

**Instruction**

**Provision of Special Education Services to Students Voluntarily Enrolled in Charter Schools**

1. SELPA Involvement with Approval and Renewal of Charters

Prior to approval of a new charter, or renewal of an existing charter, the superintendent or designee of the chartering entity shall consult with the SELPA Director regarding the provision of special education services to students enrolled by the charter school. The petition presented must provide adequate assurances that all eligible students enrolled in the charter school will receive appropriate special education services in accordance with the Lodi Area SELPA local plan. The charter must provide assurances that no student will be denied enrollment in the charter school due to a disability or the charter school's inability to serve the student. The SELPA will be available to provide consultation on the potential fiscal impact and benefit that may be associated with granting the requested charter. If the approval of a charter requires a change to the SELPA allocation plan, such change will be adopted pursuant to the policy making process of the SELPA.

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.

2. Categories of Charter Schools

For the purposes of provision of special education services, charter schools may be deemed either a Local Education Agency (LEA) or a public school within the chartering district. A charter school shall be deemed a public school within the chartering district unless the charter school has complied with all provisions of section 2b (below), including ratification by the Council of Superintendents.

a. Public School Within a District

Charter schools that are deemed to be public schools within a district will participate in 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 designated instructional services in a manner that is

consistent with 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 in the same manner as students in the regular program.

The chartering district will receive all applicable special education funds, as outlined in the SELPA allocation plan. The chartering district will represent the needs of charter schools, like other schools within the district, in the SELPA governance structure. The chartering district will be responsible for ensuring that all eligible students are appropriately served. The district will be responsible for procuring, and funding appropriate special education services, even though the student may live anywhere in the State of California. The district may contract for these services with 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 district and the charter school may enter into agreements 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 for a fair share of any encroachment on district general funds that is created by the provision of special education services throughout the district.

b. 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 January 1 of the school year preceding the school year in which the charter school anticipates operating as an LEA within the SELPA. The application for a Charter School will be the same as any other LEA wishing to be a member of the SELPA. The Council of Superintendents will make the final determination whether the charter school has the capacity and intent to meet all requirements of an LEA. These requirements include meeting the terms of the agreement relative to:

- Identification, Referral, and Placement System
- Procedural Safeguards
- Regionalized Services
- Hospitals, Licensed Children's Institutions and Juvenile Court/Community Schools
- Costs of Programs and Services, including Transportation
- Excess costs of Regionalized Services

Once deemed an LEA, the charter school will be responsible for and entitled to the following as a member of the SELPA:

- Participate in governance of the SELPA in the manner described in the SELPA's policies, regulations, rules, etc.
- Participate in and receive regionalized services in the same manner as other districts within 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, nonpublic school/agency 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.

Rule

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