Maintenance of Effort Overview

Section 1118(a) - Maintenance of Effort Requirement

A local education agency(LEA) may receive its full allocation of covered ESEA programs for any fiscal year only if the State educational agency(SEA) determines that the LEA has maintained its fiscal effort in accordance with section 8521 of ESEA.

Covered Programs

The maintenance of effort(MOE) requirement of section 8521 applies to the following ESEA programs—

- Title I Part A – Improving Basic Programs
- Title I Part D – Prevention and Intervention programs for Children and Youth who are Neglected, Delinquent, or At-Risk
- Title II Part A – Supporting Effective Instruction
- Title III Part A – English Language Acquisition
- Title IV Part A – Student Support and Academic Enrichment
- Title IV Part B – 21st Century Learning Centers
- Title V Part B Subpart 2 – Rural and Low-Income Schools
- Title VI Part A Subpart 1 – Indian Education

Requirement

The LEA meets the MOE requirement if either the combined fiscal effort per student or the aggregate expenditures of the LEA, from State and local funds, with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

An SEA must reduce an LEA's allocation under a covered program if the LEA fails to maintain effort in a given fiscal year; and the LEA also failed to maintain effort in one or more of the five immediately preceding fiscal years.

Failure to Meet the Requirement

If an LEA fails to meet the MOE requirement, the SEA must reduce the amount of funds allocated under the programs covered by the MOE requirement in any fiscal year in the exact proportion by which the LEA fails to maintain effort by falling below 90 percent of either the combined fiscal effort per student or aggregate expenditures. In reducing an LEA's allocation because it failed to meet the MOE requirement, the SEA uses the measure most favorable to the LEA.

For a year in which an LEA failed to maintain effort, the expenditure amount an SEA uses for computing maintenance of effort in subsequent years will be 90 percent of the prior year amount rather than the actual expenditure amount.

Expenditures to be included

In determining whether an LEA has maintained fiscal effort, an SEA must consider the LEA's expenditures from State and local funds for free public education. These include expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities.

Expenditures to be excluded

Expenditures for community services, capital outlay, debt service, or supplemental expenses made as a result of a Presidentially declared disaster are not to be included in the determination. In addition, any expenditures made from funds provided by the Federal government are excluded from the determination.

"Preceding fiscal year"

For purposes of determining maintenance of effort, the "preceding fiscal year" is the 12-month fiscal period most commonly used in a State for official reporting purposes, prior to the beginning of the Federal fiscal year in which funds are available.

Waiver

The US Department of Education may waive the MOE requirement if it is determined that such a waiver would be equitable due to—

- Exceptional or uncontrollable circumstances such as a natural disaster, or a change in the organizational structure of the LEA; or
- A precipitous decline in the financial resources of the LEA.

Supplement Not Supplant

The requirement that Title I funds supplement State and local funds, and do not supplant them, is intended to ensure that the Federal resources are spent to provide the additional educational resources and supports that at-risk students need to succeed, instead of being used to simply make up for unfair shortfalls in State and local funding. Title I is intended to provide the extra help low-income students need to succeed, but it cannot do that if State and local funds are not evenly distributed to start with.

Section 1118(b) of the ESEA, as amended by the ESSA, retains the general requirement that Title I funds supplement and not supplant State and local funds. However, the test for compliance with this requirement has changed in two ways. First, Section 1118(b) includes a special rule stating that "[n]o [district] shall be required to – (A) identify that an individual cost or service supported under this part is supplemental," which effectively prohibits a key test previously used to ensure compliance in many Title I schools. Second, the law replaces the two supplement-not-supplant tests (one for Targeted Assistance schools and one for Schoolwide program schools) with a single compliance test that focuses on a district's methodology for allocating State and local funds. Specifically, it requires that a district "demonstrate that the methodology used to allocate State and local funds to each [Title I school] ensures that such school receives all of the State and local funds it would otherwise receive if it were not receiving assistance under [Title I]." A district must meet this requirement not later than two years after the date of enactment of the ESSA — i.e., by July 1, 2018. The ESSA prohibits the Department of Education from prescribing the specific methodology a district must use.