

TULARE COUNTY/DISTRICT SELPA POLICY # 9750

SPECIAL EDUCATION – SERVICES – MISC. Adopted: 3/8/06  
LP Revised: 5/13/2020

## ***Services to Students in Charter Schools***

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### **General Requirements for All Charter Schools**

Students enrolled in charter schools are entitled to special education and related services provided in a similar manner to students enrolled in other public schools. Thus, charter schools within the SELPA shall comply with all applicable State and Federal laws regarding the provision of special education and related services. Children with disabilities enrolled in charter schools and their parents shall retain all rights under the Individuals with Disabilities Education Act (IDEA).

A charter school petition will be denied unless it includes appropriate assurances that special education instruction and/or services shall be provided to all eligible students enrolled in the charter school, in accordance with State and Federal law and the SELPA Local Plan (“Local Plan”). In addition, a charter school’s admission criteria shall not discriminate against any pupil on the basis of disability.

Charter schools must delineate in their charter petition and/or memorandum of understanding (MOU) the entity responsible for providing special education instruction and related services. This petition and/or MOU must describe any anticipated transfer of special education funds between the granting LEA and the charter school and any provisions for sharing deficits and/or proration factors in funding. This document must affirm, in writing, that the district where the student resides, if different than the chartering LEA, is not responsible for providing special education services to students that are enrolled in the charter school.

All approved charter schools will be deemed public schools within a school district unless the charter school applies to the SELPA to become an LEA for the purpose of providing special education and satisfies the same criteria as other LEAs requesting to join the SELPA. The charter school petition must also state that prior to final approval of a request to be deemed an LEA, the charter school will be deemed a public school within the chartering or responsible SELPA-member school district.

## **Type of Charter School**

With regard to the provision of special education and related services, charter schools may be deemed either: (1) an LEA; or (2) a public school within the chartering or responsible school district. The manner in which a charter school receives funding for special education services, participates in the SELPA's governance structure, and is responsible for the provision of special education and related services, is based on whether the charter school is deemed an LEA or a public school within a SELPA-member school district.

A charter school that is its own LEA will participate in the governance of the SELPA and receive state and federal funding for special education in the same manner as other school district members of the SELPA.

An LEA charter school is responsible for all costs and liabilities arising from or relating to its special education programs and obligations.

A charter school that is deemed a public school within a SELPA-member school district will participate in state and federal funding in the same manner as other schools within the chartering or responsible member school district.

Charter schools, as well as member districts, shall continue to adhere to all provisions of the Local Plan, including but not limited to, the following:

- Compliance Monitoring and Oversight Responsibilities.
- Share in SELPA Deficits.
- Accessing Regionalized Services.
- Local Plan Development.
- Assurances of Services
- State Eligibility Criteria for Special Education Identification.
- Policy and Procedure Development within the SELPA.
- Community Advisory Committee Requirements.

## **SELPA Involvement With Approval and Renewal of Charters**

Prior to approval of a new charter school, or renewal of an existing charter school, the petitioning charter shall consult with both the superintendent or designee of the chartering LEA and the SELPA Director to ensure that the charter school petition sufficiently addresses district and SELPA requirements and timelines as they relate to special education. The petition presented must provide assurances that all eligible students enrolled in the charter school will receive appropriate special education and related services in accordance with State and Federal law and the Local Plan. The charter petition shall provide assurances that no student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or the charter school's inability to serve the student. The SELPA will be available to provide consultation on the potential fiscal impact and benefit that may be associated with granting the requested charter. Each charter

petition must contain a reasonably comprehensive description of the charter school's educational program, as it relates to the provision of special education services, including, but not necessarily limited to, the following:

- The specialized instruction and services available at the charter school;
- The procedures for ensuring that students are referred, assessed and served in a timely manner;
- Assurances that staff members providing special education services are appropriately credentialed;
- Assurances that the facility used by the charter school does not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular programs;
- Disenrollment, suspension and expulsion policies and procedures must ensure that the protections of federal and state law are afforded to special education and Section 504 eligible students; and
- Dispute resolution procedures that will apply to any disputes between educational entities, including the SELPA, regarding the provision of special education services in the charter school.

The Local Plan, which allows inclusion of charter schools that request to be deemed an LEA member of the SELPA, shall comply with all state and federal laws regarding special education.

### **Chartering or Responsible LEAs Role With Regard to Non-LEA Charter Schools**

The chartering LEA should develop and adopt the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students in the regular programs administered by the chartering LEA.

For non-LEA charter schools, the chartering LEA shall:

- Receive all applicable special education funds as specified in the SELPA's Assembly Bill (AB) 602 Funding Allocation Plan. The allocation per Average Daily Attendance ("ADA") for these charter school students will be the same as that received by the chartering LEA, if chartered by a district. If the chartering LEA is a County Office of Education, the allocation for students enrolled in the charter school will be equal to the average allocation per ADA of member districts within the SELPA.

- Represent the needs of charter schools, like other schools within the LEA, in the SELPA governance structure. The chartering LEA shall be responsible for ensuring that all eligible students are appropriately served. The chartering LEA shall be responsible for procuring and funding appropriate special education services, even though the student may live within another district in Tulare County or another county contiguous to Tulare County. The chartering LEA may contract for these services with public or private educational entities.
- When a charter school student lives outside the boundaries of the chartering LEA, the school district wherein the child lives shall have no responsibility to provide services or pay excess costs.
- The chartering LEA and the charter school may enter into agreements whereby the charter school is billed for excess costs associated with providing special education services to identified students, including the administration of special education programs, and any other costs associated with educating charter school special education students.
- The charter school may also be held fiscally responsible for an equitable share of any encroachment on the chartering LEAs funds that is created by the provision of special education services throughout the chartering LEA.

### **Charter Schools as an LEA within the SELPA**

A charter school may apply to become an LEA for the purpose of special education services. The application process for a proposed charter school LEA will be the same as any other LEA wishing to be a member of the SELPA.

Once granted LEA status, a charter school will participate in the governance of the SELPA in the same manner as other SELPA member school districts. The SELPA Chief Administrative Officer shall review any charter petition within this category and advise the Superintendents Governance Committee as to the petitioner's intent and ability to meet the requirements of the Local Plan. The SELPA Superintendents Governance Committee shall make the final determination whether the charter school has the capacity and intent to meet all the requirements of an LEA. These requirements include, but are not limited to, the following:

- Local Plan governance structure;
- Local Plan for administration of the plan;
- Local Plan for bill-back for services;
- Local Plan for child find, referral, assessment, IEP process, and delivery of special education and related services;

- Local Plan for the provision of procedural safeguards;
- Local Plan for regionalized services;
- Local Plan for hospitals, licensed children's institutions and juvenile court, and community schools;
- Local Plan for costs of programs and services, including transportation; and
- Agreement regarding any excess costs of regionalized services.

Once deemed an LEA, the charter school will be responsible for and entitled to the following:

- Policies and procedures that assure compliance with all State and Federal laws related to special education (ages birth to 22).
- Meet the terms of State and Federal law and the Local Plan regarding Identification, Referral, and Placement.
- Meet the terms of State and Federal law and the Local Plan regarding Procedural Safeguards.
- Meet the terms of State and Federal law and the Local Plan regarding Regionalized Services.
- Meet the terms of State and Federal law and the Local Plan regarding students in Hospitals, Licensed Children's Institutions, and Juvenile Court/Community Schools.
- Meet the terms of State and Federal law and the Local Plan regarding Costs of Programs and Services, including transportation.
- Meet the terms of State and Federal law and the Local Plan regarding excess costs of Regionalized Services.
- Provide assurances that each certificated employee is appropriately credentialed to serve in his/her assignment.
- Provide necessary staff as required to meet Federal and State mandates.
- Utilize SELPA approved forms.
- Place special education students in programs administered by other SELPA members only with either inter or intra-SELPA permits and/or inter-district permits.

- Name one representative to the Superintendents' Council and two for the Joint PAC/CBO Advisory Committee.
- Participate in and receive regionalized services in the same manner as other districts within the SELPA.
- Receive State and Federal funding for special education in accordance with the SELPA resource allocation plan.
- Document that all State and Federal special education funds apportioned to the charter school are used for the sole purpose of providing special education instruction and/or services to identified students with disabilities. Such funds shall be used to supplement and not supplant other sources of Federal, State, and local funds apportioned to charter schools.
- Out-of-geographic area charters also receive funding in the same manner with the exception of not being eligible for Mental Health Pre-Referral funding or Group Home funding. The first year as a new LEA charter school joins the SELPA, they will be funded at the growth rate funding level (State funding only).
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, services, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints, and attorney fees.

**References:**

EC 47605.5  
EC 47640-47647  
EC 56000 *et seq.*

20 U.S.C. 1412 (a) (10)