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Bureau of Special Education FY'17 Memo #5

Date: September 9, 2016

To: Superintendents of Schools
Directors of Special Education

From: Office of the Commissioner

Division of Educational Improvement
Bureau of Special Education

Re: Maintenance of Effort (MOE) and Excess Costs

The New Hampshire Department of Education (NHDOE), Bureau of Special Education is providing the following guidance with reference to Maintenance of Effort (MOE) and Excess costs.

The NHDOE is required by federal regulations to ensure that all local education agencies (LEAs) are in compliance with the Individuals with Disabilities Education Act (IDEA) (34 CFR 300.202 and 300.302) relative to the Maintenance of Effort (MOE) and Excess Cost calculations. When a district meets the MOE, this means that over time, from year to year, an LEA has not shown a reduction in the fiscal effort to support students with disabilities. This ensures that the federal IDEA funds are supplementing, not supplanting, local fiscal effort. The Excess Cost requirement is intended to prevent an LEA from using funds provided under IDEA to pay for all of the costs attributable to the education of a child with a disability.

The following information is intended to provide school district personnel with basic information regarding the MOE and Excess Costs as well as methods of calculation.

Maintenance of Effort

Maintenance of Effort is a mandate by IDEA which requires the State and districts to demonstrate, through budget calculations, that their amount of funding for Special Education is remaining relatively constant from one year to the next.

There are two (2) standards that districts have to meet to keep qualifying for IDEA grant money. They are called the Eligibility Standard and the Compliance Standard. To show that they are meeting both standards, districts may use any one (1) of the four (4) funding sources below to calculate their MOE:

- A) Local funds
- B) A combination of State and local funds
- C) Local funds per capita (how much they intend to spend on special education divided by how many identified students they have in the district)
- D) The combination of State and local funds per capita.

- Standard #1 [the Eligibility Standard §300.203(a)] requires each district to show eligibility for the grant. Districts do this by using their numbers from the previous year, from one of the four sources, to show that the budget for students with disabilities is at least the same amount as it was the previous year. This will be done when the district is completing the grant application.
- Standard #2 [the Compliance Standard §300.203(b)] requires each district to show that it is compliant because it isn't reducing its budgeted amounts for the coming year, from any of the four sources, below the level of what these expenditures were the previous year. The NHDOE will calculate this amount.

Basically, districts have an obligation to spend at least what they did the previous year from State/local budget. They also have an obligation to maintain a State/local budget that isn't below the expenditures of the previous year. Districts may choose from any one of the four sources to make that calculation.

Exceptions

The Federal Government has provided for exceptions to the MOE. The budgeted amount in the Eligibility Standard for the coming year may be lower in the following circumstances:

- A) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel. (34 CFR §300.204 (a))
For example: A special education teacher leaves his job voluntarily. His salary was \$60,000 yearly. He was replaced by a special education teacher with a salary of \$40,000 yearly. The district would be permitted to reduce its MOE by \$20,000 (the difference between their salaries).
- B) A decrease in enrollment of students with disabilities. (34 CFR §300.204 (b))
For example: Between fiscal years, there is a decrease in the number of identified students for which the district is responsible. (This amount is determined by multiplying the State/local per capita amount of the prior year by the current year's decreased number of identified students.)
- C) A student with an exceptionally costly special education program (as determined by the State) has left the district, has aged out or no longer needs special education. (34 CFR §300.204 (c)(1-3))
An exceptionally high cost is one that exceeds 3 1/2 times the estimated State average expenditure per pupil for the school year preceding the year of distribution.
- D) The termination of costly expenditures for long-term purchases such as the acquisition of equipment or the construction of school facilities. (34 CFR §300.204 (d))
For example: A district was planning on creating a kitchen in a school for an intensive needs program and the program closed. Since they aren't going through with the construction for the kitchen they remove that cost from their budget and their MOE would reflect a lower number.

Essentially, the MOE may show a decrease in the use of State and local funds if a portion of the money isn't being spent because of: a decrease in staff salary, a loss of students (for a variety of reasons) or the decrease (maybe elimination) of a costly project/ program.

Excess Costs

Excess costs are defined as those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary or secondary school student, as appropriate, and that must be calculated after deducting specific expenditure amounts (34 CFR 300.16). This calculation allows LEAs to determine the amount of regular education funds being expended on the basic education of its students with disabilities.

An LEA meets the excess cost requirement if it has spent at least a minimum amount for the education of its children with disabilities before funds under Part B of the Act are used. Provided that the LEA complies with the non-supplanting and other requirements of the part relative to the use of funds for the education and services of these children [as stated in 34 CFR 300.202(ii)], the LEA may use Part B funds to pay for all of the costs directly attributable to the education of a pre-school aged child with a disability or a student aged 18-21 with a disability, if no local or State funds are available for nondisabled children of these ages.

Appendix A, Part 300 of IDEA: Guidance and Examples for Calculating Excess Costs

Except as otherwise provided, amounts provided to an LEA under Part B of the Act may be used only to pay the excess costs of providing special education and related services to children with disabilities. Excess costs are those costs for the education of an elementary school or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate. An LEA must spend at least the average annual per student expenditure on the education of an elementary school or secondary school child with a disability before funds under Part B of the Act are used to pay the excess costs of providing special education and related services.

Section 602(8) of the Act and §300.16 require the LEA to compute the minimum average amount separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools. LEAs may not compute the minimum average amount it must spend on the education of children with disabilities based on a combination of the enrollments in its elementary schools and secondary schools.

The following example shows how to compute the minimum average amount an LEA must spend for the education of each of its elementary school children with disabilities under section 602(3) of the Act before it may use funds under Part B of the Act.

- a. First the LEA must determine the total amount of its expenditures for elementary school students from all sources—local, State, and Federal (including Part B)—in the preceding school year. Only capital outlay and debt services are excluded.

Example: The following is an example of a computation for children with disabilities enrolled in an LEA's elementary schools. In this example, the LEA had an average elementary school enrollment for the preceding school year of 800 (including 100 children with disabilities). The LEA spent the following amounts last year for elementary school students (including its elementary school children with disabilities):

| | | |
|-----|--------------------------------|--------------------|
| (1) | From State and local tax funds | \$6,500,000 |
| (2) | From Federal funds | \$600,000 |
| | Total expenditures | \$7,100,000 |

Of this total, \$60,000 was for capital outlay and debt service relating to the education of elementary school students. This must be subtracted from total expenditures.

| | | |
|-----|---|--------------------|
| (1) | Total Expenditures | \$7,100,000 |
| (2) | Less capital outlay and debt | -60,000 |
| | Total expenditures for elementary school students less capital outlay and debt | \$7,040,000 |

b. Next, the LEA must subtract from the total expenditures amounts spent for:

- (1) IDEA, Part B allocation,
- (2) ESEA, Title I, Part A allocation,
- (3) ESEA, Title III, Parts A and B allocation,
- (4) State and local funds for children with disabilities, and
- (5) State or local funds for programs under ESEA, Title I, Part A, and Title III, Parts A and B.

These are funds that the LEA actually spent, not funds received last year but carried over for the current school year.

Example: The LEA spent the following amounts for elementary school students last year:

| | | |
|-----|---|--------------------|
| (1) | From funds under IDEA, Part B allocation | \$200,000 |
| (2) | From funds under ESEA, Title I, Part A allocation | \$250,000 |
| (3) | From funds under ESEA, Title III, Parts A and B allocation | \$50,000 |
| (4) | From State funds and local funds for children with disabilities | \$500,000 |
| (5) | From State and local funds for programs under ESEA, Title I, Part A, and Title III, Parts A and B | \$150,000 |
| | Total | \$1,150,000 |
| (1) | Total expenditures less capital outlay and debt | \$7,040,000 |
| (2) | Other deductions | -1,150,000 |
| | Total | \$5,890,000 |

c. Except as otherwise provided, the LEA next must determine the average annual per student expenditure for its elementary schools dividing the average number of students enrolled in the elementary schools of the agency during the preceding year (including its children with disabilities) into the amount computed under the above paragraph. The amount obtained through this computation is the minimum amount the LEA must spend (on average) for the education of each of its elementary school children with disabilities.

Funds under Part B of the Act may be used only for costs over and above this minimum.

| | | |
|-----|--|-------------|
| (1) | Amount from Step b | \$5,890,000 |
| (2) | Average number of students enrolled | \$800 |
| (3) | \$5,890,000/800 Average annual per student expenditure | \$ 7,362 |

d. Except as otherwise provided, to determine the total minimum amount of funds the LEA must spend for the education of its elementary school children with disabilities in the LEA (not including capital outlay and debt service), the LEA must multiply the number of elementary school children with disabilities in the LEA times the average annual per student expenditure obtained in paragraph c above. Funds under Part B of the Act can only be used for excess costs over and above this minimum.

| | | |
|-----|--|-------------------|
| (1) | Number of children with disabilities in the LEA's elementary schools | 100 |
| (2) | Average annual per student expenditure | \$ 7,362 |
| (3) | $\$7,362 \times 100$ | |
| | Total minimum amount of funds the LEA must spend for the education of children with disabilities enrolled in the LEA's elementary schools before using Part B funds | \$ 736,200 |

General Information

Regarding MOE, each LEA is responsible for determining and documenting which of the four (4) funding sources it will use to calculate the MOE.

For more information about calculating the MOE, please visit our website:
http://www.education.nh.gov/instruction/special_ed/entit_grant.htm

Regarding Excess Cost, the Bureau has available a spreadsheet for calculating excess cost to assist LEAs in determining the average annual per pupil expenditures for students with disabilities.

The spreadsheet may be accessed by visiting our website:
http://www.education.nh.gov/instruction/special_ed/entit_grant.htm.

IDEA requires that this calculation be done annually and that the calculations for elementary and secondary costs be done separately. These calculations are separate because typically, elementary and secondary schools have distinct costs that apply only to those institutions and computing both entities together would likely be inaccurate. For example, there are school programs in the secondary setting that are not typically in the elementary setting such as music, vocational and athletic programs. Each LEA is responsible for determining and documenting its method for apportioning schools, students and costs based on local school board policies and procedures for identifying schools, programs, services, cost and grade level assignments for elementary or secondary schools.

To summarize: The MOE is a calculation based on a district's previous expenditures that demonstrates for the Federal Government, that a district intends on using at least as much State/local funding as it did the previous year to help cover the cost of special education. The Excess Cost calculation is based on the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school (less some specific expenditure amounts), and provides the LEA with the amount of local and State funds it must spend for costs that are attributable to students with disabilities before it is eligible to spend its IDEA Part B funds.

For questions regarding the MOE and/or Excess Costs calculations, please contact: Lisa Morrissette
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