

§§ 300.222–300.229

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§§ 300.222–300.229 [Reserved]

§ 300.230 Use of amounts.

The LEA must have on file with the SEA information to demonstrate that amounts provided to the LEA under Part B of the Act—

(a) Will be expended in accordance with the applicable provisions of this part;

(b) Will be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with §§ 300.184–300.185; and

(c) Will be used to supplement State, local, and other Federal funds and not to supplant those funds.

(Authority: 20 U.S.C. 1413(a)(2)(A))

§ 300.231 Maintenance of effort.

(a) *General.* Except as provided in §§ 300.232 and 300.233, funds provided to an LEA under Part B of the Act may not be used to reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

(b) *Information.* The LEA must have on file with the SEA information to demonstrate that the requirements of paragraph (a) of this section are met.

(c) *Standard.* (1) Except as provided in paragraph (c)(2) of this section, the SEA determines that an LEA complies with paragraph (a) of this section for purposes of establishing the LEA's eligibility for an award for a fiscal year if the LEA budgets, for the education of children with disabilities, at least the same total or per-capita amount from either of the following sources as the LEA spent for that purpose from the same source for the most recent prior year for which information is available:

(i) Local funds only.

(ii) The combination of State and local funds.

(2) An LEA that relies on paragraph (c)(1)(i) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of children with disabilities in that year is at least the same, either in

total or per capita, as the amount it spent for that purpose in—

(i) The most recent fiscal year for which information is available, if that year is, or is before, the first fiscal year beginning on or after July 1, 1997; or

(ii) If later, the most recent fiscal year for which information is available and the standard in paragraph (c)(1)(i) of this section was used to establish its compliance with this section.

(3) The SEA may not consider any expenditures made from funds provided by the Federal Government for which the SEA is required to account to the Federal Government or for which the LEA is required to account to the Federal Government directly or through the SEA in determining an LEA's compliance with the requirement in paragraph (a) of this section.

(Authority: 20 U.S.C. 1413(a)(2)(A))

§ 300.232 Exception to maintenance of effort.

An LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to the following:

(a)(1) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel, who are replaced by qualified, lower-salaried staff.

(2) In order for an LEA to invoke the exception in paragraph (a)(1) of this section, the LEA must ensure that those voluntary retirements or resignations and replacements are in full conformity with:

(i) Existing school board policies in the agency;

(ii) The applicable collective bargaining agreement in effect at that time; and

(iii) Applicable State statutes.

(b) A decrease in the enrollment of children with disabilities.

(c) The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the SEA, because the child—

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(1) Has left the jurisdiction of the agency;

(2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

(3) No longer needs the program of special education.

(d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

(Authority: 20 U.S.C. 1413(a)(2)(B))

§ 300.233 Treatment of Federal funds in certain fiscal years.

(a)(1) Subject to paragraphs (a)(2), (a)(3), and (b) of this section, for any fiscal year for which amounts appropriated to carry out section 611 of the Act exceed \$4.1 billion, an LEA may treat as local funds up to 20 percent of the amount of funds it is eligible to receive under §300.712 from that appropriation that exceeds the amount from funds appropriated for the previous fiscal year that the LEA was eligible to receive under §300.712.

(2) The requirements of §§300.230(c) and 300.231 do not apply with respect to the amount that may be treated as local funds under paragraph (a)(1) of this section.

(3) For purposes of this section:

(i)(A) An LEA is not eligible to receive funds during any period in which those funds under this part are withheld from the LEA because of a finding of noncompliance under §300.197 or §300.587.

(B) An LEA is eligible to receive funds that have been withheld under §300.197 or §300.587 but are subsequently released to the LEA within the period of the funds availability.

(ii) An LEA is not eligible to receive funds that have been reallocated to other LEAs under §300.714.

(b) If an SEA determines that an LEA is not meeting the requirements of this part, the SEA may prohibit the LEA from treating funds received under Part B of the Act as local funds under paragraph (a)(1) of this section for any fiscal year, but only if it is au-

thorized to do so by the State constitution or a State statute.

(Authority: 20 U.S.C. 1413(a)(2)(C))

[64 FR 12418, Mar. 12, 1999, as amended at 66 FR 1476, Jan. 8, 2001]

§ 300.234 Schoolwide programs under title I of the ESEA.

(a) *General; limitation on amount of Part B funds used.* An LEA may use funds received under Part B of the Act for any fiscal year to carry out a schoolwide program under section 1114 of the Elementary and Secondary Education Act of 1965, except that the amount used in any schoolwide program may not exceed—

(1)(i) The amount received by the LEA under Part B for that fiscal year; divided by

(ii) The number of children with disabilities in the jurisdiction of the LEA; and multiplied by

(2) The number of children with disabilities participating in the schoolwide program.

(b) *Funding conditions.* The funds described in paragraph (a) of this section are subject to the following conditions:

(1) The funds must be considered as Federal Part B funds for purposes of the calculations required by §§300.230(b) and (c).

(2) The funds may be used without regard to the requirements of §300.230(a).

(c) *Meeting other Part B requirements.* Except as provided in paragraph (b) of this section, all other requirements of Part B must be met by an LEA using Part B funds in accordance with paragraph (a) of this section, including ensuring that children with disabilities in schoolwide program schools—

(1) Receive services in accordance with a properly developed IEP; and

(2) Are afforded all of the rights and services guaranteed to children with disabilities under the IDEA.

(Authority: 20 U.S.C. 1413(a)(2)(D))

§ 300.235 Permissive use of funds.

(a) *General.* Subject to paragraph (b) of this section, funds provided to an LEA under Part B of the Act may be used for the following activities: