

Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument

Office of the State Superintendent of Education (OSSE), District of Columbia

Scope of Review:

The Office of Special Education Programs (OSEP) monitored LDE's procedures for ensuring compliance with the fiscal components of the Individuals with Disabilities Education Act (IDEA) and other related Federal fiscal requirements. In performing this review, OSEP reviewed publicly available information, State-submitted documentation, and Office of Management and Budget Circular A-133 and Office of Inspector General audits, and conducted both on-site and telephone interviews with State staff.

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

AMI – The American Recovery and Reinvestment Act (ARRA) of 2009 Monitoring Inventory

CrEAG – Critical Elements Analysis Guide

EDGAR – Education Department General Administrative Regulations

FFY – Federal Fiscal Year

FS – fiscal systems element of the CrEAG

GEPA – General Education Provisions Act

LEA – local educational agency

MFS – maintenance of financial support

SEA – State educational agency

**IDEA Part B
Summary of Monitoring Criterion**

Monitoring Area 1, IDEA Part B: Obligation/Liquidation			
Criterion Number	Description	Noncompliance identified?	Applicable Requirements
Criterion 1.1	The SEA has procedures to allocate the IDEA section 611 and section 619 subgrants to eligible LEAs based upon the correct formula.	N ¹	34 CFR §§300.200, 300.705(a)-(b), 300.815-300.816
Criterion 1.2	The SEA has procedures to ensure that LEAs are provided 27 months to obligate funds.	N	34 CFR §76.709(a)
Criterion 1.3	The SEA has procedures to obligate funds solely during the 27 month period of availability and liquidate funds not later than 90 days after the end of the funding period or an extension of that timeline authorized by the Department.	N	34 CFR §§76.703, 76.709, 80.23

¹ In Finding 2006-137 in the State's FY 2006 single State audit, the auditor found that the District of Columbia Public Schools, which functioned at the time as the SEA, did not allocate all of the required IDEA Part B grant funds to the LEAs. In a program determination letter (PDL) dated September 28, 2011, the Office of Special Education and Rehabilitative Services (OSERS) sustained the auditor's finding, and found that the SEA's inability to account for the use of the IDEA Part B funds that were not distributed to LEAs constituted substantial harm to the Federal interest. In that PDL, OSERS required OSSE to refund to the Department the \$65,724 in funds it could not demonstrate were properly expended for the benefit of the IDEA Part B program. These funds were returned on November 8, 2011. In the September 28, 2011 PDL, OSERS noted that on September 27, 2010, OSSE submitted documentation to demonstrate that the State developed, approved, and implemented new policies for calculating and documenting IDEA Part B funds. After reviewing these materials, OSERS concluded that, although some minor revisions were needed, the policies and procedures were consistent with IDEA requirements. OSERS continues to provide technical assistance on this matter and fully expects OSSE to submit procedures containing the minor revisions.

Criterion 1.4	The SEA has procedures to ensure that LEAs obligate funds solely during the 27 month period of availability and liquidate funds not later than 90 days after the end of the funding period or an extension of that timeline authorized by the Department.	N	34 CFR §§76.709, 80.23
Criterion 1.5	The SEA has procedures to reallocate IDEA section 611 and section 619 subgrants, when appropriate, consistent with the regulations.	N	34 CFR §§300.705(c), 300.817
Criterion 1.6	The SEA has procedures to draw down funds based on immediate needs; any interest accrued by the SEA or LEAs in excess of \$100 per year per account is returned to the Department.	N	34 CFR §80.21(c)&(i)

Finding: None

Monitoring Area 2, IDEA Part B: Use of Funds			
Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 2.1	The SEA has procedures to ensure that funds are expended in accordance with the requirements of the IDEA Part B.	N	34 CFR §§300.162(a), 300.202(a)(1)
Criterion 2.2	The SEA has procedures to ensure that LEAs use IDEA funds only to pay the excess costs of providing special education and related services to children with disabilities in accordance with IDEA.	Y	34 CFR §§300.16, 300.202(a)(2)
Criterion 2.3	The SEA has procedures to ensure that LEAs spend the required amount on providing special education and related services to parentally-placed private school children with disabilities.	N	34 CFR §300.133
Criterion 2.4	The SEA has procedures to provide an approved restricted indirect cost rate (RICR) for its LEAs.	N	34 CFR §§76.560-76.569

Criterion 2.5	The SEA has procedures to provide IDEA funds to LEA charter schools in accordance with IDEA and EDGAR.	N ²	34 CFR §§76.788-76.797, 300.209(c), 300.705(a)-(b), 300.815-300.816
Criterion 2.6	The SEA has procedures to ensure that each LEA provides funds to charter schools that are part of the LEA in the same manner it provides funds to its other schools.	N	34 CFR §§76.799, 300.209(b)

Finding: Criterion 2.2: During the AMI telephone interview conducted on December 12, 2012, the State reported that it does not have procedures to ensure that LEAs: (1) use IDEA Part B funds only to pay the excess costs of providing special education and related services to children with disabilities in accordance with the requirements in 34 CFR §300.202(a)(2) and (b); and (2) compute excess costs in accordance with the requirements in 34 CFR §300.16 and Appendix A to 34 CFR Part 300.

Citation: Under 34 CFR §300.202(a)(2) and (b), an LEA must use IDEA Part B funds only to pay the excess costs of providing special education and related services to children with disabilities. Excess costs are those costs 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 appropriate, and that are computed using the method described in 34 CFR §300.16 and Appendix A to 34 CFR Part 300. As part of its general supervisory responsibilities under 34 CFR §§300.149 and 300.600, the SEA must ensure that each LEA: (1) provides an assurance to the SEA, as part of its application for Part B funds, that it will use IDEA Part B funds only to pay the excess costs of providing special education and related services to children with disabilities, as required by 34 CFR §§300.200 and 300.202(a)(2) and (b), and (2) computes excess costs in accordance with the requirements in 34 CFR §300.16 and Appendix A to 34 CFR Part 300. Further guidance explaining this computation is available on The Right IDEA website at <http://therightidea.tadnet.org/articles/26>.

Further Action Required: Within 60 days of the date of this letter, the State must submit to OSEP:

² In Finding 2006-159 in the State's FY 2006 single State audit referenced in footnote #1 in Criterion 1.1, the auditor found that the SEA did not provide access to IDEA Part B funds to certain charter schools within five months of their opening or expansion. In the September 28, 2011 PDL, OSERS sustained the auditor's finding, and noted that OSSE submitted documentation on September 27, 2010, to demonstrate that the State developed, approved, and implemented new policies for calculating and documenting IDEA Part B funds, including a policy and written guidance on new and significantly expanding public charter schools. After reviewing these materials, OSERS concluded that, although some minor revisions were needed, the policies and procedures were consistent with IDEA requirements. OSERS continues to provide technical assistance on this matter and fully expects OSSE to submit policies and procedures containing the minor revisions.

1. Revised State policies and procedures that demonstrate the SEA will ensure that LEAs comply with the excess cost requirements in 34 CFR §§300.16, 300.202(a)(2) and (b), and Appendix A to 34 CFR Part 300; and
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 Office of Management and Budget (OMB) Circular A-133, 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 3, IDEA Part B: ARRA			
Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 3.1	The SEA ensures that infrastructure investments are properly certified and posted.	N	ARRA §1511
Criterion 3.2	The SEA has procedures to ensure that LEAs comply with the “Buy American” requirements.	N	2 CFR §§176.60-176.170
Criterion 3.3	The SEA has procedures to ensure that LEAs comply with the prevailing wage requirements.	N	2 CFR §§176.180, 176.190
Criterion 3.4	The SEA has procedures to ensure that it prevents and detects fraud, waste, and abuse.	N	Inspector General Act of 1987 (P.L. 100-504)

Finding: None

Monitoring Area 4, IDEA Part B: Level of Effort			
Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 4.1	The State has procedures to calculate its financial support for special education and related services for children with disabilities in accordance with the IDEA.	Y	34 CFR §300.163(a)

Criterion 4.2	The SEA has procedures to ensure that each LEA budgets, for the education of children with disabilities, at least the same amount as the LEA spent for that purpose in the most recent prior year for which information is available.	N	34 CFR §300.203(b)
Criterion 4.3	The SEA has procedures to ensure that each LEA expends at least the same amount as it expended in the immediate prior year for the education of children with disabilities, unless the LEA has allowable exceptions or adjustments.	N	34 CFR §§300.203(a), 300.204-300.205
Criterion 4.4	The SEA's procedures for reviewing LEA MOE consider each of the following ways to calculate MOE: total local funds; per capita local funds; total local and State funds; or per capita local and State funds. The SEA's procedures for reviewing LEA MOE find an LEA to have met MOE if the LEA met MOE based on one or more of those comparisons.	N	34 CFR §300.203(b)

Finding: Criterion 4.1: Based on the review of documents, analysis of data, and interviews with State personnel, OSEP finds that, at the time of the AMI telephone interviews conducted on December 12, 2012, and January 25, 2013, the State's procedures for calculating the amount of State financial support made available for special education and related services were not consistent with the requirements under 34 CFR §300.163(a). Specifically, OSSE was not including in its calculations of State financial support, funds made available for: (1) non-public tuition for students with individualized education programs (IEPs) educated in non-public settings at public expense; (2) transportation of students with IEPs; and (3) special education and related services for students committed to the Department of Youth Rehabilitation Services.

Citation: Under 34 CFR §300.163(a), the State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year. The reference to "State financial support" in 34 CFR §300.163 is not limited to the State financial support provided to or through the SEA, but encompasses the financial support of all State agencies that provide or pay for special education and related services, as those terms are defined under the IDEA, to children with disabilities. In addition, the State financial support provided by the SEA for special education and related services includes State funding for special education staff, the cost of monitoring and carrying out other State administrative duties related to special education, and the cost of any direct services provided by the SEA, as well as any State funds provided to public agencies (including LEAs) in the State for the purpose of providing special education and related services. [See OSEP Memorandum 10-5, Maintenance of State Financial Support under the Individuals with Disabilities Education Act, December 2, 2009.](#)

Further Action Required: In a March 11, 2013 memorandum to OSEP, OSSE reported that it had revised its calculation methodology to include funds made available for: (1) non-public tuition for students with individualized education programs (IEPs) educated in non-public settings at public expense; (2) transportation of students with IEPs; and (3) special education and related

services for students committed to the Department of Youth Rehabilitation Services. In addition, in a November 6, 2013 conference call, OSSE representatives confirmed that the State followed its revised calculation when providing the fiscal data reported in the State’s application for FFY 2013 IDEA Part B funds.³ No further action is required.

Monitoring Area 5, IDEA Part B: Procurement, Property, and Record Retention			
Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 5.1	The SEA obtains approval from the Department prior to using its State-level IDEA funds for equipment, construction, or alteration of facilities.	N	34 CFR §300.718
Criterion 5.2	The SEA has procedures to ensure that an LEA obtains its approval prior to using IDEA funds for equipment, construction, or alteration of facilities.	N	34 CFR §300.718
Criterion 5.3	The SEA has procedures to ensure that its procurement mechanisms, and those used by its LEAs, conform to applicable Federal law and State procurement rules.	N	34 CFR §80.36
Criterion 5.4	The SEA has procedures to ensure that each LEA maintains a physical inventory of property acquired with IDEA funds and conducts inventories to reconcile with property records at least once every two years.	N	34 CFR §80.32(d)(2)

³ In a PDL dated February 10, 2010, related to the State’s FY 2011 single State audit, OSERS did not sustain the auditors’ Finding 2011-47 on MFS, because the auditors incorrectly examined expenditures for special education and related services, rather than funds made available for special education and related services, to calculate the amount of State financial support made available for special education and related services. However, OSERS agreed with the auditors’ recommendation that OSSE should strengthen its internal controls over the review and approval of its State financial support calculation. OSEP provided technical assistance to OSSE, resulting in the revisions to OSSE’s MFS calculation methodology as discussed in Criterion 4.1 above.

Criterion 5.5	The SEA has procedures to ensure that it, and its LEAs, do not award or obligate funds to any party that has been debarred or suspended.	N	34 CFR §80.35
Criterion 5.6	The SEA has procedures to ensure it, and its LEAs, maintain financial and programmatic records for the period of time required by Federal law.	N	34 CFR §80.42

Finding: None

Monitoring Area 6, IDEA Part B: Fiscal Monitoring

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 6.1	The SEA has a reasonably designed system to monitor subgrantees to ensure compliance with applicable Federal fiscal requirements.	N	34 CFR §§80.26, 80.40, 300.149, 300.600

Finding: None