

VI. SERVICE DELIVERY OPTIONS

**PRIVATE SCHOOLS
FEDERAL ASSURANCE POLICY**

It shall be the policy of each LEA to assure that children with disabilities voluntarily enrolled by their parents in private schools shall receive appropriate special education and related services pursuant to LEA coordinated procedures. The proportionate amount of federal funds will be allocated for the purpose of providing special education services to children with disabilities voluntarily enrolled in private school by their parents.

Legal Reference:

20 USC 1412 (a)(10)

Approved by Governing Council on October 12, 2007

**PRIVATE SCHOOLS
FEDERAL ASSURANCE ADMINISTRATIVE REGULATION**

The identification, referral, assessment and eligibility criteria processes are the same for private school students as for public school students and will be provided by the student's Local Education Agency (LEA) of residence and public school of attendance.

The students enrolled in the private school programs by their parents are afforded the amount expended for the provision of those services by a LEA equal to a proportionate amount of federal funds made available under Individuals with Disabilities Education Act (IDEA), Part B. Each LEA understands that it is not required to spend state or local funds on such services nor to provide services above the annual Special Education Local Plan Area (SELPA) allocation.

Legal Reference

EC 56205(a)(10)

Approved by Governing Council on June 17, 2005

**CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS
LOCAL POLICY**

It is the policy of the San Luis Obispo County Special Education Local Plan Area (SELPA) to ensure that school districts locate, identify, and evaluate all children ages 3-22 with disabilities enrolled by their parents in private schools, including religious schools, who may be eligible for special education services. The proportionate amount of federal funds will be allocated for the purpose of providing special education services to children voluntarily enrolled in private school by their parents.

It is also the policy of San Luis Obispo County SELPA for Local Education Agencies (LEAs) to offer a free appropriate public education (FAPE) to students with disabilities ages 3-22 residing in the jurisdiction of the LEAs, whether or not the children are attending a public school. Compliance with this policy and its procedures is intended to ensure evidence of compliance with all federal and state laws and regulations concerning children so identified.

Legal Reference:

EC 56170

EC 56205 (a)

34 CFR. 300.454 et. seq.

20 USC Section 1412(a)(10)(A-C)

Approved by Governing Council on October 12, 2007

**CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS
LOCAL ADMINISTRATIVE REGULATION**

The following procedures must be followed by all school districts within the San Luis Obispo County SELPA to ensure that school districts:

- Locate, identify, and evaluate all children ages 3 - 22 with disabilities enrolled by their parents in private schools who may be eligible for special education services
- Offer a free appropriate public education (FAPE) to all children ages 3 - 22 with disabilities enrolled by their parents in private schools who are determined to be eligible for special education services

A. Definitions

1. For the purpose of this policy, “private school children” means children found eligible for special education services enrolled by their parents in private schools or facilities when the provision of FAPE is not an issue under Education Code 56175.
2. District of Residence, (DOR): As used in this policy, the district of residence refers to the school district within which boundaries the child with a disability resides.
3. District of Service (DOS): As used in this manual means the LEA where private school services are received.

B. Child Find

The San Luis Obispo County SELPA will undertake the following child find activities with regard to private school children ages 3-22.

1. Annual written notification shall be provided to private schools for dissemination to administrators, teachers, parents, and students. This notification shall include, but not be limited to, criteria for special education eligibility and special education referral procedures under federal and state laws and regulations. The LEA special education contact person will provide information to private schools regarding the student study team process and early intervention services.
2. The San Luis Obispo County SELPA will ensure that child-find activities undertaken for private school students are comparable to activities undertaken for children ages 3 - 22 with disabilities in public schools.
Child find

***CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS (cont.)***

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activities will include consultation with appropriate representatives of private school children ages 3 - 22 with disabilities regarding how to carry out such activities.

C. Special Education Referral

1. Students are referred to special education evaluation only after the resources of regular education have been considered and, where appropriate, utilized. (Education Code 56303)
 - a. Prior to any special education referral for assessment, SELPA policy requires that each school site, public or private, implement a student study team (or equivalent process) to determine whether the student's needs can be met with regular education resources. A parent or educator has the right to request assessment when they suspect the child may have a disability.
 2. a. The student study team process may include, but is not limited to, recommendations for accommodations, changes in environment, and behavior support in the regular classroom. Recommendations must be implemented and results documented prior to recommendation for a special education referral for assessment. LEA staff may consult or participate with the private school in scheduling the student study team.
 - b. The student study team process does not modify the legal timeline if the parent makes a written request for assessment.

D. Assessment

1. If regular education strategies have not been successful for the private school student, and the parent chooses to proceed with a request for special education evaluation, the LEA where the private school is located will insure the development of an assessment plan with the parent and the completion of the multi-disciplinary assessment to determine eligibility for special education services in a public school.
(34 CFR 300.131) Within the SLO SELPA "insure the development of an assessment plan" is understood to mean insure the DR develops an assessment plan.
2. All referrals and evaluations shall be completed and an Individualized Education Program (IEP) meeting shall be scheduled within legal timelines.

E. IEP team meeting

***CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS (cont.)***

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1. The LEA of residence shall convene the initial IEP team meeting. If an IEP team determines that a private school child is eligible for special education services, the LEA shall offer FAPE by developing an IEP to meet the individual needs of the student.
2. If the student's parents have informed the district of residence in writing that they enroll or continue to enroll the student in a private school without consent, referral or payment of by the district of residence, and they are not interested in an IEP then the district of residence is not required to develop an IEP.
3. If, after being offered FAPE, the parent declines public education, an Services Plan (SP) shall be developed by the LEA of service, including a statement that the parents have declined FAPE in the district and have unilaterally elected to place their child in a private school or
4. If an SP is developed, the LEA of residence will annually inform parents of their child's right to FAPE within the public school. If the parents decline this offer, the SP will be reviewed and continued if appropriate by the LEA of service.
5. The student's eligibility for special education will be re-evaluated every three years by the LEA of residence.

F. Proportionate Share

1. Pursuant to federal and state law and regulations, the San Luis Obispo County SELPA shall spend a proportionate share of federal funds for special education purposes to private school children ages 3 - 22 with disabilities eligible for special education services.

The San Luis Obispo County SELPA will consult yearly with representatives of private school children with disabilities (including private school administrators, teachers, parents and students) regarding SP services based on the procedures delineated in the SELPA Procedures Manual.

G. Assistive Technology

1. Pursuant to this policy, any device or service purchased by an LEA or the San Luis Obispo County SELPA shall not be available for use in a private school nor will any such device be purchased with public funds for a private school student.

***CHILDREN WITH DISABILITIES ENROLLED BY
THEIR PARENTS IN PRIVATE SCHOOLS (cont.)***

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H. Dispute Resolution

1. Pursuant to federal regulations, parents are not entitled to a due process hearing with the California Office of Administrative Hearings involving disputes over the contents of the SP, their quality, or their implementation. Parents of private school students are encouraged to utilize the SELPA Alternative Dispute Resolution process for issues concerning identification and placement.
2. Disputes regarding whether a school district made a FAPE available to the child (as well as the initial location, identification, and assessment of parentally placed private school children with disabilities) may be resolved pursuant to local policies and procedures and/or by filing a request for due process hearing with the Office of Administrative Hearings.
3. No school district is required to pay for the cost of educating a child with a disability at a private school (including special education and related services) if the parents unilaterally elected to place the child in a private school when FAPE is not an issue.
4. No parentally placed private school child with a disability has an individual legal right to receive some or all of the special education and related services that he/she would receive if enrolled in a public school.
5. Disputes regarding this policy and procedures may be resolved pursuant to local uniform complaint procedures, and/or by filing a complaint with the California Department of Education pursuant to Title 5 of the California Code of Regulations Section 4600 et. seq.

Revised and approved by the Governing Council on September 4, 2009.

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES
FOR SPECIAL EDUCATION
LOCAL POLICY**

If agreement is reached by the Individualized Education Program (IEP) team that no appropriate public education program is available to serve the individual with exceptional needs, contracts may be made with state certified nonpublic, nonsectarian schools or agencies to provide such facilities and services.

The Special Education Local Plan Area (SELPA) will assure that the protection of rights and procedures for identification, screening, referral, assessments, instructional planning, implementation, and review will apply in contracting with nonpublic, nonsectarian schools.

Procedures specified in law shall govern the selection of appropriate nonpublic, nonsectarian school or agency services.

Neither the Administrative Unit nor any other Local Education Agency (LEA) within the SELPA will place special education pupils in nonpublic, nonsectarian schools/agencies without the knowledge and concurrence of the district of residence, which shall be responsible for assuming the cost.

Legal Reference:

EC 56195.7(e)

EC 6200(j)

EC 56205(c)

Approved by Governing Council on June 18, 2004

**NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR
SPECIAL EDUCATION
LOCAL ADMINISTRATIVE REGULATION**

Placement and Services

Contracts with a state certified nonpublic, nonsectarian school or agency shall be made on San Luis Obispo County SELPA master contract templates/forms and shall include an individual services agreement negotiated for each student. Individual services agreements shall be for the length of time for which nonpublic, nonsectarian school or agency services are specified in the student's IEP, not to exceed one year. Changes in educational instruction, services or placement shall be made only on the basis of revisions to the student's IEP. (Education Code 56366)

The SELPA will make and document its efforts to locate appropriate nonpublic, nonsectarian school programs within the state before contracting with a nonpublic, nonsectarian public school out of state.

The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district to provide the special education and designated instruction and services, as well as transportation specified in the student's IEP. The administrative provisions of the contract shall also include procedures for record-keeping and documentation, and the maintenance of school records by the contracting district to ensure that appropriate high school graduation credit is received by the 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 being utilized by the district to oversee and evaluate placements in nonpublic, nonsectarian schools or agencies. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Education Code 56366)

The superintendent or designee of an elementary school district shall notify a high school district of all students placed in nonpublic school or agency programs prior to the annual review of the IEP for each student who may transfer to the high school district.

When a special education student meets the California state requirements, district of residence graduation requirements for completion of prescribed course of study, and if appropriate, modified graduation requirements specified in the student's IEP, the district which developed the IEP shall award the diploma.

***NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY
SERVICES FOR SPECIAL EDUCATION (cont.)***

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Before contracting with a nonpublic, nonsectarian school or agency outside California, the Superintendent or designee shall document the LEA, County Office of Education (COE) or SELPA'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)

Students meeting Emotionally Disturbed (ED) eligibility requirements and receiving residential placement services have an IEP to monitor progress every six (6) months.

Approved by Governing Council on June 18, 2004

**SERVICES TO HOSPITAL, FOSTER FAMILY HOMES/LICENSED
CHILDREN'S INSTITUTION AND JUVENILE COURT SCHOOL STUDENTS
LOCAL POLICY**

The San Luis Obispo County Special Education Local Plan Area (SELPA) has made provision for service delivery to hospitalized individuals with exceptional needs, individuals in Licensed Children's Institutions (LCIs), foster homes, and individuals in the juvenile court system.

The Local Education Agency (LEA) in which the hospital, foster home or LCI is located is responsible for providing the service. The sending district shall cooperate in sending pertinent school records to the LEA.

Special education programs and services for individuals with exceptional needs who have been adjudicated by the juvenile court for placement in juvenile hall or juvenile home, community school, ranch or camp shall be provided by the San Luis Obispo County Office of Education (SLOCOE).

Home instruction is available through local districts of residence and the SLOCOE for those students having an Individualized Education Program (IEP), which states that this service option is needed.

Legal Reference:

EC 56195.7 (d-g)

Approved by Governing Council on June 18, 2004

**CHARTER SCHOOLS
STATE REQUIRED POLICY**

It shall be the policy of each LEA that a request by a charter school to participate as a local educational agency in a special education local plan area may not be treated differently from a similar request made by a school district.

Legal Reference:

E.C. 56207.5(a-c)

Approved by Governing Council on October 12, 2007

**CHARTER SCHOOL
STATE REQUIRED POLICY**

**PROVISION OF SPECIAL EDUCATION SERVICES TO STUDENTS
VOLUNTARILY ENROLLED IN CHARTER SCHOOLS**

A. Rationale

This policy applies to all charter schools that are chartered by Local Educational Agencies (LEAs) located within the San Luis Obispo County Special Education Local Plan Area (SELPA). Students enrolled in charter schools are entitled to special education services provided in a like manner to students enrolled in other public schools. Charter schools within the SELPA shall comply with applicable requirements of state and federal law regarding provision of special education services (Education Code Section 56000 et. seq., Individuals with Disabilities Education Act 20 U.S.C. ' 1400 et seq.). Additionally, this policy applies to any charter school petition granted by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA [Education Code 47605 (k)(1)]. A charter school shall not discriminate against any pupil in its admission criteria on the basis of disability.

B. Policy Statement

Special education and related services shall be provided to all eligible individuals within the San Luis Obispo County SELPA in accordance with this Local Plan. Students enrolled in charter schools chartered within the SELPA shall receive services in the same manner as 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 category of the individual charter school.

For the provision of special education services, charter schools may be categorized as either a “public charter school” within a district or a separate LEA. All approved charter schools will be deemed public schools within a district unless the charter school has been designated as an LEA in its charter and has been approved by the Governing Council, which includes the County Superintendent of Schools.

Charter schools should delineate in their petition or a Memorandum of Understanding (MOU) the entity responsible for providing special education instruction and services. This document should reference any anticipated transfer of special education funds between the granting entity and the charter school and any provisions for sharing deficits in funding.

CHARTER SCHOOL (cont.)

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C. SELPA Involvement with Approval and Renewal of Charters

Prior to approval or renewal of an existing charter, the superintendent or designee of the chartering LEA may consult with the SELPA director regarding the category of the charter school. The chartering LEA will provide assurances that all eligible students enrolled in the charter school will receive appropriate special education services in accordance with applicable state and federal laws and regulations as well as the Local Plan.

The petition must provide that no student otherwise eligible to enroll in the charter school will be denied enrollment due to a disability or to the charter school's inability to provide necessary services. In compliance with Education Code Section 47605, each charter petition must contain a reasonably comprehensive description of the charter school's educational program. This section should include descriptions of special education services, including the following:

- The procedures for ensuring that students are referred, assessed and served in a timely manner
- Assurances that staff members providing special education services are appropriately credentialed
- Assurances that the facility used by the LEA does not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program
- Disenrollment, suspension and expulsion policies and procedures must provide that the due process protections of federal and state law are afforded to special education and 504 eligible students
- Dispute resolution procedures that will apply to any disputes between educational entities, including the SELPA, regarding the provision of special education services in the charter school

D. Categories of Charter Schools

For the purposes of provision of special education services, charter schools shall be deemed either a public school within the chartering district or an LEA that receives funds and provides services independent of the chartering entity. All approved charter schools will be deemed public schools within the chartering entity until the charter school has been deemed an LEA following this policy and the Local Plan for special education.

Approved by Governing Council on June 17, 2005

**CHARTER SCHOOL
LOCAL ADMINISTRATIVE REGULATION**

A. Public School within a School District or County Office

1. Charter schools that are deemed to be public schools within a district or county office will participate in state and federal funding in the same manner as other schools or programs within the chartering LEA. The chartering entity 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 chartering LEA 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 enrolled in other schools or programs administered by the chartering entity.
2. The chartering LEA will:
 - a. Receive all applicable special education funds generated by combined district and charter school enrollment and special education pupil counts. Funds will be allocated in the manner specified by the SELPA allocation plan.
 - b. Represent the needs of the charter school in the SELPA governance structure.
 - c. Receive a per-pupil contribution from the charter school equal to the charter school's equitable share of special education encroachment. District-wide special education encroachment will be determined as follows:

To the extent that district-wide (including charter school) special education and related services costs exceed district-wide (including charter school) special education funding, the excess cost shall be charged to the charter school on a prorated basis. The proration shall be based on the number of students enrolled in the charter school compared to district-wide enrollment.
 - d. Be responsible for ensuring that all eligible students enrolled in the charter school are appropriately referred, assessed, and served in a timely manner without regard for the location in which the student may reside.
 - e. Be responsible for procuring and funding appropriate special education services.

CHARTER SCHOOL (cont.)

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The chartering entity and the charter school are encouraged to enter into business agreements or MOU related to the provision of a full continuum of special education services, transportation, services to students with low incidence disabilities, provision of related services, liability, indemnification, funding and fiscal responsibility¹. However, the chartering entity may not condition granting a charter on a provision that the charter school must become an LEA. Nor may the chartering entity refuse to grant a charter school petition or renewal solely because the charter might enroll pupils with disabilities who reside in another SELPA (EC 476467).

B. Charter School as an LEA within the SELPA

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

Application must be made to the SELPA on or before January 1 of the school year preceding the school year in which the charter school anticipates operating as a member LEA within the SELPA. The SELPA director and/or staff will review the charter school's application and develop a written recommendation within 30 days of receipt of application. Both the applicant and members of the Governing Council will receive copies of the written recommendation at least 10 days prior to the item appearing on an agenda. The Governing Council will take action to approve or disapprove the charter school as a member LEA within 60 days of application. If approved, the charter school LEA will become a member effective on July 1. Prior to final approval and full acceptance as a member LEA, the charter school will continue to be deemed a public school of the chartering district. If disapproved, the SELPA director will provide the applicant with a written finding that delineates the reason(s) for disapproval.

Once granted membership within the SELPA, the LEA charter school will participate on an equal basis with other members in the governance of the SELPA. A charter school LEA will have equal voting power with noncharter LEAs as described in the Governance section of the Local Plan.

¹ EC 47646(c) requires that the chartering entity, if a district, charge the charter school its pro-rata share of district-wide encroachment. However, for consideration, the district may waive this charge. Specifics should be included in an MOU or business agreement.

CHARTER SCHOOL (cont.)

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The applicant charter school will be deemed a member LEA if the Governing Council determines that the charter school has met all requirements to be included as a member LEA of the SELPA as specified in this policy and the Local Plan. These requirements include:

- Provide assurances that the LEA can provide a full continuum of special education programs and related services
- Provide assurances that the LEA, through employment or contract, can provide the appropriately credentialed staff necessary to meet federal and state special education mandates and accept responsibility for:
 - Referral
 - Assessment
 - Special Education Instruction
 - Compliance
 - Due process
 - Discipline/manifestation determination
- Provide assurances that the LEA will follow all applicable SELPA policies and procedures, including, but not limited to;
 - Identification, referral, and placement
 - Procedural safeguards
 - Regional services, including excess costs
 - Placement procedures and funding for students placed in hospitals, LCIs, juvenile court/community school programs
 - Costs of programs and services, including transportation
- Provide assurances that the LEA will utilize SELPA approved forms in an appropriate manner
- Provide assurances that the LEA will attend SELPA sponsored in-service and trainings
- Provide assurances that the LEA will place special education students in inter/intra-SELPA programs only with the expressed consent of the receiving entity and under the condition that the placing entity will be responsible for any excess costs attributable to the placement.
- Provide assurances that the LEA will accept inter/intra-SELPA placements only with agreement between the educational entities. Under such circumstances, the placing LEA will be responsible for any excess costs, including transportation, in accordance with the Local Plan

CHARTER SCHOOL (cont.)

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- Provide assurances that the LEA has completed a compliance audit of its special education program, with the audit being conducted by a mutually acceptable neutral party. The LEA is to be responsible for all costs of such an audit and any required corrective actions
- Provide assurances that the LEA will indemnify and hold harmless the SELPA and each of the member entities

C. Once deemed a member of the SELPA, the charter school, like other member LEAs shall:

- Fully participate in governance of the SELPA in the manner outlined in the Local Plan
- Accept all responsibilities of an LEA in the implementation of the Local Plan
- Fully comply with policies and procedures outlined in the Local Plan
- Contribute to, participate in, and receive the benefits of program specialist/regionalized services
- Receive state and federal funding for special education in accordance with the SELPA funding Allocation Plan
- Receive any available federal funds in the same manner as other LEAs
- Be responsible for all costs incurred in the provision of special education services, without regard for the location in which the student may reside. These costs may include, but are not limited to, instruction, services, transportation, nonpublic school/agency placements, inter/intra SELPA placements, due process proceedings, complaints and attorney fees
- Document that all state and federal special education funds apportioned to the LEA are used for the sole purpose of providing special education instruction and/or services to identified students with disabilities. Such funds shall be used to supplement and not supplant other sources of federal, state and local funds apportioned to charter schools
- Return any special education apportionment not used solely for the purpose of providing special education instruction and/or services to identified students with disabilities. With the exception that charter schools may retain an agreed upon percentage for the purpose of establishing a restricted reserve account to meet unanticipated special education costs.

If the approval of a charter school requires a change in the SELPA Allocation Plan or governance structure, such change shall be adopted pursuant to the policy making process outlined in the Local Plan. A request from a charter school to participate in the SELPA will be treated in the same manner as such a request from a school district.

CHARTER SCHOOL (cont.)

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Legal Reference:
EC 56207.5(a-c)

Approved by Governing Council on June 17, 2005