

improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

(Approved by the Office of Management and Budget under control number 1820-0030)

(Authority: 20 U.S.C. 1407)

Subpart C—Local Educational Agency Eligibility

§ 300.200 Condition of assistance.

An LEA is eligible for assistance under Part B of the Act for a fiscal year if the agency submits a plan that provides assurances to the SEA that the LEA meets each of the conditions in §§ 300.201 through 300.213.

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

§ 300.201 Consistency with State policies.

The LEA, in providing for the education of children with disabilities within its jurisdiction, must have in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §§ 300.101 through 300.163, and §§ 300.165 through 300.174.

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(Authority: 20 U.S.C. 1413(a)(1))

§ 300.202 Use of amounts.

(a) *General.* Amounts provided to the LEA under Part B of the Act—

(1) Must be expended in accordance with the applicable provisions of this part;

(2) Must be used only to pay the excess costs of providing special education and related services to children with disabilities, consistent with paragraph (b) of this section; and

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

(b) *Excess cost requirement*—(1) *General.* (i) The excess cost requirement prevents an LEA from using funds provided under Part B of the Act to pay for all of the costs directly attributable to the education of a child with a disability, subject to paragraph (b)(1)(ii) of this section.

(ii) The excess cost requirement does not prevent an LEA from using Part B funds to pay for all of the costs directly attributable to the education of a child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or State funds are available for non-disabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing the education and services for these children.

(2)(i) An LEA meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before funds under Part B of the Act are used.

(ii) The amount described in paragraph (b)(2)(i) of this section is determined in accordance with the definition of *excess costs* in § 300.16. That amount may not include capital outlay or debt service.

(3) If two or more LEAs jointly establish eligibility in accordance with § 300.223, the minimum average amount is the average of the combined minimum average amounts determined in accordance with the definition of *excess costs* in § 300.16 in those agencies for elementary or secondary school students, as the case may be.

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

§ 300.203 Maintenance of effort.

(a) *General.* Except as provided in §§ 300.204 and 300.205, funds provided to an LEA under Part B of the Act must 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) *Standard.* (1) Except as provided in paragraph (b)(2) of this section, the SEA must determine 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