

**SANTA CLARA COUNTY
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA**

CHARTER SCHOOLS POLICY

Purpose and Scope

This policy applies to Charter Schools that are chartered by educational entities that are members of the Santa Clara North West (NW) SELPA and to any Charter School that seeks to become a member of one of the Santa Clara County SELPAs as an LEA, regardless of the chartering entity. This policy also applies to any Charter School petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a member entity. However, this policy shall not apply to any Charter School which was converted from a public school to a Charter School, or that was initiated by a School District or a charter that is accepted as a Local Education Agency (LEA) in another SELPA outside of Santa Clara County. This same policy has been adopted by the Santa Clara South East SELPA, thus offering continuity across the county.

Students enrolled in Charter Schools are entitled to special education services provided in a manner similar to students enrolled in other public schools. Charter Schools must comply with all requirements of State and Federal law regarding the provision of special education services (EC 56000 et seq. and the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. Chapter 33). Children with disabilities enrolled in Charter Schools, and their parents, shall retain all rights under the IDEA.

Introduction

Special education and related services shall be provided to all eligible individuals within the jurisdiction of Santa Clara North West SELPA in accordance with the NW SELPA Local Plan. Students enrolled in Charter Schools, operating within NW SELPA shall receive special educational and related services in a manner similar to other students. No governing board shall grant a charter unless the charter includes 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. An LEA reviewing the petition for the establishment or renewal of a Charter School may not refuse to grant the petition because the charter school might enroll students with disabilities who reside in a SELPA other than the one in which the LEA is a member.

Funding for special education services, participation in the governance structure and responsibility for provision of services shall be based on the categorization of the individual Charter School as either operating as a public school of its chartering entity or functioning as a LEA. Schools chartered by a LEA shall negotiate their charter and MOU with the school district from which they are seeking the charter. Charter schools may also elect to be deemed a Local Education Agency (LEA) by providing verifiable written assurances that the Charter School will participate as a LEA in a SELPA for purposes of the provision of special education services.

Charter Schools that are deemed LEAs for special education purposes will only be admitted as a member of a SELPA if the Charter School has provided all assurances required by this policy and law and the admission is approved by a majority vote of the SELPA's Governance Council of Superintendents. In compliance with State law, the SELPA will treat the review and approval of a Charter School's request to be an LEA in the same manner as a request from another school district to join the SELPA.

SELPA Involvement

Prior to the approval of a new charter or renewal of an existing charter or MOU, the Superintendent or designee of the chartering entity shall consult with the SELPA Executive Director regarding the provision of special education services to students enrolled by the Charter School. The petitioner must provide adequate assurances that all eligible students enrolled in the Charter School will receive appropriate special education services in accordance with the Local Plan and law. The charter must provide assurances that no student will be denied enrollment in the Charter School due to a disability. The SELPA will be available to provide consultation on the potential fiscal impact and benefit that may be associated with granting the requested charter.

An approved charter must delineate the entity responsible for providing special education instruction and services, any anticipated transfer of special education funds between the granting entity and the Charter School and any provisions for sharing deficits in funding. These provisions may be included in a Memorandum of Understanding.

Categories of Charter Schools

For the purposes of provision of special education services, Charter Schools may be deemed either a public school within the chartering district/county office or a Local Education Agency (LEA). A Charter School shall be deemed a public school within a chartering district/county office unless the Charter School provides written verifiable assurances that the Charter School will participate as a LEA in a SELPA approved by the State Board of Education (Note: EC 47642 clarifies that the Charter School will only receive special education funding through the SELPA Budget Allocation Plan).

Public School within a District

Charter Schools that are deemed to be public schools within a district will participate in the State and Federal funding in the same manner as other schools within the chartering district. The chartering district will be responsible for ensuring that all children with disabilities enrolled in the Charter School receive special education and related services in a manner that is consistent with their individualized education programs and all applicable provisions of State and Federal law. The district will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the Charter School.

The chartering district will receive and appropriately distribute all applicable special education funds, as outlined in the SELPA Budget Allocation Plan. The chartering district will represent the needs of students with disabilities attending Charter Schools in the same manner as it does for its other schools. The chartering district will be responsible for ensuring that all eligible students are appropriately served. The chartering district and/or Charter School may contract for special education services with other public or private educational entities. When a student lives outside the boundaries of the chartering district, the district in which the child lives will have no responsibility to provide services or pay excess costs.

The chartering district and Charter School may enter into agreements/MOUs 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. The Charter School may also be held fiscally responsible through agreements/MOUs for a fair share of any encroachment on the chartering district's general fund that is created by the provision of special education services throughout the district.

Public School within the County Office

Charter Schools that are deemed to be public schools within the Santa Clara County Office of Education (SCCOE) will participate in the State and Federal special education funding in the following manner:

1. The SELPA where the charter school is located will distribute special education funding to the SCCOE pursuant to the SELPA Budget Allocation Plan;
2. The SCCOE will use these funds to fund the actual cost of special education services provided by the Charter School up to the total amount generated;
3. Any unused funds will be returned to the SELPAs in the same proportion in which they were received. The SCCOE will be responsible for ensuring that all children with disabilities enrolled in the Charter School receive special education and related services in a manner that is consistent with all applicable provisions of State and Federal law. The SCCOE will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the Charter School.

The SCCOE will receive and appropriately distribute all applicable special education funds, as outlined above. The SCCOE will represent the needs of students with disabilities attending Charter Schools in the same manner as it does for its other programs. The SCCOE will be responsible for ensuring that all eligible students are appropriately served. The SCCOE and/or the Charter School may contract for these services with public or private educational entities. When a student lives outside the boundaries of the SCCOE, the district in which the child lives will have no responsibility to provide services or pay excess costs.

The SCCOE and the Charter School may enter into agreements/MOUs whereby the Charter School is billed for excess costs, based on the SELPA-wide average rate of local support per ADA, associated with the provision of special education services to identified students, including the administration of special education programs.

Charter School as an LEA within the SELPA

A Charter School may apply to become an LEA for the provision of special education services. Application must be made to the SELPA by February 1st of the school year preceding the school year in which the Charter School anticipates operating as a LEA within the SELPA. The SELPA Governance Council of Superintendents will determine whether the Charter School has provided the requisite assurances.

The Charter School seeking to become an LEA must provide written, verifiable assurances of its capacity to, among other things:

- Meet the terms of the Local Plan and State and Federal Law regarding identification, referral evaluation, placement, and the provision of a free, appropriate public education (FAPE) in the least restrictive environment (LRE) to special education students.
- Provide adequate staffing to meet Federal and State mandates.
- Agree that the Charter School will use SELPA approved forms and provide requested data in a timely manner.
- Meet the terms of the Local Plan regarding Procedural Safeguards. Meet the terms of the Local Plan regarding Regionalized Services.
- Meet the terms of the Local Plan regarding Hospitals, Licensed Children's Institutions, and Juvenile Court/Community Schools.

- Meet the terms of the Local Plan regarding costs of Programs and Services, including Transportation.
- Meet the needs of all enrolled students eligible for special education services.
- Comply with all applicable federal and state laws.

Once deemed an LEA, the Charter School, like all other members of the SELPA, will be responsible for and entitled to the following:

- Participate in the governance of the SELPA in the same manner as other districts within the SELPA.
- Participate in and receive regionalized services in the same manner as other districts in the SELPA.
- Receive State and Federal funding for special education in the same manner as other districts within the SELPA.
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, transportation, County Office special education placements, non-public school/agency placements, residential placements, inter/intra SELPA placements, due process proceedings, complaints, and attorney fees.
- 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.

Issues requiring conflict resolution related to governance and administration will be reviewed by the SELPA Executive Director with district special education administrators, and referred to the Governance Council of Superintendents, if necessary.



Approved by Executive Council:

<i>SELPA I</i>	<i>5/17/2007</i>	<i>02/14/13</i>
<i>SELPA II</i>	<i>5/18/2007</i>	<i>02/15/13</i>
<i>SELPA III</i>	<i>5/17/2007</i>	<i>02/27/13</i>
<i>SELPA IV</i>	<i>5/23/2007</i>	<i>02/13/13</i>
<i>SELPA VII</i>	<i>5/21/2007</i>	<i>02/13/13</i>