



DESERT / MOUNTAIN
CHARTER SELPA

Chapter 1: Identification and Referral of Individuals for Special Education

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Introduction

The Desert/Mountain Charter Special Education Local Plan Area (SELPA) recognizes the need to actively seek out and evaluate school-age Charter Local Educational Agency (LEA) residents who have disabilities in order to provide them with appropriate educational opportunities in accordance with state and federal laws.

Charter schools are currently authorized to serve school-age students (Grades 1-12; *Education Code § 47610(c)*). If at any time the authorization changes, the Charter school would follow all state and federal laws regarding children birth to two and Child Find requirements. Charter schools will assist families and make appropriate referrals for any child they find who would be outside the age or area of responsibility of the Charter schools.

The Charter LEA Chief Executive Officer (CEO) or designee shall implement the designated Charter SELPA process to determine when an individual is eligible for special education services and shall implement the Charter SELPA procedures for special education program identification, screening, referral, assessment, planning, implementation, review, and triennial assessment (*Education Code § 56301*). The Charter LEA's process shall prevent the inappropriate disproportionate representation by race and ethnicity of children with disabilities. Note: *The Individuals with Disabilities Education Act (IDEA), Title 20 of the United States Code § 1412(a)(3), requires that the Charter LEA's "child find" identification system include identification of children with disabilities resident in the Charter LEA including highly mobile children with disabilities, such as migrant and homeless children.*

Services for a private school student, in accordance with an Individualized Education Program (IEP), must be provided by the Charter LEA at no cost to the parent, unless the Charter LEA makes a Free Appropriate Public Education (FAPE) available to the child and the parent chooses to enroll the child in that private school. If the public school is providing services to the child, these services may be provided on the premises of the private school, including a parochial school, to the extent consistent with other provisions of law. Title 34 of the Code of Federal Regulations § 300.451 requires the Charter LEA to consult with appropriate representatives for private school students on how to carry out the "child find" requirement.

The Charter LEA CEO or designee shall implement the designated Charter SELPA's method whereby parents, teachers, appropriate professionals, and others may refer an individual for assessment for special education services. Identification procedures shall be coordinated with school site procedures for referral of children with needs that cannot be met with modifications to the general instructional program (*Education Code § 56302*).

For assessment purposes, staff shall use appropriate tests to identify specific information about the child's abilities in accordance with Education Code § 56320.

The Charter LEA CEO or designee shall notify parents in writing of their rights related to identification, referral, assessment, instructional planning, implementation, and review, including the Charter SELPA's procedures for initiating a referral for assessment to identify individuals who need special education services (*Education Code § 56301*).

The referral for special education assessment is the first step taken when it is suspected that a child will require special education supports and services to be successful in the educational system. Parents, teachers, agencies, appropriate professionals, and other members of the public can make referrals. Once submitted, the referral initiates timelines that are specified in the Education Code. The purpose of the referral process is to afford the assessment team the opportunity to review the referring party's identified areas of concern, previous attempts in program modification, relevant educational history, and other pertinent information about the child to determine areas in need of assessment.

Section A – Child Find

It is the policy of the Charter SELPA that children with disabilities age six through 21 be actively sought and identified by the public schools. The child find process includes a section of the Charter

LEA's annual notice to all parents that references the referral of children with disabilities. All children with disabilities and their parents are guaranteed their procedural safeguards with regard to identification, assessment, and placement in special education programs.

School personnel, parents, outside agencies working with the child, guardians and/or surrogate parents who show legal documentation of educational rights may all serve as sources of referral for a child for possible identification as a child with a disability. Such identification procedures shall be coordinated with school site and Charter LEA procedures for referral of children with needs that cannot be met with modification of the general education instructional program.

California Education Code § 47640. For the purposes of this article, "local educational agency" means a school district as defined in Section 41302.5 or a charter that is deemed a local educational agency pursuant to Section 47641. As used in this article, "local educational agency" also means a charter school that is responsible for complying with all provisions of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and implementing regulations as they relate to local educational agencies.

California Education Code § 47641. (a) 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 a local educational agency in a special education plan approved by the State Board of Education shall be deemed a local educational agency for the purposes of compliance with federal law (Individuals with Disabilities Education Act; 20 U.S.C. Sec. 1400 et seq.) and for eligibility for federal and state special education funds. A charter school that is deemed a local educational agency for the purposes of special education pursuant to this article shall be permitted to participate in an approved special education local plan that is consistent with subdivision (a), (b), or (c) of Section 56195.1.

California Education Code § 56300. A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education.

California Education Code § 56301(a). All children with disabilities residing in the state, including children with disabilities who are homeless children or are wards of the state and children with disabilities attending private, including religious, elementary and secondary schools, regardless of the severity of their disabilities, and who are in need of special education and related services, shall be identified, located, and assessed and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services.

Identification and Evaluation of Children Younger than Three

Identification, evaluation, assessment, and instructional planning procedures for children younger than three must conform to Education Code §§ 56425-56432, and the California Early Intervention Services Act Government Code §§ 95000-95029. The California Department of Education (CDE) and LEAs are responsible for providing early intervention services to infants and toddlers who have visual, hearing, or severe orthopedic impairment; the Department of Developmental Services (DDS) and its regional centers must provide services to all other eligible children in this age group. The law also requires regional centers and LEAs to coordinate family service plans for infants and toddlers and their families. Education Code § 56441.11 sets forth eligibility criteria for preschool children age three to five.

A child age three through five enrolled by his/her parents in a private school or facility that does not meet the state's definition of "elementary school" would not be eligible to be considered for equitable services. However, the state's obligation to make FAPE available to such a child remains. IDEA requires that states make FAPE available to eligible children with disabilities age three through 21 in the state's mandated age range (Title 34 of the Code of Federal Regulations § 300.101). Because many LEAs do not offer public preschool programs, particularly for three and four year-olds, LEAs often make FAPE available to eligible preschool children with disabilities in private schools or facilities in accordance with Title 34 of the Code of Federal Regulations §§ 300-145 through 300.147. In these circumstances, there is no requirement that the private school or facility be an "elementary school" under state law.

Title 34 of the Code of Federal Regulations § 300.13. Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law.

Section B – Referral for Evaluation for Special Education Services

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

Education Code § 56329, provides that, when making a determination of eligibility for special education and related services, Charter LEAs shall not determine that a child is a child with a disability if the primary factor for such determination is a lack of appropriate instruction in reading, including the essential components of reading instruction pursuant to Title 20 of the United States Code § 6368 of the No Child Left Behind Act, lack of instruction in math, or limited English proficiency (LEP).

California Education Code § 56301(d)(1). Each special education local plan area shall establish written policies and procedures pursuant to Section 56205 for use by its constituent local agencies for a continuous child find system that addresses the relationships among identification, screening, referral, assessment, planning, implementation, review, and the triennial assessment. The policies and procedures shall include, but need not be limited to, written notification of all parents of their

rights under this chapter, and the procedure for initiating a referral for assessment to identify individuals with exceptional needs.

All referrals for special education and related services from school staff shall include a brief reason for the referral and description of the general education program resources that were considered and/or modified for use with the child, and their effect (Title 5 of the California Code of Regulations § 3021).

Referrals for special education and related services initiate the process to determine if an assessment is warranted and shall be documented. When a verbal referral is made, staff of the Charter LEA shall offer assistance to the parent or any other individual to make a request in writing. The Charter SELPA shall annually distribute information regarding child find activities to private schools for dissemination to parents.

Parents whose primary language is not English shall be informed of the need to file a written request when a verbal request is made. They shall be informed both verbally and in writing in their primary language, unless to do so is clearly not feasible. Assistance in providing a written request will be provided as needed. Written referrals in languages other than English will be accepted.

If a parent requests, in writing, an assessment for possible special education services, the Charter LEA will develop an Assessment Plan (D/M 66) and present it to the parent within 15 days. The proposed assessment may include a classroom observation, review of records, informal screening, and/or a referral for a formal evaluation in suspected areas of disability, such as, but not limited to, vision/hearing, speech-language, academic skills, cognition, adaptive behavior, psychological processing skills, or social-emotional-behavioral status. A copy of the Procedural Safeguards/Parents' Rights (D/M 77) are reviewed and given to the parents at the time the assessment plan is presented. The 15-day period does not include days between the child's regular school session or term or days of school vacation in excess of five school days from the date of receipt of the referral. Charter SELPA forms are available on the website at www.cahelp.org for member Charter LEAs to use upon receipt of a referral for special education assessment (D/M 51 - Identification, Referral, Assessment Log for the IEP Process; D/M 56 - Family Information; D/M 57 - Referral for Special Education; D/M 58 - Educational History and Social Achievement; D/M 59 - Checklist for Student Observation; D/M 63 - Authorization for Use and/or Disclosure of Information; and D/M 79 - Utilized Interventions).

However, an IEP required as a result of an assessment of a child shall be developed within 30 days after the commencement of the subsequent regular school year as determined by each Charter LEA's school calendar for each child for whom a referral has been made 30 days or less prior to the end of the regular school year. In the case of school vacations, the 60-day time shall recommence on the date that school days reconvene. A meeting to develop an initial IEP for the child shall be conducted within 30 days of a determination that the child needs special education and related services pursuant to Title 34 of the Code of Federal Regulations § 300.343(2)(b); Education Code § 56344.

The proposed assessment plan shall meet all of the following requirements (Education Code § 56321):

- Be in a language easily understood by the general public;
- Be provided in the native language of the parent or other mode of communication used by the parent unless it is clearly not feasible;
- Explain the types of assessment to be conducted;
- State that no IEP will result from the assessment without parental consent.

All initial referrals resulting from child find of children ages three to five shall be processed through the Charter LEA. The informed parental consent for assessment (D/M 66) shall be completed by the person interacting with the parent and forwarded to the appropriate member of the Charter LEA preschool assessment team (i.e., psychologist, nurse, speech-language pathologist).

For a preschool-age child, a member of the Charter LEA preschool assessment team will contact the parent to discuss concerns, or arrange a home visit for observation.

For a school-age child, the referral for special education assessment may include a referral to the Student Study Team (SST) and/or the scheduling of a parent conference to discuss the concerns and possible interventions.

Upon receiving the proposed assessment plan, the parent shall have at least 15 days to decide whether or not to consent to the initial assessment. The assessment may begin as soon as informed parental consent is received by the respective Charter LEA. The Charter LEA shall not interpret parental consent for initial assessment as consent for initial placement or initial provision of special education services (*Education Code § 56321; Title 34 of the Code of Federal Regulations § 300.505*). *Note: Education Code § 56321 provides that, if a parent refuses to consent to the initial evaluation, the Charter LEA may pursue an evaluation by utilizing the mediation and due process procedures pursuant to Title 20 of the United States Code § 1415. In the event that an evaluation is not authorized, Title 20 of the United States Code § 1414(a)(1) specifies that the Charter LEA shall not provide special education services and shall not be considered in violation of the requirement to provide FAPE for failure to provide such services. In addition, the Charter LEA is not required to convene an IEP team meeting or to develop an IEP for that child.*

Informed parental consent means that the parent (Title 34 of the Code of Federal Regulations § 300.500):

- Has been fully informed of all information relevant to the activity for which consent is sought, in his/her native language or other mode of communication;
- Understands and agrees, in writing, to the assessment;
- Understands that the granting of consent is voluntary on his/her part and may be revoked at any time.

If the child is a ward of the state and is not residing with his/her parents, Charter LEAs shall make reasonable efforts to obtain informed consent from the parent as defined in Title 20 of the United

States Code § 1401 for an initial evaluation to determine whether the child is a child with a disability (*Title 20 of the United States Code § 1414(a)(1)*).

The Charter LEA shall not be required to obtain informed consent from the parent for an initial evaluation to determine whether the child is a child with a disability if any of the following situations exist (Education Code § 56301; Title 20 of the United States Code § 1414(a)(1)):

1. Despite reasonable efforts to do so, the Charter LEA cannot discover the whereabouts of the parent of the child;
2. The rights of the parent of the child have been terminated in accordance with California law;
3. The rights of the parent 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 child.

As part of the assessment plan, the parent shall receive written notice that (*Education Code § 56329; Title 34 of the Code of Federal Regulations § 300.502*):

1. Upon completion of the administration of tests and other assessment materials, an IEP team meeting that includes the parent or his/her representative shall determine whether or not the child is a child with a disability as defined in Education Code § 56026 and shall discuss the assessment, the educational recommendations, and the reasons for these recommendations. A copy of the assessment report and the documentation of determination of eligibility shall be given to the parent.
2. If the parent disagrees with an assessment obtained by the Charter LEA, the parent has the right to obtain, at public expense, an independent educational assessment of the child from qualified specialists, in accordance with Title 34 of the Code of Federal Regulations § 300.502.

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

3. The Charter LEA may initiate a due process hearing pursuant to Education Code §§ 56500-56508 to show the assessment is appropriate. If the final decision resulting from the due process hearing is that the assessment is appropriate, the parent maintains the right for an independent educational assessment but not at public expense.

If the parent obtains an independent educational assessment at private expense, the results of the assessment shall be considered by the Charter LEA with respect to the provision of FAPE, and may be presented as evidence at a due process hearing regarding the child. If the Charter LEA observed the child in conducting its assessment, or if its assessment procedures make it permissible to have in-class observation of a child, an equivalent opportunity shall apply to an independent educational assessment of the child in the child's

current educational placement and setting, if any, proposed by the Charter LEA, regardless of whether the independent educational assessment is initiated before or after the filing of a due process hearing.

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

An IEP required as a result of an assessment shall be developed within a total time not to exceed 60 days, not counting days between the child's regular school sessions, terms, or days of school vacation in excess of five school days, from the date of the receipt of the parent's consent for assessment, unless the parent agrees, in writing, to an extension (Education Code § 56043).

Before entering kindergarten or first grade, children with disabilities who are in a preschool program shall be reassessed 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 individuals (Education Code § 56445).

Section 504

Children may be referred for assessment under Section 504 of the Rehabilitation Act of 1973 by parents, school staff, or agencies. Each Charter LEA has defined written Section 504 procedures to assess and meet the educational needs of general education students who are otherwise disabled due to a physical or mental impairment which substantially limits one or more major life activities.

Section C – Student Study Team (SST)

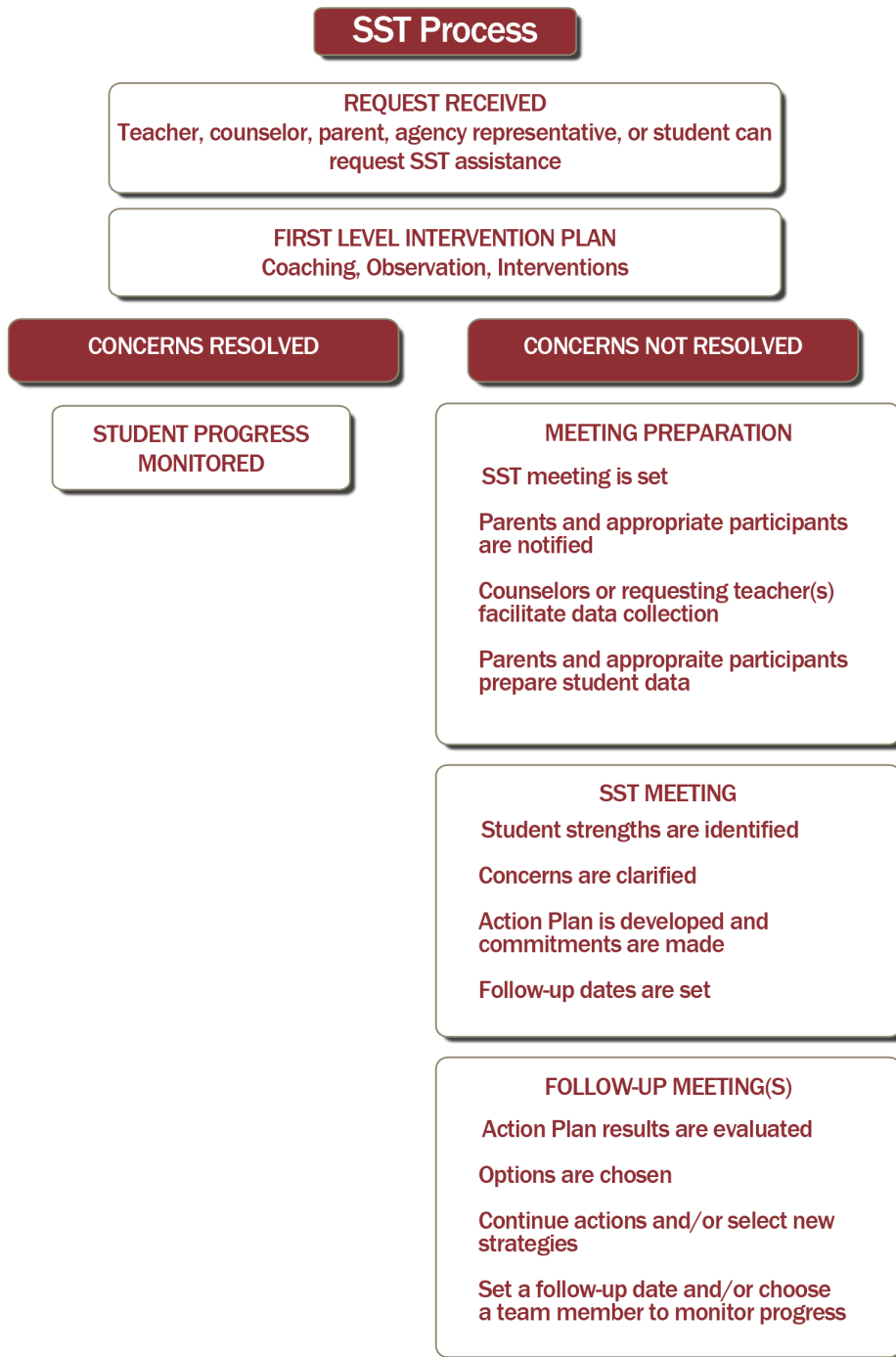
California Education Code § 56303. A pupil shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized.

Procedures have been developed in each Charter LEA for the receipt and processing of referrals for special education assessment. In all LEAs, the school site Student Study Team (SST) meets regarding children for whom there are concerns. The team addresses the implementation and level of success of the general education classroom program modifications and available general education resources and programs, including categorical programs. When the SST determines that all possible modifications have been exhausted or the modifications available are not appropriate, the SST or classroom teacher refers the child for an assessment for possible special education

services. The parent is informed and encouraged to be a part of the SST process. Parents are notified if a referral for a special education assessment is made by the team.

The SST is a regularly scheduled, structured meeting of general educators, supported by special educators and other staff as appropriate. Their purpose is to provide an effective support system in general education that will generate effective interventions for children who are experiencing challenges in learning or behavior difficulties at school. The SST process is designed to meet the needs of all children and result in a team action plan to ensure student success. The structure of the SST may be designed to fit the needs of individual school sites. Team membership varies according to the needs of the child, but should include the people that can best support the child and the classroom teacher. The majority of the team membership must be composed of general education teachers and should include the following team members: the child's classroom teacher, an administrator, the parent, the child, an upper grade teacher, and a lower grade teacher. The SST should also serve as a peer support system, so the more teacher participation the greater the benefits. Specialists should be included based on the potential needs of the child, the classroom teacher, and any others providing support to the child.

The following describes the **SST Process**:



The process begins with a request from a teacher, counselor, parent, agency representative, or child that a concern has been identified. Once the request is made, the school's first-level intervention plan is implemented. It is important to note that a request does not automatically initiate a SST meeting. If the concerns can be resolved without a SST meeting, then the child is monitored for successful progress. If the concerns are not resolved, SST meeting preparation is started. For the

team to have optimum information to work with, the child's teacher should provide essential information about the child to the team. In Section F of this chapter the information provided under Student Record Review offers a format for teachers/counselors to prepare information that would be beneficial to the SST. During the meeting, an effective practice to utilize is a group memory format to assist the team in efficient documentation of ideas generated during the meeting. On the action plan that is developed, a follow-up date should be set to review the progress of the child for whom there are concerns. The action plan should be evaluated at this meeting and determination made if any further follow-up is necessary.

Section D – Individualized Education Program (IEP); Provision of Free Appropriate Public Education (FAPE) and Least Restrictive Environment (LRE)

The Charter LEA shall provide educational alternatives that afford children with disabilities full educational opportunities. Children with disabilities shall receive FAPE and be placed in the least restrictive environment that meets their needs to the extent provided by law.

The Charter LEA CEO or designee shall implement the Charter SELPA approved procedural guide that outlines the appointment of the IEP team; the contents of the IEP; and the development, review, and revision of the IEP.

Note: Education Code § 56055 provides that a foster parent, to the extent permitted by federal law, shall have the same rights relative to his/her foster child's education as a parent. Education Code § 56055 clarifies that this right applies only when the juvenile court has limited the right of a parent to make educational decisions on behalf of his/her child and the child has been placed in a planned permanent living arrangement. Education Code § 56055 defines "foster parent" as a licensed person, relative caretaker, or non-relative extended family member.

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 (*Education Code § 56055*).

Section E – Interim Placement (Students Transferring into Charter LEA)

Whenever a child with an existing individualized education program (IEP) transfers into a Charter LEA, the Charter LEA shall provide a free appropriate public education (FAPE), including services comparable to those described in the last consented-to IEP. To facilitate the transition from one LEA to another, the Charter LEA shall take reasonable steps to promptly obtain the records of a child with a disability transferring into the Charter LEA, including his/her IEP and the supporting documents related to the provision of special education and related services from the previous school in which the student was enrolled (Title 34 of the Code of Federal Regulations § 300.323; Education Code § 56325).

In order to meet the California Longitudinal Pupil Achievement Data System (CALPADS) requirements for ALL students with an IEP transferring into an LEA pursuant to Education Code

§ 56325, the receiving LEA, in consultation with the parent/guardian, shall complete the Interim Placement (IP) packet within the Web IEP System. The Interim Placement packet includes:

- the demographics page documenting all relevant information concerning the child,
- the offer of FAPE page documenting their educational program,
- the final page documenting any Special Factors listed on the current IEP from the previous LEA, and
- a signature by a school or district administrator acknowledging the Interim Placement.

A copy of the Interim Placement packet is given to the parent/guardian and forwarded to all related service providers and relevant staff members for implementation of the child's special education program. A copy of the previously approved IEP should be given to the teacher(s), uploaded into the Web IEP system, and placed in the special education pupil file.

If a child with a disability transfers to the Charter LEA during the school year from a Charter LEA within the Desert/Mountain Charter SELPA, the Charter LEA shall continue, without delay, to provide services comparable to those described in the existing IEP, unless the child's parent and Charter LEA agree to develop, adopt, and implement a new IEP that is consistent with state and federal laws (Title 34 of the Code of Federal Regulations § 300.323; Education Code § 56325).

If a child with a disability transfers to the Charter LEA during the school year from a California LEA outside of the Desert/Mountain Charter SELPA, the Charter LEA shall provide the child with FAPE, including services comparable to those described in the previous LEA's IEP. Within 30 days, the Charter LEA shall, in consultation with the parents, adopt the other LEA's IEP or shall develop, adopt, and implement a new IEP that is consistent with state and federal laws (*Title 34 of the Code of Federal Regulations § 300.323; Education Code § 56325*).

If a child with a disability transfers to the Charter LEA within the Desert/Mountain Charter SELPA during the school year from an out-of-state LEA, the Charter LEA shall provide the child with FAPE, including services comparable to the out-of-state LEA's IEP, in consultation with the parent, until such time as the Charter LEA conducts an assessment, if the Charter LEA determines that such an assessment is necessary, and develops, adopts, and implements a new IEP, if appropriate (*Title 34 of the Code of Federal Regulations § 300.323; Education Code § 56325*).

The law allows an LEA to address the IEP within the LEA's existing programs and services to the greatest extent possible for a period not to exceed the 30-day placement; therefore, it is not necessary for the parent/guardian to sign the proposed Interim Placement (IP) form. When programs or services that were provided in the former district are not in place in the new LEA at the time of enrollment, an alternative program within the LEA, a referral to a program operated by another agency, or placement in a nonpublic school may be necessary. The parent must give consent for placement in a program that is not in conformity with the current IEP.

When the IEP team meets for the 30-day review, the IEP team shall review all aspects of the IEP through the IEP process. Whether the LEA adopts the previously approved individualized education program or develops, adopts, and implements a new individualized education program, the next annual review date must align with the previous goal review date.

Section F - Early Identification of Learning Disabilities

California Education Code § 49580. The California Department of Education shall develop the testing programs to be utilized at the kindergarten grade level to determine which pupils have a potential for developing learning disability problems. The testing procedure shall include an overall screening test for learning disabilities and testing for dyslexia. To the extent feasible, the department shall use existing tests and screening instruments in developing the early diagnosis of the learning disabilities testing program. In developing the program, the department shall consult with experts in the areas of learning and reading difficulties, including, but not limited to, neurologists, psychologists, persons working in these areas in postsecondary educational institutions, teachers, school nurses, education consultants, school psychologists, and other persons with appropriate knowledge and experience in the detection and treatment of learning problems and reading difficulties in early grades.

California Education Code § 49582. The California Department of Education shall prescribe guidelines for the early diagnosis of the learning disabilities testing program and pilot project.

Student Record Review

Review the child's educational records with attention to the following:

- Amount and quality of classwork and homework, with work samples provided at the meeting;
- Test data, curriculum-based data, math, reading, language, and spelling levels;
- Indicators of resiliency, ability to handle stress, and emotional intelligence;
- Attendance;
- Hearing and vision screening results, and health issues;
- Behaviors observed in class or on the playground that are of concern;
- Retention or referral to other programs; and
- Contacts with the family.

Be prepared to present specific background information about the child, including strengths, interests, and career potential. The strengths and specific interests that motivate the child are the building blocks for the student success plan. Building on them will help the team be more creative while brainstorming strategies and designing the action plan. Examples of strengths are: good in math; likes to read; enjoys art and music; loves to sing; works well on a computer; writes creatively; did an exceptional science project; wants to please adults; and chosen by classmates as a friend and/or leader.

Identify basic concerns, the behaviors that need intervention, and the desired outcomes. Examples of concerns are: reading or math is below grade level; handwriting is difficult to read; completes only 25% of classwork; does not return homework; distracts others during lessons; does not participate in group discussions; and pushes students during recess. Examples of desired outcomes are: better attendance; increase in reading or math skills; passing competency tests; working well with peer tutor; and ability to follow specific playground rules.

Use the Modifications Checklist to indicate the general education modifications that have been tried.

Section G – Overidentification and Disproportionality

It shall be the policy of the Desert/Mountain Charter SELPA and its member LEAs to prevent inappropriate disproportionate representation by race and ethnicity of students with disabilities.

Title 34 of the Code of Federal Regulations § 300.173. Overidentification and disproportionality. The State must have in effect, consistent with the purposes of this part and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in section 300.8.

The Charter LEA shall, with Charter SELPA assistance, monitor student trends with the intent of averting inappropriate, disproportionate representation of racially, ethnically, linguistically, and culturally diverse students (by race and ethnicity of children with disabilities). The Charter SELPA shall provide the following assistance:

- Student trend data pertinent to the disproportionate calculation as reported through the California Special Education Management Information System (CASEMIS) to the California Department of Education (CDE);
- Provide up-to-date training and information provided to the Charter SELPA by the CDE;
- Continue to inform Charter LEAs concerning responsibilities related to the potential transfer of local assistance funds to reduce disproportionality under the Early Intervening requirement of IDEA.

The CDE has in effect, consistent with the purposes of IDEA and with Section 618(d), policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in Section 602(3).

Section H – Students who are Culturally and Linguistically Diverse

Children who are culturally and linguistically diverse have four initial areas of consideration for their school program. First, the language of instruction is considered. According to the IDEA 2004,

some children will need special education, which could include related speech and language services. While language diversity may be one of the most frequently discussed topics concerning academic achievement, it is important for an IEP team to consider and document the effect of a child being a second-language learner on his or her ability to make progress in the general education curriculum.

To choose the language of instruction, the IEP team must consider where on the continuum of language acquisition the child assesses for both the primary language and English. The Speech-Language Pathologist (SLP) is consulted to interpret the child's pragmatic and socialization aspects of language, which include eye contact, facial expression, nonverbal messages, and tone. These assessment data are used to determine if errors are made because of a lack of exposure to the curriculum and if exposure has been adequate to master the primary language. A determination is made as to whether the child is struggling with second-language learning or has one or more disabilities that impact learning progress.

Questions developed by Ortiz and Garcia (1988) guide the IEP team through this decision process:

1. What is the child's dominant language in various settings?
2. What is the child's level of proficiency in both the primary language and English for social and academic language?
3. What are the styles of verbal interaction used in the primary language and English?
4. How much exposure has the child had to verbal interactions in English?
5. What is the source of exposure to each language (family, peers, TV, book reading, etc.)?
6. Are the child's language behaviors characteristic of other second-language learners?
7. What types of language intervention has the child already had and what is the duration and outcome of those interventions?

For further information, refer to Education Code §§ 313 and 420 - 421.

The second area of consideration for English Learners (ELs) is for authorization of the teacher to provide instruction. The Bilingual, Cross-cultural, Language and Academic Development (BCLAD) and Cross-cultural, Language and Academic Development (CLAD) certification is required for teaching English language development. The Specially Designed Academic Instruction in English (SDAIE) authorization is required to teach English language development and content for the core subjects in the primary language. Contact your Charter LEA office to verify appropriate certification for teachers of children who are English Learners and who are receiving the core curriculum in English and for those children who are English Learners, but are learning core curriculum in their primary language.

Another consideration is the use of interpreters and translators. It is noted that *interpretation* is for oral language, while *translation* refers to written language. Using an interpreter or translator is a method of choice when the pathologist who is assigned to provide therapy is not fluent enough to provide therapy in both languages. Guidance is provided for service delivery in a resource titled Working Successfully with Interpreters and Translators in Speech-Language Pathology and Audiology, written by Langdon and Cheng.

Children with accents and dialects may be referred for special education services, speech services, or viewed as low achievers. Current efforts by the American Speech and Hearing Association (ASHA), consider these referrals misguided. The organization is attempting to avoid these potential discriminatory actions. An accent is defined as a phonetic trait from a primary language that is carried over to the way a second language is spoken. The level of pronouncement of an accent on the second language depends upon the age and circumstances under which the second language was acquired. A dialect is defined as differences that make one English speaker's speech different from another. Dialects have distinguishing characteristics, which may include: phonology, morphology, semantics, syntax, or pragmatics.

Dialects and accents are considered language variations that are accepted differences in speech (Cole, 1983). A determination by the IEP team to provide special education services must be grounded on what children who are culturally and linguistically diverse need to be successful based on academic standards, not on accent or dialect differences.

The fourth and final consideration, working with families, is one that shows respect and increases the possibility of carry-over from school interventions to the home setting. In addition to cohesive planning during the IEP process, family literacy programs supported by the Charter LEA have been especially meaningful for those who are culturally and linguistically diverse.

The information for this section is attributed to Barbara J. Moore-Brown and Judy K. Montgomery. Their book, Making a Difference for America's Children, Speech-Language Pathologists in Public Schools, 2001, is available from Thinking Publications.

In referring culturally and linguistically diverse children for special education services, care must be taken to determine whether learning, language-speech, and/or behavior problems demonstrated by the child indicate a disability or, instead, manifest cultural, experiential, and/or socio-linguistic differences.

A. All English Learners (ELs) in special education programs must,

- Receive an English Language Development (ELD) curriculum approved by the Charter LEA;
- All academic IEP goals for ELs must be linguistically/culturally appropriate;
- ELD standards are aligned with the Common Core standards and should be used when writing goals for ELs.

Please refer to the following documents posted on the Desert/Mountain Charter SELPA website for in-depth information regarding special education assessment, IEP development, and re-classification criteria: English Language Proficiency Assessments for California (ELPAC) on the CDE website at <https://www.cde.ca.gov/ta/tg/ep/>

B. In General: Child Find/Pre-Referral Activities

It is especially important for the SST to determine whether accommodations and supports in the general education curriculum or in the manner in which instruction is provided may assist the child in overcoming their learning, language-speech, and/or behavioral problems. The

child's teacher and SST should gather the following information about the child to help make this determination:

- Background;
- Culture and language;
- Acculturation level;
- Socio-linguistic development; and
- Data showing the child's response to the school and classroom environment when accommodations and supports are provided.

C. Cultural and Linguistic Interventions

Interventions to help resolve difficulties that arise from differences in cultural and linguistic background or from difficulties with the schooling process might include:

- Cross-cultural counseling and
- Peer support groups.

D. Socio-Linguistic Interventions

Interventions to help resolve difficulties that arise from differences in socio-linguistic development might include:

- Instruction in English language development;
- Bilingual assistance;
- Native language development; and
- Assistance in developing basic interpersonal communication skills.

E. In General: English Learners Receiving Special Education Services

(1) IEP Team Membership

- (a) At least one of the Charter LEA IEP team members must have a credential or certification to teach ELs. That person must indicate, next to their signature on the IEP, which credential or certification they possess (e.g., Bilingual Cross-cultural Language and Academic Development (BCLAD) or Cross-cultural Language and Academic Development (CLAD), etc.).
- (b) If the parent has limited English skills, an interpreter must be present at the IEP meeting.

The interpreter must sign the IEP; however, the interpreter is not a participating member of the team. The interpreter's role is only to interpret.

(2) Present Levels of Performance

In addition to previously discussed information:

- (a) Identify the language proficiency assessment instrument(s) used and interpret the results (English Language Proficiency Assessments or California (ELPAC));
- (b) Use the assessment results to indicate the child's instructional program (Biliteracy, Sheltered, Mainstream English Immersion, ELD, etc.) and language of instruction; and
- (c) Identify who will provide the ELD instruction guideline: If the child is removed from English instruction for special education services, that teacher/specialist is the ELD teacher.

(3) Goals/Objectives

The following rubric should be considered for each goal and objective to ensure that it meets the definition of being culturally and linguistically appropriate:

- (a) States specifically in what language the particular goal and objective will be accomplished;
- (b) Is appropriate to the child's level of linguistic development and proficiency in that language;
- (c) Consistent with the known developmental structure of that language; and
- (d) Provides cultural relevance in the curricular framework.

Refer to the document English Language Proficiency Assessments for CA – CalEdFacts on the CDE website at <https://www.cde.ca.gov/ta/tg/ep/cefelpac.asp> for more information.

F. Instructional Program Options

The following is a list of the instructional programs that are offered for students who are EL:

(1) Biliteracy

- (a) For Spanish speaking children at the emerging, early expanding, and bridging level;
- (b) Children who are grouped for instruction in full classroom configuration. The focus is in developing proficiency in both English and Spanish. The instructional emphasis is on ELD and initial access to core curriculum. There is an increase of English as the language of instruction over time; and
- (c) Classes must be taught by a teacher with a BCLAD credential or equivalent certification.

(2) Structured English Immersion with Spanish Instructional Support

- (a) For Spanish speaking children at the emerging, early expanding, and bridging level;

- (b) Children are grouped for instruction in full classroom configuration. The focus is on developing proficiency in English through ELD and Specially Designed Academic Instruction delivered in English (SDAIE), using Spanish as an instructional support; and
 - (c) Classes must be taught by a teacher with a BCLAD credential or equivalent certification.
- (3) Structured English Immersion – Sheltered
- (a) For children at the emerging, early expanding, and bridging level;
 - (b) Classes may be comprised of speakers of many languages. Children are grouped for instruction in full classroom configuration. Children may also be grouped in clusters (about 1/3 English Learners) by English language proficiency. The focus is on developing proficiency in English through ELD and SDAIE strategies; and
 - (c) Classes must be taught by a teacher with a CLAD credential or equivalent certification.
- (4) Mainstream English Cluster
- (a) For children in the early advanced to advanced proficiency level;
 - (b) Classes are designed for children who have a good working knowledge of English. The children are clustered, approximately 1/3 English Learners within a grade level classroom. Instructional emphasis is on high level ELD and grade-level core curriculum using SDAIE strategies; and
 - (c) Classes must be taught by a teacher with a CLAD credential or equivalent certification.

Section I – Teaching and Assessing California’s English Language Development (ELD) and English Language Arts (ELA) Standards for English Learners

A document provided by West Ed, Northern California Comprehensive Assistance Center, 2000, reformats the State of California’s English Language Arts (ELA) standards with those for English Language Development (ELD). The intent is for English Language students to acquire the standards established for language development to become proficient with the English Language Arts skills for reading, writing, listening and speaking. It is further proposed that one document could be provided to cluster standards from both ELA and ELD requirements with a single assessment. The assessment instrument would be helpful to identify students who are English learners, to provide information for instructional decisions, and to determine when reclassification is appropriate.

This paradigm shift promotes current thinking for competent language proficiency for all students. Rather than using language arts standards from an earlier grade level, the ELD standards follow a research-based progression from beginning to advanced language skills, and provide intermediate skills that ELD students need. Additionally the shift for future development is away from isolated use of ELD instruments toward the use of assessments representative of ELA standards.

English Language Proficiency Assessments for California (ELPAC)

School districts in California are required under federal and state laws to administer the ELPAC to determine English proficiency to students in kindergarten through grade twelve, whose primary language is not English. Students with exceptional needs who cannot take the entire ELPAC or a section of the test may be tested with special assistance and/or take alternate tests. All assistance or alternate tests must be documented in the student’s IEP or Section 504 plan. The purpose of the ELPAC is to determine how well each student tested can listen, speak, read, and write English. ELPAC scores should be used annually in developing educational needs and appropriate goals in order to determine the level of assistance needed and to ensure the student’s placement in an appropriate program.

A Map for Teaching and Assessing ELD and ELA Standards for English Learners

A map developed by West Ed, Northern California Comprehensive Assistance Center matches the standards for English Learner Development and for Language Arts Development in seven strands. Additionally it is divided into the academic areas of reading, writing, listening and speaking. They are available by grade span, (K-2, 3-5, 6-8, 9-10, and 11-12). A model that is generic for all grade level follows:

ELD Standards Alignment with ELA Standards

Reading

| <u>ELD Reading</u> | <u>ELA Reading</u> |
|--|--|
| Word Analysis, Fluency and Systematic Vocabulary Development | Word Analysis, Fluency and Systematic Vocabulary Development |
| Reading Comprehension | Reading Comprehension, Expository Critique (grade 5 and up) |
| Literacy Response and Analysis | Literary Response and Analysis |

Writing

| <u>ELD Writing</u> | <u>ELA Writing</u> |
|-----------------------------|---|
| Strategies and Applications | Strategies, Applications |
| Conventions | Written (and Oral) English Language Conventions |

Listening and Speaking

| | |
|--|---|
| <u><i>ELD Listening and Speaking</i></u> | <u><i>ELA Listening and Speaking</i></u> |
| Strategies and Applications | (Written and) Oral English Language Conventions |