

Maintenance of Effort (MoE)

Issue: Current IDEA allowed exceptions and remedies that apply to LEAs do not address current situations encountered. Recent cost-cutting measures employed by districts including, for example, reductions in expenditures by the district for health care benefits, are not covered by the current exemptions listed in statute and IDEA regulations.

IDEA regulations: § 300.203 Maintenance of effort - (a) General. Except as provided in §§ 300.204 and 300.205, funds provided to an LEA under Part B of the Act must 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 the preceding fiscal year.

Exceptions: § 300.204 Exception to maintenance of effort - Notwithstanding the restriction in § 300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of 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 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 SEA, because the child—**

(1) *Has left the jurisdiction of the agency;*

(2) *Has reached the age at which the obligation of the agency to provide FAPE 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.**

(e) **The assumption of cost by the high cost fund operated by the SEA under § 300.704(c).**

(Approved by the Office of Management and Budget under control number 1820-0600)

(Authority: 20 U.S.C. 1413(a)(2)(B))

Further Explanation: Districts in Michigan are facing significant resource reductions and are doing everything possible to reduce costs without reducing services (e.g. larger employee contributions to health care insurance, privatizing transportation consolidating services within the ISD and across districts, etc.) The result of these cost-savings actions is an actual reduction in expenditures but not a change of services to students. When districts apply the maintenance of effort procedures, they are found to fiscally not maintain effort. In reality, they are maintaining the effort to students. They are just doing it more economically.

Considerations regarding possible changes to the MoE provisions of IDEA:

- Changes should be made to IDEA through changes to the “Exceptions” allowable under the IDEA
- Changes should include protection of FAPE
- Changes should be made which allow districts to retain the quality of services being provided while cutting costs and preserving funding
- Changes need to include appropriate accountability and specificity

Suggested changes in **allowable exceptions** could include:

- Reductions made across the board in all district programs. An example would be reductions in negotiated wages and benefits
- Reductions made due to consolidation of services or privatization that do not reduce quality or hinder the opportunity to provide FAPE
- Legislative changes such as requiring/increasing employee contributions toward health care insurance premiums
- Consideration of other allowable exceptions when a district has a Determination of “Meets Requirements” such as what is allowed for the LEA to utilize the 50% flexibility options.