OSEP Ask and Answer: Excess Cost, Proportionate Share, Allowable Costs, and Other IDEA Fiscal Topics

2018 IDEA Fiscal Forum

Building Knowledge and Connections

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Center for IDEA Fiscal Reporting

WestEd

IDEAs that Work

Office of Special Education Programs
U.S. Department of Education

RDA

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Expectations of the Session

Presentations

- Based on questions posed to NCSI-FST
- Based on questions posed to OSEP

Follow Up Questions

- Audience participation

Excess Cost Questions

Lynne Fairfax, Audit Facilitator (Team D)

Matt Schneer, Associate Division Director

OSEP

Excess Cost

1. What are some key features of Excess Cost?
2. What funds can and cannot be included in the compliance calculation?
3. When is it most likely that a local educational agency (LEA) will be noncompliant with the Excess Cost requirements?
4. What are implications for either the state educational agencies (SEA) or the LEA when the LEA does not meet the Excess Cost requirement?

Key Reminders (page 1):

Excess costs are those costs for the education of an elementary school *or* secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate.

34 CFR §300.16

Key Reminders (page 2):

IDEA funds must be used only to pay the excess costs of providing special education and related services for children with disabilities.

34 CFR §300.202(a)(2)

Key Reminders (page 3):

An LEA must spend at least the average annual per student expenditure on the education of an elementary school or secondary school child with a disability before funds under Part B of the Act are used to pay the excess costs of providing special education and related services.

34 CFR §300.202(b)(2)(i)

Key Reminders (page 4):

Excess costs are calculated by initially factoring in all expenditures, including Federal expenditures, then deducting expenses such as capital outlay, debt services, and Part B and other Federal Title funds; and multiplying that amount by the average number of students (including students with disabilities) enrolled in the elementary (or secondary) schools in the LEA during the preceding year the to determine the Annual Per Pupil Expenditure (APPE).

Key Reminders (page 5):

When determining whether the excess costs requirement has been met at the elementary <u>and</u> secondary school levels:

- Multiply the APPE by the child count of the year for which the LEA is determining if it has met the compliance requirement.
- Compare the amount against LEA's actual expenditures prior to using Part B Federal funds.
- If these expenditures meet/exceed that amount at both the elementary <u>and</u> secondary school levels, then the requirement is met.

When an LEA does not meet Excess Costs requirements

Funds must be repaid to the Federal government for the debt.

The SEA is responsible for repayment of the debt.

The SEA must use non-Federal funds or Federal funds for which accountability to the Federal government is not required.

Proportionate Share- Equitable Services Questions

Jennifer Finch, Audit Facilitator (Team A)

OSEP

Proportionate Share

1. What are some key features of Proportionate Share?
2. How are pre-school age group of students addressed through this requirement?
3. What can be learned from parentally-placed data about the appropriate implementation of this requirement?

Proportionate Share

34 CFR §300.130:

- **To meet the requirements of IDEA, every year each LEA must expend a proportionate share of federal IDEA funds on equitable services for parentally placed private school children with disabilities.**

Meaningful Consultation

Each LEA must, after timely and meaningful consultation with representatives of parentally placed private school children with disabilities, determine the number of parentally placed private school children with disabilities attending private schools located in the LEA.

Formula for Expenditures

The formula for determining the proportionate share of the LEA's subgrant is based on the total number of eligible (not on the number served) parentally placed children with disabilities aged 3 through 21 attending private schools located in the district in relation to the total number of eligible public and private school children with disabilities aged 3 through 21 in the LEA's jurisdiction.

Preschool

LEAs also must expend a proportionate share of their subgrant under section 619 (g) of IDEA for parentally placed children with disabilities aged 3 through 5 who are enrolled by their parents in private schools that meet the definition of "elementary school" in the final Part B regulations.

Proportionate Share Calculation for Parentally-Placed Private School Children with Disabilities For Flintstone School District:	
Number of eligible children with disabilities in public schools in the LEA	300
Number of parentally-placed eligible children with disabilities in private elementary schools and secondary schools located in the LEA	20
Total number of eligible children	320
Federal Flow-Through Funds to Flintstone School District	
Total allocation to Flintstone	$152,500
Calculating Proportionate Share:	
Total allocation to Flinstone	152,500
Divided by total number of eligible children	320
Average allocation per eligible child	476.5625
Multiplied by the number of parentally-placed children with disabilities	20
Amount to be expended for parentally-placed children with disabilities	9,531.25

Provision of Services

Direct services

Consultative services

Equipment

Materials

Training for private school teachers and private school personnel.

IDEA Section 612(a)(10)(vi)(vii)

Resources

- The Individuals with Disabilities Education Act: Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools
- Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools

Allowable Costs Questions

Charles Kniseley, Audit Facilitator (Team B)

OSEP

Allowable Costs

1. **What are some key features of Allowable Costs?**
2. **When and how should states request approval for participant costs?**

Cost Principles: Basic Considerations

Governed generally by Subpart E (Cost Principles) of the Uniform Guidance (see 2 CFR §§200.400-200.475)

Factors affecting the allowability of funds include:

- Reasonableness and necessity
- Consistency with the cost principles
- Consistency with policies and procedures (Federal and State)
- Allocability
- Adequate documentation
- Prior approval, when required

What specific expenditures require OSEP's prior approval?

The following prior approvals are most commonly associated with IDEA programs:

- Qualifying revisions to budget
- Real property
- Equipment and other capital expenditures
  - Including construction or renovation
- Participant Support Costs

What Are Participant Support Costs (PSCs)?

§ 200.75 *Participant support costs* means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

§ 200.432 A *conference* is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award.

Why do we have to get OSEP's prior approval for these costs?

The cost principles in 2 CFR § 200.456

- Participant support costs, as defined in § 200.75, are allowable with the prior approval of the Federal awarding agency.

What information do we need to provide in a request for prior approval?

The total amount of participant support costs charged to the IDEA ~~Part~~ grant and the Federal grant award for which the charges are being requested.

A description of how the PSCs will improve the IDEA program. This description must include the details needed to support the reasonableness and allocability of the participant support costs under the IDEA and the Uniform Guidance.

Supporting documentation including but not limited to a description of the activity, elements of the cost (i.e. travel, registration and individual participant costs), specific timeframe of the activity; and the role of participant(s) or trainee(s) related to the IDEA program.

Frequently asked questions

- Do we need OSEP's prior approval for PSC's associated with State Advisory Panels?
- Do we need OSEP's prior approval for PSCs associated with a State Advisory Panel member attending conferences or trainings outside of meetings held to fulfill the statutory requirements of the panel?
- Do we OSEP's need prior approval to use of State set-aside funds to provide a conference or trainings to our LEAs?
- What information must a prior approval request for such expenses consist of?
- Has OSEP established a threshold under which prior approval requests are not required?
- Do we need prior approval to use of State set-aside funds to provide a conference or trainings to our LEAs?
- What about PSC's that occur within LEAs, for example an LEA using its subgrant to train parents?

What resources are available related to PSC?

- Your MSIP State Lead
- MSIP PSC guidance documents
- FAQ document (coming soon)
- PSC Review Checklist/Flowchart (coming soon)
- Optional template for State submissions (coming soon)
- The OMB Uniform Guidance

Subgranting Questions

Dan Schreier, Fiscal Workgroup Facilitator

OSEP

Subgranting

1. What are some key features of Subgranting?
2. What are the current ways that states may allot state-level IDEA funds to other organizations or agencies?

The issue

EDGAR Regulations

§76.50:

(b) The authorizing statute determines the extent to which a State may:

(1) Use grant funds directly; and

(2) Make subgrants to eligible applicants.

History

IDEA 1997 Section 611(f)(4) allowed SEAs to subgrant State-level funds to LEAs (i.e. sliver grants) for "capacity-building and improvement."

IDEA 1997 regulations also allowed other State-level activity funds to be used by the SEA "or distribute them to LEAs on a competitive, targeted, or formula basis."

Former regulation 34 CFR 300.370(c).

IDEA 2004 Reauthorization

The language in both the statute and the regulation regarding subgranting was removed.

The Department has been trying to fix this for years

The Department has added proposed appropriation language to the FFY 2019 Budget:

> **That States may use funds reserved for other State-level activities under sections 611(e)(2) and 619(f) of the IDEA to make subgrants to local educational agencies, institutions of higher education, other public agencies, and private non-profit organizations to carry out activities authorized by those sections**

In the meantime

OSEP encourages you to explore other funding mechanisms and to discuss possible solutions with TA providers and other States

Questions on Other Topics

Other Topics:

1. **Any other topics that OSEP would like to comment on at this time?**

2. **What further questions do audience members have of the OSEP panel?**

Additional Topic: The Stevens' Amendment

Text from the Consolidated Appropriations Act, 2018

SEC. 505.

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

State and LEA compliance with the Stevens' Amendment

- **This requirement has been in effect since 1989**
- **Is applicable to Department of Labor, Health and Human Services, and Education grants**
- **Members of Congress have inquired about Federal agencies and grantee compliance with the Stevens' Amendment**
- **A GAO investigation is underway**
- **States should think about steps necessary to come into compliance with the Stevens Amendment**

Department and Other Resources

- Provisions Related to Children With Disabilities Enrolled by Their Parents in Private Schools https://www2.ed.gov/admins/lead/speced/privateschools/idea.pdf
- Excess Cost PowerPoint Presentation by Lynne Fairfax and Debora Jennings (OSEP). August 17, 2012 https://osep.grads360.org/#communities/pdc/do
- Appendix A to Part 300 https://osep.grads360.org/#communities/pdc/documents/5179

Department and Other Resources (cont.)

- Key Differences Between IDEA Local Educational Agency Maintenance of Effort and Excess Cost Requirements https://cifr.wested.org/new-resource-key-differences-between-idea-local-educational-agency-maintenance-of-effort-and-excess-cost-requirements/

- Uniform Grant Guidance https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html

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