

SPECIAL EDUCATION**Children Enrolled in a Nonpublic School by Parents if Free Appropriate Public Education (FAPE) is not at Issue**

- A. “Nonpublic school children with disabilities,” for purposes of this regulation, means children with disabilities enrolled by their parents in nonpublic school or facilities other than children with disabilities covered under Regulation 6606.1.
1. David City Public Schools shall locate, identify, and evaluate all nonpublic school children with disabilities, including religious-school children residing in the jurisdiction of the school district. The activities undertaken to carry out this responsibility for nonpublic school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
 2. David City Public Schools shall consult with appropriate representatives of nonpublic school children with disabilities on how to carry out the activities described in section 1.
 3. Services provided to nonpublic school children with disabilities may be provided on-site at a child’s nonpublic school, including a religious school, to the extent consistent with law.
- B. David City Public Schools may lease a classroom in a nonpublic school building. If properly drafted, the lease transforms the classroom into a public school classroom during the times covered by the lease. The Board of Education may offer the special education programs as enumerated in state and federal laws in a leased classroom in a nonpublic school building. It does not, however, have an unqualified legal duty to do so.
1. David City Public Schools may not use special education funds for classes that are organized separately on the basis of school enrollment or religion of the children if:
 - a. The classes are at the same site; and
 - b. The classes include children enrolled in public schools and children enrolled in nonpublic schools.
 2. David City Public Schools may not use special education funds to finance the existing level of instruction in a nonpublic school or to otherwise benefit the nonpublic school. The district will use the special education funds to meet the specific needs of children enrolled in nonpublic schools rather than the needs of a nonpublic school or the general needs of the children enrolled in a nonpublic school.

3. David City Public Schools may use special education funds to make district personnel available in other than public facilities to the extent necessary to provide services designed for students enrolled in a nonpublic school and if those benefits are not normally provided by the nonpublic school.
4. David City Public Schools may use special education funds to pay for the services of an employee of the nonpublic school if the employee performs the services outside of his or her regular hours of duty; and the employee performs the services under the district's supervision and control.
5. David City Public Schools may place equipment and supplies in a nonpublic school for the period of time needed for the provision of special education and related services.
 - a. The district will insure that the equipment or supplies placed in a nonpublic school are used only for the purpose of providing special education and related services; and can be removed from the nonpublic school without remodeling the nonpublic school facilities.
 - b. The district will remove equipment or supplies from a nonpublic school if it is no longer needed for the purpose of providing special education and related services or if it is necessary to avoid use of the equipment or supplies for other than special education purposes.
 - c. Special education funds will not be used for repairs, minor remodeling or the construction of nonpublic school facilities.
 - d. The district will keep title to and exercise continuing administrative control of all property, equipment and supplies that the school district acquires with special education funds for the benefit of nonpublic school children with disabilities.

Legal Reference:

**Federal Regulation 34
CFR 300; Nebraska
Statutes 79-1110 to 79-
1178; 92 NAC 51-015.03**

Date Regulation Reviewed by the Board of Education: November 14, 2005