



Maintenance of Effort Under the ESSA

Background

The Elementary and Secondary Education Act (ESEA), reauthorized as the Every Student Succeeds Act (ESSA), states that the purpose of Title I, Part A is to “provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps.” Due to the intended supplemental nature of ESEA funds, section 1118 of the ESSA requires each local educational agency (LEA) to maintain its own state and local fiscal effort, in accordance with section 8521, as a condition of receipt of ESEA funds. The maintenance of effort (MOE) requirement ensures that state and local funds are expended at the same - or similar - level from year to year, enabling federal funds to serve as a supplemental resource for LEAs.

MOE requirements under ESSA apply to the following covered programs:

- Title I, Part A – Improving Basic Programs Operated by Local Educational Agencies
- Title I, Part D – Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk
- Title II, Part A – Supporting Effective Instruction
- Title III, Part A – English Language Acquisition, Language Enhancement, and Academic Achievement
- Title IV, Part B – 21st Century Community Learning Centers
- Title V, Part B – Rural and Low-Income School Programs
- Title VI, Part A – Indian Education

Annual Requirement and Notice

Section 8521(a) of the ESSA provides that LEAs may receive funds under a covered program for any fiscal year only if the State educational agency (SEA) finds that either the combined fiscal effort per student or aggregate state and local expenditures of the LEA¹ was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year². In other words, the Colorado Department of Education (CDE) must compare the LEA’s state and local fiscal effort, based on the more favorable of the two methods for determining compliance, for the preceding fiscal year to the second preceding fiscal year to determine whether the LEA has satisfied the MOE requirements for the upcoming fiscal year’s allocation (when the federal funds are first available).

The LEA expenditures to be included or excluded in the determination of MOE are defined by federal regulations. See the link at the bottom of page three for more information on the specifications used by CDE. If the LEA fails to maintain effort, the SEA must reduce the LEA’s allocation under a covered program in the exact proportion by which the LEA failed to maintain effort, unless a U.S. Department of Education (USDE) waiver is granted.

¹ The fiscal effort per student is the amount of state and local expenditures spent on a per-pupil basis, while the aggregate expenditures are the total state and local expenditures at the LEA-level.

² The preceding fiscal year is the federal fiscal year, or the 12-month fiscal period most commonly used in a state for official reporting purposes, prior to the beginning of the federal fiscal year in which funds are available.

CDE annually calculates the fiscal effort of each LEA, both the combined fiscal effort per student and the aggregate state and local expenditures of the LEA, to determine whether MOE requirements have been met through either method. CDE [communicates and publishes the results](#) for each LEA and notifies LEAs that have not satisfied the MOE requirements through the initial calculation.

Waivers

Section 8521(c) permits LEAs to work through the SEA to apply to the USDE for a waiver from the MOE requirements if the SEA determines that the LEA is not in compliance.

A waiver may be granted if the need is based upon:

- the occurrence of an exceptional or uncontrollable circumstance, or
- a precipitous decline in the financial resources of the LEA.

An exceptional or uncontrollable circumstance may include such events as a natural disaster or change in the organizational structure of the LEA. Changes to the organizational structure of the LEA may include when an LEA merges with another LEA, divides into two or more LEAs, or eliminates grade levels that were previously served (i.e. changing from K-12 to K-8). Further, a change in the organizational structure may also be established if the LEA changes its management or operations structure to create economies of scale to become more efficient.

If an LEA has failed to meet the MOE requirements, CDE will assist the LEA with the waiver application process before taking any action to reduce the LEA's allocation under the covered programs. If the USDE grants the LEA's MOE waiver request, the LEA is considered to have maintained effort for that fiscal year. Accordingly, when determining whether the LEA has failed to maintain effort for one or more of the five immediately preceding fiscal years, CDE would count the year in which a waiver was received as a year of maintaining effort, and the LEA would not be penalized for receiving a waiver.

Reduction in Grant Award

If an LEA fails to meet the MOE requirements and does not receive a waiver from the requirements by the USDE, CDE must reduce the amount of the LEA's allocation under the covered programs in the exact proportion to the LEA's failure to meet the MOE requirement. ESSA requires the reduction to be based on whether the LEA has failed to maintain effort in a given fiscal year and in one or more of the five immediately preceding fiscal years. In other words, a single failure to maintain effort within a five-year period may not result in the reduction of the LEA's allocation.

Examples

The following examples illustrate the calculations used to determine whether the LEA has satisfied the MOE requirements and, if the LEA did not, how much should be deducted from the LEA's ESEA allocation.

Example 1

In this example, a determination is being made for the 2025-2026 school year's allocation. Here, the LEA failed to maintain effort by at least 90% for either method used to determine compliance. If the LEA also failed to maintain effort in one or more of the five immediately preceding fiscal years, absent a waiver, the SEA must reduce the LEA's allocation.

Current fiscal year: 2027 (Begins on July 1, 2026)

Preceding fiscal year: 2026 (Begins on July 1, 2025)

Second preceding fiscal year: 2025 (Begins on July 1, 2024)

Description of Amount	Method: Fiscal Effort per Student	Method: Aggregate Expenditures
Amount the LEA spent in the 2nd preceding fiscal year	\$6,100	\$1,000,000
Minimum amount the LEA had to spend in the preceding fiscal year to maintain effort (90% of amount the LEA spent in the 2nd preceding fiscal year)	\$5,490	\$900,000
Actual amount LEA spent in the preceding fiscal year	\$5,200	\$850,000
Amount by which the LEA failed to maintain effort	-\$290	-\$50,000
Percentage by which the LEA's allocation must be reduced	-5.3%	-5.6%

The SEA may choose the percentage that results in the smallest reduction to the LEA's allocation. In this example, the fiscal effort per student method (-5.3%) shows a smaller decrease compared to the aggregate expenditures method (-5.6%). Therefore, the SEA would apply the 5.3% reduction to the LEA's ESEA Title allocation.

Example 2

In this example, a determination is being made for the 2025-2026 school year's allocation. Here, the LEA met the MOE requirements through the aggregate expenditures method but failed to maintain effort by at least 90% through the fiscal effort per student method. The SEA determines whether the LEA has satisfied MOE requirements by using whichever of the methods is most favorable to the LEA, therefore the LEA is not required to seek a waiver and the LEA's allocation will not be reduced.

Current fiscal year: 2027 (Begins on July 1, 2026)
 Preceding fiscal year: 2026 (Begins on July 1, 2025)
 Second preceding fiscal year: 2025 (Begins on July 1, 2024)

Description of Amount	Method: Fiscal Effort per Student	Method: Aggregate Expenditures
Amount the LEA spent in the 2nd preceding fiscal year	\$8,300	\$2,400,000
Minimum amount the LEA had to spend in the preceding fiscal year to maintain effort (90% of amount the LEA spent in the 2nd preceding fiscal year)	\$7,470	\$2,160,000
Actual amount LEA spent in the preceding fiscal year	\$7,100	\$2,250,000
Amount by which the LEA failed to maintain effort	-\$370	\$90,000
Percentage by which the LEA's allocation must be reduced	-4.95%	N/A

Timeline

The timeline below provides additional information regarding the annual MOE cycle.

Time Period*	Activity
July	CDE will run the preliminary review of ESEA MOE based on finalized finance December data pipeline submissions for the preceding fiscal year.
August	CDE will notify any LEA that is failing the preliminary MOE determination and assist the LEA with the waiver request to USDE, as needed.

Time Period*	Activity
Prior to August 31st	CDE will publish final ESEA MOE determinations on CDE's website.
When available, after August 31st	If waivers are submitted to USDE, CDE will re-publish ESEA MOE determinations after USDE notifications are received.

*This is the timeline on which CDE strives to conduct this work each year, barring any unanticipated or external delays.

Frequently Asked Questions

Q: Do I need to submit any additional information to CDE to be in compliance with the MOE requirements?

A: No. LEAs have submitted an assurance in the ESEA General Assurances form to acknowledge the LEA is in compliance with applicable statutory requirements. Data required to determine compliance with MOE is currently collected through processes already in place at CDE.

Q: When CDE determines MOE for LEAs, does it use the same measure for all of the LEAs?

A: No. CDE will determine MOE using the measure most favorable to each LEA.

Q: How does a waiver of MOE affect an SEA's determination of whether an LEA failed to maintain effort for one or more of the five immediately preceding fiscal years?

A: If an LEA receives a waiver of the MOE requirement from the USDE for a given fiscal year, the LEA is considered to have maintained effort for that fiscal year. Accordingly, in determining whether the LEA had failed to maintain effort for one or more of the five immediately preceding fiscal years, the SEA would count the year in which the LEA received a waiver as a year of maintaining effort.

Q: When will MOE be calculated?

A: CDE will run the preliminary review of ESEA MOE in July, based on finalized finance December data pipeline submissions for the preceding fiscal year.

Where Can I Learn More?

- Additional information related to the maintenance of effort requirements may be accessed on the [CDE Finance webpage](#).
- LEAs may also contact their [Regional Contact in the Office of ESEA Programs](#) for more information.
- [Guidance provided by the U.S. Department of Education](#)