

Presentation Transcript

IDEA Part B Subgrant Complexities and Compliance: Addressing Calculation Challenges

IFF 2018 On-Demand Webinar

July 11, 2018

Partnering Technical Assistance Centers

0:00

Steve Smith

Good morning, or good afternoon for those of you on the East Coast, welcome to the IFF 2018 On Demand Webinar Series. Welcome to the first in a series of webinars that will repeat highly rated IFF 2018 presentations. This presentation is on the IDEA Part B Subgrant Complexities and Compliance: Addressing Calculation Challenges. Presenters today, me, Steve Smith, Sara Doutre, who is a TA Specialist from CIFR as well, and Dan Schreier, our CIFR Project Officer from OSEP.

Session Overview

0:40

Steve Smith

Quick overview of the session, we are going to start out talking about allocation of IDEA Part B Subgrants to LEAs. We'll have background, and then after my portion of the presentation, Dan will talk about the who, what, when, nitty-gritty details. And then Sara will finish up the presentation with the Key Complexities and Common Problems with Compliance, and we'll go over specific scenarios that CIFR and OSEP have encountered, and responses, and then state experiences and solutions.

Allocation of IDEA Part B Subgrants to LEAs — Background

1:16

Steve Smith

Allocation of IDEA Part B Subgrants to LEAs. Background.

IDEA Part B Grants to States

1:21

Steve Smith

Two main points here. Every eligible state, outlying area, and freely associated state receives a grant under IDEA called the 611 grant, and it's to support special ed and related services for children ages 3 through 21. And then 619 grants are given to all 50 states as well as DC and Puerto Rico, and they are to support the education of children ages 3 through 5.

Set-Aside for State-Level Activities

1:51

Steve Smith

So important to note the overlap between the two.

There are state set-aside for state-level activities. Each SEA must do part of this and may do additional things. So you must reserve a portion for specific state-level activities, but you may also set-aside additional funds from Section 611 and 619 for administrative and other state-level activities. And due to time, we won't get into the details of what those are, but you see there the reference to the regulations where those activities are laid out. After reserving the funds for state-level activities, the SEAs must use a specific formula to allocate the remaining funds as subgrants to LEAs, including charter schools that are LEAs. So that's going to be the focus of the rest of this presentation.

IDEA Part B Subgrants to LEAs

2:48

Steve Smith

Here is a visual, I believe this is in our quick reference guide for allocations of how the subgrants are divided up and provided to LEAs. The state gets a Part B grant it has a portion that's for state set-aside, and then the other portion, the majority, is for subgrants to LEAs. The subgrants include base payments, and then the remaining funds after the base payments, which we'll talk a lot about, are allocated 85% for enrollment and 15% for poverty.

Base Payment Adjustments

3:30

Steve Smith

So base payment adjustments. Base payment amounts must be adjusted under specific circumstances. But before I talk about those circumstances, I do want to just talk about what the base payments are. So base payments for Section 611 are the funds that would have been distributed to LEAs based on the federal fiscal year 1999 allocation amounts, and that is a total amount that never changes, and it is divided up between the LEAs and the amounts to each individual LEA could change and that's where we're going to talk about base payment adjustments. For Section 619, it's the same percentage, 75%, but it's federal fiscal year 1997 instead of 1999.

So base payment adjustments, IDEA regulations require the base payment adjustment when the following occur. If a new LEA, including a new charter school LEA, is created, and in our experience, that's the most common use of this base payment adjustment is when there's a new charter school LEA. Also required when two or more LEAs combine into a new single LEA. If you're a state that periodically has to go through district consolidation, this would require base payment adjustment. Another common occurrence is two or more LEAs change geographic boundaries or administrative responsibility for providing services to children ages 3 through 21 for 611, or 3 through 5 for Section 619. And this could be a result of one or more LEAs closing.

And then the fourth reason: an LEA had a base payment of zero dollars in its first year of operation because it did not serve children with disabilities, and now it does.

Subgrants and Charter Schools

5:27

Steve Smith

Subgrants and charter schools. So there's a fifth circumstance that's not in the regulations and IDEA, but it does require a base payment adjustment. And we'll talk about the requirements in the Charter School Expansion Act and the regulations a little bit later. But the states must ensure that if a new or expanding charter school that meets the definition of an LEA for IDEA purposes, and has established eligibility, they need to receive the federal formula funds for which they're eligible. And that would include a base payment adjustment.

Graphic

6:02

Steve Smith

This graphic, usually people think that the middle line there that's just straight from A to B is how allocations work. And in some states, in some circumstances, that's the way it does work. But in the majority of states that have charter schools that are their own school districts, or they could be their own school districts, sometimes it looks a little more like some of those other arrows. You get from A to B, but sometimes you have to take some twists and turns along the way.

CIFR Resources on the Allocation of IDEA Part B Subgrants to LEAs

6:33

Steve Smith

Before we get into the nitty-gritty, talk about, really quickly, some CIFR resources. The link here is to our resources page for allocation of IDEA Part B subgrants. There is a quick reference guide, which is helpful for people to read who are not familiar with the process. We have a practice guide that's examples of adjustments to the IDEA subgrant base payments for LEAs. That is a very helpful guide, we've got some good feedback on that. We have a practice guide that is for developing written procedures for the allocation of IDEA Part B subgrants to LEAs. And then we will also have a, coming soon, base payment adjustment calculator. We're going to have a base payment adjustment calculator for each method that's described in the practice guide.

And now, I'm going to turn it over to Dan, who's going to talk about the nitty-gritty details, the who, when, and the why.

Nitty Gritty Details — Who, When, and Why

7:28

Dan Schreier

Hey everyone. When we think about the nitty-gritty and the overlapping questions, when we come across and do the technical assistance or monitoring on LEA allocations, there's some questions that I think are really helpful, so that we have the right people in the room and trying to figure out more about how each state operates because every state tends to have their own uniqueness with regards to the structure.

Overarching Questions — Getting into the Details

8:00

Dan Schreier

And so here's the three questions that I think we talk about and make sure states understand, is who are the people who have the information so that we can actually have a discussion with the relevant staff at the states? Who's actually receiving subgrants? I know that Steve has already mentioned charter schools, and obviously, there's some other entities that IDEA contemplates to receive subgrants. Are people, if you do have charter schools in your state, do you understand the Charter School Expansion Act and its implications? And then just think about some of the definitions and the definitions in IDEA.

Who needs to be involved in making allocations?

8:31

Dan Schreier

When we are talking about IDEA allocations, unfortunately, it's not a process where unless it's a state with a very small amount of data, there's usually not one person who controls or has in possession of all the data that's needed in order to crank out the allocations. So there needs to be some collaboration in order for it to be successful. Some of our experiences, you obviously need staff from the special education department, we might need school finance people, people who collect the data and maintain the data. Because we know it's a population in poverty, part of it is a formula. And then the charter school offices, where charter school offices may have the most up-to-date information about which charter schools are opening, which ones are closing, which ones are expanding. And depending on each state, it actually may be located in a different organization or in a different building, so the opportunities for collaboration just aren't there enough to get that information readily and on demand needed basis. So to have all these people to get together is really important.

Which entities in the state are potentially eligible for Section 611 and Sections 619 subgrants

9:37

Dan Schreier

The entities that are eligible to receive 611 grants, obviously, we've talked about charter schools. But in the traditional, what we would consider the brick and mortar school districts, one other area where that's included is the traditional school district or educational service agencies, ESAs. State agencies that are considered LEAs by the state. There's potentially others, if you look at the definition of LEA and our regulations and

statues, it's a pretty extensive definition. So there's a lot of potential entities who can receive the subgrant. When you, regardless of whether they actually have children with disabilities, all LEAs are eligible for a population/poverty allocation for their 611 and 619 funds. And obviously, for 611, the majority of the formula is flowing out through the population/poverty component, versus the 619 funds, where most of the funds are being flowed up to the base. And that's because the IDEA 611 allocations have increased significantly since the late 1990s, so the additional money is going to the population/poverty part of the formula, versus the 619 funds have stayed relatively stable, so the majority of the funds are flowing out through the base.

Another sort of issue that we tend to come across a lot is that we call the 619 funds pre-school grant, but in reality, the statute is very clear that it's designed for children 3 through 5. We noticed that a lot of states will say, "Oh the district is a kindergarten through 3rd grade, or a kindergarten through 12th grade school district, therefore they're not eligible for 619 funds." That is definitely not correct and that is not contemplated by the statute where it's doing an age range. So if you do have a school district – an LEA – that has served 5-year-olds, they are eligible for the 619 grant. And that's a relatively common finding that states have to correct when we do our fiscal monitoring on LEA allocations.

Charter School and other Non-Traditional LEAs

11:44

Dan Schreier

When you get to the issue of charter schools and other non-traditional LEAs, brick and mortar school districts, you need to think about how the charter schools are treated. IDEA defines them and defines multiple types of definitions of charter schools. I believe that's 34 CFR §300.209, which talks about the different types of charter schools. Some of them can be an LEA, other charter schools can be part of an LEA, some charter schools don't receive an allocation, but are considered under the control of the state. So you have to be clear about your state statute and how your charter schools are defined. And I guess it's a possibility that you could have all three types of charter schools within your state.

The other thing you need to think about is, in sort of a more general perspective, is who's actually signing the application and actually saying that we're going to provide services consistent with IDEA? Because under IDEA, we would consider those to be subgrantees, who are eligible to receive the funds. And this comes across for ESAs. So if you have an ESA and they're actually filing the application for funds and are certifying to you that they're going to implement IDEA, they're the ones who should be receiving the subgrants. And should be treated accordingly. We also have regulation where state agencies, if your state allows it and state defines it, can receive the subgrant, and you can see the regulatory cite for that. And there might be other entities. When we have discussions with

states, we're always surprised to see how states have decided who's an eligible LEA, based on that very broad definition in our statute.

Charter School Expansion Act

13:30

Dan Schreier

I'm on to the next slide, talking about the Charter School Expansion Act. When you do do LEA allocations and you have a state that has some LEAs that are charter schools, you have to read both the Charter School Expansion Act, the regulations under the Charter School Expansion Act, and the IDEA requirements, in order to correctly allocate funds. And it's complicated, it's confusing, and if you look at the 2016 guidance on charter schools that we issued, and that's the link that we have coming up, a good third of the document is talking about funding issues and the correct way of funding. So it's an issue...and it's definitely unique in how funds are initially given to those charter schools.

So the basic requirements of Charter School Expansion Act is making sure that if they do open up and provide adequate notice to the state, that the state is providing funding to that charter school, not just for IDEA, but under the title grants, the ESSA grants, in a relatively timely manner. And definitely given the opportunity, and this is definitely fleshed out in the regulations, to give some initial estimates to the charter school and then revising those estimates, and firming up the allocations once you get actual data, which is something you don't do for traditional LEAs. But this is the opportunity to give them some initial startup funds as quickly as possible.

Charter School Expansion Act (cont.)

15:04

Dan Schreier

And that's the Charter School Expansion Act continued slide. That's that first bullet where if the charter school is opening or significantly expanding, and that definition of significantly expanding is a state definition – we don't have a definition for significant expansion – is that you can make an estimate and make an initial estimated allocation. However, the number has to, and the figures have to be state finalized, tried up, and corrected, prior to giving to you the subsequent allocation to that charter school. And you can see there's also a different timeline, depending on when the charter school opens up. If it opens up after November 1st, which is not something that happens very often, that they do receive a pro-rated share.

Guidance on IDEA Funds and Charter Schools

15:43

Dan Schreier

We actually have two sets of guidance. The 2016 guidance and the 2000 guidance that we've issued are both really helpful in understanding the process for making sure the charter schools get their allocations and that states are doing it correctly. Definitely it's not an easy process, so if you have any questions with that, you can definitely get in touch with us at OSEP, or with CIFR, make sure that you're doing it correctly.

I think that's the end of my slides. I think it's time to have Sara present.

Key Complexities and Common Problems — Are you seeing what we're seeing?

16:16

Sara Doutre

Thanks Dan. We'll make these slides available and the presentation available. Those charter school guidance documents are also available on our subgrants, allocating subgrants to LEAs resource section of the CIFR website.

So for the final part of this presentation, and then we will open it up for questions, and please feel free to put questions in, we're going to talk about some of the common problems that we, as TA providers and OSEP, have seen across states when they're making these allocations, allocating subgrants to their LEAs and making base payment adjustments.

Providing a Subgrant to all Eligible LEAs

16:53

Sara Doutre

And so I'm just going to go through, I'm going to talk about some of the potential mistakes, talk about some of our responses, both CIFR and OSEP responses. Some of these are going to be very specific to a state, so if this is a response you feel like is different than what you've heard before, please reach out to us and let's talk about the specific circumstances in your state. Because as Dan said, this is pretty complicated.

The first potential mistake is not providing a subgrant to an LEA with a special education child count of zero. So if we, as TA providers, were looking at a state's system, this would be a red flag to us, that an LEA has a subgrant amount of zero. And just because the special education child count of zero does not justify that.

Providing a Subgrant to all Eligible LEAs: CIFR and OSEP Response

17:40

Sara Doutré

As Dan said, an LEA does not have to serve children with disabilities to receive an allocation. So every LEA gets the population and poverty allocation, and generally, that's going to be from 611 funds. 619 funds, we get into that less, but for 611 funds, so anyone that serves those children ages 3 to 21, receives a population and poverty allocation.

The only instance where an LEA will not get a base payment, and this is true for both Section 611 and Section 619 subgrants, is when they have never served, never served a child with a disability. So if they previously served a child with a disability, once they served a child with a disability and received a base payment, they continue to receive that base payment even if their child count goes back to zero. And the one exception to that, and again, this is the slide Steve had, it's not always a straight line, there's some twists and turns. But one twist becomes if you're adjusting their base payment, it may adjust back to zero if in the year of their base payment adjustment, their child count is zero. So on its face, a child count of zero does not equal no allocation, and it definitely, it never equals no allocation because each LEA should receive that population and poverty allocation, and it very likely may not indicate no base payment as well.

Base Payments Adjustments

19:12

Sara Doutré

Another potential mistake that we've found is that states have gone back to the original base payment when they make adjustments each year. So base payments were made in 1996 and 1998 using the 1996 and 1998 child counts for the FFY 1997 and 1999 grants. That's when this formula came out in the law, that's when we started doing this. And so we used our child count from those years and we made base payments, and those base payments have generally remained the same. In states that don't have charter school LEAs, those base payments may very likely be the same as they were, or in areas where none of the circumstances have occurred, a lot of those are the same. So when we go back and make a base payment adjustment, it seems to make sense to go back to those child counts to make those adjustments or to use those amounts. But we want to make sure we're using the right year of child count. We want to make sure when we make these adjustments, we're using the right age range, and then that we're only adjusting the base payments of affected LEAs. The law, when it talks about base payment adjustments, talks about affected LEAs.

Base Payments Adjustments: CIFR and OSEP Response (cont.)

20:29

Sara Doutré

So I want to provide you with some thoughts and then some language from one of our tools to talk about these adjustments. So again, only adjust affected LEAs. And when you think about an affected LEA, every time there's a base payment adjustment, one of those circumstances – a new charter school opens, a charter school significantly expands, an LEA divides into two LEAs, two LEAs combine into one LEA, so they combine, or in the previous example, one is created, or some other administrative responsibility changes – there are going to be affected LEAs. And either students are going to be leaving an LEA, which we would call transferring, an LEA is transferring its responsibility to provide FAPE, and then another LEA is assuming responsibility to provide FAPE for those children.

And sometimes, again, it's not always straightforward. If you have a large metro area with some traditional LEAs and multiple charter school LEAs in that same area, some of those LEAs may be both transferring authority away, responsibility away, and assuming responsibility for children with disabilities. So keep in mind that traditional and charter schools can be affected LEAs, charter school LEAs can be affected LEAs. I would say that also applies when Dan talked about different agencies and ESAs that may serve as the LEA. Generally, we're going to look and say who was responsible for FAPE for these children and where is that responsibility transferring to, but it could be any of those LEAs.

And it's possible, in a given year, that many LEAs could be affected and they could be affected by different circumstances.

How to Talk about LEAs that need Base Payment Adjustments

22:10

Sara Doutré

So this is from our base payment adjustment practice guide. And if you haven't looked at that yet, and you are having to make base payment adjustments, I highly recommend this practice guide. What the practice guide does is spells out how to talk about these base payment adjustments. It starts with some definitions, goes through some potential methods to use to make base payment adjustments, and then provides examples. In that, we've defined affected LEA, like I said, an LEA that's affected by one of the circumstances. And assuming LEA is an LEA that assumes responsibility from a transferring LEA. The transferring LEA is that LEA that is giving away responsibility for providing FAPE for children with disabilities.

Base Payment Adjustments: CIFR and OSEP Responses

22:54

Sara Doutré

So when we start to think about that and we think about the recent child count, if we're transferring responsibility, we have to use our most recent child count of children. We can't go back to those original child counts and compare because we're talking about movement between two current child counts. So you want to use the most recent child count that you have available, and it's probably the school year when the new LEA is opening. And then you want to make sure you're going to use 3 to 5 year olds twice, and this gets kind of confusing. So you're going to use, for 611, your age range is from 3 to 21. For your 619 grant when you're making a base payment adjustment, it's going to be children with disabilities ages 3 to 5. So if you think about it, under both Section 611 and 619, the LEAs have a responsibility toward those children, and so they do count twice. Those 3 to 5 year olds, they count both in the base payment adjustment for the 611 grant and in the base payment adjustment for the 619 grant.

Population Counts: What to use?

23:59

Sara Doutré

So along those lines, as we dig deeper into this, initially, the question is what year's child count do we use? But of course, it's not quite as simple as that sounds. Some of the questions we've received are "do we count children from the district of residence or from the district where children attend school?" And this especially comes up when we start talking about opening and closing and changing charter school LEAs, that sometimes, the children that they're responsible for don't reside there. With most charter schools, there isn't a residence, and so we need to think about that.

Who do we include in private school counts for population? And this is, again, going back to our population and poverty. So where are we counting these kids? How are we getting them? And then for population in poverty, do we count preschool students when we talk about elementary schools?

Population Counts: CIFR and OSEP Responses

24:53

Sara Doutré

For our responses to that, we really – this is a state specific thing and we're happy to talk through it with you. But our big points are, you have to understand how LEAs report enrollment to the SEA. So if they're reporting that by residence or by where the children

attend school, in traditional LEAs, those brick and mortar LEAs, and where there haven't been charter school LEAs opening in states, this is a little less complicated because of residence. But there are other people looking at enrollment, and so we encourage you to look at how other people are counting that in the state.

And the other big piece is to avoid double counting populations. So if a child lives in a traditional brick and mortar school district, that they're attending a charter school LEA, that child should not be counted in both. They shouldn't be counted as a child of residence in the traditional LEA and a child attending a charter school LEA. We need to make a decision where they're counted and they need to be counted in the school that has responsibility for them. Just make sure we count every child once and only once.

Understanding your state's definition of elementary school is really important. When we look at this, when we look at population counts, are they including preschool children in their populations?

Child Count for New LEAs

26:26

Sara Doutré

Okay, so along with this counting of students, one of the problems that has come up in a state, we have some traditional LEAs, some charter school LEAs. A new charter school LEA says, we're opening next year, we have no idea how many students we're going to get. And so we know, as Dan reviewed the Charter School Expansion Act, we're required, we have to give them an allocation. We have to give them both pieces, the base payment and the population and poverty of that allocation. So we need a number to provide that to them.

In some states, there are procedures in place that they use an estimated number. And so for every charter school that opens, we're going to assume they have 50 students. Or in some states, the state has a process of asking the charter school to estimate what they anticipate their child count will be. And either of those ways is okay. It's okay, you have to make a base payment, and so you're going to have to use an estimated number. The potential mistake comes in when we don't correct the allocation later. So when that initial base payment is made based on an estimated child count, as soon as we have the actual child count for that charter school, after school has started, after they've enrolled students, we need to go back and correct that allocation.

And so some of the questions that come up as states are implementing this are, what number should we use? Do we overestimate, do we underestimate? What is to our benefit later, what's going to be easiest to deal with when we go back and true those numbers up? And then also along with that, how can we leave ourselves flexibility to make adjustments once the data are available? So if I have allocated all of my funds and I

underestimate what I'm giving to a charter school LEA, I'm in trouble because I may have to take money back from a school district if I haven't left enough money. For example, if I don't have extra money in my state set-aside to do that, I need to be cautious about that, about making that final allocation so I'm not asking for an LEA to return money.

On the other hand, if I overestimate and I give a school, an LEA, too large of an allocation, and then when we have the actual numbers, we find that out and we take some of that back, I want to know, as a state, can I absorb that? Have I already used my maximum for my state set-aside?

Child Count for New LEAs: CIFR and OSEP Responses

29:07

Sara Doutré

Some ways we've seen this work in states that do this well, or they adjust the allocations throughout the year using actual data once they are available. So maybe we just adjust the allocations once in the fall, and then once again in January, but we're adjusting those allocations so we have their actual data. And it is permissible to adjust the allocations until the subsequent year's allocation is made, and so you have time to do that if you need to do that.

Engaging in fiscal planning to ensure you have the flexibility to true up. This is again thinking back to that piece about if I am taking my maximum state set-aside, I don't have any room to absorb any funds that come back if I've overestimated an allocation. If I am underestimating my allocations, again, thinking about do I have funds available to do that? Is there a way to hold back some funds? Do I distribute a partial amount of the allocation initially when I make my initial allocation in July? Do I save the remainder of that until October, possibly, so that I can true that up and I'm not giving money to districts and taking it back if I have to make some adjustments?

And then the other pieces to get those educated estimates so the variance won't be as extreme. It's probably not great practice to just use one number and to say this is the number we estimate the child count is going to be for every new charter LEA that opens. Those estimates probably should look different.

Significantly Expanding Charter School LEAs

30:40

Sara Doutré

So the next potential mistake that we have is that program offices have inconsistent definitions of significant expansion. When we talk about a significantly expanding charter school, so this is one of the reasons that we have to do a base payment adjustment. When

we have that, the definition should be consistent across programs. We need to look at if the definition is appropriate, how we define enrollment increases, and is the definition widely understood?

Significantly Expanding Charter School LEAs: CIFR and OSEP Responses

31:16

Sara Doutré

And what we've found in some states is that different programs have different definitions, that maybe special ed has developed their own definition without knowing there is a definition for other federal programs that require adjustments of allocations based on significant expansion. But we recommend highly that you apply a consistent definition across program offices.

When you're thinking about that definition, some of those definitions are ... I mean, we did a survey, you may remember, on our Listserv about probably a year-and-a-half ago, about this and found that many states did not have definitions. For states that had definitions, these vary greatly. So sometimes, it's defined by a percentage increase in enrollment. Sometimes, it's defined by adding a grade level. Sometimes it's a combination of those things. And so you'll want to look carefully at what that is, and when you're considering whether that definition is appropriate and understood, you need to make sure that you know how many LEAs are meeting that definition each year. Is this causing a lot of variability in the allocations? If it is, maybe the definition needs to be, require a greater expansion before we make base payment adjustments. If no one's meeting it each year and you have charter schools coming back and saying, hey we're growing and we don't have enough money, or they're not providing services you think they should be and you find they're growing, maybe it needs to be adjusted to include some of those expansions.

The other piece that's really important is that the charter school LEAs themselves know the definition. Because if you think back to the regulation that Dan showed, our responsibility to provide them with an allocation is triggered by them providing appropriate notification to the state that they're significantly expanding. So if they don't understand the definition and the process for that, we may not get timely notification of that significantly expanding charter school.

Contact Us (Closing Slide)

33:25

Narrator

Thank you for watching this CIFR On-Demand archived webinar. If you have any questions about the content in this presentation, please contact CIFR by email at

cifr_info@wested.org or by phone at 855-865-7323. You can also find more information about CIFR on our website, cifr.wested.org, or on Twitter at [@CIFR_IDEA](https://twitter.com/CIFR_IDEA).