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MAINTENANCE OF EFFORT

Federal Cross-Cutting
Special Education

What is Maintenance of Effort?

A presumption that state and/or local funding spent on programs is consistent between years.

The amount of Federal funding received for a program should not lead to a decline in the amount of state and/or local funding for the same program.

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What is Maintenance of Effort?

It applies to any Federal program with “supplement, not supplant” requirements.

There are potential financial consequences for failure to meet Maintenance of Effort (MoE) requirements.

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MoE Tests

OSPI annually performs two MoE tests, based on final submission of F-196 data.

The results are communicated with program-related OSPI staff as well as districts who did not maintain effort.

Preliminary models are available on SAFS website at <http://www.k12.wa.us/safs/tt/tools.asp>.

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Federal Cross-Cutting Maintenance of Effort Test

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Applicable Programs

- ▶ Title I Part A (Education for the Disadvantaged)
- ▶ Title I Part D (Neglected & Delinquent Programs)
- ▶ Title I Part F (Comprehensive School Reform)
- ▶ Title II Part A (Improving Teacher Quality)
- ▶ Title III Part A (English Acquisition)
- ▶ Title IV Part B (21st Century Learning Centers)
- ▶ Title VI Part B Subpart 2 (Rural Education)

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Cross-Cutting Statutory Authority

34 CFR § 299.5

¶(a): An LEA whose aggregate or per-student expenditures for state/local funds for a given year are at least 90% of the prior year have maintained effort.

Or: $FY\ 13-14 / FY\ 12-13 \geq 0.90$

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Cross-Cutting Statutory Authority

34 CFR § 299.5

¶(d): Only expenditures from state/local funds may be used, including administration, instruction, attendance/health services, pupil transportation, operation and maintenance of plant, and net expenditures to cover food service deficits.

May not include community services, capital outlay, debt service, or any expenditure from funds provided by the Federal government.

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Consequences of Failure #1

If a district does not meet the 90% threshold and no waiver is granted, the district's current year Federal allocations for applicable programs will be reduced by the failure percentage.

For example, a district's higher cross-cutting test (aggregate vs. per-pupil) is 87%. Their Federal allocations must be reduced by 3% (90% - 87%).

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Consequences of Failure #2

In the year following the failure, the district must maintain effort compared against the level of effort the district *would have needed* to maintain effort in the year of failure.

Example: Year 1, MoE aggregate value \$1,000,000.
Year 2, MoE aggregate value \$850,000 (85%).
Year 3, MoE aggregate is tested against \$900,000.

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Waivers

A waiver **may** be granted for either of the following:

- ▶ Exceptional or uncontrollable circumstances such as a natural disaster.
- ▶ A precipitous decline in the financial resources of the district.

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Special Education Maintenance of Effort

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Statutory Authority

34 CFR § 300.203

¶(b): A district has maintained effort if it budgets the same in aggregate or per-pupil for the education of children with disabilities in a given fiscal year as it did in the prior fiscal year, using either:

- ▶ Local funds only.
- ▶ State and local funds.

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Special Ed MoE Test

There are four tests that are looked at to determine if a district has maintained effort.

- ▶ State and local funds, in aggregate.
- ▶ State and local funds, per pupil.
- ▶ Local funds only, in aggregate.
- ▶ Local funds only, per pupil.

Only one of these needs to be passed to maintain effort.

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Proposed Regulations

The Department of Education (ED) released proposed regulations in September of 2013 that, if adopted, will have an impact on the relationship of the four tests.

These are (as of April 16) proposed regulations. When final regulations are released, OSPI will provide guidance relating to the new regulations.

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Level of Effort Comparison

The level of spending needed to maintain effort for a given category is always against the highest level of spending in that category, less allowable exceptions.

Prevents “flip-flopping” on which category the district will pass MoE on.

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Year Three	40	230	270*	10 reduction permissible under § 300.204(c).
Year Four	40	240	280*	
Year Five	60	220	280*	
Year Six	80*	150	230	
Year Seven	75*	160	235	5 reduction permissible under § 300.205.

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This table was taken from the Federal Register.

Exceptions to MoE (§ 300.204)

There are five listed exceptions to MoE under the regulations.

- ▶ Voluntary departure of special education personnel.
- ▶ Decrease in enrollment of children with disabilities.
- ▶ Termination of obligation to provide services to a high-cost child.
- ▶ Termination of costly long-term expenditures.
- ▶ Assumption of cost by state high-cost fund (Safety Net).

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Exceptions to MoE (§ 300.205)

If a district's IDEA allocation is greater in a given fiscal year than it was in the prior year, it may reduce its expenditures by 50% of the increase. This is not an automatic reduction.

Districts that do reduce their expenditures must certify that the money that would have been spent was used for activities under the Elementary and Secondary Education Act.

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Exception to 50% Rule

34 CFR § 300.205(d):

The amount a district spends on Coordinated Early Intervening Services (CEIS), which is limited to 15% of a district's IDEA allocation, counts against the 50% maximum.

There is a unique relationship between the 50% Rule and CEIS.

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50% Rule/CEIS Example #1

	FY 2012–2013	FY 2013–2014
IDEA Allocation	\$1,000,000	\$2,000,000

Amount Spent on MoE	Amount Available for CEIS	
\$0,000	\$300,000	(\$300,000 - \$0)
\$100,000	\$200,000	(\$300,000 - \$100,000)
\$150,000	\$150,000	(\$300,000 - \$150,000)
\$300,000	\$0	(\$300,000 - \$300,000)
\$500,000	\$0	(\$300,000 - \$500,000)

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50% Rule/CEIS Example #2

	FY 2012–2013	FY 2013–2014
IDEA Allocation	\$900,000	\$1,000,000

Amount Spent on CEIS	Amount Available for MoE	
\$150,000	\$0	(\$50,000 - \$150,000)
\$100,000	\$0	(\$50,000 - \$100,000)
\$50,000	\$0	(\$50,000 - \$50,000)
\$30,000	\$20,000	(\$50,000 - \$30,000)
\$0	\$50,000	(\$50,000 - \$0)

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Consequences of Failure

If a district fails to maintain effort, OSPI must repay ED for the amount of the failure. OSPI may recover that cost from the district in question.

Proposed regulations also state that a district which fails MoE in a given year tests in the following year against the level of effort that would have been needed to pass MoE.

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Consequences of Failure - Example

Let's say in Year 1, a district spends \$1,000,000 for Special Education.

In Year 2, they only spend \$900,000. With no exceptions, they fail MoE. OSPI may recover that \$100,000.

In Year 3, they test against \$1,000,000, NOT \$900,000.

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Other Developments

In the Federal budget bill (Consolidated Appropriations Act, 2014), was this language:

“Provided further, That the level of effort an LEA must meet under section 613(a)(2)(A)(iii) of the IDEA, in the year after it fails to maintain effort, is the level of effort that would have been required in the absence of that failure and not the LEA’s reduced level of expenditures.”

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Questions?

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