

POLICY 17

PROGRAM TRANSFER

Adopted by Superintendents' Council 4/3/00

Revised 1/9/06, 12/5/11, 2/3/14

SONOMA COUNTY SELPA

PROGRAM TRANSFER POLICY

It is the responsibility of the SELPA to establish and monitor procedures for the orderly transfer of programs that ensure maintenance of quality and accessibility of services for students with disabilities.

Definition of a Program Transfer

A program change is presumptively considered a program transfer when all of the following criteria are met:

1. The proposed change involves the movement of students from one service provider (LEA) to another when the LEA is expanding its service to replicate a program.
2. The change involves the movement of funding locally from one service provider (LEA) to another. The transfer of funds could be accomplished through an agreement between LEAS or through the allocation plan developed by the SELPA pursuant to Section 56195.7(I) and Section 56836.05, as applicable.

Comment: Since all special education dollars are allocated directly to the districts under the new special education funding allocation plan, there are no longer any transfer of funds from SCOE to districts, per se. To maintain the integrity and intent of the program transfer process, it is recommended that this criteria be considered automatically met when a program transfers from SCOE to districts. However, this criteria also would apply when a program transfers from a district to another district.

3. The change must involve one or more employees who would be affected by the provisions of Education Code Sections 44903.7 and 45120.2. Sections 44903.7 and 45120.2 establish the rights of certificated and classified employees to retain employment if their assignment moves to another LEA.

Comment: Section 44903.7 and 45120.2 provides that whenever any certificated or classified employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes the employee of another employer because of the reorganization of special education programs pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, the employee shall be entitled to [certain rights].

It is possible for a "reorganization" to occur that does not require the program transfer process to be met. However, the employee rights outlined in Sections 44903.7 and 45120.2 would still apply.

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

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

A program transfer process is not required when students who are served in a program matriculate and return to their district via the IEP process.

Timelines for Program Transfer

1. Pursuant to Section 56207(b) of the California Education Code, requests may be implemented no earlier than the first day of the fiscal year following the fiscal year in which the request is filed, provided that the request is approved by a unanimous vote of the SELPA's Governing Board. If the request is not approved by a unanimous vote of the SELPA's Governing Board, it may not be implemented any earlier than the first day of the second fiscal year beginning after the date upon which the sending or receiving LEA has informed the other LEA and the SELPA Governing Board of the intended program transfer.
2. A completed Form SED-PT, Request for Special Education Program Transfer, is due to the sending LEA and the SELPA Director by no later than November 15 during the year preceding the year in which the transfer will be implemented. The Request for Special Education Program Transfer will be reviewed by the Program Transfer Committee, the Community Advisory Committee and the Steering Committee in November and December with action taken by the Superintendents' Council by no later than its January meeting.
3. If either the sending or receiving agency disagree with the proposed transfer, the matter shall be resolved by the alternative resolution process established by the SELPA pursuant to California Education Code section 56205(b)(5).

Program Standards

1. No program may be transferred unless the receiving LEA has complied with the SELPA transfer plan requirements which must address, at a minimum, all of the following:

- A. Pupil needs.
 - B. The availability of a full continuum of services to affected pupils.
 - C. The functional continuation of the current IEPs of all affected pupils.
 - D. The provision of services in the least restrictive environment from which affected pupils can benefit.
 - E. The maintenance of all appropriate services.
 - F. The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
 - G. The means through which parents and staff were represented in the planning process.
2. All program operators commit to operate the transferred program(s) for a minimum of three years. If an operator wishes to transfer the program back to the original operator prior to the end of the three year period, a plan must be submitted and reviewed by the Steering Committee, Finance Committee, Community Advisory Committee, and approved by the Superintendents' Council.
3. When a district assumes responsibility for its Non Intensive Preschool Program through a program transfer, the district shall from that point forward be responsible for all its non intensive preschool children, with the exception of a transfer back to the original operator, as described in #2 above.

Annual Service Plan Reporting

All program transfers must be a part of the Annual Service Plan reporting process required in Education Code section 56205(b)(1).

Certificated employees whose positions are affected by the program transfer may retain certain employment rights pursuant to Education Code 44903.7.

Legal Reference:

Education Code 56205, 56207, 44903.7