

Federal Assurance Policy

Special Education Local Plan

FAP 18

MAINTENANCE OF EFFORT

It shall be the policy of this 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 References

EDUCATION CODE:

56205(a)(17)

FEDERAL REFERENCES

20 USC 1412(a)(18)

CFR 30.231-2

Federal Assurance Administrative Regulation

Special Education Local Plan

FAAR 18

MAINTENANCE OF EFFORT

The federal special education law, Individuals with Disabilities Education Act (IDEA), prohibits the use of federal special education dollars to reduce the level of state and local special education expenditures below that of the prior year except in specified cases, such as a decline in special education students. The Maintenance of Effort (MOE) requirements found in Part B of IDEA require that federal Part B special education funding shall be used to supplement state, local and other federal funds and cannot be used to supplant such funds. Federal Part B IDEA funds can be used only to pay the excess costs of providing special education and related services to children with disabilities.

The federal MOE requirements have been in place since 1997. In recent years state and local budgets for special education services have increased steadily. In past years it was easy to demonstrate that California's local agencies spent more state and local dollars on special education programs each year. However, the Special Education Division of the California Department of Education has received multiple communications regarding cuts in local funding to Special Education. Therefore, the California Department of Education has recently developed and implemented a formal process to monitor local MOE requirements to establish eligibility for IDEA funds.

Currently each SELPA must demonstrate that it meets MOE requirements. The special education expenditure data of the participating local education agencies in each district is consolidated to determine if the SELPA as a whole has met the MOE requirements. As long as the SELPA as a whole passes the MOE test, failure by an individual local education agency within the SELPA to meet the MOE test by itself will not result in withholding of federal special education funding. On the other hand, if a SELPA does not pass the budget-to-actual MOE test, none of the members in the SELPA will be eligible to receive Part B federal funding. With respect to the year-to-year actual-to-actual test, the SELPA will be billed for the amount the SELPA failed to spend from state and local funds to maintain its level of effort.

Failure of a SELPA to meet MOE will have very significant consequences, since the SELPA will not be eligible to receive Part B federal funding and will also lose the amount from state and local funds it failed to spend to maintain MOE.

CA Education Code Section:

56841. (a) Federal funds available through Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and appropriated through the annual Budget Act shall only be used as follows:

(1) For the excess costs of special education.

(2) To supplement state, local, and other federal funds and not supplant those funds.

(b) Except as provided in subdivisions (c) and (d), the funds shall not be used to reduce the level of expenditures for the education of individuals with exceptional needs made by districts, special education local plan areas, and county offices from local funds below the level of those expenditures in the preceding fiscal year.

(c) Notwithstanding subdivision (b), a district, special education local plan area, or county office may reduce the level of expenditures from local funds where the reduction is attributable to the following:

(1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel.

(2) A decrease in the enrollment of individuals with exceptional needs.

(3) The termination of the obligation of the district, special education local plan area, and county office, consistent with this part, to provide a program of special education to an individual or individuals with exceptional needs.

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

(d) Notwithstanding the provisions of subdivisions (a) and (b), for any fiscal year in which the amounts appropriated by Congress for the purposes of Section 1411 of Title 20 of the United States Code exceed four billion one hundred million dollars (\$4,100,000,000), a district, special education local plan area, or county office, may reduce expenditures from local funds for the education of individuals with exceptional needs by an amount that shall not exceed 20 percent of the amount of federal funds available under Part B of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and allocated to the district, special education local plan area, and county office which exceeds the amount of these funds received by the district, special education local plan area, or county office in the preceding fiscal year.

(e) A district, special education local plan area, or county office may reduce expenditures from local funds for the education of individuals with exceptional needs pursuant to subdivision (d) only if the superintendent determines that the district, special education local plan area, or county office is meeting the requirements of this part and the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) regarding the education of individuals with exceptional needs.

MAINTENANCE OF EFFORT (continued)

FAAR 18(b)

Procedure

Trinity County SELPA members recognize that the intent of the federally mandated maintenance of effort requirement is to ensure the provision of appropriate services for students with disabilities.

It is the expectation that all local education agencies of the SELPA shall meet the maintenance of effort requirement on a yearly basis. As each school year progresses, it shall be the responsibility of each SELPA local education agency to monitor expenditures for special education to assure that the local education agency is on track to meeting the maintenance of effort requirement.

Local education agencies shall be deemed to have met the maintenance of effort standard if their expenditure data meets the maintenance of effort parameters set forth in the implementing regulations of the Individuals with Disabilities Education Act.

If the SELPA does not meet maintenance of effort, the district(s) responsible for the failure, will be responsible for the fiscal sanction assessed to the SELPA by the California Department of Education based on each district's percent of liability.

Comparison 1- Grant Year Budget to Prior Actual Expenditures

If the SELPA as a whole passes the Maintenance of Effort Budget to Actuals test, but one or more individual LEAs fail the comparison, they shall have until P-1 certification occurs to comply with the maintenance of effort requirements. If an LEA has not rectified the problem by the date that the P-1 certification is made, its proportionate share of the federal funds shall be re-distributed, on a proportionate share basis to the LEAs that passed the maintenance of effort comparison.

Comparison 2- Prior Year Actuals to Second Prior Year Actuals

If the SELPA as a whole passes the Maintenance of Effort Actuals to Actuals test, but one or more individual LEAs fail to spend from state and local funds to maintain their level of effort, the SELPA will bill the LEA for the amount that the LEA failed to spend from the state and local funds to maintain their level of effort. The amount billed will be used to decrease the Excess Cost Bill Back to Districts.

Legal References

EDUCATION CODE:

56841