PROGRAM TRANSFERS

It is the responsibility of the SELPA to establish and monitor procedures for the orderly transfer of programs from one LEA program operator to another. Approval for the transfer of special education programs shall, at a minimum, take into consideration all of the following:

(1) Pupil needs.
(2) The availability of the full continuum of services to affected pupils.
(3) The functional continuation of the current individualized education programs of all affected pupils.
(4) The provision of services in the least restrictive environment from which affected pupils can benefit.
(5) The maintenance of all appropriate support services.
(6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
(7) The means through which parents and staff are represented in the planning process.

The timeline for program transfers shall be pursuant to Education Code requirements and SELPA policies and regulations. Certificated and classified staff affected by program transfers, shall be afforded rights to employment in accordance with EC 44903.7 and EC 45120.2. If either the sending or receiving LEA disagrees with a proposed transfer, the matter shall be resolved by the alternative resolution process outlined in the local plan.

Legal Reference:

CALIFORNIA EDUCATION CODE
56207
44903.7
45120.2
Glenn County Special Education Local Plan Area

SELPA Administrative Regulation

PROGRAM TRANSFERS

Definition

A change in program status is considered a program transfer when the proposed change results in a change in LEA of service and the movement of students from one service provider to another.

Examples of program transfers include, but are not limited to the following:

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.
2. The transfer of students from several classes combined to form an intact, identifiable class or 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.
3. The transfer of students served by a related service provider e.g. speech therapist which results in the creation of a certificated position by the receiving program operator and a reduction of a certificated position by the sending program operator.

In cases where it is unclear whether a change constitutes a program transfer, the decision will be made by the Governance Committee.

A program transfer process is not required when students who are served in a program operated by a LEA other than the district of residence, are returned to their district of residence via the IEP process.

Request Procedures

The requesting LEA (sending or receiving LEA) shall submit a letter of intent to the affected LEA(s), the Governance Committee and the SELPA Director. The letter of intent shall, at a minimum, identify the sending and receiving LEAs, the programs/services, including FTE, to be transferred and the date the transfer is to take effect.

Timelines

The letter of intent shall be submitted at least one year and one day prior to the year when the transfer(s) is to take effect. The timeline may be waived by unanimous agreement of the Governance Committee.

Upon receipt of the letter of intent, the SELPA Director shall place the request on the agenda for the first available Governance Committee meeting.
Transfer Plan

Prior to the transfer of any special education programs, the requesting LEA shall submit a plan and timeline to the Governance Committee for their approval. The plan shall address, at a minimum, each of the following areas:

- How the proposed transfer will affect the students being transferred and, in the case of a partial transfer, the students remaining in the current program
- Pupil needs and continuation of the current individualized education program
- The availability of a full continuum of placements and services for all affected students and the provision of services in the least restrictive environment
- The maintenance of all appropriate support services i.e., psychologists, program specialists, administration, etc.
- The involvement and participation of parents of all affected students and staff in the planning process, including a schedule of public meetings for parents and meetings for affected staff including general education teachers and administrators, where appropriate.

If the proposed transfer involves a change in personnel or site of service, the plan shall include a detailed description of those changes and how any possible negative effect on students will be addressed. The plan shall also include written assurance that the LEA will comply with all federal and state laws and regulations and special education local plan area policies.

Staff Employment Rights

In the event of a program transfer, certificated and classified staff affected by the transfer shall have employment rights as described in EC 44903.7 and EC 45120.2. In cases where students who are served in a program operated by a LEA other than the district of residence are returned to their district of residence via the IEP process and the movement of students results in a reduction in certificated and, or classified positions in the sending district and an increase in certificated and, or classified positions in the receiving district, the affected employees shall have employment rights as described above.

Dispute Resolution

If either the sending or receiving LEA disagrees with a proposed program transfer, the matter may be submitted to the SELPA Director to be resolved through the dispute resolution process described in the local plan.
56207.

(a) No educational programs and services already in operation in school districts or a county office of education pursuant to Part 30 (commencing with Section 56000) shall be transferred to another school district or a county office of education or from a county office of education to a school district unless the special education local plan area has developed a plan for the transfer which addresses, at a minimum, all of the following:

(1) Pupil needs.
(2) The availability of the full continuum of services to affected pupils.
(3) The functional continuation of the current individualized education programs of all affected pupils.
(4) The provision of services in the least restrictive environment from which affected pupils can benefit.
(5) The maintenance of all appropriate support services.
(6) The assurance that there will be compliance with all federal and state laws and regulations and special education local plan area policies.
(7) The means through which parents and staff were represented in the planning process.

(b) The date on which the transfer will take effect may be no earlier than the first day of the second fiscal year beginning after the date on which the sending or receiving agency has informed the other agency and the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205, unless the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a) of Section 56205 unanimously approves the transfer taking effect on the first day of the first fiscal year following that date.

(c) If either the sending or receiving agency disagree with the proposed transfer, the matter shall be resolved by the alternative resolution process established pursuant to paragraph (5) of subdivision (b) of Section 56205.

(d) Notwithstanding Section 56208, this section shall apply to all special education local plan areas commencing on July 1, 1998, whether or not a special education local plan area has submitted a revised local plan for approval or has an approved revised local plan pursuant to Section 56836.03.

(Amended by Stats. 2001, Ch. 734, Sec. 55. Effective October 11, 2001.)

California Special Education Reference
45120.2

(a) If the development or revision of a local plan for the education of individuals with exceptional needs pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, results in a classified employee who is performing service for one employer being terminated, reassigned, or transferred, or becoming the employee of another employer because of the reorganization of special education programs, the employee shall retain the seniority acquired at his or her employment with the school district or county office of education from which he or she was terminated, reassigned, or transferred. If terminated, the employee retains the rights specified in Sections 45115, 45117, and 45119.

(b) The reassignment of an employee, transfer of an employee, or new employment of an employee caused by the reorganization of special education programs does not affect the seniority or classification that a classified employee already attained in any school district that undergoes the reorganization. The employee has the same status with respect to his or her seniority or classification, with the new employer, including time served as a probationary employee. The total number of years served as a classified employee with the former school district or county office shall be credited, year for year, for placement on the salary schedule of the new school district or county office.

(c) If a local plan for the education of individuals with exceptional needs is developed or revised pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, all classified employees shall be employed by a county office of education or an individual school district.

(d) A classified employee who is reassigned or transferred as a result of the reorganization of special education programs has priority, except as provided in subdivision (e), in being informed of and in filling classified positions in the classifications in which the employee was employed before the reassignment or transfer. This priority expires 24 months after the date of reassignment or transfer and may be waived by the employee during that time period.

(e) A classified employee who served in a special education program in a school district or county office and is terminated from his or her employment by that school district or county office pursuant to Section 45114 as a result of the reorganization of a special education program has first priority in being informed of and in filling vacant classified positions for which the employee is qualified or was employed, in the county office or school district that operates the reorganized special education program. Permanent employees have the first priority right to reappointment as provided in this section for 39 months from the date of termination. Probationary employees have the first priority right to reappointment as provided in this section for 24 months from the date of termination.

California Special Education Reference
44903.7

When a local plan for the education of individuals with exceptional needs is developed or revised pursuant to Chapter 2.5 (commencing with Section 56195) of Part 30, the following provisions shall apply:

(a) Whenever any certificated employee, who is performing service for one employer, is terminated, reassigned, or transferred, or becomes an employee of another employer because of the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, the employee shall be entitled to the following:

(1) The employee shall retain the seniority date of his or her employment with the district or county office from which he or she was terminated, reassigned, or transferred, in accordance with Section 44847. In the case of termination, permanent employees shall retain the rights specified in Section 44956 or, in the case of probationary employees, Sections 44957 and 44958, with the district or county office initiating the termination pursuant to Section 44955.

(2) The reassignment, transfer, or new employment caused by the reorganization of special education programs pursuant to Chapter 797 of the Statutes of 1980, shall not affect the seniority or classification of certificated employees already attained in any school district that undergoes the reorganization. These employees shall have the same status with respect to their seniority or classification, with the new employer, including time served as probationary employees. The total number of years served as a certificated employee with the former district or county office shall be credited, year for year, for placement on the salary schedule of the new district or county office.

(b) All certificated employees providing service to individuals with exceptional needs shall be employed by a county office of education or an individual school district. Special education local plan areas or responsible local agencies resulting from local plans for the education of individuals with exceptional needs formulated in accordance with Part 30 (commencing with Section 56000) shall not be considered employers of certificated personnel for purposes of this section.

(c) Subsequent to the reassignment or transfer of any certificated employee as a result of the reorganization of special education programs, pursuant to Chapter 797 of the Statutes of 1980, that employee shall have priority, except as provided in subdivision (d), in being informed of and in filling certificated positions in special education in the areas in which the employee is certificated within the district or county office by which the certificated employee is then currently employed. This priority shall expire 24 months after the date of reassignment or transfer, and may be waived by the employee during that time period.

(d) A certificated employee who has served as a special education teacher in a district or county office and has been terminated from his or her employment by that district or county office pursuant to Section 44955, shall have first priority in being informed of and in filling vacant certificated positions in special education, for which the employee is certificated and was employed, in any other county office or school district that provides the same type of special education programs and services for the pupils previously served by the terminated employee. For a period of 39 months for permanent employees and 24 months for probationary employees from the date of termination, the employee shall have the first priority right to reappointment as provided in this section, if the employee has not attained the age of 65 years before reappointment.

(Amended by Stats. 1997, Ch. 854, Sec. 4. Effective January 1, 1998.)

California Special Education Reference