

IDEA Federal Grant Conditions

November 15, 2016

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§608 STATE ADMINISTRATION.

(a) Rulemaking.--Each State that receives funds under this title shall--

(1) ensure that any State rules, regulations, and policies relating to this title conform to the purposes of this title;

(2) identify in writing to local educational agencies located in the State and the Secretary any such rule, regulation, or policy as a State-imposed requirement that is not required by this title and Federal regulations; and

(3) minimize the number of rules, regulations, and policies to which the local educational agencies and schools located in the State are subject under this title.

(b) Support and Facilitation.--State rules, regulations, and policies under this title shall support and facilitate local educational agency and school-level system improvement designed to enable children with disabilities to meet the challenging State student academic achievement standards.

SEA Responsibility for General Supervision (IDEA §612(a)(11))

The SEA is responsible for ensuring that:

1. The requirements of IDEA Part B are met;
2. All educational programs for children with disabilities in the State, including all such programs administered by any other State agency or local agency--
3. are under the general supervision of individuals in the State who are responsible for educational programs for children with disabilities; and
4. meet the educational standards of the SEA.

Part B State Monitoring
(34 CFR §300.600)

The State must:

1. Monitor the implementation of IDEA Part B.;
2. Make determinations annually about the performance of each LEA using the categories in § 300.603(b)(1);
3. Enforce IDEA Part B, consistent with §300.604, using appropriate enforcement mechanisms; and
4. Report annually on the performance of the State and of each LEA under IDEA Part B.

Primary Focus of Part B Monitoring
(34 CFR §300.600)

1. The primary focus of the State's Part B monitoring activities must be on:
2. Improving educational results and functional outcomes for all children with disabilities; and
3. Ensuring that public agencies meet the program requirements under Part B of the IDEA, with a particular emphasis on those requirements that are most closely related to improving educational results for children with disabilities.

IDEA Part B Subgrants
(34 CFR §300.200)

1. States that receive a section 611 or 619 grant must distribute any funds not reserved for State-level activities to all eligible LEAs in the State.
2. An LEA is eligible for assistance under IDEA Part B 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.

Conditions of eligibility for IDEA Part B Subgrant (34 CFR §300.201)

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 as required in IDEA §612.

Selected Conditions of LEA Eligibility

1. Use of funds. (34 CFR §300.202)
2. Excess costs. (34 CFR §300.202)
3. Maintenance of effort. (34 CFR §§300.203 through 300.205)
4. Use of appropriate/adequately trained staff. (34 CFR §300.207)
5. Treatment of charter schools. (34 CFR §300.209)
6. Providing SEA with information necessary to enable the SEA to carry out its duties under IDEA Part B. (34 CFR §300.211)

**Educational Service Agencies
(34 CFR § 300.12)**

An ESA (Educational Service Agency) is:

1. A regional public multiservice agency that is authorized by State law to develop, manage, and provide services or programs to LEAs, and that is recognized as an administrative agency for purposes of the provision of special education and related services provided within public elementary schools and secondary schools of the State;
2. Includes any other public institution or agency having administrative control and direction over a public elementary school or secondary school; and
3. Includes entities that meet the definition of intermediate educational unit (IEU) in section 602(23) of the IDEA as in effect prior to June 4, 1997.
4. The term LEA includes an educational service agency, as defined in 34 CFR §300.12(b)
5. An SEA may only provide Part B subgrants to eligible LEAs. In order to receive a Part B subgrant, an ESA, like any LEA, must establish eligibility under IDEA section 613.
6. Because Michigan provides Part B subgrants to ISDs, the LEA eligibility requirements apply to the ISD.
7. The LEA that establishes eligibility under IDEA section 613 and receives a Part B subgrant is the LEA responsible for ensuring Part B requirements are met. Therefore, ISDs in Michigan are the LEA that has established eligibility, receives the Part B subgrant for their ISD and LEAs/PSAs within their jurisdiction and are responsible for ensuring Part B requirements are met.

**Additional Requirements for ESAs
(IDEA §613(e)(4))**

1. If an educational service agency is required by State law to carry out programs under Part B, the joint responsibilities given to local educational agencies under this subsection shall:
2. Not apply to the administration and disbursement of any payments received by that educational service agency
3. Be carried out only by that educational service agency
4. Additional requirement. Notwithstanding any other provision of this subsection, an educational service agency shall provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5).

Michigan's ISDs are LEAs

Historically, this has not been understood by all stakeholders in Michigan.

OSEP's Fiscal Monitoring Letter has made several findings directly related to Michigan's ISDs:

Examples include proportionate share calculations and adjustment to local effort.

Uniform Guidance – 2 CFR Part 200, §200.1 Definitions

§ 200.22 Contract

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this Part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward (see § 200.92 Subaward).

§ 200.23 Contractor

Contractor means an entity that receives a contract as defined in § 200.22 Contract.

§ 200.51 Grant Agreement

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101 (3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;
- (b) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) Does not include an agreement that provides only:
 - (1) Direct United States Government cash assistance to an individual;
 - (2) A subsidy;
 - (3) A loan;
 - (4) A loan guarantee; or
 - (5) Insurance

§ 200.69 Non-Federal entity

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

§ 200.74 Pass-through entity

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

§ 200.86 Recipient

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. See also § 200.69 Non-Federal entity

§ 200.92 Subaward

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

§ 200.93 Subrecipient

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

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