



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

**MEMORANDUM**

**TO:** Part C Coordinators and State Directors of Special Education

**FROM:** Gregory R. Corr, Ed.D.  
Division Director  
Division of Monitoring and State Improvement Planning (MSIP)  
Office of Special Education Programs (OSEP)

**SUBJECT:** Review of Obligation and Liquidation Timelines and Authority, and Process for Requesting Late Liquidations

**DATE:** May 17, 2023

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I write to review the obligation and liquidation timelines under the Individuals with Disabilities Education Act (IDEA) Part B and Part C grants. This information may be helpful given that OSEP has recently received questions about IDEA funds awarded in Federal fiscal year (FFY) 2021, including American Rescue Plan (ARP) funds.<sup>1</sup> We review the timelines and authority for obligations, the timelines for liquidation and late liquidations, and the process for requesting late liquidations.

First, we review the obligation timeline for FFY 2021 funds. For both the IDEA Part B and C FFY 2021 regular and ARP grant awards, States must obligate funds during the 27-month period of availability, from July 1, 2021, through September 30, 2023. As a reminder, IDEA funds are forward funded, which means a portion of IDEA Part B Section 611 grants and the entirety of IDEA Part B Section 619 and IDEA Part C grants are made available on July 1<sup>st</sup> of each fiscal year, three months prior to the start of each fiscal year. In addition, after the three-month forward-funding period (July 1, 2021–September 30, 2021), and 12-month fiscal year funding period (October 1, 2021–September 30, 2022), States have an additional 12 months (October 1, 2022–September 30, 2023) to obligate any IDEA funds that were not obligated during the previous 15 months under the Tydings Amendment in 34 CFR § 76.709(a) of the Education Department General Administrative Regulations (EDGAR).

Second, we review the authority in EDGAR for when specific obligations are made. The table in EDGAR in 34 CFR § 76.707, identifies the date a State must use for obligations. For example, if the obligation is to acquire personal property, the obligation date is the date that the State makes a binding written commitment to acquire the property (i.e., the contract execution date). If the obligation is for personal services by a contractor who is not an employee of the State, the obligation date is the date that the State makes a binding written commitment to obtain the services. By contrast, if the obligation is for personal services by an employee of the State, the

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<sup>1</sup> In FFY 2021, State educational agencies (SEAs) received their regular IDEA Part B formula grants, to assist States in providing a free appropriate public education in the least restrictive environment for children with disabilities ages 3 through 21 (Part B, Sections 611 and 619). State Lead Agencies received their IDEA Part C formula grants to assist States in providing early intervention services for infants and toddlers birth through age two and their families. In addition, SEAs and Lead Agencies received ARP supplemental funds to help recover from the impact of the coronavirus pandemic and to safely reopen schools and sustain safe operations.

obligation date is the date that the services are performed. OSEP reminds States that the determination of what is a binding written commitment requires the State to follow its own procurement rules. **Thus, for FFY 2021 IDEA funds, all obligations must be made on or before September 30, 2023. OSEP does not have authority to extend this obligation period.**

Third, we review the timelines for liquidations and late liquidations. States must liquidate their funds during the 120-day liquidation period set forth in 2 C.F.R. § 200.344(b). The liquidation period for FFY 2021 IDEA ARP and FFY 2021 IDEA formula grant awards is from October 1, 2023, through January 28, 2024. After the initial 120-day liquidation period has ended, States may request a Phase 1 late liquidation request within 18 months of the obligation period (or not more than 14 months after the end of the normal liquidation period — i.e., after January 28, 2024).<sup>2</sup> Thus, a State may submit its Phase 1 late liquidation request to the OSEP-MSIP Director by March 31, 2025.

Finally, we review the process for late liquidations. All Phase I late liquidation requests must be submitted by either the State Director of Special Education or Part C Coordinator. The request must include a general description of what the allowable obligations were for, as well as:

- A description of the impact of the transaction on other funds (e.g., subsequent or previous Part B grants, State and/or local funds, etc.);
- A clear explanation of the failure to liquidate the funds in a timely manner along with the specific steps the State is taking to avoid reoccurrence;
- For large amounts of funds, or for complex or large States with multiple layers of authority, or for States with significant audit findings or designated “high-risk,” a signed attestation by a high-ranking authorized official that the obligations were valid and allowable; and
- An assurance that the funds are NOT funds returned to the SEA by the LEA (for Part B only).

All Phase I late liquidation requests must be accompanied by documentation (e.g., copies of purchase orders or contracts) showing that the obligations for which the State wants to liquidate funds were made during the 27-month period between July 1, 2021, and September 30, 2023. The request must include documentation that the funds were obligated for allowable purposes. For example, States should include dated invoices, bills of lading, or other billing documents supporting the amount the State is requesting to liquidate. States should be aware that requests of less than \$10,000 may be denied consideration by OSEP.

After the Phase I late liquidation period has closed (i.e., March 31, 2025, for FFY 2021 IDEA awards), a State may request a Phase II late liquidation, but Phase II late liquidation requests are subject to an “extraordinary circumstances” standard. Phase II late liquidation requests have a

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<sup>2</sup> The Department’s late liquidation policy is at <https://www2.ed.gov/policy/fund/guid/lateliquidation.doc>. The 2007 memo has not been updated to reflect the 120-day liquidation period in 2 C.F.R. § 200.344(b) (and refers to the prior 90-day liquidation timeline).

much higher level of scrutiny and involve multiple layers of review, and are ultimately approved, or disapproved by the Department's Office of the Chief Financial Officer.

We hope that clarifying these timelines, and explaining these processes is helpful. If you have any questions, please contact your OSEP State Lead.

cc: OSEP Funded Technical Assistance Centers