



**COLORADO**  
**Department of Education**

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## IDEA Maintenance of Effort (MOE)

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# What is MOE?



- IDEA regulation - 34CFR§300.203
- Verifies that Federal Funds are used to “Supplement not Supplant” 34CFR§300.202 (a)(3)
- MOE has 2 components
  - To determine an AU’s **eligibility** to receive Federal IDEA funds - 34CFR§300.203(a)
  - To determine an AU’s **compliance** - 34CFR§300.203(b)



# How Does MOE determine IDEA Funding Eligibility?

- The State must determine that an AU has budgeted in the next FY at least the amount it expended in support of Special Education, from at least the same sources in the last FY for which data is available in order for the AU to be eligible to receive IDEA funds - 34CFR300.203(a)
  - Local funds only;
  - The combination of State and local funds;
  - Local funds only on a per capita basis; or
  - The combination of State and local funds on a per capita basis.
- CDE utilizes an Eligibility Certification signed by the Administrative Unit's Board President or BOCES Executive Officer



# MOE Compliance Test 1



- If the total Pipeline figure for the year being reviewed is less than the total Pipeline figure from the prior year, the AU fails the first test

AU Fails the First Test			
Fiscal Year	Actual Level of Effort	Required Level of Effort	Notes
2020 - 2021	\$100	\$100	AU met MOE requirement
2021 - 2022	\$90	\$100	AU does not meet MOE requirement for Test 1

- **CDE Uses Pipeline expenditures reported for 3130 and 3131**



# MOE Compliance Test 2



- The per pupil funding is determined for each year by taking the total expenditures divided by the December count (both funded pupil and total served is calculated)
- If the per pupil funding for the year being reviewed is less than the per pupil funding of the prior year, the AU fails the second test





- **What's next?**
  - CDE Notifies the AU of the potential failure
  - AU works with CDE to determine if:
    - Any allowable adjustments exist
    - Any allowable exceptions apply





- **Voluntary departure or departure for just cause of special education staff**
  - If the employee was replaced, calculate the difference in salary and benefits from the more senior staff to the new staff, this is the amount of the allowable exception
  - If the employee was not replaced, and the position was not eliminated, use the entire salary and benefits amount of the employee who left the AU
  - If the reason for departure is a reduction in students, then it is not an allowable exception, reduction in MOE for a drop in student count is calculated in test 2
  - Reduction in Force, furlough days, across the board pay cuts are not allowable reductions for MOE

# Allowable Exceptions (continued)



- **Decrease in enrollment of students with disabilities**
  - this exception is calculated in compliance Test 2 above utilizing December student counts from each comparison year
- **Termination of high cost obligation to a particular child with a disability because:**
  - The child has moved out of the district
  - The child no longer needs the program
  - The child has aged out of or graduated from the program





# Allowable Exceptions (continued)



- **Termination of costly expenditures for long-term purchases**
  - One time expenditures are not allowable exceptions
  - Expenditures that occur all in one year are not an allowable exception
  - An allowable example would be if an AU had undertaken the refurbishing of its existing bus fleet with wheel chair lifts, gates and tie-downs. If the AU purchased these items, on a single, multi-year contract, the AU could reduce its MOE by the annual amount of the contract once that contract is completed.



- If after researching and submitting to CDE all allowable exceptions, the AU still fails MOE, the shortfall must be paid back to CDE, who then pays back the US Department of Education
- The repayment to CDE must be from non-Federal funds



# Level of MOE to be Maintained



- **In a fiscal year following an MOE failure, what is the level of MOE that must be maintained?**
  - The AU must maintain the level required in the absence of the failure, not the lower amount created by the failure

AU Did Not Maintain Effort in 2014-2015			
Fiscal Year	Actual Level of Effort	Required Level of Effort	Notes
2020 - 2021	\$100	\$100	AU met MOE requirement
2021 - 2022	\$90	\$100	AU did not maintain effort
2022 - 2023		\$100	Required level of effort is \$100 despite AU's failure in 2021 - 2022



# Level of MOE to be Maintained (continued)



- **AU passes with allowable exceptions**

<b>AU Submits Allowable Exceptions to Maintain Effort</b>			
<b>Fiscal Year</b>	<b>Actual Level of Effort</b>	<b>Required Level of Effort</b>	<b>Notes</b>
2020 - 2021	\$100	\$100	AU met MOE requirement
2021- 2022	\$90	\$90	AU properly took exceptions and adjustments
2022 - 2023		\$90	Required level of effort is \$90 because AU expended \$90 and met MOE in 2021 - 2022



# Level of MOE to be Maintained (continued)



- If the AU pass MOE under normal circumstances without the need of allowable exceptions those allowable exceptions cannot reduce their level of maintenance.
- The following table illustrates how taking, or not taking, an allowable exception or adjustment, and an increase in actual expenditures, affect the required level of effort in subsequent years.

**Table F. Comparison of Required Levels of Effort for Two Hypothetical LEAs**

	<b>Actual FY 2015–2016 Expenditures Using a Combination of State and Local funds</b>	<b>Allowable Exception in §300.204 Taken in FY 2016–2017</b>	<b>Actual FY 2016–2017 Expenditures Using a Combination of State and Local funds</b>	<b>Required Level of Effort Using a Combination of State and Local Funds in FY 2017–2018</b>
LEA #1	\$250,000*	\$10,000	\$240,000*	\$240,000
LEA #2	\$250,000*	\$10,000	\$260,000*	\$260,000

\* LEA met MOE.

- <https://osep.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=14178>



# Allowable Adjustments (MOE Reduction)



- **34CFR§300.205(a)-(d): Amounts in Excess**
  - If an AU's IDEA Part B allocation increases from one year to the next, the AU may be able to reduce its level of expenditures by half of the amount of the increase
    - AU must have a determination of “meets requirements” for that year from the Exceptional Student Services Unit of CDE
    - AUs identified with Significant Disproportionality are not eligible
    - AU must use and track the amount of funds it reduced to carry out activities that could be supported with ESSA funds, regardless if the AU is using funds under ESSA for these activities
    - AUs expending funds for Coordinated Early Intervening Services (CEIS) shall count these funds toward the maximum amount of expenditures that the AU may reduce its effort





- (a) Amounts in excess. Notwithstanding §300.202(a)(2) and (b) and §300.203(b), and except as provided in paragraph (d) of this section and §300.230(e)(2), for any fiscal year for which the allocation received by an LEA under §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by §300.203(b) by not more than 50 percent of the amount of that excess
- (b) Use of amounts to carry out activities under ESSA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESSA regardless of whether the LEA is using funds under the ESSA for those activities.





- (c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.
- (d) Special rule. The amount of funds expended by an LEA for early intervening services under §300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.







- LEAs that seek to reduce their local maintenance of effort in accordance with §300.205(d) and use some of their Part B funds for early intervening services under §300.226 must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amount of funds that it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how §§300.205(d) and 300.226(a) affect one another.
- Examples on next 4 slides are taken directly from:
  - <https://sites.ed.gov/idea/regs/b/appendix-d>





- Example 1: In this example, the amount that is 15 percent of the LEA’s total grant (see §300.226(a)), which is the maximum amount that the LEA may use for early intervening services (EIS), is greater than the amount that may be used for local maintenance of effort (MOE) reduction (50 percent of the increase in the LEA’s grant from the prior year’s grant) (see §300.205(a)).

<b>Prior Year’s Allocation</b>	\$900,000.
<b>Current Year’s Allocation</b>	1,000,000.
<b>Increase</b>	100,000.
<b>Maximum Available for MOE Reduction</b>	50,000.
<b>Maximum Available for EIS</b>	150,000.





If the LEA chooses to set aside \$150,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$150,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$100,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$100,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$50,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 for EIS means \$0 can be used for MOE).

If the LEA chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE).

If the LEA chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE).





- Example 2: In this example, the amount that is 15 percent of the LEA’s total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is less than the amount that may be used for MOE reduction (50 percent of the increase in the LEA’s grant from the prior year’s grant) (see §300.205(a)).

<b>Prior Year’s Allocation</b>	\$1,000,000.
<b>Current Year’s Allocation</b>	2,000,000.
<b>Increase</b>	1,000,000.
<b>Maximum Available for MOE Reduction</b>	500,000.
<b>Maximum Available for EIS</b>	300,000.





If the LEA chooses to use no funds for MOE, it may set aside \$300,000 for EIS (EIS maximum \$300,000 less \$0 means \$300,000 for EIS).

If the LEA chooses to use \$100,000 for MOE, it may set aside \$200,000 for EIS (EIS maximum \$300,000 less \$100,000 means \$200,000 for EIS).

If the LEA chooses to use \$150,000 for MOE, it may set aside \$150,000 for EIS (EIS maximum \$300,000 less \$150,000 means \$150,000 for EIS).

If the LEA chooses to use \$300,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$300,000 means \$0 for EIS).

If the LEA chooses to use \$500,000 for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$500,000 means \$0 for EIS).





- **MOE reduction does not apply to Section 619 Preschool funds.**
- **MOE reduction must be taken in the first year of the allocation. It does not apply to carryover funds.**

# Using IDEA Funds to Reduce MOE



- The LEA's Part B allocation for 2021-22 is \$4,000,000.
- Its allocation for 2020-21 was \$3,500,000.
- 50% of the increase in its allocation is \$250,000.

The LEA may reduce its state and local expenditures for 2021-22 by \$250,000.

The \$250,000 must be expended for activities and programs allowable under the Elementary and Secondary Education Act (ESSA) and the AU must be able to document how those funds were expended.

# Using IDEA Funds to Reduce MOE



- The LEA must include items that were previously paid for with State or local funds in its Part B narrative and budget, thus “freeing up” State and local funds.
- When an LEA reduces its MOE pursuant to 34 CFR §300.204 or 300.205, the adjusted amount is the LEA’s new MOE level for the next fiscal year.





## Resources:

<https://sites.ed.gov/idea/regs/b/c>



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