

## § 303.122

## 34 CFR Ch. III (7–1–01 Edition)

### § 303.122 Control of funds and property.

The statement must provide assurance satisfactory to the Secretary that—

(a) The control of funds provided under this part, and title to property acquired with those funds, will be in a public agency for the uses and purposes provided in this part; and

(b) A public agency will administer the funds and property.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1437(b)(3))

### § 303.123 Prohibition against commingling.

The statement must include an assurance satisfactory to the Secretary that funds made available under this part will not be commingled with State funds.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1437(b)(5)(A))

NOTE: As used in this part, *commingle* means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure. Under that general definition, it is clear that commingling is prohibited. However, to the extent that the funds from each of a series of Federal, State, local, and private funding sources can be identified—with a clear audit trail for each source—it is appropriate for those funds to be consolidated for carrying out a common purpose. In fact, a State may find it essential to set out a funding plan that incorporates, and accounts for, all sources of funds that can be targeted on a given activity or function related to the State's early intervention program.

Thus, the assurance in this section is satisfied by the use of an accounting system that includes an “audit trail” of the expenditure of funds awarded under this part. Separate bank accounts are not required.

### § 303.124 Prohibition against supplanting.

(a) The statement must include an assurance satisfactory to the Secretary that Federal funds made available under this part will be used to supplement the level of State and local funds expended for children eligible under this part and their families and in no

case to supplant those State and local funds.

(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—

(1) Decreases in the number of children who are eligible to receive early intervention services under this part; and

(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1437(b)(5)(B))

[58 FR 40959, July 30, 1993, as amended at 63 FR 18294, Apr. 14, 1998]

### § 303.125 Fiscal control.

The statement must provide assurance satisfactory to the Secretary that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1437(b)(6))

### § 303.126 Payor of last resort.

The statement must include an assurance satisfactory to the Secretary that the State will comply with the provisions in § 303.527, including the requirements on—

- (a) Nonsubstitution of funds; and
- (b) Non-reduction of other benefits.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1437(b)(2))