

GUIDANCE MANUAL

# Private Facility Special Education Approval Procedures



IDAHO STATE DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION | PRIVATE FACILITY

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UPDATED APRIL 2023

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### *Non-discrimination Clause*

Federal law prohibits discrimination based on race, color, religion, sex, national origin, age, or disability in any educational programs or activities receiving federal financial assistance. (Title VI and VII of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; and the Americans with Disabilities Act of 1990.)

It is the policy of the Idaho State Department of Education not to discriminate in any educational programs or activities, or employment practices.

Inquiries regarding compliance with this nondiscriminatory policy may be directed to the State Superintendent of Public Instruction, P.O. Box 83720, Boise, Idaho 83720-0027, (208) 332-6800, or the Director, Office for Civil Rights, Department of Education, Washington, D.C.

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# PRIVATE FACILITIES SPECIAL EDUCATION APPROVAL PROCEDURES

## Overview

Idaho's local education agencies (LEAs), consisting of school districts and public charter schools, are required to provide a free appropriate public education (FAPE) to eligible special education students ages 3 through 21. LEAs are required to ensure that each student receives all services specified on the student's individualized education program (IEP) regardless of who provides the services. If a student's special education and related services cannot be provided by an LEA, it may contract with an approved private facility to provide FAPE in accordance with the Individuals with Disabilities Education Act (IDEA).

An approved private facility must notify the Idaho State Department of Education (SDE) and the LEA it contracts with of any major changes to the program that occur during the approval period, any program changes that may affect its ability to perform the terms of the contract, and any complaints against the private facility regarding the provision of services to eligible students. Any private facility that is unable to continue to provide services in accordance with state and federal special education requirements will be removed from the state-approved list.

## Authority

Federal law requires states to have a process for ensuring that eligible students who are placed in or referred to a private facility by an LEA are provided special education and related services in conformance with the student's IEP at no cost to parents and that meets state standards (34 CFR 300.146).

Idaho Code 33-2004 authorizes LEAs to contract for special education services with "any private or public rehabilitation center, hospital, corporation, or state agency" that the SDE has approved.

The SDE is required to monitor all private facilities that provide special education services to students with disabilities for compliance with governing special education requirements and adopted policies and procedures (IDAPA 08.02.03.109.02.b).

The SDE may approve a private facility to provide special education services upon application to the SDE if the private facility:

1. is an accredited, licensed rehabilitation center; and
2. meets minimum health, fire, and safety standards; and
3. is nonsectarian; and
4. provides special education services consistent with governing special education requirements (IDAPA 08.02.03.109.02.d).

Each LEA contracting with a private facility to provide special education services is required to ensure that the private facility is approved by the SDE (IDAPA 08.02.03.109.02.d).

## Definitions

**Accredited or accreditation** means a facility has successfully completed the Northwest Accreditation Commission (NWAC) accreditation process, a division of Cognia, formerly known as AdvancEd. Schools with current accreditation are reviewed on a 6-year developmental cycle for compliance with Cognia Performance Standards. The Idaho Accreditation Council and its staff have provided services to Idaho schools since 1917. Cognia Idaho is part of a network of over 30,000 public and private schools and districts in over 70 countries.

**Annual IEP Review** means a review of each child's placement in a private facility special education program based on the results of a comprehensive review by the Individualized Education Program (IEP) Team to determine the child's progress toward meeting the IEP goals and objectives, consideration of the least restrictive environment, and continued need for placement.

**Certificated Staff** means a person who holds a valid Idaho teaching or administrative certificate or holds an Idaho license in one of the related service areas.

**Evaluation** is a broad term encompassing the assessment process and what the evaluation team does with assessment and related information within the context of identification, placement, and appropriate programming questions.

**Facility** means a licensed private or public rehabilitation center, hospital, corporation, or state agency approved by the Idaho State Department of Education to provide special education services.

**Idaho Special Education Manual** is the manual developed by the Idaho Department of Education, which all school districts and charter schools in Idaho have adopted as policy.

**Idaho State Department of Education (SDE)** is the state education agency primarily responsible for the supervision of public elementary and secondary schools in Idaho.

**Individualized Education Program (IEP)** is a written document (developed collaboratively by parents and school personnel) that outlines the special education program for students with a disability. This document is developed, reviewed, and revised at an IEP meeting at least annually.

**Least Restrictive Environment (LRE)** is an IDEA requirement that students with disabilities, including those in public or private institutions or other care facilities, are educated with children who are non-disabled to the maximum extent appropriate.

## Placement Requirements

The following placement requirements apply:

1. A LEA may not place a student in a special education program for special education services operated by a private facility unless the Idaho State Department of Education has approved the private facility to provide special education and related services.
2. A state agency and an LEA may not jointly place a child in a special education program for special education services unless the Idaho State Department of Education has approved the private facility **and it has been determined by the IEP Team of the sending LEA** to be an appropriate and least restrictive placement.
3. A state agency may not place a child in a private special education program **for special education services** unless the Idaho State Department of Education has approved the private facility and the state agency accepts financial responsibility for the placement.

## APPROVAL PROCESS

For a private facility's special education services program to be approved by the Idaho State Department of Education, the private facility must complete and submit the appropriate packet based on the year of approval. (See application packets for required documents and assurances, which can be found on the [Idaho State Department of Education's website](#) under Special Education> Special Education Forms > Private Residential Facility Verification Forms.)

### Initial & 5-Year Approval Process

1. The private facility completes the [Private Facility Special Education Program Approval Application](#).
2. The private facility submits the completed and signed application packet to the SDE. (See application packet for required documents and assurances.)
3. The SDE will review the application and, if complete, schedule an on-site program review of any private facility requesting approval. This on-site program review shall occur within 90 calendar days of receipt of the completed application. The SDE will contact the entity requesting approval within 30 days before the on-site program review.
4. The SDE shall issue a letter within 30 calendar days of the on-site program review that either confirms approval or lists issues and deficiencies that must be resolved before approval.
5. Program approval is valid for five (5) years.

### Subsequent Approval Process

The Private Facility Special Education Approval Procedure requires that a private facility be approved by the Idaho State Department of Education every five (5) years. Once approval is

obtained, the private facility must complete the [Private Facility Special Education Annual Program Approval Packet](#) for each of the subsequent four (4) years. The Annual Program Approval Packet must be submitted to the SDE by **October 15** each year. The SDE will revoke approval if the private facility cannot maintain accreditation or license during the interim years. Approval can be reinstated when the private facility corrects all identified deficits.

The [Private Facility Special Education Annual Program Approval Packet](#) details the requirements to be submitted to the SDE by **October 15** each year. In addition, the private facility shall submit an additional description of educational services under the following conditions:

1. If the description of services outlined in the initial application packet has changed, a new description of services must be submitted to the SDE within three (3) business days.
2. During the renewal process, which must be submitted at least once every five (5) years.
3. At other times as requested by the SDE.

## APPEAL PROCESS

Any private facility aggrieved by the Idaho State Department of Education's final decision may appeal to the Idaho State Board of Education following the provisions set forth in the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01 et seq.

### *Please Note:*

Receiving Private Facility Special Education Program Approval from the Idaho State Department of Education does not guarantee or imply that an Idaho LEA or the Idaho State Department of Education will contract or provide payment for any services. The approval procedure and the funding procedure are two distinct and separate processes.