

# **Policy and Procedures For IEP Team Referral To A Non Severe Special Day Class Placement**

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Revised, OSC, May 6, 2020**

## **MARIN SPECIAL EDUCATION LOCAL PLAN AREA**

### **POLICY and PROCEDURES FOR IEP TEAM REFERRAL TO A NON SEVERE SPECIAL DAY CLASS PLACEMENT**

#### **POLICY**

The purpose of this policy is to identify an appropriate special day class placement option(s) and to encourage the orderly placements of students in special day classes other than those operated by their District of Special Education Accountability (DSEA). To maintain maximum flexibility in the Marin Special Education Local Plan Area (SELPA), it will be necessary for districts which operate special day classes to be willing to accept students from other districts when their special day class is the appropriate one for the individual student in question. Placements shall be activated through a coordinated Individual Education Program (IEP) Team meeting involving the “sending” and “receiving” districts subject to the attached procedures. Placements under this policy refer to any special day class operated within the Marin SELPA and operated by a SELPA Local Education Agency or the Marin County Office of Education. Districts are strongly encouraged to utilize SELPA sponsored local mediation prior to utilizing this policy.

While encouraging collaboration and cooperation on the part of districts, it is understood that the primary responsibility for referral, placement, program, and due process issues remain with the District of Residence. It is further recognized that the implementation of this policy and procedures needs to be responsive to State and Federal regulations for placement.

Special education students may be placed into any appropriate class by a joint IEP team, or through the interim placement process, consisting of representatives of the “sending” and “receiving” districts in a special day class program outside their DSEA. For purposes of this policy the student shall be considered to be enrolled in the district of service and remains a resident of the district of residence. (When the DSEA cannot be determined for an incarcerated youth receiving services through Mental Health, refer to the addendum attached to this policy.)

Parents’ requests for an inter-district transfer outside the IEP process are subject to the requested district’s inter-district transfer policy.

Finally, this policy does not apply to the transfer of students from one school to another within the same operating district.

## **PROCEDURES FOR INTER-DISTRICT SPECIAL DAY CLASS PLACEMENTS**

### **Definitions**

District: For purposes of this policy, the Marin County Office of Education shall be considered a district.

The “sending” district is the district of residence.

The “receiving” district is any other district that operates a special day class.

### **I. Procedures for “Sending” and “Receiving” Districts**

**Parents/guardians are an integral part of the placement process and will be involved whenever consideration for a change of placement or interim placement occurs.**

- A. The Advisory Steering Committee (ASC), at its monthly meeting, shall determine the number of special day class pupils that constitute a full caseload for each special day class.
  1. Using numbers provided by the SELPA, each grade area (K-5, 6-8, 9-12, RSP/SDC & Transition) will receive a definition of full, for the purpose of implementing this policy.
  2. Prior to ASC agreeing to change the definition of “full” for a particular grade level, all special day classes at that level need to be at or above that definition.
- B. The administrator of the “sending” district shall:
  1. Determine through consultation with the SELPA Director if a potential “receiving” district’s special day class is below the definition of full prior to communicating with the administrator of the “receiving” district(s).
  2. Consider the following factors when determining if a transfer to a special day class or an interim placement under this policy is needed:
    - a. The “sending” district does not operate an SDC at the student’s age/grade level.
    - b. The “sending” district’s appropriate special day class(es) is at or greater than the ASC determined full caseload.
    - c. The unique aspects of the student’s needs or disabilities require an out-of-district special day class.
  3. Upon obtaining permission for “Release and Exchange of Information” from the parents, ensure that all of the following data is accurate and presented to the “receiving” district(s) for review:

- a. Student information including:
    - Student Name
    - Birth date
    - Parent names
    - Address
    - Phone Number
  - b. Current assessments for all areas of suspected disabilities. (Current means within a maximum of two-calendar years.)
  - c. If a student is due for a three-year evaluation within five months before the impending transfer or interim placement, the “sending” district will complete a comprehensive assessment by the due date, unless the “receiving” district agrees to conduct the three-year evaluation.
  4. Notify the parent of the student and the administrator of the potential “receiving” district(s) of the request to consider a student for placement.
  5. After obtaining consent for assessment from the parent, the administrator of the “sending” district will provide an opportunity for a staff member from the potential receiving district(s) to observe the student in question.
  6. Provide copies of all assessment reports and IEPs to the appropriate administrator(s) of the “receiving” district(s) at least five (5) school days in advance of parent’s visit pursuant to paragraph 8 below.
  7. Notify the SELPA Director or designee of the intent to utilize this policy by providing duplicate copies of all information presented to the receiving district(s).
  8. Coordinate with the “receiving” district(s) appropriate administrator(s) the opportunity for parents to visit potential program placements prior to the scheduled joint IEP Team placement meeting.
  9. Coordinate the scheduling and notification of parents and staff members of the “sending” district and the identified “receiving” district of the joint IEP Team placement meeting.
  10. Conduct the joint IEP Team placement meeting and assume all duties related to an IEP Team meeting.
- [Steps 5-10 may not be appropriate or utilized in the case of an interim placement.]*
11. Forward all student records to the selected “receiving” district as soon as possible after the Joint IEP Team decision or interim placement is reached and parental consent is received.

12. Coordinate with the selected “receiving” district the arrangements for transportation of the student to the new school. In all cases, the DSEA is financially responsible for all transportation costs.

13. Commit DSEA attendance at all subsequent IEP team meetings. The District of Service coordinates the meeting with the DSEA.

C. The administrator of the “receiving” district shall:

1. Consider the following factors when determining that its special day class is not appropriate for the student.
  - a. The “receiving” district does not operate a special day class at the student’s grade level.
  - b. The “receiving” district’s special day class is at or greater than the ASC determined full caseload. (If any operator is below the definition of full for a particular grade level, the receiving district shall enroll the student if the IEP Team has determined it is an appropriate placement.)
  - c. The “receiving” district site lacks appropriate mainstreaming opportunities for the student.
  - d. The unique aspects of the student’s needs or disabilities including:
    - Frequency of discipline referrals
    - Frequency of suspensions
    - Behavior plan that cannot be implemented on site.
    - Unique components of the special day class
2. Send a representative to all Joint IEP Team meetings called for the purpose of this policy.
3. Assume case management responsibilities for the student.
4. Assume responsibility for ensuring that annual and triennial assessments are completed for the student, unless the DSEA administrator indicates a desire to assume responsibility for annual and/or triennial assessments.
5. Invite appropriate DSEA staff to Annual Review IEP Meetings.

CI. To facilitate placement of the student in a timely fashion the following timelines shall apply. (At any time the “sending” district or the “receiving” district may request a reduction in the days allowed within the timeline to expedite implementation of this policy. When deemed necessary, the SELPA Director or designee may facilitate an accelerated implementation of this policy by reducing the days allowed within the timeline.)

1. The “receiving” district(s) will acknowledge receipt of the referral or request for interim placement by either phone or fax within five (5) business days of receiving the referral.
2. The “receiving” district(s) will have fifteen (15) business days to make a decision regarding whether placement may be appropriate and to notify the “sending” district of that decision. All requests for additional information or observations must be completed within the 15 days after receiving consent for assessment from the parent.
3. The “sending” district will arrange for the joint IEP Team placement meeting to be scheduled no later than twenty (20) business days (30 days in the case of an interim placement) after receiving notice from the “receiving” district(s) that the student is appropriate.

## **II. Procedures For Resolving An Inability to Find Appropriate Placement**

When the “sending” district cannot arrange for an appropriate placement, the following procedures will apply:

### **Level 1.**

- A. Within five (5) business day of the decision to utilize any these procedures, , the administrator of the “sending” district shall:
  1. Notify the SELPA Director or designee, in writing, of the following: (1) the need for an inter-district or interim placement, (2) which potential receiving districts have rejected the student and (3) the reasons for the rejection.
  2. Forward all current/updated information to the SELPA Director or designee.
- B. The SELPA Director or designee shall:
  1. Review all assessment reports, IEPs, and procedures and request that the “sending” district provide any missing information
  2. Review the current definition of “full” as determined by ASC respective to which special day classes are below the definition.
  3. Determine the appropriateness of the request as determined by the needs of the student, by evaluating compliance with the procedures outlined in this policy and by the identified need for a special day class. NOTE: Any placement decision is the prerogative of the IEP Team. Placement into a special day class for purposes of implementing this policy must be so indicated on the IEP.
  4. Notify the potential “receiving” district(s) of the need to re-consider a student for placement and convene a meeting of the “sending” district and the potential “receiving” district(s) to attempt to resolve the issues. As a result of that meeting, determine if a special day class placement under this policy is warranted, identify the

appropriate “receiving” district and direct the designated “receiving” district to attend an IEP Team meeting to place the student in that district’s special day class.

5. Under special circumstances, the SELPA Director or designee may request that each party agree to mediate a resolution to the placement request prior to the utilization of this policy.

## Level 2.

- A. In the event either the “sending” district or the “receiving” district disagrees with the decision of the SELPA Director or designee, the parties involved may appeal to the Operational Steering Committee (OSC). This appeal must be submitted to the SELPA Director or designee within five (5) business days of the decision; the appealing district may request a special meeting of OSC to hear the appeal.
- B. The OSC will do the following:
  1. Review the assessment data and any other documentation relevant to the case in question.
  2. Render a decision using the procedures outlined in the Local Plan. The decision will be final unless either party to the dispute invokes the dispute resolution process in the Marin SELPA Local Plan, or unless revised in a Due Process Hearing or court order.

### **III PROCEDURES FOR DETERMINING “EXCESS COSTS” ARISING FROM INTERDISTRICT SPECIAL DAY CLASS PLACEMENTS**

- A. Administrators from the “sending” and the “receiving” districts shall enter into an agreement for excess costs prior to the IEP Team meeting placing the student into a special day class. A written agreement shall be completed outlining fiscal responsibility for additional costs. Such agreement may also include any costs resulting from Due Process or Compliance issues.
- B. Either district may request assistance from the SELPA Director or designee in the development of the excess costs agreement. If an agreement regarding excess costs between the “sending” and “receiving” district cannot be reached either SELPA level local mediation or the dispute resolution process in the Marin SELPA Local Plan shall be utilized.
- C. Special day class costs shall include everything normally provided to the “receiving” district’s special day class including but not limited to the following:
  - Special day class teacher
  - Instructional assistants
  - Instructional supplies
  - Speech therapy and normal psychological services
  - Case management

- Note: The “sending” district and “receiving” district may enter into an agreement for extraordinary case management costs prior to the IEP meeting placing the student in the special day class.
- Administrative support
  - Note: The “sending” district and “receiving” district may enter into an agreement for extraordinary administrative support costs prior to the IEP meeting placing the student in the special day class.
- Mainstreaming opportunities

D. The DSEA is financially responsible for the following costs.

- 1:1 or additional classroom Aides
- Behavior Intervention Plan Development
- specialized equipment
- Physical or Occupational Therapy services
- Adapted P. E. services
- Interpreters
- Home instruction
- Transportation
- Other NPA assessments or services
- Independent educational evaluations
- Unusually high level of DIS services

(Defined as those situations where the provision of service will place the service provider over the State or district defined caseload, or where a district has had to hire additional staff, including a Non Public Agency, in order to meet the identified need at the time of initial placement into the “receiving” district.)

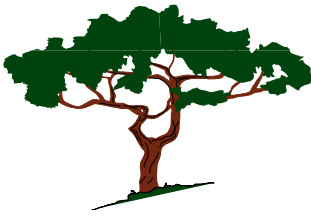
### **Legal References**

34 CFR §300.300 FAPE  
 34 CFR §300.342 IEP  
 34 CFR §300.343 IEP Meetings  
 34 CFR §300.344 IEP Team  
 34 CFR §300.345 Parent Participation

California Education Code §56340-56347

*Instructional Planning and Individualized Education Program*





# MARIN SPECIAL EDUCATION LOCAL PLAN AREA

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## Memorandum of Understanding IEP Team Referral to a Special Day Class Placement

The Marin SELPA "Policy and Procedures for IEP Team Referrals to a Special Day Class Placement" outlines those services provided by an LEA for a student in a Special Day Class (SDC) that can be considered excess costs. SDC costs provided by the operator shall include the SDC teacher, the Instructional Assistant(s) assigned to the SDC, instructional supplies, speech therapy, typical psychological services, case management, administrative support and mainstreaming opportunities. The district of special education accountability is financially responsible for 1:1 or additional classroom instructional assistants, the development of a Behavior Intervention Plan, specialized equipment, physical therapy, occupational therapy, adapted physical education, interpreters, home instruction, transportation, other Non Public Agency services and independent educational evaluations. Furthermore, the district of special education accountability is financially responsible for any provision of service that will place the operator over the State or district defined case load, or where the operator has had to hire additional staff, including a Non Public Agency, in order to meet the identified need at the time of initial placement into the operator's SDC. In addition to the above, the district of special education accountability and the SDC operator may enter into an agreement for extraordinary costs relating to administrative needs, case management or other related services.

In situations where an operator has been named as a respondent to due process, the district of special education accountability and the operator may enter into an agreement for any and all subsequent costs.

### AGREEMENT

By signing below it is understood and agreed that the district of special education accountability will be responsible for the delineated excess costs incurred from providing services to the student indicated. The district of special education accountability may request appropriate documentation of services provided and resulting costs.

STUDENT: \_\_\_\_\_ DOB: \_\_\_\_\_

DISTRICT OF SPECIAL EDUCATION ACCOUNTABILITY: \_\_\_\_\_

DISTRICT OF SERVICE: \_\_\_\_\_ SCHOOL OF SERVICE: \_\_\_\_\_

EXCESS COST SERVICE PROVIDED BY DISTRICT OF SERVICE	EXCESS COST
<b>TOTAL DUE:</b>	

\_\_\_\_\_  
*Signature, District of Special Education Accountability  
Superintendent or Designee/Date*

\_\_\_\_\_  
*Signature, District of Service Superintendent or Designee/Date*

## ADDENDUM – PROVISION OF SERVICE

The Marin SELPA office provides support to Local Educational Agencies in ensuring that students receive those services identified in an IEP. Through the Local Plan, the SELPA is responsible for coordinating the identification, assessment and IEP process for licensed children's institution (LCI) or foster family home special education students who require non-public school services. The Marin County Office of Education has been identified as the service provider for these students. Special education students residing in LCI or foster family homes not requiring nonpublic school services are the responsibility of the district in which the LCI or foster family home is located.

To facilitate placements under the specific circumstances outlined below, the responsibility for the identification, assessment and IEP process for students requiring a specific type of non public school placement will be the direct responsibility of the SELPA office.

For the SELPA office to be considered the service provider, all of the following parameters must apply:

1. The student must have been identified as a ward of the court;
2. The student must be incarcerated within Marin.
3. The DSEA is not in Marin County, and cannot be determined.
4. Placement into an out of state facility must be recommended by Community Mental Health.

### Staffing:

The SELPA office may contract with any available LEA within Marin County to provide the appropriate IEP Team services. This may include assessment team members and classroom staff.

### Funding:

A separate line item in the Regionalized Services section of the SELPA Budget shall be established to provide an appropriate level of funding for identified SELPA staff needs. Funding for student placements shall be through a separate Fiscal Allocation Plan Set Aside, and shall be only for identified IEP services, which may include transportation. Funding above the approved operating budget is at the discretion of the Operational Steering Committee.

Funding will not be provided for residential costs unless ordered by a court of law.

Cessation of Services:

Upon receipt of a diploma, cessation of legal responsibility, change in status (including aging out) or the identification of a responsible District of Residence in Marin County, the Marin SELPA office will transfer responsibility to the appropriate agency.