

Maintenance of Effort and Other Related Concepts in Special Education

- [Individuals with Disabilities Education Act](#), 20 USC §§ 1400-1482; 34 CFR §§ 300.1-303.734
 - Part A outlines IDEA's general provisions, including the purpose of IDEA and definitions
 - Part B addresses assistance for all children with disabilities; includes provisions related to formula grants to states
 - Part C addresses assistance for infants and toddlers with disabilities (early intervention, birth through age 2)
 - Part D provides discretionary grants to national activities to improve education of children with disabilities
- [34 CFR 300.101 Free appropriate public education \(FAPE\)](#): "A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21..."
- [Maintenance of State Financial Support, 34 CFR 300.163 \(MFS\)](#)
 - (a) "A State must not reduce the total amount of State financial support for special education and related services for children with disabilities, or otherwise made available because of the excess costs of educating those children, below the amount of that support for the preceding fiscal year."
 - If a state does not comply, the state's Part B sec. 611 grant is reduced the next year by the same amount by which the state failed to meet the maintenance requirement.
 - States may obtain a one-year waiver for "exceptional or uncontrollable circumstances"
- [Maintenance of effort, 34 CFR § 300.203 \(MOE\)](#)
 - Requires an LEA receiving IDEA Part B funds to **budget (eligibility standard) and spend (compliance standard)** at least the same amount of local and/or state funds for the education of children with disabilities on a year-to-year basis. **Federal money must supplement state funding of special education, not supplant it.**
 - (d) "If an LEA fails to maintain its level of expenditures for the education of children with disabilities...the SEA is liable in a recovery action...to return to the [US] Department [of Education], using non-Federal funds, an amount equal to the amount by which the LEA failed to maintain its level of expenditures...or the amount of the LEA's Part B subgrant in that fiscal year, whichever is lower."
 - [34 CFR §300.204](#) Exceptions to MOE:
 - Voluntary (by retirement or otherwise) or for-cause departure of special education staff
 - Decrease in enrollment of children with disabilities
 - Termination of exceptionally costly program for a particular child, under certain circumstances
 - Termination of costly expenditures for long-term purchases (ie acquisition of equipment or construction of school facilities)
 - Assumption of cost by SEA's high cost fund

➤ IEPs, 504 plans, and MTSS

- An Individualized Education Program (IEP) is a written education plan for a student that describes the special education services the student will receive. The student must have one or more of the [eligible disabilities under IDEA](#). It is developed by a team that includes parents/guardians, teachers, special educators, administrators, and other individuals at a parent or school's request. An IEP is essentially a contract. There are specific requirements that must be met in order to change an IEP.
- Section 504 of the Rehabilitation Act of 1973, 29 USC § 794, applies to students with any type of disability. It prohibits discrimination against students based on a disability in programs and activities that receive federal financial assistance from the US Dept. of Ed. It requires that such students receive supports and services to ensure they have the same access to an education as students without disabilities.
- Multi-Tiered System of Supports (MTSS), [16 V.S.A. § 2902](#): “[E]ach public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment...The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom and may include intensive, individualized interventions for any student requiring a higher level of support.”