# **Equity in IDEA**

1. **Must an LEA identified with significant disproportionality always reserve 15 percent of its IDEA, Part B funds to provide comprehensive CEIS?**

A: Yes. (See [34 C.F.R. §300.646(d)](https://sites.ed.gov/idea/regs/b/f/300.646)) (See also Answer C-3-10, which addresses what Federal Fiscal Year IDEA Part B funds an LEA can reserve for comprehensive CEIS.)

1. **May an LEA identified with significant disproportionality reserve 15 percent of its IDEA section 619 funds, IDEA section 611 funds, or both?**

A: While the amount of the 15 percent reservation must be calculated on the basis of both the LEA’s section 611 and 619 allocations, the LEA retains full flexibility regarding whether the reservation is made with section 611 funds, section 619 funds, or both. That is, IDEA does not specify the source from which an LEA is required to reserve funds. The LEAs retain Questions and Answers on IDEA Part B—Significant Disproportionality, Equity in IDEA offers flexibility regardless of the age of the children who will be receiving comprehensive CEIS.

1. **Does the LEA have flexibility in how these funds are allocated and expended within the LEA?**

A: Yes, as long as funds are used in accordance with the requirements in §300.646(d), the LEA may distribute the IDEA Part B funds reserved for comprehensive CEIS to its schools to carry out comprehensive CEIS, and the LEA retains discretion about how to allocate those funds within the LEA. As such, if an LEA determines that it is best able to address the factors contributing to the identified significant disproportionality by providing a portion of its reserved funds to a particular subset of schools for comprehensive CEIS, it is permitted to do so. Whatever it chooses to do, the LEA must document that 15 percent of its IDEA Part B funds were reserved and used to provide comprehensive CEIS in accordance with §300.646(d). See also [34 C.F.R. §76.731](https://www.ecfr.gov/cgi-bin/text-idx?SID=393301a7cdccca1ea71f18aae51824e7&node=34:1.1.1.1.23&rgn=div5#se34.1.76_1731).

1. **May LEAs provide funds reserved for comprehensive CEIS to schools operating a Title I schoolwide program under section 1114 of the Elementary and Secretary Education Act (ESEA)?**

A: Yes. [Section 300.206(a)](https://sites.ed.gov/idea/regs/b/c/300.206) makes clear that IDEA Part B funds may be consolidated in these schools and instructs States and LEAs how to calculate the amount of funds that may be used for this purpose. Further, 34 C.F.R. §§300.206(b)(1) and (2) provide that these funds must be considered Federal Part B funds for the purposes of calculating LEA maintenance of effort (MOE) and excess cost [under 34 C.F.R. §§300.202(a)(2) and (a)(3)](https://sites.ed.gov/idea/regs/b/c/300.202) and that these funds may be used without regard to the requirements of 34 C.F.R. §300.202(a)(1). Regardless, the LEA is still responsible for meeting all other requirements of IDEA Part B, including ensuring that children with disabilities in schoolwide program schools “1) [r]eceive services in accordance with a properly developed IEP [individualized education program]; and 2) [a]re afforded all of the rights and services guaranteed to children with disabilities under the Act [IDEA].” 34 C.F.R. §300.206(c). LEAs are not prohibited from providing funds reserved for comprehensive CEIS to schools operating a schoolwide program. Further, the requirement to reserve funds for comprehensive CEIS does not override the flexibilities described in 34 C.F.R. §300.206. Instead, LEAs are only required to ensure that any school operating a schoolwide program to which it provides funds for comprehensive CEIS is able to appropriately document that at least the amount of funds provided to the school for that purpose were so expended. For example, if an LEA provides $100 of the funds it has reserved for comprehensive CEIS to a school implementing a schoolwide program, that is not required to separately track and account for those funds if it is otherwise consolidating IDEA Part B funds. Instead, the LEA would only need to ensure that it can document that the school spent at least $100on allowable activities under comprehensive CEIS. It is not required to demonstrate that the school expended $100 of IDEA Part B funds.

# **Implications for IEPs**

1. **Question: May LEAs use IDEA Part B funds reserved for comprehensive CEIS to provide services already identified in a child’s IEP?**

A: It depends. LEAs are required to use IDEA Part B funds reserved for comprehensive CEIS to address the factors contributing to the significant disproportionality identified by the State. These factors may include a lack of access to scientifically based instruction; economic, cultural, or linguistic barriers; or other factors. An LEA may also use comprehensive CEIS funds for training and professional development and behavioral evaluations and supports, such as functional behavioral assessments and behavioral intervention plans, but only to the extent that it is doing so to address the factors identified by the LEA as contributing to the significant disproportionality identified by the State.

Therefore, if comprehensive CEIS funds are used to provide services that address factors contributing to the significant disproportionality identified by the State, then the fact that those services are also identified in some children’s IEPs does not make the services impermissible or the expenditures improper. However, we generally would not expect that using comprehensive CEIS funds for the purpose of providing services already identified on a child’s IEP would address factors contributing to the significant disproportionality identified by the State.

# **Implications for LEA Maintenance of Effort (MOE)**

1. **Question: What effect will reserving 15 percent of an LEA’s IDEA, Part B funds have on the LEA’s (MOE) obligations?**

A: Using IDEA Part B funds reserved to provide comprehensive CEIS for children with disabilities may, but does not necessarily, affect the amount of local, or State and local, funds an LEA must expend to meet the MOE requirement in [34 C.F.R. §300.203](https://sites.ed.gov/idea/regs/b/c/300.203). Generally, under 34 C.F.R. §300.203(b), an LEA may not reduce the amount of local, or State and local, funds that it spends for the education of children with disabilities below the amount it spent from the same source for the preceding fiscal year. The calculation is based only on local, or State and local—not Federal—funds. When an LEA identified with significant disproportionality is required to use 15 percent of its IDEA Part B funds for comprehensive CEIS, it should Questions and Answers on IDEA Part B—Significant Disproportionality, Equity in IDEA consider the effect that decreasing its available IDEA Part B funds might have on the amount of local, or State and local, funds it must expend to meet the LEA MOE requirement. For example, if an LEA reserves 15 percent of its IDEA Part B funds for comprehensive CEIS, it may replace those funds by using local, or State and local, funds to provide special education and related services to children with disabilities. If that is the case, then the higher level of local, or State and local, expenditures for the education of children with disabilities becomes the LEA’s new required level of effort for the subsequent year. The effect would be the same under the previous [34 C.F.R. §300.646](https://sites.ed.gov/idea/regs/b/f/300.646) if, after a finding of significant disproportionality, an LEA reserved 15 percent of its IDEA Part B funds for comprehensive CEIS and increased by 15 percent the amount of local, or State and local, funds it used to provide special education and related services to children with disabilities. In addition, an LEA identified with significant disproportionality will not be able to take advantage of the LEA MOE adjustment that would otherwise be available under [34 C.F.R. §300.205](https://sites.ed.gov/idea/regs/b/c/300.205) because of the way that the MOE adjustment provision and the authority to use Part B funds for CEIS are interconnected. As a result, no matter how much is available for comprehensive CEIS or for the MOE adjustment, an LEA that is required to reserve the maximum 15 percent of its Part B allocation for comprehensive CEIS will not be able to use 34 C.F.R. §300.205(a) to reduce its MOE obligation.

Information describing the actions that States and LEAs must take to meet MOE requirements and answers to frequently asked questions about LEA MOE can be found at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/osepmemo1510leamoeqa.pdf>.