

IDEA–Reauthorized Statute<sup>1</sup>  
**II. 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 will be effective on July 1, 2005, with the exception of some elements of the definition of “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. This document addresses only the changes to the provisions of IDEA related local funding that will take 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.**

For any fiscal year (FY) for which the federal allocation received by a local educational agency (LEA) exceeds the amount received for the previous FY, the LEA may reduce the level of expenditures by not more than 50 percent of the excess. [613(a)(2)(C)(i)]

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

If a state educational 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. Adds authority for additional permissive use of funds.**

Funds provided to the LEA under Part B may be used to carry out a variety of listed activities, including:

- Early intervening services--To develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (with a particular emphasis on students in kindergarten through grade three) who have not been identified as needing special education or related services but

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<sup>1</sup> Other topics in this series include: Disproportionality and Overidentification; Early Intervening Services; Changes in Initial Evaluations and Reevaluations; Individualized Education Program (IEP); Discipline; Statewide and Districtwide Assessments; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice, Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Alignment With the *No Child Left Behind Act*; Highly Qualified Teachers; Children Enrolled by Their Parents in Private Schools; State Funding; and Local Funding. Documents are available on the OSERS Web site at: [www.ed.gov/about/offices/list/osers/index.html](http://www.ed.gov/about/offices/list/osers/index.html).

who need additional academic and behavioral support to succeed in a general education environment;<sup>2</sup>

- 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; and
- Administrative case management--An LEA may use federal funds received 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), and (B), and 613(f)(1)]

#### **4. Clarifies requirements regarding funds to charter schools.**

The LEA provides funds to charter schools on the same basis that the LEA provides funds to 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)]

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<sup>2</sup> If the state determines that significant disproportionality based on race and ethnicity is occurring in the LEA with respect to (1) the identification of children as having a particular disability; (2) the placement in a particular education settings of such children, or (3) the incidence, duration and type of disciplinary actions, including suspensions and expulsions, Section 618(d)(2)(B) additionally requires an LEA identified for disproportionality to reserve the maximum amount of funds under Section 613(f) to provide comprehensive coordinated early intervening services to serve children in the LEA, particularly children in those groups that were significantly overidentified. [618(d)(2)(B)]