



Susie Hedalen, Superintendent  
Montana Office of Public Instruction  
Special Education Unit

**FAILURE TO MAINTAIN FISCAL  
EFFORT RESPONSE FORM**

IDEA Part B Prime Applicant

*(District/Cooperative)*

Legal Entity #

We are in receipt of the notice from the Office of Public Instruction that the

*(Name of Prime Applicant)*

did not maintain fiscal effort in accord with the requirements under IDEA Part B.

**Please check the appropriate box below:**

We concur with the findings and do not wish to have a hearing.

We do not concur with the findings for the following reason(s) and request a hearing.

---

---

---

We understand that, if as a result of the hearing, the Office of Public Instruction determines that we did not comply with IDEA requirements for maintaining fiscal effort, the Office of Public Instruction will take further action as required.

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

**Please Return To:**  
Danni McCarthy, IDEA Fiscal Manager  
Student Support Services  
Montana Office of Public Instruction  
dmccarthy@mt.gov  
FAX: 406-444-3924



1

## IDEA REGULATIONS WHICH APPLY TO MAINTENANCE OF FISCAL EFFORT

### 300.203 Maintenance of effort.

(a) General. Except as provided in 300.204 and 300.205, funds provided to an LEA 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 LEA from local funds below the level of those expenditures for the preceding fiscal year.

(b) Standard.

(1) Except as provided in paragraph (b)(2) of this section, the SEA **must** determine that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available:

(i) Local funds only.

(ii) The combination of State and local funds.

(2) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available and the standard in paragraph (b)(1)(i) of this section was used to establish its compliance with this section.

(3) The SEA may not consider any 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 LEA is required to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section.

### 300.204 Exception to maintenance of effort.

Notwithstanding the restriction in 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

(a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

(b) A decrease in the enrollment of children with disabilities.

(c) 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--

(1) Has left the jurisdiction of the agency;

(2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

(3) No longer needs the program of special education.

(d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.



(e) The assumption of cost by the high cost fund operated by the SEA under 300.704(c).§

**300.205 Adjustment to local fiscal efforts in certain fiscal years.**

(a) Amounts in excess. Notwithstanding 300.202(a)(2) and (b) and 300.203(a), and except as provided in paragraph (d) of this section and 300.230(e)(2), for any fiscal year for which the allocation received by an LEA under 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by 300.203(a) by not more than 50 percent of the amount of that excess.

(b) Use of amounts to carry out activities under ESEA. If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.

(c) State prohibition. Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA 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 LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.

(d) Special rule. The amount of funds expended by an LEA for early intervening services under 300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.

**300.221 Notification of LEA or State agency in case of ineligibility.**

If the SEA determines that an LEA or State agency is not eligible under Part B of the Act, then the SEA must--

- (a) Notify the LEA or State agency of that determination; and
- (b) Provide the LEA or State agency with reasonable notice and an opportunity for a hearing.

**300.222 LEA and State agency compliance.**

(a) General. If the SEA, after reasonable notice and an opportunity for a hearing, finds that an LEA or State agency that has been determined to be eligible under this subpart is failing to comply with any requirement described in 300.201 through 300.213, the SEA must reduce or must not provide any further payments to the LEA or State agency until the SEA is satisfied that the LEA or State agency is complying with that requirement.

(b) Notice requirement. Any State agency or LEA in receipt of a notice described in paragraph (a) of this section must, by means of public notice, take the measures necessary to bring the pendency of an action pursuant to this section to the attention of the public within the jurisdiction of the agency.

(c) Consideration. In carrying out its responsibilities under this section, each SEA must consider any decision resulting from a hearing held under 300.511 through 300.533 that is adverse to the LEA or State agency involved in the decision.