

Issue Brief #1: IDEA Funding Series

SPECIAL EDUCATION FUNDING: AN OVERVIEW OF STATE AND LOCAL MAINTENANCE OF EFFORT

Under the Individuals with Disabilities Education Act (IDEA), states and localities have primary responsibility for providing special education programs and services to eligible school-age children with disabilities. To support those responsibilities, the Federal government provides annual appropriations for grants to States which come with Maintenance of Effort (MOE) requirements. MOE requires that the State Educational Agency (SEA) and Local Educational Agencies (LEAs) demonstrate that the level of State and local additional funding they each provide does not decline from year to year.

This document provides an overview and summary of special education funding under the IDEA and related State and LEA MOE requirements.



IDEA FUNDING: KEY FACTS

FEDERAL

- Congress appropriates annual Federal funds for IDEA grants to states. FFY 2020 appropriations were \$13.6 billion.
- U.S. Dept. of Ed. reserves funds for technical assistance; allocates majority of funds to States via IDEA formula.



STATES

- SEAs reserve IDEA Federal funds for statewide activities and distribute majority of funds to LEAs via IDEA formula.
- SEAs distribute State funds to LEAs per State's funding formula, which vary by State.
- Other State agencies fund services designated for children with disabilities.



LOCAL DISTRICTS

- Districts use Federal and State funds to provide special education and related services to children with disabilities.
- Federal funds must supplement not supplant local funds.
 - Districts provide the additional local funds needed to provide special education and related services to children with disabilities.

For more information, see:

- Congressional Research Service, The Individuals with Disabilities Education Act (IDEA) Funding: A Primer Updated August 29, 2019, R44624, <https://crsreports.congress.gov>
- Education Commission of the States, 50-State Comparison: K-12 Special Education Funding, March 2019, <https://www.ecs.org/50-state-comparison-k-12-special-education-funding>









MAINTENANCE OF EFFORT OVERVIEW

Congress included the requirements for State and LEA MOE in the IDEA to ensure both States and districts budget and spend at least the same amount of funds for the education of children with disabilities on a year-to-year basis.

MOE protects both schools and students in that it helps assure salaries and other direct expenses related to IDEA can be maintained. 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 the IDEA. This document provides an overview of State and LEA MOE requirements in IDEA.






State Maintenance of Effort: *Key Statutory and Regulatory Provisions of IDEA*

	<p>Requirement A State must not reduce the total amount of State financial support for special education and related services for children with disabilities below the amount of the preceding year.</p>
	<p>Calculation All funds appropriated for special education and related services by the SEA to LEAs and State-funded schools. Includes financial support by other State agencies such as mental health services, educational services in juvenile facilities and vocational rehabilitation services.</p>
	<p>Funding Adjustments No funding adjustments are allowed.</p>
	<p>Exceptions</p> <ul style="list-style-type: none"> States may apply to U.S. Dept. of Ed. for a <i>one-year waiver</i> due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the State's financial resources (e.g. eight States requested waivers during the recession for reductions ranging from 2% to 21%). 34 CFR §300.163(c)(1) See page 4 for details. State must continue to ensure IDEA's requirement for a free appropriate public education (FAPE) is available to all children with disabilities. 34 CFR §300.164(c)(1)
	<p>Monitoring States must submit an annual State application to the U.S. Dept. of Ed. for Part B IDEA grants which includes an assurance that States will meet the MOE requirement for the upcoming year.</p>
	<p>Consequences States that fail to maintain support will have their Part B Section 611 grant reduced by the same amount by which the State failed to meet the requirement. The penalty may be spread over a period of no more than five consecutive years.</p>

For more information, see:

- Center for IDEA Fiscal Reporting, Maintenance of State Financial Support Resources, <https://cifr.wested.org/resources/mfs/>

Local Educational Agency Maintenance of Effort: *Key Statutory and Regulatory Provisions of IDEA*

	<p>Requirement An LEA receiving IDEA funds must budget and spend at least the same amount of local – or State and local – funds for the education of children with disabilities on a year-to-year basis. LEAs have four options available to calculate MOE.</p>
	<p>Funding Adjustment LEAs may reduce their spending level due to increases in Federal funding by up to half of the amount of the additional Federal funds if they also meet certain performance criteria. Known as the 50 Percent Provision.</p>
	<p>Exceptions LEAs may reduce their spending level due to:</p> <ul style="list-style-type: none"> • Departure of special education personnel (voluntary or for just cause). • Decrease in number of special education students. • End of an exceptionally costly education program for a particular child (moves out, graduates, ages out, or no longer needs an exceptionally costly program). • End of obligation for long-term purchases (such as the acquisition of equipment or construction of school facilities). • Assumption of cost by the SEA for high-need children with disabilities.
	<p>Monitoring States are required to monitor district implementation of the IDEA, including compliance with MOE.</p>
	<p>Consequences If an LEA fails to meet MOE, the State is liable to return to the U.S. Dept. of Ed. (using non-Federal funds) an amount equal to the LEA's shortfall or its IDEA Part B grant, whichever is lower.</p> <p>The level of effort that an LEA must meet in the year after it fails to maintain effort is the level of effort that would have been required in the absence of that failure and not the LEA's actual reduced level of expenditures in the fiscal year in which it failed to meet MOE.</p>

For more information, see:

- Center for IDEA Fiscal Reporting, LEA MOE Resources, <https://cifr.wested.org/resources/lea-moe/>
- U.S. Dept. of Education, Non-regulatory Guidance on LEA MOE regulations, July 2015 <https://sites.ed.gov/idea/idea-files/qa-regarding-local-educational-agency-lea-maintenance-of-effort-moe/>
- Government Accountability Office, Special Education: More Flexible Spending Requirement Could Mitigate Unintended Consequences While Protecting Services, October 2015, <https://www.gao.gov/products/GAO-16-2>

Key differences between State and LEA MOE provisions

- States have a waiver provision provided through IDEA; LEAs do not.
- LEAs have several allowable deductions to the MOE; States do not.
- States that fail MOE will have Federal funds reduced; if LEAs fail MOE, the States must refund the shortfall to U.S. Dept. of Education.

State MOE Waiver Requests 2009-2011

The sharp decline in economic activity during the late 2000s – which came to be known as the Great Recession – saw eight States seek a waiver from the U.S. Dept. of Education to allow a reduction to their level of State financial support for one year.

Below is a summary of those requests.

Requests for State MOE Waivers During Great Recession

STATE	YEAR	REDUCTION	REQUESTED	USED ACTION
Alabama	2009-2010	-\$14,495,371	(-2.5%)	Approved
Iowa	2009-2010	-\$38,103,897	(-7.2%)	Approved
Iowa	2010-2011	-\$4,082,923	(-7.8%)	Denied
Kansas	2009-2010	-\$60,212,507 -\$55,306,253	(-14.1%) requested (-12.2%) approved	Partial Approval
Kansas	2010-2011	-\$34,193,605	(-21%)	Approved
New Jersey	2009-2010	-\$25,671,915	(-2.1%)	Approved
New Mexico	2009-2010	-\$48,094,194	(-10.4%)	Approved
New Mexico	2010-2011	-\$34,120,713		Denied
Oregon	2010-2011	-\$15,674,579	(-4.5%)	Denied
South Carolina	2008-2009	-\$20,312,122	(-4.87%)	Approved
South Carolina	2009-2010	-\$67,402,525 -\$31,199,616	(-16.31%) requested (-7.55%) approved	Partial Approval
South Carolina	2010-2011	-\$75,343,070		Denied
West Virginia	2009-2010	-\$491,580	(-2%)	Approved

Source: <https://www2.ed.gov/policy/speced/guid/idea/monitor/smfs-partb-waivers.html>

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