



**COLORADO**  
Department of Education

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# Bi-monthly Meeting

## **Implementing Special Education for Preschoolers within UPK**

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Heidi White, Preschool Director, Office of Special Education  
April 18, 2023

# Meeting Intentions



- Bi-monthly virtual meeting - First and Third Tuesdays through June
- Audience: AU and LEA Special Education Directors, EC administrators, Fiscal representatives
- Facilitated by CDE with Consortium input in agenda planning, content and feedback loop, CDEC UPK staff invited
- Meant to be responsive, proactive, needs based & solution focused
- Meeting scope: Implementing Special Education for Preschoolers within the UPK landscape



# Today's Issues



1. IDEA Maintenance of Effort
2. AU Verification of UPK program for students with IEPs
3. Upcoming Meetings, Joint Messaging & Written Q/A



# Overview: Local Educational Agency Maintenance of Effort

# Purpose of the Training

- Overview of LEA MOE regulatory requirements under IDEA.
- Review examples of the application of LEA MOE requirements to ensure appropriate implementation.
- Share resources to support LEA MOE implementation and reporting at the local level.
- Note for the purpose of this training, AU is interchangeable with LEA

# General Acronyms

**CEIS** – Coordinated Early Intervening Services (34 CFR §300.226)

**CFR** – Code of Federal Regulations

**ED *Facts*** – Centralized data reported by SEAs on LEA demographics, program participation, and performance data

**EMAPS** – ED *Facts* Metadata and Process System

**ESEA** – Elementary and Secondary Education Act

**ESSA** – Every Student Succeeds Act

**FFY** – Federal Fiscal Year

**IDEA** – Individuals with Disabilities Education Act

**LEA** – Local Educational Agency

**MOE** – Maintenance of Effort (34 CFR §300.203)

**OIG** – Office of Inspector General

**OSEP** – Office of Special Education Programs

**SEA** – State Educational Agency

**SFY** – State Fiscal Year

# MOE Is Based on the State Fiscal Year

## SFY 2024

- Runs from July 1, 2023, to June 30, 2024;  
and
- Aligns with:
  - Federal fiscal year (FFY) 2023, and
  - The 2024–25 school year.

SFY 2024 = FFY 2023 = SY 2023–24

# MOE: Why Is It Required and What Does It Mean?

MOE is required to ensure that AUs do not replace state/local funding with federal funds.

MOE means that, in each year for the education of children with disabilities, an AU:

- Budgets at least as much as it expended in the most recent year it met MOE.
- Expends at least as much as it expended in the most recent year it met MOE.

This comparison can be calculated in four ways.

Then it gets complicated.



# Overview of the LEA MOE Regulations

- 34 CFR §300.203 Maintenance of effort
  - (a) Eligibility standard (including intervening years)
  - (b) Compliance standard
- 34 CFR §300.204 Exception to maintenance of effort
- 34 CFR §300.205 Adjustment to local fiscal efforts in certain fiscal years
- 34 CFR §300.203 Maintenance of effort
  - (c) Subsequent years
  - (d) Consequences of failure to maintain effort



# The Eligibility Standard

# MOE Regulation

## 34 CFR §300.203(a)(1)

*Eligibility standard.* (1) For purposes of establishing the LEA's eligibility for an award for a fiscal year, the SEA must determine that the LEA budgets, for the education of children with disabilities, at least the same amount, from at least one 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.

*\*will be discussed in the "four methods" section*



# The Compliance Standard

# MOE Regulation

## 34 CFR §300.203(b)

*Compliance standard.* (1) Except as provided in 34 CFR §§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.



# The Four Methods

# Methods for Calculating MOE

- Total amount of local funds.
- Total amount of state and local funds.
- Per capita amount of local funds.
- Per capita amount of state and local funds.

# Methods Used for MOE

- Amounts compared must be from the same method.
- An AU can change methods from year to year.

State fiscal year	Local only total	State and local total	Local only per capita	State and local per capita	Child count
2021	<b>\$500</b> ✓	\$950	\$50	\$95	10
2022	<b>\$550</b> ✓	\$918	\$61.11	<b>\$100</b> ✓	9
2023	\$480	\$800	\$60	<b>\$100</b> ✓	8



# Basics Recap

- Budget as much as expended in the most recent state fiscal year for which information is available and in which MOE is met.
- Expend as much as expended in the most recent state fiscal year in which MOE is met.
- Two sources of funds and four methods of calculation.
- Method can change SFY to SFY; comparison year method must match current SFY method.



# Allowable Exceptions to LEA MOE

# Exceptions — General

- It is permissible to take multiple exceptions in one year, as long as each exception applies in that year.
- An AU may apply these exceptions to reduce its required MOE level and meet the compliance standard using any of the four methods.
- An AU also may apply these exceptions to reduce its required MOE level and meet the eligibility standard using any of the four methods.



# Adjustment to LEA MOE

## Adjustment to local fiscal effort in certain fiscal years: 34 CFR §300.205

“...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....”

# Conditions for Using Adjustment

## The AU must:

- Use the freed-up local (or state and local) funds to carry out ESSA activities during the SFY in which the adjustment takes place.
- Receive a determination of “meets requirements” from the SEA for the SFY of the adjustment.
- Not have had action taken against it by the SEA under IDEA Section 616.
- Not have had the responsibility for providing FAPE taken away by the SEA.
- Not be determined to have significant disproportionality for the SFY of the adjustment.



# Interaction of LEA MOE Adjustment and Coordinated Early Intervening Services

# MOE Adjustment and Voluntary Coordinated Early Intervening Services

- AUs that seek to adjust MOE under 34 CFR §300.205 and use Part B funds for CEIS under 34 CFR §300.226 must do so with caution because these provisions interact.
- The amount of funds used for one provision affects the amount allowed for the other.



# MOE Adjustment and CEIS: 34 CFR §300.205(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.”

# LEA MOE Adjustment and CEIS Interaction

50% of the section 611 increase = A.

15% of the combined section 611 and section 619 allocations = B.

What is the maximum you can use for the LEA MOE adjustment and CEIS combined?

**The combined sum cannot exceed the lower of A or B.**



# The Subsequent Years Rule

# LEA MOE Regulation 34

## CFR §300.203(c)(1)

### **The Subsequent Years Rule**

“...the level of expenditures required of the LEA for the fiscal year subsequent to the year of the failure is the amount that would have been required in the absence of that failure, not the LEA’s reduced level of expenditures.”



# Consequences of AU Failure to Maintain Fiscal Effort

# Consequences of Failing to Meet MOE

- State must repay federal government the amount by which AU failed to maintain effort (34 CFR §300.203(d)).
- Payback must be made from nonfederal funds or federal funds for which accountability to federal government is not required (GEP A 20 U.S.C. 1234a(a)(1) and (a)(2) and 1234(a)(1)).
- State may or may not require the AU to repay the state (depending upon state law).
- An AU will not receive an IDEA subgrant if it does not budget at least as much as expended in the most recent year it met MOE.

# Next Steps

CDE will host a follow up to meeting for any AU representative that would like to take a deeper dive into MOE for IDEA, risks associated with UPK changes in funding, and ideas and supports for those with the most concern about passing in the 24-25 year because of changes in the 23-24 preschool funding.

Tuesday, May 9<sup>th</sup> 1:00-2:00

Join here :

[Click here to join the meeting](#)

Meeting ID: 222 479 545 251

Passcode: taWFmT

# AU Verification Process



# Process for AU Verification of UPK Provider

## ESSU Director's Corner - [What's New](#):

### Process for AU Verification of UPK Provider

## Reports were uploaded in the DMS on April 5th

- Use the guidance to assist your AU to ensure that children whose parents applied for UPK and indicated that their children have active IEPs are matched to a provider where FAPE can be provided.
- AUs are to review and confirm the UPK match, consistent with the guidance prior to April 19.
- **Between April 6 and 19th:** AU accesses CDE-CDEC linked report from DMS, reviews, and makes alignment with existing IEPs and/or makes contact with the parent/guardian if necessary.
- **If you do not have enough time to determine the right placement, the AU can indicate that they need additional time to make the final match.**



# Wrap Up & Loose Ends

# Joint Messaging & Periodic Updates

## Colorado Universal Preschool Update



**UNIVERSAL  
PRESCHOOL**



**UPDATE**



**COLORADO**  
Department of Early Childhood



**COLORADO**  
Department of Education

*This joint message from CDEC and CDE will provide periodic updates on issues related to the implementation of Universal Preschool Colorado and serving students with disabilities within the new preschool system.*

Field Service Contacts

Key Contacts at CDE

Communications Tools

CDE Fact Sheets

Colorado Department of Early Childhood

Colorado Law Book

Resources for Learning Teachers

**Universal Preschool Updates**

Archive of Universal Preschool Updates

Universal Preschool Website

CDE Calendar

**CDEC-CDE Updates**

**April 14 Q/A**  
**(published 3-31-23)**



# Upcoming Meetings & Meeting Materials

Next Meeting: **Tuesday, May 2nd, 2 p.m.:** [Zoom link](#)

**All Bi-monthly meeting presentations may be found on the CDE website at:**

[Special Education and Universal Preschool in Colorado - Bi Monthly Meetings](#)

- [February 7, 2023](#)
- [February 21, 2023](#)
- [March 7, 2023](#)
- [March 21, 2023](#)
- [April 4, 2023](#)

## **UPK Town Hall Meeting Schedule (CDEC and CDE)**

Upcoming Meeting Dates: Look for meeting invitations in your email with the Zoom meeting links (or contact Contact [Jeannie.Lira@state.co.us](mailto:Jeannie.Lira@state.co.us) to be added to the invitation list):

- 1 to 2 p.m. on Friday, April 28
- 1 to 2 p.m. on Friday, May 12
- 1 to 2 p.m. on Friday, May 26
- 1 to 2 p.m. on Friday, June 9



# Questions

