



Washington Office of Superintendent of
PUBLIC INSTRUCTION

REPORT TO THE LEGISLATURE

Placement of Students at Authorized Entities (Nonpublic Agencies – NPAs)

2023

Authorizing Legislation: [RCW 28A.155.250](#)

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EXECUTIVE SUMMARY

The Office of Superintendent of Public Instruction (OSPI) is required, under [Engrossed Second Substitute Senate Bill \(E2SSB\) 5315 \(2023\)](#), to submit an annual report to the Legislature regarding the placement of students receiving special education services at entities known as nonpublic agencies (NPAs). As of December 2023, there are 94 NPAs currently authorized by OSPI for the 2023–24 school year.

This bill affirms and expands upon OSPI’s existing responsibility to ensure that NPAs are authorized to provide services to students who are eligible to receive special education services. The bill established minimum contract requirements for school district placements at an NPA and set minimum standards for OSPI to annually authorize and reauthorize entities as NPAs. The bill also directed OSPI to create a complaint process for any individual to report noncompliance with local, state, or federal laws or violations of student rights by NPAs.

INTRODUCTION

Engrossed Second Substitute Senate Bill (E2SSB) 5315 (2023) affirms and expands upon the Office of Superintendent of Public Instruction's (OSPI) existing responsibility to ensure that certain entities, known as nonpublic agencies (NPAs), are authorized to provide services to students who are eligible to receive special education services. The new legislation adds requirements in the following areas:

- Expanding OSPI's oversight authority for authorizing, monitoring, and investigating NPAs;
- Requiring more frequent on-site visits to NPAs by OSPI and school district personnel;
- Creating a complaint and investigation processes for NPAs;
- Adding additional minimum contract requirements for authorizing and reauthorizing entities as NPAs;
- Requiring additional NPA data collection and reporting to OSPI in areas such as attendance, graduation, and the use of restraints/isolation; and
- Requiring OSPI to submit an annual report to the Legislature, made available to the public, regarding students placed at these authorized entities (NPAs).

Background

Federal law requires states to have a process for ensuring that students eligible to receive special education services, who are placed in or referred to a private school or facility by a school district or other public agency, are provided special education and related services in conformance with a properly formulated Individualized Education Program (IEP), at no cost to parents/guardians; are provided an education that meets state standards; and retain all the rights of an eligible student served by a school district in the state of Washington ([34 CFR §300.146](#)).

The term NPA refers to any in-state private school/facility, or any out-of-state public or private school/facility, that a local school district may contract with to provide special education services. A local school district, in some instances, may determine that it cannot provide free appropriate public education (FAPE) for a student with a disability within their district. In partnership with the student's family and teachers, as part of the IEP process, the IEP team may decide the student would be best served in a private school or facility better suited to meet the student's unique needs. Even when a student is being served by an NPA, however, the student's school district remains responsible for ensuring that the student is provided FAPE as required by law.

Definitions

NPAs are now defined as “authorized entities” under [RCW 28A.300.690](#), which includes:

- A private school approved by the Washington State Board of Education under [RCW 28A.305.130](#);
- A private entity within the state of Washington with the appropriate licensure to operate;
- Any other public or private out-of-state entity.

Any entity on the list of approved NPAs means that they have been authorized by OSPI to contract with school districts to provide a program of special education for students with disabilities. A “program of special education” means that the student’s educational placement is at an NPA for the purposes of receiving special education services.

Authorization Process

OSPI annually reviews all authorized NPAs at the completion of each school year to ensure each NPA continues to meet requirements for contracting with school districts to provide special education services to students. Each NPA also undergoes a reauthorization process with OSPI at least every three years.

The OSPI authorization process for NPAs is currently outlined in the Washington Administrative Code (WAC) 392-172A-04080 through WAC 392-172A-04110. Additional criteria for NPA authorization created by E2SSB 5315 (2023) are now found under RCW 28A.300.690.

As of December 2023, there are currently 94 authorized NPAs by OSPI for the 2023–24 school year; 39 NPAs are located in Washington and the remaining 55 are located out-of-state. The OSPI Special Education Division continues to make information regarding currently authorized NPAs available to all school districts on its [website](#).

STUDENT-LEVEL DATA

The data contained in this report is based on the November 2022 annual federal child count, the most recent year for which data is available.

Total Enrollment Count

The total enrollment count of students placed at NPAs as of November 2022 was 574 students out of a total K–21 student enrollment count of students with IEPs of 141,109 (0.004%). The following tables detail the population of students with IEPs placed at NPAs.

Figure 1: Students at NPAs by IDEA Disability Category

Disability Category	In-state	Out-of-state	Total
Autism	180	24	204
Communication Disorders	1	0	1
Deaf-Blindness	1	0	1
Deafness	27	0	27
Developmental Delays	5	0	5
Emotional/Behavioral Disability	108	15	123
Health Impairment	103	13	116
Hearing Impairment	33	0	33
Intellectual Disability	7	0	7
Multiple Disabilities	39	8	47
Specific Learning Disability	9	0	9
Traumatic Brain Injury	1	0	1
Total	514	60	574

Source: November 2022 Federal Child Count, extracted November 2023.

The largest disability category for students placed at an NPA (Autism) represents 35.5% of all NPA placements. As compared to the overall population of K–21 students with IEPs¹ in the Autism category on the November 2022 child count (18,663), the number of students in the Autism category placed at NPAs is 0.01%. The largest proportion of students placed at an NPA based on disability category relative to the overall population of K–21 students with IEPs are students in the Deafness category at 0.1% (27 out of 269 total).²

¹ Student receiving special education services have a right to receive a free appropriate public education program (FAPE) potentially up through age 21 ([WAC 392-172A-02000](#)).

² Various educational delivery models exist for providing different modes of communication in educational programs for deaf and hard of hearing students. There are currently four NPAs with various models that specifically serve the deaf and hard of hearing student population.

Figure 2: Students at NPAs by Federal Race Category

Federal Race Category	In-state	Out-of-state	Total
American Indian/Alaskan Native	6	2	8
Asian	31	3	34
Black/African American	44	8	52
Hispanic/Latino of any race(s)	68	3	71
Native Hawaiian/Other Pacific Islander	3		3
Two or More Races	45	2	47
White	317	42	359
Total	514	60	574

Source: November 2022 Federal Child Count, extracted November 2023.

White students represent the largest number of students placed at NPAs (62.5%). This number represents 0.005% of the overall white K–21 student population with IEPs (359 out of 71,190). The largest proportion of students placed at an NPA based on federal race category relative to the overall population of K–21 students with IEPs are Black/African American students at 0.006% (52 out of 8,157 total).

Figure 3: Students at NPAs by Gender

Gender Identity Category	In-state	Out-of-state	Total
F	138	21	159
M	370	39	409
X	6		6
Grand Total	514	60	574

Source: November 2022 Federal Child Count, extracted November 2023.

Male students represent the largest proportion of students placed at NPAs at 71.3%. This number, however, represents 0.004% of the overall K–21 male student population with IEPs (409 out of 92,762).

Opportunities for Additional Disaggregated Student Data

E2SSB 5315 (2023) requires OSPI, beginning in the 2023–24 school year, to collect and report additional data on students receiving special education services from NPAs in the following areas:

- Academic progress, using the results of the two most recent state assessments;
- Graduation rates;
- Rates of return to resident school districts;
- Attendance rates;
- Discipline rates; and
- Incidences of student restraint and/or isolation.

This first legislative report is focused on the data that is currently available and to identify additional data systems necessary for OSPI to begin accurately capturing these data.

ACTIONS TAKEN FOR 2023–24

OSPI has taken the following actions for the 2023–2024 school year with respect to the authorization status for NPAs.

Conditional Approval

Conditional approval has been granted to the following NPAs due to onsite scheduling delays with the Tacoma-Pierce County Health Department:

- Embrace Learning Institute (Sumner, WA)
- Lilac Learning Center (Tacoma, WA)

Each NPA has satisfactorily met all other requirements for authorization, including onsite visits by contracting school districts and OSPI. Conditional approval allows these NPAs to remain in good standing and provide special education services on behalf of contracting school districts while awaiting final clearance from the Tacoma-Pierce County Health Department.

Conditional approval has also been granted to the following NPAs in order to allow OSPI additional time to monitor and verify that the NPA meets authorization requirements with respect to tracking student progress and communication with contracting school districts:

- Gersh Academy (Issaquah, WA)
- New Focus Academy (Heber City, UT)

These NPAs have satisfactorily met all other requirements for authorization, including onsite visits by contracting school districts and OSPI. OSPI has established a monitoring schedule with each NPA in order to verify systems are in place to ensure students placed at the NPA continue to receive special education services appropriately. Conditional approval allows these NPAs to remain in good standing while meeting OSPI's monitoring requirements.

Provisional Status

Provisional status has been granted to the following NPA due to significant concerns regarding the NPA's ability to maintain compliance with authorization standards:

- Northwest School of Innovative Learning (Tacoma, WA)

OSPI has suspended new placements as part of this provisional status pending the NPA's progress and completion of a Corrective Action Plan (CAP). The NPA may temporarily continue to serve as an NPA under this status for currently placed students served under existing contracts with school districts, provided that the NPA maintains adequate progress towards fulfilling the CAP. OSPI is in the process of partnering with the NPA during the 2023–24 school year on improving the quality of services provided to school districts and students receiving special education services. OSPI may, at any time, consider modifications to the terms of the NPA's provisional status in response to additional information and/or adequate progress on the CAP.

Refused to Renew

OSPI has refused to renew one NPA for the 2023–24 school year:

- Diamond Ranch Academy (Hurricane, UT)

OSPI determined that the NPA change in licensure status with the state of Utah does not meet standards for NPA authorization status. The NPA also failed to comply with corrective actions instituted by OSPI and failed to provide adequate notification of program changes to affected public school districts and OSPI regarding its ability to provide contracted services to public school students from the state of Washington. It is for these reasons that OSPI has refused to renew Diamond Ranch's NPA status, effective as of the 2023–24 school year.

CONCLUSION & NEXT STEPS

E2SSB 5315 (2023) creates opportunities for the continued improvement of an important aspect of the overall system of supports available to students receiving special education services. OSPI is already at work beginning to implement changes to the NPA oversight process, including revisions to the NPA application, authorization, and renewal processes. Conversations with partners from across the educational landscape are ongoing in order to learn about the various perspectives on the services made available to students with disabilities, their families, and the school and district partners who support them.

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