



IDEA Maintenance of Effort Waiver

Under current IDEA statute, LEAs must maintain the same level of funding each year for special education and related services to children with disabilities regardless of how much funding they receive from the state during the fiscal year. As state budgets continue to shrink, and local property and revenue taxes continue to decline, school districts are becoming less capable of maintaining the same level of funding for special education and related services. However, current IDEA law asserts that when a district fails to maintain effort in a given fiscal year, the district must repay the amount by which the district fell short. In light of these economic circumstances, AESA believes that more flexibility must be given to local districts so that they can reduce their level of special education funding during these tough economic circumstances without penalty.

While there are specific exceptions in the statute that allow LEAs to reduce their levels of special-education funding, such as a decrease in enrollment of children with disabilities or the voluntary departure of special education or related service personnel, states have considerably more flexibility. Specifically, an SEA can apply directly to the Department of Education for a waiver that would allow them to reduce their special education funding due to “exceptional or uncontrollable circumstances such as precipitous and unforeseen decline in the financial resources of the state.” Despite reducing their spending, a state must continue to ensure that a free appropriate public education (FAPE) is made available to all children with disabilities residing in that state.

In light of the fact that at least 42 states and the District of Columbia have projected shortfalls for fiscal year 2012 totaling \$103 billion, with 24 states projecting shortfalls totaling \$46 billion for fiscal year 2013, **AESA proposes a legislative fix that would allow LEAs to seek a direct waiver that would reduce their maintenance of effort for special education and related services due to “exceptional or uncontrollable circumstances.”**

Talking Points

1. Tell your Representative or Senator that school districts need additional flexibility during these tough fiscal times and that legislative language that would enable local school districts to directly apply for a waiver to reduce special education funding is critical.

2. The burden of state spending on special education cannot be covered by local revenues unless there is a corresponding increase in local revenue. Since no increase in local revenue is expected this year, LEAs will be penalized for their inability to cover the state shortfalls due to no fault of their own.