

Special Education Maintenance of Effort

Q: How are federal special education funds allocated to local educational agencies (LEAs)?

A: In accordance with IDEA Part B (34 CFR § 300.705), LEAs must first be provided a base amount equal to the amount the LEAs would have received in school year 1999-2000 had the Oklahoma State Department of Education (OSDE), Special Education Services (SES), flowed 75 percent of the state grant award to LEAs. However, because of the addition of a new LEA in 2009, each LEA's base allocation is based on its October 1, 2008, child count. Of any additional funds distributed to LEAs, 85 percent is distributed on a pro rata basis according to public and private elementary and secondary school enrollment, and 15 percent on a pro rata basis according to the number of children living in poverty (defined as the free and reduced lunch count within the LEA).

Q: Federal requirements mandate that federal funds supplement, but not supplant, other funds used for special education programs. What does this mean?

A: Federal requirements mandate that federal grant funds supplement (increase) and not supplant (replace) existing funding for special education programs. In the past, there was a "by particular cost" provision to the nonsupplanting regulations. In other words, a particular activity could not be paid for with federal funds if it had previously been paid for with state and/or local funds, or the district would be in violation of the nonsupplanting requirement. The "by particular cost" provision has been removed from the regulations, giving LEAs more flexibility in the use of IDEA Part B funds, but still requiring that they maintain or increase the total amount of state and local funds expended for special education programs.

Q: What is meant by "maintenance of effort"?

A: Funds provided to the LEA under IDEA Part B may not be used to reduce the level of state and/or local funds used to provide special education and related services. LEAs must spend at least the same amount of state and/or local funds for special education services as they did in the previous fiscal year.

Q: LEAs must spend at least 90 percent of the amount spent the previous year in state and/or local funds. Is there any variance in IDEA Part B regarding the amount by which LEAs must maintain effort?

A: No, under IDEA Part B, LEAs must maintain at least the same level of expenditures from state and/or local funds as the previous fiscal year (that is, 100%).

Q: Are there any exceptions to the maintenance of effort (MOE) requirement?

A: Yes. According to 34 CFR § 300.204, an LEA may reduce the level of expenditures under IDEA Part B below the level of those expenditures for the preceding fiscal year if the reduction is attributable to 1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel; 2) A decrease in the enrollment of children with disabilities; 3) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child has left the jurisdiction of the agency, has reached the age at which the obligation of the agency to provide Free Appropriate Public Education (FAPE) to the child has terminated, or no longer needs the program of special education; 4) The termination of costly expenditures for long-term purchases; such as the acquisition of equipment or the construction of school facilities; or 5) The assumption of cost by the high cost fund operated by the OSDE-SES under §300.704(c).

Q: Are there any other provisions in federal regulations regarding the MOE requirement?

A: Yes. According to 34 CFR § 300.205, for any fiscal year for which the IDEA Part B allocation received by an LEA under 34 CFR § 300.705 exceeds the amount the LEA received the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by 34 CFR § 300.203 by up to 50 percent of the excess (i.e., 50 percent of the increase in the IDEA Part B Flow-Through allocation). For example, if an LEA received \$100,000 in IDEA Part B Flow-Through funds in 2015-2016 and \$120,000 in 2016-2017, \$10,000 ($\$120,000 - \$100,000 = \$20,000 \times 0.50$) may be treated as local funds for the purpose of calculating MOE.

Q: How is MOE calculated?

A: MOE is calculated by the OSDE Office of Financial Accounting, based on the Oklahoma Cost Accounting System (OCAS) data submitted by LEAs.

MOE is calculated in two ways, by total expenditures and by per capita expenditures. When OCAS data is submitted, the total expenditures for Program 239 (Special Education) for that fiscal year are compared to the expenditures for Program 239 for the previous year. A per capita amount spent on students receiving special education services is also calculated, and is compared to the per capita amount for the previous fiscal year. If both the total expenditures and the per capita amount are less than the previous year, the LEA did not meet the maintenance of effort requirement. If either the total expenditures or the per capita amount are higher than the total expenditures or per capita amount for the previous fiscal year, the LEA has met the MOE requirement.

Q: What happens if LEAs fail to meet the MOE requirement?

A: The OSDE must ensure compliance of LEAs with the requirement of maintenance of effort. To do this, by February of the following fiscal year, the OSDE Office of Financial Accounting will provide the OSDE-SES with an updated report regarding MOE (including provisions for miscoding of speech, physical therapy, occupational therapy, and money paid to interlocal cooperatives). By March of the following fiscal year, the OSDE-SES will apply the 50% rule and will contact each LEA that (after these calculations) has failed to meet MOE to request documentation (if applicable) regarding the five exceptions. LEAs will be notified, at this time, regarding the deadline for submission of these materials. By April of the following fiscal year, the OSDE-SES will have determined the category of clearance for each LEA that did not originally meet MOE. That is, LEAs will be notified that they have either provided sufficient documentation to be cleared of the failure to meet MOE, or they will be notified that they are out of compliance with federal law regarding special education MOE (and thus, will receive a reduction in the LEA's State aid funding in the amount not met as a sanction for the noncompliance).