

281—41.203(256B,34CFR300) Maintenance of effort.**41.203(1) Eligibility standard.**

a. 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:

- (1) Local funds only;
- (2) The combination of state and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of state and local funds on a per capita basis.

b. When determining the amount of funds that the LEA must budget to meet the requirement in paragraph 41.203(1) "a," the LEA may take into consideration, to the extent the information is available, the exceptions and adjustment provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300) that the LEA:

- (1) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the LEA is budgeting; and
- (2) Reasonably expects to take in the fiscal year for which the LEA is budgeting.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraph 41.203(1) "a."

41.203(2) Compliance standard.

a. Except as provided in rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300), 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.

b. An LEA meets this standard if it does not reduce the level of expenditures for the education of children with disabilities made by the LEA 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 rules 281—41.204(256B,34CFR300) and 281—41.205(256B,34CFR300):

- (1) Local funds only;
- (2) The combination of state and local funds;
- (3) Local funds only on a per capita basis; or
- (4) The combination of state and local funds on a per capita basis.

c. Expenditures made from funds provided by the federal government for which the SEA is required to account to the federal government or for which the LEA is required to account to the federal government directly or through the SEA may not be considered in determining whether an LEA meets the standard in paragraphs 41.203(2) "a" and 41.203(2) "b."

41.203(3) Subsequent years.

a. If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, an LEA fails to meet the requirements of 34 CFR 300.203 and rule 281—41.203(256B,34CFR300) in effect at that time, 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.

b. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2) "b"(1) or 41.203(2) "b"(3) and the LEA is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of subrule 41.203(1) or 41.203(2), 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 under subparagraph 41.203(2) "b"(1) or 41.203(2) "b"(3) in the absence of that failure, not the LEA's reduced level of expenditures.

c. If, in any fiscal year beginning on or after July 1, 2015, an LEA fails to meet the requirement of subparagraph 41.203(2) "b"(2) or 41.203(2) "b"(4) and the LEA 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

subrule 41.203(1) or 41.203(2), 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 under subparagraph 41.203(2) "b"(2) or 41.203(2) "b"(4) in the absence of that failure, not the LEA's reduced level of expenditures.

41.203(4) *Consequence of failure to maintain effort.* If an LEA fails to maintain its level of expenditures for the education of children with disabilities in accordance with subrule 41.203(2), the SEA is liable in a recovery action under Section 452 of the General Education Provisions Act (20 U.S.C. 1234a) to return to the U.S. Department of Education, using nonfederal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures in accordance with subrule 41.203(2) in that fiscal year, or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower.

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