

Maintenance of Effort (MOE) Questions and Answers

The following are detailed questions regarding this topic. For a more general frequently asked questions on this topic, see www.dpi.wi.gov/sped/idea-funding-faq.html.

1. *When reducing local MOE, may local educational agencies (LEAs) use more than one of the options available for MOE reduction?*
2. *What is the 50% rule?*
3. *Doesn't the "supplement not supplant" requirement prevent the use of Individuals with Disabilities Education Act (IDEA) funds for costs that were supported with local dollars during the previous year?*
4. *Which LEAs may reduce MOE with the 50% rule?*
5. *Does reducing required MOE using the 50% rule mean an LEA is reducing special education services?*
6. *How does reducing required MOE by shifting special education costs from local funds to IDEA impact the LEA's state special education categorical aid?*
7. *Will the 50% rule apply to American Recovery and Reinvestment Act (ARRA) funds in 2010-2011?*
8. *What effect will using the 50% rule and other provisions for reducing required MOE have on MOE for future years?*
9. *Will a reduction in the amount required for MOE affect an LEA's IDEA allocation in subsequent years?*
10. *What effect does the voluntary expenditure of funds for coordinated early intervening services (CEIS) have on reducing required MOE using the 50% rule?*
11. *If an LEA (with significant disproportionality) failed to use the required 15% of IDEA funds for CEIS in the past year, does the expenditure affect the LEA's calculation of its required MOE for the current year?*
12. *If an LEA fails all four tests, is the only way to meet the MOE requirement through the 50% rule?*
13. *What documentation does the Department of Public Instruction (DPI) require to demonstrate an LEA meets the MOE eligibility requirement through one of the exceptions listed in question 1?*
14. *How does receipt of Medicaid funds affect an LEA's MOE calculations?*
15. *How do expenditures for students attending the LEA under the full-time open enrollment law affect the MOE calculations?*
16. *What is the impact on local MOE if an LEA stops contracting for Cooperative Educational Service Agency (CESA) special education services and provides the services directly?*
17. *What should the LEA do if accounting adjustments made after the close of the fiscal year would affect the MOE calculations?*
18. *If an LEA has a \$3000 short-fall in local fiscal effort and DPI recovers this amount from the LEA, is the LEA's required local fiscal effort reduced by \$3000 for the next fiscal year?*
19. *Will expending IDEA ARRA funds increase an LEA's required MOE for subsequent years?*
20. *Must local funds freed up using the 50% rule be expended or may the amount be cut from the LEA's budget?*
21. *For what purposes can funds freed up with the 50% rule be used?*

22. *Does an LEA have to be eligible for Title or Impact Aid in order to use the freed-up local funds on these activities?*
23. *May local funds freed up under the 50% rule be used to retain staff slated for layoff or contract reduction?*
24. *Must the LEA already be using Elementary and Secondary Education Act (ESEA) funds to support the activity that freed-up local funds will support?*
25. *May freed-up funds be used for expenses previously paid by ESEA funds?*
26. *Must LEAs expend funds freed up through the 50% rule in the same year?*
27. *Are freed-up funds budgeted in Fund 27?*
28. *May freed-up funds be used to support special education costs?*
29. *What impact will the end of ARRA funding have on 2011-2012 LEAs budgets?*

1. *When reducing local MOE, may LEAs use more than one of the options available for MOE reduction?*

Yes. LEAs may use all of the applicable options to reduce required MOE. These include:

- The voluntary departure or departure for just cause of special education personnel.
- A decrease in enrollment of children with disabilities.
- A child moves out of the LEA's jurisdiction, ages out, or no longer needs the high cost special education program.
- The termination of costly expenditures for long-term purchases, such as acquisition of a special education bus.
- The assumption of cost by the high cost special education categorical aid program.
- The "50%" rule [34 CFR §300.205 (a)].

For example, if an LEA has an increase of \$200,000 in its IDEA flow-through allocation and a high-cost child with special education expenses of \$20,000 moves out of the LEA's jurisdiction, the LEA may reduce its MOE by up to \$100,000 through the 50% rule and an additional \$20,000. This LEA's maximum MOE reduction is \$120,000.

While funds freed up under the 50% rule must be expended on activities that could be supported with ESEA funds, this provision does not apply to funds freed up under the other exceptions. In the example above, the LEA must use up to \$100,000 on activities that could be supported with ESEA funds. The use of the \$20,000 freed up because a high-cost child moved out of the LEA's jurisdiction does not have to be expended.

2. *What is the 50% rule?*

This provision permits an eligible LEA that receives an increase in its IDEA flow-through allocation from one fiscal year to the next to reduce its MOE obligation by an amount equal to up to half of the increased amount (50% rule). The locally funded special education costs may be moved to the IDEA grant, freeing up local dollars.

3. *Doesn't the "supplement not supplant" requirement prevent the use of IDEA funds for costs that were supported with local dollars during the previous year?*

An LEA may use IDEA funds for a special education cost funded in the previous year with local funds without violating the supplement not supplant requirement, as long as the LEA maintains its total local effort consistent with the MOE requirement.

4. *Which LEAs may reduce MOE with the 50% rule?*

All LEAs may use the 50% rule, except those given IDEA determinations by the DPI of “needs assistance,” “needs intervention,” or “needs substantial intervention,” or designated as having “significant disproportionality.” While some LEAs have been designated as having disproportionate representation, only LEAs currently designated as having “significant disproportionality,” i.e., required to use 15% of their entitlement for coordinated early intervening services, are not eligible to use the 50% rule.

Also, if the DPI has taken responsibility for providing FAPE to children with disabilities in an LEA because the LEA is unable to establish and maintain programs of FAPE, or the DPI has taken action against the LEA under IDEA section 616, the LEA is not eligible to use the 50% rule to reduce required MOE.

5. *Does reducing required MOE using the 50% rule mean an LEA is reducing special education services?*

No. 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 ARRA 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.

6. *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. This aid is paid in the next year. Eligible costs include salaries and fringe benefits for special education teachers, special education paraprofessionals, speech and language pathologists, physical therapists, occupational therapists, special education administrators, school psychologists, school social workers, school counselors and school nurses, as well as special transportation expenses. Costs paid with IDEA are not eligible for state special education categorical aid. Therefore, if an LEA shifts eligible costs from local funds to IDEA, the amount of eligible costs decreases, and the LEA's state special education categorical aid will decrease.

7. *Will the 50% rule apply to ARRA funds in 2010-2011?*

Because all of the IDEA ARRA funds are considered 2009-2010 funds, the opportunity to reduce MOE related to the 50% rule and IDEA ARRA funds was available **only** for 2009-2010.

8. *What effect will using the 50% rule and other provisions for reducing required MOE have on MOE for future years?*

If an LEA uses the flexibility available through the 50% rule or other provisions to reduce its MOE obligation, the LEA will be able to maintain the new reduced MOE amount in subsequent years, until the LEA increases the level of special education expenditures, using state or local funds, on its own.

9. *Will a reduction in the amount required for MOE affect an LEA's IDEA allocation in subsequent years?*

No. A reduction in the amount required for MOE will not affect the LEA's IDEA allocation in subsequent years.

10. *What effect does the voluntary expenditure of funds for CEIS have on reducing required MOE using the 50% rule?*

When an LEA's maximum MOE reduction is less than the amount that may be set aside for CEIS, the maximum MOE reduction is reduced by the amount expended for CEIS. For example, if an LEA has a \$100,000 increase in its allocation and expends no funds on CEIS, it may reduce its MOE by up to \$50,000. ($100,000 \times .50 = 50,000$) However, if this LEA expends \$40,000 on CEIS, it must subtract this amount from the permitted reduction in MOE. Therefore, the LEA may only reduce its required MOE by \$10,000 ($100,000 \times .50 = 50,000 - 40,000 = 10,000$).

However, if the maximum MOE reduction permitted is greater than the amount that may be set aside for CEIS, the MOE reduction is capped at the maximum amount that may be set aside for CEIS minus the 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 amount as the maximum that may be set aside for CEIS (15% of the Part B allocation). For example, if an LEA has an \$800,000 increase in IDEA funds to a total of \$1,700,000, it may reduce MOE by \$400,000 if it expends no funds on CEIS. If it expends \$10,000 on CEIS, the maximum MOE reduction permitted is \$245,000. ($1,700,000 \times 15\% = 255,000 - 10,000 = 245,000$).

Detailed information on the maintenance of effort requirement and calculators to determine the effect of using funds for CEIS on MOE reduction can be accessed at www.dpi.wi.gov/lpp-budgets.html#moe.

11. *If an LEA (with significant disproportionality) failed to use the required 15% of IDEA funds for CEIS in the past year, does the expenditure affect the LEA's calculation of its required MOE for the current year?*

No. The calculation of the CEIS set-aside is not affected. However, the LEA must expend the amount it failed to expend on CEIS in the prior year and the set-aside for the current year. The expenditure of the CEIS funds the LEA failed to expend in the prior year does not enter into the LEA's calculation of its required MOE for the current year.

12. *If an LEA fails all four tests, is the only way to meet the MOE requirement through the 50% rule?*

No. An LEA that does not meet the MOE eligibility requirement, even with the safety net of the 50% rule, may demonstrate it meets the MOE eligibility requirement by providing the DPI with evidence it meets one or more of the other exceptions. Please note there is only a requirement to expend funds freed up through the 50% rule during the fiscal year. There is no requirement to expend funds freed up through the other exceptions.

13. *What documentation does the DPI require to demonstrate an LEA meets the MOE eligibility requirement through one of the exceptions listed in question 1?*

Supporting documentation is submitted through the IDEA Maintenance of Effort web-based eligibility and compliance reports. Each exception requires different documentation, but at a minimum the LEA must provide DPI with expenditure amounts and accounts. For some exceptions, such as capital equipment purchases, the LEA will be required to submit invoices and vouchers.

14. *How does receipt of Medicaid funds affect an LEA's MOE calculations?*

Medicaid revenue is deducted from current year Fund 27 011 and 019 expenditures. If the LEA receives Medicaid revenue for expenditures that occurred in a prior year, the LEA may submit this amount as an exception to maintenance of effort. To claim a prior year Medicaid payment as an exception, the LEA will be required to submit the SASD Medicaid Payment Detail Spreadsheet it received from the Department of Health Services.

15. *How do expenditures for students attending the LEA under the full-time open enrollment law affect the MOE calculations?*

Special education expenditures for students attending the LEA under the full-time open enrollment law are not counted as local fiscal effort. Funds received from other LEAs for providing special education services to these students are deducted from local fiscal effort.

16. *What is the impact on local MOE if an LEA stops contracting for CESA special education services and provides the services directly?*

If an LEA stops contracting for services from a CESA with local funds and provides the services itself, there is no impact on local fiscal effort, as long as the LEA continues to expend the same amount of local funds on the services. However, if the cost of providing the same service is less than the cost of contracting with the CESA, and MOE is not met, the LEA may submit the cost difference as an exception (A child moves out of the LEA's jurisdiction, ages out, or no longer needs the high cost special education program.)

Local MOE will increase if the LEA stops contracting for CESA special education services that are paid with IDEA funds and provides the services itself with local funds.

17. *What should the LEA do if accounting adjustments made after the close of the fiscal year would affect the MOE calculations?*

The MOE report pulls information submitted through the PI 1504 SE Budget and PI 1505 SE Annual reports. When adjustments are made to these reports, then the MOE report will reflect the changes.

If an LEA did not comply with the MOE requirement, the DPI is required to pay the U.S. Department of Education an amount equal to the amount of the short-fall in required local fiscal special education effort. The DPI, in turn, will recover that amount from the LEA. The amount cannot be paid with federal funds.

18. *If an LEA has a \$3000 short-fall in local fiscal effort and DPI recovers this amount from the LEA, is the LEA's required local fiscal effort reduced by \$3000 for the next fiscal year?*

No. The level of fiscal effort required for the next year is not reduced by the amount recovered by the DPI.

19. *Will expending IDEA ARRA funds increase an LEA's required MOE for subsequent years?*

No. The MOE requirement is based on the amount of state and local funds expended by an LEA on special education. The required MOE will not increase until the LEA increases the level of special education expenditures, using state or local funds, on its own.

20. *Must local funds freed up using the 50% rule be expended or may the amount be cut from the LEA's budget?*

The amount of funds equal to the reduction in MOE cannot simply be cut from the LEA's budget, reducing the LEA's expenditures. The LEA must expend an amount of local funds equal to the reduction in required MOE. This requirement applies only to funds freed up using the 50% rule and does not apply to funds freed up using other MOE exceptions.

21. *For what purposes can funds freed up with the 50% rule be used?*

The IDEA regulations state the freed-up funds must be used to carry out activities that could be supported under the Elementary and Secondary Education Act (ESEA), regardless of whether the LEA is using funds under the ESEA for those activities. According to the Office of Special Education Programs

(OSEP), U.S. Department of Education, this includes any activities allowed under Title I, Impact Aid, and other ESEA programs.

During a technical assistance webinar, OSEP indicated it is not aware of any specific activities that may not be funded. Their advice is based on the latitude LEAs have in expending ESEA Impact Aid. According to information from the Office of Elementary and Secondary Education, U.S. Department of Education, Impact Aid is

....considered general aid to the recipient school districts; these districts may use the funds in whatever manner they choose in accordance with their local and State requirements. Most recipients use these funds for current expenditures, but recipients may use the funds for other purposes such as capital expenditures....

School districts use Impact Aid for a wide variety of expenses, including the salaries of teachers and teacher aides; purchasing textbooks, computers, and other equipment; after-school programs and remedial tutoring; advanced placement classes; and special enrichment programs. [“About Impact Aid”,

<http://www.ed.gov/print/about/offices/list/oese/impactaid/whatisia.html>]

Based on guidance from U.S. Department of Education, we believe funds freed up using the 50% rule may be used in any manner LEAs choose, consistent with their local policies and state requirements. LEAs should be prepared to demonstrate how and when freed-up funds were used.

22. *Does an LEA have to be eligible for Title I or Impact Aid in order to use the freed-up local funds on these activities?*

No. The LEA does not have to be eligible for Title programs or Impact Aid in order to use the freed-up local funds on activities that are allowed under these programs.

23. *May local funds freed up under the 50% rule be used to retain staff slated for layoff or contract reduction?*

LEAs that move locally-funded special education costs to federal dollars under the 50% rule may use freed-up local funds to retain non-special education staff slated for layoff or contract reduction.

24. *Must the LEA already be using ESEA funds to support the activity that freed-up local funds will support?*

No. The LEA does not have to be currently using ESEA funds for the activity that will be funded with freed-up local funds.

25. *May freed-up funds be used for expenses previously paid by ESEA funds?*

Yes. Freed-up funds may be expended for any activity that can be supported with ESEA funds.

26. *Must LEAs expend funds freed up through the 50% rule in the same year?*

Yes. Local funds freed up using the 50% rule must be expended in the fiscal year of the increased IDEA funding. LEAs may not reduce local effort in prior or subsequent fiscal years based on the increase in the IDEA award for the current fiscal year.

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

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

28. *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.

29. *What impact will the end of ARRA funding have on 2011-2012 LEAs budgets?*

ARRA 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 ARRA funds are expended, LEAs may fund allowable special education activities with regular IDEA funds, including any 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.