

being served by the LEA, among the LEA and affected LEAs based on the relative numbers of children with disabilities aged three through five years currently provided special education by each of the LEAs. This requirement takes effect with funds that become available on July 1, 2009.

(c) *Allocation of remaining funds.* After making allocations under paragraph (a) of this section, the State must—

(1) Allocate 85 percent of any remaining funds to those LEAs on the basis of the relative numbers of children enrolled in public and private elementary schools and secondary schools within the LEA's jurisdiction; and

(2) Allocate 15 percent of those remaining funds to those LEAs in accordance with their relative numbers of children living in poverty, as determined by the SEA.

(d) *Use of best data.* For the purpose of making grants under this section, States must apply on a uniform basis across all LEAs the best data that are available to them on the numbers of children enrolled in public and private elementary and secondary schools and the numbers of children living in poverty.

(Authority: 20 U.S.C. 1419(g)(1))

[71 FR 46753, Aug. 14, 2006, as amended at 73 FR 73028, Dec. 1, 2008]

§ 300.817 Reallocation of LEA funds.

(a) If an SEA determines that an LEA is adequately providing FAPE to all children with disabilities aged three through five years residing in the area served by the LEA with State and local funds, the SEA may reallocate any portion of the funds under section 619 of the Act that are not needed by that LEA to provide FAPE, to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to § 300.812.

(b) After an SEA distributes section 619 funds to an eligible LEA that is not

serving any children with disabilities aged three through five years, as provided in § 300.815, the SEA must determine, within a reasonable period of time prior to the end of the carryover period in 34 CFR 76.709, whether the LEA has obligated the funds. The SEA may reallocate any of those funds not obligated by the LEA to other LEAs in the State that are not adequately providing special education and related services to all children with disabilities aged three through five years residing in the areas served by those other LEAs. The SEA may also retain those funds for use at the State level to the extent the State has not reserved the maximum amount of funds it is permitted to reserve for State-level activities pursuant to § 300.812.

(Authority: 20 U.S.C. 1419(g)(2))

[73 FR 73028, Dec. 1, 2008]

§ 300.818 Part C of the Act inapplicable.

Part C of the Act does not apply to any child with a disability receiving FAPE, in accordance with Part B of the Act, with funds received under section 619 of the Act.

(Authority: 20 U.S.C. 1419(h))

APPENDIX A TO PART 300—EXCESS COSTS CALCULATION

Except as otherwise provided, 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. Excess costs are those costs for the education of an elementary school or secondary school student with a disability 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. An LEA must spend at least the average annual per student expenditure on the education of an elementary school or secondary school child with a disability before funds under Part B of the Act are used to pay the excess costs of providing special education and related services.

Section 602(8) of the Act and § 300.16 require the LEA to compute the minimum average amount separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools. LEAs may not compute the minimum average amount it must spend on the education of children with disabilities based

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on a combination of the enrollments in its elementary schools and secondary schools.

The following example shows how to compute the minimum average amount an LEA must spend for the education of each of its elementary school children with disabilities under section 602(3) of the Act before it may use funds under Part B of the Act.

a. First the LEA must determine the total amount of its expenditures for elementary school students from all sources—local, State, and Federal (including Part B)—in the preceding school year. Only capital outlay and debt services are excluded.

Example: The following is an example of a computation for children with disabilities enrolled in an LEA's elementary schools. In this example, the LEA had an average elementary school enrollment for the preceding school year of 800 (including 100 children with disabilities). The LEA spent the following amounts last year for elementary school students (including its elementary school children with disabilities):

(1)	From State and local tax funds.	\$6,500,000
(2)	From Federal funds	600,000
	Total expenditures	7,100,000

Of this total, \$60,000 was for capital outlay and debt service relating to the education of elementary school students. This must be subtracted from total expenditures.

(1)	Total Expenditures	\$7,100,000
(2)	Less capital outlay and debt.	-60,000
	Total expenditures for elementary school students less capital outlay and debt.	\$7,040,000

b. Next, the LEA must subtract from the total expenditures amounts spent for:

- (1) IDEA, Part B allocation,
- (2) ESEA, Title I, Part A allocation,
- (3) ESEA, Title III, Parts A and B allocation,
- (4) State and local funds for children with disabilities, and
- (5) State or local funds for programs under ESEA, Title I, Part A, and Title III, Parts A and B.

These are funds that the LEA actually spent, not funds received last year but carried over for the current school year.

Example: The LEA spent the following amounts for elementary school students last year:

(1)	From funds under IDEA, Part B allocation.	\$ 200,000
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(2)	From funds under ESEA, Title I, Part A allocation.	250,000
(3)	From funds under ESEA, Title III, Parts A and B allocation.	50,000
(4)	From State funds and local funds for children with disabilities.	500,000
(5)	From State and local funds for programs under ESEA, Title I, Part A, and Title III, Parts A and B.	150,000
	Total	1,150,000
(1)	Total expenditures less capital outlay and debt.	7,040,000
(2)	Other deductions	-1,150,000
	Total	\$5,890,000

c. Except as otherwise provided, the LEA next must determine the average annual per student expenditure for its elementary schools dividing the average number of students enrolled in the elementary schools of the agency during the preceding year (including its children with disabilities) into the amount computed under the above paragraph. The amount obtained through this computation is the minimum amount the LEA must spend (on the average) for the education of each of its elementary school children with disabilities. Funds under Part B of the Act may be used only for costs over and above this minimum.

(1)	Amount from Step b	\$5,890,000
(2)	Average number of students enrolled.	800
(3)	\$5,890,000/800 Average annual per student expenditure.	\$ 7,362

d. Except as otherwise provided, to determine the total minimum amount of funds the LEA must spend for the education of its elementary school children with disabilities in the LEA (not including capital outlay and debt service), the LEA must multiply the number of elementary school children with disabilities in the LEA times the average annual per student expenditure obtained in paragraph c above. Funds under Part B of the Act can only be used for excess costs over and above this minimum.

(1)	Number of children with disabilities in the LEA's elementary schools.	100
(2)	Average annual per student expenditure.	\$ 7,362
(3)	\$7,362×100.	

Total minimum amount of funds the LEA must spend for the education of children with disabilities enrolled in the LEA's elementary schools before using Part B funds. \$ 736,200

APPENDIX B TO PART 300—
PROPORTIONATE SHARE CALCULATION

Each LEA must expend, during the grant period, on the provision of special education and related services for the parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA an amount that is equal to—

(1) A proportionate share of the LEA's subgrant under section 611(f) of the Act for children with disabilities aged 3 through 21. This is an amount that is the same proportion of the LEA's total subgrant under section 611(f) of the Act as the number of parentally-placed private school children with disabilities aged 3 through 21 enrolled in private elementary schools and secondary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA aged 3 through 21; and

(2) A proportionate share of the LEA's subgrant under section 619(g) of the Act for children with disabilities aged 3 through 5. This is an amount that is the same proportion of the LEA's total subgrant under section 619(g) of the Act as the total number of parentally-placed private school children with disabilities aged 3 through 5 enrolled in private elementary schools located in the LEA is to the total number of children with disabilities enrolled in public and private elementary schools located in the LEA aged 3 through 5.

Consistent with section 612(a)(10)(A)(i) of the Act and §300.133 of these regulations, annual expenditures for parentally-placed private school children with disabilities are calculated based on the total number of children with disabilities enrolled in public and private elementary schools and secondary schools located in the LEA eligible to receive special education and related services under Part B, as compared with the total number of eligible parentally-placed private school children with disabilities enrolled in private elementary schools located in the LEA. This ratio is used to determine the proportion of the LEA's total Part B subgrants under section 611(f) of the Act for children aged 3 through 21, and under section 619(g) of the Act for children aged 3 through 5, that is to be expended on services for parentally-placed private school children with disabilities

enrolled in private elementary schools and secondary schools located in the LEA.

The following is an example of how the proportionate share is calculated:

There are 300 eligible children with disabilities enrolled in the Flintstone School District and 20 eligible parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA for a total of 320 eligible public and private school children with disabilities (note: proportionate share for parentally-placed private school children is based on total children eligible, not children served). The number of eligible parentally-placed private school children with disabilities (20) divided by the total number of eligible public and private school children with disabilities (320) indicates that 6.25 percent of the LEA's subgrant must be spent for the group of eligible parentally-placed children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. Flintstone School District receives \$152,500 in Federal flow through funds. Therefore, the LEA must spend \$9,531.25 on special education or related services to the group of parentally-placed private school children with disabilities enrolled in private elementary schools and secondary schools located in the LEA. (Note: The LEA must calculate the proportionate share of IDEA funds before earmarking funds for any early intervening activities in §300.226).

The following outlines the calculations for the example of how the proportionate share is calculated.

Proportionate Share Calculation for Parentally-Placed Private School Children with Disabilities For Flintstone School District:	
Number of eligible children with disabilities in public schools in the LEA	300
Number of parentally-placed eligible children with disabilities in private elementary schools and secondary schools located in the LEA	20
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Total number of eligible children	320
FEDERAL FLOW-THROUGH FUNDS TO FLINTSTONE SCHOOL DISTRICT	
Total allocation to Flintstone	\$152,500