

# **North Region SELPA Board Policies & Administrative Regulations May 27, 2020**



**North Region SELPA  
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# North Region SELPA Policies

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**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS****PROPOSED: 1-18-07****ADOPTED: 3-22-07****SUBJECT: Signing Authority**

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**Signing Authority**

The Policy Board authorizes the individuals holding the following titles with the responsibility to sign official documents on behalf of the North Region Special Education Local Plan Area (SELPA):

- Policy Board Chair: signs documents requiring the signature of the governing body or other documents in the absence of other authorizing roles.
- Policy Board Vice Chair: in the absence of the Policy Board Chair, signs documents requiring the signature of the Policy Board Chair.
- Administrative Unit Superintendent: signs documents requiring the signature of the Administrative Unit on behalf of the SELPA (i.e. Grant Award Notifications), and following action as directed by the Policy Board.
- SELPA Director: signs all documents related to income, expense, and authorization of such activities. Personal reimbursement for the SELPA Director at or above \$750 shall require additional authorization by the Chair or Administrative Unit Superintendent. Personal reimbursement for the SELPA Director under \$750 shall not require additional authorization. Any documents which are necessary to the daily operation of the SELPA, such as all documents related to funding, pupil count, and other state reporting requirements. All contracts following action by the Policy Board. Signature will be provided on items where Policy Board action is required once action has been approved and documented in Policy Board minutes.

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS****PROPOSED: 1-18-07****ADOPTED: 3-22-07****SUBJECT: Suspension of Policies**

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**SUSPENSION OF POLICIES AND PROCEDURAL GUIDELINES**

Policies and Procedural Guidelines are subject to suspension for a specified purpose and limited time or by revision by the action of the Policy Board in accordance with the provisions of the Local Plan.

The SELPA Director in consultation with the Policy Board Chair is authorized to suspend any Policy or Procedural Guideline when advised by competent legal authority that such document is wholly or in part in conflict with the laws or regulations of a superior authority. The SELPA Director may choose to suspend only that part which is in conflict if such action appears to be in the best interest of the SELPA. The suspension shall be valid only until the Policy Board's next meeting, when the SELPA Director shall report the suspension and bring recommendation to the Policy Board for appropriate action.

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS****PROPOSED: 1-18-07****ADOPTED: 3-22-07****REVISIONS PROPOSED: 1-22-09****REVISIONS ADOPTED: 3-2-09****REVISIONS #2 PROPOSED: 4-9-20****REVISIONS #2 ADOPTED: 4-9-20****SUBJECT: Program Compliance, Monitoring, and Support**

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**Program Compliance, Monitoring, and Support**

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.

**LEA Responsibilities**

The LEAs of the North Region SELPA shall monitor all special education students who are the educational responsibility of the LEA including students with disabilities in alternative and nonpublic schools and students who have been suspended or expelled. The LEAs will Procedures to monitor compliance will include, but not be limited to:

- Implementation of local policies and procedures with applicable state and federal laws;
- Conduct regular staff meetings with special education staff;
- Provide training for administrators and other school staff/employees;
- School site and classroom visits;
- Review of Individual Education Plans (IEPs);
- Review of/address parental comments or complaints;
- Review of LEA's Compliance Determination Indicators;
- Comply with the requirements of the performance goals and indicators developed by the CDE and provide data as required by the CDE.
- Review of LEA's CALPADS data/reports;
- Review of LEA's Timely and Complete Reporting; and
- Review the implementation of findings from Special Education Self Review (SESR) process.



## **SELPA Responsibilities**

The SELPA will monitor the LEAs of the North Region SELPA for compliance with state and federal laws and implementation of the Local Plan. The procedures utilized may include, but not be limited to:

- Develop policies and procedures in accordance with applicable state and federal laws;
- Review of the Annual Budget Plan;
- Review of the Annual Service Delivery Plan;
- Review of the LEA's Special Education performance goals and indicator requirements developed by the CDE and provide data as required by the CDE.
- Review of pertinent data/reports;
- Review of the SELPA Funding Allocation Plan;
- Review of LEA's Maintenance of Effort;
- Evaluate the effectiveness of services to support district compliance efforts offered by the SELPA office with LEA Directors;
- Review results of LEAs' Special Education Self Review with LEA Directors; and
- Consult with LEA staff regarding allegations of non-compliance filed with CDE.

The SELPA will conduct pro-active activities to achieve and maintain ongoing compliance with state and federal special education laws. These activities may include, but are not limited to:

- Monthly Special Education Director meetings held by the SELPA Director;
- At least one annual meeting with SELPA Director and LEA fiscal directors;
- At least four meetings per year by the Policy Board and the SELPA Director;
- Annual Program Certification meetings with Special Education and Fiscal Directors;
- Site visits and student file review by Compliance Review Team comprised of representatives from each district and SELPA;
- Compliance monitoring as a result of Alternative Dispute Resolution activities;
- SELPA sponsored trainings for staff members at all levels on compliance related topics; and/or
- Technical assistance to LEAs from the SELPA Director and/or the SELPA Program Specialist, such as technical assistance and consultation on corrective actions resulting from CDE Compliance Complaints, attendance at IEP meetings, attendance at staff meetings, fiscal consultation, compliance monitoring through computerized IEP program, etc.

## **State Responsibilities**

California Department of Education has identified State Performance Plan Indicators, State test scores, Compliance Determination Reports, Complaint outcomes, Hearing outcomes, Pupil Count, Verification and Self Reviews, 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.

1) Compliance Commendation

- a) No significant non-compliance findings identified
- b) Report data sources complete and provided in timely manner
- c) Dispute outcomes below Statewide levels
- d) No issues identified by the State

❖ SELPA Support

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

2) Operational Non-Compliance

- a) Non-compliance issues identified
- b) Report data sources complete and provided in timely manner
- c) Dispute outcomes below Statewide levels
- d) 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

3) Substantial Non-Compliance

- a) Corrective action plan requires SELPA involvement
- b) Data incomplete or not provided in a timely manner
- c) Dispute outcomes above the Statewide levels
- d) State involved in on-site review and identification of non-compliant issues

❖ SELPA Support

- Notifies Policy Board and LEA superintendent
- Provides technical assistance
- Assists with development and implementation of corrective action plan or improvement plan
- Provides specific training
- Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

#### 4) Systemic Non-Compliance

- a) Corrective action plan with outstanding issues after 3-12 months
  - b) Data incomplete or not provided in a timely manner
  - c) Dispute outcomes above the Statewide average and clusters of issues identified
  - d) Multiple issues with performance among the lowest 15% of the State
  - e) State involved in on-site corrective action plan or improvement plan
- ❖ SELPA Support
- Notifies Policy Board, LEA superintendent, and Board President
  - Directs SELPA program specialist to support implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes
  - Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

#### 5) State Sanctions

- a) Corrective action plan with outstanding issues after 12 months
  - b) Data incomplete or not provided in a timely manner
  - c) Dispute outcomes above the statewide average and clusters of issues identified. Orders, agreements, or corrective action not implemented
  - d) Multiple issues with performance among the lowest 15% of the State with no substantial improvement over time
  - e) State involved in on-site corrective 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 Policy Board, LEA superintendent, LEA Board President, and Alameda County Superintendent of Schools
  - Withholds funds from the specified LEA reflective of State action impacting the SELPA allocation
  - Directs district assigned SELPA program specialist to support implementation of elements of the corrective action plan to focus on technical assistance, specific training and monitoring of outcomes
  - Delay monthly deposit of special education funding until reports, overdue after the State deadlines, are provided

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS****PROPOSED: 6-20-11****ADOPTED: 6-20-11****SUBJECT: Over-Identification and Disproportionality**

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**OVER-IDENTIFICATION AND DISPROPORTIONALITY**

It is the responsibility of each member Local Education Agency (LEA) of the North Region SELPA to prevent the inappropriate disproportionate representation by race and ethnicity of students with disabilities.

Reference: EC 56205 (a)  
20 USC Section 1412 (a) (24)

**Procedures:**

Each member Local Education Agency (LEA) of the North Region SELPA shall, with SELPA assistance, monitor student trends with the intent of averting inappropriate, disproportionate representation by race and ethnicity of students with disabilities. The SELPA shall provide the following assistance:

- Student trend data pertinent to the disproportionate calculation as reported through CASEMIS to the California Department of Education (CDE).
- Provide up-to-date training and information provided to the SELPAs by CDE.
- Continue to apprise member LEAs concerning fiscal changes and/or responsibilities related to the potential 15% transfer of local assistance funds to reduce disproportionality under the Early Intervening requirement of IDEA.

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSIVE PLANS****PROPOSED: 10-15-12****ADOPTED: 11-13-12****REVISION PROPOSED: 1-21-16****REVISION ADOPTED: 3-24-16****REVISION #2 PROPOSED: 4-9-2020****REVISION #2 ADOPTED: 4-9-20****SUBJECT: Special Education Maintenance of Effort Compliance Monitoring  
and Support**

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**SPECIAL EDUCATION MAINTENANCE OF EFFORT COMPLIANCE MONITORING AND  
SUPPORT**

North Region Special Education Local Plan Area (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 districts.

The North Region SELPA shall meet maintenance of effort (MOE) regulations requiring that federal funds be used only to pay the excess costs of providing special education and related services to children with disabilities and to supplement and not supplant state and local funds for special education (ref: 34 *Code of Federal Regulations (CFR)*, sections 300.302-300.205)

As part of the distribution of Federal and State Grants to SELPA member LEAs, the Business Official and Special Education Administrator from each participating LEA are required to sign a Grant Awards Assurance Statement, which reads as follows:

*“Each recipient LEA is required by Federal and State law to comply with the following conditions in accepting the grant funding:*

- 1. Account for income and expense for each grant in a separate account for audit purposes.*
- 2. Expend funds according to the guidelines for the grant.*
- 3. Complete all transactions by June 30 of the current fiscal year.*

*Failure to follow these requirements will result in funding being withheld by the SELPA until mechanisms are demonstrated as in place to assure compliance and/or recapture of funds by the State.”*

As the State Education Agency (SEA) monitors LEAs and takes action to encourage and enforce compliance, it is incumbent upon the SELPA to precede SEA sanction with prevention

and intervention activities. In the case of MOE, SEA has directed the SELPA, as the distributor of IDEA Part B funds to LEAs within a multi-district SELPA, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary. The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that LEA is not eligible to receive IDEA Part B funds.

Allocation to eligible LEAs is based on the SELPA's Special Education Allocation Policy including the allocation of recaptured funds from one LEA to other eligible LEAs. Recapture of funding from LEAs found not eligible shall be limited to the portion of IDEA Part B funds allocated to the LEA and not to exceed the amount of disparity in meeting the requirements of MOE. When the SELPA recaptures IDEA Part B funds from an LEA, the SELPA Director shall notify the County Superintendent in regard to the School District Fiscal Accountability Statutes.

The SELPA shall annually conduct and report to the SEA the required MOE information. The LEAs within the SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports, to the SELPA within designated timelines. The two required comparison tests are as follows:

**First Comparison Eligibility Requirement** – Grant-Year Budget to Prior Actual Expenditures (LMC-B)

- Each LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole, subject to the federal Subsequent Years rule.
- SELPA must ensure LEA meets the eligibility comparison test before the allocations of Part B funds are made to the LEAs.

Section 1 – Each year, LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:
  - a) Has left the jurisdiction of the agency
  - b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
  - c) No longer needs the program of special education

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. **This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.**

- The amount of funds expended by an LEA for early intervening services under 34 *CFR*, Section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

### Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining “per capita”). The four methods to maintain effort are:

1. The combination of state and local funds
2. Local funds only
3. The combination of state and local funds on a per capita basis
4. Local funds only on a per capita basis

If the SELPA as a whole passes the first comparison (budget vs. actual), the SELPA as a whole is eligible to receive Part B funding.

### **Consequences for Failure to Maintain Effort**

If the SELPA fails the first comparison test (budget vs. actual), the SELPA as a whole and all of its participating members will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA as a whole to meet MOE requirements.

If the SELPA as a whole passes the first comparison test (budget vs. actual) but one or more individual LEA sub-grant recipients fails the first comparison test, the LEA shall have until the first principal apportionment (better known as P-1 certification) occurs to comply with MOE requirements. The P-1 certification is the first time the current year expenditure data is available. If an LEA has not rectified the problem by the date that P-1 certification is made, the SELPA will notify the CDE. The SELPA will provide the CDE with the LEA's IDEA subgrant amounts. The CDE will reduce the SELPA's grant awards by the amount of the LEAs subgrant amount.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

**Second Comparison Compliance Requirement** – Prior-Year Actuals vs. Second-Prior Year Actuals or the most recent year LEA met using the method (LMC-A)

- Actual local or state and local expenditures must equal or exceed prior-year expenditures, subject to the federal Subsequent Years rule.
- SELPA comparison is made after unaudited actuals data is submitted to CDE following the end of the fiscal year
- The comparison will occur annually

**Section 1** - Each year LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:
  - a) Has left the jurisdiction of the agency
  - b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
  - c) No longer needs the program of special education
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

**Section 2** – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their



MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA's state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. **This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.**

- The amount of funds expended by an LEA for early intervening services under 34 *CFR*, section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

### Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining "per capita"). The four methods to maintain effort are:

1. the combination of state and local funds
2. local funds only
3. the combination of state and local funds on a per capita basis
4. local funds only on a per capita basis

### **Consequences for Failure to Maintain Effort**

If the SELPA as a whole fails the second comparison test (actual vs. actual) after applying the exceptions, the SELPA will be billed by the CDE for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort. The SELPA AU will then bill the individual LEA sub-grant recipients that failed the MOE second comparison test for the amount the LEA(s) failed to spend from local or state and local funds to maintain their level of effort.

If the SELPA as a whole passes the second comparison (actual vs. actual) but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, CDE will bill the SELPA for the amount that the LEA failed to spend from local or state and local funds to maintain its level of effort. The amount must be paid to CDE by the LEA from its state and/or local funding in the budget year.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

For the purposes of maintenance of effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all or part of those funds as sub-grants to participating LEAs.

North Region Special Education Local Plan Area (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 districts.

The North Region SELPA shall meet maintenance of effort (MOE) regulations requiring that federal funds received from Part B of the IDEA be expended in accordance with applicable provisions of the IDEA and will be used only to supplement and not supplant state, local and other federal funds for special education USC Section 1412(a)(17)(ref: 34 Code of Federal Regulations (CFR), sections 300.302-300.205).

Federal funds will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of students with disabilities except as provided in federal laws and regulations. USC Section 1412(a)(18).

As part of the distribution of Federal and State Grants to SELPA member LEAs, the Business Official and Special Education Administrator from each participating LEA are required to sign a Grant Awards Assurance Statement, which reads as follows:

“Each recipient LEA is required by Federal and State law to comply with the following conditions in accepting the grant funding:

1. Account for income and expense for each grant in a separate account for audit purposes.
2. Expend funds according to the guidelines for the grant.
3. Complete all transactions by June 30 of the current fiscal year.

Failure to follow these requirements will result in funding being withheld by the SELPA until mechanisms are demonstrated as in place to assure compliance and/or recapture of funds by the State.”

As the State Education Agency (SEA) monitors LEAs and takes action to encourage and enforce compliance, it is incumbent upon the SELPA to precede SEA sanction with prevention and intervention activities. In the case of MOE, SEA has directed the

SELPA, as the distributor of IDEA Part B funds to LEAs within a multi-district SELPA, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary. The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that LEA is not eligible to receive IDEA Part B funds.

Allocation to eligible LEAs is based on the SELPA's Special Education Allocation Policy including the allocation of recaptured funds from one LEA to other eligible LEAs. Recapture of funding from LEAs found not eligible shall be limited to the portion of IDEA Part B funds allocated to the LEA and not to exceed the amount of disparity in meeting the requirements of MOE. When the SELPA recaptures IDEA Part B funds from an LEA, the SELPA Director shall notify the County Superintendent in regard to the School District Fiscal Accountability Statutes.

The SELPA shall annually conduct and report to the SEA the required MOE information. The LEAs within the SELPA shall compile and submit budget and expenditure information, including LMC-A and LMC-B reports, to the SELPA within designated timelines. The two required comparison tests are as follows:

#### First Comparison Eligibility Requirement – Grant-Year Budget to Prior Actual Expenditures (LMC-B)

- Each LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole, subject to the federal Subsequent Years rule.
- SELPA must ensure LEA meets the eligibility comparison test before the allocations of Part B funds are made to the LEAs.

Section 1 – Each year, LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child:

- a) Has left the jurisdiction of the agency
- b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
- c) No longer needs the program of special education
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.

- The amount of funds expended by an LEA for early intervening services under 34 CFR, Section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

### Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining “per capita”). The four methods to maintain effort are:

1. The combination of state and local funds
2. Local funds only
3. The combination of state and local funds on a per capita basis
4. Local funds only on a per capita basis

If the SELPA as a whole passes the first comparison (budget vs. actual), the SELPA as a whole is eligible to receive Part B funding.

## Consequences for Failure to Maintain Effort

If the SELPA fails the first comparison test (budget vs. actual), the SELPA as a whole and all of its participating members will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA as a whole to meet MOE requirements.

If the SELPA as a whole passes the first comparison test (budget vs. actual) but one or more individual LEA sub-grant recipients fails the first comparison test, the LEA shall have until the first principal apportionment (better known as P-1 certification) occurs to comply with MOE requirements. The P-1 certification is the first time the current year expenditure data is available. If an LEA has not rectified the problem by the date that P-1 certification is made, the SELPA will notify the CDE. The SELPA will provide the CDE with the LEA's IDEA subgrant amounts. The CDE will reduce the SELPA's grant awards by the amount of the LEAs subgrant amount.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

### Second Comparison Compliance Requirement – Prior-Year Actuals vs. Second-Prior Year Actuals or the most recent year LEA met using the method (LMC-A)

- Actual local or state and local expenditures must equal or exceed prior-year expenditures, subject to the federal Subsequent Years rule.
- SELPA comparison is made after unaudited actuals data is submitted to CDE following the end of the fiscal year
- The comparison will occur annually

Section 1 - Each year LEAs should record any of the exceptions listed below:

These items will reduce the amount required to meet MOE:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related service personnel
- A decrease in the enrollment of children with disabilities
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:

- a) Has left the jurisdiction of the agency
- b) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
- c) No longer needs the program of special education
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

Section 2 – LEAs that received a “meets requirement” compliance determination from CDE and have not been found to be significantly disproportionate may also reduce their MOE requirement. Under these conditions the LEA may reduce the level of local or state and local expenditures otherwise required by the LEA MOE requirement by calculating 50 percent of the increase in federal subgrant allocation received for the current fiscal year compared to the prior fiscal year and reducing the LEA’s state and local MOE requirement by that amount.

Please note: The LEA must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the Elementary and Secondary Education Act (ESEA) of 1965. This amount includes any activities under Title 1, Impact Aid, and other ESEA programs.

- The amount of funds expended by an LEA for early intervening services under 34 CFR, section 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under this section.

### Section 3 – Four MOE Test Methods to Maintain Effort

Either local or state and local funding sources are used for comparison at the SELPA level as well as for each individual LEA. In addition, the comparison may be per capita (per child with a disability, unless some other basis is permitted by the SEA for determining “per capita”). The four methods to maintain effort are:

1. the combination of state and local funds
2. local funds only
3. the combination of state and local funds on a per capita basis
4. local funds only on a per capita basis

### Consequences for Failure to Maintain Effort

If the SELPA as a whole fails the second comparison test (actual vs. actual) after

applying the exceptions, the SELPA will be billed by the CDE for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort. The SELPA AU will then bill the individual LEA sub-grant recipients that failed the MOE second comparison test for the amount the LEA(s) failed to spend from local or state and local funds to maintain their level of effort.

If the SELPA as a whole passes the second comparison (actual vs. actual) but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, CDE will bill the SELPA for the amount that the LEA failed to spend from local or state and local funds to maintain its level of effort. The amount must be paid to CDE by the LEA from its state and/or local funding in the budget year.

When an LEA fails to meet the MOE test in one year, the LEA is required in subsequent fiscal years to maintain effort at the level prior to the failure. Thus, the LEA must calculate its level of effort on the most recent fiscal year in which the MOE test was met.

For the purposes of maintenance of effort, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all or part of those funds as sub-grants to participating LEAs.

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS**

**PROPOSED: 5-26-16**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 10-27-16**  
**REVISIONS ADOPTED: 4-9-20**

**SUBJECT: COMPREHENSIVE LOCAL PLAN FOR SPECIAL EDUCATION**

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The Policy Board of the North Region SELPA provides a free appropriate public education to all individuals with disabilities, aged 3 to 21 years, who reside in member districts, including children who have been suspended or expelled or placed by the district in a nonpublic, nonsectarian school.

Students shall be referred for special education instruction and services only after the resources of the regular education program have been considered, and where appropriate, utilized. (Education Code 56303)

The special education local plan area (SELPA) shall administer a local plan and administer the allocation of funds. (Education Code 56195)

In order to meet the needs of individuals with disabilities and employ staff with adequate expertise for this purpose, each of the five districts, Alameda Unified School District, Albany Unified School District, Berkeley Unified School District, Emery Unified School District, and Piedmont Unified School District, participates as a member of the North Region SELPA. The North Region SELPA Local Plan shall be adopted by the LEA school boards and is the basis for the operation and administration of special education programs, and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the IDEA; the Federal Rehabilitation Act of 1973, Section 504 of Public Law; and the provisions of the California Education Code, Part 30.

The Superintendent or designee of the member districts shall extend the district's full cooperation to the SELPA. The policies and procedures of the SELPA shall be applied as policies and regulations of this district, with the exception of those that apply to complaints, unless the SELPA plan specifically authorizes the district to operate under its own policies and regulations.



The North Region SELPA LEAs shall support and comply with the provisions of the SELPA governance bodies and any necessary administrative support to implement the local plan. A final determination that an LEA is not eligible for assistance under this part will not be made without first affording that LEA with reasonable notice and an opportunity for a hearing through the State Education Agency.

#### Legal Reference:

##### EDUCATION CODE

56000-56001 Education for individuals with exceptional needs  
56020-56035 Definitions  
56040-56046 General provisions  
56048-56050 Surrogate parents  
56055 Foster parents  
56060--56063 Substitute teachers  
56170-56177 Children enrolled in private schools  
56190-56194 Community advisory committees  
56195-56195.10 Local plans  
56205-56208 Local plan requirements  
56213 Special education local plan areas with small or sparse space  
56240-56245 Staff development  
56300-56385 Identification and referral, assessment, instructional planning  
56440-56447.1 Programs for individuals between the ages of three and five years  
56500-56508 Procedural safeguards, including due process rights  
56520-56524 Behavioral interventions  
56600-56606 Evaluation, audits and information  
56836-56836.05 Administration of local plan

##### GOVERNMENT CODE

7579.5 Surrogate parent, appointment, qualifications, liability  
95000-95029 California Early Intervention Services Act

##### WELFARE AND INSTITUTIONS CODE

361 Limitations on parental control  
726 Limitations on parental control

##### CODE OF REGULATIONS, TITLE 5

3000-3089 Regulations governing special education

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29

794 Rehabilitation Act of 1973, Section 504

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 34

99.10-99.22 Inspection, review and procedures for amending education records

104.1-104.39 Section 504 of the Rehabilitation Act of 1973

300.1-300.818 Assistance to states for the education of children with disabilities, including:

300.500-300.520 Due process procedures for parents and children

303.1-303.654 Early intervention program for infants and toddlers with disabilities

Management Resources:

WEB SITES

California Department of Education, Special Education:

<http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osers/osep>

(2/98 7/03) 11/06

**CLASSIFICATION:****PHILOSOPHY, GOALS, OBJECTIVES & COMPREHENSION PLANS****PROPOSED: 5-26-16****ADOPTED: 10-27-16****SUBJECT: COMPREHENSIVE LOCAL PLAN FOR SPECIAL EDUCATION**

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Definitions

Free appropriate public education (FAPE) means special education and related services that are provided at public expense, under public supervision and direction, and without charge; meet the standards of the California Department of Education, including the requirements of 34 CFR 300.1-300.818; include appropriate preschool, elementary school, or secondary school education for individuals between the ages of 3 and 21; and are provided in conformity with an individualized education program (IEP) that meets the requirements of 34 CFR 300.320-300.324. (34 CFR 300.17, 300.101, 300.104; Education Code 56040)

FAPE applies to students who are suspended or expelled or placed by the district in a nonpublic, nonsectarian school. (34 CFR 300.17, 300.101, 300.104)

Least restrictive environment means that, to the maximum extent appropriate, students with disabilities, including individuals in public or private institutions or other care facilities, be educated with individuals who are nondisabled, including the provision of nonacademic and extracurricular services and activities. Special classes, separate schooling, or other removal of students with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in the regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. (34 CFR 300.107, 300.114, 300.117; Education Code 56040.1)

Special education means specially designed instruction, provided at no cost to the parent/guardian, to meet the unique needs of individuals with disabilities including a full continuum of program options including instruction conducted in the classroom, in the home, in hospitals and institutions, and other settings, and instruction in physical education to meet the educational and service needs in the least restrictive environment. (Education Code 56300, 56031)

Special education may include each of the following if the services otherwise meet the definition in the above paragraph: (Education Code 56031)

1. Speech language pathology services, or any other designated instruction and service or related service, pursuant to Education Code 56363, if the service is considered special education rather than designated instruction and service or related service under state standards
2. Travel training
3. Career technical education
4. Transition services for students with disabilities in accordance with 34 CFR 300.43 if provided as specially designed instruction, or a related service, if required to assist a student with disabilities to benefit from special education

Specially designed instruction means adapting the content, methodology, or delivery of instruction to address the unique needs of the student that result from the student's disability and to ensure access of the student to the general curriculum, so that the student can meet the educational standards that apply to all students in the district. (34 CFR 300.39)

Surrogate parent means an individual assigned to act as a surrogate for the parent/guardian. The surrogate may represent an individual with disabilities in matters relating to identification, assessment, instructional planning and development, educational placement, reviewing and revising the IEP, and in other matters relating to the provision of FAPE to the individual with disability. (34 CFR 300.519; Education Code 56050)

### Elements of the Local Plan

The local plan developed by the special education local plan area (SELPA) shall include, but not be limited to, the following: (Education Code 56205, 56206)

1. Assurances that policies, procedures, and programs, consistent with state law, regulation, and policy, are in effect as specified in Education Code 56205(a)(1-22) and in conformity with 20 USC 1412(a), 20 USC 1413(a)(1), and 34 CFR 300.201
2. An annual budget plan and annual service plan adopted at a public hearing held by the SELPA
3. A description of programs for early childhood special education from birth through five years of age
4. A description of the method by which members of the public, including parents/guardians of individuals with disabilities who are receiving services under the plan, may address questions or concerns pursuant to Education Code 56205
5. A description of a dispute resolution process

6. Verification that the plan has been reviewed by the community advisory committee in accordance with Education Code 56205
7. A description of the process being utilized to refer students for special education instruction pursuant to Education Code 56303
8. A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method for ensuring that all requirements of each student's IEP are being met
9. A description of how specialized equipment and services will be distributed within the local plan area in a manner that minimizes the necessity to serve students in isolated sites and maximizes the opportunities to serve students in the least restrictive environment

The local plan, annual budget plan, and annual service plan shall be written in language that is understandable to the general public. (Education Code 56205)

Each entity providing special education shall adopt policies for the programs and services it operates, consistent with agreements adopted pursuant to Education Code 56195.1 and 56195.7. (Education Code 56195.8)

(4/03 11/06) 3/08

**CLASSIFICATION: COMMUNITY RELATIONS**

**PROPOSED: 1-18-07**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 3-22-07**  
**REVISIONS ADOPTED 4-9-20**

**SUBJECT: Community Advisory Committee (CAC)**

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**COMMUNITY ADVISORY COMMITTEE (CAC)****Procedures for Appointment of Members to the Community Advisory Committee:**

North Region Special Education Local Plan Area (SELPA) Community Advisory Committee (CAC) is comprised of parents of persons with disabilities enrolled in public or non-public schools within the SELPA and may include: pupils and adults with disabilities; general education teachers; special education teachers; other school personnel within the SELPA; representatives of other public and non-public agencies; and persons concerned with the education of persons with disabilities who are located with the school district boundaries of SELPA. The school boards of the participating Local Education Agencies (LEAs) shall appoint one member and one alternate to the CAC.

A majority of the CAC shall be composed of parents of pupils enrolled in schools participating in the SELPA, and a majority of such parents shall be parents of persons with disabilities. The SELPA Director, or SELPA designee, shall be a non-voting ex-officio member of the CAC, and shall act as the CA's liaison to the SELPA Policy Board when appropriate.

Individual members of the CAC shall be appointed by and responsible to their local governing boards. The SELPA Director shall work with the various governing boards to ensure that the CAC is composed in accord with the Education Code. In the event that inadequate representation is foreseen by the SELPA Director, he/she shall have the authority to designate the constituency from which a governing board shall make its appointment.

**Responsibilities of the Community Advisory Committee:**

### Advising the SELPA Policy Board and the SELPA Director regarding the development and review of the Local Plan.

Advise the Policy Board and Administrative entity(ies) regarding the development and review of the Local Plan. Select representation to the Local Plan Committee and review the Local Plan as an integral part of the development and revision of the Local Plan. A minimum of thirty days opportunity is provided to review the Local Plan prior to submission to the State to provide opportunity for the CAC to forward a recommendation to the Directors' Council and the SELPA Director.

### Assisting in Parent Education and in Recruiting Parents and Other Volunteers

Developing activities to raise awareness, inform and educate parents and the community including activities such as: newsletters, activity fliers, co-sponsorship of workshops, and hosting of events, such as Disability Awareness, Resource Parents, and Alternative Dispute Resolution.

### Encouraging Community Involvement to Participate in CAC

Membership in the Community Advisory Committee may include representatives from local community agencies and should be encouraged by CAC Members.

### Supporting Activities on Behalf of Individuals with Exceptional Needs

During each school year, the CAC explores topics of concern based on recommendations made by the previous and current year membership. An annual needs assessment is conducted, followed by a planning activity with the officers and members of the CAC. The CAC addresses the identified needs by hosting pertinent speakers and other related activities. Consideration is given in the SELPA operations budget to support CAC requests, communications, and logistics needed to implement support activities. Members have the responsibility of forwarding relevant information shared by the CAC to their local boards.

### Assisting in Parent Awareness of the Importance of Regular School Attendance

The CAC provides assistance in parent awareness of the importance of regular school attendance through word-of-mouth within the community and also through highlighting this topic periodically in its meetings.

The SELPA will provide fiscal and logistical support for CAC meetings, parent education, and other events. The Policy Board will ensure the SELPA has sufficient resources to provide fiscal and logistical support to the CAC.

**CLASSIFICATION: COMMUNITY RELATIONS**

**PROPOSED: 1-18-07**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 3-22-07**  
**REVISIONS ADOPTED 4-9-20**

**SUBJECT: Coordination with Other Agencies**

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**Coordination with Other Agencies**

Various state codes and regulations require the development and implementation of interagency agreements between education and other public funded agencies serving children with exceptional needs. The primary purpose of these agreements is to assure that each child receives the necessary support services and program to meet his needs in the most efficient and effective manner.

North Region Special Education Local Plan Area (SELPA) has developed, is reviewing, or has revised interagency agreements with California Children's Services, Mental Health, Regional Center of the East Bay, Head Start, and other SELPAs. The liaison for each of these interagency agreements is the SELPA Director.

The local plan shall be adopted by the appropriate local board(s) (district/county) and is the basis for the operation and administration of special education programs, and that the agency(ies) herein represented will meet all applicable requirements of state and federal laws and regulations, including compliance with the IDEA; the Federal Rehabilitation Act of 1973, Section 504 of Public Law; and the provisions of the California Education

Code, Part 30.

Copies of the completed agreements are kept on file in the SELPA office.



**NORTH REGION SELPA****POLICY NO. 2200**

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**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: SELPA Director Appointment & Evaluation**

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**SELPA DIRECTOR APPOINTMENT & EVALUATION**

The SELPA Director shall serve as the chief administrator of the SELPA; represent the SELPA in all matters and is responsible to the Policy Board. The SELPA Director shall provide leadership and coordination for all matters related to Special Education with the member Local Education Agencies (LEAs), State, related organizations and SELPA.

The SELPA Director shall be responsible for all areas of function required to operate the SELPA. The SELPA Director shall possess valid and appropriate certification to act as SELPA Director in the State of California.

The Policy Board shall establish the procedure to select and make the final appointment of a SELPA Director. The SELPA Director shall be an employee of the SELPA under an "Agreement for Employment." The "Agreement for Employment" shall address specific conditions of employment and evaluation.

**NORTH REGION SELPA****POLICY NO. 2300**

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**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Annual Evaluation**

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**ANNUAL EVALUATION**

The SELPA in cooperation with the State Department of Education, realizes the need to establish an on-going evaluation process to ensure that programs are offered at optimum levels for all individuals with disabilities. Such evaluation shall provide the information necessary to refine and improve policies, regulations, guidelines and procedures. The SELPA shall allocate funding to collect the necessary information and report the results to the State to fulfill these requirements.

**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Program Certification**

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**PROGRAM CERTIFICATION**

The Program Certification process allows an annual review of data from the previous year and explores options for the current year. The process provides consultation to the member LEA in the areas of students, services, personnel, expenses, and resources. The products of the meeting provide information for State mandated reports including the Annual Service Plan and Annual Budget Plan and for the Federal mandate to document Maintenance of Effort.

The North Region SELPA director shall meet with each member LEA's special education administrator, business official, and other LEA staff at the LEA's request. Both the LEA and SELPA staff will prepare materials for the review prior to the meeting. Data to be reviewed may include but not be limited to:

1. Pupil Count
2. Personnel Lists
3. Service Delivery Model
4. Case Loads
5. Attendance Reports
6. Compliance and Other State Key Performance Indicators
7. Expenditure Reports
8. Funding Reports
9. Budget Reports
10. Service Delivery Locations

Every effort will be made to support LEAs in the appropriate reporting of allocation and expenditures related to special education. The SELPA shall recapture funding in accord with SELPA Policies when the documentation reviewed in the Program Certification process it reveals that:

- Restricted Special Education funds are not used appropriately;
- A member LEA does not meet the federal and state requirements for compliance, maintenance of effort, and/or reallocation of recaptured resources;

- Out of Home Care funding is not used to serve students with IEPs who reside in Foster Family Homes, Group Homes, and Skilled Nursing or Intermediate Care Facilities.

The amount of funding recaptured shall match the amount not used for special education or the amount of un-met responsibility for maintenance of effort. Such issues shall be documented from actual expenditure and resource calculations from the prior year and applied to the current year allocation. When the SELPA recaptures funds, the SELPA Director shall notify the Alameda County Superintendent in regard to the School District Fiscal Accountability Statutes.

Appeal of the recapture of funding by an LEA may be made to the Policy Board after notification to the Superintendent of the LEA by the SELPA Director and at least sixty days before the end of the fiscal year in which funding is recaptured.

**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Data Collection**

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**DATA COLLECTION**

The SELPA Director is responsible for the overall coordination, implementation and reporting of data for special education, as required by the California Department of Education, including but not limited to personnel and pupils. Data gathering, compilation, reporting and local review will be completed by the designated responsible individual(s) assigned by the SELPA Director. LEAs will provide personnel to process data and certify the accuracy of information gathered. The SELPA will provide training and technical support to LEA staff.

Data collected shall be forwarded to the SELPA Director for compilation into reports, which shall be forwarded to the LEA Special Education Administrators and the State Department. Published reports shall be available for review by interested community members.

**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Annual Service Plan**

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**ANNUAL SERVICE PLAN**

An Annual Service Plan is required by law and shall be adopted at a public hearing. The Annual Service Plan shall follow the regulations provided by the California Department of Education (CDE). The North Region SELPA Director shall prepare such materials and forward the required documents to the CDE. The purpose of the Annual Service Plan is to provide the public with an overview of the programs and services available within North Region SELPA.

The continuum of service options available in North Region SELPA offer a range for consideration by Individualized Education Plan (IEP) teams to address the individual needs of students with disabilities. Names for programs and services are used to communicate the structures present in a particular setting and are not intended to limit or restrict the flexibility that staff can provide in delivery of service or location of service to meet the needs of an individual student. When appropriate, new labels and descriptions may be added to the list of existing service labels and descriptions to acknowledge current practice which may be required to meet the needs of eligible students. Goals and objectives listed on a student's IEP should determine the services required to enable the student to benefit from his/her educational program.

The service labels provided by CDE and service descriptions outlined in California Special Education Management Information System (CASEMIS) are those used by North Region SELPA.

The service labels for North Region SELPA shall be used for:

- Reporting to CDE through the SELPA's Annual Service Plan
- Writing IEPs for students
- Recording student data for the special education pupil count
- Reporting for Program Certification
- All purposes requiring use of such service labels

**CLASSIFICATION: ADMINISTRATION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Annual Budget Plan**

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**ANNUAL BUDGET PLAN**

An Annual Budget Plan is required and shall be adopted at a public hearing. The Annual Budget Plan shall follow the regulations provided by the California Department of Education. The SELPA Director shall prepare such materials and forward the required documents to the CDE. The purpose of the Annual Budget Plan is to provide the public with an overview of the resources available as allocated within SELPA. For SELPA the requirements are met through the application of policy with updated fiscal calculations submitted for the current year. General provisions for use and allocation of funds are addressed below with specific policies addressing the technical implementation.

**K-12 Resources**

Resources provided under AB 602 The Special Education Funding Reform Act intended for the operation of special education programs and services shall be blended into a single funding model as described in Policy 3100: Special Education Resource Allocation.

**Part C Resources (Infants)**

Resources provided to meet the needs of eligible infants and their families shall be shared among the LEAs providing services and the SELPA. Provider LEAs and the SELPA will design and fund services to be provided by the SELPA and share equally remaining resources as described in Policy 3140: Part C Resources (Infants).

**Federal Preschool**

Federal Preschool program revenue will be distributed based upon the previous December's Pupil Count of three and four year old served by District. LEAs may assign their pupil count for service and funding to another LEA.

Federal Preschool Regionalized Services and Program Specialists Revenue shall be assigned to the SELPA.

Federal Preschool Personnel Development Revenue shall be assigned to the SELPA. Details are described in Policy 3160: Federal Preschool.

### Staff and Personnel Development Funds

Specifically designated personnel development funds are allocated to the SELPA as provided in Policy 3120: Personnel Development Funds. Parents shall be included as potential participants in the definition of staff and personnel development.

### Low Incidence Funds

Low Incidence funding is restricted to the use for students in the following disability categories: hard of hearing, deaf, visual disability, orthopedically impaired and deaf-blind. Low Incidence Equipment Funds shall be used to reimburse LEAs for the cost of specific equipment as described in Policy 3200: Low Incidence Equipment Funds. Low Incidence Service Funds shall be used to reimburse LEAs for the cost of specific service as described in Policy 3210: Low Incidence Service Funds.

### **Regionalized Service Funds**

Regionalized services and program specialist funds shall be allocated to the SELPA to support regionalized services and other administrative costs of the implementation of the SELPA Local Plan. The Policy Board shall review and adopt an expenditure plan, which includes, but is not limited to, the use of these funds to operate the SELPA. Details are presented in Policy 3320: Budget As A Spending Plan.



**CLASSIFICATION: ADMINISTRATION****PROPOSED: 4-9-20****ADOPTED: 4-9-20****SUBJECT: Regional Operations/Service Roles and Responsibilities**

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The North Region Special Education Local Plan Area (SELPA) is a multi-district SELPA comprised of five local educational agencies (LEAs) joined together to provide for the coordinated delivery of programs and services to students with disabilities. The Albany Unified School District is designated as the Administrative Unit (AU) for the North Region SELPA. In adopting the Local Plan, each participating LEA agrees to carry out the duties and responsibilities assigned to it within the plan and to ensure equal access to programs and services to eligible persons requiring special education in the service region.

The Albany Unified School District is designated as the Administrative Unit (AU) for the North Region SELPA. The AU is the SELPA's fiscal agent and a written agreement is maintained by the Policy Board that describes the AU responsibilities for implementing the following functions:

- a. Receipt and distribution of special education funds for the operation of special education programs and services, pursuant to state and federal law
- b. Administrative support of the SELPA, including payroll, benefits, information technology, expenditure accounting, and ensuring that facilities to house and operate the SELPA are provided by a member district.
- c. Employment of SELPA staff to coordinate implementation of the Local Plan, including human resource activities required to recruit, interview, and start new employees.

The SELPA Director assures equal access to all programs and services in the SELPA and provides information and guidance to members of the public, including parents or guardians of individuals with disabilities who are receiving services under the Local Plan, on the availability of established due process and legal service options and procedures. In cooperation with the State Department of Education, the SELPA Director provides information to assure that all special education pupils receive due process of law. In order to implement the local plan, the SELPA Director shall be considered a "school official and employee" in regards to access to student records. Specific duties include, but are not limited to:

- a. Coordinate Local Plan development and amendments
- b. Develop and monitor Interagency Agreements
- c. Develop and monitor non-public school/agency contracts and services
- d. Determine and evaluate SELPA Program Specialist services
- e. Complete program review, data collection, and evaluation
- f. Assist LEAs with curriculum and program development

- g. Hire, monitor and evaluate SELPA personnel
- h. Coordinate and conduct staff development
- i. Allocate special education fiscal resources
- j. Compile and submit to the state special education fiscal reports
- k. Maintain special education policies and procedures documentation and recommend new policies and policy updates for Policy Board adoption
- l. Participate in dispute resolution
- m. Coordinate necessary services for individuals with disabilities among LEAs
- n. Provide LEAs with technical assistance to meet special education compliance requirements
- o. Consult with LEAs to ensure students with disabilities are appropriately represented in Local Control Accountability Plans
- p. Advocate for legislation that supports special education policy and funding
- q. Facilitate member LEAs to communicate and collaborate on common goals
- r. Inform the Policy Board, CAC, and LEAs of legislative and fiscal changes, proposals, trends, and concerns related to the provision of services for students with disabilities.

LEAs will:

- a. Ensure a full continuum of service is available to provide a free appropriate public education to all students with disabilities for whom they are responsible
- b. Consult with the SELPA Director to assure each LEA's Local Control Accountability Plan (LCAP) goals appropriately address the learning needs of students with disabilities.
- c. Conduct Child Find activities to ensure all children within their jurisdiction suspected of having a disability are identified, located, and assessed including children in medical facilities, foster homes, LCI facilities, and private schools.
- d. Provide appropriate career, vocational, and transition services as required under federal and state laws for students with disabilities
- e. Ensure that students with disabilities will have access to instructional materials, support, and all required core curriculum including state adopted core curriculum and supplementary materials

The SELPA Program Specialist assists in the development of SELPA policies, Local Plan, and procedures related to the provision of special education and related services. In order to implement the local plan, the Program Specialist shall be considered a "school official and employee" in regards to access to student records. The North Region SELPA Program Specialist is employed through the Administrative Unit and serves the SELPA under the direction of the SELPA Director. The SELPA Director evaluates the program specialist. The program specialist must hold at least one of the following: a valid California Education Specialist credential, a California Special Education credential, a basic Pupil Personnel Services credential, or a Pupil Personnel Services credential in School Psychology, Counseling, or Social Work. The SELPA Program Specialist shall have advanced training and related experiences in the education of individuals with disabilities and a specialized in-depth knowledge in one or more areas of disabling condition. In order to implement the

local plan, Program Specialist shall be considered a “school official and employee” in regards to access to student records. The program specialist may do all of the following:

- a. Plan and implement staff development and innovation of special methods and approaches for the instruction of individuals with disabilities.
- b. Assist districts in the identification, selection, and use of instructional materials, curriculum and methodologies.
- c. Assist in supervision of selected support staff within the member districts to assure quality services are provided to students and parents.
- d. Serve as intake coordinator for and provider of the SELPA Alternate Dispute Resolution Program.
- e. Serve as liaison between member districts, SELPA, and other public agencies to ensure timely services are provided.
- f. Assist districts in monitoring compliance with state and federal laws.
- g. Assist in the development of SELPA policies, Local Plan, and procedures related to the provision of special education and related services.
- h. Provide coordination and consultation in program development within member districts.
- i. Assist with placement of students outside of their districts of residence into member districts, neighboring SELPAs, nonpublic schools, etc.
- j. Provide other services as directed by the Director of North Region SELPA.

**NORTH REGION SELPA****BOARD POLICY (BP) # 3100**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 1-20-11**                      **ADOPTED: 1-20-11**  
**REVISIONS PROPOSED: 5-8-17**              **REVISIONS ADOPTED: 5-23-17**

**SUBJECT: SPECIAL EDUCATION RESOURCE ALLOCATION**

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It is the responsibility of each member district and the SELPA to assure a free and appropriate education for each special education pupil residing within its geographical boundaries. This responsibility shall be met by direct provision of services, establishing an agreement with another public education agency, or contracting with non-public school and agencies. The allocation plan for distribution of resources must recognize the responsibility for all children in the SELPA while addressing the need to equitably share resources among the districts and other LEA members of the SELPA. The allocation process and procedures are for the distribution of available resources and are not a restriction of services to be provided for eligible pupils.

To provide maximum flexibility to the SELPA, the SELPA Director is authorized to notify the California Department of Education (CDE) to provide all resources to the SELPA through the Administrative Unit. Allocation to the LEAs will be made according to SELPA policy and processed through the Alameda County Office of Education for apportionment directly to the entitled LEA. If additional funds are received beyond those anticipated, they would be apportioned to the Administrative Unit for deposit to SELPA accounts. Additional funds will be distributed according to SELPA policy and/or decisions made by the SELPA Policy Board.

Funding under this policy shall mean the sources referenced in the state certification process including Federal Local Assistance and shall be allocated under the terms of this policy unless specifically identified and directed otherwise by policy.

The coordination and implementation of the State Apportionment for Special Education allocation plan shall be the responsibility of the SELPA Director. The SELPA Director will monitor revenues at each Certification period and make adjustments according to policy to assure that each LEA receives the full share of funding as provided by the State and SELPA policy. Notification will be made to the Alameda County Office of Education for immediate transfer of apportionment directly to the entitled LEA upon receipt of funds to the extent possible. Adjustments will be made as projections are revised and actual revenues are received to fully allocate all resources to LEAs by SELPA policy.

LEAs shall follow data collection procedures established by the SELPA Director and provide the required information in a timely manner. The SELPA Director shall collect data during the prior year for application to the process. A report will be provided in March to all districts for the

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current school year and projections for the following school year. Actual operations and allocation will be made at the time of State report periods. The cost of living adjustment referenced in this policy shall be the statutory rate provided in the State budget.

The SELPA Director shall use the following steps to determine resource allocation:

1. Guidelines for the allocation procedures must include:
  - a. Assurance that all State authorized allocations are fully utilized.
  - b. Consideration for generation of maximum State revenue.
  - c. Implementation in a timely manner to accommodate fiscal and personnel considerations.
  - d. Adherence to State and SELPA regulations and policy.
  - e. Review in the Program Certification process by the special education administrator, in conjunction with the LEA Business Services/Financial staff, and SELPA staff to assure the effective utilization of all resources and meeting of maintenance of effort standards.
2. An Annual Budget Plan shall be developed annually to display the SELPA budget plan at a Public Hearing. The plan will include the SELPA's current year expected special education revenue and expenditures based on specific SACS codes as required by CDE and used by the LEAs. LEA and aggregated SELPA information will be presented in a form that is understandable to the general public and meets the requirements for reporting to the state.
3. An Annual Service Plan shall be developed annually to display the SELPA's service delivery models at a Public Hearing. LEA and aggregated SELPA information will be presented in a form that is understandable by the general public and meets the requirements for reporting to the state.
4. The SELPA Director shall monitor and evaluate the progress of the allocation plan and make recommendations to the Policy Board.
5. A hold harmless subsidy shall be provided to support each district in transitioning to modifications to the allocation policy required by the SELPA. Allocations to districts entitled to increased funds shall be restricted to provide maintenance of allocation for other districts at the prior year rate where specifically based on the policy change.

Allocation procedures shall include:

1. CALPADS data collected in fall of the prior school year for each LEA shall be used to determine each LEA's percentage of the SELPA's total CALPADS.

2. Member districts shall share Out of Home Care funding for children receiving special education services and residing in a Licensed Children's Institution, Foster Family

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Home, Skilled Nursing Facility, etc. based on the prior year December 1st pupil count of these students.

3. Preschool funding shall be provided from the allocation at a rate of 8.57% of the available funding to the districts of service of preschoolers. Grants for preschool age children shall be in addition to the Allocation Plan revenue. Districts receive proportional funding from the allocation and grants based on the prior year December 1<sup>st</sup> Pupil Count of 3 and 4 year olds by district of service.
4. Additional policy may be established by the Policy Board to establish specific parameters for recapture and reallocation of resources from districts that do not meet federal and state requirements for compliance and maintenance of effort.
5. The SELPA Director will assign resources, to give flexibility to the plan and provide for the needs of small districts and programmatic requirements. Program Flexibility revenue shall include three percent (3%) of the current year's total SELPA allocation and any additional funding necessary to accomplish hold harmless provisions during policy transition as defined at the time of the policy change. Primary use of the funds should allow limited subsidy of districts experiencing a reduction in funding from the prior year. Districts allocated resources less than the previous year shall receive a subsidy up to a maximum of \$150,000 for 2005-06 adjusted annually by the cost of living adjustment. Any unused balance Program Flexibility revenue shall be distributed based on percent of SELPA. In the event that districts' allocation needs exceed the total of program flexibility revenue allocation, the excess need will be prorated. The proration will be based on each LEA's percent of the SELPA's enrollment total and subtracted from each LEA's program flexibility entitlement. This calculation will equally share the impact of the shortfall in program flexibility funds.
6. Deduct from the current year's total Dollars Available resources provided by the state for the SELPA, the Out of Home Care allocation, Preschool allocation, and Program Flexibility allocation to determine the total revenue available for District Allocation.
7. Calculate by the District Percent of SELPA Total, the District Allocation for each district.
8. Add or subtract any revenue transferred from or to a member district to another member district. At the option of the district, the district may authorize transfer of revenue to another district within the SELPA to pay for placement costs of students per written agreement.
9. Determine the total revenue for each LEA. This becomes Special Education funding for district operation.
10. An Allocation Worksheet shall be developed to implement the calculations represented in this policy.

11. A Distribution Worksheet shall be developed to display all sources of funding received by a district for providing special education programs and services.
12. A Monthly Transfer Worksheet and Year To Date Summary Worksheet shall be developed to notify the County Office Of Education and communicate with districts.
13. Allocation and Distribution Worksheets shall be used at each projection and certification period for each funding year that remains open and active.

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## ***NORTH REGION SELPA***

## **POLICY NO. 3110**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 3-27-14**

**ADOPTED: 5-22-14**

**SUBJECT: Allocation for Operation of the SELPA**

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### **ALLOCATION FOR OPERATION OF THE SELPA**

The allocation for operation of the SELPA shall be consistent with prior years. Resources provided to support the operation of the SELPA shall include the 2012-13 Program Specialist/Regionalized Services funding, the Personnel Staff Development Grant, and any other grants allocated to the SELPA in 2012-13. In 2013-14 and in subsequent years, these amounts shall be increased by any annual cost of living adjustment identified in the State Certification process.

Other funds, which may in part be sought by the SELPA staff, shall be added for the operation of the SELPA when funds are identified. Such funds are not intended for the delivery of direct service to students based on their IEP but rather as support to students, parents, and districts in the coordination and administration of the operation of special education programs and services and related matters.

Funds provided for the operation of the SELPA shall be restricted in nature to the legal intentions for Program Specialist and Regionalized Services including a parent and staff development and training. Funds shall be expended through the SELPA Operations Budget as authorized by the Policy Board. Funds may be carried over from year to year but shall continue to be restricted to this budget process and purpose.



***NORTH REGION SELPA***

**POLICY NO. 3130**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 4-13-05**

**ADOPTED: 5-31-05**

**SUBJECT: Infant Units Funding**

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**INFANT UNITS FUNDING**

State J-50 Unit resources provided to meet the needs of eligible infants and their families shall be allocated the LEAs providing services to infants.

Funding shall be distributed based on the prior year December 1 Pupil Count of students age birth, one and two.

The participating LEAs shall expend the funds as prescribed by law and regulations. The LEAs shall provide information to the SELPA to maximize the availability of resources for this population.

PROPOSED: April 12, 2005

ADOPTED: May 31, 2005

## **NORTH REGION SELPA**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 4-13-05**                      **ADOPTED: 5-31-05**  
**REVISIONS PROPOSED: 3-28-19**      **REVISIONS ADOPTED: 5-23-19**

**SUBJECT: PART C RESOURCES (INFANTS)**

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### **PART C RESOURCES (INFANTS)**

Federal Grant Part C, Early Education Programs (Resource #3385): Grant resources provided to meet the needs of eligible infants and their families shall be allocated to the SELPA and shared among the LEAs providing services.

As intended in the development of the grant as described by the California Department of Education \$25,000 shall be assigned to the SELPA Operations Budget for administration, coordination, and staff development. The balance of grant funding for this purpose shall be distributed based on prior year District of Residence count of students age birth, one, and two that are case managed by a North Region SELPA member district. In the case of a District of Residence contracting with another district in the North Region SELPA to provide services to an infant, the District of Residence will inform the North Region SELPA Director and the count for that infant will be the District of Service.

The participating LEAs shall expend the funds as prescribed by the grant and shall provide information to the SELPA to maximize the availability of resources for this population.

State Grant, Infant Discretionary Funds (Resource #6515):

Grant resources provided to meet the needs of eligible infants and their families shall be allocated to the SELPA and shared among the LEAs providing services.

The grant funding shall be distributed based on prior year District of Residence count of students age birth, one, and two that are case managed by a North Region SELPA member district. In the case of a District of Residence contracting with another district in the North Region SELPA to provide services to an infant, the District of Residence will inform the North Region SELPA Director and the count for that infant will be the District of Service.

The participating LEAs shall expend the funds as prescribed by the grant and shall provide information to the SELPA to maximize the availability of resources for this population.

State Entitlement, Infant Units (Resource #6510):

State funds are allocated through the AB 602 apportionments to SELPAs that operate Early Education Programs for individuals with exceptional needs younger than three years of age. SELPAs that have historically received state funding for this specific infant program are the

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only eligible recipients. No new participants are allowed. The Local Early Access Program (LEAP) at UCSF Benioff Children's Hospital Oakland meets eligibility requirements for these funds.

North Region SELPA distributes AB 602 Infant Units funds to the Alameda Unified School District who writes a check payable to the LEAP program in the amount defined through a Memorandum of Understanding between the Alameda Unified School District and UCSF Benioff Children's Hospital Oakland. The balance of the grant funding is distributed to the Alameda Unified School District for infants services and administrative costs.

**NORTH REGION SELPA****POLICY NO. 3150**

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**CLASSIFICATION:  
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS****PROPOSED: 10-26-09****ADOPTED: 3-22-07****SUBJECT: K-12 Resources**

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**K-12 RESOURCES**

An equitable distribution of resources to the member LEAs of North Region SELPA shall be based on each district's prior year CBEDs count. Out-of-Home Care funding shall be distributed to each LEA based on prior year pupil count of those children and youth ages 3 to 21 years inclusive, who are residing in (1) foster family homes, small family homes, or foster family agency licensed by the State Department of Developmental Services or (2) skilled nursing or intermediate care facility licensed by the State Department of Health Services, or (3) community care facility licensed by the State Department of Social Services.

Property taxes raised for special education purposes are distributed to the each district as part of their entitlement for special education services rendered to the participants in the SELPA. [56205(b)(1)(G)]

Procedures shall be undertaken to ensure that all resources are allocated and operated. Through review and amendment of reports, districts will be assisted in the enhancement of revenues.

The SELPA will coordinate the implementation of a review of facilities with each school district to ensure equitable sharing in the responsibility for providing classroom spaces to house special education programs and services. The district of residence is responsible for the facility needs of all students residing within their boundaries.

***NORTH REGION SELPA***

**POLICY NO. 3160**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 10-26-06**

**ADOPTED: 1-18-07**

**SUBJECT: Federal Preschool**

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**FEDERAL PRESCHOOL**

Federal Preschool program revenue will be distributed based upon the previous December's Pupil Count of three and four year old served by Districts. LEAs may assign their pupil count for service and funding to another LEA.

Federal Preschool Regionalized Services and Program Specialists Revenue shall be assigned to the SELPA.

Federal Preschool Personnel Development Revenue shall be assigned to the SELPA.

**NORTH REGION SELPA****POLICY NO. 3200**

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**CLASSIFICATION:****BUSINESS AND NON-INSTRUCTIONAL OPERATIONS****PROPOSED: 10-26-09****ADOPTED: 3-22-07****SUBJECT: Low Incidence Equipment Funds**

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**LOW INCIDENCE EQUIPMENT FUNDS**

Low Incidence Equipment Funds may be used to purchase specialized books, materials and equipment for any special education student whose primary disabling condition is Orthopedically Impaired (must be severe), Deaf, Deaf/Blind, Blind, Hearing Impaired, or Visually Impaired. Multi-handicapped students who have one or more of these low incidence Disabilities are eligible to receive low incidence equipment and materials, and repair and maintenance of such equipment purchased by Low Incidence funds. However, a student reported as multi-handicapped will not generate low incidence dollars.

Low Incidence Equipment Funds are distributed to the member Local Education Agencies (LEAs) based on prior year pupil count of those students, ages 0 – 21, who have been identified as having a low incidence disabling condition (as listed in previous paragraph).

Member LEAs are responsible for approving all purchases of low incidence specialized books, materials or equipment, as well as expenses for repair and maintenance. LEAs are also responsible for following the law as outlined in California Department of Education's summary of legal requirements: Funding for Specialized Books, Materials and Equipment for Low Incidence Students.

Legal Reference: California Education Code 56836.22

**NORTH REGION SELPA****POLICY NO. 3210**

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**CLASSIFICATION:****BUSINESS AND NON-INSTRUCTIONAL OPERATIONS****PROPOSED: 10-26-09****ADOPTED: 3-22-07****SUBJECT: Low Incidence Service Funds**

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**LOW INCIDENCE SERVICE FUNDS**

Low Incidence Service funds may be used for pupils with low incidence disabilities as defined in law: Hearing Impaired, Deaf, Blind, Deaf/Blind, Visually Impaired, Orthopedically Handicapped (severe). Supplementary Instructional Services (Low Incidence Services) may be provided to assist a pupil eligible for low incidence funding who has been placed in a least restrictive setting, usually a regular classroom program or other significant mainstream experience.

The use of these funds is limited to expenditures supporting low incidence specialized services such as "interpreters, note takers, readers, transcribers, and others who provide specialized services to students with low incidence disabilities" as defined in the California Code of Regulations, Title 5, Section 3051.16. These specialized services must relate to the unique educational needs resulting from the pupil's low incidence disability or disabilities. Low incidence specialized service funds are to be used to supplement, and not to supplant existing services. (i.e., to provide additional services beyond those funded through the base program or another agency).

North Region Special Education Local Plan Area (NR SELPA) receives Low Incidence Service dollars annually and distributes to the member Local Education Agencies (LEAs) based on prior year pupil count of those students, ages 0 – 21, who have been identified as having a low incidence disabling condition (as listed in 1st paragraph). All Low Incidence Services dollars must be expended during the current school year as there is no carry-over money. Funds cannot be commingled with other low incidence funding and must be accounted for separately. Member LEAs are responsible for following the law as outlined in California Department of Education's summary of legal requirements: Funding for Specialized Services for Students with Low Incidence Disabilities.

Legal Reference: California Education Code 56026.5

***NORTH REGION SELPA***

**POLICY NO. 3300**

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**CLASSIFICATION:**

**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 4-13-15**

**ADOPTED: 5-31-05**

**SUBJECT: Income**

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**INCOME**

The SELPA Director shall provide for the collection and receipt of all monies payable to the SELPA, shall keep accurate records, and shall deposit such monies as provided by law.

Legal Reference: California Education Code 41000,41017



**NORTH REGION SELPA****POLICY NO. 3310**

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**CLASSIFICATION:****BUSINESS AND NON-INSTRUCTIONAL OPERATIONS****PROPOSED: 10-26-06****ADOPTED: 1-18-07****SUBJECT: Expenditures**

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**EXPENDITURES**

The Policy Board shall authorize expenditures through approval of the SELPA Operations Budget as a spending plan and monitoring of disbursements. The SELPA Director shall provide for the expenditure of all monies, shall keep accurate records, and shall report all activity as provided by law.

All personnel shall observe the letter and the spirit of all laws and regulations relating to the expenditures of SELPA funds and to the control of its property.

All expenditures shall be accomplished in accordance with good business practices in coordination with the practices of the Administrative Unit.

Legal Reference: California Education Code 35020

**NORTH REGION SELPA****POLICY NO. 3320**

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**CLASSIFICATION:  
BUSINESS AND NON-INSTRUCTIONAL OPERATIONS****PROPOSED: 10-26-06****ADOPTED: 1-18-07****SUBJECT: BUDGET AS SPENDING PLAN**

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The budget, as adopted by the Policy Board, constitutes the operating and spending plan for the SELPA during the fiscal year for which it is intended. The Policy Board may modify the budget from time to time.

The SELPA Director shall file all fiscal reports with the county, state or federal agencies, as required.

The SELPA Director shall establish a system of classification of accounts in compliance with the School Accounting Codes System and using the accounting methods required by the Administrative Unit so that proper control may be exercised over the expenditure of funds.

The SELPA Director shall administer the expenditure of funds in accordance with the budget adopted by the Policy Board.

The SELPA Director shall provide for a system of accounting in such a manner as to provide regular reports of the financial condition of the SELPA to the Policy Board and to provide accountability and audit ability of all funds in the control of the SELPA. The SELPA Director shall prepare and submit financial reports to the Policy Board following adoption of the final budget at required periodic report times and at end of the fiscal year showing revenues and expenditures. At each meeting of the Policy Board Monthly Activity Registers and Accounts Payable Activity Registers shall be presented for information only. The Policy Board must approve Budget Adjustments or Transfers.

The Policy Board requires the SELPA Director to submit for approval only those transfers between major classifications of expenditures as are necessary, during the year, to prevent over expenditure of major classifications. In the event any major classification is overspent at year-end, the SELPA Director will submit appropriate recommendations to the Policy Board.

The SELPA Director shall authorize payment of approved expenditures.

The SELPA Director shall be charged with the responsibility of proper fiscal management of the budget. In coordination with the Administrative Unit the SELPA Director or other

specifically designated SELPA staff shall design the system of budgeting and accounting including preparation of materials for the review of the Policy Board.

Legal Reference: California Education Code 35035, 35161, 35166, 35250,  
41010, 42100, 45167, 42600, 42601, 42800

Policy 3320 Page 1 of 1

## ***NORTH REGION SELPA***

**POLICY NO. 3330**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 10-26-06**

**ADOPTED: 1-18-07**

**SUBJECT: Purchase Orders**

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### **PURCHASE ORDERS**

The SELPA Director shall establish a system of purchase orders in order to regulate and control the purchase of goods and services and to control the relationship with vendors. A separate system or adoption of the Administrative Unit's system shall be used in cooperation with the Administrative Unit.

Legal Reference: California Education Code 39657

## ***NORTH REGION SELPA***

## **BOARD POLICY NO. 3350**

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### **CLASSIFICATION:**

#### **BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 5-11-06**

**ADOPTED: 6-22-07**

**SUBJECT: Placements Within North Region SELPA of Special Education  
Students Into Member School District Programs**

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### Rationale

School districts within North Region Special Education Local Plan Area (SELPA) have the responsibility of providing special education programs and services to all eligible students. In accordance with the Local Plan, special education students are assured equal access to special education services, as determined by each Individual Education Program (IEP) plan. When necessary, students may have access to special education programs and services from another school district within the SELPA when an appropriate program is not available in the student's district of residence. This SELPA policy allows the district of residence to bill the district of service within the SELPA for the cost of programs and services.

### Policy Statement

School districts within North Region Special Education Local Plan Area (SELPA) may enter into a "Special Ed. Placement within N.R. SELPA Agreement" with another member district to charge for programs and services attributed to the operation of a special education program for a student with a disability. The costs will be determined as follows:

1. For K-12 students receiving special education classroom-based services, the cost of an annual placement will be calculated as follows: Use the average SELPA cost of the salaries, health benefits, and STRS/PERS contributions for one special education teacher and two paraeducators. Multiply this cost by a caseload factor of 0.10 (10 students). Subtract the prior year base Local Control Funding Formula (LCFF) amount for the grade level of the student. Annual, apply any special education cost of living adjustment (COLA) which has been identified in the Governor's May budget revision. Review costs every three years and recalculate the rates as necessary.

2. For K-12 students who are receiving special education services in a resource or learning center program, there will be no :classroom: charge for the services because the district of service receives the LCFF base funding for the grade level of the student.
3. For preschool students, the cost will be calculated as outlined in #1 above and prorated by the number of hours the student attends the program. The SELPA rates per preschool student, calculated per SELPA policy, will be subtracted from the cost.
4. For students in adult transition programs, the cost will be calculated as outlined in #1

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above, and using the LCFF base rate for grades 9-12. When these programs are provided in conjunction with other agency programs, for example Community College programs or in cooperative Regional Center programs, the district of service will identify the cost of the program annually and inform the SELPA Director and the LEA Special Education Directors no later than May 31st of any changes for the following year.

5. Related services will be billed using the SELPA average related-service provider hourly salary and multiplying by a caseload factor as follows:
  - a. Speech/language, K-22 and Preschool--(0.025) 40 students
  - b. Occupational therapy--(0.033) 30 students
  - c. Adaptive PE--(0.033) 30 students
  - d. Counseling--(0.050) 20 students
6. Extended School Year (ESY) costs will be based on an hourly cost, using the classroom-based formula defined in #1 above and multiplied by the number of hours per day times the number of days of ESY. Related service costs for ESY will also be based on an hourly rate.

Within SELPA Placement costs will be added and/or deducted from the total allocation per member district at P-1 and P-2; adjustments will be made accordingly. ESY costs will be included in P-2 allocations. When students are placed for only a part of a school year, the costs will be prorated and districts will be charged for the number of months the student attends.

Additional services, (for example 1:1 instructional aide or related service costs not identified in #5) will be negotiated separately between the districts.

School districts will follow the referral and placement process as outlined in the “Special Education Placement within North Region SELPA Procedures” in the North Region SELPA Procedural Guidelines Handbook.

***NORTH REGION SELPA***

**POLICY NO. 3400**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 10-26-06**

**ADOPTED: 3-22-07**

**SUBJECT: Conference and Meeting Expense**

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**CONFERENCE AND MEETING EXPENSE**

In conjunction with the SELPA Administrative Unit, procedures shall be established to reimburse SELPA employees for expenses incurred in conjunction with attendance at conferences and meetings that are related to the performance of assigned duties. Conference and meeting expenses, in order to be reimbursed, must have prior approval of the SELPA Director. Receipts will be required, except for meal per diem. The SELPA Director shall approve the actual reimbursement when the requirements of this policy have been met.

SELPA expenses shall be reviewed quarterly by the Policy Board.

Legal Reference: California Education Code 44032

***NORTH REGION SELPA***

**POLICY NO. 3410**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 10-26-06**

**ADOPTED: 1-18-07**

**SUBJECT: Mileage Allowance**

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**MILEAGE ALLOWANCE**

The SELPA Director shall establish procedures to provide reimbursement to SELPA employees for the authorized and required use of personal vehicles used in the performance of assigned duties.

The SELPA Director shall annually establish mileage reimbursement rates in accordance with the Internal Revenue Service adoptions.

Legal Reference: California Education Code 44032, 44033

***NORTH REGION SELPA***

**POLICY NO. 3700**

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**CLASSIFICATION:**  
**BUSINESS AND NON-INSTRUCTIONAL OPERATIONS**

**PROPOSED: 4-13-05**

**ADOPTED: 5-31-05**

**SUBJECT: Administrative Unit Services**

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**ADMINISTRATIVE UNIT SERVICES**

The Policy Board shall identify a member Local Educational Agency (LEA) to serve as the Administrative Unit for the SELPA. Such services shall be set forth in a written "Administrative Unit Agreement." The Policy Board and the governing board of the LEA shall adopt the Agreement For Service.

The "Administrative Unit Agreement: shall provide for additional agreements between the administration of the AU and the SELPA for additional specified services and an identified a=cost.

It is intended that the SELPA maintain independent operation to the maximum extent possible, including oversight responsibility, while contracting with the Administrative Unit to satisfy legal and technical requirements that much me fulfilled by an Administrative Unit.



**CLASSIFICATION: PERSONNEL**

**PROPOSED: 10-26-06**

**ADOPTED: 3-22-07**

**SUBJECT: Comprehensive System of Staff Development**

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**COMPREHENSIVE SYSTEM OF STAFF DEVELOPMENT**

Statement of Philosophy

The purpose of staff (& community) development is to provide the continuing education of personnel, parents and the community regarding individuals with exceptional needs (persons with disabilities). The goals of the SELPA for personnel development are:

1. To further develop the skills of personnel who deal with the special needs of students in order to provide effective educational opportunities and promote successful transitions to adulthood.
2. To promote cooperative efforts of special educators and general educators, at all levels, in planning and providing educational programs for students.
3. To inform and assist administrators in fulfilling the intent of current special education legislation.
4. To provide information and assistance to parents on systems, programs, disabilities and the law and promote parent-professional collaboration

Numerous staff & community development activities are conducted on an ongoing basis throughout the school year. A calendar, which includes state, regional, agency, SELPA and LEA inservice activities is produced and maintained by the SELPA office. This calendar is available on the SELPA website.

**NORTH REGION SELPA****POLICY NO. 4600**

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**CLASSIFICATION: PERSONNEL****PROPOSED: 10-26-06****ADOPTED: 3-22-07****REVISIONS PROPOSED: 4-9-20****REVISIONS ADOPTED: 5-21-20****SUBJECT: Personnel Standards**

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**PERSONNEL STANDARDS**

It is the goal of the SELPA to provide highly qualified staff to serve students with disabilities and deliver special education and related services. Standards for employee categories shall be contained in the Annual Service Delivery Plan.

Personnel providing special education and related services are appropriately and adequately prepared and trained and that those personnel have the content knowledge and skills to serve students with disabilities. This policy shall not be construed to create a right of action on behalf of an individual student for failure of a particular staff member to be highly qualified or to prevent a parent from filing a State complaint with the CDE about staff qualifications.

When fully credentialed individuals are not available, the district may employ persons with intern permits, emergency permits, pre-intern certificates or credential waivers under the conditions and limitations provided in state and federal law. Such employees shall be required to complete the requirements for full certification and to meet the standards for highly qualified.

***NORTH REGION SELPA***

**POLICY NO. 6110**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 3-24-11**

**ADOPTED: 3-24-11**

**SUBJECT: Prohibition On Mandatory Medicine**

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**Prohibition on Mandatory Medicine**

It is the responsibility of member Local Education Agencies (LEAs) of the North Region SELPA to prohibit school personnel from requiring a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school or receiving a special education assessment and/or services.

References: EC 56540.5, 56207.5.

USC Title 20 § 1400, § 1412 (a)(25)

**NORTH REGION SELPA****BOARD POLICY (BP) NO. 6159.1**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 5-26-16**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 10-27-16**  
**REVISIONS ADOPTED: 4-9-20**

**SUBJECT: Procedural Safeguards and Complaints for Special Education**

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The North Region Special Education Local Plan Area (SELPA) affords students with disabilities and their parents with all procedural safeguards according to state and federal laws and regulations. Parents/guardians shall receive written notice of their rights in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee of each district within the North Region SELPA shall represent the district in any due process hearing conducted with regard to district students and shall inform the Board about the result of the hearing.

The Superintendent or designee of each district within the North Region SELPA shall address a complaint concerning compliance with state or federal law regarding special education in accordance with the district's uniform complaint procedures.

**Legal Reference:****EDUCATION CODE**

56000 Education for individuals with disabilities

56001 Provision of the special education programs

56020-56035 Definitions

56195.7 Written agreements

56195.8 Adoption of policies for programs and services

56300-56385 Identification and referral, assessment

56440-56447.1 Programs for individuals between the ages of three and five years

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

**CODE OF REGULATIONS, TITLE 5**

NR SELPA Policy Manual

3000-3100 Regulations governing special education  
4600-4671 Uniform complaint procedures

UNITED STATES CODE, TITLE 20  
1232g Family Educational Rights and Privacy Act

Policy 6159.1 BP Page 1 of 2

1400-1482 Individuals with Disabilities Education Act

UNITED STATES CODE, TITLE 29  
794 Section 504 of the Rehabilitation Act

UNITED STATES CODE, TITLE 42  
11434 Homeless assistance

CODE OF FEDERAL REGULATIONS, TITLE 34  
99.10-99.22 Inspection, review and procedures for amending education records  
104.36 Procedural safeguards  
300.1-300.818 Assistance to states for the education of students with disabilities, especially:  
300.500-300.520 Procedural safeguards and due process for parents and students

COURT DECISIONS  
Winkelman v. Parma City School District, (2007) 550 U.S. 516

Management Resources:

FEDERAL REGISTER  
Final Regulations, December 1, 2008, Vol. 73, No. 231, pages 73006-73029

WEB SITES  
California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>  
U.S. Department of Education, Office of Special Education Programs:  
<http://www.ed.gov/about/offices/list/osep>

(6/98 11/06) 3/09

**NORTH REGION SELPA****ADMINISTRATIVE REGULATION (AR) NO. 6159.1**

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**CLASSIFICATION: INSTRUCTION****PROPOSED: 5-26-16****ADOPTED: 10-27-16****SUBJECT: Procedural Safeguards and Complaints for Special Education**

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Prior Written Notice

The Superintendent or designee of each district within the North Region Special Education Local Plan Area (SELPA) shall send to the parents/guardians of any student with disabilities a prior written notice within a reasonable time: (20 USC 1415(c); 34 CFR 300.102, 300.300, 300.503; Education Code 56500.4, 56500.5)

1. Before the district initially refers the student for assessment.
2. Before the district proposes to initiate or change the student's identification, assessment, educational placement, or the provision of a free appropriate public education (FAPE) to the student.
3. Before the district refuses to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
4. Before the student graduates from high school with a regular diploma thus resulting in a change in placement.
5. Upon receipt of the parent/guardian's written revocation of consent for the continued provision of special education and related services to his/her child.

This notice shall include: (20 USC 1415(c); 34 CFR 300.503; Education Code 56500.4)

1. A description of the action proposed or refused by the district.
2. An explanation as to why the district proposes or refuses to take the action.

3. A description of each assessment procedure, test, record, or report the district used as a basis for the proposed or refused action.
4. A statement that the parents/guardians of the student have protection under procedural safeguards and, if this notice is not an initial referral for assessment, the means by which a copy of the description of procedural safeguards can be obtained.
5. Sources for parents/guardians to obtain assistance in understanding these provisions.
6. A description of any other options that the individualized education program (IEP) team considered and why those options were rejected.
7. A description of any other factors relevant to the district's proposal or refusal.

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### Procedural Safeguards Notice

A procedural safeguards notice shall be made available to parents/guardians of students with disabilities once each school year and: (20 USC 1415(d)(1); 34 CFR 300.504; Education Code 56301)

1. Upon initial referral or parent/guardian request for assessment.
2. Upon receipt of the first state compliance complaint in a school year.
3. Upon receipt of the first due process hearing request in a school year.
4. In accordance with the discipline procedures pursuant to 34 CFR 300.530(h), when a decision is made to remove a student because of a violation of a code of conduct constituting a change of placement.
5. Upon request by a parent/guardian.

The procedural safeguards notice shall include a full explanation of all of the procedural safeguards available under 34 CFR 300.148, 300.151-300.153, 300.300, 300.502-300.503, 300.505-300.518, 300.520, 300.530-300.536, and 300.610-300.625 relating to: (20 USC 1415(d)(2); 34 CFR 300.504; Education Code 56301)

1. Independent educational evaluation.
2. Prior written notice.
3. Parental consent, including a parent/guardian's right to revoke consent, in writing, to his/her child's continued receipt of special education and related services.
4. Access to educational records.
5. Opportunity to present complaints and resolve complaints through the due process

complaint and state compliance complaint procedures, including the time period in which to file a complaint, the opportunity for the district to resolve the complaint, and the difference between a due process complaint and the state compliance complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.

Policy 6159.1 AR Page 2 of 6

6. The availability of mediation.
7. The student's placement during the pendency of any due process complaint.
8. Procedures for students who are subject to placement in an interim alternative educational setting
9. Requirements for unilateral placement by parents/guardians of students in private schools at public expense.
10. Hearings on due process complaints, including requirements for disclosure of assessment results and recommendations.
11. State-level appeals.
12. Civil actions, including the time period in which to file those actions.
13. Attorney's fees.

This notice shall also include the rights and procedures contained in Education Code 56500-56509, including information on the procedures for requesting an informal meeting, prehearing mediation conference, mediation conference, or due process hearing; the timelines for completing each process; whether the process is optional; the type of representative who may be invited to participate; the right of the parent/guardian and/or the district to electronically record the proceedings of IEP meetings in accordance with Education Code 56341; and information regarding the state special schools for students who are deaf, hard of hearing, blind, visually impaired, or deaf-blind. (Education Code 56321, 56321.5, 56321.6)

A copy of this notice shall be attached to the student's assessment plan and referred to at each IEP meeting. (Education Code 56321, 56321.5)

#### Format of Parent/Guardian Notices

The parents/guardians of a student with a disability shall be provided written notice of their rights in a language easily understood by the general public and in their native language or other mode of communication used by them, unless to do so is clearly not feasible. (34 CFR 300.503; Education Code 56341, 56506)

If the native language or other mode of communication of the parent/guardian is not a written language, the district shall take steps to ensure that: (34 CFR 300.503)



1. The notice is translated orally or by other means to the parent/guardian in his/her native language or other mode of communication.
2. The parent/guardian understands the contents of the notice.
3. There is written evidence that items #1 and #2 have been satisfied.

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The district may place a copy of the procedural safeguards notice on the district's web site.  
(20 USC 1415(d))

### Alternative Dispute Resolution

It is the goal of the North Region SELPA to assure that member districts meet the needs of all students and involve their parents in planning and decision-making. When a disagreement or conflict arises between the parents and the district, it is to the advantage of all parties to resolve the dispute at the lowest level and in the timeliest manner. The SELPA is committed to provision of support to districts in the prevention and early resolution of disagreements involving assessment, identification, placement and services to individuals with exceptional needs.

Through the SELPA Alternative Dispute Resolution (ADR) Program, parents are supported at every stage of the IEP process and have the opportunity to access a variety of processes which assist the parties directly involved in the dispute to create an agreement which meets the interests of the parties involved. In addition to the cost and time savings, relationships between the parent and district are maintained or even enhanced. The components of the ADR Program include but are not limited to the following:

1. Intake Coordinator. The Intake Coordinator is responsible for dispute resolution, staff development and community awareness. The Intake Coordinator facilitates the allocation of resources to integrate compliance, alternative dispute resolution, due process, parent and staff training and community awareness into a program of support for parents and professionals.
2. Resource Parent volunteers. The Resource Parent has been trained by the SELPA to provide in-district support, especially to new parents. The primary role of the Resource Parent is to provide parent-to-parent support.
3. Neutral Facilitators for IEP team meetings. Facilitators guide the IEP team through a collaborative decision-making process focused on the needs of the student with the goal of creating a mutually acceptable IEP.
4. Neutral Facilitators for resolution sessions. The Resolution Session Facilitator assists parents and districts to complete the legally-required resolution meeting prior to a due process hearing. The goal of the meeting is to assist the parties to engage in a confidential problem-solving process which results in a signed agreement.

## Due Process Complaints

A parent/guardian and/or the district may initiate due process hearing procedures whenever: (20 USC 1415(b); Education Code 56501)

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1. There is a proposal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
2. There is a refusal to initiate or change the student's identification, assessment, or educational placement or the provision of FAPE to the student.
3. The parent/guardian refuses to consent to an assessment of his/her child.
4. There is a disagreement between a parent/guardian and the district regarding the availability of a program appropriate for the student, including the question of financial responsibility, as specified in 34 CFR 300.148.

Prior to having a due process hearing, the party requesting the hearing, or the party's attorney, shall provide the opposing party a due process complaint, which shall remain confidential, specifying: (20 USC 1415(b); 34 CFR 300.508; Education Code 56502)

1. The student's name.
2. The student's address or, in the case of a student identified as homeless pursuant to 42 USC 11434, available contact information for that student.
3. The name of the school the student attends.
4. A description of the nature of the student's problem relating to the proposed or refused initiation or change, including facts relating to the problem.
5. A proposed resolution to the problem to the extent known and available to the complaining party at the time.

Parties filing a due process complaint shall file their request with the Superintendent of Public Instruction or designated contracted agency. (Education Code 56502)

## District's Response to Due Process Complaints

1. An explanation of why the district proposed or refused to take the action raised in the complaint.
2. A description of other options that the IEP team considered and the reasons that those options were rejected.
3. A description of each evaluation procedure, assessment, record, or report the district

used as the basis for the proposed or refused action.

4. A description of the factors that are relevant to the district's proposal or refusal.

Upon the filing of a due process complaint by either party or upon request of the parent/guardian, the district shall inform the parent/guardian of any free or low-cost legal and

Policy 6159.1 AR Page 5 of 6

other relevant services available in the area. (34 CFR 300.507)

#### Informal Process/Pre-Hearing Mediation Conference

Prior to or upon initiating a due process hearing, the Superintendent or designee and a parent/guardian may, if the party initiating the hearing so chooses, agree to meet informally to resolve any issue(s) relating to the identification, assessment, education and placement, or provision of FAPE for a student with disabilities. The Superintendent or designee shall have the authority to resolve the issue(s). In addition, either party may file a request with the Superintendent of Public Instruction for a mediation conference to be conducted by a person under contract with the California Department of Education. (Education Code 56502)

If resolution is reached that resolves the due process issue(s), the parties shall enter into a legally binding agreement that satisfies the requirements of Education Code 56500.3. (Education Code 56500.3)

Attorneys may attend or otherwise participate only in those mediation conferences that are scheduled after the filing of a request for due process hearing. (Education Code 56500.3, 56501)

(3/05 11/06) 3/09

**NORTH REGION SELPA****BOARD POLICY (BP) NO. 6159.2**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 5-26-16**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 10-27-16**  
**REVISIONS ADOPTED: 4-9-20**

**SUBJECT: Nonpublic, Nonsectarian School and Agency Services for Special Education**

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The Policy Board of the North Region SELPA recognizes its responsibility to provide all district students, including students with disabilities, a free appropriate public education in accordance with law. When the district is unable to provide direct special education and/or related services to students with disabilities, the Board may enter into a contract with a nonpublic, nonsectarian school or agency to meet the students' needs.

In selecting nonpublic, nonsectarian schools or agencies with which the district may contract for the placement of any district student with disabilities, the Superintendent or designee shall follow the procedures specified in law and accompanying administrative regulation.

Prior to entering into a contract to place any student in a nonpublic, nonsectarian school or agency, the Superintendent or designee of each member district shall verify that the school or agency is certified to provide special education and related services to individuals with disabilities in accordance with Education Code 56366. In addition, the Superintendent or designee of each member district shall monitor, on an ongoing basis, the certification of any nonpublic, nonsectarian school with which the district has a contract to ensure that the school or agency's certification has not expired.

No district student shall be placed in a nonpublic, nonsectarian school or agency unless the student's individualized education program (IEP) team has determined that an appropriate public education alternative does not exist and that the nonpublic, nonsectarian school or agency placement is appropriate for the student. In accordance with law, any student with disabilities placed in a nonpublic, nonsectarian school or agency shall have all the rights and protections to which students with disabilities are generally entitled, including, but not limited to, the procedural safeguards, due process rights, and periodic review of his/her IEP. (Education Code 56195.8, 56342.1)

The District shall oversee and evaluate the placements in each nonpublic, nonsectarian school (NPS). The District shall conduct an onsite visit to the NPS before placement of a pupil if the District does not have any pupils enrolled at the school at the time of placement. Additionally, the District shall conduct at least one onsite monitoring visit each school year they have a student placed in an NPS via a master contract. The monitoring visit shall include:

Policy 6159.2 BP Page 1 of 3

- a. A review of services provided through the ISA
- b. A review of progress on goals
- c. A review of progress on goals specific to a BIP
- d. An observation of the pupil during instruction
- e. A walkthrough of the facility

During the period when any student with disabilities is placed in a nonpublic, nonsectarian school or agency, the student's IEP team shall retain responsibility for monitoring the student's progress towards meeting the goals identified in his/ her IEP.

Districts shall verify through documentation submitted to the District by the NPS that each NPS trains staff who will have contact or interaction with students during the school day in the use of specified evidence-based practices and interventions specific to the unique behavioral needs of the students it serves.

#### Legal Reference:

##### EDUCATION CODE

56034-56035 Definitions of nonpublic, nonsectarian school and agency  
56042 Placement not to be recommended by attorney with conflict of interest

56101 Waivers

56163 Certification

56168 Responsibility for education of student in hospital or health facility school

56195.8 Adoption of policies

56342.1 Individualized education program; placement

56360-56369 Implementation of special education

56711 Computation of state aid

56740-56743 Apportionments and reports

56760 Annual budget plan; service proportions

56775.5 Reimbursement of assessment and identification costs

##### FAMILY CODE

7911-7912 Interstate compact on placement of children

##### GOVERNMENT CODE

7570-7587 Interagency responsibilities for providing services to children with disabilities, especially:

NR SELPA Policy Manual

7572.55 Seriously emotionally disturbed child; out-of-state placement  
WELFARE AND INSTITUTIONS CODE  
362.2 Out-of-home placement for IEP  
727.1 Out-of-state placement of wards of court  
CODE OF REGULATIONS, TITLE 5

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### 3001 Definitions

3060-3070 Nonpublic, nonsectarian school and agency services  
UNITED STATES CODE, TITLE 20

1400-1487 Individuals with Disabilities Education Act  
CODE OF FEDERAL REGULATIONS, TITLE 34

300.129-300.148 Children with disabilities in private schools  
COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

### Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

### WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:  
<http://www.ed.gov/about/offices/list/osers>  
(6/95 6/99) 4/1

***NORTH REGION SELPA***

**ADMINISTRATIVE REGULATION (AR) NO. 6159.2**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 5-26-16**

**ADOPTED: 10-27-16**

**SUBJECT: Nonpublic, Nonsectarian School and Agency Services for Special Education**

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Master Contract

Every master contract with a nonpublic, nonsectarian school or agency shall include an individual services agreement negotiated for each student.

Each master contract shall specify the general administrative and financial agreements for providing the special education and designated instruction and services, including student-teacher ratios, as well as transportation if specified in a student's individualized education program (IEP). The administrative provisions of the contract shall include procedures for recordkeeping and documentation, and the maintenance of school records by the district to ensure that appropriate high school graduation credit is received by any participating student. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school. (Education Code 56366)

The master contract shall include a description of the process to be utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether each student is making appropriate educational progress. (Education Code 56366)

With mutual agreement of the district and a nonpublic, nonsectarian school or agency, changes may be made to the administrative and financial agreements in the master contract at any time, provided the change does not alter a student's educational instruction, services, or placement as outlined in his/her individual services agreement. (Education Code 56366)

Placement and Services

The Superintendent or designee of each member district shall develop an individual services

agreement for each student to be placed in a nonpublic, nonsectarian school or agency based on the student's IEP. Each individual services agreement shall specify the length of time authorized in the student's IEP for the nonpublic, nonsectarian school services, not to exceed one year. Changes in a student's educational instruction, services, or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

Policy 6159.2 AR Page 1 of 2

The IEP team of a student placed in a nonpublic, nonsectarian school or agency shall annually review the student's IEP. The student's IEP and individual services agreement shall specify the review schedules. (5 CCR 3069)

### Out-of-State Placements

Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the district's efforts to find an appropriate program offered by a nonpublic, nonsectarian school or agency within California. (Education Code 56365)

Within 15 days of any decision for an out-of-state placement, the student's IEP team shall submit to the Superintendent of Public Instruction a report with information about the services provided by the out-of-state program, the related costs, and the district's efforts to locate an appropriate public school or nonpublic, nonsectarian school or agency within California. (Education Code 56365)

If the district decides to place a student with a nonpublic, nonsectarian school or agency outside the state, the district shall indicate the anticipated date of the student's return to a placement within California and shall document efforts during the previous year to return the student to California. (Education Code 56365)

(6/95 6/99) 4/13



**NORTH REGION SELPA****BOARD POLICY (BP) NO. 6159.4**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 6-20-11**  
**REVISIONS PROPOSED: 10-15-15**

**ADOPTED: 6-20-11**  
**REVISIONS ADOPTED: 1-21-16**

**SUBJECT: Positive Behavior Intervention for Special Education Students**

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**POSITIVE BEHAVIOR INTERVENTION**

It shall be the policy of the North Region SELPA that each member Local Education Agency (LEA) will follow positive behavior intervention requirements according to both California Education Code and the Federal Individuals with Disabilities Education Act (IDEA) and its implementing regulations. .

It is the philosophy of the North Region SELPA that all students have a right to a safe and secure school environment which supports learning and personal development. In the case of a special education student whose behavior impedes his/her learning or that of others, appropriate positive behavior interventions, strategies, and supports shall be developed to address the behavior. Behavior supports and interventions focus on identification of the function of the behavior, environmental modifications to support the use of positive behaviors, and the teaching of alternative behaviors to replace the maladaptive behaviors.

When any behavioral intervention, support, or other strategy is to be used, LEAs in the North Region SELPA shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment.

**Legal References:**

California Education Code 56520, as amended by AB 86 (Ch. 48, Statutes of 2013)  
 California Education Code 56521.1 and 56521.2, as added by AB 86 (Ch. 48, Statues of 2013)  
 20 USC 1400-1482; 34 CFR 300.1-300.818

**NORTH REGION SELPA****ADMINISTRATIVE REGULATION (AR) NO. 6159.4**

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**CLASSIFICATION: INSTRUCTION****PROPOSED: 10-27-16****ADOPTED: 1-26-17****SUBJECT: Positive Behavior Intervention for Special Education Students**

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Disciplinary Procedures

Generally, any student identified as a student with a disability pursuant to the Individuals with Disabilities Education Act, 20 USC 1400-1482, is subject to the same disciplinary measures applicable to all students for violations of the code of conduct, except when the student's behavior is determined to be a manifestation of his/her disability.

However, when the behavior of a student with a disability impedes his/her learning or the learning of others, the student's individualized education program (IEP) team shall consider the use of positive behavioral interventions and supports and other strategies consistent with 20 USC 1414(d) to address the student's behavior. (Education Code 56521.2; 34 CFR 300.324)

If, pursuant to a manifestation determination conducted as specified in 34 CFR 300.530, the student's behavior is determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) for the student. If a BIP is already in place for the student, the IEP team shall review and modify the BIP to address the student's behavior. (Education Code 56520; 34 CFR 300.324, 300.530)

In addition, when the disciplinary removal of a student with a disability will result in a change in the student's placement as specified in 34 CFR 300.530, the student shall receive an FBA and behavioral intervention services and modifications designed to address the student's behavior so that it does not recur. (34 CFR 300.530)

Functional Behavioral Assessment (FBA)

Any FBA to be conducted for a student with a disability shall focus on identifying the function or purpose of the student's behavior.

Before any FBA is conducted, the Superintendent or designee shall notify the student's parent/guardian in accordance with Education Code 56321 and obtain the parent/guardian's consent. (Education Code 56321; 34 CFR 300.324)

If the parent/guardian disagrees with the result of an FBA, he/she has the right to obtain an independent educational evaluation at district expense, subject to the conditions specified in 34 CFR 300.502.

### Behavioral Intervention Plan (BIP) and Services

Behavior intervention plans shall include positive strategies based on the determination made by the student's IEP team about the function or purpose of the student's behaviors. Plans shall include, as appropriate, environmental modifications to support the student's use of positive behaviors, the teaching of alternative behaviors to replace the maladaptive behaviors, procedures to reinforce the student for increasing the use of positive behaviors, and reactive strategies to be used if the student exhibits the maladaptive behaviors.

When any behavioral intervention, support, or other strategy is to be used by the district, the Superintendent or designee shall consider the student's physical freedom and social interaction, administer the intervention, support, or other strategy in a manner that respects the student's dignity and personal privacy, and ensure the student's right to be placed in the least restrictive educational environment. (Education Code 56520)

When a student for whom a BIP is to be developed is also the responsibility of another agency for residential care or related services, the Superintendent or designee shall cooperate with the other agency to ensure that the BIP, to the extent possible, is implemented in a consistent manner. (Education Code 56520)

Behavior assessments and behavioral intervention services shall be provided only by individuals who possess the qualifications specified in Education Code 56525 or 5 CCR 3051.23.

### Emergency Interventions

Emergency interventions may be used only to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the student or others and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic BIP that is designed to change, replace, modify, or eliminate a targeted behavior. (Education Code 56521.1)

No emergency intervention shall be used for longer than is necessary to contain the behavior. For any situation that requires a prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (Education Code 56521.1)

Emergency interventions shall not involve the use of force exceeding what is reasonable and necessary under the circumstances. In addition, use of locked seclusion or a device, material, or objects that simultaneously immobilize all hands and feet shall not be allowed except as allowed by law. (Education Code 56521.1)

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Parents/guardians and, if appropriate, residential care providers shall be notified within one school day whenever emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the Superintendent or designee for review. This report shall include all of the following information: (Education Code 56521.1)

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used
5. A statement of whether the student is currently engaged in a systematic BIP
6. Details of any injuries sustained by the student or others, including staff, as a result of the incident

If the behavior emergency report is for a student who does not have a BIP, the Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for an FBA, and determine the necessity for an interim BIP. The IEP team shall document the reasons for not conducting the FBA and/or not developing the interim BIP. (Education Code 56521.1)

If the behavior emergency report is for a student who has a BIP, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's plan needs to be modified. (Education Code 56521.1)

### Prohibited Interventions

The district prohibits the use of corporal punishment as defined in Education Code 49001 as an intervention. In addition, the district prohibits all of the following: (Education Code 56521.2)

1. Any intervention designed or likely to cause physical pain, including, but not limited to, electric shock.
2. Any intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances near the student's face.
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical

comfort, or access to bathroom facilities.

4. Any intervention that is designed to subject, used to subject, or likely to subject the student to verbal abuse, ridicule, or humiliation or that can be expected to cause excessive emotional trauma.
5. Any restrictive intervention that uses a device, material, or objects which simultaneously immobilize all hands and feet, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention
6. Locked seclusion, unless in a facility otherwise licensed or permitted by state law to use a locked room.
7. Any intervention that precludes adequate supervision of the student.
8. Any intervention that deprives the student of one or more of his/her senses.

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#### Legal Reference:

##### EDUCATION CODE

49001 Prohibition of corporal punishment

56321 Notice of parental rights; consent of parents

56500-56508 Procedural safeguards, including due process rights

56520-56525 Behavioral interventions

##### CODE OF REGULATIONS, TITLE 5

3065 Staff qualifications - related services

##### UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act, especially:

1412 State eligibility

1415 Procedural safeguards

##### CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities

#### Management Resources:

##### FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

##### WEB SITES

Behavior Analyst Certification Board: <http://www.calaba.org/bacb.shtm>

U.S. Department of Education, Office of Special Education Programs:

<http://www2.ed.gov/about/offices/list/osers/osep>

***NORTH REGION SELPA***

**BOARD POLICY (BP) NO. 6159.5**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 3-24-16**

**ADOPTED: 5-26-16**

**SUBJECT: Individualized Education Program (IEP)**

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The Policy Board of the North Region SELPA desires to provide educational alternatives that afford students with disabilities full educational opportunities. Students with disabilities shall receive a free appropriate public education and be placed in the least restrictive environment which meets their needs to the extent provided by law.

The Director or designee shall develop administrative regulations regarding the appointment of the individualized education program (IEP) team, the contents of the IEP, and the development, review, and revision of the IEP.

Further, the SELPA shall develop a "Procedural Handbook" to provide guidance to parents, students, and staff regarding best practices and SELPA procedures for ensuring compliance with Board Policy and Administrative Regulations.

To the extent permitted by federal law, a foster parent shall have the same rights relative to his/her foster child's IEP as a parent/guardian. (Education Code 56055)

**Legal Reference:**

**EDUCATION CODE**

51225.3 Requirements for high school graduation and diploma

56055 Rights of foster parents pertaining to foster child's education

56136 Guidelines for low incidence disabilities areas

56195.8 Adoption of policies

56321 Development or revision of IEP

56321.5 Notice to include right to electronically record

56340.1-56347 Instructional planning and individualized education program

56350-56352 IEP for visually impaired students

56380 IEP reviews; notice of right to request

56390-56392 Certificate of completion, special education

NR SELPA Policy Manual

56500-56509 Procedural safeguards  
60640-60649 California Assessment of Student Performance and Progress  
60850-60859 High school exit examination, students with disabilities

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60852.3 High school exit examination, exemption for students with disabilities

#### FAMILY CODE

6500-6502 Age of majority

#### GOVERNMENT CODE

7572.5 Seriously emotionally disturbed child, expanded IEP team

#### WELFARE AND INSTITUTIONS CODE

300 Children subject to jurisdiction

601 Minors habitually disobedient

602 Minors violating law defined as crime

#### CODE OF REGULATIONS, TITLE 5

853-853.5 State assessments, accommodations

1215.5-1218 High School Exit Examination, accommodations for students with disabilities

3021-3029 Identification, referral and assessment

3040-3043 Instructional planning and the individualized education program

#### UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974

1400-1482 Individuals with Disabilities Education Act

#### CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Individuals with Disabilities Education Act

#### ATTORNEY GENERAL OPINIONS

85 Ops.Cal.Atty.Gen. 157 (2002)

#### COURT DECISIONS

Marshall v. Monrovia Unified School District, (9th Circuit, 2010) 327 F.3d 773

Schaffer v. Weast (2005) 125 S. Ct. 528

Shapiro v. Paradise Valley Unified School District, No. 69 (9th Circuit, 2003) 317 F.3d 1072

Sacramento City School District v. Rachel H. (9th Cir. 1994) 14 F.3d 1398

#### Management Resources:

##### FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

##### WEB SITES

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office of Special Education and Rehabilitative Services:

<http://www.ed.gov/about/offices/list/osep>

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**NORTH REGION SELPA****ADMINISTRATIVE REGULATIONS (AR) NO. 6159.5**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 3-24-16**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 5-26-16**  
**REVISIONS ADOPTED: 4-9-20**

**SUBJECT: Individualized Education Program (IEP)**

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Each district within the North Region SELPA shall have an IEP or Individual Family Service Plan (IFSP) developed, implemented, reviewed, and revised for each student with a disability within district jurisdiction who requires special education and related services in accordance with 20 U.S.C. Section 1414(d). The IEP shall be a written statement designed by the IEP team to meet the unique educational needs of a student with a disability. (Education Code 56344; 34 CFR 300.323)

**Members of the IEP Team**

The IEP team for any student with a disability shall include the following members: (Education Code 56341, 56341.5; 20 USC 1414(d)(1); 34 CFR 300.321)

1. One or both of the student's parents/guardians and/or a representative selected by them.
2. If the student is or may be participating in the regular education program, at least one of the student's regular education teachers designated by the Superintendent or designee to represent the student's teachers.

The regular education teacher shall, to the extent appropriate, participate in the development, review, and revision of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions, supports, and other strategies for the student, and supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student, consistent with 34 CFR 300.320. (Education Code 56341; 20 USC 1414(d)(3)(C); 34 CFR 300.324)

3. At least one of the student's special education teachers or, where appropriate,



special education providers.

4. A representative of the district who is:
  - a. Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
  - b. Knowledgeable about the general education curriculum.
  - c. Knowledgeable about the availability of district and/or special education local plan area (SELPA) resources.
5. An individual who can interpret the instructional implications of assessment results.

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This individual may already be a member of the team as described in items #2-4 above or in item #6 below.

6. At the discretion of the parent/guardian or the Superintendent or designee, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate.

The determination of whether the individual has knowledge or special expertise regarding the student shall be made by the party who invites the individual to be a member of the IEP team.

7. Whenever appropriate, the student with a disability.

In the development, review, or revision of his/her IEP, the student shall be allowed to provide confidential input to any representative of his/her IEP team. (Education Code 56341.5)

8. When the student is suspected of having a specific learning disability, at least one individual who is qualified to conduct individual diagnostic examinations of the student such as a school psychologist, speech language pathologist, or remedial reading teacher.

In accordance with 34 CFR 300.310, at least one team member other than the student's regular education teacher shall observe the student's academic performance and behavior in the areas of difficulty in his/her learning environment, including in the regular classroom setting. If the child is younger than five years or not enrolled in school, a team member shall observe the child in an environment appropriate for a child of that age.

In the following circumstances, the Superintendent or designee shall invite other specified individuals to an IEP team meeting:

1. When the student has been placed in a group home by the juvenile court, a representative of the group home shall be invited to attend IEP team meetings.

(Education Code 56341.2)

2. Whenever the IEP team is meeting to consider the student's postsecondary goals and the transition services needed to assist him/her in reaching the goals as stated in Education Code 56345(a)(8), the following individuals shall be invited to attend: (34 CFR 300.321)

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- a. The student, regardless of his/her age. If the student does not attend the IEP team meeting, the Superintendent or designee shall take other steps to ensure that the student's preferences and interests are considered.
  - b. To the extent appropriate, and with the consent of the parent/guardian, a representative of any other agency that is likely to be responsible for providing or paying for the transition services.
3. If the student was previously served under the Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004), and upon request of the student's parent/guardian, the Superintendent or designee shall invite the Infant and Toddlers with Disabilities Coordinator or other representative of the early education or early intervention system to the initial IEP team meeting to assist with the smooth transition of services. (Education Code 56341; 20 USC 1414(d)(1)(D); 34 CFR 300.321)

A member of the IEP team shall not be required to attend an IEP team meeting, in whole or in part, if the parent/guardian and the district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting. Even if the meeting involves a discussion of the IEP team member's area of the curriculum or related service, the member may be excused from the meeting if the parent/guardian, in writing, and the district consent to the excusal after conferring with the member and the member submits to the parent/guardian and team written input into the development of the IEP prior to the meeting. (Education Code 56341; 20 USC 1414(d)(1)(C); 34 CFR 300.321)

### Contents of the IEP

The IEP shall include, but not be limited to, all of the following: (Education Code 56043, 56345, 56345.1; 20 USC 1414(d)(1)(A); 34 CFR 300.320)

1. A statement of the present levels of the student's academic achievement and functional performance, including:
  - a. The manner in which the student's disability affects his/her involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students).
  - b. For a preschool child, as appropriate, the manner in which the disability affects

his/her participation in appropriate activities.

c. For a student with a disability who takes alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

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2. A statement of measurable annual goals, including academic and functional goals, designed to:
  - a. Meet the student's needs that result from his/her disability in order to enable the student to be involved in and progress in the general education curriculum.
  - b. Meet each of the student's other educational needs that result from his/her disability.
3. A description of the manner in which the student's progress toward meeting the annual goals described in item #2 above will be measured and when the district will provide periodic reports on the progress the student is making toward meeting the annual goals, such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards.
4. A statement of the special education instruction and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided to enable the student to:
  - a. Advance appropriately toward attaining the annual goals,
  - b. Be involved and make progress in the general education curriculum in accordance with item #1 above and to participate in extracurricular and other nonacademic activities.
  - c. Be educated and participate with other students with disabilities and nondisabled students in the activities described in the IEP
5. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and other nonacademic activities described in the IEP
6. A statement of any appropriate individual accommodations necessary to measure the academic achievement and functional performance of the student on state and districtwide assessments

If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or districtwide assessment, the student's IEP

also shall include a statement of the reason that he/she cannot participate in the regular assessment and the reason that the particular alternate assessment selected is appropriate for him/her.

7. The projected date for the beginning of the services and modifications described in item #4 above and the anticipated frequency, location, and duration of those services and modifications

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8. Beginning not later than the first IEP to be in effect when the student is 16 years of age, or younger if determined appropriate by the IEP team, and updated annually thereafter, the following:
  - a. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills.
  - b. The transition services, including courses of study, needed to assist the student in reaching those goals.
9. Beginning at least one year before the student reaches age 18, a statement that the student has been informed of his/her rights, if any, that will transfer to him/her upon reaching age 18, pursuant to Education Code 56041.5.

Where appropriate, the IEP shall also include: (Education Code 56345)

1. For a student in grades 7-12, any alternative means and modes necessary for the student to complete the district's prescribed course of study and to meet or exceed proficiency standards required for graduation.
2. Linguistically appropriate goals, objectives, programs, and services for a student whose native language is not English.
3. Extended school year services when the IEP team determines, on an individual basis, that the services are necessary for the provision of a free appropriate public education (FAPE).
4. Provision for transition into the regular education program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular education program in a public school for any part of the school day, including descriptions of activities intended to:
  - a. Integrate the student into the regular education program, including indications of the nature of each activity and the time spent on the activity each day or week.
  - b. Support the transition of the student from the special education program into the regular education program.

5. Specialized services, materials, and equipment for a student with low incidence disabilities, consistent with the guidelines pursuant to Education Code 56136.

### Development of the IEP

Within 30 days of a determination that a student needs special education and related services, the Superintendent or designee shall ensure that a meeting to develop an initial IEP is conducted. (34 CFR 300.323)

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Any IEP required as a result of an assessment of a student shall be developed within 60 days from the date of receipt of the parent/guardian's written consent for assessment, unless the parent/guardian agrees, in writing, to an extension. Days between the student's regular school sessions, terms, or vacation of more than five school days shall not be counted. In the case of school vacations, the 60-day time limit shall recommence on the date that the student's school days reconvene. (Education Code 56344)

However, when the IEP is required as a result of an assessment of a student for whom a referral has been made 30 days or less prior to the end of the preceding regular school year, the IEP shall be developed within 30 days after the commencement of the subsequent regular school year. (Education Code 56344)

In developing the IEP, the IEP team shall consider all of the following: (Education Code 56341.1, 56345; 20 USC 1414(d)(3)(A); 34 CFR 300.324)

1. The strengths of the student.
2. The concerns of the parents/guardians for enhancing the education of their child.
3. The results of the initial or most recent assessment of the student.
4. The academic, developmental, and functional needs of the student.
5. In the case of a student whose behavior impedes his/her learning or that of others, the use of positive behavioral interventions and supports and other strategies to address that behavior.
6. In the case of a student with limited English proficiency, the language needs of the student as such needs relate to the student's IEP.
7. In the case of a student who is blind or visually impaired, the need to provide for instruction in Braille and instruction in the use of Braille.

However, such instruction need not be included in the IEP if the IEP team determines that instruction in Braille or the use of Braille is not appropriate for the student. This determination shall be based upon an assessment of the student's reading and writing skills, his/her future needs for instruction in Braille or the use of Braille, and other appropriate reading and writing media.

8. The communication needs of the student and, in the case of a student who is deaf

or hard of hearing, the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode.

The team shall also consider the related services and program options that provide the student with an equal opportunity for communication access, as described in Education Code 56345.

9. Whether the student requires assistive technology devices and services.

If, in considering the special factors in items #1-9 above, the IEP team determines that the student needs a particular device or service, including an intervention, accommodation, or other program modification, in order to receive FAPE, the team shall include a statement to that effect in the student's IEP. (Education Code 56341.1)

Provision of Special Education and Related Services

The district shall ensure that, as soon as possible following development of the IEP, special education services and related services are made available to the student in accordance with his/her IEP. (Education Code 56344; 34 CFR 300.323)

The Superintendent or designee shall ensure that the student's IEP is accessible to each regular education teacher, special education teacher, related service provider, and any other service provider who is responsible for its implementation. The Superintendent or designee also shall ensure that such teachers and providers are informed of their specific responsibilities related to implementing the IEP and the specific accommodations, modifications, and supports that must be provided to the student in accordance with the IEP. (34 CFR 300.323)

Review and Revision of the IEP

The Superintendent or designee shall ensure that the IEP team reviews the IEP periodically, but at least annually, in order to: (Education Code 56043, 56341.1, 56380; 20 USC 1414(d)(4); 34 CFR 300.324)

1. Determine whether the annual goals for the student are being achieved
2. Revise the IEP, as appropriate, to address:
  - a. Any lack of expected progress toward the annual goals and in the general education curriculum, where appropriate.
  - b. The results of any reassessment conducted pursuant to Education Code 56381.

- c. Information about the student provided to or by the parents/guardians regarding review of evaluation data pursuant to 34 CFR 300.305(a)(2) and Education Code 56381(b).
- d. The student's anticipated needs.
- e. Any other relevant matter.

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3. Consider the special factors listed in items #5-9 above under "Development of the IEP," when reviewing the IEP of any student with a disability to whom one of those factors may apply.

The IEP team shall also meet at any other time upon request by the student's parent/guardian or teacher to review or revise the IEP. (Education Code 56343)

When a parent/guardian requests an IEP team meeting to review the IEP, the team shall meet within 30 days of receiving the parent/guardian's written request, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days. If a parent/guardian makes an oral request, the district shall notify the parent/guardian of the need for a written request and the procedure for filing such a request. (Education Code 56043, 56343.5)

A regular education or special education teacher may request a review of the classroom assignment of a student with a disability by submitting a written request to the Superintendent or designee. The Superintendent or designee shall consider the request within 20 days of receiving it, not counting days when school is not in session or, for year-round schools, days when the school is off track. If the review indicates a need for change in the student's placement, instruction, and/or related services, the Superintendent or designee shall convene an IEP team meeting, which shall be held within 30 days of the Superintendent or designee's review, not counting days when school is not in session or days when school is off track, unless the student's parent/guardian consents in writing to an extension of time.

If a participating agency other than the district fails to provide the transition services described in the student's IEP, the team shall reconvene to identify alternative strategies to meet the transition service objectives set out for the student in the IEP. (Education Code 56345.1; 20 USC 1414(d); 34 CFR 300.324)

If a student with a disability residing in a licensed children's institution or foster family home has been placed by the district in a nonpublic, nonsectarian school, the Superintendent or designee shall conduct an annual evaluation as part of the IEP process of whether the placement is the least restrictive environment that is appropriate to meet the student's needs. (Education Code 56157)

To the extent possible, the Superintendent or designee shall encourage the consolidation of reassessment meetings and other IEP team meetings for a student. (20 USC 1414(d)(3)(A); 34 CFR 300.324)

When a change is necessary to a student's IEP after the annual IEP team meeting for the

school year has been held, the parent/guardian and the Superintendent or designee may agree not to convene an IEP team meeting for the purpose of making the change and instead may develop a written document to amend or modify the student's current IEP. The IEP team shall be informed of any such changes. Upon request, the Superintendent or designee shall provide the parent/guardian with a revised copy of the IEP with the incorporated amendments. (20 USC 1414(d)(3)(D); 34 CFR 300.324)

### Audio Recording of IEP Team Meetings

Parents/guardians and the Superintendent or designee shall have the right to audio record the proceedings of IEP team meetings, provided members of the IEP team are notified of this intent at least 24 hours before the meeting. If the Superintendent or designee gives notice of intent to audio record a meeting and the parent/guardian objects or refuses to attend because the meeting would be audio recorded, the meeting shall not be audio recorded. Parents/guardians also have the right to: (Education Code 56341.1)

1. Inspect and review the audio recordings
2. Request that an audio recording be amended if they believe it contains information that is inaccurate, misleading, or in violation of the student's privacy rights or other rights
3. Challenge, in a hearing, information that the parents/guardians believe is inaccurate, misleading, or in violation of the student's privacy rights or other rights

### Parent/Guardian Participation and Other Rights

The Superintendent or designee shall take steps to ensure that one or both of the parents/guardians of the student with a disability are present at each IEP team meeting or are afforded the opportunity to participate. These steps shall include notifying the parents/guardians of the meeting early enough to ensure that they will have the opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall send parents/guardians notices of IEP team meetings that: (Education Code 56341.5; 34 CFR 300.322)

1. Indicate the purpose, time, and location of the meeting.
2. Indicate who will be in attendance at the meeting.
3. Inform them of:
  - a. Their right to bring to the meeting other individuals who have knowledge or special expertise about the student, pursuant to Education Code



56341(b)(6).

- b. The provision of Education Code 56341(i) relating to the participation of the Infant and Toddlers with Disabilities Coordinator at the initial IEP team meeting, if the student was previously served under Early Education for Individuals with Exceptional Needs (Education Code 56425-56432) or the California Early Intervention Services Act (Government Code 95000-95004).

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In addition, when the IEP team meeting is to consider the development, review, or revision of the IEP of a student with a disability who is 16 years of age or older, or younger than 16 if deemed appropriate by the IEP team, the Superintendent or designee's notice to the student's parents/guardians shall include the following: (Education Code 56341.5

1. An indication that a purpose of the meeting will be the consideration of postsecondary goals and transition services for the student pursuant to Education Code 56345.1, 20 USC 1414(d)(1)(A)(i)(VIII), and 34 CFR 300.320(b).
2. An indication that the student is invited to the IEP team meeting.
3. Identification of any other agency that will be invited to send a representative.

At each IEP team meeting convened by the district, the district administrator or specialist on the team shall inform the parent/guardian and student of the federal and state procedural safeguards included in the notice of parental rights provided pursuant to Education Code 56321. (Education Code 56500.1)

The parent/guardian shall have the right and opportunity to examine all of his/her child's school records upon request, before any IEP meeting, and in connection with any hearing or resolution session on matters affecting his/her child, including, but not limited to, initial formal assessment, procedural safeguards, and due process. Upon receipt of an oral or written request, the Superintendent or designee shall provide complete copies of the records within five business days. (Education Code 56043, 56504)

The parent/guardian shall have the right to present information to the IEP team in person or through a representative and the right to participate in meetings that relate to eligibility for special education and related services, recommendations, and program planning. (Education Code 56341.1)

If neither parent/guardian can attend the meeting, the Superintendent or designee shall use other methods to ensure parent/guardian participation, including video conferences or individual or conference telephone calls. (Education Code 56341.5; 20 USC 1414(f); 34 CFR 300.322)

An IEP team meeting may be conducted without a parent/guardian in attendance if the Superintendent or designee is unable to convince the parent/guardian that he/she should attend. In such a case, the Superintendent or designee shall maintain a record of the attempts to arrange a mutually agreed upon time and place for the meeting, including: (Education Code

1. Detailed records of telephone calls made or attempted and the results of those calls.
2. Copies of correspondence sent to the parent/guardian and any responses received.
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

The Superintendent or designee shall take any action necessary to ensure that the parents/guardians understand the proceedings of the meeting, including arranging for an interpreter for parents/guardians with deafness or whose native language is not English. (Education Code 56341.5; 34 CFR 300.322)

The Superintendent or designee shall give the parents/guardians of a student with a disability a copy of his/her child's IEP at no cost. (Education Code 56341.5; 34 CFR 300.322)

#### Parent/Guardian Consent for Provision of Special Education and Services

Before providing special education and related services to any student, the Superintendent or designee shall seek to obtain informed consent of the student's parent/guardian pursuant to 20 USC 1414(a)(1). The district shall not provide services by utilizing the due process hearing procedures pursuant to 20 USC 1415(f) if the parent/guardian refuses to consent to the initiation of services. If the parent/guardian does not consent to all of the components of the IEP, then those components to which the parent/guardian has consented shall be implemented so as not to delay providing instruction and services to the student. (Education Code 56346)

If the Superintendent or designee determines that a part of a proposed IEP to which the parent/guardian does not consent is necessary in order to provide the student with FAPE, a due process hearing shall be initiated in accordance with 20 USC 1415(f). While the due process hearing is pending, the student shall remain in the current placement unless the parent/guardian and the Superintendent or designee agree otherwise. (Education Code 56346)

If at any time subsequent to the initial provision of services, the student's parent/guardian, in writing, revokes consent for the continued provision of special education services, the Superintendent or designee shall provide prior written notice within a reasonable time before ceasing to provide services to the student. The Superintendent or designee shall not request a due process hearing or pursue mediation in order to require an agreement or ruling that services be provided to the student. (Education Code 56346; 34 CFR 300.300, 300.503)

Prior to the discontinuation of services, the Superintendent or designee may offer to meet with the parents/guardians to discuss concerns for the student's education. However, this meeting shall be voluntary on the part of the parent/guardian and shall not delay the implementation of the parent/guardian's request for discontinuation of services. In addition, the Superintendent or designee shall send a letter to the parent/guardian confirming the parent/guardian's decision

to discontinue all services.

When the district ceases to provide special education services in response to the parent/guardian's revocation of consent, the student shall be classified as a general education student.

### Transfer Students

To facilitate the transition of a student with a disability who is transferring into the district, the Superintendent or designee shall take reasonable steps to promptly obtain the student's records, including his/her IEP and the supporting documents related to the provision of special education services. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from another school district within the same SELPA during the school year, the district shall continue to provide services comparable to those described in the student's existing IEP, unless his/her parent/guardian and the district agree to develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from a school district outside of the district's SELPA during the school year, the district shall provide the student with FAPE, including services comparable to those described in the previous district's IEP. Within 30 days, the Superintendent or designee shall, in consultation with the student's parents/guardians, adopt the previous district's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal law. (Education Code 56325; 34 CFR 300.323)

If the student transfers into the district from an out-of-state district during the school year, the district shall provide the student with FAPE, including services comparable to the out-of-state district's IEP, in consultation with the parent/guardian, until such time as the Superintendent or designee conducts an assessment, if it determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate. (Education Code 56325; 34 CFR 300.323)

(11/10 3/12) 12/14

**CLASSIFICATION: INSTRUCTION****PROPOSED: 10-23-14****ADOPTED: 2-3-15****SUBJECT: Special Circumstance Instructional Assistance**

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**SPECIAL CIRCUMSTANCE INSTRUCTIONAL ASSISTANCE**

Every school district within the North Region SELPA is required to provide a full continuum of placement options for students with identified disabilities who are receiving special education services. The Individuals with Disabilities Education Improvement Act (IDEIA) and California laws and regulations describe a continuum of placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions (CFR 300.552(b)(1)).

The IDEA also defines related services as the utilization of aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate, i.e., in the least restrictive environment (LRE). This applies to any general education program or special education program in which the student may participate (34 CFR Part 300.550-300.556). There may be special circumstances when a student may need additional support in order to be successful in his/her educational placement.

A goal for any student with special needs is to encourage, promote, and maximize independence. The Individualized Education Plan (IEP) team is responsible for developing and implementing a program that promotes that independence. Natural supports and existing staff supports should be used whenever possible.

Before an IEP team recommends a Special Circumstance Instructional Assistant (SCIA) as a support for the classroom staff, the team must determine the following:

- a. Natural supports and/or existing staff supports are not adequate for the student to participate and progress in the general education curriculum;

- b. Additional support is necessary to assist classroom staff in facilitating the student in:
  - Advancement toward the annual goals and/or;
  - Involvement in and progress in the general curriculum and/or;
  - Participation in extracurricular and other nonacademic activities and/or;
  - Participation with other disabled and non-disabled students.
- c. A method for systematic evaluation to assess readiness for increased independence and more natural environmental supports (i.e., a systematic fade plan).

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If the IEP team recommends SCIA support, the team is also responsible for monitoring so that additional supports may be faded as soon as possible. If not carefully monitored and evaluated on a regular basis, additional paraeducator support can unintentionally foster dependence.

Detailed procedures for assessing the need for, evaluating the effectiveness of, and planning the fading of Special Circumstance Instructional Assistance can be found in the North Region SELPA Special Circumstances Instructional Assistance Handbook.

References: California Education Code 56520-56525

**NORTH REGION SELPA****BOARD POLICY (BP) NO. 6164.4**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 5-26-16**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 10-27-16**  
**REVISIONS ADOPTED: 4-9-20**

**SUBJECT: Identification and Evaluation of Individuals for Special Education**

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The Policy Board of the North Region SELPA recognizes the need to actively seek out and evaluate district residents from birth to age 21 who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal law. All children with disabilities (including children who are homeless, wards of the state, or attending private schools), regardless of the severity of their disabilities, who are in need of special education and related services are identified, located, and evaluated. A practical method has been developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

The Superintendent or designee of each member district shall establish a comprehensive system that includes procedures for the identification, screening, referral, and regular and triennial assessment of individuals eligible for special education, as well as procedures for the planning, implementation, and review of the education and related services provided to such individuals. (Education Code 56301)

The identification procedures of the districts within the North Region SELPA shall include methods for utilizing referrals from parents/guardians, teachers, appropriate professionals, and others, and shall be coordinated with school site procedures for referral of students whose needs cannot be met with modifications to the regular instructional program. (Education Code 56302)

The Superintendent or designee of each member district shall notify parents/guardians, in writing, of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the right to consent to any assessment concerning their

child. In addition, the Superintendent or designee shall notify parents/guardians of procedures for initiating a referral for assessment to identify individuals who need special education services. (Education Code 56301)

The SELPA shall develop a "Procedural Handbook" to provide guidance to parents, students, and staff regarding best practices and SELPA procedures for ensuring compliance with Board Policy and Administrative Regulations.

Policy 6164.4 BP Page 1 of 2

#### Legal Reference:

##### EDUCATION CODE

44265.5 Professional preparation for teachers of impaired students  
56000-56885 Special education programs, especially:  
56195.8 Adoption of policies  
56300-56304 Identification of individuals with disabilities  
56320-56331 Assessment  
56333-56338 Eligibility criteria for specific learning disabilities  
56340-56347 Instructional planning and individualized education program  
56381 Reassessment of students  
56425-56432 Early education for individuals with disabilities  
56441.11 Eligibility criteria, children ages 3-5  
56445 Transition to grade school; reassessment  
56500-56509 Procedural safeguards

##### GOVERNMENT CODE

95000-95029.5 California Early Intervention Services Act

##### CODE OF REGULATIONS, TITLE 5

3021-3029 Identification, referral and assessment  
3030-3031 Eligibility criteria

##### UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act of 1974  
1412 State eligibility  
1415 Procedural safeguards

##### CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 Evaluation and placement  
104.36 Procedural safeguards  
300.1-300.818 Individuals with Disabilities Education Act, especially:  
300.301-300.306 Evaluations and reevaluations

##### COURT DECISIONS

Hood v. Encinitas Union School District, (2007) 486 F.3d 1099

#### Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

<http://www.ed.gov/about/offices/list/osep>

(3/07 11/08) 11/10

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**NORTH REGION SELPA**

**ADMINISTRATIVE REGULATIONS (AR) NO. 6164.4**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 5-26-16**

**ADOPTED: 10-27-16**

**SUBJECT: Identification and Evaluation of Individuals for Special Education**

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Referrals for Special Education Services

A student shall be referred for special education instruction and services only after the resources of the regular education program have been considered and used where appropriate. (Education Code 56303)

All referrals from school staff for special education and related services shall include a brief reason for the referral and description of the regular program resources that were considered and/or modified for use with the student and their effect. (5 CCR 3021)

Initial Evaluation for Special Education Services

Before the initial provision of special education and related services to a student with a disability, the district shall conduct a full and individual initial evaluation of the student. (Education Code 56320; 34 CFR 300.301)

Upon receipt of a referral of any student for special education and related services, a proposed evaluation plan shall be developed within 15 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, unless the parent/guardian agrees, in writing, to an extension. If the referral is made within 10 days or less prior to the end of the student's regular school year or term, the proposed evaluation plan shall be developed within 10 days after the beginning of the next regular school year or term. (Education Code 56043, 56321)

The proposed evaluation plan shall meet all of the following requirements: (Education Code



1. Be in a language easily understood by the general public.
2. Be provided in the native language of the parent/guardian or other mode of communication used by the parent/guardian unless it is clearly not feasible.
3. Explain the types of evaluation to be conducted.
4. State that no individualized education program (IEP) will result from the evaluation without parent/guardian consent.

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Before conducting an initial evaluation, the district shall provide the parent/guardian with prior written notice in accordance with 34 CFR 300.503. In addition, as part of the evaluation plan, the parent/guardian shall receive written notice that includes all of the following information: (Education Code 56329; 34 CFR 300.304, 300.504)

1. Upon completion of the administration of tests and other evaluation materials, an IEP team meeting that includes the parent/guardian or his/her representative shall be scheduled pursuant to Education Code 56341. At this meeting, the team shall determine whether or not the student is a student with disabilities, as defined in Education Code 56026, and shall discuss the evaluation, the educational recommendations, and the reasons for the recommendations.
2. When making a determination of eligibility for special education, the district shall not determine that the student is disabled if the primary factor for such determination is lack of appropriate instruction in reading, including the essential components of reading instruction as defined in 20 USC 6368, lack of appropriate instruction in mathematics, or limited English proficiency.
3. A copy of the evaluation report and the documentation of determination of eligibility shall be given to the parent/guardian.
4. If the parent/guardian disagrees with an evaluation obtained by the district, he/she has the right to obtain, at public expense, an independent educational evaluation (IEE) of the student from qualified specialists, in accordance with 34 CFR 300.502. The parent/guardian is entitled to only one such evaluation at public expense each time the district conducts an assessment with which the parent/guardian disagrees.

If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of the student, an equivalent opportunity shall apply to the IEE. This equivalent opportunity shall apply to the student's current placement and setting as well as observation of the district's proposed placement and setting, if any, regardless of whether the IEE is initiated before or after the filing of a due process hearing proceeding.

5. The district may initiate a due process hearing pursuant to Education Code 56500-56508 to show that its evaluation is appropriate. If the final decision resulting from the due process hearing is that the evaluation is appropriate, the parent/guardian maintains the right for an IEE, but not at public expense.

If the parent/guardian obtains an IEE at private expense, the results of the IEE shall be considered by the district with respect to the provision of a free appropriate public education (FAPE) to the student, and may be presented as evidence at a due process

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hearing regarding the student. If the district observed the student in conducting its evaluation, or if its evaluation procedures make it permissible to have in-class observation of a student, an equivalent opportunity shall apply to an IEE of the student in the student's current educational placement and setting and in any educational placement and setting proposed by the district, regardless of whether the IEE is initiated before or after the filing of a due process hearing.

6. If the parent/guardian proposes a publicly financed placement of the student in a nonpublic school, the district shall have an opportunity to observe the proposed placement and, if the student has already been unilaterally placed in the nonpublic school by his/her parent/guardian, the student in that proposed placement. Any such observation shall only be of the student who is the subject of the observation and shall not include the observation or evaluation of any other student in the proposed placement unless that other student's parent/guardian consents to the observation or evaluation. The results of any observation or evaluation of another student in violation of Education Code 56329(d) shall be inadmissible in any due process or judicial proceeding regarding FAPE of that other student.

#### Parent/Guardian Consent for Evaluations

Upon receiving the proposed evaluation plan, the parent/guardian shall have at least 15 days to decide whether or not to consent to the initial evaluation. The district shall not interpret parent/guardian consent for initial evaluation as consent for initial placement or initial provision of special education services. (Education Code 56321; 34 CFR 300.300)

Informed parental consent means that the parent/guardian: (Education Code 56021.1; 34 CFR 300.9)

1. Has been fully informed, in his/her native language or other mode of communication, of all information relevant to the activity for which consent is sought.
2. Understands and agrees, in writing, to the carrying out of the activity for which his/her consent is sought and the consent describes that activity and lists the records (if any) that will be released and to whom.
3. Understands that the granting of consent is voluntary on his/her part and may be revoked at any time.

4. Understands that if he/she revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

The district shall make reasonable efforts to obtain the informed consent of the parent/guardian for an initial evaluation or reevaluation of a student. The district shall maintain a record of its attempts to obtain consent, including: (Education Code 56321, 56341.5; 34 CFR 300.300, 300.322)

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1. Detailed records of telephone calls made or attempted and the results of those calls.
2. Copies of correspondence sent to the parent/guardian and any responses received.
3. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits.

If a parent/guardian refuses to consent to the initial evaluation or fails to respond to a request to provide consent, the district may, but is not required to, pursue an evaluation by utilizing the procedural safeguards, including the mediation and due process procedures pursuant to 20 USC 1415 and 34 CFR 300.506-300.516. (Education Code 56321; 34 CFR 300.300)

For a student who is a ward of the state and not residing with his/her parent/guardian, the district may conduct an initial evaluation without obtaining informed consent if any of the following situations exists: (Education Code 56321.1; 20 USC 1414; 34 CFR 300.300)

1. Despite reasonable efforts to do so, the district cannot discover the whereabouts of the parent/guardian of the student.
2. The rights of the parent/guardian of the student have been terminated in accordance with California law.
3. The rights of the parent/guardian to make educational decisions have been subrogated by a judge in accordance with California law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student.

The district need not obtain parent/guardian consent before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless consent is required from the parents/guardians of all students. (Education Code 56321; 34 CFR 300.300)

### Conduct of the Evaluation

The district shall complete the determination as to whether the student is a student with a disability, conduct the initial evaluation to determine his/her educational needs, and develop an IEP within 60 days of receiving informed parent/guardian consent for the evaluation. (Education Code 56344; 34 CFR 300.300, 300.301)

The evaluation shall be conducted by qualified personnel who are competent to perform the

assessment as determined by the district. (Education Code 56320, 56322)

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. (34 CFR 300.302)

In conducting the evaluation, the district shall use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the student.

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The district shall also use any information provided by the parent/guardian that may assist the district in making the determination as to whether the student is a student with a disability and, if so, the necessary components of his/her IEP when the IEP is developed, including information related to enabling the student to be involved in and to progress in the general education curriculum. (34 CFR 300.304)

The district's evaluation shall not use any single measure or assessment as the sole criterion for determining whether a student is a student with a disability and for determining the appropriate educational program for the student. The assessment shall use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors in addition to physical or developmental factors. (34 CFR 300.304)

The district shall also ensure that assessments and other evaluation materials provide relevant information that assists in determining the student's educational needs and are: (Education Code 56320; 34 CFR 300.304)

1. Selected and administered so as not to be discriminatory on a racial, cultural, or sexual basis.
2. Provided and administered in the language and form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer.
3. Used for the purposes for which the assessments or measures are valid and reliable.
4. Administered by trained and knowledgeable personnel.
5. Administered in accordance with any instructions provided by the producer of the assessments.
6. Tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient.
7. If administered to a student with impaired sensory, manual, or speaking skills, selected and administered to best ensure that the results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure.

Students shall be assessed in all areas related to the suspected disability, including, if appropriate, health and development, vision (including low vision), hearing, motor abilities,

language function, general intelligence, academic performance, communicative status, self-help, orientation and mobility skills, career and vocational abilities and interests, and social and emotional status. When appropriate, a developmental history shall be obtained. The district shall ensure that the evaluation is sufficiently comprehensive to identify all of the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified. (Education Code 56320; 34 CFR 300.304)

As part of the initial evaluation and any reevaluation, the IEP team and other qualified professionals shall, if appropriate, review existing evaluation data on the student, including evaluations and information provided by the parents/guardians, current classroom-based local or state assessments and classroom-based observations, and observations by teachers and related services providers. On the basis of that review and input from the student's parent/guardian, the team shall identify what additional data, if any, are needed to determine: (Education Code 56381; 34 CFR 300.305)

1. Whether the student is a student with a disability, or in the case of a reevaluation, whether the student continues to have a disability, and the educational needs of the student
2. The present levels of academic achievement and related developmental needs of the student
3. Whether the student needs, or continues to need, special education and related services
4. Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in his/her IEP and to participate, as appropriate, in the general education curriculum

If a student has transferred from another district in the same school year or leaves this district, the district shall coordinate with the student's prior or subsequent district as necessary and as expeditiously as possible to ensure prompt completion of full evaluations. (34 CFR 300.304)

### Eligibility Determination

Upon completion of the administration of assessments and other evaluation measures, a group of qualified professionals and the parent/guardian shall determine whether the student is a student with a disability and, if so, his/her educational needs. In interpreting the data, the group shall draw information from a variety of sources, including aptitude and achievement tests, parent/guardian input, and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. The group shall ensure that the information obtained from these sources is documented and carefully considered. (34 CFR 300.306)

The personnel who evaluate the student shall prepare a written report of the results of each evaluation. The report shall include, but not be limited to, the following: (Education Code

1. Whether the student may need special education and related services.
2. The basis for making the determination.
3. The relevant behavior noted during the observation of the student in an appropriate setting.
4. The relationship of that behavior to the student's academic and social functioning. Policy 6164.4 AR Page 6 of 8
5. The educationally relevant health, developmental, and medical findings, if any.
6. For students with learning disabilities, whether there is such a discrepancy between achievement and ability that it cannot be corrected without special education and related services.
7. A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate.
8. The need for specialized services, materials, and equipment for students with low incidence disabilities, consistent with Education Code 56136.

When making a determination of eligibility for special education and related services, the district shall not determine that a student is disabled if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to 20 USC 6368, lack of instruction in mathematics, limited English proficiency, or that the student does not otherwise meet the eligibility criteria. (Education Code 56329; 34 CFR 300.306)

If a determination is made that a student has a disability and needs special education and related services, an IEP shall be developed within a total time not to exceed 60 days, not counting days between the student's regular school sessions or terms or days of school vacation in excess of five school days, from the date of the receipt of the parent/guardian's consent for evaluation, unless the parent/guardian agrees, in writing, to an extension. (Education Code 56043; 34 CFR 300.306)

#### Independent Educational Evaluation

The parents/guardians of a student with a disability have the right to obtain an IEE at public expense under the same criteria that the district uses for a district-initiated evaluation. An independent educational evaluation is an evaluation conducted by a qualified examiner who is not employed by the district. Public expense means the district either pays for the full cost of the IEE or ensures that the evaluation is otherwise provided at no cost to the parent/guardian. (Education Code 56329; 34 CFR 300.502)

The parent/guardian is entitled to only one IEE at public expense each time the district conducts an evaluation with which the parent/guardian disagrees. (Education Code 56329;

If a parent/guardian has requested an IEE, the district may ask for the reason that he/she objects to the district's evaluation. However, the parent/guardian is not required to provide the reason to the district. (34 CFR 300.502)

Upon receiving the request for an IEE, the district shall, without unnecessary delay, either: (34 CFR 300.502)

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1. File a due process complaint to request a hearing to show that its evaluation is appropriate.
2. Ensure that an IEE is provided at public expense, unless the district can later demonstrate at a hearing that the evaluation obtained by the parent/guardian did not satisfy the district's criteria.

If a due process hearing decision determines that the district's evaluation is appropriate, then the parent/guardian may obtain an IEE but not at public expense. (34 CFR 300.502)

In any decision made with respect to providing FAPE to a student with a disability, the result of any IEE obtained by the student's parent/guardian shall be considered by the district if it meets district criteria. Any such result also may be presented as evidence at a hearing on a due process complaint. (34 CFR 300.502)

### Reevaluation

A reevaluation shall be conducted when the district determines that the educational or related service needs of the student, including improved academic achievement and functional performance, warrant a reevaluation or if the student's parent/guardian or teacher requests reevaluation. Such reevaluations shall occur every three years, unless the parent/guardian and district agree in writing that a reevaluation is unnecessary. A reevaluation may not occur more than once a year, unless the parent/guardian and the district agree otherwise. (Education Code 56043, 56381; 34 CFR 300.303)

The district shall ensure that any reevaluations of the student are conducted in accordance with the evaluation procedures pursuant to 34 CFR 300.304-300.311. (34 CFR 300.303)

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reevaluated to determine if they still need special education and services. IEP teams shall identify a means of monitoring the continued success of children who are determined to be eligible for less intensive special education programs to ensure that gains made are not lost by a rapid removal of individualized programs and supports for these children. (Education Code 56445)

(3/07 3/09) 11/10

**NORTH REGION SELPA****BOARD POLICY (BP) NO. 6164.41**

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**CLASSIFICATION: INSTRUCTION****PROPOSED: 10-27-16****ADOPTED: 10-26-17****SUBJECT: Children with Disabilities Enrolled by their Parent in Private Schools**

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The Policy Board of the North Region SELPA recognizes its obligations under federal and state law to identify and provide equitable services to children voluntarily enrolled by their parents/guardians in private schools located within the district.

The Superintendent or designee of each member district shall ensure that activities to locate, identify, and evaluate children with disabilities enrolled by their parents/guardians in private schools within the district are comparable to activities undertaken for individuals with disabilities aged three to 22 in public schools within the district. (34 CFR 300.131; Education Code 56171)

The Superintendent or designee of each member district shall develop a budget for the provision of services to children with disabilities enrolled by their parents in private school based on the proportionate share of federal funds received and the number of eligible children, including the possibility of mid-year enrollees, and the types of services to be provided.

Legal Reference:

## EDUCATION CODE

56000 Education for individuals with exceptional needs

56020-56035 Definitions

56170-56177 Children in private schools



56195.8 Adoption of policies for programs and services 56300-56385 Identification and referral, assessment

56500-56509 Procedural safeguards, including due process rights

56600-56606 Evaluation, audits and information

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## UNITED STATES CODE, TITLE 20

1232g Family Educational Rights and Privacy Act

1400-1482 Individuals with Disabilities Education Act

## UNITED STATES CODE, TITLE 29

794 Section 504 of the Rehabilitation Act

## CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities, especially:

300.130-300.140 Children with disabilities enrolled by their parents in private schools

## COURT DECISIONS

Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

## Management Resources:

## UNITED STATES DEPARTMENT OF EDUCATION PUBLICATIONS

Questions and Answers on Serving Children with Disabilities Placed by Their Parents at Private Schools, March 2006

## FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

## WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs: <http://www.ed.gov/about/offices/list/osep>

Issued: 3/07

**NORTH REGION SELPA****ADMINISTRATIVE REGULATIONS (AR) NO. 6164.41**

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**CLASSIFICATION: INSTRUCTION****PROPOSED: 10-27-16****ADOPTED: 10-26-17****SUBJECT: Children with Disabilities Enrolled by their Parent in Private Schools**

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Definitions

Parentally placed private school children with disabilities means children with disabilities who are voluntarily enrolled by their parents/guardians in a private school or facility within district boundaries, including children who are attending a private school or facility within district boundaries but who reside in another district or state. (34 CFR 300.131)

Private school or facility means a private full-time day school, including a religious school, located within district boundaries, that has filed an affidavit with the California Department of Education pursuant to Education Code 33190 and is registered in the California Private School Directory.

Consultation with Private School Representatives

The Director of North Region SELPA or designee shall consult with private school representatives and representatives of parents/guardians of parentally placed private school children with disabilities during the design and development of equitable services for the children. In order to ensure a meaningful and timely consultation, the consultation shall include: (20 USC 1412(a)(3); 34 CFR 300.134; Education Code 56301)

1. The child find process and how parentally placed private school children suspected of having a disability can participate equitably.
2. How parents/guardians, teachers, and private school officials will be informed of the child find process.
3. The determination of the proportionate share of federal funds available to serve parentally placed private school children with disabilities and how this share is

calculated.

4. How the consultation process will operate throughout the school year to ensure that identified children can meaningfully participate in equitable services.

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5. How, where, and by whom equitable services will be provided including a discussion about the types of services, alternate service delivery mechanisms, how services will be apportioned if funds are insufficient to serve all of the identified children, and how and when those decisions will be made.
6. In the event that the district and private school disagree on the provision of or the types of services, how the district will provide the private school officials with a written explanation of the reasons that the district chose to not provide the services.

When meaningful and timely consultation has occurred, the SELPA shall obtain a written affirmation signed by the representatives of participating private schools. If the private school representatives do not provide the affirmation within a reasonable period of time, the SELPA shall forward documentation of the consultation process to the California Department of Education. (34 CFR 300.135; Education Code 56172)

After the consultation has occurred, the member districts shall ensure an annual count of the number of parentally placed children with disabilities attending private schools located within the district. This count shall be conducted between October 1 and December 1 each year and shall be used to determine the amount the district must spend on providing equitable services to the children in the subsequent fiscal year. (34 CFR 300.133)

### Provision of Services

A child with a disability parentally placed in a private school has no individual right to receive some or all of the special education and related services that he/ she would receive if enrolled in public school. Such a child may receive a different amount of services than students with disabilities in public schools. (34 CFR 300.137, 300.138)

The district shall evaluate all identified parentally placed private school children with disabilities for purposes of considering them for equitable services. This evaluation shall be conducted in accordance with the timelines and procedures for evaluating public school students with disabilities pursuant to 34 CFR 300.300-300.311, including providing the parent/guardian with a copy of the procedural safeguards notice. (34 CFR 300.131, 300.504)

In order to ensure that each child entitled to special education and related services from the district receives an offer of a free appropriate public education (FAPE), the district where the child resides shall develop an individualized education program (IEP) for each identified child who attends a private school located in the district and who resides in the district.

However, the district shall not develop an IEP if the parent/guardian makes clear his/her intention to keep the child enrolled in private school. In such situations, the district shall

obtain written certification confirming the parent/guardian's intention to keep his/her child enrolled in private school, including the fact that he/ she is not interested in the development of an IEP or the district's offer of FAPE. If the parent/guardian does not provide confirmation in writing, the district shall obtain oral confirmation of the parent/guardian's intention and confirm the conversation in writing.

If the child resides in a different district, then this district and the district of residence shall work together to ensure that the parent/guardian receives an offer of FAPE in accordance with law.

The district shall develop and implement an individual services plan (ISP) for each identified private school child with a disability that describes the equitable services that the district will provide, as agreed to by the district and private school representatives during the consultation process. (34 CFR 300.138)

The ISP shall be developed, reviewed, and revised consistent with 34 CFR 300.121-300.324. A representative of the private school shall be invited to attend each ISP team meeting. If the representative cannot attend the meeting, the district shall use other methods to ensure the representative's participation, including individual or conference calls. (34 CFR 300.137, 300.138)

The district may provide services on the private school premises, including a religious school, to the extent consistent with law. The services shall be provided by personnel meeting the same standards as personnel providing services in the public school, except private school teachers providing the services do not need to meet the requirements of the No Child Left Behind Act for "highly qualified special education teacher" pursuant to 34 CFR 300.18. The personnel shall either be district employees or contractors of the district. (34 CFR 300.138, 300.139)

The district shall offer transportation to the child if services are provided on a site other than the child's school and the ISP team determines that transportation is necessary for the child to benefit from or participate in the services provided in the ISP. Depending on the timing of the services, the district shall provide transportation from the child's school or home to the service site and from the service site to the child's school or home. (34 CFR 300.139)

The district may place equipment and supplies in a private school for the period of time necessary to provide the services pursuant to the ISP. All such equipment shall remain the property of the district and must be able to be removed without causing damage to the private school. The district shall remove the equipment when no longer required by the child, when the child no longer attends the private school, or when removal is necessary to prevent unauthorized use. (34 CFR 300.144)

### Preschool Children

Preschool regulations indicate that private school settings may be appropriate for the delivery of special education services. When the Individualized Education Program team determines that it is appropriate, children in these settings may receive FAPE and all the accompanying

NR SELPA Policy Manual

procedural safeguards.

## ***NORTH REGION SELPA***

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**BOARD POLICY (BP) NO. 6165**

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### **CLASSIFICATION: INSTRUCTION**

**PROPOSED: 4-9-20**

**ADOPTED: 5-21-20**

### **SUBJECT: Services to Adult Students in County Jail Facilities**

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#### **Free Appropriate Public Education**

Every individual with exceptional needs who is eligible to receive special education instruction and related services under the Individuals with Disabilities Education Act (IDEA) and state special education laws, shall receive that instruction and those services at no cost to his or her parents or, as appropriate, to him or her. A Free Appropriate Public Education (FAPE) shall be available to individuals with exceptional needs in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.101 of Title 34 of the Code of Federal Regulations.

#### **Eligible Adults**

Adults who are age 18 through 22 years, who have not graduated with a high school diploma, who at the time they turned 18 years were identified as an individual with exceptional needs and had an individualized education program (IEP) under the IDEA, are also entitled to a FAPE (hereinafter, "eligible adults"). (See 20 U.S.C. § 1400 (d) (1) (A), (B), (C); U.S.C. § 1412(a) (1) (A); Education Code, § 56000, 56040 (b).) This applies to adults incarcerated in California adult jails and prisons. However, an individual aged 18 through 22 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as an individual with exceptional needs or did not have an IEP under the IDEA, is not entitled to a FAPE. (20 U.S.C. § 1412 (a) (1) (B); Education Code, § 56040(b).)

#### **Child Find**

For eligible adults who prior to reaching the age of majority resided within the North Region SELPA geographic boundaries, the applicable local educational agency (LEA) within the SELPA shall ensure they have available to them a FAPE. Generally, the district of residence

(DOR) responsible for providing special education and related services to pupils between the ages of 18 to 22 years, inclusive, shall be assigned, as follows: (a) For non-conserved pupils, the last district of residence in effect prior to the pupil's attaining the age of majority shall become and remain as the responsible local educational agency, as long as and until the parent or parents relocate to a new district of residence. At that time, the new district of residence shall become the responsible local educational agency. (b) For conserved pupils, the district of residence of the conservator shall attach and remain the responsible local

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educational agency, as long as and until the conservator, relocates or a new one is appointed. At that time, the new district of residence shall attach and become the responsible local educational agency. (Education Code §56041)

### **Provision of Service**

Once the SELPA or the responsible LEA is informed that an eligible adult is incarcerated in an adult correctional facility, the responsible LEA will determine whether the eligible adult requests to receive FAPE. Once the request has been made, the responsible LEA shall review and revise the IEP as necessary, subject to the cooperation of the correctional facility where the eligible adult is located.

The responsible Local Educational Agency (LEA) will determine within 30 days of eligibility notification whether the qualified individual requires a FAPE and if so, the LEA will ensure that the qualified individual is provided a Free Appropriate Education (FAPE) pursuant to the IDEA and corresponding California special education law. To receive special education services while incarcerated, the student must consent to the receipt of such services such as but not limited to transition services, specialized academic instruction and other services as determined by the IEP team. The student may revoke their consent for special education services at any time.

### **Limitations**

The following special education requirements do not apply to eligible individuals who are convicted as adults under State law and incarcerated in adult prisons:

1. The requirements set out in 20 U.S.C. § 1412(a) (16) and 20 U.S.C. § 1414(d) (1) (A) (i) (VI) relating to participation in general assessment) do not apply. Eligible individuals convicted as adults under State law and incarcerated in adult prisons are exempted from participation in State and district-wide assessment programs under the IDEA.
2. The requirements of items (aa) and (bb) of 20 U.S.C. § 1414(d) (1) (A) (i) (VIII) (relating to transition planning and transition services), do not apply with respect to such individuals whose eligibility under the IDEA will end, because of their age, before such individuals will be released from county jail.
3. If an individual with a disability is convicted as an adult under State law and incarcerated in an adult county jail, the individual's IEP team may modify the individual's

IEP or placement notwithstanding the least restrictive environment (LRE) requirements of 20 U.S.C. § 1412(a)(5)(A) and the IEP contents requirements of 20 U.S.C. § 1414(d)(1)(A) if there is a bona fide security or compelling penological interest that cannot otherwise be accommodated.

An individual who was not identified as a student with exceptional needs or did not have an IEP under IDEA in the educational placement prior to his or her incarceration in an adult

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correctional facility is not entitled to a FAPE.

Adults (aged 18-22 years) incarcerated in California adult jails and prisons are entitled to a Free Appropriate Education (FAPE) if they meet the following criteria:

1. The inmate is not a graduate with a high school diploma and
2. At the time they turned 18, the inmate was identified as an individual with exceptional needs and had an individualized educational program (IEP) under IDEA. (students who reach age 22 are no longer eligible)

#### Legal References:

##### UNITED STATES CODE, TITLE 20

§ 1400 Individuals with Disabilities Education Act (d),(1). (A), (B), (C)

§ 1412 State eligibility FAPE (a), (1), (A), (B), (5), (16)

§ 1414 Evaluations, eligibility determinations, individualized education programs, and educational placements (d), (1), (7), (A), (i), (VI), (VIII)

##### CODE OF FEDERAL REQUIREMENT TITLE 34

§ 300.101 Free appropriate public education

§ 300.324(d) Children with disabilities in adult prisons

##### GOVERNMENT CODE

§ 7579 (D)

##### EDUCATION CODE

§ 56000

§56026 (c), (4)

§ 56040 (b)

§ 56041

Letter to Yudian, 39 IDELR 270,103 LRP 37913 (OSEP 2003)

**NORTH REGION SELPA****BOARD POLICY (BP) NO.6550**

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**CLASSIFICATION: INSTRUCTION**

**PROPOSED: 6-20-11**  
**REVISION PROPOSED: 3-23-17**

**ADOPTED: 6-20-11**  
**REVISION ADOPTED: 5-8-17**

**SUBJECT: Independent Educational Evaluations (IEE)**

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This policy sets forth the procedures under which IEP-eligible students with disabilities are entitled to an Independent Educational Evaluation 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.

*Qualified Examiner* is an evaluator who is competent to perform the evaluations through criteria established by the School District in accordance with Ed. Code, Section 56322.

*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.

*Parent Initiated Evaluation* is an educational evaluation obtained by the parent at private expense.

Policy and Procedures

Parents have the right to request an IEE at public expense if they disagree with an evaluation completed by the local educational agency.

Parents must notify the School District, preferably in writing or during an IEP meeting that they:



1. Disagree with the School District's evaluation, and
2. That they are requesting an IEE at public expense.

The School District may ask for the parent's reason(s) for disagreeing with the District's evaluation, but the parent is not required to provide those reasons. The District may offer to conduct another evaluation of its own with parent consent. If the parent does not agree to another District evaluation and, consequently, does not withdraw the request for an IEE, the District must

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respond to the parent's request by ensuring an IEE is provided at public expense in a timely manner or initiate a due process hearing in accordance with this policy. The School 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.

Once the parent communicates his/her disagreement with the School District's evaluation and requests an IEE at public expense, the following procedures will be followed:

1. The School District's administrator responsible for special education will be notified.
2. The School District will determine whether to:
  - a. initiate a due process hearing to establish the appropriateness of its evaluation; or
  - b. proceed with obtaining an independent educational evaluation, and notify the parents of this decision.
3. If the decision is to fund an IEE, the School District will provide to the parents a copy of the North Region SELPA policy and procedures including criteria for IEEs, a copy of procedural safeguards and parental rights, and options for an IEE at public expense, as follows:
  - a. A staff member from another district in the SELPA
  - b. A staff member from another SELPA
  - c. A public sector provider
  - d. A private sector provider
4. The parents will communicate to the School District, preferably in writing, their choice.

If the School District agrees to provide an IEE and the parent has chosen an evaluator:

1. The School District will document in writing its agreement with the parent regarding choice of IEE evaluator and area(s) to be assessed.
2. Parents will also be required to sign a release and exchange of information between the IEE evaluator(s) and the School District. Refusal to sign this document will cause unnecessary delay by the parent.

Code of Federal Regulations, Title 34, Subpart 300.502 does not impose timelines concerning IEEs. The School District will monitor timelines to avoid unnecessary delay.

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 educational evaluation at private expense, the results of the evaluation:

1. Must be considered by the School District, if the evaluator and evaluation meets District criteria, in any decision made with respect to the provision of FAPE to the student; and
2. May be presented as evidence at a due process hearing regarding that student.

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#### CFR 300.502 (c)(1) & (2)

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.

#### Evaluator and Evaluation Criteria

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluation, minimum qualifications of the evaluator, and cost containment criteria, must be consistent with the criteria set forth in this policy, and consistent with the criteria that the District uses when it initiates an evaluation.

The contents of the evaluation must meet the criteria as set forth in CFR 300.301-311, and as applicable to 300.502(c)(1). The District will define the nature and scope of an independent examiner's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and to protect the privacy interests of other students. This will include, but is not limited to, identifying the time constraints of such observation, district personnel who will participate in the observation and restrictions on student/teacher interactions. This opportunity will also be provided if the parents obtain an evaluation at private expense.

#### Location Limitations for Evaluators

Evaluators will be located within the greater Bay Area, specifically: Marin, Sonoma, Napa, San Francisco, Contra Costa, Alameda, San Mateo, and Santa Clara 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 educational evaluation.

#### Minimum Qualifications for Evaluators

Evaluators with credentials other than those listed below will not be approved unless the parent can demonstrate the appropriateness of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3))

Additionally, evaluators must meet the criteria for any school employee who works with children, i.e. TB testing and fingerprinting, as well as any other contract requirements (e.g., Nonpublic Agency Master Contract, Contract Services Agreement) enforced by the School District.

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Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher School Psychologist Licensed Educational Psychologist
Adaptive Behavior	School Psychologist Licensed Educational Psychologist
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Special Education Teacher
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Auditory Perception (Central Auditory Processing)	Licensed or Credentialed Speech/Language Pathologist
Behavioral	School Psychologist Credentialed Special Education Teacher Board Certified Behavior Analyst
Cognitive	Licensed Educational Psychologist School Psychologist
Health (including neurological)	Licensed Physician Nurse
Motor	Licensed Physical Therapist Licensed Occupational Therapist Registered (OTR) Credentialed Teacher of the Physically Impaired Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist Registered (OTR)
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	School Psychologist Licensed Educational Psychologist
Visual Acuity Developmental Vision	Licensed Ophthalmologist Optometrist
Functional Vision	Credentialed Teacher of the Visually Impaired
Vision Perception	Credentialed Special Education Teacher School Psychologist
Post Secondary Transition	Credentialed Special Education Teacher
Psycho-Educational Evaluation (to include, but not limited to: academic, adaptive behavior, cognitive, visual motor, social/ emotional)	Credentialed School Psychologist Licensed Educational Psychologist

### Cost Containment Criteria for Evaluations

The cost of an IEE shall be comparable to those costs that the District incurs when it uses its own employees or contractors to perform a similar assessment, as identified above. Costs

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may include observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting; costs will be delineated on independent evaluator's contract with the School District. Reimbursement will be in an amount no greater than the actual cost to the parent or the maximum cost identified above (whichever is more), and will be subject to proof of payment.

Maximum costs for all IEEs are calculated by considering time required for the assessment and the appropriate School District employee hourly rate. Costs above these amounts will not be approved unless the parent can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria. A School District will not necessarily fund the attendance of the evaluator at the IEP team meeting convened to consider the IEE (34 CFR 300.321).

Type of Assessment	Cost Limit
Academic Achievement (Transition Assessment may be included for students ages 15-21)	\$1,000 - \$1,250
Assistive Technology/Augmentative and Alternative Communication (AAC)	\$750 - \$1,500
Functional Behavior Assessment, including Behavior Intervention Plan	\$2,000 - \$2,500
Occupational Therapy	\$1,000 - \$1,500
Speech/Language	\$1,000 - \$1,500
Post Secondary Transition	\$500 - \$750
Psycho-Educational Evaluation (to include, but not limited to: academic, adaptive behavior, cognitive, visual motor, social emotional); may include, if appropriate, neuropsychological assessment	\$3,000 - \$5,000

When insurance will cover all or partial costs of the IEE, the School District will request that the parent voluntarily have their insurance pay the IEE costs covered by their insurance. However, parents will not be asked to have insurance cover independent evaluation costs if such action would result in a financial cost to the parents including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy,
2. An increase in premiums or the discontinuance of the policy, or
3. An out-of-pocket expense such as payment of a deductible amount incurred in filing a claim unless the parent is willing to have the School District reimburse them for the amount of the deductible.

As part of the contracted evaluation, independent evaluators must:

1. Provide protocols of all the assessments, and
2. Provide a written report prior to the IEP team meeting.

Independent evaluators must agree to release their written evaluation and results (as listed above) to the School District prior to receipt of payment for services. The results of the IEE will

be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals With Disabilities Education Act.

EDUCATION CODE

*56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements*

*56506(c) Due process rights of pupil and parent*

CALIFORNIA CODE OF REGULATIONS, TITLE 5

*3022 Assessment Plan.*

UNITED STATES CODE, TITLE 20

*1415(b)(1)*

CODE OF FEDERAL REGULATIONS, TITLE 34

*300.502 Independent Educational Evaluation*

**CLASSIFICATION: INSTRUCTION****PROPOSED: Local Plan 2003****ADOPTED: 3-19-03****SUBJECT: Literacy**

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**LITERACY****Rationale**

The California Reading Initiative is intended for all students. Reading proficiency is an important goal for virtually all students who receive special education services. It is basic to ongoing school success and essential for successful participation in society. Without reading proficiency, students are excluded from full participation and opportunity to achieve academic success in school.

**Policy Statement**

In order to improve the educational results for students with disabilities, the districts of the North Region SELPA ensure that all students who require special education will participate in the California Reading Initiative, just as do all other students in our districts. In order to facilitate that effort, our districts assure that special education instructional personnel will participate in staff development inservice opportunities in the area of literacy, including:

1. information about current literacy and learning research;
2. state-adopted standards and frameworks; and
3. research-based instructional strategies for teaching reading to a wide range of diverse learners.

Each of the districts and county offices within the North Region SELPA will include special education staff in their curriculum materials selection process, in order to support alignment with State standards. Each will also include all staff in all staff development on phonemics and phonics, as well as in any additional state or regional training based on new legislation, e.g., the California Reading and Literature Subject Matter Project, the Summer Reading Academy, and the rollouts on the frameworks.

Our goals are to increase the participation of students with disabilities in statewide student assessments, to increase the percentage of children with disabilities who are literate, and to assure that students with disabilities attain higher standards in reading.

In order to reach these goals, we assure that students with disabilities will have full access to:

1. all required core curriculum including state-adopted core curriculum textbooks and supplementary textbooks; and
2. instructional materials and support.



**CLASSIFICATION: INSTRUCTION****PROPOSED: 4-9-20****ADOPTED: 4-9-20****SUBJECT: Access to Instructional Materials**

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The SELPA member districts shall provide instructional materials to students who are blind or other students with print disabilities in a timely manner according to the state-adopted National Instructional Materials Accessibility Standard.

**CLASSIFICATION: INSTRUCTION****PROPOSED: 6-21-07****ADOPTED: 6-21-07****SUBJECT: Participation in State/District Assessments**

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**PARTICIPATION IN STATE/DISTRICT-WIDE ASSESSMENTS**

It is the policy of the SELPA and member LEAs that students with disabilities are included in California's state-wide "*Standardized Testing and Reporting*" (STAR) program as well as any district-wide assessment programs. Participation, as required by state and federal laws, may include appropriate modifications and/or accommodations, as specified in the student's Individual Education Program (IEP). Those students with significant cognitive disabilities will participate in the "*California Alternative Performance Assessment*" (CAPA).

**CLASSIFICATION: INSTRUCTION****PROPOSED: Local Plan 2003****ADOPTED: 3-19-03****SUBJECT: Charter Schools**

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**CHARTER SCHOOLS****Rationale**

This policy applies to all Charter Schools that are chartered by educational entities located within the Alameda County North Region 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. As students enrolled in charter schools are entitled to special education services provided by State and Federal funding, the charter schools will follow all requirements of state and federal law regarding provision of special education services.

**Policy Statement**

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

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

**1. SELPA Involvement with Approval and Renewal of Charters**

Prior to approval of a new charter, or renewal of an existing charter, the superintendent or designee of the chartering entity shall consult with the SELPA Administrator regarding the status of the charter school. The chartering entity will provide assurances that all eligible students, including those students enrolled in the charter school, will receive appropriate special education services.

## 2. Status of Charter Schools

For the purposes of provision of special education services, charter schools may be deemed either an LEA or a public school within the chartering district.

### a. Public School Within a School District

Charter schools that are deemed to be public schools within a district will participate in state and federal funding in the same manner as other schools within the chartering district. The chartering district will be responsible for ensuring that all children with disabilities enrolled in the charter school receive special education and designated instructional services in a manner that is consistent with all applicable provisions of state and federal law. The district will determine the policies and procedures necessary to ensure that the protections of special education law extend to students in the charter school in the same manner as students in the regular program.

The chartering district will receive all applicable special education funds. The chartering district will represent the needs of charter schools, like other schools within the district, in the SELPA governance structure. The chartering district will be responsible for ensuring that all eligible students are appropriately served. The district will be responsible for procuring and funding appropriate special education services, even though the student may reside anywhere in the State of California.

The district and the charter school may enter into agreements whereby the charter school is billed for excess costs associated with providing special education services to identified students, including the administration of special education programs. The charter school should also be held fiscally responsible for a fair share of any encroachment on district general funds that is created by the provision of special education services throughout the district.

### b. Charter School as an LEA within the SELPA

A charter school may apply to participate as an LEA for the provision of special education services. A request to participate as an LEA in the SELPA may not be treated differently from a similar request by a school district. Application must be made to the SELPA by February 1 of the school year preceding the school year in which the charter school anticipates operating as an LEA within the SELPA. The Policy Board will make the final determination whether the charter school has met all *the* requirements of an LEA. These requirements include:

- Provide a current operating budget in order to assure fiscal responsibility;
- Provide assurances that students and staff will be instructed in a safe environment;
- Provide a copy of the original petition;

- Be responsible for any legal fees as it relates to the application and assurances process in becoming an LEA;
- Meet the terms of the assurances required in every Local Plan, including those regarding Identification, Screening, Referral, Assessment, Instructional Planning, Implementation and Review.;
- Procedural\_Safeguards; and
- Regionalized\_Services

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

- Participate in governance of the SELPA in the same manner as other LEAs of the SELPA.
- Participate in state and federal funding for special education and the allocation plan developed in the same manner as other LEAs of the SELPA.
- Be responsible for all costs incurred in the provision of special education services. These costs may include, but are not limited to, instruction, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees.

### 3. Administrative Guidelines

- a. The governing board of each LEA shall not approve a petition for creation of a charter school unless the petition contains adequate assurances that the proposed school will comply with all provisions of federal law and implementing regulations related to the rights of students with disabilities and their parents.
- b. The governing board shall require that a petition include the means by which the charter school intends to serve students with disabilities. This will include a specific reference as to whether the charter school intends to be deemed an LEA or public school for the provision of special education services.
- c. The governing board shall require that a petition contain assurances that no student will be denied admission to the charter school based on disability or lack of available services.
- d. Prior to approving a charter school petition, the superintendent or designee of the chartering entity may consult with the SELPA Administrator regarding the provision of special education services to students enrolled in the prospective charter school.
- e. The charter petition, or an accompanying Memorandum of Understanding or Business Services Agreement may provide for the allocation of excess costs and/or the charter school's fair share of special education encroachment on the district general fund.

- f. Once admitted to a charter school, any special education services required by enrolled students will be provided by the chartering district, if the school is deemed a public school of the district, or a charter school, if deemed an LEA.
- g. If a charter school IEP team places a student in a special education program provided by another educational entity, i.e., a COE, another district or SELPA, the charter school will be responsible for any excess costs attributable to the placement. Responsibility for excess costs will rest with the placing charter school.
- h. A district IEP team may place a student in a charter program only with agreement between responsible educational entities and parental consent. Under such circumstances, the placing district will be responsible for any excess costs in accordance with the Local Plan.
- i. The chartering district will be allocated all special education funds that are generated by a charter school that is deemed a public school. The chartering district will represent the needs of charter schools that are deemed public schools in the SELPA governance structure. The charter school will receive SELPA services in the same manner as other schools within the chartering district.
- j. If the charter school wishes to be deemed an LEA, the approved charter school will apply to the SELPA for LEA status prior to February 1 of the preceding school year.
- k. Charter schools that are deemed an LEA will be allocated special education funds in the same manner as other districts within the SELPA. Charter schools that are deemed LEAs will be included in the SELPA governance structure in the same manner as other districts.
- l. If the approval of a charter school requires a change in the SELPA allocation plan, such change shall be adopted pursuant to the policy making process outlined in the SELPA local plan.

**CLASSIFICATION: GOVERNANCE**

**PROPOSED: 4-13-05**  
**REVISIONS PROPOSED: 4-9-20**

**ADOPTED: 65-31-05**  
**REVISIONS ADOPTED: 5-21-20**

**SUBJECT: Governance Bylaws**

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**Bylaws**  
Of the SELPA Policy Board

**1. Purpose**

A. These Bylaws are established by and for the Policy Board of the SELPA under the authority granted by the SELPA Local Plan and the member district board of trustees to the Policy Board to be the official governing body of the SELPA.

B. The Policy Board shall be the policy making body of the SELPA as directed by the Local Plan.

C. Official SELPA documents once referenced in policy are an extension of Policy Board Policy upon adoption and are of equal authority as other forms of policies that are approved by the Policy Board as provided in the Local Plan.

D. The Policy Board under the authority of the adopting LEA board have the same status as other LEA board policy. [56205(a)(12)(D)(ii)(I-II)]

E. The SELPA Director who shall, in turn, be advised by the Community Advisory Committee (CAC), shall advise the Policy Board.

F. Input may be received from parents, staff, public and non-public agencies and members of the public at large. Individuals wishing an opportunity to address the Board on a particular agenda item or have the Board consider a topic is invited to send a written request to the SELPA Director.

G. The functions of the Policy Board consist of the adoption of policies designed to give direction to the SELPA in the areas of, but not limited to, personnel, budget, policy, contracts, and disputes.

H. The Policy Board shall select, direct the activities of, and evaluate the performance of the SELPA Director. The Policy Board shall receive ongoing assessment reports on SELPA staff and LEA programs and services from the SELPA Director.

## **2. Membership**

- A. The membership of the Policy Board shall be the corresponding Superintendents of the member districts or Local Education Agencies (LEAs).
- B. The SELPA Director shall serve as the Chief Executive Officer, and report directly to the Policy Board. The SELPA Director will have a nonvoting status on the Policy Board.
- C. In the absence of a superintendent such absent superintendent may appoint a substitute administrator to represent the member district at the Policy Board meeting. An appointed substitute may participate in the discussion but is not a voting member of the Policy Board.

## **3. Officers**

- A. The Policy Board will elect a chairperson and vice chairperson from their members.
- B. The term of office shall be one year.
- C. Each of these officers shall serve at the pleasure of the Policy Board until a successor is elected.
- D. Elections are held the last meeting of the fiscal year or as scheduled by Policy Board action.
- E. New officers are to take office at the first meeting of the new fiscal year or following selection as determined by the Policy Board.

## **4. Quorum**

- A. A quorum for purposes of conducting official business shall be a majority of the voting members of the Policy Board.
- B. Action shall be taken only when a majority of at least three (3) of the members present agree.

## **5. Rules of Order**

- A. The business of the Policy Board shall be conducted under the bylaws or as specifically determined by the Policy Board.
- B. The chairperson shall use Roberts Rules of Order as a guide when procedural questions arise.

## **6. Meetings**

- A. The Policy Board shall meet not less than four times per school year.
- B. Additional meetings may be called at the request of any member of the Policy Board pursuant to adopted policies.



- C. The Policy Board applying a standard customary for district boards shall determine format for Agendas, Agenda Exhibits, and Minutes.
- D. All meetings of the Policy Board shall be held according to law and meet the standards for open public meetings including but not limited to:
  - a. Requirements for posting of meeting notices at every district in the SELPA. Emergency provisions are also available to the Policy Board.
  - b. Access to the Agenda by requesting individuals.
  - c. Attendance at meetings by members of the public.
  - d. Opportunity for public comments, including individuals with disabilities and their parents of children with disabilities
  - e. Legal limitation to use of closed session activity.
  - f. Historical documentation of meetings through use of adopted minutes.
  - g. Meetings held prior to the adoption of any policies and/or regulations needed to comply with Part B of the IDEA
- E. The SELPA Director shall be responsible for preparing the agenda and all support materials for each meeting, and serve as secretary to the Council.

## **7. Disputes**

- A. If a dispute arises over the responsibility for service provision, governance activities, program transfer, or distribution of funding; or if a school district, including any charter LEA or group of school districts believes that an action taken by the North Region SELPA Policy Board will create an undue hardship on the LEAs; or that an action taken exceeds the authority granted the Policy Board within the Local Plan and/or state or federal statute, the aggrieved district(s) may submit the matter for dispute resolution.
- B. The goal of the North Region SELPA is for disputes to be resolved at the lowest possible level. The first step in the dispute resolution process, therefore, is for the aggrieved party(s) to contact the other party(s) and attempt to resolve the matter informally. If the matter is not resolved at this level, the aggrieved party(s) may request formal mediation. Any request for mediation must be submitted in writing to the North Region SELPA Director.
- C. If the issue is related to an action taken by the Policy Board, the request must be submitted within thirty (30) days of the action taken by the Policy Board. The written request must clearly identify the reason(s) for the request and the potential resolution(s) to the problem.
- D. If the mediation is not successful, the aggrieved party(ies) may request a review by an independent review panel of the results of the mediation. A request for review by an independent review panel must be submitted in writing to the North Region SELPA Director within thirty (30) days of the completion of the mediation process, and must include the reason(s) for the request and the potential resolution(s) to the problem. Panel members will be selected by the SELPA Director and agreed upon by both parties.

## **8. Modification of Policy Board Bylaws**

- A. These Bylaws may be modified by action of the Policy Board at any time.

- B. The Policy Board may adopt policies outside of these Bylaws, which may direct the operation of the Policy Board and their functions.
- C. Modifications of the Policy Board Bylaws take effect as soon as adopted.

