

# Office of Special Education Programs Fiscal Monitoring Instrument

## Florida Department of Education (FDOE)

### Scope of Review:

The Office of Special Education Programs (OSEP) monitored FDOE'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 (OMB) 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 the Education Department General Administrative Regulations (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 local educational agency (LEA) maintenance of effort (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 1, 2015. Therefore, the "Finding" and "Citation" sections of the enclosure include citations to the provisions in the 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

Department – U.S. Department of Education

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.	No	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 an interview with State personnel on June 11, 2015, OSEP finds that while the State required some of the individual assurances, the State was not ensuring that each LEA had 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 an IDEA Part B subgrant. Specifically, the State did not require assurances for all of the conditions in 34 CFR §§300.201, 300.202, 300.204, 300.206, 300.209, and 300.211-300.213.

In addition, in a program determination letter (PDL) dated September 28, 2015 related to the State’s fiscal years 2013 and 2014 single State audits, the Office of Special Education and Rehabilitative Services (OSERS) found that the methodology for determining the base payment for a new virtual charter school LEA utilized by FDOE was not consistent with IDEA. In that PDL, OSERS required the State to:

- 1) Recalculate the base payment for the virtual charter school LEA consistent with 34 CFR §300.705(b)(2)(i);
- 2) Ensure that all base payments are calculated in accordance with 34 CFR §300.705(b)(1); and
- 3) Provide revised policies for adjusting base payments in accordance with 34 CFR §300.705(b)(2)(i).

**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.

**Further Action Required:** With regard to ensuring each LEA submits a plan that provides all of the required assurances, on January 11, 2016, the State provided a copy of the assurances that will be included in FDOE’s FFY 2016 LEA Application for IDEA Part B funds that demonstrates the State corrected the identified noncompliance. With regard to the procedures for determining the base payment of the virtual charter school LEA, on January 6, 2016 that the State submitted the required corrective actions. OSERS will respond to this submission under separate cover.

## 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.	No	34 CFR §§76.788-76.797, 300.209(c), 300.705(a)-(b),

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
			300.815-300.816
<b>Criterion 2.6</b>	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: During the telephone interview conducted on March 14, 2016, the State reported that its excess cost computations are inconsistent with requirements set forth in 34 CFR §300.16 and Appendix A to 34 CFR Part 300. Specifically, the State's procedures do not ensure that LEAs compute the excess costs separately, based on actual expenditures, for elementary school and secondary school students. Instead, the State's procedures attribute the LEA's total expenditures proportionally based on the number of students in elementary or secondary schools in the LEA. Second, the State's procedures do not allow an LEA to subtract State or local funds for programs under ESEA, Title I, Part A, and Title III, Parts A and B when determining the annual per-student expenditure (APPE), as required under 34 CFR §300.16(b).

**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 APPE 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 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 will compute the excess cost requirements in a manner consistent with 34 CFR §§300.16 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 (formerly 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.

<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 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.	No	ARRA §1511
Criterion 3.2	The SEA has procedures to ensure that LEAs comply with the "Buy American" requirements.	No	2 CFR §§176.60-176.170
Criterion 3.3	The SEA has procedures to ensure that LEAs comply with the prevailing wage requirements.	No	2 CFR §§176.180, 176.190
Criterion 3.4	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
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.	No	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.	Yes	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.	No	34 CFR §§300.203(a), 300.204-300.205

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
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.	No	34 CFR §300.203(b)

**Finding:** Criterion 4.2: During the telephone interview conducted on November 20, 2015, the SEA reported that it was not ensuring, as part of its determination that an LEA is eligible for an IDEA Part B subgrant, that each LEA had met the eligibility standard for MOE, as provided in 34 CFR §300.203(b).<sup>2</sup> The regulation in 34 CFR §300.203 includes both an eligibility standard and a compliance standard. This finding relates only to the eligibility standard.

**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 eligibility standard in 34 CFR §300.203(b)(1), the SEA must determine that an LEA has budgeted, 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 spent for that purpose from the same source during the most recent prior year for which there is information available. Under 34 CFR §300.203(b)(2), if an LEA relies on local funds only to meet the eligibility standard, the LEA must budget for the education of children with disabilities at least the same total or per capita amount of local funds as it spent for that purpose in the most recent fiscal year for which information is available and for which the LEA met the MOE compliance standard based on local funds only.

**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 budgets, for the education of children with disabilities, at least the same total or per capita amount of local, or State and local, funds as the LEA spent for

---

<sup>2</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 34 CFR §300.203(a), and the compliance standard is set out in 34 CFR §300.203(b).

that purpose from the same source for the most recent fiscal year for which information is available, consistent with 34 CFR §300.203(a)(1).<sup>3,4</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 (formerly 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**

<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirement</b>
<b>Criterion 5.1</b>	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
<b>Criterion 5.2</b>	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
<b>Criterion 5.3</b>	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

<sup>3</sup> The final regulations on LEA MOE, published on April 28, 2015, revised the eligibility standard to specify that the comparison year, regardless of the method used, is the most recent fiscal year for which information is available. In addition, the final regulations clarify that when determining the amount the LEA must budget, the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment in 34 CFR §§300.204 and 300.205 that the LEA took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and the LEA reasonably expects to take in the fiscal year for which the LEA is budgeting.

<sup>4</sup> OSEP appreciates the State’s continuing efforts to resolve this finding. OSEP notes that the State has provided draft procedures and continues to work with OSEP to ensure that the revisions being made to their policies and procedures are consistent with the requirements.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
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.	No	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:** 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.	No	34 CFR §§80.26, 80.40, 300.149, 300.600

**Finding:** None