

Guidelines - Individuals with Disabilities Education Act (IDEA) Part B

The purpose of these general guidelines is to provide information about frequently asked questions relating to the administration of IDEA-B (CFDA #84.027) and Preschool (CFDA #84.173) funds.

Supplement not supplant: Part B funds must be used to supplement state, local and other Federal funds (used for providing services to children with disabilities). Prior to 1992, the Part B regulations also included a “particular cost test” for determining whether supplanting occurred. This requirement meant, for example, that if an LEA spent Part B funds to pay for a teacher’s salary that was previously paid for with state or local funds, a supplanting violation would occur, even though the total amount of state and local funds spent on special education is greater than the amount spent the previous year. At that time, an LEA could maintain effort but still violate the supplement/not supplant provision. The “particular cost test” was removed from the regulations by an amendment published in the Federal Register on August 19, 1992 (37 FR 37652) that became effective on October 3, 1992. Therefore, no requirement currently exists related to supplanting “particular costs” and if an LEA maintains local, or state and local, effort, it will not violate the supplement/not supplant requirements of the IDEA.

Maintenance of effort (MOE): There are two MOE standards the state education agency (SEA) must review: the audit standard and the application standard. The audit standard for determining whether the MOE requirement has been met is that the LEA actually expends, in total or per capita, an equal or greater amount of local, or state and local, funds in each subsequent year. The application standard requires the SEA to verify the LEA’s eligibility for Part B funds by ensuring the LEA is budgeting to meet MOE in the coming year. The MOE Worksheet enables the NDDPI to verify compliance with these two standards. A MOE training module developed by the NDDPI is available at: <http://www.dpi.state.nd.us/speced/forms/IDEA09.swf>

The IDEA 2004 allows for the following exceptions to maintenance of effort:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel or related services personnel;
- b. A decrease in the enrollment of children with disabilities;
- c. The termination of the obligation of an 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 the state educational agency, because the child –
 - i. has left the jurisdiction of the LEA;
 - ii. has reached the age at which the obligation of the LEA to provide a free appropriate public education to the child has terminated;
 - iii. no longer needs such program of special education; or
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

Optional Flexibility (50% MOE Reduction): Under certain circumstances, in any fiscal year that an LEA’s subgrant allocation exceeds the amount that the LEA received in the previous fiscal year, that

LEA may reduce the level of local, or state and local, expenditures otherwise required by the LEA MOE requirements by up to 50 percent of the increase in the LEA's subgrant allocation. The LEA must spend the 'freed-up' local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965. If an LEA also elects to use early intervening services, the amount of funds expended will count toward the maximum amount of expenditures that the LEA may reduce from local funds.

LEAs are not allowed to take advantage of the optional flexibility provision if:

- The LEA's determination is Needs Assistance, Needs Intervention, or Needs Substantial Intervention.
- The LEA has been required to use 15 percent of its IDEA Part B allocation because the LEA has been identified as having significant disproportionality.
- The SEA has taken responsibility for providing a free and appropriate education (FAPE) in the LEA, because the LEA is unable to establish and maintain programs that provide a FAPE.

Excess Cost: Amounts provided to an LEA under Part B of the Act may be used only to pay the excess costs of providing special education and related services to children with disabilities. The IDEA provides an example of how to calculate excess cost in Appendix A to Part 300-Excess Cost Calculation. The example is available on the NDDPI's website at:

http://www.dpi.state.nd.us/speced/forms/append_A.pdf

The NDDPI currently calculates excess cost for each LEA to ensure they are meeting this requirement. If an LEA is found to be out of compliance, the NDDPI will notify the LEA to determine the next appropriate action.

Parentally Placed Private School Children:

A proportionate share of IDEA funds must be spent on parentally-placed private school students. A policy paper and training module developed by the NDDPI on private students is available at:

<http://www.dpi.state.nd.us/speced/guide/policy/1205paper.pdf>

http://www.dpi.state.nd.us/speced/trainingModule/PrivateSchools_TrainingModule.swf

Time and effort documentation: Any individual charged to a federal grant must keep time and effort documentation either through monthly personnel activity reports (PARS) or semi-annual certification. More information is available on the NDDPI's website at:

http://www.dpi.state.nd.us/speced/forms/time_effort.pdf

Cash Management: Federal law prohibits LEAs from receiving funds until they actually need the money to make a payment. Grantees must request funds from the NDDPI only when needed to meet their immediate cash needs. The Request for Funds form (SFN 14660) is located at:

<http://www.dpi.state.nd.us/forms/sfn14660.pdf>

General Requirements: As a subrecipient of federal funds from the NDDPI, subrecipients agree to comply with the manual *General Requirements for Federal Programs* dated February 2004. The guide is available at <http://www.dpi.state.nd.us/grants/require.pdf>. This document, the *Guidelines -Individuals with Disabilities Education Act (IDEA) Part B* supersedes in the event of a conflict.

Purposes for Which IDEA-B Funds May be Used: Once the special education unit has documented that it has met the excess cost, nonsupplanting, and maintenance of effort requirements, the Part B funds may be used for whatever special services and activities are necessary to meet the requirements

of Part B of the Individuals with Disabilities Education Act. All budget items are subject to individual application review and must demonstrate that proposed expenditures are for services to students with disabilities.

Submission IDEA-B/Preschool Application: Project applications must be submitted to the NDDPI in approvable form no later than September 30th of each year. The application project period for spending IDEA-B/Preschool funds is July 1st through June 30th of each year. The IDEA-B application must be printed out and approved at a school board meeting. The application cannot be submitted without signature and date indicating when it was approved by the school board.

IDEA-B/Preschool Application Cost Code Categories:

110 Professional Salaries – Salaries for professional personnel including: special education teachers, substitute teachers, psychologists, etc.

120 Auxiliary Salaries – Salaries for auxiliary personnel including: aides, paraprofessionals, secretaries, etc.

200 Employee Benefits – Payments that are not part of gross salary made on behalf of employees; i.e., insurance, Social Security, retirement, unemployment compensation, Workers Compensation, annual leave, sick leave.

300 Contracted Services – Purchased services for which the unit has a contract on file including: speaker fees, auditors, consultants, etc.

400 Contracted Property Services – Repair of Equipment, etc.

510 Student Transportation – Transportation related to the needs of students with disabilities.

580 Staff Travel – Expenses for transportation including mileage, meals, lodging, mileage, airfare, taxi fares, etc.

600 Supplies and Materials – Expendable items, equipment that cost less than \$5,000, books, school supplies, computer software programs, etc.

700 Equipment – Equipment that costs more than \$5,000 per item.

800 Other Uses of Funds (List) – List other uses as applicable. Be specific.

Pre-Award Costs: Those expenditures that occur between July 1 and the date the application is approved. These expenditures may be permitted within the application without prior notice from the NDDPI to the extent that they are allowable.

Application Review: IDEA-B/Preschool applications are reviewed by the respective Special Education Coordinator and Grants Manager. Specifically, the review ensures that:

- services described are allowable costs,
- funds will only be used to serve students with disabilities ages 3-21 (IDEA-B) and ages 3-5 (Preschool), or used for other allowable expenditures in accordance with the IDEA regulations,
- application is complete, including required dates, assurances and it meets non public participation requirements.

The application **will not** be processed for award unless the previous year's final report has been submitted and approved.

Disapprovals and Procedures for Appeal: It is the policy of the NDDPI to assure that every effort is made to negotiate approval of appropriate and effective programs for students with disabilities

(Section XXI of the State Eligibility Requirements Document). Final disapproval action will not be made by the NDDPI on any application submitted by a LEA without first affording the LEA a review after reasonable notice has been given and an opportunity to present information and data on the appropriateness of the proposed plan. If the NDDPI then determines that the LEA has failed to comply with any requirements in the application, the NDDPI, after giving notice to the LEA, will make no further payments to the LEA until the Department is satisfied that there is no longer any failure to comply with the requirements. The LEA may request a hearing that will follow the guidelines set forth under section 76.401 of the Education Department General Administrator Regulations (EDGAR).

Reallocation of Local Education Agency Funds: The NDDPI will reallocate IDEA funds when it is determined that the LEA will be unable to use the allocated funds during the time of their availability. An LEA that has not applied for a portion or all of its allocation by the end of the fifteenth month of its availability must notify the Department of all the funds that will not be used within the available time period. If the LEA fails to so notify the Department within the required time period, it will forfeit those funds for which an application is not on file with the NDDPI. Any funds reported not to be used or for which no application has been submitted, will be made available for reallocation.

Project and Budget Revisions: Requests to amend current approved applications can be made through submission of an [IDEA/Preschool Budget Revision](#) (SFN 58931). A budget revision is required if anticipated expenditures will exceed 20% or \$1,000, whichever is greater, of the category amount in the approved budget. Budget revision requests must be submitted before obligations reflecting the change are made. If no amount was indicated in a line item in the approved budget, no transfers to that line item can be made without written approval from the Department of Public Instruction.

FAQ's – Allowable Use of Funds

Can IDEA funds be used towards the purchase of a vehicle?

Transportation as required to assist a child with a disability to benefit from special education is a related service; therefore, the purchase of a vehicle used exclusively for student transportation is an IDEA-B eligible expenditure. LEAs need to obtain prior approval from NDDDDPI for use of IDEA funds in this manner.

Can IDEA funds be used to purchase computers for students?

Computers for students are allowable when related to the unique needs of a child with a disability. It may be provided in a regular education class or other education-related setting, even if one or more nondisabled children benefit. Note: since the costs associated with computer networks are provided district-wide they are not allowable to IDEA.

Can IDEA funds be used to purchase computers for special education staff?

Computers for staff who work 100% for special education are allowable.

Can IDEA funds be used for equipment purchases?

Equipment is allowable when it relates to the needs of a child with a disability in accordance with the IEP of the child. It may be provided in a regular classroom or other education-related setting, even if one or more nondisabled children benefit.

Can IDEA funds be used for maintenance of special education equipment?

If the equipment is used 100% for special education, the costs of maintaining the equipment may be charged to IDEA.

Can IDEA funds be used to purchase office equipment with IDEA funds?

Office equipment used 100% for special education is allowed.

Can IDEA funds be used to purchase playground equipment with IDEA funds?

The additional costs of making a playground accessible to children with disabilities are allowed. Additional equipment or the additional cost of acquiring accessible equipment is allowed. The equipment may be used in a regular education setting, even if one or more nondisabled children benefit.

Can IDEA funds be used to purchase furniture for students?

LEAs may purchase furniture that is adapted to the needs of children with disabilities, such as wheelchair accessible desks and adjustable tables and workstations. Furniture that is not adapted to the needs of a child with a disability is not allowed.

Can IDEA funds be used to pay the salaries of current special education positions funded with general funds?

The LEA must maintain effort each year, however, if not hiring these positions through general funds does not affect MOE, then federal IDEA funds may pick up the positions without a supplanting issue (see *MOE* and *Supplement not Supplant* guidance on page 1).

Can IDEA funds be used towards a gifted/talented program?

No, IDEA funds are not to be used for gifted education. Also, do not include state/local gifted/talented expenditures in the MOE Worksheet.

Can IDEA funds be used towards Extended School Year (ESY)?

Yes.

Can IDEA funds be used to pay stipends for teachers (both regular and special education) to attend professional development?

Professional development, including stipends for teachers, related specifically to special education is allowable.

FAQ's – Parentally-Placed Private Students

Can LEAs provide IDEA proportionate share funds for parentally-placed private students directly to the private school?

No. IDEA 04 specifies that funds that are available to serve students voluntarily placed in private school shall be controlled and administered by a public agency.

Can LEAs purchase equipment or supplies for the private school with IDEA proportionate share funds?

Yes. However, the public agency is responsible to ensure that the equipment and supplies placed in the private school is used only for Part B purposes and can be removed from the private school without remodeling the private school facility. The public agency must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

Can LEAs pay for the services of an employee of a private school with IDEA proportionate share funds?

LEAs may use federal funds to pay for the services of an employee of a private school *only if* the employee's services are outside of the regular hours of duty at the private school and the employee is under the supervision and control of the public agency.

Note: please see the NDDPI's policy paper, *IDEA 2004 Students with Disabilities who Attend Private Schools*, for more information on private student requirements at <http://www.dpi.state.nd.us/speced/guide/policy/1205paper.pdf>.