

Yuba County
Special Education
Local Plan Area

**Local Policies
and Procedures**

Updated June 2011

Identification, Assessment, Instructional Planning and Review Procedures

Referral, Assessment and Placement

Timelines

1. Referral: A referral may be initiated by a parent, teacher, student or other knowledgeable person. Procedures for handling referrals are to be determined in each school.
2. Assessment Plan: Within 15 calendar days of receiving the referral, an Assessment Plan is to be developed and a copy given to the parents. A copy of the Notice of Parent Rights shall be included with the Assessment Plan.

For students currently enrolled in a special education program, an Assessment Plan will be developed any time a student is to be re-assessed.

3. Parent Consent: No assessment shall be conducted unless the written consent of the parent is obtained. Parents have at least 15 days from receipt of the Assessment Plan to make a decision.

Assessments may begin immediately upon receipt of consent.

4. IEP Team: Within 60 calendar days of receipt of the signed Assessment Plan, a team meeting is to be held and an Individual Education Program (IEP) developed for an eligible student. Parents are to be invited to all meetings regarding the educational program for their child.
5. Program Placement: Written parent permission must be obtained prior to placement. The recommended program placement and services should begin as soon as possible from the date of parent's written approval of the IEP.
6. Annual Review: Each special education pupil's educational program must be reviewed at least annually.
7. Re-Evaluation: At least every three years, a special education student will be re-evaluated. Prior to the three year review, the IEP team shall review existing data on the child and determine what additional data is needed.

Interim Administrative Placements

When a special education student transfers from one SELPA to another, the following timelines apply:

1. Program Placement: To the extent possible, immediate implementation of the student's existing Individual Education Program will occur. An Interim Placement is completed immediately upon enrollment and parent signature is obtained.
2. Assessment: Information, records and reports from the prior district may be utilized to make program recommendations. Upon receipt of the signed Interim Placement, the team will conduct any additional assessment needed to determine educational needs and make program recommendations.
3. IEP Team Meeting: Within 30 days, the IEP team will meet to review the placement and develop new goals and objectives if needed.

Referrals

Parents will be contacted whenever there is a concern about their child's progress. Current law requires that all options in the regular program be tried before referral to special education. These options may include, but are not limited to, the following:

1. Referral to alternative programs within the school/district.
2. Modifications of the classroom program, including alternative instructional methods and materials.
3. Modification of the school program, including adjustment of school day.
4. Referral to professional and/or agency outside of the school.
5. Consultation with appropriate staff.

Written documentation must be included in the referral that appropriate alternatives and/or modifications have been considered.

All options are to be explored by the regular education staff prior to referral. The procedure to be followed when a student is first seen as having difficulty will be the responsibility of the regular school staff.

When all of the regular education options have been attempted but have not met with success, the student may be referred for special education consideration.

Referral Procedures

Referrals may be submitted by the following persons:

- Student Study Team comprised of teachers, specialists, etc.
- Parents
- Other service providers or knowledgeable persons

As stated earlier, a pupil shall be referred for special education services only after the resources of the regular education program have been explored and, where appropriate, utilized. All referrals should be submitted to the pupil's school of attendance. If the referred student is not attending a public school, or is not yet of school age, the referral should be made to the student's school of residence or the county office of education.

All referrals for special education and related services shall initiate the assessment process and shall be documented. When a verbal referral is made, staff of the school district, Special Education Local Plan Area (SELPA) or county office shall offer assistance to the individual in making a request in writing and shall assist the individual if the individual requests such assistance.

Referral Process

1. Review Referral

Upon receipt of a referral, the administrator/designee must initiate one of the following actions:

- a. If referral information is incomplete, contact the referral source and request additional information.
- b. If referral is complete, determine if the referral is appropriate for special education consideration, then take on of the following actions:
 1. If referral is appropriate for special education consideration, school personnel will notify the parent that a referral was made, develop an Assessment Plan and deliver the completed plan to the parents within 15 calendar days from receipt of the referral.
 2. If referral is determined to be inappropriate, a meeting will be scheduled with parent and referring party to address their educational concerns and review the purpose and scope of special education.

Note: A parent's referral for special education must be processed.

2. Develop Assessment Plan

An Assessment Plan will be developed within 15 days of receipt of referral for special education and shall:

- Be individualized to reflect the unique concerns and strengths of each student
- Be provided in the primary language of the parent or another mode of communication used by the parent, unless to do so is clearly not feasible
- Provide an explanation of each type of assessment instrument to be administered, the purpose of the instrument and the professional personnel responsible for the administration and interpretation of the instrument
- State that no educational placement will result from the assessment without the consent of the parent

A copy of the notice of Parental Rights and Procedural Safeguards for Special Education shall be enclosed with the Assessment Plan.

No assessment shall be conducted unless the written consent of the parent is obtained prior to the evaluation. Assessment may begin immediately upon receipt of such consent.

The parent shall have at least 15 calendar days from the receipt of the proposed Assessment Plan to arrive at their decision.

If a parent is not identified or the location of the parent is unknown, a surrogate parent must be appointed to represent the individual with exceptional needs. See Chapter I Appendix for specific policies and procedures regarding surrogate parents.

Note: Personal contact with the parents is strongly recommended to explain the process and forms.

3. Interim Administrative Placements

Whenever a special education student transfers from one SELPA to another, the following shall occur:

- The student's existing IEP is implemented to the extent possible
- An appropriate Interim Placement is developed if needed
- Assessment is completed and an IEP is held to review the placement within 30 days

Current information, records and reports from the prior district will be reviewed and utilized to make recommendations. Any additional assessment needed to determine education needs and make program recommendations will be conducted prior to the IEP. If, for any reason, the additional assessments are not completed within the 30 day timeline, the IEP meeting will be held within the 30 days and existing documentation and assessments will be reviewed.

If it is determined that the previous placement, as documented on the IEP, is consistent with a program operated by the county office of education, the administrator assigned to that program should be contacted immediately and the Administrative Placement Form should be completed and forwarded to the county office.

Assessment

Assessment Timeline

The assessment will be completed and an IEP meeting held to review the results of the assessment within 60 days from the date of receipt of the parent's written consent for assessment. The 60 day timeline does not include days between the pupil's regular school sessions, terms, or days of school vacation in excess of five school days.

Assessment Process

Assessments must address all areas related to the suspected disability and be conducted by a multidisciplinary team, including the parent. The following areas shall be considered where appropriate:

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| • health and development | • vision, including low vision |
| • hearing | • motor abilities |
| • language function | • general ability |
| • academic performance | • self help |
| • orientation and mobility | • career and vocational abilities and interests |
| • social and emotional status | • developmental history |

- For pupils with suspected learning disabilities or behavior disorders, at least one member of the assessment team other than the child's regular teacher, shall observe the child's performance in the regular classroom setting and document the observation.
- If the child is younger than 4 years 9 months or not attending school, the child shall be observed in an age appropriate environment.
- A school nurse will be the school's liaison with the pupil's primary health provider unless the Assessment Plan specifies otherwise.
- All pupils being assessed for initial and three year reviews shall be screened in the areas of hearing and vision, unless parent consent is denied.
- All pupils continuing to fail a threshold hearing test shall be assessed by appropriately trained personnel for hearing.
- For pupils who have been medically diagnosed with a chronic illness or acute health problem, relevant information shall be included within the assessment and reviewed by the IEP team.

No single procedure is used as the sole criterion for determining an appropriate educational program for an individual with exceptional needs.

Under certain conditions, parents have the right to obtain an independent outside assessment at public expense*. If a parent disagrees with an assessment obtained or conducted by the school district, the district may:

- Offer to obtain another assessment from a professional within the SELPA
- Obtain an independent educational assessment
- Initiate due process to show it's assessment was proper

* See Appendix to Chapter I for information on Independent Educational Evaluation.

Test Selection and Administration

Testing and assessment materials and procedures used for the purpose of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally or sexually discriminatory.

Tests and other assessment materials must meet all of the following requirements:

- Provided and administered in the pupil's native language or other mode of communication, unless the Assessment Plan indicates reasons why such provision and administration are not feasible
- Validated for the specific purpose for which they are used
- Administered by trained personnel in conformance with the instructions provided by the producer of such tests and other assessment materials
- Do not violate State Department of Education directives, including, but not limited to, judgment rendered in the Larry P. case*.

* In order to comply with the Larry P. directive from the State Department of Education, the ethnicity of each student shall be recorded on the interim placement by the parent. If there is any question regarding the ethnicity of the child as it has been recorded on the form, the case manager may discuss the situation with the parent for clarification purposes. In all cases, the parents determine the ethnicity of their child. The ethnicity for special education should be the same as ethnicity on school enrollment forms.

Federal Regulations and California Education Code require a pupil's intellectual ability be established in order to determine if a severe discrepancy exists between intellectual ability and academic achievement when a specific learning disability is suspected. A test of intelligence, often called an I.Q. test, is the method used to measure intellectual ability, and such a test normally would be given as part of this assessment. However, a directive of the State Superintendent of Public Instruction, by an order of a federal court, prohibits the use of I.Q. tests in any special education evaluation of an African American student. In all cases where standardized assessment is not permitted or is judged to be inappropriate, alternative measures will be used in accordance with recommendations set forth by the California Association of School Psychologists and will be documented on the student's IEP.

Assessment Reports

The assessment reports shall include, but not be limited to the following:

- The student's present level of educational performance
- The relevant behavior noted during the observation of the child in an appropriate setting
- The relationship of that behavior to the pupil's academic and social functioning
- The educationally relevant medical findings, if any
- Whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services
- A determination concerning the effects of environmental, cultural or economic disadvantage, where appropriate
- For preschool children, how the disability affects the child's participation in age appropriate activities
- How the child's disability affects the child's involvement and progress in the general curriculum
- The child's historical and current functioning in the general education curriculum regardless of setting
- Deficits in the child's cognitive functioning, communicative functioning, social/emotional functioning and physical functioning that might serve as a barrier to their successful involvement in general education

Parent Participation

Parents are specifically included as members of the IEP team and all efforts should be made to ensure their participation. Parent concerns regarding their son or daughter's educational progress shall be noted and documented on the IEP. In addition, information and reports submitted by the parents, including the results of independent assessments, must be considered by the IEP team.

Individualized Education Program Team Meeting (IEP)

Parent Notification

After the assessment has been completed, the parent must be notified and informed that an IEP team conference, including the parent and his or her representative, will be scheduled.

- Parents are to be given sufficient notice of the meeting so that they can attend.
- Scheduling should occur at a mutually agreed upon time and place.
- The notice will indicate the purpose, time and location of the meeting and who will attend.
- The school will arrange for an interpreter if necessary.

In addition, it is the responsibility of the case manager to notify all appropriate IEP team members in a timely fashion to ensure their participation. It should be noted that parents, districts and the SELPA or county office are authorized to electronically record IEP meetings with 24 hours notice to the IEP team. If the recording is at the request of the district, SELPA or county office and the parent objects or refuses to attend the meeting because it will be recorded, then the meeting shall not be recorded.

If the parent does not consent to all components of the IEP, then those components of the program to which the parent has consented may be implemented so as not to delay providing instruction and services to the student. The team will set a time to meet to review areas of concern and determine the next steps.

Completed forms will be sent to appropriate individuals.

Annual and Other Reviews

The IEP and placement of individuals in special education shall be scheduled for review by a team at least once a year. For emotionally disturbed students in residential placements, the IEP review and reassessment shall be conducted after six months in accordance with state law. In addition, a parent may request that an IEP review be conducted at any time.

It is appropriate to hold an IEP review if the student is not making sufficient progress towards goals and objectives.

Upon receipt of a request for an IEP review, the case manager shall schedule an IEP team meeting. Parents and members of the IEP team must be notified by established notification procedures. The IEP team may:

- Modify the IEP or program, including the provision of Designated Instructional Services (DIS) and other support services
- Recommend continuation of current placement

Three Year Re-Evaluations

Under IDEA 97, the re-evaluation of a student at least every three years is required. As part of this re-evaluation, the IEP team shall review existing evaluation data, including evaluations and information provided by the parents of the student, current classroom based assessment and observations and teacher and related service provider's observations. On the basis of that review and input from the student's parents, the IEP team must identify what additional information is needed to determine if the student:

- Continues to have a disability
- Continues to need special education and related services
- Requires any additions or modifications to the educational program in order to meet his/her annual goals and participate in the general curriculum

And to establish the present levels of performance and determine the educational needs of the student.

Assessment is required in the following situations:

- On parent request (document on Assessment Plan)
- When dismissal from special education is being considered
- When transitioning between district and county office programs if assessments are more than one year old
- When the student has less than two consistent IQ tests - or -
- Students older than twelve who have not had one valid IQ test
- If there is reason to believe that there may be significant disagreement over any IEP issues

Procedures

1. The case manager will gather input from IEP members and document on the Triennial Reassessment Worksheet*
2. The IEP shall discuss the need for a triennial assessment based on the information documented on the worksheet. This discussion can take place at:
 - The annual IEP prior to the three year evaluation IEP meeting
or
 - At a separate meeting convened either in person or by phone
or
 - By other informal methods used to gather input from IEP members

Note: A formal IEP meeting is not required to make this decision unless requested by the parent or agreement can't be reached.

3. The assessment decision shall be documented by attaching the Triennial Reassessment Worksheet to the most current IEP.
4. The worksheet should be completed at least 50 days prior to the three year evaluation's due date. If the worksheet has been completed at an earlier date then the information should be reviewed by the case manager 50 days prior to the three year due date to determine if it continues to be appropriate. If no longer appropriate, the IEP team must discuss the changes to the worksheet and develop a new Assessment Plan.
5. The Assessment Plan will reflect the decisions documented on the Triennial Reassessment Worksheet.

* Copies of the Triennial Reassessment Worksheet are available in the SELPA office.

Surrogate Parent Procedures (AB 1528)

Definition of Parent

- Any person having legal custody
- Any adult student for whom no conservator has been appointed and person having custody of a minor
- Parent Surrogate

Responsibilities of Surrogate Parents

- Represents an individual with exceptional needs (IWEN) regarding:
 - Identification
 - Assessment
 - Instructional planning and development
 - Educational placement
 - Reviewing and revising the IEP
 - Other matters related to a free and public education
- Serves as the child's parent and has parental rights relative to the child's education under Title 20 (beginning with Section 1400) of the US Code and part 300 of the Code of Federal Regulations
- Is culturally sensitive to the needs of the child

Surrogate Parent Appointment by Local Education Agency

This appointment occurs when:

- Child has been named a ward of the court and the parent/guardian has been denied the right to make educational decisions for the child
- No parent can be identified
- The location of the parent is unknown
- Adult student is a ward of the court and has been found to be incompetent
- Individual has no conflict of interest in representing the child (conflict of interest means interests that would restrict or bias the ability to freely advocate for all required student services - i.e. Section 56026 of the Education Code).

Persons, other than those with conflict of interest, who may serve as surrogate include but are not limited to

- Foster care providers
- Retired teachers
- Social workers
- Probation officer not employed by child's school or home
- Others trained as surrogate parents

Surrogate Parent Safeguards

A Surrogate Parent is held harmless by the State of California during execution of duties except when actions are found to be wanton, reckless or malicious.

It is the practice in Yuba County to offer annual training to potential Surrogate Parents regarding the IEP process. A list of Surrogate Parents who have participated in this training is available to the districts in the Yuba County SELPA. A Surrogate Parent Authorization Form is available in the SELPA office.

Independent Evaluations

This policy sets forth the procedures under which student with disabilities are entitled to an IEE at public expense.

Definitions

Independent Educational Evaluation (IEE) means an evaluation conducted by a qualified examiner who is not employed by the school district of residence.

Public expense means that the school district pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent.

Policy and Procedures

Parents have the right to an IEE at public expense if they disagree with an evaluation completed by the local educational agency. Parents may request one IEE in response to each evaluation completed by the public agency. If the request for an IEE is received one year or more from the date of completion of the school district's evaluation, the district may complete a reevaluation prior to providing parents with an IEE.

Parents must indicate in writing to the district or inform the district at an IEP meeting that they:

1. Disagree with the district's evaluation and
2. Are requesting an IEE at public expense

The district may ask for the parent's reason(s) for disagreeing with the school district's evaluation, but the parent is not required to provide those reasons. The district may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend its evaluation.

Parents may only request one publicly funded independent evaluation for each evaluation completed by the school district. The parents must request the IEE within one calendar year of the date that the results of the school evaluation were shared with the parents as documented on the diagnostic summary.

Once the parent communicates his/her disagreement with the school district's evaluation and requests an IEE at public expense in writing or at an IEP meeting, the following procedures will be followed:

1. The district's administrator responsible for special education will be notified

2. The district will provide to the parents a copy of the SELPA policy and procedures including criteria for IEEs, the option for an alternative district examiner (option A below), and options for an IEE at public expense (options B, C and D below) as follows:
 - A. A district staff member from another school
 - B. A staff member from another LEA in the SELPA
 - C. A staff member from another SELPA
 - D. A private sector provider
3. The parents will communicate to the district, in writing, their preferred option
4. The district will determine whether the district will initiate due process to establish the appropriateness of its evaluation or proceed with obtaining an Independent Educational Evaluation

If the district agrees to provide an IEE:

- An Assessment Planning Team will be convened to develop an Assessment Plan which specifies those areas to be evaluated and who will complete each assessment in accordance with SELPA policy. The parent(s) should be encouraged to participate in the Assessment Planning Team. Within 15 calendar days of the decision to obtain an IEE, the parents will be sent an Assessment Plan for their review and consent.
- Upon receipt of the signed written consent to assess, the district will arrange for the completion of the IEE.
- Parents will be required to sign a release and exchange of information between the IEE evaluator(s) and the school district.

If the school district initiates a hearing and the final decision is that the district's evaluation is appropriate, the parents still have the right to an IEE but not at public expense.

If the parent obtains an Independent Educational Evaluation at private expense, the results of the evaluation:

- A. Must be considered by the school district, if it meets district criteria, in any decision made with respect to the provision of FAPE to the student, and
- B. May be presented as evidence at a due process hearing regarding that student

If a hearing officer requests an IEE as part of a hearing, the cost of the evaluation must be at the school district's expense.

Time Line Regarding Independent Educational Evaluation

In the interest of consistency between public and private evaluations, the parents are encouraged to choose an option for additional assessment offered by the district within 15 calendar days of receiving the options.

After the parent of the student with a disability chooses an option for additional evaluation and signs an Assessment Plan, the district will initiate a contract with the examiner within 15 days of receipt of parental consent.

The district will select and contract with a qualified independent examiner who is able to provide a written report for an IEP within 60 days of the date of contracting for an evaluation. If the selected candidate cannot meet the time line, the district will inform the parent and ask for agreement to an extension of time or selection of another option.

Location Limitations for Evaluators

Evaluators will be located within the Sacramento Valley Region including: Yuba, Sutter, Sacramento, Placer and El Dorado Counties. Evaluators outside of this area will be approved only on an exceptional basis, providing parents can demonstrate the necessity of using personnel outside the specified area. Any expenses beyond the evaluation (i.e. food, lodging, transportation, etc.) are not covered in the cost of the independent evaluation.

Legal Authority:

20 U.S.C. 1414 (a)(1)(A) - Evaluations and Re-evaluations

34 CFR 300.321 - Re-evaluations

Comments to 34 CFR 300.502 - Independent Educational Evaluations

20 U.S.C. Section 1415 (b)(1)

34 CFR 300.505 - Parent Consent - Evaluation

Education Code 56329 - Independent Educational Assessments

34 CFR 300.530.536 - Procedures for Evaluation and Determination of Eligibility

20 U.S.C. 1414 (b)(1) - Right to Independent Educational Evaluations

34 CFR 300.502 - Independent Educational Evaluations

Education Code Section 56327

34 CFR 300.537 - Re-evaluations

Education Code 56381 - Reassessments

Behavior Intervention Plans

Policy

The Yuba County SELPA, in complying with CCR Title 5, Sections 3001 and 3052, has developed a systematic method for intervening in serious behavior problems resulting in positive, lasting behavior changes.

A Behavior Intervention Plan must be developed for any student with an IEP who exhibits a serious behavior problem that significantly interferes with the implementation of the goals and objectives on the student's IEP.

There are two types of situations that require Behavior Intervention Plans:

1. When ongoing student behaviors are maladaptive, pervasive, self-injurious, assaultive or cause property damage.
2. In response to an emergency that poses clear and present danger of serious physical harm to an individual or serious property damage which cannot be prevented without containing the behavior. The Yuba County SELPA has determined that training in the following systems of behavioral management will meet criteria for SELPA certification as proficient in emergency behavior techniques:
 - Crisis Prevention and Intervention (CPI)
 - Professional Assault Crisis Training and Certification (Pro-Act)
 - Handle with Care

Definitions as related to Behavior Interventions:

Behavioral Intervention

The systematic implementation of procedures that result in lasting, positive changes in the pupil's behavior. These are not to cause pain or trauma to the student and must respect the pupil's human dignity and personal privacy.

Behavioral Intervention Case Manager

Designated certificated school district member who has been trained in behavior analysis with an emphasis on positive behavior interventions. School psychologists, designated teachers and specialists in the Yuba County SELPA receive ongoing training to function as case managers.

Behavior Emergency

Demonstration of a serious behavior problem which has not been previously observed and for which a behavioral intervention plan has not been developed and which by its very nature, implies it may continue to occur unless modified.

Serious Behavior Problem

Student behavior which is:

- Self-injurious, assaultive or causing property damage which could lead to suspension or expulsion.
- Other severe behavior problems that are pervasive (e.g. ongoing, loud and frequent defiance of the teacher during class which prevents the individual and others from learning) and are maladaptive that require a systematic and frequent application of behavioral interventions.

Behavioral Intervention Plan

A written part of the IEP. The plan shall include:

- Data from a Functional Analysis Assessment
- A description of targeted maladaptive behavior and replacement behavior
- Goals and objectives specific to the Behavior Intervention Plan
- Description of behavior interventions to be used including when they will be used
- Schedules to chart the interventions, targeted behaviors and replacement behaviors including specific criteria for discontinuing or replacing the interventions
- Criteria to phase out restrictive behavioral intervention and move toward less intense interventions
- Extent to which interventions will be used at home or elsewhere
- Dates for review by the IEP team

Functional Analysis Assessments

- Must be conducted by someone with documented training in behavior analysis with an emphasis on positive behavioral intervention
- Will gather information from:
 - Direct observation
 - Interviews with others
 - Reports from other professionals or other records
- Parent notice and consent are required for a Functional Analysis Assessment
- A Functional Analysis Assessment shall include:
 - Systematic observation of frequency, duration and intensity of targeted behavior
 - Systematic observation of the antecedent events
 - Systematic observation and analysis of the consequences of the behavior to determine the function of the behavior
 - Analysis of the setting where the behavior occurs most frequently
 - Review of records for health/medical factors
 - Review of the history of the behavior and attempted interventions
 - Functional Analysis Assessment Reports. Following assessment, a written report is required:
 - A description of the nature and severity of the targeted behavior in measurable terms
 - Baseline data and an analysis of the antecedents and consequences across all settings where the behavior occurs
 - A description of the rate of alternative behavior, their antecedents and consequences
 - The proposed Behavior Intervention Plan

Emergency Interventions

Used only to control unpredictable, spontaneous behavior that poses danger or damages property.

- Are not only to be used as substitutes for Behavior Intervention Plans
- Only emergency behavior interventions approved by the SELPA may be used
- The emergency interventions can only be used until the behavior is contained
- Emergency interventions may not be:
 - Locked seclusion
 - A device or material that immobilizes all four extremities
 - Unreasonable force

Procedure

When ongoing student behaviors are maladaptive, pervasive, self-injurious, assaultive or cause property damage, a Positive Behavior Intervention Plan (PBIP) will be developed. Should behaviors be repeated despite developed PBIP, the plan must be modified. The plan should be systematically developed to produce lasting positive changes in the pupil's behavior. These changes should provide the pupil with greater access to community, social contacts, public events and the Least Restrictive Environment. Interventions should assure freedom, social interaction and individual choice.

A Functional Analysis Assessment and report will occur for each student with a PBIP.

A Behavior Intervention Case Manager (BICM) will be assigned to manage each student's plan. The IEP team supervises the PBIP and the team is expanded to include the BICM. The plan will be written and included as part of the student's IEP. The plan's success will be evaluated at scheduled intervals and across all activities. The frequency, duration and intensity of behaviors will be assessed after the PBIP is in place for a period of time. Effects of the PBIP will be documented. The IEP team may determine that the PBIP needs to be changed. If so, the teacher and BICM will conduct additional functional analysis and shall propose changes to the PBIP through the IEP process. Minor modifications with the agreement of the parent and BICM are permissible. The parent has the right to question any modification via the IEP process.

Emergency Interventions may be used only to control unpredictable, spontaneous behavior which poses danger or property damage. There are strict prohibitions against:

- Physical pain
- Sprays or mist in the face
- Deprivation of food, water or sleep

- Verbal abuse, ridicule or humiliation
- All four extremities immobilized except as prone containment in an emergency by trained personnel
- Locked seclusion
- Any intervention that precludes supervising
- Any intervention that deprives senses

A Behavior Emergency Report must be completed and put in the student's file whenever an emergency intervention is used. The report shall include:

- Name and age of pupil
- Setting and location of incident
- Names of staff involved
- Description of incident, emergency intervention used and whether the student already has a PBIP
- Details of any injuries

All Behavior Emergency Reports are immediately forwarded to the site administrator and a copy to the district level administrator responsible for special education. Anytime a Behavior Emergency Report is written on a student who does not have a PBIP, the designated administrator has two days to schedule a Functional Analysis Assessment and an IEP review.

When a Behavior Emergency Report is written on a student with a PBIP, the incident will be referred to the IEP team to determine if the PBIP needs to be modified.

The entire Positive Behavior Intervention procedure is subject to due process under IDEA.

Program Compliance Monitoring and Support

Superintendents' Council approval - 6/20/05

The Yuba County SELPA has been formed by member public school agencies to assure access to special education and services for all individuals with exceptional needs residing in the geographic area served by the member district. The Superintendents' Council is responsible for monitoring the completed plan to verify that each participating Local Education Agency (LEA) carries out the duties and responsibilities assigned to it within the plan. A combination of factors must be reviewed to determine the quality of a program or service or the degree to which an agency is compliant with the intentions of the law. As the state monitors LEAs and takes action to encourage and enforce compliance, it is incumbent upon SELPAs to precede state sanction with prevention and intervention activities. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary.

This policy is designed to identify the combination of factors that will be monitored by the LEA, SELPA and state to ensure responsibilities are met and to direct the SELPA staff in the level of support to be provided by the SELPA.

The state has identified State Performance Plan Indicators (SPPI), Key Performance Indicators (KPIs), state test scores, Coordinated Compliance Review, Quality Assurance Program, compliant outcomes, hearing outcomes, pupil count, self review and Maintenance of Effort as some of the activities that will be monitored for compliance and potential state intervention. LEAs and the SELPA will monitor these areas as well. When a combination of characteristics is present, the SELPA will provide specific support. The goal is to recognize the exemplary practices with commendations and target SELPA staff resources in support of LEAs requiring assistance, while assuring that the practices of one LEA are not detrimental to other LEAs or the SELPA as a whole.

Compliance Commendation

- No significant non-compliance findings identified
- Report data sources complete and provided in timely manner
- Frequency of compliant and due process filings are below acceptable levels determined by the state
- No issues identified by the state

SELPA support

- Monitors data
- Provided general training
- Recognizes exemplary practices by sharing with other LEAs

Operational Non-Compliance

- Non-compliance issues identified
- Report data sources complete and provided in timely manner
- Frequency of complaint and due process filings are below acceptable levels determined by the state
- No significant issues identified by the state from self review process

SELPA support

- Monitors data and notifies special education administrator and business manager
- Assists with development and implementation of corrective action plan or improvement plan
- Provides general training

Substantial Non-Compliance

- Corrective action plan requires SELPA involvement
- Data incomplete or not provided in timely manner
- Frequency of complaint and due process filings are below acceptable levels determined by the state
- State involved in on-site review and identification of non-compliant issues

SELPA support

- Notifies Superintendents' Council and LEA superintendent
- Provides technical assistance
- Assists with development and implementation of corrective action plan or improvement plan
- Provides specific training

Systemic Non-Compliance

- Corrective action plan with outstanding issues after 3-12 months
- Data incomplete or not provided in timely manner
- Frequency of complaint and due process filings are above acceptable levels determined by the state and clusters of issues identified
- Multiple issues with performance among the lowest 15% of the state
- State involved in on-site correction action plan or improvement plan

SELPA support

- Notifies Superintendents' Council, LEA superintendent and board president
- Supports implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes

State Sanctions

- Corrective action plan with outstanding issues after 12 months
- Data incomplete or not provided in timely manner
- Frequency of complaint and due process filings are above acceptable levels determined by the state and clusters of issues identified. Orders, agreements or corrective action not implemented.
- Multiple issues with performance among the lowest 15% of the state with no substantial improvement over time
- State involved in on-site correction action plan or improvement plan including but not limited to assignment of an external monitor, court order or the withholding of funds

SELPA support

- Notifies Superintendents' Council, LEA superintendent, board president and Yuba County Superintendent of Schools
- Supports implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes
- Recommends to Superintendents' Council delayed deposit of special education funding until reports, overdue after the state deadlines, are provided

Local Procedures

Governance Policies and Local Agreements

Refer to Section 13 of the Local Plan to review governance assurances and policy.

SELPA Administration

Coordination

The Local Education Agency governing boards in Yuba County SELPA indicate their participation as a consortium of agencies with the signing of an interagency agreement and assurances. This agreement reflects the content of the Local Plan of Special Education and provides clarification in areas of program operation, personnel, procedural safeguards, management and support services, staff development and other areas necessary for the operation of the area.

References: Education Section 56195.7

Provision of services to students who reside in other counties or districts

It is the policy of Yuba County SELPA that the county office or Local Education Agency may provide for the education of individual students in special education programs maintained by other districts and counties and may include within the special education programs students who reside in other districts or counties. 56195.5 (b)

Section 46600 shall apply to inter-district attendance agreements for programs.

Procedures

Local Education Agency policies govern policy for inter-district attendance agreements. Local Education Agencies may enter into contracts for services with other LEAs. General practice is to inform Operations Council when contracts for services are being considered.

As a SELPA, Local Education Agencies as described in the governance section of the Local Plan, may join together to fund and operate regional programs.

References: 56195.8 (b)(1), 56205 (c)
Adopted 1994, revised 1997

Regionalized Services

Regionalized services to local programs, including, but not limited to, all of the following:

- Program Specialist services pursuant to 56368
- Personnel Development, including training for staff, parents and members of the Community Advisory Committee (56240)
- Training and support of program evaluation efforts (56600)
- Data collection and development of management information systems
- Curriculum development
- Provision for ongoing review of programs conducted, procedures utilized and a mechanism for correcting any identified problem
- Provision of file review, case management and support in pending due process hearing actions at the request of LEA departments

Procedure

Regionalized services are provided through the Yuba County SELPA and Yuba County Office of Education.

Monthly updates are provided to Operations Council and Community Advisory Committee.

Adoption of Policies

The plan for special education shall be developed and updated cooperatively by a committee of representatives of special and general education teachers and administrators selected by the groups they represent and with

the participation by parent members of the Community Advisory Committee (CAC) or parents selected by the CAC, to ensure adequate and effective participation and communication.

Reference: 56195.9

Policy

The Community Advisory Committee of Yuba County includes special and general education teachers and administrators. Local school boards appoint members to the CAC for terms of two years.

Local Plan revisions and policy development is reviewed with CAC members at monthly meetings.

Adopted 1994, revised 1997

Non-Public Schools

The governing boards within the SELPA provide for services from certified non-public, non-sectarian schools when the Local Education Agency does not have the appropriate programs or services required to serve a student with exceptional needs. It is the intent of Yuba County SELPA to make efforts to utilize public schools, public agencies, and local and regional programs prior to providing non-public school funding. If non-public school services are agreed upon, every effort will be made to locate a non-public school located in California.

The LEA will be responsible for the full amount of tuition for individuals enrolled in certified non-public schools and services based on the individual service agreement and Master Contract.

Procedures

The determination of the need for certified non-public, non-sectarian school services is made by the IEP team. For a pupil to be eligible, the IEP team must agree that the student needs are not appropriately met in programs provided by the district, county or state schools.

When it is determined that non-public services need to be provided, the parent or guardian will participate with the district administrator in the location of a properly certified program. The pupil's Individual Education Program goals and services must be met by the non-public school or service. The program administrator is responsible for evaluating if the student is making adequate educational progress.

The district administrator is responsible for monitoring the program and/or service and participates in program reviews and IEP meetings.

References: 56195.8 (b)(1), 56205 (c)

Licensed Children's Institutions and Local Correction Agencies

The governing boards of the SELPA recognize that special education programs must be provided for individuals with exceptional needs who are residents of licensed children's institutions, juvenile hall, homes, day centers, ranches or camps and local correctional agencies. The provision of such program shall be the county office for county-operated programs and district of location for licensed children's institutions.

Review of Teacher Assignment

Local Requirements

It is the policy of Yuba County SELPA that each entity providing special education services in the SELPA shall adopt policies for the programs and services it operates, consistent with SELPA agreements.

Review of Class Assignment at Teacher's Request

Procedure

Each LEA is responsible for review of class assignment at teacher's request. Typically the LEA special education director, designee or person acting in this capacity is responsible for the review. A timeline of 15-30 days for the review is reasonable unless there is an immediate need for action.

The Local Education Agency principal may be consulted to determine the immediacy of the need and possible school based resources. Program specialist consultation or school psychologist consultation may also be considered as resources.

The teacher's request for review of class assignment should be in writing with a description of the concern, adaptations tried and results and other pertinent information.

If following the review with the special education director, the recommendation is to propose a change in the student's placement, instruction or related services, an IEP will be scheduled to consider the change.

Adopted 1994, revised 1997

Caseloads

Resource Specialist

According to 56362, no resource specialist shall have a caseload of over 28 students.

It is the responsibility of the Local Education Agency to hire and assign teachers.

Procedure

When a caseload approaches 25, the resource specialist should review caseloads within their department and/or school. Program specialists, psychologists and/or district special education directors are also resources in this review.

Local Education Agencies may review caseloads with monthly MIS reports.

The SELPA will provide information and support to caseload reviews or waiver requests if requested by the teacher or agency administrator.

The SELPA reviews caseloads at the December 1 report. Informal requests for caseload information are made in the fall and spring by Yuba County Office of Education. The compiled report is reviewed by Operations Council.

Caseloads for Preschool Speech and Language Specialists

Policy

According to 56441.7 the maximum caseload for a speech and language specialist providing services exclusively to individuals with exceptional needs between the ages of three and five shall not exceed 40.

It is the responsibility of the Local Education Agency to hire and assign teachers.

Procedural Safeguards

Policy

At each individualized education program meeting, the education agency responsible for convening the meeting shall inform the parent and student, if in attendance, of the federal and state procedural safeguards that were provided in the notice of parent rights.

Procedure

Sample meeting agendas are provided to assist Local Education Agencies in meeting this requirement.

Summaries of parent rights are also available to review the key points of the procedural safeguards.

The Community Advisory Committee reviews the form annually to prepare committee members to provide parent-to-parent support in IEP preparation, understanding procedural safeguards and maintenance of home records.

A Parent Guide to Special Education has been developed and is updated annually by the Community Advisory Committee.

Transportation Cost Provisions

Transportation services are provided by districts and the county. Whenever possible, the transportation policy is used to cover eligibility and guidelines for provision of services. When the funding available for services is inadequate meet service needs, Operations Council prepares a recommendation for resolution to the Superintendents' Council for review, modification and action.

Policy

The governing boards of the SELPA recognize that "every individual with exceptional needs, who is eligible to receive educational instruction, related services or both...shall receive such educational instruction, services or both at no cost to his or her parents or, as appropriate, to him or her." Special education transportation is defined in federal regulation (34 C.F.R. Section 300.16) as a related service. Transportation is required to be provided if it is necessary for the student to benefit from special education instruction.

When special education transportation services as defined by EC Section 41850 are required, EC 41850 (d) defines special education transportation as:

"The transportation of severely disabled pupils (as defined by EC 56030.5) and orthopedically impaired pupils who require a vehicle with a wheelchair lift, who received transportation in the prior fiscal year, as specified in their individualized education program."

Whenever possible, special education transportation shall be coordinated with regular home-to-school transportation. It is recommended that the IEP team focus on pupil needs as the primary consideration for determining transportation services. This includes consideration of services that are provided in the setting appropriate to the needs of the student at the student's neighborhood school or within the district or SELPA.

An overview of all available transportation resources will be made available to all administrators, IEP team leaders/case managers or chairpersons and other IEP team members who are authorized to recommend the type of special education service and the location where the service will be provided.

If a special education student does not qualify under Education Code 41850 (d), that student will be reported as "home to school" for funding purposes.

Transportation costs which are beyond those provided for by fiscal reimbursement may be billed as additional costs as provided for in policy: Additional Program Cost Responsibilities.

Low Incidence Funds

References

Education Code 56771 provides funding for specialized equipment and materials on the basis of an amount per pupil in the following categories: Deaf (DF), Deaf/Blind (DB), Hard of Hearing (HH), Visually Impaired (VI), and Severe Orthopedically Impaired (OI).

The number of pupils to be used in this allocation is based on the prior year December 1 pupil count in the categories listed. The funds are provided to the SELPA and are accounted for separately from the total special education entitlement. The majority of the students in these categories are served within county programs. However, there are a few students served within the district programs for which low incidence funds would be available.

Procedure

- Each special education program administrator who has a pupil with low incidence eligibility and is in need of special equipment or materials shall submit the following to Operations Council:
 - A copy of the IEP with a statement of need for specific equipment or materials related to goals and objectives
 - Full name and title, description of item including cost, tax and shipping charges and vendor name, address, zip code and phone number
 - Operations Council will review and prioritize all requests and will approve or deny funding
 - In some cases, Operations Council may ask the program manager and/or teacher to attend the meeting and provide additional information as needed

Priority

- Those students on the Pupil Count who generated the funds
- Those students who did not generate the funds but meet low incidence criteria

Request Procedure

- Must be a student with a disability of Orthopedic Impairment (OI), Hard of Hearing (HH) or Visual Impairment (VI)
- Assess need for equipment/service for individual student
- Discuss needs for equipment with department heads
- Include information on equipment use in IEP with specific objectives
- Complete Request for Low Incidence Funds form and include any trial use period in rationale
- Complete Purchase Request
- Send low incidence request form, purchase request and copy of IEP to Melissa Orcutt or Sally Sokoloski at the Yuba County Office of Education
- Request will be presented at an Operations Council Meeting
- Outcome will be shared with staff
- If approved, item will be ordered and staff will be notified when it arrives

Program Transfer

Approved by Superintendents' Council 6/20/2011

The Superintendents' Council shall base its review of a Program Transfer to ensure all requirements have been met by a local education agency (LEA) on conformity of the request to the mission of the Yuba County SELPA, through fairness, equitability and support to the Community of LEAs. According to Education Code Section 56207, special education programs may be transferred from the county offices of education to school districts, from school districts to county offices of education and from one school district to another. For the purposes of this policy, programs may also be transferred to charter schools that have been granted LEA status.

Definition of a Formal Program Transfer

According to the California State Department of Education (CDE) memorandum of April 7, 1999, "a program change is presumptively considered a program transfer when all three of the following criteria are met:

1. The proposed change involves a change in the LEA of service – the movement of students from one service provider (LEA) to another (Memo 13-08).
2. The change involves the movement of funding locally from one service provider (LEA) to another.
3. The change must involve one or more employees who would be affected by the provisions of Education Code 44903.7 (attached) and Education Code 45120.2 (attached). Section 44903.7 establishes the right of certificated employees to retain employment if their assignment moves to another LEA. Section 45120.2 establishes similar rights for classified employees."

Section 44903.7 and Section 45120.2 state that any employee, certificated or classified, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes the employee of another employer because of the reorganization of special education program, the employee shall be entitled to . . . [certain rights].(Attached) Additionally to the three criteria for a program transfer as identified by CDE, the formal program transfer process applies only in the following situations:

1. The transfer of an intact, identifiable class or activity which would result in the creation of a certificated and/or classified position by the receiving program operator and a reduction of a certificated and/or classified position by the sending program operator. These students must be residents of the district or region to which the program will be transferred.
2. The transfer of students from several programs and/or services combined to form an intact, identifiable class or a full inclusion caseload which would result in the creation of a certificated and/or classified position by the receiving operator. These students must be residents of the district or region to which the program will be transferred.

(Education Code 56207 states that “no educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan has developed a plan for the transfer which addresses, at a minimum, all of the following:

1. Pupil needs;
2. The availability of the full continuum of services to affected pupils;
3. The functional continuation of the current individualized education programs of all affected pupils;
4. The provision of services in the least restrictive environment from which affected pupils can benefit;
5. The maintenance of all appropriate support services;
6. The assurance that there will be compliance with all federal and state laws and regulations and special education local plan policies;
7. The means through which parents and staff were represented in the planning process.

This document along with applicable Education Codes shall serve as the developed plan adopted by the Superintendents’ Council on June 20, 2011

Appeal to CDE to Resolve Questions on Program Transfers

Because of ambiguities in the definition of a program transfer, the CDE will allow any LEA or parent to request, in writing, for the Department to undertake a determination whether a proposed change constitutes a program transfer. All clarification requests should be signed by one or both LEA superintendents and a copy should be forwarded to the SELPA Administrator. Requests will then be forwarded to the Division Director of Special Education Department. The Department will make a determination within 60 days and issue a public opinion in writing to the relevant LEA(s) and SELPA.

Program/Service Standards

In order to assure program and service continuity and quality, the receiving LEA agrees to maintain the standard of program or services delivery provided by the sending LEA in accordance with the Education Code. LEAs may only change the nature of the program if they can continue to implement the IEPs of the students affected by the program transfer. The receiving LEA agrees to operate the program and services for at least three years unless a shorter timeline is agreed to by the Superintendents’ Council.

Special Considerations

- Programs may be transferred in increments of more or less than 1.0 FTE.
- It is assumed that the receiving district will continue to serve the same district students currently served by the program. Changes in the number of students served may result in a commensurate adjustment in the amount of FTE to be transferred.
- The effect of the transfer of any program on the service delivery of services to students from small and/or dependent school districts must be considered. This is to ensure availability of the full continuum of services to effected students.
- The SELPA may consider any other factors, which are deemed relevant to the proposed program transfer, such as LEA identification rates, impact on transportation, etc. The primary consideration, however, must be to provide service to all identified students within the SELPA regardless of their district of residence by qualified personnel under IDEA and NCLB.

LEA Responsibilities When Operating Regional Programs

The SELPA assures services to special education students by offering centralized and regionalized programs and services provided by member LEAs. When an LEA requests a program transfer to operate a regional program the SELPA will ensure there remains a continuum and/or provision of services to students outside the LEA’s attendance area.

Requests to relinquish programs must be submitted in writing to the SELPA office. The SELPA administrator will forward requests to the Superintendents’ Council for consideration. Until another LEA agrees to operate the program and services, it will remain the responsibility of the current LEA. Any action to transfer the program and services will follow the procedures and timelines outlined in the Education Code and this policy.

Facilities, Materials and Equipment

Facilities, materials and equipment purchased by the sending LEA for the program being transferred will be considered in a manner which is not detrimental to either the sending or receiving LEA. Any material or equipment purchased with Low Incidence funds is the property of the CDE and will remain with the student.

Student Records

When the transfer of a program has occurred, the sending and receiving LEAs will develop a plan for the transfer of all student records to the receiving LEA.

Funding

The transfer of funds could be accomplished through an agreement between LEAs or through the current SELPA allocation plan. Yuba County SELPA allocates funds based on current year revenue and prior year pupil count. Details of this plan are contained in the Yuba County SELPA Allocation Plan.

If the Program Transfer includes a preschool program, any preschool grants will be prorated on a per pupil basis and the funds will be transferred to the receiving LEA.

The sending LEA will identify the students who will be included in the program transfer based on the prior year December Pupil Count. These students and their identified services will be allocated to the receiving LEA on the SELPA Duplicated Pupil Services Distribution Chart (AB 602 Allocation Plan) for the upcoming budget year.

Dispute Resolution

If either the sending or receiving LEA disagrees with the proposed transfer, the matter shall be resolved by the dispute resolution process established in accordance with Education Code Section 56205 and the Yuba County SELPA Local Plan Dispute Resolution Process.

Program Transfer

The timelines for submitting and processing transfer requests will vary depending on whether the LEA is requesting a program transfer using the standard process or the accelerated process. The standard process program transfer requests will not take effect before the first day of the second fiscal year following the year in which the request is filed with Yuba County SELPA. The accelerated transfer process requests may take place as early as the first day of the fiscal year following the year in which the request is filed with the SELPA Administrator. (See Ed. Code 56207 and SELPA Timeline Flow Chart).

An LEA considering a program transfer shall notify the SELPA Administrator in writing of its intent: Standard Process by March 1 (Standard Timeline Flowchart and SELPA Written Intent of Transfer), Accelerated Process by September 1 (Accelerated Timeline Flowchart) and SELPA Written Intent of Transfer. The SELPA Administrator will review the request to determine if the request constitutes a program transfer according to the "Definition of a Program Transfer" outlined in Local Policy and will make a written review and analysis to the Superintendents' Council. All requests for transfers will be decided on a case-by-case basis.

Standard Transfer Process

The LEA requesting the transfer shall submit a Written Intent of Special Education Program Transfer to the SELPA Administrator with a copy to the affected LEA by March 1 (see Standard Timeline Flowchart).

The LEA will also submit to the SELPA Administrator a plan (Transfer Assurances) which addresses all 7 of the requirements contained in E.C. Section 56207(a). The Program Transfer Assurances Document and the SELPA Administrator's review and analysis will be reviewed by the Operations Council at their November meeting. The Operations Council and SELPA Administrator will submit their assurances document to the Superintendents' Council for review no later than the January Superintendents' Council meeting following the review of the assurances document, the receiving LEA documents the process to complete all steps outlined in the Program Transfer Assurances Document for submission to the SELPA Administrator by May 1. The SELPA Administrator will present the documentation to the Operations/Superintendents' Council by the May meeting. The receiving LEA will assume operation of the program on July 1.

Any modifications to the LEA's original request must be made in writing to the SELPA office by November 1 or the LEA will have to proceed with the original request or withdraw its request.

Accelerated Transfer Process

The LEA requesting the transfer shall submit a Written Intent of Special Education Program Transfer to the SELPA Administrator with a copy to the affected LEA by September 1 (see Accelerated Flowchart).

The SELPA Administrator will submit a review and analysis to the Operations Council at its next meeting. The Operations Council and SELPA Administrator will submit a recommendation to the Superintendents' Council at its next public meeting. In order to be eligible for the accelerated transfer process time line, the following criteria must be met:

1. The Superintendents' Council must unanimously approve the request Ed. Code 56207 (b);
2. There must be adequate time to complete the local planning process and stated approval processes; and
3. There must be adequate time to meet all legally required and locally negotiated timelines regarding personnel notifications.

The LEA will submit to the SELPA Administrator by January 1 of the next school year the Yuba County SELPA Program Transfer Assurances Document which addresses all of the requirements contained in E.C. Section 56207(a). The Program Transfer Assurances Document and the SELPA Administrator's recommendation will be reviewed by the Operations Council at their January meeting. The Operations Council and SELPA Administrator will submit their recommendation to the Superintendents' Council for review and approval no later than January Superintendents' Council meeting. If approved by the Superintendents' Council, the receiving LEA documents the process to complete all steps as outlined in the Program Transfer Assurances Document for submission to the SELPA Administrator by May 1. The SELPA Administrator will present the documentation to the Operations/Superintendents' Council by the May meeting. The receiving LEA will assume operation of the program on July 1.

Final approval will require all of the following:

- Signed agreement by the sending LEA;
- Signed agreement by the receiving LEA; and
- Signed agreement by the chairperson of the Superintendents' Council.

Any modifications to the LEA's original request must be made in writing to the SELPA office by November 1 or the LEA will have to proceed with the original request or withdraw its request.

*The timelines for an accelerated transfer process may be waived by unanimous vote of the Superintendents' Council in cases where staff is not affected by the proposed transfer, e.g., retirements, resignations, etc., or provided that there is adequate time to meet the criteria in subsections 1, 2, and 3 above.

Certificated/Classified Employee Transfers

Employee's rights when transferred, terminated, or reassigned as a result of a program transfer are governed by Ed. Code 44903.7(a)-(d) for certificated employees, and Ed. Code 45120.2(a)-(e) for classified employees. (Attachment: Rights of Certificated and Classified Employees Ed. Code)

Certificated staff members include special education teachers, speech therapists, and other specialists providing direct service to students. Classified service providers include paraprofessionals, interpreters, braillists, occupational therapists, and physical therapists, etc.

Determination of the process employee transfers will be coordinated between the sending and receiving LEA's in a timely manner.

**PROGRAM TRANSFER FLOW CHART
STANDARD PROCESS
Ed. Code 56207**

YEAR (STAGE) ONE

By March 1	Requesting LEA submits a letter of intent to SELPA Administrator.
April	SELPA Administrator submits his/her review and analysis to the Superintendents' Council and notifies sending and receiving LEAs.
March - January	Sending and receiving LEAs complete Analysis (Program Analysis) and Assurances Document (Program Transfer Assurances).

YEAR (STAGE) TWO

Prior to November 1	Deadline for LEA to withdraw or modify a request to SELPA Administrator.
November	SELPA Administrator presents the receiving LEA's Assurance Document to the Operations Council for information purposes.
By January 1	Submit to SELPA Administrator Analysis (Program Analysis) and Assurances Document (Program Transfer Assurances).
January Superintendents' Council	SELPA Administrator presents the receiving LEA's documents for review and analysis.
By March 15	Sending LEA will have completed the staff notification process.
By May	Receiving LEA will complete steps outlined in Assurance Document and submit the document to the SELPA Administrator.

YEAR (STAGE) THREE

July 1	Receiving LEA assumes operation of the program.
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**PROGRAM TRANSFER FLOW CHART
ACCELERATED PROCESS
Ed Code 56207**

YEAR (STAGE) ONE

By September 1	Requesting LEA submits a letter of intent to SELPA Administrator.
September Public Meeting	SELPA Administrator submits the review and analysis to the Superintendents' Council for approval of accelerated process.
September - January	Sending and receiving LEAs complete Analysis (Program Analysis) and Assurances Document (Program Transfer Assurances).
January 1	Deadline for withdrawing or modifying request.
By January 1	Submit to SELPA Administrator Analysis (Program Analysis) and Assurances Document (Program Transfer Assurances).
November Operations Council	SELPA Administrator presents the receiving LEA's Assurance Document and a review and analysis to the Operations Council for a recommendation to the Superintendents' Council.
January Superintendents' Council	SELPA Administrator will present receiving LEA's documents, SELPA Administrator's review and analysis, and Operations Council recommendation for final approval.
By March 15	Sending LEA will have completed the staff notification process.
By May	Receiving LEA will complete steps outlined in Assurance Document and submit the document to the SELPA Administrator.

YEAR (STAGE TWO)

July 1	Receiving LEA assumes operation of the program.
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Education Code Transfer of Programs

56207

(a) No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan area has developed a plan for the transfer which addresses, at a minimum, all of the following:

- (1) Pupil needs.
- (2) The availability of the full continuum of services to affected pupils.
- (3) The functional continuation of the current individualized education programs of all affected pupils.
- (4) The provision of services in the least restrictive environment from which affected pupils can benefit.
- (5) The maintenance of all appropriate support services.
- (6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
- (7) The means through which parents and staff were represented in the planning process.

(b) 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 agency has informed the other agency and the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205, unless the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205 unanimously approves the transfer taking effect on the first day of the first fiscal year following that date.

(c) If either the sending or receiving agency disagrees with the proposed transfer, the matter shall be resolved by the alternative resolution process established pursuant to paragraph (5) of subdivision (b) of Section 56205.

(d) Notwithstanding Section 56208, this section shall apply to all special education local plan areas commencing on July 1, 1998, whether or not a special education local plan area has submitted a revised local plan for approval or has an approved revised local plan pursuant to Section 56836.03.

Rights of Certificated and Classified Employees Education (Ed.) Code

Ed. Code 44903.7 covers rights of certificated employees:

44903.7

When a local plan for the education of individuals with exceptional needs is developed or revised pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

- (1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.
- (2) 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. 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.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education local plan areas or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 (commencing with Section 56000) shall not be considered employers of certificated personnel for purposes of this section.

(c) 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 in subdivision (d), 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.

(d) 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.

Ed Code 45120.2 covers rights of classified employees:

45120.2

(a) If the development or revision of a local plan for the education of individuals with exceptional needs pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, results in a classified employee who is performing service for one employer being terminated, reassigned, or transferred, or becoming the employee of another employer because of the reorganization of special education programs, the employee shall retain the seniority acquired at his or her employment with the school district or county office of education from which he or she was terminated, reassigned, or transferred. If terminated, the employee retains the rights specified in Sections 45115, 45117, and 45119.

(b) 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. 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.

(c) If a local plan for the education of individuals with exceptional needs is developed or revised pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, all classified employees shall be employed by a county office of education or an individual school district.

(d) A classified employee who is reassigned or transferred as a result of the reorganization of special education programs has priority, except as provided in subdivision (e), 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.

(e) 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 to 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.

WRITTEN INTENT OF SPECIAL EDUCATION PROGRAM TRANSFER

Time Lines: Standard Process - Due to SELPA by March 1st

Accelerated Process - Due to SELPA by September 1st *

**Can be changed with Superintendents' Council Approval*

Part I: Identification - Education Code (EC) 56207

LEA Submitting Request: _____

1. Receiving LEA: _____

2. Sending LEA: _____

3. Date of Request: _____

4. Standard Program Transfer Accelerated Program Transfer

5. Effective Date of Transfer: _____

Part II - List type of programs and/or services requested to be transferred

A. Description of Program/Services: _____

B. If a partial transfer of program/class or activity is being requested, please list type of program and/or services that the LEA will be contracting with another LEA or agency. Please list the name of the LEA, the SELPA that the LEA is a member of and/or the name of the agency. If not, please indicate when the contracting requirements will be completed.

Definition of a Program Transfer

According to the California State Department of Education (CDE) Memorandum of Understanding dated April 7, 1999, "a program change is presumptively considered a program transfer when all three of the following criteria are met":

1. The proposed change involves a change in the LEA of service – the movement of students from one service provider (LEA) to another.

YES

NO

2. The change involves the movement of funding locally from one service provider (LEA) to another.

YES

NO

3. The change must involve one or more employees who would be affected by the provisions of Education Code 44903.7 Education and Education Code 45120.2. Section 44903.7 establishes the right of certificated employees to retain employment if their assignment moves to another LEA. Section 45120.2 establishes similar rights for classified employees. Section 44903.7 and Section 45120.2 state that any employee, certificated or classified, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes the employee of another employer because of the reorganization of special education program, the employee shall be entitled to . . . [certain rights].

YES

NO

In addition to the three criteria for a program transfer as identified by CDE, the program transfer process applies only in the following situations:

4. The transfer of an intact, identifiable class or activity which results in the creation of a certificated and or classified position by the receiving program/**service** operator and a reduction of a certificated and or classified position by the sending program/**service** operator. These students must be residents of the district/region to which the program will be transferred.

YES

NO

5. The transfer of students from several classes combined to form an intact, identifiable class or a full inclusion caseload which results in the creation of a certificated and/or classified position by the receiving program/**service** operator and a reduction of a certificated and/or classified position by the sending program/**service** operator. These students must be residents of the district/region to which the program will be transferred.

YES

NO

6. The current LEA of service has been notified of this request

YES

NO

The current LEA Superintendent and Special Education Administrator have been sent a copy of this request on _____ (Date)

LEA Superintendent Submitting Intent

LEA Director of Special Education

For SELPA Administrator Use Only	Date Reviewed: _____

Program Transfer Procedural Safeguards Documentation and Checklist

The purpose of the procedural safeguards documentation and checklist is a written record of the receiving LEA's compliance with Section 56207(a), and the Yuba County SELPA Program Transfer Policy and Administration Regulation.

The receiving LEA is to provide a detailed written narrative which reflects the process and steps implemented in the program transfer process. Each section of the assurances are to address the effect of the proposed transfer on both the students being transferred and students remaining in the current services, if any students are remaining. The Program Transfer Procedural Safeguards Document and Checklist must be submitted to the Yuba County SELPA and reviewed by Superintendents' Coordinating Council (SCC) subsequent to implementation of the program transfer. The approval of the Program Safeguards Document and Checklist by the Superintendents' Coordinating Council will serve as notification to the receiving LEA that the program transfer process has been completed with appropriate procedural safeguards and the program transfer process moves to the implementation stage.

Section 56207(a)

- 1. Pupil needs. A description of required services and other descriptive information regarding the students affected by the change.
- 2. The functional continuation of the current individualized education plans of all affected students. Section 56207(a)(1) and (3) – pupil needs and the continuation of the current individualized education program for all affected students. If the proposed transfer involves a change in personnel or the site of service, please provide a detailed plan focusing on the following areas. Respond to examples only where applicable.
 - a. Personnel - Examples include:
 - The number (FTEs) and qualifications of certificated and classified staff (both direct and support staff) involved in program transfer for both sending and receiving LEAs;
 - The continuation of assessments, either standardized or alternate, that will be used to measure pupil progress.
 - Exhibit 80.3(b)**
 - b. Materials and Equipment - examples may include:
 - The process used for the division of materials and/or equipment;
 - The continuation of appropriate transportation services;
 - The transfer of assistive technology or low-incidence equipment.
 - c. Facilities - examples include:
 - The analysis of the facilities and any transfers, if facilities will be part of the program transfer.
 - d. Services from Non-educational Agencies
- 3. The availability of a full continuum of services to affected students describing how the students will be ensured a free and appropriate program and what physical changes are to occur when the transfers are made.
- 4. The provision of services in the least restrictive environment from which the affected students can benefit.
 - Section 56207(a)(2) and (4) – the availability of the full continuum of program placements and services for all affected students and the provision of services in the least restrictive environment from which pupils can benefit. If the proposed transfer involves a change in personnel or the site of service, please provide a detailed plan focusing on the following areas. Respond to examples only where applicable.
 - a. Contingency plans for providing placements or services other than those called for in the IEPs of current pupils. Examples include:
 - Specific regional programs or nonpublic schools that will be available to serve students who cannot be served by the proposed program or service configuration;
 - Opportunities for participation in the general education class and curriculum, if such participation were required by a student's IEP.

- b. Information regarding the transfer of materials and equipment if this is a consideration. If the proposed transfer involves students with low incidence disabilities, the receiving LEA needs to address issues as outlined in California Department of Education's Program Guideline for the relevant disability category.

- 5. The maintenance of all appropriate support services.
 - Section 56207(a)(5) – the maintenance of all appropriate support services. If the proposed transfer involves a change in personnel or the site of service, please provide a detailed plan focusing on the following areas. Respond to examples only where applicable.

 - a. Number (FTEs), qualifications, and experience of support staff. Examples include:
 - Psychologists
 - Program specialists

 - b. Availability of other support services. Examples include:
 - Financial services
 - Administrative support

- 6. Adherence to all state laws and regulations and special education local plan area policies. Describe the process or implementation to federal, state laws and regulations and the Yuba County SELPA policies and administrative regulations.

- 7. Describe the representation of parents and staff in the planning process.
 - Section 56207(a)(7) – the involvement and representation of parents of all affected students and staff in the planning process. If the proposed transfer involves a change in personnel or the site of service, please provide a detailed plan focusing on the following areas. Respond to examples only where applicable.

 - a. Involvement of parents. Examples include:
 - The number of public meetings to which parents were invited and attended;
 - The number of parents attending meetings;
 - How and to whom invitations were transmitted;
 - Evidence (such as minutes or agendas) that the information requested in numbers 1, 2, and 3 were discussed during those meetings;

 - b. Involvement of staff. Examples include:
 - Special and non-special education staff (such as teachers, administrators, and classified staff) that might be affected by the transfer in the planning process.

- 8. IEP team meetings have been held for each affected student and IEPs have been completed reflecting the new program operator and any change in program configuration.

- 9. Inter-agency agreements have been completed with all appropriate non-educational agencies. Signing this document is an affirmation that this process has been completed and assures that agreements are in place for students to receive services specified in their IEPs that are the responsibility of non-educational agencies.

- 10. Each LEA has complied with provisions of the Education Code, relating to the rights of employees affected by the transfer.