

Notice of Proposed Rule Making

Clarifications to IDEA's Maintenance of Effort Requirement

Today's Handout can be downloaded from:
<http://sped.dpi.wi.gov/files/sped/pdf/moe-nprm-handouts.pdf>

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- Published on September 18, 2013 in the Federal Register
- Through fiscal monitoring, OSEP found a significant lack of understanding regarding the local MOE requirements.
- No changes are being proposed regarding the allowed exceptions



Areas of Proposed Changes

- Clarifying the compliance standard
- Clarifying the eligibility standard
 - Defining the “comparison” year for both standards
- Specifying the MOE requirements for an LEA that fails to meet MOE compliance
 - Cannot “reset” expenditure level
 - Cash penalty equal to the amount failed by



Comparison Year

(2) An LEA meets this standard if it does not—

- (i) Reduce the level of expenditures for the education of children with disabilities made by the LEA from State and local funds, either in total or per capita, below the level of those expenditures for the preceding fiscal year, except as provided in §§ 300.204 and 300.205;
- (ii) Reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, either in total or per capita, below the level of those expenditures for the most recent fiscal year for which the LEA met the MOE compliance standard based on local funds only, even if the LEA also met the MOE compliance standard based on State and local funds, except as provided in §§ 300.204 and 300.205; or
- (iii) Reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, either in total or per capita, below the level of those expenditures for the preceding fiscal year if the LEA has not previously met the MOE compliance standard based on local funds only, except as provided in §§ 300.204 and 300.205.



Wisconsin's Current Testing

- In year one an LEA met MOE based on local funds.
- In year two, the LEA decreased the amount of local funds it expended, and, because state funding increased, the LEA met MOE based on state and local funds.
- In year three, the LEA meets MOE based on local funds only by spending more than it spent in local funds the prior year.

YEAR	Local & State (Test 1)	Local Only (Test 2)	Status
Year 0	\$92,000	\$80,000	--
Year 1	\$89,000	\$87,000	Met - Local
Year 2	\$93,000	\$84,000	Met - State / Local
Year 3	\$89,000	\$86,000	Met Local

Testing Clarification (NPRM)

- In year one an LEA met MOE based on local funds.
- In year two, the LEA decreased the amount of local funds it expended, and, because State funding increased, the LEA met MOE based on State and local funds.
- In year three, the LEA does not meet the local only test, even though it spent more than the prior year. To meet the local only test, the LEA would have spent the same or more than year one.

YEAR	Local & State (Test 1)	Local Only (Test 2)	Status
Year 0	\$92,000	\$80,000	--
Year 1	\$89,000	\$87,000	Met - Local
Year 2	\$93,000	\$84,000	Met - State / Local
Year 3	\$89,000	\$86,000	Failed

How the software will change

District has Met MOE					
Test #1	Test #2	Test #3	Test #4	50% Rule Calculation	Freed Up Funds
(\$222,185.90)	(\$207,613.61)	(\$74,544.76)	(\$115,602.89)	\$0.00	\$0.00
Met	Met	(\$1,164.76)	(\$1,806.29)	N/A	N/A
Bristol IDEA Maintenance of Effort Compliance Test Scenario Calculator Report					
Approved Staff Change Exceptions					\$14,999.07
Approved Student Leaving Exceptions					\$65,574.13
Approved Change in Student IEP Exceptions					\$52,234.33
Approved Administrative Exceptions (includes reduction of 10 students)					\$166,817.91
Total Approved Exceptions:					\$299,625.44

- Best practice: Enter allowed exceptions into the software regardless of a "met" status

Standard for Determining Eligibility

- NPRM: LEAs must budget at least the same total or per capita as expended in the last year met.
 - Exceptions are not included in the eligibility standard
- Wisconsin's comment:
 - Include budgeted exceptions for the current fiscal year in eligibility testing

Failing the MOE Compliance Standard

- NPRM: Adds language that the failure penalty is an amount equal to the amount by which the LEA failed to maintain its level of effort.
- Wisconsin's Question: What is the failed by amount? What is the definition of 'harm to the federal interest'?

Local Funds Only Comparison Year

- NPRM: Specifies that the comparison year that applies when determining compliance is not necessarily the prior fiscal year, but the last year the test was met.
- Wisconsin's Question: How far back?

Failing Eligibility

- NPRM: Comment that 'states will need to carefully review LEA applications, and compare amounts budgeted to amounts expended in prior years, to ensure that their LEAs meet the eligibility requirement.'
- Wisconsin's Question: What happens when an LEA does not meet the eligibility requirement?

Sufficient Exceptions

- NPRM: The adjustments and exceptions that are built into the IDEA in section 613(a)(2)(B) and (C) provide sufficient protection to LEAs faced with changed circumstances, and they also help to ensure that sufficient funding will be available in the future to provide appropriate services to children with disabilities."

Wisconsin's Experience

Reductions in costs that DID NOT result in a reduction of services to students with disabilities

- Act 10
- Health Insurance Costs
 - Self-Insurance
 - Competitive insurance programs, such as switching to Health Reimbursement Accounts (HRA)
 - Individual staff changes from family to single
- Transportation



Wisconsin's Experience

- Wisconsin LEAs invest in special education and related services
- Services are based on the needs of the students, not the resources available
- Our financial information demonstrates that the IDEA funds supplement, and do not supplant, local effort



NPRM Highlights & Comments

Link to the full text of the NPRM:

Go to www.regulations.gov, do a search on OSERS. First one that appears on the list

WDPI's Highlights of the NPRM:

<http://sped.dpi.wi.gov/files/sped/pdf/moe-nprm-highlights.pdf>

Link to regulations.gov, where an LEA can upload its own comments:

www.regulations.gov



Questions?



District has Met MOE

Test #1	Test #2	Test #3	Test #4	50% Rule Calculation	Freed Up Funds
\$49,932.84	\$77,540.86	(\$55,605.41) (\$639.14)	\$34,670.66 \$398.51	\$0.00	\$0.00
Met	Met	Met	Met	N/A	N/A
Decrease in the enrollment of students with disabilities (pulled in from this page)					\$116,790.93
50% Rule (pulled in from exception software)					\$1,000.00
Total Approved Exceptions:					\$117,790.93

Test 1: Current Year State / Local Actual Compared to Amounts from Last Year Test 1 Met

		State/Local Exp.	Less Revenue	Actual State/Local Costs
Current Year:	2013	<u>\$1,046,324.72</u>	<u>\$92,168.30</u>	\$954,156.42
Last Year Met:	2011	<u>\$1,062,950.89</u>	<u>\$158,727.31</u>	\$904,223.58
				<i>Difference:</i> \$49,932.84

Test 2: Current Year Local Only Actual Compared to Amounts from Last Year Test 2 Met

		Actual State/Local Costs
Current Year:	2013	\$697,399.57
Last Year Met:	2012	\$619,858.71
		<i>Difference:</i> \$77,540.86

Test 3: Current Year State / Local Actual Per Capita Compared to Per Capita from Last Year Test 3 Met

		Actual State / Local Costs	MOE Child Count	Actual State/Local Per Capita
Current Year:	2013	\$954,156.42	<u>87</u>	\$10,967.32
Last Year Met:	2010	\$893,697.25	<u>77</u>	\$11,606.46
				<i>Difference:</i> (\$639.14)
				<i>Aggregate Difference:</i> (\$55,605.41)

Test 4: Current Year Local Actual Per Capita Compared to Per Capita from Last Year Test 4 Met

		Actual State / Local Costs	MOE Child Count	Actual State/Local Per Capita
Current Year:	2013	\$697,399.57	<u>87</u>	\$8,016.09
Last Year Met:	2011	\$617,023.47	<u>81</u>	\$7,617.57
				<i>Difference:</i> \$398.51
				<i>Aggregate Difference:</i> \$34,670.66

Exception: Decrease in Enrollment of Students with Disabilities

	State/Local Exp.	Less Revenue	Actual	MOE Child Count	Per Capita
Current Year: 2013	<u>\$1,046,324.72</u>	<u>\$92,168.30</u>	\$954,156.42	<u>87</u>	\$10,967.32
Prior Year: 2012	<u>\$1,036,120.53</u>	<u>\$141,005.70</u>	\$895,114.83	<u>93</u>	\$9,624.89
					<i>Exception Amount:</i> \$116,790.93
					\$954,156.42 - (\$9,624.89 * 87 = \$837,365.43)

Exception: 50% Adjustment Calculation

<i>If Funds ARE NOT Expended on CEIS</i>		<i>If Funds ARE Expended On CEIS</i>	
2013 Flow-Through Allocation	\$176,801.00	MOE Reduction Cap (FY13-FY12/2)	\$1,000.00
2012 Flow-Through Allocation	\$174,801.00	2013 CEIS Actual Claimed	\$0.00
Flow-through Increase	\$2,000.00	MOE Adjustment Cap (FY13 CEIS Cap-CEIS Budgeted)	\$1,000.00
MOE Reduction Cap (FY13-FY12/2)	\$1,000.00		