

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

**SPECIAL EDUCATION INTER-DISTRICT TRANSFER  
PROCEDURE**

**Introduction**

As part of the Santa Clara North West SELPA's efforts to coordinate the provision of a full continuum of special education and related services options, and as a means of ensuring that students with disabilities receive a free and appropriate public education (FAPE) in the least restrictive environment, districts may enter into agreements whereby students can be placed in other district special education programs where the IEP team deems it appropriate ("IEP Team referrals"). In addition, students receiving special education services may seek to attend school in a district other than their district of residence via a parent request ("inter-district transfers"). A uniform method of handling these IEP Team referrals and inter-district transfers among member districts will promote a fast, efficient, and fair functioning of the inter-district school attendance system in Santa Clara County, which will benefit affected students.

It is the intent of the parties to this policy that students with disabilities are treated in a manner equal to their non-disabled peers in the administration of special education referrals and related inter-district attendance agreements.

**Definition of Terms**

District of Attendance ("DOA"): The District to which a transfer is sought.

District of Residence ("DOR"): The District of the Parent(s) residence.

Parent: The student's parent(s) or legal guardian(s).

**Transfer of Pupils Under the Provision of Education Code Section 46600 (i.e., inter-district attendance at parent's request for reasons *other than employment*)**

**A. Procedure**

1. All requests for transfer shall first be approved by the DOR which also constitutes approval of the payment of costs required to be paid to the DOA under this policy.
2. All approved requests for transfer shall be submitted to potential DOA's representative for consideration on the basis of available classroom space and other non-arbitrary criteria determined by the DOA.
3. School assignment for accepted transfers shall be designated by the DOA's representative on the basis of available classroom space and other criteria determined by the DOA.

**B. Acceptance/Denial Considerations**

Nothing in these procedures requires a district to admit a student under an inter-district transfer. However, denial of an inter-district transfer request cannot be based upon race, ethnicity, sex, disability, parental income, scholastic achievement, or other arbitrary consideration. Non-arbitrary considerations, such as class/program space or availability, are proper considerations for the acceptance/denial decision.

A pupil who has been determined by personnel of either the DOR or DOA to have been the victim of an act of bullying, as defined in subdivision (r) of Section 48900, committed by a pupil of the DOR

shall, at the request of the person having legal custody of the pupil, be given priority for inter-district attendance.

### **C. Duration/Renewal**

Transfers under this Section are for a maximum duration of one year, and parents of students seeking such an inter-district transfer must reapply each year for the requested transfer. However, a DOR or a DOA shall not rescind existing transfer permits for pupils entering grade 11 or 12 in the subsequent school year after June 30 following completion of the student's 10<sup>th</sup> grade year.

Individual transfer agreements may stipulate terms and conditions established by the DOR and DOA under which the permit may be revoked, in compliance with law.

### **D. Inter-District Responsibilities**

Except as enumerated in Education Code §46607, the DOA shall receive credit for the average daily attendance of students transferred to it under this section.

All costs for special education students, (over and above ADA), shall be the responsibility of the DOR, and the DOA shall bill the DOR pursuant to the SELPA Cost Calculation Formula.

Any and all costs for special education initial assessment of a student not previously identified as a student with a disability under the IDEA, 20 U.S.C. §1400 et seq., required by the student shall be the primary responsibility of the DOA.

The DOR shall be notified with regard to any assessment of the student and shall be notified of the connected IEP team meeting in a timely manner.

If a student is deemed eligible and in need of special education and related services, the DOA will provide special education and related services for the remainder of the school year. The DOA will bill the DOR for services provided pursuant to the SELPA Cost Calculation Formula. Any decision, initial or otherwise, to place in a non-public school or other out of DOA placement such as COE shall include and be approved by the DOR, and any resulting such placement shall be the responsibility of the DOR from the date of the placement.

The DOR should be notified of all IEP meetings held for a special education student. The DOR should be invited to such IEP meetings if the IEP involves the DOR (ex., possible placement in an out-of-district program, addition of significant services, potential/imminent return to DOR, etc.).

### **E. Denial Notification**

Upon denial of an inter-district transfer request, the student shall have appeal rights pursuant to Education Code §46601. Student should be informed of these appeal rights.

## **Transfer of Pupils Under the Provisions of Education Code Section 48204 (i.e., inter-district attendance based upon employment-related reasons)**

### **A. Procedure**

1. The student's parent must provide acceptable verification of employment within the boundaries of the potential DOA. Employment must be for a minimum of 10 hours during the school week.
2. All requests for transfer shall first be approved by the DOR.
3. All approved by the DOR, requests for transfer shall be submitted to the potential DOA's director of special education for review and action.

4. If the transfer is approved by the DOA, school assignment shall be designated by the DOA's representative on the basis of available classroom space and other criteria determined by the DOA.
5. The parents of a student accepted for transfer under this section must immediately notify the DOR and DOA administrators in the event of the termination of his/her employment within the boundaries of the DOA. This shall result in the expiration of any transfer agreement. The parent may request continuance of the attendance in the DOA on an Education Code §46600 basis for the remainder of the current school year.

#### **B. Acceptance/Denial Considerations**

Nothing in these procedures requires a district to admit a student claiming residence based upon parental employment to its schools. The district may not, however, refuse to admit students based upon race, ethnicity, sex, disability, parental income, scholastic achievement or other arbitrary consideration.

- A request may be denied based upon inadequate employment verification.
- A request may be denied based upon inadequate classroom space.
- Either the DOA or the DOR may prohibit the transfer if the governing board determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.
- The DOA may prohibit the transfer if there is a determination that the cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.
- The DOR may prohibit the transfer if the transfer would exceed specified percentages of average daily attendance for the district as enumerated in Education Code §48204(b)(6).

#### **C. Duration/Renewal**

The decision to admit a student pursuant to this section is a matter of discretion, as enumerated above. However, if a transfer pursuant to this section is granted, the student is deemed a resident of the DOA. Consequently, so long as a parent remains employed in the DOA, the student has the right, should he/she so desire, without reapplication, to attend school in the DOA through the twelfth grade.

#### **D. Inter-District Responsibilities**

Except as enumerated in Education Code §46607, the DOA shall receive credit for the average daily attendance of students transferred to it under this section.

Any and all costs for special education services required by the student during the duration of the transfer shall be the responsibility of the DOA, which is also deemed the DOR.

#### **E. Denial Notification**

The district that prohibits the transfer of a student under this section is encouraged to identify, and communicate in writing to the student's parents, the specific reasons for that determination.

*Approved by Executive Council:*

<i>SELPA I</i>	<i>10/20/05</i>	<i>10/21/10</i>	<i>06/19/12</i>	<i>02/11/16</i>	<i>06/18/20</i>
<i>SELPA II</i>	<i>10/21/05</i>	<i>10/29/10</i>	<i>06/19/12</i>	<i>02/13/15</i>	<i>06/19/20</i>
<i>SELPA III</i>	<i>10/20/05</i>	<i>10/21/10</i>	<i>06/19/12</i>	<i>02/12/15</i>	<i>06/18/20</i>
<i>SELPA IV</i>	<i>10/27/05</i>	<i>10/20/10</i>	<i>06/20/12</i>	<i>02/13/15</i>	<i>06/19/20</i>
<i>SELPA VII</i>	<i>10/26/05</i>	<i>10/20/10</i>	<i>06/20/12</i>	<i>02/11/15</i>	<i>06/17/20</i>