

PROGRAMS***Program Transfers*****Adopted: 11/28/2023****First Reading: 10/24/2023****Second Reading: 11/28/2023**

The Special Education Local Plan Area (SELPA) Governing Board recognizes the need for programs to transfer from one Local Education Agency (LEA) to another in order to meet the needs of students with disabilities.

Policy and procedures set forth in this ‘procedural policy’ refer to those program transfers for which Education Code § 56207 apply. Program transfers under this section of the code are those that occur when the Special Education Local Plan Area (SELPA) membership remains intact, there is no reorganization of the SELPA, and there is no requirement to revise the SELPA local plan.

Legal Reference

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 that addresses, at a minimum, all of the following:

1. Student needs;
2. The availability of the full continuum of services to affected students;
3. The functional continuation of the current individualized education programs of all affected students;
4. The provision of services in the least restrictive environment from which affected students 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.

Notice of the transfer must be given by the sending or receiving agency to the other, and must also be given to the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205.

The transfer may not take effect until the second fiscal year following the date of the notice. An effective date may be chosen in the first fiscal year following the date of the notice only if the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205 unanimously agrees to it.

If either the sending or receiving agency disagree 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.

Preliminary Notice of Intent to Transfer Program

A written notice of intent to transfer program(s) from one local education agency (LEA) to another must be given by June 30 of the year prior to implementation (i.e., one year and one day, see Sample A below), unless both LEA’s unanimously approve the transfer taking effect on the first day of the first fiscal year following the transfer date (see Sample B below).

Sample A Transfer Schedule (Regular)	Sample B Transfer Schedule (Fast Track)
Written Notice of Intent to Transfer: June 30, 2023	Written Notice of Intent to Transfer: January 30, 2024
Preparation Year: 2023-2024	Preparation Year Abbreviated: 2023-2024
Implementation Date: July 1, 2024	Implementation Date: July 1, 2024

The Superintendent/Executive Director of the initiating LEA must send a ‘Written Notice of Intent to Transfer’ to the Superintendent/Executive Director of the sending or receiving LEA with copies to the SELPA Administrator and all other LEAs within the SELPA. The notification must include statements indicating:

1. The specific programs that the initiating LEA is proposing to operate or cease operating;
2. When proposing to assume operation of a program, whether the proposal is for a regional or non- regional program;
3. When proposing to cease operation of a program, whether the program is currently a regional or non-regional program;
4. The date that the initiating LEA proposes to begin or cease operating the involved programs.

Transfer of Regional Program

A regional program is a program that provides instructional services to students who are residents of multiple LEAs within the SELPA. If a class proposed for transfer is a regional program, the receiving provider is not necessarily obligated to assume the role of a regional service provider.

If the initiating LEA will be the receiving LEA and intends to continue to provide regional services, the final notice of intent must identify all LEAs that would be enrolling students in that program. If a program transfer is approved that involves converting a regional class to a non-regional class, the process described in the section of this chapter entitled, "Placement of Non-District Students Enrolled in Previously Regional Programs", must be followed.

Transfer of Non-Regional Program

A non-regional program transfer involves the return of one or more programs back to an LEA that will serve only students who reside within that LEA.

In all program transfers, the proposed program operator and the current program operator shall collaborate in conducting all activities necessary to accomplish the transfer, such as scheduling IEP meetings, transfer of files, hiring of highly qualified special education staff, coordination of related services, notification to parents, and any other activities associated with the program transfer.

Related Service Transfers

An LEA within the SELPA may wish to arrange with another LEA within the SELPA to provide one or more related services due to temporary personnel shortages. Such arrangements will be established through a Memorandum of Understanding (MOU) between the two LEAs.

If an LEA wishes to permanently transfer operation of one or more related services (with the exception of transportation) to another LEA, the SELPA Governing Board shall consider the request following the same procedures as for any other program transfer.

An LEA may purchase special education transportation for its students from another LEA outside of the program transfer procedure. Such arrangements will be established through a Memorandum of Understanding (MOU) between the two LEAs.

When a program transfer is being proposed for an instructional program and transportation of students will be affected, the initiating LEA must include how transportation will be addressed in its analysis reports.

Preliminary Staff Meetings

From September through December, or as reasonably feasible, the sending and receiving LEAs must conduct preliminary meetings with all affected staff members regarding the proposed program transfer. The purpose of these meetings is to begin discussing employment options should the proposed transfer be approved. It is permissible to hold these preliminary meetings in groups.

Parent and Staff Input

The involvement and representation of staff and the parents of all affected students in the planning process is vital. A central part of the LEA's program and fiscal reports involves a description of what specific steps and activities were taken to obtain parent and staff input into the proposed program transfers, including any written parent comments. These activities are recommended to be conducted from September through December of the planning year, or as reasonably feasible.

After these steps and activities are completed, the initiating LEA is required to present its proposed plan for program transfer to the SELPA Community Advisory Committee (CAC) for review by January 15, or as reasonably feasible, of the preparation year. The CAC may make a recommendation to the SELPA Governing Board regarding its level of support for the proposed plan.

Employee, Student, Classroom Data Report

By January 15, or as reasonably feasible, of the preparation year (year prior to implementation), the LEA currently operating a program shall submit written information pertinent to the employees, students, and classrooms affected by the proposed transfer to the SELPA and the LEA proposed for program operation. This report shall contain the following:

1. Employee data including employment applications, placement on salary schedule, longevity status, benefits, stipends, credentials and other authorizations for certificated staff, work days and hours for classified staff members;
2. Student data including names, addresses, dates of birth, registration forms, immunization records, home language surveys, copies of IEPs and any behavioral plans, health histories, any

specialized personal care or health needs, transportation needs, specialized equipment (lifts, etc);

3. Classroom data including status of current facilities (owned, rented, lease payments, etc.), whether instruction is provided in other environments such as community based instruction or other special activities (frequency, funding source, etc.); required equipment (computers, internet connection, phones, fax, copier, van, etc.), and any site specific arrangements or issues;

Program and Fiscal Reports

By January 15, or as reasonably feasible, of the preparation year, an initiating LEA shall submit a completed Request for Program Transfer - Program Report and Request for Program Transfer - Fiscal Report to the other LEA and the SELPA. The SELPA Administrator shall review these reports with the assistance of appropriate advisory groups. Following this review, the initiating LEA may be asked to revise the reports to include additional data prior to submitting the Final Notice of Intent to Transfer Program.

If the receiving LEA does not have a job description appropriate to one or more positions required to operate the program, the receiving LEA must develop appropriate job description(s) during the planning year. Proposed job descriptions must be attached to the Request for Program Transfer - Program Report.

Final Notice of Intent to Transfer Program

By February 1, or as reasonably feasible, of the preparation year, the initiating LEA must submit a district board approved written notification to the other LEA and the SELPA as to whether the LEA will be moving forward with the proposed program transfer. A final copy of the completed Request for Program Transfer - Program Report and Request for Program Transfer - Fiscal Report must accompany this notice.

The SELPA Administrator will place the program transfer request on the agenda of the SELPA Governing Board for review and discussion on or around February 15 of the preparation year. It shall be returned for final action not later than February 28 of the preparation year.

Initiating LEAs that do not meet the submission deadline for the Final Notice of Intent to Transfer Program will not be eligible to move forward with the program transfer until the next cycle.

SELPA Governing Board Review and Action

The SELPA Governing Board shall take final action on the proposed program transfer. In taking action to approve or deny a request, the following factors will be considered:

1. Individual needs of all students currently enrolled in the program have been considered and appropriately planned for;
2. A full continuum of special education services continues to be available for all affected students;
3. The IEPs of all affected students will continue to be implemented within the least restrictive environment within which those students can receive educational benefit;
4. The district has the resources to provide for specialized needs such as health care, behavioral support, contracted services, etc.;
5. Sufficient levels of qualified administrative, certificated, and classified staff will be provided to meet the identified needs of the students;
6. LEA is aware of and has plans to accept transfers of staff from current program provider according to legal mandates and union agreements;
7. There are plans in place to orient transferring staff to the district's policies and procedures;
8. There are plans in place to train current classified, certificated, and administrative staff regarding curriculum, specialized needs of students, etc.;
9. Adequate facilities will be available to support the program;
10. The program will have adequate equipment, materials, and supplies needed to implement each IEP;
11. Students will be provided with appropriate transportation options, as identified on their IEPs;
12. Affected staff members and parents of affected students have been included in the planning process; and
13. A reasonable plan is in place for communicating the change to parents and amending IEPs as needed.

The SELPA Administrator will notify all sending and receiving LEAs of the action taken by the SELPA Governing Board by March 7 of the preparation year.

Certificated and Classified Employee Transfers

Certificated staff includes special education teachers, speech therapists and other specialists providing direct service to students.

Employee's rights (classified/certificated) when transferred, terminated, or reassigned as a result of a program transfer:

1. Seniority for transferred or reassigned employees:

Employee retains their seniority date and classification.

2. Salary placement for the transferred or reassigned employees:

Employee is credited year for year for placement on the salary schedule in the LEA or county office to which they are transferred or reassigned and their salary may be subject to Y rating.

3. Salary placement for laid off employee who is later hired by the district/county office which received the transferred program (“receiving district/county office”):

Employee is credited year for year for placement on the salary schedule in the district or county office to which they are hired and their salary may be subject to Y rating.

4. Employment Rights:

When a program is being transferred from one LEA to another, the receiving LEA will observe the following procedures:

a. The position will be offered to the person who is currently assigned to the program being transferred, provided that they are appropriately credentialed/qualified.

b. If no one applies for the position, the receiving LEA will follow normal hiring procedures and the sending LEA will provide a lay off notice as appropriate.

5. Employee Health Benefits:

The sending LEA will continue to provide the same level of health benefits after the end of the fiscal year for each certificated/classified employee moving to another LEA as a result of a program transfer. The sending LEA will provide benefits from July 1 through the end of the month when the employee begins their assignment in the receiving LEA, but not beyond September 30. The receiving LEA will begin providing health benefits on the first day of the month after the employee begins work in the LEA, but no later than October 1.

Final Staff Meetings

The sending and receiving LEAs for programs approved for transfer must hold final meetings with all affected staff members no later than March 15 of the preparation year. The purpose of

these meetings is to meet with each staff member individually to identify employment status and discuss employment options.

Parent Notification/IEP Meetings

Between April 1 and June 15, or as reasonably feasible of the preparation year, all parents of affected students will be notified and IEP meetings held to amend IEPs as needed. These meetings should be held in collaboration between the sending and receiving LEAs

Placement of Non-District Students Enrolled in Previous Regional Program

When a receiving LEA will assume operation of a program that was previously a regional program but will operate it as a district-only program, the IEP team meeting discussed in the previous section must address where students who do not live in the new LEA of operation will be placed. The IEP team must include representatives from the sending LEA, the receiving LEA, and the LEA of residence. All appropriate special education and related service options must be considered. The IEP must include a new offer of FAPE from the LEA of Residence.

The FAPE options may include, but are not limited to:

1. Continuing placement in the current program through an individual agreement between the LEA of residence and the receiving LEA;
2. Placement in an alternative regional program operated by one of the LEAs within the SELPA;
or
3. Placement in an appropriate program operated by the LEA of residence.

All involved LEAs are encouraged to work collaboratively to ensure that all students are provided with FAPE and to minimize the disruption of each affected student's education. Whenever possible and appropriate, continuing placement in the current program through an individual agreement between the LEA of residence and the receiving LEA is preferred.

Division of Assets

Consideration will be given to the investment of program-related purchases made by the SELPA in considering the division of assets. Equipment (including vehicles purchased for instructional purposes), materials, and supplies purchased with special education funding by the sending LEA for classrooms involved in a program transfer may be transferred to the receiving LEA that has agreed to be a regional program. This will include items purchased for related service providers (e.g., occupational therapists, and speech therapists) to use with students enrolled in the affected classrooms. Equipment, materials, and supplies used for multiple classes/programs including some that are not part of the program transfer will be divided proportionately or traded for items

of equal value. Special education funding includes:

1. AB 602 funds;
2. Federal IDEA grant;
3. Other federal special education grants;
4. Special education property taxes;
5. Low incidence funds; and
6. Billback income.

The sending and receiving LEAs shall meet at least once and as often as needed, during the time period from the date of approval of the program transfer and the end of that fiscal year, to identify the items that will be included in the division of assets.

In preparation for this activity, the sending LEA must identify the items specified above on inventory lists including the item name or description, the tag number, the location, the funding source, the purchase year and price, and the condition. Following agreement regarding the items that will be transferred, the appropriate special education administrator from each LEA shall sign and date the inventory lists, verifying their approval.

If one or more classes included in the program transfer will be relocated, it is the responsibility of the sending LEA to pack items that will be transferred in preparation for such relocation. The appropriate special education administrators from both LEAs will schedule a date and location for the delivery of the assets to be transferred. Together, the administrators will verify, in writing, that all agreed-upon items are accounted for and have been transferred. This activity shall occur between July 1 and August 15 of the implementation year, unless a date outside of this time period is mutually agreed upon in writing.

Effective Date of Program Transfer

Unless otherwise approved, the receiving LEA shall assume responsibility for program operation on July 1 of the implementation year. The sending LEA will maintain responsibility through the completion of the extended school year (ESY) of the preparation year.

Dispute Resolution

In the event that the LEA initiating a program transfer or any other affected LEA disagrees with the decision of the Governing Board, the dispute resolution procedures outlined in the “Dispute Resolution” procedures described in the governance section of the Local Plan.

Reference: EC 56207
EC 44903.7
EC 45120.2