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Quick Reference Guide on IDEA Part C Maintenance of Effort

CIFR's quick reference guides help states and interested groups better understand the basics of fiscal reporting requirements in 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.

What is IDEA Part C maintenance of effort?

Maintenance of effort (MOE) is commonly used to refer to regulatory requirements in IDEA that prohibit using Part C funds to supplant state and local public funds.¹ This means that IDEA Part C funds cannot be commingled with state funds and must only supplement state and local public funds (see sidebar).² The state is responsible for ensuring compliance with these requirements, and an individual authorized by the state lead agency (LA) must sign assurances in the state's annual Part C grant application.

To demonstrate compliance, a state must budget at least the same amount of state and local public funds for infants and toddlers with disabilities and their families as it expended in the most recent preceding fiscal year for which the information is available. Implicit in these requirements is the obligation for the state to also ensure that the total amount of state and local funds actually expended for Part C in a given fiscal year was at least the same amount spent in the prior fiscal year (see OSEP's letters to Willden and to Moser and Kuester in **Resources**). States must have a methodology, including policies and procedures, to track budgeting and spending from all state and local public funding sources.

1 Part B of IDEA has different MOE requirements. See 34 CFR §§300.163 and 300.203.

2 Commingling of funds means funds from different sources are blended or mixed together without the ability to track how the funds from each source are spent. Commingling is different from braiding, which is when funds from multiple sources support a program and each dollar can be tracked by funding source.

34 CFR §303.225 Prohibition against supplanting

- (a) Each application must provide satisfactory assurance that the Federal funds made available under section 643 of the Act to the State:
 - (1) Will not be commingled with State funds; and
 - (2) Will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.
- (b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—
 - (1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and
 - (2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

See also Section 637(b)(5)(B) of IDEA.

Why is Part C MOE important?

The purpose of the Part C program is to enhance the capacity of state and local agencies and early intervention service providers to identify, locate, evaluate, and meet the needs of all infants and toddlers with disabilities and their families, beginning at birth. The state LA is responsible for coordinating all available resources for early intervention services within the state, including those from federal, state, local, and private sources (see 34 CFR §303.120(b)).

The Part C MOE requirements help ensure that the state maintains or increases state and local public financial support for the implementation of a comprehensive statewide program of early intervention services for infants and toddlers with disabilities and their families.

How is Part C MOE calculated?

The total amount of state and local public funds budgeted and expended for early intervention services in the current state fiscal year must be equal to, or greater than, the total amount of state and local funds expended for this purpose in the most recent fiscal year for which information is available. The state must track both budgeting and expenditures to make these comparisons. Only state and local public funds are included in MOE calculations. Private funds (such as private insurance, family fees, and donations) and other federal funds, including federal Medicaid funds, must be excluded.

MOE calculations should include the following state and local public funds budgeted and expended for Part C:

- state appropriations for Part C
- state matching funds for administration or direct services such as Medicaid and Temporary Assistance for Needy Families (TANF), as applicable
- state funds budgeted and/or expended by other state agencies to provide Part C early intervention services, implement Part C activities, and perform Part C functions and
- additional local public funds such as tax levies and funding from school districts

Because there is a lag in obtaining final audited expenditures, the budget and expenditure comparisons use data from different years. The budget calculation typically compares budgeted state and local funds from the current fiscal year to the audited expenditures from two fiscal years ago. To confirm that effort was actually maintained, the expenditure calculation compares the final audited expenditures from the most recent fiscal year to the final audited expenditures from the year prior to that fiscal year. More detail on the MOE calculation will be covered in an upcoming practice guide.

What are the allowances for not meeting Part C MOE?

There are two circumstances under which allowances may be made if a state does not meet the Part C MOE requirements. Allowances may be made for (a) a decrease in the number of infants and toddlers who are eligible to receive early intervention services and/or (b) unusually large amounts of funds expended for long-term purposes. Such expenditures include the acquisition of equipment and the construction of facilities (see 34 CFR §303.225(b)(1-2)). If a state demonstrates that it meets the criteria for one or both allowances, the state may reduce its required level of effort. This reduced level of effort becomes the state's required level of effort going forward. However, if a state reduces its budget or spending below expenditures of the comparison year and does not meet the criteria for the allowance(s), it has not met the Part C MOE requirements.

What are the consequences of not meeting the Part C MOE requirements?

If a state cannot demonstrate compliance with the Part C MOE requirements because it did not track, or was unable to track, budgeted and expended state and local public funds, the state would be required to develop a methodology to collect, track, and use these data to calculate Part C MOE.

If a state does not meet its required MOE, the state could be subject to liability, including repayment to the U.S. Department of Education in the amount by which it failed to meet the Part C MOE. Specifically, as stated in OSEP's *Letter to Moser and Kuester*, "The actual amount that the State would need to pay back would be based on the State's shortfall in meeting the total amount of State and local public expenditures for the provision of early intervention services in that fiscal year, as supported by records of those expenditures." The state's repayment must come from nonfederal funds or funds for which accountability to the federal government is not required. Because IDEA funds are federal funds, a state may not return part of its Part C grant award to offset the amount by which it failed to maintain effort.³

Questions for states to consider

Do the appropriate state LA staff and other state agency staff know and understand the Part C MOE requirements?

Everyone, and particularly fiscal staff, involved in administering Part C programs should understand the MOE requirements and the need for the state LA to accurately track amounts both budgeted and expended for Part C. Consider whether information about MOE has been communicated to Part C program staff, the state LA director, state LA fiscal staff, staff from other state agencies who fund or provide early intervention services, state legislators, and local agencies. State policies, procedures, and interagency agreements should include clear roles and responsibilities for key staff overseeing the implementation and funding of the Part C program.

How can the state LA help the state legislature understand these requirements?

It is important that legislators understand the impact that funding decisions may have on the state's ability to maintain effort. Changes to the Part C state appropriation or local public funding could impact the provision of early intervention services and result in the state not meeting Part C MOE requirements. It is critical to establish procedures for communicating about and addressing an anticipated budget shortfall. Some states have legislative liaisons who play an important role in communicating federal requirements to legislators. It is important that these liaisons are aware of and understand the MOE requirements.

What mechanisms for accountability does the state have for tracking the amount of state and local public funds both budgeted and expended for the implementation of the Part C system?

Tracking state and local public funds that are budgeted and expended for the Part C system can be complicated. Fiscal data may need to be collected from other state agencies and local early intervention service providers depending on the state's structure, funding sources used, and how money flows. Establishing policies and developing procedures to collect and document state and local public funds' fiscal data will assist the state LA in implementing consistent processes that demonstrate the state has met the Part C MOE requirements.

³ This requirement comes from the prohibition on paying fines, penalties, damages, and other settlements with federal funds (2 CFR §200.441).

Resources

- Collecting and Tracking Maintenance of Effort Data
<https://ectacenter.org/topics/finance/moe.asp>
- Module 10: Maintenance of Effort
<https://ectacenter.org/topics/finance/fiscal101/module10/>
- OSEP Letter to Moser and Kuester (2011)
<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2011-2/moserkuester050411partcmoe2q2011.pdf>
- OSEP Letter to Willden (2011)
<https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2011-2/willden050511partcmoe2q2011.pdf>

For additional resources, please visit CIFR at <http://cifr.WestEd.org> or contact us at cifr_info@WestEd.org.

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