

Nonpublic Agencies (NPAs)

WASA Special Education Directors Academy

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New Legislation 2ESSB 5315

- Effective July 23, 2023
- Affirms and expands OSPI existing authority
- OSPI complaint process specific to NPAs
- Additional requirements for NPA approval
- Additional contract requirements
- Additional data collection requirements
- More frequent site visits
- Annual report to the Legislature



Terminology

- Nonpublic agencies (NPAs) are entities authorized to provide a program of special education services (i.e., authorized entities)
- An “authorized entity” means either:
 - Private school approved by the WA State Board of Education
 - Private entity within WA with appropriate licensure to operate
 - Any public or private out-of-state entity
- A “program of special education services” means placement in an authorized entity (i.e., NPA)



Updated NPA Approval Requirements

- All current requirements under WAC 392-172A-04095 continue
 - Includes inspections (fire, health), financial safeguards, policies and procedures, operational license, staff credentials/licensure, background checks
- Multiple locations need to be approved independently
- *NEW* - Must offer a program of basic education
- *NEW* - Must pass an OSPI onsite inspection
- OSPI may decide to extend reauthorization to up to five years for WA SBE approved private schools only



Updated NPA Contract Requirements

- All current requirements under WAC 392-172A-04085 continue
 - Includes names, locations, services, billing, data collection on the use of restraint/isolation and discipline, qualified staff, follow IEP meeting and evaluation procedures, participation in statewide assessments, and maintain ability to make progress towards diploma
- *NEW* - Regular training for NPA staff
- *NEW* - Annual onsite visit by at least one contracting school district
- Regular reporting to districts of any changes or complaints regarding services (i.e., incorporating WAC 392-172A-04100 into contract)



Complaint and Notification Requirements

- OSPI must create a complaint process “for individuals to report noncompliance with local, state, or federal laws or violation of student rights” by an NPA
- OSPI maintains existing authority to monitor NPA and order corrective actions
- OSPI maintains existing authority to “suspend, revoke, or refuse to renew” NPA authorization for violations



Complaint and Notification Requirements

- ***NEW*** - Districts must provide parent/guardian of student placed at NPA with:
 - A copy of OSPI complaint procedures
 - Summary of responsibilities and processes for reporting incidents of student restraint and isolation
- ***NEW*** - IEP must specify additional procedures for NPA compliance with WA restraint/isolation laws
- ***NEW*** - District must notify OSPI and WA State Auditors Office of any overbilling concerns



OSPI Next Steps

- Revised NPA applications (e.g., new, annual, reauthorization)
- Create a complaint and dispute resolution process
- Create resources:
 - Compiling profiles and experiences about NPAs past, present and future
 - Creating model forms and templates
 - Possible field guide or manual for IEP teams and Directors to follow
- Data summaries and reports
- Advisory Practice Panel of Directors (TBD)



Questions

What if your district's new/proposed site does not meet NPA requirements?

- Section (2) Placements (WAC [Section 392-172A-04080](#))

“(2)(a) School districts are also authorized to contract with other public and private agencies under WAC [392-121-188](#) to provide special education or related services, or both to eligible students when the private or public agency does not meet the criteria for nonpublic agencies under WAC [392-172A-04090](#) and [392-172A-04095](#), but the school district determines that the private or public agency can provide the student with a free appropriate public education (FAPE).”



Questions

- Section (2) Placements (WAC [Section 392-172A-04080](#))

“(2)(b) When a district contracts with other public or private agencies to provide special education or related services or both, under subsection (2)(a) of this section, the school district shall notify in writing the OSPI special education division of its intent to serve a student under this section and ensure that it follows the [contract] requirements under WAC [392-172A-04085](#).”

- OSPI can provide templates for your Letter of Justification
- Practice Tip: Use NPA application as a guide for verifying Section (2) placements



Placement Considerations

- LEAs are responsible to provide a continuum of options, including alternative placements.
- Does the student's disability result in behavior, medical, or mental health issues that have a negative impact on a student's ability to access specially designed instruction?



Guiding Questions

1. What does the evaluation, IEP, BIP say?
2. What does the data indicate?
3. What supports are in place?
4. Is the student making progress on goals/objectives?
5. What's been tried? For how long? With fidelity? What were the results?



Guiding Questions

1. Has the student demonstrated atypical emotional, physical, sexual, or substance abuse issues?
2. Is the student physically aggressive? What level of harm has the student inflicted on others?
3. Are the behaviors occurring at a frequency that exceeds the expertise of staff?
4. Has parent training been part of the IEP? Should it? Is the family able/willing to participate?



Guiding Questions

1. Are there any additional areas of need that have not been addressed?
2. Is there another condition that might underly the behaviors?
3. Does the student have outside services (i.e., WRAP)?
Community supports?



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