

DEPARTMENT OF EDUCATION**ASSISTANCE LISTING 84.027 SPECIAL EDUCATION—GRANTS TO STATES (IDEA, Part B)****ASSISTANCE LISTING 84.173 SPECIAL EDUCATION—PRESCHOOL GRANTS (IDEA Preschool)****I. PROGRAM OBJECTIVES**

The purposes of the Individuals with Disabilities Education Act (IDEA) are to (1) ensure that all children with disabilities have available to them a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepares them for further education, employment, and independent living; (2) ensure that the rights of children with disabilities and their parents are protected; (3) assist states, localities, educational service agencies, and federal agencies to provide for the education of all children with disabilities; and (4) assess and ensure the effectiveness of efforts to educate children with disabilities. The Assistance to States for Education of Children with Disabilities program (IDEA, Part B) and the Preschool Grants for Children with Disabilities program (IDEA Preschool) provide grants to states to assist them in meeting these purposes (20 USC 1400 et seq.).

IDEA's Special Education—Grants to States program (IDEA, Part B) provides grants to states, and through them to LEAs, to assist them in providing special education and related services to eligible children with disabilities ages 3 through 21 (20 USC 1411). (The obligation to make FAPE available to children with disabilities ages 3 through 5 and 18 through 21 depends on state law. All states require that FAPE be made available to children with disabilities ages 3 through 5, and most states mandate FAPE through age 20 or 21.) IDEA's Special Education—Preschool Grants program (IDEA Preschool), also known as the "619 program," provides grants to states, and through them to LEAs, to assist them in providing special education and related services to children with disabilities ages three through five and, at a state's discretion, to two-year-old children with disabilities who will turn three during the school year (20 USC 1419).

II. PROGRAM PROCEDURES

A state applying through its state educational agency (SEA) for assistance under IDEA, Part B must, among other things, submit a plan to the Department of Education (ED) that provides assurances that the SEA has in effect policies and procedures that ensure that all children with disabilities have the right to a FAPE (20 USC 1412(a)).

States that receive assistance under IDEA, Part B, may receive additional assistance under the Preschool Grants program. A state is eligible to receive a grant under the Preschool Grants program if (1) the state is eligible under 20 USC 1412; and (2) the state demonstrates to the Secretary that it has in effect policies and procedures that ensure the provision of FAPE to all children with disabilities ages 3 through 5 years residing in the state (20 USC 1419(b)).

However, a state that provides early intervention services in accordance with Part C of the IDEA to a child who is eligible for services under section 1419 is not required to provide that child with FAPE (20 USC 1412(a)(1)(C)).

Source of Governing Requirements

These programs are authorized under the Individuals with Disabilities Education Act, Part B (IDEA-B) as amended on December 3, 2004 (Pub. L. No. 108-446; 20 USC 1400 et seq.). Implementing regulations for these programs are 34 CFR Part 300.

Availability of Other Program Information

A number of documents posted on ED's website contain information pertinent to the IDEA, Part B requirements in this Compliance Supplement:

1. Office of Special Education programs (OSEP) Memorandum 19-03, *Procedures for Receiving a Federal Fiscal Year (FFY) 2019 Grant Award Under Part B of the Individuals with Disabilities Education Act (IDEA)*
<https://osep.grads360.org/#communities/pdc/documents/17658>
2. OSEP Memorandum 10-5, *Maintenance of Financial Support under the Individuals with Disabilities Education Act*, dated December 2, 2009
<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep10-05maintenanceoffinancialsupport.pdf>
3. OSEP Memorandum 15-10, *Issuance of Guidance on the Final Local Educational Agency (LEA) Maintenance of Effort (MOE) Regulations under Part B of the Individuals with Disabilities Education Act (IDEA)*, dated July 27, 2015
<http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf>

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. **When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.**

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	Y	N	N	Y	N

A. Activities Allowed or Unallowed

See also Part 4, 84.000 ED Cross-Cutting Section.

1. *SEAs*

Allowable activities for SEAs are subgranting funds to LEAs and state administration, and other state-level activities (see Section III.G.3, “Matching, Level of Effort, Earmarking – Earmarking,” for a further description of these activities).

2. *LEAs*

a. *IDEA, Part B* – An LEA may only use federal funds under IDEA, Part B for the excess costs of providing special education and related services to children with disabilities. Special education includes specially designed instruction, at no cost to the parent, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions and in other settings, and instruction in physical education. Related services include transportation and such developmental, corrective and other supportive services as may be required to assist a child with a disability to benefit from special education. Related services do not include a medical device that is surgically implanted or the replacement of such device. A portion of these funds, under conditions specified in the law, may also be used by the LEA (1) for services and aids that also benefit nondisabled children; (2) for early intervening services; (3) to establish and implement high-cost or risk-sharing funds; and (4) for administrative case management. Excess costs are those costs for the education of an elementary school or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year. LEAs are required to compute the minimum average amount of per pupil expenditure separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools, and not

on a combination of the enrollments in both. Appendix A to 34 CFR Part 300 provides detailed guidance and an example for calculating the average per pupil expenditures and the minimum average amounts that the LEA must spend before using IDEA funds (20 USC 1401(8), (26) and (29); 20 USC 1413(a)(2) and (4); 34 CFR sections 300.16, 300.34, 300.39, 300.202, and 300.208).

- b. *IDEA Preschool* – An LEA may use federal funds under the Preschool Grants program only for the costs of providing special education and related services (as described above) to children with disabilities ages three through five and, at a state’s discretion, providing a free appropriate public education to two-year-old children with disabilities who will turn three during the school year (20 USC 1419(a); 34 CFR section 300.800).

B. Allowable Costs/Cost Principles

See also Part 4, 84.000 ED Cross-Cutting Section.

The use of IDEA funds by a state, for the acquisition of equipment, or the construction or alteration of facilities, must be approved by ED based on a determination by ED that the program would be improved by allowing funds to be used for these purposes (20 USC 1404).

F. Equipment and Real Property Management

Acquisition of equipment and construction or alteration of facilities by the IDEA Part B programs must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1404 and 1412(a)(10)(B); and 34 CFR sections 300.144 and 300.718.

G. Matching, Level of Effort, Earmarking

1. Matching

Not Applicable

2. Level of Effort

2.1 Level of Effort – *Maintenance of Effort*

a. SEAs – Maintenance of State Financial Support

- (1) A state may not reduce the amount of state financial support for special education and related services for children with disabilities (or state financial support otherwise made available because of the excess costs of educating those children) below the amount of state financial support provided for the preceding fiscal year.

The secretary reduces the allocation of funds under 20 USC 1411 for any fiscal year following the fiscal year in which the state fails to comply with this requirement by the amount by which the state failed to meet the requirement.

If, for any fiscal year, a state fails to meet the state-level maintenance of effort requirement (or is granted a waiver from this requirement), the financial support required of the state in future years for maintenance of effort must be the amount that would have been required in the absence of that failure (or waiver) and not the reduced level of the state's support (20 USC 1412(a)(18); 34 CFR section 300.163).

- (2) For any fiscal year for which the federal allocation received by a state exceeds the amount received for the previous fiscal year and if the state pays or reimburses all LEAs within the state from state revenue 100 percent of the nonfederal share of the costs of special education and related services, the SEA may reduce its level of expenditure from state sources by not more than 50 percent of the amount of such excess (20 USC 1413(j)(1); 34 CFR section 300.230).

An SEA may meet the maintenance of effort requirement by either a total or per capita amount. See OSEP Memorandum 19-03, *Procedures for Receiving a Federal Fiscal Year (FFY) 2019 Grant Award Under Part B of the Individuals with Disabilities Education Act (IDEA)*, page 3, section 3, Maintenance of State Financial Support. This guidance is available at <https://osep.grads360.org/#communities/pdc/documents/17658>.

For more information on the maintenance of financial support requirements for SEAs, see OSEP Memorandum 10-5, *Maintenance of Financial Support under the Individuals with Disabilities Education Act*, dated December 2, 2009. This guidance is available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osep10-05maintenanceoffinancialsupport.pdf>.

- (3) For the purposes of establishing an LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA meets the eligibility standard (see III.G.2.1.b.(2), "Eligibility Standard") (34 CFR section 300.203(a)).

b. LEAs – Local Maintenance of Effort

(1) General

IDEA, Part B funds received by an LEA cannot be used, except under certain limited circumstances, to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, or a combination of state and local funds, below the level of those expenditures for the preceding fiscal year. To meet this requirement, LEAs must meet (1) the eligibility standard and (2) the compliance standard. These standards are described in detail below in paragraphs b(2) and b(3), respectively.

Allowances may be made for (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 (i) has left the jurisdiction of the agency, (ii) has reached the age at which the obligation of the agency to provide a FAPE has terminated, or (iii) no longer needs such program of special education; (d) the termination of costly expenditures for long-term purchases, such as the acquisition of equipment and the construction of school facilities; or (e) the assumption of costs by the high cost fund operated by the SEA under 34 CFR section 300.704 (20 USC 1413(a)(2); 34 CFR sections 300.203 and 300.204).

Appendix E of 34 CFR Part 300 provides LEA maintenance of effort calculation examples. For more information on the LEA maintenance of effort requirements, see OSEP Memorandum 15-10, *Issuance of Guidance on the Final Local Educational Agency (LEA) Maintenance of Effort (MOE) Regulations under Part B of the Individuals with Disabilities Education Act (IDEA)*, dated July 27, 2015. This guidance is available at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf>.

(2) Eligibility Standard

- (a) To meet the eligibility standard for an award for a fiscal year, the LEA must budget for the education of children with disabilities at least the same amount, from at least one of the following sources, as the LEA spent for that purpose from the same source for the most recent fiscal year for which information is available:
- (i) Local funds only;
 - (ii) The combination of state and local funds;
 - (iii) Local funds only on a per capita basis; or
 - (iv) The combination of state and local funds on a per capita basis.
- (b) When determining the amount of funds that the LEA must budget to meet the requirement, the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment provided in 34 CFR sections 300.204 and 300.205 that the LEA:
- (i) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and
 - (ii) Reasonably expects to take in the fiscal year for which the LEA is budgeting.
- (c) Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the eligibility standard (34 CFR section 300.203(a)).

(3) Compliance Standard

Except as provided in 34 CFR sections 300.204 and 300.205, funds provided to an LEA under IDEA, Part B 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.

An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA from at least one of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in 34 CFR sections 300.204 and 300.205:

- (i) Local funds only;
- (ii) The combination of state and local funds;
- (iii) Local funds only on a per capita basis; or
- (iv) The combination of state and local funds on a per capita basis.

Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the compliance standard (34 CFR section 300.203(b)).

(4) Subsequent Years Rule

If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, an LEA fails to meet the eligibility standard or compliance standard in effect at that time, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirements of 34 CFR sections 300.203(b)(2)(i) or (iii) and the LEA is relying on local funds only, or local funds only on a per capita basis, to meet the eligibility standard or compliance standard, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under 34 CFR sections 300.203(b)(2)(i) or (iii) in the absence of that failure, not the LEA's reduced level of expenditures.

If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of 34 CFR section 300.203(b)(2)(ii) or (iv) and the LEA is relying on the combination of state and local funds, or the combination of state and local funds on a per capita basis, to meet the eligibility standard or compliance standard, the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required under 34 CFR sections 300.203(b)(2)(ii) or (iv) in the absence of that failure, not the LEA's reduced level of expenditures (34 CFR section 300.203(c)).

(5) Consequence of Failure to Maintain Effort

If an LEA fails to maintain its level of expenditures for the education of children with disabilities in accordance with 34 CFR section 300.203(b), the SEA is liable in a recovery action under Section 452 of the General Education Provisions Act (20 USC 1234a) to return to the Department of Education, using nonfederal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in accordance the compliance standard in that fiscal year, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower (34 CFR section 300.203(d)).

(6) Adjustment to Local Fiscal Effort

For any fiscal year for which the federal allocation received by an LEA exceeds the amount received for the previous fiscal year, the LEA may reduce the level of local or state and local expenditures by not more than 50 percent of the excess (20 USC 1413(a)(2)(C)(i) and 34 CFR section 300.205(a)). If an LEA exercises this authority, it must use an amount of local funds equal to the reduction in expenditures under Section 1413(a)(2)(C)(i) to carry out activities authorized under the Elementary and Secondary Education Act (ESEA) of 1965. The amount of funds expended by the LEA for early intervening services counts toward the maximum amount of state and local expenditures that the LEA may reduce. However, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of Section 1413(a) or the SEA has taken action against the LEA under Section 1416, the SEA shall prohibit the LEA from reducing its local or state and local expenditures for

that fiscal year. If, in making its annual determinations, an SEA determines that an LEA is not meeting the requirements of Part B of the IDEA, including the targets in the state's performance plan, the SEA must prohibit the LEA from reducing its maintenance of effort under 20 USC 1413(a)(2)(C) for any fiscal year (20 USC 1413(a)(2)(C) and 1416(f); 34 CFR sections 300.205 and 300.608(a)).

2.2 Level of Effort – *Supplement Not Supplant*

Not Applicable

3. Earmarking

Individual state grant award documents identify the amount of funds a state must distribute to its LEAs on a formula basis and the amount it can set aside for administration and other state-level activities under paragraphs 3.a. and b. below.

a. IDEA, Part B (SEAs)

- (1) *Funds Set Aside for State Administration:* Each state may reserve, for each fiscal year, not more than the maximum amount the state was eligible to reserve for state administration under 20 USC 1411 for fiscal year (FY) 2004, or \$800,000 (adjusted for inflation in accordance with 20 USC 1411(e)(1)(B)), whichever is greater. Administration includes the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA if the SEA is the lead agency (20 USC 1411(e)(1)A; 34 CFR section 300.704(a)).
- (2) *Funds Set Aside for Other State-Level Activities:* The maximum amount a state may reserve for other state-level activities in fiscal year 2007 and subsequent fiscal years is as follows: States, for which the amount reserved for state administration is greater than \$850,000 and the state reserves funds for the LEA risk pool, may reserve an amount equal to 10 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States, for which the amount reserved for administration is greater than \$850,000 and the state does not reserve funds for the LEA risk pool, may reserve an amount equal to 9 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States for which the amount reserved for state administration is less than or equal to \$850,000 and the state reserves funds for the LEA risk pool may reserve an amount equal to 10.5 percent of the state's allocation for fiscal year

2006 under 20 USC 1411(d), adjusted cumulatively for inflation. States for which the amount reserved for administration is less than or equal to \$850,000 and the state does not reserve funds for the LEA risk pool may reserve an amount equal to 9.5 percent of the state's allocation for fiscal year 2006 under 20 USC 1411(d), adjusted cumulatively for inflation (20 USC 1411(e)(2) and 34 CFR section 300.704(b)). SEAs must use some portion of state-level activity funds for monitoring, enforcement, and complaint investigation, and to establish and implement the mediation process, including providing for the costs of mediators and support personnel (20 USC 1411(e)(2)(B); 34 CFR section 300.704(b)(3)).

These funds may also be used

- (a) for support and direct services, including technical assistance and personnel preparation and professional development and training;
- (b) to support paperwork reduction activities, including expanding the use of technology in the individualized education plan (IEP) process;
- (c) to assist LEAs in providing positive behavioral interventions and supports and appropriate mental health services for children with disabilities;
- (d) to improve the use of technology in the classroom to enhance learning by children with disabilities;
- (e) to support the use of technology, including technology with universal design principals and assistive technology devices, to maximize accessibility to the general education curriculum for children with disabilities;
- (f) for development and implementation of transition programs, including coordination of services with agencies involved in supporting the transition of students with disabilities to postsecondary activities;
- (g) to assist LEAs in meeting personnel shortages;
- (h) to support capacity-building activities and improve the delivery of services by LEAs to improve results for children with disabilities;
- (i) for alternative programming for children with disabilities who have been expelled from school, and services for children with disabilities in correctional facilities, children

- enrolled in state-operated or state-supported schools, and children with disabilities in charter schools;
- (j) to support the development of and provision of appropriate accommodations for children with disabilities, or the development and provision of alternative assessments that are valid and reliable for assessing the performance of children with disabilities; and
 - (k) to provide technical assistance to schools and LEAs and direct services, including supplemental educational services as defined in section 1116(e)(12)(C) of the ESEA (20 USC 6316(e)(12)(C)), in schools or LEAs identified for improvement solely on the basis of the assessment results of the disaggregated group of children with disabilities (20 USC 1411(e)(2)(C); 34 CFR section 300.704(b)(4)).
- (3) *LEA Risk Pool*: Each state has the option to reserve for each fiscal year 10 percent of the amount of funds the state reserves for other state-level activities: (a) to finance and make disbursements from the high-cost fund to LEAs; and (b) to support innovative and effective ways of cost-sharing by the state, by an LEA, or among a consortium of LEAs, as determined by the state in coordination with representatives from LEAs. For purposes of this provision, the term “LEA” includes a charter school that is an LEA, or a consortium of LEAs (20 USC 1411(e)(3); 34 CFR section 300.704(c)).
- (4) *Formula Subgrants to LEAs*: Any funds under this program that the SEA does not retain for administration and other state-level activities shall be distributed to eligible LEAs in the state. An SEA must distribute to each eligible LEA the amount that the LEA would have received, from the fiscal year 1999 appropriation, if the state had distributed 75 percent of its grant for that year to LEAs. (This amount is based on the IDEA-B child count conducted on December 1, 1998.) The SEA must then distribute 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the LEA’s jurisdiction; and then distribute 15 percent of any remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the state educational agency (20 USC 1411(f)(1) and (2); 34 CFR sections 300.705(a) and (b)).

- b. IDEA, Preschool Grants Program (SEAs)
- (1) *Reservation for State Activities.* Each state may reserve, for each fiscal year, not more than the maximum amount of funds that the secretary determines may be retained by the state for administration and other state-level activities (20 USC 1419(d); 34 CFR section 300.812).
- (a) *Funds Set Aside for State Administration:* An SEA may use not more than 20 percent of the funds it is allowed to retain for state activities under 20 USC 1419(d) for the purposes of administering this program, including the coordination of activities under Part B of the IDEA with, and providing technical assistance to, other programs that provide services to children with disabilities. These funds may also be used for the administration of Part C of the IDEA (20 USC 1419(e); 34 CFR section 300.813).
- (b) *Funds Set Aside for Other State-Level Activities:* SEAs shall use funds reserved for state activities that are not used for administration for:
- (i) support services (including establishing and implementing the mediation process required by section 20 USC 1415(e)), which may benefit children with disabilities younger than 3 or older than 5 as long as those services also benefit children with disabilities ages 3 through 5;
- (ii) direct services for children eligible for services under this program;
- (iii) activities at the state and local levels to meet the performance goals established by the state under 20 USC 1412(a)(15);
- (iv) supplementing other funds used to develop and implement a statewide coordinated services system designed to improve results for children and families, including children with disabilities and their families, but not to exceed one percent of the amount received by the state under this program for a fiscal year;
- (v) providing early intervention services (which must include an educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills) in accordance with

Part C of the IDEA to children with disabilities who are eligible for services under section 619 of the IDEA until such children enter, or are eligible under state law to enter, kindergarten; or

- (vi) at the state's discretion, continuing service coordination or case management for families who receive services under Part C of the IDEA (20 USC 1419(f); 34 CFR section 300.814).

- (2) *Formula Subgrants to LEAs.* Any funds under this program that the SEA does not retain for administration and other state-level activities shall be distributed to eligible LEAs in the state.
 - (a) An SEA must distribute to each eligible LEA the amount the LEA would have received from the fiscal year 1997 appropriation if the state had distributed 75 percent of its grant for that year to LEAs. (This amount is based on the IDEA-B child count conducted on December 1, 1996.)
 - (b) The SEA must then distribute 85 percent of any remaining funds to those agencies on the basis of the relative numbers of children enrolled in public and private elementary and secondary schools within the agency's jurisdiction; and then distribute 15 percent of any remaining funds to those agencies in accordance with their relative numbers of children living in poverty, as determined by the SEA.
 - (c) If an SEA determines that an LEA is adequately providing a FAPE to all children with disabilities ages 3 through 5 residing in the area served by that agency with state and local funds, the SEA may reallocate any portion of the funds under this program that are not needed by that LEA to provide a FAPE to other LEAs in the state that are not adequately providing special education and related services to all children with disabilities ages 3 through 5 residing in the areas they serve. The SEA may also retain those funds for use at the state level to the extent the state has not reserved the maximum amount of funds it is permitted to reserve for state-level activities under 34 CFR section 300.812 (20 USC 1419(g); 34 CFR sections 300.815 through 300.817).

c. Schoolwide Programs (LEAs)

The amount of IDEA-B funds used in a schoolwide program may not exceed the amount received by the LEA under IDEA-B for that fiscal year

divided by the number of children with disabilities in the jurisdiction of the LEA multiplied by the number of children with disabilities participating in the schoolwide program (20 USC 1413(a)(2)(D); 34 CFR section 300.206).

d. Adjustments of Base Payments to LEAs

- (1) If a new LEA is created within a state, the state must divide the base allocation for the LEAs that would have been responsible for serving children with disabilities now being served by the new LEA among the new LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs.
- (2) If one or more LEAs are combined into a single LEA, the state must combine the base allocation of the merged LEAs.
- (3) If, for two or more LEAs, geographic boundaries, or administrative responsibilities for providing services to children with disabilities ages 3 through 21 change, the base allocation of affected LEAs must be redistributed among affected LEAs based on the relative numbers of children with disabilities currently provided special education by each affected LEA.
- (4) If an LEA received a base payment of zero in its first year of operation, the state must adjust the base payment for the first fiscal year after the first annual child count in which the LEA reports that it is serving any children with disabilities. The state shall divide the base allocation for the LEAs that would have been responsible for serving children with disabilities now being served by the LEA among the LEA and affected LEAs based on the relative numbers of children with disabilities currently provided special education by each of the LEAs (34 CFR section 300.705(b)(2)).

e. Coordinated Early Intervening Services (LEAs)

An LEA can use not more than 15 percent of the amount of federal Part B funds the LEA receives for any fiscal year (less any amount by which it reduces its expenditures under 20 USC 1413(a)(2)(C)) (see III.G.2.1.b.(6) in this section), in combination with other funds, to develop and implement, early intervening services for children in kindergarten through grade 12 who have not been identified under IDEA but need additional academic and behavioral support to succeed in the general education environment (20 USC 1413(f); 34 CFR section 300.226).

H. Period of Performance

See also Part 4, 84.000 ED Cross-Cutting Section.

I. Procurement and Suspension and Debarment

Further, acquisition of equipment and construction or alteration of facilities by the IDEA Part B programs must meet the prior approval requirements in, and be consistent with, the IDEA-specific requirements in 20 USC 1404 and 1412(a)(10)(B); and 34 CFR sections 300.144 and 300.718.

M. Subrecipient Monitoring**IV. Other Information**

Certain compliance requirements that apply to multiple ED programs are discussed once in the ED Cross-Cutting Section of this Supplement (84.000) rather than being repeated in each individual program. Where applicable, Section III references the ED Cross-Cutting Section for these requirements.