

INDIVIDUALS WITH DISABILITIES EDUCATION ACT (Part B) CALCULATION OF MAINTENANCE OF EFFORT

This packet summarizes the requirements for Maintenance of Effort (MOE), how MOE is calculated using expenditure data submitted to the Office of Public Instruction (OPI), and how to check the district or cooperative's report to ensure MOE will be accurately calculated.

WHAT IS MAINTENANCE OF EFFORT?

In accord with the requirements under the Individuals with Disabilities Education Act (IDEA), funds provided to an LEA under Part B must not be used to reduce the level of expenditures for the education of students with disabilities made by the LEA from local funds (local funds only or a combination of state and local funds) below the level of those expenditures for the preceding fiscal year. Following are the regulations under IDEA which apply.

§ 300.203 Maintenance of effort.

(a) Eligibility standard. (1) For purposes of establishing the LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount, from at least one of the following sources, as the LEA spent for that purpose from the same source for the most recent fiscal year for which information is available:

- (i) Local funds only;
- (ii) The combination of State and local funds;
- (iii) Local funds only on a per capita basis; or
- (iv) The combination of State and local funds on a per capita basis.

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

- (i) 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 LEA is budgeting; and
 - (ii) Reasonably expects to take in the fiscal year for which the LEA 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 LEA is required to account to the Federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraph (a)(1) of this section.

(b) Compliance standard. (1) 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.

(2) An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA 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 §§ 300.204 and 300.205:

- (i) Local funds only;
 - (ii) The combination of State and local funds;
 - (iii) Local funds only on a per capita basis; or
 - (iv) The combination of State and local funds on a per capita basis.
- (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 LEA is required to account to the Federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraphs (b)(1) and (2) of this section.
- (c) Subsequent years. (1) If, in the fiscal year beginning on July 1, 2013 or July 1, 2014, an LEA fails to meet the requirements of § 300.203 in effect at that time, the level of expenditures required of the LEA 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 LEA's reduced level of expenditures.
- (2) If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of paragraph (b)(2)(i) or (iii) of this section and the LEA 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 LEA 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 LEA's reduced level of expenditures.
- (3) If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of paragraph (b)(2)(ii) or (iv) of this section and the LEA 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 LEA 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 LEA's reduced level of expenditures.
- (d) Consequence of failure to maintain effort. If an LEA 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 LEA failed to maintain its level of expenditures in accordance with paragraph (b) of this section in that fiscal year, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower. (Approved by the Office of Management and Budget under control number 1820-0600)
- (Authority: 20 U.S.C. 1413(a)(2)(A), Pub. L. 113-76, 128 Stat. 5, 394 (2014), Pub. L. 113-235, 128 Stat. 2130, 2499 (2014))

300.204 Exception to maintenance of effort.

Notwithstanding the restriction in 300.203(b), 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(b), 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(b) 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.

HOW IS MAINTENANCE OF EFFORT DETERMINED FOR IDEA PART B?

The Office of Public Instruction, consistent with U.S. Department of Education practices, determines compliance with the maintenance of effort requirements by comparing actual expenditures one year to actual expenditures made in previous years. To demonstrate that the federal funds were not used to reduce the level of expenditure of state and local funds, or local funds, the recipient must show that it has maintained the same amount of expenditures (maintained effort) of state and local funds, or local funds, for special education as it did in the last previous year in which effort was maintained. The only exceptions allowed are those as stated in federal regulations 34 CFR 300.204 and 34 CFR 300.2205.

How will Maintenance of Effort be determined?

1. For each entity participating in the IDEA Consolidated application, expenditures made for special education will be compared using State and Local funds, for the last year and the last previous year in which effort was maintained, minus any approved exceptions and other allowable decreases. Expenditures are compared on a dollar-for-dollar basis, as well as per capita, using child count figures reported for the same years. The MOE is based on the sum total of expenditures reported by all entities participating in the application.

2. For each entity participating in the IDEA Part B application, expenditures made for special education will be compared using local funds for the last year and the last previous year in which effort was maintained, minus any approved exceptions and other allowable decreases. Expenditures are compared on a dollar-for-dollar basis, as well as per capita, using child count figures reported for the same years. The MOE is based on the sum total of expenditures reported by all entities participating in the application.

How are State and Local Fund expenditures determined?

State and Local Fund expenditures are those expenditures reported on the Trustees' Financial Summary (TFS) determined as "allowable expenditures" based on revenue and expenditure codes for the purpose of Maintenance of Effort. This does not include expenditures reported in Fund 15 – Miscellaneous Fund, if they have a revenue source code identifying them as federal funds.

How are Local Fund expenditures determined?

Local Fund expenditures are those expenditures reported on the TFS determined as "allowable expenditures" based on revenue and expenditure codes for the purpose of Maintenance of Effort. Local funds will equal the allowable expenditures minus state funds (Instructional Block grant, Related Services Block grant, and Reimbursement for Disproportionate Costs and minus Reversion), including cooperative travel and administrative entitlements.

Are Impact Aid funds included in the calculation of MOE?

No. Consistent with the requirements of 34 CFR 300.203(3) and guidance from the Office of Special Education Programs (OSEP), Impact Aid funds are not included in the calculation of MOE.

WHAT HAPPENS IF THE APPLICANT DOES NOT MAINTAIN EFFORT?

When the final maintenance of effort report is completed in March, the OPI determines whether the applicant for Part B funds has met the maintenance of effort requirement. If it is determined that the applicant has not maintained effort, the OPI shall provide reasonable notice to the applicant of:

- a. Failure to maintain effort in accord with the requirements under IDEA;
- b. The intent to require the applicant to make repayment to the OPI in the amount by which the applicant failed to maintain effort; and

c. The applicant's right to request a hearing prior to the OPI taking any final action.

If an applicant has to make repayment to the OPI, what funds can be used in making repayment?

The applicant is required to make repayment with local funds. In accord with guidance from the OSEP, Impact Aid funds could also be used in making the repayment.

What does the OPI do with the repayment funds from the applicant?

The OPI is required under IDEA to send repayments to the U.S. Department of Education.

HOW CAN AN APPLICANT HELP ENSURE IT IS MAINTAINING EFFORT?

It is critical that individual districts, special education cooperatives, and districts participating in a special education cooperative or consortium monitor their state and local expenditures for special education each year to ensure maintenance of effort. When the fiscal agent for the IDEA Consolidated application is a cooperative or consortium, it is the cooperative's or consortium's responsibility to share MOE information with its participating districts. The OPI does not send MOE reports to individual districts participating in special education cooperatives or consortiums. However, the MOE reports for IDEA are made available on the OPI Web site at <http://opi.mt.gov/Educators/Teaching-Learning/Special-Education/IDEA-Fiscal/MOE-Reports?folderId=45558&view=gridview&pageSize=10>.

Verification of MOE at the local level will help districts, cooperatives and consortiums determine if corrections to data are required. The OPI guidance for checking special education expenditures reported has been included with this document.

WHAT IS INCLUDED IN MAINTENANCE OF EFFORT CALCULATIONS FOR IDEA?

Calculation of MOE for IDEA is based on the sum total of special education expenditures (Program 280) in the funds listed below as reported on the annual Trustees' Financial Summary (TFS) report. The MOE calculation isolates special education expenditures made from state and local revenue sources.

Expenditures Included Toward IDEA PART B Maintenance of Effort

Fund	Used In Coop MOE	Used in District MOE	Expenditure Programs INCLUDED	Expenditure Functions EXCLUDED, even when spent for special education:	Expenditure Objects EXCLUDED, even when spent for special education:
01 General		X	280 Special Education (State & Local)	5*** Debt Service	910 Operating Transfers to other funds 911 Transfers for School Safety 912 Transfers for Building Reserve Permissive 914 Transfers for Transformational Learning 920 Resources Transferred to Other School District 930 Resource transfers to other districts/coops (federal \$) 940 Indirect Costs 971 Residual equity transfers out
10 Transportation	X	X			
13 Tuition		X			
14 Retirement	X	X			
24 Metal Mines		X			
25 State Mining Impact		X			
82 Interlocal Agreement	X (382)	X (182, 282)			
15 Miscellaneous Programs	X	X	280 Special Education (State & Local) ONLY when made using Revenue Codes 5710 Special Education Transfers In. 3610 Services for Significant Needs Students. 1320 School Tuition	62XX	

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In calculating MOE, the OPI applies the following restrictions:

EXPENDITURE PROGRAM 280

Only program 280 expenditures are used to determine the state and local contributions for calculating MOE. For accurate calculation of MOE, districts/cooperatives must CLEARLY separate local and state grants in the Miscellaneous Programs Fund (15) from federal grants using proper revenue and expenditure program codes. Use expenditure program 280 to code special education expenditures for local, state, and direct (non-OPI) federal revenue sources. Use expenditure program code 456 for the IDEA Part B grants and 457 for IDEA Preschool grants subgranted by the OPI.

Expenditures for capital outlay will be included in the calculation for MOE. Expenditures coded to Function 4XXX or Object 7XX with any function will be included.

Expenditure _____ Objects

EXCLUDED:

The following expenditure objects are not included in MOE even when spent for special education:

- 910** Operating transfers to other funds
- 920** Resource transfers to other districts (local moneys)
- 930** Federal or state grant resource transfers to other districts/cooperatives
- 971** Residual Equity Transfers Out

Expenditure _____ Functions

EXCLUDED:

The following expenditure functions are not included in MOE even when spent for special education:

5XXX Debt
Service

Expenditures **INCLUDED** in Fund

15:

All expenditures reported in Fund 15 will be **EXCLUDED** except for the expenditures of the following revenues if spent for special education (program 280):

- Revenue Source: 3450--Accelerated Local Government Severance Tax (if deposited in Fund 15)
- Revenue Source: 5710--Special Education Resource Transfers
- Revenue Source: 3610--Significant Needs Grants

EXAMPLES:

1. District A reports the following expenditures in special education:

01-280-1XXX-1XX 14-280-1XXX-2XX 01-280-1XXX-2XX 01-280-6200-920

All line items would be considered for Maintenance of Effort, except 01-280-6200-920. It is a special education resource transfer as recorded by the sending district.

2. District B reports the following expenditures in special education:

01-280-1XXX-1XX 14-280-6200-920 10-280-26XX-4XX
15-456-1XXX-1XX-001 (Revenue Source 5700-001)

The two line items above that would **not** be considered in the calculation of Maintenance of Effort would be 14-280-6200-920, because it is a resource transfer to a cooperative, and 15-456-1XXX-1XX-001, because it is an expenditure of revenue source 5700 Federal IDEA Part B funds.

The cooperative then returns money under a contract to be spent by the district locally for SPECIFIC SPECIAL EDUCATION SERVICES:

- Cooperative must report the transfer using 382-280-6200-920.
- District must deposit the money to Fund 15 using X15-5710 and assign a project reporter number. The district must report expenditures of the money using the same project reporter number assigned to the revenue source.
- Any funds remaining unspent on June 30 must be returned to the cooperative. The district must report the amount returned as a revenue abatement (i.e., negative revenue) under X15-5710. The cooperative must receive the refund as an expenditure abatement (i.e., negative expenditure) under 382-280-6200-920.

District made a resource transfer to the cooperative to pay the RSBG match. The cooperative then returns money to the district, directing the district to spend it locally for NON-SPECIFIC SPECIAL EDUCATION SERVICES in lieu of providing the required RSBG match:

- District transfers its match to the cooperative using X01-280-6200-920. The cooperative records the revenue using 382-5710.

-- The cooperative reports the payment back to the district by abating (decreasing) revenue source 382-5710 while the district abates (decreases) expenditure X01-280-6200-920. Thus, the records show the match transfer from district to cooperative was never made in the first place.

NOTE: Money returned to a member district without a contract for providing specific services is considered first to reimburse the district's match paid from the general fund; any payment in excess of the amount of required match must be deposited to the district's Miscellaneous Programs Fund (15) and used or returned by June 30 as discussed in the previous example.

District pays for contracted special education services received from another district or cooperative, and the services are not covered under the cooperative agreement or as a participating member of a consolidated IDEA Part B application (e.g., contracted services):

-- Paying district uses X01-280-21XX-354 to code a one-time payment for additional services. The cooperative codes the receipt using 382-1950

-- A district who provides a service to another district uses X15-1950 or X82-1950 to code a one-time receipt for additional special education services.

District, as a member of a special education cooperative or member of a consolidated application with another district, receives its Federal IDEA special education grant from the cooperative or host district:

-- Cooperative records the transfer of Federal IDEA grant money using 315- XXX-6200-930-###, where ### is a project reporter number assigned to the grant. A district who is a grant host and transfers the grant to another district must use X15- XXX-6200-930-###. Use expenditure program code 456 for the IDEA Part B grant and 457 for IDEA Preschool.

-- District must deposit Federal IDEA special education grants "passed through" from another district or cooperative in the Miscellaneous Programs Fund (15), using revenue code X15-5700-###, where ### is a project reporter code. Transfers and subsequent expenditures of the grant money must be identified with same project reporter number. Expenditures must be coded using the expenditure program number, such as X15-456-1XXX-XXX-### for IDEA Part B.

For further information regarding resource transfers, please refer to the School Accounting Manual 3-0500, 4-0400-10 and 4-0400-11.

MISCELLANEOUS PROGRAMS FUND (15). PROGRAM 280 EXPENDITURES:

Fund 15 is a Miscellaneous Programs Fund with a variety of revenue sources. Incorrectly using 280 for federal grant expenditures could significantly impact your MOE. Use program 280 for state and local special education expenditures, program 456 for federal IDEA grant expenditures, program 457 for federal IDEA Preschool grant expenditures. Refer to the [School Accounting Manual](#), section 3-0600, for further information.

If you have questions, contact OPISchoolFinance@mt.gov.

**INDIVIDUALS WITH DISABILITIES EDUCATION ACT (Part B)
CALCULATION OF MAINTENANCE OF EFFORT QUESTIONS
AND ANSWERS**

- 1. If I amend my Trustees' Financial Summary, will it affect the amount of state special education funds the district will receive?**

It may, if the amendment is to correct an expenditure reported as a special education allowable cost. Any change to a special education allowable cost expenditure will affect a district's minimum amount to avoid reversion in the current year, as well as reimbursement for disproportionate costs in the ensuing fiscal year.

Please refer to the district's special education reversion worksheet submitted with the trustees' financial summary to determine if the amendment will affect the district's minimum amount to avoid reversion.

Special education allowable costs are defined in 20-7-431, MCA, and 10.16.2206, ARM.

- 2. After the December 10 deadline for amending the TFS, how will an applicant correct an error in the Trustees' Financial Summary if it determines a reporting error was made and it adversely affects Maintenance of Effort?**

The applicant should submit a written request to the Division of Special Education for a hearing. If, as a result of the hearing, it is determined that errors were made in the Trustees' Financial Summary and corrections would result in the district demonstrating fiscal effort for Part B, the district will be considered to have met MOE.

- 3. How will an applicant know if they must make repayment to the OPI if they did not maintain effort as required?**

Applicants for IDEA Part B funds should carefully review the preliminary maintenance of effort report sent to them in October by the OPI. The report will indicate whether the applicant has maintained effort either through a review of the expenditures or on a per capita basis.

Prior to requiring the fiscal agent to make repayment to the OPI, the OPI sends the fiscal agent notice of the intent to require a repayment of funds, identifies the reason for the intended action and the applicant's right to request a hearing.

- 4. Is there any allowance allowed for decrease in maintenance of effort?**

Yes, IDEA 2004 provides for a reduction in the level of expenditures attributable to the following:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of
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special education personnel;

- b. A decrease in the enrollment of children with disabilities;
- c. The termination of the obligation of an LEA, 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 state educational agency, because the child –
 - i. has left the jurisdiction of the LEA;
 - ii. has reached the age at which the obligation of the LEA to provide a free appropriate public education to the child has terminated;
 - iii. no longer needs such program of special education; or
- d. the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Additionally, fiscal agents are allowed to adjust fiscal effort under the specific Circumstance specified in 300.205(a).

5. Isn't the maintenance of effort requirement for Part B the same as for Title I?

No.

6. Does a membership change in a cooperative or consortium affect maintenance of effort?

It may. If a membership change will occur in a cooperative or consortium, we encourage you to contact the OPI to determine what affect that may have on maintenance of effort. Circumstances vary, and we will try to address the situation when it happens.

7. Are expenditures for Special Olympics included in the calculation for maintenance of effort?

Yes. Expenditures of state and local funds for support of Special Olympics will be included in the calculation of maintenance of effort.

8. Are expenditures of Medicaid funds included in MOE determinations?

No.

9. Who do I contact when I have questions?

Reporting an error on the Trustees' Financial Summary or questions on submitting an amended Trustees' Financial Summary: OPISchoolFinance@mt.gov

For questions regarding the affect an amended Trustees' Financial Summary will have on reversion or disproportionate reimbursement: OPISchoolFinance@mt.gov

For questions regarding how a membership change can affect maintenance of effort, the MOE regulation or hearing procedures for amending a Trustees' Financial Summary after the December 10 deadline: dmccarthy@mt.gov