

# Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument (FMI): FFY 2015

Illinois State Board of Education (ISBE)

Please note the following abbreviations are used in the Fiscal Monitoring Instrument (FMI):

FFY – Federal fiscal year

IDEA – Individuals with Disabilities Education Act

LEA – local educational agency

MFS – maintenance of State financial support

OMB – Office of Management and Budget

OIG – Office of Inspector General

SEA – State educational agency

Uniform Guidance – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200

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## Scope of Monitoring:

OSEP's Fiscal Monitoring in 2016 examined two areas: LEA Allocations and Subrecipient Monitoring during FFY 2015 (2015-16). In conducting the monitoring, OSEP reviewed information from FFYs 2013, 2014, and 2015, including State-submitted documentation and other available information; audits conducted under the Uniform Guidance and those conducted through the OIG. OSEP conducted both on-site and telephone interviews with State staff.

**IDEA Part B  
Summary of Monitoring Criterion**

**Monitoring Area 1, IDEA Part B: LEA ALLOCATIONS**

The IDEA Part B section 611 and section 619 funds are to assist States and, through them, LEAs, in providing special education and related services to children with disabilities. States are required to distribute any section 611 and section 619 funds that the State does not reserve for State-level activities to eligible LEAs for use in accordance with the IDEA. States' correct allocation of IDEA Part B funds to LEAs, consistent with the correct formulas, is critical in helping to ensure that IDEA Part B funds are used appropriately for the purposes for which they were intended.

Criterion Number	Description	Noncompliance identified?	Applicable Requirements
<b>Criterion 1.1</b>	The SEA distributes IDEA section 611 and/or section 619 allocations to eligible LEAs based upon the correct formula for calculating base payments.	Yes	34 CFR §§300.705(a)-(b)(1), 300.815-300.816(a)
<b>Criterion 1.2</b>	The SEA calculates LEA base payment adjustments under section 611 and/or section 619 consistent with IDEA requirements.	Yes	34 CFR §§300.705(b)(2), 300.816(b); 34 CFR Part 76 Subpart H; December 2000 Nonregulatory Guidance on 34 CFR Part 76 Subpart H, titled "How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?"
<b>Criterion 1.3</b>	The SEA allocates remaining section 611 and/or section 619 funds to LEAs, including charter school LEAs, based on population and poverty, consistent with IDEA requirements.	No	34 CFR §§300.705(b)(3), 300.816(c) and (d)

Criterion Number	Description	Noncompliance identified?	Applicable Requirements
<b>Criterion 1.4</b>	The SEA ensures that IDEA funds are properly allocated through subgrants to eligible charter school LEAs that open or significantly expand their enrollment.	Yes	34 CFR §§76.792 –76.793; December 2000 Nonregulatory Guidance on 34 CFR Part 76 Subpart H, titled “How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?”
<b>Criterion 1.5</b>	The SEA ensures that FFY 2015 section 619 allocations were made consistent with IDEA requirements, given that the FFY 2015 allocations to States for section 619 grants were below the 1997 appropriation level.	No	34 CFR §300.816

**Finding:** Criterion 1.1: During the onsite fiscal review conducted August 30-31, 2016, the SEA was asked to explain the meaning of the following statement in its “*IDEA Part B Allocation Procedures*” document that described its procedures for distributing section 619 allocations: “Stand-alone high school districts and State Charter schools that do not serve PreK special education are not eligible for Preschool funds.” The SEA explained that the allocation of preschool section 619 funds was determined by grade level, not by age. Thus, in Illinois, although children with disabilities who turn five years of age by September 1 of each school year may enroll in LEA kindergarten programs, ISBE does not distribute section 619 funds to LEAs that provide special education and related services to those 5-year-old eligible children with disabilities who enroll in LEA kindergarten programs.

**Citation:** Under 34 CFR §300.815, each State that receives a grant under section 619 of the IDEA for any fiscal year must distribute all of the funds the State does not reserve under 34 CFR §300.812 to LEAs (including public charter schools that operate as LEAs) in the State that have established their eligibility under section 613 of the IDEA for use in accordance with Part B of the IDEA. Under 34 CFR §300.815, each State that receives a grant under section 619 must distribute grant funds to eligible LEAs (including public charter schools that operate as LEAs) in the State that are responsible for providing education to children aged three through five years.

**Further Action Required:** See required actions below on pages four and five.

**Finding:** Criteria 1.2 and 1.4: During the onsite fiscal review conducted August 30-31, 2016, the SEA was asked how the base payment adjustment was calculated when an eligible charter school LEA has a significant expansion of enrollment. The State did not know if an eligible charter school LEA in the State has ever experienced a significant expansion, did not know of the State’s definition

of a significant expansion of enrollment in a charter school LEA, and did not have procedures for making base payment adjustments when such an expansion occurs.

**Citation:** Under 34 CFR §§300.705(b)(2), 300.816(b), Part 76 Subpart H, and the U.S. Department of Education's (Department's) December 2000 Nonregulatory Guidance on 34 CFR Part 76 Subpart H, titled "How Does a State or Local Educational Agency Allocate Funds to Charter Schools That Are Opening for the First Time or Significantly Expanding Their Enrollment?" (the Department's December 2000 Guidance)<sup>1</sup> base payment adjustments must be made if certain conditions exist. Among those conditions is when a charter school LEA significantly expands its enrollment. The determination of whether an expansion of enrollment in a charter school LEA is significant is based on the State's definition of a significant expansion of enrollment in a charter school LEA, consistent with 34 CFR §76.787. The State is required to allocate the section 611 and section 619 subgrants to all eligible LEAs, including new and significantly expanding charter schools that operate as LEAs, in accordance with 34 CFR §§300.705 and 300.816 and Subpart H of 34 CFR Part 76, which requires adjusting base allocations of affected LEAs based on the relative numbers of children with disabilities ages three through 21 for section 611 subgrants, or ages three through five for section 619 subgrants, who are currently provided special education by each affected LEA.

**Further Action Required:** See required actions below on pages four and five.

**Further Action Required for Criterion 1.1, 1.2, and 1.4:** Within 90 days of the receipt of this letter, the State must submit to OSEP:

1. Documentation demonstrating that any LEA that received less than the amount of section 611 or section 619 funds to which it was entitled in FFY 2015 and/or FFY 2016 was made whole, or a plan outlining how the State will make these LEAs whole during FFY 2016, in accordance with 34 CFR §§300.705, 300.815-300.816, 76.791-76.793, and the Department's December 2000 Guidance. The State may use any remaining FFY 2015 and/or FFY 2016 section 611 and/or section 619 State set-aside funds for this purpose.
2. Revised State policies and procedures<sup>2</sup> that demonstrate the SEA will allocate IDEA section 611 and section 619 subgrants to all eligible LEAs, including significantly expanding charter school LEAs, in accordance with 34 CFR §§300.705, 300.815-300.816, 34 CFR Part 76 Subpart H, and the Department's December 2000 Guidance, including requirements for how and when an SEA must allocate funds to an eligible charter school LEA that significantly expands its enrollment, beginning in FFY 2017.

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<sup>1</sup> Although the regulatory citations have not been updated to reflect the IDEA Part B regulations issued on August 14, 2006, and December 1, 2008, the substance of the December 2000 Guidance remains applicable and is posted on the Department's Web site. (See <http://www2.ed.gov/policy/elsec/guid/cschoools/cguidedec2000.pdf>.) See questions 79 and 80 regarding base payment adjustments for charter school LEAs that significantly expand their enrollment.

<sup>2</sup> On November 21, 2016, ISBE submitted additional documentation that updated its allocation policies to address concerns identified by OSEP. OSEP is reviewing the updated policies and will determine whether they require further revision or are sufficient to close out this corrective action.

3. Revised State policies and procedures<sup>3</sup> that demonstrate that section 619 funds will be allocated to all eligible LEAs (including public charter school LEAs) in the State that are responsible for providing education to children aged three through five years, including five-year-olds in LEA kindergarten programs, beginning in FFY 2017.
4. A copy of the correspondence in which the State has informed its State audit office that is responsible for conducting audits in accordance with the Single Audit Act and the Uniform Guidance, of this finding of noncompliance and OSEP’s required corrective actions.

Within 30 days of OSEP’s notification to the State that it has approved the revisions made to the policies and procedures, the State must provide documentation that it has notified the LEAs of the revisions.

## Monitoring Area 2, IDEA Part B: SUBRECIPIENT MONITORING

Under the IDEA and the Uniform Guidance, SEAs are responsible for oversight of the operations of IDEA-supported activities. Each SEA must monitor its own activities, and those of its LEAs, to ensure compliance with applicable Federal requirements and that performance expectations are being achieved. Monitoring must cover each program, function, or activity. Subrecipient monitoring is at the core of the SEA’s general supervisory responsibilities, and can help the SEA ensure that its LEAs are in compliance with IDEA and related requirements, as well as aligned with SEA priorities designed to improve results for children with disabilities. The focus of this activity was to review the State’s fiscal subrecipient monitoring.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
<b>Criterion 2.1</b>	The SEA ensures that every subaward is clearly identified to the subrecipient as a subaward and includes required information at the time of the subaward. If any of the data elements change, the SEA includes the changes in subsequent subaward modification.	No	2 CFR §200.331(a)
<b>Criterion 2.2</b>	The SEA evaluates each subrecipient’s risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.	No	2 CFR §200.331(b)

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<sup>3</sup> See *id.*, footnote 2.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 2.3	The SEA monitors the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved.	Yes	2 CFR §200.331(d), 34 CFR §§300.149 and 300.600
Criterion 2.4	Depending upon the assessment of risk posed by the subrecipient, the SEA has policies and procedures that consider monitoring activities ranging from technical assistance to on-site monitoring or conducting agreed-upon-procedures engagements (audits).	No	2 CFR §200.331(e)
Criterion 2.5	The SEA conducts monitoring activities that verify that every subrecipient is audited as required by the Uniform Guidance.	No	2 CFR §200.331(f)
Criterion 2.6	The SEA considers taking enforcement actions against noncompliant subrecipients as required under the Uniform Guidance and IDEA.	No	2 CFR §§200.338 and 200.331(h); 34 CFR §§300.149, 300.222, 300.600, and 300.604

**Finding:** Criterion 2.3: During the onsite fiscal review conducted August 30-31, 2016, the SEA described its procedures for monitoring of LEAs to ensure that the IDEA subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. The SEA reported that it has no mechanism to ensure that the LEA takes timely and appropriate corrective action on all noncompliance identified through audits, on-site reviews, and other means. Specifically, the SEA described its mechanism to track corrective actions by LEAs if the identified noncompliance requires the recovery of funds; however, the SEA does not have a mechanism to track corrective actions by LEAs if the identified noncompliance does not require the recovery of funds. OSEP also reviewed documents provided by the SEA describing its procedures for fiscal monitoring of LEAs. Accordingly, OSEP has determined that the State does not have a system reasonably designed to ensure that LEAs comply with the fiscal requirements applicable to Part B of the IDEA, as required under 2 CFR §200.331(d), 34 CFR §§300.149, and 300.600(e).

**Citation:** Under 2 CFR §200.331(d), the State must monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. The State’s monitoring of the subrecipient must include, among other things, following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the State detected through audits, on-site reviews, and other means. In addition, under 2 CFR §200.328(a), 34 CFR §§300.149 and 300.600, the State must monitor grant and subgrantsupported activities to ensure

compliance with applicable Federal requirements, including fiscal requirements, and must ensure that when it identifies noncompliance with the requirements by LEAs, the noncompliance is corrected as soon as possible, and in no case later than one year after the State's identification of the noncompliance. Accordingly, while a State has flexibility to determine the methods it uses to conduct subrecipient monitoring, the State must have a system reasonably designed to ensure that LEAs comply with fiscal requirements applicable to Part B of IDEA.

**Further Action Required:** Within 90 days of the receipt of this letter, the State must submit to OSEP:

1. Revised State policies and procedures for fiscal monitoring, including LEAs' correction of identified noncompliance and the SEA's tracking of those corrective actions taken by LEAs, consistent with the requirements of IDEA, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), and the Uniform Guidance.
2. A copy of the correspondence in which the State has informed its State audit office that is responsible for conducting audits in accordance with the Single Audit Act and the Uniform Guidance, of this finding of noncompliance and OSEP's required corrective actions.

With the FFY 2016 Part B State Performance Plan/Annual Performance Report (SPP/APR), due February 1, 2018, the State must provide evidence that it has implemented the fiscal monitoring procedures.