

## USE OF PART B FEDERAL FUNDS BY THE LEA (34 CFR §§ 300.200–206, 208)

1. Vista School submits a plan that provides assurances to the USBE that Vista School meets each of the conditions in Rules IX.B (34 CFR § 300.200).
2. Vista School has in effect policies, procedures, and programs that are consistent with the State policies and procedures established in the Rules (34 CFR § 300.201).
3. Use of amounts (34 CFR § 300.202).

Vista School has on file with the USBE staff information to demonstrate that amounts provided to the LEA under Part B of the IDEA:

- a. Will be expended in accordance with the applicable provision of the Rules.
  - b. Will be used only to pay the excess costs of providing special education and related services to students with disabilities consistent with the Rules; and
  - c. Will be used to supplement State, local, and other Federal funds and not to supplant those funds.
4. The excess cost requirement prevents Vista School from using funds provided under Part B of the IDEA to pay for all of the costs directly attributable to the education of a student with a disability.
  5. Vista School meets the excess cost requirement if it has spent at least a minimum average amount for the education of its students with disabilities before funds under Part B of the IDEA are used.
  6. Maintenance of effort (34 CFR § 300.203).
    - a. Eligibility standard.
      - (1) For purposes of establishing Vista School’s eligibility for an award for a fiscal year, the USBE must determine that Vista School budgets for the education of students with disabilities for at least the same amount, from at least one of the

following sources, as Vista School spent for that purpose from the same source for the most recent fiscal year for which information is available:

- (a) Local funds only;
- (b) The combination of State and local funds;
- (c) Local funds only on a per capita basis; or
- (d) The combination of State and local funds on a per capita basis.

(2) When determining the amount of funds that Vista School must budget to meet the requirement in paragraph Rules IX.B.6.a.(1), Vista School may take into consideration, to the extent the information is available, the exceptions and adjustment provided in 34 CFR §§ 300.204 and 300.205 that Vista School:

- (a) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which Vista School is budgeting; and
- (b) Reasonably expects to take in the fiscal year for which Vista School is budgeting.

(3) Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which Vista School is required to account to the Federal government directly or through the USBE may not be considered in determining whether Vista School meets the standard in Rules IX.B.6.a.(1).

b. Compliance standard.

(1) Except as provided in 34 CFR §§ 300.204 and 300.205, funds provided to Vista School under Part B of the IDEA will not be used to reduce the level of expenditures for the education of students with disabilities made by the LEA from local funds below the level of those expenditures for the preceding fiscal year.

(2) Vista School meets this standard if it does not reduce the level of expenditures for the education of students with disabilities made by Vista School from at least one of the following sources below the level of those expenditures from the same source for the preceding fiscal year, except as provided in 34 CFR §§ 300.204 and 300.205:

- (a) Local funds only;
- (b) The combination of State and local funds;
- (c) Local funds only on a per capita basis; or
- (d) The combination of State and local funds on a per capita basis.

- (3) Expenditures made from funds provided by the Federal government for which the SEA is required to account to the Federal government or for which Vista School is required to account to the Federal government directly or through the USBE may not be considered in determining whether Vista School meets the standard of Rules IX.B.6.b.(1) and IX.B.6.b.(2).
- c. Subsequent years.
- (1) If, in the fiscal year beginning on July 1, 2013 or July 1, 2014, Vista School fails to meet the requirements of 34 CFR § 300.203 in effect at that time, the level of expenditures required of Vista School 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 Vista School's reduced level of expenditures.
  - (2) If, in any fiscal year beginning on or after July 1, 2015, Vista School fails to meet the requirement of Rules IX.B.6.b.(2)(a) or IX.B.6.b.(2)(c) and Vista School is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of the Rules IX.B.6.a or IX.B.6.b, the level of expenditures required of Vista School for the fiscal year subsequent to the year of the failure is the amount that would have been required under Rules IX.B.6.b.(2)(a) or IX.B.6.b.(2)(c) in the absence of that failure, not Vista School's reduced level of expenditures.
  - (3) If, in any fiscal year beginning on or after July 1, 2015, Vista School fails to meet the requirement of Rules IX.B.6.b.(2)(b) or IX.B.6.b.(2)(d) and Vista School is relying on the combination of State and local funds, or the combination of State and local funds on a per capita basis, to meet the requirements of Rules IX.B.6.a or IX.B.6.b, the level of expenditures required of Vista School for the fiscal year subsequent to the year of the failure is the amount that would have been required under Rules IX.B.6.b.(2)(b) or IX.B.6.b.(2)(d) in the absence of that failure, not Vista School's reduced level of expenditures.
- d. Consequence of failure to maintain effort.
- (1) If Vista School fails to maintain its level of expenditures for the education of students with disabilities in accordance with Rules IX.B.6.b, the USBE is liable in a recovery action under section 452 of the General Education Provisions Act (20 USC § 1234a) to return to the Department, using non-Federal funds, an amount equal to the amount by which Vista School failed to maintain its level of expenditures in accordance with Rules IX.B.6.b. in that fiscal year, or the amount of Vista School's Part B subgrant in that fiscal year, whichever is lower.
  - (2) If the USBE is required to return funds to the Department because of Vista School's failure to meet the Maintenance of Effort requirement, the USBE shall reduce the amount provided to Vista School's Minimum School Program (MSP) Basic Program on a 1/12 basis.

7. Exception to maintenance of effort (34 CFR § 300.204).

Vista School may reduce the level of expenditures by Vista School under Part B of the IDEA below the level of those expenditures for the preceding fiscal year if the reduction is attributable to any of the following:

- a. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel.
- b. A decrease in the enrollment of students with disabilities.
- c. The termination of the obligation of Vista School, consistent with this part, to provide a program of special education to a particular student with a disability that is an exceptionally costly program, as determined by the USBE staff, because the student:
  - (1) Has left the jurisdiction of Vista School;
  - (2) Has reached the age at which the obligation of Vista School to provide a FAPE to the student has terminated; or
  - (3) No longer needs the program of special education.
- d. The termination of costly expenditures for long-term purchases, such as the acquisition of equipment or the construction of school facilities.
- e. The assumption of cost by the high-cost (i.e., Intensive Services fund) fund operated by the USBE staff.

8. Adjustment to local fiscal efforts in certain fiscal years (34 CFR § 300.205).

- a. For any fiscal year for which the allocation received by Vista School under Part B of the IDEA exceeds the amount the LEA received for the previous fiscal year, Vista School may reduce the level of expenditures otherwise required by maintenance of efforts requirements by not more than 50 percent of the amount of that excess.
- b. Use of amounts to carry out activities under ESEA/ESSA.

If Vista School exercises the authority to reduce the level of expenditures due to an increase in Part B funds, Vista School must use an amount of local funds equal to the reduction in expenditures to carry out activities that could be supported with funds under the ESEA/ESSA, regardless of whether Vista School is using funds under the ESEA/ESSA for those activities.

- c. The USBE staff must prohibit Vista School from reducing the level of expenditures for a fiscal year, if the USBE staff determines that:
  - (1) Vista School is unable to establish and maintain programs of FAPE that meet the requirements of Part B of the IDEA, or

- (2) The USBE staff has taken action against Vista School under Section 616 of the IDEA and subpart F of the regulations (Monitoring, Technical Assistance, and Enforcement).
  - d. The amount of funds expended by Vista School for mandatory or voluntary Coordinated Early Intervening Services (CEIS) shall count toward the maximum amount of expenditures that Vista School may reduce under the requirements of this section.
  9. If the USBE staff determines that Vista School is not meeting the requirements of the Rules, the USBE staff may prohibit Vista School from treating funds received under Part B of the IDEA as local funds under this section for any fiscal year, but only if it is authorized to do so by the State constitution or State statute.
  10. School-wide programs under Title I of the ESEA/ESSA (34 CFR § 300.206).
    - a. Vista School may use funds received under Part B of the IDEA for any fiscal year to carry out a school-wide program under section 1114 of the ESEA/ESSA, except that the amount used in any school-wide program may not exceed the amount received by the LEA under Part B of the IDEA for that fiscal year:
      - (1) Divided by the number of students with disabilities in the jurisdiction of the LEA; and
      - (2) Multiplied by the number of students with disabilities participating in the school-wide program.
    - b. The funds described in this section must be considered as Federal Part B funds for purposes of the calculations required for excess costs and supplanting.
    - c. The funds may be used without regard to the requirements of 34 CFR § 300.202(a)(1) of the IDEA.
    - d. All other requirements of Part B of the IDEA must be met by Vista School using Part B funds for school-wide programs under section 1114 of the ESEA/ESSA, including ensuring that students with disabilities in school-wide program schools:
      - (1) Receive services in accordance with a properly developed IEP; and
      - (2) Are afforded all the rights and services guaranteed to students with disabilities under Part B of the IDEA.
- IX.C. CHARTER SCHOOLS AND THEIR STUDENTS (34 CFR § 300.209; RULES IX.C.)**
1. Students with disabilities ages 5 through 21 who attend public charter schools and their parent(s) or adult students retain all rights under Part B of the IDEA and Rules.
  2. Vista School receives funding under Part B or State special education funding and is responsible for ensuring that all of the requirements of Part B of the IDEA and Rules are met. Vista School may not refer potential or enrolled students with disabilities back to