

**WAC 392-172A-06015 Maintenance of effort.** (1)(a) Eligibility standard. For purposes of establishing the school district's eligibility for an award for a fiscal year, the OSPI must determine that the school district budgets, for the education of students eligible for special education services, at least the same amount, from at least one of the following sources, as the school district spent for that purpose from the same source for the most recent fiscal year for which information is available:

- (i) Local funds only;
- (ii) The combination of state and local funds;
- (iii) Local funds only on a per capita basis; or
- (iv) The combination of state and local funds on a per capita basis.

(b) When determining the amount of funds that the school district must budget to meet the requirement in (a) of this subsection, the school district may take into consideration, to the extent the information is available, the exceptions and adjustment provided in WAC 392-172A-06020 and 392-172A-06025 that the school district:

- (i) Took in the intervening year or years between the most recent fiscal year for which information is available and the fiscal year for which the school district is budgeting; and

- (ii) Reasonably expects to take in the fiscal year for which the school district is budgeting.

(c) Expenditures made from funds provided by the federal government for which the OSPI is required to account to the federal government or for which the school district is required to account to the federal government directly or through the OSPI may not be considered in determining whether a school district meets the standard in (a) of this subsection.

(2)(a) Compliance standard. Except as provided under WAC 392-172A-06020 and 392-172A-06025, funds provided to school districts or other public agencies under Part B of the IDEA may not be used to reduce the level of expenditures for the education of students eligible for special education services made by it from local funds below the level of those expenditures for the preceding fiscal year.

(b) A school district meets this standard if it does not reduce the level of expenditures made by the school district for the education of students eligible for special education services from at least one of the following sources below the level of those expenditures from the same source for the preceding year except as provided under WAC 392-172A-06020 and 392-172A-06025:

- (i) Local funds only.
- (ii) The combination of state and local funds.
- (iii) Local funds only on a per capita basis; or
- (iv) The combination of state and local funds on a per capita basis.

(c) The OSPI may not consider any expenditures made from funds provided by the federal government for which the OSPI is required to account to the federal government or for which the school district is required to account to the federal government directly or through the OSPI in determining a school district's compliance with the requirement in subsection (1)(a) and (b) of this section.

(3)(a) Subsequent years. If, in the fiscal year beginning on July 1, 2013, or July 1, 2014, a school district fails to meet the requirements of 34 C.F.R. 300.203 in effect at that time, the level of expenditures required of the school district for the fiscal year subsequent to the year of the failure is the amount that would have been required

in the absence of that failure, not the school district's reduced levels of expenditures.

(b) If, in any fiscal year beginning on July 1, 2015, a school district fails to meet the requirement of subsection (1)(a)(i) or (iii) of this section and the school district is relying on local funds only, or local funds only on a per capita basis, to meet the requirements of 34 C.F.R. 203 (a) and (b), the level of expenditures required of the school district for the fiscal year subsequent to the year of the failure is the amount that would have been required under subsection (1)(a)(i) or (iii) of this section in the absence of that failure, not the school district's reduced level of expenditures.

(c) If, in any fiscal year beginning on July 1, 2015, a school district fails to meet the requirement of subsection (1)(a)(ii) or (iv) of this section and the school district is relying on the combination of state and local funds or the combination of state and local funds on a per capita basis, to meet the requirements of 34 C.F.R. 203 (a) and (b), the level of expenditures required of the school district for the fiscal year subsequent to the year of the failure is the amount that would have been required under subsection (1)(a)(ii) or (iv) of this section in the absence of that failure, not the school district's reduced level of expenditures.

(4) If a school district fails to maintain its level of expenditures for the education of student's eligible for special education services in accordance with subsection (1) of this section, OSPI is liable in a recovery action under 20 U.S.C. 1234a to return to the United States Department of Education, using nonfederal funds, an amount equal to the amount by which the school district failed to maintain its level of expenditures in accordance with this subsection (1) of this section in that fiscal year, or the amount of the school district's Part B subgrant, in that fiscal year, whichever is lower.

[Statutory Authority: RCW 28A.155.090. WSR 21-19-065, § 392-172A-06015, filed 9/14/21, effective 10/15/21. Statutory Authority: RCW 28A.150.290. WSR 15-18-077, § 392-172A-06015, filed 8/28/15, effective 9/28/15. Statutory Authority: RCW 28A.155.090(7) and 42 U.S.C. 1400 et. seq. WSR 07-14-078, § 392-172A-06015, filed 6/29/07, effective 7/30/07.]