

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 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 Every Student Succeeds Act (ESSA) --This term is generally defined by Public Law 114-95, Title VIII, Part F, Subpart 2, §8521.
- (c) Each local educational agency (LEA) that expends federal IDEA-B or ESSA funds must comply with established MOE requirements developed in conjunction with federal statutes, regulations, and guidance from the United States Department of Education. The methods of determining compliance, the consequences of noncompliance, and allowable exceptions to the MOE requirements are outlined in the statutes specified in subsection (b)(1) and (2) of this section.
- (d) If an LEA provides a Medicaid-eligible student with a Medicaid service that is specified in the student's individualized education program, the LEA may request reimbursement for that service through Medicaid's School Health and Related Services (SHARS) program. The LEA is reimbursed the federal portion of the amount it expended on the service based on the Federal Medicaid Assistance Percentage rate Medicaid has defined. In accordance with 34 CFR, §300.154(g)(2), if the reimbursement is expended on special education services, that expenditure must be excluded from the calculation of state/local expenditures for purposes of calculating IDEA-B LEA MOE compliance (34 CFR, §300.154(g)(2)).
- (e) 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.

Statutory Authority: The provisions of this §109.3001 issued under Texas Education Code, §7.021(b)(1) and §7.031(a).

Source: The provisions of this §109.3001 adopted to be effective February 26, 2014, 39 TexReg 1152; amended to be effective June 29, 2021, 46 TexReg 3878.

§109.3003. Indirect Cost Rates.

- (a) Pursuant to authorization in 34 Code of Federal Regulations (CFR), §75.561(b) and §76.561(b), the Texas Education Agency (TEA) has been delegated the authority by the United States Department of Education (USDE) to issue indirect cost rates to local educational agencies (LEAs) and education service centers (ESCs).
- (b) Pursuant to 34 CFR, §75.561(b) and §76.561(b), to recover any indirect costs for the administration of federal grants, an entity must have an approved indirect cost rate. Indirect cost rates will be issued for a one-year period from July 1 to June 30. A new indirect cost rate must be requested each year.
- (c) For the one-year period an entity has been issued an indirect cost rate, it can claim indirect cost revenue on applicable grants during that period. 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 the process for requesting an indirect cost rate for entities where TEA is the cognizant agency, including LEAs and ESCs, has been developed by TEA in conjunction with federal statutes and guidance from USDE. The definitions, standards, and procedures to request an indirect cost rate are outlined in the *Indirect Cost Rate Guidance 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 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.

Statutory Authority: The provisions of this §109.3003 issued under Texas Education Code, §7.021(b)(1) and §7.031(a).

Source: The provisions of this §109.3003 adopted to be effective February 26, 2014, 39 TexReg 1152; amended to be effective June 29, 2021, 46 TexReg 3878.