



EL DORADO COUNTY CHARTER SELPA **Wednesday, September 16, 2015**

Meeting to be held via GoToWebinar teleconference on Wednesday, September 16, 2015 at 2:00 pm

Register for the GoToWebinar teleconference through the following link:

URL: <https://attendee.gotowebinar.com/register/281096013729334786>

AGENDA – EXECUTIVE COMMITTEE MEETING

EDCOE/Charter SELPA:

David M. Toston, Associate Superintendent
Ginesa Quann, Charter SELPA Director
Robert Steponovich, SELPA Business Services Director
Tamara Clay, EDCOE SELPA Director

Vicki L. Barber, Retired EDCOE Supt. of Schools
Francie Heim, EDCOE/Charter SELPA Consultant
Kathleen Hall, Administrative Assistant

Executive Committee Members:

Mary Searcy Bixby, Altus Institute
Elise Darwish, ASPIRE Public Schools
Donn Harris, Oakland School for the Arts
Pat Hill, Mission View
Genevieve Thomas, Rocketship Education
Tim Wolf, San Diego Consortium
LTC Richard Wallis, Oakland Military Institute
Jean Hatch, Redding School of the Arts
Jonathan Dean, The O'Farrell Charter School
Mike Tracy, Heritage/Temecula Prep

Lynne Alipio, Altus Institute
Paula DeGroat, Lifeline Education
Cindy Petersen, Gateway Community Charters
Preston Smith, Rocketship Education
David Sciaretta, Einstein Academies
Gia Truong, Envision Schools
Karin Marsolais, Preuss
Dawn Evenson, iLead Schools
Steve Gocke, Learn4Life

1. Educationally Related Mental Health Services (ERMHS)

a. ERMHS New Allocation Plan Language

Executive Committee is asked to provide input on additional ERMHS Allocation Plan language that is proposed as a refinement to existing language. It would establish a process to allocate potential reserves at year end that exceed the established range that is set between 5% and 10%. Additional information is provided in Attachment 1a.

b. Determination of Funding Sufficiency

By September 15 of each year, Charter SELPA administration will make a finding of sufficiency for ERMHS funding and establish the funding rate for Level 2 between \$2,000 and \$3,000.

Charter SELPA intends to set the rate at \$3,000. Additional information that supports the decision is provided in Attachment 1b.

This information is being shared with Executive Committee and will be shared as an information item at the September CEO Council meeting. The information will be shared with the field in September, so members can plan accordingly.

2. **2015-16 Rate For Special Education Funding (Budget Advice)**

The Charter SELPA Allocation Plan language requires CEO Council to annually set the state special education member rate, taking into account projected deficits in statewide funding.

Executive Committee is asked to provide input on the recommendation to set the 2015-16 rate at \$505 (based on 2015-16 ADA) and to recognize the 2013-14 prior year deficit restoration amount of \$9.29 per ADA which is being accounted for in 2015-16 as income and is distributed to eligible 2013-14 members based on 2013-14 ADA. Additional information is provided in Attachment 2.

3. **Charter SELPA Policies**

a. **Charter School Closure Policy – CEO Policy 27**

A closure procedure was adopted by CEO Council in May, 2013. That language has been included in the proposed policy set forth in Attachment 3a.

The policy has been further refined to add more clarity to the financial closing process and required documentation. The policy has been further strengthened by requiring immediate notification when a charter revocation is issued or a charter non-renewal occurs. Executive Committee input is requested. The policy will be placed on the September CEO Council Agenda for approval.

b. **Federal Maintenance of Effort Policy – CEO Policy 28**

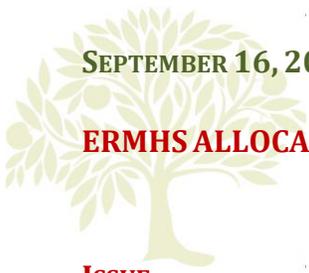
We do not have a current policy that covers federal Maintenance of Effort practices and it is highly recommended that one should be in place. A proposed policy and corresponding Administrative Regulation are included as Attachment 3b.

The proposed policy is based on federal requirements and our current SELPA practices. Executive Committee input is requested. The policy will be placed on the September CEO Council Agenda for approval.

4. **Membership Update**

5. **Next Meeting Date**

The next regularly scheduled meeting of the Charter SELPA Executive Committee will take place Thursday, November 12th, 2015 at 10:00 a.m. via GoToWebinar teleconferencing.



ERMHS ALLOCATION PLAN LANGUAGE

ISSUE

Additional ERMHS Allocation Plan language is proposed as a refinement to allocate potential reserves at year end that exceed the established range that is set between 5% and 10%.

BACKGROUND

The current ERMHS Allocation Plan language is attached as a reference (pages 2 – 7). The language reflects CEO Council actions taken in May 2014, September 2014 and May 2015.

There is new language (May 2015) that states:

Starting in 2015-16, the ending balance reserve may range from 5% to 10%.

What is not included in the language is a process to distribute reserves greater than 5%, prior to the end of the year. The recommendation below is similar in concept to the action taken by CEO Council in May 2015, to distribute 2014-15 reserves. That action was specific to 2014-15. The recommended language below will allow for distribution of reserves each year through the action of Charter SELPA administration.

RECOMMENDATION:

Executive Committee is asked to provide feedback to Charter SELPA administration on additional language proposed (for September 2015 CEO Council approval) to deal with 2015-16 (and future) reserves.

By May of each fiscal year, Charter SELPA leadership shall make a finding of sufficiency of ERMHS ending balance for the current fiscal year and will set the reserve level in a range from 5% to 10%.

The amount over the established reserve (5% to 10%) shall be allocated in the following order:

1. Increase Level 2 reimbursement, Level 2 transportation, and Level 3 site based structured therapeutic program from 80% to 90%.
2. Increase Level 3 NPS ERMHS from 90% to 95%.
3. Increase Level 2, Level 2 transportation, and Level 3 site based structured therapeutic program from 90% to 95%.
4. Increase Level 2, Level 2 transportation, Level 3 site based structured therapeutic program, and Level 3 NPS ERMHS from 95% to 100%

ERMHS ALLOCATION PLAN LANGUAGE

Current ERMHS Allocation Plan

The intent of the Charter SELPA ERMHS Allocation Plan, as updated and approved by CEO Council May 21, 2015, is to provide a predictable funding stream for educationally related mental health services. ERMHS guidelines will be developed by the Charter SELPA. The guidelines will include the Allocation Plan language as well as operational details such as program descriptions, allowable/unallowable expenditure detail, cash flow schedules, financial reporting elements and timelines, and sample budget request forms. Budget requests are intended to establish the initial parameters for funding, final funding in all cases (Levels 2 and 3) are based on year end expenditure reports, adjusted as appropriate for P-2 ADA, service counts, and other adjustments required by Allocation Plan language.

1.1 ERMHS Funding Reserve

10% of Charter SELPA ERMHS income will be placed in reserve each year. The reserve is intended to cover a SELPA-wide shortfall in Level 3 first, but may be used for Level 2 shortfalls. Starting in 2015-16, the ending balance reserve may range from 5% to 10%.

2.1 ERMHS Funding Shortfalls (Budget Requests Exceed Income)

If there is a Level 3 shortfall, (this takes priority) the reserve would be used to cover the shortfall. If the shortfall is greater than the reserve, a pro-rated deficit would be applied to all Level 3 requests based on actual end of year expenditures.

If there are funds remaining in Level 3, they may be allocated to fund Level 2, or reserved for the following year Level 3 costs. Conversely, if there are funds remaining in Level 2 they shall be used to cover a Level 3 shortfall.

If there is a Level 2 shortfall (and no additional funds remain in the reserve or Level 3), a pro-rated deficit would be applied to all Level 2 requests based on actual end of year expenditures.

If there are funds remaining in Level 2, they may be allocated to fund Level 3 or reserved for the following year Level 2 costs.

A shortfall in Level 2 or Level 3 will trigger a review and possible modification by CEO Council of ERMHS Allocation Plan language.

If the funding formula increases beyond the original budget per ADA (\$71 per ADA in 2015-16) as a result of COLA or other increases, the amount of increase will be held in reserve until after November 1. After November 1, the Charter SELPA will have some indication of costs for Level 2 and Level 3 for the current year. A recommendation for use of any additional funding will be discussed with the Executive Committee in November, with final approval by CEO Council.

ERMHS ALLOCATION PLAN LANGUAGE

If the funding formula decreases beyond the original budget per ADA (\$71 per ADA in 2015-16), the budget allocations for Level 2 and Level 3 will be pro-rated accordingly and communicated to the field immediately so charter schools can plan on reduced levels of funding.

3.1 ERMHS Extraordinary Cost Pool

The ERMHS Extraordinary Cost Pool (ECP) is NOT funded in 2014-15 and 2015-16. At such time as the funding formula for mental health is stabilized and reserves are sufficient to “forward fund” for the following year, a recommendation will be brought forward to CEO Council to reinstate funding for the ECP.

4.1 Other Costs

The Charter SELPA receives funds to administer the ERMHS Allocation Plan, up to the EDCOE approved indirect rate. 3% indirect is budgeted in 2014-15 and 2015-16.

5.1 Description of Level 2 Funding Formula- new in 2015-16

A. The SELPA ERMHS Level 2 budget is \$5.4 M. (2015-16)

B. The Level 2 formula provides 80% of the lesser of:

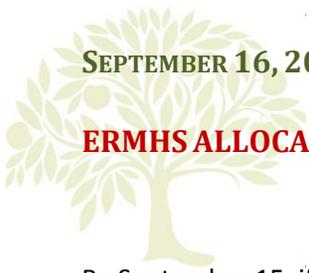
- 1) \$3,000 per eligible ERMHS SEIS count based on the December 1 count; or
- 2) \$250 per current year P-2 ADA; or
- 3) Budget request.

The lesser amount of the three becomes the maximum budget request. Charters are required to match (co-pay) 20% of the budget request. The maximum reimbursement is \$250 times 80%, or \$200 per ADA. No facility/rent costs, direct support, or administrative costs are allowable for the 80% reimbursement or 20% match.

C. There is no guarantee of 80% funding for Level 2 programs. While the formula is intended to provide a predictable funding stream, charter member budget requests submitted in January could still exceed the overall budget. If a shortfall occurs, charter members may be funded less than the 80% reimbursement established in the Allocation Plan.

D. By September 15 of each year Charter SELPA administration will make a finding of sufficiency of Level 2 funding based on the following variables:

- Prior Year ERMHS ending balance
- Projected current year ADA
- Projected current year Level 3 projected costs
- Projected current year Level 2 service counts
- Based on these findings, the service level formula amount will be established
 Maximum rate = \$3,000
 Minimum rate = \$2,000



ERMHS ALLOCATION PLAN LANGUAGE

By September 15, if there is a finding of sufficiency of funding, \$100K will be available for Level 2 transportation reimbursement – outside of the Level 2 service cap/ADA formula. The intent is to provide 80% funding for eligible costs. If \$100K is not sufficient, funding will be pro-rated based on claims submitted at year end.

By September 15, if there is a finding of sufficiency of funding, indirect costs will be allowed for Level 2.

E. By November 1 of each year, LEA's wishing to participate in Level 2 funding will submit a written narrative describing their annual plan to deliver services to students eligible for mental health services as defined by AB 114 and Charter SELPA ERMHS guidelines. Please use the form titled "Annual Mental Health Plan" found in the Appendix of this document and found on the EDCOE Charter SELPA website.

F. Level 2 Service Count Date

A count of Level 2 services will be taken on December 1 (previously November 1).

The count is not cumulative, but a snapshot. If the December 1 service count exceeds projections, Charter SELPA administration may revise the September 15 formula amount:

Maximum rate = \$3,000

Minimum rate = \$2,000

G. Level 2 Budget request submission date is January 15 (no longer November 1).

H. By February 28 of each year:

Charter SELPA administration will make a finding of sufficiency of mental health funding based on Level 2 budget requests submitted and Level 3 budget requests submitted. If there is a finding of sufficiency of funds:

- If the Level 2 formula was set lower than \$3,000, the formula will be increased up to \$3,000.
- The Level 2 reimbursement, Level 3 site based structured therapeutic program, and Level 2 ERMHS related transportation reimbursement will be increased from 80% to a maximum of 90%.

I. Behavior support (service code 535) will be included in the service level formula (and expenditures allowed) under the following criteria:

- Behavior support plan in place supporting MH service.
- At least one other mental health service identified.

6.1 Description of Level 3 Funding Formula

ERMHS ALLOCATION PLAN LANGUAGE

A. Level 3 Budget Amounts

The SELPA ERMHS Level 3 budget is \$2.5 M. in 2015-16. The intent is that Level 3 reimbursements are the highest priority to fund. If Level 3 budget requests exceed funding, the ERMHS reserve and/or other unspent ERMHS funds will be used for the shortfall.

The Level 3 formula provides for three specific Level 3 types of reimbursement.

B. Level 3 Site Based Structured Therapeutic Program

- a. Costs that may be claimed are restricted to services that are required to be performed by certificated staff. Staff may be contracted through an NPA or hired by the charter. Books and supplies may be claimed.
- b. Eligible students must meet ED eligibility criteria, and be identified in SEIS with ED as primary or secondary disability.
- c. Approved program costs are 80% reimbursed, with a required 20% charter match. No facility/rent costs, direct support, administrative costs, or indirect costs are allowable for the 80% reimbursement or 20% match.
- d. A budget request for Level 3 site based structured therapeutic program reimbursement must be filed with the Charter SELPA by November 1.
- e. In order to provide a predictable ERMHS funding stream for all charter members, a site based structured therapeutic program that is established after November 1 may not be guaranteed funding in the current year.

C. Level 3 NPS ERMHS

- a. Costs that may be claimed are the ERMHS for a student in an NPS placement. The educational costs are the responsibility of the charter member and are not reimbursed. The educational costs, however, must be reported and must be, at a minimum, equal to the charter's LCFF per ADA funding amount.
- b. Eligible students must meet ED eligibility criteria, and be identified in SEIS with ED as primary or secondary disability.
- c. Approved NPS ERMHS costs are 90% reimbursed, with a required 10% charter match. No facility/rent costs, direct support, or administrative costs are allowable for the 90% reimbursement or 10% match.
- d. Indirect costs would be allowed for NPS ERMHS, consistent with CSAM indirect cost provisions that do not allow for indirect costs to be claimed for contract costs beyond the first \$25,000.
- e. At the start of each year, Charter SELPA shall contact all charters with placements in the prior year to determine the anticipated current year budget amounts.
- f. Prior to any new placements, SELPA must be consulted and a preliminary budget request submitted.
- g. Immediately after execution of a contract, a copy of the contract, ISA, and revised budget request must be submitted to the Charter SELPA. When a placement is discontinued, Charter SELPA shall be notified immediately so the budget may be revised.
- h. A budget request for the Level 3 NPS ERMHS reimbursement funding must be filed with the Charter SELPA and submitted within 30 days of contract signing.

ERMHS ALLOCATION PLAN LANGUAGE

D. *Level 3 NPS Residential Room and Board*

- a. Costs that may be claimed are the residential room and board costs related to a student in an NPS placement. The educational costs are the responsibility of the charter member and are not reimbursed. ERMHS costs for a student may be claimed, but a separate reimbursement form is required (Level 3 NPS ERMHS).
- b. Eligible students must meet ED eligibility criteria, and be identified in SEIS with ED as primary or secondary disability.
- c. Approved NPS room and board costs are 100% reimbursed, with no required match. No facility/rent costs, direct support, or administrative costs are allowable for the 100% reimbursement.
- d. Indirect costs would be allowed for NPS residential costs, consistent with CSAM indirect cost provisions that do not allow for indirect costs to be claimed for contract costs beyond the first \$25,000.
- e. At the start of each year, Charter SELPA shall contact all charters with placements in the prior year to determine the anticipated current year budget amounts.
- f. Prior to any new placements, SELPA must be consulted and a preliminary budget request submitted.
- g. Immediately after execution of a contract, a copy of the contract, ISA, and revised budget request must be submitted to the Charter SELPA. When a placement is discontinued, Charter SELPA shall be notified immediately so the budget may be revised.
- h. A budget request for the Level 3 NPS ERMHS reimbursement funding must be filed with the Charter SELPA and submitted within 30 days of contract signing.

ERMHS ALLOCATION PLAN LANGUAGE

7.1 2014-15 ERMHS Formula Changes Approved May 2015

Allocation of \$500,000 in Additional Budget Amounts (May 2015)

Should the mental health ending balance exceed 10% of income (~\$737,000 in 2014-15), the amount over 10% shall be allocated to fund in the following order:

- a. Increase Level 2 reimbursement and Level 3 site based structured therapeutic program from 80% to 90% (\$400K).
- b. Establish a \$100K pool to fund Level 2 ERMHS transportation costs outside of the existing Level 2 formula and reimburse at same level as Level 2 (from 80% to 90%).
- c. If there is less than \$500K available, the amount of funding will range from less than 90%, but more than 80%.
- d. ERMHS Transportation costs allowable under Level 2 - \$100,000 budget provided.
 - i. 80% to 90% funded based on sufficiency of ending balance as noted above.
 - ii. Outside of the current service formula/ADA cap.
 - iii. Reimbursement filed at year end.
 - iv. If reimbursements exceed \$100K, funding is pro-rated.

Additional expenditure guidance provided in 2014-15 (May 2015)

- a. ERMHS transportation costs allowable under Level 1 within the current Level 1 ADA formula.
- b. ERMHS transportation costs allowable under Level 3 within the current Level 3 formula.
 - i. Residential 100%.
 - ii. NPS ERMHS related 90%.
- c. Indirect costs are allowed in 2014-15 as follows:
 - i. Level 1 - currently allowed.
 - ii. Level 2 - revise Allocation Plan language to allow in 2014-15.
 - iii. Level 3 - revise Allocation Plan language to allow in 2014-15 subject to CA School Accounting Manual guidelines which only allow the first \$25,000 of contract amounts to be subject to indirect cost rates.

**2015-16 ERMHS (EDUCATIONALLY RELATED MENTAL HEALTH SERVICES)
DETERMINATION OF FUNDING SUFFICIENCY**

By September 15 of each year Charter SELPA administration will make a finding of sufficiency of Level 2 funding based on the following variables:

- Prior year ERMHS ending balance
- Projected current year ADA
- Projected current year Level 3 projected costs
- Projected current year Level 2 service counts
- Based on these findings, the service level formula amount will be established
Maximum rate = \$3,000
Minimum rate = \$2,000

By September 15, if there is a finding of sufficiency of funding, \$100K will be available for Level 2 transportation reimbursement – outside of the Level 2 service cap/ADA formula. The intent is to provide 80% funding for eligible costs. If \$100K is not sufficient, funding will be pro-rated based on claims submitted at year end.

By September 15, if there is a finding of sufficiency of funding, indirect costs will be allowed for Level 2.

2014-15 BUDGET

The Charter SELPA ERMHS 2014-15 budget provides an ending balance \$500K higher than estimated. Level 2 and Level 3 NPS costs did not materialize as estimated by charter members.

1	Charter SELPA Mental Health Budget	2014-15 May Update	2014-15 Preliminary Close	2015-16 Prelim. Budget
2	SELPA wide Estimated P-2 ADA	103,892	103,892	120,000
3	Income			
4	MH Grant - State & Federal	7,376,332	7,385,086	8,330,000
5	Expenditures			
6	Level 1	1,038,920	1,000,907	
7	Level 2 - Counseling Plans	3,159,717	3,041,126	5,400,000
8	Level 2 funding changed from 80% to 90%	400,000	380,149	
9	Transportation - Level 2	100,000	18,731	100,000
10	Level 3 -Site Based, NPS ERMHS / Residential	1,700,000	1,463,247	2,500,000
11	SELPA indirect	221,290	221,553	249,900
12	Total Expenditures	6,619,927	6,125,713	8,249,900
13	Beginning Balance	-		1,259,373
14	Ending Balance	756,405	1,259,373	1,339,473



**2015-16 ERMHS (EDUCATIONALLY RELATED MENTAL HEALTH SERVICES)
DETERMINATION OF FUNDING SUFFICIENCY**

This finding of sufficiency of funding is based on:

- Based on a 2014-15 ending balance of over \$1.2 M, reserves offer sufficient protection should level 2 and level 3 costs increase beyond budget.
- ADA is projected to grow from 105,000 to 120,000.
- Recognizing it is too early in the year to predict with great certainty, but Level 3 NPS placements as of September 2015 suggest that the current budget of \$2.5 M is sufficient.
- Preliminary data (September 2015) service level counts suggest that the current budget of \$5.4 M. is sufficient. We will continue to monitor service level counts until the official December 1 count is used to set funding parameters for 2015-16.

DETERMINATION OF SUFFICIENCY:

Therefore, Charter SELPA Administration has determined funding is sufficient to:

1. Set the service level formula for Level 2 at \$3,000 for 2015-16;
2. Make \$100K available for Level 2 transportation reimbursement (80%); and
3. Allow indirect costs to be claimed for Level 2 budget requests.



2015-16 BUDGET ADVICE AND DEFICITS

ISSUE

Allocation Plan language requires CEO Council to set the 2015-16 rate for special education funding, taking into account potential deficits.

BACKGROUND

CURRENT ALLOCATION PLAN LANGUAGE (DEFICITS)

For 2014-15, the following Allocation Plan language is approved and will be utilized to establish state aid funding:

July/August 2014

Estimate a budget rate of \$500 per ADA.

February 2015

Advise budget revisions if the rate is lower than \$500.

Advise maintaining \$500 rate, even if the rate is higher than \$500 in February.

June 2015

If the rate is lower than \$500, advise charters and send out final checks based on actual rate.

If the rate is higher than \$500, close the books with the \$500 rate.

When the increase is certified in February 2016, maintain the increase (or portion) in a rate “smoothing pool” for future deficit adjustments.

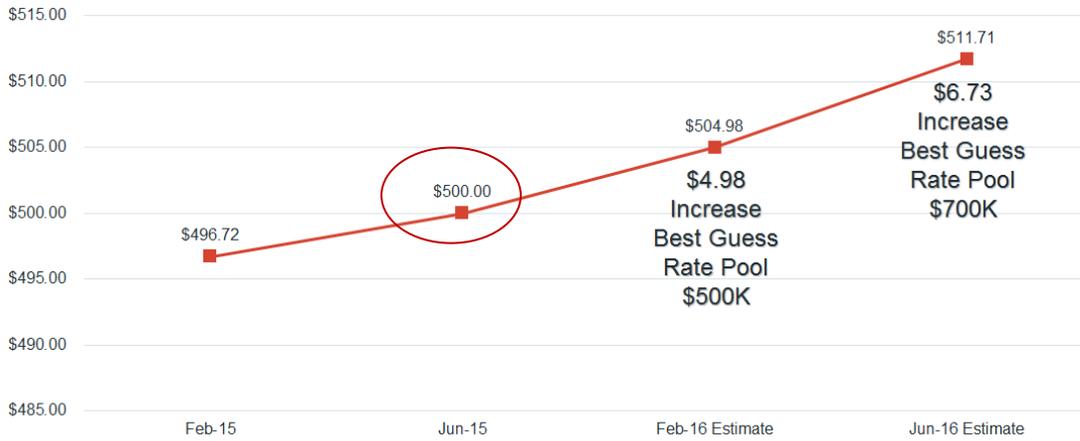
This process will be reviewed in September 2015, with CEO Council action to be taken to establish budgeting parameters for 2015-16 state aid. CEO Council action and Allocation Plan language would be required to disperse any funds in the rate “smoothing pool”.

2015-16 BUDGET ADVICE AND DEFICITS

2013-14 was the first year of deficits with full funding restored by June 2015.



2014-15 was the second year of deficits, with the outcome to be known in February/June 2016. Deficit restoration dollars will be placed in the new rate smoothing pool.



2015-16 BUDGET ADVICE AND DEFICITS

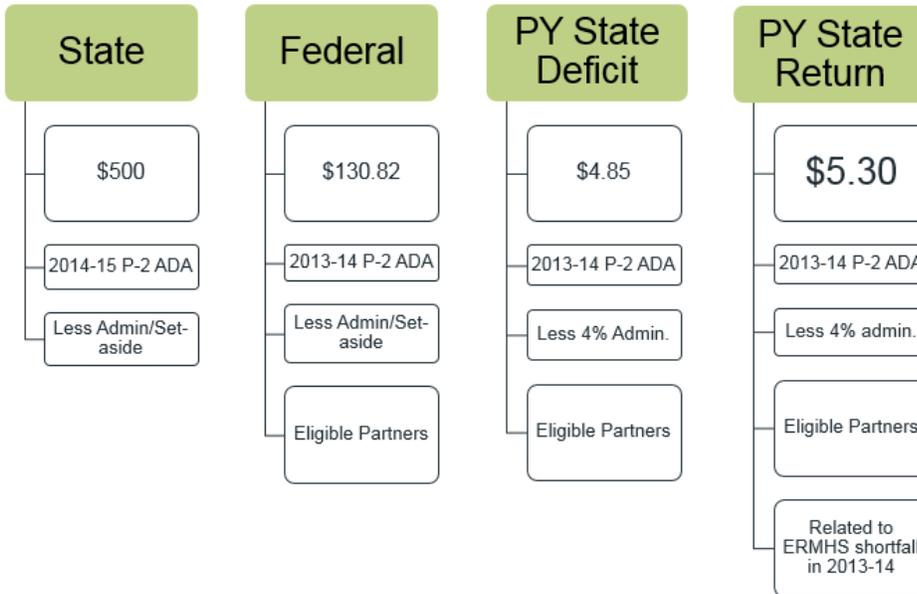
In 2015-16, the funding rate with no deficit would be \$516.93. Charter SELPA administration recommends the rate be set at \$505 to ensure predictability of funding to our members and adequately protect against state deficits in funding.

This advice was communicated to the field in early July to allow members to budget accordingly.

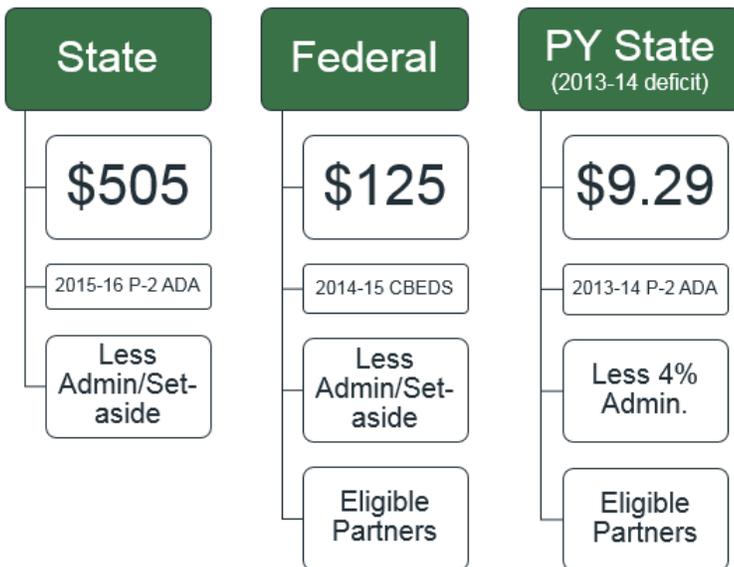
1	2015-16 Special Education Statewide Target Rate	Deficit	Charter SELPA Member Rate	SELPA PS/RS Portion	Statewide Target Rate
2	State Rate/Charter Rate		\$ 511.71	\$ 15.59	\$ 527.30
3	2015-16 COLA (1.02%)		\$ 5.22	\$ 0.16	\$ 5.38
4	2015-16 State Rate/Charter Rate		\$ 516.93	\$ 15.75	\$ 532.68
5	Option A	No deficit	\$ 516.93		
6	Option B	1.34%	\$ 510.00		
7	Option C	2.31%	\$ 505.00		

2015-16 BUDGET ADVICE AND DEFICITS

SUMMARY OF 2014-15 BUDGET ADVICE



2015-16 BUDGET ADVICE





2015-16 BUDGET ADVICE AND DEFICITS

RECOMMENDATION

CEO Executive Committee review the recommendation to CEO Council to set the 2015-16 rate as follows:

2015-16 \$505 state rate (prior to administrative fees/set-aside)

CEO Executive Committee review the recommendation to CEO regarding 2013-14 final deficit restoration that occurred in June 2015. An additional \$9.29 for 2013-14 was received as a result of the unexpected full funding of 2013-14 state special education funding and will be accounted for as 2015-16 income by Charter SELPA members:

- \$9.29 state rate for prior year deficit restoration (2013-14).
- Based on 2013-14 ADA.
- Eligible members are Partners in 2013-14 who are Partners in 2015-6 and do not have unspent funds greater than 25% in 2013-14 or 2014-15.

In February 2016, CDE will certify 2014-15 funding. The current best estimate is that some funds (from -0- to over \$1.2M) from 2014-15 deficit restoration will be available and placed in the rate-smoothing pool for future CEO Council action.

In February 2016, some data on a preliminary 2015-16 deficit will be available as well and the accuracy of the \$505 rate will be reviewed at that time with CEO Executive Committee.

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.

In all instances, the Charter SELPA must be notified immediately.

The charter must provide the Charter SELPA with a copy of their own charter closure policy, Element 16 in the current charter petition.

When a charter school ceases operations, as defined by no longer operating under the CDS code documented in the Local Plan, the Charter SELPA must be notified immediately.

Additionally, charter schools must notify the Charter SELPA whenever a change in CDS code occurs, even though this may not mean the charter has closed operations, but may have changed authorizing agencies. The Charter SELPA must be notified by June 30 of the fiscal year prior to the change, of the change in CDS code so that the local plan and funding elements may be updated appropriately.

1. DOCUMENTATION AND NOTIFICATION OF THE CLOSURE

Notice of a charter school's closure for any reason must be provided by the authorizing entity to the California Department of Education (CDE). In addition, the charter school must send notice of its closure to:

- 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 special education local plan area in which the school participates.
- e. The retirement systems in which the school's employees participate.
- f. The California Department of Education.

Notification of all the parties 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 on completed courses and credits that meet graduation requirements.

2. RECORD TRANSFER AND RETENTION

Charter school closure procedures must include plans for the transfer and maintenance of school and student records, including any special education records. These records are to be transferred to the custody of the entity responsible for conducting the closure.

After receiving notification of a charter closure, the Charter SELPA will request from the charter:

- a. Information regarding the entity responsibility for conducting the closure.
- b. Verification from the charter that special education records have been appropriately transferred to the entity responsible for conducting the closure.

3. FINANCIAL CLOSEOUT – SINGLE PARTNER

It is the intent of the Charter SELPA to exercise due diligence when a charter closes to ensure the following:

- a. All special education financial reports are filed appropriately, including Charter SELPA required end of year reporting and mental health reporting.
- b. Maintenance of Effort reporting is complete and the charter has passed MOE.
- c. All federal special education financial reports are filed.
- d. All attendance reports for the final year are filed (P-1, P-2, annual).
- e. All required special education pupil count data and special education personnel data reports are filed appropriately.
- f. An annual audit is performed and the Charter SELPA receives a copy of the audit.
- g. Review of the audit to ensure no outstanding compliance issues are noted or other material findings that would cause the Charter SELPA to be concerned about the reliability of data submitted.
- h. Review of any other documentation that would be necessary to ensure the reliability of special education financial data. This would include any findings of fiscal mismanagement by the authorizing LEA in a revocation or non-renewal.

Upon satisfactory review of items noted above, any amounts owed to the Charter after June 30 of the fiscal year may be released. Because of the timing of the annual audit and SELPA receipt of federal end of year funds, it is possible that final funds may not be released until six months after the charter has closed.

The Charter SELPA may release state ERMHS funds before the final charter audit is issued under the following conditions:

- Appropriate documentation is on file as required by the Charter SELPA;
- Charter SELPA may request additional documentation to ascertain that funds were spent appropriately for ERMHS services; and
- There are no allegations or findings of fiscal mismanagement or fiscal solvency from the authorizer or the Charter SELPA that would cause the Charter SELPA to be concerned about the reliability of data submitted.

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. The charter may appeal the finding to the Charter SELPA Appeals Committee.

4. FINANCIAL CLOSEOUT – ORGANIZATION PARTNER

If a charter school closes, and the Organization Partner is still a member with additional charters in the Charter SELPA, the Charter SELPA may release ERMHS state funds owing after June 30 of the fiscal year and set-aside funds, before the final charter audit is issued, under the following conditions:

- Appropriate documentation is on file as required by the Charter SELPA;
- There are no allegations or findings of fiscal mismanagement or fiscal solvency from the

authorizer or the Charter SELPA that would cause the Charter SELPA to be concerned about the reliability of data submitted; and

- The Organization Partner has certified that funds were spent appropriately for special education and should issues arise at a later date, the Organization Partner will honor any obligations owing by the closing charter.

5. BANKRUPTCY PROCEEDINGS

In the event of a bankruptcy, the release of funds identified above for Single Partner or Organization Partners may be impacted by the direction of the courts.

6. OTHER

Charter SELPA administration may withhold state and federal funding if matters come to their attention that cause them to believe that funds are not being spent appropriately for special education. The charter will be notified of the reason for funds being withheld and will be provided an opportunity to respond with documentation as requested by the SELPA.

The charter may appeal the finding to the Charter SELPA Appeals Committee.

Legal References:

EDUCATION CODE

47604.32

47605

47605.6

47607

CALIFORNIA CODE OF REGULATIONS, TITLE 5 (5 CCR)

11962

11962.1

Federal Maintenance of Effort Requirement

The Charter SELPA shall meet federal MOE regulations that require the use of federal funds to pay the excess costs of providing special education and related services to children with disabilities and to supplement and not supplant state and local funds for special education (34 CFR 300.202-300.205).

The SELPA Administrative Unit (AU), as the grantee of federal funds from the California Department of Education, shall distribute all or part of the federal funds received to participating local education agencies (LEAs) within the SELPA through a sub-granting process.

The LEAs will annually compile and submit to the SELPA, budget and expenditure information that meets CDE MOE reporting requirements.

The SELPA will then conduct the two required calculations determining MOE for the SELPA as a whole, and for each LEA. The SELPA wide data is compiled and submitted in the format required by CDE.

ELIGIBILITY

The State has directed the SELPA, as the distributor of IDEA Part B funds to LEAs, to be responsible for the determination of eligibility of an LEA to receive IDEA Part B funds. The SELPA 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.

Two required MOE calculations are:

1. Grant 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.

MOE standards and test procedures are provided by CDE based on federal requirements and are included as an AR to this policy.

LEA ELECTION TO NOT PARTICIPATE IN FEDERAL FUNDING

The Charter SELPA Allocation Plan provides the formula for distribution of federal funds to member LEAs. Should an LEA voluntarily elect to not participate in federal funds, the funds shall be used as follows:

If the election to not participate occurs prior to December in the budget year, the funds will be distributed per the Allocation Plan to all other eligible members.

If the election to not participate occurs after December in the budget year and funds have already been distributed to charter members, the SELPA is authorized to use the funds for eligible federal expenditures at the SELPA level.

RECAPTURE OF FEDERAL FUNDS

Allocation to eligible LEAs is based on the SELPA's Allocation Plan including the allocation of recaptured funds from one LEA to other eligible LEAs.

The SELPA shall recapture funding from an LEA under specific circumstances when the SELPA has determined that LEA is not eligible to receive IDEA Part B funds. 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 the maintenance of effort.

Any amount billed to an LEA must be paid to CDE by the LEA from its state and local funding in the budget year. The Charter SELPA may withhold charter LEA special education apportionments in order to make repayment directly to CDE.

SELPA AU NOT SUBJECT TO MOE REQUIREMENTS

For the purposes of MOE, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all, or part, of those funds as sub-grants to participating LEAs. The SELPA AU is not a sub-grant recipient and, therefore, is not required to meet MOE requirements.

Legal Reference:

34 CFR 300.200-300.205

Federal Maintenance of Effort Calculations

First Comparison – Grant Year Budget to Prior Year Actual Expenditures (SEMB)

- LEA will submit to the SELPA the required MOE documentation each year.
- Budgeted local or state and local expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA as a whole.
- Comparison is made before the allocation of Part B funds are made to the LEA.

Section 1 - Exempt Reduction Under 34 CFR Section 300.204

a) Each year LEAs should record if any of the allowable exceptions to MOE are present. If an LEA determines that a reduction in expenditures occurred as a result of one or more of the following conditions, the LEA may calculate a reduction to the required MOE standard. Reductions may apply to local only MOE standard, combined state and local MOE standard or both.

1. Voluntary departure or departure for just cause, of special education or related services personnel, who may be replaced by qualified, lower-salaried staff.
2. Decrease in the enrollment of children with disabilities.
3. The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, 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 free appropriate public education (FAPE) to the child has terminated; or
 - c. No longer needs the program of special education.
4. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Section 2 – “50 Percent Rule”

LEAs who have a “meets requirements” compliance determination under IDEA, Section 613(a) and not found to be **Significantly Disproportionate** for the current year are eligible to use this option to reduce their MOE requirement by:

1. Calculating 50% of the increase in federal funding received that year over the prior year as “local funds”.

Section 3 - MOE Test

- a) Either local or local and state funding sources are used for comparison at the SELPA and the LEA level.
- 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 a per capita basis (per child with a disability unless some other basis is permitted by the SEA for determining per capita). (34 CFR Section 300.203)

If the SELPA as a whole passes Comparison 1, the SELPA as a whole is eligible to receive Part B funding. If the SELPA as a whole should not meet MOE under Comparison 1, the SELPA as a whole, and all of its participating LEA members, will be ineligible to receive Part B funding until budgetary revisions are made to enable the SELPA, as a whole, to meet MOE requirements.

If the SELPA, as a whole, passes Comparison 1, but one or more individual LEA sub-grant recipients fail Comparison 1, the LEA(s) shall have until First Interim certification occurs to comply with MOE requirements.

If an LEA has not rectified the problem by the date that First Interim certification is made, its proportionate share of the federal funds shall be re-distributed, on a proportionate share basis, to those LEA sub-grant recipients that complied with the MOE requirements at Comparison 1, but only to the extent that they do not reduce state and local or “local only” expenditures to the point that they create MOE difficulties for the receiving LEA. Any remaining funds from this distribution will be retained by the SELPA AU and used to for eligible federal expenditures.

Second Comparison – Prior Year Actuals vs. Prior Year Actuals (SEMA)

- Actual local or state and local expenditures must equal or exceed prior year expenditures.
- Comparison is made annually after unaudited actuals data is submitted to CDE following the end of the fiscal year.

Section 1 – Each year LEAs should record any of the allowable exceptions that may reduce the amount required to meet MOE, listed below:

1. Voluntary departure or departure for just cause, of special education or related services personnel, who may be replaced by qualified, lower-salaried staff.
2. Decrease in the enrollment of children with disabilities.
3. The termination of the obligation of the agency to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, 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 free appropriate public education (FAPE) to the child has terminated; or
 - c. No longer needs the program of special education.
4. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Section 2 – LEAs who have met state requirements and have not been found to be significantly disproportionate may also reduce their MOE requirement by calculating 50 percent of the increase in federal funding, if any, received that year over the prior year as local funds. (34 CFR Section 300.205)

Section 3 – MOE Test

- a) Combined actual local or state and local funding sources are used for comparison at the SELPA and the LEA level.
- 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 a per capita basis (per child with a disability unless some other basis is permitted by the State Education Agency for determining per capita). (34 CFR Section 300.203)

If the SELPA, as a whole, still fails MOE in Comparison 2 after applying the exceptions, the SELPA will be billed by the State for the amount the SELPA, collectively, failed to spend from local or state and local funds to maintain its level of effort.

The SELPA AU will then bill the individual LEA sub-grant recipients that failed MOE Comparison Test 2 for the amount the LEA(s) failed to spend from local or state and local funds to maintain its level of effort.

If the SELPA, as a whole, passes Comparison 2 but one or more individual LEA sub-grant recipients fail to spend from local or state and local funds to maintain their level of effort, the SELPA AU will bill on behalf of CDE for the amount that the LEA failed to spend from local or state and local funds to maintain their level of effort. Any amount billed to an LEA must be paid to CDE by the LEA from its state and local funding in the budget year.

For the purposes of MOE, the SELPA AU is the recipient of the federal funds from CDE and is, in turn, a grantor of all, or part, of those funds as sub-grants to participating LEAs. The SELPA AU is not a sub-grant recipient and, therefore, is not required to meet MOE requirements.