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Special Education Maintenance of Effort

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Section 1 – MOE and MOE data

Q1. What is the Local Educational Agency Maintenance of Effort?
A1. The local maintenance of effort (MOE) requirement obligates any local educational agency (LEA) receiving IDEA Part B funds to budget and spend at least the same amount of local, or state and local funds for the education of children with disabilities on a year-to-year basis. The required MOE levels for budgeting and spending are referred to, respectively, as the "eligibility standard" and the "compliance standard."

See 34 C.F.R. § 300.203
https://www.ecfr.gov/cgi-bin/text-idx?SID=ce3cea4237a24aa539ca912c09302249&mc=true&node=se34.2.300_1203&rgn=div8
and
https://cifr.wested.org/wp-content/uploads/2015/12/CIFR-LEA-MOE-QRG.pdf

Q2. What is the MOE calculator?
A2. The MOE calculator currently in use by the New Mexico Public Education Department (PED) was created by the Center for IDEA Fiscal Reporting in conjunction with the US Department of Education. Once the data is entered into the calculator, the calculator is programmed to analyze the data and calculate MOE.

For a presentation of the calculator, *see*:
https://live.myvrspot.com/iframe?v=OGE0MTQ0MmMyYzI3MWZhZDkyZmQ4NjgyNjIwZjRhNDU

Q3. Why doesn't the calculator compare year to year budget?
A3. The Office of Special Education Programs (OSEP) uses the phrase "comparison year" to describe the fiscal year that an LEA uses to determine the amount of state and/or local funds it must budget or spend, in order to meet both the LEA MOE eligibility and compliance standards. Comparison year can also mean the last year the LEA met MOE, due to the Subsequent Years rule.

See 34 C.F.R § 300.203(c) at https://www.ecfr.gov/cgi-bin/text-idx?SID=ce3cea4237a24aa539ca912c09302249&mc=tru&node=se34.2.300_1203&rgn=div8

and page 5 at
https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

Q4: Why doesn't the calculator compare year to year expenditures?
A4: OSEP uses the phrase "the preceding fiscal year." The preceding fiscal year means the last fiscal year in which the LEA met MOE, due to the Subsequent Years rule.

See page 13 at
https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

Q5. What happens if the LEA does not meet MOE?
A5. The LEA can meet MOE by either expenditures (spending the same amount or more) OR per capita (spending the same amount or more per student).

See page 13, question C-3
https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

If the LEA does not meet MOE by either expenditures or per capita, the calculator calculates the lowest amount owed: expenditures, per capita or 611+619 grant award. *See* page 21, question E-1 at
https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

Q6. What data is used in MOE?
A6. The data includes Operational budget and Operational expenditures from these codes:

Fund	Object	Job Class
11000	51100	0000
13000	51200	1214
	51300	1311
	53211	1312
	53212	1313
	53213	1314
	53214	1315
	53215	1316
	53216	1317
	53217	1318
	53218	1319
	53219	1412
		1712

Expenditures from federal funds (funds 25xxx) which includes Medicaid and Impact Aid (funds 25145, 25147 and 25252), Child Nutrition (25150), Title Programs (24xxx), IDEA Part B (24106) and Preschool (24109) may not be used in MOE calculations.

Q7. Can Impact Aid expenditures be added into the calculator?
A7. It depends on the fund number. Expenditures from Federal Direct grants (funds 25xxx) cannot be used in the calculator. This includes Impact Aid funds 25145, 25147 and 25252. Impact Aid funds that are entered with a Budget Adjustment Request into fund 11000 can be included in the calculator. These expenditures are included in the OBMS data pull (see Question 6).

Q8. Why is the data so old?
A8. Final data is pulled after the fiscal year has closed. For example, state fiscal year 2019-20 closed 6/30/2020. The final expenditure data will be pulled on PED's 80th day, after the fiscal year closes. For FY20, that will be December 1, 2020. *See* 34 C.F.R. § 300.203(b) at https://www.ecfr.gov/cgi-bin/text-idx?SID=ce3cea4237a24aa539ca912c09302249&mc=true&node=se34.2.300_1203&rgn=div8

Q9. Why aren't employee benefits included in the MOE calculation? How do we include employee benefits?
A9. Historically benefits have not been included in the MOE calculation. However, based on direction from the US Department of Education's Office of Special Education Programs, LEAs must now include benefits in their MOE calculation. Starting in fiscal year 2016-17, LEAs must enter special education staff benefits into their calculator. Employee benefit data are not automatically populated into the calculator because special education staff benefits are not isolated expenditures in OBMS and PED cannot disaggregate special education staff benefits from all other LEA staff benefits. Therefore, the LEA must enter these expenditures into the calculator manually. All expenditures entered into the calculator must be supported by an auditable paper trail.

Q10. If the LEA's accounting system did/does not isolate employee benefits, can the LEA use a percentage?
A10. Actual employee benefits expenditures for special education staff must be entered into the calculator. However, if the LEA's accounting system does not isolate actual employee benefits, for fiscal years 2016-17, 2017-18, and 2018-2019, the LEA may use their total salaries to total benefits percentage. Please call or email the Special Education Division's financial coordinator at 505-216-8632, coreena.kim@state.nm.us for specific LEA salaries to benefits percent.

Because data for fiscal year 2018-19 is not available at the time of this publication, an LEA that needs to use the percentage as opposed to actual expenditures will use the same percentage as 2017-18. For all years after 2018-2019, actual employee benefits expenditures will be required.

Q11. Are salary and employee benefits for special education coordinators or directors allowable expenditures in MOE?
A11. Each LEA has the discretion to include special education coordinator or director salary and benefits as expenditures if they are paid from state operational funds and to the extent that the person in the position directly works on matters related to the provision of special education to students. In some New Mexico LEAs, the special education coordinators/directors (OBMS job class 1211) are assigned additional duties and do not work exclusively on special education. In those cases, the LEA must determine what percentage of time the special education coordinator or director spends on special education and can only claim that percentage of the expenditure as part of MOE. The LEA will need to maintain an auditable paper trail to substantiate the expenditures such as: a contract which specifies a percentage of time spent on special education duties and time and effort sheets.

Please note that once your LEA decides to include the special education coordinator or director salary and employee benefits as part of its MOE calculation, the inclusion of salary and benefits needs to continue in future years, unless the job description and duties change. However, the previous inclusion of this expenditure will remain part of your MOE level and the change will not reduce that level.

Q12. Are salary and employee benefits for special education social workers an allowable expenditure in MOE?
A12. For 2016-17, 2017-2018, and 2018-2019, an LEA **may** include social worker salary and employee benefits if the social worker is certified/licensed by PED and paid from state or local operational funds and to the extent that the person in the position directly works on matters related to the provision of special education to students. The LEA must have an auditable paper trail to substantiate the expenditures such as: caseload, contract specifying percentage of time spent on special education duties and time and effort sheets.

Please note that beginning with 2019-2020, an LEA **must** include social worker salary and employee benefits if the social worker is certified/licensed by PED and paid from state or local operational funds and to the extent that the person in the position directly works on matters related to the provision of special education to students. The LEA must have an auditable paper trail to substantiate the expenditures such as: caseload, contract specifying percentage of time spent on special education duties and time and effort sheets.

Q13. An LEA cannot find a replacement special education teacher. Is a long term substitute an allowable expenditure for MOE?
A13. No.

Q14. An LEA incorrectly coded an expenditure which caused the LEA to not meet MOE. Can the LEA include the incorrectly coded expenditure in the MOE calculation?
A14. Yes, the LEA can include the amount in MOE, however, this type of "miscoding correction" will not be reflected in either OBMS or the LEA's accounting system. Therefore the LEA must have an auditable paper trail in order to claim the expenditure. For example, if an LEA incorrectly coded a special education teacher (job class 1412) as a general education teacher (job class 1411) which caused the LEA to not meet MOE, the error may be "corrected" in the calculator. The LEA must have an auditable paper trail supporting the inclusion of the incorrectly coded expenditure, such as employee name or number, a contract, caseload, and financial support documents.

Q15. What is a costly expenditure for a long-term purchase?
A15. A costly expenditure for a long-term purchase is equal to or greater than $20,000 and paid out over a period of more than one year. Examples include acquisition of special education equipment, construction and/or renovation of designated special education spaces.

Q16. How is a costly expenditure for a long-term purchase applied in the MOE calculation?
A16. During the years of the expenditure, the expenses for the long-term purchase are included in MOE calculations as part of expenditures. This increases the LEA's MOE level during those years. In the final year of paying for the purchase, the termination of that costly expenditure is a reason to reduce MOE. For the year in which the project ends, the expenditure is recorded as an exception under 34 C.F.R. § 300.204(d). The amount of the exception is the expenditure in the final year, not the total project cost.

Fiscal Year		Expenditures	Costly expenditures	Total expenditures	Exceptions
2014-15	No costly expenditure	$1,000	$0	$1,000	$0
2015-16	1st year of costly expenditure	$1,000	$15,000	$16,000	$0
2016-17	2nd year of costly expenditure	$1,000	$15,500	$16,500	$0
2017-18	3rd and final year of costly expenditure)	$1,000	$0	$1,000	$15,500

Q17. What information and documentation is required to support a costly expenditure for a long-term purchase in MOE?
A17. The LEA must provide information and documentation items to support the costly expenditure and maintain an auditable paper trail. For construction and/or long term purchases expenditures (paid with either bond or operational funds), the LEA must be able to provide information about fund, function, and object codes and documents describing the long-term purchase, such as contract, board meeting decisions, etc., that prove the construction, renovation or purchase was for special education.

Q18. If an LEA paid for a special education construction/renovation project with bond funds, are the construction/renovation expenses paid with bond funds an allowable expenditure for MOE?
A18. It depends. If the bond is for school facilities that are directly related to the provision of special education and the construction is long-term (i.e., takes more than one year to complete), then the expenses paid with bond funds can be included in the MOE calculation. The LEA must be able to provide information about fund, function and object codes and documents describing construction (such as contract, board meeting decisions, etc.) that prove the space constructed or renovated was for special education.
See Question 16 for how to apply these amounts to the MOE calculation.

Please *see* page 53:
https://www.ecfr.gov/cgi-bin/text-idx?SID=ce3cea4237a24aa539ca912c09302249&mc=true&node=se34.2.300_1203&rgn=div8

Q19. If an LEA had a construction or renovation of a special education classroom done that took less than one year or cost less than $20,000, how does that impact MOE?
A19. If the LEA includes the expenses from a construction or renovation project that is completed in less than one year or costs less than $20,000, the LEA should use its discretion on whether to include that expenditure in MOE. The one time expenditure will raise the MOE level for the LEA and there will not be any corresponding exception to MOE in subsequent years. There is no exception (see Question 16) to take the next year since the project took less than one year to complete.

Section 2 – MOE Exceptions
Q20. What is an exception?
A20. If the LEA does not meet MOE after all expenditures have been entered, the LEA may be able to reduce its level of effort for budgeting or expenditures with allowable "exceptions." Exceptions are factored into the calculation and may help the LEA meet MOE. All exceptions must be supported by an auditable paper trail. If the LEA has Met MOE, exceptions cannot be applied.
There are five exceptions:

a. Special education staff voluntary departure (voluntary and for-cause) and replacement;
b. Decrease in enrollment of IDEA (this is automatically calculated; data entry is not necessary);
c. Termination of obligation to provide special education to a student in an exceptionally costly program (*see* the Puente para los Niños guidelines at https://webnew.ped.state.nm.us/wp-content/uploads/2020/09/2020-2021-Puente_para_los_Ninos_Guidelines-09-14-2020.pdf);
d. Termination of costly expenditures for long term purchases;
e. Assumption of cost by the high cost fund operated by the PED (Puente para los Niños).

See 34 C.F.R. § 300.204 at
https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ce3cea4237a24aa539ca912c09302249&mc=true&r=SECTION&n=se34.2.300_1204
and page 2 at:
https://cifr.wested.org/wp-content/uploads/2015/12/CIFR-LEA-MOE-QRG.pdf

Q21. What is the Voluntary Departure and Replacement exception?
A21. A Voluntary Departure is when special education staff (job class 1311-1319, 1412, and 1712) retire, resign or is terminated with just cause. Replacement is hiring new staff to replace the departed staff. Departing staff are sometimes veteran employees and therefore earn more than a new replacement staff. The dollar difference between the departing and replacement is the exception.

Note: If staff worked .5 FTE on special education duties (i.e., special education non-instructional assistant), then .5 FTE can be the exception; not the entire salary and benefit of that FTE.

The following do not qualify under the Voluntary Departure exception:

- The LEA reassigns the special education teacher or ancillary staff to other duties in the district;
- The LEA reduces the number of special education staff due to a reduction in force;
- The LEA changes local special education policy or procedure, reducing the number of staff and/or hours;
- The LEA releases or does not renew the contract of a probationary employee; and
- The LEA is not able to recruit or hire a special education teacher and relies on long term substitute teachers during the school year.

Q22. If an LEA decides to pay its special education teachers from fund 24106 instead of 11000, can we change back to 11000 before we submit the MOE calculator?
A22. No; this would be supplanting.

Q23. In an effort to lower operational costs, an LEA decided to pay our special education teachers from OBMS fund code 24106. Is this an exception since it is no longer an expenditure from OBMS fund code 11000?
A23. No; this would be supplanting.

Q24. If, in an effort to lower costs, an LEA district hires an in-house related service provider instead of continuing to contract for the service, can the LEA consider the decision to no longer use the outside contractor as a Voluntary Departure and use the exception?
A24. No.

Q25. What are common examples of cost saving measures that do not qualify as exceptions that reduce an LEA's MOE level?
A25. The following are examples of cost saving measures that are not exceptions:

- Hire in house ancillary staff rather than contract out;
- A decrease in employee contributions to the Educators Retirement Board Account;
- A decrease due to the LEA switching health insurance programs;
- Converting the health insurance program to an HRA system (Health Reimbursement Arrangement);
- Withdrawal from shared special education programs;
- Savings due to the contract rebids, such as transportation.

Q26. What is the LEA required to do with the cost savings that are not exceptions and do not reduce the MOE level?
A26. LEAs are encouraged to be good stewards of public funds and to find cost savings where appropriate. However, the funds saved by actions that are not allowed under the IDEA regulations as exceptions must be reinvested back into the special education program.

Q27. What is the "decrease in enrollment" exception?
A27. The number of students with disabilities is from the STARS 40-day count. The LEA count includes local charters (off site and homebound). If there is a decrease in enrollment of students with disabilities in an LEA, the calculator automatically accounts for the difference between the two years. That difference is converted to a percentage, which is multiplied by the prior year expenditures.
For example:

	SWD child count	MOE expenditures
2017-18	150	$1,230,000.00
2018-19	130	$900,000.00
Change	-20	
% change	-13.33%	-$164,000.00

Q28. What is the "termination of obligation to provide special education to a student in an exceptionally costly program" exception?
A28. An LEA may reduce the amount of expenditures if the LEA no longer has an obligation to serve a child with an exceptionally costly program because the child:

- Has left the jurisdiction of the agency; or
- Has reached the age at which the obligation of the agency to provide FAPE has terminated; or
- No longer needs the program of special education.

An exceptionally costly program is one that meets the definition of a high needs student as described in the Puente para los Niños Guidelines; see *https://webnew.ped.state.nm.us/wp-content/uploads/2020/09/2020-2021-Puente_para_los_Ninos_Guidelines-09-14-2020.pdf*, page 3. An auditable paper trail is required to support the exception.

Q29. What is the "termination of costly expenditures for long term purchases" exception?
A29. A costly expenditure for a long-term purchase is $20,000 and paid out over a period of more than one year. The expenditure is recorded as such in the years in which it was paid. In the final year of payment, construction or renovation, the final year of expenditures are recorded as an exception (please see question 16). Support documents for the exception:

- Fund, function and object codes; and
- Documents describing construction (contract, board meeting decisions, or similar) that prove the item purchased or space constructed/renovated was for special education.

Q30. What is the "assumption of cost by the high cost fund operated by the SEA?"
A30. New Mexico has a high cost program that is called Puente para los Niños (fund 24120). If your LEA has applied for and received this grant, the expenditures in fund 24120 can be entered as exception (e). The expenditures are coded the same as in Question 6, plus benefits for staff.

Section 3 – MOE Adjustment

Q31. What is an adjustment?

A31. An adjustment is similar to an exception; it is a way to lower an LEA's obligation. If the LEA received an increase in their IDEA B grant (fund 24106), the adjustment can be up to 50% of that increase. The adjustment is from Operational funds, not IDEA B grant funds. "Adjusted" funds are used toward an Elementary and Secondary Education Act (ESEA) program. The LEA can reduce spending obligation for MOE by using operational funds to carry out activities under ESEA. Example:

Prior Year IDEA B (24106) Allocation:	$50,000
Current Year IDEA B (24106) Allocation:	$60,000
Increase in allocation:	$10,000
Max Available for MOE adjustment:	$5,000
Required to be used for ESEA program (Operational funds):	$5,000

- The LEA must submit a plan that identifies the ESEA program and describes spending.
- If the LEA Met MOE without the adjustment, the adjustment cannot be applied.

Section 4 – Helpful Links

OSEP memo July 27, 2015

https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf

Center for IDEA Fiscal Reporting Quick Reference Guide on LEA MOE

https://cifr.wested.org/wp-content/uploads/2015/12/CIFR-LEA-MOE-QRG.pdf

34. C.F.R. §300.203 Maintenance of effort

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=ce3cea4237a24aa539ca912c09302249&mc=true&n=sp34.2.300.c&r=SUBPART&ty=HTML#se34.2.300_1203

MOE Decision Tree (adjustment decision tree)

https://ideadata.org/resources/resource/1495/maintenance-of-effort-moe-reduction-eligibility-decision-tree