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Washington Office of Superintendent of  
**PUBLIC INSTRUCTION**  
Chris Reykdal, Superintendent

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#### BULLETIN NO. 029-20 SPECIAL EDUCATION

TO: Educational Service District Superintendents  
School District Superintendents  
School District Business Managers  
Educational Service District Special Education Offices  
School District Special Education Directors

FROM: Chris Reykdal, Superintendent of Public Instruction

RE: Use of Funds: Individuals with Disabilities Education Act (IDEA) Part B

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## PURPOSE/BACKGROUND

This bulletin informs Local Education Agencies (LEA) of the requirements pertaining to the use of funds consistent with IDEA Part B. LEAs should be aware of this information when planning and authorizing expenditures for 2020–21. LEAs must assure operations are consistent with all requirements of Title 20 of the United States Code (20 USC) section 1400 et seq., 34 CFR Part 300, 2 CFR 200, and WAC 392–172A, and must have board approved policies and procedures in place in compliance with the existing federal and state requirements.

## DISTRIBUTION OF FEDERAL FUNDS

IDEA funding formula for Part B allocates base amounts to states that are equal to the amounts the state received from federal fiscal year 1999. Then, 85% of the remaining funds are allocated, on the basis of the relative populations of students, aged 3–21, for whom the state ensures the availability of Free Appropriate Public Education (FAPE). The remaining 15% of funds are allocated based on the relative populations of those students who are living in poverty. IDEA Part B authorizes funding to students aged 3–21, while section 619 is targeted specifically for students aged 3–5. Congress separately allocates total funds for each section. IDEA Part B,

Section 611 flow-through is distributed under Catalog of Federal Domestic Assistance (CFDA) number 84.027A; IDEA Part B, Section 619 funds are distributed under CFDA number 84.173A.

Current IDEA allocation tables for LEAs in Washington are located on the Profile Page within Form Package 267/497. These tables reflect final enrollment data from the October Enrollment. The Washington state application for federal IDEA funds, along with the proposed budget, is posted at [Special Education Funding and Finance](#) and reflects the intention for Washington state school districts to receive 87% of federal IDEA funds in direct flow-through.

## USE OF FUNDS

The LEA assures that amounts provided to it under IDEA Part B will be expended in accordance with the provision of 20 USC 1413(a)(2):

- (i) Funds shall be used only to pay the excess costs of providing special education and related services to students with disabilities.
- (ii) Funds shall be used to supplement state, local, and other federal funds and not supplant such funds.
- (iii) Funds shall not be used to reduce the level of expenditures for the education of students with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal years, except as explained in the Maintenance of Effort (MOE) section of this bulletin.

Excess costs means those costs in excess of the average annual per pupil expenditure by an LEA for an elementary school or secondary school student, as may be appropriate, and must be computed after deducting amounts received under IDEA Part B, Part A of Title I of the Elementary and Secondary Education Act (ESEA), and Part A and B of Title III of the ESEA.

LEAs are required under 34 CFR § 300.16, 300.202(a)(2) and (b) to compute the minimum amount that must be spent for students with disabilities. The regulations state non-IDEA funds must be expended before spending IDEA funds. The Office of Special Education Programs (OSEP) has clarified that, as long as the non-IDEA funds are expended by the end of the fiscal year, IDEA funds may be expended concurrently as the test is not a year-to-year comparison but a test of whether or not the LEA spent a minimum average amount for the education of elementary or secondary students with disabilities before using IDEA funds. LEAs should retain documentation to demonstrate elementary and secondary compliance in the event of an audit.

## PERMISSIVE USE OF FUNDS

Federal funds are supplemental to the basic education funds and are intended to provide additional resources and supports. Basic education funds are often budgeted independently of federal funds, and the combined use of basic education and federal funds may be coordinated. While IDEA, Title I, and other federal programs have stated purposes and rules regarding how funds can be used and what students can receive services, operating programs in isolation

frequently results in duplication of efforts or failure to provide services due to lack of coordination.

For this reason, the Office of Superintendent of Public Instruction (OSPI) asks school administrators to consider how LEAs may leverage these funds by coordinating grant spending to support activities that drive performance and improve outcomes for all students. The following link provides examples of how funds could be coordinated as districts develop, plan, and budget to address improved educational outcomes. The examples should not be viewed as either an exhaustive list of activities/initiatives or how funds could be coordinated for a specific activity. See [Unlocking Federal and State Program Funds to Support Student Success](#).

Under [34 CFR 300.208](#), permissive use of funds may be used for the following activities:

1. Services and aids that also benefit nondisabled students. 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 student with a disability in accordance with the Individualized Education Program (IEP) of the student, even if one or more nondisabled students benefit from these services.
2. Early intervening services. IDEA allows an LEA to use up to 15% of their total IDEA Part B allocation to develop and implement voluntary Coordinated Early Intervening Services (CEIS) for students in kindergarten through grade 12 who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment ([34 CFR 300.226](#) and [WAC 392-172A-06085](#)).
3. CEIS is voluntary for LEAs, unless the LEA is determined to have significant disproportionality in the identification, placement, and/or disciplinary removals of students with disabilities, in which case Comprehensive Coordinated Early Intervening Services (CCEIS) is mandatory. Services can be provided to students age 3 through grade 12. In addition to serving students who are not currently identified as needing special education or related services, the LEA may not limit the provision of CCEIS to students previously identified. LEAs identified as having significant disproportionality must reserve IDEA funds for CCEIS in the coming school year (refer to IDEA Section 618(d)(2)(B), [34 CFR 300.646](#) and [WAC 392-172A-06085\(6\)](#)).

NOTE: LEAs may find it helpful to sub-code CEIS/CCEIS expenditures to assist with tracking/identification of those funds.

Allowable activities for CEIS and CCEIS include professional development for teachers and other school staff to enable the delivery of scientifically based academic and behavior interventions, including:

- Scientifically based literacy instruction and instruction on the use of adaptive and instructional software.
- The provision of educational and behavioral evaluations, services, and supports.

LEAs must designate the amount budgeted for CEIS or CCEIS in the initial 2020–21 Special Education IDEA Part B application. LEAs using funds for voluntary CEIS or mandatory CCEIS must report and submit year-end expenditure detail reports to OSPI. Additionally, LEAs must report the year CEIS/CCEIS is used, and two subsequent years, on the number of students who received services, and the number of those students who were found eligible for special education.

4. School-wide programs under Title I of the ESEA. LEAs may use federal flow-through special education funds to carry out school-wide programs consistent with Title I, subject to the following formula and conditions:
  - Formula: Divide the Part B amount the LEA receives by the number of eligible students in the LEA, and then multiply that number by the number of eligible students participating in the school-wide program consistent with Title I.
5. Administrative case management. LEAs may use funds received under Part B to purchase appropriate technology for recordkeeping, data collection, and related case management activities if they are needed for the implementation of case management activities for students with disabilities.

## APPLICATION FOR FUNDS

The LEA application for IDEA Part B, Section 611 and Section 619 funds is located at [OSPI-iGrants](#) (form package 267).

- To receive the July 1, spending start date, LEAs must complete and submit the 2020–21 IDEA Part B, Sections 611 and 619 budget matrices and all applicable sections of pages 1–5 by 5:00 pm on July 1, including uploading (or faxing) signed Assurances and other applicable appendices on page 5, and the LEA must not have any outstanding required reports/documents due to the OSPI Special Education office.
- LEAs that submit after July 1, but prior to September 1, will receive the spending start date in which all required components are received. A request can be submitted for reimbursement of costs incurred from July 1, by adding a note on the Notes tab in form package 267.
- To receive the September 1, spending start date, LEAs must complete and submit the 2020–21 IDEA Part B Sections 611 and 619 budget matrices and all applicable sections of pages 1–5 by 5:00 pm on September 1, including uploading (or faxing) signed Assurances and other applicable appendices on page 5, and the LEA must not have any outstanding required reports/documents due to the OSPI Special Education office.
- LEAs that submit on or after the September 1, deadline will receive the spending start date no earlier than the date all required components are received.

Budget approval will be given when all required reports are received (including, but not limited to, signed Assurances). If a more in-depth analysis of the application or budget are needed, the LEA may be asked for further information.

## PERIOD OF OBLIGATION AND BUDGET REVISIONS

The grant period for the FFY21 allocations is from July 1, 2020 to August 31, 2022, which includes the Tydings Amendment for an additional twelve months. The carryover amount for the second year of the obligation period is budgeted through the grant revision process. The proportionate share amount calculated in the IDEA application for private school students with disabilities in the LEA is valid for one year only and must be carried over if funds remain. **Note:** LEAs may find it helpful to sub-code proportionate share expenditures, so that carryover, if applicable, can be easily calculated.

To reduce the clerical burden, LEAs are asked to plan the year's expenditures carefully and code accordingly. Each LEA should expend monies in accordance with the spending plan and budget documentation approved by the Special Education office as a part of the grant application process. LEAs must submit for budget revision approval to the OSPI Special Education office when one or more of the following circumstances apply:

- (i) The LEA intends to increase expenditures beyond the approved amount.
- (ii) The LEA intends to change by more than 10% of the subtotal "Budgeted Direct Expenditures" from the expenditures within any activity total or object total on their iGrant budget.
- (iii) The LEA intends to expend monies in any activity or object cell where no monies were previously budgeted.

## MAINTENANCE OF EFFORT (MOE)

Per 34 CFR § 300.204, an LEA may reduce the level of its expenditures under IDEA Part B below the level of those expenditures from the preceding fiscal year if the reduction is attributable to the one of the following:

- (i) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.
- (ii) A decrease in the enrollment of students with disabilities.
- (iii) The termination of the obligation of the LEA, consistent with this part, to provide a program of special education to a particular student with a disability that is an exceptionally costly program, as determined by OSPI, because the student:
  - a. Has left the jurisdiction of the LEA.
  - b. Has reached the age at which the obligation of the LEA to provide FAPE to the student has terminated.
  - c. No longer needs the program of special education.
- (iv) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.
- (v) The assumption of cost by the high-cost fund operated by the state education agency.

### Exceptions to MOE

LEAs may use, as local funds, up to 50% of the increase in federal flow-through funding from the prior year to meet the MOE requirements of IDEA. IDEA 2004, 20 USC § 1413(f) also permits LEAs to use up to 15% of the Part B funds received for voluntary CEIS for students who have not been identified as students with disabilities under IDEA. An LEA that chooses to do this must count the amount used for CEIS towards any funds treated as local funds in calculating MOE.

#### Prohibition

If OSPI determines an LEA is unable to meet the requirements of Part B, including the targets of Washington Performance Plan, or OSPI has taken action against an LEA under 20 USC § 1416(f), OSPI shall prohibit the LEA from reducing the level of expenditures.

### MONITORING, TECHNICAL ASSISTANCE, AND ENFORCEMENT

OSPI has responsibility for monitoring compliance with federal requirements under the IDEA and applicable state requirements. OSPI's Washington Integrated System of Monitoring (WISM), consistent with the U.S. Department of Education's guidance for ongoing risk-based monitoring, provides the framework for a data-driven, outcome-based monitoring process. The WISM system focuses on assessing an LEA's ability to 1) exercise fiscal control over the management and use of IDEA Part B funds, and 2) implement compliance and performance requirements consistent with IDEA and WAC 392-172A. This comprehensive approach continues to emphasize educational results and functional outcomes for students with disabilities through an integration of fiscal, compliance, and performance reviews. Any issues of noncompliance identified by OSPI must be corrected as soon as possible, but no later than one year from identification.

In addition, IDEA requires states to make "determinations" annually as to the level of overall compliance of each LEA within the state. The process of making determinations incorporates the following criteria: (1) unresolved special education audit findings, (2) timely correction of identified noncompliance, (3) submission of timely, reliable, and accurate data, (4) LEA performance on identified State Performance Plan (SPP) compliance and results indicators, (5) LEA designation of significant disproportionality, and (6) information from ongoing monitoring activities and other public information related to LEA compliance with IDEA.

### INFORMATION AND ASSISTANCE

For questions regarding this bulletin, please contact Tina Pablo-Long, Special Education Director of Operations, at 360-725-6075 or email [tina.pablo-long.email@k12.wa.us](mailto:tina.pablo-long.email@k12.wa.us). The OSPI TTY number is 360-664-3631.

This bulletin is also available on the [Bulletins](#) page of the OSPI website.

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