

POLICY 40

**MAINTENANCE OF EFFORT
(MOE)**

Adopted by Superintendents' Council 4-2-12

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SONOMA COUNTY SELPA

MAINTENANCE OF EFFORT (MOE) POLICY

The Sonoma County Special Education Local Plan Area (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 300.203-300.205).

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 and shall annually conduct and report to the CDE each of the required MOE information. The LEAs with the Sonoma County SELPA shall compile and submit budget and expenditure information to the SELPA which will then conduct the two required calculations determining MOE. The two required comparison tests follow:

First Comparison – Grant year Budget to Prior Actual Expenditures

- Each LEA will submit to the SELPA the required MOE documentation by September 15 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
- The SELPA will notify any LEA that fails to meet MOE by October 1 each year for adjustments
- The LEA(s) will have until October 7 each year to submit budget revisions

Test 1

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

- a. The voluntary departure or departure for just cause, of special education or related service personnel, who are replaced by qualified, lower-salaried staff
- b. A decrease in the enrollment of children with disabilities
- c. 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; or
 - No longer needs the program of special education
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Test 2

Compare using 50 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR 300.205).

Test 3

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

If the SELPA as a whole passes Comparison 1, the SELPA as a whole is eligible to receive Part B of the Individuals with Disabilities Education Act (IDEA) funding.

If the SELPA fails Comparison 1, the SELPA as a whole and all of its participating members will be ineligible to receive Part B funding until budgetary revision 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 P-1 certification to comply with MOE requirements. If an LEA does not rectify the problem by the date that P-1 certification is made, the amount of federal funds the LEA fails to budget shall be re-distributed on a proportionate share bases to those LEA sub-grant recipients that complied with the MOE requirements at Comparison 1 but only to the extent that they don’t reduce state and local or “local only” expenditures that would create an inability to meet MOE in the LEA.

Within one week of receipt of the LEA MOE report, the SELPA will notify any LEA that failed to adjust its budget to meet MOE and will send the LEA a copy of the MOE policy.

Second Comparison – Prior Year Actuals v. Second Prior Year Actuals

- Actual local or state and local expenditures must equal or exceed prior year expenditures
- Comparison is made after unaudited actuals date is submitted to CDE following the end of the fiscal year
- The comparison will occur annually

Test 1

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

- a. The voluntary departure or departure for just cause, of special education or related service personnel, who are replaced by qualified, lower-salaried staff
- b. A decrease in the enrollment of children with disabilities
- c. 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; or
 - No longer needs the program of special education
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Test 2

If the SELPA as a whole and/or an LEA fails Test 1, comparison should be completed using 50 percent of the increase in federal funding received that year over the prior year as “local funds” (34 CFR 300.205).

Test 3

- a. Combined actual local or state and local expenditures 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 capital”) basis (34 CFR 300.203(c)).

If the SELPA as a whole still fails 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 them for the amount that the LEA failed to spend from local or state and local funds to maintain their level of effort. The amount billed will be distributed to the LEAs that passed Comparison 2 in such a manner that it would not create a failure to maintain effort on the part of an LEA receiving such funds.

Within one week of receipt of the LEA MOE report, the SELPA will notify any LEA that failed to adjust its expenditures to meet MOE and will send the LEA a copy of the MOE policy. The SELPA will proceed with billing as described above.

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 sub-grants to participating LEAs. The SELPA AU is not a sub-grant recipient and is not required to meet MOE requirements.