

# MAINTENANCE OF EFFORT EXCEPTION GUIDANCE

## MAINTENANCE OF EFFORT REQUIREMENT

Maintenance of Effort (MOE) is the amount of State, local, and county funds spent on special education that must be maintained at the same amount or more each year. Local funds and county funds are combined and considered “local” funds for MOE. There are two components to MOE, the eligibility standard and the compliance standard. The eligibility standard indicates a LEA must budget at least the same amount or more for special education as the LEA spent for the most recent fiscal year for which information is available, unless allowable exceptions or adjustments apply, in order to be eligible for the next fiscal year grant award. The compliance standard indicates a LEA must not reduce the level of expenditures for special education below the level of expenditures from the previous fiscal year unless allowable exceptions or adjustments apply.

There are five exceptions that allow a LEA to reduce MOE to meet the eligibility or compliance standard. In order for an exception to apply, the cost being reduced must have been paid with State and/or local funds. If the cost was paid with Federal funds, the LEA cannot claim a MOE exception. Below is a list of the allowable exceptions with corresponding reasons and examples.

## MOE EXCEPTION 1

The voluntary departure of special education staff paid with State and/or local funds by retirement or otherwise, or departure for just cause.

**Allowable Reasons** – Retirement; Resignation; Employee does not renew contract; Leave of absence (employee elected); Dismissal for misconduct; Dismissal for breach of contract; Not filling vacant positions; Filling vacant positions with lower paid staff

- ✓ Example: A special education teacher paid with State funds retired in 2017-18 and was replaced with a special education teacher in 2018-19 who was paid with a lower amount of State funds. The difference between the two salaries and benefits combined is an allowable exception to MOE in 2018-19.
- ✓ Example: A paraprofessional paid with local funds resigned in 2017-18 and the LEA did not fill the position in the 2018-19 school year. The total salary and benefits for the paraprofessional is an allowable exception to MOE in 2018-19.

**Unallowable Reasons** – Forced transfer; Reduction in force (RIF); Layoffs; Eliminating positions; Leave of absence (due to disciplinary action); Across the board reductions; Dismissal or LEA not renewing contract; Administrative Leave

- ✓ Example: A process coordinator paid with State funds in 2017-18 was a 1.0 FTE for special education. In 2018-19, the LEA reduced the process coordinator's FTE to 0.50 for special education. Because it was a LEA decision to reduce the special education FTE of the process coordinator and NOT a voluntary reduction on behalf of the process coordinator, it is not an allowable exception to MOE.

## MOE EXCEPTION 2

A decrease in the enrollment of children with disabilities.

**Allowable Reasons** – A decrease in child count must be tied to specific special education expenditures paid with State and/or local funds. The LEA must describe the type and cost of the specific services that were reduced/consolidated due to a decrease in child count.

- ✓ Example: During the 2017-18 school year, a special education only bus route transported 10 IEP students. Seven of the students moved out of the district and the remaining three students were moved to a non-special education bus route in 2018-19. The driver's salary and benefits, the gasoline and other transportation costs for that bus paid with State and/or local funds in 2017-18 is an allowable exception to MOE in 2018-19.

**Unallowable Reasons** – A decrease in child count that does not cause a reduction of cost or cannot be tied to a specific special education cost reduction.

- ✓ Example: The LEA child count decreases in the 2018-19 school year by 5 IEP students. The LEA cannot calculate an overall per child decrease in the special education program expenditures from the 2017-18 school year to the 2018-19 school year to claim as an exception to reduce MOE.

## MOE EXCEPTION 3

The termination of a costly obligation (expenditure) for a specific child with an IEP that is paid with State and/or local funds.

**Allowable Reasons** – Any personal services (i.e. personal teacher, personal paraprofessional, personal nurse, therapies, transportation, contracted services) necessary for a child with an IEP, that is no longer needed due to one of the following reasons: Student has left the jurisdiction of the LEA; Student has reached the age of no FAPE; Student no longer needs the program of special education due to improvement or changes in the IEP.

- ✓ Example: In 2017-18 a special education student required a personal paraprofessional who was paid with State funds and a large amount of contracted services (OT, PT, and Speech) which were paid with local funds. The student left the jurisdiction of the LEA at the end of the 2017-18 school year. The personal paraprofessional's salary and benefits

paid with State funds, along with the contracted services (OT, PT, Speech) paid with local funds in the 2017-18 school year is an allowable exception to MOE in the 2018-19 school year. This is allowable because the student left the jurisdiction of the LEA and the LEA did not pay these expenditures during the 2018-19 school year.

**Unallowable Reasons** – A costly obligation for a child that does not decrease between the prior and current school years.

- ✓ Example: In 2017-18 a special education student required a personal nurse who was paid with State funds. In 2018-2019 the same student continued to require a personal nurse. Because there is no reduction in cost, this is not an allowable exception to MOE in 2018-19.

## MOE EXCEPTION 4

The termination of a costly obligation for long-term purchases, such as equipment, construction, and buses paid with State and/or local funds. The definition of long term is one school year.

**Allowable Reasons** – Pay-off of a lease-purchase for a bus or modular/facility; Completion of a contracted service; Equipment purchase pay-off; Loan pay-off; Completion of a rent-to-own agreement

- ✓ Example: During the 2017-18 school year, a LEA paid off a loan for a special education bus which was purchased with State funds. Since the LEA no longer had a special education bus payment in 2018-19, the amount of State funds paid for the special education bus in 2017-18 is an allowable exception to MOE in the 2018-19 school year.

**Unallowable Reason** – Change in expenses/fees from a cooperative fiscal agent.

- ✓ Example: Cooperative expenditures for the LEA have decreased from the prior year. The decrease in amount is not an allowable exception to MOE.

## MOE EXCEPTION 5

The assumption of cost by the High Needs Fund (HNF). LEAs that apply for HNF reimbursement typically receive both State and Federal funds. Because the LEA is receiving additional Federal funds to spend on special education and related services during the school year, the assumption is that less State and/or local funds are needed to support the special education program. Therefore, the LEA may claim the amount of Federal HNF reimbursement received that school year as an allowable reduction to MOE.

**Allowable Reasons** – The LEA may reduce the MOE amount by the Federal amount of High Need Funds revenue received in that school year.

- ✓ Example: The LEA enrolled a special education student whose educational costs exceeded three times the LEA's current expenditure per Average Daily Attendance (ADA). The LEA received \$10,000 in State HNF revenue and \$6,000 in Federal HNF revenue in 2018-19. The LEA may reduce the MOE by the \$6,000 in Federal HNF revenue received in the 2018-19 school year.

**Unallowable Reason** – The LEA receives only State High Need Fund (HNF) revenue in that school year.

- ✓ Example: The LEA enrolled a special education student whose educational costs exceeded three times the LEA's current expenditure per Average Daily Attendance (ADA). The LEA only received State HNF revenue in 2018-19. Because the LEA did not receive any Federal HNF revenue in 2018-19, the LEA may not reduce the MOE by the amount of State HNF revenue received.