UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

March 13, 2014

Dear Chief State School Officer:

The purpose of this letter is to inform you of a provision in the Consolidated Appropriations Act, 2014 (Appropriations Act) signed by the President on January 17, 2014. That provision is related to the requirement in Part B of the Individuals with Disabilities Education Act (Part B, or IDEA) that local educational agencies (LEAs) maintain the level of local, or State and local, expenditures for the education of children with disabilities (frequently referred to as LEA maintenance of effort or LEA MOE) (see IDEA section 613(a)(2)(A)(iii) and 34 CFR §300.203[1]). The relevant provision of the Appropriations Act states:

> That the level of effort a local educational agency must meet under section 613(a)(2)(A)(iii) of the IDEA, in the year after it fails to maintain effort is the level of effort that would have been required in the absence of that failure and not the LEA's reduced level of expenditures.
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> Pub. L. No. 113-76, 128 Stat. 5, 394 (2014).

This provision is effective for the Federal fiscal year 2014 Part B grants, which are awarded on July 1, 2014. Accordingly, it is important that all LEAs in your State understand the level of effort required to meet the LEA MOE requirement in the fiscal year covering school year 2014-2015 (all references to a year in this letter refer to the fiscal year covering that school year).

Under this provision, if an LEA failed to maintain effort in 2013-2014, the level of effort that the LEA must maintain in 2014-2015 is the level of effort that would have been required in 2013-2014 in the absence of that failure, and not the LEA's reduced level of expenditures in 2013-2014.

MOE Compliance Requirement: If, for example, an LEA failed to maintain effort in 2013-2014, in order to meet the MOE compliance requirement in 2014-2015 based on a combination of State and local funds, the level of effort that the LEA must maintain in 2014-2015 is the amount of the combination of State and local funds the LEA expended for the education of children with disabilities in 2012-2013. The following tables provide examples of a compliance analysis based on what we believe to be the most common situations.

[1] Under IDEA section 613(a)(2)(A)(iii), Part B funds "shall not be used, except as provided in subparagraphs (B) and (C), to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from local funds below the level of those expenditures for the preceding fiscal year." Under 34 CFR §300.203(a), in relevant part, "[e]xcept 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."

Examples of a Compliance Analysis Based on a Combination of State and Local Funds

Table 1. LEA Maintained Effort in 2013-2014			
Fiscal Year	Actual level of effort	Required level of effort	Notes
2012-2013	$100	$100	LEA met MOE requirement
2013-2014	$90	$90	LEA properly took exceptions and adjustments in 34 CFR §§300.204 and 300.205
2014-2015		$90	Required level of effort is $90 because LEA expended $90 and met MOE in 2013-2014

Table 2. LEA Did Not Maintain Effort in 2013-2014			
Fiscal Year	Actual level of effort	Required level of effort	Notes
2012-2013	$100	$100	LEA met MOE requirement
2013-2014	$90	$100	LEA did not maintain effort
2014-2015		$100	Required level of effort is $100 despite LEA's failure in 2013-2014

MOE Eligibility Requirement: In order to meet the MOE eligibility requirement in 2014-2015 based on a combination of State and local funds, if an LEA failed to maintain effort in 2012-2013 (assuming the most recent fiscal year for which information is available is 2012-2013), the LEA must budget for 2014-2015 the amount from that same source (a combination of State and local funds) that it should have expended in 2012-2013 (i.e., its actual 2011-2012 expenditures). The following tables provide examples of an eligibility analysis based on what we believe to be the most common situations.

Examples of an Eligibility Analysis Based on a Combination of State and Local Funds

Table 3. LEA Maintained Effort in 2012-2013			
Fiscal Year	Actual level of effort	Required level of effort	Notes
2011-2012	$130	$130	LEA met MOE requirement
2012-2013	$150	$130	LEA met MOE requirement
2013-2014			Final expenditure data are not available when budgeting for 2014-2015
2014-2015		$150	Required level of effort to budget for 2014-2015 is $150 because LEA expended $150 and met MOE in 2012-2013

Table 4. LEA Did Not Maintain Effort in 2012-2013			
Fiscal Year	Actual level of effort	Required level of effort	Notes
2011-2012	$130	$130	LEA met MOE requirement
2012-2013	$100	$130	LEA did not maintain effort
2013-2014			Final expenditure data are not available when budgeting for 2014-2015
2014-2015		$130	Required level of effort to budget for 2014-2015 is $130 despite LEA's failure in 2012-2013

Notice of Proposed Rulemaking: In addition, the Secretary published a notice of proposed rulemaking seeking comment on proposed amendments to the Part B regulations regarding LEA MOE to clarify existing policy and make other related changes, including, but not limited to, the level of effort required of an LEA in the year after it fails to maintain effort under the IDEA. 78 Fed. Reg. 57324, 57324 (Sept. 18, 2013). Pending publication of the final regulations, States and LEAs remain subject to the provisions in current law related to LEA MOE, including IDEA section 613(a)(2), the Appropriations Act (Pub. L. No. 113-76, 128 Stat. 5, 394 (2014)), and the Part B regulations, including 34 CFR §§300.203 through 300.205.

In order to ensure that LEAs are aware of this information before they submit their applications for a Part B subgrant, we ask that you distribute this letter to your LEAs as soon as possible. The Office of Special Education Programs will address LEA MOE in a conference call with State Directors of Special Education on March 21, 2014, at 2:00 pm EDT.

We look forward to continuing our work together on behalf of students with disabilities.

Sincerely,

Melody Musgrove, Ed.D.
Director
Office of Special Education Programs

cc: State Directors of Special Education