



## Early Intervening Services Funding Implications for Speech-Language Pathologists

The Individuals with Disabilities Education Improvement Act (IDEA 2004) includes a new provision for the use of up to 15% of Part B funds for **Early Intervening Services**. Part B is the grants to states portion of the IDEA which guarantees a free appropriate public education for identified students ages 3 – 21. Early Intervening Services allow for the use of these funds for programs and services to non-identified students who are struggling academically and/or behaviorally, and who could benefit from additional academic and behavioral support to succeed in a general education environment.

Permissive use of funds for pre-referral activities was allowed under IDEA 1997. The specific provisions for Early Intervening Services in IDEA 2004 make it very clear that Congress intends for early intervening services and activities to be provided for the purpose of preventing placement in special education.

The Early Intervening Services provision addresses concerns about the much criticized “wait until you fail” model of special education identification, specifically in the area of Learning Disabilities. Through the use of Early Intervening Services and adoption of Response to Intervention (RtI) models, struggling students can receive academic and behavioral supports prior to being special education eligible. The intent of this provision is to prevent ultimate special education identification by supporting and assisting these students early.

The section of the code of federal regulations, 34CFR300.226(b), which outlines Early Intervening Services indicates that these services may include:

- (1) Professional development (which may be provided by entities other than LEAs) for teachers and other school staff to enable them to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction and, when appropriate, instruction on the use of adaptive and instructional software; and
- (2) Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

Commentary by the U.S. Department of Education (ED) in the *Federal Register* (FR) notice on this clarifies the following about Early Intervening Services:

- Not to delay an evaluation of a student suspected of having a disability
- Recipients do not have the rights and protections of special education
- Intended for students in grades K – 12
- Emphasis on K – 3
- Cannot be used for preschool
- May be used to purchase instructional materials to support these efforts
- May include related services personnel in the development and delivery of educational and behavioral evaluations, services, and supports

The following comment is made by ED in relation to the funds and the rationale for allocating special education funds in this way:

“The authority to use some Part B funds for early intervening services has the potential to benefit special education, as well as the education of other children, by reducing academic and behavioral problems in the regular education environment and reducing the number of referrals to special education interventions. Therefore, we believe the use of Part B funds for early intervening services should be encouraged, rather than restricted.” (FR, Commentary, pp. 46626 – 46627)

School districts with significant disproportionality of students in special education based on race and ethnicity will be required to utilize 15% of their Part B funds for Early Intervening Services to serve children in the LEA particularly, but not exclusively, children in those groups that were significantly over-identified.

States will be required to identify the specifics of how Early Intervening Services will be provided, including who will be involved. The FR Commentary provided by the ED states “Nothing in this Act or regulations prevents States and LEAs from including related services personnel in the development and delivery of educational and behavioral evaluations, services, and supports for teachers and other school staff to enable them to deliver coordinated early intervening services.” (FR Commentary, pp. 46627-46628)

### **Early Intervening Services and Speech-Language Pathologists**

Using special education funds to provide Early Intervening Services to non-identified, but struggling, students is an example of funding flexibility. Special education personnel have historically limited their work exclusively to students with identified disabilities in most situations. With Early Intervening Services provisions under IDEA 2004, the resources of special education, including personnel time, can and should be spent in part on attempting to prevent struggling students from needing special education identification.

Through this new avenue, speech-language pathologists have a unique opportunity to engage in prevention activities, including collaboration and consultation, professional development to teachers, and direct and indirect services through RtI programs to struggling students.

Because this is a shift in how the speech-language pathologist’s time is spent, coordination at the school and district level will be needed. New reporting requirements will require tracking which students receive Early Intervening Services, so the process for referral and the type of services provided must be clearly identified.

### **Practice Implications**

The clear intent of the Congress is to utilize the expertise of special education professionals, including speech-language pathologists, to begin to work with students who are struggling academically, in order to prevent the need for such students from becoming IDEA eligible. In doing so, caseload counts will decrease. However, while this concept is readily understood by both general and special education, a shift in practice will be required. Speech-language pathologists and other special educators who engage in Early Intervening Services must account for their time, so that it is recognized that this is part of the 15% Part B funding that is being used toward these efforts. Additionally, general and special education staff must look at their current model of referral and supports for students to ensure that old methods which are not consistent with this intent are updated.

Some speech-language pathologists are concerned about new requirements or trends to work with non-identified students, for the following reasons: 1) they imagine that this work will be in addition to already demanding workloads, and 2) the funding formula in their state counts identified students, so may result in a decrease in funds for the school district.

Some specialists are also concerned that if they reduce their caseloads that positions will be cut or eliminated. Again, because the new requirements encourage the use of special education funds to serve non-identified students, this concern should not be realized. However, it is important for all parties, particularly administrators and business staff to understand that the funding of positions should not be established on caseload counts. Maintenance of Effort (MOE) requirements for special education also prevent such reductions in staffing when reduction in caseload counts is realized.

Moore, B.J. and Montgomery, J.K. (2008). Making a difference for America’s children: Speech-language pathologists in public schools. (2<sup>nd</sup> Ed.). Greenville, S.C.: Thinking Publications.