

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.