

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

**Minnesota Department of Education (MDE)**

**Scope of Review:**

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

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

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

CrEAG – Critical Elements Analysis Guide

EDGAR – Education Department General Administrative Regulations

FFY – Federal Fiscal Year

FS – fiscal systems element of the CrEAG

GEPA – General Education Provisions Act

LEA – local educational agency

MFS – maintenance of financial support

SEA – State educational agency

**IDEA Part B  
Summary of Monitoring Criterion**

<b>Monitoring Area 1, IDEA Part B: Obligation/Liquidation</b>			
<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.	No	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 1.5: During a telephone interview conducted on December 19, 2013, the State reported that, when an LEA does not expend the total amount of its IDEA Part B subgrant, the SEA reallocates the unexpended funds without determining whether the LEA that did not expend the total amount of its funds was adequately providing a 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 60 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.

<b>Monitoring Area 2, IDEA Part B: Use of Funds</b>			
<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirement</b>
<b>Criterion 2.1</b>	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)
<b>Criterion 2.2</b>	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.	No	34 CFR §§300.16, 300.202(a)(2)
<b>Criterion 2.3</b>	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
<b>Criterion 2.4</b>	The SEA has procedures to provide an approved restricted indirect cost rate (RICR) for its LEAs.	No	34 CFR §§76.560-76.569

<b>Criterion 2.5</b>	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
<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:** None

<b>Monitoring Area 3, IDEA Part B: ARRA</b>			
<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.	Yes	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:** Criterion 3.1: During the AMI telephone interview conducted on December 19 and 21, 2011, the SEA reported that it did not certify and post certifications for infrastructure investments that were purchased with IDEA ARRA funds as required under ARRA section 1511.

**Citation:** Under ARRA section 1511, for covered funds made available to State or local governments for infrastructure investments, the Governor, mayor, or other chief executive, as appropriate, was required to certify that the infrastructure investment received the full review and vetting required by law and that the chief executive accepted responsibility that the infrastructure investment was an appropriate use of taxpayer dollars. Such certification was required to include a description of the investment, the estimated total cost, and the amount of covered funds to be used, and had to be posted on a website and linked to the website established by ARRA section 1526 (See <http://www.recovery.gov>).

**Further Action Required:** On January 26, 2012, the State provided the certifications and the web-link to where the certifications were posted on the State’s website that corrected the identified noncompliance. No further action is required.

<b>Monitoring Area 4, IDEA Part B: Level of Effort</b>			
<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirement</b>
<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.	No	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.	No	34 CFR §300.203(b)

**Finding:** Criterion 4.1: During the AMI telephone interview conducted on July 16, 2013, the State reported that as a birth mandate State it does not have procedures that exclude the Part C amount of State financial support made available for special education and related services and also that incorrect information was submitted under Section V of the FFY 2013 IDEA Part B grant application. Subsequently, on July 26, 2013, the State submitted updated procedures to collect information separately for Part B and Part C and also submitted a proposal on how the information could be recalculated to resubmit accurate Section V data for the FFY 2013 grant application. Additionally, OSEP has conducted several technical assistance calls with the State since the submission of the updated procedures.

**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:** On July 26, 2013, the State submitted updated procedures to collect information separately for Part B and Part C and also submitted a proposal on how the information could be recalculated to resubmit accurate Section V data for the FFY 2013 grant application. On January 15, 2014 MDE submitted revised FFY 2013 Section V data and a methodology for determining the amount of State financial support for special education and related services made available for students aged 3-21. The revised data and methodology corrected the identified noncompliance and no further action is required.

## Monitoring Area 5, IDEA Part B: Procurement, Property, and Record Retention

Criterion Number	Description	Noncompliance identified?	Applicable Requirement
Criterion 5.1	The SEA obtains approval from the Department prior to using its State-level IDEA funds for equipment, construction, or alteration of facilities.	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)

<b>Criterion 5.5</b>	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
<b>Criterion 5.6</b>	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

<b>Criterion Number</b>	<b>Description</b>	<b>Noncompliance identified?</b>	<b>Applicable Requirement</b>
<b>Criterion 6.1</b>	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