



## North Dakota Department of Public Instruction

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### Individuals with Disabilities Education Act (IDEA) Part B Guidelines

The purpose of these general guidelines is to provide information about frequently asked questions relating to the administration of IDEA-B (CFDA #84.027) and Preschool (CFDA #84.173) funds.

***Supplement not supplant:*** Part B funds must be used to supplement state, local and other Federal funds used for providing services to children with disabilities.

***Maintenance of effort (MOE):*** There are two MOE standards the state education agency (SEA) must review: the audit standard and the application standard. (See eCFR § 300.203 <http://www.ecfr.gov>.) The audit standard for determining whether the MOE requirement has been met is that the LEA actually expends, in total or per capita, an equal or greater amount of local, or state and local, funds in each subsequent year. The application standard requires the SEA to verify the LEA's eligibility for Part B funds by ensuring the LEA is budgeting to meet MOE in the upcoming year. The MOE Worksheet enables the NDDPI to verify compliance with these two standards.

The IDEA 2004 allows for the following exceptions to maintenance of effort:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel or related services personnel;
- b. A decrease in the enrollment of children with disabilities;
- c. The termination of the obligation of an LEA, 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 state educational agency, because the child –
  - i. has left the jurisdiction of the LEA;
  - ii. has reached the age at which the obligation of the LEA to provide a free appropriate public education to the child has terminated;
  - iii. no longer needs such program of special education; or
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.

***Optional Flexibility (50% MOE Reduction):*** Under certain circumstances, in any fiscal year that an LEA's subgrant allocation exceeds the amount that the LEA received in the previous fiscal year, that LEA may reduce the level of local, or state and local, expenditures otherwise required by the LEA MOE requirements by up to 50 percent of the increase in the LEA's subgrant allocation. The LEA must spend the 'freed-up' local or, state and local, funds on activities that are authorized under the Elementary and Secondary Education Act (ESEA) of 1965. If an LEA also elects to use early intervening services, the amount of funds expended will count toward the maximum amount of expenditures that the LEA may reduce from local funds.

LEAs are not allowed to take advantage of the optional flexibility provision if:

- The LEA's determination is Needs Assistance, Needs Intervention, or Needs Substantial Intervention.
- The LEA has been required to use 15 percent of its IDEA Part B allocation because the LEA has been identified as having significant disproportionality.
- The SEA has taken responsibility for providing a free and appropriate education (FAPE) in the LEA, because the LEA is unable to establish and maintain programs that provide a FAPE.

**Excess Cost:** Amounts provided to an LEA under Part B of the Act may be used only to pay the excess costs of providing special education and related services to children with disabilities. The IDEA provides an example of how to calculate excess cost in Appendix A to Part 300-Excess Cost Calculation. The example is available on the NDDPI's website at:

[https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/append\\_A.pdf](https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/append_A.pdf)

The NDDPI currently calculates excess cost for each LEA to ensure they are meeting this requirement. If an LEA is found to be out of compliance, the NDDPI will notify the LEA to determine the next appropriate action.

***Parentally Placed Private School Children:***

A proportionate share of IDEA funds must be spent on parentally-placed private school students. A policy paper developed by the NDDPI on private students is available at:

<https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/Guidelines/Updated%20Private%20School%20Policy%20Paper%202018.pdf>

***Time and effort documentation:*** Any individual charged to a federal grant must keep time and effort documentation either through monthly personnel activity reports (PARS) or semi-annual certification. More information is available on the NDDPI's website at:

[https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/time\\_effort.pdf](https://www.nd.gov/dpi/sites/www/files/documents/SpecEd/time_effort.pdf)

***Cash Management:*** Federal law prohibits LEAs from receiving funds until they actually need the money to make a payment. Grantees must request funds from the NDDPI only when needed to meet their immediate cash needs.

***General Requirements:*** As a subrecipient of federal funds from the NDDPI, subrecipients agree to comply with the manual *General Requirements for Federal Programs* dated February 2004. This document, the *Guidelines -Individuals with Disabilities Education Act (IDEA) Part B* supersedes in the event of a conflict.

***Purposes for Which IDEA-B Funds May be Used:*** Once the special education unit has documented that it has met the excess cost, nonsupplanting, and maintenance of effort requirements, the Part B funds may be used for whatever special services and activities are necessary to meet the requirements of Part B of the Individuals with Disabilities Education Act. All budget items are subject to individual application review and must demonstrate that proposed expenditures are for services to students with disabilities.

***Submission IDEA-B/Preschool Application:*** Applications must be submitted through the Special Education Grants Management application system no later than August 31<sup>st</sup> of each year. The application project period for expending IDEA-B/Preschool funds is July 1<sup>st</sup> through June 30<sup>th</sup> of each year. The IDEA-B application must be printed out and approved at a school board meeting. The General Approval Statement with the Board President's signature must be submitted to the NDDPI.

***IDEA-B/Preschool Application Cost Code Categories:***

**110 Professional Salaries** – Salaries for professional personnel including: special education teachers, substitute teachers, psychologists, etc.

**120 Auxiliary Salaries** – Salaries for auxiliary personnel including: aides, paraprofessionals, secretaries, etc.

**200 Employee Benefits** – Payments that are not part of gross salary made on behalf of employees; i.e., insurance, Social Security, retirement, unemployment compensation, Workers Compensation, annual leave, sick leave.

**300 Purchased Professional & Technical Services** – Purchased services for which the unit has a contract on file including: speaker fees, auditors, consultants, etc.

**400 Purchased Property Services** – Repair of Equipment, etc.

**510 Student Transportation** – Transportation related to the needs of students with disabilities.

**580 Staff Travel** – Expenses for transportation including mileage, meals, lodging, mileage, airfare, taxi fares, etc.

**600 Supplies and Materials** – Expendable items, equipment that cost less than \$5,000, books, school supplies, computer software programs, etc.

**730 Equipment** – Equipment that costs more than \$5,000 per item.

**800 Dues & Memberships** – Dues and memberships.

***Application Review:*** IDEA-B/Preschool applications are reviewed by the Special Education Director and Grants Manager. Specifically, the review ensures that:

- services described are allowable costs,
- funds will only be used to serve students with disabilities ages 3-21 (IDEA-B) and ages 3-5 (Preschool), or used for other allowable expenditures in accordance with the IDEA regulations,
- application is complete, including required dates, assurances and it meets non public participation requirements.

***Request for Funds:*** Request for funds will not be processed until the respective application has been approved, school board approval has been received and the MOE Worksheet has been approved. Requests for funds must be submitted through the Special Education Grants Management application system. Units are encouraged to submit requests for funds monthly or quarterly.

***Project and Budget Revisions:*** A budget revision is required when:

- There is a variance in any major category of expenditure that exceeds 10% or \$10,000, **or**
- A transfer of funds is to be made to a previously unbudgeted category.

All budget revisions must be completed through the Special Education Grants Management application system. Budget revision requests must be submitted before obligations reflecting the change are made. If no amount was indicated in a line item in the approved budget, no transfers to that line item can be made without approval from the Department of Public Instruction.

***Submission IDEA-B/Preschool Final Report:*** Final reports must be submitted through the Special Education Grants Management application system no later than July 15<sup>th</sup> of each year. The final request for funds **will not** be processed until the final report has been submitted.

***Disapprovals and Procedures for Appeal:*** It is the policy of the NDDPI to assure that every effort is made to negotiate approval of appropriate and effective programs for students with disabilities (Section XXI of the State Eligibility Requirements Document). Final disapproval action will not be

made by the NDDPI on any application submitted by a LEA without first affording the LEA a review after reasonable notice has been given and an opportunity to present information and data on the appropriateness of the proposed plan. If the NDDPI then determines that the LEA has failed to comply with any requirements in the application, the NDDPI, after giving notice to the LEA, will make no further payments to the LEA until the Department is satisfied that there is no longer any failure to comply with the requirements. The LEA may request a hearing that will follow the guidelines set forth under section 76.401 of the Education Department General Administrator Regulations (EDGAR).

***Reallocation of Local Education Agency Funds:*** The NDDPI will reallocate IDEA funds when it is determined that the LEA will be unable to use the allocated funds during the time of their availability. An LEA that has not applied for a portion or all of its allocation by the end of the fifteenth month of its availability must notify the Department of all the funds that will not be used within the available time period. If the LEA fails to so notify the Department within the required time period, it will forfeit those funds for which an application is not on file with the NDDPI. Any funds reported not to be used or for which no application has been submitted may be reallocated to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas served by those other LEAs.

## **FAQ's – Allowable Use of Funds**

### **Can IDEA funds be used towards the purchase of a vehicle?**

Transportation as required to assist a child with a disability to benefit from special education is a related service; therefore, the purchase of a vehicle used exclusively for student transportation is an IDEA-B eligible expenditure. LEAs need to obtain prior approval from NDDDDPI for use of IDEA funds in this manner.

### **Can IDEA funds be used to purchase computers for students?**

Computers for students are allowable when related to the unique needs of a child with a disability. It may be provided in a regular education class or other education-related setting, even if one or more nondisabled children benefit. Note: since the costs associated with computer networks are provided district-wide they are not allowable to IDEA.

### **Can IDEA funds be used to purchase computers for special education staff?**

Computers for staff who work 100% for special education are allowable.

**Can IDEA funds be used for equipment purchases?**

Equipment is allowable when it relates to the needs of a child with a disability in accordance with the IEP of the child. It may be provided in a regular classroom or other education-related setting, even if one or more nondisabled children benefit.

**Can IDEA funds be used for maintenance of special education equipment?**

If the equipment is used 100% for special education, the costs of maintaining the equipment may be charged to IDEA.

**Can IDEA funds be used to purchase office equipment with IDEA funds?**

Office equipment used 100% for special education is allowed.

**Can IDEA funds be used to purchase playground equipment with IDEA funds?**

The additional costs of making a playground accessible to children with disabilities are allowed. Additional equipment or the additional cost of acquiring accessible equipment is allowed. The equipment may be used in a regular education setting, even if one or more nondisabled children benefit.

**Can IDEA funds be used to purchase furniture for students?**

LEAs may purchase furniture that is adapted to the needs of children with disabilities, such as wheelchair accessible desks and adjustable tables and workstations. Furniture that is not adapted to the needs of a child with a disability is not allowed.

**Can IDEA funds be used to pay the salaries of current special education positions funded with general funds?**

The LEA must maintain effort each year, however, if not hiring these positions through general funds does not affect MOE, then federal IDEA funds may pick up the positions without a supplanting issue (see *MOE* and *Supplement not Supplant* guidance on page 1).

**Can IDEA funds be used towards a gifted/talented program?**

No, IDEA funds are not to be used for gifted education. Also, do not include state/local gifted/talented expenditures in the MOE Worksheet.

**Can IDEA funds be used towards Extended School Year (ESY)?**

Yes.

**Can IDEA funds be used to pay stipends for teachers (both regular and special education) to attend professional development?**

Professional development, including stipends for teachers, related specifically to special education is allowable.

## **FAQ's – Parentally-Placed Private Students**

### **Can LEAs provide IDEA proportionate share funds for parentally-placed private students directly to the private school?**

No. IDEA 04 specifies that funds that are available to serve students voluntarily placed in private school shall be controlled and administered by a public agency.

### **Can LEAs purchase equipment or supplies for the private school with IDEA proportionate share funds?**

Yes. However, the public agency is responsible to ensure that the equipment and supplies placed in the private school is used only for Part B purposes and can be removed from the private school without remodeling the private school facility. The public agency must remove equipment and supplies from a private school if the equipment and supplies are no longer needed for Part B purposes; or removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.

### **Can LEAs pay for the services of an employee of a private school with IDEA proportionate share funds?**

LEAs may use federal funds to pay for the services of an employee of a private school *only if* the employee's services are outside of the regular hours of duty at the private school and the employee is under the supervision and control of the public agency.

Note: please see the NDDPI's policy paper, *IDEA 2004 Students with Disabilities who Attend Private Schools*, for more information on private student requirements at

<https://www.nd.gov/dpi/sites/www/files/documents/SpEd/Guidelines/Updated%20Private%20School%20Policy%20Paper%202018.pdf>