



SUPERINTENDENT OF PUBLIC INSTRUCTION

Chris Reykdal Old Capitol Building · PO BOX 47200 · Olympia, WA 98504-7200 · <http://www.k12.wa.us>

July 9, 2018

() Action Required

Due date: 9/3/2018

(X) Informational

BULLETIN NO. 066-18 SPECIAL EDUCATION

TO: Educational Service District Superintendents
School District Superintendents
Assistant Superintendents for Business and/or 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

CONTACT: Mary Ellen Parrish, Special Education Fiscal Program Coordinator
Phone: 360-725-6075, Facsimile: 360-725-6017
Email: maryellen.parrish@k12.wa.us

PURPOSE/ BACKGROUND

This bulletin informs Local Education Agencies (LEAs) of the requirements pertaining to the use of funds consistent with Part B of the Individuals with Disabilities Education Act (IDEA). LEAs should be aware of this information when planning and authorizing expenditures for 2018–19. LEAs must assure operations are consistent with all requirements of Title 20 of the United States Code (20 USC) section 1400 et seq., CFR Part 300 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 percent of the remaining funds are allocated on the basis of the relative populations of children, aged 3–21, who are the same age as children with disabilities for whom the state ensures the availability of Free Appropriate Public Education (FAPE). The remaining 15 percent of funds are allocated on the basis of the relative populations of those children who are living in poverty. Part B, section 611 authorizes funding to students age 3–21, while section 619 is targeted specifically for children aged 3–5. The funding formulas to distribute are nearly identical, but 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 at [OSPI–Special Education–Finance-Grants–Funding](#). 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 <http://www.k12.wa.us/SpecialEd/pubdocs/WA-PartB-app-2018.pdf> and reflects the intention for Washington state school districts to receive 89 percent of federal IDEA funds in direct flow-through.

USE OF FUNDS

The LEA assures that amounts provided to it under Part B of IDEA will be expended in accordance with the provisions 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 children 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 children with disabilities made by the LEA from local funds below the level of those expenditures for preceding 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-student 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 Part B, Part A of Title I of the ESEA, and Part A and B of Title III of the ESEA.

Section 602(8) of the Act and 34 CFR § 300.16, 300.202 (a)(2) and (b) require LEAs compute the minimum amount that must be spent for children with disabilities. The regulations state that 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 not be well-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 that reason, 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 table provides examples of how funds could be coordinated as districts

develop plan (and budget) to address improved educational outcomes. The activities/initiatives are organized under the six priority areas of the Special Education Division. This should not be viewed as an exhaustive list of either activities/initiatives or how funds could be coordinated for a specific activity. Hyperlinks have been added as additional examples in the following list, and are only intended as informational.

Program #	21	24	51	52	53	55	62	64
Program Name	SpEd	IDEA	Title I-A	School Improvement	Migrant	LAP	Math& Science Prof Dev	Title III
Revenue Code	4121	6124	6151	6152 ⁱ	6153	4155	6162	6164
Leadership								
• Strategic Plan development	√	√	√	√	√	√	√	√
• Advisory Council development/activities	√	√	√	√	√			
• Multi-tiered System of Support (MTSS) implementation	√	√	√	√	√	√	√	√
• Urban Collaborative	√	√						
Rigorous standards/high quality assessments								
• High School and Beyond /IEP crosswalks for counselors, teacher, case managers, etc.	√	√	√		√	√	√	
• Growth mindset literature/research	√	√	√	√	√	√	√	√
Evidence-based instruction								
• Universal Design for Learning (UDL)	√	√	√	√	√	√	√	
• Response to Intervention (RtI)	√	√	√	√		√		
• Adolescent literacy interventions	√	√	√	√		√		
• Mathematics instructional interventions	√	√	√	√		√	√	
• Schoolwide behavior interventions	√	√	√	√		√		

Program #	21	24	51	52	53	55	62	64
Program Name	SpEd	IDEA	Title I-A	School Improvement	Migrant	LAP	Math& Science Prof Dev	Title III
Revenue Code	4121	6124	6151	6152 ⁱ	6153	4155	6162	6164
• Programs supporting social and emotional development	√	√	√	√		√		
• Secondary transition services	√	√	√		√			√
Professional development								
• Dual certification	√	√	√	√		√		√
• Student Progress Monitoring	√	√	√	√	√	√		
• Early childhood data systems	√	√	√	√		√		
• Using technology in instruction	√	√	√	√	√		√	
Resource allocation								
• Coordinated Early Intervening Services (CEIS)	√	√	√	√		√		
• Title I schoolwide programs	√	√	√	√		√		√
• Technology in instruction	√	√	√	√	√		√	√
Recruitment and retention								
• Induction and mentoring (e.g. BEST)	√	√	√	√				√
• Mindfulness training	√	√	√	√				
• Professional Learning Communities	√	√	√	√	√	√		
• Recruitment (e.g. signing bonuses, job fairs, etc.)			√					
• Retention (workload, planning time, materials, professional development, etc.)			√					√

Program #	21	24	51	52	53	55	62	64
Program Name	SpEd	IDEA	Title I-A	School Improvement	Migrant	LAP	Math& Science Prof Dev	Title III
Revenue Code	4121	6124	6151	6152 ⁱ	6153	4155	6162	6164
• Membership in state and national organizations	√		√	√	√			√

Under 34 CFR 300.208, funds provided to an LEA under IDEA Part B may be used for the following activities:

1. Services and aids that also benefit nondisabled children. Funds may be used 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 student's individualized education program (IEP). Regular education students may *incidentally* benefit from this instruction in limited circumstances and as long as no extra duties (e.g., grading papers, spending time on parent teacher conferences, or performing any functions for the nondisabled child that is not a part of the special education services provided to the eligible child) are performed by the special education teacher on behalf of the regular education students¹. Incidental benefit does not diminish an LEA's responsibility under Part B to ensure that FAPE is made available to each eligible child with a disability. OSEP has not identified a maximum duration of time incidental benefit may be received. However, LEAs should keep in mind the overarching *child find* obligation which places an affirmative duty on LEAs to identify, locate, and evaluate any student suspected of having an IDEA disability and the need for special education. If the only way a regular education student makes educational progress is by benefitting from a special education student's specially designed instruction, this may serve as evidence of a mature child find obligation.
2. Early intervening services. IDEA allows an LEA to use up to 15 percent 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 age 3 through grade 12 students. In addition to serving students who are not currently identified as needing special education or related services, CCEIS may also be provided to students currently identified as needing special education or related services; however 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 Section 618(d) (2) (B), 34 CFR 300.646 and WAC 392-172A-06085(6)).

¹ [Letter to Couillard](#), 61 IDELR 112 (OSEP March 7, 2013)

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, including scientifically-based literacy instruction.

LEAs must designate the amount budgeted for CEIS or CCEIS in the initial 2018–19 Special Education IDEA, Part B and Section 619 application. LEAs using funds for voluntary CEIS or mandatory CCEIS, must report and submit year-end expenditure detail to the Office of Superintendent of Public Instruction (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. Schoolwide Programs under Title I of the ESEA. LEAs may use federal flow-through special education funds to carry out schoolwide programs consistent with Title I, subject to the following formula and conditions:
 - Formula: Divide the amount the LEA receives for Part B by the number of eligible students in the LEA, and then multiply that number by the number of eligible students participating in the schoolwide 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 of teachers and related services personnel providing services described in the IEP of students with disabilities if they are needed for the implementation of case management activities.

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 2018–19 IDEA Part B Sections 611 and 619 budget matrices and all applicable sections of pages 1–5 by 5:00 pm on July 2, 2018, 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 2, 2018, but prior to September 4, 2018, 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, 2018, 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 2018–19 IDEA Part B Sections 611 and 619 budget matrices and all applicable sections of pages 1–5 by 5:00 pm on September 4, 2018, 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 4, 2018 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 & BUDGET REVISIONS

The grant period for the FY2016 allocations is from July 1, 2018 to August 31, 2020, 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 carry-forward, if applicable, can be easily calculated.

To reduce the clerical burden, LEAs are asked to carefully plan the year's expenditures 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. An LEA must submit for approval by the OSPI Special Education office a request for revision of its approved budget 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 ten percent of the subtotal "Budgeted Direct Expenditures" from budget Forms SPI 1000B or 1100B the expenditures within any activity total or object total.
- (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 Part B of IDEA below the level of those expenditures from the preceding fiscal year if the reduction is attributable to 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 children 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 child with a disability that is an exceptionally costly program, as determined by OSPI, because the child:
 - 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 child has terminated; or
 - 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 percent 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 percent 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.

LEAs are encouraged to use the LEA MOE Calculator when planning their special education program expenditures at [OSPI–How Special Education is Funded in Washington State](#).

Prohibition

If OSPI determines that 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, 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 Individuals with Disabilities Education Act (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 a 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) indicators, and (5) 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 Mary Ellen Parrish, at 360-725-6075 or email MaryEllen.Parrish@k12.wa.us. The OSPI TTY number is 360-664-3631.

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

Michaela W. Miller, Ed.D., NBCT
Deputy Superintendent

Glenna Gallo, M.S., M.B.A.
Assistant Superintendent
Special Education

Tania May, M.Ed.
Director
Special Education

CR:GG:mep