

REGULATION X: FISCAL REQUIREMENTS

A. SUBGRANTS TO PUBLIC AGENCIES (34 CFR 300.705)

For each year for which funds are allocated to states under 34 CFR 300.703, it is the policy of the Department of Elementary and Secondary Education (DESE) to award subgrants to public agencies as described in 34 CFR 300.705.

USE OF AMOUNTS (34 CFR 300.202)

The amounts provided to the public agency under Part B of the Act must be:

- (1) Expended in accordance with applicable provisions of Part B of IDEA;
- (2) Used only to pay the excess costs of providing special education and related services to students with disabilities, consistent with the excess cost provision of this section;
- (3) Used to supplement State, local, and other Federal funds and not to supplant those funds;
- (4) Expended in accordance with the public agency's Part B Budget Application; and,
- (5) Directed 100 percent towards special education unless otherwise allowed.

PERMISSIVE USE OF FUNDS (34 CFR 300.208)

Funds provided to a public agency under Part B of the Act may be used for the following activities:

- (1) Services and aids that also benefit nondisabled children: For the costs of special education and related services and supplementary aids and services, provided in a regular class or other education-related setting to a student with a disability in accordance with the IEP of the student, even if one or more students will benefit from these services.
- (2) Coordinated Early Intervening services: 34 CFR 205(d), 34 CFR 208 (a)(2), 34 CFR 226). To develop and implement coordinated, early intervening educational services in accordance with 34 CFR 300.226. A public agency may not use more than fifteen (15) percent of the amount the agency receives under Part B for any fiscal year, less any amount reduced by the agency under adjustments to local fiscal effort, if any, in combination with other amounts (which may include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment. In implementing coordinated, early intervening service, a responsible public agency may carry out activities that include:

- a. Professional development (which may be provided by entities other than public agencies) for teachers and other staff to enable such personnel to deliver scientifically-based academic instruction and behavioral interventions, including scientifically-based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- b. Providing educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction.

Nothing in this section shall be construed to either limit or create a right to FAPE under Part B or to delay appropriate evaluation of a student suspected of having a disability. The amount of funds expended by public agency for early intervening services under 34 CFR 300.226 shall count toward the maximum amount of expenditures that the public agency may reduce local effort.

- (3) High cost special education and related services: To establish and implement cost or risk sharing funds, consortia, or cooperative for the public agency itself or for public agencies working in a consortium of which the public agency is a part, to pay for high cost special education and related services. In Missouri this is known as the “High Need Fund.”
- (4) Administrative case management: A public agency may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of students with disabilities that is needed for the implementation of those case management activities.
- (5) Schoolwide Programs under Title I of the Elementary and Secondary Education Act (ESEA) 34 CFR 300.206: Public agencies may use funds received under Part B for any fiscal year to carry out a school-wide program under section 1114 of the ESEA. The amount used in any school-wide program may not exceed the amount received by the public agency under Part B for that fiscal year, divided by the number of students with disabilities in the jurisdiction of the public agency, and multiplied by the number of students with disabilities participating in the school-wide program. Part B funds used in this manner, must be considered Federal Part B funds for purposes of calculations required for determining excess costs. All other requirements of Part B of the Act must be met by a public agency using Part B funds in a school-wide program, including ensuring that students with disabilities in school-wide program receive services in accordance with a properly developed IEP and are afforded all of the rights and services guaranteed to students with disabilities under the Act.

B. ACCOUNTING AND PAYMENT PROCEDURES

Public agencies shall submit a budget application for Part B funds on or before the required due date. Part B funds may not be obligated until the budget application has been substantially approved, which occurs upon submission.

Public agencies must ensure that obligations made with Part B funds only occur between the substantial approval date of the budget application and June 30 of the fiscal year.

Public agencies must ensure obligated Part B funds are expended by September 30 of each fiscal year.

Public agencies must ensure Part B funds from the current grant cycle do not pay for expenditures from a prior grant cycle.

The public agency must ensure that the public agency's written procurement procedure is followed when purchasing goods and/or services with Part B funds.

Public agencies shall submit payment requests for Part B funds by the required due dates. Payment requests must be based on actual expenditures to date.

Public agencies must create a coding system for tracking special education expenditures paid with Part B funds, state funds, and local funds separately.

Public agencies must create a coding system to tie all federal revenue received (Part B, Early Childhood Special Education (ECSE), and High Need Fund (HNF)) to specific expenditures.

Public agencies must ensure that all personnel paid in full or in part with Part B funds must maintain time and effort documentation.

Public agencies must use the accounting codes identified in the MO Accounting Manual to track special education expenditures.

Capital outlay purchases with Part B funds must be prior approved by the Department. This includes equipment, construction/renovation and vehicles/buses.

Each public agency shall submit a final expenditure report (FER) for Part B funds on or before the required due date.

Appropriate records shall be maintained to verify all expenditure of funds received under Part B of IDEA.

C. EXCESS COST (34 CFR 300.202)

A responsible public agency may not use funds provided under Part B of IDEA to pay for all of the costs directly attributable to the education of a child with a disability ages six (6) through seventeen (17).

A responsible public agency may use Part B funds to pay for all of the costs directly attributable to the education of a child with a disability ages three (3) through five (5) and ages eighteen (18) through twenty (20), if no local or State funds are available for nondisabled children of these ages.

However, the agency must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.

A responsible public agency meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B are used.

Excess costs must be calculated in accordance with 34 CFR 300.16 and may not include capital outlay or debt service.

D. MAINTENANCE OF EFFORT (34 CFR 300.203)

ELIGIBILITY STANDARD

For purposes of establishing the public agency's eligibility for an award for a fiscal year, the SEA must determine that the public agency budgets, for the education of children with disabilities, at least the same amount, from at least one of the following sources, as the public agency spent for that purpose from the same source for the most recent fiscal year for which information is available:

- (1) Local funds only;
- (2) The combination of State and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of State and local funds on a per capita basis.

When determining the amount of funds that the public agency must budget to meet the requirement in paragraph (a)(1) of this section, the public agency may take into consideration, to the extent the information is available, the exceptions and adjustment provided in §§ 300.204 and 300.205 that the public agency:

- (1) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the public agency is budgeting; and
- (2) Reasonably expects to take in the fiscal year for which the public agency is budgeting,
- (3) Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which the public agency is required to account to the Federal government directly or through the SEA may not be considered in determining whether a public agency meets the standard in paragraph (a)(1) of this section.

COMPLIANCE STANDARD

Except as provided in §§ 300.204 and 300.205, funds provided to a public agency under Part B of the Act must not be used to reduce the level of expenditures for the education of children with disabilities made by the public agency from local funds below the level of those expenditures for the preceding fiscal year.

A public agency meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the public agency from at least one (1) of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in §§ 300.204 and 300.205:

- (1) Local funds only;
- (2) The combination of State and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of State and local funds on a per capita basis.

Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which the public agency is required to account to the Federal government directly or through the SEA may not be considered in determining whether a public agency meets the standard in paragraphs (b)(1) and (2) of this section.

SUBSEQUENT YEARS RULE

If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, a public agency fails to meet the requirements of § 300.203 in effect at that time, the level of expenditures required of the public agency for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the public agency's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, a public agency fails to meet the requirement of paragraph (b)(2)(i) or (iii) of this section and the public agency is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of paragraph (a) or (b) of this section, the level of expenditures required of the public agency for the fiscal year subsequent to the year of the failure is the amount that would have been required under paragraph (b)(2)(i) or (iii) in the absence of that failure, not the public agency's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, a public agency fails to meet the requirement of paragraph (b)(2)(ii) or (iv) of this section and the public agency is relying on the combination of State and local funds, or the combination of State and local funds on a per capita basis, to meet the requirements of paragraph (a) or (b) of this section, the level of expenditures

required of the public agency for the fiscal year subsequent to the year of the failure is the amount that would have been required under paragraph (b)(2)(ii) or (iv) in the absence of that failure, not the public agency's reduced level of expenditures.

CONSEQUENCE OF FAILURE TO MAINTAIN EFFORT

If a public agency fails to maintain its level of expenditures for the education of children with disabilities in accordance with paragraph (b) of this section, the SEA is liable in a recovery action under section 452 of the General Education Provisions Act (20 U.S.C. 1234a) to return to the Department, using non-Federal funds, an amount equal to the amount by which the public agency failed to maintain its level of expenditures in accordance with paragraph (b) of this section in that fiscal year, or the amount of the public agency's Part B subgrant in that fiscal year, whichever is lower.

EXCEPTIONS TO MAINTENANCE OF EFFORT (34 CFR 300.204)

The total amount or average per capita amount of either local only or the combined State and local school funds budgeted by the public agency for expenditures in the current fiscal year for the education of students with disabilities must be at least equal to the total amount or average per capita amount of state and local school funds actually expended for the education of students with disabilities in the most recent preceding fiscal year for which the information is available.

Allowance may be made for:

- (1) The voluntary departure, by retirement or otherwise, or departure by 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 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; and,
- (5) The assumption of cost by the high cost fund operated by the SEA under 34 CFR 300.704(c).

ADJUSTMENT TO FISCAL EFFORT (34 CFR 300.205)

In any fiscal year for which a public agency's Federal allocation exceeds the amount the public agency received in the previous fiscal year, the public agency may reduce the level of expenditures required for the education of children with disabilities from state and local funds by not more than fifty (50) percent of the amount in excess.

If a public agency exercises the authority to reduce the state or local effort, the public agency must use an amount of state or local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the ESEA regardless of whether the public agency is using funds under the ESEA for those activities.

If the SEA determines that a public agency 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 public agency under section 616, the SEA must prohibit the public agency from reducing the level of expenditures for that fiscal year.

The amount of funds expended by the public agency for early intervening services under 34 CFR 300.226 shall count toward the maximum amount of expenditures that the public agency may reduce maintenance of fiscal effort.

E. WITHHOLDING OF PAYMENTS

When the Department finds a failure to comply with any provision of applicable state or federal law, the Department may notify the public agency of restriction of funds under Part B until compliance is met.

F. PERSONNEL

Personnel paid in full or in part from Part B funds must be appropriately prepared and trained as outlined in Regulation VIII, Personnel Standards of this State Plan.

Personnel paid in full or in part from Part B funds must maintain time and effort documentation prescribed in the Uniform Grant Guidance.