



## **A.B. 490 APPLICABILITY TO CHARTER SCHOOLS**

### All Charter Schools in a SELPA Must Comply with A.B. 490

A.B. 490 places a number of obligations on local education agencies (LEAs). For the purposes of A.B. 490, LEA means “a school district, a county office of education, a charter school participating as a member of a special education local plan area, or a special education local plan area.” Cal. Educ. Code § 48859(c). Thus, according to the express terms of A.B. 490, all charter schools participating in a SELPA must comply with A.B. 490.

However, California Education Code Section 47610 generally exempts charter schools from all laws governing school districts with some enumerated exceptions. A.B. 490 is not listed as an exception to the general exemption.

Nevertheless, A.B. 490 applies to charter schools because the express inclusion of charter schools in its provisions overrides the general exemption. The California Supreme Court has held that provisions of the Education Code not specifically listed in Section 47610 nevertheless apply to charter schools if the express terms of those provisions include charter schools. *See Wells v. One2One Learning Found.*, 141 P.3d 225, 249 (Cal. 2006). Therefore, all charter schools participating as a member of a SELPA must comply with A.B. 490.

### All Charter Schools Seeking IDEA Funding Must Comply with A.B. 490

Under California law SELPA participation demonstrates compliance with the Individuals with Disabilities Education Act (IDEA). *See* California Education Code Section 56205(a)(11). Therefore, all charter schools seeking IDEA funding must comply with A.B. 490.

There may be a very small number of California charter schools that were granted a charter by the State Board of Education, have not been assigned to a specific LEA by the State Board, *and* have not petitioned to be a member of their own SELPA. These charter schools will not be a member of any SELPA. Cal. Educ. Code § 47641. As they lack the requisite SELPA participation, such charter schools need not comply with the provisions of A.B. 490 imposing obligations on LEAs, although it would be a best practice for them to do so.