

NCSI's quick reference guides are intended to assist states and interested parties in better understanding the basics of fiscal requirements stipulated in the Individuals with Disabilities Education Act (IDEA), the Education Department General Administrative Regulations (EDGAR), and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly known as the Uniform Grant Guidance or Uniform Guidance). This informal guidance does not represent an interpretation of IDEA by the Office of Special Education Programs (OSEP) or the U.S. Department of Education.

What are excess costs under IDEA?

IDEA Part B funds may only be used by a local educational agency (LEA) for expenses above and beyond what the LEA spends on average each year for an elementary or secondary school student. These additional expenses are known as "excess costs."

IDEA specifically requires that an LEA use its IDEA funds for the costs of special education and related services that go beyond the average annual per pupil expenditure (APPE) in an LEA during a fiscal year (see sidebar). This ensures that the LEA spends at least as much from state, local, and other federal funds on children with disabilities as it does on children without disabilities.

How does an LEA meet the excess cost requirements?

An LEA must use IDEA funds to pay only the excess costs of providing special education and related services for children with disabilities in a given fiscal year.

The excess costs test is not a year-to-year comparison. Instead, it is a test, over the course of a single year, to determine whether the LEA spent a minimum average amount per student for the education of elementary (or secondary) school children with disabilities before using IDEA funds to pay the excess costs of providing special education and related services.

§ 300.16 EXCESS COSTS.

Excess costs means those costs that are in excess of the average annual per-student expenditure in an LEA during the preceding school year for an elementary school or secondary school student, as may be appropriate, and that must be computed after deducting —

- a. Amounts received —
 1. Under Part B of the Act;
 2. Under Part A of title I of the ESEA; and
 3. Under Part A of title III of the ESEA and;
- b. Any State or local funds expended for programs that would qualify for assistance under any of the parts described in paragraph (a) of this section, but excluding any amounts for capital outlay or debt service. (See Appendix A to Part 300 for an example of how excess costs must be calculated.)

I What is the excess costs test?

Similar to LEA maintenance of effort, the excess cost requirement does not apply to each individual expense an LEA charges to IDEA but must be met in aggregate by the LEA annually. Each LEA meets the excess cost requirement if it has spent at least a minimum average amount for the costs of educating students with disabilities before IDEA Part B funds are used. That minimum amount is determined using a step-by-step method defined in Appendix A to Part 300 and described in this document.

I What is the method for calculating whether an LEA has met the requirement?

Within each state fiscal year (e.g., during FY 2022–23), an LEA must spend at least the minimum average amount in non-IDEA funds on the education of children with disabilities that it spent on all students.

To determine whether an LEA meets the excess costs test

1. Use Appendix A of the IDEA regulations to determine the expenditures made in the FY (e.g., 2022–23) and calculate the average amount spent on education for every elementary and secondary child (APPE),¹ calculated separately.
2. Determine the minimum amount to be spent on the education of children with disabilities by multiplying that amount (APPE from item (1)) by the child count of children with disabilities in the same school year (e.g., 2022–23).
3. Determine the amount that was actually expended during the FY (e.g., 2022–23) in non-IDEA funds on the education of children with disabilities.

If (3) is greater than or equal to (2) at both the elementary and secondary levels, (calculated separately) the LEA met the excess cost requirement for the FY (e.g., 2022–23).

§ 300.202(B) USE OF AMOUNTS.

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 nondisabled children of these ages. However, the LEA must comply with the nonsupplanting and other requirements of this part in providing 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.*

¹ Average per pupil expenditure (APPE).

I Which methodology and year must be used to test compliance with excess costs?

The methodology for testing excess costs is provided in Appendix A to the Part B Regulations as the recommended process and calls for a comparison within one year. That means expenditure, enrollment, and child count data used to calculate APPE and the amount the LEA must spend to meet the excess cost requirement should all be from the same year. While an amount may be calculated in an earlier year to set a target, the excess costs test should be conducted using data from the same year.

I Which funds are included when establishing the minimum APPE threshold for an LEA?

When calculating excess costs, an LEA must compute the minimum APPE separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools.

The following funds are used to establish the APPE minimum threshold, separately for elementary and secondary:

- All federal funds expended for education-related purposes (e.g., Quality Teacher grants, Technology Education grants, Impact Aid funds)
- All state and local funds expended for education-related purposes

The following funds are **not** included when establishing the APPE minimum threshold:

- Federal funds received for IDEA Part B and Titles IA, IIIA, and IIIB of the Elementary and Secondary Education Act (ESEA), reauthorized by the Every Student Succeeds Act (ESSA)
- State and local funds used for special education for children with disabilities and Titles IA, IIIA, and IIIB of ESEA as amended by ESSA
- Capital outlay and debt services

I What are the consequences to an LEA of not meeting the requirement and what is the state's responsibility when an LEA does not meet the requirement?

If an LEA fails to meet the excess cost requirement, it could result in

- a finding of noncompliance and required corrective action,
- ineligibility for an LEA to receive an IDEA subgrant, or
- an amount of IDEA expenditures considered unallowable and subject to section 452 of the General Education Provisions Act (20 U.S.C. 1234a).

The state educational agency (SEA), as the recipient of the grant award from the federal government, would be responsible for any repayment to the U.S. Department of Education. The SEA has discretion to collect the amount it is required to repay from the LEA.

I Are there any exceptions or adjustments to the excess cost requirement?

Yes. While the excess cost requirement generally prevents an LEA from using IDEA funds to pay for all of the costs directly attributable to the education of a child with a disability, there is one exception. An LEA may use IDEA 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. The LEA must still comply with nonsupplanting and other requirements of Part B in providing education and services for these children. (See 34 CFR §300.202(b)(ii).)

I What data related to this requirement should an SEA collect?

An SEA should track, or require its LEAs to track, how the APPE is established (monitoring to ensure LEAs are properly calculating APPE); the cost of special education and related services; and the amount of non-IDEA funds expended for the education of children with disabilities at the elementary and secondary levels, identified separately.

| Questions for states to consider

DOES YOUR STATE HAVE PROCEDURES DESCRIBING HOW IT ENSURES LEAS MEET EXCESS COST REQUIREMENTS?

Establishing a clear process and standardized documentation will enable both LEA and SEA staff to anticipate data and reporting needs to establish compliance with the excess cost requirement. Documentation should include roles and responsibilities, established timelines, a standard calculation methodology to calculate the APPE and demonstrate whether an LEA met requirements, and which expenditures to include in the calculation. The LEA and SEA should maintain relevant documentation to demonstrate excess costs are properly calculated.

DOES YOUR STATE HAVE LEAS THAT CONSOLIDATE IDEA FUNDS IN SCHOOLWIDE PROGRAMS?

While a schoolwide program should not affect an LEA's excess costs calculation, if the combined funds in a schoolwide program are not fully expended, the LEA will need to determine whether or how much of the funds could have been expended as part of the excess costs.

| Resources

Appendix A to the IDEA Part B Regulations. <https://www.ecfr.gov/current/title-34/subtitle-B/chapter-III/part-300/appendix-Appendix%20A%20to%20Part%20300>

OSEP Letter to Kennedy. <https://sites.ed.gov/idea/files/Fiscal-Kennedy-Excess-Cost-MOE-Letter.pdf>

OSEP Letter to Plagata-Neubauer (2008). <https://sites.ed.gov/idea/files/idea/policy/speced/guid/idea/letters/2008-2/plagataneubauer040808fiscal2q2008.pdf>

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