

Maintenance of Effort

WI Department of Public Instruction
Special Education Team

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Section 1

WHAT IS “MAINTENANCE OF EFFORT”?

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What is MOE?

- 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.

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What is MOE?

- 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.

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Section 2

MOE AND THE *INDIVIDUALS WITH DISABILITIES EDUCATION ACT*

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IDEA's MOE Requirements

- 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)

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Methods for lowering MOE

- “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.

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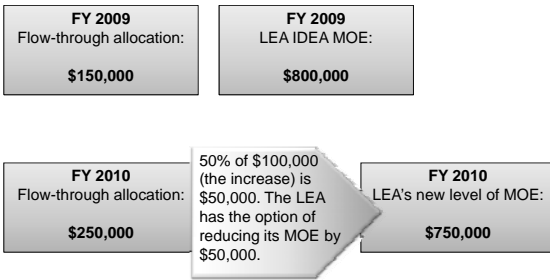
MOE & the “50% Rule”

- 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)).

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Demonstration of IDEA's 50% rule



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May more than one MOE exception be utilized?

- 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

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Restricted from reducing MOE

- 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.

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Coordinated Early Intervening Services (CEIS) & MOE

- 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.

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The two CEIS scenarios

■ 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.

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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)
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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)
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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)
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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)
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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)
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Scenario 3:

FY 2010 Flow-through: \$1,000,000	CEIS Budgeted: \$100,000	Subtract \$100,000 from max MOE	Allowed MOE Reduction: \$0
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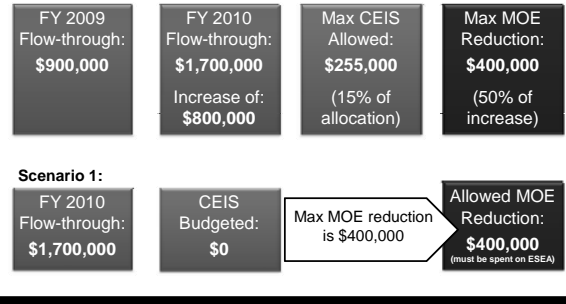
The two CEIS scenarios

- 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

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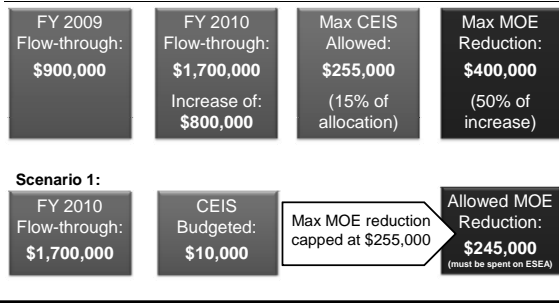
SITUATION 2: Example A



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SITUATION 2: Example B



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SITUATION 2: Example C



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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)
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Scenario 1:

FY 2010 Flow-through: \$1,700,000	CEIS Budgeted: \$255,000	Max MOE reduction capped at \$255,000	Allowed MOE Reduction: \$0
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MOE Calculator

- www.dpi.wi.gov/sped/xls/moe_calculator.xls

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Section 3

SUPPLEMENT NOT SUPPLANT (SNS)

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Supplement not Supplant

- 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.

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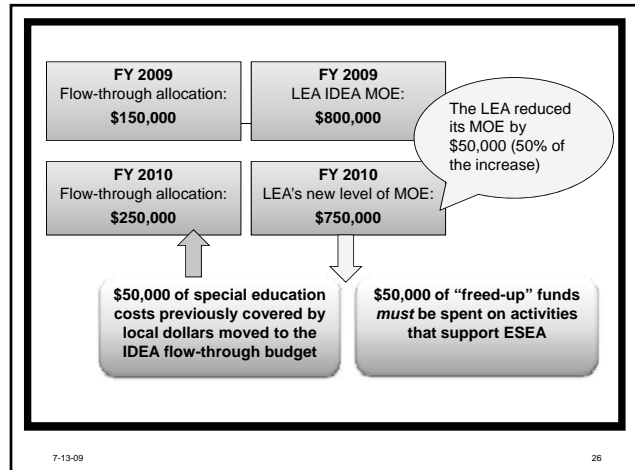
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SNS and IDEA

- 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

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What? How? But I thought...

- 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

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Section 4

MOE AND THE IDEA RECOVERY FUNDS THROUGH THE *ARRA*

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MOE & the IDEA Recovery Funds

- 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.

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One-time opportunity

- 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.

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Reminders

- 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.

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Reminders

- 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.

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Frequently Asked Questions

- 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

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