

Local Education Agency (LEA) Maintenance of Effort (MOE) Requirements under IDEA

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IDEA Part B LEA MOE

The amount of local, or State and local, funds expended for the education of children with disabilities is the amount of funds that establishes the level of expenditures to be maintained from year to year and establishes the MOE level, i.e., an administrative unit cannot spend less state and local funds for programs and services for children with disabilities in 2009-10 than it did in 2008-09.

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LEA MOE Requirement

With certain exceptions, funds provided to an LEA under Part B must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, or the combination of State and local funds, below the level of those expenditures for the preceding fiscal year.

34 CFR §300.203

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LEA MOE Verification

- Step 1. Compare State (ECEA) and local expenditures reported by the administrative unit on its Special Education End-of-Year Revenue and Expenditure Report to those reported by the administrative unit the previous year. If the amount is greater than or equal to the State and local expenditures for the previous year, the administrative unit is in compliance with MOE requirements.
- Step 2. If the amount is less than the State and local expenditures for the previous year, look at the amount per student.

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LEA MOE Verification

Example:

- State and local expenditures for 2009-10 = \$2,000,000
December 1, 2009 count = 500
Amount per student = \$4,000
- State and local expenditures for 2008-09 = \$2,100,000
December 1, 2008 count = 525
Amount per student = \$4,000

The administrative unit is in compliance with MOE requirements.

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Exceptions

An LEA may reduce the level of its expenditures (local, or State and local; in total or per capita) below the level of those expenditures for the preceding fiscal year under certain circumstances:

34 CFR §300.204

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Exceptions

- Voluntary departure, by retirement or otherwise, or departure for just causes, of special education or related services personnel;
- Decrease in the enrollment of children with disabilities;
- Termination of costly expenditures for long-term purchases, such as the purchase of an IEP software program;

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Exceptions

- Termination of an exceptionally costly obligation to a particular child with a disability because the child:
 - Has left the jurisdiction of the administrative unit;
 - Has reached the age at which the obligation to provide FAPE to the child is terminated; or
 - No longer needs the program of special education;

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Exceptions

- Reduction in the cost of out-of-district placements made by the courts and social services; or
- Assumption of cost by a high cost fund under 34 CFR §300.704(c) – Colorado chose not to use IDEA funds for a high cost pool, so this does not apply.

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Implications of Failure to Maintain Effort

- Audit implications:
 - Noncompliance with MOE requirements;
 - Pay back the amount by which the LEA failed to meet MOE; and
 - Paybacks must be made out of non-Federal funds or funds for which accountability to the Federal government is not required.
- Grant implications:
 - Ineligibility for sub grants.

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Supplement/Not Supplant

Funds under Part B must be used to supplement State, local and other Federal funds and not to supplant them.

34 CFR §300.202(a)(3)

If a LEA maintains its fiscal effort (MOE), it will only be using Part B funds to supplement local, or State and local funds, and not to supplant them, and the LEA will meet the supplement/not supplant requirement.

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MOE Reduction

With certain exceptions, for any fiscal year in which an LEA's Part B allocation exceeds the amount the LEA received for the previous year, the LEA may reduce its State and local support of special education by up to 50 percent of the amount of the increase in its Part B allocation.

34 CFR §300.205(a)

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Exceptions

- An LEA cannot reduce its State and local support of special education:
 - Unless it received a determination of “Meets Requirements”;
 - If action has been taken against the LEA by the SEA under IDEA Section 616;
 - If the LEA’s responsibility for providing FAPE has been taken away from it by the SEA; or
 - If it has been found by the SEA to have significant disproportionality under 34 CFR §300.646.

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Other MOE Information

- 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.

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Example

- The LEA's Part B allocation for 2009-10 is \$4,000,000.
- Its allocation for 2008-09 was \$3,500,000.
- 50% of the increase in its allocation is \$250,000.

The LEA may reduce its state and local expenditures for 2009-10 by \$250,000.

The \$250,000 must be expended for activities and programs allowable under the Elementary and Secondary Education Act (ESEA).

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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.

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Using the “Freed-Up” Funds

- Will using the “freed-up” funds for ESEA activities cause a problem with the ESEA maintenance of effort requirements at 34 CFR §299.5?
 - Generally, maintaining effort under the ESEA should pose no problem because the local, or State and local funds provided for the cost of special education are already included in the LEA’s calculation of the cost of a free public education, required under the ESEA.

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MOE and EIS

- An LEA may use up to 15 percent of the amount it receives under Part B for early intervening services (EIS), less any amount used by the LEA for reduction in maintenance of effort (MOE).

34 CFR §300.226(a)

- If an LEA is required to use the entire 15 percent available for EIS because it has been identified with significant disproportionality under 34 CFR §300.646, then the LEA cannot reduce its MOE.

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MOE and EIS

- The LEA must subtract any amount used for MOE reduction from the amount it intends to use for EIS.
- If the LEA reduces its MOE, it would also have to reduce its EIS and would not have the entire 15% available for EIS.

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MOE and EIS

- No matter how much is available for EIS or for MOE reduction, the total amount expended on EIS and MOE reduction together cannot exceed the lesser of the total amount available for MOE reduction or the amount available for EIS.

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Example

Prior Year's Allocation	900,000
Current Year's Allocation	1,000,000
Increase	100,000
Maximum for MOE Reduction	50,000
Maximum for EIS	150,000

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Example

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

Appendix D to Part 300 – Maintenance of Effort and Early Intervening Services

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