



Understanding
Maintenance of State
Financial Support (MFS)
Part I: Breaking down the
regulations and data
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CIFR and IDC in collaboration
with NCSI Fiscal Team.



Purpose of Introductory Session



- Provide background for a panel discussion on issues related to implementing maintenance of state financial support (MFS).
- Familiarize participants with the MFS regulations and reporting requirements.
- Discuss valid and reliable data for MFS reporting.

Why must financial support be maintained?



- IDEA contains a “supplement, not supplant” provision for states (34 CFR §300.162) and local educational agencies (LEAs) (34 CFR §300.202).
- MFS provides a safety net of support for LEAs.

MFS Regulations



34 CFR §300.163(a) Maintenance of State financial support.

(a) *General.* A State must 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.

MFS Regulations *(continued)*



34 CFR §300.163(b) Maintenance of State financial support.

(b) *Reduction of funds for failure to maintain support.* The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.

Provisions on MFS Consequences



- First appeared in the FY2016 federal appropriations bill (HR 2029).
- The amount reduced for failure to maintain MFS in 2012 or any subsequent year shall not be considered in calculating awards for 2013 or any subsequent year.
- The Secretary can apply the reduction over a series of consecutive fiscal years, not to exceed five, until the entire reduction is applied.

Provisions on MFS Consequences

(continued from slide 6)

- The Secretary may reduce the amount the state can reserve for State administration by an amount equal to the amount by which the state failed MFS.
- The Secretary may permit the state to repay the amount by which it failed to maintain effort from non-federal funds or funds for which accountability to the federal government is not required.

MFS Regulations *(continued from slide 7)*



34 CFR §300.163(c) Maintenance of State financial support.

(c) Waivers for exceptional or uncontrollable circumstances. The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determines that:

- (1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or
- (2) The State meets the standard in 34 CFR §300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act.

MFS Regulations *(continued from slide 8)*



34 CFR §300.163(d) Maintenance of State financial support.

(d) *Subsequent years.* If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.

Other Related Regulations



34 CFR §300.164(c) Waiver of requirement regarding supplementing and not supplanting with Part B funds.

- Need to demonstrate free appropriate education for every child, using outcomes of all hearing decisions and state complaint investigations for three years prior to the waiver request.

34 CFR §300.230 SEA flexibility.

- Able to lower MFS by 50% of increase in federal allocation if state revenue covers 100% of expenditures.

MFS Reporting Requirements



- The state reports MFS in Section V of the annual state application for federal Part B funds submitted each spring to OSEP.
- The state application must be posted for 60 days, and the public must have 30 days in which to comment.

Valid and Reliable MFS Data



Key points:

- Auditable.
- Replicable year to year.
 - Same sources.
 - Same method of calculation.
- All state funds made available.
 - Not just SEA (OSEP Memorandum 10-5).

Valid and Reliable MFS Data

(continued from slide 12)



What data are not included in MFS?

- Federal funds from any source.
- Local funds from any source.
- Categorical state funds designated for specific purposes (other than special education and related services).

Valid and Reliable MFS Data

(continued from slide 13)



What data are included in MFS?

- State funds from all sources (including other state agencies) made available for special education and related services.
- It depends.

Valid and Reliable MFS Data

(continued from slide 14)

- LEAs for special education and related services
- Other state agencies for vocational rehab, nursing, social work services, etc.
- Alternate assessments
- Preschool services for children with disabilities
- Transportation for children with disabilities pursuant to IEPs
- State schools for the deaf and blind
- SEA staff who support special education and related services
- Retirement contributions made by state for special education personnel (e.g., teachers)

CIFR MFS Resources



- MFS Quick Reference Guide
- Funding Flow Ideograph Tool
- Timeline Development Tool
- Data Collection and Reporting Tool
- **Coming soon:** Practice guides
 - Writing MFS Procedures
- Resource: <http://cifr.wested.org/resources/mfs/mfs-toolkit/>



Understanding
Maintenance of State
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Part II: Building on the
experiences of three
states

Panelists: Don Enoch, Gretta
Hylton, and Colleen Riley

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with NCSI Fiscal Team.



Expectations of the MFS Panel Session



- Learn about issues three states faced in implementing MFS and how they addressed the issues.
- Contribute to a discussion with your peers on MFS implementation.
- Ask questions!

Panel Members



- **Don Enoch**, State Administrator for Special Education, Division of Teaching and Learning Support, Alaska
- **Gretta Hylton**, Director, Division of Learning Services, Kentucky
- **Colleen Riley**, Director, Early Childhood, Special Education, and Title Services, Kansas

MFS Implementation Issues



- Responding to findings of noncompliance.
 - Need procedures.
- Involving other state agencies in the calculation and reporting process.
 - Perceived lack of SEA authority.
- Identifying valid data.
 - Complex funding formulas; backing out local funds.
- Developing strategies to avoid MFS failure.

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