



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

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State Superintendent's
Office

Honorable Christopher Koch
State Superintendent of Education
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001

Dear Superintendent Koch:

This letter responds to your June 20, 2014 letter in which the Illinois State Board of Education (ISBE) asked the Office of Special Education Programs (OSEP) to provide formal guidance concerning language being considered for the State of Illinois' annual appropriations for education. Specifically, you seek guidance on whether the proposed language is consistent with the provisions related to maintenance of State financial support for special education and related services in the Individuals with Disabilities Education Act (IDEA) in 20 U.S.C. §1412(a)(18)(A) and 34 CFR §300.163(a).

The State is considering the following language:

The State Board of Education shall calculate for each school district and state charter school a minimum sum of \$200,000,000 or additional amount as needed from the total net General State Aid funding provided to each school district and state charter school that shall be deemed attributable to the provision of special educational facilities and services, as defined in Section 14-1.08 of this Code, in a manner that ensures compliance with maintenance of State financial support requirements under the federal Individuals with Disabilities Education Act. A school district must use such funds only for the provision of special educational facilities and services, as defined in Section 14-1.08 of this Code, and must comply with any expenditure verification procedures adopted by the State Board of Education.

You asked whether this language is adequate to meet the requirements in 20 U.S.C. §1412(a)(18)(A), and if so, "would the State be penalized in not meeting these requirements if a district or state-authorized charter school fails to actually expend the amount calculated or is it sufficient that ISBE dictates the amount of unrestricted education funds that must be made available for special education?" Your question assumes that local educational agencies (LEAs) will comply with IDEA LEA maintenance of effort requirements.

In the 1997 reauthorization of the IDEA, Congress added, to the list of requirements that States must meet in order to receive IDEA Part B section 611 formula grants, the maintenance of State financial support (MFS) requirement (also known as the maintenance of effort requirement), now codified at 20 U.S.C. §1412(a)(18) and 34 CFR §300.163. The purpose of the IDEA Part B State MFS requirement is to ensure that States do not reduce their own State appropriations for special education and related services from year to year. Without the MFS requirement (*i.e.*, if States were permitted to reduce their own appropriations from year to year), LEAs would struggle to plan for, or otherwise cope with, losses in State appropriations, jeopardizing the efforts of school districts to provide a free appropriate public education to children with disabilities.

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