

# Funding

## MAINTENANCE OF EFFORT

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Model operating procedures created by



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## Maintenance of Effort

### What is Required

The District is required to maintain the level of state and local funds it spends to support federal programs from one fiscal year to the next. This means that the District generally may not reduce the amount of local, or state and local, funds that it spends for the education of students with disabilities below the amount it spent for the preceding fiscal year. There are two components of the LEA Maintenance of Effort (“MOE”) requirements: (1) the eligibility standard and (2) the compliance standard.

### Eligibility Standard

To establish the District’s eligibility for an award for a fiscal year, the TEA will require the District to budget for the education of students with disabilities *at least the same* amount as the District spent for that purpose from the same source for the most recent fiscal year for which information is available from at least one of the following sources:

- Local funds only;
- The combination of state and local funds;
- Local funds only on a per capita basis; or
- The combination of state and local funds on a per capita basis.

When determining the amount of funds that the District must budget to meet the eligibility standard, the District may consider, to the extent the information is available, the exception and adjustment to local fiscal efforts that the District 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 District is budgeting. The District may also consider the exception and adjustment to local fiscal efforts that the District reasonably expects to take in the fiscal year for which the District is budgeting.

In determining whether the District meets the eligibility standard, the TEA may not consider expenditures made from funds provided by the federal government for which the TEA must account to the federal government or for which the District must account to the federal government directly or through the TEA.

### Compliance Standard

Except as provided in this section, the District may not use funds provided to it under IDEA-B to reduce the level of expenditure for the education of students with disabilities made by the District from local funds below the level of those expenditures for the

preceding fiscal year. To comply with MOE requirements, the District should not reduce the level of expenditures for the education of students with disabilities made by the District from at least one of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in this section:

- Local funds only;
- The combination of state and local funds;
- Local funds only on a per capita basis; or
- The combination of state and local funds on a per capita basis.

In determining whether the District complies with MOE requirements, the TEA may not consider expenditures made from funds provided by the federal government for which the TEA must account to the federal government or for which the District must account to the federal government directly or through the TEA.

### **Subsequent Years**

If the District fails to comply with MOE requirements, the level of expenditure required by the District 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 District's reduced level of expenditures.

If the District fails to comply with MOE requirements in expenditures from local funds only or local funds only on a per capita basis, and the District is relying on that basis to meet the eligibility and compliance standard, the level of expenditures required of the District for the fiscal year subsequent to the year of the failure is the amount that would have been required from local funds only or local funds only on a per capita basis in the absence of that failure, not the District's reduced level of expenditures.

If the District fails to comply with MOE requirements in expenditures from the combination of state and local funds or the combination of state and local funds on a per capita basis, and the District is relying on that basis to meet the eligibility or compliance standard, the level of expenditures required of the District for the fiscal year subsequent to the year of the failure is the amount that would have been required from a combination of state and local funds or the combination of state and local funds on a per capita basis in the absence of that failure, not the District's reduced level of expenditures.

### **Exception**

The District may reduce the level of expenditures by the District under IDEA-B below the level of those expenditures for the preceding fiscal year if the reduction is attributable to

any of the following causes:

- The voluntary departure, by retirement or otherwise, or departure for just cause, of Campus Special Education Personnel;
- A decrease in the enrollment of students with disabilities;
- The termination of the District's obligation to provide a program of special education to a particular student with a disability that is an exceptionally costly program, as determined by the TEA, because the student (1) has left the District's jurisdiction, (2) has reached the age at which the District's obligation to provide a FAPE has terminated, or (3) no longer needs the special education program.
- The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities; or
- The assumption of cost by the high cost fund operated by the TEA.

If the District spends reimbursements from federal funds, such as Medicaid, for IDEA-B services, those funds are not considered to be state or local funds for purposes of MOE.

### **Early Intervening Services**

Any funds that are offered to provide early intervening services that are coordinated and aligned with activities funded by and carried out under the Elementary and Secondary Education Act ("ESEA") must supplement, and not supplant, funds available under the ESEA. See [USE OF IDEA PART B FORMULA AMOUNTS PERMISSIVE].

### **Adjustment to Local Fiscal Efforts**

For any fiscal year in which the IDEA-B formula fund allocation received by the District exceeds the amount the District received for the previous fiscal year, the District may reduce the level of expenditures by not more than 50 percent of the amount of such excess. The District may also use an amount of local funds equal to the reduction of expenditures to carry out activities under the ESEA when exercising its authority to reduce funding.

The District may not reduce the level of expenditures for that fiscal year if the TEA determines that the District is unable to establish and maintain programs of FAPE or if the TEA has taken action against the District as part of its monitoring, technical assistance, and enforcement responsibilities.

The amount of IDEA-B formula funds expended by the District will count toward the maximum amount of expenditures that the District may reduce.

## Definitions

“Per capita” in this section refers to the total amount of local, or state and local, funds either budgeted or expended by the District for the education of students with disabilities, divided by the number of students with disabilities served by the District.

## Additional Procedures

### Compliance Review

To ensure that the District is meeting the MOE requirements, TEA will conduct an annual compliance review. TEA will determine if the District met compliance by passing at least one of the four following test methods:

- The total amount the District expended in local funds must equal or exceed the amount it expended from that source for special education during the preceding fiscal year;
- The total amount the District expended in the combination of state and local funds must equal or exceed the amount it expended from those sources for special education during the preceding fiscal year;
- The per capita amount the District expended in local funds must equal or exceed the amount it expended per capita from that source for special education during the preceding fiscal year;
- The per capital amount the District expended in the combination of state and local funds must equal or exceed the amount it expended per capita from those sources for special education during the preceding fiscal year.

TEA will review data from PEIMS, SHARS Reimbursement Form, Summary of Finance, and the special education student count to determine if the District met the compliance standard. TEA will first conduct a data analysis to determine a preliminary compliance result and will notify the District of the preliminary result. The District will then be able to submit federal exceptions, voluntary MOE reduction, state reconsideration, or local methodology and supporting documentation to be considered in the final calculation. TEA will review and evaluate the District’s responses and notify the District of final compliance results, as well as the refund amount due if the District is out of compliance.

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

## Evidence of Implementation

- Determination of Eligibility
- Compliance with MOE Efforts
- Annual Compliance Review
- Calculation of Expenditures
- [DISTRICT FORMS]

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Maintenance of Effort](#)

[Appendix D to 34 CFR Part 300 - Maintenance of Effort and Early Intervening Services](#)

[Appendix E to 34 CFR Part 300 - Local Education Agency Maintenance of Effort Calculation Examples](#)

[IDEA-B LEA Maintenance of Effort - Texas Education Agency](#)

[IDEA Maintenance of Effort Factsheet - Texas Education Agency](#)

[IDEA-B LEA Maintenance of Effort \("MOE"\) Guidance Handbook - Texas Education Agency](#)

[IDEA-B Maintenance of Effort \(MOE\) Calculation Tool for LEAs - Texas Education Agency](#)

[IDEA-B LEA MOE Exceptions Workbook - Texas Education Agency](#)

[IDEA-B LEA MOE Compliance Review Process - Texas Education Agency](#)

[Final Rule to IDEA-B Regulations \(Apr. 28, 2015\) - U.S. Department of Education](#)

[OSEP Memo to Chief State School Officers and State Directors of Special Education - Issuance of Guidance on Final LEA MOE Regulations under IDEA-B \(July 27, 2015\) - U.S. Department of Education](#)

[OSEP Letter to Boundy \(Apr. 4, 2012\) - U.S. Department of Education](#)

[ADDITIONAL DISTRICT RESOURCES]

## **CITATIONS**

34 CFR 300.203–300.205 300.226(e); Appendix D to 34 CFR Part 300 – Maintenance of

Effort and Early Intervening Services; Appendix E to 34 CFR Part 300 – Local Education Agency Maintenance of Effort Calculation Examples