



Key Differences between IDEA Local Educational Agency Maintenance of Effort and Excess Cost Requirements

The Individuals with Disabilities Education Act (IDEA) contains two separate requirements for local educational agencies (LEAs) to ensure sufficient funding for special education programs: maintenance of effort (MOE) and excess cost. While these requirements have some similarities, **they are separate requirements requiring separate calculations.**

LEA MOE

An LEA must maintain at least the same amount of local, or state and local, funds it spends for the education of children with disabilities from year to year. At 34 CFR §300.203, IDEA requires an LEA to budget and expend at least the same amount of local, or state and local, funds for the education of children with disabilities as it expended in previous years, on a total or per capita basis. This requirement is called LEA maintenance of effort, or LEA MOE.

Excess Cost

IDEA Part B funds can be used only for expenses above and beyond what is spent on average on an elementary or secondary school student, which is known as “excess cost.” IDEA requires, at 34 CFR §§300.16 and 300.202(b), and at Appendix A to Part 300, that an LEA use its IDEA funds for costs of special education and related services that are in excess of the costs for all students. This ensures that the LEA spends at least as much on children with disabilities as on children without disabilities before using IDEA funds. An LEA meets the excess cost requirement if it has spent at least a minimum amount of non-IDEA dollars for the education of children with disabilities. That minimum amount is determined using a step-by-step method defined in IDEA and described in this document.

Purpose

The purpose of this document is to describe key differences between the requirements and the methods for calculating compliance with each separate requirement. **One calculation cannot be used to satisfy both the LEA MOE and excess cost requirements. An LEA might meet one requirement, but not the other.**

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Key Differences between IDEA LEA MOE and Excess Cost Requirements

IDEA contains two separate requirements for LEAs to ensure sufficient funding for special education programs: LEA MOE and excess cost. While these requirements have some similarities, **they are separate requirements requiring separate calculations.**

➔ *This graphic, intended to be used together with the following question and answer table, illustrates key differences.*

LEA MOE

An LEA must maintain at least the same amount of local, or state and local, funds it spends for the education of children with disabilities as it spent in the preceding fiscal year.



Excess Cost

An LEA must ensure that IDEA Part B funds are used only for expenses above and beyond what is spent on average on an elementary or secondary school student.

LEA MOE is concerned with spending on the education of children with disabilities from year to year.



Excess cost is concerned with equity and ensuring that the same average amount is spent on children with disabilities from sources other than IDEA Part B, as is spent on children in the school district taken as a whole.



LEA MOE considers only local, or state and local, funds, not federal.



Excess cost considers all non-IDEA funds (including other federal funds, e.g., Federal Impact Aid) when calculating actual spending.



LEA MOE compares total amounts budgeted and spent for children with disabilities.



Excess cost calculates the minimum amount of spending required and compares this to actual spending.



LEA MOE calculation includes all grade levels.



Excess cost calculates elementary and secondary schools separately.



	<i>LEA MOE</i>	<i>Excess Cost</i>
A. What are the requirements?	An LEA must budget and expend at least the same amount of either local, or state and local, funds for the education of children with disabilities from year to year . If an LEA meets the LEA MOE requirements, it also meets the requirement that LEAs use IDEA funds to supplement state, local, and other federal funds, and not supplant them (see 34 CFR §300.202).	An LEA must use IDEA funds to pay only the excess cost of providing special education and related services for children with disabilities in a given school year . The regulations state that non-IDEA funds must be expended BEFORE spending IDEA funds. OSEP has clarified that, as long as the non-IDEA funds are expended by the end of the fiscal year, IDEA funds may be expended concurrently.
B. Where can they be found in the regulations?	34 CFR §§300.203-300.205 Appendices D–E	34 CFR §§300.16, 300.202(a)(2) and (b) Appendix A
C. What are the major differences?	When calculating LEA MOE, an LEA performs one calculation inclusive of all grade levels. The LEA MOE test is a year-to-year comparison to determine whether or not an LEA budgeted and expended for the education of children with disabilities at least as much as it had in a previous fiscal year.	When calculating excess cost, an LEA must compute the minimum average amount separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools. The excess cost test is not a year-to-year comparison, but a test of whether or not the LEA spent a minimum average amount for the education of elementary (or secondary) school children with disabilities before using IDEA funds.

	<i>LEA MOE</i>	<i>Excess Cost</i>
D. Which funds are used to address these requirements?	<p>Only local, or state and local, funds used for the education of children with disabilities can be used to meet this requirement.</p> <p>Federal funds may not be used to meet the LEA MOE requirement.</p>	<p>The following funds are used to establish the average annual per student [pupil] expenditure (APPE) minimum threshold:</p> <ul style="list-style-type: none"> • All federal funds expended for education-related purposes <ul style="list-style-type: none"> » Includes Quality Teacher grants, Technology Education grants, Impact Aid funds, etc. • All state and local funds expended for education-related purposes <p>The following funds must be subtracted when determining the average APPE minimum threshold:</p> <ul style="list-style-type: none"> • Federal funds received for IDEA Part B and Titles IA, IIIA, and IIIB of the Elementary and Secondary Education Act (ESEA), reauthorized by the Every Student Succeeds Act (ESSA) on December 10, 2015 • State and local funds used for special education of children with disabilities (see 34 CFR §§300.16) and Titles IA, IIIA, and IIIB of ESEA as amended by ESSA • Capital outlay and debt service
E. Are there any exceptions or adjustments?	<p>Yes. The allowable exceptions are: (a) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel; (b) a decrease in 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; (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 under §300.704(c).</p> <p>An LEA may also be able to reduce its level of effort when its IDEA Part B allocation is increased.</p> <p>See 34 CFR §§300.204–300.205.</p>	<p>Yes. While the excess cost requirement generally prevents an LEA from using IDEA funds to pay for all of the costs directly attributable to the education of a child with a disability, there is an exception. An LEA may use IDEA funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21 if no local or state funds are available for non-disabled children of these ages. The LEA must still comply with the non-supplanting and other requirements of Part B in providing the education and services for these children.</p> <p>See 34 CFR §300.202(b)(ii).</p>

	<i>LEA MOE</i>	<i>Excess Cost</i>
<p>F. What is the method for calculating whether an LEA has met the requirements?</p>	<p>Each year, an LEA may use one of four methods (local total, local per capita, state and local total, or state and local per capita) to demonstrate that it has budgeted, and then expended, at least the same amount as the LEA spent in the most recent year it met the LEA MOE requirements using that same method. An LEA may change the method from year to year as long as the two years being compared use the same method of calculation.</p> <p>(1) Determine the amount of local, or state and local, funds expended in the comparison year (the comparison is the most recent year the LEA met the LEA MOE compliance standard for a given method; the comparison year may vary by method).</p> <p>For the eligibility standard (determining whether the LEA has budgeted at least the same amount):</p> <p>(2a) Determine the amount of local, or state and local, funds budgeted for special education in the coming fiscal year.</p> <p>(3a) Subtract projected exceptions or adjustments and exceptions or adjustments that were used in any intervening years since the LEA MOE requirements were last met from the result in step (1).</p> <p>If the result of step (2a) is greater than the result from step (3a), the LEA met the LEA MOE eligibility standard.</p> <p>For the compliance standard (determining whether the LEA has expended at least the same amount):</p> <p>(2b) Determine the amount of local, or state and local, funds expended for special education in the last year for which final expenditure data are available.</p> <p>(3b) Subtract exceptions or adjustments and exceptions or adjustments that were used in any intervening years since the LEA MOE requirements were last met from the result in step (1).</p> <p>If the result in step (2b) is greater than the result from step (3b), the LEA met the LEA MOE compliance standard.</p> <p>Figures demonstrating these calculations are provided in Appendix E of IDEA regulations, Table 6.</p>	<p>By the end of a fiscal year (e.g., FY 2015–16), an LEA must have spent the minimum average in non-IDEA funds on the education of students with disabilities.</p> <p>For an LEA to meet the excess cost requirement:</p> <ol style="list-style-type: none"> 1. Use Appendix A to IDEA regulations to determine the expenditures made in the reference school year (e.g., 2014–15). This is the average amount spent on education for every elementary and secondary child (APPE), calculated separately. 2. Determine the minimum amount to be spent in the current school year (e.g., 2015–16) by multiplying that amount (APPE from item (1)) by the child count of students with disabilities in the current year (e.g., 2015–16). 3. At the end of the school year (e.g., 2015–16), determine the amount that was actually expended in non-IDEA funds on the education of students with disabilities. <p>If (3) is greater than or equal to (2) at both the elementary and secondary levels, compared separately, the LEA met the excess cost requirement for the current school year (e.g., 2015–16).</p>

	<i>LEA MOE</i>	<i>Excess Cost</i>
G. How might these calculations change in a schoolwide program?	<p>In a schoolwide program, schools have latitude to determine how to organize their operations and allocate the multiple funding sources available to them. They do not have to identify particular children as eligible for services or separately track federal dollars.</p> <p>If the schoolwide program does not spend the total combined (e.g., IDEA and Title I) funds, they may face difficulty backing out specific IDEA and Title I funds that must be deducted from the LEA MOE calculation.</p>	<p>Because federal funds, as well as state and local funds, related to Part B of IDEA and Title I of ESSA are deducted from total expenditures, a schoolwide program should not affect the excess cost calculation.</p> <p>However, if the combined funds in a schoolwide program are not fully expended, the LEA will need to determine whether or how much of the funds could have been expended as part of the excess cost.</p>
H. What are the consequences to an LEA of not meeting the requirements and what is the SEA's responsibility when an LEA does not meet the requirements?	<p>If an LEA fails to maintain its level of expenditures, the state educational agency (SEA) must return the amount by which the LEA failed to meet the requirement, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower, to the U.S. Department of Education, using non-federal funds or federal funds for which accountability to the federal government is not required.</p> <p>The SEA has discretion to collect the amount repaid from the LEA.</p>	<p>If an LEA fails to meet the excess cost requirement, the SEA must return to the U.S. Department of Education "an amount that is proportionate to the extent of the harm its violation caused to an identifiable federal interest associated with the program under which it received the grant or cooperative agreement." Any amount returned to the Department must be made out of non-federal funds or federal funds for which accountability to the federal government is not required.</p> <p>The SEA, as the recipient of the grant award from the federal government, would be responsible for any repayment to the U.S. Department of Education. The SEA has discretion to collect the amount it is required to repay from the LEA.</p>
I. What data related to this requirement should an SEA collect?	<p>An SEA should track, or require its LEAs to track, whether the LEAs meet the eligibility and compliance requirements for LEA MOE. At a minimum, the SEA should collect data on, or require LEAs to track the amount of, local funds budgeted and expended for the education of children with disabilities; state funds budgeted and expended for the education of children with disabilities; and exceptions and adjustments used by LEAs to reduce LEA MOE amounts.</p>	<p>An SEA should track, or require its LEAs to track, how the APPE is determined (monitoring to ensure LEAs are properly calculating APPE); the cost of special education and related services; and the amount of non-IDEA funds expended for the education of children with disabilities at the elementary and secondary levels, identified separately.</p>