

Developing Written Procedures for the Allocation of IDEA Part B Subgrants to Local Educational Agencies

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 federal government provides funding through two types of IDEA Part B grants to states and territories that then flow to local educational agencies (LEAs) as subgrants. Every eligible state or territory receives an annual federal grant under IDEA, called an IDEA section 611 grant, to support special education and related services for children ages 3 through 21. All 50 states (as well as the District of Columbia and Puerto Rico) also receive IDEA section 619 grants, which are IDEA funds to support the education of children ages 3 through 5.

Each state educational agency (SEA) may reserve a portion of its IDEA section 611 and section 619 grants for administrative and other state-level activities. After reserving grant funds for state-level activities, SEAs must use a specific formula to allocate the remaining funds as subgrants to LEAs, including charter school LEAs. This formula, required by IDEA regulations, consists of a base payment amount and amounts that are determined by student population and poverty measures for each LEA. The formula is applied separately to IDEA section 611 and section 619 subgrants. More information can be found in the Center for IDEA Fiscal Reporting (CIFR) *Quick Reference Guide on the Allocation of IDEA Part B Subgrants to Local Educational Agencies*.

Purpose

CIFR recommends that each state develop high-level written procedures that describe how the state allocates IDEA Part B subgrants to LEAs in accordance with 34 CFR §§300.705 (subgrants of IDEA section 611 funds) and 300.815 and 816 (subgrants of IDEA section 619 funds). High-level procedures do not typically provide details about internal

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processes but are intended to help state staff who are new to allocating Part B funds, as well as staff who need an overview of the state’s allocation procedures, understand and implement the actions necessary to demonstrate how the state complies with IDEA requirements for allocating subgrants to LEAs.

High-level procedures also can be shared with external stakeholders — such as LEA superintendents and business officers, state legislators, and auditors — to build understanding of subgrant allocation 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 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 allocation of IDEA Part B subgrants to LEAs and is not intended to replace a step-by-step internal process manual that details how state staff calculate and allocate the subgrants. 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 the subgrants. 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:

- » LEAs receive the correct amount of IDEA subgrants.
- » 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

Allocations 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 eight recommended components:¹

- 1: Purpose of and Authority for Procedures
- 2: Applicability of Procedures to Eligible LEAs, including Eligible Charter School LEAs
- 3: Staff Responsibilities and Timeline for Calculating and Allocating Subgrants to LEAs
- 4: IDEA Part B Base Payments
- 5: Base Payment Adjustments
- 6: Allocations Calculated Using Student Population and Poverty Measures
- 7: Reallocation of Available Funds
- 8: IDEA Section 619 Subgrants to LEAs when the State Award Is Below the 1997 Funding Level

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.

Many of the guiding questions in this practice guide are adapted from sample questions in OSEP's *Part B OSEP 2017 Fiscal Monitoring Protocol: LEA Allocations*. Responding to the guiding questions may help states ensure that written procedures meet OSEP's expectations.

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 the procedures they use to implement IDEA's allocation regulations, 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 allocating IDEA Part B subgrants 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 [state department of education (SDE)]).

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-specific resources. All of the

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

referenced resources and tools in this practice guide can be accessed through CIFR’s catalog of resources on allocation of IDEA Part B subgrants to LEAs at <https://cifr.wested.org/resources/allocation-of-idea-part-b-subgrants-to-leas/>.

In addition, the links at the end of each component in this practice guide lead to the full text of related IDEA, Every Student Succeeds Act (ESSA), and Education Department General Administrative Regulations (EDGAR) regulations on the *Electronic Code of Federal Regulations* website, <https://www.ecfr.gov/>, that provides 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 allocation procedures address the following components:

- 1: Purpose of and Authority for Procedures
- 2: Applicability of Procedures to Eligible LEAs, including Eligible Charter School LEAs
- 3: Staff Responsibilities and Timeline for Calculating and Allocating Subgrants to LEAs
- 4: IDEA Part B Base Payments
- 5: Base Payment Adjustments
- 6: Allocations Calculated Using Student Population and Poverty Measures
- 7: Reallocation of Available Funds
- 8: IDEA Section 619 Subgrants to LEAs when the State Award Is Below the 1997 Funding Level

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 procedures that cite the IDEA requirements for the allocation of IDEA Part B section 611 and section 619 subgrants to LEAs, and summarizes the content of the written procedures.

Guiding Questions Adapted from OSEP’s *LEA Allocations Monitoring Protocol*

- » What federal regulations govern the SEA’s allocation of IDEA subgrants to LEAs?
- » Besides the federal regulations, are there additional state requirements these procedures must address?
- » What state statute gives the SEA authority to govern how the SEA allocates IDEA Part B subgrants to LEAs and other agencies?
- » What are the major elements of the annual subgrants to LEAs?

Sample Language

Purpose and Authority

The federal authority for these procedures is at 34 CFR §300.705 (subgrants of IDEA section 611 funds) and 300.815 and 816 (subgrants of IDEA section 619 funds). [State's] authority for making subgrants to other agencies including LEAs is at [state code citation(s)].

[State] receives federal grants each year under section 611 of IDEA to provide special education and related services to children ages 3 through 21. The federal determination of the amount of that state grant is outlined in the IDEA regulations at 34 CFR §300.703. [SDE] receives SEA allocation tables from OSEP, generally by [date]. If [SDE] does not receive the allocation tables by [date], [SDE] will contact OSEP to determine the status of the allocation tables. After setting aside necessary and allowable amounts for state administration and other state-level activities, [SDE] calculates and allocates the remainder of the grant as subgrants to LEAs.

In addition, [state] receives an annual grant under section 619 of IDEA. This is a smaller grant that the state receives to provide special education and related services to children ages 3 through 5. The federal determination of the amount of that state grant is outlined in the IDEA regulations at 34 CFR §§300.807-810. [SDE] receives SEA allocation tables from OSEP, generally by [date]. If [SDE] does not receive the allocation tables by [date], [SDE] will contact OSEP to determine the status of the allocation tables. An IDEA section 619 subgrant may be used for specific activities related to special education (e.g., child find, evaluations) for children ages 3 through 5 served in preschool or in kindergarten, regardless of whether they are children with disabilities. LEAs that do or could serve five-year-old children in kindergarten receive a subgrant under IDEA section 619, even if they have no preschool program.

[SDE] reserves a portion of its IDEA section 611 and section 619 funds for administrative and other state-level activities (34 CFR §§300.704, 300.812-814). The amounts reserved are restricted by IDEA regulations and reported annually in [SDE]'s application for federal Part B funds on the OSEP *Excel Interactive Spreadsheet* provided to each state. This state-specific worksheet provides the state immediate feedback as to whether the amounts it intends to set aside for specific activities are in accordance with the limitations of IDEA. OSEP provides the spreadsheet to states annually upon confirmation of final allocation amounts.

After reserving an amount for state-level activities, [SDE] uses a specific formula to allocate the remaining funds as subgrants to LEAs, including charter school LEAs that submit an application to the state requesting IDEA funds. This formula, required by IDEA regulations, consists of a base payment amount and amounts that are determined by student population and poverty measures for each LEA. The formula is applied separately to IDEA section 611 and section 619 subgrants (34 CFR §§300.705, 300.815-817).

These procedures describe how [SDE] allocates annual subgrants to LEAs.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov>): 34 CFR §§300.228, 300.703, 300.704, 300.705, 300.807, 300.809, 300.810, 300.812, 300.813, 300.814, 300.815, and 300.816
- » *Quick Reference Guide on the Allocation of IDEA Part B Subgrants to Local Educational Agencies*, CIFR

2: Applicability of Procedures to Eligible LEAs, including Eligible Charter School LEAs

This component describes how these procedures, for both IDEA section 611 and section 619 funds, apply to each LEA in the state, including charter school LEAs.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » How is "LEA" defined for the purpose of allocating IDEA Part B funds?
- » How does the state determine whether each LEA is eligible for an IDEA Part B subgrant?
- » Which LEAs in the state are responsible for providing a free appropriate public education (FAPE) to children with disabilities ages 3 through 21 and would be eligible for an IDEA section 611 subgrant?
- » Which LEAs in the state are responsible for providing FAPE to children with disabilities ages 3 through 5 and would be eligible for an IDEA section 619 subgrant?
- » If the state has charter school LEAs, how do these procedures apply to those LEAs?
- » If the state has intermediate units (e.g., educational service agencies) that function as LEAs for the purpose of IDEA, how do these procedures apply to those intermediate units?

Sample Language

In [state], LEAs that are responsible for providing free appropriate public education (FAPE) to children with disabilities under IDEA may be eligible to receive IDEA subgrants. This includes school districts, charter school LEAs, educational service agencies (ESAs) and other state agencies that serve as LEAs and are responsible for providing FAPE to children with disabilities. These procedures apply to all eligible LEAs in the state, including charter school LEAs. Charter school LEAs are defined in state regulation at [add state citation]. Under IDEA, charter schools that are not LEAs under state law are not eligible for an IDEA subgrant (34 CFR §300.209). [SDE] allocates subgrants to charter school LEAs in the same manner that it allocates subgrants to other LEAs in the state.

LEAs do not need to be currently serving children with disabilities to be eligible for IDEA section 611 and section 619 subgrants. LEAs that serve children ages 3 through 5 are eligible for both IDEA section 611 and 619 subgrants. LEAs do not need to have preschool programs in order to be eligible for IDEA section 619 subgrants — the subgrants are made based on the ages of children served, not grade levels. If an LEA could serve 5-year-old children in kindergarten, regardless of whether the children have disabilities, the LEA is eligible for an IDEA section 619 subgrant. However, if an LEA is not responsible for educating children ages 3 through 5, such as an LEA with only a high school, it is not eligible for an IDEA section 619 subgrant.

To receive IDEA section 611 and section 619 subgrants, the LEA must submit an annual Part B application to the state. The application provides assurances that the LEA meets specific requirements (listed in 34 CFR §300.200 – 213) about the use of funds and has policies and procedures in place to ensure that children with disabilities receive FAPE. [State] reviews each LEA's application according to the internal LEA eligibility application processes. Under 34 CFR §300.221, an LEA may appeal the state's determination that the LEA is not eligible for IDEA section 611 or section 619 funds through the state's appeals process.

Reader note: Each state should have procedures for reviewing LEA applications for IDEA Part B subgrants and determining whether each LEA is eligible.

LEAs may not subgrant IDEA funds to another LEA. If an ESA serves as an intermediary LEA, Part B funding may be provided to the ESA, which in turn provides Part B funds to member districts through a contract, interagency

agreement, or reimbursement for services provided. The LEA that establishes eligibility under IDEA and receives a Part B subgrant is the LEA responsible for ensuring Part B requirements are met.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.7, 300.12, 300.28, 300.209(c), and 300.221
- » *Letter to Hokenson* (2013), OSEP
- » *Dear Colleague Letter to States on Funding Charter Schools*, Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education

3: Staff Responsibilities and Timeline for Calculating and Allocating Subgrants to LEAs

This component provides an overview of the timeline and office(s) or position(s) responsible for calculating and allocating IDEA Part B subgrants to LEAs each year.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » What is the state's fiscal year?
- » Do state procedures specify the period of availability of IDEA funds, including the obligation and liquidation deadlines?
- » What is the state's timeline for calculating and allocating Part B subgrants to LEAs?
- » Are the timelines the same for IDEA section 611 and section 619 subgrants?
- » Are the timelines the same for traditional LEA and charter school LEA subgrants?
- » Is there any provision of state law that permits or prohibits retroactive adjustment of funds, including base payments, beyond the close of the fiscal year?
- » Which offices or positions are responsible for implementing these procedures?
- » Which offices or positions are responsible for reviewing and verifying the work of others? What specific positions have final oversight?
- » What type of training is provided to the responsible staff, including LEA staff responsible for submitting data used to calculate subgrants?
- » How and when are LEAs notified of their IDEA section 611 and section 619 subgrants (both estimated and final amounts)?

Sample Language

The [Special Education Office] is responsible for implementing these procedures. Staff will maintain capacity through annual training and review of the requirements related to the allocation of Part B subgrants to LEAs.

The period of availability for IDEA subgrants under both IDEA section 611 and section 619 is up to 27 months, from July 1 of the award year until September 30 two years subsequent. This period may be shorter if the LEA does not submit its subgrant applications within the state's timelines. This means that federal fiscal year (FFY) 2017 IDEA funds are available for obligation from July 1, 2017, to September 30, 2019. Funds obligated by September 30, 2019, must be liquidated by December 30, 2019. See table 2 for the annual timeline, detailed activities, and responsible staff or office.

Table 2: [State's] annual timeline and activities to allocate IDEA Part B section 611 and section 619 subgrants

Date	Activity	Responsible staff/office
By April 1	Receive projected IDEA section 611 and section 619 state grant amounts from the U.S. Department of Education to be made available on July 1.	State Special Education Director and Special Education Finance Division
By May 1	Publish and open annual LEA application for funds to determine eligibility for Part B subgrants.	State Special Education Director
By May 1	Request list of new, significantly expanding, and/or closing charter school LEAs from the State Charter School Office. Determine whether base adjustments will be needed.	Special Education Finance Division
First Friday in May	Calculate needed preliminary adjustments to base payments.	Special Education Finance Division
By May 15 or upon receipt of final grant amount from the U.S. Department of Education	Calculate preliminary state set-aside amount. Calculate base payment and population/poverty subgrant amounts for each eligible LEA. Provide preliminary subgrant amounts to LEAs for budgeting purposes.	Special Education Finance Division
By June 1	Review initial LEA applications to determine eligibility for Part B subgrants. Help LEAs complete applications and demonstrate eligibility.	Special Education Finance and Monitoring Divisions
First Friday in June	Close annual LEA application.	State Special Education Director
July 1	Notify each eligible LEA of the initial annual subgrant amounts and release partial funds.	State Special Education Director
By August 1	An LEA must notify the state if it is appealing eligibility for either the IDEA section 611 or section 619 subgrant.	LEA Staff
By September 30	Communicate final decision of any LEA appeals.	State Special Education Director
October 1	Release additional funds to LEAs.	Special Education Finance Division
November 2	Recalculate IDEA section 611 and section 619 subgrants for each eligible LEA, including eligible new and expanding charter school LEAs using current year data. Adjust amounts including recovering from and redistributing to LEAs as needed.	Special Education Finance Division
March 1	Complete final subgrant calculations for each eligible LEA, including eligible new and expanding charter school LEAs using current year data and adjust the subgrants. These redistribution steps must be completed before allocating the following year's subgrants.	Special Education Finance Division

Charter School LEA Funding Timelines

Reader note: This section should reference broader state requirements for new and significantly expanding charter school LEAs, including definitions and timelines established in general for charter school LEAs and not just for special education.

A new or significantly expanding charter school LEA must notify [SDE] at least 120 days before it plans to open or significantly expand.

If a charter school LEA notifies [SDE] and opens or significantly expands on or before November 1 of the school year, [SDE] will provide the charter school LEA the full amount of IDEA section 611 and section 619 funds for which it is eligible for the year, including the base payment amount, within five months of the date the charter school LEA opens or significantly expands.

If a charter school LEA notifies [SDE] and opens or significantly expands after November 1 but before February 1, [SDE] will provide the charter school LEA at least a pro rata portion (based on the opening or expansion date) of the amount of IDEA section 611 and section 619 funds for which it is eligible for the year, including the base payment amount, on or before the date the [SDE] allocates funds to LEAs for the succeeding year.

If a charter school LEA opens or significantly expands on or after February 1, [SDE] will provide the charter school LEA the proportionate amount of IDEA section 611 and section 619 funds for which it is eligible in the following year, but will not provide any IDEA section 611 or section 619 funds in the current year.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.221, 300.705, 300.815, and 300.816
- » Charter School Expansion Act Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/> under 34 CFR 76 Subpart H)
- » *Letter to Walk*, OSEP
- » *Office of Special Education and Rehabilitative Services (OSERS) Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act*, OSERS
- » *Nonregulatory Guidance: Allocating Federal Funds to Charter Schools*, U.S. Department of Education

4: IDEA Part B Base Payments

This component defines base payments in accordance with 34 CFR §§300.705(b)(1) and (2), 300.816(a) and (b); and describes the state's procedures for calculating the base amounts.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » Does the state perform separate base payment calculations for IDEA section 611 and section 619 allocations?
- » Do the state's procedures describe how and when the amount of each eligible LEA's base was calculated? Where are records on which the base amounts were based maintained?
- » How does the state calculate the base amount for IDEA section 619 subgrants to all eligible LEAs, including eligible charter school LEAs, that:
 - Are responsible for providing education to children ages 3 through 5, including preschool programs and 5-year-old children in kindergarten?

- Are responsible for providing education to 5-year-old children in kindergarten, but do not serve children ages 3 through 5 in preschool programs?
- » In calculating each LEA's subgrant, does the state check that the base amount for each LEA remains constant unless adjusted?

Sample Language

In allocating IDEA Part B subgrants to its LEAs, including charter school LEAs, each fiscal year, [SDE] uses a three-part formula that consists of (1) a base, including any applicable base adjustments, and amounts calculated using student (2) population and (3) poverty measures. This section covers procedures for establishing the base payment amount for each LEA. The statewide total available for the base payments remains constant (except when federal appropriations for IDEA section 619 fall below the 1997 appropriation level). Individual LEA base payments stay constant from year to year except in cases where adjustments are required (see "Base Payment Adjustments" section).

The original base payment amount for each eligible LEA was:

- » The amount the LEA would have received under IDEA section 611 if [state] had distributed 75 percent of the state's FFY 1999 IDEA section 611 grant using the December 1, 1998 child count.
- » The amount the LEA would have received under IDEA section 619 if the [state] had distributed 75 percent of the state's FFY 1997 IDEA section 619 grant using the December 1, 1996 child count.

Base payment amounts are calculated by the [Special Education Finance Division] and are stored in hard copy in the [Special Education Finance Division] and on [SDE]'s secure shared network in the IDEA Part B Allocations folder. Base payment amounts are adjusted as required, according to the circumstances detailed in the "Base Payment Adjustments" section of these procedures.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.705 and 300.816
- » *Quick Reference Guide on the Allocation of IDEA Part B Subgrants to Local Educational Agencies*, CIFR
- » *Examples of Adjustments to IDEA Subgrant Base Payment Allocations to Local Educational Agencies*, CIFR

5: Base Payment Adjustments

This component describes when and how the state adjusts LEAs' base payment amounts, including in the case of a new or significantly expanding charter school LEA.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » How does the state determine if LEA base payment adjustments need to be made?
- » If base payment adjustments are needed, who makes them, and when?
- » What sources of data/information systems does the state rely on for making decisions about base payment adjustments?
- » How does the SEA determine which LEAs are affected by a circumstance requiring a base payment adjustment?
- » Once a new LEA, including a new charter school LEA, is formed, how is the base payment adjustment calculated?
- » If one or more LEAs are combined into a single LEA, how is the base payment adjustment calculated?

- » If two or more LEAs' geographic boundaries or administrative responsibility for providing services change (including when an LEA closes or dissolves), either for children ages 3 through 21 for IDEA section 611, or for children ages 3 through 5 for IDEA section 619, how is the base payment adjustment calculated for affected LEAs?
- » When an LEA that received a base payment of zero in its first year of operation is now serving children with disabilities, how is the base payment adjustment calculated?
- » How does the state define significant expansion of charter school LEAs for the purposes of IDEA?
 - Is that definition the same for all federal programs? If no, how does the IDEA definition differ?
- » What agency, office, or board has the authority to grant new charter school LEAs or charter school LEA expansions?
- » How and when does the state learn about new and significantly expanded charter school LEAs?
 - Do the state's procedures specify the dates that base payment adjustments are made depending upon when the notification is received?
- » What are the state's rules about when, during the year, new charter school LEAs can open?
 - Do the state's procedures describe the options for a newly opened charter school LEA to receive its first IDEA allocation?
- » When an LEA significantly expands in accordance with [SDE]'s definition, how is the base payment adjustment calculated?
- » Is there a process for an LEA to appeal its base payment amount, and if so, what is the process?

Sample Language

In accordance with 34 CFR §§300.705(b) and 300.816, the [Special Education Finance Division] adjusts IDEA section 611 and section 619 base amounts for affected LEAs in any or all of the following circumstances:

- » A new LEA, including a new charter school LEA, is created, and is serving children with disabilities.
- » Two or more LEAs are combined into a new, single LEA.
- » Two or more LEAs have changed geographic boundaries or administrative responsibility for providing services to children ages 3 through 21 for IDEA section 611, or to children ages 3 through 5 for IDEA section 619, including when an LEA closes.
- » An LEA that received a base payment of zero in its first year of operation is now serving children with disabilities.

In addition, base payment amounts must be adjusted when a charter school LEA significantly expands in accordance with [SDE]'s official definition. Subgrants are made to a new charter school LEA in the same manner they are made to a new LEA.

[SDE]'s definition of "significantly expanded" charter school LEA requires that the charter school LEA meet one of the following: adds at least one grade to the charter school LEA or increases the enrollment of the charter school LEA by at least 20 percent.

Reader note: This is one example of a definition of significant expansion. Each state has the authority to establish a definition of significant expansion.

Notification of any planned opening or significant expansion must be submitted by the charter school LEA to the [State Charter School Board] by at least 120 days in advance of the date the charter school LEA is scheduled to open or significantly expand. The [Charter School Division] is responsible for informing the [Special Education Finance Division] when a new charter school LEA or a significant expansion of a charter school LEA has been approved by the [State Charter School Board].

Each year, prior to calculating the LEA allocation amounts under IDEA section 611 and section 619, the [Special Education Finance Division] reviews its LEAs to determine whether IDEA section 611 or section 619 base payment adjustments are necessary and which LEAs are affected.

The [Office of the Commissioner of Education and the SDE Charter School Division] provide the [Special Education Finance Division] with data on any new LEAs or changes in the configuration of LEAs in the state. When [SDE] determines that a base payment adjustment is necessary, the LEA that assumes responsibility for children with disabilities must provide reports to the [Special Education Finance Division] that include the numbers of children with disabilities for whom responsibility is assumed by the LEA and identify the LEA that would have been responsible for providing FAPE for each child with a disability. Failure to provide the required data, and to do so in a timely manner, may result in a delay in the base payment adjustment.

Adjustments are performed separately for IDEA section 611 and section 619 subgrants.

Adjustment Methodology

Reader note: In this section, the state should describe its methodology for how it calculates base payment adjustments. For methodology options, please see the CIFR Practice Guide: Examples of Adjustments to IDEA Subgrant Base Payment Allocations to Local Educational Agencies.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.705 and 300.816
- » EDGAR Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§76.788, 76.789, 76.791, 76.792, 76.793, 76.794, 76.796, and 76.797
- » Charter School Expansion Act Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): under 34 CFR 76 Subpart H
- » Every Student Succeeds Act (ESSA) Statute (current full text of this code can be found at <http://uscode.house.gov/>): 20 U.S.C. §7221(e)
- » *Examples of Adjustments to IDEA Subgrant Base Payment Allocations to Local Educational Agencies*, CIFR
- » *Office of Special Education and Rehabilitative Services (OSERS) Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act*, OSERS. (In particular, see “How Does a State or Local Educational Agency Allocate Funds to Charter Schools that are Opening for the First Time or Significantly Expanding their Enrollment?”)

6: Allocations Calculated Using Student Population and Poverty Measures

This component describes how the state allocates the remaining IDEA section 611 and section 619 funds using student population and poverty measures.

Guiding Questions Adapted from OSEP’s *LEA Allocations Monitoring Protocol*

- » At what point in the calculation process does the portion of subgrants based on student population and poverty occur?
- » Do the state’s procedures detail how the state calculates the population and poverty amounts?

- » What sources of data/information systems does the state rely on for calculating the population and poverty amounts?
- » What is the procedure for allocating subgrants when an LEA is eligible for a population/poverty payment, but not for a base payment?
- » Is there a process for an LEA to appeal its population and poverty amounts?
- » How and when does the state learn about new and significantly expanded charter schools?
 - Do the state's procedures specify the dates that the population and poverty amounts should be revised based upon when the notification is received?
- » What are the state's rules about when, during the year, new charter schools can open?
 - Do the state's procedures describe the options for a newly opened charter school to receive its first IDEA allocation including the population and poverty amounts?

Sample Language

After subtracting the state set-aside (the amount set aside by the state from the grants for state-level activities) and the total base payment amount, SDE allocates the remaining IDEA section 611 and section 619 funds according to population and poverty measures as defined at 34 CFR §§300.705(b)(3) and 300.816(c):

- » Allocate 85 percent of any remaining funds to eligible LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction.
- » Allocate 15 percent of those remaining funds to eligible LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

The [Special Education Finance Division] calculates the population and poverty amounts by May 15 each year, or upon receipt of the proposed IDEA section 611 and section 619 (if funds are available) awards from the U.S. Department of Education, and after subtracting the state set-aside and base payment amounts. The same data are used to make calculations for traditional and charter school LEAs. Eligible LEAs that do not receive a base payment are still eligible for population and poverty subgrants.

Reader note: It is possible that there will not be funds available for the population and poverty allocation for IDEA section 619 subgrants. In that case, LEAs will receive only the base payment amounts. See Component 8 below.

Population calculations are made using the most recent available enrollment data on students enrolled in public and private elementary and secondary schools in each LEA and student enrollment in a charter school LEA. For new and significantly expanding charter school LEAs, enrollment data from the year in which they open or expand must be used.

Poverty calculations are made using data on the proportion of children enrolled in the LEA that are eligible for free and reduced lunch for the most current year available, as obtained from [Federal Programs Unit]. [SDE] requires charter school LEAs that do not provide school lunch to submit a statement on the number of children that would be eligible if the charter school LEA participated in the free and reduced lunch program.

The state applies on a uniform basis, across all LEAs, the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools, and the numbers of children living in poverty.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.13, 300.36, 300.705, and 300.817
- » Charter School Expansion Act Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/> under 34 CFR 76 Subpart H)

- » *Letter to Chief State School Officers on School Lunch Program, OSEP*
- » *Letter to Bass, OSEP*
- » *Office of Special Education and Rehabilitative Services (OSERS) Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act, OSERS*

7: Reallocation of Available Funds

This component describes when and how IDEA Part B section 611 and section 619 funds are reallocated.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » Does the state generally choose to reserve the maximum amount of its state set-aside funds or reserve less than the maximum and allocate the remaining funds to LEAs?
 - If the state reserves the maximum amount, how does the state plan for any reallocation of funds that are unused by LEAs?
- » What is the process for reallocation of unused Part B funds?
- » How does an LEA inform the SEA that funds are not needed and thus are potentially available for reallocation?
- » How does an SEA determine if an LEA is adequately providing FAPE to children with disabilities in order to allow reallocation of funds?
- » How does the SEA determine that LEAs receiving the reallocated funds are not adequately providing special education and related services to all children with disabilities (or all children with disabilities ages 3 through 5 if reallocating IDEA section 619 funds) residing in the areas served by the receiving LEAs?

Sample Language

Each year, [SDE] determines an amount of funds to set aside from its federal Part B state award for state-level activities as allowed by 34 CFR §300.704 and 300.813-814. [State] generally sets aside [X percent] of the maximum amount of funds for state-level activities from its IDEA section 611 grant and does not set aside funds from its IDEA section 619 grant.

If [SDE] determines that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that agency with state and local funds, the SEA may reallocate any portion of the funds under this part that are not needed by that LEA to provide FAPE.

[SDE] may make the reallocation decision based on information gathered through its general supervision system or based on notification from an LEA that it is providing FAPE but will not use the full amount of its allocation. If [SDE] receives notification that an LEA will not use its funds, it consults with the [Special Education Monitoring Division] to determine if the LEA is adequately providing FAPE to children with disabilities.

When the [SDE] determines that the LEA is adequately providing FAPE, it may:

- » Reallocate the unused funds to eligible LEAs that are not adequately providing special education and related services to children with disabilities (reallocation is required if the state set aside the maximum amount for state-level activities).
- » Use the funds for allowable state-level activities if the state did not set aside the maximum amount for state-level activities, up to the point where the maximum amount is reached.

[Special Education Finance Division] consults with the [Special Education Monitoring Division] to determine whether an LEA is not adequately providing special education and related services to children with disabilities and is eligible to receive reallocated funds.

If [SDE] determines that one or more LEAs are not adequately providing special education and related services to children with disabilities, it will reallocate funds to those LEAs based on multiple factors including the amount of funds needed to adequately provide special education and related services, child count, or corrective actions required by the state.

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.227, 300.704, 300.705, and 300.817

8: IDEA Section 619 Subgrants to LEAs when the State Award Is Below the FFY 1997 Funding Level

This component describes how the state allocates IDEA section 619 subgrants to LEAs when the state's federal IDEA section 619 award is below the amount allocated in FFY 1997.

Guiding Questions Adapted from OSEP's *LEA Allocations Monitoring Protocol*

- » What was the amount of the FFY 1997 federal IDEA section 619 award to the state?
- » How will the state make IDEA section 619 subgrants to LEAs if the state's federal IDEA section 619 award is below the amount allocated in FFY 1997?
- » Does the state generally choose to reserve the maximum amount of its state set-aside IDEA section 619 funds or reserve less than the maximum and allocate the remaining funds to LEAs?

Sample Language

The amount of [state]'s FFY 1997 federal IDEA section 619 award was [\$XXX,XXX]. In any year when the federal IDEA section 619 award to the state is below that level, special circumstances apply to how the state allocates IDEA section 619 subgrants to LEAs. There are three possible cases, each described below.

- » If, after the state set-aside amount is subtracted from the total IDEA section 619 award, the amount available for making IDEA section 619 subgrants is less than 75 percent of the state's FFY 1997 IDEA section 619 award, then the state will:
 - Ratably reduce each LEA's base payment by the percentage of the reduction in the total amount actually available for making base payments.
 - After making base payments, if necessary, make base adjustments using the ratably reduced base payments. The state will not have any remaining IDEA section 619 funds available after making base payments, and, therefore, will be unable to make population/poverty payments from IDEA section 619 funds.
- » If, after the state set-aside is subtracted from the total award, the amount available for making IDEA section 619 subgrants is equal to 75 percent of the state's FFY 1997 IDEA section 619 award, then the state will:
 - Make base payments and, if necessary, base payment adjustments in accordance with 34 CFR §300.816(a) and (b). The state will not have any remaining IDEA section 619 funds available after making base payments, and, therefore, will be unable to make population and poverty payments from IDEA section 619 funds.

- » If, after the state set-aside is subtracted from the total award, the amount available for making subgrants is greater than 75 percent of the state's FFY 1997 IDEA section 619 award, then the state will:
 - Make base payments and, if necessary, base payment adjustments, and then allocate any remaining funds using population and poverty measures in accordance with 34 CFR 300.816(c).

Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.810, 300.815, and 300.816
- » Budget History Tables, U.S. Department of Education: <https://www2.ed.gov/about/overview/budget/history/index.html> (see 1997 grant awards for Special Education – Preschool Grants on page 19)

Conclusion

This practice guide provides recommended content for individual states to consider when developing written procedures that describe how the state allocates IDEA Part B subgrants to LEAs.

We recommend that states use the guiding questions to draft and evaluate 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 procedures for allocating IDEA Part B subgrants to LEAs, each state that uses this guide will have unique written procedures. CIFR technical assistance staff are available to help state staff consider each guiding question and develop state-specific responses. Please contact CIFR (cifr_info@wested.org) for assistance.

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