

LEA Allocations

Background Information

In Federal fiscal year (FFY) 2019, more than \$12 billion was made available to States under the Grants to States program authorized by section 611 of Part B of the Individuals with Disabilities Education Act (IDEA) and the Preschool Grants program authorized by section 619 of the IDEA. The funds are to assist States, and through them, local educational agencies (LEAs), in providing special education and related services to children with disabilities. States are required to distribute any section 611 and section 619 funds that the State does not reserve for State-level activities to eligible LEAs for use in accordance with the IDEA. Therefore, based on the maximum amount of funds States can reserve for State-level activities, States provide subgrants to eligible LEAs of approximately 90% of the IDEA section 611 grant funds and 80% of the IDEA section 619 grant funds. 34 CFR §§300.705(a) and 300.815. The formula for allocating funds to LEAs was revised when IDEA was reauthorized in 1997 because Congress was concerned that the previous formula, which was based on the number of children with disabilities, created an incentive for LEAs to over-identify children with disabilities in order to receive additional IDEA funding. As a result, Congress shifted the formula away from a calculation based on the number of children with disabilities in an LEA, to a calculation based on a three-part formula that consists of a base, population and poverty payment. 34 CFR §§300.705(b) and 300.816.

Through previous monitoring activities, technical assistance (TA) visits, and other communications with States, the U.S. Department of Education's (Department's) Office of Special Education Programs (OSEP) has found that States do not always understand or correctly implement the LEA subgranting requirements. For example, OSEP has found instances in which States have used the incorrect base year, miscalculated base payment adjustments, and have not correctly reduced section 619 subgrants in a year in which the total amount for base payments is less than 75% of a State's FFY 1997 section 619 grant. When States incorrectly allocate IDEA funds to LEAs, some LEAs are negatively impacted in that they do not receive the full amount of section 611 or section 619 funds to which they are entitled. In some instances, this may result in the State having to find other sources to fund those LEAs. In other instances, the State may take funds away from LEAs that have received an amount beyond their entitled subgrant.

Monitoring Scope and Timelines:

Scope: Monitoring will focus on the policies, procedures and their implementation during FFY 2018 (2018-19). However, as appropriate, OSEP will also examine documentation from the prior two fiscal years.

Timelines: All monitoring activities will be completed by September 30, 2020. If OSEP identifies any findings of noncompliance, required actions, or areas for recommendations, OSEP will issue a report within 120 days of the completion of the monitoring. Issuing the report may take additional time based on the complexity of the issues identified and competing priorities within OSEP and other Departmental priorities.

Monitoring Objectives

By monitoring this topic area, OSEP participates in a larger Federal effort to more effectively focus Federal resources in improving performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. Ensuring that States correctly allocate IDEA funds to LEAs is a critical first step in helping ensure, more broadly, that IDEA section 611 and section 619 funds are used appropriately for the purposes for which they were intended. Listed below are some of the more targeted outcomes anticipated as a result of this monitoring activity:

- a. Highlight best practices for the field by describing compliant systems that OSEP has identified in States.
- b. Provide TA to States through the monitoring activity and through State-specific TA plans developed as a result of monitoring, if appropriate.
- c. Determine States' internal capacities to manage the allocations process (including Continuity of Operations) and identify deficiencies that may require increased attention from OSEP and OSEP-funded TA providers.
- d. Test a State educational agency's (SEA) processes for allocating IDEA funds to its LEAs to ensure compliance and require corrective action where needed.

Monitoring Protocol

To effectively monitor the topic area, OSEP has developed a protocol addressing five specific components of the LEA Allocations process.

I. IDEA Part B Monitoring Protocol: Base payments

In making subgrants to LEAs each fiscal year, States must use a formula that includes a base payment and any applicable base payment adjustments. See 34 CFR §§300.705(b)(1) and (2), 300.816(a) and (b). OSEP will examine State policies and procedures to determine whether the State has met the requirements for making base payments by examining whether the "base payment" is the amount the LEA would have received under section 611 if the State had distributed 75% of its FFY 1999 section 611 grant and the amount the LEA would have received under section 619 if the State had distributed 75% of its FFY 1997 section 619 grant. See 34 CFR §§300.705(b)(1) and 300.816(a). Section 619 subgrants must be allocated to eligible LEAs

that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs. See 34 CFR §300.815.

Documents needed:

1. Calculations for making base payments
2. Policies and procedures

Sample Questions (actual questions will be developed based on documentation reviewed):

1. Does the State perform separate base payment calculations for section 611 and section 619 allocations? What base year is used for calculating the base payment for section 611 and what base year is used for calculating the base payment for section 619?
2. Who does the calculations? When?
3. Are there written policies and procedures that describe what is done, when, by whom?
4. What sources of data/information systems does the State rely on for calculating the base payment for section 611 subgrants? For section 619?
5. Are calculations for section 619 allocations completed by age or by grade level?
6. Are section 619 allocations provided to all eligible LEAs (including public charter schools that operate as LEAs) in the State that are responsible for providing education to children aged three through five years, including LEAs that do not serve preschool children with disabilities, but do have 5-year-olds enrolled in kindergarten?

II. IDEA Part B Monitoring Protocol: Base payment adjustments

Base payment adjustments must be made if any of the following conditions exist. See 34 CFR §§300.705(b)(2) and 300.816(b), Subpart H of 34 CFR Part 76 and the Department's December 2000 guidance titled "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?" (Questions 79-80). For this area, OSEP will examine State policies and procedures to determine if adjustments are made consistent with IDEA requirements.

- a. If a new LEA, including a new charter school LEA, was created: Did the State (1) identify children with disabilities who were previously served by affected LEAs, and then (2) divide the base allocations for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA, among the new LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs?
- b. If one or more LEAs combined into a new, single LEA: Did the State combine the base allocations of the merged LEAs?
- c. If two or more LEAs have changed geographic boundaries or administrative responsibility for providing services to children ages 3 through 21 for section 611, or to children ages three through five for section 619: Did the State (1) identify children with disabilities who were previously served by affected LEAs, and then (2) redistribute the base allocations of affected LEAs among affected LEAs based on the

- relative numbers of children with disabilities ages 3 through 21 for section 611, or children ages three through five for section 619, currently provided special education by each affected LEA?
- d. If an LEA received a base payment of zero in its first year of operation: Did the State adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities?
 - e. If a charter school LEA significantly expanded its enrollment: Did the State (1) identify children with disabilities who were previously served by affected LEAs, and then (2) divide the base allocation for LEAs that would have been responsible for serving children with disabilities now being served by the expanded charter school LEA, among the expanded charter school LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs?

Documents needed:

1. Calculations for making base payment adjustments
2. Policies and procedures

Sample Questions (actual questions will be developed based on document review):

1. How does the State determine if base payment adjustments need to be made? If needed, who makes them, and when?
2. What sources of data/information systems does the State rely on for making decisions about base payment adjustments?
3. Once a new LEA, including a new charter school LEA, is created, how is the base payment adjustment calculated?
4. If one or more LEAs are combined into a single LEA, how is the base payment adjustment calculated?
5. If two or more LEAs' geographic boundaries or administrative responsibility for providing service for services to children with disabilities ages 3 through 21 for section 611, or to children ages three through five for section 619, change, how is the base payment adjustment calculated for affected LEAs?
6. If a charter school LEA has a significant expansion of enrollment, how is the base payment adjustment calculated?

III. IDEA Part B Monitoring Protocol: Allocations based on population and poverty

If any remaining funds are available after calculating base payments, including any necessary base payment adjustments, the State must allocate those funds to LEAs based on population and poverty. OSEP will examine State policies and procedures to determine if remaining section

611 and section 619 funds were allocated to LEAs, including charter school LEAs, in accordance with the requirements for allocating funds based on population and poverty:

- a. Eighty-five percent (85%) of any remaining funds are allocated to LEAs based on the relative numbers of children enrolled in public and private elementary and secondary schools within the jurisdiction of the LEA. See 34 CFR §300.705(b)(3)(i) and 300.816(c)(1);
- b. Fifteen percent (15%) of any remaining funds are allocated to LEAs based on the relative numbers of children living in poverty, as determined by the SEA. See 34 CFR §300.705(b)(3)(ii) and 300.816(c)(2); and
- c. Each State must distribute section 611 funds to eligible LEAs (including public charter schools that operate as LEAs) even if the LEA is not serving any children with disabilities. 34 CFR §300.705(a). Section 619 funds must be distributed to eligible LEAs that are responsible for providing education to children aged three through five years, including public charter schools that operate as LEAs, even if the LEA is not serving any preschool children with disabilities. 34 CFR §300.815.

Documents needed:

1. Calculations for allocating funds based on population and poverty
2. Policies and procedures
3. Sample notifications of allocations to LEAs, including charter school LEAs if applicable

Sample Questions (actual questions will be developed based on document review):

1. Does the State ensure that the base payment, and any necessary base payment adjustment, is calculated before population and poverty?
2. How does the State calculate the population and poverty payment? What sources of data/information systems does the State rely on for completing the population and poverty calculations?
3. Do the written procedures include instances when an LEA is eligible for a population/poverty payment, but not for a base payment?
4. Are there written policies and procedures that describe what is done, when, by whom?
5. How and when are LEAs notified of their section 611 and section 619 allocations?
6. Is there a process for LEAs to challenge their allocation if they feel it was incorrectly calculated?

IV. IDEA Part B Monitoring Protocol: New and significantly expanding charter schools LEAs

If the State has charter schools that operate as LEAs for the purposes of IDEA (See 34 CFR §300.209(c)), OSEP will examine State policies and procedures to determine if, in allocating

IDEA funds through subgrants to eligible charter school LEAs that open or significantly expand their enrollment, the SEA is meeting the following requirements:

- a. Using actual enrollment figures (or other eligibility data) for the current year (rather than data from a prior year). See 34 CFR §76.791; and
- b. Allocating IDEA funds to charter school LEAs in accordance with the requirements in 34 CFR §§76.792 –76.793:
 - If a charter school LEA opens or significantly expands on or before November 1 of the school year: Did the charter school receive the proportionate amount of funds for which it is eligible within five months of the date the charter school opens or significantly expands?
 - If a charter school LEA opens or significantly expands after November 1 but before February 1: Did the charter school receive at least a pro rata portion of the proportionate amount of funds for which it is eligible on or before the date the SEA allocates funds to LEAs for the succeeding year?

Documents needed:

1. Calculations for allocating funds to new or significantly expanding charter school LEAs
2. Policies and procedures
3. Sample forms/communications demonstrating how information on new and significantly expanding charter schools is shared between State offices
4. Sample notifications of allocations to new and significantly expanding charter school LEAs

Sample Questions (actual questions will be developed based on document review):

1. Does the State have charter school LEAs for the purposes of IDEA?
2. What is the State’s data source for new and significantly expanded charter schools (e.g., the SEA’s charter school division/office)?
3. What are the State’s rules about when, during the year, new charter schools can open?
4. How does the State define significant expansion of enrollment for charter school LEAs?
5. How and when does the Part B program receive information related to new and significantly expanded charter school LEAs from the SEA’s charter school office?
6. Are there written policies and procedures that describe what is done, when, by whom?

V. Reallocation of Available Funds

Section 611 Reallocations:

Under 34 CFR §300.705(c), in order to reallocate IDEA Part B funds, the SEA must first determine that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that LEA with State and local funds. Once this is determined, the SEA may reallocate any portion of the IDEA Part B funds that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other

LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to 34 CFR §300.704. For this area, OSEP will examine State policies and procedures to determine if IDEA Part B funds are reallocated consistent with 34 CFR §300.705(c).

Section 619 Reallocations:

Under 34 CFR §300.817, in order to reallocate section 619 funds, the SEA must first determine that an LEA is adequately providing FAPE to all children with disabilities aged three through five years residing in the area served by the LEA with State and local funds. The SEA may then reallocate any portion of the section 619 funds that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to 34 CFR §300.812. For this area, OSEP will examine State policies and procedures to determine if section 619 funds are reallocated consistent with 34 CFR §300.817.

Documents Needed:

1. Reallocation policies and procedures
2. Sample communications/notifications or forms used for reallocation purposes

Sample Questions (actual questions will be developed based on document review):

1. Describe the State's process for reallocation of Part B funds
2. Does the SEA normally reserve the maximum amount of funds for State-level activities?
3. How does the LEA inform the SEA that funds are not needed and thus are potentially available for reallocation?
4. How does the SEA determine if an LEA is adequately providing FAPE to children with disabilities?
5. 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 aged three through five years if reallocating section 619 funds) residing in the areas served by those other LEAs?

VI. **IDEA Part B Monitoring Protocol: Section 619 allocations to LEAs if funding is below 1997 level**

The FFYs 2017, 2018 and 2019 allocations to States for section 619 grants were all below the 1997 appropriation level, a situation which may have impacted how a State allocated section 619 funds to LEAs. OSEP will examine State policies and procedures to determine if allocations for FFY 2019 were made consistent with IDEA requirements using the following three situations

depending on the total amount of section 619 funds available for making base payments after a State reserves funds for administration and other State-level activities.

- a. After the State set-aside amount is subtracted from the total award, was the amount available for making subgrants less than 75% of the State's FFY 1997 section 619 grant (the amount in the "Base Payment for LEAs" column on the allocations table)?

If so, the State should have ratably reduced each LEA's base payment by the percentage of the reduction in the total amount actually available for making base payments. Because States are required to make base payments in accordance with 34 CFR §300.816, in a year in which the total amount for base payments is less than 75% of a State's FFY 1997 section 619 grant, a State must use the ratable reduction approach to ensure LEAs continue to receive base payments that are as close as possible, given the reduction, to what they would have received in FFY 1997 if the State had distributed 75% of its section 619 grant. After making base payments, the State, if necessary, should have made base payment adjustments based on the ratably reduced base payments. The State would not have any remaining section 619 funds available after making base payments, and therefore, would have been unable to make a population or poverty payment.

- b. After the State set-aside was subtracted from the total award, was the amount available for making subgrants equal to 75% of the State's FFY 1997 section 619 grant (the amount in the "Base Payment for LEAs" column on the allocations table)?

If so, the State should have made base payments and, if necessary, base payment adjustments in accordance with 34 CFR §300.816(a) and (b). The State would not have had any remaining section 619 funds available after making base payments, and therefore, would have been unable to make a population or poverty payment.

- c. After the State set-aside was subtracted from the total award, was the amount available for making subgrants greater than 75% of the State's FFY 1997 section 619 grant (the amount in the "Base Payment for LEAs" column on the allocations table)?

If so, the State should have made base payments and, if necessary, base payment adjustments, and then allocated any remaining funds based on population and poverty in accordance with 34 CFR 300.816(c).

Each State has the ability to reserve up to an amount equal to 25% of the amount they received for FFY 1997 under the Preschool Grants program for administration and other State-level activities, adjusted upward each year by the lesser of either the rate of increase in the State's section 619 allocation or the rate of inflation. See 34 CFR §300.812. Each State receives a section 619 allocation chart, which includes a "Maximum State Set Aside" column. In any of the

scenarios above, a State may choose to reserve less than the maximum amount for administration and other State-level activities and to use those funds to offset the impact on its LEAs.

Documents needed:

1. Calculations for making section 619 subgrants
2. Policies and procedures related to allocating section 619 funds to LEAs
3. Sample notifications of 619 allocations to LEAs

Sample Questions (actual questions will be developed based on document review):

1. What sources of data/information systems does the State rely on for completing the calculations?
2. Are there written policies and procedures that describe what is done, when, by whom?
3. Did the State 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?

Resource Information

In developing and implementing monitoring protocols, all available regulatory, technical assistance, informational, and related resources, including those listed below, that apply to the specific protocol may be utilized. Resource materials are available in the relevant Fiscal section of GRADS360.

- Regulations
- Comments & Discussion Sections from Federal Register
- ED Guidance: Dear Colleague Letters, Q&As, resource packages, etc.
- OSEP Guidance: Policy letters, Q&As, etc.
- Checklists: OSEP/OGC-developed