

Charter SELPA Executive Committee Meeting – 9-12-19
CEO Policy 27
Attachment 1

Charter School At Risk and Closure

CHARTER SCHOOL AT RISK

If matters arise that could potentially cause a loss to the SELPA or there is a concern that funds are not being spent appropriately for special education, Charter SELPA administration may make a determination to:

- withhold state and federal funding; or
- move an LEA to reimbursement based state funding, requiring expenditure reporting prior to cash distribution; and/or
- require an LEA to submit proof of actual expenditures.

Potential such matters include, but are not limited to:

- Notice of revocation
- Notice of bankruptcy
- FCMAT extraordinary audit
- Annual audit with material findings and identification of operational issues that cause concern regarding the long term viability of the organization.
- Other circumstances that create a concern that a loss to the SELPA is possible or funds are not being spent appropriately for special education.

Charter SELPA administration may make a determination to exclude a charter from federal funding eligibility if matters come to their attention that cause them to believe compliance requirements of CDE or the federal grant itself may be violated by doing so.

The charter may appeal the determination made pursuant to this policy to the Charter SELPA Appeals Committee.^[RS 1]

CHARTER SCHOOL CLOSURE

A charter school may choose to close voluntarily, close involuntarily through non-renewal, ~~or~~ close involuntarily through revocation by their authorizing LEA. When these instances arise the LEA is required to complete closure procedures below. Additionally, there are circumstances that require an LEA's where a charter school's CDS code changes from the previous year CDS code to change; in these instances the SELPA will determine if closure procedures are necessary on a case by case basis. ,even though this may not mean the charter has closed operations. Whenever there is a change to a CDS code, the Charter SELPA and LEA are required to complete the following closure procedures.

- Each Charter SELPA LEA must provide the SELPA with a copy of the charter's closure policy, contained in the most recently approved charter petition.
- A Charter SELPA LEA must notify the SELPA immediately of a closure or CDS code change for any reason.

1. ~~1~~ Documentation and Notice of Closure

The LEA will immediately provide the SELPA:

- ~~a. Written notification of the school closure.~~ ~~or CDS code change~~
- ~~b. A copy of the charter's closure policy, contained in the most recently approved charter petition.~~

~~A~~ The Charter SELPA ~~LEA~~ LEA must send notice of its closure to the following parties/entities:

- a. Parents or guardians of students.
- b. The authorizing entity.
- c. The county office of education (if the county board of education is not the authorizing entity);
- d. The El Dorado Charter SELPA
- e. The retirement systems in which the school's employees participate.
- f. The California Department of Education.

Notification of all the parties/entities above must include at least the following:

- a. The effective date of the closure.
- b. The name(s) of and contact information for the person(s) handling inquiries regarding the closure.
- c. The students' school districts of residence.
- d. How parents or guardians may obtain copies of student records, including specific information ~~n~~ on completed courses and credits that meet graduation requirements.

The notification and documentation requirements are not limited to the items listed above. The Charter SELPA may require additional information from the charter as needed to ensure:

- ~~a. a~~ Appropriate transition of special education services for students served by the charter;
- ~~b. C~~ Compliance with state and federal laws;
- ~~c. C~~ Compliance with state and federal funding requirements; and/or
- ~~d. the a~~ Accuracy and reliability of any data submitted to the Charter SELPA .

2. ~~2~~ SELPA Written Notification to Closing Charter

Consistent with Education Code and CDE requirements, charter school closure procedures must include plans for transfer and maintenance of school and student records, including any special education records, filing of expenditure and other fiscal reports, and completion of a final audit. After receiving notification of an Charter SELPA LEA LEA closure, the Charter SELPA will, in writing:

- ~~a. r~~ Remind the charter of its closure obligations;
- ~~b. R~~ Request from the charter information necessary to process the closure internally; and
- ~~c. N~~ Notify the charter of any action deemed necessary to minimize financial loss to the Charter SELPA.

~~3. Financial Closeout~~

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If there are no funding restrictions in place, upon determination of satisfactory completion of items outlined in the required written notification from the Charter SELPA, any amounts owed to the charter may be released. The required written notification from the Charter SELPA will state that, because of the timing of the annual audit and SELPA receipt of federal funds, final funds may not be released for

up to eight months after the charter has closed.

The Charter SELPA may release ERMHS funds before the final charter audit is issued if all program and fiscal documentation is on file as required by the Charter SELPA and there are no conditions that would cause the Charter SELPA to be concerned about the reliability of data submitted.

In the event of a bankruptcy, the release of funds may be impacted by the direction of the courts.

If the Charter SELPA makes a finding that it would not release any final amounts owing to the charter, that finding will be disclosed to the Executive Committee.

4. ~~4.~~ Release of Claims

When an ~~an~~ [Charter SELPA LEA](#) closes, the LEA forever releases and discharges the Charter SELPA and its past and present principals, members, partners, officers, directors, affiliates employees, agents, successors, assigns, attorneys and insurers, collectively with the Charter SELPA, from any and all claims arising out of the operations of the LEA. Accordingly, the closing ~~Charter SELPA LEA~~ shall promptly withdraw and/or cause to be filed dismissals with prejudice of all applications, requests, reports, complaints, or appeals, if any, filed or made as to any such claims.

Consistent with the release language above, closure of an ~~an~~ [Charter SELPA LEA](#) terminates the ability for the LEA and associated entities affiliated with the LEA to submit claims to any funding or to any Charter SELPA Risk Pool (e.g. Legal Risk Pool, SELPA Set Aside, Rate Smoothing Pool,⁷ etc.) effective the date of the LEA closure and/or termination of membership^[RS2] pursuant to CEO Policy ##26. Termination of the ability to submit funding and SELPA Risk Pool claims may be suspended for an Organizational Partner with LEAs that will continue as Charter SELPA members.

Legal References:

EDUCATION CODE

- 47604.32
- 47605
- 47605.6
- 47607

CALIFORNIA CODE OF REGULATIONS, TITLE 5 (5 CCR) 11962

- 11962.1