CHAPTER 14

POLICY

14.2 PROVISION OF SPECIAL EDUCATION SERVICES TO STUDENTS ENROLLED IN CHARTER SCHOOLS

This policy applies to the following:

- Charter schools that are authorized by a Participating District or other Local Education Agency ("LEA") of the San Mateo County SELPA (at times, the "SELPA") and operate as a "public school" of their authorizing district. (Education Code §47641(b).)

- Charter schools that have applied and been accepted as an LEA member of the San Mateo County SELPA for the provision of special education and related services ("Participating Charter LEA"). (Education Code §47641(a).)

- Charter schools whose petition has been approved by the State Board of Education and for which the SBE has delegated its supervisorial oversight responsibilities, pursuant to Education Code section 47605(k), to a Participating District of the San Mateo County SELPA, and that either (1) operate as a "school" of their authorizing district for purposes of Education Code section 47641(b), or (2) have been accepted by the San Mateo County SELPA as a Participating Charter LEA for the provision of special education and related services consistent with Education Code section 47641(a).

Charter schools located within or outside of San Mateo County SELPA that seek to become a Participating Charter LEA of the SELPA, as described below, may apply to join the SELPA in accordance with the Local Plan. Charter schools shall be admitted as Participating Charter LEAs of the SELPA at the sole discretion of the SELPA Governing Board.

Policy Statement and Vision Regarding Provision of Special Education and Related Services by Charter Schools

As students enrolled in charter schools are entitled to special education services, charter schools in the SELPA shall comply with all state and federal laws regarding provision of special education services including under the Individuals with Disabilities Education Act ("IDEA") (20 U.S.C. Chapter 33). Students with disabilities enrolled in charter schools and their parents/guardians shall retain all rights under the IDEA and related California law. A charter school shall not discriminate against any pupil in its admission criteria on the basis of disability. A Participating District reviewing a 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. (Education Code §47647.)

If a charter school is operating as a "public school" of a Participating District for the provision of special education, the Participating District is responsible for the provision of special education and related services to students enrolled in the charter school consistent with Education Code section 47641(b), irrespective of the charter school students' districts of residence.

If a charter school is deemed a Participating LEA of the San Mateo County SELPA for the provision of special education and related services, the charter school, as a Participating Charter LEA (not the authorizing district), is responsible for providing special education and related services to students enrolled in the charter school. This responsibility also extends to placement and services provided to charter students placed by the Participating Charter LEA in a out-of-charter placement, such as in connection with a change in special education placement, including a disciplinary change in placement (*i.e.*, expulsion or interim alternative educational setting).

Charter schools must ensure the delivery of the full continuum of placement and services for students with disabilities. Special education and related services shall be provided to all eligible students within the jurisdiction of the San Mateo County SELPA in accordance with the SELPA Local Plan. Students enrolled in charter schools within the San Mateo County SELPA shall receive services in accordance with the IDEA and California state law. No Participating District's governing board shall grant a charter for a charter school that is subject to this policy unless the charter includes verifiable, written assurances that: (1) special education instruction and/or services shall be provided to all eligible students with disabilities enrolled in the charter school, in accordance with the SELPA Local Plan and applicable laws and regulations; (2) the charter school recognizes the responsibility to deliver services to any eligible student enrolled in the charter school, and (3) the charter school shall not seek assistance, reimbursement, or any other type of responsibility from a charter student's school district of residence who is a Participating District of the SELPA, unless otherwise provided by law or agreed upon in a Memorandum of Understanding ("MOU") as outlined in the Local Plan.

Prior to approving a petition to establish or renew any charter school, Participating Districts shall ensure charter school petitioner(s) consult with the Superintendent or designee of the authorizing district, and the SELPA Administrator, if the charter school is seeking or may seek to establish LEA status for special education purposes, to ensure

awareness of district and SELPA guidelines, policies, and timelines as they relate to special education and participation in the Local Plan.

Participation of Charter Schools in the SELPA

All charter schools will be deemed public schools of their authorizing Participating District, unless the charter is deemed an LEA for the purposes of compliance with federal law (IDEA) and for eligibility for federal and state special education funds because the petition includes, or the charter otherwise provides, verifiable, written assurances that the charter school will participate as an LEA in the SELPA for a period of time agreed upon by the SELPA Governing Board, or in another special education local plan area for the duration of the charter. (Education Code §47641(a).)

Charter schools that are "public schools" of a Participating District will be treated by the SELPA in the same manner as any other public school of a Participating District.

A charter school that is approved by the SELPA Governing Board to be a Participating Charter LEA shall participate in the SELPA in the same manner as other Participating LEAs. Therefore, Participating Charter LEAs shall contribute to, participate in, and receive the benefits of reimbursement from all SELPA fiscal pools and participate in any costs in the same manner as other members in accordance with the Local Plan.

Applications to Participate as a Charter LEA in the SELPA

An application to become a Participating Charter LEA must be made to the SELPA by **January 1** of the school year preceding the school year in which the charter school anticipates operating as an LEA within the SELPA. The application process for a proposed Charter LEA will be the same as any other LEA wishing to be a member of the SELPA. The SELPA Governing Board will make the final determination whether the charter school has the capacity and intent to meet all requirements of a Participating Charter LEA. The categorization as a Participating Charter LEA will become effective on the first day of the fiscal year (July 1) following final approval by the SELPA Governing Board.

Before the SELPA Governing Board approves the application for a charter school to become a Participating LEA of the SELPA, the charter school must provide verifiable written assurances of the following:

1. Compliance with the IDEA, Section 504, and the American with Disabilities Act (ADA). The facilities used by the charter school shall also be ADA compliant and shall not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program;

2. A viable and detailed plan for facilities that will allow the charter school to appropriately deliver the full range of special education services. If the charter

school does not have a solid commitment for facilities at the time of consideration for SELPA membership, the SELPA Governing Board may grant a conditional approval of SELPA membership. Such conditional approval may require the charter school to show evidence of ADA-compliant facilities within thirty (30) days prior to the commencement of the school year and shall otherwise allow for the appropriate delivery of special education services. Failure to comply will result in the termination of the charter school's LEA member status with the SELPA;

3. Affirmation that the charter school is expected to utilize resources from its general fund for the costs of special education and related services to the fullest extent necessary to meet its obligations under federal and state law and this policy, should its allocation of state and federal special education funding through the SELPA be insufficient to cover its special education-related costs. This shall include, but not be limited to, costs of instruction, transportation, non-public school/agency placements, inter- and intra-SELPA placements, due process proceedings, complaints, and attorney fees;

4. Fiscal reserves to cover potential special education costs and affirmation that all costs incurred in the provision of special education services shall be the responsibility of the charter school. The charter school must have minimum available reserves as required by Title 5 of the California Code of Regulations, section 15450;

5. The charter school's obligation to "search and serve" (i.e., "Child Find") as required by IDEA;

6. The charter school understands its sole legal and fiscal responsibility to provide appropriate placement and services to eligible students, as is the case for all Participating LEAs, and that the charter school shall not seek defense or indemnification from the SELPA or from SELPA Particiapting LEAs;

7. The charter school may place students with disabilities in special education programs administered by other LEAs in accordance with SELPA policies and procedures for intra-SELPA or inter-SELPA transfers;

8. The charter school shall provide transportation as indicated on the student's IEP;

9. The charter school shall retain the services of an attorney with expertise in special education, as is required of all SELPA Participating LEAs, to address formal special education disputes (e.g., due process complaints);

10. The charter school shall be responsible for all other obligations, policies, and agreements as required by the Local Plan and SELPA policies and procedures;

11. All funds allocated to Participating LEAs, including Participating Charter LEAs, shall be expended only for special education and related services necessary to comply with federal and state laws and regulations;

12. The charter school LEA will assume funding responsibility for students placed in alternative educational settings due to disciplinary issues;

13. Charter LEAs serving secondary students with disabilities who are eligible for post-secondary services shall make available appropriate post-secondary services through the age of 22.

The following documents shall be submitted to the SELPA by the charter school:

1. Verifiable written assurances as outlined above;

2. A copy of the charter school's budget, which includes an account for special education that is sufficient to cover the costs of anticipated special education placements and services for charter school students, and a reserve for contingencies equal to that required for public school districts of the same size;

3. A copy of the charter (amended as appropriate) which describes the provision of special education and related services by the Charter LEA;

4. A copy of the charter school’s independent financial audit reports for the past two fiscal years (if applicable);

5. A document that provides income/expense reports for special education programs for the past two fiscal years (if applicable);

6. A copy of the charter school’s application and enrollment materials which reflects that the charter school can and will make available the full range of special education services for students enrolled in the charter school.

For new charter schools that have not commenced operations, projected average daily attendance (ADA) for the first year of operation will be used for the first fiscal year. For the second year of operation, prior year ADA will be used for the SELPA Funding Formula and an appropriate adjustment will be made for the first year of operation.

All charter schools that are deemed LEAs for special education purposes shall 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 eligible students with disabilities consistent with state and federal law and the Local Plan.

The SELPA Governing Board may grant conditional approval to charter schools that apply for LEA membership in the SELPA and meet the minimum requirements, for a period of time not to exceed one school year. SELPA staff will conduct a mid-year review of the Charter LEA to assist them in addressing any issues identified through monitoring activities conducted up to that time. The SELPA Administrator will present a report to the SELPA Governing Board by the April meeting of the school year in which the Charter LEA is under conditional approval. The SELPA shall conduct the following monitoring activities either directly or through use of an approved consultant:

1. Meet with the charter school staff to discuss the provision of special education and related services;

2. Observe the operations of the charter school's special education program;

3. Review policies and procedures pertaining to Child Find and the provision of special education and related services;

4. Attend individualized education program (IEP) meetings to ensure that the charter school is complying with state and federal procedural requirements and to verify that the charter school is offering appropriate services;

5. Review IEPs for compliance and implementation, and;

6. Review data submission to determine accuracy and timeliness of submission.

The Charter LEA shall pay for the actual costs incurred during this SELPA monitoring process. In order to ensure that the cost of these monitoring activities can be met, $15,000 shall be withheld from the special education apportionment for conditionally-admitted Charter LEAs and such funds will be used to fund the above activities. The SELPA Administrative Unit shall track the costs and if they are less than $15,000, the remaining balance will be returned to the Charter LEA. If the amount exceeds the $15,000, the excess costs will be withheld from subsequent allocations.

By the May SELPA Governing Board meeting of the school year in which the charter school is under conditional approval, the SELPA Governing Board may grant final approval of the Participating Charter LEA membership status or extend conditional status for another year. If final approval is not granted to the charter school after the second year, the chaCharter LEA's application shall be deemed denied; however, under exceptional circumstances, the SELPA Governing Board may grant a further extension of conditional status at its sole discretion.

If the approval of a charter school requires a change to the SELPA Allocation Plan, such change is subject to approval by the SELPA Governing Board.

Approved by Administrators Council 6/15/00
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