### Minnesota Department of



TO: Superintendents

Directors of Special Education

**Business Managers** 

FROM: Carol Hokenson, Manager

General and Special Education Funding and Data Team

Division of School Finance

DATE: February 15, 2013

SUBJECT: SFY 2012 Federal Requirements for Maintenance of Effort (MOE) for Special

**Education Services** 

#### Individuals with Disabilities Education Act (IDEA) Requirements for MOE

The IDEA requires that federal funds "...may not be used to reduce the level of expenditures for the education of children with disabilities made by the Local Education Agency (LEA) from (state and) local funds below the level of those expenditures for the preceding fiscal year...." (34 C.F.R. 300.203). This requirement is referred to as maintenance of effort.

Annually, the Division of School Finance, Special Education Funding and Data Team reviews MOE of each LEA, including each local school district, charter school and special education cooperative. This memorandum summarizes the IDEA requirements used in that review.

The IDEA, 20 U.S.C. § 1413(a) (2) (A) specifically requires that federal funds:

- "...provided to the local education agency under this part...
  - i. Shall be used only to pay the excess cost of providing special education and related services to children with disabilities;
  - ii. Shall be used to supplement state, local and other federal funds and not to supplant such funds; and,
  - iii. Shall not be used ... to reduce the level of expenditures for the education of children with disabilities made by the local education agency from local funds below the level of those expenditures for the preceding fiscal year."

Exceptions to these requirements also set forth in 20 U.S.C. § 1413(a) (2) (B), allow LEAs to:

- "...reduce the level of expenditures where such reduction is attributable to:
  - 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 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 has terminated;
- (iii) No longer needs such program of education.
- d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities."

#### **Calculation of MOE**

The Special Education Funding and Data Team calculates MOE by comparing expenditures reported to the Minnesota Department of Education (MDE) from State Fiscal Year (SFY) 2011 with those expended in SFY 2012. The MOE comparison may be made on total expenditures or on a per-capita amount (34 C.F.R. § 300-203).

The MOE calculation pulls data from the Electronic Data Reporting System (EDRS) and Uniform Financial Accounting and Reporting Standards (UFARS) used by districts/hosts/cooperatives to report eligible expenditures to MDE. The data used in the MOE calculation for two years are:

#### **Special Education**

- e) Funding Source Code A Special Education Regular Year (include service code F, home-based travel),
- f) Funding Source Code E Extended Year,
- g) Funding Source Code M Court Placement (non-Minnesota residents),
- h) Funding Source Code P Out-of-State Tuition (Minnesota residents out-of-state),
- Funding Source Code U Full State Payment (students with Individualized Education Programs (IEPs) only),
- j) Allocated special education expenditures from hosts/cooperatives (regular and extended year),
- k) Serving District: Students served Birth 21 (students with IEPs only),
- I) Employee Benefits Reported on UFARS Finance Code 740 Object Codes 199 251, 253 288, 292 299 and Object Code 397 with program codes 401-420,
- m) Employee Benefits Reported on UFARS Finance Code 317 Object Codes 199 -251, 253 – 288, 292 - 299 and Object Code 397 with program codes 401-420 and
- n) Employee Benefits Reported on UFARS Finance Code 335 Object Codes 199 251, 253 288, 292 299 with program codes 401-420.

# **Compensatory Revenue (UFARS Finance Code Dimension 317)**

In SFY 2010 the Division of School Finance clarified the use of Compensatory Revenue for funding the un-reimbursed portion of eligible expenditures for special education regular program aid.

The reimbursable portion of the expenditure, e.g. 68 percent of salaries, 52 percent of contracted services and 47 percent of supplies, materials and equipment must be charged to UFARS Finance code dimension 740 and on EDRS under funding source code A, E, i and j with service code as appropriate for the reimbursable expenditure. The purpose of the clarification was to allow cooperatives the opportunity to use the compensatory revenue when those

cooperatives were only serving students with disabilities. Independent school districts and charter schools can also use Finance 317 as indicated above using the un-reimbursable portion of the expenditure, e.g. 32 percent of salaries and cost of benefits, 48 percent of contracted services and 53 percent of supplies, materials and equipment.

### **Special Transportation**

o) All expenditures reported on UFARS under Finance Code 723

#### **Transition Disabled**

- p) Expenditures reported on EDRS/UFARS the lesser of the two
- g) Allocated Transition Disabled expenditures from hosts/cooperatives
- r) Serving District: Students served Birth 21(students with IEPs only)
- s) Employee Benefits Reported on UFARS Finance Code 835 Object Codes
- t) 199 251, 253 288, 292 299 and Object Code 397 with program code 380
- u) Employee Benefits Reported on UFARS Finance Code 335 Object Codes 199 251, 253 288, 292 299 with program code 380

#### MOE calculation does not include the following:

### **Special Education**

- t) Funding Source Code i Third-Party Expenditures Extended School Year\*
- u) Funding Source Code i Third-Party Expenditures Regular School Year\*
- v) Funding Source Code C Alternative Delivery Program Regular Year
- w) Funding Source Code N Alternative Delivery Program Extended Year
- x) Funding Source Code R Local Collaborative Time Study Regular Year
- y) Funding Source Code X Full State Payment (students without IEPs)
- z) Employee Benefits Reported on UFARS Finance Code 799, Object Code 199, and Object Code 200 series
- aa) UFARS object code 252 Other-Post-Employment Benefits (OPEB) (up to or equal to the Annual Required Contributions (ARC))
- bb) UFARS object code 289 OPEB Contributions (not pay as you go or ARC)
- cc) UFARS object code 290 Other Post-Employment Benefits (in excess of the ARC)
- dd) UFARS object code 291 Other Post-Employment Benefits (pay as you go)
- ee) Tuition Billing
- ff) Any Lines in error on EDRS

## \*IDEA references to third-party payments

34 C.F.R. 300.154 Methods of ensuring services. (g) Proceeds from public benefits or insurance or private insurance.(2) If a public agency spends reimbursements from federal funds (e.g., Medicaid) for services under this part, those funds will not be considered "state or local" funds for purposes of the MOE provisions in Section 34 C.F.R. 300.163 and 34 C.F.R. 300.203.

# **Local Expenditures**

For those LEAs that have not maintained effort (MDE will compare total local expenditures or on a per-capita amount), MDE will review the LEAs local expenditures minus the state revenue to determine if the district's local expenditures increased or decreased from the previous year. If the LEA's local expenditures did not increase, then the LEA has not maintained effort.

#### What Happens When MOE Is Not Maintained?

LEAs that failed to maintain effort from SFY 2011 to SFY 2012 will forfeit General Education Revenue this current year (SFY 2013) equal to the amount that they fell short in SFY 2012 (Minn. Stat. 126C.21, Subd.5). For example, in the table below, this district could only justify \$54,000.00 of the \$64,811.24 in reduction of expenditures in SFY 2012; the unjustified amount of \$10,811.24 would then be subtracted from the district's General Education Revenue in SFY 2013. Also the district unjustified amount of \$10,811.24 must be added to their reported SFY 2012 MOE base amount \$1,087,123.15. The adjusted SFY 2012 MOE base amount in the comparison example below would be \$1,097,934.39. The LEA will still be responsible to provide a free appropriate public education under IDEA.

| Comparison Example |                |                |               |
|--------------------|----------------|----------------|---------------|
| District ABC       | 2010 – 2011    | 2011 – 2012    | Difference    |
| State expenditures | \$1,151,934.39 | \$1,087,123.15 |               |
| Total              | \$1,151,934.39 | \$1,087,123.15 | \$(64,811.24) |

### Fifty percent MOE Reduction under IDEA

Under IDEA section 613(a) (2) (C) (34 CFR 300.205);

- gg) In any fiscal year that an LEA's subgrant allocation exceeds the amount the LEA received in the previous fiscal year, the LEA may reduce the level of local, or state and local, expenditures otherwise required by the LEA MOE requirements (in IDEA, section 613(a)(2)) by up to 50 percent of the increase in the LEA's subgrant allocation.
- hh) The LEA must spend the freed-up local, or state and local funds on activities that are authorized under the Elementary Secondary Education Act (ESEA) of 1965.
- ii) If an LEA chooses to utilize the flexibility available under IDEA Section 613(a)(2)(C) to reduce the level of local, or state and local, expenditures otherwise required in the current fiscal year, in subsequent fiscal years the LEA would be required to maintain effort at the reduced level-except to the extent that an LEA increases the level of expenditures for the education of children with disabilities made by that LEA above the level of expenditures in SFY 2012, using local or state and local funds.

In other words, an LEA choosing to take advantage of this flexibility may reduce the required MOE level in subsequent years, until that LEA increases the level of special education expenditures, using state or local funds, on its own.

For SFY 2012, there was no increase in IDEA Part B Section 611 funding from the federal government. Therefore, there will be no 50 percent MOE reductions in SFY 2012 available to the districts.

In the future when there may be an increase in IDEA Part B Section 611 federal funds from one year to the next, a district that declares a 50 percent MOE reduction will be expected to record the use of their freed up funds using FIN 000 Course Code 633 for the fiscal year that the 50 percent MOE reduction applies.

For SFY 2012 districts must have at least the same amount of state and local expenditures as they did in SFY 2011. If a district does not maintain effort in SFY 2012 from the previous year these further reductions must be justified under the four (4) criteria areas.

#### **Timelines**

In the month of April, the Division of School Finance, Special Education Funding and Data Team, will begin the MOE review process. A memo will be mailed to every LEA informing them if they have or have not maintained effort for SFY 2012. For the districts/hosts/cooperatives that have not maintained effort, a memo will be sent and the districts/hosts/cooperatives will have 30 days to respond. If MDE does not receive a justification memo from the districts/hosts/cooperatives within the allotted time, MDE will assume the districts/hosts/cooperatives did not maintain effort. The maintenance of effort process will be finished no later than June 28, 2013.

Questions related to this memorandum may be directed to Michael Brooks at 651-582-8240 or e-mail michael.brooks@state.mn.us.