

California Department of Education

Executive Office

SBE-006 (REV. 1/2018)

Child Specific NPA or NPS Certification

# California State Board of Education July 2018 Agenda Item #W-15

## Subject

Request by **Santa Barbara County Special Education Local Plan Area Joint Powers Authority** to waive California *Education Code* Section 56366.1(a), the requirement for state certification to allow the uncertified out-of-state nonpublic school, Three Points Centerlocated in Hurricane, Utah, to provide services to one student with disabilities.

## Waiver Number

2-4-2018

## Type of Action

Action, Consent

## Summary of the Issue(s)

The Santa Barbara County Special Education Local Plan AreaJPA (SBC SELPA) contacted three in-state certified nonpublic schools (NPSs) and one out-of-state uncertified NPS that provide relational therapy to meet the needs of the student with disabilities. Relational therapy provides effective treatment for children with reactive attachment disorder due to adoption and/or abandonment. The SBC SELPA believes these four NPSs are the only placement options in the continental United States to offer relational therapy. Of the placement options available, only Three Points Center (TPC), an out-of-state uncertified NPSs, would accept the student and meet the student’s comprehensive, unique needs. The SBC SELPA and the student’s adoptive mother believe TPC is the appropriate placement to provide a free and appropriate public education (FAPE) to the student.

The TPC is a residential treatment center (RTC) that includes a specialized program for adopted adolescents geared to address the complex psychological, emotional, and social issues often encountered by adopted individuals. The TPC provides high school and college preparatory courses, extracurricular activities, and offers class sizes of up to 12 students.

The SBC SELPA requests to waive California *Education Code* Section 56366.1 (a), the requirement for state certification, to allow the use of state and federal special education funds for the placement of this student at the TPC.

## Authority for Waiver

*Education Code* Section 56101

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

As the SBC SELPA has submitted all required documents as part of the waiver request, the California Department of Education recommends approval of this waiver, with conditions for the period of February 9, 2018 through February 9, 2019 as State NPS certifications are authorized for a one year period.

This recommendation for approval is contingent upon the following conditions:

* The SBC SELPA will consult with the TPC mental health specialist weekly via telephone to monitor the provision of services, review the student’s progress, and review program data. Program data will include the progress on individualized educational program (IEP) goals, school attendance, work completion rates, grades, active participation in therapeutic interventions, and incident/safety reports.
* The SBC SELPA will schedule IEP meetings every three to six months to review program data, the student’s progress, and determine any necessary changes in the student’s educational and treatment program.
* The SBC SELPA will visit the student at the TPC at a minimum of every six months, and write a summary of findings outlining the student’s progress after each visit.
* The SBC SELPA will fund up to four trips for the adoptive parent to visit the student while in placement at the TPC.

In addition, the SBC SELPA requested the waiver for the period of February 9, 2018 through June 30, 2018. State certification for NPSs are authorized for one year. The CDE is recommending approval with conditions for the waiver period requested, however the NPS state certification is authorized for one year. Therefore, this waiver authorizes the student to remain at the TPC through February 9, 2019.

## Summary of Key Issues

The TPC accepted the student and is able to meet the student’s need for a specialized residential program to provide FAPE and meet the IEP goals. The student has been attending TPC since February 2018. The student’s adoptive parent would agree only to an NPS or RTC that utilizes relational therapy. Of the four program options utilizing relational therapy, only TPC was willing and able to accept the student.

The placement does not abrogate any right provided to students with disabilities and their parents or guardians under the federal Individuals with Disabilities Education Act, or affect the compliance of SBC SELPA with federal laws and regulations. In addition, before contracting with the nonpublic, nonsectarian school outside of this state, the SBC SELPA documented its efforts to use public schools and to identify an appropriate nonpublic, nonsectarian school or agency program, or both, within the state.

**Demographic Information:** The student’s school district is Carpinteria Unified School District (CUSD), a local educational agency (LEA) member of the SBC SELPA. The CUSD has a student population of 2,205 and is located in a rural area in Santa Barbara County.

## Summary of Previous State Board of Education Discussion and Action

Within the past two years, the State Board of Education has received and approved 11 waivers similar to this allowing LEAs to waive *EC* Section 56366.1(a), the requirement for state certification.

## Fiscal Analysis (as appropriate)

If this waiver is approved, SBC SELPA may use state and federal special education funds for the placement of this student at TPC. If this waiver is denied, SBC SELPA may use only local funds to support the student’s placement at TPC. The cost for placement at TPC for the period the SBC SELPA requested is $54,000. The yearly cost for placement at TPC is $144,000.

## Attachment(s)

* **Attachment 1:** Summary Table (1 page)
* **Attachment 2:** Santa Barbara County SELPA JPA Specific Waiver Request 2-4-2018 (2 pages) (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *Education Code* Section 56366(d)

| Waiver Number | District | Period of Request | District’s Request | CDE Recommended | Local Board and Public Hearing Approval | Penalty Without Waiver | Previous Waivers |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 2-4-2018 | Santa Barbara County Special Education Local Plan Area JPA (SBC SELPA) | **Requested:** February 9, 2018, to June 30, 2018  **Recommended:** February 9, 2018, to February 9, 2019 | To waive NPS certification to allow SBC SELPA to use state and federal special education funds for the placement of a student in an uncertified out-of-state nonpublic school | Approval with conditions for the period of February 9, 2018 to February 9, 2019 | February 26, 2018 | The SBC SELPA may not use federal and state special education funds for the placement of the student at the uncertified out-of-state nonpublic school | None |

Created by California Department of Education

May 2018

# Attachment 2: Waiver 2-4-2018 Santa Barbara County SELPA JPA

**California Department of Education**

**WAIVER SUBMISSION – Specific**

CD Code: 4240378

Waiver Number: 2-4-2018

Active Year: 2018

Date In: 4/3/2018 1:09:43 PM

Local Education Agency: Santa Barbara County Selpa JPA

Address: 401 North Fairview Ave.

Goleta, CA 93117

Start: 2/9/2018

End: 6/30/2018

Waiver Renewal: No

Waiver Topic: Special Education Program

Ed Code Title: Child Specific/ NPA or NPS Certification

Ed Code Section: 56366.1(a)

Ed Code Authority: 56101

Ed Code or *CCR* to Waive: 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.

Outcome Rationale: Student ID Number 9177995171 is an adopted child that manifests severe self-harm and aggressive behaviors related to trauma associated with abandonment by her biological parent. Her adopted parent requested an nonpublic school residential treatment center that specializes in an adoption-based paradigm that focuses solely on the unique needs of the adopted adolescence and their families. The closest therapeutic private residential school to the student's home that specializes in adoption is Three Points Center. Several other nonpublic school residential treatment centers were explored; however, the family and IEP team did not feel these nonpublic school residential treatment centers would meet the unique needs of the student.

Student Population: 54

City Type: Small

Local Board Approval Date: 2/26/2018

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Dr. Jarice Butterfield

Position: Director

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