

September 10, 2012

Important Information

TO THE ADMINISTRATOR ADDRESSED:

SUBJECT: Upcoming Preliminary Determination of Compliance with Maintenance of Effort (MOE) Requirement for No Child Left Behind Act Programs

This letter supersedes the letter posted briefly on September 7, 2012.

The purpose of this letter is to notify your local educational agency of the upcoming results of the Texas Education Agency's (TEA's) review of financial data to determine compliance with the maintenance of effort (MOE) requirement for covered programs funded under P. L. 107-110 (the No Child Left Behind Act of 2001 [NCLB]). The covered programs are listed later in this letter under "Summary of ESEA MOE Requirement."

Preliminary Determinations to be Released

TEA will be issuing local education agencies (LEAs) their preliminary determination for fiscal year 2011 (the 2010–2011 school year) in the near future. Determinations will be based upon the Public Education Information Management System (PEIMS) financial data submitted by your LEA and reviewed by TEA. Please note that TEA compared data for the 2010 fiscal year (2009–2010 school year) with data from the 2011 fiscal year (2010–2011 school year).

If TEA's preliminary determination for your LEA is of **noncompliance**, you must respond **within 30 days** of the date of the determination letter. You will be required to indicate if either of the following conditions apply:

1. Your LEA expended federal Education Jobs (Ed Jobs) funds as state or local funds, which would be eligible to be included in to the MOE calculation. You must include documentation of the amount of Ed Jobs funds expended as state and local funds.
2. Your LEA is applying to the US Department of Education (USDE) for an MOE waiver under P.L. 107-110, Section 9521(c). You must include a copy of the waiver request submitted to USDE.

If no response is received from your LEA by the deadline, TEA's MOE determination for your LEA will become final and will not be changed. Your LEA should then proceed to develop and implement administrative procedures that will help your LEA achieve compliance with the NCLB MOE requirement in the future.

In addition, pursuant to Section 9521(b)(1) of P. L. 107-110, when an LEA fails to meet the MOE requirement, TEA must reduce the LEA's entitlements for the NCLB programs covered by the MOE requirement in the exact proportion by which the LEA failed to maintain effort below the 90 percent requirement.

Summary of ESEA MOE Requirement

Section 9521(a) of Public Law 107-110 states that an LEA may receive funds under a covered program for any fiscal year only if the state educational agency (TEA) finds that either the combined fiscal effort per student or the aggregate expenditures of the LEA and the state with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

This MOE requirement applies to the following ESEA covered programs:

- Title I, Part A
- Title I, School Improvement Program
- Title I, Part B, Subpart 3, Even Start
- Title I, Part D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At Risk
- Title II, Part A, Improving Teacher Quality
- Title II, Part D, Educational Technology
- Title III, Part A, English Language Acquisition
- Title IV, Part B, 21st Century Learning Centers
- Title VI, Part B, Subpart 2, Rural Education Programs
- Title X, Part C, McKinney-Vento Education of Homeless Youth

Additional Information

If you have any questions, please contact the TEA Division of Federal Program Compliance at (512) 463-9127 or FPC_compliance@tea.state.tx.us.

Sincerely,

Cory Green, Chief Grants Administrator
Office for Grants and Fiscal Compliance