

**§ 403.182**

**34 CFR Ch. IV (7-1-11 Edition)**

**§ 403.182 What is the maintenance of fiscal effort requirement?**

The Secretary may not make a payment under the Act to a State for any fiscal year unless the Secretary determines that the fiscal effort per student, or the aggregate expenditures of that State, from State sources, for vocational education for the fiscal year (or program year) preceding the fiscal year (or program year) for which the determination is made, at least equaled its effort or expenditures for vocational education for the second preceding fiscal year (or program year).

(Authority: 20 U.S.C. 2463(a))

**§ 403.183 Under what circumstances may the Secretary waive the maintenance of effort requirement?**

(a) The Secretary may waive the maintenance of effort requirement in § 403.182 for a State for one year only if—

(1) The Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances affecting the State's ability to maintain fiscal effort; and

(2) The State has decreased its expenditures for vocational education from non-Federal sources by no more than five percent.

(b) For purposes of this section, "exceptional or uncontrollable circumstances" include, but are not limited to, the following:

(1) A natural disaster.

(2) An unforeseen and precipitous decline in financial resources.

(c) The Secretary does not consider tax initiatives or referenda to be exceptional or uncontrollable circumstances.

(Authority: 20 U.S.C. 2463(b))

**§ 403.184 How does a State request a waiver of the maintenance of effort requirement?**

A State seeking a waiver of the maintenance of effort requirement in § 403.182 shall—

(a) Submit to the Secretary a request for a waiver; and

(b) Include in the request—

(1) The reason for the request;

(2) Information that demonstrates that a waiver is justified; and

(3) Any additional information the Secretary may require.

(Approved by the Office of Management and Budget under Control No. 1830-0030)

(Authority: 20 U.S.C. 2463(b))

**§ 403.185 How does the Secretary compute maintenance of effort in the event of a waiver?**

If a State has been granted a waiver of the maintenance of effort requirement that allows it to receive a grant for a fiscal year, the Secretary determines whether the State has met that requirement for the grant to be awarded for the year after the year of the waiver by comparing the amount spent for vocational education from non-Federal sources in the first preceding fiscal year (or program year) with the amount spent in the third preceding fiscal year (or program year).

*Example:* Because exceptional or uncontrollable circumstances prevented a State from maintaining its level of fiscal effort in a program year 1989 (July 1, 1988–June 30, 1989) at the level of its fiscal effort in program year 1988 (July 1, 1987–June 30, 1988), the Secretary granted the State a waiver of the maintenance of effort requirement that permits the State to receive its fiscal year 1990 grant (a grant that is awarded on or after July 1, 1990 from funds appropriated in the fiscal year 1990 appropriation). To be eligible to receive its fiscal year 1991 grant (the grant to be awarded for the year after the year of the waiver), the State's expenditures from the first preceding program year (July 1, 1989–June 30, 1990) must equal or exceed its expenditures from the third preceding program year (July 1, 1987 to June 30, 1988).

(Authority: 20 U.S.C. 2463(c))

**§ 403.186 What are the administrative cost requirements applicable to a State?**

(a) *Basic Programs.* A State may use only funds reserved under § 403.180(b)(4) to administer the programs under title II of the Act, including Programs for Criminal Offenders.

(b) *Special Programs.* (1) A State may use the funds reserved under § 403.180(b)(4) to administer any of the special programs listed in § 403.130.

(2) In addition to the funds reserved under § 403.180(b)(4), a State may use only an amount of funds from its allotment for the State Assistance for Vocational Education Support Programs