

# Maintenance of Effort

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WI Department of Public Instruction  
Special Education Team

Section 1

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# **WHAT IS “MAINTENANCE OF EFFORT”?**

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Section 1: What is “Maintenance of Effort”?

## What is MOE?

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- Requirement that the SEA and LEA maintain a consistent level of state and local funding from year to year.
- Failure to meet MOE requirements may result in monetary penalties.

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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 (LEAs) demonstrate that the level of state and local funding remains constant from year to year. Failure to meet MOE requirements may result in the obligation of an LEA to repay funds.

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 regulations.

## What is MOE?

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- Each Federal program that requires MOE apply rules differently.
- In determining whether an LEA has maintained MOE, the State must analyze the LEA's expenditures.
- Each Federal program imposes differing consequences for failure to meet MOE.

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Each Federal program that requires MOE applies the rules slightly differently. The rules for IDEA's MOE requirements are different than those for Title I. Generally, MOE is referencing the amount of both local and state funds expended on program activities. Because there are no standard rules for the application of MOE, or the penalties of not meeting maintenance of effort, it is important to review the MOE regulations for each program the LEA participates in.

Section 2

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**MOE AND  
THE *INDIVIDUALS  
WITH DISABILITIES  
EDUCATION ACT***

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Section 2: Maintenance of Effort and the *Individuals with Disabilities Education Act*

## IDEA's MOE Requirements

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- SEA – IDEA prohibits a state from reducing state financial support for special education below the amount of that support for the preceding fiscal year. (34 CFR §300.163)
- LEAs – IDEA requires that LEAs must budget the same amount of local funding for special education as it expended in the previous fiscal year. (34 CFR §300.203)

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Part B of *IDEA*, which includes the language regarding *IDEA* funding allocations to the SEA and LEAs, includes MOE provisions applicable separately at both the state and local levels.

At the state level, Part B prohibits a state from reducing state financial support for special education below the amount of that support for the preceding fiscal year. In Wisconsin, we call this state financial support “special education categorical aid.” Approximately \$300 million is paid out to LEAs each year through special education categorical aid to help cover the local costs of providing special education. This is not federal funding, but rather an appropriation made in Wisconsin’s state budget. To meet the *IDEA* MOE obligation, Wisconsin must continue to fund special education at this level every year.

At the local level, *IDEA* requires that LEAs budget the same amount of local funding for special education as it expended in the previous fiscal year. This includes the amount an LEA spends on special education using local dollars, including those dollars that are reimbursed with categorical aid.

There are provisions in *IDEA* to allow for decreases in an LEA’s MOE from one fiscal year to the next.

## Methods for lowering MOE

- “Exceptions” to MOE (34 CFR §300.204)
  - The voluntary departure or departure for just cause of special education personnel.
  - Decrease in enrollment of children w/ disabilities.
  - A “high cost” child moves out of the district, ages out, or no longer needs the program.
  - The assumption of cost by the high cost fund
  - The purchase of costly capital, such as a special education bus, is paid out.

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LEAs have the ability to lower their MOE obligation from one fiscal year to the next if they meet certain qualifiers. Exceptions to lowering locally funded special education costs include:

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

An example of this scenario is if a special education teacher retires. The salary and fringe of this long-term and experienced teacher is \$90,000. The LEA replaces this position with a qualified special education teacher at a salary and fringe of \$60,000. The LEA would be allowed to reduce their MOE obligation by \$30,000 (which is the difference between the experienced teacher salary and new teacher salary).

A MOE reduction that occurs because an LEA lays off or reduces the contracts of special education staff does not qualify as an allowable exception.

The second exception is a decrease in enrollment of children with disabilities.

This occurs when an LEA sees a drop in enrollment of children with disabilities but the per pupil cost for a special education student meets or exceeds the per pupil cost spent per special education student 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*.

A third exception is when a child with a disability that incurs an exceptionally costly program either leaves the district, ages out, or no longer needs the special education program.

The fourth exception is when the cost of high cost student is assumed by the high cost funds.

The fifth exception is the termination of costly expenditures for long-term purchases, such as the acquisition of a vehicle used for special education transportation or a remodeling or construction project.

## MOE & the “50% Rule”

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- The “50%” rule (34 CFR §300.205 (a))
  - 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 half of the increased amount.
  - “Freed-up” funds must be used to carry out activities that could be supported with funds under the *ESEA* (34 CFR §300.205(b)).

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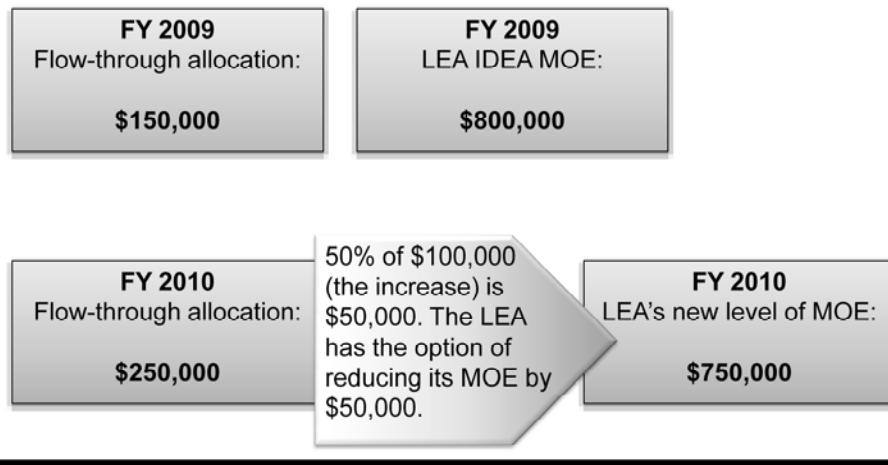
The most significant of these provisions is often referred to as the 50% rule. In the case of the 50% rule, if an LEA receives an increase in its *IDEA* flow-through allocation from one fiscal year to the next, the LEA may reduce its MOE obligations by half of the increased amount. The 50% rule only applies to the flow-through portion of Part B.

The funds “freed-up” by the 50% rule must be used to carry out activities that could be supported with funds under the *Elementary and Secondary Education Act (ESEA)*. This includes any activities allowed under Title I, Impact Aid, and other *ESEA* programs. An LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities.

An LEA does not have to be eligible for any programs under *ESEA* to use freed-up funds, the allowable costs under these programs are simply used as the parameters for how the freed-up funding must be spent. Allowable activities for freed-up funds do not have any restrictions.

A district may not reduce its over-all district budget by the amount that it is able to reduce its MOE obligations. The freed-up funds must be spent by the district and tracked for auditing purposes.

## Demonstration of IDEA's 50% rule



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In this example, the LEA received an IDEA flow-through allocation in fiscal year 2009 of \$150,000. During that same year, the LEA expends \$800,000 in local funds on special education. The \$800,000 includes all non-grant funded special education costs, both those that are and are not eligible for state categorical aid reimbursement.

The following year, fiscal year 2010, the LEA receives an increase in their flow-through allocation of \$100,000. The LEA's flow-through allocation is now \$250,000. Using the 50% rule, the LEA would be allowed to reduce their local effort of \$800,000 by \$50,000. \$50,000 is half the amount of the LEA's flow-through increase of \$100,000.

The amount of \$50,000, freed up through the 50% rule, must be expended on activities that support ESEA.

By taking advantage of the flexibility of IDEA's 50% rule, the LEA was able to reduce its MOE from \$800,000 to \$750,000. In the following year, and until the LEA increases local costs on their own, the LEA only needs to expend \$750,000 to ensure that MOE has been met.

## May more than one MOE exception be utilized?

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- All exceptions may be utilized
- Not an “either / or” decision
- “Freed-up” fund requirements are *only* in relation to the 50% rule, not the other exceptions for lowering MOE

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When reducing local maintenance of effort for special education, LEAs may utilize all of the options available:

The voluntary departure or departure for just cause of special education personnel.

Decrease in enrollment of children w/ disabilities.

A “high cost” child moves out of the district, ages out, or no longer needs the program.

The assumption of cost by the high cost fund

The purchase of costly capital, such as a special education bus, is paid out.

The “50%” rule (34 CFR §300.205 (a))

It is not an “either/or” situation. All options may be utilized (if applicable) for the reduction of MOE. For example, an LEA is able to reduce its MOE by \$100,000 through the 50% 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.

Keep in mind, however, that the “freed-up” funds rule is only in regard to the 50% flexibility. In the example above, the LEA would only have to utilize \$100,000 on activities that support ESEA, and not have to include the \$20,000 decrease due to a high cost child moving out of the district. The district, in theory, could lower their overall district budget by \$20,000 and not violate the rules around “freed-up funding” and the 50% provision.

## Restricted from reducing MOE

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- If the LEA does not receive a “Meets Requirement” determination of an SPP indicator (613(a)(2)(C))
- If the LEA has been identified by DPI as having significant disproportionality 613(a)(2)(C)
- The SEA has taken on the responsibility of FAPE for an LEA’s students.

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There are provisions in *IDEA* that restrict 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 that LEA from reducing its MOE. Therefore, if an LEA does not receive an SPP indicator determination of “Meets Requirements,” then the LEA cannot reduce its MOE, regardless of the 50% rule.

LEAs that have been identified as having significant disproportionality are also restricted from reducing MOE.

And lastly, if the SEA has taken on the responsibility of FAPE because it has been determined that the LEA is not providing FAPE, the LEA cannot reduce MOE.

## Coordinated Early Intervening Services (CEIS) & MOE

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- CEIS is special education funding directed towards at-risk students who have *not* been identified for special education.
- CEIS may not fund special education.
- Budgeting for CEIS has a direct and substantial impact on reducing MOE using the 50% rule.

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*IDEA* 2004 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, often referred to as “CEIS.”

Coordinated early intervening services are intended for students who have not been identified as students with disabilities under *IDEA* but who are determined to need additional academic and behavioral supports to succeed in general education.

Although funded with *IDEA* dollars, coordinated early intervening services are not special education services. Budgeting *IDEA* funds for CEIS activities has a direct and substantial impact on an LEA’s ability to reduce its MOE through the 50% rule.

## The two CEIS scenarios

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### ■ **Situation 1:**

If the 50% max MOE reduction is **less** than the max amount that may be set-aside for CEIS, then IDEA dollars expended on CEIS must be subtracted from the amount an LEA can reduce its MOE through the 50% rule.

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### Situation 1:

If the maximum amount an LEA may reduce its MOE obligation using the 50% rule is **less** than the maximum that may be set-aside for CEIS, then any *IDEA* dollars expended on CEIS activities must be deducted from the amount an LEA could have reduced their MOE through the 50% rule (34 CFR §300.205(d)).

## SITUATION 1: Example A

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,000,000</b>  Increase of: <b>\$100,000</b>	Max CEIS Allowed: <b>\$150,000</b>  (15% of allocation)	Max MOE Reduction: <b>\$50,000</b>  (50% of increase)
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### Scenario 1:

FY 2010 Flow-through: <b>\$1,000,000</b>	CEIS Budgeted: <b>\$10,000</b>	Subtract \$10,000 from max MOE	Allowed MOE Reduction: <b>\$40,000</b> <small>(must be spent on ESEA)</small>
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The following are examples of MOE reductions using the 50% rule when the maximum amount that may be set-aside for CEIS is greater than the maximum amount that may be used to reduce MOE obligations:

In this first scenario, the LEA received \$900,000 in IDEA flow-through funding in fiscal year 2009. The following year, the LEA received \$1,000,000, which is an increase of \$100,000. LEAs have the option of expending up to 15% of their IDEA allocation on coordinated early intervening services. 15% of the LEA's fiscal year 2010 allocation is \$150,000. If an LEA wished to utilize the 50% rule, the increase of \$100,000 means that the LEA could reduce their local maintenance of effort obligation by \$50,000 (half of \$100,000).

However, if an LEA plans to expend any of their IDEA funds on the CEIS, they would have to subtract the amount expended on CEIS from the amount that they could have reduced their MOE. So in this example, if the LEA plans on expended \$10,000 on CEIS (they are allowed to expend up to \$150,000), they must subtract \$10,000 from their max allowed MOE reduction amount of \$50,000. The LEA would then only be able to reduce their local effort by \$40,000.

## SITUATION 1: Example B

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,000,000</b>  Increase of: <b>\$100,000</b>	Max CEIS Allowed: <b>\$150,000</b>  (15% of allocation)	Max MOE Reduction: <b>\$50,000</b>  (50% of increase)
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### Scenario 2:

FY 2010 Flow-through: <b>\$1,000,000</b>	CEIS Budgeted: <b>\$40,000</b>	Subtract \$40,000 from max MOE	Allowed MOE Reduction: <b>\$10,000</b> <small>(must be spent on ESEA)</small>
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Using the same base formula as Situation 1, Example A, the LEA has the option of expending up to \$150,000 on CEIS. In this example, the LEA decides to budget \$40,000 on CEIS. This amount is then deducted from the allowed MOE reduction of \$50,000. The LEA would only be allowed to reduce their local effort by \$10,000.

## SITUATION 1: Example C

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,000,000</b>  Increase of: <b>\$100,000</b>	Max CEIS Allowed: <b>\$150,000</b>  (15% of allocation)	Max MOE Reduction: <b>\$50,000</b>  (50% of increase)
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### Scenario 3:

FY 2010 Flow-through: <b>\$1,000,000</b>	CEIS Budgeted: <b>\$100,000</b>	Subtract \$100,000 from max MOE	Allowed MOE Reduction: <b>\$0</b>
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In this final example, again using the same base formula as Situation 1, Example A, the LEA decides to budget \$100,000 on CEIS, which is still \$50,000 short of what this LEA is allowed to expend on CEIS. However, this amount is greater than the max amount that the LEA could have been able to reduce its maintenance of effort. The LEA had the option of reducing their MOE by \$50,000 due to the 50% rule, but the budgeting of \$100,000 for CEIS eliminated that option for the LEA.

## The two CEIS scenarios

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- **Situation 2:**

If the 50% max MOE reduction is **greater** than the max amount that may be set-aside for CEIS, then the MOE reduction is capped at the max amount that may be set-aside for CEIS minus the actual amount expended on CEIS.

- This applies to all LEAs in FY 2009-2010

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### Situation 2:

If the maximum amount an LEA may reduce its MOE obligation using the 50% rule is **greater** than the maximum amount that may be set-aside for CEIS, then a district's MOE reduction is capped at the maximum amount that may be set-aside for CEIS minus the actual amount expended on CEIS (34 CFR §300.226 (a)).

Expending *IDEA* funds on CEIS automatically reduces the LEA's maximum MOE reduction to the same value as the maximum amount that can be set-aside for CEIS activities (15% of the Part B allocation).

## SITUATION 2: Example A

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,700,000</b> Increase of: <b>\$800,000</b>	Max CEIS Allowed: <b>\$255,000</b> (15% of allocation)	Max MOE Reduction: <b>\$400,000</b> (50% of increase)
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### Scenario 1:

FY 2010 Flow-through: <b>\$1,700,000</b>	CEIS Budgeted: <b>\$0</b>	Max MOE reduction is \$400,000	Allowed MOE Reduction: <b>\$400,000</b> (must be spent on ESEA)
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The following are examples of MOE reductions using the 50% rule when the maximum amount that may be set-aside for CEIS is less than the maximum amount MOE may be reduced using the 50% rule:

In this scenario, the LEA received \$900,000 in IDEA flow-through funding in fiscal year 2009. The following year, the LEA received \$1.7 million, which is an increase of \$800,000. LEAs have the option of expending up to 15% of their IDEA allocation on coordinated early intervening services. 15% of the LEA's fiscal year 2010 allocation is \$255,000. If the LEA wished to utilize the 50% rule, the increase to \$1.7 million means that the LEA could reduce their local maintenance of effort obligation by \$400,000 (half of \$800,000).

However, if an LEA plans to expend any of their IDEA funds on CEIS, they would be capped at reducing their MOE by the amount they can set-aside for CEIS. In this example, the LEA did not budget for CEIS so they are allowed to reduce their MOE obligation by the full amount made available through the 50% rule.

## SITUATION 2: Example B

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,700,000</b>  Increase of: <b>\$800,000</b>	Max CEIS Allowed: <b>\$255,000</b>  (15% of allocation)	Max MOE Reduction: <b>\$400,000</b>  (50% of increase)
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### Scenario 1:

FY 2010 Flow-through: <b>\$1,700,000</b>	CEIS Budgeted: <b>\$10,000</b>	Max MOE reduction capped at \$255,000	Allowed MOE Reduction: <b>\$245,000</b> <small>(must be spent on ESEA)</small>
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Let's do some examples where the max MOE reduction available is greater than the amount that may be set-aside for CEIS, and the LEA wishes to expend IDEA funding on CEIS.

Using the same base formula as Situation 2, Example A, the LEA has the option of expending up to \$255,000 on CEIS. In this example, the LEA decides to budget \$10,000 on CEIS. By budgeting and expending CEIS funds, the LEA has now capped their max MOE reduction from \$400,000 down to \$255,000. In addition, the \$10,000 expended on CEIS must be deducted from the capped MOE amount of \$255,000 so that the final amount that the LEA may reduce their MOE obligation using the 50% rule is \$245,000.

## SITUATION 2: Example C

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,700,000</b> Increase of: <b>\$800,000</b>	Max CEIS Allowed: <b>\$255,000</b> (15% of allocation)	Max MOE Reduction: <b>\$400,000</b> (50% of increase)
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### Scenario 1:

FY 2010 Flow-through: <b>\$1,700,000</b>	CEIS Budgeted: <b>\$200,000</b>	Max MOE reduction capped at \$255,000	Allowed MOE Reduction: <b>\$55,000</b> (must be spent on ESEA)
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Using the same base formula as Situation 2, Example A, the LEA has the option of expending up to \$255,000 on CEIS. In this example, the LEA decides to budget \$200,000 on CEIS. By budgeting and expending CEIS funds, the LEA has now capped their max MOE reduction from \$400,000 down to \$255,000. In addition, the \$200,000 expended on CEIS must be deducted from the capped MOE amount of \$255,000 so that the final amount that the LEA may reduce their MOE obligation using the 50% rule is \$55,000.

If the LEA does not budget or expend any IDEA dollars on CEIS, the LEA's allowed max MOE reduction is restored to \$400,000.

## SITUATION 2: Example D

FY 2009 Flow-through: <b>\$900,000</b>	FY 2010 Flow-through: <b>\$1,700,000</b>  Increase of: <b>\$800,000</b>	Max CEIS Allowed: <b>\$255,000</b>  (15% of allocation)	Max MOE Reduction: <b>\$400,000</b>  (50% of increase)
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### Scenario 1:

FY 2010 Flow-through: <b>\$1,700,000</b>	CEIS Budgeted: <b>\$255,000</b>	Max MOE reduction capped at \$255,000	Allowed MOE Reduction: <b>\$0</b>
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In this final scenario, using the same base formula as Situation 2, Example A, the LEA has the option of expending up to \$255,000 on CEIS. In this example, the LEA decides to budget the full-amount that may be set-aside for CEIS and therefore the LEA's MOE may not be reduced using the 50% rule.

# MOE Calculator

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- [www.dpi.wi.gov/sped/xls/moe\\_calculator.xls](http://www.dpi.wi.gov/sped/xls/moe_calculator.xls)

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DPI has put together an excel spreadsheet calculator that uses your LEA IDEA fiscal data. This can help you determine what effect budgeting for CEIS will have on your MOE reduction ability during the 2009-2010 fiscal year.

Section 3

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**SUPPLEMENT NOT  
SUPPLANT  
(SNS)**

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Section 3: Supplement not Supplant (SNS)

## Supplement not Supplant

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- Requires that federal funds be used to supplement education, not to substitute for funds or services that would be provided in the absence of federal funding.

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In general, the supplement not supplant requirement is intended to ensure that services provided with Federal funds are in addition to, and do not replace or supplant, services that students would otherwise receive.

## SNS and IDEA

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- IF an LEA reduces its MOE through the 50% rule
- THEN the LEA can move previously funded local costs to the Federal grant
- BUT must spend the total amount of freed-up funds on ESEA supported activities

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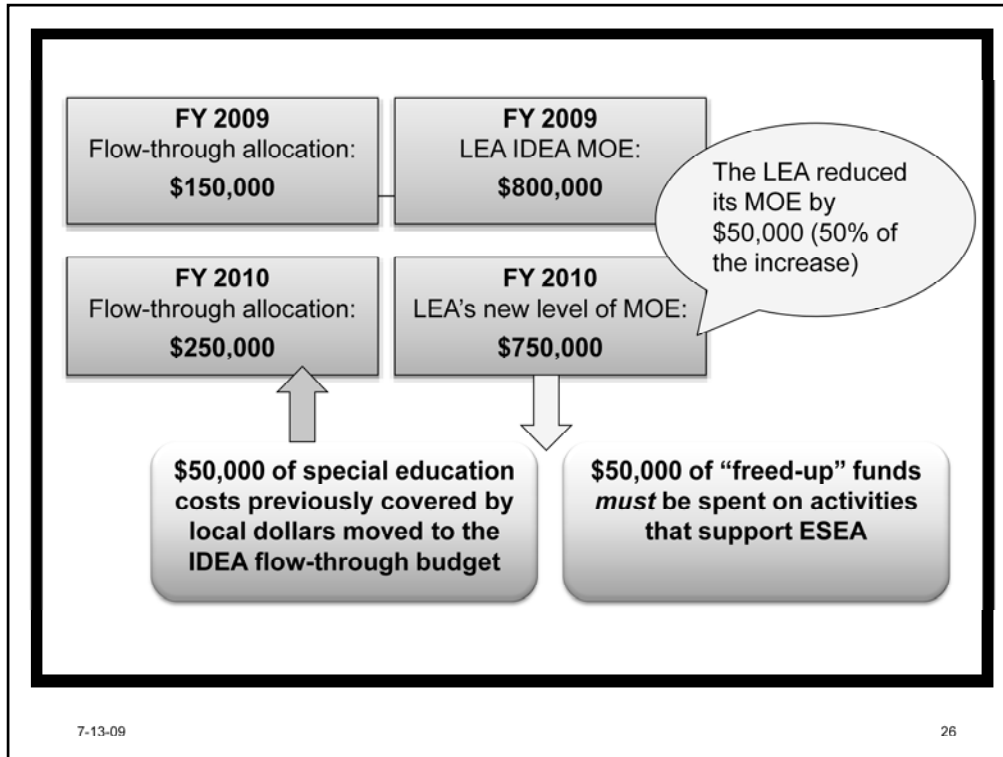
Regulations for IDEA state that:

IF an LEA reduces its MOE through the 50% rule

THEN the LEA can move previously funded local costs to the Federal grant

BUT must spend the total amount of freed-up funds on ESEA supported activities

As long as an LEA is expending the required amount of local funding for special education as determined by maintenance of effort, costs can be moved from local funding to federal funding without violating the supplement/not supplant requirement. Therefore, if an LEA has the opportunity to reduce its MOE through the 50% rule, existing special education costs funded with local dollars should be moved to the IDEA funding.



In this example, by utilizing the 50% rule, the LEA was able to reduce its local special education maintenance of effort by \$50,000. The \$50,000 worth of special education costs that were previously funded with the local dollars, such as a special education teacher's salary and fringe benefits, can be moved and charged to the IDEA grant. However, the entire amount of \$50,000 in "freed-up" costs must be spent on activities that support ESEA. An LEA **may not** simply reduce its overall LEA budget by \$50,000.

## What? How? But I thought...

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- A 1992 amendment to the IDEA regulations *removed* the “particular cost test”
  - The particular cost test was the literal translation of supplanting – if local funds were used for a teacher’s salary one year and federal funds were used the next year for the same salary, a violation of supplanting had occurred

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The question will be asked, how is the previous example *not* a violation of supplanting? It appears to be a violation of the second test of the A-133 single audit’s test for supplanting - an LEA using Federal grant dollars to pay for something that was funded in the previous year with local or state dollars.

This was true prior to 1992. IDEA Part B regulations used to include a “particular cost test” for determining whether supplanting occurred. This requirement meant, for example, that if an LEA spent Part B funds to pay for a teacher’s salary that was previously paid for with state or local funds, a supplanting violation would occur, even though the total amount of local funds spent on special education was greater or equal to the amount spent the previous year. So prior to 1992, an LEA could maintain effort but still violate the supplement/not supplant provision.

The “particular cost test” was removed from the regulations by an amendment published in the Federal Register on August 19, 1992. Therefore, no requirement currently exists related to supplanting “particular costs” and if an LEA maintains local effort it will not violate the supplement/not supplant requirements of the IDEA.

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If an LEA maintains MOE, it  
will not violate the  
supplement / not supplant  
requirements of the IDEA

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The supplement / not supplant rule to remember for IDEA funding is:

If an LEA maintains its required maintenance of effort, moving special education costs from local funds to federal grant funds will NOT violate supplement / not supplant provisions.

Section 4

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**MOE AND THE IDEA  
RECOVERY FUNDS  
THROUGH THE *ARRA***

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Section 4: MOE and the *IDEA* Recovery Funds through the *American Recovery and Reinvestment Act*

## MOE & the IDEA Recovery Funds

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- LEAs will see large increases in IDEA allocations for fiscal year 2009-10 because it will include both the regular IDEA entitlement plus the IDEA recovery funds.
- This increase will provide most LEAs with the opportunity to fully utilize the flexibility of the 50% rule.

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The *IDEA* Recovery Funds allocated to Wisconsin LEA's represent a large increase in *IDEA* allocation funds. The totality of *IDEA* Recovery Funds available to LEAs will be awarded for the 2009-10 fiscal year.

The *IDEA* recovery funds awarded in fiscal year 2009-10 will provide most LEAs with an opportunity to utilize the 50% rule of the *IDEA* regulations to reduce an LEA's maintenance of effort obligations.

## One-time opportunity

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- The IDEA recovery funds are awarded for one fiscal year only, so this increase will only be present in FY 2009-10.
- LEAs that wish to take advantage of this opportunity **must** reflect this in the 2009-10 PI 1504 SE budget and PI 1505 SE annual reports.

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The IDEA recovery funds will only be awarded in the 2009-10 fiscal year. If LEAs do not reduce their maintenance of effort in 2009-10, then the option of utilizing the 50% rule against the IDEA recovery funds will be lost.

LEAs that wish to take advantage of this opportunity **must** reflect this reduction in the PI 1504 SE budget report submitted for fiscal year 2009-10 and the corresponding expenditures in the PI 1505 SE annual report that will be submitted during fiscal year 2010-11 to reflect fiscal year 2009-10.

## Reminders

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- Reducing MOE obligations must not result in a reduction of special education services.
- Total amount of funds “freed-up” through the 50% rule must be spent on activities that support ESEA and those activities will need to be tracked by the LEA.

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When an LEA reduces MOE using the 50% rule, it shifts special education expenditures from local and state funds to either regular IDEA or IDEA Recovery funds, freeing up local and state funds for other uses. The LEA must still provide a free appropriate public education (FAPE) to each child with a disability, including the provision of all services required by the child's IEP in the least restrictive environment.

Funds freed-up due to this regulation must be used to support ESEA activities. This includes any activities allowed under Title I, Impact Aid, and other ESEA programs. An LEA could use these funds to pay for activities that are currently being funded with other state or local funds or for new activities.

## Reminders

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- If reduced through the 50% rule, the LEA's MOE remains at that reduced amount until the LEA increases its local costs through its own volition.
- Any funds budgeted for CEIS activities in fiscal year 2009-10 will significantly reduce the LEA's amount available for MOE reduction.

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If an LEA chooses to utilize the flexibility available through the 50% rule and reduce its MOE obligations, the LEA is only required to maintain the new reduced MOE amount in subsequent years, until that LEA increases the level of special education expenditures, using state or local funds, on its own.

Any funds budgeted for CEIS activities in fiscal year 2009-10 will **significantly** reduce the LEA's amount available for MOE reduction.

## Frequently Asked Questions

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- How does reducing required MOE by shifting special education costs from local funds to IDEA impact the LEA's state special education categorical aid?
  - Costs shifted to the IDEA grant are not eligible for categorical aid reimbursement

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### **How does reducing required MOE by shifting special education costs from local funds to IDEA impact the LEA's state special education categorical aid?**

State special education categorical aid is paid as a percentage of eligible costs, currently 28%. This aid is paid in the next year. Costs paid with IDEA grant funding are *not* eligible for state special education categorical aid. Therefore, if an LEA shifts eligible costs from local funds to the IDEA grants, the amount of eligible costs decreases, and the LEA's state special education categorical aid will decrease.

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- Where can I find the MOE reduction permitted for my LEA?
    - <http://dpi.wi.gov/sped/xls/fy10flow.xls>
  - Where do LEAs report a reduction in required MOE?
    - Not the IDEA budgets – reported in the Special Education budget and annual reports for fiscal year 2009-2010

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### **Where can I find the MOE reduction permitted for my LEA?**

The maximum reduction of MOE permitted for each LEA using the 50% rule is listed in the last column of the table found at the link on this slide, which can be found on the Special Education Team's IDEA Recovery page.

### **Where do LEAs report a reduction in required MOE?**

LEAs that wish to take advantage of this opportunity must reflect the reduction to local costs in the PI-1504 SE budget report submitted for fiscal year 2009-2010. The reduction in required MOE must also be reflected in the 2010 PI-1505 SE annual report submitted during fiscal year 2010-2011.

The LEA's IDEA entitlement or IDEA recovery budgets would include the special education costs that have been shifted from local dollars to the federal grant.

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- What impact will the end of Recovery funding have on 2011-2012 budgets?
    - LEAs may have to begin raising their maintenance of effort obligations if grant funding does not cover all costs
  - Must LEAs expend all funds freed up in 2009-10 through the 50% rule in 2009-10?
    - Yes

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### **What impact will the end of Recovery funding have on 2011-2012 LEAs budgets?**

Recovery funds must all be expended by September 30, 2011. When the funding is no longer available, LEAs must continue to ensure all children with disabilities have available to them free appropriate public education (FAPE), including all of the services in their IEPs. Services may only be reduced based upon the needs of students, as determined by IEP teams. After all Recovery funds are expended, LEAs may fund allowable special education activities with regular IDEA funds, including any regular entitlement funds carried over from the previous year. LEAs may expend local funds and receive state special education categorical aid. Note that an increase in state and local expenditures will increase required MOE in the next and subsequent fiscal years.

### **Must LEAs expend funds freed up in 2009-2010 through the 50% rule in the same year?**

Yes. Local funds freed up in 2009-2010 using the 50% rule must be expended in fiscal year 2009-2010. LEAs will not be able to reduce MOE in 2008-2009 or 2010-2011 based on the increase in the IDEA award for fiscal year 2009-2010.

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- Are freed-up funds budgeted in Fund 27?

- If freed-up funds are used in Fund 27, then the LEA has *not* reduced its MOE since MOE is based on Fund 27 expenses

- May freed-up funds be used to support special education costs?

- If freed-up funds are used for special education, then the LEA has *not* reduced its MOE since MOE is based on special education expenses

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### **Are freed-up funds budgeted in Fund 27?**

Fund 27 is for special education expenditures. We expect freed-up funds will not be used for special education expenses; therefore, they will not be budgeted in Fund 27.

### **May freed-up funds be used to support special education costs?**

An LEA could use freed-up funds on special education; however, this, in turn, would not reduce an LEA's MOE. The MOE is based on an LEA's aggregated local special education costs budgeted to Fund 27. A district could reduce its MOE by 50% of the increase in flow-through funding for FY 2009-2010, move the local special education costs to the IDEA grant, spend the freed-up funds on Fund 10, and keep the reduced level of MOE for future years. If the LEA spends the freed-up funds on special education, the MOE for FY 2010-2011 will be based on the total local special education expenditures for FY 2009-2010.

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- If an LEA (with significant disproportionality) fails to use the required 15% of IDEA funds for CEIS in 2008-2009 and expends these funds in 2009-2010, does the expenditure affect the LEA's calculation of its required MOE for 2009-2010?
    - No, this does not impact FY 2010 MOE

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**If an LEA (with significant disproportionality) fails to use the required 15% of IDEA funds for CEIS in 2008-2009 and expends these funds in 2009-2010, does the expenditure affect the LEA's calculation of its required MOE for 2009-2010?**

No. While in 2009-2010 the LEA must expend the additional amount it failed to expend on CEIS in 2008-2009, the expenditure of these funds does not enter into the LEA's calculation of its required MOE for 2009-2010.