

FRESNO COUNTY SPECIAL EDUCATION LOCAL PLAN AREA

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Policy Title: Funding Allocation Plan

1. Funding Sources

The Fresno County SELPA is funded through a variety of State, Federal, and local sources for special education and related services. Such sources of funding include, but are not limited to, the following:

- A. State Special Education Funding;
- B. Special Education Local Property Tax;
- C. Local Control Funding Formula (LCFF) Transfers;
- D. Federal Individuals with Disabilities Education Act (IDEA);
- E. IDEA Preschool;
- F. Infant funds;
- G. Mental Health funds;
- H. Professional and Staff Development funds; and
- I. Other funds.

The Fresno County Superintendent of Schools (FCSS) is the designated Administrative and Fiscal Agency for the Fresno County SELPA. Other terms used to describe this designation are Responsible Local Agency and Administrative Unit (RLA/AU).

A. State Special Education Funding

1) History

Prior to 1998-99, State Special Education funding to each Member LEA was calculated on a State form called the J-50. The J-50 form calculated funding based on a Member LEA's Instructional Personnel Service (IPS) Units.

In 1998-99, Special Education funding was fundamentally changed as a result of Assembly Bill (AB) 602. Rather than IPS Units, funding passed to each SELPA based upon its regular education Kindergarten through Twelfth Grade Average Daily Attendance (K-12 ADA).

As the State's transition to the new funding model, each Member LEA's 1997-98 J-50 amounts formed the "Base" funding. However, additional funding such as Supplements-to-the-Base, Cost-of-Living (COLA), and

Growth or Declining ADA adjustments would be based upon the AB 602 K-12 ADA. These additional funds would augment the Base, and create a new Base amount for each subsequent year.

In order to calculate and illustrate these funding amounts, the State provides a Special Education Funding Exhibit twice a year at the Period 1 (P-1) Certification and at the Period 2 (P-2) Certification. Since each fiscal year is certified six times over the course of three fiscal years, each of the certification periods contains not only the current year funding exhibit, but also the prior and the prior-prior year exhibits.

Funding allocations from the SELPA to its individual Member LEAs would then follow the Funding Allocation Plan. Similar to the State's AB 602 transition, however, the Fresno County SELPA Funding Allocation Plan built upon each Member LEA's original 1997-98 J-50 funding. This amount became a Member LEA's "Base" funding. Any Supplements, COLA, and Growth adjustments received by the SELPA would augment each Member LEA's Base through a formula linked to the AB 602 K-12 ADA. The link contained formulas that were different than the CDE formula. This augmentation created a new Base amount to the Member LEA for each subsequent year.

On March 28, 2008, a Fiscal Crisis & Management Assistance Team completed a Fresno County SELPA review. In regards to the Funding Allocation Plan, the review contained the following:

As is the case in many SELPAs, the Fresno County SELPA's transition from the J-50 funding model to the current AB 602 funding model appears to have emphasized the preservation of 1997-98 funding levels and was linked to local educational agencies' K-12 average daily attendance (ADA). This method helped accomplish the transition quickly and relatively painlessly, but it should have been limited to a transitional period while the SELPA explored alternatives for an equitable distribution of state and federal resources.

On April 26, 2012, it was reported to the Superintendents' Governance Council (SGC) that the State Aid portion of AB 602 funding for the Base, Supplements-to-the-Base, COLA, and Growth adjustments on a per-ADA basis among the Member LEAs ranged from a low of \$100 to a high of \$565. The combined AB 602 State Aid and IDEA on a per-ADA basis ranged from a low of \$162 to a high of \$894. Additionally, it was also reported that the Fresno County Office of Education's County Operated Programs for Special Education (County Operated) provided Speech Services to students whose District of Service was not County Operated. Such services were not equitable to all Member LEAs.

Therefore, in order to provide an equitable distribution of State and Federal resources, and equitable services therein, funding allocations to the Fresno County SELPA and its Member LEAs was revised in the 2012-13 fiscal year.

2) **Allocation**

The State Special Education funds consist of several components, such as (1) Base Rate, as prorated and adjusted by CDE (2) General Funding such as Special Education Property Taxes, (3) (4) Program Specialist/Regionalized Services, (5) Low Incidence, (6) Out-of-Home Care, (7) Extraordinary Cost Pool for Nonpublic nonsectarian schools (NPS)/Licensed Children's Institutions (LCI) & NSS Mental Health Services, (8) Adjustment for NSS with Declining Enrollment, and (9) Prior Year Adjustments and Corrections.

I. Base Rate (AB 602 State Aid)

- a) The SELPA shall fund the County Operated Programs for Special Education to (1) students with disabilities enrolled in the programs, and (2) itinerant services to students with low incidence disabilities who are enrolled within the Member LEAs. The funds are not used for (a) home-to-school transportation, or (b) service agreements. Sources of funds to provide the program include special education property tax, Federal IDEA grants, lottery funds, LCFF transfers from Member LEAs with students enrolled in the program, etc. The balance of the budget to operate the program, less these other sources, shall be the amount used to fund the program.
- b) The SELPA departments that include, but are not necessarily limited to (a) SELPA Set-Aside, (b) NPS Set-Aside for Non-Mental Health related services (c) Legal Set-Aside, (d) Coalition, and (e) Regionalized Services and Program Specialists shall be funded based upon an amount approved by the SGC.
- c) The SELPA may allocate to Member LEAs operating remote classrooms on behalf of County Operated Programs for Special Education, an add-on amount to help defray the Member's costs of the program, upon approval by the SGC.
- d) The SELPA shall allocate a proportionate share of the remaining AB 602 State Aid funds to Member LEAs, excluding County Operated Programs, on the basis of each Member LEA's AB 602 K-12 ADA for that funding year.
- e) The preceding allocation method shall become effective in the 2012-13 fiscal year, and shall include a phase-in and hold-harmless adjustment. The total 2012-13 calculated increase or decrease for both the revised AB 602 State Aid allocation method and the Speech Fee-for-Service, as compared to the previous funding allocation plan for AB 602 State Aid and Speech Services (herein "difference") shall be applied over a five-year period as follows:

20% of the difference shall be applied in the 2012-13 year,
40% of the difference shall be applied in the 2013-14 year,
60% of the difference shall be applied in the 2014-15 year,
80% of the difference shall be applied in the 2015-16 year, and
100% of the difference shall be applied in the 2016-17 year.

f) Additionally, Member LEAs with a 2012-13 calculated negative difference shall be held harmless for the 2012-13 and 2013-14 fiscal years. The SELPA shall use available reserves to fund the total decreases. If the reserve is exhausted, the SELPA shall request additional funds from the SGC.

II. Program Specialist/Regionalized Services

The SELPA shall allocate a proportionate share of the Program Specialist portion within this fund to those Member LEAs that provide Program Specialist services that are recognized within the Fresno County SELPA Local Plan for Program Specialist Services. Funded AB 602 K-12 ADA for that fiscal year shall be used in the proportionate share calculation. The Regionalized Services amount and the remaining Program Specialist amount within this fund shall be used by the SELPA for Regionalized Services and Program Specialist purposes.

III. Low Incidence Apportionment

The SELPA shall allocate the Low Incidence Apportionment Education funds for purchases and activities for the County Operated Programs for Special Education and Member LEAs as allowed by CDE.

IV. Out-of-Home Care

The SELPA shall allocate the Out-of-Home Care funds in the following manner: The 2004-05 Original Transfer Amounts shall form the base of the allocation. After the Original Transfer amounts, the balance of funds shall be divided to all Member LEAs on the basis of each Member LEA's AB 602 K-12 ADA for that fiscal year.

V. NPS/LCI ECP

The SELPA shall allocate any NPS/LCI ECP funds to Member LEAs who had submitted the claims that were approved and funded by the CDE.

VI. Adjustment for Necessary Small Schools with Declining Enrollment

This funding is not applicable to the Fresno County SELPA.

VII. Prior Year Adjustments and Corrections

The SELPA shall allocate any funding in the state apportionment contained in the prior year adjustments and corrections in the subsequent year in which the funds are calculated.

B. Special Education Property Taxes

The SELPA shall allocate one-hundred percent (100%) of the Special Education Property Tax funds to County Operated Programs.

C. LCFF Transfers

The California Department of Education (CDE) calculates the transfer of LCFF funds in accordance with EC Section 2576, which requires the CDE to transfer funds from a school district of residence to a COE for all ADA served by the COE and not eligible for funding under the COE Alternative Education Grant. LCFF funding for this ADA is credited to the district of residence as part of its LCFF Entitlement, and is used to determine the school district's LCFF State Aid. The amount transferred to the COE is equal to the ADA attributed to the district of residence multiplied by the district's LCFF rate, comprised of the LCFF base, supplemental and concentration grant per ADA, unless the COE and the district of residence agree on an alternative amount.

D. IDEA

The SELPA shall allocate a proportionate share of the IDEA funds, including those designated for Preschool, to Member LEAs and County Operated Programs, on the basis of each Member LEA's prior year California Longitudinal Pupil Achievement Data System (CALPADS) Fall 1 16-series unduplicated counts . In calculating the allocation, the IDEA Local Assistance uses the total pupil count, while the IDEA Preschool uses the preschool-only pupil count. Due to the size and scope of services each Member LEA provides, the SELPA may make adjustments to the allocations, if needed.

E. IDEA Preschool

The SELPA shall allocate a proportionate share of the Federal Preschool funds to Member LEAs and County Operated Programs on the basis of each Member LEA's prior year CALPADS Fall 1 16-series unduplicated counts for preschool students. Due to the size and scope of services each Member LEA provides, the SELPA may make adjustments to the allocations, if needed.

F. Infant Funds

The SELPA shall allocate the Infant funds in the following manner: Federal Infant shall be allocated to those Members that generate the funds; and State Infant shall be allocated to County Operated Programs.

G. Mental Health Funds

The SELPA shall allocate the Mental Health funds between the SELPA and County Operated Programs to be used for qualified Mental Health services. The SELPA may also allocate the Mental Health funds for approved educationally-related mental health services claims submitted by Member LEAs for residential placements and services.

H. Professional and Staff Development Grants

The SELPA shall use the Professional and Staff Development Grant funds such as Alternative Dispute Resolution, Pre-Kindergarten Staff Development, and Personnel Development for SELPA to provide grant-authorized SELPA-wide professional and staff development activities. The SELPA staff will plan and coordinate these services to meet diverse needs among the Member LEAs.

I. Other Funds

The SELPA shall use other grant funds such as Infant Discretionary, WorkAbility, Transition, Low Incidence Services, etc. in the manner as prescribed in the grant.

2. Member LEAs with State Special Education Fund Balances

The SELPA acknowledges that current year funding should be used for current year students. Additionally, Special Education funding should not accumulate from year to year in a Member LEA's fund balance beyond a reasonable amount. Accordingly, Member LEAs having Special Education fund balances on a per-ADA basis exceeding the current year State Apportionment per-ADA allocations, shall be considered to have excess funding for that year. Unless the Member LEA can demonstrate extraordinary need as determined by the SGC, or provide reasons sufficient for the SGC to allow it, funding in excess of one year's per-ADA amount shall be reserved by the SELPA. This reserve may be used for SELPA, County Operated, or other Member LEA purposes, as determined by the SGC.

3. FCSS-Authorized Non-Member Charter Schools

The SELPA recognizes the need to separately identify activities between County Operated Programs at FCSS and Charter Schools where FCSS is the Authorizer and which are deemed a public school of FCSS (herein FCSS Non-Member Charter Schools). Therefore, FCSS Non-Member Charter Schools shall be separately identified from County Operated Programs, including funding and reporting purposes, and shall be funded based upon a method approved by the Chairperson of the SGC, and the SGC. The above will be implemented in the 2009-10 fiscal year.

4. Service Agreements

Educationally-related and other specialized services provided by the SELPA and/or County Operated Programs shall be charged to Member LEAs who are the District of Service for those students receiving such services.

Educationally-related and other specialized services performed by the SELPA and/or County Operated Programs for students in which the District of Service is County Operated Programs shall not be charged to Member LEAs.

If available, services may include, but are not limited to, the following:

- A. Resource Specialist (RSP) Services
- B. Speech Language Pathology (SLP) Services
- C. Adapted Physical Education (APE) Services

The Service Agreement, if not already established, shall become effective in the 2012-13 fiscal year. Speech Services shall include a phase-in and hold-harmless adjustment as detailed herein.

Member LEAs that currently receive such Service Agreements by County Operated Programs for children in which the Member LEA is the District of Service may discontinue such services by giving such notice to the SELPA Administrator at least one full fiscal year in advance.

5. Transportation Billbacks

Transportation costs provided by the Fresno County SELPA for student riders shall be charged to the Member LEA who is the rider's District of Residence. Typical transportation costs include parent or private driver, staff and contracted driver expenditures. Parent or private driver costs are separated and charged separately to the Member LEA whose student rider is utilizing this service. Any related

transportation revenue received by the SELPA shall be used to offset the total cost to Member LEAs. The net costs are divided by the Total Rider Count, and charged to Member LEAs on a per-Rider basis.

The Total Rider Count is the total number of half-year and full-year riders. Half-year riders are those riders who are counted from the beginning of the regular school year to December 31, or who are counted anytime from January 1 to June 30. Full-year riders are those riders who are counted on both counts.

The SELPA will provide a list of riders captured on the Total Rider Count to each LEA Member to verify. The total rider count is determined following the verification process.

The SELPA Administrator will notify the SGC each year of the projected Transportation Billback in order to assist Member LEAs with budget planning.

6. Reporting Requirements

The SELPA and the Member LEAs shall follow all Federal, State, and local reporting requirements. Reports must be submitted in their entirety and within the timeline to the SELPA for approval and in a format or on forms prescribed by the SELPA. The reports shall be maintained and made available by the Member LEA for public review. The SELPA will conduct a detailed fiscal review of those documents for technical accuracy and reasonableness, and will provide the final report to the appropriate agency.

If a Member LEA is identified as noncompliant, special conditions may be imposed. The SELPA Administrator may authorize to withhold partial or total funding. Member LEAs with sanctions will receive notification of special conditions. No payments will be released to Member LEAs with special conditions until the SELPA receives written notification from the Member LEA agreeing to the special conditions.

The SELPA shall provide a Treasurer's report to SGC each year after the SELPA has completed its unaudited actuals. This report shall include the prior year financial information for the SELPA Set-Aside funds. The SELPA shall reserve at least three percent (3%) of the total SELPA budget allocation it receives from the Federal and State grants and entitlements.

7. Set-Aside Pools

The Fresno County SELPA has established set-aside pools for Nonpublic School (NPS) costs and Legal costs. The Set-Aside Pools are interest-bearing funds which can be accessed for approved reimbursement claims. Appropriate documentation of claim costs must be submitted to the SELPA Administrator or designee, and approved by the appropriate SELPA Committee. Penalties for non-compliance to policy herein may be assessed by the appropriate SELPA Committee.

A. Nonpublic School Pool

The Nonpublic School (NPS) Pool was established to provide partial funding for children in Kindergarten through grade 12 with behaviors so severe that an NPS placement is required through a district IEP meeting. To be eligible to access funds from the Pool, the Member LEA who is the District of Residence must collaborate with the SELPA Administrator or designee prior to an IEP decision to

refer a student to an NPS placement. The District of Residence must also contact the SELPA Administrator or designee if a student moves into the LEA with these services designated on the student's current IEP. If the SELPA Administrator or designee is not informed, the appropriate SELPA Committee will deny the reimbursement claim. Verification of the Member LEA's Master Contract with the NPS will be a consideration in approving the claim(s).

The SELPA may require (1) appropriate documentation which illustrates a utilization or consideration of program services provided by public education before the NPS placement was considered, and (2) appropriate documentation regarding responsibility by a public agency other than the Member LEA.

Any costs recovered by another entity which includes, but is not limited to, the CDE Nonpublic School and Licensed Children's Institution Extraordinary Cost Pool will not be considered for reimbursement.

Two categories of funding and claims are established for NPS placements: (1) NPS placements that qualify under AB 114 for Mental Health educationally related services (herein "Mental Health NPS Pool"), and (2) NPS placements that do not qualify under AB 114 for Mental Health educationally related services (herein "Non-Mental Health NPS Pool").

1) Mental Health NPS Pool

I. Funding

The SELPA shall fund the Pool up to a threshold of the average of the previous three years of approved Mental Health NPS Pool claims, plus 20% using available funds designated for Mental Health educationally related services. Alternatively, the appropriate SELPA Committee may approve to fund the Pool at a greater or lesser amount. Available amounts shall be determined after deducting obligations for approved mental health related service expenditures such as salary and benefits, indirect and other program costs.

II. Claims

NPS reimbursements for eligible mental health claims may cover up to one-hundred percent (100%) of mental health educationally related services for emotionally disturbed pupils required by an individualized education program. Educationally related services may consist of residential costs, student transportation costs, and other designated instructional service costs as are required to assist a child with a disability to benefit from special education.

Member LEAs are responsible for the costs of the basic education program and special education instruction. However, Member LEAs may request a claim for a portion of such costs using the Non-Mental Health NPS Pool.

If the total approved claims exceed the amount of available funding, the approved reimbursements shall be prorated, and the difference shall be paid by the Member LEA.

2) Non-Mental Health NPS Pool

I. Funding

The SELPA shall fund the Pool annually at seventy-five thousand dollars (\$75,000) up to a threshold of three-hundred thousand dollars (\$300,000). These funds shall originate from the State AB 602 funds. Fund balances in excess of the threshold shall be used to backfill the SELPA Legal Pool, returned to the Member LEAs annually on a per AB 602 K-12 ADA basis using the most available P-2 certification, or allocated for other purposes as determined by the appropriate SELPA Committee.

II. Claims

NPS reimbursements for non-eligible mental health claims may cover up to seventy percent (70%) of costs not otherwise claimable using the Mental Health NPS Pool. If the total approved claims exceed the amount of available funding, the approved reimbursements shall be prorated, and the difference shall be paid by the Member LEA.

B. Legal Pool

The Legal Pool was established to provide partial reimbursement for qualifying attorneys' fees related to "Due Process" hearings and/or formal complaints. The SELPA has trained individuals in the area of mediation to assist Member LEAs with the ADR process. The Legal Pool is not intended to be a replacement for a Member LEA from hiring an attorney on retainer or for other purposes.

1) Funding

The SELPA shall fund the Pool annually at seventy-five thousand dollars (\$75,000) up to a threshold of three-hundred thousand dollars (\$300,000). These funds shall originate from the State AB 602 funds. Fund balances in excess of the threshold shall be used to backfill the Non-Mental Health NPS Pool, or returned to the LEA Members annually on a per ADA AB 602 K-12 ADA basis, or allocated for other purposes as determined by the appropriate SELPA Committee.

2) Claim Deductible and Maximums

Legal reimbursements for claims may cover up to one-hundred percent (100%) of the non-auxiliary legal costs, less a two-thousand five-hundred (\$2,500) deductible per case, and not to exceed the established maximum.

The established maximum per claim, which is equal to one case shall be the following: Seventy-five thousand (\$75,000) per Member LEA whose most recent P-2 AB 602 K-12 ADA is equal to, or greater than, five-thousand (5,000); fifty-thousand (\$50,000) per Member LEA whose most recent P-2 AB 602 K-12 ADA is less than five-thousand (5,000) but equal to, or greater than, two-thousand five-hundred (2,500); and twenty-five thousand (\$25,000) per Member LEA whose most recent P-2 AB 602 K-12 ADA is less than two-thousand five hundred (2,500).

Auxiliary costs, such as travel and lodging, are not reimbursable. Approved claims that exceed the amount of the Pool shall be prorated.

3) Qualifications

The SELPA Administrator or designee must have been notified as soon as practicable that a “Due Process” hearing or formal complaint will be filed by the Member LEA or was filed against the Member LEA. The Member LEA must have used mediation and/or Alternative Dispute Resolution (ADR) activities, which may include the facilitated IEP process utilizing a non-Member LEA facilitator, to attempt to resolve the issues contained in the hearing or formal complaint unless the parent(s)/guardian(s) of the student has refused to participate in such mediation or ADR activities.

Claims in which the SELPA advised the Member LEA against Due Process, or claims in which the Member LEA has been determined to be negligent, may be either adjusted or disapproved for reimbursement.

Claims for more than two consecutive years will require review and approval by the Executive Committee.

The appropriate SELPA Committee may consider any unique circumstances as presented, using reasonable judgment, to reimburse for claims that do not qualify under this section.