****

|  |
| --- |
| **IDEA Finance Considerations for Braiding Funding to Promote Preschool Inclusion**  **Prepared by ECTA** [**http://ectacenter.org/**](http://ectacenter.org/) **with guidance from OSEP** [**http://idea.ed.gov/explore/home**](http://idea.ed.gov/explore/home)  This document features selected citations for consideration when braiding funding to promote preschool inclusion.  It is not a full listing of all funding/finance regulations. Additional support is available from the OSEP/MSIP State Contacts: <http://www2.ed.gov/policy/speced/guid/idea/monitor/state-contact-list.html>  **Sources consulted:**  Electronic Federal Register; TITLE 34—Education; Subtitle B--REGULATIONS OF THE OFFICES OF THE DEPARTMENT OF EDUCATION; CHAPTER III--OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES, DEPARTMENT OF EDUCATION   * [PART 300--ASSISTANCE TO STATES FOR THE EDUCATION OF CHILDREN WITH DISABILITIES](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=cf8bd68274b987f96cdeb977c47c9862&rgn=div5&view=text&node=34:2.1.1.1.1&idno=34) * [PART 303--EARLY INTERVENTION PROGRAM FOR INFANTS AND TODDLERS WITH DISABILITIES](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=703fc04e2a7d2c4791917d162f357793&rgn=div5&view=text&node=34:2.1.1.1.2&idno=34)   EDGAR: Education Department General Administrative Regulations   * <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.pdf>   OMB: Office of Budget and Management Circular   * <http://www.whitehouse.gov/omb/circulars_default> |
| Best supports "**braided funding**" and the conditions under which it is allowable to combine resources. |
| **Use of Funds by States and Subgrantees**  **EDGAR**  PART 76—STATE-ADMINISTERED PROGRAMS  **§ 76.760 More than one program may assist a single activity.**  A State or a subgrantee may use funds under more than one program to support different parts of the same project if the State or subgrantee meets the following conditions:  (a) The State or subgrantee complies with the requirements of each program with respect to the part of the project assisted with funds under that program.  (b) The State or subgrantee has an accounting system that permits identification of the costs paid for under each program.  (Authority: 20 U.S.C. 1221e–3, 3474, and 6511(a))  **§ 76.761 Federal funds may pay 100 percent of cost.**  A State or a subgrantee may use program funds to pay up to 100 percent of the cost of a project if:  (a) The State or subgrantee is not required to match the funds; and  (b) The project can be assisted under the authorizing statute and implementing regulations for the  program.  (Authority: 20 U.S.C. 1221e–3, 3474, and 6511(a))  <http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.pdf> |
| **Maintenance of Effort (MOE):** LEAs must spend the same or more local money each subsequent year for the education of children with disabilities. IDEA includes separate requirements for the maintenance of effort for SEAs and LEAs. It is important to be aware of the requirements at both levels. For Part B, States are responsible to ensure that LEAs meet the local MOE requirements below. |
| **§ 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 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.  (Approved by the Office of Management and Budget under control number 1820–0600)  (Authority: 20 U.S.C. 1413(a)(2)(A))  **§ 300.204   Exception to maintenance of effort.**  Notwithstanding the restriction in §300.203(a), an LEA may reduce the level of expenditures by the LEA under Part B of the Act below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:  (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.  (b) A decrease in the enrollment of children with disabilities.  (c) The termination of the obligation of the agency, 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 SEA, because the child—  (1) Has left the jurisdiction of the agency;  (2) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or  (3) No longer needs the program of special education.  (d) The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.  (e) The assumption of cost by the high cost fund operated by the SEA under §300.704(c).  (Approved by the Office of Management and Budget under control number 1820–0600)  (Authority: 20 U.S.C. 1413(a)(2)(B))  **§ 300.205   Adjustment to local fiscal efforts in certain fiscal years.**  (a) *Amounts in excess.* Notwithstanding §300.202(a)(2) and (b) and §300.203(a), and except as provided in paragraph (d) of this section and §300.230(e)(2), for any fiscal year for which the allocation received by an LEA under §300.705 exceeds the amount the LEA received for the previous fiscal year, the LEA may reduce the level of expenditures otherwise required by §300.203(a) by not more than 50 percent of the amount of that excess.  (b) *Use of amounts to carry out activities under ESEA.* If an LEA exercises the authority under paragraph (a) of this section, the LEA must use an amount of local funds equal to the reduction in expenditures under paragraph (a) of this section to carry out activities that could be supported with funds under the ESEA regardless of whether the LEA is using funds under the ESEA for those activities.  (c) *State prohibition.* Notwithstanding paragraph (a) of this section, if an SEA determines that an LEA is unable to establish and maintain programs of FAPE that meet the requirements of section 613(a) of the Act and this part or the SEA has taken action against the LEA under section 616 of the Act and subpart F of these regulations, the SEA must prohibit the LEA from reducing the level of expenditures under paragraph (a) of this section for that fiscal year.  (d) *Special rule.* The amount of funds expended by an LEA for early intervening services under §300.226 shall count toward the maximum amount of expenditures that the LEA may reduce under paragraph (a) of this section.  (Approved by the Office of Management and Budget under control number 1820–0600)  (Authority: 20 U.S.C. 1413(a)(2)(C)) |
| **State Maintenance of Financial Support**:  States have specific requirements related to MOE.  Supplement/not supplant States must expend monies for the purpose they are intended, and not to take the place of other designated funds. There are no particular cost requirements for IDEA funds, and it is permissible to pay for something out of Federal funds one year and not the next, so long as effort is maintained. However,States and locals will need to be sure that they do not supplant funds in other Federal programs that do have those particular cost requirements. This is something that should be discussed when braiding funding, but it should be pointed out that there is flexibility with IDEA funds. At the  State level, the key is to ensure the maintenance of total financial support. 300.202 (a) (3) [another great reference on this topic is OSEP’s Memo 10-05] |
| **§ 300.163   Maintenance of State financial support.**  (a) *General.* A State must not reduce the amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year.  (b) *Reduction of funds for failure to maintain support.* The Secretary reduces the allocation of funds under section 611 of the Act for any fiscal year following the fiscal year in which the State fails to comply with the requirement of paragraph (a) of this section by the same amount by which the State fails to meet the requirement.  (c) *Waivers for exceptional or uncontrollable circumstances.* The Secretary may waive the requirement of paragraph (a) of this section for a State, for one fiscal year at a time, if the Secretary determines that—  (1) Granting a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State; or  (2) The State meets the standard in §300.164 for a waiver of the requirement to supplement, and not to supplant, funds received under Part B of the Act.  (d) *Subsequent years.* If, for any fiscal year, a State fails to meet the requirement of paragraph (a) of this section, including any year for which the State is granted a waiver under paragraph (c) of this section, the financial support required of the State in future years under paragraph (a) of this section shall be the amount that would have been required in the absence of that failure and not the reduced level of the State's support.  (Approved by the Office of Management and Budget under control number 1820–0030)  (Authority: 20 U.S.C. 1412(a)(18)) |
| **Excess Cost**: Excess costs are the costs in excess of the LEA average annual general education per student expenditure for the previous year for elementary and secondary students. States must determine how Section 619 and Preschool are defined by State statute. The definition of ‘elementary school’ has bearing on use of funds and the applicability of the requirements below. The excess costs requirements apply to Section 619 only if preschool is included in the State definition of elementary education. |
| § 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 nondisabled 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.  (Approved by the Office of Management and Budget under control number 1820–0600)  (Authority: 20 U.S.C. 1413(a)(2)(A)) § 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 Parts A and B 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.)  (Authority: 20 U.S.C. 1401(8))  Related Regulation: § 300.13   Elementary school. *Elementary school* means a nonprofit institutional day or residential school, including a public elementary charter school, that provides elementary education, as determined under State law.  (Authority: 20 U.S.C. 1401(6)) |
| **Part B Prohibition against Commingling of Funds**: Specific accounting for the use of funds is required**.** |
| **§ 300.162 Supplementation of State, local, and other Federal funds.**  (a) *Expenditures.* Funds paid to a State under this part must be expended in accordance with all the provisions of this part.  (b) *Prohibition against commingling.*  (1) Funds paid to a State under this part must not be commingled with State funds.  (2) The requirement in paragraph (b)(1) of this section is satisfied by the use of a separate accounting system that includes an audit trail of the expenditure of funds paid to a State under this part. Separate bank accounts are not required.  (See 34 CFR 76.702 (Fiscal control and fund accounting procedures).) |
| **Part C Commingling of Funds:** For Part C- the prohibition against commingling and supplanting in 303.225 are important; as are the EDGAR requirements in 76.760, and the requirements for payor of last resort in 303.510**.** The payor of last resort is the entity who pays after all other primary sources have been billed.When funding is braided, there can be the tendency to treat all funding equally, but the payor of last resort requirement remains and the State/local system should continue to charge other payor sources before accessing Part C funds. |
| § 303.225   Prohibition against supplanting; indirect costs.(a) Each application must provide satisfactory assurance that the Federal funds made available under section 643 of the Act to the State:(1) Will not be commingled with State funds; and(2) Will be used so as to supplement the level of State and local funds expended for infants and toddlers with disabilities and their families and in no case to supplant those State and local funds.(b) To meet the requirement in paragraph (a) of this section, the total amount of State and local funds budgeted for expenditures in the current fiscal year for early intervention services for children eligible under this part and their families must be at least equal to the total amount of State and local funds actually expended for early intervention services for these children and their families in the most recent preceding fiscal year for which the information is available. Allowance may be made for—(1) A decrease in the number of infants and toddlers who are eligible to receive early intervention services under this part; and(2) Unusually large amounts of funds expended for such long-term purposes as the acquisition of equipment and the construction of facilities.(c) Requirement regarding indirect costs.(1) Except as provided in paragraph (c)(2) of this section, a lead agency under this part may not charge indirect costs to its part C grant.(2) If approved by the lead agency’s cognizant Federal agency or by the Secretary, the lead agency must charge indirect costs through either—(i) A restricted indirect cost rate that meets the requirements in 34 CFR 76.560 through 76.569; or(ii) A cost allocation plan that meets the non-supplanting requirements in paragraph (b) of this section and 34 CFR part 76 of EDGAR.(3) In charging indirect costs under paragraph (c)(2)(i) and (c)(2)(ii) of this section, the lead agency may not charge rent, occupancy, or space maintenance costs directly to the part C grant, unless those costs are specifically approved in advance by the Secretary.(Approved by Office of Management and Budget under control number 1820–0550)(Authority: 20 U.S.C. 1437(b)(5))Note: As used in this part, commingle means depositing or recording funds in a general account without the ability to identify each specific source of funds for any expenditure. Under that general definition, it is clear that commingling is prohibited. However, to the extent that the funds from each of a series of Federal, State, local, and private funding sources can be identified—with a clear audit trail for each source—it is appropriate for those funds to be consolidated for carrying out a common purpose. In fact, a State may find it essential to set out a funding plan that incorporates, and accounts for, all sources of funds that can be targeted on a given activity or function related to the State's early intervention program. Thus, the assurance in this section is satisfied by the use of an accounting system that includes an “audit trail” of the expenditure of funds awarded under this part. Separate bank accounts are not required.§ 303.510   Payor of last resort. The statement must include an assurance satisfactory to the Secretary that the State will comply with the provisions in §303.527, including the requirements on—  (a) Nonsubstitution of funds,  (b) Interim payments—reimbursement; and  (c) Non-reduction of other benefits.  (Approved by the Office of Management and Budget under control number 1820–0550)  (Authority: 20 U.S.C. 1435(a)(10)(B), 1437(a)(2), 1440(a), 1440(c)) |
| For both B and C**, time distribution reporting requirements** in the OMB Circular A-87 are very important. These require that employees document their time and effort when working on multiple Federal or State and Federal grants. When funding sources are combined, and personnel work on a number of different cost objectives, there must be a specific accounting of time spent on the related cost objectives (see commingling of funds). The lack of a reporting system is an issue that is frequently cited by auditors. When employees work on a single Federal award, a bi-annual certification process may be used, and no other documentation is needed. |
| **OMB CIRCULAR A-87 (REVISED 05/10/04)**  **See September 2012 guidance on** **two actions the Department of Education has taken to ease the burden of time-and-effort reporting. :** [**http://www2.ed.gov/policy/fund/guid/gposbul/time-and-effort-reporting.html**](http://www2.ed.gov/policy/fund/guid/gposbul/time-and-effort-reporting.html)  8 a. General. Compensation for personnel services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to wages, salaries, and fringe benefits. The costs of such compensation are allowable to the extent that they satisfy the specific requirements of this and other appendices under 2 CFR Part 225, and that the total compensation for individual employees: …  Item 8 (h)  Support of salaries and wages. These standards regarding time distribution are in addition to the standards for payroll documentation.  (1) Charges to Federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit.  (2) No further documentation is required for the salaries and wages of employees who work in a single indirect cost activity.  (3) Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that theemployees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first-hand knowledge of the work performed by the employee.  (4) Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation which meets the standards in subsection (5) unless a statistical sampling system (see subsection (6)) or other substitute system has been approved by the cognizant Federal agency. Such documentary support will be required where employees work on:  (a) More than one Federal award,  (b) A Federal award and a non-Federal award,  (c) An indirect cost activity and a direct cost activity,  (d) Two or more indirect activities which are allocated using different allocation bases, or  (e) An unallowable activity and a direct or indirect cost activity.  (5) Personnel activity reports or equivalent documentation must meet the following standards:  (a) They must reflect an after-the-fact distribution of the actual activity of each employee,  (b) They must account for the total activity for which each employee is compensated,  (c) They must be prepared at least monthly and must coincide with one or more pay periods, and  (d) They must be signed by the employee.  (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards but may be used for interim accounting purposes, provided that:  (i) The governmental unit's system for establishing the estimates produces reasonable approximations of the activity actually performed;  (ii) At least quarterly, comparisons of actual costs to budgeted distributions based on the monthly activity reports are made. Costs charged to Federal awards to reflect adjustments made as a result of the activity actually performed may be recorded annually if the quarterly comparisons show the differences between budgeted and actual costs are less than ten percent; and  (iii) The budget estimates or other distribution percentages are revised at least quarterly, if necessary, to reflect changed circumstances.  (6) Substitute systems for allocating salaries and wages to Federal awards may be used in place of activity reports. These systems are subject to approval if required by the cognizant agency.  Such systems may include, but are not limited to, random moment sampling, case counts, or other quantifiable measures of employee effort.  (a) Substitute systems which use sampling methods (primarily for Temporary Assistance to Needy Families (TANF), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:  (i) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in subsection (c);  (ii) The entire time period involved must be covered by the sample; and  (iii) The results must be statistically valid and applied to the period being sampled.  (b) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.  (c) Less than full compliance with the statistical sampling standards noted in subsection (a) may be accepted by the cognizant agency if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the governmental unit will result in lower costs to Federal awards than a system which complies with the standards.  (7) Salaries and wages of employees used in meeting cost sharing or matching requirements of Federal awards must be supported in the same manner as those claimed as allowable costs under Federal awards. |