**§300.203 Maintenance of effort – Comparison of current and proposed regulations**

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| **CURRENT REGULATION** | **PROPOSED REGULATION (78 Fed. Reg. 57324-57335)**  |
| (a)General. Except as provided in Sec. 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 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 (b)(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 the most recent fiscal year for which information is available and the standard in paragraph (b)(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) )  |  (a) ***Compliance standard****.* (1) 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 reducethe level of expenditures for the education of children with disabilitiesmade by the LEA from local funds below the level of those expendituresfor the preceding fiscal year.(2) An LEA meets this standard if it does not—(i) Reduce the level of expenditures for the education of children with disabilities made by the LEA from State and local funds, either in total or per capita, below the level of thoseexpenditures for the preceding fiscal year, except as provided in §§ 300.204and 300.205;(ii) Reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, either in total or per capita, below the level of those expendituresfor the most recent fiscal year for which the LEA met the MOE compliance standard based on local funds only, even if the LEA also met the MOE compliance standard based on State and local funds, except as provided in §§ 300.204 and 300.205; or(iii) Reduce the level of expenditures for the education of children with disabilities made by the LEA from local funds, either in total or per capita, below the level of those expendituresfor the preceding fiscal year if the LEA has not previously met the MOE compliance standard based on local funds only, except as provided in §§ 300.204 and 300.205.(3) 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 may not be considered indetermining whether an LEA meets the standard in this paragraph.(b) ***Eligibility 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 theeducation of children with disabilities, at least the same total or per capitaamount from either of the following sources as the LEA spent for that purpose from the same source for the most recent fiscal 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 (b)(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 thatpurpose in the most recent fiscal year for which information is available and the LEA met the MOE compliance standard based on local funds only, even if the LEA also met the MOEcompliance standard based on State and local funds.(3) An LEA that relies on paragraph (b)(1)(i) of this section for any fiscal year and has not previously met the MOE compliance standard based on local funds only 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 from local funds for that purpose in the most recent fiscal year for which information is available.(c) ***Subsequent years****.* If, for any fiscal year an LEA fails to meet the requirement of paragraph (a) of this section, the level of expenditures required of the LEA for any fiscal year beginning on or after July 1, 2014 under paragraphs (a) and (b) of this section the amount that would have been required in the absence of that failure and not the LEA’s reduced level of expenditures.(d) ***Consequence of failure to maintain effort****.* If an LEA fails tomaintain its level of expenditures forthe education of children withdisabilities in accordance withparagraph (a) of this section, the SEA isliable in a recovery action under 20U.S.C. 1234a to return to theDepartment, using non-Federal funds,an amount equal to the amount bywhich the LEA failed to maintain itslevel of expenditures in accordancewith paragraph (a) of this section.**Authority:** 20 U.S.C. 1221e–3, 1406, 1411–1419, unless otherwise noted. |

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