

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 –

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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 (ur)3 ((S)-4 (t)-2 (a6 (Y)2 ()())JTJ -0.02 Tc 0.02 Tw onY)2 (y

B. ELIGIBILITY STANDARD

Question B-1: What is the eligibility standard?

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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 212121

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.

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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

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.

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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.

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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
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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
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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

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 Expenditures Using a Combination of State and Local funds	Allowable Exception in §300.204 Taken in	Actual FY Expenditures Using a Combination of State and Local funds	Required Level of Effort Using a Combination of State and Local Funds in FY
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.

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:

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

