

IDEA—Reauthorized Statute
LOCAL FUNDING

(See also Early Intervening Services, Disproportionality and Overidentification and Alignment With the *No Child Left Behind Act*)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004, by President George W. Bush. The provisions of the act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements.¹ This document addresses only the changes to the provisions of IDEA regarding local funding that took effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

IDEA 2004:

1. Adds an exception to the local maintenance of effort (MOE) requirements.

Notwithstanding Sections 613(a)(2)(A)(ii)-(iii), for any fiscal year for which the allocation received by a local education agency (LEA) under Section 611(f) exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by Section 613(a)(2)(A)(iii) by not more than 50 percent of the amount of such excess. [613(a)(2)(C)(i)]

2. Places a limitation on the exception to local MOE requirements.

If a state education agency (SEA) determines that an LEA is not meeting the requirements of Part B, including the targets in the state’s performance plan, the SEA shall prohibit the LEA from reducing its MOE under Section 613(a)(2)(C) for any fiscal year. [616(f)]

3. Authorizes additional permissive use of funds.

Notwithstanding Sections 613(a)(2)(A) or 612(a)(17)(B) (relating to commingled funds), funds provided to the LEA under Part B may be used for the following activities:

- Early intervening services—To develop and implement coordinated, early intervening educational services, in accordance with Section 613(f);² and

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Secondary Transition; State Funding; and Statewide and Districtwide Assessments. Documents are available on the OSERS Web site at: www.ed.gov/about/offices/list/osers/index.html.

² In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, in accordance with Section 618(d)(1), the state, or the secretary of the interior, as the case may be, shall require any LEA identified under Section 618(d)(1) to reserve the maximum amount of funds under Section 613(f) to provide comprehensive coordinated early intervening services to serve

- High cost education and related services—To establish and implement cost or risk sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working in a consortium of which the LEA is a part, to pay for high cost special education and related services.

Administrative case management—An LEA may use funds received under Part B to purchase appropriate technology for recordkeeping, data collection and related case management activities of teachers and related services personnel providing services described in the individualized education program (IEP) of children with disabilities, that is needed for the implementation of such case management activities.

[613(a)(4)(A)(ii)-(iii), (B)]

4. Clarifies requirements regarding providing funds to charter schools.

In carrying out Part B with respect to charter schools that are public schools of the LEA, the LEA... provides funds under Part B to those charter schools on the same basis as the LEA provides funds to the LEA's other public schools, including proportional distribution based on relative enrollment of children with disabilities, and at the same time as the agency distributes other federal funds to the agency's other public schools, consistent with the state's charter school law. [613(a)(5)(B)]