

Office of Special Education Programs Fiscal Monitoring Instrument

Massachusetts Department of Elementary and Secondary Education (MASSDE)

Scope of Review:

The Office of Special Education Programs (OSEP) monitored MASSDE'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 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

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.	Yes	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.	No	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.	No	34 CFR §§76.703, 76.709, 80.23
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.	No	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.	No	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.	No	34 CFR §80.21(c)&(i)

Finding: Criterion 1.1: Based on the review of documents, analysis of data, email correspondence from October 27, 2014, and interviews with State personnel on October 28, 2014, 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, 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 a Part B IDEA subgrant. Specifically, the State did not require assurances for all of the conditions in 34 CFR §§300.204-300.206, 300.208,

300.212, and 300.213. Second, the State does not have procedures in place to allocate the IDEA section 619 subgrants to eligible LEAs based upon the required formula in 34 CFR §300.816. Specifically, OSEP finds that incorrect data was used in determining the amount of the base payment LEAs are entitled to receive under 34 CFR §300.816(a). MASSDE was required to allocate a base amount to each of its LEAs based on the amount the LEA would have received under section 619 of the IDEA for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect. MASSDE allocated a base amount to its LEAs based on the amount the LEA would have received for fiscal year 1999. As a result, each LEA may not have received the amount of section 619 Preschool Grant funds it was entitled to under 34 CFR §300.816.

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, each State must distribute section 619 funds to eligible LEAs in accordance with the three part formula in 34 CFR §300.816. The formula consists of a base, population, and poverty payment. Under 34 CFR §300.816(a), the State must first award each LEA a base payment that consists of the amount of section 619 funds the LEA would have received in FFY 1997 if the State had distributed 75% of its funds to LEAs. The amount the LEA would have received in FFY 1997 is based on the State's December 1, 1996 child count. The regulations in 34 CFR §300.816(b) specify the limited circumstances when base payment adjustments must be made.

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. Documentation of the amount of the base payment that each LEA was entitled to receive in FFY 2014, FFY 2015, and FFY 2016 based on the amount the LEA would have received under section 619 of the IDEA for fiscal year 1997 if the State had distributed 75 percent of its grant for that year under section 619(c)(3), as such section was then in effect and the amount of the base payment each LEA actually received in FFY 2014, FFY 2015, and FFY 2016 (based on the amount the LEA would have received for FFY 1999).
3. For any LEA whose base payment was less than the amount to which it was entitled in FFY 2014, FFY 2015 and/or FFY 2016, a calculation of the difference between the amount the LEA actually received and the amount of the base payment the LEA should have received based on the correct base fiscal year.
4. Documentation demonstrating that any LEA that received a base payment in FFY 2014, FFY 2015 and/or FFY 2016 that was 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 2016. The State may use any remaining FFY 2014 and/or FFY 2015 section 619 and/or section 611 State set-aside funds or any FFY 2016 section 619 and/or section 611 State set-aside funds that become available on July 1, 2016 for this purpose.

5. 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 provision in 34 CFR §300.816(a) in subsequent years.
6. 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)¹, 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: 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.	Yes	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), 300.815-300.816
Criterion 2.6	The SEA has procedures to ensure that each LEA provides	No	34 CFR §§76.799,

¹ 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.

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
	funds to charter schools that are part of the LEA in the same manner it provides funds to its other schools.		300.209(b)

Finding: Criterion 2.2: Based on the review of documents, analysis of data, and an interview with State personnel on October 28, 2014 and November 13, 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. Specifically, during a telephone interview with State personnel conducted on October 28, 2014, the SEA reported that it does not have procedures to determine whether LEAs meet the excess cost requirement.

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 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.
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.

Finding: Criterion 2.3: Based on the review of documents, analysis of data, and an interview with State personnel on October 28, 2014, OSEP finds that the State does not have procedures to ensure that LEAs spend the required amount of their section 611 and section 619 subgrants on providing special education and related services to parentally-placed private school children with disabilities in accordance with the requirements in 34 CFR §300.133 and Appendix B of 34 CFR Part 300. While the SEA provides a

template for LEAs to calculate the proportionate share of section 611 and section 619 funds, the SEA does not have procedures to ensure that LEAs properly calculate and spend the proportionate share of their section 611 and section 619 subgrants on providing special education and related services to parentally-placed private school children with disabilities.

Citation: IDEA requires that LEAs calculate and spend a proportionate share of their IDEA section 611 and section 619 subgrants to provide special education and related services to parentally-placed children with disabilities who are enrolled in private elementary and secondary schools located in the LEA, after timely and meaningful consultation with representatives of private schools and representatives of parents of parentally placed private school children with disabilities. See 34 CFR §§300.133 and 300.134(b) and Appendix B of 34 CFR Part 300. The calculation is based on the total number of parentally-placed private school children with disabilities who are enrolled in private elementary and secondary schools located in the LEA and the total number of children with disabilities who are enrolled in public and private elementary and secondary schools located in the LEA. Further guidance explaining this computation is available in Appendix B and also on the following website <http://www2.ed.gov/about/offices/list/oii/nonpublic/programs2.html>. As part of its general supervisory responsibilities under 34 CFR §§300.149 and 300.600, the SEA must ensure that each LEA spends the required amount of its section 611 and section 619 subgrant on providing special education and related services to parentally-placed private school children with disabilities in accordance with the requirements in 34 CFR §300.133 and Appendix B.

Further Action Required: Within 90 days from 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 spend the required amount of their section 611 and section 619 subgrants on providing special education and related services to parentally-placed private school children with disabilities in accordance with the requirements in 34 CFR §300.133 and Appendix B.
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 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 Number	Description	Noncompliance identified?	Applicable Requirement
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.	Yes	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.	Yes	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.	No	34 CFR §300.203(b)

Finding: Criterion 4.1: Based on the review of documents, analysis of data, and interviews with State personnel on August 16, 2013, September 25, 2013, and September 30, 2014, OSEP finds that MASSDE does not have procedures for calculating State MFS for special education and related services for children with disabilities that are consistent with the requirements of IDEA. Specifically,

MASSDE did not include all funds made available for special education and related services, but instead included an estimate of funds made available through one funding source and omitted funds made available through another funding source.

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. See OSEP Memorandum 10-5, Maintenance of State Financial Support under the Individuals with Disabilities Education Act, December 2, 2009 at <http://www2.ed.gov/policy/speced/guid/idea/monitor/mfs-12-2-2009.pdf>.

Further Action Required: In response to questions regarding information submitted in Section V of the State’s FFY 2013 State Application, the State submitted information indicating that the State may have failed to meet the MFS requirement in SFY 2013. OSEP will address, under separate cover, required actions related to the State’s procedures, whether the State has met 34 CFR §300.163, and, if not, the extent of the shortfall.

Finding: Criteria 4.2 and 4.3: Based on the review of documents, analysis of data, and an interview with State personnel on November 13, 2014, OSEP finds that the State does not have procedures to ensure that each LEA meets the LEA MOE requirements set forth in 34 CFR §§300.203-300.205². Specifically, the SEA reported that:

1. As part of its determination that an LEA is eligible for an IDEA Part B subgrant, the SEA is not ensuring that each LEA has met the eligibility standard for MOE as provided in 34 CFR §300.203(b).
2. When determining whether an LEA is in compliance with the requirement to maintain effort in 34 CFR §300.203, the State does not permit an LEA to reduce its level of expenditures if the reduction is attributable to a decrease in the enrollment of children with disabilities, as provided in 34 CFR §300.204(b).
3. It does not prohibit, in all instances, an LEA from taking the reduction under 34 CFR §300.205(a), if the State determines under section 616 of the IDEA that the LEA is not able to establish and maintain programs of FAPE that meet the requirements under section 613(a) of the IDEA. In addition, it does not prohibit an LEA from taking the reduction if the SEA determines that the LEA is not meeting the requirements of Part B of the IDEA, including the targets in the State’s performance plan.
4. It permits an LEA to accumulate from one fiscal year to the next fiscal year the amount of funds that may be adjusted under 34 CFR §300.205(a), rather than limiting the amount of the LEA’s adjustment to the amount it is eligible to take for that fiscal

² 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).

year. For example, under 34 CFR §300.205(a), in Year 1, an LEA is eligible to take a \$1,500 adjustment; in Year 2, an LEA is eligible to take a \$2,000 adjustment; and in Year 3, an LEA is eligible to take a \$100 adjustment. If the LEA did not take the \$1,500 adjustment in Year 1, MASSDE allows the LEA to take a \$3,500 adjustment in Year 2 (\$1,500 plus \$2,000). If the LEA did not take a \$3,500 adjustment in Year 2, MASSDE allows the LEA to take a \$3,600 adjustment in Year 3 (\$1,500 plus \$2,000 plus \$100).

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).

1. 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.
2. Under the compliance standard in 34 CFR §300.203(a) and (b) 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 made 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).
- 3-4. Under 34 CFR §300.205, for any fiscal year for which the allocation received by an LEA under 34 CFR §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by not more than 50 percent of the amount of that excess. [Underline added] However, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the IDEA and its implementing regulations or the SEA has taken action against the LEA under section 616 and subpart F of its implementing regulations, the SEA must prohibit the LEA from reducing the level of expenditures under 34 CFR §300.205(a) for that fiscal year. In addition, under 34 CFR §300.608(a), if the SEA determines an LEA is not meeting the requirements of Part B of the IDEA, including the targets in the State's performance plan/Annual performance report, the SEA must prohibit the LEA from reducing the LEA's MOE under 34 CFR §300.205(a) for any fiscal year. See IDEA section 616(f). Therefore, an SEA

must prohibit an LEA from taking advantage of the MOE reduction under 34 CFR §300.205(a) if the LEA's determination under section 616 of the IDEA is "needs assistance," "needs intervention," or "needs substantial intervention."

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:
 - a. 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 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)³.
 - b. When determining whether an LEA is in compliance with the requirement to maintain effort in 34 CFR §300.203, permit LEAs to reduce the level of expenditures 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)⁴.
 - c. Prohibit an LEA from reducing the level of expenditures under 34 CFR §300.205(a) if the SEA determines under section 616 that the LEA "needs assistance," "needs intervention," or "needs substantial intervention" in implementing the requirements of Part B of the IDEA in accordance with 34 CFR §§300.205(c) and 300.608(a).
 - d. Prohibit an LEA from accumulating from one fiscal year to the next fiscal year the amount of funds that may be adjusted under 34 CFR §300.205(a).
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.

³ 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.

⁴ The final regulations on LEA MOE, published on April 28, 2015, 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 34 CFR §§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.

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
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.	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.