

A. GENERAL RULE

Question A-1: What is LEA MOE?

Answer: Generally, an LEA may not reduce the amount of local, or State and local, funds that it spends for the education of children with disabilities below the amount it spent for the preceding fiscal year.⁵ There are two components to the LEA MOE requirement – the eligibility standard and the compliance standard

Question A-2: What is the eligibility standard?

Answer: The eligibility standard in [34 CFR 300.203 \(a\)](#) requires that, in order to find an LEA eligible for an IDEA Part B subgrant for the upcoming fiscal year, the SEA must determine that the LEA has budgeted for the education of children with disabilities at least the same amount of local, or State and local, funds, as it actually spent for the education of children with disabilities during the most recent fiscal year for which information is available.

The eligibility standard is discussed in more detail in Section B of this document.

Question A-3: What is the compliance standard?

Answer: The compliance standard in [34 CFR 300.203 \(b\)](#) prohibits an LEA from reducing the level of expenditures for the education of children with disabilities made by the LEA from local, or State and local, funds below the level of those expenditures from the same source for the preceding fiscal year. In other words, an LEA must maintain (or increase) the amount of local, or State and local, funds it spends for the education of children with disabilities when compared to the preceding fiscal year.

The compliance standard is discussed in more detail in Section C of this document.

Question A-4: What are the four methods an LEA may use to meet the eligibility and compliance standards?

Answer: An LEA may use the following four methods to meet both the eligibility and compliance standards:

- (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.

Question A-5: What does “per capita” mean in the context of the LEA MOE regulations?

Answer: Per capita, in the context of the LEA MOE regulations, refers to the total amount of local, or State and local, funds either budgeted or expended by an LEA for the education of children with disabilities, divided by the number of children with disabilities served by the LEA.

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Question A-6: What is the “comparison year”?

Answer: The “comparison year” refers to the fiscal year that an LEA uses to determine the amount of local, or State and local, funds it must budget or spend, in order to meet both the LEA MOE eligibility and compliance standards. The comparison year differs for each standard, and may be affected by the Subsequent Years rule

Question A-7: What is the Subsequent Years rule?

Answer: The Subsequent Years rule prescribes the level of effort an LEA must meet in the year after the LEA fails to maintain effort. The Department first set out the Subsequent Years rule on April 4, 2012 in a letter to Ms. Kathleen Boundy, available at <http://www2.ed.gov/policy/special/guid/idea/memosdcltrs/osep-04-04-2012.pdf>. At that time, the Department clarified that the level of effort that an LEA must meet in the year after it fails to maintain effort is the level of effort that would have been required in the absence of that failure and not the LEA’s actual reduced level of expenditures in the fiscal year in which it failed to meet the compliance standard. Therefore, the Department’s expectation is that SEAs and LEAs have been complying with this interpretation since FY 2012-2013. Since that time, Congress included the Subsequent Years rule in the 2014 Appropriations Act and the 2015 Appropriations Act.⁷

Example: For FY 2014-2015, an LEA must have maintained at least the same level of expenditures as it did in the preceding fiscal year, FY 2013-2014, unless it did not meet the compliance standard in that year. If it did not meet the compliance standard in FY 2013-2014, the LEA must determine what it should have spent in FY 2013-2014, which is the amount that it spent in the preceding fiscal year, FY 2012-2013.

Question A-8: May LEAs use their local, or State and local, funds to meet both the LEA MOE requirement and a matching or MOE requirement for a separate Federal program (e.g., Medicaid or Vocational Rehabilitation)?

Answer: Yes. In fact, LEAs must include the amount of local only, or State and local, funds spent for the education of children with disabilities when calculating the level of effort required to meet the eligibility and compliance standards, even if those local only, or State and local, funds are also used to meet a matching requirement in another Federal program. The IDEA does not impose a matching requirement. In other words, an LEA that expends local, or State and local, funds for the education of children with disabilities must include those funds in its LEA MOE calculations regardless of whether it uses those same funds to comply with a matching or other MOE requirement (of course, an LEA that uses the local funds only method to meet the LEA MOE requirement need not include State funds in its LEA MOE calculations).

B. ELIGIBILITY STANDARD

Question B-1: What is the eligibility standard?

Answer: The eligibility standard [34 CFR 300.203 \(a\)](#) describes the MOE requirement that an LEA must meet as a condition of receiving an IDEA Part B subgrant. When reviewing an LEA’s application for an IDEA Part B subgrant, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount as the LEA spent for that purpose from the same source in the most recent fiscal year for which information is available, subject to the Subsequent Years rule.

As indicated in Question A-4, an LEA may meet the eligibility standard using any one of the following methods:

- (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.

The following table illustrates how the different methods work in practice:

Table A. Example of How an LEA May Meet the Eligibility Standard in 2020-2021 Using Different Methods						
Fiscal Year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child Count	Notes
2018–2019	\$500*	\$1,000*	\$50*	\$100*	10	*The LEA met the compliance standard using all 4 methods.
2019–2020						Final information not available at time of budgeting for 2020–2021.
How much must the LEA budget for 2020–2021 to meet the eligibility standard in 2020–2021?	\$500	\$1,000	\$50	\$100		When the LEA submits a budget for 2020–2021, the most recent fiscal year for which the LEA has information is 2018–2019. It is not necessary for the LEA to consider information on expenditures for a fiscal year prior to 2018–2019 because the LEA maintained effort in 2018-2019.

Question B-2: What is the comparison year for the LEA MOE eligibility standard?

Answer: The comparison year for the LEA MOE eligibility standard, regardless of the method used to meet the eligibility standard, is the most recent fiscal year for which information is available. Thus, in the example in Table A, above, the comparison year is FY 2018-2019. However, if the LEA had an MOE failure in FY 2018-2019, the SEA would be required to identify the correct comparison year to determine whether the LEA had met the eligibility standard in FY 2020-2021. Utilizing the Subsequent Years rule, the SEA would determine the most recent fiscal year in which the LEA met MOE and for which it has information available. For example, if the LEA met MOE in FY 2018-2019, FY 2017-2018 would be the comparison year for determining whether the LEA met the eligibility standard in FY 2020-2021.

Question B-3: What is the “most recent fiscal year for which information is available”?

Answer: The “most recent fiscal year for which information is available” is the most recent fiscal year for which an LEA has final data on the amount the LEA spent in local, or State and local, funds for the education of children with disabilities. Generally, an LEA applies for an IDEA Part B subgrant in the spring. At the time of the application, the LEA typically is finalizing its budget for the next fiscal year (the “budget year”) and will not have final information on its level of expenditures for the fiscal year immediately preceding the budget year because that fiscal year has not yet ended. Therefore, the most recent fiscal year for which information is available is frequently two fiscal years prior to the budget year.

For example, in Table B below, in June 2020 an SEA reviews an LEA’s application for an IDEA Part B subgrant for FFY 2021 Part B funds, available on July 1, 2020, which means that the SEA reviews the amount the LEA has budgeted for FY 2020-2021. The most recent fiscal year for which information could be available is FY 2018-2019. This is because FY 2019-2020 has not yet concluded and, therefore, final expenditure data are not yet available for that year.

In the example in Table B below, if the LEA failed to maintain effort in FY 2018-2019, the SEA would examine the most recent fiscal year for which information is available, which would likely be FY 2017-2018. Assuming the LEA maintained effort in FY 2017-2018, the SEA would compare the amount budgeted for the education of children with disabilities for FY 2020-2021 to the amount expended for that purpose from the same source in FY 2017-2018. This is reflected in Table B, below.

Table B. Example of How an LEA May Meet the Eligibility Standard in 2020-2021 Using Different Methods and the Application of the Subsequent Years Rule

Fiscal Year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child Count	Notes
2017–2018	\$500*	\$1,000*	\$50*	\$100*	10	
2018–2019	\$450	\$1,000*	\$45	\$100*	10	
2019–2020						Final information not available at time of budgeting for 2019–2020.
How much must the LEA budget for 2020–2021 to meet the eligibility standard in 2020–2021?	\$500	\$1,000	\$50	\$100		If the LEA seeks to use a combination of State and local funds, or a combination of State and local funds on a per capita basis, to meet the eligibility standard, the LEA does not consider information on expenditures for a fiscal year prior to 2017–2018 because the LEA maintained effort in 2017–2018 using those methods. However, if the LEA seeks to use local funds only, or local funds only on a per capita basis, to meet the eligibility standard, the LEA must use information on expenditures for a fiscal year prior to 2018–2019 because the LEA did not maintain effort in 2018–2019 using either of those methods, per the Subsequent Years rule. That is, the LEA must determine what it should have spent in 2017–2018 using either of those methods, and that is the amount that the LEA must budget in 2020–2021.
*LEA met MOE using this method.						

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Question B-5: May an LEA change the method it uses to establish eligibility from one year to the next?

Answer: Yes. An LEA may change methods to establish eligibility from one year to the next, if the LEA uses the same method for calculating the amount it spent in the comparison year and the amount it must budget in the year for which it is establishing eligibility. For example, an LEA met the MOE eligibility standard using local funds only in FY 2018-2019. That LEA wishes to meet the MOE eligibility standard using a combination of State and local funds in FY 2019-2020. To do so, the LEA calculates the amount it expended for the education of children with disabilities using a combination of State and local funds in the most recent fiscal year in which the LEA met MOE using that method and for which information is available. As a practical matter, many LEAs will meet the eligibility standard for a fiscal year using more than one method.

Question B-6: May an LEA use a different method to establish eligibility than it used in the comparison year to meet the compliance standard?

Answer: Yes. When establishing eligibility, an LEA is not required to use the same method it used to meet the compliance standard in the most recent fiscal year for which information is available. When an LEA is budgeting for the education of children with disabilities, the LEA selects a method by which it intends to meet the eligibility standard. If the LEA met the compliance standard using the same method in the most recent fiscal year for which information is available, the LEA must budget at least that amount (after taking into consideration the exceptions and adjustment in [34 CFR 300.204](#) and [34 CFR 300.205](#) , as permitted by in order to meet the eligibility standard.

Pursuant to the Subsequent Years rule in [34 CFR 300.203 \(c\)](#), if the LEA did not meet the compliance standard using that method in the most recent fiscal year for which information is available, the LEA determines the amount that the LEA should have spent for the education of children with disabilities using that same method in the most recent fiscal year for which information is available. In that case, the LEA must budget at least that amount (after taking into consideration the exceptions and adjustment in [34 CFR 300.204](#) and [34 CFR 300.205](#) , as permitted by in order to meet the eligibility standard.

Question B-8: Is an LEA required to provide budget amendments to the SEA if its expenditures change during a fiscal year, after the SEA determines that the LEA is eligible for a Part B subgrant for that fiscal year?

Answer: No. Once an SEA has determined an LEA's eligibility, the LEA does not need to provide amendments that reflect changes in expenditures to remain eligible for that year.

C. COMPLIANCE STANDARD

Question C-1: What is the compliance standard?

Answer: The compliance standard [34 CFR 300.203 \(b\)](#) is an expenditure test to determine whether an LEA, in fact, met the requirement to maintain effort in a particular fiscal year. The compliance standard prohibits LEAs from reducing the level of expenditures from local, or State and local, funds for the education of children with disabilities below the level of those expenditures made by the LEA for that purpose from the same source for the preceding fiscal year, except as provided in [34 CFR 300.204](#) and [34 CFR 300.205](#)

Question C-2: What are the four methods by which an LEA may meet the compliance standard?

Answer: As indicated in Question A-4, an LEA may meet the compliance standard using any one of the following methods:

- (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.

The table below provides an example of how an LEA meets or does not meet the LEA MOE compliance standard using alternate methods from year to year without using the exceptions or adjustment.

Table C. Example of How an LEA May Meet the Compliance Standard Using Alternate Methods From Year to Year

Fiscal Year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child Count
2015–2016	\$500*	\$950*	\$50*	\$95*	10
2016–2017	\$400	\$950*	\$40	\$95*	10
2017–2018	\$500*	\$900	\$50*	\$90	10

*LEA met compliance standard using this method.

Question C-3: What is the comparison year for the LEA MOE compliance standard?

Answer: The comparison year for the compliance standard is “the preceding fiscal year.” However, due to the Subsequent Years rule in [34 CFR 300.203 \(c\)](#), the Department is, in effect, defining “the preceding fiscal year” to mean the last fiscal year in which the LEA met MOE, regardless of whether the LEA is seeking to establish compliance based on local funds only, or based on State and local funds.

The Subsequent Years rule does not prevent an LEA from using any of the four methods to meet the compliance standard in [34 CFR 300.203 \(b\)](#). However, an LEA that wishes to meet the compliance standard in a fiscal year using one particular method must be able to identify the amount of funds that the LEA expended in the most recent fiscal year in which the LEA met the compliance standard using that same method.

The table below illustrates how to calculate the required level of effort when an LEA fails to meet MOE in the preceding fiscal year.

Table D. Example of Level of Effort Required to Meet MOE Compliance Standard in Year Following Year in Which LEA Did Not Meet MOE Compliance Standard

Fiscal Year	Actual level of effort	Required level of effort	Notes
2012–2013	\$100	\$100	LEA met MOE.
2013–2014	\$90	\$100	LEA did not meet MOE.
2014–2015	\$90	\$100	LEA did not meet MOE. Required level of effort is \$100 despite LEA’s failure in 2013–2014.
2015–2016	\$110	\$100	LEA met MOE.
2016–2017	\$100	\$110	LEA did not meet MOE. Required level of effort is \$110 because LEA expended \$110, and met MOE, in 2015–2016.
2017–2018		\$110	Required level of effort is \$110, despite LEA’s failure in 2016–2017.

Question C-4: May an LEA switch methods from year to year to meet the compliance standard?

Answer: Yes. LEAs may change methods to establish compliance from one year to the next if the LEA is using the same method for comparing the expenditures in the comparison year to the expenditures in the year for which it is establishing compliance, and the LEA is able to provide auditable data to document that it met the compliance standard using that method in the comparison year.

For example, an LEA met the compliance standard in FY 2017-2018 using a combination of State and local funds and using a combination of State and local funds on a per capita basis. However, during a compliance review for FY 2017-2018, the LEA provided data to the SEA demonstrating only that it met the compliance standard for FY 2017-2018 using a combination of State and local funds on a per capita basis. This data would be sufficient for the SEA to find that the LEA met the compliance standard. Subsequently, the State conducts a compliance review to determine if the LEA met the compliance standard in the next year, FY 2018-2019. The LEA provides information to the State that demonstrates that it met the compliance standard in FY 2018-2019 using a combination of State and local funds. To demonstrate that it met the compliance standard using that method, the LEA provides to the State the amount of State and local funds that the LEA spent for the education of children with disabilities in FY 2017-2018 and in FY 2018-2019 so that the State is comparing each year's expenditures using the same method.

Table E below demonstrates how an LEA may meet the compliance standard using alternate methods from year to year in years that the LEA used the exceptions or adjustment.

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Table E. Example of How an LEA May Meet the Compliance Standard Using Alternate Methods from Year to Year and Using Exceptions or Adjustment under §§300.204 and 300.205

Fiscal Year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child Count
2015– 2016	\$500*	\$950*	\$50*	\$95*	10
2016– 2017	\$400	\$950*	\$40	\$95*	10
2017–2018	<p>\$450*</p> <p>In 2017-2018, the LEA was required to spend at least the same amount in local funds only that it spent in the preceding fiscal year, subject to the Subsequent Years rule. Therefore, prior to taking any exceptions or adjustment, the LEA was required to spend at least \$500 in local funds only.</p> <p>In 2017-2018, the LEA properly reduced its expenditures, per an exception by \$50, and therefore, was required to spend at least \$450 in local funds only (\$500 from 2015-2016 per Subsequent Years rule - \$50 allowable reduction).</p>	\$1,000*	<p>\$45*</p> <p>In 2017-2018, the LEA was required to spend at least the same amount in local funds only on a per capita basis that it spent in the preceding fiscal year, subject to the Subsequent Years rule. Therefore, prior to taking any exceptions or adjustment, the LEA was required to spend at least \$50 in local funds only on a per capita basis.</p> <p>In 2017-2018, the LEA properly reduced its aggregate expenditures, per an exception by \$50.</p> <p>\$50/10 children with disabilities in the comparison year (2015-2016) = \$5 per capita allowable reduction per an exception.</p> <p>\$50 local funds only on a per capita basis (from 2015-2016 per Subsequent Years rule) – \$5 allowable reduction = \$45 local funds only on a per capita basis to meet MOE.</p>	\$100*	10

Table E. Example of How an LEA May Meet the Compliance Standard Using Alternate Methods from Year to Year and Using Exceptions or Adjustment under §§300.204 and 300.205

Fiscal Year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child Count
2018–2019	<p style="text-align: center;">\$405</p> <p>In 2018-2019, the LEA was required to spend at least the same amount in local funds only that it spent in the preceding fiscal year, subject to the Subsequent Years rule. Therefore, prior to taking any exceptions or adjustment, the LEA was required to spend at least \$450 in local funds only.</p> <p>In 2018-2019, the LEA properly reduced its expenditures, per an exception by \$10 and the adjustment by \$10.</p> <p>Therefore, the LEA was required to spend at least \$430 in local funds only. (\$450 from 2017-2018 – \$20 allowable reduction per an exception and the adjustment.</p>	<p style="text-align: center;">\$1,000*</p> <p>Because the LEA did not reduce its expenditures from the comparison year (2017-2018) using a combination of State and local funds, the LEA met MOE.</p>	<p style="text-align: center;">\$45*</p> <p>In 2018-2019, the LEA was required to spend at least the same amount in local funds only on a per capita basis that it spent in the preceding fiscal year, subject to the Subsequent Years rule. Therefore, prior to taking any exceptions or adjustment, the LEA was required to spend at least \$45 in local funds only on a per capita basis.</p> <p>In 2018-2019, the LEA properly reduced its aggregate expenditures by \$10 and the adjustment by \$10.</p> <p>\$20/10 children with disabilities in the comparison year (2017-2018) = \$2 per capita allowable reduction per an exception and the adjustment.</p> <p>\$45 local funds only on a per capita basis (from 2017-2018) – \$2 allowable reduction per an exception = \$43 local funds only on a per capita basis required to meet MOE.</p> <p>Actual level of effort is \$405/9 (the current year child count).</p>	<p style="text-align: center;">\$111.11*</p> <p>Because the LEA did not reduce its expenditures from the comparison year (2017-2018) using a combination of State and local funds on a per capita basis (\$1,000/9 = \$111.11 and \$111.11 > \$100), the LEA met MOE.</p>	9

*LEA met MOE using this method.

NOTE ABOUT TABLE: When calculating any exception(s) and/or adjustment on a per capita basis for the purpose of determining the required level of effort, the LEA must use the child count from the comparison year, and not the child count of the year in which the LEA took the exception(s) and/or adjustment. When determining the actual level of effort on a per capita basis, the LEA must use the child count for the current year. For example, in 2018-2019, the LEA uses a child count of 9, not the child count of 10 in the comparison year, to determine the actual level of effort.

Question C-5: May an LEA use a different method to meet the compliance standard in a fiscal year that it used to meet the eligibility standard for that same year?

Answer: Yes. An LEA is not required to use the same method to meet the compliance standard in a fiscal year that it used to meet the eligibility standard for that same year. For example, if an LEA meets the eligibility standard for FY 2016-2017 using local funds only, it is not required to meet the compliance standard for FY 2016-2017 using local funds only. Likewise, an LEA is not required to use the same method to meet the eligibility standard in a subsequent year that it used to meet the compliance standard in a preceding fiscal year. For example, if an LEA met the compliance standard for FY 2016-2017 using a combination of State and local funds, the LEA is not required to meet the eligibility standard for FY 2017-2018 using a combination of State and local funds.

D. EXCEPTIONS AND ADJUSTMENT/FLEXIBILITY

Question D-1: What are the allowable exceptions to the LEA MOE requirement?

Answer: Under [34 CFR 300.204](#), there are five instances where an LEA may reduce the level of expenditures for the education of children with disabilities made by the LEA below the level of those expenditures for the preceding fiscal year (for the compliance standard), and below the level of those expenditures for the most recent fiscal year for which information is available (for the eligibility standard). They are:

- (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel (e.g., special education teachers, speech pathologists, paraprofessionals assigned to work with children with disabilities);
- (b) A decrease in the enrollment of children with disabilities;
- (c) The termination of the obligation of the agency, consistent with IDEA Part B, 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; and

(e) The assumption of cost by the high-cost fund operated by the SEA.

Question D-2: May an LEA apply the exceptions and the adjustment in to meet both the eligibility and compliance standards?

Answer: Yes. An LEA may apply the exceptions and the adjustment in to meet both the eligibility and compliance standards. When determining the amount of funds that an LEA must budget to meet the eligibility standard, the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment 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.

Question D-3: May an LEA reduce its required level of effort by taking more than one exception in the same fiscal year?

Answer: Yes, an LEA may reduce its required level of expenditures for the education of children with disabilities by taking more than one exception in the same fiscal year. For example, an LEA may reduce its level of expenditures for the education of children with disabilities because of the voluntary departure of a special education teacher, and further reduce its level of effort for the same fiscal year because of the termination of the LEA's obligation to provide a program of special education to a particular child with a disability that is an exceptionally costly program because the child leaves the jurisdiction of the LEA. LEAs must maintain documentation to demonstrate the LEA properly took the exceptions.

Question D-4: How does taking the exceptions and/or the adjustment in affect the required amount of expenditures that an LEA must make in a subsequent year?

Answer: If an LEA properly takes the exceptions or the adjustment to reduce the level of local, or State and local, expenditures otherwise required in a fiscal year, the LEA would be required in subsequent fiscal years to maintain effort at the reduced level – except to the extent that the LEA increases the actual level of expenditures above the required level of expenditures for that fiscal year. In addition, the LEA's actual level of expenditures in a preceding fiscal year, and not the reduced level of expenditures that the LEA

could have spent had it taken all the exceptions and the adjustment, is the level of expenditures required of the LEA in a future fiscal year (which may be affected by the Subsequent Years rule).

The following table illustrates how taking, or not taking, an allowable exception or adjustment, and an increase in actual expenditures, affect the required level of effort in subsequent years.

Table F. Comparison of Required Levels of Effort for Two Hypothetical LEAs				
	Actual FY 2015–2016 Expenditures Using a Combination of State and Local funds	Allowable Exception in §300.204 Taken in FY 2016–2017	Actual FY 2016–2017 Expenditures Using a Combination of State and Local funds	Required Level of Effort Using a Combination of State and Local Funds in FY 2017–2018
LEA #1	\$250,000*	\$10,000	\$240,000*	\$240,000
LEA #2	\$250,000*	\$10,000	\$260,000*	\$260,000
* LEA met MOE.				

Question D-5: Is the elimination of positions, reduction in staff, or lay-offs allowable for Exception (a)?

Answer: No. The departure must be voluntary.

Question D-6: If a special education staff member moved to a general education position voluntarily is that an allowed Exception (a)?

Answer: Yes. Because this person changed positions based on their own choice.

Question D-7: What does the term “Departure for just cause” mean?

Answer: Departure for just cause” refers to the labor language regarding misconduct of an employee, or some other event relevant to the employee, which justifies the immediate termination of the employment contract.

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Question D-8: For IDEA LEA MOE purposes what defines a “exceptionally costly special education program” that would qualify for Exception (c)?

Answer: NYSED defines an “exceptionally costly special education program” under IDEA MOE when the per pupil expenditure amount for a particular student with disabilities is at least 25% greater than the average per pupil expenditure for that LEA. The Expenditures per Pupil information is located at <https://data.nysed.gov/> within the Student Report Card. The amount that can be applied is the cost for that student if the total cost for that student meets the threshold requirement.

Question D-9: Does NYSED operate a high-cost aid program for Exception (e)?

Answer: NYSED does not operate a High-Cost Funds, so Exception (e) is not applicable in New York State.

E. CONSEQUENCES OF LEA MOE FAILURE

Authority: §300.203(d); section 452 of the General Education Provisions Act (GEPA) (20 U.S.C. 1234a)

Question E-1: What happens if an LEA does not meet the eligibility standard?

Answer: If NYSED determines that an LEA does not meet the MOE eligibility standard using any of the four eligibility methods in [34 CFR 300.203 \(a\)](#), the SEA must provide the LEA with reasonable notice that the SEA has determined the LEA not eligible for an IDEA Part B subgrant and provide the LEA an opportunity for a hearing, pursuant to [34 CFR 300.221](#). If the SEA determines that the LEA is not eligible to receive a Part B subgrant for that fiscal year, the SEA retains the Part B subgrant that the LEA would have received, and the SEA is required to provide special education and related services directly to children with disabilities residing in the area served by that LEA pursuant to [34 CFR 300.227](#).

Question E-2: What are the consequences of an LEA's failure to meet the MOE compliance standard?

Answer: If an LEA fails to meet the MOE compliance standard, NYSED is liable in a recovery action under [section 452 of GEPA - 20 U.S.C. 1234a](#) to return to the United States Department of Education, using non-Federal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in that fiscal year, or the amount of the LEA's IDEA Part B subgrant in that fiscal year, whichever is lower.

NYSED will seek repayment from the LEA for the amount equal to the amount by which the LEA failed to maintain its level of expenditures in that fiscal year, or the amount of the LEA's IDEA Part B subgrant in that fiscal year, whichever is lower.

See Table G. below for an example on how the repayment amount is calculated.

Table G. Example of How to Calculate the Amount of an LEA’s Failure to Meet the Compliance Standard in 2016–2017 and the Amount an SEA Must Return to the Department						
Fiscal year	Local funds only	Combination of State and local funds	Local funds only on a per capita basis	Combination of State and local funds on a per capita basis	Child count	Amount of IDEA Part B subgrant
2015–2016	*\$500	*\$950	*\$50	*\$95	...	Not relevant
2016–2017	\$400	\$750	\$40	\$75	10	\$50
Amount by which an LEA failed to maintain its level of expenditures in 2016–2017.	\$100	\$200	\$100 (the amount of the failure equals the amount of the per capita shortfall (\$10) times the number of children with disabilities in 2016–2017 (10)).	\$200 (the amount of the failure equals the amount of the per capita shortfall (\$20) times the number of children with disabilities in 2016–2017 (10)).
<p>The SEA determines that the amount of the LEA’s failure is \$100 using the calculation method that results in the lowest amount of a failure. The SEA’s liability is the lesser of the four calculated shortfalls and the amount of the LEA’s Part B subgrant in the fiscal year in which the LEA failed to meet the compliance standard. In this case, the SEA must return \$50 to the Department because the LEA’s IDEA Part B subgrant was \$50, and that is the lower amount.</p>						
<p>* LEA met MOE using this method.</p>						