

# **IV. FUNDING**

**POLICYMAKING/METHOD OF DISTRIBUTING FUNDS  
LOCAL POLICY**

The San Luis Obispo County Special Education Local Plan Area (SELPA) shall include the method of distributing funds according to the AB602 Fiscal Allocation Plan. It shall be the policy of this SELPA to adopt the budget plan in a public meeting and include it with the Local Plan.

*Legal Reference:*  
*EC 56195.7 (i)*

Approved by Governing Council on June 18, 2004

**AB 602 ALLOCATION PLAN**  
(see insert)

**DISTRIBUTION OF FEDERAL AND STATE FUNDS  
LOCAL POLICY**

56205(b)(1), 56195, 56195.7(h), 56195.7(h)(4)(i)

The San Luis Obispo County Office of Education shall be the Responsible Local Agency (RLA) for the San Luis Obispo County Special Education Local Plan Area (SELPA). Under the direction of the SELPA the RLA shall act as the fiscal agent authorized to receive, disburse and expend funds in accordance with the approval of the Governing Council. The SELPA director is authorized by the Governing Council to implement the San Luis Obispo County SELPA policies and specific Governing Council action on behalf of the Governing Council and the SELPA. These responsibilities include, but are not limited to, the signing of official documents, state reports, and authorization of expenditures or distribution of funds as approved by the Governing Council.

The Governing Council shall adopt a budget calendar and all mandated budget adoption and cost accounting procedures required by law.

The SELPA, the RLA and each Local Education Agency (LEA) shall establish appropriate record-keeping procedures in accordance with state and federal requirements, maintain accurate fiscal accounting records, and prepare and submit required accounting records in a manner that facilitates requisite audits by a Certified Public Accountant.

The SELPA is required to develop an Annual Budget Plan. The Governing Council shall conduct the public meeting as required. The purpose of the Annual Budget Plan is to provide the public with an overview of the resources available as allocated within the SELPA.

The Governing Council shall adopt policies to allocate and distribute funds. The following guidelines are provided to the Governing Council for such policies to develop the Annual Budget Plan for the SELPA.

**ALLOCATION DISTRIBUTION GUIDELINES**

All federal and state special education funds shall be allocated to the SELPA RLA for distribution to LEAs according to an approved special education funding allocation plan. Any changes to the allocation of federal and state special education funds shall be made by the Governing Council.

***DISTRIBUTION OF FEDERAL AND STATE FUNDS (cont.)***

***LP***

The Special Education Funding Reform Act of 1996 blended state apportionment, federal local assistance, property tax, and other sources for the distribution of special education funding to SELPAs.

The Governing Council shall adopt policies and regulations for the allocation of special education resources to LEAs. The intent is to assure access and availability of services to all eligible students through an equitable distribution system. The policy provides for distribution of the following funds:

- Distribution of state apportionment to LEAs
- Distribution of property tax to LEAs although received by the RLA as payment for LEA obligations
- Distribution of federal local assistance revenue to LEAs
- Distribution of federal preschool revenue to LEAs and the SELPA operations budget for regionalized staff development and regionalized services to preschool programs
- Distribution of infant units to the SLOCOE for providing infant services
- Distribution of infant grant funding to SLOCOE for providing infant services
- Distribution of Personnel Development Grant fund to the SELPA
- Licensed Children's Institution nonpublic school reimbursement

Additional funding is generated for special education and directly received by the eligible LEA including: special education revenue limit for special day class and nonpublic school attendance including extended school year and nonpublic school excess costs.

Each LEA shall establish and maintain the appropriate accounting records in accordance with and required by state and federal laws. LEAs shall expend these funds in accordance with all state and federal laws.

Approved by Governing Council on March 12, 2010

**ANNUAL BUDGET PLAN  
STATE REQUIRED POLICY  
56205(A)(12)(d)(II)(11)**

The San Luis Obispo County Governing Council shall, on behalf of the parties to the Local Plan, develop and adopt an Annual Budget Plan for Local Plan activities as required by Education Code. The budget plan shall include provisions setting forth the manner and level to which the LEAs shall be funded. The Annual Budget Plan shall also provide for the expenditure and distribution of all resources and funds under the scope of the Local Plan.

Approved by Governing Council on June 26, 2003

**ALLOCATION OF REGIONALIZED SERVICE FUNDS  
LOCAL POLICY**

Regionalized services and program specialist funds shall be allocated to the Special Education Local Plan Area (SELPA) office to support regionalized services and other administrative costs of the plan in accordance with this Local Plan per approval of the Governing Council. The Governing Council shall review and adopt an expenditure plan for the utilization of these funds in accordance with Education Code.

Approved by Governing Council on June 26, 2003

**SUPPLEMENTATION OF STATE/FEDERAL FUNDS  
FEDERAL ASSURANCE POLICY**

It shall be the policy of each LEA 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 and not to supplant state, local and other Federal funds.

*Legal Reference:*

*20 USC 1412 (a)(17)*

Approved by Governing Council on October 12, 2007

**SUPPLEMENTATION OF STATE AND FEDERAL FUNDS  
STATE REQUIRED POLICY**

Allocation Plan: Revenue and Expenses

State and federal revenues received by the San Luis Obispo County Special Education Local Plan Area (SELPA) are equitably allocated to the Local Education Agencies (LEAs) using the adopted revenue distribution process. The SELPA funding allocation plan ensures that cost effective services are available for all students within the SELPA. The plan does not create an incentive to place students in special education programs. The plan accommodates growth and decline by individual LEAs and the addition of other special education program providers such as charter schools.

The prior year use of services and the current year SELPA-wide funding is the basis for budgeting. The plan reflects the actual costs of services used by students and each LEA is responsible for paying for services provided to their students through their federal, state, and local revenues. Some services, as noted in the allocation plan, are paid for by all LEAs in the Local Plan.

The SELPA office prepares and distributes state and federal funds according to the SELPA adopted plan.

*Legal Reference:*

*EC 56205(a)(12)(D)(ii)(II), 56195, 56195.7(h)(4)(i)*

Approved by Governing Council on June 26, 2003

**MAINTENANCE OF EFFORT  
FEDERAL ASSURANCE POLICY**

It shall be the policy of each LEA that federal funds 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 provided in federal law and regulations.

*Legal Reference:*

*20 USC 1412 (a)(18)*

Approved by Governing Council on October 12, 2007

**MAINTENANCE OF EFFORT (MOE)  
STATE REQUIRED POLICY**

The Special Education Local Plan Area (SELPA) is required by law to withhold federal funds from any Local Education Agency (LEA) that does not demonstrate MOE as defined by the California Department of Education. LEAs within the SELPA that do not demonstrate MOE will not be eligible to receive federal funds and the distribution of remaining IDEA Part B funds will occur in accordance with the policies and procedures established in the local plan.

The following principles are agreed upon by the LEAs, which make up the San Luis Obispo SELPA.

LEA MOE Failure - Year One

1. LEAs within the SELPA who meet MOE. should not gain financially because of a LEA for the first time that was not able to meet MOE.
2. Federal funds withheld from a LEA for failure to meet MOE should be used to assist the sanctioned LEA to resolve the MOE issue.

LEA MOE Failure - Year Two

1. LEAs that are noncompliant in meeting MOE for more than one year in a row will be held responsible to the SELPA.
2. LEAs within the SELPA who meet MOE may receive federal funds based on the current distribution formula withheld from an LEA that did not meet MOE for more than one year in a row.

LEA MOE Failure Which Causes SELPA Failure

1. During any year, if the SELPA does not meet the MOE requirement, the LEA or LEAs causing the failure will be billed for the repayment of federal funds equal to the amount by which state and local spending was reduced.
2. Any LEA held to be noncompliant and thereby receiving sanctions would be held responsible for the cost to the SELPA.

Approved by Governing Council on March 9, 2005

**MAINTENANCE OF EFFORT (MOE)  
STATE REQUIRED ADMINISTRATIVE REGULATION**

The San Luis Obispo County SELPA shall meet the federal MOE regulations requiring that federal funds be used only 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 (reference: Title 34 Code of Federal Regulations C.F.R. Sections 300.231-300.233).

The SELPA Administrative Unit (AU), as the grantee of the federal funds from the State Department of Education, shall distribute all or part of the federal funds received to participating LEAs within the SELPA through a sub-granting process and shall annually conduct and report to the State Education Agency (SEA) each of the required MOE information. The LEAs within the San Luis Obispo County SELPA shall compile and submit budget and expenditure information to the SELPA AU, which will then conduct the two required calculations determine MOE. The two comparison tests are as follows:

**FIRST COMPARISON-Grant Year Budget versus Prior Actual Expenditures**

**Process**

- LEA will submit to the SELPA the required MOE documentation by September 15<sup>th</sup> every year
- Budgeted special education expenditures must equal or exceed prior year expenditures for each LEA and for the SELPA as a whole
- FIRST COMPARISONS is made before the allocations of Part B funding are made to the LEAs

**Test 1**

- Combined state and local funding sources are used for comparison at the SELPA level as a whole and for each individual LEA
- When the capability exists to isolate “local only” funding sources. The comparison may be made using only “local” resources.
- 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©).
- First test will be the 2003-2004 budget versus 2002-2003 actual

**MAINTENANCE OF EFFORT (MOE) (cont.)**

**SRAR**

**Test 2**

If SELPA as a whole and/or if LEA(s) fail Test 1- then use Test 2 as follows:

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**

If SELPA as a whole and/or LEA(s) fail both Test 1 and 2-then use Test 3 as follows:

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:
  - Has left the jurisdiction of the agency
  - Has reached the age at which the obligation of the agency to provide a free appropriate education (FAPE) to the child has terminated
  - 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
- As a result of the termination of one-time or short-term grants, such as Proposition 10 (tobacco tax) grants
- Other exceptions deemed applicable by the Special Education Agency (SEA) (e.g., unusual one-time legal costs)

**Failure to Meet First Comparison**

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

If SELPA fails the FIRST COMPARISON (including the application of Test 1-3), the SELPA as a whole and all of its participating 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.

**MAINTENANCE OF EFFORT (MOE) (cont.)**

**SRAR**

If SELPA as a whole passes the FIRST COMPARISON but one or more individual LEA sub-grant recipients fail the FIRST COMPARISONS (including the application of Test 1-3), the individual LEA(s) shall have until P-1 certification to comply with MOE requirements. If the individual LEA(s) has not rectified the problem by the date that the EP-1 certification is made, then the SELPA shall revise its allocation of the mix of federal, state and local property tax funding for special education to individual LEAs, as needed to ensure that all individual LEAs meet their MOE requirement. This reallocation of special education funding shall be consistent with both the letter and intent of state and federal law.

First Comparison will be conducted in the spring. It will compare the prior actuals of the prior year. The process will be repeated annually thereafter.

**SECOND COMPARISON-Prior Year Actuals versus Second Prior Year Actuals**

**Process**

- Special education expenditures must equal or exceed prior year expenditures (i.e., 2003-04 expenditures must equal or exceed 2002-2003 expenditures)
- SECOND COMPARISON is made after unaudited actuals data are submitted to CDE following the end of the fiscal year

**Test 1**

- 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 determine “per capita”) basis (34 CFR Section 300.231(c))

**Test 2**

If SELPA as a whole and/or LEA(s) fail Test 1—then use Test 2 as follows:

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**

If SELPA as a whole and/or LEA(s) fail both Test 1 and 2—then use Test 3 as follows:

**MAINTENANCE OF EFFORT (MOE) (cont.)**

**SRAR**

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 that is an exceptionally costly program because the child
- 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:
  - Has left the jurisdiction of the agency
  - Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated
  - No longer needs the program of special education;
- The termination of costly expenditures for long-term purchases, such as the acquisitions of equipment or the construction of school facilities
- As a result of the termination of one-time or short-term grants, such as Proposition 10 (tobacco tax) grants
- Other exceptions deemed applicable by the SEA (e.g., unusual one-time legal costs)

**SELPA Failure**

If the SELPA as a whole still fails to the SECOND COMPARISON after applying exceptions listed above, the SELPA will be billed by the state for the amount the SELPA, collectively, failed to spend from the state and local funds to maintain its level of effort.

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

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.

Approved by Governing Council on June 17, 2005

**MONITORING THE USE OF SPECIAL EDUCATION FUNDS  
LOCAL POLICY**

The Special Education Local Plan Area (SELPA) director and the Responsible Local Agency (RLA) shall be responsible to monitor on an annual basis the appropriate use of all funds allocated for special education programs. Final determination and action regarding the appropriate use of special education funds shall be made by the Governing Council through the annual budget plan process and reflect the principles and policies of the adopted 602 Allocation Plan.

Approved by Governing Council on March 12, 2010

**UTILIZATION OF MEDI-CAL FUNDS BY A LEA  
LOCAL POLICY**

Each LEA participating in Medi-Cal billing shall establish a Medi-Cal Consortium to make decisions for the utilization of the funds. The Medi-Cal Consortium, which consists of parents, community members, agency staff, teachers, and program administrators, prioritizes the additional needs that a LEA staff present, and makes the final decisions regarding expenditures.

Decisions are made by consensus whenever possible. When not possible, majority vote is used to decide an issue.

Approved by Governing Council on March 12, 2010

**ROLE OF CHIEF BUSINESS OFFICIALS (CBOs)  
LOCAL ADMINISTRATIVE REGULATION**

Proposals should move forward to the Executive Committee after review by CBOs. The Executive Committee will accept recommendations from the Special Education Operations Committee (SEOC) even without approval of CBOs. Concerns and questions should be noted. Unapproved items can simultaneously be sent back to SEOC for clarification.

Approved by Governing Council on February 10, 2005

**DISTRIBUTION OF OUT OF HOME CARE FUNDS  
LOCAL ADMINISTRATIVE REGULATION**

Funds received from the State for out of home care shall be distributed to the LEAs based upon the State's figures and allocation formula for those funds.

Approved by Governing Council on February 10, 2006