



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF INSPECTOR GENERAL
Chicago/Kansas City Audit Region



111 N. Canal St. Ste. 940
Chicago, IL 60606-7297
Phone (312) 886-6503
Fax (312) 353-0244

8930 Ward Parkway, Ste 2401
Kansas City, MO 64114-3302
Phone (816) 268-0500
Fax (816) 823-1398

February 6, 2006

Control Number
ED-OIG/A07F0016

Dale M. Dennis
Deputy Commissioner of Education
Kansas State Department of Education
120 SE 10th Avenue
Topeka, KS 66612-1182

Dear Mr. Dennis:

This **Final Audit Report**, entitled *Kansas State Department of Education's Maintenance of Effort Under the Individuals with Disabilities Education Act of 1997, Part B, Program*, presents the results of our audit. The purpose of the audit was to determine whether the Kansas State Department of Education (KSDE) can demonstrate that it is (1) maintaining state-level maintenance of effort, including non-educational agencies that contribute to the provisions of the services that assist students with disabilities and (2) monitoring the local education agencies' (LEA) local-level maintenance of effort required by the Individuals with Disabilities Education Act of 1997, Part B, (Pub. L. 105-17)¹ (IDEA) for the 2003-2004 fiscal year. Our review covered the period July 1, 2003, through June 30, 2004 (2003-2004 fiscal year). We also obtained information covering the 2002-2003 and 2004-2005 fiscal years, which was used as a basis for comparison.

BACKGROUND

KSDE oversees 301 unified school districts, serving 460,282 students. KSDE provided funding for 62,016 special education students, or about 13 percent of the students, during the 2003-2004 school year.

IDEA was enacted to ensure that all children with disabilities have available to them a free and appropriate public education, and to ensure that the rights of children with disabilities and their parents are protected. While states, LEAs, and educational service agencies are responsible for providing an education for all children with disabilities, the federal government has a role in

¹ The Individuals with Disabilities Education Improvement Act Amendments of 2004 (Pub. L. 108-446), which became effective on July 1, 2005, continue to include maintenance of effort requirements, at Section 612(a)(17)-(18) and 613(a)(2).

assisting state and local efforts to educate children with disabilities and to improve results for such children. IDEA is a formula grant program that provides assistance to states, and through them to LEAs, to assist states and localities in their efforts to provide special education and related services to children with disabilities.

The U.S. Department of Education (ED) awarded KSDE an estimated \$94 million in IDEA funds and KSDE expended \$558.9 million for special education, which included state and local funds, for the 2003-2004 fiscal year. As part of our work, we judgmentally selected two LEAs for testing, Topeka Unified School District (Topeka) and Shawnee Mission Unified School District (Shawnee Mission), with special education expenditures of \$19.1 million and \$27.5 million, respectively, for the 2003-2004 fiscal year.

AUDIT RESULTS

KSDE could not demonstrate that it adequately monitored local-level maintenance of effort or maintained a total state-level maintenance of effort because the calculations used to determine maintenance of effort were inaccurate and unsupported. KSDE did not monitor the LEAs to ensure that all required edits made by LEAs to the local-level maintenance of effort calculations were correct and complete. KSDE also could not demonstrate it maintained total state-level maintenance of effort requirements because it did not use accurate data to compute its calculation. Therefore, children with disabilities residing in Kansas may not have available to them all the special education and related services needed to ensure a free appropriate public education. In addition, KSDE may have drawn down an incorrect amount of federal funds from ED and/or disbursed an incorrect amount of federal funds under IDEA to its LEAs.

In response to the draft of this report, KSDE concurred with the findings and the corresponding recommendations. KSDEs' comments on the draft report are included in their entirety as an Attachment.

FINDING NO. 1 – KSDE Did Not Demonstrate That It Adequately Monitored the LEAs' Maintenance of Effort

KSDE did not demonstrate that it adequately monitored the LEAs' compliance with IDEA maintenance of effort requirements. It could not demonstrate that funds provided to LEAs under IDEA were not used to reduce the level of expenditures for the education of children with disabilities below the level of those expenditures for the preceding fiscal year.

For the 2004-2005 fiscal year, KSDE compared the LEAs' 2004-2005 budgeted expenses to their 2003-2004 actual expenses to establish the LEAs' eligibility for the fiscal year award. KSDE compared the LEAs' 2003-2004 expenses for special education and related services to the LEAs' 2002-2003 comparative expenses to determine if they met local-level maintenance of effort requirements on either a total or per student basis.

KSDE does not have the ability to identify the specific expenditures LEAs included in their local-level maintenance of effort calculations. LEAs report the data used in local-level maintenance of effort calculations to KSDE during the budget process. KSDE required that LEAs report only the totals for each expenditure line item. As a result, the data LEAs reported did not distinguish between special education expenditures for gifted students and special education expenditures for disabled students. To compensate, KSDE instructed the LEAs to alter the amount of special education expenditures the state originally reported for the LEAs by subtracting out the amount of special education expenditures attributed to gifted students from the maintenance of effort calculation. However, KSDE did not ensure that LEAs reported correct and complete maintenance of effort data to KSDE and it did not ensure that the data reported by the LEAs was adequately supported.

KSDE Did Not Ensure Required LEA Edits Were Correct and Complete

KSDE did not monitor the LEAs to ensure that all required edits made by LEAs to the local-level maintenance of effort calculations were correct and complete. KSDE and the LEAs erroneously excluded equipment from the calculations. KSDE also cannot ensure federal and gifted students' expenditures were excluded from the calculations because it did not monitor or restrict the LEAs' access to the system data after local-level maintenance of effort calculations were finalized.

KSDE and the LEAs erroneously excluded equipment from the 2002-2003 and 2003-2004 fiscal years' expenditures they entered into the local-level maintenance of effort calculations. In addition, KSDE did not require LEAs to include 2004-2005 budgeted equipment costs in local-level maintenance of effort calculations. An official for one of the LEAs we visited claimed that the LEA excluded equipment expenditures from the data it reported to KSDE for the maintenance of effort calculations based on instructions it received from KSDE.

KSDE could not ensure that federal expenditures were excluded from the local-level maintenance of effort calculations that it computed for the individual LEAs or that the exclusion was correctly calculated. During our audit, KSDE found that at least 2 of 301 LEAs had added federal funds back into local-level calculations after KSDE deducted them. According to 34 C.F.R. § 300.231(c)(3), the state educational agency (SEA) may not consider expenditures made from funds provided by the federal government in determining the LEA's compliance with the requirement of maintenance of effort.² In addition, both LEAs we visited incorrectly reduced reported expenditures by federal IDEA funds they received (revenue) instead of federal funds they expended (expenditures). Reducing expenditures by the federal revenue may lead to a misstatement of actual state and local special education expenditures because LEAs did not always spend all federal funds received during the year.³

In addition, KSDE cannot be certain LEAs excluded expenditures for gifted children because it did not monitor the LEAs' access to the system data in local-level maintenance of effort calculations. The LEAs were provided access by KSDE to the system data to remove expenditures for gifted children from the total special education expenditures. However, KSDE did not monitor when or if the LEAs completed the edits to the data. Therefore, KSDE could not

² All regulatory citations are as of July 1, 2003, unless otherwise noted.

³ A review of excess cash was beyond the scope of this audit.

ensure that the LEAs removed the expenditures for gifted children from the total special education expenditure data in the local-level maintenance of effort calculations.

KSDE did not restrict the LEAs' access to system data after finalizing the local-level maintenance of effort calculations. The unrestricted access allowed LEAs to correct, edit, or manipulate special education data (including data for prior fiscal years) at any time, including after KSDE finalized the local-level maintenance of effort calculations. Therefore, KSDE could not substantiate the actual calculations used to monitor local-level maintenance of effort because it did not ensure that LEAs did not change the data after determinations were made.

Maintenance of Effort Data Was Not Adequately Supported by LEAs

KSDE did not ensure the LEAs' accounting records supported the data LEAs reported for local-level maintenance of effort calculations. Because the LEAs only report the totals for each expenditure line item to KSDE, the detailed information on the individual expenditure totals is maintained at the LEA level. One of the two LEAs we visited could not support its 2002-2003 and 2003-2004 fiscal year special education expenditures for gifted children because it lost the data during an accounting system conversion.

According to 34 C.F.R. § 300.180, an LEA is eligible for assistance under IDEA for a fiscal year if it demonstrates to the satisfaction of the SEA that it meets the conditions in §§ 300.220-.250. One of the conditions (34 C.F.R. § 300.231(a)), states that, to meet maintenance of effort, the SEA is required to ensure LEAs do not use IDEA funds to reduce the level of an LEA's expenditures for the education of children with disabilities from local funds below the level of those expenditures for the preceding fiscal year. In addition, 34 C.F.R. § 300.231(c)(1) states that, to establish an LEA's eligibility for the fiscal year award, the SEA must determine whether the LEA budgets, for the education of children with disabilities, at least the same total or per-capita amount from either local funds only or the combination of state and local funds as the LEA spent for that purpose from the same source for the most recent prior year for which information is available.

KSDE did not have adequate policies and procedures in place to ensure the LEAs were reporting accurate and complete special education budget and expenditure data that it needed to calculate and monitor local-level maintenance of effort as required by IDEA. A KSDE official stated that, due to an oversight on their part, they did not verify data submitted by LEAs on the district worksheets as well as they should have or against data provided by the LEAs' CPA audits. A KSDE official also stated that KSDE did not have a system in place to verify special education expenditure data reported by LEAs for maintenance of effort purposes. The process used to determine maintenance of effort was designed for Title I, which required that equipment costs be excluded from maintenance of effort calculations, instead of for IDEA. Therefore, KSDE may not have a thorough understanding of IDEA maintenance of effort requirements.

KSDE cannot determine if LEAs met maintenance of effort requirements, because it cannot confirm that data entered by LEAs in the local-level maintenance of effort calculations is correct. As a result of KSDE's failure to adequately monitor the LEAs' maintenance of effort, children with disabilities residing in Kansas may not have available to them all the special education and related services needed to ensure a free appropriate public education. According to 34 C.F.R. § 300.197(a), if the SEA, after giving reasonable notice and an opportunity for a hearing, finds that

an LEA that has been determined to be eligible under this section is failing to comply with any requirement described in §§ 300.220-.250, the SEA shall reduce or may not provide any further payments to the LEA until the SEA is satisfied that the LEA is complying with that requirement. Therefore, for every fiscal year KSDE failed to adequately monitor the LEAs' maintenance of effort, KSDE may have awarded LEAs, and/or the LEAs may have drawn down, an incorrect amount of federal funds under IDEA.

Recommendations

We recommend that the Assistant Secretary for Special Education and Rehabilitative Services require KSDE to—

- 1.1 Clarify the maintenance of effort requirements at 34 CFR §§300.231-.232 in writing to LEAs. Provide LEAs written guidance on the specific methodology KSDE requires of LEAs in performing the maintenance of effort calculations, including an explanation of what LEA expenditures are included in the calculation.
- 1.2 Develop and implement policies and procedures to verify LEA data and strengthen controls to ensure the LEAs report accurate and complete special education budget and expenditure data needed to ensure that on a total or per capita basis financial support for special education and related services for children with disabilities meets the IDEA local-level maintenance of effort requirements.
- 1.3 Recalculate local-level maintenance of effort calculations in accordance with IDEA requirements for the 2003-2004 fiscal year and report the revised maintenance of effort levels to ED. If KSDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA funds to ED.

FINDING NO. 2 – KSDE Could Not Demonstrate It Maintained State-Level Maintenance of Effort Requirements

KSDE could not demonstrate that, during the 2004-2005 fiscal year (on either a total or per capita basis), state financial support for special education and related services for children with disabilities was not reduced below the support for the preceding years as required by IDEA. KSDE could not demonstrate it maintained total state-level maintenance of effort requirements because it included federal funds⁴ (not state financial support) and expenditures for gifted children (not for children with disabilities) in its state-level maintenance of effort calculation.

KSDE did not use accurate data to compute its state-level maintenance of effort calculation. KSDE uses the special education expense data LEAs reported during the budget process into KSDE's system, instead of the data LEAs entered into their local-level maintenance of effort calculations to compute its state-level maintenance of effort calculation. The data reported in the local-level maintenance of effort calculations was designed to exclude special education

⁴ The federal funds KSDE incorrectly included in the calculation were not calculated properly. The funds included in the calculation were federal funds the LEAs received (revenue) instead of federal funds the LEAs disbursed (expenditures). However, the LEAs did not always expend all federal funds in the year received. A review of excess cash was beyond the scope of this audit.

expenditures attributed to gifted students and federal aid. In addition, it is more current and provides greater detail than the data KSDE used to compute its state-level maintenance of effort calculation.⁵

According to 34 C.F.R. § 300.154(a), on either a total or per capita basis, the state will not reduce the amount of state financial support for special education and related services for children with disabilities below the amount of that support for the preceding fiscal year. In addition, 34 C.F.R. § 300.110(a) provides that a state is eligible for assistance under IDEA for a fiscal year if the state demonstrates to the satisfaction of the Secretary that the state has in effect policies and procedures to ensure that it meets the conditions in §§ 300.121-.156.

KSDE did not develop and implement policies and procedures to ensure it accurately and correctly determined if it met the state-level maintenance of effort requirements in IDEA. A KSDE official stated KSDE did not have a system in place to verify special education expenditure data reported by LEAs for maintenance of effort purposes.

We cannot determine whether KSDE met state-level maintenance of effort requirements because the data reported by the LEAs is not correct, complete, and supported (as detailed in Finding No. 1). If KSDE is not maintaining the state-level of effort required, children with disabilities residing in Kansas may not have available to them all the special education and related services needed to ensure a free appropriate public education. According to 34 C.F.R. § 300.154(b), the Secretary may reduce the allocation of funds for any fiscal year following the fiscal year in which the state fails to comply with the maintenance of effort requirement by the same amount by which the state fails to meet the requirement. Therefore, for every fiscal year KSDE incorrectly calculated its maintenance of effort calculations, ED may have awarded, and/or KSDE may have drawn down, an incorrect amount of federal funds under IDEA.

Recommendations

We recommend that the Assistant Secretary for Special Education and Rehabilitative Services require KSDE to—

- 2.1 Develop and implement policies and procedures to ensure KSDE obtains accurate and correct special education expenditure data from the LEAs to ensure that on a total or per capita basis financial support for special education and related services for children with disabilities meet the IDEA state-level maintenance of effort requirements.
- 2.2 Recalculate state-level maintenance of effort calculations in accordance with IDEA requirements for the 2003-2004 fiscal year and report the revised maintenance of effort levels to ED. If KSDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA funds to ED.

⁵ Although the data entered by the LEAs for the local-level maintenance of effort calculations is more current and provides greater detail, edits made to the data are not always correct, complete, and supported as indicated in Finding No. 1.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our audit were to determine whether KSDE can demonstrate that it is (1) maintaining state-level maintenance of effort, including non-educational agencies that contribute to the provisions of the services that assist students with disabilities and (2) monitoring the LEAs' local-level maintenance of effort required by IDEA for the 2003-2004 fiscal year. Our review covered the period July 1, 2003, through June 30, 2004 (2003-2004 fiscal year). We also obtained information covering the 2002-2003 and 2004-2005 fiscal year, which was used as a basis for comparison.

We performed the following to achieve the audit objectives:

1. Reviewed audit reports and auditor documentation for KSDE and the selected LEAs for our audit period.
2. Judgmentally selected Shawnee Mission and Topeka to visit by identifying the two largest LEAs that had experienced budget cuts and difficulties providing services to students with disabilities out of 301 Kansas school districts. Selecting the two largest LEAs that had experienced budget cuts and difficulties providing services to students with disabilities allowed us to test LEAs with the highest risk and exposure.
3. Gained an understanding of KSDE's and the selected LEAs' internal control structure, policies, procedures, and practices applicable to the IDEA maintenance of effort requirements.
4. Determined the reliability of computer-processed data. We reviewed a judgmental sample of 3 out of 16 budget codes to determine if expenditures within KSDE's Mainframe were sufficiently reliable to meet the audit objectives. We also judgmentally selected 20 of 301 LEAs for each of the three fiscal years we reviewed to determine if expenditure totals maintained in KSDE's systems matched those entered by the LEAs into local-level maintenance of effort calculations.
5. Tested state-level maintenance of effort by comparing state special education and related services expenditures for fiscal year 2003-2004 with fiscal year 2002-2003 expenditures.
6. Determined whether KSDE considered all agencies with interagency agreements that provided services to assist students with disabilities when monitoring compliance with the IDEA maintenance of effort requirements.
7. Determined how KSDE monitored LEAs' compliance with IDEA maintenance of effort requirements.
8. Tested KSDE's monitoring of LEAs' maintenance of effort by determining if its calculations were complete and accurate.
9. Determined if the selected LEAs reported complete and accurate expenditure data to KSDE by tracing 6 of 83 randomly selected line totals of special education data for Topeka and 6 of 145 randomly selected line totals of special education data for Shawnee Mission to the LEAs' accounting records.

We relied, in part, on computer-processed special education expenditure data used to determine maintenance of effort that the LEAs recorded in KSDE's Mainframe and in their own systems. We also relied on the special education child count data maintained in KSDE's State Educational Agency Management Information System (SEAMIS). To determine whether the systems' data

were reliable, we gained a limited understanding of the related computer system controls and compared the data within KSDE's Mainframe to corresponding data selected LEAs reported to KSDE. In addition, we compared the child count reported by LEAs in SEAMIS to the child count in the actual maintenance of effort calculation. Because KSDE received only totals for special education expense line items from the LEAs, we could not complete logic tests on all data maintained in KSDE's Mainframe. Initial testing indicated that significant errors or incompleteness existed in some of the key data elements and using the data would probably lead to an incorrect or unintentional message. We had corroborating evidence on which we could rely.⁶ Based on our assessment and tests, we concluded that the computer-processed data we were provided by KSDE was not sufficiently reliable, and, therefore, it was reported in our findings. However, we concluded the data in the two LEAs' systems that we tested was sufficiently reliable to support the findings, conclusions, or recommendations of the audit.

We conducted our fieldwork from July 19, 2005, through September 16, 2005, at KSDE's administrative offices in Topeka, Kansas; Topeka's administrative offices in Topeka, Kansas; and Shawnee Mission's administrative offices in Shawnee Mission, Kansas. We discussed the results of our audit with KSDE officials on October 26, 2005. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of audit described above.

ADMINISTRATIVE MATTERS

Statements that managerial practices need improvements, as well as other conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials.

In accordance with the Freedom of Information Act (5 U.S.C. §552), reports issued by the Office of Inspector General are available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act.

This report incorporates the comments you provided in response to the draft report. If you have any additional comments or information that you believe may have a bearing on the resolution of this audit, you should send them directly to the following Education Department official, who will consider them before taking final Departmental action on this audit:

⁶ Corroborating evidence is evidence such as interviews, prior reports, and data in alternative systems.

John H. Hager
Assistant Secretary
Office of Special Education and Rehabilitative Services
U.S. Department of Education
Potomac Center Plaza
Room 5107
550 12th Street, S.W.
Washington, DC 20202-2510

It is the policy of the U. S. Department of Education to expedite the resolution of audits by initiating timely action on the findings and recommendations contained therein. Therefore, receipt of your comments within 30 days would be appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard J. Dowd", with a large, stylized flourish extending to the left.

Richard J. Dowd
Regional Inspector General
for Audit

Attachment



Division of Fiscal & Administrative Services

785-296-3872

785-296-0459 (fax)

120 SE 10th Avenue • Topeka, KS 66612-1182 • 785-296-6338 (TTY) • www.ksde.org

January 13, 2006

Control Number:
ED-OIG/A07F0016

Richard J. Dowd
Regional Inspector General for Audit
U. S. Department of Education

Dear Mr. Dowd:

The Kansas Department of Education appreciates the opportunity this audit has provided to review its policies, practices, and procedures regarding the IDEA maintenance of effort (MOE) requirements. It has brought attention to detail and enhanced awareness between the KSDE and LEA staff. Your clarification of the requirements and insight during the audit has been of value to us in improving our practice. Please know that the last few years KSDE has worked to improve oversight of the requirements for MOE. Since receiving the draft audit report, KSDE has revised forms, processes, and procedures and incorporated the changes into practice.

Background:

KSDE has refined procedures and policies regarding MOE over the past several years based in part on guidance provided by the Office of Special Education Programs. For the 03-04 year, KSDE calculated MOE at the LEA level based on a comparison of actual expenditures from 01-02 to 02-03. As part of the application process for VI-B funds, each LEA was required to provide a report of gifted and special education expenditures to KSDE. Significant revisions were implemented in 04-05, and LEAs reported actual expenditures of gifted and special education for 02-03 and 03-04. In addition, LEAs provided to KSDE their budgeted expenditures for 04-05. Further clarification and guidance was provided to LEAs prior to the VI-B application process.

Each time KSDE has become aware of additional guidance regarding MOE requirements, appropriate changes were implemented accordingly. Kansas has been compliant in meeting the requirements of MOE.

Finding #1

KSDE did not demonstrate that it adequately monitored the LEAs Maintenance of Effort.

- a) KSDE did not monitor the LEAs to ensure that all required edits made by LEAs to the local-level maintenance of effort calculations were correct and complete.**
- b) Maintenance of effort was not adequately supported by LEAs.**

KSDE concurs with these findings.

| Recommended Requirements: | Corrective Actions: |
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| <p>1.1 Obtain a better understanding of the administrative aspects of the IDEA program, including maintenance of effort requirements, and communicate this understanding to the LEAs</p> | <p>KSDE has obtained a better understanding of the administrative aspects of MOE in IDEA. As a result, KSDE has edited the formula for calculation of MOE to ensure compliance with IDEA requirements.</p> <p>KSDE seeks OSEP clarification of the accuracy of these proposed procedures to ensure they meet the intent of the law but not exceed it. In addition, when IDEA 2004 Regulations are finalized, KSDE will seek OSEP clarification to the requirements upon their effective date.</p> <p>KSDE communicated the improved understanding of MOE requirements to LEAs. Written guidance and an interactive TV session with district staff were provided.</p> |
| <p>1.2 Develop and implement policies and procedures to verify LEA data and strengthen controls to ensure the LEAs report accurate and complete special education budget and expenditure data needed to ensure that on a total or per capita basis financial support for special education and related services for children with disabilities meets the IDEA local-level maintenance of effort requirements.</p> | <p>KSDE has developed and implemented policies and procedures to verify LEA data and strengthen controls to ensure the LEAs report accurate and complete special education budget and expenditure data. Specific procedures KSDE has improved/corrected include:</p> <p><u>Revised application program</u></p> <ol style="list-style-type: none"> 1. The application program used by LEAs to request VI-B funds was revised to prohibit LEAs from changing data provided by KSDE. 2. KSDE edited the formula used to calculate MOE to ensure compliance with IDEA requirements. 3. To ensure data accuracy, KSDE increased |

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| | <p>the number of line items acquired from the districts' board approved/published budgets submitted to KSDE. This improves data reporting accuracy.</p> <ol style="list-style-type: none"> 4. If edits are necessary, districts must revise their approved budgets prior to editing the VI-B application. KSDE documents the explanation for changes. 5. Once the application is approved, districts are locked out from making changes. <p>These revisions were completed on November 1, 2005.</p> <p><u>Maintenance of effort beginning 05-06</u></p> <ol style="list-style-type: none"> 1. During the application process for VI-B funds, eligibility will include a comparison of each LEA's projected/budgeted expenditures for the current year to actual expenditures for the previous year to ensure financial commitment is maintained on either a total or per capita basis. 2. For auditing purposes on the application KSDE will compare the actual expenditures for the two years most recently available to determine if the LEA met MOE requirements based on either a total or per capita basis. 3. Within the application, LEAs assure, "This LEA is prepared to justify, from the CPA audit and other records, the figures reported in this LEA Application for Federal Funds." 4. As LEA applications are approved, financial data will be verified by comparing data reported to the KSDE Finance and Auditing Departments. 5. At the end of each annual year, KSDE will randomly select LEAs for audits to verify accuracy of the financial data submitted on the VI-B application. <p>The LEA-level MOE process for 05-06 should be completed by February 10, 2006.</p> |
| <p>1.3 Recalculate local-level maintenance of effort calculations in accordance</p> | <p><u>Maintenance of Effort for 03-04 and 04-05</u> KSDE will recalculate MOE at the LEA level</p> |

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| <p>with IDEA requirements for the 2003-2004 fiscal year and report the revised maintenance of effort levels to ED. If KSDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA funds to ED.</p> | <p>for 03-04 at the request of the OIG using the above auditing procedures and financial data on file with the KSDE Finance Department.</p> <p>In addition, KSDE is in the process of recalculating MOE for 04-05.</p> <p>Recalculations should be completed by February 17, 2006.</p> |
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Finding #2

KSDE could not demonstrate it maintained state-level maintenance of effort requirements

KSDE concurs with this finding.

Recommendation Requirements:

Corrective Actions:


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| <p>2.1 Develop and implement policies and procedures to ensure KSDE obtains accurate and correct special education expenditure data from the LEAs to ensure that on a total or per capita basis financial support for special education and related services for children with disabilities meet the IDEA state-level maintenance of effort requirements.</p> | <p>KSDE will determine state-level MOE using the data reported and approved in the LEA VI-B applications.</p> <p>Once all LEA financial data from the VI-B applications have been verified for accuracy by KSDE, it will be aggregated to determine state-level MOE.</p> |
| <p>2.2 Recalculate state-level maintenance of calculations in accordance with IDEA requirements for the 2003-2004 fiscal year and report the revised maintenance of effort levels to ED. If KSDE does not meet maintenance of effort based on its recalculation, it should return any required IDEA funds to ED.</p> | <p>Calculate state-level MOE using aggregated data from VI-B applications.</p> <ol style="list-style-type: none"> 1. KSDE will recalculate state-level MOE for 03-04 and 04-05. 2. Beginning 05-06 KSDE will calculate annual state-level MOE based on the new procedures. 3. KSDE will submit final state-level calculations to OSEP. <p>Calculations of state-level MOE for the three years - 03-04, 04-05, and 05-06 - should be submitted to OSEP by March 3, 2006.</p> <p>KSDE seeks OSEP clarification of the accuracy of these proposed procedures to ensure they meet the intent of the law. Additionally, when IDEA 2004 regulations are finalized KSDE will seek OSEP clarification as to the requirements upon their effective date.</p> |

The Kansas State Department of Education concurs with the suggested revisions to the procedures Kansas previously used for calculating MOE. In addition to the above actions KSDE has begun to implement, a survey of methods used by states to meet the MOE requirements for IDEA was conducted. It is apparent from this review that the interpretation of IDEA statutes and regulations regarding how LEAs demonstrate MOE varies greatly among states and it does not appear any one method is preferred over another.

KSDE believes it is critical that OSEP provide clarification of the federal law and regulations, P.L. 108-446 § 613(a) and 34 C.F.R. § 300.231, ensuring all states are meeting the same standard.

KSDE respectfully requests the Office of Special Education Programs to review this response to ensure Kansas actions are considered compliant, but do not exceed federal requirements. Furthermore, if another interpretation for determining MOE is made by OSEP, KSDE requests this guidance be provided in a timely fashion to prevent any undue hardship. It should also be noted that upon the passage of the final IDEA 2004 Regulations, KSDE will revise the MOE requirements accordingly.

Sincerely,



Dale M. Dennis,
Deputy Commissioner of Education

- c: Ruth Ryder, Director, Division of Monitoring and State Improvement Planning, OSEP
- Alexa Posny, Deputy Commissioner, Learning Services Division, KSDE
- ZoAnn Torrey, Director of Student Support Services, KSDE
- Patty Gray, Assistant Director of Student Support Services, KSDE