

## CHARTER SCHOOLS

20 USC 1413(a) (5); 34 CFR 300.312

E.C. §56145; 56207.5; 47605 (d) (1); 47646

### POLICY

This policy applies to school districts, county offices of education, and charter schools applying for membership with the Sacramento County Special Education Local Plan Area (“SELPA”).

The purpose of this policy is to clarify the relationship between local education agencies, charter schools, member school agencies and to describe the procedures for applying for LEA status within the SELPA. This policy has the further purpose of assisting applicable charter schools and chartering districts that are members of the Sacramento County SELPA with their individual and mutual responsibilities under the law. In addition, this policy has the purpose of assisting applicable charter schools and chartering agencies to meet the special education needs of all eligible students enrolled in applicable charter schools.

### Charter Schools

Consistent with their IEPs, students attending charter schools are to be considered for special education services in a similar manner to students enrolled in other public schools in accordance with E.C. §47646. **Charter schools within the SELPA shall comply with all requirements of applicable state and federal law regarding the provision of special education services.** A charter school may establish criteria specific to their program that applies to all applications. However, the Charter school shall not discriminate against any pupil in its admission criteria on the basis of disability.

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. **A member district reviewing the petition for the establishment or renewal of a charter school may not refuse to grant the petition solely because the charter school might enroll students with disabilities who reside in a SELPA other than the one in which the district is a member. (E.C. §47647)**

Charter schools must delineate in writing the entity responsible for providing special education instruction and services. This document must reference any anticipated transfer of special education funds between the granting entity and the charter school and any provisions for sharing deficits in funding. This document must affirm that the district where the student resides, if

different than the chartering entity, is not responsible for providing special education services to the students that are enrolled in the charter school. The sponsoring district is strongly advised to specify in the Memorandum of Understanding that the district will be indemnified for costs resulting from the provision of any services to students enrolled in the Charter School. Prior to approval of a new charter school, or renewal of an existing charter school, the charter school petitioner(s) are required to consult with both the superintendent or designee of the chartering entity and the SELPA Director to ensure awareness of district and SELPA guidelines and timelines as they relate to special education. This provision shall also apply whenever material changes are made to a charter school.

### **Categories of Charter Schools**

For the purposes of provision of special education services, a charter school shall be deemed either a public school within the chartering district or an LEA that receives funds and provides services independent of the chartering entity. In addition, a charter school that has been approved by the State Board of Education shall be deemed either a public school within the LEA to which the State Board of Education has delegated its supervisory and oversight responsibilities or a public school of the State Board of Education. All approved charter schools will be deemed public schools within a member district and will be treated in the same manner as any other public school of the member district until such time as the charter school obtains membership as an LEA of the SELPA.

#### **A. Public School Within a School District, or County Office of Education**

Charter schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools or programs within the chartering entity. The chartering entity will be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education and designated instruction and services in a manner that is consistent with all applicable provisions of state and federal law. The chartering entity 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 entity will:

- Receive all applicable special education funds as specified in the SELPA allocation plan in accordance with the Sacramento County SELPA's AB602 funding model. A charter school will not be eligible for special education funds in excess of the amount of state and federal funds to which they would be entitled if they were operating as an independent school district.
- Represent the needs of the charter school in the SELPA's governance structure.
- Be responsible for ensuring that all eligible students enrolled in the charter school receive special education and designated instructional services in a manner consistent with applicable state and federal law.

- Be responsible for procuring and funding appropriate special education services wherever the student may reside. The chartering entity 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 chartering entity and the charter school may enter into agreements whereby the charter school agrees to pay for the excess costs associated with providing special education services to identified students, including the administration of special education programs. Where the chartering entity is a district, the charter school should be held fiscally responsible for a fair share of any excess cost, not funded by state or federal resources, which would have an impact on district general funds and which are due to the requirement to provide special education services throughout the district.

**B. Charter school As An LEA Within the SELPA (*Applies to El Dorado County SELPA*)**

A charter school may apply to become an LEA for the provision of special education services. The SELPA Executive Committee will determine whether the charter school has provided the requisite assurances and satisfied the criteria for LEA status established by the SELPA. The application for a charter school will be the same as for any other LEA wishing to be a member of the SELPA. (E.C. §47645) Once granted LEA status, a charter school will participate in the same manner as other members in the governance of the SELPA.

**Applying for LEA Status with the SELPA**

A school district, county office of education, or a charter school may apply to become a member of the SELPA for the provision of special education services. An applicant must request an application from the SELPA on or before January 1 of the school year preceding the school year in which the charter school or LEA anticipates operating as an LEA within the SELPA. The applicant must submit a completed application to the SELPA on or before March 15 of the school year preceding the school year in which the charter school or LEA anticipates operating as an LEA within the SELPA.

The SELPA Executive Committee will determine whether the applicant has provided the requisite assurances and satisfied the criteria for LEA status established by the SELPA. An application for a charter school will be the same as for any other LEA wishing to be a member of the SELPA. (E.C. §47645) Once granted LEA status, the applicant will participate in the same manner as other members in the governance of the SELPA.

The applicant may be included as a member LEA of the SELPA if it is determined that the applicant has met the SELPA criteria, as well as meeting the requirements set forth in this policy and the Local Plan. There requirements include:

- Provide assurances that all individuals with exceptional needs (ages birth to 22) shall have access to appropriate special education programs and services;
- Provide evidence to establish that the charter school/LEA receives adequate revenue to provide a full continuum of special education programs and related services

including, but not limited to, instruction, services, transportation, non-public school/agency placements, inter/intra SELPA placements, due process proceedings, complaints, and attorney fees.

- Provide assurances that each certificated employee is appropriately credentialed to serve in his/her assignment;
- Provide necessary staff as required to meet state and federal mandates;
- Follow all SELPA agreements, policies, and procedures;
- Utilize SELPA approved forms;
- Provide transportation as indicated on the student's IEP;
- Indemnify and hold harmless each of the member entities;
- Provide assurances that students will be instructed in a safe environment;
- Provide a copy of the charter school's original petition, as approved by its chartering entity, and any subsequently approved amendments to the petition (charter schools only);
- Provide assurances that they will comply with Section 504 and the Americans with Disabilities act (ADA) and that the facilities used by the charter school/LEA do not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program;
- Provide assurances that they will follow all federal and state laws regarding discipline and change of placement of special education students.

Once deemed an LEA, the charter school district, county office of education, or charter school, like all other members of the SELPA, shall:

- Participate in governance of the SELPA in the same manner as other districts within the SELPA as specified in the SELPA local plan.
- Participate in and receive regionalized and administrative 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 and as specified in the SELPA allocation plan. Any available federal funds will be dispersed to a new charter school or LEA member, in the same manner as other members of the SELPA, one year in arrears and calculated based on applicable special education counts.
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction services, transportation, non-public 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.

- Place special education students in programs administered by other SELPA members only with the expressed consent of the receiving entity.

Special education apportionment must be used solely for the purposes 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 school districts, county offices of education and/or charter schools for the provision of services.

#### Recommended Administrative Guidelines for Charter schools Policy

1. The Governing Board of each Sacramento County SELPA member LEA shall not approve a petition for creation of a charter school unless the petition contains adequate assurances that the proposed school will comply with all provisions of federal and state law related to the rights of students with disabilities and their parents. (Individuals with Disabilities Act).
2. The Governing Board shall require that a petition include the means by which the charter school intends to serve students with disabilities. This will include a statement regarding the intent of the charter school to be deemed an LEA or a public school within a school district for the purpose of providing special education services. It is strongly advised that the petition should indemnify the sponsoring district for the cost of services to be provided to any students enrolled in the charter school.
3. A charter school may purchase special education services from the SELPA, county, or any other appropriate source in order to provide the full continuum of placement options to students with disabilities. While the county office of education and school districts within the SELPA offer services to all eligible students whose parents reside within the geographic boundaries of the SELPA, services to students whose parents reside outside the SELPA's geographic area shall be individually negotiated. The county office of education, as well as districts within the SELPA, retain the right to bill for services provided to students attending charter schools whose parents reside outside the SELPA. Charter schools located outside of Sacramento County serving students who reside within the SELPA may not access any programs or services without specific written agreement between the charter school and the entity providing the service. Such services are not limited to educational services but may include extra-curricular activities and programs.
4. The petition shall contain assurances that no student will be denied admission to the charter school based on a disability or lack of available services; however, charter schools may establish criteria for admission related to their programming and instructional focus.
5. Prior to approving a charter school petition, the superintendent or designee of the charting entity shall consult with the SELPA Director regarding the provision of special education services to students enrolled in the prospective charter school.

6. The charter petition, or accompanying Memorandum of Understanding, shall address the allocation of excess costs and/or the charter school's fair share of special education revenue or deficit on the district general fund.
7. The chartering entity (if the school is deemed a public school of the entity) or the charter school itself, if deemed an LEA, shall be responsible for ensuring that special education services are provided in accordance with the student's IEP.
8. Consistent with current practice within the SELPA, a charter school IEP team may place a student in a special education program provided by another educational entity (the COE or another district or SELPA) with the concurrence of the receiving entity. Upon such placement, the placing entity will be responsible for any supports and services needed by the student to benefit from the educational program, and such costs set forth in #3 above.
9. A district IEP team may place a student in a charter program only with the agreement between the educational entities (including the Chartering Agency) and with parental consent.
10. Upon mutual agreement between a charter school and a school district within the SELPA, a district may elect to purchase services from a charter school in order to meet the needs as specified on the IEP of a student enrolled in a district program.
11. The chartering entity will be allocated special education funds that are generated by a charter school that is deemed a public school, in compliance with the SELPA AB602 funding allocation plan and SELPA policies.
12. The chartering entity will represent the needs for charter schools that are deemed public schools in the SELPA governance structure as defined in the Local Plan. The charter school will receive SELPA and regionalized services in the same manner as other schools within the chartering entity.
13. Charter schools that are deemed an LEA will be allocated special education funds in accordance with the Sacramento County SELPA's AB602 funding allocation plan.

**PROCEDURES AND DEADLINES  
TO APPLY FOR LEA MEMBER STATUS IN  
THE SACRAMENTO COUNTY SELPA**

A school district, county office of education, or a charter school may submit a written request to become an LEA member in the Sacramento County SELPA. The Sacramento County SELPA will provide the applicant with the application, which the applicant will complete and return to the Sacramento County SELPA. The Sacramento County SELPA will review the application and decide to approve or disapprove the application. The Sacramento County SELPA will not treat a request by a charter school to participate as an LEA in the Sacramento County differently from a similar request made by a school district or a county office of education. (Ed. Code §47645 and 56203.)

The following deadlines apply for an applicant wishing to join the SELPA as an LEA the following school year. During the application process, an applicant charter school will continue to be deemed a public school of the chartering district.

<b>Action</b>	<b>Deadline</b>
The applicant will submit a written request for the application to join the Sacramento County SELPA as a LEA member.	January 1
The Sacramento County SELPA will provide an application to the requesting applicant.	February 1
The applicant will submit its completed application to the Sacramento County SELPA	March 15
The Sacramento County SELPA Administrator and/or staff will review the application and develop a written recommendation.	30 days after receipt of application
The applicant and members of the Council of Superintendents will receive copies of the written recommendation.	10 days prior to item appearing on agenda
The Council of Superintendents will take action to approve or disapprove the applicant charter school as a LEA member.	60 days after receipt of application

If approved, the applicant becomes an LEA member of the Sacramento County SELPA effective July 1 of the school year in which final approval was granted. Any available federal funds will be dispersed to a new LEA member in the same manner as other members of the SELPA, one year in arrears and calculated based on applicable special education counts.

If disapproved, the Sacramento County SELPA Administrator will provide the applicant with a written finding that delineates the reason(s) for disapproval.

**Matrix: Voting Structure in the SELPA  
Based on Grouping by Size of LEA Members**

<b>Size of LEA Group<sup>1</sup></b>	<b>LEA Members Included in the Group</b>	<b>Number of Votes For the Group</b>
Over 10,000 Students	Twin Rivers Unified ( <b>31,463</b> ) Natomas Unified ( <b>13,334</b> )	THREE VOTES TOTAL
Between 5,000 and 9,999 Students	Center Joint Unified ( <b>4,849</b> )	THREE VOTES TOTAL
Between 2,000 and 4,999 Students	Galt Joint Union Elementary ( <b>3,855</b> ) River Delta Joint Unified ( <b>2,302</b> ) Galt Joint Union High ( <b>2,287</b> )	THREE VOTES TOTAL
Between 1,000 and 1,999 Students	Robla Elementary ( <b>1,980</b> ) SCOE ( <b>1,092</b> )	TWO VOTES TOTAL
Under 1,000 Students	Arcohe Union Elementary ( <b>414</b> ) Elverta Joint Elementary ( <b>267</b> )	ONE VOTE TOTAL

**Additional Provisions**

- Voting power is determined by the size of the member LEA. The above voting power shall be revised to incorporate a new LEA member or to reflect any change from one LEA Group to another. Such revision will occur before the LEA officially joins or changes Groups.
- The total votes for each Group will be according to majority determination among the LEAs in the Group.  
For example, if with regard to a particular issue, all three of the votes for the Group will be “yes” votes.
- Ties within a Group will be broken by the largest LEA in the Group.  
For example, if Archoe Union Elementary votes “yes” and Elverta Joint Elementary votes “no” with regard to a particular issue, the larger of the two will decide the vote.

<sup>1</sup>Based on the latest P-2 ADA filed with the California Department of Education.