

Understanding Special Education Maintenance of Effort (MOE)

What is meant by “Maintenance of Effort”?

The term “Maintenance of Effort,” often shortened to “MOE,” refers to the requirement placed upon many federally funded grant programs that the State Education Agency (SEA) and Local Education Agencies (LEA) demonstrate that the level of state funding and the level of local expenditures remain at least the same or more than the previous year. Failure to meet MOE requirements may result in corrective action, a process described toward the end of this summary.

The rules regulating MOE differ depending on the federal program requiring the effort. Some grant programs do not require MOE, whereas some grant programs such as *IDEA* have very specific rules documented in the federal regulations.

MOE and the Part B Individuals with Disabilities Education Act (*IDEA*)

Part B of the *IDEA*, includes statutes and regulations regarding SEA and LEA *IDEA* allocations, as well as MOE provisions applicable separately at both the state and local levels.

State Level of Financial Support or MOE

At the state level, Part B prohibits a state from reducing state financial support for special education and related services for children with disabilities below the amount of that support for the preceding fiscal year (34 CFR §300.163). State Level MOE is not based on actual expenditures, but rather appropriations made in Kansas’s state budget. Each year, the Kansas legislature determines the amount of state special education funding designed to supplement the local special education expenses. Special Education Categorical Aid accounts for the majority of funds allocated for the provision of Part B special education in Kansas. Per recent OSEP guidance, KSDE must also include in its calculation of SEA’s level of financial support, costs associated with the provision of special education services to students with disabilities afforded through other state agencies.

Local Level MOE

At the local level, LEAs must expend the same or more for special education services to students with disabilities as the previous year. KSDE compares actual expenditures from the previous two fiscal years. For example, during 2009-2010, MOE for LEAs was based on a comparison of actual expenditures incurred in 2007-2008 to actual expenditures incurred in 2008-2009. In addition, to be eligible the following year for federal *IDEA* funds, LEAs had to budget the same amount for special education during 2009-2010 as it expended in the previous fiscal year, 2008-2009. Provisions within the Federal *IDEA* Regulations assist LEAs in meeting MOE from one year to the next.

50% Reduction Rule

The most significant of these provisions is often referred to as the 50% Reduction Rule. In the case of the 50% Reduction Rule, if an LEA receives an increase in its *IDEA* flow-through allocation from one fiscal year to the next, the LEA may reduce its MOE obligations by 50% of the increased amount (34 CFR §300.205 (a)). However, the LEA must use an amount of local funds equal to the reduction to carry out activities that could be supported with funds under the *Elementary and Secondary Education Act (ESEA)* (34 CFR §300.205(b)). This includes any activities allowed under Title I,

Impact Aid, and other *ESEA* programs.

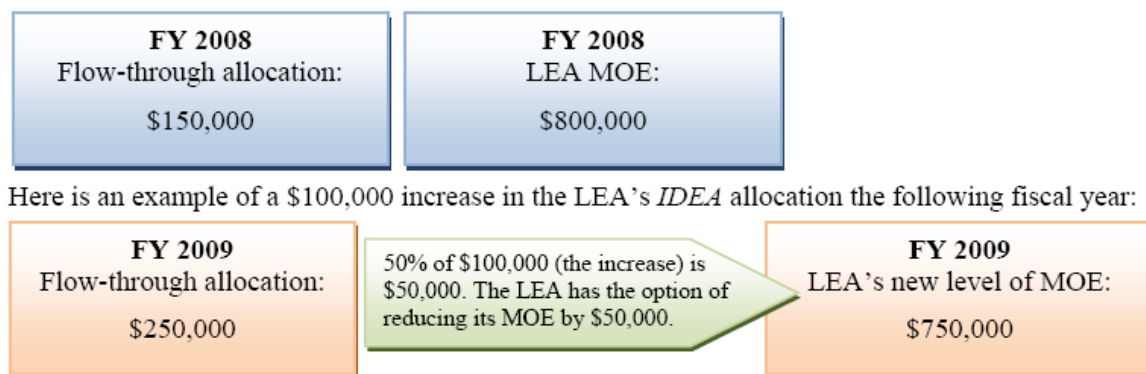
Local expenditures can be based on either LEA funds or LEA and SEA funds combined. One example an LEA might use to meet this requirement would be At Risk and Four Year Old At Risk expenditures as reported within the School Finance Budget, Codes 11 and 13.

In order for KSDE to ensure local funds are expended equal to the amount of the reduction requested, beginning in the 2010-2011 year, if an LEA applies the 50% Reduction Rule when completing the Special Education Maintenance of Effort online worksheet, the LEA will be required to report the actual local expenditures that support ESEA activities up to the reduction claimed by Function and Object codes. Therefore it is important that LEAs establish a means to track actual expenditures claimed.

If an LEA chooses to utilize the 50% Reduction Rule to reduce its MOE obligations, the LEA will maintain the new reduced MOE amount in subsequent years, until such time that an LEA increases the amount expended for special education services.

Example:

Sample base year that includes a \$150,000 federal allocation with a district's MOE obligation of \$800,000: *(Districts can meet MOE on either local or state and local combined)*



If an LEA does not meet MOE, there are exceptions within IDEA for meeting MOE as found in 34 CFR §300.204.

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.

EXAMPLE: A special education (not gifted) teacher retires. The salary and fringe of this long-term and experienced teacher is \$90,000. **The LEA can use this entire amount as an MOE exception if the teacher is not replaced; if replaced, take the difference between the departing staff and the replacing staff.**

2. A decrease in the enrollment of children with disabilities. (KSDE calculates the expenditures per pupil within the MOE worksheet)

2008 Spec. Ed. Enrollment: 45	2008 MOE: \$100,000	2008 Per Pupil Cost: \$2,222 (100,000 / 45)	Example Base Year
2009 Spec. Ed. Enrollment: 40	2009 MOE: \$95,000	2009 Per Pupil Cost: \$2,375 (95,000 / 40)	
2009 Spec. Ed. Enrollment: 40	2009 MOE: \$75,000	2009 Per Pupil Cost: \$1,875 (75,000 / 40)	Acceptable reduction of MOE: • Decrease in special education student enrollment from 2008 • <u>AND</u> per pupil cost was maintained Unacceptable reduction of MOE: • Decrease in special education student enrollment from 2008 • Per pupil cost was <u>NOT</u> maintained

EXAMPLE: An LEA experiences a drop in enrollment of children with disabilities; however, the per pupil cost for a special education student meets or exceeds the per pupil cost spent per special education student in the previous year. If the number of children with disabilities decreases, and the amount spent per special education student also decreases below the previous year's amount, then MOE *cannot be reduced*.

3. A child with a disability that requires an exceptionally costly program either leaves the district, ages out, or no longer needs the special education program.
4. The termination of costly expenditures for long-term purchases, such as the acquisition of a building or vehicle used for special education.

In addition to the 50% Reduction Rule, all exceptions listed above may be utilized (if allowable) for the reduction of MOE. For example, an LEA is able to reduce its MOE by \$100,000 through the 50% Reduction Rule, and an additional \$20,000 due to a high cost child moving out of the district, for a total MOE reduction of \$120,000.

LEAs Restricted from Reducing Maintenance of Effort

There are provisions of the *IDEA* that limit whether an LEA may reduce local effort. Under IDEA section 616(f), if the SEA determines that an LEA is not meeting the requirements of Part B, including meeting targets in the [State's Performance Plan](#) (SPP), the SEA must prohibit the LEA from reducing its local effort. Therefore, if an LEA does not receive a Special Education Level of Determination (LOD) of "Meets Requirements," the LEA is not allowed to take advantage of the 50% Reduction Rule. Notification is provided to LEAs each fiscal year if ineligible for the 50% Reduction Rule based on its Level of Determination.

LEAs that have been identified as having [significant disproportionality](#) are also restricted from reducing MOE using the 50% Reduction Rule. An LEA has significant disproportionality if identified as having a disproportionate representation of racial and ethnic groups in special education as a result of inappropriate identification which is determined to be significant (above 4.0). Kansas LEAs identified as having significant disproportionality are notified by KSDE and must use 15% of the Part B funds to implement Coordinated Early Intervening Services (CEIS).

For special education cooperatives and interlocals that serve multiple districts, the 50% Reduction Rule will be prorated based on the districts with a Meets Requirements Level of Determination. In

addition, the requirement to use 15% for CEIS activities will only apply to the proportionate share of federal funds generated by the district identified with significant disproportionality.

MOE and Coordinated Early Intervening Services

IDEA 2004 contains a provision at 20 U.S.C. 1413 (f), which permits LEAs to use up to 15 percent of their Part B funds for any fiscal year to develop and implement Coordinated Early Intervening Services (CEIS).

CEIS is intended to provide services to students not yet identified as a student with disability, but who are determined to need additional academic and behavioral supports to succeed in general education.

IDEA 2004 requires LEAs identified for significant disproportionality to reserve and expend 15% of its Part B grant allocation on CEIS activities in the year following notification.

IDEA Regulations stipulate any *IDEA* dollars expended towards CEIS activities must be deducted from the amount an LEA could have reduced their MOE through the 50% Reduction Rule (34 CFR §300.205(d)).

Examples of MOE reductions due to the 50% Reduction Rule with CEIS budgets:

LEA not identified with significant disproportionality (optional use of CEIS funding)	FY 2008 Allocation: \$900,000	FY 2009 Allocation: \$1,000,000 Increase of: \$100,000	Max CEIS Allowed: \$150,000 (15% of allocation)	Max MOE Reduction: \$50,000 (50% of increase)
Scenario 1:	FY 2009 Allocation: \$1,000,000	CEIS Budgeted: \$10,000	Subtract \$10,000 from max MOE	Allowed MOE Reduction: \$40,000
Scenario 2:	FY 2009 Allocation: \$1,000,000	CEIS Budgeted: \$40,000	Subtract \$40,000 from max MOE	Allowed MOE Reduction: \$10,000
Scenario 3:	FY 2009 Allocation: \$1,000,000	CEIS Budgeted: \$50,000	Subtract \$50,000 from max MOE	Allowed MOE Reduction: \$0
LEA identified with significant disproportionality (required use of CEIS funding)	FY 2008 Allocation: \$900,000	FY 2009 Allocation: \$1,000,000 Increase of: \$100,000	CEIS Required: \$150,000 (15% of allocation)	LEAs identified as significantly disproportionate may not reduce MOE level
ONLY Scenario:	FY 2009 Allocation: \$1,000,000	CEIS Budgeted: \$150,000	LEA may not reduce MOE	Allowed MOE Reduction: \$0

KSDE Maintenance of Effort Process

KSDE determines whether or not an LEA has met the requirements of MOE for *IDEA* by reviewing submitted LEA School Finance budget reports and other annual reports and data collected by KSDE. The timeline for this process is:

- **February** – All districts verify Special Education MOE data within the LEA Application and the submit Part II by March 1 each year.
- **March-April** – KSDE verifies LEA submissions and approves Part II of the LEA Application for districts meeting MOE.
- **April-May**– Districts not meeting MOE – Final Review – Notification sent to districts not meeting MOE
- **June** - Notification provided to LEAs ineligible for the 50% Reduction Rule
- **June –July** Within 30 days of Notification, districts not meeting MOE must return funds to the U.S. Department of Education

LEAs are required to follow Kansas Statutes and Regulations and utilize the Kansas Accounting Handbook for Unified School Districts. LEAs must account for special education expenditures and revenue within “Code 30 or 78.” Each allocation received must be tracked separately to account for all expenditures.

Each year, budget information is submitted by LEAs to the KSDE School Finance Team. Data within codes 30 and 78 are preloaded into the LEA’s online special education MOE worksheet. **LEAs may meet the MOE requirement on either a combination of state and local funds or local funds only.**

If MOE is Not Met Prior to Submission:

If MOE is not met prior to submission, the LEA should carefully review financial data within the MOE worksheet to determine if the amount of actual expenditures are correct. If necessary, LEA’s may submit budget revisions to actual expenditures reported to the School Finance Team. In many instances this will result in meeting MOE. If the expenditures are correct and MOE is not met, LEAs are encouraged to submit the Part II of the LEA Application with justification if one or more of the exceptions under CFR §300.204 apply. If MOE is not met, when submitting the LEA Application, a text box will pop up and LEAs must enter justifications including the actual dollar amounts for each exception claimed. Once the justification textbox is complete an LEA may submit Part II of the LEA Application.

If MOE is Not Met After Submission:

If KSDE determines that one of the MOE exceptions claimed by the district is not an allowable exception addressed in the regulations (CFR §300.204), KSDE will contact the LEA and provide technical assistance as necessary to verify data and identify allowable exceptions.

If an LEA still cannot meet the MOE requirement after consultation with KSDE, the LEA is required to repay to the U.S. Department of Education the difference from one year to the next of actual

special education expenditures. The repayment must be made using local funds.

The following is an example of the reduction of an LEA's MOE and the repayment that must be made to the U.S. Department of Education.

2008- 09Special Education MOE	2009-10 Special Education MOE	Required Repayment
\$1,334,220	\$1,319,225	\$14,995