

Developing Written Procedures for Maintenance of State Financial Support

CIFR Practice Guides assist states and other stakeholders to better understand how states may implement fiscal reporting requirements set forth in the Individuals with Disabilities Education Act (IDEA). The guides may be developed in collaboration with other national technical assistance centers. This informal guidance does not represent an interpretation of IDEA by the Office of Special Education Programs (OSEP) or the U.S. Department of Education.

Background

The Individuals with Disabilities Education Act (IDEA) requires states to “not reduce the amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year” (34 CFR §300.163(a)). Each state must be able to demonstrate that it has policies and procedures in effect to meet IDEA’s maintenance of state financial support (MFS) requirement. More information on MFS can be found in the Center for IDEA Fiscal Reporting (CIFR) *Quick Reference Guide on IDEA Maintenance of State Financial Support*.

Purpose

CIFR recommends that each state develop high-level written procedures that describe how the state meets the IDEA requirement for MFS at 34 CFR §300.163(a). High-level procedures do not typically provide details about internal processes but are intended to help state staff who are new to special education finance, as well as staff who need an overview of the state’s MFS procedures, understand and implement the actions necessary to demonstrate how the state complies with the IDEA requirement for MFS.

High-level procedures can also be shared with external stakeholders — such as state legislators, auditors, and other agency administrators and staff — to build understanding of MFS and help document compliance.

This practice guide is designed to help states develop these high-level written procedures. Specifically, the guide provides guiding questions, sample language, and related resources

The Center for IDEA Fiscal Reporting helps states improve their capacity to report special education fiscal data. The center is a partnership among WestEd, American Institutes for Research (AIR), Technical Assistance for Excellence in Special Education (TAESE) at Utah State University, and Westat.

The contents of this document were developed under a grant from the U.S. Department of Education, #H373F140001. However, these contents do not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government. Project Officer: Daniel Schreier.

August 2018

for states to consider when developing their written procedures. The guide may also be helpful in evaluating whether existing state procedures address the recommended content and guiding questions. If you have questions or need help when developing or reviewing your state’s written procedures, please reach out to CIFR (cifr_info@wested.org).

Please note that this resource focuses on the broad principles that guide the state’s implementation of the MFS requirement and is not intended to replace a step-by-step internal process manual that details how state staff calculate and report MFS. Such a manual should provide detailed information on the internal processes and controls, including how to update the state’s spreadsheet or other software used to calculate MFS. By nature, this type of manual must be intensely individualized by state. CIFR staff are available to help individual states develop a more detailed document to ensure accurate and sustainable implementation.

Although the purpose and target audience differ between high-level written procedures and internal process manuals (table 1), both documents, when developed and implemented correctly, help ensure:

- » The state meets the MFS requirement.
- » Continuity of operations.
- » Consistent practice over time.
- » Consistent communication among partners.
- » The use of valid and reliable data.

Both sets of documentation could be submitted to the Office of Special Education Programs (OSEP) as part of fiscal monitoring of the state.

Table 1: High-level procedures and internal process manual: Audience and purpose

MFS documentation	Audience	Purpose
High-level procedures	Internal and external stakeholders	Demonstrate compliance with IDEA requirements and build stakeholder understanding.
Internal process manual	State educational agency (SEA) staff	Document detailed internal processes and responsibilities for implementing regulations and high-level procedures.

Using This Practice Guide to Develop State Procedures

This practice guide provides a model to help individual states develop their high-level procedures and is organized by nine recommended components:¹

- 1: Purpose of and Authority for Procedures
- 2: Staff Responsibilities and Timeline for Collecting, Validating, and Reporting MFS Data
- 3: State’s Definition of “Financial Support Made Available”
- 4: Direct Legislative Appropriations Supporting Special Education and Related Services

¹ This guide offers a suggested organization of the recommended components; however, states may find that a different way of organizing better reflects their MFS processes and calculations.

- 5: SEA Financial Support for Special Education and Related Services
- 6: Other State Agency Financial Support for Special Education and Related Services
- 7: MFS Calculation
- 8: Validating and Reporting MFS Data
- 9: Actions in Case of Failure to Maintain Financial Support

Each component section contains the following:

- » Brief description of the component.
- » Guiding questions that a state may use when drafting or evaluating procedures.
- » Sample starter language designed to help states begin to respond to some of the guiding questions.
- » Related resources.

Please note that the sample language included in this guide provides examples of how a state may begin to address one or two of the guiding questions related to a component and is **not intended to be comprehensive for any particular component**. Because states differ considerably in their MFS procedures, we have not included sample language for each question. **The sample language should be used only as a starting point to develop or revise procedures.** State staff responsible for ensuring the MFS requirements are implemented should carefully consider each guiding question and develop their own responses that meet the needs of their state. Those responses should include citations of and links to relevant state statutes, rules, and other documents that support the procedures.

Within each component section, notes to practice guide users are indicated in italics. Brackets are used to denote language that should be updated to be state-specific (e.g., [state] or [SEA]).

Related Resources

Related resources are included at the end of each recommended component. As states use this guide to develop state-specific procedures, they may wish to link to these resources as well as other state resources. All of the referenced resources and tools in this practice guide can be accessed through CIFR's catalog of resources on MFS at <http://cifr.wested.org/resources/mfs/> and in CIFR's MFS Toolkit at <http://cifr.wested.org/resources/mfs/mfs-toolkit/>.

In addition, the links at the end of each component in this practice guide lead to the full text of related IDEA regulations on the *Electronic Code of Federal Regulations* website, <https://www.ecfr.gov/>, that provides consistently updated regulatory language. For United States Code (statutory) citations, links are provided to the Office of the Law Revision Counsel's United States Code website, <http://uscode.house.gov/>.

Recommended Components of High-Level Written Procedures

CIFR recommends that written MFS procedures address the following components, as mentioned previously:

- 1: Purpose of and Authority for Procedures
- 2: Staff Responsibilities and Timeline for Collecting, Validating, and Reporting MFS Data

- 3: State's Definition of "Financial Support Made Available"
- 4: Direct Legislative Appropriations Supporting Special Education and Related Services
- 5: SEA Financial Support for Special Education and Related Services
- 6: Other State Agency Financial Support for Special Education and Related Services
- 7: MFS Calculation
- 8: Validating and Reporting MFS Data
- 9: Actions in Case of Failure to Maintain Financial Support

Each recommended component — including guiding questions, sample language, and related resources — is described below.

1: Purpose of and Authority for Procedures

This component provides an introduction to the state's MFS procedures. CIFR recommends that this component cite the IDEA MFS requirement (34 CFR §300.163(a)) and summarize the content of the written procedures.

Guiding Questions

- » What are the MFS requirements under IDEA?
- » What additional state requirements, if any, exist that may impact the MFS requirement and procedures?
- » What is the importance of MFS for our state?
- » How will these procedures be used?
- » Which stakeholders, including other state agencies or direct service providers, need to understand the importance of MFS and these procedures?
- » How are these stakeholders involved in implementing these MFS procedures?

Sample Language

Purpose and Authority

The purpose of this document is to describe how [SEA] implements IDEA requirements at 20 U.S.C. §1412(a)(18) and 34 CFR §300.163(a) on behalf of [state]. IDEA requires [state]:

"must not reduce the total amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year."

In order to implement 20 U.S.C. §1412(a)(18), [state] must have policies and procedures to ensure that it does not reduce the amount of state financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.

These procedures also reflect the guidance in the December 2, 2009 Office of Special Education Programs (OSEP) Memorandum 10-05 regarding maintenance of state financial support (MFS), which clarifies that the state must also include state funds provided by all state agencies that provide or pay for special education and related services to

students. Implementing these procedures will ensure that the state continues to make support available for special education and related services for children with disabilities as required.

These procedures will guide the work of the [SEA Special Education Finance Division] as it collaborates with other stakeholders, including the legislative budget office, other agencies that provide services to children with disabilities, and the state special education advisory panel. Procedures will be reviewed annually with stakeholders to ensure they understand MFS requirements and the stakeholders' role in ensuring ongoing funding for special education.

In accordance with 34 CFR §300.163(a), the amount of state financial support made available (i.e., appropriated) for special education and related services is compared from year to year. To meet this requirement, [SEA] has implemented a system to report and monitor state financial support and proactively advise policymakers of the MFS requirements, thus ensuring sustained fiscal support for special education and related services.

Special education and related services are funded by [state] in three ways:

- » Direct legislative appropriations supporting special education and related services.
- » SEA financial support for special education and related services.
- » Other state agency financial support for special education and related services.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » IDEA Statute (current full text of the statute can be found at <http://uscode.house.gov/>): 20 U.S.C. §1412(a)(18)
- » *Maintenance of State Financial Support Funding Flow Ideograph Tool*, CIFR
- » *Quick Reference Guide on IDEA Maintenance of State Financial Support*, CIFR

2: Staff Responsibilities and Timeline for Collecting, Validating, and Reporting MFS Data

This component provides an overview of the office(s) or position(s) responsible and the state's timeline for collecting MFS data, validating the data, and reporting the data to OSEP.

Guiding Questions

- » Which offices are responsible for implementing these procedures?
- » What specific staff positions have final oversight?
- » Which offices are responsible for reviewing and verifying the work of others?
- » What type of training is provided to the responsible staff, including staff in other state agencies who report MFS data, to ensure that offices and positions have the capacity to complete these requirements?
- » Who maintains contact with other agencies?
- » What is the state's timeline for collecting, validating, and reporting MFS data?

Sample Language

The [SEA Special Education Finance Division] is responsible for implementing these procedures. Staff will maintain capacity through annual training and review of the requirements and [SEA] MFS procedures.

OR

The [SEA Budget Office] is responsible for implementing these procedures, and the [SEA Special Education Director] will review and approve all reports. The [State Budget Officer] or authorized representative will sign Section V of the *Annual State Application under Part B of the IDEA*.

See table 2 for [state]’s timeline (developed with CIFR’s Timeline Development Tool) for MFS data collection, validation, and reporting activities.

Table 2: [State]’s annual MFS timeline and activities

Date	Activity	Responsible staff/office
By April 1	Receive final appropriation amounts from legislative budget office for the following fiscal year to be appropriated on July 1.	MFS Manager and Chief Financial Officer
By July 1	Contact auditors to determine when books will be closed and audited to validate MFS data from previous fiscal year. Contact internal SEA sources and other state agencies, alerting them to track and collect MFS data for current fiscal year beginning July 1.	MFS Manager
By October 1	Contact other state agencies to check on MFS data collection for current fiscal year and status of audited MFS data from previous fiscal year.	MFS Manager
By December 1	Compare preliminary amounts from the previous year to be reported in Section V of the <i>Annual State Application under Part B of the IDEA</i> to check for patterns and changes, then follow up with legislative staff should additional financial support be required to meet MFS for the current year.	MFS Manager
By December 31	Receive final audited MFS data for SEA and other state agencies for previous fiscal year. Check on the SEA’s internal data collection and other state agencies’ MFS data collection for current fiscal year.	MFS Manager
By February 1	Begin data entry for previous fiscal year in the [state data collection tool], including verification of contact information and validation of data.	MFS Data Clerk and MFS Manager with Director of Finance
By March 1	Complete data validation and calculation of MFS for previous fiscal year for inclusion in Section V of the <i>Annual State Application under Part B of the IDEA</i> .	MFS Data Clerk and MFS Manager
By May 1	Obtain certification of MFS calculation and Section V of the <i>Annual State Application under Part B of the IDEA</i> .	MFS Manager and Chief Financial Officer

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR
- » *Maintenance of State Financial Support Timeline Development Tool*, CIFR

3: State’s Definition of “Financial Support Made Available”

This component provides an overview of how the state defines “financial support made available” and the categories of funding that will be described in detail in components 4–6.

Guiding Questions

- » How does the state define “financial support made available”?
- » How does the state identify all state funds made available for special education and related services or otherwise made available because of the excess costs of identifying and educating children with disabilities?
- » What are the categories of funding that comprise state financial support for special education and related services?
- » What exceptions, if any, are there to the general principle that “made available” does not mean “expended”?

Sample Language

“Financial support made available” is the amount of state financial support provided for special education and related services in a given fiscal year, regardless of the amount actually expended. Only state funds are included in this definition, excluding any federal and local funds. This financial support is provided in the following categories and described in detail in the subsequent sections:

- » State formula funding for allocating state funds to local educational agencies (LEAs) for special education.
- » Allocations of state funds to the SEA for special projects, statewide initiatives, and/or direct services.
- » Allocations of state funds to other agencies for services to children with disabilities pursuant to their individualized education programs (IEPs).

OR

“Financial support made available” means state funds allocated to the SEA or other state agencies, specifically for special education and related services for children with disabilities. For the [State Mental Health Agency], amounts that were made available are determined from actual expenditures because amounts are not allocated directly for children with disabilities.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Funding Flow Ideograph Tool*, CIFR
- » *Quick Reference Guide on IDEA Maintenance of State Financial Support*, CIFR
- » *Letter to Koch*, OSEP

4: Direct Legislative Appropriations Supporting Special Education and Related Services

This component describes the state's regular legislative budget processes to appropriate funds to support special education and related services. Support provided by the SEA and other state agencies that is not directly appropriated by the legislature for special education and related services is covered in Component 5 (SEA) and Component 6 (other state agencies).

Guiding Questions

- » Is there a direct special education appropriation or is it part of a broader education appropriation?
- » What is the timeline for the legislative appropriation? Is it an annual or biannual appropriation? When are appropriations made each year? Are appropriations subject to change for a certain time period?
- » Are there other entities, such as educational service agencies or regional cooperatives, to which funds are directly allocated?
- » If special education is not a direct appropriation, what is the mechanism used to determine the amount that is made available to the SEA to distribute to its LEAs for special education and related services?
- » What other direct appropriations does the legislature make for special education and related services for children with disabilities? *For example, appropriations for state schools for the deaf or blind, specialized transportation, preschool services for children with disabilities, or a state-funded high-cost fund.*
- » How is the SEA informed of these appropriations?

Sample Language

[State]'s legislature makes an annual appropriation to the state's education fund, from which all education programs are funded.

OR

[State]'s legislature makes a general education appropriation for each budget year. A weighted formula is used to determine the amount of those funds that will be provided to LEAs specifically for special education and related services to children with disabilities pursuant to their IEPs.

AND

In addition, the legislature makes funds available to [SEA] for specific programs that include special education and related services including the Transition of Children with Disabilities appropriation, which funds the state transition project.

Annual appropriations are made by the legislature to other agencies that may be used to provide special education and related services. These include:

- » Appropriations made to the [state] School for the Deaf, [state] School for the Blind and Visually Impaired, and [state] Juvenile Justice Department.
- » Appropriations to all other state agencies listed in Appendix A.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR
- » *Maintenance of State Financial Support Funding Flow Ideograph Tool*, CIFR

5: SEA Financial Support for Special Education and Related Services

This component describes any SEA distribution of state funds for special education and related services, including allocations from the SEA to LEAs.

Guiding Questions

- » What is the funding calculation or formula for distributing state funds to LEAs — for both education in general and special education?
 - Where is this established in state law?
 - Who or which office does that calculation and makes the appropriation?
 - Does the formula include a required local contribution or local share? If yes, how do the MFS procedures account for the subtraction of local funds?
- » What is the funding calculation or formula for providing state funds for preschool programs, including special education and related services made available to children with disabilities ages 3–5?
 - Where is this established in state law?
 - Who or which office does that calculation and makes the appropriation?
- » Is the SEA required, or does the SEA have discretion, to make other state funds available for special education and related services? *For example, transportation for children with disabilities pursuant to IEPs or special programs for historically underserved populations.*
- » Does the SEA contribute state funds to teacher retirement or other benefit funds at the state level?
- » Does the SEA contribute to a state-funded high-cost fund?
- » Does the SEA contribute funds to special programs such as a state school for the deaf or blind?
- » Does the SEA provide any direct services to children with disabilities pursuant to their IEPs? *For example, related services in rural LEAs where local providers are not available, state-administered transition services, or a state-directed program in an LEA when the LEA has been determined not to be providing free appropriate public education (FAPE).*

Reader note: CIFR recommends states describe their funding calculation or formula for the distribution of state education funds in this section. These funding calculations or formulas are generally established in state legislation, and succinct descriptions can likely be obtained from the responsible legislative or SEA office. The formula might include a base amount and then additional amounts, specific weighting, or a separate calculation for special education or children with disabilities.

Because each state is unique, it is important to provide a snapshot of the funding formula to illustrate the strengths and limitations that formula or formulae have on the state's ability to meet the MFS requirements. This practice guide does not provide sample language for descriptions of state funding calculations or formulas because each state has a unique system and these procedures should clearly reflect that system.

Sample Language

[Description of state funding calculation or formula.]

AND

[SEA] allocates funds from its overall budget to contribute to the following programs that do not receive direct appropriations from the legislature:

- » Preschool inclusion initiative.

- » Special education transportation.
- » Regional day schools for the deaf.
- » Statewide services for the blind and visually impaired.
- » Non-educational community-based support services.

OR

[SEA] makes discretionary state funds available for special education and related services through block grants for transition programs to serve students between the ages of 18 and 21.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR
- » *Maintenance of State Financial Support Funding Flow Ideograph Tool*, CIFR
- » *Letter to East (2010)*, OSEP
- » *Letter to Morton (2011)*, OSEP
- » *OSEP Memo 10-05 Maintenance of State Financial Support under the Individuals with Disabilities Education Act*

6: Other State Agency Financial Support for Special Education and Related Services

This component describes any state support provided by other agencies for services that are designated in children's IEPs, and not described in Component 4, "Direct Legislative Appropriations Supporting Special Education and Related Services." Examples include services provided directly to children or LEAs through the mental health services administration, transportation services provided by another agency, services provided directly through the juvenile justice system, or pre-employment training and services provided to children by a vocational agency. When another agency cannot identify the amount of funds made available, it is permitted to report a reasonable approximation of the amount made available.

Guiding Questions

- » Which agencies potentially provide direct services to children with disabilities in accordance with their IEPs?
- » Which other agencies potentially flow funds to LEAs or cooperatives for special education and related services?
- » Does a state agency other than the SEA contribute state funds to teacher retirement or other benefit funds?
- » How does the state communicate with and collect MFS data from other state agencies each year (e.g., through a letter, email, conference call, database request)?
 - How does the state ensure other agencies are provided with timely, relevant information about MFS?
- » How does the state validate, or otherwise ensure, that information obtained from other state agencies is accurate and reliable?

Sample Language

In addition to legislative and SEA financial support, other agencies make state funds available for special education services designated in children's individualized education programs (IEPs) through direct services and grants to LEAs.

Agencies that currently provide financial support included in the MFS calculation are:

- » Mental health services administration.
- » Juvenile justice.
- » Vocational rehabilitation agency.
- » Department of health.

The SEA collects MFS information from all state agencies through an annual letter requesting that this information be entered into an Excel spreadsheet. Agencies are requested to complete the spreadsheet even if the amount for the year is zero.

OR

State funds that are made available for special education services are notated in the state grant management system.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR
- » *Maintenance of State Financial Support Funding Flow Ideograph Tool*, CIFR
- » *Maintenance of State Financial Support Letter to Other State Agencies*, CIFR

7: MFS Calculation

This component describes the data sources and mathematical calculation the state uses to determine the total MFS amount including:

- » *Direct legislative appropriations (see Component 4).*
- » *SEA financial support (see Component 5).*
- » *Other agency support (see Component 6).*

Guiding Questions

- » From where and how are the individual amounts (or reasonable approximations) made available for special education and related services from each of the sources identified in the previous components derived? *For example, how is financial support from the Department of Mental Health calculated? How is support for preschool services specifically for children with disabilities extracted from the overall preschool allocation?*
- » What steps are taken to remove all local funds from the MFS amount?
- » What mechanisms are in place to capture increases or decreases of support made available throughout the year?
- » What resources (e.g., spreadsheet, database report) does the SEA use to perform and document the annual calculation?
- » If the SEA does a per capita calculation in addition to the total calculation, how does the state ensure that the child count from the year in which funds are made available is used?

Sample Language

[State]'s MFS calculation totals the following amounts made available for special education and related services:

- » Direct legislative appropriations (see Component 4).
- » SEA financial support (see Component 5).
- » Other agency support (see Component 6).

All support is documented in the Data Collection and Reporting Tool (DCRT), a spreadsheet that includes year-to-year comparisons of state fiscal support. The DCRT aggregates the amounts from the above sources to calculate the total amount made available.

OR

MFS =

- » Direct Legislative Appropriations
 - Amount allocated from the legislature for special education as specified in Component 4 +
 - Funds allocated from the legislature to [SEA] for specific programs (Transition of Children with Disabilities appropriation, which funds the state transition project) +
 - Annual legislative appropriations to other agencies that may be used to provide special education and related services (appropriations made to the [state] School for the Deaf, [state] School for the Blind and Visually Impaired, and [state] Juvenile Justice Department) +
- » SEA Financial Support
 - Preschool inclusion initiative +
 - Special education transportation +
 - Block grants for transition programs to serve students between the ages of 18 and 21 +
- » Other Agency Support
 - Mental health services administration +
 - Juvenile justice +
 - Vocational rehabilitation agency +
 - Department of health.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR

8: Validating and Reporting MFS Data

This component describes the steps taken to validate and report annual MFS data.

Guiding Questions

- » How does the SEA ensure the data reported are based on complete and audited financial data, including data submitted by other agencies, and reflect any adjustments made throughout the year?

- » What steps are taken to validate the MFS amounts? That is, what steps are taken to ensure that the data sources and the calculation itself are accurate and consistent from year to year?
 - What steps are taken if concerns or errors are noted or when there are inconsistencies in the calculation components from year to year?
 - How does the state document explanations for differences in the year-to-year calculation?
 - How does the state ensure that federal and local funds are not included in the calculation?
- » Who is responsible for completing and signing or certifying Section V of the *Annual State Application under Part B of the IDEA* where MFS amounts are reported?
- » What is the process that the state follows to include or justify not including Section V of the *Annual State Application under Part B of the IDEA* in the required public comment period on the annual Part B application?

Sample Language

[State office] reviews the amount of each component to ensure it is valid throughout the year and compares the amounts over time to check for consistency and similarity prior to the end of the fiscal year. If the [state office] identifies concerns or errors, it resolves those concerns with the office providing the data. Final reported numbers are based on audited financial data made available by the end of the calendar year.

[State office] reports two years of MFS amounts in Section V of the *Annual State Application under Part B of the IDEA* for federal funds to OSEP each year. The data are certified by the state budget officer or authorized representative.

OR

[SEA] reports two years of MFS data, certified by the state budget officer or authorized representative, in Section V of the *Annual State Application under Part B of the IDEA* for federal funds to OSEP in May of each year. Because the state does not have final appropriation amounts in time for public comment, the state will use estimated amounts in the application when it is posted for public comment each year in accordance with 34 CFR §300.165 and section 441(b) (7) of GEPA (20 U.S.C. §1232d(b)(7)). When [SEA] submits its state application to OSEP for approval, the amounts will be changed from estimated amounts to final amounts.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Maintenance of State Financial Support Data Collection and Reporting Tool*, CIFR

9: Actions in Case of Failure to Maintain Financial Support

This component describes the steps to address potential or actual failure to meet the MFS requirement.

Guiding Questions

- » What is the process and timeline for projecting whether the MFS requirement will be met?
- » What mechanism, if any, does the state have in place to request that additional funds be allocated if it appears it may not meet MFS? What is the process for making this request?
- » Under what circumstances may a waiver request be submitted to the U.S. Department of Education?
- » What is the state's process to repay the amount of any MFS shortfall to the U.S. Department of Education?

Sample Language

[State MFS Manager] reviews the state's MFS calculation with the State Special Education Director and the Special Education Advisory Panel in the beginning of the third quarter of each fiscal year. If it appears that [state] may not meet its MFS obligation based on the state funds made available, the [special education and finance divisions] must bring the issue to the attention of the [SEA head office]. [SEA head office] advises the legislature that it has not made sufficient funds available prior to the end of the third quarter. The legislature may make additional state general funds available or re-designate existing funds as support for special education to ensure that the state meets its MFS obligation.

OR

If it appears that [state] may not meet its MFS obligation on the funds made available, [SEA] informs the legislature of the potential shortfall and may request additional funds or a re-designation of funding.

OR

[SEA Fiscal Officer and Special Education Director] review projected allocations prior to the state budgeting process and request additional funds from the legislature if it appears the state may not meet its MFS obligation.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §300.163
- » *Process and Criteria Used to Evaluate a Request by States to Waive Maintenance of Effort (MOE) Requirements Under Part B of the Individuals with Disabilities Education Act (IDEA)*, OSEP

Conclusion

This practice guide provides recommended content for states to consider for developing written procedures that describe how the state meets the IDEA MFS requirement.

We recommend that states use the guiding questions to draft or evaluate MFS procedures that reflect the state's unique context. The sample language provides text that should be modified for specific states and expanded upon to describe how the state addresses each component. Because states differ in their MFS process and procedures, each state that uses this guide will have unique written procedures. CIFR technical assistance staff are available to help states consider each guiding question and develop state-specific responses. Please contact CIFR (cifr_info@wested.org) for assistance.

Many CIFR staff contributed to this work. Sara Doutré led its development with contributions from Carol Cohen and Deborah Morrow. Tom Munk was lead reviewer and Sanjay Pardanani was production coordinator. CIFR co-directors Cecelia Dodge, Jenifer Harr-Robins, and Dave Phillips guided its development.

Suggested Citation: Center for IDEA Fiscal Reporting. (2018). *Developing written procedures for maintenance of state financial support*. San Francisco, CA: WestEd.