



SELPA Superintendents' Council

MEETING AGENDA

February 7, 2019

10:00 am

El Dorado County Office of Education - Conference Room B-2
6767 Green Valley Road - Placerville, Ca 95667

General Items

- 1. Approval of Agenda**
- 2. Public Hearing**
(Individuals may address Board on items not on the agenda - limited to 2 minutes)

Action Items

- 3. Approval of October 4, 2018 Meeting Minutes***
- 4. Policy Revisions**
 - a. Transfer of Responsibility Policy***
 - b. SELPA Board Policy/AR 23 - Behavioral Intervention***
 - c. SELPA Board Policy/AR 24 – NPS/NPA Services***
- 5. ERMHS Funding Parameters***

Discussion Items

- 6. Regional Program Review***
- 7. Adjournment**

*Handout

Notices:

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Dr. Ed Manansala, Superintendent of Schools
David M. Toston, Associate Superintendent

SELPA Superintendents' Council

MEETING MINUTES - UNADOPTED

October 4, 2018

El Dorado County Office of Education - Conference Room B-2
6767 Green Valley Road - Placerville, Ca 95667

In attendance: Ed Manansala, Robbie Montalbano, Kevin Monsma, David Toston, Annette Lane, Cheryl Olson, Eric Bonniksen, Jeremy Meyers, Marcy Guthrie, Margaret Enns, Matt Smith, Natalie Miller, Pat Atkins, Ron Carruth, Scott Lyons, and guests: Robert Steponovich, SELPA Business Services Director.

Meeting called to order at 2:14 pm by David M. Toston, Associate Superintendent, El Dorado County SELPA/ Charter SELPA.

General Items

1. Superintendent Eric Bonniksen moved to approve agenda as presented; second by Superintendent Matt Smith; motion carries.
2. A Public Hearing was opened at 2:18 pm and, with no comment, closed at 2:18 am.

Action Items

3. Superintendent Ron Carruth moved to approve the minutes of the September 6, 2018 SELPA Superintendents' Council meeting; second by Superintendent Cheryl Olson; motion carries.
4. SELPA Lead Agency Grant Resolution
The California Collaborative for Educational Excellence (CCEE) and the California Department of Education (CDE) are in the process of selecting "Lead" entities to serve in key roles within the Statewide System of Support which serves as a safety net to help districts improve student outcomes. The El Dorado County SELPA is interested in pursuing these opportunities and has been actively engaged in activities that will enable it to contribute to the implementation of the State System of Support. A motion was made by Superintendent Marcy Guthrie to approve a resolution confirming the support of the SELPA Governing Body to pursue and, if selected, to fill the role of a SELPA Systems Improvement Lead or SELPA Content Lead; second by Superintendent Annette Lane; motion carries.

Discussion Items

5. Adjournment
The meeting was adjourned at 2:45 pm upon motion by Superintendent Marcy Guthrie; second by Superintendent Pat Atkins; motion carries.



Transfer of Responsibility

Background

On June 4, 2003, SELPA Superintendents' Council approved a Transfer of Responsibility policy. The policy went into effect as of the 2004/5 school year and specified that:

Financial responsibility in non-unified districts will remain with the elementary district until the end of the fiscal year in which the student has turned 14.8. Example: for any student who turns 14.8 on or before June 30th of any fiscal year, financial responsibility will shift to the high school as of July 1 of the next fiscal year, regardless of the grade placement or setting. Typical examples would be the ungraded SH classes, ED NPS placements, IEP team placement decisions, and state school placements.

Update

The California Department of Education now requires that all students be assigned a grade level. Consequently, this policy is no longer relevant and needs to be revisited. Further, the current policy could be interpreted to mean that students who have matriculated to high school classrooms/programs may continue to be the responsibility of the elementary school district until they meet the age requirements.

Recommendation

The SELPA recommends that SELPA Superintendents' Council approve the removal of the Transfer of Responsibility policy effective July 1, 2019. For non-unified districts, students in grades K-8 who are placed in regional program classrooms, nonpublic schools, and state special schools will be the financial responsibility of the elementary district, while students placed in grades 9-12+ will be the financial responsibility of the high school district, unless California Education Code or Federal Regulations place financial responsibility on another entity.

Question: Who is responsible for ESY at the end of the 8th grade year?

Answer: Per Ed Code section 5 CCR § 3043, the term "extended year" as used in this section means the period of time between the close of one academic year and the beginning of the succeeding academic year. ESY, by definition, is an extension of the 8th grade year. Accordingly, elementary school districts maintain full responsibility for students through ESY in the 8th grade year.



Behavioral Interventions for Special Education Students – SELPA Policy 23/AR 23

Issue

SELPA Policy 23 and Administrative Regulation 23 addressing behavioral interventions for special education students need to be updated to align with Ed Code. We have included both the redline version of Policy 23 and AR 23 highlighting the suggested revisions, along with the proposed Policy 23 and AR 23 incorporating the suggested revisions. The attachments are as follows:

- 4b.1 – Copy of SELPA Board Policy 23 with suggested revisions highlighted in red.
- 4b.2 – Copy of recommended SELPA Board Policy 23.
- 4b.3 – Copy of SELPA Administrative Regulation 23 with suggested revisions highlighted in red.
- 4b.4 – Copy of recommended Administrative Regulation 23.

Recommendation

The SELPA recommends that SELPA Superintendents' Council approve the revision of El Dorado County SELPA Policy 23 and Administrative Regulation 23, Behavioral Interventions for Special Education Students.

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

A special education student's minor behavioral problems shall be subject to the disciplinary measures applicable to all students for such infractions.

When a child's behavior impedes the child's learning or that of others, the IEP team must consider strategies and supports, including positive behavioral interventions, to address that behavior consistent with the law and SELPA procedures. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(i), (b); Ed. Code § 56341.1, subd. (b)(1).)

~~When a special education student's serious behavioral problem significantly interferes with implementing the goals and objectives of his/her individualized education program, a functional analysis assessment shall be conducted with parental consent and a written behavioral intervention plan may be developed for the student in accordance with law and SELPA procedures.~~

The LEA Superintendent or designee shall ensure that staff is informed of the El Dorado County SELPA's policy and regulations governing the systematic use of behavioral and emergency interventions.

Legal Reference:

EDUCATION CODE

- 49001 Prohibition of corporal punishment
- 56321 Notice of parental rights; consent of parents
- 56500-56507 Procedural safeguards, including due process rights
- 56520-56524 Behavioral Interventions
- 56341.1

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- 3052 Designated positive behavioral interventions

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS

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When a child's behavior impedes the child's learning or that of others, the IEP team must consider strategies and supports, including positive behavioral interventions, to address that behavior consistent with the law and SELPA procedures. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(i), (b); Ed. Code § 56341.1, subd. (b)(1).)

The LEA Superintendent or designee shall ensure that staff is informed of the El Dorado County SELPA's policy and regulations governing the systematic use of behavioral and emergency interventions.

Legal Reference:

EDUCATION CODE

- 49001 Prohibition of corporal punishment
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- 56520-56524 Behavioral Interventions
- 56341.1

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- 3052 Designated positive behavioral interventions

Revision Pending SELPA Superintendents' Council Approval 2-7-19
Revision Approved by Executive Committee 1-24-19
September, 2008

BEHAVIORAL INTERVENTIONS FOR SPECIAL EDUCATION STUDENTS INDIVIDUALS WITH EXCEPTIONAL NEEDS

~~Behavior of an individual with exceptional needs A special education student's behavior shall be subject to the disciplinary measures applicable to all students for such infractions unless the behavior is determined to be a manifestation of the student's disability. it is a serious behavior problem as defined below.~~

~~More serious b~~Behavioral problems shall be addressed through the systematic use of behavioral and emergency interventions as provided below.

~~When a child's behavior impedes the child's learning or that of others, the IEP team must consider strategies and supports, including positive behavioral interventions, to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(i), (b); Ed. Code § 56341.1, subd. (b)(1).)~~

~~Member districts may employ a Board-Certified Board-Certified Behavior Analyst ("BCBA") to conduct behavior assessments and provide behavioral intervention services, but the law does not require that these services be provided by a BCBA. (Ed. Code, § 56525.)~~

~~Note: With the Repeal of the Hughes Bill, (Assembly Bill 86, effective July 1, 2013 ("AB 86")) the law does not contain a specific definition of "behavioral intervention" and does not impose any specific requirements for how to conduct or implement a behavior assessment or behavior intervention plan. LEAs are no longer required to conduct a Functional Analysis Assessment ("FAA") for students with serious behavioral problems. (Ed. Code, § 56523.)~~

Definitions

~~**Serious behavioral problems** are behaviors which are self-injurious, assaultive or cause property damage, and other severe behavior problems that are pervasive and maladaptive for which instructional/behavioral approaches specified in the student's individualized education program (IEP) are found to be ineffective. (5 CCR 3001)~~

~~**Behavioral intervention** is a systematic implementation of procedures that result in lasting positive changes in the individual's behavior. "Behavioral intervention" means the design, implementation and evaluation of individual or group instructional and environmental modifications, including programs of behavioral instruction, to produce significant improvements in human behavior through skill acquisition and the reduction of problematic behavior. Behavioral interventions are designed to provide the individual greater access to a variety of community settings, social contacts and public events and ensure the individual's right to placement in the least restrictive environment, pursuant to the student's IEP. The use of behavioral interventions shall not cause pain or trauma, shall respect the individual's human dignity and personal privacy, and shall assure his/her physical freedom, social interaction and individual choice. (5 CCR 3001)~~

~~**Behavior intervention plan (BIP)** is a written document which is developed when the student exhibits a serious behavior problem that significantly interferes with the implementation of the student's IEP.~~

~~**Behavioral intervention case manager (BICM)** is a designated certificated district staff member or other qualified personnel contracted by the district, and trained in behavior analysis with emphasis on positive behavioral interventions. (5 CCR 3001)~~

~~Note: 5 CCR 3001 specifies that the behavioral intervention case manager is not intended as a new staffing requirement and does not create new credentialing or degree requirements. Duties of this position may be performed by any appropriately trained, certificated staff member.~~

~~**Behavioral emergency** is the demonstration of a serious behavior problem which has not previously been observed and for which a behavioral intervention plan has not been developed, or for which a previously designed behavioral intervention is not effective. (5 CCR 3001)~~

Functional Analysis Assessment

~~When a special education student's serious behavioral problem significantly interferes with implementing the goals and objectives of his/her IEP, the student's IEP team shall determine whether the instructional/behavioral approaches specified in the student's IEP have proven ineffective. If the IEP team finds that these approaches have been ineffective, a functional analysis assessment shall be conducted. (5 CCR 3052)~~

~~Before a functional analysis assessment begins, parents/guardians shall be notified and consent obtained pursuant to Education Code 56321. No such assessment shall preclude a parent/guardian from requesting a functional analysis assessment on the basis of language and speech disorders or specific learning disabilities. (5 CCR 3052)~~

~~The functional analysis assessment shall be conducted by, or be under the supervision of, a person with documented training in behavior analysis with an emphasis on positive behavioral interventions. This staff shall: (5 CCR 3052)~~

- ~~1. — Observe the targeted inappropriate behavior, its frequency, duration and intensity~~
- ~~2. — Observe events immediately preceding the behavior~~
- ~~3. — Observe the consequences of the behavior to determine the purpose it serves for the student~~
- ~~4. — Analyze the environment in which the behavior most frequently occurs~~
- ~~5. — Analyze records for medical and health factors which may influence behavior~~

~~6. Review the history of the behavior, including the effectiveness of interventions used in the past~~

~~The parent/guardian shall receive a complete written report of the assessment. The report shall include: (5 CCR 3052)~~

~~1. A description of the nature and severity of the targeted behavior(s) in objective and measurable terms~~

~~2. A description of the targeted behavior that includes baseline data and an analysis of the antecedents and consequences that maintain the behavior and a functional analysis of the behavior across all appropriate settings in which it occurs~~

~~3. A description of the rate of alternative behaviors, their antecedents and consequences~~

~~4. A proposed behavioral intervention plan for consideration by the IEP team.~~

Behavioral Intervention Plan

~~Note: As amended in Federal Register Vol. 64, No. 48, 34 CFR 300.520 requires that A a functional behavioral assessment and behavioral intervention plan shall be developed no later than 10 business days after a student is suspended for more than 10 school days in a school year or after a change of placement occurs. (34 CFR § 300.530; see SELPA Policy 16, and AR 16.)~~

Within 10 business days after removing a student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement, the member district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, Board SELPA policy (BP/AR 16), and administrative regulations. (BP/AR 16).

Note -re Terminology: BIP and BSP

The IDEA uses the term Behavior Intervention Plan (“BIP”) to refer to a less intensive behavior plan developed by the IEP team. Previously, the Hughes Bill (repealed by AB 86) used the term "BIP" to refer to a more intensive behavior plan required whenever an FAA was performed. California also had previously used the term Behavior Support Plan (“BSP”) to distinguish between the less intensive plan required by the IDEA and the more-intensive “BIP” required by the Hughes Bill. Now, with the repeal of the Hughes Bill by AB 86, it is recommended that member districts use only the term BIP for all types of behavior plans. (Ed. Code, § 56523.)

~~Based on the functional assessment, the IEP team shall meet to determine whether a behavioral intervention plan is needed. If such a plan is needed, the IEP team shall be expanded to include a behavioral intervention case manager, qualified staff knowledgeable of the student's health needs, and others with expertise as deemed necessary by the parent/guardian, district or Special~~

~~Education Local Plan Area (SELPA). This team shall develop a written behavioral intervention plan which includes: (5 CCR 3001)~~

- ~~1. A summary of relevant and determinative information gathered from the functional analysis assessment~~
 - ~~2. An objective and measurable description of the targeted maladaptive behavior(s) and replacement positive behavior(s)~~
 - ~~3. The student's goals and objectives specific to the behavioral intervention plan~~
 - ~~4. A detailed description of interventions to be used and the circumstances for their use~~
 - ~~5. Specific schedules for recording the frequency of intervention use and the frequency of the targeted and replacement behaviors, including specific criteria for discontinuing an intervention for lack of effectiveness or replacing it with a specified and identified alternative~~
 - ~~6. Criteria by which the procedure will be faded or phased out, or less intense/restrictive intervention schedules or techniques that will be used~~
 - ~~7. Those behavioral interventions which will be used in the home, residential facility, work site or other non-educational settings~~
 - ~~8. Specific dates when the IEP team will periodically review the efficacy of the program~~
 - ~~9. The frequency of the consultation to be provided by the behavioral intervention case manager to the staff and parents/guardians who are responsible for implementing the plan~~
- ~~Based on the results of the functional analysis assessment, interventions specified in the plan may include: (5 CCR 3052)~~

- ~~1. Altering the identified antecedent event to prevent the occurrence of the behavior~~
- ~~2. Teaching the student alternative behaviors that produce the same consequences as the inappropriate behavior~~
- ~~3. Teaching the student adaptive behaviors which ameliorate negative conditions that promote the display of inappropriate behaviors~~
- ~~4. Manipulating the consequences for the display of inappropriate behaviors and alternative, acceptable behaviors, so that the alternative behaviors more effectively produce desired outcomes~~

~~Acceptable responses to targeted behavior may include, but are not limited to, one or more of the~~

following: (5 CCR 3052)

1. ~~The behavior is ignored, but not the student.~~
2. ~~The student is verbally or verbally and physically redirected to an activity.~~
3. ~~The student is provided with feedback.~~
4. ~~The message of the behavior is acknowledged.~~
5. ~~A brief physical prompt is provided to interrupt or prevent aggression, self-abuse or property destruction.~~

~~The behavioral intervention plan shall become a part of the student's IEP and shall be sufficiently detailed so as to direct the plan's implementation. (5 CCR 3052)~~

~~A copy of the behavioral intervention plan shall be provided to the person or agency responsible for implementation in non-educational settings. (5 CCR 3001)~~

~~At intervals scheduled by the IEP team, the behavioral intervention case manager, parent/guardian and others as appropriate shall evaluate the effectiveness of the behavioral intervention plan in accordance with law. This review may be conducted in meetings, by telephone conference, or by other means, as agreed upon by the IEP team. (5 CCR 3052)~~

~~If the IEP team determines that changes in the behavioral intervention plan are necessary, the teacher and behavioral intervention case manager shall conduct additional functional analysis assessments and, based on the outcomes, propose changes to the plan. (5 CCR 3052)~~

~~The parent/guardian and the behavioral intervention case manager or qualified designee may make minor modifications without an IEP team meeting. The parent/guardian shall be notified of the need for modification and shall be able to review the existing program evaluation data prior to implementing the modification. Parents/guardians shall be informed of their right to question any modification to the plan through the IEP procedures. (5 CCR 3052)~~

~~The IEP team also may include in the plan contingency schedules for altering specified procedures, their frequency or their duration, without reconvening the IEP team. (5 CCR 3052)~~

Emergency Interventions

Emergency interventions not specified in a student's behavioral intervention plan shall be used only when necessary to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the student individual with exceptional needs or others, and which that cannot be immediately prevented by a response less restrictive than the

temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic behavioral intervention plan~~s- that is designed to change, replace, modify, or eliminate a targeted behavior. No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require staff to seek assistance of the schoolsite administrator or law enforcement agency, as applicable to the situation. (Ed. Code, § 56521.1-(a) through -(c)-)~~
~~(5 CCR 3052)~~

Only emergency interventions approved by the ~~El Dorado County~~ SELPA may be used. ~~No emergency intervention shall be used for longer than is necessary to contain the behavior. Upon prolonged use of an emergency intervention, staff shall seek assistance of the principal or law enforcement agency, as applicable to the situation. (5 CCR 3052) (Ed. Code § 56521.1)~~

The following emergency interventions, included in ~~“Risk Behavior management of assaultive behavior”~~ training, are approved by the El Dorado County SELPA for use by **CPI (Crisis Prevention Institute) trained staff only** and may only be used as a *last resort when a person is an immediate danger to self or others:*

- a.) CPI’s ~~Personal Safety Techniques~~Disengagement Skills
- b.) Nonviolent Physical Crisis Intervention and Team Intervention:
 - ✓ “Standing Position” utilizing one-two team members.
 - ✓ “Seated Position” utilizing two team members
 - ✓ “Team Control Position” utilizing at least two team members
 - ✓ “Children’s Control Position” for students who are considerably smaller than the staff person
 - ~~✓ “team control position” utilizing at least two team members-~~
 - ~~✓ “transport position” utilizing at least two team members-~~
 - ~~✓ “interim control position”~~

Parents/guardians/residential care provider, if appropriate, -shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the LEA Superintendent or designee for review. This report shall include: ~~(5 CCR 3052)~~

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used

5. A statement of whether the student is currently engaged in a systematic behavioral intervention plan
6. Details of any injuries sustained by students or others, including staff, as a result of the incident

(Ed. Code § 56521.1 (e).)

If the behavior emergency report is for a student who does not have a behavioral intervention plan, the LEA Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional ~~analysis-behavioral~~ assessment, and determine the necessity for an interim behavioral ~~intervention~~ plan. When applicable, the IEP team shall document the reasons for not conducting an assessment assessment a functional behavioral assessment and/or not developing an interim plan. ~~(5 CCR 3052)~~ (Ed. Code § 56521.1 (g).)

If the behavior emergency report is for a student who has a positive behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's behavioral intervention plan needs to be modified. (Ed. Code § 56521.1 (h).)

~~Ed. Code § 56521.1 (h).)~~
~~(5 CCR 3052)~~

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator. (Ed. Code § 56521.1-(f).)

~~Note: 5 CCR 3052 requires the El Dorado County SELPA to collect behavior emergency report data and annually report the number of such reports to the CDE and the Advisory Commission on Special Education.~~

Prohibited Interventions

Each member district of the El Dorado County SELPA prohibits any use of the following:
~~(5 CCR 3052)~~

1. Any intervention designed or likely to cause physical pain
2. Releasing noxious, toxic or otherwise unpleasant sprays, mists or substances near the student's face

3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort or access to the bathroom
- ~~3.~~
4. Any intervention that subjects the student to verbal abuse, ridicule, humiliation or excessive emotional trauma
5. Use of any material or objects which simultaneously immobilizes all hands and feet, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention
6. Locked seclusion, unless in a facility otherwise licensed or permitted by law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses
9. Force exceeding what is reasonable and necessary under the circumstances

(Ed. Code, § 56521.2.)

Legal Reference:

EDUCATION CODE

- 49001 Prohibition of corporal punishment
- 56321 Notice of parental rights; consent of parents
- 56341.1 Individualized Education Plans Programs
- 56500-56508 Procedural safeguards, including due process rights
- 56520-56525 Behavioral Interventions

CODE OF REGULATIONS, TITLE 5

- 3001 Definitions
- ~~3052 Designated positive behavioral interventions~~

UNITED STATES CODE, TITLE 20

- 1412 State eligibility
- 1414 Individualized Education Plans Programs
- 1415 -Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

- 300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

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BEHAVIORAL INTERVENTIONS FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS

Behavior of an individual with exceptional needs shall be subject to the disciplinary measures applicable to all students for such infractions unless the behavior is determined to be a manifestation of the student's disability.

Behavioral problems shall be addressed through the systematic use of behavioral and emergency interventions as provided below.

When a child's behavior impedes the child's learning or that of others, the IEP team must consider strategies and supports, including positive behavioral interventions, to address that behavior. (20 U.S.C. § 1414(d)(3)(B)(i); 34 C.F.R. § 300.346(a)(2)(i), (b); Ed. Code § 56341.1, subd. (b)(1).)

Member districts *may* employ a Board-Certified Behavior Analyst ("BCBA") to conduct behavior assessments and provide behavioral intervention services, but the law does not require that these services be provided by a BCBA. (Ed. Code, § 56525.)

Note: With the Repeal of the Hughes Bill, (Assembly Bill 86, effective July 1, 2013 ("AB 86")) the law does not contain a specific definition of "behavioral intervention" and does not impose any specific requirements for how to conduct or implement a behavior assessment or behavior intervention plan. LEAs are no longer required to conduct a Functional Analysis Assessment ("FAA") for students with serious behavioral problems. (Ed. Code, § 56523.)

Behavioral Intervention Plan

A functional behavioral assessment and behavioral intervention plan shall be developed no later than 10 business days after a student is suspended for more than 10 school days in a school year or after a change of placement occurs. (34 CFR § 300.530; see SELPA Policy 16, and AR 16.)

Within 10 business days after removing a student for more than 10 school days in a school year or commencing a removal that constitutes a change in placement, the member district shall implement a behavioral intervention plan in accordance with 34 CFR 300.520, SELPA policy, and administrative regulations. (BP/AR 16)

Note re Terminology: BIP and BSP

The IDEA uses the term Behavior Intervention Plan ("BIP") to refer to a less intensive behavior plan developed by the IEP team. Previously, the Hughes Bill (repealed by AB 86) used the term "BIP" to refer to a more intensive behavior plan required whenever an FAA was performed. California also had previously used the term Behavior Support Plan ("BSP") to distinguish between the less intensive plan required by the IDEA and the more-intensive "BIP" required by the Hughes Bill. Now, with the repeal of the Hughes Bill by AB 86, it is recommended that member districts use only the term BIP for all types of behavior plans. (Ed. Code, § 56523.)

Emergency Interventions

Emergency interventions not specified in a student's behavioral intervention plan shall be used only when necessary to control unpredictable, spontaneous behavior which poses clear and present danger of serious physical harm to the individual with exceptional needs or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior. Emergency interventions shall not be used as a substitute for a systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior. No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require staff to seek assistance of the school site administrator or law enforcement agency, as applicable to the situation. (Ed. Code, § 56521.1(a) through (c))

Only emergency interventions approved by the SELPA may be used. (Ed. Code § 56521.1) The following emergency interventions, included in "Risk Behavior" training, are approved by the El Dorado County SELPA for use by **CPI (Crisis Prevention Institute) trained staff only** and may only be used as a ***last resort when a person is an immediate danger to self or others:***

- a.) CPI's Disengagement Skills
- b.) Nonviolent Physical Crisis Intervention and Team Intervention:
 - ✓ "Standing Position" utilizing one-two team members
 - ✓ "Seated Position" utilizing two team members
 - ✓ "Team Control Position" utilizing at least two team members
 - ✓ "Children's Control Position" for students who are considerably smaller than the staff person

Parents/guardians/residential care provider, if appropriate, shall be notified within one school day whenever an emergency intervention is used or serious property damage occurs. A behavior emergency report shall immediately be completed, kept in the student's file, and forwarded to the LEA Superintendent or designee for review. This report shall include:

1. The name and age of the student
2. The setting and location of the incident
3. The name of the staff or other persons involved
4. A description of the incident and the emergency intervention used
5. A statement of whether the student is currently engaged in a systematic behavioral intervention plan
6. Details of any injuries sustained by students or others, including staff, as a result of the incident

(Ed. Code § 56521.1 (e).)

If the behavior emergency report is for a student who does not have a behavioral intervention plan, the LEA Superintendent or designee shall, within two days, schedule an IEP team meeting to review the emergency report, determine the necessity for a functional behavioral assessment, and determine the necessity for an interim behavioral plan. When applicable, the IEP team shall document the reasons for not conducting a functional behavioral assessment and/or not developing an interim plan. (Ed. Code § 56521.1 (g).)

If the behavior emergency report is for a student who has a positive behavioral intervention plan, any incident involving a previously unseen serious behavior problem or where a previously designed intervention is not effective shall be referred to the IEP team. The IEP team shall review the incident and determine whether the student's behavioral intervention plan needs to be modified. (Ed. Code § 56521.1 (h).)

All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator. (Ed. Code § 56521.1(f).)

Prohibited Interventions

Each member district of the El Dorado County SELPA prohibits any use of the following:

1. Any intervention designed or likely to cause physical pain
2. Releasing noxious, toxic or otherwise unpleasant sprays, mists or substances near the student's face
3. Any intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort or access to the bathroom
4. Any intervention that subjects the student to verbal abuse, ridicule, humiliation or excessive emotional trauma
5. Use of any material or objects which simultaneously immobilizes all hands and feet, except that prone containment or similar techniques may be used by trained staff as a limited emergency intervention
6. Locked seclusion, unless in a facility otherwise licensed or permitted by law to use a locked room
7. Any intervention that precludes adequate supervision of the student
8. Any intervention that deprives the student of one or more of his/her senses
9. Force exceeding what is reasonable and necessary under the circumstances

(Ed. Code, § 56521.2.)

Legal Reference:

EDUCATION CODE

49001 Prohibition of corporal punishment
56321 Notice of parental rights; consent of parents
56341.1 Individualized Education Programs
56500-56508 Procedural safeguards, including due process rights
56520-56525 Behavioral Interventions

CODE OF REGULATIONS, TITLE 5

3001 Definitions

UNITED STATES CODE, TITLE 20

1412 State eligibility
1414 Individualized Education Programs
1415 Procedural safeguards

CODE OF FEDERAL REGULATIONS, TITLE 34

300.1-300.818 Assistance to states for the education of students with disabilities

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, page 46539-46845

Revision Pending SELPA Superintendents' Council Approval 2-7-19
Executive Committee Approved Revision 1-24-19
September, 2008



Nonpublic, Nonsectarian School and Agency Services for Special Education
SELPA Policy 24/AR 24

Issue

SELPA Policy 24 and Administrative Regulation 24 addressing nonpublic, nonsectarian school (NPS) and agency (NPA) services for special education need to be updated to align with Ed Code. We have included both the redline version of Policy 24 and AR 24 highlighting the suggested revisions, along with the proposed Policy 24 and AR 24 incorporating the suggested revisions. The attachments are as follows:

- 4c.1 – Copy of SELPA Board Policy 24 with suggested revisions highlighted in red.
- 4c.2 – Copy of recommended SELPA Board Policy 24.
- 4c.3 – Copy of SELPA Administrative Regulation 24 with suggested revisions highlighted in red.
- 4c.4 – Copy of recommended Administrative Regulation 24.

Recommendation

The SELPA recommends that SELPA Superintendents' Council approve the revision of El Dorado County SELPA Policy 24 and Administrative Regulation 24, Nonpublic, Nonsectarian School and Agency Services for Special Education.

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Nonpublic, nonsectarian school (NPS) and agency (NPA) services shall be available to pupils in the ~~El Dorado County~~ SELPA. When no appropriate public educational services are available within the El Dorado County SELPA, neighboring counties or SELPAs, or state special schools, a designated member of the IEP team or ~~a the El Dorado County SELPA Administrator~~ Director shall contact the LEA Superintendent or designee if ~~this type of an NPS placement and/or NPA services~~ placement might be considered at an upcoming IEP meeting.

Each member district's ~~g~~ Governing ~~b~~ Board may contract with ~~a state-certified nonpublic, NPS nonsectarian schools or agencies or NPA~~ to provide special education services or facilities when an appropriate public education program is not available.

When entering into agreements with ~~nonpublic, nonsectarian schools or agencies~~ an NPS or NPA, each member district's ~~g~~ Governing ~~b~~ Board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The ~~member district's~~ IEP team shall remain accountable for monitoring the progress of ~~any~~ student placed in ~~nonpublic, nonsectarian~~ an NPS toward his/her IEP goals. programs towards the goals identified in each student's IEP.

Legal References:

EDUCATION CODE

- 56034-56035 Definitions of nonpublic, nonsectarian school and agency
- 56042 Placement not to be recommended by attorney with conflict of interest
- 56101 Waivers
- 56163 Certification
- 56168 Responsibility for education of student in hospital or health facility school
- 56195.8 Adoption of policies
- 56360-56369 Implementation of special education
- 56711 Computation of state aid
- 56740-56743 Apportionments and reports
- 56760 Annual budget plan; services proportions
- 56775.5 Reimbursement of assessment and identification costs

GOVERNMENT CODE

- 757-7588 Interagency responsibilities for providing services to children with disabilities, especially:
 - 7572.55 Seriously emotionally disturbed child; out-of-state placement

FAMILY CODE

- 7911-7912 Interstate compact on placement of children

WELFARE AND INSTITUTIONS CODE

- 362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court
CODE OF REGULATIONS, TITLE 5
3001 Definitions
3061-3069 Nonpublic, nonsectarian school and agency services
UNITED STATES CODE, TITLE 20
1400-1482 Individuals with Disabilities Education Act
CODE OF FEDERAL REGULATIONS, TITLE 34
300.129-300.148 Children with disabilities in private schools
COURT DECISIONS
Agostini v. Felton, (1997) 521 U.S. 203, 117 S.Ct. 1997

Management Resources:

CDE LEGAL ADVISORIES

0317.99 Nonpublic School/Agency Waivers and Reimbursement to parents

FEDERAL REGISTER

Rules and Regulations, August 114, 2006, Vol. 71, Number 156, page 46539-46845

WEB SITES

CDE: <http://www.cde.ca.gov>

Us Department of Education, Office of Special Education and Rehabilitative Services:

[http://www. Ed.gov/offices/OSERS](http://www.Ed.gov/offices/OSERS)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Nonpublic, nonsectarian school (NPS) and agency (NPA) services shall be available to pupils in the SELPA. When no appropriate public educational services are available within the El Dorado County SELPA, neighboring counties or SELPAs, or state special schools, a designated member of the IEP team or a SELPA Administrator shall contact the LEA Superintendent or designee if an NPS placement and/or NPA services placement might be considered at an upcoming IEP meeting.

Each member district's governing board may contract with a state-certified NPS or NPA to provide special education services or facilities when an appropriate public education program is not available.

When entering into agreements with an NPS or NPA, each member district's governing board shall consider the needs of the individual student and the recommendations of the individualized education program (IEP) team. The member district's IEP team shall remain accountable for monitoring the progress of any student placed in an NPS toward his/her IEP goals.

Legal References:

EDUCATION CODE

- 56034-56035 Definitions of nonpublic, nonsectarian school and agency
- 56042 Placement not to be recommended by attorney with conflict of interest
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- 56740-56743 Apportionments and reports
- 56760 Annual budget plan; services proportions
- 56775.5 Reimbursement of assessment and identification costs

GOVERNMENT CODE

757-7588 Interagency responsibilities for providing services to children with disabilities, especially:

7572.55 Seriously emotionally disturbed child; out-of-state placement

FAMILY CODE

7911-7912 Interstate compact on placement of children

WELFARE AND INSTITUTIONS CODE

362.2 Out-of-home placement for IEP

727.1 Out-of-state placement of wards of court

CODE OF REGULATIONS, TITLE 5

3001 Definitions

3061-3069 Nonpublic, nonsectarian school and agency services

UNITED STATES CODE, TITLE 20

1400-1482 Individuals with Disabilities Education Act

CODE OF FEDERAL REGULATIONS, TITLE 34

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NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION*Placement and Services*

~~Note: As amended in Register 99, No. 13, 5 CCR 3060 and 3061 specify new requirements regarding special education classes offered in non-public, nonsectarian schools and agencies. These requirements detail the staffing requirements for instructors, including the credentials that instructors must hold; the eligibility requirements for such credentials; and the number of instructors required per school or agency. Pursuant to 5 CCR 30664, the California Department of Education may issue conditional certifications to allow agencies and schools time to comply with the new requirements.~~

~~Procedures specified in~~ Applicable provisions of California and federal law shall govern the provision of special education and related services by selection of appropriate non-public schools (“NPS”) and non-public agencies (“NPA”). ~~y services.~~

~~Note: Additional requirements related to contracts and personnel with nonpublic schools or agencies are specified in Education Code 56366 and 56366.3.~~

Contracts with ~~a nonpublic school or agency~~ NPS or NPA shall include an individual services agreement (“ISA”) negotiated for each student. ~~Individual services agreement~~ ISAs shall be for the length of time for which ~~nonpublic, nonsectarian school services~~ NPS and/or NPA services are specified in the student’s individualized education program (“IEP”), but 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~~ Ed. Code § 56366.)

The master contract shall specify the general administrative and financial agreements between the ~~nonpublic, nonsectarian school or agency~~ NPS or NPA and the member 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 master contract shall also include procedures for record keeping and documentation, and the maintenance of school records by the contracting district to ensure that the NPS provides appropriate high school graduation credit ~~to is received by~~ the student. The master contract may allow for partial or full-time attendance at the ~~nonpublic nonsectarian school~~ NPS. (~~Education Code~~ Ed. Code § 56366.)

~~Note: The nonpublic school or agency~~ In order for a member district to contract with an NPS or NPA, the NPS and NPA must be certified as meeting state standards. ~~pursuant to (Ed. uation Code § 56366.)~~ A master contracts may be terminated for cause with 20-days’ notice. ~~;~~ However, the availability of a public education program initiated during the period of the master contract cannot give cause for termination unless the parent/guardian agrees to transfer the student to the public program.

The master contract shall include a description of the process being utilized by the member

district to oversee and evaluate placements in ~~nonpublic, nonsectarian schools~~ the NPS. This description shall include a method for evaluating whether the student is making appropriate educational progress. (~~Education Code~~ Ed. Code 56366)

The LEA Superintendent or designee of an elementary district shall notify a high school district of all students placed in ~~nonpublic school or agency~~ NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district. (5 CCR ~~§~~ 30698.)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student's IEP, the district which developed the IEP shall award the diploma. (5 CCR ~~§~~ 306970.)

Out-of-State Placements

~~Note: Government Code 7572.55 and Welfare and Institutions Code 362.2 and 727.i, as amended by SB 933 (Ch. 311, Statutes of 1998) relate to the~~ Out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court. ~~Such placements may be made~~ only be made after in-state alternatives have been considered and found not to meet the child's needs. (Gov. Code § -7572.55; Welf. & Inst. Code §§ 362.2 and 727.1.)

Before contracting with ~~a nonpublic, nonsectarian school or agency~~ an NPS or NPA outside California, the LEA Superintendent or designee shall document the member district's efforts to find an appropriate program offered by ~~an nonpublic, nonsectarian school or agency~~ NPS or NPA within California. (~~Education Code~~ Ed. Code § -56365.)

Within 15 days of ~~any decision for a decision to place a student in~~ 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~~ Ed. Code § 56365.)

If the member district decides to place a student with ~~an NPS or NPA nonpublic, nonsectarian school or agency~~ outside the state, the member 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. (Ed. Code § ~~education Code~~ 56365.)

LEAs Shall Ensure that NPS -Has Written Seclusion and Restraint -Policy

Prior to executing a Master Contract with an NPS, the LEA shall ensure that the NPS has a written policy governing the use of seclusions and restraints by NPS personnel. The NPS's written seclusion and restraint policy shall include, at minimum, the following:

1. Require all staff working with students receive comprehensive training in the safe and appropriate use of seclusion and restraint. Comprehensive training includes, but is not limited to ~~list any specific courses; e.g. CPI~~ Non-Violent Crisis Intervention or a course of comparable scope and depth;
2. Prohibits untrained staff from restraining students;
3. Authorizes the use of seclusion or restraint only when there is an emergency involving the immediate risk of physical harm to student or others;
4. Requires staff members to end the- restraint and/or seclusion when the emergency justifying the restrain and/or seclusion has ended;
5. Requires the NPS to contact ~~Emergency services/ Responsible LEA~~ the responsible LEA and/or law enforcement, as appropriate, whenever a restraint exceeds ~~30, 45, 60 minutes~~ 30 minutes in length;
6. Requires direct continuous observation of all students placed in seclusion;
7. Prohibits the use of chemical ~~restraints or any restraint technique, such as prone restraints~~^[01], that obstructs breathing or is otherwise harmful to the student based on the individual needs of the student including any medical or health related conditions; ^[02]
8. Prohibits NPS staff members from using seclusion or restraint to discipline students; and
9. Requires the NPS staff to notify the responsible LEA within ~~time~~ one school day whenever an LEA's student has been secluded or restrained.

The master cContract shall not be executed until an ~~LEA administrator or an appropriately trained designee~~ has reviewed the policy and determined that it complies with the requirements of this section.

Placement Procedures

The LEA Superintendent or designee shall review all documented efforts to utilize ~~all any-~~ public school options prior to utilizing an NPS or NPA. The ~~member~~ district will process referrals and locate an appropriate ~~nonpublic school~~ NPS to meet the student's needs. The ~~El Dorado County~~ SELPA may assist and/or collaborate with the member district to locate an appropriate NPS.

Each member district agrees to use the Master Contract and ~~Individual Service Agreement (ISA)~~ adopted by the ~~El Dorado County~~ SELPA. The SELPA office will ensure that the Master Contract has been approved by the ~~El Dorado County~~ SELPA's -legal counsel and is updated per federal or state requirements. The NPS is required by the Master Contract and the IEP to

annually evaluate the pupils (formally and informally) to determine if the student is making appropriate educational progress. As part of the IEP review process, each member district that contracts with an NPS shall evaluate the placement of its pupil(s) ~~in such a school~~ on at least an annual basis. The member district representative shall collaboratively review the NPS evaluation data to ensure that the results are appropriate, reliable, and valid for measuring pupil progress. The member district may ~~elect determine~~ to conduct the annual evaluation(s) and/or ~~choose to~~ administer additional assessments with parent consent.

Legal References:

EDUCATION CODE

56205(c)

56198(b)(1)

NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES FOR SPECIAL EDUCATION

Placement and Services

Applicable provisions of California and federal law govern the provision of special education and related services by non-public schools (“NPS”) and non-public agencies (“NPA”). Contracts with an NPS or NPA shall include an individual services agreement (“ISA”) negotiated for each student. ISAs shall be for the length of time for which NPS and/or NPA services are specified in the student’s individualized education program (“IEP”), but 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. (Ed. Code § 56366.)

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The master contract shall include a description of the process being utilized by the member district to oversee and evaluate placements in the NPS. This description shall include a method for evaluating whether the student is making appropriate educational progress. (Ed. Code 56366.)

The LEA Superintendent or designee of an elementary district shall notify a high school district of all students placed in NPS or NPA programs prior to the annual review of the IEP for each student who may transfer to the high school district. (5 CCR § 3069.)

When a special education student meets the district requirements for completion of prescribed course of study as designated in the student’s IEP, the district which developed the IEP shall award the diploma. (5 CCR § 3070.)

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Out-of-state placement of children who are seriously emotionally disturbed and/or wards of the court may only be made after in-state alternatives have been considered and found not to meet

the child's needs. (Gov. Code § 7572.55; Welf. & Inst. Code §§ 362.2 and 727.1.)

Before contracting with an NPS or NPA outside California, the LEA Superintendent or designee shall document the member district's efforts to find an appropriate program offered by an NPS or NPA within California. (Ed. Code § 56365.)

Within 15 days of a decision to place a student in 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 (Ed. Code § 56365.)

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1. Require all staff working with students receive comprehensive training in the safe and appropriate use of seclusion and restraint. Comprehensive training includes, but is not limited to Non-Violent Crisis Intervention or a course of comparable scope and depth;
2. Prohibits untrained staff from restraining students;
3. Authorizes the use of seclusion or restraint only when there is an emergency involving the immediate risk of physical harm to student or others;
4. Requires staff members to end the restraint and/or seclusion when the emergency justifying the restraint and/or seclusion has ended;
5. Requires the NPS to contact the responsible LEA and/or law enforcement, as appropriate, whenever a restraint exceeds 30 minutes in length;
6. Requires direct continuous observation of all students placed in seclusion;
7. Prohibits the use of chemical restraints or any restraint technique, such as prone restraints, that obstructs breathing or is otherwise harmful to the student based on the individual needs of the student including any medical or health related conditions;

8. Prohibits NPS staff members from using seclusion or restraint to discipline students; and
9. Requires the NPS staff to notify the responsible LEA within one school day whenever an LEA's student has been secluded or restrained.

The master contract shall not be executed until an LEA administrator or designee has reviewed the policy and determined that it complies with the requirements of this section.

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Legal References:

EDUCATION CODE
56205(c)
56198(b)(1)

Revision Pending SELPA Superintendents' Council Approval 2-7-19
Revision Approved by Executive Committee on 1-24-19
September, 2008



ERMHS Funding Parameters

Issues

SELPA proposes revised Allocation Plan language regarding Educationally Related Mental Health Services (ERMHS) to achieve better alignment between funding and allocation and to streamline administration.

- 1) Current language in the Allocation Plan about the amount of ERMHS revenue reserved to pay for residential NPS placements needs to be clarified and simplified.
- 2) The current allocation of state apportioned ERMHS funding is \$48 per ADA based on prior year P-2 ADA. However, state funding to the SELPA is based on current year P-2 ADA.

Background

	ERMHS Budget	FINAL 2015-16	FINAL 2016-17	FINAL 2017-18	Estimate 2018-19	Estimate 2019-20
		June 2016	June 2017	June 2018	Jan 19 EST	Jan 19 EST
1	ERMHS State	1,312,981	1,313,229	1,326,759	1,353,382	1,350,856
2	ERMHS Federal	252,410	250,327	251,544	250,563	249,512
3	14/15 Carryover	8,099				
4	Total Available Funding	1,573,490	1,563,556	1,578,303	1,603,945	1,600,368
5	Level 3 - Residential	141,520	189,218	255,667	251,544	251,544
6	EDCOE Regional Program	230,000	230,000	230,000	230,000	230,000
7	Behavior Analyst	187,191	353,035	214,445	195,727	206,000
8	Professional Development	20,000	20,000	20,000	20,000	
9	District Allocation	933,377	946,510	1,049,972	1,001,688	993,772
10	Hold Harmless	111,931	106,105	-	-	-
11	Total expenditures	1,624,018	1,844,868	1,770,084	1,698,958	1,681,316
12	Beginning Balance	721,656	671,128	377,120	185,339	90,326
13	Income less expenditures	(50,528)	(281,312)	(191,781)	(95,013)	(80,948)
14	PY Adjustments		(12,696)			
15	Ending Balance	671,128	377,120	185,339	90,326	9,378

Residential Placements

The underlying intent of the Allocation Plan is that 100% of a district's costs for a residential NPS placement will be covered. Current Allocation Plan language:

Residential Placements

Separate from the LEA allocations, funding to pay for 100 percent of room and board costs for mental health residential placements will be available. ERMHS federal revenue will be the primary and initial source of funding for these placements. Each year, the SELPA will budget a reasonable amount of ERMHS funding that will be available to reimburse these placements. Residential placements are unpredictable; in the unlikely event that costs exceed the established budget, Shared Risk Pool funding will be requested. Any unused funds from the residential budget will be held as ERMHS reserves for future use.

To administer the dual requirement to set a budget and use federal revenue as the primary funding source, the annual fiscal year budget has historically been set at the estimated federal ERMHS grant amount. The fact is that this number may or may not reflect a solid estimate of residential placement expenses in a given year, and requiring federal revenue to be used first adds to the administration of ERMHS funding when actual expenditures are below the federal grant amount. Federal grants have restrictions on the period within which they must be spent. Therefore, to preserve the entire grant amount for any given year, year by year tracking of the grant amount awarded vs. spent is required.

The language regarding any budget overage becoming a Shared Risk Pool request does not specify if that request is to be funded at 100% or at the 50% Shared Risk Pool reimbursement amount. Finally, the past few years we are deficit spending ERMHS revenue. It does not seem reasonable to maintain a reserve considering that fiscal reality, particularly when funding is also guaranteed by the Shared Risk Pool.

ERMHS Per ADA Funding Allocation

State funding apportionments for ERMHS are funded to SELPAs based on current year ADA for the second principal apportionment (P-2). The initial apportionment of 50% of the appropriated funds is calculated based on prior year P-2 statewide SELPA ADA. A second apportionment of 25% of the appropriated funds, also based on prior year ADA, is made in the spring. Funding is then adjusted to reflect current year P-2 certified ADA, and the remaining funds will be apportioned in the summer.

To provide a stable funding stream, the SELPA pass-through of ERMHS funding has been based on prior year P-2 ADA. Although this eliminates budget variances, it also has the potential to provide funding to districts for ADA no longer with the SELPA. For instance, if a charter school leaves the El Dorado SELPA to join another SELPA. In general, the actual ADA changes countywide from year to year would not cause significant budget variances. The table below uses 2017-18 funding as an example and shows the impact of using current year ADA rather than prior year ADA.

ERMHS 2017-18 Revenue Summary Allocation					
	2016-17 P-2 ADA	2017-18 P-2 ADA	Current Allocation Model (based on PY P-2 ADA)	Proposed Allocation Model (current year P-2 ADA)	Variance (Proposed model - Current model)
					\$ 48.00
BOM	1,188.28	1,175.83	57,037.00	56,440.00	(597)
BUCKEYE	4,604.58	4,686.35	221,020.00	224,945.00	3,925
CAMINO	486.43	444.27	23,349.00	21,325.00	(2,024)
EDUHSD	6,313.00	6,294.46	303,024.00	302,134.00	(890)
GOLD OAK	454.33	452.22	21,808.00	21,707.00	(101)
GOLD TRAIL	651.24	674.73	31,260.00	32,387.00	1,127
INDIAN DIGGINGS	15.21	19.17	730.00	920.00	190
LATROBE	133.81	131.31	6,423.00	6,303.00	(120)
MOTHER LODE	1,035.77	989.42	49,717.00	47,492.00	(2,225)
PIONEER	294.00	292.23	14,112.00	14,027.00	(85)
PLACERVILLE	1,230.54	1,216.89	59,066.00	58,411.00	(655)
POLLOCK PINES	651.99	652.60	31,296.00	31,325.00	29
RESCUE	3,615.12	3,522.13	173,526.00	169,062.00	(4,464)
SILVER FORK	8.44	7.30	405.00	350.00	(55)
COE Charter	233.32	191.65	11,199.00	9,199.00	(2,000)
Totals	20,916.06	20,750.56	1,003,972.00	996,027.00	(7,945.00)

Recommendations

1) Residential Placements

Amend the residential placements language in the ERMHS section of the Allocation Plan as follows:

Residential Placements

Separate from the LEA allocations, funding to pay for 100% ~~percent~~ of room and board costs for mental health residential placements will be available. ~~ERMHS federal revenue will be the primary and initial source of funding for these placements.~~ Each year, the SELPA will budget a reasonable amount of ERMHS funding that will be available to reimburse these placements ~~at 100%.~~ Residential placements are unpredictable; in the unlikely event that costs exceed the established budget, ~~a transfer from the Shared Risk Pool will cover any shortfall from the 100% reimbursement amount. funding will be requested. Any unused funds from the residential budget will be held as ERMHS reserves for future use.~~

2) ERMHS Per ADA Funding Allocation

Beginning in 2019-20, revise the funding model to allocate ERMHS revenue based on current year P-2 ADA. This will have minimal impact on districts and would ensure that only current year SELPA ADA is being funded, which follows the allocation model from the State.



Regional Program Review

Goal

Districts, EDCOE and SELPA collaborate to develop an approach to identify and resolve challenges related to the collective governance, funding and operations of regional programs.

Currently Identified Challenges

1. Structural deficit in regional program funding model
2. Insufficient capacity to respond to the increasing need for student placements
3. Ability to maintain quality of programs (i.e., recruiting hard to find staff, P.D., etc.)
4. Unclear roles and responsibilities and accountability regarding regional programs
5. Need to develop strategies for regular communication related to regional programs

Proposed Actions

SELPA

1. Facilitate conversation intended to create shared vision and accountability for sustaining regional programs.

EDCOE

1. Create clearer picture of revenues and expenditures for regional programs as requested by district superintendents.

Districts

1. Identify priorities and expectations of regional program operators.
2. Develop a description of current challenges from district perspectives.

All

1. Determine and commit to a timeline to complete the aforementioned actions.

Timeline Summary:

<i>December 2018</i>	EDCOE Budget Presentation (completed)
<i>February 2019</i>	EDCOE Regional Program Overview Presentation (2/7)
	Identify 2019-20 Regional Program Needs
<i>March 2019</i>	2019-20 Short Term Regional Program Needs
<i>March - April 2019</i>	Develop Regional Program Structure for 2020-21
<i>March - April 2019</i>	Transportation Agreement Review
<i>May - June 2019</i>	Approval of Regional Program Structure for 2020-21
	Begin any supporting personnel actions
<i>August – September 2019</i>	Develop 2020-21 Regional Program Funding Model
<i>October – November 2019</i>	Approval of 2020-21 Regional Program Funding Model
<i>December 2019 – June 2020</i>	Transition/System Development
<i>July 2020</i>	Implement Plan