

ATTACHMENT II  
Text of Adopted New 19 TAC

**Chapter 109. Budgeting, Accounting, and Auditing**

**Subchapter CC. Commissioner's Rules Concerning Federal Fiscal Compliance and Reporting**

**§109.3001. Local Maintenance of Effort.**

- (a) In accordance with the Texas Education Code, §7.021, the Texas Education Agency (TEA) shall administer and monitor compliance with education programs required by federal or state law, including federal funding and state funding for those programs.
- (b) The following terms have the following meanings when used in this subchapter.
- (1) Maintenance of Effort (MOE) for a grant under the Individuals with Disabilities Education Act, Part B (IDEA-B)--This term has the meaning assigned by 34 Code of Federal Regulations (CFR), §300.203(a).
- (2) MOE for a grant under the No Child Left Behind Act (NCLB)--This term is generally defined by Public Law 107-110, Title IX, Part E, Subpart 2, §9521.
- (c) Each local education agency (LEA) that expends federal IDEA-B or NCLB funds must comply with established MOE requirements developed in conjunction with federal statutes, regulations, and guidance from the United States Department of Education (USDE). The methods of determining compliance, the consequences of noncompliance, and allowable exceptions to the MOE requirements are described in the figures provided in paragraphs (1) and (2) of this subsection.
- (1) The specific MOE requirements for a grant under the IDEA-B are described in the *IDEA-B LEA MOE Guidance Handbook* provided in this paragraph.  
[Figure: 19 TAC §109.3001\(c\)\(1\)](#) [~~[Figure: 19 TAC §109.3001\(c\)\(1\)](#)~~]
- (2) The specific MOE requirements for a grant under the NCLB are described in the *NCLB LEA MOE Guidance Handbook* provided in this paragraph.  
[Figure: 19 TAC §109.3001\(c\)\(2\)](#)
- (d) Guidance provided in the handbooks described in subsection (c)(1) and (2) of this section will be updated annually as necessary by the commissioner of education to align with subsequent updates, modifications, and amendments to the statutory authority and USDE guidance.
- (e) For determining compliance with MOE requirements, the TEA will use the handbooks provided in subsection (c)(1) and (2) of this section instead of:
- (1) the software in PEIMS EDIT+ containing a formula to allocate costs recorded in Program Intent Code 99, Undistributed, according to instructional FTEs (as reported in PEIMS) assigned to Basic and Enhanced Program Intent Codes; or
- (2) the software in EDIT+ containing a formula to allocate costs recorded in Organization Code 999, Undistributed.
- (f) If the LEA receives School Health and Related Services (SHARS) reimbursements, funds received represent reimbursements to the LEA for school-based health services, which are provided to special education students enrolled in the Medicaid Program. Additional guidance concerning the treatment of SHARS direct and indirect cost reimbursements is documented in the *IDEA-B LEA MOE Guidance Handbook* provided in subsection (c)(1) of this section.
- (g) To the extent that this section conflicts with any other commissioner or State Board of Education rule, including the Financial Accountability System Resource Guide, the provisions of this section control.

**§109.3003. Indirect Cost Rates.**

- (a) Pursuant to authorization in 34 Code of Federal Regulations (CFR), §75.561(b), the Texas Education Agency (TEA) has been delegated the authority by the United States Department of Education (USDE) to review indirect cost applications and to approve indirect cost rates.
- (b) To recover any indirect costs for the administration of federal grants, an entity must have an approved indirect cost rate. A new indirect cost rate must be obtained for every fiscal year.
- (c) For the fiscal year an entity has been issued an indirect cost rate, it can claim indirect cost revenue on applicable grants in that fiscal year. As indirect cost revenues are earned in the Special Revenue Fund on federally funded grants, these revenues can be transferred from the Special Revenue Fund to the General Fund. After the indirect cost revenue has been recorded in the General Fund, the revenues can be used for any legal purpose.
- (d) Guidance concerning indirect cost rates has been developed by the TEA in conjunction with federal statutes and guidance from the USDE to be used for various entities for which the TEA is the cognizant agency. The definitions, standards, and procedures used to govern indirect cost rates are described in the *Indirect Cost Handbook* provided in this subsection.  
[Figure: 19 TAC §109.3003\(d\)](#)
- (e) Guidance provided in the handbook described in subsection (d) of this section will be updated annually as necessary by the commissioner of education to align with subsequent updates, modifications, and amendments to the statutory authority and USDE guidance.
- (f) To the extent that this section conflicts with any other commissioner or State Board of Education rule, including the Financial Accountability System Resource Guide, the provisions of this section control.