

# Developing Written Procedures for Local Educational Agency Maintenance of Effort

CIFR **practice guides** help state staff understand how to implement the fiscal reporting requirements of the Individuals with Disabilities Education Act (IDEA). These guides are not an official interpretation of IDEA by the Office of Special Education Programs (OSEP) or the U.S. Department of Education.

## Background

The Individuals with Disabilities Education Act (IDEA) requirements at 34 CFR §300.203 for local educational agency maintenance of effort (LEA MOE) obligate any LEA receiving an IDEA Part B subgrant from the state educational agency (SEA) to budget and spend at least the same amount of local—or state and local—funds for the education of children with disabilities on a year-to-year basis. The required LEA MOE levels for budgeting and spending are referred to, respectively, as the “eligibility standard” and the “compliance standard.” States are responsible for determining whether LEAs meet the LEA MOE eligibility and compliance standards. More information can be found in CIFR’s *Quick Reference Guide on IDEA Local Educational Agency Maintenance of Effort*.

## Purpose

CIFR recommends that each state develop high-level written procedures that describe how the state determines whether its LEAs meet the LEA MOE requirements at 34 CFR §300.203. High-level procedures do not typically provide details about internal processes. Rather, they are intended to help state staff who are new to LEA MOE, as well as staff who need an overview of the state’s procedures, understand and implement the actions necessary to ensure that LEAs meet the LEA MOE requirements.

High-level procedures can also be shared with external stakeholders—such as LEA superintendents and business officers, state legislators, and auditors—to build understanding of LEA MOE 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](mailto:cifr_info@wested.org)).

Please note that this resource focuses on the broad principles that guide a state’s implementation of the LEA MOE requirements and is not intended to replace a step-by-step internal process manual that details how state staff implement LEA MOE activities. Such a manual should provide detailed information on the internal processes and controls, including how to use state tools and methods for determining whether LEAs are meeting the LEA MOE requirements. 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 differ between high-level written procedures and internal process manuals (table 1), both documents, when developed and implemented correctly, help ensure:

- » LEAs meet the LEA MOE requirements.
- » 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**

LEA MOE 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 Document State Procedures

This practice guide provides a model to help individual states develop their high-level procedures and is organized by 11 recommended components:<sup>1</sup>

1. Purpose of and Authority for Procedures
2. Applicability of Procedures to Eligible LEAs, Including Eligible Charter School LEAs
3. Staff Responsibilities and Timelines for Implementing LEA MOE Requirements
4. Four Methods for Calculating LEA MOE
5. LEA MOE Eligibility Standard
6. LEA MOE Compliance Standard

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

7. Allowable LEA MOE Exceptions
8. Adjustment to LEA MOE
9. Failure to Meet LEA MOE Compliance Standard
10. State LEA MOE Data Reporting Procedures
11. Process for Training and Communicating with LEAs

Each component section contains the following:

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

Please note that the sample language included in this guide provides examples of how a state may begin to address one or two of the guiding questions related to a component and is **not intended to be comprehensive for any particular component**. Because states differ considerably in their procedures to implement the LEA MOE requirements, 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 monitoring LEA MOE should carefully consider each guiding question and develop their own responses that meet the needs of their state. Those responses should include citations of and links to relevant state statutes, rules, and other documents that support the procedures.

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

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## Related Resources

Related resources are included at the end of each recommended component. As states use this guide to develop state-specific procedures, they may wish to link to these resources as well as other state resources. All of the referenced resources and tools in this practice guide can be accessed through CIFR's catalog of resources on LEA MOE at <https://cifr.wested.org/resources/lea-moe/> and through CIFR's LEA MOE Organizer website at <https://cifr.wested.org/resources/lea-moe/organizer/>. The online organizer is designed to help users understand and implement the LEA MOE regulations and provides a graphical interface to help users navigate requirements for the LEA MOE eligibility and compliance standards and data reporting.

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

# Recommended Components of High-Level Written Procedures

CIFR recommends that written LEA MOE 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 Timelines for Implementing LEA MOE Requirements
4. Four Methods for Calculating LEA MOE
5. LEA MOE Eligibility Standard
6. LEA MOE Compliance Standard
7. Allowable LEA MOE Exceptions
8. Adjustment to LEA MOE
9. Failure to Meet LEA MOE Compliance Standard
10. State LEA MOE Data Reporting Procedures
11. Process for Training and Communicating with LEAs

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

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## 1: Purpose of and Authority for Procedures

*This component outlines the state’s role in implementing the LEA MOE requirements. It provides a definition of LEA MOE, the federal and state regulations that apply, and a description of the entities that must comply with those requirements.*

### Guiding Questions

- » What is LEA MOE?
- » What is the purpose of state-level LEA MOE procedures?
- » Which IDEA regulations are related to LEA MOE?
- » What other federal regulations apply to LEA MOE?
- » Are there any related state regulations?
- » How does the Office of Management and Budget (OMB) Uniform Grant Guidance apply to LEA MOE?

### Sample Language

#### *Purpose and Authority*

Any local educational agency (LEA) receiving an IDEA Part B subgrant from the state educational agency (SEA) is required, pursuant to IDEA’s LEA maintenance of effort (MOE) regulations, to budget and spend at least the same amount of local—or state and local—funds for the education of children with disabilities on a year-to-year basis. The required LEA MOE levels for budgeting and spending are referred to, respectively, as the “eligibility standard” and the “compliance standard.”

The purpose of these state-level procedures is to define expectations and activities for monitoring the LEA MOE requirements. Although LEAs are responsible for budgeting and spending the same amount of local—or state and local—funds, the SEA has an obligation to monitor whether LEAs are meeting those requirements, and to track and report that information to the federal government. This document outlines SEA procedures for implementing the LEA MOE requirements.

*Applicable Federal Regulations* (full text of the regulations is included in [Appendix or website link])

The following federal regulations establish authority for the requirements of these policies and procedures:

- » IDEA Part B: 34 CFR §§300.12, 300.28, 300.203, 300.204, 300.205, 300.209, 300.221, 300.226, 300.227, 300.228, 300.608, Appendix D and Appendix E to Part 300.
- » Education Department General Administrative Regulations (EDGAR): 34 CFR §76.720 State reporting requirements.
- » Office of Management and Budget (OMB) Guidance for Grants and Agreements (Uniform Grant Guidance): 2 CFR §200.329 Monitoring and reporting program performance.

*Relevant State Laws and Regulations*

The following state laws and regulations establish authority for the requirements of these policies and procedures:

*Reader note: Insert citations for relevant state laws or regulations here. Be sure to include citations for relevant state policies outlining the SEA’s process under 34 CFR §300.221 if the SEA determines that the LEA does not meet the eligibility standard. Consider citing the SEA’s authority to collect non-federal funds from an LEA in the event of failure to meet the compliance standard.*

### Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.12, 300.28, 300.203, 300.204, 300.205, 300.209, 300.221, 300.226, 300.227, 300.228, and 300.608; Appendix D to Part 300—Maintenance of Effort and Early Intervening Services; Appendix E to Part 300—Local Educational Agency Maintenance of Effort Calculation Examples
- » EDGAR Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §76.720
- » Uniform Grant Guidance (current full text of these regulations can be found at <https://www.ecfr.gov/>): 2 CFR §200.329
- » *Quick Reference Guide on IDEA Local Educational Agency Maintenance of Effort*, CIFR

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## 2: Applicability of Procedures to Eligible LEAs, Including Eligible Charter School LEAs

*This component describes how these procedures apply to each LEA in the state, including charter school LEAs.*

### Guiding Questions

- » How is “LEA” defined for the purpose of IDEA?
- » Which LEAs receive IDEA Part B subgrants?
- » Which entities in the state must comply with LEA MOE requirements?
- » 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

*Reader note: LEA is used throughout this practice guide to refer to all applicable entities listed in this section.*

LEAs that are responsible for providing a free appropriate public education (FAPE) to children with disabilities under IDEA may be eligible to receive IDEA subgrants and must comply with LEA MOE requirements. In [state], the term LEA is defined as including:

- » Traditional school districts (see 34 CFR §300.28).
- » Educational service agencies (ESAs) that serve as LEAs and are responsible for providing FAPE to children with disabilities (see 34 CFR §300.12).
- » Charter school LEAs operating as independent LEAs (see 34 CFR §300.209(c)).
- » Department of Corrections, which operates as an LEA (see 34 CFR §300.228).

### OR

The LEA MOE eligibility and compliance standards apply to all eligible LEAs in the state, including charter school LEAs. Charter school LEAs are defined in state regulation at [state citation]. Under IDEA, charter schools that are not LEAs under state law are not eligible for an IDEA subgrant (34 CFR §300.209). [SEA] allocates subgrants to charter school LEAs in the same manner that it allocates subgrants to other LEAs in the state.

Each eligible LEA that receives an IDEA Part B subgrant is responsible for complying with the LEA MOE eligibility and compliance standards.

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

## 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, and 300.209(c)
- » *Dear Colleague Letter to States on Funding Charter Schools*, Office of Special Education and Rehabilitative Services (OSERS)
- » *Letter to Hokenson* (2013), OSEP

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## 3: Staff Responsibilities and Timelines for Implementing LEA MOE Requirements

*This component lays out the timeline of state activities for implementing the LEA MOE requirements in three timelines: Eligibility Standard, Compliance Standard, and EDFacts Data Reporting.*

### Guiding Questions

- » What is the state's fiscal year?
- » What is the timeline for activities related to monitoring the eligibility standard (34 CFR §300.203(a))?
- » What is the timeline for activities related to monitoring the compliance standard (34 CFR §300.203(b))?
- » What is the timeline for EDFacts data reporting?
- » 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 LEA MOE?
- » How and when are LEAs notified whether they have met the LEA MOE eligibility and compliance standards?

### Sample Language

#### *Fiscal Year*

Calculations to determine whether an LEA met the LEA MOE eligibility and compliance standards are based on budget and expenditure information for the State Fiscal Year (SFY), which operates from July 1 through June 30.

#### *LEA MOE Timelines*

Three LEA MOE timelines—Eligibility Standard (table 2), Compliance Standard (table 3), and ED Facts Data Reporting (table 4)—outline activities conducted by the [SEA] to implement the LEA MOE requirements.

#### *Eligibility Standard (34 CFR §300.203(a))*

**Table 2: [State’s] annual timeline and activities for the LEA MOE eligibility standard**

Date(s)	Activity	Responsible staff/office
From March 15–April 14	Review and revise (as necessary) materials pertaining to the LEA annual application for IDEA Part B funds, including the notification memo and <i>LEA MOE Eligibility Calculator</i> .	Special Education Finance Division
By April 15	Update Special Education Funding website with all LEA IDEA application materials and anticipated IDEA subgrant allocations for the upcoming fiscal year. Notify the LEA superintendents, special education directors, and business managers of all current and future IDEA subgrantees that the applications for IDEA Part B funds are available on the website and the deadline for submission is June 15.	Special Education Finance Division
From April 16–June 14	Conduct initial review of LEA applications for IDEA Part B funds to determine whether each LEA met the LEA MOE eligibility standard. Proactively contact LEAs that submitted incomplete budget information or submitted budgets that will not meet the eligibility standard unless changed.	Special Education Finance and Monitoring Divisions
By April 30	Receive final list of LEAs identified with significant disproportionality (from IDEA Part B Data Manager) that will be ineligible for an LEA MOE adjustment in the upcoming fiscal year.	Special Education Finance Division
By May 31	Receive final list of LEA determinations (from IDEA Part B Monitoring Lead) for the upcoming fiscal year.	Special Education Finance Division

Date(s)	Activity	Responsible staff/office
By June 1	Notify LEAs regarding potential eligibility/ineligibility for LEA MOE adjustment in the upcoming fiscal year. Include maximum amount available and information regarding the interaction of the LEA MOE adjustment and voluntary coordinated early intervening services (CEIS).	Special Education Director
From June 15– June 29	Continue to review LEA budgets submitted with the LEA application for the LEA MOE eligibility standard. Conduct a second round of contacts to LEAs whose budgets continue to not meet the eligibility standard.	Special Education Finance and Monitoring Divisions
By June 30	Compile “final” list of LEAs’ status with the LEA MOE eligibility standard. Include the budgeted amount and calculation method used (i.e., local funds only, combination of state and local funds, local funds only on a per capita basis, combination of state and local funds on a per capita basis), the last year met by that method, comparison year and comparison amount, and any exceptions/adjustments used or anticipated. Store the information in [location of electronic file].	Special Education Finance Division
By July 1	For eligible LEAs, issue the IDEA Part B subgrants. For any LEA not meeting the eligibility standard, implement the state’s process under 34 CFR §300.221 by providing the LEA reasonable notice and the opportunity for a hearing. In these cases, follow the timeline outlined in that appeals procedure and update the LEA MOE documentation after a final decision is reached.	Special Education Director and Special Education Finance Division

Compliance Standard (34 CFR §300.203(b))

**Table 3: [State’s] annual timeline and activities for the LEA MOE compliance standard**

Date(s)	Activity	Responsible staff/office
From June 1– June 30	Review and revise (as necessary) the <i>LEA MOE Compliance Calculator</i> and the notification memo. The notification memo should include annual instructions and timelines for LEA MOE submissions.	Special Education Finance Division

Date(s)	Activity	Responsible staff/office
By June 15	<p>Confirm accuracy of the list (initially created in June of the prior calendar year) of LEAs eligible/ineligible to use the LEA MOE adjustment in the compliance year. This list should include current information on the maximum amount available for the adjustment, LEA determination, identification of significant disproportionality, and any known voluntary CEIS amounts.</p> <p><i>Reader note: This verification of LEAs' eligibility to use the LEA MOE adjustment and the adjustment amount available is an important step as there may have been changes in the LEA subgrant amounts since the information was initially compiled.</i></p>	Special Education Finance and Monitoring Divisions
By June 30	<p>Update the [SEA Special Education Funding] website with LEA MOE materials, including deadlines and instructions for submitting expenditure information.</p> <p><i>Reader note: List state-specific LEA MOE materials and instructions.</i></p>	Special Education Finance Division
By July 1	<p>Notify all LEA superintendents, special education directors, and business managers that materials are available for calculating the LEA MOE compliance standard for the fiscal year that just ended. Inform them that the deadline for submission of LEA MOE compliance standard calculations is October 31.</p>	Special Education Director
From July 1– October 31	<p>Provide individual technical assistance to LEA staff upon request and review LEA compliance submissions as they are submitted. Information used in the review process should include the calculation method used, comparison year and comparison amount, and any exceptions or adjustments as necessary. If the LEA is using exceptions or adjustments, review additional documentation to verify the exception or adjustment.</p>	Special Education Finance and Monitoring Divisions
By September 15	<p>Provide a webinar on the LEA MOE compliance standard for all LEAs. Ensure the webinar covers the four calculation methods, comparison year/subsequent years rule, exceptions, adjustments, consequences of failure, and <i>LEA MOE Compliance Calculator</i>. Record the webinar and post on the SEA website for LEAs to view on demand.</p>	Special Education Finance Division and Special Education Professional Development Director
By November 1	<p>Compile final list of LEAs' status with the LEA MOE compliance standard. Include the expenditure amount and method used, the last year met by that method, comparison year and comparison amount, any exceptions/adjustments taken, and the repayment amount if the LEA failed MOE. Store the information in [location of electronic file].</p>	Special Education Finance Division

Date(s)	Activity	Responsible staff/office
By November 15	Notify each LEA of the final LEA MOE compliance decision, the amount required to meet the LEA MOE eligibility standard in the next annual application for IDEA Part B funds, and the current year's LEA MOE compliance standard for each method that the SEA has complete information. If an LEA did not meet the compliance standard for any method in the compliance year, include the repayment amount and the specific process and deadline for remitting payment to the SEA.	Special Education Director
From November 16– February 28	Collect all LEA MOE failure repayment amounts from LEAs. Record all necessary repayment information in [location of electronic file].	State Budget Office
By March 1	Submit all LEA MOE failure repayment amounts to the U.S. Department of Education, according to the specified process. Record all necessary repayment information in [location of electronic file].	State Budget Office

*EDFacts Data Reporting*

**Table 4: [State's] annual timeline and activities for EDFacts data reporting**

Date(s)	Activity	Responsible staff/office
March– April	Compile necessary LEA MOE data for the reference school year, which is the previous school year. Data for each LEA include IDEA Part B 611 and 619 allocations, LEA determination, LEA MOE adjustment amount, whether the LEA met the LEA MOE compliance standard, repayment amounts, and state repayment dates so the state can report whether money was returned.  (When available, download and review the updated EDPass file specifications for any changes to the data collection, file format, or business rules.)	Special Education Finance Division and IDEA Part B Data Manager
May–July	Review data, verify data accuracy, and follow up with SEA and LEA staff as necessary to explain or correct discrepancies.  Enter data into the <i>EDFacts Edit Check Tool - IDEA Part B MOE Reduction, CEIS, and CCEIS</i> (IDC/CIFR) to identify format and validation errors and correct as needed.  Create data notes to explain data warnings.	IDEA Part B Data Manager
By the due date	Submit EDFacts data, including data notes to explain data warnings.  (Exact submission date is published each year in the <a href="#">EDFacts Data Submission Organizer</a> .)	IDEA Part B Data Manager or EDFacts Coordinator

Date(s)	Activity	Responsible staff/office
By December 1	Post final data publicly on the [SEA Special Education Funding and Special Education Data] pages.	IDEA Part B Data Manager

### Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.203, 300.204, 300.205, 300.209, 300.221, 300.226, 300.227, 300.228, and 300.608
- » *EDFacts Edit Check Tool - EDPass IDEA Part B MOE Reduction, CEIS, and CCEIS*, IDC and CIFR
- » *EDPass IDEA Part B Maintenance of Effort (MOE) Reduction, Coordinated Early Intervening Services (CEIS), and Comprehensive CEIS (CCEIS) File Specifications*, U.S. Department of Education
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section A*, OSERS

## 4: Four Methods for Calculating LEA MOE

There are four calculation methods by which an LEA can meet the LEA MOE requirements (34 CFR §300.203(a)-(b)):

- » *Local funds only.*
- » *Combination of state and local funds.*
- » *Local funds only on a per capita basis.*
- » *Combination of state and local funds on a per capita basis.*

This component describes how the SEA allows LEAs to use any one of the four calculation methods.

### Guiding Questions

- » Are the calculations done by the SEA or the LEA?
- » Which budget lines and expenditures are included in LEA MOE calculations?
- » Which budget lines and expenditures are excluded from LEA MOE calculations?
- » Who is responsible for calculating the local funds only methods: the SEA or the LEA?
- » Can the LEAs in the state distinguish between local-funded and state-funded expenditures?
- » What is the method for separating local-funded and state-funded expenditures?
- » If the SEA is unable to distinguish between local and state funds in LEA expenditures, how does the SEA ensure that the LEA used auditable data for calculating the local only options?
- » What is the data source and the availability date for the enrollment of children with disabilities?
- » How may an LEA change calculation methods?
- » What data are maintained by the state on the different methods?

### Sample Language

#### *Methods for Calculating LEA MOE Standards*

Each LEA has the opportunity to meet the LEA MOE requirements by any of the four calculation methods, as described in 34 CFR §§300.203(a)(1) and (b)(2):

- » Local funds only.
- » Combination of state and local funds.
- » Local funds only on a per capita basis.
- » Combination of state and local funds on a per capita basis.

Below is a summary of each standard. Comprehensive details on LEA-level processes for calculating LEA MOE for eligibility and compliance standards can be found in the [title of state handbook or user guide for LEAs].

### *Eligibility Standard*

For the eligibility standard, each LEA reports its projected budgets for the next fiscal year to the state in its annual LEA application for IDEA Part B funds. The application includes budget data for the budget lines identified in table 5 (see page 13) for all four methods (34 CFR §§300.203(a)(1)):

- » Local funds only.
- » Combination of state and local funds.
- » Local funds only on a per capita basis.
- » Combination of state and local funds on a per capita basis.

Because the application is due annually in June, LEAs report the per capita estimate for the local only and local and state methods using the count of children with disabilities from the *prior* school year (e.g., December 2015 child count for the 2016–17 budget).

### *Compliance Standard*

The [SEA] fiscal accounting system allows for the separation of expenditures by local funds and state funds. Final, audited expenditures using local funds are indicated by a fund code ending in -25 and state funds are indicated by a fund code ending in -50. These codes are detailed in the state's uniform chart of accounts used by all LEAs. Using these codes, the [SEA] completes the compliance standard calculation on behalf of LEAs for each of the four calculation methods annually.

### **OR**

Using the statewide fiscal accounting system, the [SEA office/division] calculates the state and local combined expenditures (total and per capita) for the compliance standard on behalf of each LEA annually. The fiscal accounting system is unable to distinguish local from state funds. If an LEA can distinguish local from state funds to calculate its level of effort for the compliance standard, the LEA must submit its calculations and method for separating funds to the [SEA office/division] for approval.

When an LEA submits a local only calculation for the compliance standard, the SEA reviews the method for the calculation and ensures that appropriate funds were included in and excluded from the calculation. The SEA works with the internal state auditors to ensure that auditable data are used.

*Reader note: If the state has an accepted method for distinguishing state and local funds for the local only calculations, the procedures should include a specific explanation of this method (e.g., applying the proportion of local revenues to expenditures).*

To calculate the per capita amount for the LEA MOE compliance standard, the SEA [or LEA; edit as appropriate] uses the annual child count of children with disabilities as reported to the SEA for the reference year (e.g., December 2016 child count for the 2016–17 expenditures).

### *Funds Included in the LEA MOE Calculation*

Local, or state and local, funds budgeted and expended for the education of children with disabilities are included in calculating the eligibility and compliance standards. The calculations may include regular education if those costs can be reasonably attributed to the education of children with disabilities.

The budget lines and fund codes in table 5 are used for calculating the eligibility and compliance standards.

**Table 5: Budget lines, state fund codes, and local fund codes included in LEA MOE calculations**

Category*	Budget line	State fund code	Local fund code
Special education instruction	10500	10550	10525
Tuition (to other LEAs, counties, private schools)	30200–30400	30250, 30350, 30450	30225, 30325, 30425
Special education transportation	40500	40550	N/A
Related services	50500	50550	50525
Contracted services	60500	60550	60525
Special education equipment	7500	7550	7525

\* Local, or state and local, funds for the categories listed in table 5 that are used to meet matching requirements for separate federal programs must be included in the calculations.

### *Funds Excluded from the LEA MOE Calculation*

Federal funds that the LEA receives are excluded when calculating the level of effort for both the eligibility and compliance standards. This includes Title I funds and the federal matching percentage of Medicaid reimbursements. For Medicaid, the state’s federal matching percentage is [percentage].

### *Changing Calculation Methods*

If the LEA wants to meet LEA MOE by a different calculation method, the LEA must notify the SEA of its intent to change methods. If the SEA does not have the necessary historical data to verify whether the LEA meets the standard(s) by the different method, it must provide the LEA with:

- » The most current information (if any) that the SEA has for the LEA’s preferred calculation method, including the last year met by that method, if available, or the amount from 2010–11 if the LEA cannot demonstrate it has met by that method since then.
- » A list of information required from the LEA for each year, from the most recent year back to the last year for which the SEA has information that the LEA met the LEA MOE compliance standard by the preferred calculation method (in no case will it precede 2010–11). The information required for each year may include the required and actual level of effort for the proposed method, whether LEA MOE was met by that method, and the amounts of and evidence for exceptions or adjustments taken (including those in intervening years).

### *Historical LEA MOE Data*

The SEA maintains historical data on LEA MOE compliance standard status, expenditures, exceptions, adjustments, and count of children with disabilities from 2010–11 to the present.

### **Related Resources**

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §300.203; Appendix E to Part 300—Local Educational Agency Maintenance of Effort Calculation Examples
- » *Local Educational Agency Maintenance of Effort Calculator*, CIFR
- » *LEA MOE: Mechanics of the Revised Regulations* video, CIFR
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Sections B & C*, OSERS
- » *Letter to a Chief State School Officer* (2014), OSEP
- » *Letter to Anonymous* (2010), OSEP

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## **5: LEA MOE Eligibility Standard**

*This component details the SEA's procedures for determining that an LEA has met the LEA MOE eligibility standard specified by 34 CFR §300.203(a).*

### **Guiding Questions**

- » When does the SEA collect the information needed to determine that an LEA met the eligibility standard?
- » What data does the SEA collect? How are data collected? How does the SEA verify or validate collected data?
- » Where is the necessary information stored at the SEA?
- » How does the SEA determine that the LEA met the eligibility standard?
  - How does the SEA notify the LEA whether it met the eligibility standard?
- » For each of the four calculation methods (34 CFR §§300.203(a)(1)), how does the SEA determine the comparison year for the eligibility standard when the last year met by that method is not the most recent year for which information is available?
- » When does the SEA complete its reviews of whether LEAs met the eligibility standard?
- » What is the SEA process when an LEA is determined to not have met the eligibility standard?

### **Sample Language**

#### *Overview*

On an annual basis, the [SEA office/division] reviews LEA applications for IDEA Part B funds to determine whether each LEA met the LEA MOE eligibility standard. LEAs meet the standard by budgeting at least the same amount of local, or local and state, funds for special education as the LEA expended in the most recent year for which information is available.

#### *Subsequent Years Rule*

The SEA applies the subsequent years rule (34 CFR §300.203(c)) to determine the LEA MOE amount for the eligibility standard that must be met by the LEA for that calculation method. This rule states that the level of expenditures required of the LEA for the fiscal year subsequent to the year of a failure is the amount that would have been required in the

absence of that failure, not the LEA's reduced level of expenditures. The comparison year for the eligibility standard is the most recent fiscal year for which there is information demonstrating that the LEA met the LEA MOE compliance standard (i.e., expenditures) for a specific method.

The [SEA office/division] uses historical expenditure data and LEA MOE compliance decisions to determine the most recent year(s) for which the LEA met LEA MOE by each calculation method. These years are used as the comparison year for the eligibility standard. Because the LEA may meet LEA MOE in different years with different methods, there may be more than one comparison year.

### *Intervening Years*

When there are years between the comparison year (i.e., the last time an LEA met the LEA MOE compliance standard using a specific method) and the current year, the SEA must allow the LEA to take allowable exceptions and adjustments for the intervening years. See Component 7 for more details.

### *Data Collection*

The SEA collects data from all LEAs that receive IDEA Part B subgrants, including the Department of Corrections LEA and all charter schools operating as independent LEAs.

Data for determining whether the LEA met the eligibility standard are collected through the annual LEA applications for IDEA Part B funds. From April 16 through June 14, the SEA receives LEA IDEA applications for IDEA Part B funds.

The application includes budget data for all four calculation methods (34 CFR §§300.203(a)(1)):

- » Local funds only.
- » Combination of state and local funds.
- » Local funds only on a per capita basis.
- » Combination of state and local funds on a per capita basis.

The application includes projected budgets for the next fiscal year from each LEA, including data on, and documentation for, projected exceptions.

### *Determination of Whether Each LEA Met the Eligibility Standard*

The [SEA office/division] completes reviews of the annual applications for IDEA Part B funds by June 30 and notifies LEAs on July 1 on whether they met the eligibility standard. The [SEA office/division] reviews historical data to determine the most recent year for which the LEA met the LEA MOE eligibility standard by each method submitted.

When reviewing the LEA applications, the [SEA office/division] compares budget line items with those from the prior year to check for consistency and to determine whether LEAs are eligible to receive an IDEA subgrant. [SEA office/division] determines whether an LEA met the eligibility standard by comparing each LEA's projected budget with the amount spent in the last state fiscal year that the LEA met the LEA MOE compliance standard for each method. The [SEA office/division] follows up with LEAs that submitted incomplete documentation, inconsistent line items, or total budgets that do not meet the eligibility standard.

### *Eligibility Notification*

The [SEA office/division] notifies the superintendent and special education director within each LEA whether the LEA met the eligibility standard, or did not meet the standard, by sending a letter that includes information about the calculation method(s), if any, by which the LEA met the eligibility standard. The [SEA office/division] also follows up with a phone call to all LEAs that did not meet the eligibility standard.

OR

The [SEA office/division] notifies the superintendent and special education director within each LEA that it met or did not meet the eligibility standard through the SEA's online grants management system. LEAs may access current and historical information, including the methods and amounts by which the LEA met the LEA MOE standards, through the online grants management system.

#### *Ineligibility Notification*

Under 34 CFR §300.221, if an LEA is determined to not have met the eligibility standard, the SEA must provide the LEA with reasonable notice and an opportunity for a hearing. LEAs that are determined to not have met the eligibility standard may submit a revised budget or corrected documentation by July 15. The SEA reviews all revised and corrected submissions by July 31. If an LEA continues to be determined ineligible after revisions and corrections, it may request a hearing with the SEA. All hearings are held by August 31, with final decisions rendered by September 30. If the final decision is that the LEA is ineligible, the SEA uses the IDEA Part B funds that would otherwise have been available to the LEA to provide special education and related services directly to children with disabilities residing in the area served by that LEA (see CFR 34 §300.227).

#### *Storage*

The SEA maintains historical LEA MOE data for all LEAs. The SEA also maintains documentation submitted by LEAs so that LEAs do not have to submit the same data multiple times.

All information concerning eligibility standard decisions is stored on the shared drive in [location of electronic file]. A separate file must be created for each year using the approved naming convention to ensure that each year's data are preserved. Electronic files are maintained indefinitely; files more than seven years old are moved to an archive server.

#### **Related Resources**

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §300.203; Appendix E to Part 300—Local Educational Agency Maintenance of Effort Calculation Examples
- » *Local Educational Agency Maintenance of Effort Calculator*, CIFR
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section D*, OSERS
- » *Letter to Boundy* (2012), OSEP
- » *Letter to Gonzales* (2012), OSEP
- » *Letter to Lovato* (2015), OSEP

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## **6: LEA MOE Compliance Standard**

*This component describes the SEA's procedures for establishing LEAs' compliance with the LEA MOE requirements specified by 34 CFR §300.203(b).*

#### **Guiding Questions**

- » When does the SEA collect the information needed to determine compliance with LEA MOE?
- » What does the SEA collect and from whom? When and how are data collected?
- » How does the SEA verify or validate collected data?

- » Where is the necessary information stored at the SEA?
- » How does the SEA determine whether LEAs have met the compliance standard?
  - How does the SEA notify LEAs?
- » For each of the four calculation methods (34 CFR §§300.203(b)(2)), how does the SEA determine the comparison year for the compliance standard when the last year met by that method is not the preceding fiscal year?
- » When does the SEA complete reviews of compliance with LEA MOE?
- » What is the SEA process when an LEA does not meet the compliance standard?
- » Where and for how long are final decisions regarding the LEA MOE compliance standard documented and stored?

## Sample Language

### *Overview*

On an annual basis, the SEA determines whether each LEA met the LEA MOE compliance standard by comparing the LEA's final audited expenditures for the current state fiscal year with the amount expended in the last year that the LEA met LEA MOE (i.e., comparison year) for each calculation method. Because an LEA may meet LEA MOE in different years with different methods, there may be more than one comparison year.

### *Subsequent Years Rule*

The SEA applies the subsequent years rule (34 CFR §300.203(c)) to determine the LEA MOE amount for the compliance standard that must be met by the LEA for that method. This rule states that the level of expenditures required of the LEA for the fiscal year subsequent to the year of a failure is the amount that would have been required in the absence of that failure, not the LEA's reduced level of expenditures. The comparison year for the compliance standard is the last fiscal year in which the LEA met the LEA MOE compliance standard for a specific method.

The [SEA office/division] uses historical expenditure data and LEA MOE compliance decisions to determine the most recent year(s) for which the LEA met LEA MOE by each method.

### *Intervening Years*

When there are years between the comparison year (i.e., the last time an LEA met MOE using a specific method) and the current year, the SEA must allow the LEA to take allowable exceptions and adjustments for the intervening years. See Component 7 for more details.

### *Data Collection*

The SEA collects data from all LEAs, including the Department of Corrections LEA and all charter schools operating as independent LEAs.

Data for determining whether LEA met the LEA MOE compliance standard are collected through the *LEA MOE Compliance Calculator*, which is completed by each LEA. By October 31, LEAs submit their LEA MOE expenditure report through the calculator to [SEA office/division], and the SEA reviews the reports as they are received.

Expenditure data are collected for all four methods (34 CFR §§300.203(b)(2)):

- » Local funds only.
- » Combination of state and local funds.
- » Local funds only on a per capita basis.
- » Combination of state and local funds on a per capita basis.

The expenditure report includes the final expenditures for the completed state fiscal year and documentation for exceptions and adjustments.

#### *Determination of Whether Each LEA Met the Compliance Standard*

The [SEA office/division] reviews the submitted expenditure data, including comparing expenditure line items with those from the prior year to check for consistency. The [SEA office/division] follows up with LEAs regarding the submitted incomplete documentation, inconsistent line items, and/or total expenditures that do not meet the threshold for the compliance standard.

The SEA completes its reviews of expenditure data by November 1.

#### *Compliance Notification*

The SEA notifies the superintendent and special education director within each LEA whether they met the LEA MOE compliance standard by sending a letter by November 15 that includes the final LEA MOE compliance decision, the calculation methods and amounts by which the LEA met the LEA MOE compliance standard, and amounts required to meet future eligibility and compliance standards. The SEA also follows up with a phone call to all LEAs that did not meet the compliance standard.

#### **OR**

The SEA notifies the superintendent and special education director within each LEA whether it met the compliance standard through a notification in the SEA's online grants management system. LEAs may access current and historical LEA MOE information, including the calculation methods and amounts by which the LEA met the LEA MOE standards, and amounts required to meet future standards through the grants management system. The SEA also follows up with a phone call to all LEAs that did not meet the compliance standard.

#### *Noncompliance Notification*

LEAs that are determined to be noncompliant may submit a revised final expenditure report with supporting documentation by January 15. The [SEA office/division] reviews all revised and corrected submissions by January 31. If the LEA is still noncompliant after revisions and corrections, the SEA must submit repayment to the federal government and may collect that repayment from the LEAs that did not meet the compliance standard. See Component 9 for more details on this process.

#### *Storage*

The SEA maintains historical LEA MOE compliance data for all LEAs. All information concerning LEA MOE compliance decisions is stored on the shared drive in [location of electronic file]. Electronic files are maintained indefinitely; files more than seven years old are moved to an archive server.

#### **Related Resources**

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §300.203; Appendix E to Part 300—Local Educational Agency Maintenance of Effort Calculation Examples
- » *Local Educational Agency Maintenance of Effort Calculator*, CIFR
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section D*, OSERS
- » *Letter to Boundy* (2012), OSEP

- » Letter to Gonzales (2012), OSEP
- » Letter to Lovato (2015), OSEP

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## 7: Allowable LEA MOE Exceptions

*This component describes the SEA's procedures for managing LEAs' allowable exceptions to LEA MOE under 34 CFR §300.204 within the context of the eligibility and compliance standards of 34 CFR §300.203.*

### Guiding Questions

- » What documentation does the SEA require from LEAs for each exception?
- » Are there procedures for validation/verification of the documentation?
- » What is the SEA's method for calculating the Exception (B) amount due to a decrease in enrollment of children with disabilities?
- » What is the SEA's definition of an "exceptionally costly program" for Exception (C)?
- » What are the SEA's definitions of "costly expenditures" and "long-term" for Exception (D)?
- » Does the SEA operate a high cost fund under 300.704(c) for Exception (E)?
- » What is the SEA's process for calculating per capita exceptions?
- » What is the SEA's process for approving/denying allowable exceptions?
- » How does the SEA ensure that, when there are years between the last time an LEA met LEA MOE using a specific calculation method and the current year, the LEA is allowed to take allowable exceptions for the intervening years?
- » Where and for how long are final exceptions and supporting documentation stored?

### Sample Language

#### *LEA MOE Exceptions (34 CFR §300.204)*

An LEA may reduce its level of expenditures of local only or state and local funds below the level of those expenditures for the preceding fiscal year for any of the following reasons:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.
- b. A decrease in the enrollment of children with disabilities.
- c. The termination of the obligation of the agency, consistent with [IDEA Part B], to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child has left the jurisdiction of the agency; has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or no longer needs the program of special education.
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.
- e. The assumption of cost by the high cost fund operated by the SEA under 34 CFR §300.704(c).

Allowable exceptions may be applied in calculating both the eligibility and compliance standards, but requests must be made for each standard separately. The [SEA office/division] approves or denies requested exceptions based on the documentation provided by the LEA. The SEA notifies the LEA of these decisions.

### *Calculation and Documentation*

*Reader note: This sample procedural language describes suggestions for calculating and documenting exceptions. As is the case throughout this practice guide, customization is essential. Each SEA should describe the method for calculating exception amounts and documentation needed to justify the exception, including estimated data for projected exceptions (eligibility standard).*

*Reader note: These exceptions may require the submission of personally identifiable information and personnel data. States may want to reference policies related to the use and retention of personally identifiable information and personnel data in this section.*

### *Eligibility Standard*

If an LEA applies allowable exceptions to its LEA MOE eligibility standard calculation, the LEA is expected to provide documentation of exceptions that have occurred since the comparison year and (if the LEA desires) projected data for exceptions that the LEA anticipates occurring during the school year for which it is budgeting. The LEA must provide this documentation at the same time it submits its budget to the SEA by [date].

### *Compliance Standard*

When an LEA submits its final expenditure reports and documentation that it has met the LEA MOE compliance standard by [date], it must also provide documentation to support each allowable exception to its required LEA MOE levels. An approved exception for the LEA MOE eligibility standard does not eliminate the need to submit justification for the LEA MOE compliance standard. An exception may be requested even if the request was not made for the LEA MOE eligibility standard for that year.

### *Reconciliation*

The [SEA office/division] reviews the documentation and submits inquiries or requests additional documentation from the LEA within 30 days of receiving the LEA's initial request for an exception for both the eligibility and compliance standards.

### *Per Capita Methods*

The following sections describe how to calculate the exception amounts for the two total methods (i.e., local only total or local and state total). To derive the exception amounts for the per capita methods for each year, sum the amounts across all exceptions and divide the total by the December 1 child count from the last year in which the LEA MOE compliance standard was met using the same per capita method (i.e., local per capita or local and state per capita). If there are intervening years, sum together the per capita exception amounts for current and intervening years.

### **Exception A: Voluntary Departure (34 CFR §300.204(a))**

*How to calculate the total methods' exception amount:* Subtract the replacement personnel's salary and benefits from the salary and benefits of the departed personnel.

*Documentation required:* The LEA must provide documentation of the departing special education staff's employment for the previous year including final year salary and benefits. Documentation must include the reason for the voluntary or for-cause departure, the universal staff identification number for the departing and replacement staff member, and the starting year salary and benefits for the replacement staff.

*Documentation required for anticipated exceptions:* The LEA must provide projected numbers for departing special education and related services personnel, including reasons for the anticipated voluntary or for-cause departure. The LEA should submit an estimate of the difference between the departing staff's salary and benefits, and those for a replacement based on recent hiring trends.

### **Exception B: Decrease in Enrollment (34 CFR §300.204(b))**

*How to calculate the total methods' exception amount:* Determine the percentage change in enrollment by subtracting the December 1 child count of IDEA Part B eligible children ages 3 through 21 for the current year from the prior year December 1 count, and then dividing by the prior year December 1 child count. To obtain the exception amount, apply that percentage to the total expenditures reported for LEA MOE (i.e., local total and local and state total) in the prior fiscal year.

*Reader note:* Replace the above language with state's own methodology.

*Documentation required:* The LEA must provide all elements used in the calculation of the exception amount: the current year and prior year December 1 child count of IDEA Part B eligible children ages 3 through 21, and the total amount(s) reported for LEA MOE from the prior fiscal year. If using the per capita methods, the LEA must provide the December 1 child count from the last year in which the LEA MOE compliance standard was met using the same per capita method.

*Documentation required for anticipated exceptions:* The LEA must provide an estimate of the change in the projected December 1 child count for IDEA Part B eligible children ages 3 through 21, including a justification for anticipated decline. As with the above, the LEA must submit all elements used in the calculation of the anticipated exception amount.

### **Exception C: Exceptionally Costly Program (34 CFR §300.204(c))**

*Definition:* "Exceptionally Costly Program" is defined as a program agreed to by the individualized education program (IEP) team for any child with a disability, for which the associated cost is greater than three times the statewide average per pupil expenditure, as determined in the prior fiscal year.

*Reader note:* Replace the above language with state's own definition.

*How to calculate the total methods' exception amount:* The amount expended for the exceptionally costly program in the prior fiscal year is the exception amount.

*Documentation required:* For each child, the LEA must provide the final audited cost of the exceptionally costly program for the prior year, the student ID, and the student's IEP that prescribed the program; as well as rationale for why the program was terminated (e.g., child left the agency's jurisdiction, child aged out, program no longer needed). If the program is no longer needed for the child, the LEA must provide the current completed IEP to demonstrate that the program ended with agreement from the IEP team (including the child's parents) and that the child is continuing to receive FAPE if still eligible for special education and related services.

*Documentation required for anticipated exceptions:* The LEA must provide documentation (as described above) of the exceptionally costly program for the prior year, as well as rationale for why the program will be terminated for the upcoming year.

### **Exception D: Termination of Costly Expenditures for Long-Term Purchases (34 CFR §300.204(d))**

*Definition:* “Costly Expenditure” is an expenditure over \$150,000 that is approved by the state. “Long-Term” is defined as any period of time for an expenditure that occurs over at least two fiscal years, such as acquisition costs for specialized equipment or construction costs for a specialized facility improvement.

**OR**

*Definition:* “Costly Expenditure” is a per-unit expenditure equal to or greater than \$150,000 that was pre-approved by the state. “Long-Term Purchase” is defined as tangible property or capital improvement with a useful life of more than one year, such as equipment or construction of school facilities.

*Reader note:* Replace the above language with state’s own definitions.

*How to calculate the total methods’ exception amount:* The amount expended for the long-term costly expenditure in the last fiscal year is the exception amount. Note that if payments are made over a period of years, the exception amount is not the full amount of the purchase. Rather, it is the payment made in the last fiscal year.

*Documentation required:* The LEA must provide a description of the costly expenditure and the rationale for counting the expenditure as a part of LEA MOE (i.e., how the expenditure supports the education of children with disabilities and how it was paid from local or state funds). Documentation must include all applicable expenditures (invoices), by year (if payments made over multiple years), and the pre-approval letter provided by the SEA.

*Documentation required for anticipated exceptions:* As above, the LEA must provide a description, a rationale for counting the expenditure as a part of LEA MOE, and the cost estimate and projected date for the termination of the expenditure.

### **Exception E: SEA High Cost Fund (34 CFR §300.204(e))**

*Definition:* For details on the costs allowed under the high cost fund, please refer to the state’s [high cost fund] procedure at [link to state procedures].

*How to calculate the total methods’ exception amount:* The amount covered by IDEA funds from the high cost fund operated under 34 CFR §300.704(c) in the year the cost was first assumed by the high cost fund is the exception amount. Expenditures covered by local and state funds are not part of the exception amount.

*Documentation required:* Under the high cost fund procedures, an LEA must apply and be approved for use of funds from the high cost fund prior to requesting this as an exception for LEA MOE. The LEA must submit its high cost fund approval letter and disbursement (or reimbursement) notice from the SEA as documentation that the expenditure was approved and the LEA received IDEA Part B funds from the SEA’s high cost fund.

*Documentation required for anticipated exceptions:* LEA should submit the child’s IEP specifying the services and an estimate of the costs to demonstrate that the circumstance will meet the criteria of the high cost fund. If available, the LEA may submit the prior year’s cost for that child as supporting evidence that the anticipated expenditure will meet the high cost fund criteria.

### **Related Resources**

- » *Applying Exceptions to Local Educational Agency Maintenance of Effort*, CIFR
- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.203, 300.204, and 300.704(c)
- » *Local Educational Agency Maintenance of Effort Calculator*, CIFR

- » *Letter to Lovato (2015), OSEP*
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section D, OSERS*

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## 8: Adjustment to LEA MOE

*This component details the SEA's procedures for ensuring that when an LEA elects to take an adjustment under 34 CFR §300.205, it conforms to the requirements of the regulation.*

### Guiding Questions

- » What is the SEA's process for monitoring LEA use of the LEA MOE adjustment?
- » When does the SEA calculate the amounts of the forthcoming year's IDEA Part B Section 611 subgrants to LEAs?
  - Who is responsible for making these calculations?
- » Does the SEA calculate the change in the Section 611 subgrant amounts from the current year to the forthcoming year for the LEAs?
- » How does the SEA determine eligibility for an LEA MOE adjustment under 34 CFR §300.205?
  - When does the SEA make IDEA subgrant determinations for its LEAs, who is responsible for making the determinations, where is the list of the determinations maintained, and how are determinations communicated to SEA fiscal staff?
  - When does the SEA identify LEAs with significant disproportionality based on race and ethnicity, who is responsible for the identification, where is the list of LEAs with significant disproportionality maintained, and how is information communicated to SEA fiscal staff?
- » Does the SEA provide its LEAs with notice that the LEAs are or are not eligible to use the LEA MOE adjustment?
  - If so, does the notice include the maximum amount available for the adjustment?
  - Does the SEA provide information to its LEAs regarding the LEA MOE adjustment and its interaction with the voluntary use of IDEA funds for coordinated early intervening services (CEIS)?
  - Does the SEA require a plan from LEAs regarding tracking "freed-up funds" from the LEA MOE adjustment?
- » What is the process for LEAs to report to the SEA that they have used the LEA MOE adjustment?
  - Does the SEA have a mechanism or process in place to monitor the interaction with the voluntary use of IDEA funds for CEIS?
  - Does the SEA monitor the LEA's use of freed-up funds for allowable activities under the Every Student Succeeds Act (ESSA)?

### Sample Language

#### *Notification to LEAs of IDEA Part B Section 611 Subgrant Amounts*

*Reader note: In this component, the SEA should reference the full procedures for allocating IDEA Part B subgrants to LEAs. The information here should be consistent with those procedures.*

Annually, by April 15, the SEA provides each LEA with a notification of the amount of its IDEA Part B Section 611 subgrant for the following year with the updated instructions for the annual LEA application for IDEA Part B funds.

**OR**

Annually, by April 15, the SEA posts the amount of the IDEA Part B Section 611 subgrant for the following year for each LEA in the SEA's online grants management system.

The [SEA Special Education Director] provides the statewide IDEA Part B grant award to the SEA federal grants manager. The SEA federal grants manager calculates Part B subgrant amounts for Section 611 and Section 619 for each LEA, obtains approval from the SEA's [Directors of Finance and of Special Education], and notifies LEAs of their subgrant amount.

Subgrant amounts can also be found in the SEA special education database under [location of electronic file].

#### *Calculation of Change from Prior Year's Subgrant*

When the SEA posts the allocation for the forthcoming year to the online grants management system, the change from the current year's allocation is automatically calculated and displayed in the system.

OR

The SEA federal grants manager adds a tab to the LEA allocation spreadsheet that compares the forthcoming year's LEA allocations to the current year's.

#### *Eligibility for an Adjustment to LEA MOE (34 CFR §300.205)*

An LEA must receive a determination of "Meets Requirements" in order to use an LEA MOE adjustment to reduce its required level of expenditures. The [Special Education Accountability Division] is responsible for making annual determinations by May 31 of each year for each LEA.

The [Special Education Fiscal Division] obtains the annual determination(s) from the [Special Education Accountability Division].

An LEA identified as having significant disproportionality based on race and ethnicity may not reduce its required level of expenditures with an LEA MOE adjustment because it must reserve 15 percent of its IDEA Part B Section 611 and Section 619 subgrant amounts for comprehensive CEIS. The [Special Education Accountability Division] is responsible for determining by April 30 of each year whether each LEA has significant disproportionality.

The [Special Education Fiscal Division] obtains a list of LEAs identified with significant disproportionality from the [Special Education Accountability Division].

#### *Informing an LEA about Eligibility for an LEA MOE Adjustment (34 CFR §300.205)*

When the SEA provides each LEA the amount of its IDEA Part B Section 611 allocation for the following year, it includes a notice if the LEA is eligible to use the LEA MOE adjustment to decrease its required level of expenditures. The notification is only provided to LEAs with an increase in the Part B Section 611 allocation; a determination of "Meets Requirements"; and no significant disproportionality. The notification includes the maximum amount available for the adjustment.

OR

The LEA MOE Adjustment page, housed in the SEA's online grants management system, indicates whether an LEA is eligible to use the LEA MOE adjustment to decrease its required level of expenditures. If an LEA is eligible, the LEA MOE Adjustment page also includes the maximum amount available for the adjustment.

#### *Interaction of the LEA MOE Adjustment with Funds Used for Voluntary CEIS*

*Reader note: This component should reference and be consistent with the state's procedures for administering voluntary CEIS. Resources related to CEIS, including the interaction with the LEA MOE Adjustment, can be found in CIFR's online resource catalog at <https://cifr.wested.org/resources/ceis/>.*

An LEA submits documentation (or indicates in the online grants management system) on whether it intends to use IDEA funds for voluntary CEIS. If the LEA intends to use both the LEA MOE adjustment and voluntary CEIS, the SEA will validate the maximum amount available for each and notify the LEA of those amounts.

#### *Use of Funds Freed Up by the LEA MOE Adjustment*

Each LEA that intends to use the LEA MOE adjustment to reduce its required level of expenditures must use the funds made available by the adjustment. The LEA must submit an assurance in its annual LEA application for IDEA Part B funds that:

- » The LEA will use an amount of local, or state and local, funds equal to the amount of the LEA MOE adjustment to carry out activities that could be supported with funds under the Every Student Succeeds Act (ESSA), regardless of whether the LEA is using funds under ESSA for those activities.
- » If the LEA is using funds under ESSA for those activities, the LEA will use the funds made available by the LEA MOE adjustment to supplement ESSA funds and not to supplant those funds.

#### *End-of-Year Reporting*

In its final expenditure report, each LEA must indicate whether it has used the LEA MOE adjustment to reduce the level of expenditures required to meet the LEA MOE requirements and report the amount of the adjustment.

When an LEA notifies the SEA that it has used the LEA MOE adjustment, it must submit documentation (or indicate in the online grants management system) on whether it used IDEA funds for voluntary CEIS. If the LEA used both the LEA MOE adjustment and IDEA funds for voluntary CEIS and did not request approval in its annual LEA application for IDEA Part B funds, the LEA may request a late-added adjustment. In that case, the SEA determines the maximum amount available for both the adjustment and voluntary CEIS, notifies the LEA of those amounts, and, if needed, requests that the LEA revise the amount of the adjustment.

#### **Related Resources**

- » *Calculating Local Educational Agency Maintenance of Effort Adjustment and Use of Freed-Up Funds*, CIFR
- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.203, 300.205, 300.226, and 300.608; Appendix D to Part 300—Maintenance of Effort and Early Intervening Services
- » ESSA regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>)
- » *EDFacts Edit Check Tool - IDEA Part B MOE Reduction, CEIS, and CCEIS*, IDC and CIFR
- » *Coordinated Early Intervening Services Resources: Step by Step*, CIFR
- » *MOE Reduction Eligibility Decision Tree and Worksheets*, IDC
- » *EDPass IDEA Part B Maintenance of Effort (MOE) Reduction, Coordinated Early Intervening Services (CEIS), and Comprehensive CEIS (CCEIS) File Specifications*, U.S. Department of Education
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section E*, OSERS
- » *Letter to Michelson and Mayes (2009)*, OSEP

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## **9: Failure to Meet LEA MOE Compliance Standard**

*This component discusses the SEA's process for ensuring that any LEA's failure to meet the LEA MOE requirements results in the SEA returning the dollar amount of that failure to the U.S. Department of Education out of either non-federal funds*

or funds for which accountability to the federal government is not required (e.g., Impact Aid, Medicaid reimbursements) (34 CFR §300.203(d)).

### Guiding Questions

- » What is the SEA's process for notifying an LEA that the LEA has failed to meet the compliance standard by any of the four calculation methods?
- » What is the SEA's process for calculating the amount of LEA MOE shortfall for each of the four calculation methods?
- » What is the SEA's process for determining the amount of funds that the SEA must submit to the U.S. Department of Education when an LEA fails LEA MOE?
- » Does the SEA have a process for submitting payment to the U.S. Department of Education and tracking the remittance of those funds?
- » Does the SEA have a policy that allows it to recover non-federal funds from an LEA that fails LEA MOE?
  - If so, what is the SEA's process to implement that policy?

### Sample Language

#### *Notification of Compliance*

The SEA notifies each LEA of its LEA MOE compliance result by sending a letter prior to November 15 of each year. The letter includes the compliance decision for the most recent state fiscal year for which there are final fiscal data (for each calculation method, as applicable) and the amount required to meet the LEA MOE eligibility standard in the next annual application for IDEA Part B funds (for each applicable method) (34 CFR §§300.203(a)(1)). If an LEA did not meet the compliance standard for any method in the reference year, the notice includes the repayment amount, and the specific process and deadline for remitting payment to the SEA.

The SEA also follows up with a phone call to each LEA that did not meet the compliance standard by any of the four calculation methods.

#### *Calculation of the LEA MOE Shortfall and Repayment Amount*

*Reader note: The following text assumes that the SEA collects information on all four calculation methods; please modify as appropriate.*

As detailed in earlier sections, the SEA determines the amount required to meet the LEA MOE compliance standard for each of the four calculation methods (34 CFR §§300.203(b)(2)). For each LEA that fails to meet the LEA MOE compliance standard, the SEA subtracts the amount the LEA expended from the amount required to meet the LEA MOE compliance standard to determine the LEA MOE shortfall, for each of the four methods for which amounts are available.

To calculate the shortfall for the two per capita methods, the SEA subtracts the amount the LEA expended per capita from the amount required to meet the LEA MOE compliance standard for that method, and then multiplies the result by the child count for that year.

The SEA sums the Section 611 and Section 619 subgrants to arrive at the total IDEA Part B subgrant amount received by the LEA in the state fiscal year in which the failure occurred. The lowest of five amounts—the total IDEA Part B subgrant and the shortfall from each of the four methods—is the amount the SEA must submit to the U.S. Department of Education for that LEA.

If the SEA or LEA is unable to separately account for local and state expenditures, the lowest of three amounts—the total IDEA Part B Section 611 and Section 619 subgrant, and the shortfall from the two state and local methods—is the amount the SEA must submit to the U.S. Department of Education for that LEA.

#### *Repayment to the U.S. Department of Education*

The SEA determines the total of repayment amounts for all LEAs that failed LEA MOE and makes one payment to the U.S. Department of Education. The SEA must contact its OSEP state contact for specific instructions on fund remittance.

#### *Recovery of Funds from an LEA for Repayment to the U.S. Department of Education*

The SEA does not recover non-federal funds from an LEA that fails LEA MOE.

#### OR

The SEA recovers non-federal funds from an LEA that fails LEA MOE. *[If available, include link to state policy regarding the general recovery of funds from an LEA and whether repayment is allowed to be used by the state.]*

The SEA notifies the LEA in writing of the repayment amount. The SEA requests repayment from the LEA of those funds within 30 days of receipt of the letter. The LEA must submit a check to the SEA for the repayment amount and include a cover letter stating that the funds are for repayment of funds due to IDEA LEA MOE failure and that they are either non-federal funds or non-federal funds for which accountability is required. The cover letter must identify the state fiscal year in which the LEA did not meet LEA MOE compliance.

#### *Storage*

Information pertaining to repayments (including date sent and amount, date LEA recovery funds were received and amount) are entered in the LEA MOE Compliance Tracking Spreadsheet. The spreadsheet, along with all accompanying documentation, is stored in [location of electronic file].

#### **Related Resources**

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.203, 300.204, 300.205, and 300.608

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## 10: State LEA MOE Data Reporting Procedures

*This component outlines the SEA's procedures for EDFacts data reporting pursuant to 34 CFR §300.640 and 34 CFR §§76.720 and 76.722. See EDFacts data reporting timeline in Component 3 of this guide. Be sure to review the [EDFacts Data Submission Organizer](#) for the current due date for submitting these data. SEAs should update reporting procedures to reflect changes to the data submission process, as needed.*

#### **Guiding Questions**

- » Who in the SEA is responsible for reporting the data?
- » Where are the required LEA MOE data elements stored at the SEA, when are the data collected, when are the data final for reporting or decision-making, and who is responsible for collecting/generating each?
- » Who is responsible for reviewing and validating each individual data element and its interaction (e.g., LEA determination and LEA MOE adjustment) prior to submission?
- » What is the process for generating the EDPass submission file?
- » What is the process for reviewing EDPass data quality warnings and providing data notes?

### Sample Language

The [IDEA Part B Data Manager] is responsible for compiling and reporting LEA MOE-related data elements for the ED Facts IDEA Part B MOE Reduction, CEIS, and CCEIS data collection. Table 6 lists each data element, when to obtain, and the responsible staff member. Table 6 is ordered to match the layout of the data elements in the submission file.

**Table 6: Data elements required for the ED Facts IDEA Part B MOE Reduction, CEIS, and CCEIS data collection**

Data elements required for each LEA	When to obtain	Who responsible
IDEA Part B 611 allocation	April	SEA Fiscal Manager
IDEA Part B 619 allocation	April	SEA Fiscal Manager
LEA determination and school year of determination	January	Monitoring Supervisor
LEA MOE adjustment amount	January	SEA Fiscal Manager
LEA MOE compliance determination	April	SEA Fiscal Manager
Repayment amount	April	SEA Fiscal Manager
SEA repayment date	April	SEA Fiscal Manager
Significant disproportionality	April	Monitoring Supervisor
Voluntary/comprehensive CEIS amount	April	SEA Fiscal Manager

Prior to compiling the data, the [IDEA Part B Data Manager] is responsible for downloading the ED Pass file specifications to check for any changes from the prior year.

The [SEA Fiscal Manager] collects the LEA MOE-specific data elements (adjustment amount, compliance determination, repayment amount and date) and CEIS amount from the online grants management system and provides these data elements to the [IDEA Part B Data Manager]. SEA offices/staff responsible for the IDEA Part B allocations and general supervision (including LEA determinations and significant disproportionality) provide the other data elements.

Data compilation is done in March through April of each year. The required LEA MOE data are stored in [location of electronic file]. These files are to be maintained indefinitely. The [IDEA Part B Data Manager] is responsible for maintaining these data.

From May to July, the [IDEA Part B Data Manager] reviews the data for accuracy and completeness, works with LEAs to correct any errors, and drafts data notes as necessary. Prior to submitting to ED Pass, the [IDEA Part B Data Manager] uses the IDC/CIFR *ED Facts Edit Check - ED Pass IDEA Part B MOE Reduction, CEIS, and CCEIS* to identify potential submission errors. After errors have been addressed, the [IDEA Part B Data Manager] submits the final version to the state [SEA Fiscal Manager] for approval.

Following approval, the [IDEA Part B Data Manager] uploads the data to ED Pass, along with data notes, and completes the submission process before the due date.

### Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.12, 300.28, 300.203, 300.204, 300.205, 300.209, 300.221, 300.226, 300.227, 300.228, and 300.608
- » *EDFacts Edit Check Tool - EDPass IDEA Part B MOE Reduction, CEIS, and CCEIS*, IDC and CIFR
- » *Writing Exemplary Data Notes for Local Educational Agency Maintenance of Effort Reduction Data and Coordinated Early Intervening Services Data*, CIFR
- » *EDPass IDEA Part B Maintenance of Effort (MOE) Reduction, Coordinated Early Intervening Services (CEIS), and Comprehensive CEIS (CCEIS) File Specifications*, U.S. Department of Education
- » *Issuance of Guidance on the Final Local Educational Agency Maintenance of Effort Regulations under Part B of the IDEA (OSERS Non-Regulatory Guidance)—Section E*, OSERS

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## 11: Process for Training and Communicating with LEAs

*This component explains the SEA's procedures for training and communicating with its LEAs regarding LEA MOE and the SEA's processes and procedures for managing, monitoring, and reporting on the LEA MOE requirements. It also includes procedures for how the SEA interacts with its LEAs regarding these requirements.*

### Guiding Questions

- » Is there a specific SEA staff member for LEA MOE that LEAs can contact with questions?
- » Does the SEA have a communication plan and calendar shared with LEAs that include all relevant LEA MOE activities?
- » Is there an SEA web page dedicated to LEA MOE with all resources and materials that can be accessed by LEA staff responsible for LEA MOE?
  - Who is responsible for maintaining the content on the page and ensuring that it is up to date and accurate?
- » Does the SEA provide LEAs with standard LEA MOE calculation and data collection tools?
  - Does the SEA provide detailed instructions on how to use the tools?
  - Does the SEA provide training on the use of the tools?
  - Is the training available on demand?
  - Do the SEA training and documentation include best practices for ensuring high-quality LEA MOE data?

### Sample Language

#### *LEA MOE Training and Communication*

The [SEA Special Education Fiscal Division Manager] is responsible for training and communicating with LEAs regarding special education fiscal issues, including LEA MOE.

OR

The [SEA Fiscal Division Manager] provides training to the special education LEA liaisons in the [Special Education Division] to ensure training for and timely communication with LEAs regarding special education fiscal issues, including LEA MOE.

The contact for LEA MOE at the SEA is [position title].

Fiscal issues, such as those related to LEA MOE, are included as topics on the SEA's monthly LEA directors' training calls (when appropriate). LEAs are notified of agendas, including fiscal issues when appropriate, at least one week in advance. The training calendar can be found on the Special Education intranet.

The SEA maintains a section of its online grants management system that is dedicated to special education fiscal issues. The instructions and resources page for special education fiscal issues is updated throughout the year to ensure its accuracy. Detailed instructions for completing the LEA MOE page are included in the online grants management system.

The SEA provides its LEAs with an *LEA MOE Eligibility and Compliance Calculator* to complete each year. Detailed instructions for completing the *LEA MOE Eligibility and Compliance Calculator* are sent to each LEA annually. Instructions are updated to reflect any new guidance provided on LEA MOE.

Annual training on LEA MOE data submission and tools is provided as part of regular, monthly calls with LEA special education directors. Completed calls are recorded and available to LEA directors to review at any time.

### Related Resources

- » IDEA Regulations (current full text of these regulations can be found at <https://www.ecfr.gov/>): 34 CFR §§300.12, 300.28, and 300.203

## Conclusion

This practice guide provides recommended content for states to consider when developing written procedures that describe how the state implements the LEA MOE requirements.

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

The Center for IDEA Fiscal Reporting (CIFR) helps states improve state capacity to collect, report, analyze, and use IDEA fiscal data. The center is a partnership among WestEd, AEM Corporation, American Institutes for Research (AIR), Emerald Consulting, the Frank Porter Graham Child Development Institute at the University of North Carolina at Chapel Hill, the Center for Technical Assistance for Excellence in Special Education (TAESE) at Utah State University, and Westat. The Improve Group is CIFR's external evaluator.

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This publication is an update to a previously published resource. We recommend replacing any earlier resources in your records with this version.