

## **USBE SES Financial Procedures Application for Federal Funding**

Federal Special Education funding is made available through a grant to the State from the Office of Special Education Programs (OSEP). These funds are restricted, and may only be used to provide services and programs for students who qualify under Part B of the IDEA. Funds are available for students age 3-5 (Section 619: Preschool), and for students age 3-21 (Section 611: School-Age). Some funds are retained by Utah State Board of Education (USBE) for administration and for state-directed activities. The remaining funds are distributed to Utah LEAs by formula.

### State Application for Federal funds

To be considered eligible for these funds, the State must meet the following requirements:

1. Submit a plan that provides assurances to the Secretary of Education that the State has in effect policies and procedures to ensure that the State meets the provisions of IDEA Part B (34 CFR §300.101–176).
2. Establish procedural safeguards to ensure that each public agency in the State meets requirements and that each public agency provides those safeguards to students with disabilities and their parents (34 CFR §300.121).
3. Monitor implementation of IDEA Part B in LEAs and public agencies and annually report on performance (34 CFR §300.600).
4. Design a performance plan that evaluates the State's efforts to implement the requirements and purposes of IDEA Part B and how the State will improve such implementation (34 CFR §300.601).

Each year, the State shows that these eligibility requirements have been met as part of the State Application for Special Education Funds. OSEP provides award estimates to the State in the spring of each year for completion of the application. When the estimated award amount is received, the USBE SES drafts the IDEA Part B Annual Application and posts relevant documents on the USBE website for 60 days of public review and 30 days of public comment. USBE SES announces the public review and comment period through various communications to LEAs and other interested parties. After comments are reviewed and any necessary changes are made, the application is submitted to OSEP on or before the date established in the application. Based on this estimated award from OSEP, calculation of USBE SES administrative and State-level activities set asides begins in accordance with IDEA statutes and regulations (34 CFR §300.814–815).

### LEA Application for Federal funds

LEAs may use IDEA Part B funds to pay for the allowable activities of providing special education and related services for eligible students with disabilities. These funds must be used only to pay the excess costs of providing special education and related services to those students, and in accordance with federal cost principles (34 CFR §300.16 and §300.202; 34 CFR Part 76; 2 CFR Part 200, Subpart E – Cost Principles).

Funds provided to the LEA under IDEA Part B may be used for the following activities:

1. For the costs of special education and related services provided in a regular education class or other education-related setting to a student with a disability in accordance with the

student's IEP, even if one or more nondisabled student benefits from these services (incidental inclusion in services).

2. To develop and implement coordinated early intervening education services (CEIS) in accordance with USBE SER IX.C.
3. To establish and implement cost or risk-sharing funds, consortia, or cooperatives for the LEA itself, or for LEAs working together, to pay for high-cost special education and related services.
4. For case management activities, including the purchase of appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related service personnel providing services described in IEPs for students with disabilities (34 CFR §300.208).

Each LEA must demonstrate that all students with disabilities who are participating in programs and projects funded under the IDEA Part B receive a free appropriate public education (FAPE); and that those students and their parents are provided all the rights and procedural safeguards described in the State Rules. The LEA must submit a plan that provides assurances to the USBE that the LEA meets all of the conditions of the IDEA Part B that apply to LEAs and public agencies (34 CFR §300.200). This plan is integrated into the LEA's application for funds.

### Assurances

Each LEA must submit an annual application for IDEA Part B funds as part of the Utah Consolidated Application (UCA). The UCA is the Utah application for all Federal grants, including IDEA Part B, and some State grants. The application submitted through the UCA includes agency identification, eligibility information, and a series of assurances that are signed by the LEA Superintendent or Charter Director before the application will be considered Substantially Approvable. The USBE SES reviews each LEA submission annually before the LEA is authorized to expend IDEA Part B funds.

The LEA makes the following assurances that it has policies and procedures in place as required by Part B of the Individuals with Disabilities Education Act (20 USC 1411-1419; 34 CFR §§300.100-300.174):

1. Free Appropriate Public Education

A free appropriate public education is available to all children with disabilities residing in the District or enrolled in the Charter School between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled, in accordance with 20 U.S.C. 1412(a)(1); 34 CFR §§300.101-300.108.

2. Child Find

All children with disabilities residing in the District or enrolled in the Charter School, including children with disabilities who are homeless or are wards of the State and children with disabilities attending private schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services in accordance with 20 U.S.C. 1412(a)(3); 34 CFR §300.111.

### 3. Individualized Education Program

An individualized education program is developed, reviewed, and revised for each child with a disability in accordance with 34 CFR §§300.320 through 300.324, except as provided in §§300.300(b)(3) and 300.300(b)(4). (20 U.S.C. 1412(a)(4); 34 CFR §300.112)

### 4. Placement in the Least Restrictive Environment

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily in accordance with 20 U.S.C. 1412(a)(5)(A)-(B); 34 CFR §§300.114-300.120.

### 5. Procedural Safeguards

Children with disabilities and their parents are afforded the procedural safeguards required by 34 CFR §§300.500 through 300.536 and in accordance with 20 U.S.C. 1412(a)(6); 34 CFR §300.121.

### 6. Evaluation

Children with disabilities are evaluated in accordance with 34 CFR §§300.300 through 300.311. (20 U.S.C. 1412(a)(7); 34 CFR §300.122)

### 7. Confidentiality

The LEA complies with 34 CFR §§ 300.610 through 300.626 (relating to the confidentiality of records and information). (20 U.S.C. 1412(a)(8); 34 CFR §300.123)

### 8. Transition from Early Intervention

Children participating in early intervention programs assisted under Part C, and who will participate in preschool programs assisted under this part, experience a smooth and effective transition to those preschool programs in a manner consistent with section 637(a)(9). By the third birthday of such a child, an individualized education program or, if consistent with 34 CFR §300.323(b) and section 636(d), an individualized family service plan, has been developed and is being implemented for the child. The local educational agency will participate in transition planning conferences arranged by the designated lead agency under section 635(a)(10). (20 U.S.C. 1412(a)(9); 34 CFR §300.124)

### 9. Children with Disabilities in Private Schools

The District complies with the requirements of 34 CFR §§300.130 through 300.148 (relating to responsibilities for children in private schools), including that to the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary schools and secondary schools in the school district served by a local educational agency, provision is made for the

participation of those children in the program assisted or carried out under this part by providing for such children special education and related services in accordance with the requirements found in 34 CFR §§300.130 through 300.148 unless the Secretary has arranged for services to those children under subsection (f) [By pass]. (20 U.S.C. 1412(a)(10); 34 CFR §§300.129-300.148)

#### 10. Qualified Personnel

The LEA has established and maintains qualifications to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities as noted in 20 U.S.C. 1412(a)(14)(A)-(E); 34 CFR §300.156; 20 U.S.C. 1413(a)(3); §300.207.

#### 11. Assessment

All children with disabilities are included in all general State and LEA assessment programs, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs as noted in 20 U.S.C. 1412(a)(16)(A)-(E); 34 CFR §300.160.

#### 12. Consistency with State policies

The LEA must have in effect policies, procedures, and programs that are consistent with established State policies and procedures, specifically the Utah State Board of Education Special Education Rules, as noted in 20 U.S.C. 1413(a)(1); 34 CFR §300.201.

#### 13. Use of Amounts

IDEA funding provided to the LEA must be expended in accordance with the applicable provisions of IDEA; must only be used to pay the excess costs of providing special education and related services to students with disabilities; and must be used to supplement State, local and other Federal funds and not to supplant those funds, as noted 20 U.S.C. 1413(a)(2)(A); 34 CFR §300.202.

#### 14. Maintenance of Effort

The LEA will not reduce the amount of State and/or Local financial support for special education and related services for children with disabilities below the amount of that support for the preceding fiscal year, unless the LEA is eligible for exceptions or adjustments, in accordance with 20 U.S.C. 1412(a)(18)(A)-(D); 34 CFR §§300.203 through 205.

#### 15. Schoolwide Programs

The LEA may use IDEA funds to carry out a schoolwide program under section 1114 of the ESEA. The amount used in any schoolwide program may not exceed the amount received for that fiscal year divided by the number of students with disabilities in the LEA and multiplied by the number of students with disabilities participating in the schoolwide program. When using funds in this manner, the LEA must still meet the requirements of

300.202 and 300.203, and must ensure that students with disabilities in schoolwide program schools still receive services in accordance with a properly developed IEP and are afforded all the rights and services guaranteed to children with disabilities under IDEA. (20 U.S.C. 1413(a)(2)(D); 34 CFR §300.206).

16. Permissive use of funds

Funds provided to an LEA may be used for services and aids that also benefit nondisabled children; coordinated early intervening services, high cost special education and related services; and administrative case management. (20 U.S.C. 1413(a)(4); 34 CFR §300.208).

17. Treatment of charter schools and their students

Students with disabilities who attend public charter schools retain all rights under IDEA. Administrative and financial responsibilities of the LEA vary depending on whether the charter school is a public school of the LEA, the charter school is the LEA, or the charter school that is neither a school of the LEA or an LEA. (20 U.S.C. 1413(a)(5); 34 CFR §300.209).

18. Purchase of instructional materials

Utah has elected to coordinate with the National Instructional Materials Access Center (NIMAC) through the Utah State Instructional Materials Access Center (USIMAC). Utah has established a cost-sharing program to reduce the burden on individual LEAs on the purchase of accessible instructional materials for qualifying students. If an LEA chooses not to coordinate with USIMAC, the LEA provides assurance that the LEA will provide instructional materials to students who require accessible instructional materials in a timely manner, as required in 20 U.S.C. 1413(a)(6); 34 CFR §300.210).

19. Public information

The LEA must make available to parents of children with disabilities and to the general public all documents related to the eligibility of the agency for IDEA funds. (20 U.S.C. 1413(a)(8); 34 CFR §300.211).

20. Records regarding migratory children with disabilities

The LEA must cooperate in the Secretary's efforts under section 1308 of the ESEA to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding those children. (20 U.S.C. 1413(a)(9); 34 CFR §300.213).

21. Disproportionate Representation

The LEA has in effect, consistent with the purposes of the IDEA and with section 618(d) of the Act, policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment described in 34 CFR §300.8. (20 U.S.C. 1412(a)(24); 34 CFR §300.173)

22. Prescription

The LEA personnel are prohibited from requiring a child to obtain a prescription for a substance covered by the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school, receiving an evaluation under 34 CFR §§300.300 through 300.311, or receiving services under the IDEA as described in 20 U.S.C. 1412(a)(25)(A)-(B); 34 CFR §300.174.

23. Data Reporting

The LEA shall provide data to the State on any information that may be required by the State or the Secretary. (20 U.S.C. 1418(a)(3); 20 U.S.C. 1413(a)(7); 34 CFR §§300.640-300.645; 34 CFR §300.211.)

24. Fiscal Controls

The LEA shall use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for Federal funds. (34 CFR §76.702)

25. Non-Construction Programs

As applicable, the LEA agrees to the assurance in OMB Standard Form 424B (Assurances for Non-Construction Programs), relating to legal authority to apply for assistance; access to records; conflict of interest; merit systems; nondiscrimination; Hatch Act provisions; labor standards; flood insurance; environmental standards; wild and scenic river systems; historic preservation; protection of human subjects; animal welfare; lead-based paint; Single Audit Act; and general agreement to comply with all Federal laws, executive orders and regulations.

26. Certification Regarding Lobbying

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction

27. Uniform Administrative Requirements, Cost Principles, and Audit Requirements

The LEA is required to follow the uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities unless specifically required by Federal statute, regulation, or Executive Order. (2 CFR Part 200).

28. Education Department General Administrative Regulations (EDGAR)

The LEA certifies that certifications in the Education Department General Administrative Regulations (EDGAR) at 34 CFR §80.11 relating to State eligibility, authority and approval to submit and carry out the provisions of its State application, and consistency of that application with State law are in place within the LEA.

29. Debarment and Suspension

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110.

A. The applicant certifies that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transition or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civil charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(4) Have not within a three-year period preceding this application had one or more public transactions (federal, state, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

30. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610–

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled

substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing an on-going drug-free awareness program to inform employees about:

- (a) The dangers of drug abuse in the workplace;
- (b) The grantee's policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(4) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

- (a) Abide by the terms of the statement; and
- (b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(5) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position and title to:

Director, Grants and Contracts Service  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
(Room 3124, GSA Regional Office, Building No. 3)  
Washington, D.C. 20202-457

1. Notice shall include the identification number(s) of each affected grant;

(6) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted-

- (a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or



(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).