Significant Disproportionality
Fiscal Frequently Asked Questions
Revised May 11, 2021

The questions addressed in this document were either discussed by the panelists as part of the presentation or are questions commonly raised by Local Educational Agencies (LEAs). An recording of the presentation can be found at https://youtu.be/r6En0v7ASP0.

Question 1:

1a. If an LEA is identified and the Comprehensive Coordinated Early Intervening Services (CCEIS) funds 15 percent set-aside amount equals $10,000, is this an ongoing allocation or one-time money for the 27-month grant award period?

1b. Our LEA has been identified for two different fiscal years (FY 2020-21 and FY 2021-22). Do we keep the two allocations of set-aside funds separate? Or are we allowed to make sure the first allocation is expended by the end of the award period and the second allocation is expended by the end of that award period?

ANSWER 1:

1a. Funds are allocated from one year, in this case the 2021 – 2022 budget. These funds can be used for CCEIS activities across the 27-month period starting July 2021 through September 30, 2023. As implementation of CCEIS activities do not begin until the CCEIS Plan is approved, most of these funds would likely be expended in the next fiscal year, in this case 2022-2023.

1b. If the LEA is found significantly disproportionate in two different fiscal years, an additional 15 percent would need to be set aside from that year's budget and you need to keep the allocations separate. Your LEA will be required to develop a CCEIS plan and budget for each year of identification that will be used to support a target population of students. And like the set-aside from the first year, your district was identified as significantly disproportionate, the funds for the second year of identification cannot be spent until your plan is approved. Until plan approval, you may only expend these funds on plan development and for contracting a TA facilitator.

Question 2:

As the first day of the 27-month cycle is July 1, may Local Education Agency (LEA) funds be used to pay for CCEIS activities beginning this July (2021), with the understanding that those funds will be paid back after the CCEIS Plan has been approved?

ANSWER 2:

It depends on the activities the LEA is reimbursing. Costs related to CCEIS Plan development can be charged to CCEIS resource codes 3312 and 3318 beginning July 1, while implementation costs cannot be paid with CCEIS funds until the Plan is approved. Expenditures for CCEIS implementation can be charged to the CCEIS resource codes after the approval date (not July 1). In addition, any expenses related to CCEIS prior to July 1 cannot be funded with CCEIS funds, so the LEA must determine another funding source.

The 2021 CCEIS period is July 1, 2021, through September 30, 2023. The CCEIS 15 percent set-aside must be fully expended by September 30, 2023. The LEA will not receive the allocation of Federal IDEA funds in Resource 3310 and 3315 until July 1, 2021.

Funds for plan development may be used to pay for consultants and group work in planning (e.g., Technical Assistance Facilitator, substitute costs or stipends for Stakeholder Team members, stipends for employees or outsourcing to assist in completing qualitative and/or quantitative data assessment, etc.).

After the CDE has reviewed and approved your CCEIS plan, all expenses for the provision of CCEIS to the target student population may be charged to the CCEIS resource codes beginning the date of approval.

Question 3:

3a. When completing the CCEIS Plan Budget Pages, do object codes 5100 and 5800 costs go under the line item 5000 – Services/Other Operating Costs?

3b. May we add Indirect Costs to the CCEIS Budget?

ANSWER 3:

3a. Object codes 5100 and 5800 are separated on the CCEIS Plan Budget Pages to ensure that indirect costs are not charged above the initial $25,000 for each individual subagreement. Any subagreement amount over $25,000 should be charged to Object code 5100 and indirect costs may not be assessed on those subagreement expenditures. Expenditures for individual subagreements up to $25,000 may be coded to 5800 and included in the calculation of the indirect cost rate.

3b. Yes, you may add Indirect Costs (ICR) to the CCEIS budget, but each LEA is different so please check the CDE website and use approved ICR for your LEA for each fiscal year. As previously noted, you may not charge indirect costs for contractual expenditures above $25,000. The ICR object code is 7300.

Question 4:

Are the transfers of revenue from the 15 percent set-aside of federal IDEA funds from resource codes 3310 and 3315 into CCEIS resource codes 3312 and 3318 an 8980 transfer of unrestricted revenue?

ANSWER 4:

Code 8980 is not the appropriate object code to use. The object code 8990 is used for the contribution from restricted revenue. Since federal IDEA funds in Resources 3310 and 3315 are restricted, then the appropriate object code to use for the revenue transfer to Resources 3312 and 3318 is 8990.

Question 5:

Based on the programmatic improvement plan, do the students served have to match the students served in the quarterly progress report?

ANSWER 5:

Yes, the target population identified in the programmatic improvement plan will be the group of students who receive the early intervening services articulated in the CCEIS plan and reported on in the quarterly progress and expenditure reports. Additionally, the LEA will need to provide their SELPA with student information to report to the CDE on the Table 8 report. This information includes the number of targeted students who received CCEIS under the IDEA in the LEA and also the total number of targets students who received CCEIS under the IDEA and were identified and received special education and/or related services from the LEA.

Question 6:

6a. When no funds are spent in a given report period, the district AND the SELPA still submit a report that says zero, correct?

6b. The CCEIS Quarterly Progress and Expenditure Report 1 is optional and covered the period between July 1 through December 31. As many LEAs do not submit Report 1, may expenses incurred between July 1 through December 31 be claimed on Report 2?

6c. Also, the Line Item on the Expenditures Related to Progress Report has Line item 5000 Service/Other Operating Costs. However, the Allowable Costs Budget Form from the CCEIS Plan includes the 5100 and 5800 Contract Services line where the TA Facilitator's expenses should be reported. Should the TA costs be included on the 5000's object code line?

ANSWER 6:

6a. When no funds are expended in a given reporting period, the CCEIS Quarterly report needs to be submitted showing -0-. The grant expenditure report would show -0- under the CCEIS line item. If funds have not been "expended" during a reporting period when the plan is to be implemented, a Quarterly report would still be submitted describing what is happening with implementation. If funds have been fully expended, the Quarterly report would indicate completion of the services or description of alternative funding to sustain implementation.

6b. LEAs that did not submit a Quarterly Progress and Expenditure Report for reporting period 1 by January 10, should include all of these expenses and activities in the Quarterly Progress and Expenditure Report 2 that they submit by April 10. That would include any costs tied to TA Facilitator support and Plan development.

6c. The Quarterly Progress and Expenditure Report does not break down the 5000's object code line so all expenses that fall into this object code would be included on the same line. It would be helpful for the LEA to note the breakdown in the description if any of the expenses were for object code 5100 as the indirect cost calculation cannot include these expenses.

Question 7:

Do preschool funds transferred to CCEIS still have to be utilized for preschool services?

ANSWER 7:

Funds transferred from the federal preschool grant need to be used to implement the CCEIS plan – it is not specific to preschool students.

Question 8:

Our SELPA operates a number of regionalized programs on behalf of school districts--preschool being one. Thus, the districts do not get an allocation of these funds, they are all spent at the SELPA level--how do we determine the set-aside?

ANSWER 8:

The LEAs 15 percent set aside is based on their Part B allocation even when that allocation is used by another entity in part or in full. SELPAs and the California Department of Education (CDE) can assist in determining the appropriate Part B allocation to use to determine the required amount of the 15 percent set aside.

Question 9:

Is there a new assurance form or is it the same one submitted earlier this year?

ANSWER 9:

The Assurance of Compliance has been updated with the date of 2021 and was due to the California Department of Department by 2/11/21.

All CCEIS guidance documents, required forms, required tools, and additional tools will be housed on the *new* CCEIS Padlet. Documents will be added to the Padlet over time. It is no longer part of the Special Education Plan Portal

Question 10:

Is CCEIS going to have to be called out specifically in the Local Control and Accountability Plan (LCAP)?

ANSWER 10:

No, CCEIS is not a component of the LCAP. However, the LEA should use the LCAP to identify current initiatives and LEA priorities related to significant disproportionality. Integration and alignment of these efforts is highly recommended.

Question 11:

Since we will not receive our grant notifications until late Spring 2022 and the plan is due September 30, 2021, how do we identify federal funds appropriately?

ANSWER 11:

The CCEIS Budget Forms are completed using an estimate based on last year’s allocation. When the current grant notification is provided, LEAs resubmit the Budget Form with corrected numbers based on the current year’s allocation.

Question 12:

Is the requirement that a Technical Assistance (TA) Facilitator must be contracted for 10 hours per indicator?

ANSWER 12:

Yes, it is a minimum of 10 hours per indicator.

Question 13:

LEA 2021-22 budgets may be significantly impacted. What are the considerations for mitigating the budgetary impacts of the CCEIS process?

ANSWER 13:

The CCEIS funds are Federal dollars and CDE can do nothing to mitigate the budgetary impact. LEAs must adhere to the 15 percent set aside as mandated by IDEA and CDE also has to maintain their Maintenance of Effort requirements.

Question 14:

Will CCEIS Plans be monitored to ensure that expenditure of funds is related to the identified root causes and the Action Plan?

ANSWER 14:

Yes, CCEIS plan implementation will be monitored through the expenditure and progress reports. These reports are submitted together, quarterly, and both parts must be approved prior to reimbursing expenditures.

Question 15:

What is the responsibility and accountability expected of general education in this process? Why are the requirements, auditing, and monetary penalties on special education rather than on the full general education system where the root cause of systemic racism has resulted in special education disproportionality?

ANSWER 15:

Mandates for the identification, addressing and monitoring of significant disproportionality are regulated through IDEA. The identification is triggered by disparities in special education based on race and ethnicities. Comprehensive Coordinated Early Intervening Services are implemented in general education. The intent is to address the root causes that stem from general education, and it is a general education plan. General education staff are responsible for the implementation of CCEIS. As the funds are reallocated special education funds, tracking and monitoring activities and budgets takes teamwork from both general education and special education.

Question 16:

Please explain the role of the SELPA. What are the implications of budget documents matching or not matching expenditure reports? Help us understand the process of submissions, clarity around expenditure reports and how to make updates or adjustments in a way that makes sense and is sufficient for audit.

ANSWER 16:

Part 7 of the Assurance of Compliance form indicates that "the SELPA director must certify its involvement in the development of the Significant Disproportionality CCEIS Programmatic Improvement Process, any addendums, fiscal information, and quarterly reports." The SELPA Director's signature is required on this form; however, a fiscal person's signature is not. It is important to make sure that the Chief Business Officer receives a signed copy of the Assurance of Compliance document. It is critical to involve a financial officer at the beginning.

Grant allocations must be received by the LEA from SELPA and the CCEIS budget report numbers must align with the SELPA grants expenditure reports. Calculation errors will hold up release of funds and the SELPA expenditure reports have to align with CCEIS progress reports. Funds are released with CDE expenditure reports. LEAs can make small changes in the progress report but any significant change in allocation of funds in the CCEIS budget should be provided in an amendment to be approved by CDE. Talk to your Focused Monitoring and Technical Assistance (FMTA) consultant if you want to make a significant change on how your funds will be expended.

Budget Forms: The budget form that is part of the CCEIS plan includes only major object codes with brief descriptions. The CCEIS plan is due by September 30, 2021, and the SELPA does not have the IDEA federal grant awards to determine the allocation for FY 2021. The LEA should use an estimate based on the prior year allocation and the budget must be revised to the actual 15 percent set-aside amount once grant awards for Resource 3310 and Resource 3315 are received and allocations determined. The SELPA business fiscal officer's signature is required on this budget form and the SELPA Director's signature is required on the final page of the CCEIS plan.

Quarterly Report Forms: Any revision to object code line items (amounts and/or descriptions) should be revised when these reports are submitted and amounts must match the grant award expenditure report submitted to SELPA.

Question 17:

17a. The allocation of 15 percent of Part B funds will affect our Maintenance of Effort (MOE) reporting. How do we handle this? And if MOE is based on special education expenditures, why is MOE increased when the IDEA monies are being spent on general education interventions in the CCEIS plan?

17b. When we are no longer identified as significantly disproportionate, is our MOE still impacted?

ANSWER 17:

See Maintenance of Effort Overview at the end of this document for detailed MOE reporting requirement information.

17a. An LEA is required to complete the MOE reports for annual submission to CDE and must show it has met the level of effort as required by IDEA. There are four different tests on the MOE report based on state and local special education expenditures and local only special education expenditures, but an LEA needs to pass just one test to meet the MOE requirement.

NOTE: The LEA is only required to pass one of the tests to meet the MOE requirement. However, the LEA is required to show results for all methods. These results are necessary for both historical purposes and for the possibility that the LEA may want, or need, to switch methods in future years.

The 15 percent of Part B funds that need to be set-aside for CCEIS expenditures comes from Federal IDEA funding which is **not** part of the MOE test requirement. When these funds are transferred to a non-special education resource code, the expenses that previously would have been charged to a federal resource code may need to be covered by state and/or local funds, increasing the expenses in those state and/or local resources.

For example:
An LEA has been identified as significantly disproportionate and must set aside 15 percent of Federal IDEA funds. The amount of its allocation in resource codes 3310 and 3315 is $1M so the set-aside in resource codes 3312 and 3318 is $150,000.

- The LEA uses federal funding to cover classified instructional assistant positions. The $150,000 covers the salary and benefits for two instructional assistant (I/A) positions for one year.
- The LEA will use $75,000 on CCEIS expenditures per its approved CCEIS plan in both fiscal years one and two.
- The LEA will need to cover $75,000 in federal expenditures (one I/A position) each fiscal year using state special education funding, local contribution, or a combination of both state and local funding because the revenue transferred from special education to general education. This will increase the amount of special education expenditures reported on the MOE for two years.

17b. When the LEA has used its entire allocation of CCEIS funds, the federal funding will remain in special education resource codes and the need to use the state special education funding, local contribution, or combination of both state and local funding is no longer needed to cover the expenses. This will cause the amount of special education expenditures in state and local resources and or local only resources to decrease, which may impact the LEA's MOE.

An LEA should monitor its MOE reports at interim reporting periods to determine if the LEA will meet its MOE requirements every year. It is particularly important to do this after the LEA has been identified as significantly disproportionate. The LEA should review its special education program costs for any areas of potential reduction in special education expenses so that the comparison year level of effort does not increase substantially when the set-aside funds are required for the provision of CCEIS.

Fiscal Year 2021-22 is a critical year for the Special Education administrator to work closely with the business department to run the MOE reports early and use the Subsequent Years Tracking (SYT) worksheet as quarterly checks to determine if the LEA will meet or exceed the MOE requirement. Changes could be made during the First Interim (staring in October) and Second Interim (March). After the LEA has gone through First Interim, unexpected changes may have occurred. For example, no longer transporting as many students, reduction in nonpublic or agency costs, declining enrollment, additional costs related to distance learning and/or school re-entry, more intensive supports or services. Some of these areas could reduce or decrease expenses. To offset an increase in MOE which sets a new and higher base, work with your team (fiscal, special education, and human resources) to identify what can be transferred into general education. A few examples: time study for administrators, nurses, and psychologists to determine percentage of time spent in general education and transfer that portion.

Question 18:

Are we able to us some of these funds to retain a position like a Multi-Tiered System of Support (MTSS) Coordinator as example?

ANSWER 18:

This is very tricky! The key word is "retain." Just changing the funding source would lend itself to supplanting. So, the quick answer is NO. However, if the prior position of an existing staff member was eliminated, then the newly created position (funded with CCEIS funds) must have a different job description that ties directly to the CCEIS plan implementation. It is important to note that the LEA cannot fund the position with CCEIS funds before the CCEIS Plan is approved (likely end of January) and when using two funding sources for a position it is important to keep an accounting of time to justify duties/responsibilities related to the funding.

Question 19:

We are making plans for next year and we are anticipating a new position (MTSS Coordinator). Can we use CCEIS funds for this position? If we wait until our plan is approved, can we allocate funding from July-December towards the position? Will this be considered supplanting because we are hiring prior to the CCEIS plan being completed and approved?

ANSWER 19:

If a position is triggered by the CCEIS plan (funding someone to address root cause issues) then it should be clearly noted in the plan that this is a NEW position and that funding will come from two sources. For example, the position may be funded by general fund dollars and CCEIS dollars. However, expenses can only be charged to CCEIS for the time period after the plan approval. NOTE: a justification for the position co-funded position could be prior data analysis revealing issues of disproportionate representation in special education identification, placement or discipline that may have or will have contributed to the identification of significant disproportionality.

Note: for both questions about funding positions, ALL positions or partial positions can only be funded with CCEIS funds if providing direct services to the selected Target student group or overseeing/supporting those direct services.

Question 20:

Why is it mandated to hire a TA Facilitator while there is no money for it?

ANSWER 20:

The requirement of using a TA facilitator can and usually is paid for with the CCEIS set-aside money. It is a minimum of 10 hours per indicator for which the LEA has been found disproportionate. The requirement was put into place for several reasons. First, evidence-based practices on systemic change demonstrate the importance of guidance from a trained expert in the field especially when identifying root causes of significant disproportionality, developing improvement actions/activities, and measuring those actions accomplished to achieve outcomes. Second, the CDE has noted differences in quality of plans submitted with TA Facilitator support versus without support. Third, SPP-TAP Facilitators belong to a cadre of trained experts who receive regular information from SPP-TAP on promising practices and updates in state and federal guidance.

It is important to be specific in your agreement with the TA Facilitator what his/her roles will entail.

Question 21:

How can we put money into Early Intervening Services when students come to us starting in the 9th grade?

ANSWER 21:

Often, students transition to the high school as 9th graders with IEPs, requiring services for students with mild-to-moderate or moderate-to-severe disabilities. A high school district may have limited control over the number and percentage of students identified by specific disability groups. Reviewing the age of entry is specifically important to determine when students are first identified as eligible for special education. This can be done using your Special Education Student Information System data.

A review of practices around triannual evaluations can provide helpful information and working with feeder LEAs and SELPA around factors contributing to disproporitonality is highly recommended.

SPECIAL EDUCATION MAINTENANCE OF EFFORT (MOE) OVERVIEW

Source: MOE Instructions from Standardized Accounting Code Structure (SACS) Software 2020-21
Source: Exempt Reduction to Maintenance of Effort Template (revised 4-23-15)

BACKGROUND INFORMATION

The Special Education Maintenance of Effort (MOE) reports are used to determine if a local educational agency (LEA) met the maintenance of effort required by the federal Individuals with Disabilities Education Act (IDEA) and implementing regulations. In summary, an LEA may not reduce the amount of local, or state and local, funds that it spends for the education of children with disabilities below the amount it spent for the preceding fiscal year. There are two components to the LEA MOE requirement – the eligibility standard and the compliance standard.

There are two types of reports: SEMA and SEMB as explained below.

- Prior Year Actuals versus Second Prior Year Actuals (SEMA)
- Grant Year Budget to Prior Year Expenditures (SEMB)

The eligibility standard requires that, except in specified situations, in order to find an LEA eligible for IDEA Part B funds for the upcoming fiscal year, the LEA should have budgeted for the education of children with disabilities at least the same amount of local, or state and local, funds, as it actually spent for the education of children with disabilities during the most recent year for which information is available (34 Code of Federal Regulations Section 300.203(a)).

The compliance standard requires that, except in specified situations, an LEA should not reduce the level of expenditures for the education of children with disabilities made from local, or state and local, funds, below the level of those expenditures from the same source for the preceding fiscal year (34 Code of Federal Regulations Section 300.203(b)).

An LEA may use the following four methods to meet both the eligibility and compliance standards:

- Combined state and local expenditures;
- Combined state and local expenditures on a per capita basis;

- Local expenditures only;
- Local expenditures only on a per capita basis.

NOTE: The LEA is only required to pass one of the tests to meet the MOE requirement. However, the LEA is required to show results for all methods. These results are necessary for both historical purposes and for the possibility that the LEA may want, or need, to switch methods in future years.

SUBSEQUENT YEARS TRACKING (SYT)

The Subsequent Years Tracking (SYT) worksheet is used to determine if the LEA is comparing the actual expenditures of the SEMA and the budgeted expenditures of the SEMB to the appropriate comparison year for each of the four methods back to FY 2011–12, which is the base year for the LEA MOE calculations. Per the IDEA, an LEA may meet the compliance standard using any one of four methods: (1) state and local aggregate expenditures, (2) state and local per capita, (3) local only aggregate expenditures and (4) local only per capita. The comparison year for determining if an LEA meets the compliance standard is the last year the LEA met MOE using the same method and might vary depending on each method. The LEA is required to submit the SYT worksheet with the SEMA and SEMB reports.

EXEMPT REDUCTIONS UNDER 34 *CODE OF FEDERAL REGULATIONS* SECTION 300.204

The LEA may reduce the level of expenditures below the level of the preceding fiscal year if the reduction is attributable to any of the following reasons. If the total justifications equal/exceed the MOE shortfall, fiscal effort has been maintained for the reporting year.

- The voluntary departure, by retirement or otherwise, or departure for just cause, of certificated and/or classified special education or related services personnel (does not include contract non-renewal or staff lay-off due to budget shortfall).
- 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 a disability that is an exceptionally costly program because:
- Child has left the jurisdiction of the agency; OR
- Child has reached the age at which the obligation of the agency to provide free and appropriate public education (FAPE) to the child has terminated; OR
- 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 (must have per unit cost of $5,000 or more)

"50 PERCENT RULE"

Only LEAs that have a "meets requirement" compliance determination under IDEA, Section 613(a) and that are not found significantly disproportionate for the current year are eligible to use this option to reduce their MOE requirement.

Under federal law and regulations, an LEA may reduce its required MOE by not more than 50 percent of the increase, minus the amount of Part B funds the LEA chooses to use for early intervening services (EIS). The LEA must use an amount of state or local funds equal to the reduction in the required level of expenditures used in this section, to carry out activities that could be supported with funds under the Elementary and Secondary Education Act of 1965 (ESEA), regardless of whether the LEA is using funds under the ESEA for those activities (IDEA of 2004, Section 613(a)(2)(C)).

DUE DATES

The SEMA and SEMB reports are due as follows:

- Due to SELPA Administrative Unit on October 15: LEA worksheets from member LEAs
- Due to CA Department of Education on November 15: SELPA worksheet, and LEA worksheets from member LEAs