



State of Arizona Department of Education Exceptional Student Services



Date: February 19, 2020
To: School District Special Education Directors
From: Operations Unit
Subject: Proportionate Share Carryover and Expiration of Funds

Under the Individuals with Disabilities Education Act (IDEA) federal entitlement grant, districts are required to spend a portion of their funds on private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary schools and secondary schools located in the school district served by the public education agency (PEA) proportionate to the total number of children with disabilities in its jurisdiction aged 3 through 21. This requirement also exists for eligible children aged 3 through 5 in a similar proportion (excludes students classified in a preschool program).

Many questions have been received by Exceptional Student Services (ESS) regarding whether unused proportionate share funds can be reverted to other uses under the IDEA entitlement grant after a period of time. There is a clause within an April 2011 private school Q & A document issued by the Office of Special Education and Rehabilitative Services (OSERS) that articulates allowing these funds to be reverted back into other activities under the grant but doesn't completely specify the allowable time period. ESS requested clarification from the Office of Special Education Programs (OSEP) on the carryover period of the grant and when these unused proportionate share funds can be allowed to be spent on other activities. Based on OSEP's response, ESS is now able to permit flexibility to existing carryover funds after July of any given fiscal year. IDEA entitlement funds have a 27-month allowability period, and with this flexibility, it will allow PEAs to contact ESS on the 24th month of the 27-month cycle to request that the funds be reverted to other allowable expenditures in the grant. These requests can be communicated to the ESS Program Management inbox starting July 1, 2020, for any proportionate share obligations that were generated for the grant awarded in the fiscal year 2019.

Please note: In the clarification, **OSEP reinforced that this flexibility is an exception** and as such, ESS will require certain criteria to be met for this flexibility to be allowed. More information on the criteria required will be disseminated in April 2020 and published on [the ESS Program Management website](#). PEAs should not operate on the



presumption that these funds will be diverted back to other allowable expenditures in any given year. Relevant guidance from OSERS is as follows:

“... it is the clear intent of the Act that LEAs spend these funds on providing special education and related services to parentally placed private school children with disabilities, as provided in 34 CFR §§300.129 through 300.144. Therefore, if the LEA is not in compliance with these requirements and has not expended the funds on parentally-placed private school children, the LEA must return the funds to the U.S. Department of Education.”

If flexibility for unused proportionate share funds is not granted by ESS, the funds will not be allowed to be drawn down by the PEA. Finally, PEAs should not expect to have the flexibility for these funds granted for consecutive years.

Many PEAs have also contacted ESS Program Management to revise their counts of the parentally-placed students on the October 1 Special Education Child Count. PEAs should note that resubmitting or asking to modify that data after the data collection period will have a future impact on scores under the PEA Determinations for valid and timely data. This, in turn, could also affect whether the flexibility will be allowed for proportionate share obligations in a PEA's IDEA grant application. ESS is also working to enhance private school listings in school district boundaries and double-checking enrollment counts in future years with audit mechanisms to reduce errors and minimize the need for edits for data collections.

ESS appreciates the patience it received from school districts as it waited for clarification on this topic from OSEP. Users can read [the Q & A guidance on proportionate share obligations](#) online.

Districts are encouraged to review the current fiscal year Proportionate Share obligations on [the ESS Program Management website](#). If there questions or concerns about current obligation amounts, please [email ESS Program Management](#).