

## ***Transfer of Programs***

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### **Definition of a Formal Program Transfer**

According to the California State Department of Education (CDE) memorandum of April 7, 1999, "a program change is presumptively considered a program transfer when all the following criteria are met":

- 1) The proposed change involves a change in the LEA of service – as stated in Memo 93-08, the movement of students from one service provider (LEA) to another.
- 2) The change involves the movement of funding locally from one service provider (LEA) to another.
- 3) The change must involve one or more employees who would be affected by the provisions of Education Code (EC) Section 44903.7 and EC 44903.7, which establishes the right of certificated employees to retain employment if their assignment moves to another LEA.

When there is a proposed change in programs in the LEA of service and it is not certain as to whether the CDE's definition of program transfer applies, either one or both of the LEA's superintendents should submit a written request for clarification to CDE to determine whether a proposed change constitutes a program transfer. Requests are to be forwarded to the SELPA Administrator and should be signed by the district or County Superintendent.

### **Timelines and Approval Process**

The timeline for submitting and processing transfer requests will vary depending on whether the LEA is requesting regular or fast track. Regular track requests will not take effect before the first day of the second fiscal year following the year in which the request is filed with the SELPA. Fast track requests may take place as early as the first day of the first fiscal year following the year in which the request is filed. Because the planning process can be lengthy, it is recommended that fast track requests be reserved for special circumstances.

### **Regular Track Transfer**

For a regular track transfer, the receiving LEA shall submit a letter to the proposed sending LEA and SELPA Office by February 15. The receiving LEA will also submit a plan to the SELPA by February 15 addressing all the requirements contained in EC 56207 (a). The request will be reviewed by the Directors of Special Education Committee during their March meeting. The Directors of Special Education Committee will make a recommendation to the Superintendents Governance Committee for review no later than the April Superintendents Governance Committee meeting. If approved by the Superintendents Governance Committee, the planning process will take place

over the course of the following fiscal year in preparation for the change to take effect in the second fiscal year. Any modifications to the LEA's original request must be made in writing to the SELPA office prior to November 1 of the school year prior to the date of the transfer or the LEA will have to proceed with the original request. Final approval will require all of the following:

- Signed agreement by the sending LEA
- Signed agreement by the receiving LEA
- Signed agreement by the SELPA Administrator
- Signed agreement by the County Superintendent of Schools

### **Fast Track Transfer**

For a fast track transfer, the receiving LEA shall submit a letter to the proposed sending LEA and the SELPA office prior to October 1. The receiving LEA will also submit a plan to the SELPA prior to October 1 addressing all the requirements contained in EC 56207 (a). The request will be reviewed by the Directors of Special Education Committee at their October meeting. The Directors of Special Education Committee will make a recommendation to the Superintendents Governance Committee for consideration at the November Superintendents Governance Committee meeting. If approved by the Superintendents Governance Committee, the receiving LEA must complete their planning process by June 30. Any modifications to the LEA's original request must be made in writing to the SELPA Office prior to December 1 or the LEA will have to proceed with the original request. In order to be eligible for the fast track time line, the following criteria must be met:

- 1) The Superintendents Governance Committee must unanimously approve the request.
- 2) There must be adequate time to complete the local planning and state approval processes.
- 3) There must be adequate time to meet all legally required and locally negotiated time lines regarding personnel notifications.

Final approval requires all of the following:

- Signed agreement by the sending LEA
- Signed agreement by the receiving LEA
- Signed agreement by the SELPA Administrator
- Signed agreement by the County Superintendent of Schools

The timelines for a fast track transfer may be waived in cases where staff are not affected by the proposed transfer (e.g., retirements, resignations, etc., provided that there is adequate time to meet the criteria in subsections 1, 2, and 3, above).

All requests for transfers will be decided on a case by case basis. Prior to any transfer taking effect, regardless of whether it meets the state definition of a formal program transfer, the receiving LEA shall verify compliance with the requirements outlined below in the *Transfer Guidelines*.

## **Transfer Guidelines**

Prior to transferring special education programs from one LEA to another, the receiving LEA, will implement the plan described in the preceding section. The plan will address all the following:

1. Pupil needs.
2. The availability of a full continuum of services to affected pupils.
3. The functional continuation of the current IEPs of all affected pupils.
4. The provision of services in the least restrictive environment from which affected pupils can benefit.
5. The maintenance of all appropriate services.
6. The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
7. The means through which parents and staff were represented in the planning process.

## **Funding**

SELPA member districts will be informed in a timely manner of any fiscal implications of the resulting program transfer. The Superintendents Governance Committee will, as part of their approval process, establish the funding for the LEA receiving the transfer of program.

## **LEA Responsibilities When Operating Regional Programs**

Many LEAs within the Tulare County/District SELPA do not have enough students in certain disability categories to operate programs of their own. The SELPA assures service to these students by providing regional programs through the Tulare County Office of Education. When one of these programs is subject to transfer, the receiving LEA will enter into a memorandum of understanding (MOU) with the SELPA, guaranteeing the continuation/provision of services to students outside the LEA's attendance area. Completion of the MOU will be required prior to approval of the transfer by the Superintendents Governance Committee.

## **Program Standards**

In order to assure program continuity and quality, all program operators agree to maintain the standard of program delivery provided by the sending LEA unless they receive approval to change the nature of the program. Districts may only change the nature of the program if they can continue to implement the IEPs of the students affected by the program transfer. The receiving LEA agrees to operate the program for at least three years unless otherwise agreed upon by the Superintendents Governance Committee

## **Special Considerations**

- Programs may be transferred in increments of more or less than 1.0 FTE.
- It is assumed that the receiving district will continue to serve the same students currently served by the program. Changes in the number of students served may result in a commensurate adjustment in the funding for the program.

- The SELPA may consider any other factors which are deemed relevant to the proposed transfer, such as LEA identification rates, impact on transportation, delivery of services to students in small districts, etc. The primary consideration, however, must be whether the proposed transfer is consistent with the purpose of the SELPA, which is to provide service to all identified students within its boundaries regardless of their district of residence. The transfer of programs must not in any way interfere with that mission.

### **Facilities**

Transfer of facilities, when appropriate, will be negotiated on a case by case basis by the sending and receiving LEAs.

**Materials and Equipment** Materials and equipment will remain with the sending LEA unless otherwise agreed upon, except that any material or equipment purchased with Low Incidence funds is the property of the CDE and will remain with the student.

### **Student Records**

When the transfer of a program has received final approval, the sending LEA will transfer student records to the receiving LEA.

### **Disputes**

Whenever there is a dispute within the SELPA over the transfer of special education programs as described above, the involved agencies will follow the dispute resolution procedures described in the governance section of the local plan.

### **Certificated and Classified Employee Transfers**

Certificated staff includes special education teachers, speech therapists and other specialists providing direct service to students.

Employee's rights (classified/certificated) when transferred, terminated, or reassigned as a result of a program transfer:

#### **1. Seniority for transferred or reassigned employees:**

Employee retains he/her seniority date and classification.

#### **2. Salary placement for the transferred or reassigned employees:**

Employee is credited year for year for placement on the salary schedule in the district or county office to which s/he is transferred or reassigned and his/her salary may be subject to Y rating.

#### **3. Salary placement for laid off employee who is later hired by the district/county office which received the transferred program ("receiving district/county office"):**

Employee is credited year for year for placement on the salary schedule in the district or county office to which s/he is hired and his/her salary may be subject to Y rating.

#### **4. Employment Rights:**

When a program is being transferred from one LEA to another, the receiving LEA will observe the following procedures:

- a. The position will be offered to the person who is currently assigned to the program being transferred, provided that s/he is appropriately credentialed/qualified.
- b. If no one applies for the position, the receiving LEA will follow normal hiring procedures and the sending LEA will provide a lay off notice as appropriate.

#### **5. Employee Health Benefits:**

The sending LEA will continue to provide the same level of health benefits after the end of the fiscal year for each certificated/classified employee moving to another district as a result of a program transfer. The sending LEA will provide benefits from July 1 through the end of the month when the employee begins his/her assignment in the receiving district, but not beyond September 30. The receiving district will begin providing health benefits on the first day of the month after the employee begins work in the district, but no later than October 1.

References: EC 56207; 44903.7, 45120.2

**PROGRAM TRANSFER FLOW CHART**  
**REGULAR TRACK**

**Year One**

By February 15	Requesting LEA submits letter of request to sending LEA and SELPA Administrator.
March	SELPA Administrator submits request to Directors of Special Education Committee for review and recommendation.
April	Recommendations from the Directors of Special Education Committee will be submitted to the Superintendents Governance Committee for action.

**Year Two**

(For Approved Requests)

Prior to November 1	Deadline for modifications to LEA's original request
By March 15	Sending LEA will have completed the staff notification process.
By May 1	Receiving LEA will have complied with steps outlined in transfer plan.

**Year Three**

(Implementation)

July 1	Receiving LEA assumes operation of program.
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## PROGRAM TRANSFER FLOW CHART

### FAST TRACK

#### Year One

By October 1	Requesting LEA submits letter of request to sending LEA and SELPA Administrator.
October	SELPA Administrator submits request to Directors of Special Education Committee for review and recommendation.
November	Recommendations from Directors of Special Education Committee are submitted to Superintendents Governance Committee for action.
Prior to December 1	Deadline for modifications to LEA's original request.
By March 15	Sending LEA will have completed staff notification process.
By May 30	Receiving LEA will have complied with steps outlined in transfer plan.

#### Year Two

July 1	Receiving district assumes operation of program.
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