



Policy MCS-04-2020.18

Program Transfers: Policy and Procedures

**Adopted by OSC April 24, 2015
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May 22, 2024**

Pursuant to California Education Code Section 56207, special education programs may be transferred from an operating Local Educational Agency (LEA) to a receiving LEA.

Definition of a Program Transfer

A change to special education programs operated within the SELPA shall be considered a program transfer when the following occurs:

- A transfer of students from one or more classes operated by an LEA which, when combined, form an intact, identifiable class or an itinerant caseload for which the LEA proposing the transfer.

A program transfer is not required when students who are served in a program matriculate and/or return to an educational program operated by their district of special education accountability (DSEA) via the Individualized Education Program (IEP) process.

Program Transfer Timelines

Pursuant to Section 56207(b) of the California Education Code, the date on which the transfer will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving local educational agency has informed the local educational agency operating the program and the Operational Steering Committee. The Operational Steering Committee has the authority to waive the minimum year and a day timeline for the implementation of the program transfer. A request for a waiver of the timeline shall be submitted to the SELPA office and the sending LEA no later than February 1st in order to permit the LEA to meet March 15th notice requirements. In the case of a program transfer that is a reorganization, a revised Local Plan must be filed with California Department of Education (CDE) before July 1st of the fiscal year when the new organization takes place. The CDE recommends submitting the proposal at least sixty (60) days in advance to allow adequate time for review and finalization.

Program Transfer Procedures

The LEA proposing the transfer shall submit a request in writing to the affected LEA and the SELPA Office prior to June 30th of any given school year.

The LEA proposing the transfer shall submit a completed *Program Transfer Assurances* to the SELPA Office prior to October 1st of the school year prior to the program transfer taking effect. Information contained in the *Program Transfer Assurances* shall include all of the program information required in section 56207(a) of the California Education Code.

The *Program Transfer Assurances* shall be approved by the Operational Steering Committee on or before February 1st of the school year prior to the program transfer taking effect.

Final written notification of the decision to transfer and operate the program approved by the Operational Steering Committee shall be submitted to the current operator and the Marin County SELPA by March 1st of the year prior to transferring the program(s).

Transfer Requirements

Pursuant to section 56207(a) of the California Education Code, in order for a proposed program transfer to be approved by the Operational Steering Committee, all of the following elements must be identified by the LEA proposing the program transfer:

- Is the program transfer consistent with pupil needs?

- Will the program transfer ensure the availability of a full continuum of services to affected pupils?
- Will the program transfer impact the functional continuation of the current Individualized Education Programs (IEPs) of all affected pupils?
- Will the program transfer allow the provision of services in the least restrictive environment from which affected pupils can benefit?
- The degree to which the program transfer affects the maintenance of all appropriate services?
- The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
- The means through which parents and staff were represented in the planning process.

Funding

The SELPA's member LEAs shall be informed on or before January 1st of any fiscal implications of the resulting program transfer.

Facilities

The transfer of facilities due to a program transfer shall be addressed through the SELPA's Facilities Plan.

Materials and Equipment

All materials and equipment utilized by the sending LEA in the program to be transferred shall be offered to the receiving LEA. The receiving LEA may decline or accept the materials and/or equipment in whole or in part. Any material or equipment purchased with Low Incidence funds is the property of the California Department of Education (CDE) and shall remain with the student. Specialized equipment purchased by the sending LEA for a particular student shall remain with the student during the program transfer. The specialized equipment shall become the property of the receiving LEA.

Employee Transfer Procedures

When a program transfer rises to the level of a "reorganization", requiring revision to the Local Plan, certificated and/or classified employees who have been terminated, reassigned, or transferred as a result of the program transfer will be accorded the rights and entitlements in Education Code sections 44903.7 and 45120.2.

A program transfer is identified as a reorganization based on consideration of all of the following factors:

- Will the membership in the SELPA change?
- Will the SELPA function as it did before?
- Are the changes to the SELPA structure significant?
- Will the change result in modification to the Local Plan that shall require approval by the California Department of Education prior to implementation?

When the program transfer fits the above parameters and is deemed a reorganization, terminated, reassigned, or transferred employees are entitled to "first priority" in being informed of and in filling vacant special education positions within the receiving LEA. First priority means more than mere consideration, but less than a right to re-employment. All terminated, reassigned, or transferred employees shall be informed and considered for employment by the receiving LEA

before outside applicants.

Certificated Employee Transfer Procedures

When a program is being transferred from one LEA to another, the receiving LEA shall observe the following procedures consistent with California Education Code Section 44903.7:

- Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided below, in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after the date of reassignment or transfer and may be waived by the employee during that time period.
- A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated and was employed, in any other county office or school district that provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

Classified Employee Transfer Procedures

When a program is being transferred from one LEA to another, the receiving LEA shall observe the following procedures consistent with California Education Code Section 45120.2:

- A classified employee who is reassigned or transferred as a result of the reorganization of special education programs has priority, except as provided below, in being informed of and in filling classified positions in the classifications in which the employee was employed before the reassignment or transfer. This priority expires 24 months after the date of reassignment or transfer and may be waived by the employee during that time period.
- A classified employee who served in a special education program in a school district or county office and is terminated from his or her employment by that school district or county office pursuant to Section 45114 as a result of the reorganization of a special education program has first priority in being informed of and in filling vacant classified positions for which the employee is qualified or was employed, in the county office or school district that operates the reorganized special education program. Permanent employees have the first priority right reappointment as provided in this section for 39 months from the date of termination. Probationary employees have the first priority right to reappointment as provided in this section for 24 months from the date of termination.

Seniority for Transferred or Reassigned Employees:

When the receiving LEA hires an employee that has been terminated, reassigned or transferred due to a reorganization the following shall occur:

Certificated

Consistent with California Education Code Section 44903.7, the reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of

the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district that undergoes the reorganization. These employees shall have the same status with respect to their seniority or classification with the new employer, including time served as probationary employees.

Classified

The reassignment of an employee, transfer of an employee, or new employment of an employee caused by the reorganization of special education programs does not affect the seniority or classification that a classified employee already attained in any school district that undergoes the reorganization. The employee has the same status with respect to his or her seniority or classification with the new employer, including time served as a probationary employee.

Salary placement for Transferred or Reassigned Employees

Certificated

The total number of years served as a certificated employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

Classified

The total number of years served as a classified employee with the former school district or county office shall be credited, year for year, for placement on the salary schedule of the new school district or county office.

Disputes

All disputes within the SELPA over the transfer of special education programs will be addressed through the dispute resolution procedures described in the Governance section of the SELPA Local plan.

Legal Reference:

Education Codes 56207, 44903.7, 45120.2

