

# Office of Special Education Programs (OSEP) Fiscal Monitoring Instrument

## Alaska Department of Education & Early Development (DEED)

### Scope of Review:

The Office of Special Education Programs (OSEP) monitored DEED'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.

Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, IDEA Part B funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200 and commonly referred to as the Uniform Guidance. The Uniform Guidance provisions in 2 CFR Part 200 replace provisions previously found in EDGAR in 34 CFR Parts 74 and 80 and prior OMB Circulars A-87 and A-133. In addition, effective July 1, 2015, IDEA Part B funds are subject to the revised LEA MOE regulations that were published in the Federal Register on April 28, 2015. See 80 Fed. Reg. 23644 (Apr. 28, 2015). The major changes in the revised LEA MOE regulations include: (1) clarification of the eligibility standard; (2) clarification of the compliance standard; (3) explanation of the Subsequent Years rule; and (4) specification of the consequences for an LEA's failure to maintain effort. In conducting its monitoring, OSEP reviewed State procedures that were in effect prior to July 2015. Therefore, the "Finding" and "Citation" sections of the enclosure include citations to the provisions in the Education Department General Administrative Requirements (EDGAR) in 34 CFR Parts 74 and 80, prior OMB Circulars A-87 and A-133, and the LEA MOE regulations in effect prior to July 1, 2015. However, because the "Further Action Required" section of the enclosure addresses corrective actions the LEA must take after July 1, 2015, that section includes citations to the Uniform Guidance and the revised LEA MOE regulations.

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**

<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirements</b>
<b>Criterion 1.1</b>	The SEA has procedures to allocate the IDEA section 611 and section 619 subgrants to eligible LEAs based upon the correct formula.	Yes	34 CFR §§300.200, 300.705(a)-(b), 300.815-300.816
<b>Criterion 1.2</b>	The SEA has procedures to ensure that LEAs are provided 27 months to obligate funds.	No	34 CFR §76.709(a)
<b>Criterion 1.3</b>	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.	No	34 CFR §§76.703, 76.709, 80.23
<b>Criterion 1.4</b>	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.	No	34 CFR §§76.709, 80.23
<b>Criterion 1.5</b>	The SEA has procedures to reallocate IDEA section 611 and section 619 subgrants, when appropriate, consistent with the regulations.	Yes	34 CFR §§300.705(c), 300.817
<b>Criterion 1.6</b>	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.	No	34 CFR §80.21(c)&(i)

**Finding:** Criterion 1.1: Based on the review of documents, analysis of data, and interviews with State personnel, OSEP finds that the State does not have procedures to allocate the IDEA section 611 and section 619 subgrants to eligible LEAs in accordance with the IDEA. First, DEED does not ensure that each LEA has submitted a plan that provides assurances to the SEA that the LEA meets each of the conditions in 34 CFR §§300.201 through 300.213 as part of its determination that an LEA is eligible for a Part B IDEA subgrant, as required by 34 CFR §300.200. Specifically, the State did not require assurances for all of the conditions in 34 CFR §§300.202-300.213. Second, based on email correspondence provided by the State on August 15, 2014, the State does not have

procedures in place to allocate the IDEA section 619 subgrants to eligible LEAs in accordance with the required formula in 34 CFR §300.816. The required three-part formula consists of a base, population, and poverty payment. For the last three years, the appropriation for the Preschool Grants program has been less than the amount allocated to the States for FFY 1997, which is the base year for calculating base payments. Therefore, depending on the amount of section 619 funds a State reserves for State-level activities, the total amount of section 619 funds an LEA receives in many instances will consist primarily of the amount of its base payment. Specifically, for LEAs that received a base payment of zero in their first year of operation, the SEA does not have a process in place to adjust the base payment for the first fiscal year after the first annual child count in which the LEAs report that they are serving children with disabilities aged three through five years. As a result, some LEAs may not have received the amount of section 619 Preschool Grant funds that they were entitled to under 34 CFR §300.816(b)(4).

**Citation:** Under 34 CFR §300.200, an LEA is eligible for assistance under Part B of the IDEA for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in 34 CFR §§300.201 through 300.213. Under 34 CFR §300.816(b)(4), if an LEA received a base payment of zero in its first year of operation, the SEA must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving children with disabilities aged three through five years. See also: May 13, 2008 Notice of Proposed Rulemaking and December 1, 2008 final regulations governing the Assistance to States for the Education of Children with Disabilities Program and the Preschool Grants for Children with Disabilities Program. (See 73 FR 27690 and 73 FR 730006, respectively.)

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

1. Policies and procedures that demonstrate that the SEA will ensure that each LEA has submitted a plan that provides assurances to the SEA that the LEA meets each of the conditions in 34 CFR §§300.201 through 300.213 before it determines that an LEA is eligible for assistance under Part B of the IDEA for a fiscal year.
2. For any LEA that received a base payment of zero in its first year of operation and subsequently served children with disabilities aged three through five, documentation of the amount of the base payment that such an LEA was entitled to receive in FFY 2014 and FFY 2015. OSEP is available to provide technical assistance on how to calculate the amount of the base payment such an LEA was entitled to receive under 34 CFR §300.816(b)(4).
3. Documentation demonstrating that any LEA that received less than the amount of section 619 funds to which it was entitled was made whole or a plan outlining how the State will make these LEAs whole during FFY 2015. The State may use any remaining FFY2014 or 2015 section 619 and/or section 611 State set-aside funds for this purpose.

4. Revised State policies and procedures that demonstrate the SEA will allocate the IDEA section 619 subgrants to eligible LEAs in accordance with the base payment adjustment requirement in 34 CFR §300.816(b)(4) in FFY 2016 and subsequent years.
5. 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 Subpart F of the Uniform Guidance (former Office of Management and Budget (OMB) Circular A-133)<sup>1</sup>, 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.

**Finding:** Criterion 1.5: Based on the review of documents, analysis of data, and the fiscal monitoring telephone interview conducted on March 24, 2014, OSEP finds that when any of its LEAs do not expend the full amount of their IDEA Part B subgrant, the SEA reallocates the funds without determining whether the LEA that did not fully expend the funds was adequately providing free appropriate public education (FAPE) to all children with disabilities residing in the area served by that agency with State and local funds, and whether the LEAs that received the reallocation were adequately providing special education and related services to all children with disabilities residing in the areas served by those LEAs.

**Citation:** Under 34 CFR §§300.705(c) and 300.817, in order to reallocate IDEA Part B funds, the SEA must first determine that an LEA is adequately providing FAPE to all children with disabilities residing in the area served by that LEA with State and local funds. Once this is determined, the SEA may reallocate any portion of the IDEA Part B funds that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to 34 CFR §§300.704 and 300.812.

**Further Action Required:** Within 90 days from the date of this letter, the State must develop and submit to OSEP policies and procedures that demonstrate the SEA will conduct any reallocations of IDEA Part B funds in accordance with the requirements in 34 CFR §§300.705(c) and 300.817.

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<sup>1</sup> Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, IDEA Part B funds are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, codified in 2 CFR Part 200 and commonly referred to as the Uniform Guidance. The Uniform Guidance provisions in 2 CFR Part 200 replace provisions previously found in EDGAR in 34 CFR Parts 74 and 80 and prior OMB Circulars A-87 and A-133.

## 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.	No	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.	Yes	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.	No	34 CFR §300.133
Criterion 2.4	The SEA has procedures to provide an approved restricted indirect cost rate (RICR) for its LEAs.	No	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/A <sup>2</sup>	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.	No	34 CFR §§76.799, 300.209(b)

**Finding:** Criterion 2.2: Based on emails provided by the State on April 4, 2014 and May 22, 2014, OSEP finds that the State does not have procedures to ensure that LEAs 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 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

<sup>2</sup> As reported by the State, there are no LEA charter schools in Alaska. All charter schools in the State are part of an LEA.

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 GRADS360 website at <https://osep.grads360.org/#program/fiscal>.

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

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 Subpart F of the Uniform Guidance (former 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**

<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirement</b>
<b>Criterion 3.1</b>	The SEA ensures that infrastructure investments are properly certified and posted.	No	ARRA §1511
<b>Criterion 3.2</b>	The SEA has procedures to ensure that LEAs comply with the “Buy American” requirements.	No	2 CFR §§176.60-176.170
<b>Criterion 3.3</b>	The SEA has procedures to ensure that LEAs comply with the prevailing wage requirements.	No	2 CFR §§176.180, 176.190
<b>Criterion 3.4</b>	The SEA has procedures to ensure that it prevents and detects fraud, waste, and abuse.	No	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
<b>Criterion 4.1</b>	The State has procedures to calculate its financial support for special education and related services for children with disabilities in accordance with the IDEA.	Yes	34 CFR §300.163(a)
<b>Criterion 4.2</b>	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.	No	34 CFR §300.203(b)
<b>Criterion 4.3</b>	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.	Yes	34 CFR §§300.203(a), 300.204-300.205
<b>Criterion 4.4</b>	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.	Yes	34 CFR §300.203(b)

**Finding:** Criterion 4.1: Based on the review of documents, analysis of data, email correspondence from the State on May 23, 2014, and the fiscal monitoring telephone interview conducted on March 24, 2014, OSEP finds that the State does not have procedures in place to calculate its financial support for special education and related services for children with disabilities in accordance with 34 CFR §300.163. OSEP was unable to confirm that the amounts reported as made available by the State for the purposes of special education and related services include the amount of State financial support made available by State agencies other than the SEA for special education and related services. In addition, the State reported that it does not include all funds made available by the SEA in its calculations, specifically, the amount of funds provided by DEED to the Special Education Service Agency (SESA). Subsequently, on June 12, 2015, DEED provided revised procedures and OSEP conducted a conference call with the State on June 19, 2015 to discuss the new procedures. However, OSEP has determined that the procedures remain inconsistent with 34 CFR §300.163.

**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 includes

the State financial support provided to or through the SEA, as well as 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. See [OSEP Memorandum 10-5, Maintenance of State Financial Support under the Individuals with Disabilities Education Act, December 2, 2009](#).

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

1. Procedures and documentation demonstrating that it has a reasonable method to calculate the amount of State financial support made available for special education and related services; and
2. Either an assurance that the data submitted in Section V of the State's FFY 2015 State Application under Part B of IDEA was consistent with 34 CFR §300.163(a); or revised data certified by the State Budget Officer or his/her authorized representative, consistent with 34 CFR §300.163(a); and
3. 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 Subpart F of the Uniform Guidance (former OMB Circular A-133), of this finding of noncompliance and OSEP's required corrective actions.

**Finding:** Criterion 4.3: Based on the review of documents, analysis of data, email correspondence from May 22, 2014, and interviews with State personnel, OSEP finds that the SEA does not have procedures to ensure that LEAs are in compliance with the requirement to maintain effort in 34 CFR §300.203. In addition, based on documentation dated January 7, 2014, OSEP finds that the State permitted LEAs to reduce maintenance of effort based on exceptions that are not allowable under 34 CFR §300.204. For example, the State permitted an LEA to reduce maintenance of effort based partially on cost savings associated with a change in providers.

**Citation:** Under 34 CFR §300.203(a), except as provided in 34 CFR §§300.204 and 300.205, funds provided to an LEA under Part B must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year. The regulation in 34 CFR §300.203 includes both a standard to be used as part of determining an LEA's eligibility for an IDEA Part B subgrant (eligibility standard) and a separate standard for determining whether an LEA in fact spent as much local, or State and local, funds as required on the education of children with disabilities (compliance standard). Under the compliance standard in 34 CFR §300.203(a) and the SEA's general supervisory responsibilities in 34 CFR §300.149, the SEA must ensure that each LEA has expended, for the education of children with disabilities, at least the same total or per capita amount of local, or State and local, funds as it expended for that purpose from the same source during the comparison year, unless the LEA has allowable exceptions or adjustments under 34 CFR §§300.204 and 300.205. Under 34 CFR §300.204, an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the exceptions listed in 34 CFR §300.204(a) through (e). The regulations do not permit LEAs to reduce maintenance of effort based on exceptions that are not included in 34 CFR §300.204.

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

1. Revised State policies and procedures that demonstrate the SEA will ensure that each LEA expends at least the same amount of local or State and local funds, on a total or per capita basis, for the education of children with disabilities as it expended from the same source during the preceding fiscal year, unless the LEA has allowable exceptions or adjustments, consistent with 34 CFR §§300.203(b), 300.204 and 300.205.<sup>3</sup>
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 Subpart F of the Uniform Guidance (former 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.

**Finding:** Criterion 4.4: Based on the review of documents, analysis of data, email correspondence from May 22, 2014, and interviews with State personnel, the SEA reported that, when determining whether an LEA was eligible for a Part B IDEA subgrant and when determining whether the LEA was in compliance with the requirement to maintain effort in 34 CFR §300.203, the State did not permit the LEA to demonstrate that it had met either standard based on a comparison of local funds only on a total or per capita basis, consistent with 34 CFR §300.203(a) and (b)(1)(i).

**Citation:** Under 34 CFR §300.203(a), except as provided in 34 CFR §§300.204 and 300.205, funds provided to an LEA under Part B must not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year. The regulation in 34 CFR §300.203 includes both a standard to be used as part of determining an LEA's eligibility for an IDEA Part B subgrant (eligibility standard) and a separate standard for determining whether an LEA in fact spent as much local, or State and local, funds as required on the education of children with disabilities (compliance standard). The SEA must provide LEAs the opportunity to meet the eligibility and the compliance standards based on a comparison of: (1) State and local funds on a total basis; (2) State and local funds on a per capita basis; (3) local funds only on a total basis; or (4) local funds only on a per capita basis, consistent with 34 CFR §300.203(a) and (b)(1)(i).

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<sup>3</sup> On April 28, 2015, the Department published final regulations on LEA MOE, which took effect on July 1, 2015. 80 Fed. Reg. 23644 (Apr. 28, 2015). In the final regulations, the eligibility standard precedes the compliance standard in order to provide clarity. Therefore, the eligibility standard is set out in §300.203(a), and the compliance standard is set out in §300.203(b). The final regulations clarify that an LEA meets the compliance standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA from local or State and local funds, on a total or per capita basis, below the level of those expenditures from the same source for the preceding fiscal year, except as provided in §§300.204 and 300.205. Under both the prior and new LEA MOE regulations, States must ensure LEAs are in compliance with the requirement to maintain effort.

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

1. Revised State policies and procedures that demonstrate the SEA will permit LEAs to demonstrate that they meet their MOE obligation (both eligibility and compliance) based on a comparison of local funds only, on a total or per capita basis, consistent with 34 CFR §300.203(a)(1) and (b)(2)(i)<sup>4</sup>;
2. An assurance that the State will not take any recovery actions against an LEA, or deny an LEA eligibility for IDEA funds, due to an LEA’s failure to maintain effort as required by 34 CFR §300.203, unless the LEA was provided an opportunity to demonstrate that it met its MOE obligation based on a comparison of local funds only on a total or per capita basis; and
3. 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 Subpart F of the Uniform Guidance (former 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 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.	No	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.	No	34 CFR §300.718

<sup>4</sup> See footnote 3 regarding new LEA MOE regulations. In order to clarify that LEAs may meet the eligibility standard and the compliance standard using any of the four 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 final regulations list the four methods individually in both the eligibility standard in §300.203(a)(1) and the compliance standard in §300.203(b)(2). The ability to use any of the four methods is not a change in the final LEA MOE regulations, as the prior LEA MOE regulation also provided for the use of the four methods.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
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.	No	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.	No	34 CFR §80.32(d)(2)
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.	Yes	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.	No	34 CFR §80.42

**Finding:** Criterion 5.5: Based on the review of documents, analysis of data, email correspondence from April 4, 2014, and interviews with State personnel, OSEP finds that the SEA does not have procedures to ensure that its LEAs do not award or obligate funds to any party that has been debarred or suspended, consistent with 34 CFR §80.35. Under the State's current procedures, after LEAs have awarded contracts, the SEA tests a random sample of the parties to ensure they are not debarred or suspended. The SEA relies on audits to identify noncompliance under this requirement after an award has been made.

**Citation:** Under 34 CFR §80.35, grantees and subgrantees must not make any award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

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

1. Revised State policies and procedures that demonstrate the SEA will ensure that its LEAs will comply with the requirement to not award or obligate funds to any party that has been debarred or suspended under 2 CFR §200.212<sup>5</sup>.

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<sup>5</sup> See footnote 1. Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, the Uniform Guidance provision at 2 CFR §200.212 governing suspension and debarment replaces the provision previously found at 34 CFR §80.35.

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 Subpart F of the Uniform Guidance (former 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.

**Finding:** For Criteria 5.3-5.6, see Criterion 6.1.

## Monitoring Area 6, IDEA Part B: Fiscal Monitoring

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

**Finding:** Criterion 6.1: During OSEP’s fiscal monitoring telephone interview conducted on March 24, 2014, and supported by documentation provided on April 4, 2014, the State reported that it relies on A-133 audits, a fiscal audit for those LEAs that expend less than \$500,000 of federal funds per year, and review of budgets and reimbursement requests to monitor its subgrantees, or LEAs, to ensure compliance with applicable Federal fiscal requirements, including the procurement, physical inventory of property, debarment and suspension, and the financial and programmatic record retention requirements, of Part B of the IDEA and EDGAR, as required under 34 CFR §§80.26(b)(2)<sup>6</sup>, 80.40(a), 300.149, and 300.600. Based on this information, 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 34 CFR §§80.26(b)(2), 80.40(a), 300.149, and 300.600.

**Citation:** Under 34 CFR §80.26(b)(2), the State must determine whether the subgrantee spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subgrantee made in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), OMB Circular A-133<sup>7</sup>, or through other means (e.g., program reviews) if the subgrantee has not had such an audit. In addition to the requirement in 34 CFR §80.26(b)(2), under 34 CFR §§80.40(a), 300.149, and 300.600, the State must monitor grant and subgrant supported activities to ensure compliance with applicable Federal requirements, including fiscal requirements. Accordingly, while a State has flexibility to determine the methods it

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<sup>6</sup> See footnote 1. Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, the Uniform Guidance provisions governing audit requirements at Subpart F of 2 CFR Part 200 and monitoring and reporting program performance at 2 CFR §§200.328 and 200.331 replace the provisions previously found at 34 CFR §§80.26(b)(2) and 80.40(a), respectively.

<sup>7</sup> See footnote 1.

uses to conduct subrecipient monitoring, a State must have a system reasonably designed to ensure that LEAs comply with fiscal requirements applicable to Part B of the IDEA.

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

1. Revised policies and procedures for fiscal monitoring consistent with the requirements of IDEA and the Uniform Guidance 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 Subpart F of the Uniform Guidance (former OMB Circular A-133), of this finding of noncompliance and OSEP's required corrective actions.

With the FFY 2014 APR, due February 1, 2016, the State must provide evidence that it has implemented the fiscal monitoring procedures.