



## PROGRAM TRANSFER POLICY

According to Education Code Section 56207, special education programs may be transferred from a county office of education to school districts, from school districts to the county superintendent of schools and from one district to another. For the purpose of this policy, programs may also be transferred to charter schools that have been granted LEA status.

A program transfer occurs when the proposed change involves a change in the LEA of services and involves the movement of funding locally from one service provider (LEA) to another. A program transfer is defined as either or both of the following:

- A change in the entity responsible for the operation of a regional program.
- An LEA developing program(s) in the district to deliver services for a group of students in place of an existing regional program.

## Transfer Guidelines

Prior to transferring special education programs from one LEA to another, the sending and receiving LEAs will develop a plan to transfer the program. The plan will address all of the following:

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 area policies; and
7. The means through which parents and staff were informed and involved during the planning process.

## Timelines

Transferring a special education program requires adequate notice to ensure that students have uninterrupted access to programs and services as required by their educational programs. Program transfers require a three-year process:

- Year One – Notification
- Year Two – Preparation
- Year Three – Implementation

### YEAR ONE - NOTIFICATION:

Prior to March 30, the LEA initiating the transfer request shall submit in writing to the SELPA notice of intent to transfer a special education program. The SELPA will confirm receipt of the notification and will ensure that Executive Committee and SELPA Superintendents' Council are aware of the proposed transfer.



### YEAR TWO – PREPARATION:

The program transfer process requires the transference of the operation of a program from one LEA to another. Both the receiving and sending LEAs complete and sign a Notice of Intent to Transfer Special Education Programs form. When the initiating LEA intends to receive a special education program, the initiating LEA shall identify an LEA to send the program. Conversely, when the initiating LEA intends to send the program, the LEA shall identify an LEA that agrees to receive the program. The Notice of Intent to Transfer Special Education Programs form shall be completed and submitted to the SELPA no later than September 30.

Both the sending and receiving LEAs shall submit a signed Program Transfer Assurances Form and a Detailed Plan for Special Education Program Transfers to the SELPA prior to November 30, addressing all of the required program transfer plan components set forth in section 56207 of the California Education Code.

SELPA administration will review the plan and certify that it contains all required elements. Once the plan has been reviewed and certified by the SELPA, it will be added to the Executive Committee and SELPA Superintendents' Council agendas as an information item.

Any revisions to the plan shall be submitted no later than February 1. Once received, changes will be reviewed and recertified by SELPA administration and may be presented to superintendents.

### YEAR THREE – IMPLEMENTATION

The receiving LEA officially assumes operation of the program as of July 1.

*The Superintendents' Council has the authority to waive the required timelines for the implementation of the program transfer pursuant to Section 56207(b) of the California Education Code. A request for a waiver of the timeline shall be submitted to the SELPA office and the sending LEA no later than February 1st and requires unanimous approval from the Council.*

### **Funding**

Funding for the program throughout the transfer process aligns with the approved Allocation Plan.

### **LEA Responsibilities When Operating Programs**

The SELPA assures services to special students by offering centralized and regionalized programs and services provided by member LEAs. When a program transfer is proposed for regional programs and services, the receiving LEA will guarantee the continuation and/or provision of services to students outside the LEA's attendance area. Requests to relinquish programs must be submitted in writing to the SELPA office. The SELPA administrator will forward requests to the Executive Committee and SELPA Superintendents' Council for consideration. Until another LEA agrees to operate the program and services, it will remain the responsibility of the current LEA. Any action to transfer the program and services will follow the procedures and timelines outlined in this policy.



### Program/Service Standards

When transferring a regional program, the receiving LEA agrees to maintain the standard of program or service delivery provided by the sending LEA unless they receive approval to change the nature of the program by the SELPA Superintendents' Council. LEAs may only change the nature of the program if they can continue to implement the IEPs of the students affected by the program transfer. The receiving LEA agrees to operate the program and services for at least three years unless otherwise agreed to by the SELPA Superintendents' Council.

### Personnel Considerations

The following personnel factors need to be considered and addressed in the program transfer plan: rights of certificated personnel, classified personnel qualifications, medical benefits, collective bargaining agreements, and transfer of personnel files.

The Education Code sections governing transfers (See Ed. Code §§ 44903.7 and 45120.2) do not distinguish between employees based on the type of credentials they possess. It is evident that the general intent of the relevant sections is to try to maintain an employee's status at the same or similar level, despite the transfer to another employer. Therefore, for those employees who are properly considered a "certificated" employee, the sections appear to equally apply regardless of the type of credential the employee possesses.

### Facilities

Transfer of facilities, when appropriate, will be negotiated on a case-by-case basis by the sending and receiving LEAs. Whenever a program is transferred from one LEA to another, the receiving LEA assumes responsibility for the facilities (i.e., portable classrooms, etc.) currently occupied by the program.

### Materials and Equipment

Unless otherwise agreed upon, materials and equipment purchased with special education funds by the sending LEA for the program being transferred will be transferred with the program and become the property of the receiving LEA. Any material or equipment purchased with Low Incidence funds is the property of the California Department of Education and will remain with the student.

### Student Records

When the transfer of a program has received final approval, the sending and receiving LEAs will develop a plan for the transfer of all student records to the receiving LEA.

### Special Considerations

The SELPA may consider any other factors, which are deemed relevant to the proposed program transfer, such as LEA identification rates, impact on transportation, etc. The primary consideration, however, must be to provide service to all identified students within the SELPA by qualified personnel under IDEA and Every Student Succeeds Act (ESSA).



## Disputes

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

## Appeal to CDE to Resolve Questions on Program Transfers

Because of ambiguities in the definition of a program transfer, CDE will allow any LEA or parent to request, in writing, for the Department to undertake a determination whether a proposed change constitutes a program transfer. All requests should be signed by the LEA or parent and a copy should be forwarded to a SELPA Administrator. The Department will make a determination within 60 days and issue a public opinion in writing to the relevant LEA(s) and SELPA.