



Special Education Local Plan Area

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POLICY

PROGRAM TRANSFER POLICY

Pursuant to California Education Code Section 56207, special education programs may be transferred from one service provider LEA to a receiving LEA. The San Mateo County Office of Education (SMCOE) to school districts and from school districts to the SMCOE.

I. Definition of a Formal Program Transfer

A program change is presumptively considered a program transfer if the circumstances in either A or B exist:

A. Transfer of Students from a Single Class

- (1) The proposed change involves the movement of students from the one service provider LEA to another when the LEA is expanding its service to replicate a program;
- (2) The change involves the movement of funding locally from one service provider LEA to another; and
- (3) The change involves one or more employees who would be affected by the provisions of California Education Code Section 44903.7. (Section 44903.7 establishes the right of certificated and classified employees to retain employment if their assignment moves to another local educational agency.)

B. Transfer of Students from Multiple Classes

The transfer of students from several classes combined to form an intact, identifiable class or an itinerant caseload which involves one or more employees who would be affected by the provisions of California Education Code Section 44903.7.

If one or more employees will be laid off due to a program transfer of students from multiple classes, the employment rights specified in Section X(A)(1) shall be offered to employees based upon seniority.

A program transfer is not required when students who are served in a program matriculate and return to their home districts via the IEP process.



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However, the home district's employees shall have rights to employment in the district in accordance with Education code 44903.7 provided that a reorganization of special education programs has occurred.

II. Time Lines and Approval Process

Pursuant to Section 56207(b) of the California Education Code, requests may be implemented as early as the first day of the first fiscal year following the fiscal year in which the request is filed (*i.e.*, a request made in September 2009, if approved, would take effect on July 1, 2010), provided that the request is approved by a unanimous vote of the SELPA Governing Board. If the request is not approved by a unanimous code of the SELPA Governing Board, it may not be implemented any earlier than the first day of the second fiscal year beginning after the date upon which the sending or receiving LEA has informed the other LEA and the SELPA Governing Board of the intended program transfer.

Requests to transfer a program, to withdraw a request for a transfer, or any other request made pursuant to this policy will be denied if submitted untimely unless, in the sole discretion and judgment of the Program Transfer Committee, extraordinary circumstances on a case-by-case basis warrant consideration of an untimely submission.

Program Transfer Timeline/and Procedure

The proposed receiving LEA shall submit a letter to the sending LEA and the SELPA Administrative Unit ("AU") prior to **October 15th**. The receiving LEA shall also submit a plan to the SELPA AU prior to **October 15th** addressing all of the required program transfer plan components set forth in section 56207 of the California Education Code. All proposed program transfers shall be considered by a Program Transfer Committee comprised of representatives from LEAs that are members of the SELPA. The SELPA Governing Board shall appoint, by majority vote, members of the Program Transfer Committee. At a meeting which shall occur on or before during each school year, the Program Transfer Committee will review each proposed program transfer and consider whether each proposed program transfer meets the Transfer Guideline criteria set forth in Section III, below. On the basis of this review, the Program Transfer Committee shall formulate a recommendation as to each proposed program transfer for the SELPA Governing Board. Recommendations shall be by majority vote of the Program Transfer Committee. Members of the Committee who disagree with the majority recommendation on a proposed program transfer may state, for the record, the basis of their disagreement.



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III. Transfer Guidelines/Factors

Pursuant to section 56207(a) of the California Education Code, in order for a proposed program transfer to be approved, the factors set forth below must be considered. Further, prior to transferring special education programs from one LEA provider to the receiving LEA provider, the receiving LEA must implement the plan described in the preceding section, which plan must address all of the factors described below:

- A. Is the program transfer consistent with pupil needs?
- B. Will the program transfer ensure the availability of a full continuum of services to affected pupils?
- C. Will the program transfer impact the functional continuation of the current IEPs of all affected pupils?
- D. Will the program transfer allow the provision of services in the least restrictive environment from which affected pupils can benefit
- E. Will the program transfer affect the maintenance of all appropriate services?
- F. The assurance that there will be compliance with all federal and state laws and regulations and special education local plan areas policies
- G. The means through which parents and staff were represented in the planning process.

IV. Individualized Education Program

It is recommended necessary Program Transfer IEPs be completed by **March 1st**.

V. Funding

SELPA member districts will be informed in a timely manner of any fiscal implications of the resulting program transfer.

VI. Facilities

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

VII. Materials and Equipment

Materials and equipment will remain with sending LEA unless otherwise agreed upon. Any material or equipment purchased with Low Incidence funds is the property of the California Department of Education ("CDE") and will remain with the student. Specialized equipment purchased by the sending LEA for particular



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student will follow the student with the program transfer. However, the equipment will remain the property of the sending district.

VIII. Student Records

When the transfer of a program is completed, the sending LEA and receiving LEA will develop a plan for the transfer of all student records to the receiving LEA.

IX. Disputes

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

X. Certificated/Classified Employee Transfers

Employee's rights when transferred, terminated, or reassigned as a result of a program transfer:

A. Procedures

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

- (1) By **December 10th** the position will be offered to the person who is currently assigned to the program being transferred, provided in the case of a certificated employee that s/he is credentialed to hold that position.
- (2) This offer must be accepted or declined by **January 11th**. If the employee chooses to accept the position in the receiving LEA, then the governing board of the receiving LEA shall, at its first Board meeting in February, approve an offer of employment, effective July 1st of the same year. The employee shall then tender his or her resignation with the sending LEA no later than March 1st to be effective June 30th.
- (3) If the employee designated in X (A) (1) above declines the position in the receiving LEA, the receiving LEA will post the position internally **January 18th**. If the receiving LEA does not hire from within, the LEA shall so notify the sending LEA by **February 15th**. The sending LEA shall then notify their candidates of vacancies and the receiving LEA's application process. If the receiving LEA hires from sending LEA's eligible candidates, such hired employee shall have the rights set forth in this Section X.



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- (4) The decision whether or not to hire from sending LEA's list of eligible candidates must be made no later than **February 28th**. If the receiving LEA chooses not to hire from sending LEA's list, it may then advertise the position beginning March 1st using its normal hiring procedures.
- (5) Receiving LEA submits final list of students returning to districts to the sending LEA.

B. Seniority for transferred or reassigned employees:

If an employee accepts employment with the receiving LEA, such employee shall retain the same seniority date that the employee held with the sending LEA.

C. Layoff by Receiving LEA:

- (1) **Certificated Employees:** In the event of a layoff by the receiving LEA subsequent to a transfer, the transferred certificated employee shall retain the right, for 24 months, for probationary certificated employees, and 39 months, for permanent certificated employees, in being informed and filling vacant positions in special education for which the employee is certificated and was employed in the receiving LEA that provides the same type of special education program and services for the pupils previously served by the terminated employee.
- (2) **Classified Employees:** In the event of a layoff by the receiving LEA subsequent to transfer, a transferred classified employee shall have first priority, for 24 months for probationary classified employees and 39 months for permanent classified employees, in being informed of and filling vacant positions for which the classified employee is qualified or was employed in the receiving LEA that operates the transferred special education program.

D. Salary placement:

Transferred employees shall receive credit for each year of service at the sending LEA for purposes of placement on salary schedule in the receiving LEA.

E. Rights after Assignment or Transfer

- (1) **Certificated Employees:** Subsequent to the transfer of any certificated employee, that employee shall, for a 24 month period, have priority in



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being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the receiving LEA by which the certificated employee is then currently employed.

- (2) Classified Employees: A classified employee who is transferred has priority, for a 24 month period, in being informed of and in filling classified positions in the classification in which the employee was employed before the transfer.

Legal Reference:

Education Codes 56207, 44903.7

Date Approved by the Administrator's Council: May 25, 2007

Date Approved by the SELPA Governing Board: June 5, 2007

Date Revised and Approved by the SELPA Governing Board: November 3, 2009

Date Revised and Approved by the SELPA Governing Board: February 7, 2012