

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

**PROGRAM TRANSFER POLICY**

According to Education Code Section 56207, special education programs may be transferred from the Santa Clara County Office of Education (SCCOE) to school districts, from school districts to the SCCOE and from one school district to another.

**Definition of a Formal Program Transfer**

A program change is presumptively considered a program transfer that rises to the level of a reorganization triggering Education Code section 44903.7 if either A or B is met:

**A. Transfer of Students from a Single Class**

1. The proposed change involves the movement of students from one service provider LEA to another when the LEA is expanding their service to replicate a program.
2. The change involves the movement of funding locally from one service provider LEA to another.
3. And the change involves one or more affected employees. Section 44903.7 establishes the right of certificated employees to retain employment if their assignment moves to another LEA.

**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.

If one or more employees will be laid off due to a program transfer of students from multiple classes, the employment rights specified in the section “Certificated/Classified Employee Transfers” below shall be offered to employees based upon seniority.

**Timelines and Approval Process**

The timeline for submitting and processing transfer requests will vary depending on whether the LEA is requesting regular or fast track. Regular track requests will not take effect before the first day of the second fiscal year following the year in which the request is filed with the SELPA (e.g., a request made in September 2008, if approved, would take effect on July 1, 2010). Fast track requests may take place as early as the first day of the first fiscal year following the year in which the request is filed (e.g., a request made in September 2008, if approved, would take effect on July 1, 2009).

**A. Regular Track Timeline**

For a regular track transfer, the proposed receiving LEA (i.e., the LEA that will provide the service) shall submit a letter to the proposed sending LEA (i.e., the LEA that will no longer provide services) and SELPA AU by June 30.

**B. Fast Track Timeline**

For a fast-track transfer, the proposed receiving LEA shall submit a letter to the proposed sending LEA and the SELPA AU prior to *October 1*.

If the LEA decides not to take back a program, they must notify the provider LEA by February 15<sup>th</sup>.

### **Transfer Guidelines**

Prior to transferring special education programs from one LEA to another, the receiving LEA will implement the plan described in the preceding section. The plan will address all the following (reference E.C. Section 56207):

1. Pupil needs
2. The availability of a full continuum of services to affected pupils
3. The functional continuation of the current IEPs of all affected pupils
4. The provision of services in the least restrictive environment from which affected pupils can benefit
5. The maintenance of all appropriate services
6. The assurance that there will be compliance with all federal and state laws and regulations and special education local plan areas policies
7. The means through which parents and staff were represented in the planning process.

### **Funding**

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

### **Facilities**

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

### **Materials and Equipment**

Materials and equipment will remain with the sending LEA unless otherwise agreed upon by the sending and receiving LEA. Any material or equipment purchased with Low Incidence funds is the property of the CDE and will remain with the student.

### **Student Records**

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

### **Disputes**

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

### **Certificated/Classified Employee Transfers**

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

#### **A. Procedures**

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

1. 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 *March 1<sup>st</sup>*. 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 March, approve an offer of employment effective July 1<sup>st</sup>. The employee shall then tender his or her resignation with the sending LEA no later than March 1<sup>st</sup> to be effective June 30<sup>th</sup>.

#### **B. Seniority for transferred or reassigned employees**

If an employee accepts employment with the receiving LEA, such employee shall retain the same seniority date and classification 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 reassignment or transfer, the transferred or reassigned 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 any other county office or 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 after reassignment or transfer, a transferred or reassigned 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 county office or LEA that operates the reorganized special education program.

#### **D. Salary placement**

Transferred or reassigned 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:** After the assignment or transfer of any certificated employee, that employee shall, for a 24-month period, have priority in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the LEA or county office by which the certificated employee is then currently employed.
2. **Classified Employees:** A classified employee who is reassigned or 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 reassignment or transfer.\

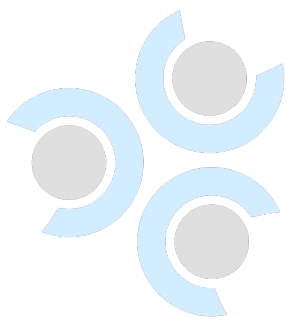
#### **Disputes**

If the sending or receiving LEAs disagree with a proposed transfer, the matter shall be resolved pursuant to the SELPA Dispute Resolution Policy.

***Legal Reference:*** Education Codes 56207, 44903.7

*Approved by Executive Council*

<i>SELPA I:</i>	<i>5/19/2005</i>	<i>5/22/08</i>
<i>SELPA II:</i>	<i>5/27/2005</i>	<i>5/23/08</i>
<i>SELPA III:</i>	<i>6/16/2005</i>	<i>5/22/08</i>
<i>SELPA IV:</i>	<i>5/26/2005</i>	<i>5/19/08</i>
<i>SELPA VII:</i>	<i>5/26/2005</i>	<i>5/19/08</i>



**SELPA**

Santa Clara County  Office of Education