

IDEA Reduction of Local Maintenance of Effort

Under IDEA 2004, districts can reduce their local effort in funding special education by an amount equal to up to 50% of any increase in federal funding. Never before have districts been able to take advantage of this provision. With the significant increase of IDEA funding included in the American Recovery and Reinvestment Act, districts across the country are looking to use the reclaimed local dollars to fill budget holes. In order to gain access to this flexibility, districts need to meet certain requirements under IDEA.

As required by IDEA 2004, state education agencies make annual evaluations of LEA compliance with IDEA. Each LEA's performance is ranked on a four-level scale (meets requirements/purposes, needs assistance in meeting purposes, needs intervention to meet requirements, or needs substantial intervention to meet requirements) as based on performance of compliance indicators, validity/reliability/timeliness of data; correction of noncompliance; and audit findings.

What does the ARRA IDEA Guidance Sec. 613. say?

- A district must receive a determination under section 616 of "Meets Requirements" from the state in order to take advantage of the flexibility provided in section 613. Also, IDEA section 613(a)(2)(C)(iii) allows for states to restrict districts' flexibility if the district is not meeting FAPE or the state has taken action against the district under IDEA section 616
- If the state determines that a district is not meeting the requirements of Part B, including meeting targets in the state's performance plan, the state *must* prohibit that district from reducing its maintenance of effort under IDEA section 613(a)(2)(C).
- Finally, a district that is required to use 15 percent of its IDEA Part B allocation on early intervening services because the state identified the district as having disproportionality in its student identification under 34 CFR §300.646, will not be able to reduce local maintenance of effort under IDEA section 613(a)(2)(C).

Why does AESA disagree with the guidance?

1. Districts' 'needing assistance' should not have their flexibility restricted. AASA believes that a state should restrict a district's flexibility in maintenance of fiscal effort only if the district has denied FAPE or the state had to take action against the district under section 616. 'Needs assistance', by definition, is a category where the state offers assistance, not where the state has taken action against a district. State action is only involved in the 'needs intervention' and 'needs substantial intervention' levels of determination. As such, a district that 'needs assistance' should not be subject to the prohibition of reduction of fiscal effort.
2. A majority of districts in 'needs assistance' are at that determination for the first time. When 'needs assistance' is the trigger point for a state's obligation to prohibit the reduction of fiscal effort, districts have no opportunity to correct a problem before facing the sanction on maintenance of fiscal effort. Applying a punitive approach without the opportunity for correction is unfair.
3. Imposing these restrictions on maintenance of fiscal effort is inconsistent with the intended purposes of ARRA. Districts that are unable to reclaim their local dollars that have covered the federal fiscal shortfall for special education may not be able to preserve jobs and will miss this opportunity to rebalance the relative federal/state/local financial support of special education.

Talking Points

1. Urge your members of Congress to clarify that sanctions on maintenance of effort should not be imposed on districts with a level of determination of 'needs assistance'. As the federal investment in special education increases, districts must be permitted to reclaim the local dollars they have used to cover the federal shortfall. Districts must be able to maximize the flexibility provided in section 613 of IDEA, a flexibility becomes even more critical in tight economic times.

IDEA Statutory Language: Section 613

(a) In General.--A local educational agency is eligible for assistance under this part for a fiscal year if submits a plan that provides assurances to the SEA that it meets each of the following conditions:

(1) Consistency with state policies.—

(2) Use of amounts.—

(A) In general.--Amounts provided to the local educational agency under this part shall be expended in accordance with the applicable provisions of this part and—

(i) shall be used only to pay the excess costs of providing special education and related services;

(ii) shall be used to supplement State, local, and other Federal funds and not to supplant such funds; and

(iii) shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year.

(B) Exception.--Notwithstanding the restriction in subparagraph (A)(iii), a LEA may reduce the level of expenditures where such reduction is attributable to—

(i) the voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel;

(ii) a decrease in the enrollment of children with disabilities;

(iii) the termination of the obligation of the agency, 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 the State educational agency, because the child—

(I) has left the jurisdiction of the agency;

(II) has reached the age at which the obligation of the agency to provide a free appropriate public education to the child has terminated; or

(III) no longer needs such program of special education; or

(iv) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(C) Adjustment to local fiscal effort in certain fiscal years.—

(i) Amounts in excess.--Notwithstanding clauses (ii) and (iii) of subparagraph (A), for any fiscal year for which the allocation received by a local educational agency under section 611(f) exceeds the amount the local educational agency received for the previous fiscal year, the local educational agency may reduce the level of expenditures otherwise required by subparagraph (A)(iii) by not more than 50 percent of the amount of such excess.

(ii) Use of amounts to carry out activities under ESEA.--If a local educational agency exercises the authority under clause (i), the agency shall use an amount of local funds equal to the reduction in expenditures under clause (i) to carry out activities authorized under the Elementary and Secondary Education Act of 1965.

(iii) State prohibition.--Notwithstanding clause (i), if a State educational agency determines that a local educational agency is unable to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a) or the State educational agency has taken action against the local educational agency under section 616, the State educational agency shall prohibit the local educational agency from reducing the level of expenditures under clause (i) for that fiscal year.

(iv) Special rule.--The amount of funds expended by a local educational agency under subsection (f) shall count toward the maximum amount of expenditures such local educational agency may reduce under clause (i).