

Glenn County Special Education Local Plan Area**SELPA Administrative Regulation****Charter Schools****Rationale**

The following applies to all Charter Schools that are chartered by school districts located within the Glenn County SELPA or by the Glenn County Board of Education. It will also apply to any Charter School petition granted by the Glenn County Board of Education or by the State Board of Education (SBE) in which oversight responsibilities have been assigned to a district within the SELPA (EC47605 (k)(1)). Districts providing such oversight shall also be considered “chartering entities” for the purposes of this section. With the exception of those Charter Schools who may wish to become a member of the Glenn County SELPA as an LEA, it does not extend to a Charter School that was chartered by, or assigned to, an educational entity that is not a member of the Glenn County SELPA.

The purpose of the following is to clarify the relationship between Charter Schools, member school districts, and the SELPA. It has the further purpose of assisting applicable Charter Schools and chartering entities that are members of the Glenn County SELPA with their individual and mutual responsibilities under the law. In addition, it has the purpose of assisting applicable Charter Schools and chartering entities to meet the special education needs of all eligible students enrolled in applicable Charter Schools.

General Requirements

Pursuant to legal provisions of both federal and state law, eligible students enrolled in Charter Schools are entitled to special education services provided in the same manner as such services are provided in other public schools and Charter Schools within the chartering entity and within this SELPA. All parties, including the Charter Schools, shall comply with all applicable requirements of state and federal law regarding provision of special education services (EC 56000 et seq., Individuals with Disabilities Education Act [IDEA] 20 U.S.C. Chapter 33) and shall provide special education services in accordance with this Local Plan and SELPA policies and procedures. It is understood that a Charter School is responsible for assuring that eligible students are provided a free appropriate public education in the least restrictive environment. Students with disabilities and their parents shall retain all rights under the IDEA. It is understood that a Charter School shall not discriminate against any pupil in its admission criteria on the basis of a disability.

No Governing Board of a school district which is a member of this SELPA shall grant a charter unless the charter petition includes assurances that special education instruction, programs, and services are to be provided in accordance with applicable state and federal law and with this Local Plan and SELPA policies and procedures to all eligible students enrolled in the Charter

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School. The governing board may seek the advice and counsel of the SELPA Director to assist it in making such determinations.

The California Education Code allows a Charter School to either be deemed an LEA and receive direct funding or continue to be categorized as a Public School within a district. All approved Charter Schools will be deemed public schools within a district unless the Charter School meets the same application requirements and criteria as any other LEA wishing to join this SELPA and, as a result, the SELPA Governance Committee has deemed the Charter School an LEA member. If the approval of a charter requires a change to the SELPA's allocation methodology, such change will be adopted pursuant to the SELPA's policy-making process.

Funding for special education services, participation in the governance structure and responsibility for provision of services shall be based on the following: 1) whether the Charter School is approved as a Local Education Agency (LEA) or is deemed to be a public school within the LEA that granted the charter and is sponsoring the Charter School, and 2) the agreement or memorandum of understanding (MOU) between the Charter School and the sponsoring LEA.

Charter Schools and sponsoring LEAs must delineate in the charter and the agreement, or the MOU, the entity responsible for providing special education instruction and services. These documents should clarify the roles and responsibilities of each party with regard to IEP meetings, authorization of services, implementation of due process rights and legal representation. These documents must also reference any anticipated transfer of special education funds between the granting or sponsoring entity and the Charter School, if any, and any provision for sharing costs, deficits, and/or proration factors in funding.

The Charter School must agree to recognize its responsibility to deliver services to any eligible student enrolled in the Charter School and shall not seek assistance, reimbursement, or any other type of responsibility from the school district where the child actually resides unless otherwise provided by law. The Charter School, however, may enter into an agreement with the LEA in which a student actually resides, or any other LEA, through which the Charter School agrees to pay the LEA, from its own resources, to provide special education services to a student enrolled in the Charter School.

The Charter School should also acknowledge that it will be deemed a public school within the chartering or sponsoring entity, unless it applies to the SELPA and is accepted as an LEA for special education purposes. The Charter School is deemed a public school when first granted a charter and cannot be deemed a LEA in this SELPA until the Charter School has complied with all procedures outlined in this policy.

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Prior to the approval of a new charter or the renewal of an existing charter, the Charter School petitioner(s) are required to consult with both the superintendent or designee of the chartering or sponsoring entity and the SELPA Director in order to ensure an awareness and understanding of district and SELPA policies, procedures, guidelines, and timelines as they relate to the provision of special education instruction and services. The superintendent or designee of the chartering entity shall consult with the SELPA Director regarding the provision of special education services to students enrolled by the Charter School. The petitioner must provide adequate assurances in the charter and any agreement or MOU that all students with disabilities enrolled in the Charter School will be identified, assessed, and, if eligible, receive appropriate special education instruction and services in accordance with applicable state and federal law and the Glenn County SELPA Local Plan and its policies and procedures. The SELPA Director will be available to provide consultation on the potential impact and benefit that may be associated with granting the requested charter.

Enrollment

The charter shall provide that no student otherwise eligible to enroll in the Charter School will be denied nor discouraged from enrollment due to a disability or due to the Charter School's concerns about its ability to provide appropriate services. The petitioner must confirm in writing that they will not discriminate due to disability. An entity reviewing the petition for the establishment or renewal of a Charter School may not refuse to grant the petition solely because the Charter School might enroll students with disabilities who reside in a SELPA other than the one in which the entity is a member.

Educational Program

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

1. Assurances that the Charter School will comply with all provisions of federal law and implementing regulations related to the rights of disabled students and their parents (20 U.S.C. Chapter 33, the Individuals with Disabilities Education Act (IDEA));
2. Assurances that the Charter School will adhere to the policies, procedures, and requirements of the Glenn County SELPA Local Plan and its policies and procedures;
3. A description of the means by which the Charter School intends to serve students with disabilities, including identifying the specialized instruction and services available at the Charter School. This will also include a specific reference as to whether the Charter School intends to be deemed an LEA or operate as a public school for the provision of special education services;

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4. The procedures for ensuring that students are referred, assessed, identified, and served in a timely manner;
5. Assurances that staff members providing special education services are appropriately credentialed;
6. Assurances that the facilities used by the Charter School do not present physical barriers that would limit an eligible student's full participation in the educational and extracurricular program and affirms Charter School responsibilities under Section 504 of the Rehabilitation Act of 1973 (34 CFR 104) hereinafter, "504."
7. Assurances that the Charter School will follow all federal laws regarding discipline and change of placement and that its disenrollment, suspension, and expulsion policies and procedures shall ensure that the protections of applicable federal and state law are afforded to eligible students and students entitled to 504 protections; and,
8. 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.

Categories of Charter Schools

For the purposes of provision of special education instruction and services, Charter Schools may be deemed either a public school within the chartering district or entity or a separate Local Education Agency (LEA) that receives special education funds/services and provides services independent of the chartering entity. It is understood that this status is separate and apart from the actual legal status of the Charter School as provided in Education Code section 47604. 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.

A. Public School within a School District or GCOE

As set forth in the Education Code and pursuant to federal law, Charter Schools that are deemed to be public schools within the chartering entity will participate in state and federal funding in the same manner as other schools within the chartering entity.

The chartering entity will be responsible for ensuring that all students with disabilities enrolled in the Charter School receive special education instruction and services in a manner that is consistent with all applicable provisions of federal law and Glenn County SELPA policies and procedures. To that end, the chartering entity and the Charter School petitioner must clarify by way of the charter or MOU the responsibilities of each party for the actual delivery of special education services including referral, assessment, the implementation of procedural safeguards, and funding. The chartering entity and the Charter School 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 public schools it operates.

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The chartering entity will:

- Receive all applicable special education funds, as determined by the SELPA allocation methodology
- Represent the needs of Charter Schools in the SELPA governance structure, as it does for the other schools it operates
- Ensure that all eligible students are appropriately served
- Ensure that when an eligible student enrolled in the Charter School resides outside the boundaries of the chartering school district, the district in which the child resides will have no responsibility to provide services or pay excess costs unless they agree to provide necessary instruction and services pursuant to a contractual agreement with the Charter School or the chartering entity.

The charter or MOU will clarify the following:

- Procedures and designation of responsibilities for ensuring that all eligible students enrolled in the Charter School are appropriately referred, assessed, and served in a timely manner, regardless of their district of residence;
- Procedures and responsibility for procuring and funding appropriate special education instruction and services for enrolled eligible students, including those who do not reside within the geographic boundaries of the chartering entity;
- Procedures and responsibilities for procuring necessary special education services or contracts for services with public or private educational agencies;
- Responsibility for the costs of services which exceed funding;
- Responsibility, if any, for funding a fair share of excess costs incurred by the chartering entity associated with providing special education services to eligible students throughout the entity, including the administration of special education programs;
- Responsibility, if any, for funding a fair share of excess costs incurred by other SELPA members associated with providing special education services to eligible students SELPA-wide, including the administration of special education programs;
- Responsibility for costs related to legal fees and due process proceedings; and,
- Responsibility for administrative costs associated with the above.

A MOU or Business Services Agreement (BSA) must address the following items:

- How the district will assume responsibility for the provision of special education services for all eligible students enrolled in the Charter School
- an assurance that an eligible student enrolled in the Charter School will have access to special education services in the same manner as an eligible student enrolled in another public school in the district,

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- a description of what services will be provided, who will provide the services, and how and where the services will be provided,
- an assurance that the Charter School and its employees will work under the direction of the district and the guidance of the SELPA with regard to the delivery of special education services,
- If the Charter School will assume direct responsibility for the provision or procurement of special education services for eligible students enrolled in the Charter School, the MOU or BSA shall include a description of the distribution of the Charter School's equitable share of state and federal special education funding provided to the district based on the SELPA's allocation methodology. A description of what assistance, if any, is to be provided by the chartering entity; and,
- An agreement which clarifies what responsibility either party has to defend, indemnify, and hold harmless the other party and its employees against any liability arising from the acts or omissions of the Charter School and/or chartering entity, its agents or employees while performing services under the charter, a MOU, and/or a BSA.

B. Charter School as an LEA within the SELPA

An existing charter school may apply to the SELPA's Governance Committee to become an LEA for the provision of special education services in the same manner that a school district from outside Glenn County may apply for membership. The charter school must demonstrate the program and fiscal capacity, infrastructure, and experience base critical for consideration as an LEA, which establish compliance with IDEA and implementing regulations.

Application must be made to the SELPA at least one year prior to the school year in which the Charter School anticipates operating as a LEA within the SELPA. The SELPA Governance Committee will make the final determination whether the Charter School has the capacity and intent to meet all requirements of operating as a LEA. The application process for a charter school will be the same as any other LEA wishing to be a member of the SELPA and is described in detail in the SELPA policy titled "SELPA Reorganization." Once granted LEA status, a Charter School will participate in the governance of the SELPA in the same manner as all other LEAs in the SELPA.

The applicant Charter School will be deemed an LEA if the SELPA Governance Committee determines that the Charter School has met all requirements as specified in this policy and the policy titled SELPA Reorganization and a revised Local Plan is approved by the County Superintendent, local school boards and the State Board of Education.

Once deemed an LEA, the Charter School shall be responsible for and entitled to the following as required of any LEA in the SELPA:

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- Participate in the governance of the SELPA in the same manner as other districts and LEAs within the SELPA;
- Participate in and receive regionalized services in the same manner as other districts and LEAs within the SELPA;
- Contribute to, participate in, and receive the benefits of reimbursement from all SELPA fiscal pools and participate in any chargebacks or billings for excess costs in the same manner as other SELPA members;
- Receive state and federal funding for special education in the same manner as other districts and LEAs within the SELPA;
- Be responsible for all costs incurred in the provision of special education services to eligible students enrolled in the charter school. 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;
- Document that all state and federal special education funds apportioned to the Charter School are used for the sole purpose of providing special education instruction and services to identified eligible 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; and,

C. Charter School Affiliated with an LEA Outside of the Glenn County SELPA

When a Charter School has no affiliation with an LEA within the Glenn County SELPA, neither the SELPA nor any school district within the SELPA has an obligation to reach agreement on the provision of special education services. If the Charter School is granted status by an entity outside of the Glenn County SELPA, the Charter School is responsible for working with its sponsoring entity and related SELPA in order to meet all special education obligations. The provision of programs and services by the Glenn County SELPA, or any of its members, shall, if any, be determined through written inter-SELPA agreements.

An existing Charter School, chartered by an entity outside of the Glenn County SELPA, may apply to the Glenn County SELPA's Governance Committee to become an LEA for the provision of special education services in the same manner that a charter school from within Glenn County may apply for membership. The Charter School shall follow the same procedures described herein and in the policy titled SELPA Reorganization in making such application.

D. Additional Provisions

1. 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.

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2. Consistent with district placement requirements, a charter school IEP Team may place a student in a special education program provided by another educational entity, i.e., a county office or another district, only with agreement between responsible educational entities and parental consent. Under such circumstances, the charter school will be responsible for any excess costs in accordance with the Local Plan.
3. Charter schools may enroll students who reside outside of the Glenn SELPA and the allocation plan shall not exclude such students, contingent upon the state funds following the student.
4. Consistent with district requirements neither charter schools operating as LEA's or districts sponsoring charter schools can commit resources of the SELPA beyond those resources available through the approved allocation plan.
5. Charter schools operating as an LEA and charter schools that are public schools within a district must implement a Student Study Team process, a general education function, to monitor and guide referrals for special education services.