

## CHARTER SCHOOLS

- A. Rationale: This policy applies to all Charter Schools that are chartered by educational entities located within the North Santa Cruz County SELPA. Additionally, this policy applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA [Education Code 47605 (k) (1)]. .
- B. Policy Statement: Students enrolled in charter schools are entitled to special education services in a manner similar to those enrolled in public school in the district, charter schools within the SELPA shall comply with all requirements of applicable state and federal law regarding provision of special education services (Education Code §56000 et seq., Individuals with Disabilities Education Act 20 U.S.C. Chapter 33). A charter school shall not discriminate against any pupil in its admission criteria, including on the basis of disability. The charter school's participation in the SELPA will be determined by whether it operates as a school of its chartering district or an LEA member of a SELPA. If the charter school is operating as an LEA member of the SELPA, the charter school shall be treated as all other SELPA-member LEAs by the administrative unit, SELPA Governing Board and the SELPA Administrator.

Charter schools that are categorized as dependent and not deemed a LEA for special education purposes are aligned with the chartering district. They will participate in the federal/state funding in the same manner as the other schools within the chartering district. The chartering district shall be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education services in the same manner that is consistent with all applicable provisions of state and federal law.

A charter school may apply to become a LEA for special education purposes. The Special Education Coordinating Agency Governing Council shall determine whether the charter school has provided requisite assurances. Once approved as a LEA, the charter school shall participate in the governance of the SELPA in the same manner as other school districts within the SELPA.

- C. Charter Petition and Review by SELPA :

Prior to approval or renewal of a petitioning charter, the superintendent or designee of the chartering entity shall consult with the SELPA Administrator regarding the sufficiency of items related to the provision of special education services contained within the petition. The petition shall provide that no student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services, regardless of the availability of services the student needs within the charter school's regular education program. Each charter

petition must contain a reasonably comprehensive description of the charter school's education program, as it related to the provision of special education services, including the following:

1. All eligible students enrolled in the charter school will receive appropriate special education services in accordance with applicable state and federal laws and regulations, as well as the local plan;
2. The district where the student resides, if different than the chartering entity, is not responsible for providing special education services to students that are enrolled in the charter school;
3. No student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services;
4. Staff members providing special education services are appropriately credentialed;
5. The facility used by the charter school does not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program; and
6. Disenrollment, suspension, and expulsion policies and procedures shall ensure that the protections of federal and state law are afforded to special education students.
7. Dispute resolution procedures that will apply to any disputes between educational entities, including the SELPA, regarding the provision of special education services in the charter school.

Each charter petition must contain a reasonably comprehensive description of the charter school's educational program. This description should include information about the specialized instruction and services available at the charter school and the procedures for ensuring that students are referred, assessed, and served in a timely manner. The petition or a memorandum of understanding (MOU) must also identify the entity that will be responsible for providing special education instruction and related services, reference any anticipated transfer of special education funds between the granting entity and the charter school for the purposes of providing special education and related services, and include provisions for sharing deficits in funding.

#### D. Categories of Charter Schools

For the purpose of provision of special education services, charter schools shall be deemed either a public school within the chartering LEA or an LEA that receives funds and provides services independent of the chartering entity. All approved charter schools will be deemed a public school within the chartering entity until the charter school has been deemed an LEA following this policy, the local plan and approval by the SELPA

Governing Board. The categorization as a separate LEA will become effective on the first day of the fiscal year (July 1), following final approval by the SELPA Governance Board.

E. Public School within a School District or County Office

Charter schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools or programs within the chartering entity. The chartering entity may not grant a charter on the condition that the charter school must become an LEA. The chartering entity will determine the equitable share of funding and/or services to be distributed to the charter school, as well as policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students enrolled in other schools or programs administered by the chartering entity.

The chartering entity will:

1. Receive all applicable special education funds as specified in the SELPA's AB 602 Funding Allocation Plan and ensure that the allocated funding is distributed to the charter to provide or procure special education and related services and/or used by the LEA to provide or procure special education and related services to the charter
2. Represent the needs of the charter school in the SELPA governance structure;
3. Be jointly responsible for ensuring that all eligible students enrolled in the charter school are appropriately referred, assessed and served consistent with all applicable provisions of state and federal law, in a timely manner, and in the same manner as a student with disabilities who attends another public school of that LEA, no matter where the child may live; and
4. Ensure that the charter contributes an equitable share of its charter school block grant funding to support LEA-wide excess costs for special education instruction and services, including, but not limited to, special education instruction and services for student with disabilities who are enrolled in the charter school.

The chartering entity and charter school may enter into agreements or Memo of Understanding (MOU) whereby the charter school contributes a fair share of its funds towards the costs of district wide special education services, programs, and administration which its chartering district funds out of its general funds.

F. Charter School as an LEA within the SELPA

A charter school that includes in its petition for establishment or renewal, or that otherwise provides verifiable written assurances that the charter school will participate as an LEA for the purposes of providing special education, may apply to become a member of the North Santa Cruz County SELPA or another SELPA. A request from a charter

school to participate in the North Santa Cruz County SELPA will be treated in the same manner as such a request from a school district. The charter petition or other written assurances should state that prior to final approval of a request to be deemed an LEA, the charter school will be deemed a public school within the chartering entity.

Charter schools that wish to become member LEAs in the North Santa Cruz County SELPA must submit their application on or before February 1 of the school year prior to implementation (i.e., one year and one day) of the school year preceding the school year in which the charter school anticipates operating as a member LEA within the SELPA. The SELPA Administrator and Special Education Council will review the application and develop an action recommendation for the SELPA Governance Board. The SELPA Governance Council will take action to approve or disapprove the charter school as a member LEA.

The SELPA Governance Council decision will be based on whether the charter school has met all requirements to be included as a member LEA of the SELPA. These requirements include:

1. Will meet all applicable requirements of state and federal laws and regulations, including compliance with the Individuals with Disabilities Education Act (IDEA, 20 USC 1400 et seq.), Section 504 of Public Law 93-112, 20 USC 8065 (a) and the provisions of the California Education Code, Part 30;
2. Will ensure that all individuals with exceptional needs (ages birth to 22) shall have access to appropriate special education programs and services;
3. Will assure that no child eligible for special education and related services seeking to enroll in the charter school will be denied nor discouraged from enrollment due to disability or due to the charter school's concern about its ability to provide appropriate services;
4. Will assure that the charter school will fully inform parents of students with disabilities seeking enrollment in the charter school of their rights and educational options available;
5. Will deliver special education and related services to any eligible child enrolled in the charter;
6. Will expend all state and federal special education funds for the sole purpose of providing special education instruction and/or services to eligible students with disabilities;
7. Will assure the charters obligation to "search and serve," pay the costs of special education whether or not those costs are adequately covered from the charter's SELPA allocation, and that it has adequate reserves to cover those costs;
8. Will assure the charter will adhere to all policies, procedures, obligations and requirements of the SELPA Local Plan For Special Education, including the Funding Allocation Model;
9. Will utilize SELPA-approved forms and documents including use of internet based IEPs, and will follow all SELPA agreements, policies, and procedures;

10. Will ensure that students will be instructed in a safe environment with no physical barriers that would prevent full participation in educational and extracurricular activities;
11. Will provide the SELPA with a copy of the charter school's original petition, as approved by the chartering entity and any subsequently approved amendments to the charter;
12. Will follow all federal and state laws regarding discipline and assume funding responsibility for change of placement/alternative settings due to disciplinary issues;
13. Will provide SELPA will copy of charter's current operating budget in order to assure fiscal responsibility in accordance with Ed Code 42130 and 42131;
14. Understands its legal and financial responsibilities to provide appropriate special education services to eligible students. Financial responsibilities may include, but are not limited to, instruction, related services, transportation, non-public school/agency placements, inter/intra SELPA placements, due process hearing proceedings and attorney fees; and
15. Will not seek defense or indemnification from the SELPA or SELPA members unless liability is the result of acts or omissions of other agencies, their agents or employees, while performing services under an agreement.

If approved, LEA status will become effective on July 1 of the next school year. Prior to final approval and full acceptance as a member LEA, the charter school will continue to be deemed a public school of the chartering district. Once approved, the LEA charter school will choose a representative to the Governance Board, a representative to the Special Education Council, and the ad hoc AB 602 Finance Committee. The representative to the Governance Board must be the chief executive officer pursuant to the Governance Board bylaws. The representative to the Special Education Council and AB 602 Finance Committee must be an authorized agent designated by the governing board of the charter school.

If disapproved of LEA status, the SELPA administrator will provide the applicant with a written finding that delineates the reason(s) for disapproval.

Once deemed a member LEA, the charter school, like other member LEAs shall:

1. Fully participate in governance of the SELPA in the manner outlined in the local plan and shall choose a representative to the SELPA Governance Council and to the SELPA Special Education Council;
2. Accept all responsibilities of an LEA in the implementation of the local plan;
3. Fully comply with policies and procedures outlined in the local plan and procedural handbooks;
4. Contribute to, participate in, and receive the benefits of regionalized services;

5. Receive state and federal funding for special education in accordance with the SELPA AB 602 Funding Allocation Plan;
6. Be responsible for all costs incurred in the provision of special education and related services, including but not limited to instruction, services, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees, without regard for the location in which the student may reside;
7. Document that all state and federal special education funds apportioned to the charter school are used for the sole purpose of providing special education instruction and/or related services to identified students with disabilities; and
8. Return any special education apportionment not used solely for the purpose of providing special education instruction and/or related services to identified students with disabilities, if recaptured by the SELPA for reallocation to other LEAs.
9. Annually collect data and submit to the SELPA by June 30 of each year, the total number of students who submitted an application and were accepted into the charter school in the previous school year (i.e., submit June 30, 2013 for the 2012-2013 school year):
  - a. the number of general education and special education student (students with either Individualized Education Plan (IEP) or Section 504 Plan) who applied for admission to the charter school; and
  - b. the number of general education and special education students who were admitted to the charter school during the previous school year.

Following approval by the Governance Board, the SELPA local plan must be amended, the governing boards of all participating LEAs must approve the amendment, and the amended local plan must be submitted to CDE for final approval. If the approval of a charter school as an LEA requires a change in the SELPA AB 602 Funding Allocation Plan, such change shall be adopted pursuant to the policy-making process outlined in the local plan.

The terms of this policy are severable. In the event that any of the provisions are determined to be unenforceable or invalid for any reason, the remainder of the policy shall remain in effect, unless mutually agreed otherwise by the members of the SELPA Governing Board after review by the Special Education Council. The SELPA Governing Board members agree to meet to discuss and resolve any issues or differences relating to invalidated provisions in a timely and proactive fashion.