



**SELPA Policy C-18**

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

Adopted by OSC January 23, 2004

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## **A. Rationale**

This policy applies to all Charter Schools that are chartered by educational entities located within the geographic boundaries of the member districts of the Marin SELPA. This policy also applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the Marin SELPA (EC47605.5 (k)(1)). As students enrolled in charter schools are entitled to special education services as required by State and Federal funding, the charter schools will comply with all requirements of state and federal law regarding provision of special education services EC 56000 et seq., Individuals with Disabilities Education Act (20 U.S.C. Chapter 33). Children with disabilities and their parents shall retain all rights under the IDEA.

## **B. Policy Statement**

Special education and related services shall be provided to all eligible individuals within the jurisdiction of the Marin SELPA in accordance with the Marin SELPA Local Plan. Students enrolled in charter schools chartered within Marin County shall receive services in a manner similar to students enrolled in member districts with the Marin SELPA. Funding for special education services, participation in the governance structure and responsibility for provision of services shall be based on the status of the individual charter school.

For the provision of special education services, charter schools may be categorized as either a separate LEA or a Public School within a district. All approved charter schools will be deemed public schools within a district unless the charter school has applied for and has been deemed an LEA by the Operational Steering Committee of the Marin SELPA and approved by the County Superintendent of Schools.

### **1. Marin SELPA Involvement with Approval and Renewal of Charter Schools**

Prior to a district's or county offices 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 status of the charter school.

The chartering entity will provide assurances that all eligible students, including those students enrolled in the charter school, will receive appropriate special education services. Prior to approval of a petition for a charter school, the charter school must explain in writing their description of how special education services will be provided consistent with the Local Plan and/or policies and procedures, including the Fiscal Allocation Plan.

## 2. Status of Charter Schools

For the purposes of provision of special education services, charter schools may be deemed either an LEA or a public school within the chartering district. All approved charter schools will be deemed public schools within a district unless the charter school has been deemed an LEA by the Operational Steering Committee of the Marin SELPA and approved by the County Superintendent of Schools.

### a. Public School Within a School 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. The chartering district will represent the needs of charter schools, like other schools with 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 reside anywhere in the State of California.

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 should 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, consistent with notification requirements by districts of their intent to operate programs. Application must be made to the SELPA Director by February 1 of the school year preceding the school year in which the charter school anticipates operating as and LEA within the SELPA. The Operational Steering Committee will make the final determination whether the charter school has met all requirements of an LEA. These requirements include:

- Be located within the geographical boundaries of the Marin Special Education Local Plan Area.
- Provide a current operating budget in order to assure fiscal responsibility in accordance with Education Code 42130 and 42131.
- Provide assurances that students and staff will be instructed in a safe environment.
- Provide a copy of the original petition.
- Be responsible for any legal fees as it relates to the application and assurances process in becoming an LEA.
- Meet the terms of the Agreement Regarding the Organization, Implementation, Administration and Operation of the Marin Special Education Local Plan Area (Section 12-13, Appendix A).
- Meet the terms of all policies and procedures included in the Marin SELPA Local Plan.

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Once deemed an LEA, the charter school will be responsible for and entitled to the following:

a. Participate in governance of the SELPA in the same manner as other districts within the SELPA.

1. A charter school accepted as an LEA in the SELPA for purposes of providing special education will be considered to be represented on the Operational Steering Committee (OSC) by the region in which they are geographically located.

b. Receive state and federal funding for special education in the same manner as other districts within the SELPA.

c. Be responsible for all costs and liabilities 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.

### **C. Administrative Guidelines**

1. The governing board of each school district 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 law and implementing regulations related to the rights of disabled students and their parents (20 U.S.C. Chapter 33, the Individuals with Disabilities Education 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 specific reference as to whether the charter school intends to be deemed an LEA or a public school for the provision of special education services.

3. The governing board shall require that a petition contain assurances that no student will be denied admission to the charter school based on disability or lack of available services.

4. Prior to approving a charter school petition, the superintendent or designee of the chartering entity shall consult with the SELPA Director regarding the provision of special education services to students enrolled in the prospective charter school.
5. The charter petition, or an accompanying Memorandum of Understanding, or Business Services Agreement, will describe the charter schools participation in the allocation of excess costs and/or the charter school's fair share of special education encroachment on the district general fund.
6. Once admitted to a charter school, any special education services required by enrolled students will be provided by the chartering district, if the school is deemed a public school of the district, or by the charter school, if deemed an LEA.
7. Consistent with district placement requirements a charter school IEP team may place a student in a special education program provided by another educational entity, i.e., a county office or another district, only with agreement between responsible educational entities and parental consent. If a charter school IEP team places a student in a special education program provided by another educational entity, i.e., a county office or another district, the charter school will be responsible for any excess costs attributable to the placement on the same terms as applied to districts in any school year.
8. A district IEP team may place a student in a charter school program only with agreement between responsible educational entities and parental consent. Under such circumstances, the placing district will be responsible for any excess costs in accordance with the Local Plan.
9. The chartering district will be allocated all special education funds that are generated by a charter school that is deemed a public school. The chartering district will represent the needs of charter schools that are deemed public schools in the SELPA governance structure. The charter school will receive SELPA services in the same manner as other schools within the chartering district.
10. If the charter school wishes to be deemed an LEA, the approved charter school will apply to the SELPA Director for LEA status prior to February 1 of the preceding school year.

11. Charter schools that are deemed an LEA will be allocated special education funds in the same manner as other districts within the SELPA. Charter schools that are deemed an LEA will be included in the SELPA governance structure in the same manner as districts.

12. If the approval of a charter school requires a change in any SELPA policy, procedure or agreement, such change shall be adopted pursuant to the policy making process outlined in the SELPA Local Plan.

13. When a charter school operating within the jurisdiction of the Marin County SELPA has no affiliation with an LEA within the Marin SELPA, neither the Marin SELPA nor the local district within which the charter school is located has an obligation to reach agreement on provisions of special education services. If the charter school is granted by an entity outside of the Marin SELPA, provisions for programs and services will be determined through inter-SELPA agreements.

14. Charter schools may enroll students who reside outside of the Marin SELPA and the allocation plan shall not exclude such students, contingent upon the state funds following the student.

15. All state and federal funding for special education apportioned on behalf of students enrolled in charter schools shall be included in the Fiscal Allocation Plan adopted by the Marin SELPA.

16. Consistent with district requirements neither charter schools operating as LEA's or districts sponsoring charter schools can commit resources of the SELPA beyond those resources available through the approved Fiscal Allocation Plan.

17. Consistent with district requirements an LEA charter school may purchase services from a district or the county office of education in order to provide a full continuum of services and placement options for disabled students. The charter school purchasing services will pay for actual costs of the services including any costs in excess of the state and federal funding provided the charter school.

18. Consistent with district requirements agreements with charter schools operating as an LEA and agreements with charter schools that are public schools within a district should include the following statements and/or intentions:

- a. The charter school will implement a Student Study Team process, a regular education function, to monitor and guide referrals for Section 504 and special education services.
- b. That any student attending the charter school who is identified as potentially in need of Section 504 services shall be the responsibility of the charter school.
- c. Describes the process for notifying the district of residence and the chartering district whenever a special education student enrolls, becomes eligible, ineligible and/or leaves the charter school.
- d. Describes the process of transition to or from a district when a student with a current IEP enrolls in or transfers from the charter school.

19. The terms of this policy are severable. In the event that any of the provisions are determined to be unenforceable or invalid for any reason, the remainder of the policy shall remain in effect, unless mutually agreed otherwise by the members of the SELPA Operational Steering Committee (OSC). The SELPA OSC members agree to meet to discuss and resolve any issues or differences relating to invalidated provisions in a timely and proactive fashion.