

# Maintenance of Effort

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WI Department of Public Instruction  
Special Education Team



## Section 1

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# WHAT IS “MAINTENANCE OF EFFORT”?



# What is MOE?

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- Requirement that the SEA and LEA maintain a consistent level of state and local funding from year to year.
- Failure to meet MOE requirements may result in monetary penalties.



# What is MOE?

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- Each Federal program that requires MOE apply rules differently.
- In determining whether an LEA has maintained MOE, the State must analyze the LEA's expenditures.
- Each Federal program imposes differing consequences for failure to meet MOE.



## Section 2

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# **MOE AND THE *INDIVIDUALS WITH DISABILITIES EDUCATION ACT***

# IDEA's MOE Requirements

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- SEA – IDEA prohibits a state from reducing state financial support for special education below the amount of that support for the preceding fiscal year. (34 CFR §300.163)
- LEAs – IDEA requires that LEAs must budget the same amount of local funding for special education as it expended in the previous fiscal year. (34 CFR §300.203)

# Methods for lowering MOE

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- “Exceptions” to MOE (34 CFR §300.204)
  - The voluntary departure or departure for just cause of special education personnel.
  - Decrease in enrollment of children w/ disabilities.
  - A “high cost” child moves out of the district, ages out, or no longer needs the program.
  - The assumption of cost by the high cost fund
  - The purchase of costly capital, such as a special education bus, is paid out.

# MOE & the “50% Rule”

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- The “50%” rule (34 CFR §300.205 (a))
  - If an LEA receives an increase in its *IDEA* flow-through allocation from one fiscal year to the next, the LEA may reduce its MOE obligations by half of the increased amount.
  - “Freed-up” funds must be used to carry out activities that could be supported with funds under the *ESEA* (34 CFR §300.205(b)).

# Demonstration of IDEA's 50% rule

**FY 2009**

Flow-through allocation:

**\$150,000**

**FY 2009**

LEA IDEA MOE:

**\$800,000**

**FY 2010**

Flow-through allocation:

**\$250,000**

50% of \$100,000 (the increase) is \$50,000. The LEA has the option of reducing its MOE by \$50,000.

**FY 2010**

LEA's new level of MOE:

**\$750,000**

# May more than one MOE exception be utilized?

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- All exceptions may be utilized
- Not an “either / or” decision
- “Freed-up” fund requirements are *only* in relation to the 50% rule, not the other exceptions for lowering MOE

# Restricted from reducing MOE

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- If the LEA does not receive a “Meets Requirement” determination of an SPP indicator (613(a)(2)(C))
- If the LEA has been identified by DPI as having significant disproportionality 613(a)(2)(C)
- The SEA has taken on the responsibility of FAPE for an LEA’s students.

# Coordinated Early Intervening Services (CEIS) & MOE

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- CEIS is special education funding directed towards at-risk students who have *not* been identified for special education.
- CEIS may not fund special education.
- Budgeting for CEIS has a direct and substantial impact on reducing MOE using the 50% rule.



# The two CEIS scenarios

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- **Situation 1:**

If the 50% max MOE reduction is *less* than the max amount that may be set-aside for CEIS, then IDEA dollars expended on CEIS must be subtracted from the amount an LEA can reduce its MOE through the 50% rule.

# SITUATION 1: Example A

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,000,000**  
  
Increase of:  
**\$100,000**

Max CEIS  
Allowed:  
**\$150,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$50,000**  
  
(50% of  
increase)

## Scenario 1:

FY 2010  
Flow-through:  
**\$1,000,000**

CEIS  
Budgeted:  
**\$10,000**

Subtract \$10,000  
from max MOE

Allowed MOE  
Reduction:  
**\$40,000**  
(must be spent on ESEA)

# SITUATION 1: Example B

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,000,000**  
  
Increase of:  
**\$100,000**

Max CEIS  
Allowed:  
**\$150,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$50,000**  
  
(50% of  
increase)

## Scenario 2:

FY 2010  
Flow-through:  
**\$1,000,000**

CEIS  
Budgeted:  
**\$40,000**

Subtract \$40,000  
from max MOE

Allowed MOE  
Reduction:  
**\$10,000**  
(must be spent on ESEA)

# SITUATION 1: Example C

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,000,000**  
  
Increase of:  
**\$100,000**

Max CEIS  
Allowed:  
**\$150,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$50,000**  
  
(50% of  
increase)

## Scenario 3:

FY 2010  
Flow-through:  
**\$1,000,000**

CEIS  
Budgeted:  
**\$100,000**

Subtract \$100,000  
from max MOE

Allowed MOE  
Reduction:  
**\$0**

# The two CEIS scenarios

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- **Situation 2:**

If the 50% max MOE reduction is *greater* than the max amount that may be set-aside for CEIS, then the MOE reduction is capped at the max amount that may be set-aside for CEIS minus the actual amount expended on CEIS.

- This applies to all LEAs in FY 2009-2010

# SITUATION 2: Example A

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,700,000**  
  
Increase of:  
**\$800,000**

Max CEIS  
Allowed:  
**\$255,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$400,000**  
  
(50% of  
increase)

## Scenario 1:

FY 2010  
Flow-through:  
**\$1,700,000**

CEIS  
Budgeted:  
**\$0**

Max MOE reduction  
is \$400,000

Allowed MOE  
Reduction:  
**\$400,000**  
(must be spent on ESEA)

# SITUATION 2: Example B

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,700,000**  
  
Increase of:  
**\$800,000**

Max CEIS  
Allowed:  
**\$255,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$400,000**  
  
(50% of  
increase)

## Scenario 1:

FY 2010  
Flow-through:  
**\$1,700,000**

CEIS  
Budgeted:  
**\$10,000**

Max MOE reduction  
capped at \$255,000

Allowed MOE  
Reduction:  
**\$245,000**  
(must be spent on ESEA)

# SITUATION 2: Example C

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,700,000**  
  
Increase of:  
**\$800,000**

Max CEIS  
Allowed:  
**\$255,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$400,000**  
  
(50% of  
increase)

## Scenario 1:

FY 2010  
Flow-through:  
**\$1,700,000**

CEIS  
Budgeted:  
**\$200,000**

Max MOE reduction  
capped at \$255,000

Allowed MOE  
Reduction:  
**\$55,000**  
(must be spent on ESEA)

# SITUATION 2: Example D

FY 2009  
Flow-through:  
**\$900,000**

FY 2010  
Flow-through:  
**\$1,700,000**  
  
Increase of:  
**\$800,000**

Max CEIS  
Allowed:  
**\$255,000**  
  
(15% of  
allocation)

Max MOE  
Reduction:  
**\$400,000**  
  
(50% of  
increase)

## Scenario 1:

FY 2010  
Flow-through:  
**\$1,700,000**

CEIS  
Budgeted:  
**\$255,000**

Max MOE reduction  
capped at \$255,000

Allowed MOE  
Reduction:  
**\$0**



# MOE Calculator

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- [www.dpi.wi.gov/sped/xls/moe\\_calculator.xls](http://www.dpi.wi.gov/sped/xls/moe_calculator.xls)



## Section 3

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# SUPPLEMENT NOT SUPPLANT (SNS)



# Supplement not Supplant

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- Requires that federal funds be used to supplement education, not to substitute for funds or services that would be provided in the absence of federal funding.



# SNS and IDEA

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- IF an LEA reduces its MOE through the 50% rule
- THEN the LEA can move previously funded local costs to the Federal grant
- BUT must spend the total amount of freed-up funds on ESEA supported activities



**FY 2009**  
Flow-through allocation:  
**\$150,000**

**FY 2009**  
LEA IDEA MOE:  
**\$800,000**

The LEA reduced its MOE by \$50,000 (50% of the increase)

**FY 2010**  
Flow-through allocation:  
**\$250,000**

**FY 2010**  
LEA's new level of MOE:  
**\$750,000**

**\$50,000 of special education costs previously covered by local dollars moved to the IDEA flow-through budget**


**\$50,000 of "freed-up" funds *must* be spent on activities that support ESEA**



# What? How? But I thought...

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- A 1992 amendment to the IDEA regulations *removed* the “particular cost test”
  - The particular cost test was the literal translation of supplanting – if local funds were used for a teacher’s salary one year and federal funds were used the next year for the same salary, a violation of supplanting had occurred



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If an LEA maintains MOE, it  
will not violate the  
supplement / not supplant  
requirements of the IDEA



## Section 4

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# MOE AND THE IDEA RECOVERY FUNDS THROUGH THE ARRA



# MOE & the IDEA Recovery Funds

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- LEAs will see large increases in IDEA allocations for fiscal year 2009-10 because it will include both the regular IDEA entitlement plus the IDEA recovery funds.
- This increase will provide most LEAs with the opportunity to fully utilize the flexibility of the 50% rule.



# One-time opportunity

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- The IDEA recovery funds are awarded for one fiscal year only, so this increase will only be present in FY 2009-10.
- LEAs that wish to take advantage of this opportunity **must** reflect this in the 2009-10 PI 1504 SE budget and PI 1505 SE annual reports.



# Reminders

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- Reducing MOE obligations must not result in a reduction of special education services.
- Total amount of funds “freed-up” through the 50% rule must be spent on activities that support ESEA and those activities will need to be tracked by the LEA.



# Reminders

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- If reduced through the 50% rule, the LEA's MOE remains at that reduced amount until the LEA increases its local costs through its own volition.
- Any funds budgeted for CEIS activities in fiscal year 2009-10 will significantly reduce the LEA's amount available for MOE reduction.




# Frequently Asked Questions


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- How does reducing required MOE by shifting special education costs from local funds to IDEA impact the LEA's state special education categorical aid?
  - Costs shifted to the IDEA grant are not eligible for categorical aid reimbursement

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- Where can I find the MOE reduction permitted for my LEA?
    - <http://dpi.wi.gov/sped/xls/fy10flow.xls>
  - Where do LEAs report a reduction in required MOE?
    - Not the IDEA budgets – reported in the Special Education budget and annual reports for fiscal year 2009-2010

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- What impact will the end of Recovery funding have on 2011-2012 budgets?
    - LEAs may have to begin raising their maintenance of effort obligations if grant funding does not cover all costs
  - Must LEAs expend all funds freed up in 2009-10 through the 50% rule in 2009-10?
    - Yes

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- Are freed-up funds budgeted in Fund 27?
    - If freed-up funds are used in Fund 27, then the LEA has *not* reduced its MOE since MOE is based on Fund 27 expenses
  - May freed-up funds be used to support special education costs?
    - If freed-up funds are used for special education, then the LEA has *not* reduced its MOE since MOE is based on special education expenses

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- If an LEA (with significant disproportionality) fails to use the required 15% of IDEA funds for CEIS in 2008-2009 and expends these funds in 2009-2010, does the expenditure affect the LEA's calculation of its required MOE for 2009-2010?
    - No, this does not impact FY 2010 MOE