

TRI-VALLEY SPECIAL EDUCATION
LOCAL PLAN AREA (SELPA)

SECTION 3

AGREEMENTS/BYLAWS

LOCAL PLAN
FOR SPECIAL EDUCATION

Revised June, 2016

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AGREEMENTS/BYLAWS

IMPLEMENTATION, ADMINISTRATION, AND OPERATION OF THE TRI-VALLEY SPECIAL EDUCATION LOCAL PLAN AREA

PURPOSE

The purpose of this agreement is to provide for the creation and continuation of the Tri-Valley Special Education Local Plan Area (SELPA), an agency which is separate from the parties to this agreement. This agency shall designate an Administrative Unit (AU) to provide administrative, personnel, and fiscal services for the Tri-Valley SELPA. The SELPA is structured to comply with the requirements of the State of California's Education Code (Part 30) and the federal Individuals with Disabilities Education Improvement Act (IDEA).

PARTIES TO THIS AGREEMENT:

Alameda County Office of Education
Dublin Unified School District
Livermore Valley Joint Unified School District
Mountain House Elementary School District
Pleasanton Unified School District
Sunol Glen Unified School District

AUTHORITY:

This agreement is entered into pursuant to California Education Code sections 56140, 56195.1-56195.5 and 56205-56208 regarding Special Education Local Plan Areas.

ADMINISTRATION AND GOVERNANCE:

The SELPA is governed by a governance council made up of one trustee and the superintendent (or superintendent's designee) from each of the five largest districts, and a trustee from Mountain House. Each district has one vote. The SELPA also has a Director's Council, a Finance Committee and a Community Advisory Committee, and is administered by a SELPA Director. See Section 2 of the Local Plan

AUDITING AND ACCOUNTING SERVICES:

The Auditor-Controller of Alameda County, the Alameda County Superintendent of Schools, and the Treasurer of Alameda County shall perform the Auditor-Controller and Treasurer functions prescribed by Government Code Section 6505 and 6505.5 in the same manner that they perform these functions for school districts. The approval of demands for which the County Superintendent of Schools shall draw warrants shall be performed in accordance with the policies and procedures adopted by the Governance Council, subject to the review and approval of the County Superintendent of Schools, as required by Education Code Section 42633 and following. There shall be a strict accountability of all funds. All revenues and expenditures shall be reported to the Joint Powers Board.

FUNDS AND EXPENDITURES: The Administrative Unit is authorized to receive, disburse, and expend funds for the conduct of regionalized services in accordance with the Local Plan and the Annual Budget approved by the Governance Council. The AU Superintendent establishes record-keeping procedures in accordance with state and federal requirements, and prepares and submits required fiscal reports, including an annual audit, to the appropriate authority.

The District designated as the Administrative Unit (AU) is responsible for fiscal service including receipt and distribution of regionalized services funds, provision of administrative support, and coordination of the implementation of the plan.

Each participating school district maintains compatible fiscal records and provides fiscal information necessary for the completion of required reports.

Direct program costs, direct support costs, and regionalized services expenditures are clearly identified, recorded, and reported. Property acquired by the SELPA shall be distributed in a manner determined by the Governance Council.

The fiscal year of the SELPA shall run July 1 through June 30.

THE SELPA POWERS SHALL INCLUDE THE FOLLOWING:

1. To make and enter into contracts.
2. To utilize the services of personnel of the parties when such services are offered by the parties.
3. To sue and be sued in its own name.
4. To incur debts, liabilities, or obligations.
5. To apply for, accept, receive, and disburse funds and grants from any agency of the United States of America, the State of California, or any other public agency.
6. To invest any money in the Treasury that is not required for the immediate activities of the SELPA, as the Governance Council determines is advisable, in the manner and on the same conditions as local agencies, pursuant to Government Code Section 53601.
7. To adopt policies and bylaws governing the operations of the SELPA as outlined in the Local Plan.
8. To carry out and enforce all the provisions of this agreement.

The AU may be the SELPA's agent in the exercise of any or all of these powers when so authorized by the Governance Council.

The AU Superintendent or superintendent designee shall supervise the SELPA Director. Any AU staff positions and personnel shall be proposed to the Governance Council for their approval unless the Governance Council chooses to delegate that function to the AU. The duties of the SELPA Director and other individuals employed by the AU shall be stated in position descriptions, which shall be recommended by the directors' council and formally approved by the Governance Council. The Governance Council may modify such position descriptions in whole or in part and at any time during the term of this agreement with the concurrence of the AU.

The powers listed above shall be exercised in the manner provided in the law and be subject only to the restrictions upon the manner of exercising such powers as are imposed upon LEAs in the exercise of such power.

POWERS OF LEAS:

The governance of LEA special education programs shall be the responsibility of LEA governing boards. LEA governing boards shall have and retain authority to receive and budget all special education income allocated by the Governance Council for programs and services provided by LEAs, and for state regionalized services if so allocated.

THE SELPA SHALL:

1. In conjunction with the LEAs who are parties to this agreement, develop a local plan for the education of individuals with exceptional needs in accordance with the requirements of the Education Code Sections 56205 and following.
2. Coordinate the implementation of the Local Plan.
3. Provide administrative support and regionalized services to each of the parties in the following areas at levels to be determined by the Governance Council subject to Annual Budget Plan allocations.
 - a. Personnel development pursuant to Ed. Code Sections 56240 and following.

- b. Program evaluation pursuant to Ed. Code Sections 56600 and following.
 - c. Data collection and the development of management information systems as needed to meet Tri-Valley SELPA requirements.
 - d. Local Plan curriculum development.
 - e. Ongoing review of programs conducted, and procedures utilized, under the Local Plan.
 - f. Others, as appropriate.
4. Allocate Instructional Personnel Service Units (IPSUs) to infant programs and services in the Tri-Valley SELPA.
 5. Coordinate the development of uniform policies and procedures governing identification, referral, and placement of individuals with exceptional needs pursuant to Education Code Sections 56300 and following.
 6. Develop a process for the coordination with other public agencies, which are funded to serve individuals with exceptional needs.
 7. Enter into agreements with individual school districts, other SELPAs, and/or the County Superintendent of Schools for the provision of special education services.
 8. Receive, distribute and account for regionalized services funds for local plan implementation.
 9. Decide disputes within the scope of this agreement among the parties.
 10. Adopt an Annual Budget Plan.

ANNUAL BUDGET PLAN:

A budget plan which allocates instructional personnel service units directly to agencies operating services and which allocates regionalized service funds which are disbursed by the Administrative Unit is prepared annually by the Tri-Valley Special Education Directors' Council. The tentative budget shall be presented to the Governance Council by June 30. Final adoption shall be completed by September 30. The AU Board adopts the budget at a public hearing. Notice of the hearing is posted in each school in the SELPA at least fifteen (15) days prior to the hearing. Proposed policy-making process described in the Local Plan.

OBLIGATIONS OF THE TRI-VALLEY SELPA:

The Tri-Valley SELPA shall be an independent public entity. The Tri-Valley SELPA shall be solely responsible for its duties, liabilities and obligations and the duties, liabilities and obligations of the AU when it is acting on behalf of the Tri-Valley SELPA. They shall not be the duties, liabilities or obligations of the parties hereto.

AUTHORITY AND RESPONSIBILITIES OF THE PARTIES:

Each LEA is responsible for special education programs operated by that LEA and for programs operated on behalf of the SELPA. Each LEA shall cooperate with the Tri-Valley SELPA and the Joint Powers Board in the development of the Local Plan and in the review and approval of revisions to said plan.

DUTIES OF THE SUPERINTENDENT:

The superintendents of the LEAs named as parties to this agreement shall advise and consult with the SELPA Director through the AU Superintendent.

SPECIAL EDUCATION ADMINISTRATORS:

Each LEA shall designate the director of special education to act as the primary contact person for the district with the AU. The directors of special education shall meet as the Tri-Valley Special Education Directors' Council to plan, make recommendations and supervise SELPA programs and activities.

BONDING PERSONS HAVING ACCESS TO PROPERTY:

The public officers or persons who have charge of, handle, or have access to any property of the Tri-Valley SELPA shall be the Treasurer of Alameda County, the County Superintendent of Schools, the AU Superintendent, and any other officers or persons to be designated or empowered by the Governance Council. Each such officer or person

shall be required to file an official bond with the AU in the amount of One Hundred Thousand Dollars (\$100,000) or in such other amount as may be established by the Governance Council.

Should the existing bond or bonds of any such officer or person be extended to cover the obligations provided herein, said bond shall be the official bond required herein. The premiums on any such bond or bonds attributable to the coverage required herein shall be appropriate expenses of the Tri-Valley SELPA.

DISTRIBUTION OF LIABILITY:

The Tri-Valley SELPA's members are jointly and severally liable for the negligent or wrongful acts of the Tri-Valley SELPA and one another occurring in the performance of this agreement. Each party hereto agrees to indemnify and hold the other parties harmless from all liability for damage, actual or alleged, to persons or property arising out of or resulting from negligent acts or omissions of the indemnifying party or its employees. Where the Tri-Valley SELPA itself or its AU employees are held liable for injuries to person or property, each party's liability for contribution or indemnity for such injuries shall be determined by multiplying the judgment recovered or settlement paid by a percentage equal to the party's average daily attendance for the previous school year, using the figures for average daily attendance shown on the California State Department of Education Annual Report of Attendance. In the event of liability imposed upon any of the entities, which are a part of this agreement, or upon any entity created by this agreement, for injury which is caused by the negligent or wrongful act or omission of any of the parties in the performance of this agreement, the contribution of the party or parties which are not directly responsible for the negligent or wrongful act or omission shall be limited to \$100.00. The party or parties directly responsible for the negligent or wrongful act or omission shall indemnify, defend, and hold all other parties harmless from any liability for personal injury or property damage arising out of the performance of this agreement.

INSURANCE:

Each party shall obtain public liability, property damage, and worker's compensation insurance, sufficient so that it may meet its potential liabilities hereunder. The superintendents shall provide for insurance for the Tri-Valley SELPA and the parties hereto for loss, liability, or claims arising out of or in any way connected with this agreement.

If any party to this agreement exceeds the funds allocated in the annual budget plan approved by the Governance Council as specified in Section 8 above, the resultant cost of such excess shall be borne by the LEA that exceeded such allocation.

AMENDMENTS: This agreement is reviewed annually and may be amended as necessary according to the procedures for decision-making established in the plan. Any such amendment becomes effective after approval by all parties to the Local Plan and submitted to the State. Amendments are reviewed by the Community Advisory Committee and by others specified by law.

DURATION OF AGREEMENT:

This agreement remains in effect until rescinded or revised. The Governance Council will review the Agreement and make a recommendation to the local boards for renewal or termination. Each district agrees to notify the Governance Council at least one year prior to a proposed withdrawal from the SELPA. Any application for participation in the Tri-Valley SELPA must be submitted to the Governance Council at least one year prior to the proposed membership.

DISPOSITION OF PROPERTY AND FUNDS UPON TERMINATION:

Upon termination any personal property and funds of the Tri-Valley SELPA shall be distributed as follows:

1. All property and funds shall be transferred to the new agency operating the system.
2. If no new agency exists, all property shall be distributed pursuant to an agreement reached by all parties to this agreement at that time. If said parties cannot agree on distribution, said property shall, to the extent possible, be sold for cash, and said cash and the remaining unsold property shall be

- distributed to each of the parties in accordance with the respective contributions of each party to the cost of said property
3. After payment of all costs, expenses, and charges incurred under the agreement, any monies in the possession of the Tri-Valley SELPA shall be returned to the parties in proportion to contributions made.

SEVERABILITY:

Should any portion, term, condition or provision of this local plan or these agreements be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of California, the validity of the remaining portions, terms, conditions, and provisions shall not be affected.

ADOPTION PROCEDURE:

This local plan becomes effective upon adoption, upon the adoption by all participating governing boards of a Resolution of Adoption of the Tri-Valley Special Education Local Plan.

SUCCESSORS:

This agreement shall be binding upon, and inure to the benefit of, the successors of the parties.

COORDINATED SYSTEM FOR FREE APPROPRIATE PUBLIC EDUCATION (FAPE), FULL EDUCATIONAL OPPORTUNITY AND CHILD FIND

Relative to the procedures for identification, screening, referral, assessment, instructional planning, placement, and review in the Tri-Valley SELPA Local Plan and pursuant to California Education Code Section 56300 et. seq., the districts participating in the plan agree as follows:

1. Each district conducts child find activities in accordance with EC56301.
2. Each district of residence screens school enrollees and non-school individuals, processes referrals, completes assessments, and holds IEP meetings. The district of service conducts reviews of IEPs and placements, including required annual and triennial reviews and re-assessments as specified in the Tri-Valley SELPA procedures.
3. Each LEA operates its own programs unless it is not feasible to do so. Feasibility is established by the Directors' Council. By consensus, the Council recommends an Annual Service Plan to the Governance Council and identifies programs and services to be provided on a regional basis and by LEAs. The general rule is that an LEA provides for its own children who are placed in specialized academic instruction and related service programs. Certain other special classes are designated as SELPA-wide programs for students with disabilities residing in the geographic area of the Tri-Valley SELPA. A representative of the receiving district participates in the meeting when an IEP team considers a placement in that district.

PROCEDURAL SAFEGUARDS

To meet each district's due process responsibilities, the districts participating in the Tri-Valley Local Plan, pursuant to 20 USC 1412 (A)(6), 20 USC 1415 agree as follows:

1. Each district holds ownership of and is responsible for IEPs of individuals with disabilities who reside in the geographic boundaries of that district.
2. State law requires that each district adopts and implements policies and regulations for procedural due process, which are in compliance with state and federal law.

REGIONALIZED SERVICES

Relative to the regionalized services described in the Tri-Valley Local Plan, the districts participating in the plan pursuant to California Education Code Section 56000 et. seq., 56368, 56240, et. seq., and 56600 et seq. agree that these services are provided to the region as follows:

1. Data Management (MIS): The AU and/or SELPA collects and summarizes data from each LEA. A system that provides for the management and reporting of state and federal required data as well as other pertinent information is determined by the Directors' Council.
2. Personnel Development: A regionalized plan for personnel development will be prepared by the Directors' Council with input from the CAC. Allocations to support the plan will be made by the AU as approved by the Governance Council in the Annual Budget Plan.
3. Evaluation: A regionalized plan for evaluation will be developed by the Directors' Council. Evaluation will be supervised by the SELPA Director. Allocations to support the plan will be approved by the Governance Council in the Annual Budget Plan.

COORDINATION WITH OTHER AGENCIES

The Dublin Unified School District, Livermore Valley Joint Unified School District, Mountain House Elementary School District, Pleasanton Unified School District, and Sunol Glen Unified School District, and Alameda County Office of Education agree that:

1. The Directors' Council specifies services to be provided considering impact on plan participants.
2. A designated LEA director negotiates agreements with other agencies including services and costs.
3. The Directors' Council reviews all such agreements and submits them to the Governance Council for review and approval.

EXCESS COSTS/DEFICITS

The districts participating in the Tri-Valley SELPA agree as follows:

1. Direct Instruction: Annual Service and Budget Plans shall be developed by the Directors' Council and submitted to the Governance Council for approval.
 - a. If any party to this agreement exceeds the funding allocations specified in the Annual Budget Plan approved by the Governance Council, the resultant cost of such excess shall be borne by the LEA that exceeded the allocation.
 - b. Deficits which occur in direct instruction programs provided as SELPA-wide services will be shared by LEAs in a proportion and amount to be recommended to the Governance Council by the Directors' Council and Finance Committee.
2. Regionalized Services: The regionalized services budget includes an allocation for the cost of Administrative Unit services and for program review, evaluation, MIS, curriculum, and personnel development as specified in the Annual Budget Plan. A reserve will be maintained. The first 25 percent of any deficit in regionalized and AU services will be divided equally among the districts, except Mountain House, whose assessment will not exceed \$500 during each year. The balance will be divided and charged to each LEA based on that LEA's prior year P-2 ADA.

COORDINATING AND PROVIDING SERVICES TO STUDENTS WITH DISABILITIES PLACED IN PUBLIC HOSPITALS, PROPRIETARY HOSPITALS, AND OTHER RESIDENTIAL MEDICAL FACILITIES (5667 ET. SEQ.)

Not applicable

NON-PUBLIC SCHOOL AND NON-PUBLIC AGENCY SERVICES.

The Tri-Valley SELPA is a member of the Bay Area Collaborative (BAC) and shall use the BAC's Master Contract and rate tables when contracting with a Non-Public School or Non-Public Agency.

COORDINATING AND PROVIDING SERVICES TO STUDENTS WITH DISABILITIES PLACED IN FOSTER HOMES/LCI (561156.5(B))

The districts participating in the Tri-Valley SELPA agree that each LEA will provide programs and services to students with disabilities placed in foster homes located in the LEA.

COORDINATING AND PROVIDING SERVICES TO STUDENTS WITH DISABILITIES PLACED IN JUVENILE COURT SCHOOLS.

Students placed in Juvenile Court School are the responsibility of the Alameda County Juvenile Court School (County Superintendent of Schools). Alameda County shall provide the services to the identified students according to procedures in the Interagency Agreement, effective 6/00.

The Alameda County Juvenile Court School (County Superintendent of Schools) will provide psych-educational assessments according to the procedures in the Interagency Agreement, effective 6/00.

COORDINATING AND PROVIDING SERVICES TO STUDENTS WITH DISABILITIES PLACED IN ADULT JAILS

Adults who are aged 18 through 21 years, who have not graduated with a high school diploma, who, at the time they turned 18 years were identified as an individual with exceptional needs and had an individualized education program (IEP) under the IDEA, are also entitled to a FAPE (hereinafter, "eligible adults"). (See 20 U.S.C. § 1400 (d)(1)(A), (B), (C); 20 U.S.C. § 1412(a)(1)(A); Cal. Educ. Code, §§ 56000, 56026(c)(4).) This applies to adults incarcerated in California adult jails and prisons. However, an individual, aged 18 through 21 years, who, in the educational placement prior to his or her incarceration in an adult correctional facility was not identified as an individual with exceptional needs or did not have an IEP under the IDEA, is not entitled to a FAPE. (20 U.S.C. § 1412(a)(1)(B); Cal. Educ. Code, § 56040(b).)

District of Residence

For eligible adults who prior to reaching the age of majority resided within the Tri-Valley SELPA geographic boundaries, the applicable local educational agency (LEA) within the SELPA shall ensure they have available to them a FAPE. If the parent relocates to a new district of residence, the new district of residence shall become the responsible LEA. If the student is conserved, the residence of his or her conservator shall control. (Cal. Educ. Code, § 56041)

Individualized Education Program

It is the responsibility of the incarcerated student to request a review of their special education services. Once the LEA is informed that one of its residents is an eligible adult incarcerated at an Adult Jail and the student has requested a review of their IEP, the designated LEA will arrange to review the individual's IEP as necessary, subject to the cooperation of the correctional facility where the student is located.