

## **IDEA REGULATIONS**

### **LOCAL FUNDING**

(See also Early Intervening Services, Disproportionality and Overidentification and Alignment with the *No Child Left Behind Act*)

The reauthorized *Individuals with Disabilities Education Act (IDEA)* was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the act. The final regulations were published on Aug. 14, 2006. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education that covers a variety of high-interest topics and brings together the regulatory requirements related to those topics to support constituents in preparing to implement the new requirements.<sup>1</sup> This document addresses significant changes from preexisting regulations to the final regulatory requirements regarding local funding that took effect on July 1, 2005.

### **IDEA Regulations**

#### **1. Reflect the new exception to the local maintenance of effort (MOE) requirements.**

Notwithstanding 34 CFR 300.202(a)(2) and (b) and 34 CFR 300.203(a), and except as provided at 34 CFR 300.205(d) and 34 CFR 300.230(e)(2), for any fiscal year for which the allocation received by a local educational agency (LEA) under 34 CFR 300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by 34 CFR 300.203(a) by not more than 50 percent of the amount of that excess.

[34 CFR 300.205(a)] [20 U.S.C. 1413(a)(2)(C)(i)]

#### **2. Include the limitation on the exception to local MOE requirements.**

Notwithstanding 34 CFR 300.205(a), if a State education agency (SEA) determines that an LEA is unable to establish and maintain programs of FAPE (free appropriate public education) that meet the requirements of section 613(a) of *IDEA* and Part 300 or the SEA has taken action against the LEA under section 616 of *IDEA* and 34 CFR 300.600-300.646, the

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<sup>1</sup> Topics in this series include: Alignment With the *No Child Left Behind (NCLB) Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Identification of Specific Learning Disabilities; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; Monitoring, Technical Assistance and Enforcement; *National Instructional Materials Accessibility Standard (NIMAS)*; Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation; Procedural Safeguards: Resolution Meetings and Due Process Hearings; Secondary Transition; State Complaint Procedures; State Funding; and Statewide and Districtwide Assessments. Documents are available on the *IDEA* Web site at: <http://IDEA.ed.gov>.

SEA must prohibit the LEA from reducing the level of expenditures under 34 CFR 300.205(a) for that fiscal year.

[34 CFR 300.205(c)] [20 U.S.C. 1416(f)]

### **3. Incorporate the new, additional permissive uses of funds.**

Notwithstanding 34 CFR 300.202, 34 CFR 300.203(a) and 34 CFR 300.162(b), funds provided to an LEA under Part 300 may be used for the following activities:

#### ***Services and aids that also benefit nondisabled children.***

For the costs of special education and related services, and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the individualized education program (IEP) of the child, even if one or more nondisabled children benefit from these services;

#### ***Early intervening services.***

To develop and implement coordinated, early intervening educational services, in accordance with 34 CFR 300.226<sup>2</sup>; and

#### ***High cost education and related services.***

To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high cost special education and related services.

#### ***Administrative case management.***

An LEA may use funds received under Part 300 to purchase appropriate technology for recordkeeping, data collection and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities, that is needed for the implementation of such case management activities.

[34 CFR 300.208] [20 U.S.C. 1413(a)(4)(A)(ii)-(iii), (B)]

### **4. Clarify requirements regarding providing funds to charter schools.**

Children with disabilities who attend public charter schools maintain all rights under Part 300.

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<sup>2</sup> In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with Section 618(d)(1), the state, or the secretary of the interior, as the case may be, shall require any LEA identified under Section 618(d)(1) to reserve the maximum amount of funds under Section 613(f) to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly children in those groups that were significantly overidentified under Section 618(d)(1). [20 U.S.C. 18(d)(2)(B)]. See also the topic brief on *Disproportionality and Overidentification*.

***Charter schools that are public schools of the LEA.***

In carrying out Part B of *IDEA* with respect to charter schools that are public schools of the LEA, the LEA must:

- Serve children with disabilities attending those charter schools in the same manner as the LEA serves children with disabilities in its other schools, including providing supplementary and related services on site at the charter school to the same extent to which the LEA has a policy or practice of providing such services on the site of its other public schools; and
- Provide funds under Part 300 to those charter schools on the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the LEA distributes other Federal funds to the LEA's other public schools, consistent with the state's charter school law.

If the public charter school is a school of an LEA that receives funding under 34 CFR 300.705 and includes other public schools, the LEA is responsible for ensuring that the requirements of Part 300 are met, unless State law assigns that responsibility to some other entity, and the LEA must meet the requirements of 34 CFR 300.209(b)(1).

***Public charter schools that are LEAs.***

If the public charter school is an LEA, consistent with 34 CFR 300.28, that receives funding under 34 CFR 300.705, that charter school is responsible for ensuring that the requirements of Part 300 are met, unless State law assigns that responsibility to some other entity.

***Public charter schools that are not an LEA or a school that is part of an LEA.***

If the public charter school is not an LEA receiving funding under 34 CFR 300.705, or a school that is part of an LEA receiving funding under 34 CFR 300.705, the SEA is responsible for ensuring that the requirements of 34 CFR 300.209 are met.

34 CFR 300.209(d)(1) does not preclude a State from assigning initial responsibility for ensuring the requirements of this part are met to another entity. However, the SEA must maintain ultimate responsibility for ensuring compliance with Part 300, consistent with 34 CFR 300.49.

[34 CFR 300.209] [20 U.S.C. 1413(a)(5)(B)]