that granted the charter shall ensure that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with their individualized education program and is in compliance with the federal Individuals with Disabilities Education Act ...and implementing regulations...*

**Discussion:** Charter schools are considered public schools. Since adapted physical education is a part of special education, children with disabilities who attend charter schools will need to receive adapted physical education service if indicated on the child's IEP.

**Best Practice:** The adapted physical education teacher may need to provide services for children attending a charter school. Policies and procedures of the LEA should be followed. Adapted physical education teachers should take the initiative to be informed about local policies and procedures for provision of services to children with a disability in private schools.