Special Education
Maintenance of Effort

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Carrie Robin Menapace, Policy Analyst & Legislative Liaison
What is Maintenance of Effort?

• Maintenance of effort, a.k.a. MOE, is a federal law that requires states and local districts to always make at least the amount of state money available next year as it did this year in funding to support students with special needs.

• In other words, funding for special education cannot, as a general rule, be cut.
State Funding Requirement v. Local District Funding Requirement

- **States** are required to make the same amount of money available year over year regardless of how much is actually spent on special education programs.
- **Local districts** are required to spend the same amount of money year over year regardless of how much is actually made available for special education programs.
State MOE Example

Amount of Money the State is Required to Appropriate to Special Education

- 2008-2009: $100,000,000
- 2009-2010: $125,000,000
- 2010-2011: $150,000,000
- 2011-2012: $155,000,000

Funding the State Makes Available for Students with Special Needs
Local District MOE Example

Amount of Money a Local District Spent Supporting Students with Special Needs

- 2008-2009: $25,000,000
- 2009-2010: $30,000,000
- 2010-2011: $35,000,000
- 2011-2012: $38,000,000
The Distinction Between the State Requirement and Local District Requirement is Important!

• Even if a state funds a local district at a lower dollar amount than it did the year before, a local district is still required to maintain its own effort.

• That means, even a local district gets less money from the state, it must still spend the same or a greater amount on special education programs than it did last year.

• If a local district receives less money from the state, and continues to spend the same amount of money on special education programs, it has to “make up” what it should have received from other funding sources.
What Happens with Local Districts if There is Less Money Available?

Chart Title

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>$120,000,000</td>
<td>$100,000,000</td>
<td>$100,000,000</td>
<td>$90,000,000</td>
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- Funding the State Makes Available for Students with Special Needs
- Amount of Money ALL Local Districts Spent Supporting Students with Special Needs
Example of the Impact on a Local District

School District Budget 2008-2009

- Special Education Funding Received from the State: $60,000,000
- Regular Education Funding Received from the State: $40,000,000

Total: $100 million

School District Budget 2009-2010

- Special Education Funding Received from the State: $60,000,000 (reduction from $45,000,000)
- Regular Education Funding Received from the State: $25,000,000

Total: $100 million

Special Education Funding decreased by $15,000,000.
This is exactly what happened in New Mexico during the 2009-2010 school year...

And it’s still happening.....
New Mexico MOE Problem....

Total Dollars **Required** of NM as Financial Support for Students with Special Needs v. Total Dollars **Made Available** by NM as Financial Support for Students with Special Needs

*Keep in mind, local districts continued to maintain services to special education students even though it received less money from the state.*
What Happens if a State Fails to Provide the Required Money to Support Students with Special Needs?

1. Replace the funding necessary, or the amount the state "missed MOE by," for special education by appropriating the appropriate amount of money into the state's public education funding distribution system. This money should be recurring revenue and included in the base funding for public schools year over year.

2. Apply for and be granted a **one year waiver** from the requirements of MOE.

3. Do nothing. Fail to make MOE and be denied a waiver. If this occurs then the US Dept. of Education can decrease the federal grant for IDEA-B money to the state in an amount equal to the amount the state failed to make MOE by.
What has New Mexico done?

“MOE” = the total dollars required to be made available by a state as financial support for students with special needs.

6/3/2013
Waiver Granted for SFY10 = $48.09M*
Waiver Denied for SFY11 = $34.12M*
Authority to Exercise Flexibility Denied

New Mexico Required dollars to support students with special needs established - $461.99M*

8/10/2012
NMPED Requests Waivers for SFY10 & SFY11

6/30/2010
NM Fails to Meet SFY10 MOE Requirement - $48.09M*

6/30/2011
NM Fails to Meet SFY11 MOE Requirement - $34.12M*

12/8/2012
NM Legislature Alerted to MOE Issues

5/8/2014
Judge Richard F. O’Hair rules NMPED is not permitted to exercise “flexibility” to the total dollars required (MOE) to support students with special needs AND THEREFORE cannot fund special education at a lower dollar amount**

8/2/2013
NMPED exercises “flexibility” to decrease the total dollars required (MOE) to support students with special needs
*Sets new “baseline” at SFY10 dollar amount

2/18/2013
NMPED requests Hearing to Appeal the decision that NMPED may not exercise “flexibility” to decrease the total dollars required (MOE) to support students with special needs

5/1/2013
NMPED explains that due to “flexibility,” NMPED no longer needs a waiver for SFY11 because it may simply fund special education at a lower dollar amount

6/18/2013
NMPED Requests Hearing to Appeal the decision that NMPED may not exercise “flexibility” to decrease the total dollars required (MOE) to support students with special needs

4/8/2014
Appeal hearing takes place
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10/15/2014

4/8/2014
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6/30/2009
NM Meets SFY09
MOE Requirement - $461.99M*

6/30/2010
NM Fails to Meet SFY10
MOE Requirement - $48.09M*

6/30/2011
NM Fails to Meet SFY11
MOE Requirement - $34.12M*

12/8/2012
NM Legislature Alerted to MOE Issues
New Mexico MOE Problem....

Total Dollars **Required** of NM as Financial Support for Students with Special Needs

v.

Total Dollars **Made Available** by NM as Financial Support for Students with Special Needs

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**2008-2009**

- **Waiver GRANTED**: $48,094,194
- **Waiver DENIED**: $34,120,713
- **Funds Appropriated by New Mexico Legislature for Students with Special Needs**: $461,998,168
- **Funds Need to Meet MOE Requirement**: $26,445,629

**2009-2010**

- **Waiver GRANTED**: $413,903,974
- **Waiver NOT YET FILED**: $427,877,455

**2010-2011**

- **Funds Appropriated by New Mexico Legislature for Students with Special Needs**: $435,552,539
- **Funds Need to Meet MOE Requirement**: $26,445,629

**Legend**

- Blue: Funds Appropriated by New Mexico Legislature for Students with Special Needs
- Red: Funds Need to Meet MOE Requirement
What has New Mexico done?

"MOE" = the total dollars required to be made available by a state as financial support for students with special needs.
What “flexibility” is permitted under the law?

• During the economic downturn, the federal government allowed **local districts** to take credit for up to half of the additional federal money (IDEA-B) it received. This provision did not apply to states.

• That means, if a local district couldn’t afford to spend the same amount of their state money year over year, it could count the additional federal money (IDEA-B) towards it’s state money obligation and set a new baseline for how much money it had to spend in state money.

• For Example:

<table>
<thead>
<tr>
<th>2008-2009</th>
<th>2009-2010</th>
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<tbody>
<tr>
<td>$ Received/Spent from IDEA-B = $100</td>
<td>$ Received/Spent from IDEA-B = $150</td>
</tr>
<tr>
<td></td>
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<tr>
<td>State $ Spent by District = $100</td>
<td>State $ Spent by District = $75</td>
</tr>
<tr>
<td>Total $ Spent on Special Ed. = $200</td>
<td>Total $ Spent on Special Ed. = $225</td>
</tr>
</tbody>
</table>
What has New Mexico done?

“MOE” = the total dollars required to be made available by a state as financial support for students with special needs

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Judge Richard F. O’Hair rules NMPED is not permitted to exercise “flexibility” to the total dollars required (MOE) to support students with special needs AND THEREFORE cannot fund special education at a lower dollar amount**

4/8/2014
Appeal hearing takes place
What Does The Appeal Denial Mean?

1. Replace the funding necessary, or the amount the state "missed MOE by," for special education by appropriating the appropriate amount of money into the state's public education funding distribution system. This money should be recurring revenue and included in the base funding for public schools year over year.

2. Apply for and be granted a one year waiver from the requirements of MOE.

3. Do nothing. Fail to make MOE and be denied a waiver. If this occurs then the US Dept. of Education can decrease the federal grant for IDEA-B money to the state in an amount equal to the amount the state failed to make MOE by.
If we do nothing....

Potential Impact to New Mexico if Federal Funding to Support Students with Special Needs is Decreased

- Average Grant Amount: $100,000,000
- New Grant Amount - Year 1: $66,000,000
- New Grant Amount - Year 2: $74,000,000

$0 $10,000,000 $20,000,000 $30,000,000 $40,000,000 $50,000,000 $60,000,000 $70,000,000 $80,000,000 $90,000,000 $100,000,000

- Total Federal Funding
- Loss in Federal Funding
Example of the Impact on a Local District


- Special Education Funding Received from the State: $30,000,000
- Regular Education Funding Received from the State: $40,000,000
- Regular Education Funding Received from the Federal Gov't: $60,000,000

Total: $130 million

School District Budget 2015-2016

- Special Education Funding Received from the State: $20,000,000
- Regular Education Funding Received from the State: $25,000,000
- Regular Education Funding Received from the Federal Gov't: $60,000,000

Total: $130 million ($35,000,000)

Special Education Funding Received from the State
Regular Education Funding Received from the State
Regular Education Funding Received from the Federal Gov't
Special Education Funding Received from the Federal Gov't
We Need Your Help...
Inadequate Funding to Albuquerque Public Schools

2010-2011

• New Mexico failed to provide districts with $34 million in special education funding.

• If New Mexico had adequately funded special education programs in 2010-2011, Albuquerque Public Schools would have received an additional $8.84 million in funding from the state.

• In 2010-2011, we were forced to cut our budget by $38 million.

2011-2012

• New Mexico failed to provide districts with $26 million in special education funding.

• If New Mexico had adequately funded special education programs in 2011-2012, Albuquerque Public Schools would have received an additional $6.76 million in funding from the state.

• In 2011-2012, we were forced to cut our budget by $37 million.
If New Mexico had met its legal obligation of MOE...

• Albuquerque Public Schools would have received an additional $15.6 million in two years.

• Yes, it’s true that in these two years we would have still been required to make tough decisions about our school budget, and our students still would have less educational opportunities due to budget restraints than before our fiscal downturn.

• But what could we do with $15.6 million now?
The $15.6 Million Impact

<table>
<thead>
<tr>
<th>Funding Item</th>
<th>Total Cost</th>
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<tbody>
<tr>
<td>Additional 3% Salary Increase for All APS Employees</td>
<td>$15.0 million</td>
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<tr>
<td>Hire 20 Social Workers, 10 Counselors and 6 Nurses to Work with All Students</td>
<td>$ 2.4 million</td>
</tr>
<tr>
<td>Restore Class Sizes to the Pre-Recession Levels *(in addition to the FY15 budget proposal)</td>
<td>$15.2 million</td>
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<td>Incentives to Attract and Retain Highly Qualified Special Education Teachers from Other States to New Mexico</td>
<td>TBD</td>
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<tr>
<td>Upgrade Technology Needs/Equipment for Special Education Service</td>
<td>TBD</td>
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Can New Mexico be Put on a Payment Plan?
The Partners: NM Legislature

• New Mexico Legislature
  • The New Mexico Legislature has proven it is willing to solve the MOE problem IF it knows why it needs to, how much money is necessary to solve the problem and when does the solution have to be implemented.
    • The New Mexico Legislature appropriated additional funds for SFY 2013 and SFY 2014 to ensure we maintained appropriate funding for special education.
  • We need to remind the New Mexico Legislature that we must find a solution or risk a loss in federal funding.
  • [http://www.aps.edu/legislative-affairs/contact-your-legislator](http://www.aps.edu/legislative-affairs/contact-your-legislator)
The Partners: NMPED

- New Mexico Public Education Department
  - Work with the United States Department of Education to discuss alternatives to a reduction of the New Mexico IDEA-B Grant.
  - Commit to implementing any alternative asked of the state by Secretary Arne Duncan so our state can be accountable to the law.
  - Work with the New Mexico Legislature to responsibly implement a funding solution so public education is not funded at the expense of other programs, but meets the goal of appropriately funding and supporting students with special needs.
  - [http://ped.state.nm.us/ped/contact.php](http://ped.state.nm.us/ped/contact.php)
  - [http://www.governor.state.nm.us/Constituent_Services_1.aspx](http://www.governor.state.nm.us/Constituent_Services_1.aspx)
The Partners: USDE

- United States Department of Education
  - Maintain an open dialogue with those who are willing to broker solutions in New Mexico and who are committed supporting the needs of all our students.
  - Consider alternatives, such as a multi-year payment plan, to ensure local districts are funded at an adequate level to maintain their effort and support the educational needs of all students.
Thank you for coming!
Questions?