IDEA-B (Individuals with Disabilities Education Act, Part B) requires LEAs (local educational agencies, which includes ISDs and open-enrollment charter schools) to budget and spend for special education from their general fund at least the same amount every year, unless they qualify for exceptions and/or adjustment. If the LEA does not spend the same amount as they spent before, and do not qualify for exceptions and/or adjustment, they will have a “decline in fiscal effort” and will be out of compliance with the Maintenance of Effort (MOE) requirement.

**What are Allowable Exceptions?**

IDEA-B allows for five exceptions to spending the same amount each year from the LEA’s general fund:

1) **Departure of Special Education Personnel** (paid from the general fund) who either voluntarily resigned or retired, was terminated for just cause, or deceased. The difference in payroll costs between the previous year and the review year would be the amount of the exception to claim for spending less in the review year.
   - Example 1: If a special education teacher’s payroll costs from the general fund were $85,000 in 2016-2017 but the teacher left and was not replaced in 2017-2018, $85,000 would be the amount of the exception to justify decreased spending in 2017-2018.
   - Example 2: If a special education teacher’s payroll costs from the general fund were $80,000 in 2016-2017 but the teacher left and was replaced with a teacher in 2017-2018 whose payroll costs were $60,000, then $20,000 would be the amount of the exception to justify decreased spending in 2017-2018.

2) **Decreased Enrollment of Students with Disabilities that Results in Decreased Spending** (from the general fund). Decreased enrollment alone is not an exception to not spending the same amount each year from the general fund because the LEA is still required to spend the same amount per student with disabilities. However, if the decreased enrollment results in decreased spending, then it might qualify as an exception. Examples include, but are not limited to:
   - Reassignment of special education personnel to general education due to decreased enrollment
   - Special education personnel layoff due to decreased enrollment
   - Closure of a self-contained classroom/unit due to decreased enrollment
   - Combining/merging a special education classroom/unit with another special education classroom/unit due to decreased enrollment

   The difference in general fund special education expenditures from the previous year and the review year would be the amount of the exception to claim for spending less in the review year.

3) **Termination of Obligation for Exceptionally Costly Program for a Particular Student with Disabilities**, limited to one of these reasons:
   - The student left the jurisdiction of the LEA;
   - The student aged out or graduated; or
c. The student no longer needs the program of special education

Some examples of costs associated with an exceptionally costly program for a particular student include, but are not limited to:

a. One-on-one special education, paraprofessional, attendant care aide, etc.
b. Specialized transportation
c. Educational interpreter
d. Hearing impaired or visually impaired teacher

TEA defines “exceptionally costly program” each year. For the FY18 MOE Compliance analysis, the exceptionally costly program is defined as aggregate expenditures for the program to be at least $9,759 in the 2016-2017 school year. If the student with disabilities had an exceptionally costly program in 2016-2017 and then the program was no longer provided to that student in 2017-2018 due to one of the three qualifying reasons, the amount of expenditures from the general fund in excess of $9,759 is the amount of the exception to claim for spending less in 2017-2018.

   a. Example 1: The student with disabilities had an exceptionally costly program that cost the LEA $30,000 in 2016-2017. The student left the district at the end of the school year. For the 2017-2018 MOE analysis, the amount of $20,241 that was paid from the general fund for this student in 2016-2017 is the amount of the exception to claim in 2017-2018. ($30,000 - $9,759 = $20,241)
   b. Example 2: The student with disabilities had an exceptionally costly program that cost the LEA $10,000 in 2016-2017. The student left the district at the end of the school year. For the 2017-2018 MOE analysis, the amount of $241 that was paid from the general fund for this student in 2016-2017 is the amount of the exception to claim in 2017-2018. ($10,000 - $9,759 = $241)
   c. Example 3: The student with disabilities had an exceptionally costly program that cost the LEA $9,759 in 2016-2017. The student left the district at the end of the school year. For the 2017-2018 MOE analysis, the LEA does not qualify for a exception because only the amount in excess of $9,759 can be used as an exception for spending less in 2017-2018.

4) Termination of Costly Expenditures for Long-Term Purchases (Capital Outlay). If the LEA purchased equipment for special education in 2016-2017, the amount of the acquisition cost paid from the general fund would be the amount of the exception to claim in 2017-2018.

5) Assumption by the High Cost Grant. If the LEA received a High Cost Fund award in 2017-2018, the amount of the award or a portion of the award amount might qualify as an exception for spending less in 2017-2018, if it is replacing expenditures paid originally from the general fund for that student.

What is an Adjustment That Allows the LEA to Spend Less From Their General Fund?

If the LEA qualifies for an “adjustment to local fiscal effort” (referred to in Texas as “Voluntary Reduction”), the LEA may spend less from their general fund for special education expenditures during the year the LEA qualifies for Voluntary Reduction.
The LEA must meet **all three** of the following criteria to qualify for Voluntary Reduction in 2017-2018:

1) **Increase in IDEA-B Formula Final entitlement** in 2017-2018 from the amount received in 2016-2017

2) Determination Level of “**Meets Requirements**” (The 2015-2016 TAPR [Texas Academic Performance Reports] must indicate a 2016 Special Education Determination Status of “Meets Requirements”)

3) **Not identified** by TEA as having significant disproportionality based on race or ethnicity (If identified, the LEA would have received a letter from TEA in the spring or summer of 2017 requiring the LEA to reserve and spend 15% of their IDEA-B Formula and Preschool funds for purposes of Coordinated Early Intervening Services (CEIS)).

**When Does TEA Perform Their Analysis of Compliance?**

TEA performs their analysis of compliance annually. For 2017-2018, TEA will perform a preliminary analysis around March-April of 2019. TEA will post the results of their analysis in GFFC (Grants and Federal Fiscal Compliance Reports).

Once the preliminary results are posted, LEAs are given five business days to respond with documentation of exceptions and/or adjustment they wish to claim to justify a decline in effort if the preliminary analysis shows the LEA failed the test(s).

After review of the documentation, TEA will issue a final analysis and post in GFFC. The final analysis is typically released between April-June.

If the documentation to claim exceptions/adjustment are accepted by TEA and results in the LEA passing the test, the LEA will be compliant with MOE for that review year.

If the documentation to claim exceptions/adjustments are not accepted by TEA or are not enough to bring the LEA into compliance, the LEA will be required to refund the amount of the decline to TEA.

**What Tests are Used to Determine Compliance?**

IDEA-B regulations allow for four tests to be used to determine MOE compliance based on special education expenditures from:

- Test 1: Local Funds only
- Test 2: Combination of State and Local Funds
- Test 3: Local Funds only Per Capita (per student with disabilities)
- Test 4: Combination of State and Local Funds Per Capita (per student with disabilities)

The LEA only needs to meet **one of the four tests** to be in compliance.

You will only be deemed noncompliant if you fail all four tests.

Although you only need to meet one test, if you fail a test, and have exceptions/adjustment to claim, it is recommended that you submit the documentation because it is beneficial to pass as many tests as possible.
How Do I Claim Exceptions and/or Adjustment?

After TEA releases their Preliminary Analysis of MOE compliance for 2017-2018, submit the 2017-2018 IDEA-B LEA MOE Exceptions Workbook by uploading the workbook and required documentation into GFFC.

The workbook provides instructions on the type of documentation that must be submitted.

The exceptions workbook is located on TEA’s website at:


Although you will only have five business days from the date the Preliminary Analysis is posted in GFFC to upload your exceptions workbook and documentation, you must not upload the workbook and documentation prior to the TEA posting of the Preliminary Analysis.

Where Can I Find My Analysis of Compliance Performed by TEA?

TEA will post the Preliminary and the Final Analysis of MOE compliance in GFFC.

Log onto TEAL:

https://tealprod.tea.state.tx.us/

Select “GFFC Reports and Data Collections” (You must have access to this report)

Use the drop down arrow for “Report Title” to select “IDEA-B LEA MOE Compliance Review”

Then select the school year to view that year’s MOE analysis.

<table>
<thead>
<tr>
<th>Report Title:</th>
<th>IDEA-B LEA MOE Compliance Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>School Year:</td>
<td>2017-2018</td>
</tr>
</tbody>
</table>

The 2017-2018 MOE Compliance review will not be posted until March or April 2019.

MOE Workshop March 25, 2019

If you would like to learn more about MOE and the 2017-2018 Compliance Analysis, please attend the workshop on 3/25/19:

Fiscal Compliance Special Education for ISDs and Charter Schools: Maintenance of Effort (MOE) Fiscal Year 2018 Compliance Analysis

03/25/2019 Registration Fee: $0 9:00 a.m. – 4:00 p.m.

Session #50413 to attend in-person  Session #55712 to attend via ZOOM (webinar)