

Office of Special Education Programs

Fiscal Monitoring Instrument

Michigan Department of Education-Office of Special Education (MDE-OSE)

Scope of Review:

The Office of Special Education Programs (OSEP) monitored MDE-OSE 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 – United States 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.	No	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: 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.	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 ensure that it, and its LEAs, document time and effort in accordance with Federal requirements.	No	2 CFR §225 Appendix B(8)(h)
Criterion 2.6	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 2.7	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 CIV conducted the week of November 27, 2011, the State reported that it is developing, but has not implemented 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 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 Guidance¹ (former OMB Circular A-133), of this finding of noncompliance and OSEP's required corrective actions.

Finding: Criterion 2.3: During the CIV conducted the week of November 27, 2011, OSEP found that some educational service agencies (ESAs) were incorrectly calculating the proportionate amount of IDEA Part B funds that must be spent on providing special education and related services to parentally-placed private school children with disabilities. Some ESAs were calculating the proportionate share of their IDEA sections 611 and 619 subgrants based not on the amount of the sections 611 and 619 subgrants the ESA received under 34 CFR §§300.705 and 300.816, but instead based on the portion of the sections 611 and 619 funds that the ESA provided to its member districts.

Citation: IDEA Part B requires that LEAs spend a proportionate share of their IDEA sections 611 and 619 subgrants on parentally-placed children with disabilities in private elementary and secondary schools located in the LEA. See 34 CFR §§300.133, 300.134(b), and Appendix B to Part 300 of the IDEA Part B regulations. An ESA meets the definition of an LEA in 34 CFR §300.28. Under 34 CFR §300.28(b)(1), the term LEA includes an ESA, as defined in 34 CFR §300.12. It is OSEP's understanding, based on information provided by the State, that in Michigan it is the ESA, not the member district, that receives sections 611 and 619 subgrants. Therefore, ESAs in Michigan must spend the proportionate share of their sections 611 and 619 subgrants on providing special education and related services to parentally-placed private school children with disabilities. In calculating the proportionate

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.

share, an ESA must apply the formula outlined in 34 CFR §300.133 and Appendix B to the total amount of the ESA's sections 611 and 619 subgrants, not the amount of section 611 and section 619 funds that each of its member districts receives. Further, in calculating the proportionate share, an ESA must complete two separate calculations (one to calculate the proportionate share of the IDEA section 611 subgrant that must be spent on providing equitable services to parentally-placed private school children ages 3 through 21, and one to calculate the proportionate share of the IDEA section 619 subgrant that must be spent on providing equitable services to parentally-placed private school children ages 3 through 5) that: (1) divide the amount of the section 611 (or section 619) subgrant by the total number of eligible children with disabilities enrolled in public and private elementary and secondary schools located in the ESA, to determine the average allocation per eligible child; (2) multiply the average allocation per eligible child by the number of eligible parentally-placed children with disabilities enrolled in private elementary and secondary schools located in the ESA to determine the amount the ESA must spend on special education or related services to parentally-placed children with disabilities enrolled in private elementary and secondary schools located in the ESA. See Appendix B to Part 300 of the IDEA Part B regulations.

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, including ESAs, apply the correct methodology for calculating the proportionate share of their section 611 and section 619 subgrants on parentally-placed children with disabilities in private elementary and secondary schools located in the ESA, consistent with 34 CFR §300.133 and Appendix B to Part 300 of the IDEA Part B regulations; 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 Guidance² (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, including all ESAs, of the revisions.

² See footnote 1.

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.	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	No	34 CFR §300.203(b)

	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.		
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Finding: Criterion 4.1: During the CIV conducted the week of November 27, 2011, the State reported that it is developing, but has yet to fully implement, procedures that include the amount of State financial support from State agencies other than the SEA made available for special education and related 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. [See OSEP Memorandum 10-5, Maintenance of State Financial Support under the Individuals with Disabilities Education Act, December 2, 2009.](#)

Further action required: Subsequently, through an email on January 10, 2014, and at a meeting with staff from OSEP and the U.S. Department of Education’s Budget Service office on February 18, 2015, the State provided documentation demonstrating that it has implemented procedures to include amounts made available for special education and related services by all applicable State agencies in its calculations of State financial support for special education and related services. Since the State’s original data submissions on the amounts of State financial support made available for special education and related services for State fiscal years (SFYs) 2012 and 2013 in its FFY 2013 and FFY 2014 applications for IDEA Part B funds, the State has provided revised amounts made available for SFYs 2012 and 2013 in its FFY 2015 application for IDEA Part B funds. Based on the February 18, 2015 meeting, the State informed OSEP that it now believes that the figures it provided in its FFY 2015 IDEA Part B application represent the amounts of funds made available for special education and related services by all applicable State agencies for SFYs 2012, 2013 and 2014. In the FFY 2015 application for IDEA Part B funds, the State provided two sets of data: (1) the State submitted revised amounts of State financial support for SFYs 2012 and 2013; and (2) the State provided amounts made available for SFYs 2013 and 2014. In both data submissions, the State included the amount of State financial support from all applicable State agencies (specifically, the State revised the amounts of State financial support to include “Appropriated State Funds for Administrative support to the Office of Special Education” and “Appropriations to the Employee Retirement System UAAL Rate Stabilization prorated for school district Special Education staff compared to total school district staff”). No further action is required.

Finding: Criterion 4.2: During the CIV conducted the week of November 27, 2011, and reconfirmed on May 20, 2014, 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).³ 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 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);⁴ 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 Guidance⁵ (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.

³ 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).

⁴ 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.

⁵ See footnote 1.

Finding: Criterion 4.3: During the CIV conducted the week of November 27, 2011, the State reported that some ESAs adjust their local effort based not on the amount of the IDEA section 611 subgrant the ESA receives under 34 CFR §300.705, but instead based on the portion of the section 611 subgrant that the ESA provides to its member districts.

Citation: Under 34 CFR §300.205, for any fiscal year for which the IDEA section 611 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 34 CFR §300.203(a)⁶ by not more than 50 percent of the amount of the excess. It is OSEP's understanding, based on information provided by the State, that each ESA, in conjunction with its member districts, submits a plan that provides assurances to the State that it will meet each of the requirements in IDEA section 613(a), including MOE requirements. The State makes IDEA section 611 subgrants under 34 CFR §300.705 to eligible ESAs; ESAs then distribute Part B funds to member districts that are part of the ESA. Consistent with 34 CFR §76.50 and the definitions of "subgrant" and "subgrantee" in 34 CFR §80.3⁷, the Part B funds that ESAs provide to member districts are not considered subgrants under Part B of the IDEA. Therefore, the amount of the allowable MOE reduction under 34 CFR §300.205 is based on the amount of the ESA's section 611 allocation, not the amount of the Part B funds that a member district receives from the ESA.

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 ESA eligible to reduce MOE under 34 CFR §300.205 takes a reduction based on the amount of the ESA's section 611 allocation, not the amount of Part B funds that a member district receives from the ESA; 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 Guidance⁸ (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 its LEAs, including all ESAs, of the revisions.

⁶ The final regulations on LEA MOE, published on April 28, 2015, set out the eligibility standard in §300.203(a) and the compliance standard in 34 CFR §300.203(b). Conforming changes were made to §300.205(a), which now refers to "the level of expenditures otherwise required by 34 CFR §300.203(b)."

⁷ See footnote 1. Effective July 1, 2015, for IDEA Part B FFY 2015 grant awards, the Uniform Guidance provisions at 2 CFR §§200.93, 200.92, and 200.74 defining "subrecipient," "subaward," and "pass-through entity," respectively, replace the provision previously found at 34 CFR §80.3 defining "subgrantee," "subgrant," and "grantee."

⁸ See footnote 1.

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.