New IDEA Directors

Maintenance of Effort (MOE)

Definition

- In general, federal funds appropriated under Part B of IDEA may only be utilized to cover the *excess costs* of providing special education and related services to students with disabilities.
    - These federal funds must supplement/increase the level of other federal, state, and local funds expended for special education and related services and in no case supplant these funds.
- In addition, IDEA includes separate MOE provisions that apply independently at the state and local levels.
    - MOE generally refers to a requirement placed upon many federally funded grant programs that the state education agency (SEA) and local education agencies (LEAs) demonstrate that the level of state and local funding remains constant from year to year.
    - Both the rules and the consequences of failing to meet the required level of effort by the state or by the LEA are different under IDEA.

Local MOE Requirement

- At the local level, IDEA requires that LEAs, as a condition of eligibility for Part B funds, submit a plan that provides assurances to the SEA that the LEA shall not use IDEA monies to reduce the level of *expenditures* from local funds for educating students with disabilities below the level of those *expenditures* for the preceding fiscal year (20 U.S.C. § 1413(a)(2)(A)(iii)).
- An SEA will find the LEA eligible for an award of Part B funds in a fiscal year based on this standard if the LEA *budgets* for the education of students with disabilities at least the same total or per capita amount as the LEA *expended* for that purpose *from the same source(s)* for the most recent prior fiscal year.

- The sources considered are local funds only or the combination of local funds and state funds (34 C.F.R. § 300.203(b)).
- The SEA may not consider any expenditure made from federal funds for which the SEA, or the LEA directly or through the SEA, is required to account to the federal government (34 C.F.R. § 300.203).

Permissible Reduction of Local MOE

The statute expressly permits an LEA to reduce its required local MOE if the reduction in expenditures is attributable to:

- the voluntary departure or departure for just cause of special education personnel;
- a decrease in enrollment of students with disabilities;
- an individual child with disabilities moves out, graduates, ages out, or no longer needs an exceptionally costly program;
- the termination of costly long-term purchases such as the acquisition of equipment or construction of school facilities;
- the assumption of cost by the high-cost fund that may be operated by the SEA (20 U.S.C. § 1413(a)(2)(B), 34 C.F.R. § 300.204);
- an increase in the IDEA allocation from the previous year triggers the "50%" rule (20 U.S.C. § 1413(a)(2)(C); 34 C.F.R. § 300.205).

MOE Process

Conditional Approval

To be eligible for IDEA Part B funding the LEA must submit as part of the IDEA Part B Application in the consolidated funding application (CFA) a report of actual expenditures (called the State Special Education Expenditures Report or SSEER) from the previous fiscal year and the Budgeted Expenditures for the current fiscal year as an assurance that the LEA intends to comply with local MOE requirements under IDEA and its regulations.

The SEA conditionally approves the LEA's eligibility based on a review of the MOE Assurance consisting of

financial data compared in four different tests that determine that:

1. At least the same total combination of local and state funds is budgeted as the LEA expended for special education the previous fiscal year.
2. At least the same amounts of local funds are budgeted as the LEA expended for special education the previous fiscal year.
3. At least the same student per capita amount from local and state funds is budgeted as the LEA
   expended for special education the previous fiscal year.
4. At least the same student per capita amount from local funds is budgeted as the LEA expended for special education the previous fiscal year.

If the MOE assurance indicates that there has been no reduction in actual expenditures or budgeted expenditures, either in total or on a per-pupil basis, the application is conditionally approved. The LEA only needs to pass *one* of the four tests to ensure eligibility for the IDEA Part B grant. If an LEA's MOE assurance indicates a reduction in budgeted expenditures, either in total or per pupil, without any allowable exception or adjustment to the fiscal effort being claimed, the SEA will not approve the LEA's Part B application according to 34 CFR § 300.203 (b)(1-2).

Final Evaluation

At the close of the fiscal year, the SEA will review reported data from the conditionally approved LEA to determine if MOE requirements have been met. The final comparison of actual expenditures occurs when Annual Report data are received from the LEA, compiled, and evaluated based on one of four tests:

1. At least the **same total combination of local and state funds** was expended as the LEA expended on special education the previous fiscal year.

2. At least the **same amounts of local funds** were expended as the LEA expended on special education the previous year.
3. At least the **same student per capita amounts from local and state funds** were expended as the LEA expended on special education that previous fiscal year.
4. At least the **same student per capita amounts from local funds** were expended as the LEA
expended on special education the previous fiscal year.

In conducting its review of LEA compliance with MOE, only *one* test is needed to pass to be in compliance with MOE requirements. However, if an LEA fails all four tests based on the comparison of two fiscal years' expenditures for special education, then the LEA must submit documentation to the SEA that supports its use of the authorized MOE reduction exceptions under IDEA and its regulations. The LEA will be notified of the findings and given the opportunity to respond with allowable exceptions. If there are no allowable exceptions to explain the reduction, the LEA will have the opportunity to submit information from its auditor explaining possible errors in reporting on the annual report.

The consequence of the LEA failing to meet MOE Requirement

Under Section 612(a)(11)(A)(i) of the IDEA, "the SEA is responsible for ensuring that… the requirements of this part are met," including ensuring that LEAs receiving assistance under IDEA comply with all applicable requirements, including the local MOE.

- If an LEA fails to meet its MOE obligation, the SEA is required to pay the U.S. Department of Education an amount equal to the shortfall in the required local fiscal special education effort. In addition, the MOE level for that year will be reset to the higher amount that the LEA should have met.
- An SEA may not use IDEA funds nor reduce a current year IDEA subgrant as a means of resolving a prior year's MOE violation by an LEA.
- If an LEA has a history of noncompliance with the MOE requirement, the SEA should "carefully determine whether the LEA will meet the MOE requirement in the coming year or whether the SEA should begin an administrative withholding action

consistent with § 1413(c) and (d) because it is not convinced that the LEA will meet the MOE requirement for the new year" (OSEP letter to Baglin, 2006).

Timeline & Action Steps	
Oct. 1	State Special Education Expenditure Reports (SSEERs) due
Oct. 1	Actual MOE submitted with CFA; if necessary, waivers are completed and uploaded into ePlan for approval
April-May	Work with local finance office to project MOE amount for the current year and collect projected numbers for SWDs from the end of year report.
May	Projected MOE amounts submitted with CFA; CFA due in ePlan (must be approved by *LEA Fiscal Representative*)
June	Work with local finance office to ensure all special education general purpose expenditures are reported for MOE with the exception of gifted and functionality delayed numbers and expenses.
July 1	Original CFA approved (*TDOE FPO Director Approved*)
July-Sept.	Work with local finance to complete the SSEERs, ensure MOE has been met, and submit actual special education general purpose expenses (July–June) into ePlan along with the official number of SWDs (TDOE Resources > IDEA Information, Guidance, PPTs, & Webinars > IDEA Unduplicated count of SPED Students > FY 26 Unduplicated Count of SPED Students

Available Resources

- Assigned FPO IDEA Divisional Coordinator
- In ePlan, *Resources > IDEA Information, Guidance, PPTs, & Webinars > IDEA Unduplicated Count of SPED Students > FY26 Unduplicated Count of SPED Students*