

IDEA—Reauthorized Statute
STATE FUNDING

(See also Early Intervening Services, Disproportionality and Overidentification and Alignment With the *No Child Left Behind Act*)

The reauthorized *Individuals with Disabilities Education Act* (IDEA) was signed into law on Dec. 3, 2004 by President George W. Bush. The provisions of the act became effective on July 1, 2005, with the exception of some of the elements pertaining to the definition of a “highly qualified teacher” that took effect upon the signing of the act. This is one in a series of documents, prepared by the Office of Special Education and Rehabilitative Services (OSERS) in the U.S. Department of Education, that covers a variety of high-interest topics and brings together the statutory language related to those topics to support constituents in preparing to implement the new requirements.¹ This document addresses only the changes to the IDEA provisions regarding state funding that took effect on July 1, 2005. It does not address any changes that may be made by the final regulations.

IDEA 2004:

1. Changes the formula grants to states in FY 2005 and 2006.

The maximum amount of the grant that a state may receive under Section 611 for fiscal year (FY) 2005 and FY 2006 is the number of children with disabilities in the state who are receiving special education and related services aged 3 through 5 if the state is eligible for a grant under Section 619; and aged 6 through 21; multiplied by 40 percent of the average per-pupil expenditure (APPE) in public elementary schools and secondary schools in the United States. [611(a)(2)(A)]

For FY 2007 and subsequent fiscal years, the maximum amount of the grant a state may receive is the number of children with disabilities in the 2004-05 school year in the state who received special education and related services aged 3 through 5 if the state is eligible for a grant under Section 619; and aged 6 through 21; multiplied by 40 percent of the APPE in public elementary schools and secondary schools in the United States; adjusted by the rate of annual change in the sum of 85 percent of such state's relative population of all students aged 3 through 21 who are of the same age as children with disabilities for whom the state ensures the availability of a free appropriate public education (FAPE) under Part B; and 15 percent of such state's relative population of all students aged 3 through 21 who are of the same age as children with disabilities who are living in poverty. [611(a)(2)(B)]

¹ Topics in this series include: Alignment With the *No Child Left Behind Act*; Changes in Initial Evaluation and Reevaluation; Children Enrolled by Their Parents in Private Schools; Discipline; Disproportionality and Overidentification; Early Intervening Services; Highly Qualified Teachers; Individualized Education Program (IEP) Team Meetings and Changes to the IEP; Individualized Education Program (IEP); Local Funding; National Instructional Materials Accessibility Standard (NIMAS); Part C Amendments in *IDEA 2004*; Part C Option: Age 3 to Kindergarten Age; Procedural Safeguards: Surrogates, Notice and Consent; Procedural Safeguards: Mediation and Resolution Sessions; Procedural Safeguards: Due Process Hearings; Secondary Transition; State Funding; and Statewide and Districtwide Assessments. Documents are available on the OSERS Web site at: www.ed.gov/about/offices/list/osers/index.html.

2. Sets forth authorized appropriations establishing a seven-year path to “full funding.”

For the purpose of carrying out Part B, other than Section 619, there are authorized to be appropriated (but are subject to decisions made through the appropriations process):

- \$12,358,376,571 for FY 2005;
- \$14,648,647,143 for FY 2006;
- \$16,938,917,714 for FY 2007;
- \$19,229,188,286 for FY 2008;
- \$21,519,458,857 for FY 2009;
- \$23,809,729,429 for FY 2010;
- \$26,100,000,000 for FY 2011; and
- Such sums as may be necessary for FY 2012, and each succeeding fiscal year.

[611(i)]

3. Alters the calculation of, and raises the maximum amount of, the state administration set aside.

For the purpose of administering Part B, including the local education agency (LEA) risk pool (Section 611(e)(3)) and Section 619, and the coordination of activities under Part B with, and providing technical assistance to, other programs that provide services to children with disabilities:

- Each state may reserve, for each fiscal year, not more than the maximum amount the state was eligible to reserve for state administration under this section for FY 2004, or \$800,000 (adjusted for inflation in accordance with Section 611(e)(1)(B)), whichever is greater; and
- Each outlying area may reserve for each fiscal year not more than 5 percent of the amount the outlying area receives under Section 611(b)(1) for the fiscal year or \$35,000, whichever is greater.

[611(e)(1)(A)]

4. Changes the amount states may reserve for other state-level activities.

Except as provided in Section 611(e)(2)(A)(iii), for the purpose of carrying out state-level activities, each state may reserve, for each of the fiscal years 2005 and 2006, not more than 10 percent from the amount of the state's allocation under Section 611(d) for FY 2005 and FY 2006, respectively. For FY 2007 and each subsequent fiscal year, the state may reserve the maximum amount it was eligible to reserve under the preceding sentence for FY 2006, (cumulatively adjusted by the rate of inflation...). [611(e)(2)(A)(i)]

5. Allows a “small state adjustment” to the amount described in Section 611(e)(2)(A)(i) (state-level activities).

Notwithstanding Section 611(e)(1)(A)(i) (above) and except as provided in Section (611(e)(2)(A)(iii) (below), in the case of a state for which the maximum amount reserved for state administration is not greater than \$850,000, it may reserve for the purpose of carrying out state-level activities for each of the fiscal years 2005 and 2006, not more than 10.5 percent from the amount of its allocation under Section 611(d), for each of the fiscal years 2005 and 2006, respectively. For FY 2007 and each subsequent fiscal year, the state may reserve the maximum amount it was eligible to reserve under the preceding sentence for FY 2006 (cumulatively adjusted by the rate of inflation...). [611(e)(2)(A)(ii)]

6. Provides an “exception” to the amount described in Section 611(e)(2)(A) (state-level activities).

If the state does not reserve funds under Section 611(e)(3) [LEA risk pool] then:

- In a state for which the maximum amount reserved for administration is greater than \$850,000, for FY 2005 or FY 2006, the amount that may be reserved under Section 611(e)(2)(A)(i) is 9 percent; and
- In a state for which the maximum amount reserved for administration is less than or equal to \$850,000, for FY 2005 or FY 2006, the amount that may be reserved under Section 611(e)(2)(A)(ii) is 9.5 percent.

[611(e)(2)(A)(iii)]

7. Describes the required uses of funds reserved for state-level activities.

Funds reserved under Section 611(e)(2)(A) shall be used to carry out the following activities: for monitoring, enforcement and complaint investigation; and to establish and implement the mediation process required by Section 615(e), including providing for the cost of mediators and support personnel. [611(e)(2)(B)]

8. Expands the list of allowable state-level activities.

Funds reserved under Section 611(e)(2)(A) may be used to carry out activities listed in Section 611(e)(2)(c), including:

- To support of the development and provision of appropriate accommodations for children with disabilities, or the development and provision of alternate assessments that are valid and reliable for assessing the performance of children with disabilities, in accordance with Sections 1111(b) and 6111 of the *Elementary and Secondary Education Act* (ESEA) of 1965;² and
- To provide technical assistance to schools and LEAs, and direct services, including supplemental educational services as defined in 1116(e) of ESEA, to children with disabilities in schools or LEAs identified for improvement under Section 1116 of the ESEA on the sole basis of the assessment results of the disaggregated subgroup of children with disabilities, including providing professional development to special and regular education teachers, who teach children with disabilities, based on scientifically based research to improve educational instruction, in order to improve academic achievement to meet or exceed the objectives established by the state under Section 1111(b)(2)(G) of the ESEA.³

[611(e)(2)(C)(x), (xi)]

9. Adds authority for an LEA risk pool.

For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high need children with disabilities, each state shall have the option to reserve for each fiscal year 10 percent of the amount of funds the state reserves for state-level activities under Section 611(e)(2)(A) to establish and make disbursements from the

² For purposes of this document, the *No Child Left Behind Act* (NCLB) is referred to as the *Elementary and Secondary Education Act* (ESEA) of 1965, as amended.

³ Refers to requirements of the state’s accountability plan under Section 1111(b)(2) ESEA, where each state must establish statewide annual measurable objectives applicable to all students, pursuant to Section 1111(b)(2)(C)(v).

high cost fund to LEAs in accordance with Section 611(e)(2) during the first and succeeding fiscal years of the high cost fund; and to support innovative and effective ways of cost sharing by the state, by an LEA or among a consortium of LEAs, as determined by the state in coordination with representatives from LEAs, subject to Section 611(e)(2)(B)(ii). [611(e)(3)(A)]

10. Authorizes flexibility in using funds for Part C.

Any state eligible to receive a grant under Section 619 may use funds made available under Sections 611(e)(1)(A) [611 funds for state administration], 611(f)(3) [LEA funds available for reallocation] or 619(f)(5) [619 funds for state-level activities] to develop and implement a state policy jointly with the lead agency under Part C and the state education agency (SEA) to provide early intervention services (which shall include an educational component that promotes school readiness and incorporates preliteracy, language and numeracy skills) in accordance with Part C to children with disabilities who are eligible for services under Section 619 and who previously received services under Part C until such children enter, or are eligible under state law to enter, kindergarten, or elementary school, as appropriate. [611(e)(7)]

11. Establishes a limitation on use of federal funds to meet state-law-mandated funding obligations.

In complying with Sections 612(a)(17)-(18), a state may not use funds paid to it under Part B to satisfy state-law mandated funding obligations to LEAs, including funding based on student attendance or enrollment, or inflation. [612(a)(20)]

12. Adds an exception to state maintenance of effort (MOE) requirements.

For any fiscal year for which the allotment received by a state under Section 611 exceeds the amount the state received for the previous fiscal year and if the state in school year 2003-04 or any subsequent year pays or reimburses all LEAs within the state from state revenue 100 percent of the nonfederal share of the costs of special education and related services, the SEA, notwithstanding Sections 612(a)(17) (supplementation of state, local and other federal funds) and 612(a)(18) (maintenance of state financial support) and 612(b) (concerning SEA providers of FAPE or direct services to children with disabilities), may reduce the level of expenditures from state sources for the education of children with disabilities by not more than 50 percent of the amount of such excess. [613(j)(1)]