



San Mateo  
County  
SELPA

# Special Education Local Plan Area

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## POLICY

### PROVISION OF SPECIAL EDUCATION SERVICES TO STUDENTS ENROLLED IN CHARTER SCHOOLS

This policy applies to all charter schools located within the County of San Mateo that are chartered by member districts of the San Mateo County SELPA. This policy also applies to any charter school petition granted by the State Board of Education in which oversight responsibilities have been assigned to a district within this SELPA (EC47605.5(k)(1)). Charter schools located outside of San Mateo County SELPA that are deemed Local Educational Agencies (LEAs) for special education purposes as described below may request to participate in the SELPA, but acceptance of such charter schools into the SELPA shall be decided at the sole discretion of the SELPA Governing Board.

As students enrolled in charter schools are entitled to special education services, charter schools in the SELPA shall comply with all state and federal laws regarding provision of special education services Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Chapter 33). Students with disabilities enrolled in charter schools and their parents shall retain all rights under the IDEA. A charter school shall not discriminate against any pupil in its admission criteria on the basis of disability. A district reviewing the petition for the establishment or renewal of a charter school may not refuse to grant the petition solely because the charter school might enroll students with disabilities who reside in a SELPA other than the one in which the district is a member (EC 47647). Unless the district where the student resides is the chartering entity, that district is not responsible for providing special education and related services to students enrolled in the charter school; rather the district that is the chartering entity is responsible. However, if the charter school is an LEA, it is itself responsible for providing special education and related services to students enrolled in the Charter School and for services provided to students placed by an LEA charter school in connection with a change in special education placement or a disciplinary change in placement (such as an expulsion).

## **Policy Statement and Vision Regarding Provision of Special Services by Charter Schools**

The SELPA recognizes that charter schools are important entities in ensuring the delivery of the full continuum of services for students with disabilities. Special education and related services shall be provided to all eligible students within the jurisdiction of the San Mateo County SELPA in accordance with the SELPA Local Plan. Students enrolled in charter schools located within the County of San Mateo SELPA and chartered by member districts shall receive services in accordance with IDEA and state law. No governing board shall grant a charter unless the charter includes verifiable, written assurances that special education instruction and/or services shall be provided to all eligible students with disabilities enrolled in the charter school, in accordance with the SELPA Local Plan and applicable laws and regulations. The charter school recognizes the responsibility to deliver services to any eligible student enrolled in the charter school and shall not seek assistance, reimbursement, or any other type of responsibility from the school district where the student actually resides unless otherwise provided by law.

Prior to approval of a new charter school, or renewal of an existing charter school, the charter school petitioner(s) are required to consult with both the superintendent or designee of the chartering entity and the SELPA Administrator to ensure awareness of district and SELPA guidelines and timelines as they relate to special education.

SELPA funding for special education services, participation in the governance structure and the SELPA's responsibility for provision of services shall be based on the categorization of the individual charter school. Education Code section 47640 et seq. added in 1999, allows a charter school either (1) to be deemed a LEA for special education purposes and receive direct funding for special education from the SELPA or (2) continue to be categorized as a public school within the member district that granted the charter and such district shall remain the LEA for special education purposes. In accordance therewith, all approved charter schools will be deemed public schools within a member district and will be treated in the same manner as any other public school of the member district unless the charter petition includes or the charter otherwise provides verifiable, written assurances that the charter school will participate as an LEA in the SELPA for the duration of the charter or for a period of time agreed upon by the SELPA Governing Board. Charter Schools that are deemed LEAs for special education purposes shall participate in the SELPA in the same manner as other member school districts. Therefore, charter schools shall contribute to, participate in, and receive the benefits of reimbursement from all SELPA fiscal pools and participate in any costs in the same manner as other members.

An application to become a LEA must be made to the SELPA by **January 1** of the school year preceding the school year in which the charter school anticipates operating as a LEA within the SELPA. 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. The SELPA Governing Board will make the final determination whether the charter school has the capacity and intent to meet all requirements of a LEA. The categorization as a separate LEA will become effective on the first day of the fiscal year (July 1), following final approval by the SELPA Governing Board.

The chartering agency must provide verifiable written assurances to the SELPA Administrator that it has adequate fiscal reserves to cover potential special education costs and that it agrees to be responsible for all costs incurred in the provision of special education services. The following documents shall be submitted to the SELPA:

1. A copy of the agency's budget which includes an account for special education which is sufficiently large to cover the cost of anticipated services and a reserve for contingencies equal to that required for public school districts of the same size.
2. A copy of the Charter, (as amended as appropriate) which sufficiently describes the provision of special education and related services by the charter LEA,
3. A copy of the charter school's liability insurance policy of at least \$1,000,000 per person per occurrence,
4. A copy of audit reports for the past two years (if applicable)
5. A document that provides income/expense reports for special education programs for the past two years
6. A copy of API Scores for the school – history of last five years, if available
7. A copy of the School Accountability Report Card (SARC)
8. A list of credentials for all certificated staff: name, position, credential number, if highly qualified
9. A statement signed by the charter's fiscal agent and governing board acknowledging the charter's obligation to "search and serve", its obligation to pay the costs of special education whether or not those costs are adequately covered

from the charter's SELPA allocation, and assuring that it has adequate fiscal reserves to cover those costs. Costs of special education may include, but are not limited to, instruction, transportation, non-public school/agency placements, inter and intra SELPA placements, due process proceedings, complaints and attorney fees,

10. A copy of the charter school student application materials which reflects that the charter school can and will make available the full range of special education services for students enrolled in the charter school.

The charter school shall provide written assurances for the following:

1. The charter school will send students with disabilities to programs administered by other districts in accordance with procedures for Intra-SELPA or Inter-SELPA transfers,
2. The charter school will provide transportation as indicated on the student's IEP,
3. The charter school will secure the services of an attorney for special education as is required of all SELPA member districts,
3. The charter school shall be responsible for all other obligations, policies and agreements as required by SELPA membership,
4. The charter school shall provide assurances that they will comply with the Individuals with Disabilities Education Act (IDEA), Section 504 and the American with Disabilities Act (ADA) and that the facilities used by the charter school will be ADA compliant and will not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program,
5. The charter school will provide assurances that they will follow all applicable state and federal laws,
6. The charter school will utilize SELPA approved forms, and send appropriate personnel to attend Administrators Council Meetings and SELPA trainings,
7. The charter school understands its sole legal and fiscal responsibility to provide appropriate services to eligible students as is the case for all member districts and

the charter school shall not seek defense or indemnification from the SELPA or SELPA member districts,

8. The charter school is expected to utilize resources from its general fund for the costs of special education and related services to the full extent necessary to meet its obligations under federal and state law and this policy.
9. All funds allocated to the LEAs including charter LEAs shall be expended only for special education and related services necessary to comply with federal and state law.
10. The charter school shall have a viable and detailed plan for facilities that will allow the charter school to appropriately deliver the full range of special education services. If the charter school does not have a solid commitment for facilities at the time of consideration for SELPA membership, the SELPA Governing Board may grant a conditional approval of SELPA membership. Such conditional approval may require the Charter School to show evidence of facilities satisfactory to the SELPA Administrator within thirty (30) days prior to the commencement of school year that meet the criteria set forth in Assurance #5 above and which will otherwise allow for the appropriate delivery of special education services or the LEA status will be terminated.
11. The charter school LEA will assume funding responsibility for students placed in alternative educational settings due to disciplinary issues.
12. Charter school LEAs serving secondary students with disabilities who are eligible for post-secondary services shall make available appropriate post-secondary services through age 22.

For new charter schools that have not been in operation, projected ADA for the first year of operation will be used for the first year. For the second year of operation, prior year ADA will be used for the SELPA Funding Formula and an appropriate adjustment will be made for the first year of operation.

All charter schools that are deemed LEAs for special education purposes shall 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.

Charter Schools that apply for LEA membership and meet the minimum requirements will be granted LEA approval on a conditional basis for a period of time not to exceed one school year. The SELPA shall conduct the following monitoring activities either directly or through use of an approved consultant.

1. Meet with the Charter School staff to discuss the provision of special education and related services,
2. Observe the operations of the special education program,
3. Review data submitted to the SELPA as required by the state through CASEMIS,
4. Review policies and procedures pertaining to child find and the provision of special education and related services,
5. Attend IEP meetings to ensure that IDEA and the California Education Code procedural requirements are complied with and to verify that appropriate services are offered,
6. Review IEPs for compliance and implementation, and
7. Review data submission to determine accuracy and timeliness of submission.

The charter LEA shall pay for actual costs incurred during this SELPA monitoring process. In order to ensure that the cost of these monitoring activities can be met, \$15,000 shall be withheld from the special education apportionment for conditionally admitted LEAs and such funds will be used to fund the above activities. The SELPA Administrative Unit shall track the costs and if they are less than \$15,000, the remaining balance will be returned to the charter LEA. If the amount exceeds the \$15,000, the excess costs will be withheld from subsequent allocations.

The SELPA Administrator/consultant will conduct a midyear review of the charter LEA to assist them in addressing any issues identified through monitoring activities conducted up to that time. The SELPA Administrator will present a report to the SELPA Governing Board by the April meeting of the school year under conditional approval.

By the May SELPA Governing Board meeting of the school year under conditional approval, the SELPA Governing Board may grant final approval of the Charter School LEA membership status or extend conditional status for another year. If final approval is not given after the second year, the charter LEA's application shall be deemed denied;

however, under exceptional circumstances, the SELPA Governing Board may grant a further extension of conditional status at its sole discretion.

If the approval of a charter requires a change to the SELPA allocation plan, such change is subject to approval by the SELPA Governing Board.

**Approved by Administrators Council 6/15/00**

**Approved by SELPA Governing Board 11/6/01**

**Revised and approved by SELPA Governing Board 3/4/03**

**Revised and approved by SELPA Governing Board 5/4/10**