

**CHAPTER IX: MAINTENANCE OF EFFORT**

**CONTENTS**

	<u>SECTION</u>	<u>PAGE(S)</u>
Introduction	Intro	1-6

Effective Date  
9/1/07

Supersedes  
9/1/06

Form

Chapter  
MOE

Section  
INDEX

Page  
1

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## MAINTENANCE OF EFFORT

**PURPOSE:** Each year OSPI performs preliminary and final maintenance of effort (MOE) tests on selected federal programs to ensure that each district is maintaining effort and not supplanting. The first set of preliminary tests are completed during the F-196 process ending in November, and the final tests are performed using F-196 and final year-end enrollment data the following March.

Following are the four areas tested:

### **1. Federal Cross-Cutting**

The federal cross-cutting MOE test compares a calculated expenditure amount in the tested year with a calculated expenditure amount in a base year. This test performs two different calculations: an aggregate expenditure test and a per pupil expenditure test. Usually, the base year is the previous year. If the tested year's calculated expenditures are less than 90 percent of the base year's calculated expenditures, the school district is considered non-compliant. As an example, the MOE test comparing FY 06–07 versus FY 07–08 will determine if a deduction is required for FY 08–09. A district is considered non-compliant when both the aggregate and per pupil test are below 90%.

The following federal programs are covered by the federal cross-cutting method as described:

- Title I Part A.
- Title I, Part B, Subpart 3, Even Start.
- Title I, Part D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk.
- Title I, Part F, Comprehensive School Reform.
- Title II, Part A, Improving Teacher Quality State Grants.
- Title II, Part D, Educational Technology State Grants.
- Title III, Part A, English Acquisition State Grants.
- Title IV, Part A, Safe and Drug-Free Schools and Communities.
- Title IV, Part B, 21<sup>st</sup> Century Learning Centers.
- Title VI, Part B, Subpart 2, Rural Education.

### **Failure to Meet the Requirement**

If a district does not maintain effort the allocation under the above mentioned programs will be reduced in proportion by which the districts failed to maintain effort. For example, if a district does not maintain effort by 3% (both tests are 87%); the allocation for these programs for the current year will be reduced by 3%.

### **Waiver**

The Department of Education may waive the MOE requirement if it is determined that such a waiver would be equitable due to:

<u>Effective Date</u>	<u>Supersedes</u>	<u>Form</u>	<u>Chapter</u>	<u>Section</u>	<u>Page</u>
9/1/08	9/1/07		MOE	Intro	1

## **MAINTENANCE OF EFFORT**

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

The preliminary calculation and methodology is displayed in the F-196 chapter of this handbook.

### **2. Vocational Education**

The vocational MOE test is performed each spring and compares a calculated expenditure amount in the tested year with a calculated expenditure amount in a base year. The state level test is performed in accordance with 34 CFR 403.182 which provides for both aggregate and per pupil tests. The state must maintain a 100% effort level. For school districts, if the aggregate and per pupil tests are less than 90 percent of the base year's calculated expenditures, the school district is considered to have not maintained effort.

The preliminary calculation and methodology is displayed in the F-196 chapter of this handbook.

### **3. Indian Education**

For those districts that receive funding under Title VII, Indian Education Formula Grant Program, the MOE test is required to be performed annually at both the state and district levels. The amount spent in the year under review should be at least 90 percent of the total spent in the year prior to the review according to the per student basis or the aggregate basis to meet the MOE requirements.

In comparing the funds, all funds generated at the state and district levels are considered, including expenditures for administration, instruction, attendance, health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student activities. Items excluded from the comparison include expenditures for community services, capital outlay, and debt service. In addition, aggregate expenditures for the purposes of this program do not include any expenditure from funds generated from any federal program of assistance.

### **4. Special Education WAC 392-172A-06015**

The calculation of the preliminary special education MOE tests (mid-year and year-end) are displayed in the F-196 chapter of this handbook.

MOE is a test to determine if "supplanting" may have occurred. Determination of "supplanting" quantifies the violation of non-supplanting requirements in 34 CFR 300.202. "Supplanting or supplanted dollars" are the amount of state and local dollars that were replaced with federal dollars and measures a noncompliance situation.

To assist in the mid-year and year-end MOE calculations, a Special Education Preliminary MOE and Determination of Possible Supplant template is available for school district use at the School Apportionment and Financial Services Training and Tools webpage at: <http://www.k12.wa.us/safs/TT/tt.asp#Tools>.

<u>Effective Date</u>	<u>Supersedes</u>	<u>Form</u>	<u>Chapter</u>	<u>Section</u>	<u>Page</u>
9/1/08	9/1/07		MOE	Intro	2

## MAINTENANCE OF EFFORT

Results of the final year-end MOE test produced by OSPI School Financial Services are furnished to the OSPI Special Education office. School districts that are not in compliance with the applicable year's MOE test receive notice from OSPI School Apportionment and Financial Services (SAFS). These districts then have the ability to demonstrate a non-supplanting position based on several federally allowable exceptions by filing the *Special Education Maintenance of Effort Exceptions* form with OSPI SAFS. Districts providing exceptions sufficient to eliminate the entire possible supplant amount will receive a letter acknowledging they have maintained effort. Districts that are (1) unable to provide exceptions sufficient to eliminate the entire possible supplant amount, or (2) not filing an exception report by the OSPI specified deadline, will receive a notice from OSPI SAFS setting forth the district options. These options may include, but not be limited to, reimbursement to SAFS from non-federal funds, or an opportunity for an appeal to the Superintendent of Public Instruction or her designee.

A district's MOE is subject to audit by the State Auditor's Office. Districts should retain their supporting documentation, including any responses to MOE non-compliant notices from OSPI SAFS, for possible audit attention. If an audit finding results, it will be resolved pursuant to Chapter 392-115 WAC by the OSPI Audit Resolution section.

### **Exceptions to Maintenance of Effort:**

Under 34 CFR 300.204, *Exception to maintenance of effort*, a district may reduce the level of its expenditures under Part B of the Act below the level of those expenditures from the preceding fiscal year if the reduction is attributable to the following:

- (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.
- (b) A decrease in the enrollment of children with disabilities.
- (c) The termination of the obligation of the district, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by OSPI, because the child:
  - (1) Has left the jurisdiction of the district;
  - (2) Has reached the age at which the obligation of the district to provide Free Appropriate Public Education to the child has terminated; or
  - (3) No longer needs the program of special education.
- (d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

### **Adjustment to Local Fiscal Efforts in Certain Fiscal Years**

In addition to the exemptions listed above, under 34 CFR Sec. 300.205 *Adjustment to local fiscal efforts in certain fiscal years*, for any fiscal year for which the allocation received by a district under IDEA Part B exceeds the amount the district received for the previous fiscal year,

- (a) The district may reduce the level of expenditures otherwise required by 300.203(a) by not more than 50% of the increase, provided

## MAINTENANCE OF EFFORT

- (b) OSPI has not determined the district is unable to establish and maintain programs of FAPE and OSPI has prohibited the district from reducing the level of expenditures under paragraph (a) of this section, or
- (c) The amount of funds expended by the district for Early Intervening Services (EIS) does not exceed the maximum amount allowable under paragraph (a) of this section (50% of the increase in IDEA Part B funds).

Districts may use no more than **15 percent** of the IDEA Part B allocation to develop and implement coordinated Early Intervening Services. Activities for implementing coordinated EIS may include:

- (a) Professional development for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavior interventions, including scientifically based literacy instruction, and where appropriate, instruction on the use of adaptive and instructional software; and
- (b) The provision of educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

Districts are required to specify on their IDEA Part B allocation the amount to be used on early intervening services.

The following two examples provided by USDOE illustrate how funds used for early intervening services count towards maintenance of effort reduction. The district is permitted to reduce the level of its expenditures from local funds by not more than 50 percent of the increase over the prior year's IDEA Part B allocation. A district that chooses to use this flexibility must count the amount used for early intervening services towards any funds treated as local funds. If the district chooses to use this option, it is required to use local funds equal to the reduction to carry out activities authorized under NCLB.

**Example 1: The maximum amount that the district may use for early intervening services (EIS) is greater than the amount that may be used for MOE reduction.**

Prior Year's Allocation:	\$ 900,000
Current Year's Allocation:	\$ 1,000,000
Increase:	\$ 100,000
Maximum Available for MOE Reduction:	\$ 50,000
Maximum Available for EIS:	\$ 150,000

- If the district chooses to set aside \$50,000 or more for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 for EIS means \$0 can be used for MOE reduction).
- If the district chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE reduction).

## MAINTENANCE OF EFFORT

- If the district chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE reduction).

**Example 2: The maximum amount that the district may use for EIS is less than the amount that may be used for MOE reduction.**

Prior Year's Allocation:	\$ 1,000,000
Current Year's Allocation:	\$ 2,000,000
Increase:	\$ 1,000,000
Maximum Available for MOE Reduction:	\$ 500,000
Maximum Available for EIS:	\$ 300,000

- If the district chooses to use no funds for MOE, it may set aside \$300,000 for EIS (EIS maximum \$300,000 less \$0 means \$300,000 for EIS).
- If the district chooses to use \$100,000 for MOE, it may set aside \$200,000 for EIS (EIS maximum \$300,000 less \$100,000 means \$200,000 for EIS).
- If the district chooses to use \$300,000 or more for MOE, it may not set aside anything for EIS (EIS maximum \$300,000 less \$300,000 means \$0 for EIS).

### **Calculation of the Amount Supplanted**

The following calculation, used to determine the possible supplanted amount, uses data from the F-196 Special Education MOE section. When a district completes their F-196 process and are non-compliant per the Special Education MOE tests, they may complete the following calculation to determine a possible supplanted amount.

#### **(A) Aggregate Maintenance of Effort Test equals the difference between prior year and current year aggregate expenditures.**

1. The current year aggregate special education expenditures for resident special education students (Line 6, Column B).
2. The prior year aggregate special education expenditures for resident special education students (Line 6, Column A).

#### **(B) Per Pupil Maintenance of Effort Test equals the difference using prior year per pupil expenditures (prior year per pupil expenditures multiplied by current year resident special education students less current year aggregate expenditures).**

1. The current year expenditures per pupil (current year aggregate expenditures divided by current year resident special education students) (Line 9, Column B.)
2. The prior year expenditures per pupil (prior year aggregate expenditures divided by prior year resident special education students). (Line 9, Column A.)

## MAINTENANCE OF EFFORT

**(C) Current Year Program 24 Direct Expenditures (IDEA):**

Amount of current year Program 24 Special Education, Supplemental direct expenditures reported by the school district in the current year F-196 Report. Include only the expenditures of the current year IDEA grant and the expenditures of the prior year IDEA grant that were carried over and expended in the current year.

**(D) Possible Amount Supplanted:**

The possible supplanted amount is the lowest of the difference between prior and current year aggregate expenditures (A), difference between prior and current year per pupil expenditures (B), and current year Program 24 direct expenditures (C).