

Merced County SELPA

Policy 1.18

MAINTENANCE OF FINANCIAL EFFORT (MOE)

It shall be the policy of each LEA in the SELPA to provide assurances that funds received from Part B of the IDEA will be expended in accordance with the applicable provisions of the IDEA; will be used to supplement state, local and other federal funds and not to supplant those funds; and will not be used to reduce the level of local funds and/or combined level of local and state funds expended for the education of children with disabilities except as proved in federal law and regulations.

Maintenance of Effort Compliance Monitoring and Support

The State has directed the SELPA, as the distributor of IDEA Part B funds to LEAs within a multi-district SELPA, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. Through monitoring of the practices of LEAs, the SELPA can support LEA effort with targeted prevention activities and appropriate intervention when necessary. The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that KLEA is not eligible to receive IDEA Part B funds.

MOE standards and test procedures are provided by the State. The SELPA during the Program Certification Process and other report procedures shall monitor individual LEAs based on these standards. The goal is to assure that the practices of one LEA are not detrimental to other LEAs or the SELPA as a whole and that all available funds are expended within the SELPA to prevent return of funds to the State.

Eligibility is determined through:

1. Grand Year Comparison of grant year budget to prior year actual expenditures for initial allocation of funding to eligible LEAs.
2. Prior Year Comparison of prior year actual expenditures to two-years prior year actual expenditures for recapture of funding from LEAs found not eligible.

Allocation to eligible LEAs is based on the SELPA's Special Education Allocation Policy including the allocation of recaptured funds from one LEA to other eligible LEAs. Recapture of funding from LEAs found not eligible shall be limited to the portion of IDEA Part B funds allocated to the LEA and not to exceed the amount of disparity in meeting the requirements of MCOE. When the SELPA recaptures IDEA Part B funds from an LEA, the SELPA Director shall notify the County Superintendent.

The SELPA shall annually conduct and report to the State the required MOE information. The LEAs within the Merced SELPA shall compile and submit budget and expenditure information to the SELPA, which will then conduct the two required calculations determining MOE. The two comparison tests are as follows:

FIRST COMPARISON-Grant year Budget vs. Prior Actual Expenditures

- LEA will submit to the SELPA the required MOE documentation according to state reporting requirements.

Budgeted special education expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA, as a whole

- Comparison is made before the allocations of Part B funding are made to the LEAs

Test 1: For SELPA as a whole and/or each LEA

- a. Combined state and local funding sources are used for comparison at the SELPA level as a whole and for each individual LEA.
- b. When the capability exists to isolate “local only” funding sources, the comparison may be made using only “resources.
- c. Comparison may be either total amount or on a per capita (per child with a disability unless some other basis is permitted by the SEA determining “per capita”) basis (34 CFR Section 300.231(c)).

Test 2: Used if the SELPA, as a whole and/or an LEA fails Test 1

Compare using 20 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR Section 300.233).

Test 3: Used if the SELPA, as a whole and/or an LEA fails both Tests 1 and 2

Compare taking into consideration one or more of the following exceptions:

- The voluntary departure or departure for just cause, of special education or related service personnel, who are replaced by qualified, lower-salaried staff,
- A decrease in the enrollment of children with disabilities,
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:
 - A. Has left the jurisdiction of the agency;
 - B. Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
 - C. No longer needs the program of special education

- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

If the SELPA, as a whole passes First Comparison, the SELPA, as a whole, is eligible to receive Part B funding.

If the SELPA still fails First Comparison, the SELPA, as a whole, and all of its participating members will be ineligible to receive Part B funding subject to state standards and procedures.

If the SELPA, as a whole, passes First Comparison but one or more individual LEAs fail First Comparison, the individual LEAs shall have until P-1 certification occurs to comply with MOE requirements.

- a. Eligible LEAs will be allocated IDEA Part B funds during the Grant year according to SELPA policy.
- b. IDEA Part B funds will be held by the SELPA until the P-1 Certification for LEAs that are not eligible to receive Grant Year funds. If during the months prior to the P-1 Certification and LEA is able to demonstrate eligibility to receive funds, IDEA Part B funds will be allocated to that LEA during the Grant year according to SELPA policy.
- c. If the LEA is not eligible to receive IDEA Part B funds at the time of P-1 Certification, the funds shall be redistributed in the following manner:
 - i. Twenty Percent (20%) to the County Office of Education
 - ii. Eighty Percent (80%) to LEAs eligible to receive Grant Year funds.
 - iii. Funds will be redistributed to LEAs on condition that the funds are expended before the end of the fiscal year, in accordance with regulations for federal funds and the Merced SELPA AB 602 Funding Model.

SECOND COMPARISON – Prior Year Actuals vs. Two-year Prior Year Actuals

- LEA will submit to the SELPA the required MOE documentation according to state reporting requirements.
- Special education expenditures must equal or exceed prior year expenditures (e.g. 2003-2004 expenditures must equal or exceed 2002-03 expenditures) for each LEA and for the SELPA, as a whole.
- For SELPAs or LEAs that are not eligible to receive funds, funds are recaptured in the following year.

Test 1: Used for SELPA as a whole and/or each LEA

- a. Combined state and local funding sources are used for comparison at the SELPA level as a whole and for each individual LEA.
- b. When the capability exists to isolate “local only” funding sources, the comparison may be made using only “local” resources
- c. Comparison may be either total amount or on a per capita (per child with a disability unless some other basis is permitted by the SEA for determining (“per capita”) basis (34 CFR Section 300.231 (c))

Test 2: Used if the SELPA, as a whole, and/or an LEA fails Test 1

Compare using 20 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR Section 300.233)

Test 3: Used if the SELPA, as a whole, or an individual LEA fails both Tests 1 and 2

Compare taking into consideration one or more of the following exceptions

- The voluntary departure or departure for just cause, of special education or related service personnel, who are replaced by qualified, lower-salaried staff,
- A decrease in the enrollment of children with disabilities,
- The termination of the obligation of the agency to provide a program of special education to a particular child with disabilities that is an exceptionally costly program because the child:
 - A. Has left the jurisdiction of the agency;
 - B. Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or
 - C. No longer needs the program of special education
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities

If the SELPA, as a whole, still fails the Second Comparison after applying the exceptions, the State will recapture the amount the SELPA, collectively, failed to spend from state and local funds to maintain its level of effort. The SELPA will then recapture from the individual LEA(s) that failed MOE in the Second Comparison for the amount the LEA(s) failed to spend from the state and local funds to maintain its level of effort.

If the SELPA, as a whole, still fails the Second Comparison but one or more individual LEAs fail to spend from state and local funds to maintain their level of effort, the SELPA will recapture the amount that the LEA failed to spend from state and local

funds to maintain the required level of effort. The amount recaptured will be distributed to the LEAs, which passed the Second Comparison in such a manner that it would not create a failure to maintain effort on the part of any LEA receiving such funds. In the event that no LEAs are willing to accept the additional funding, the recaptured IDEA Part B funds shall be assigned to the SELPA Operations Budget for expenditure.

- a. Eligible LEAs will keep allocated IDEA Part B funds for the Second Comparison year.
- b. IDEA Part B funds, not recaptured under the First Comparison, will be recaptured by the SELPA for LEAs that are not eligible to receive IDEA Part B funds for the year reviewed in the Second Comparison in the following allocation year.
- c. Recaptured IDEA Part B funds shall be allocated in the following manner:
 - i. Twenty Percent (20%) to the County Office of Education.
 - ii. Eighty Percent (80%) to LEAs eligible to receive Grant Year funds.
 - iii. Funds will be redistributed to LEAs on condition that the funds are expended before the end of the fiscal year, in accordance with regulations for federal funds and the Merced SELPA AB 602 Funding Model.

Legal References:

EDUCATION CODE

56205(a) (18)

FEDERAL REFERENCES

20 USC 1412(a) (18) CFR 30.231-2

Adopted BOD2/28/05

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