



Uses of Special Education Funds

What the 2006 IDEA Part B Final Regulations Say

The U.S. Department of Education's final regulations on IDEA Part B includes new procedures for the permissive use of funds under State-level Activities (§300.704(a)) that includes: 1) Supplementary aids and services that also benefit nondisabled children; 2) Early Intervening Services (EIS); 3) High needs/cost special education and related services; and 4) Administrative case management.

Supplementary Aids and Services

Supplementary aids and services (§300.42) means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §300.114 through §300.116. (Authority: 20 U.S.C. 1401(33))

Early Intervening Services (EIS)

Early Intervening Services, 34 CFR 300.226, is a new section in the IDEA Part B final regulations, and clearly states that the amount of Part B funds a local education agency (LEA) may use to provide early intervening services may not exceed 15 percent of the funds the LEA receives under Part B of the Act, less any amount reduced by the LEA under §300.205 adjustment for local efforts in certain fiscal years. EIS allows for the use of these funds for programs and services to non-identified students (as a child with a disability) who are struggling academically and/or behaviorally and who could benefit from resources normally reserved for students in special education. In the following commentary (CFR, pgs 46626-46627), the U.S. Department of Education indicates that, "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 the number of referrals to special education intervention. Therefore, we believe the use of Part B funds for early intervening services should be encouraged..." At the same time, it is important to realize that there are additional data reporting requirements for EIS and local plans must have state approval before implementation.

It should be noted, however, that school districts with significant disproportions of students in special education based on race and ethnicity will be required to utilize some, but not all, of their Part B funds for EIS to serve children in those groups that were significantly over identified.

Any state eligible to receive a grant under Part B, Section 619, Preschool Grants of IDEA may use funds made available under sections 34 CFR 300.704(a)(1), 34 CFR 300.705(c), or 34 CFR 300.814(e) to develop and implement a birth through age five program. States must develop a policy jointly with the lead state agency under Part C, Infants and Toddlers Program of IDEA and the state education agency (SEA) to provide early intervention services (which must include an educational component that promotes school readiness and incorporates preliteracy, language, and numeracy skills). This policy must be in accordance with Part C of IDEA for children who previously received Part C services, who are eligible for services under section Part B, Section 619, and until the children enter, or are eligible under state law to enter, kindergarten, or elementary school. [34 CFR 300.704(f)] [20 U.S.C. 1411(e)(7)].

High Needs/Cost of Special Education and Related Services

For the purpose of assisting LEAs (including a charter school that is an LEA or a consortium of LEAs) in addressing the needs of high needs children with disabilities, each state has the option to reserve for each fiscal year 10 percent of the amount of funds the state reserves for state-level activities under 34 CFR 300.704(b)(1) to:

- Finance and make disbursements from the high cost fund to LEAs in accordance with 34 CFR 300.704 (c) during the first and succeeding fiscal years of the high cost fund; and
- Support innovative and effective ways of cost sharing by the state, by an LEA or among a consortium of LEAs, as determined by the state in coordination with representatives from LEAs, subject to 34 CFR 300.704(c)(2)(ii) [20 U.S.C. 1411(e)(3)(A)].

A high needs child is a child with a disability whose special education and related services cost more than 3 times the average per pupil expenditure (as defined in section 9101 of the Elementary and Secondary Education Act of 1965).

Administrative Case Management

An LEA may use funds received under Part B of the Act to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP of children with disabilities that is needed for the implementation of those case management activities. (Authority: 20 U.S.C. 1413(a)(4))

Other Funding Issues

The final regulations also add clarifying language on how the states and LEAs calculate excess costs. With this change, LEAs must now calculate the costs for the education of K-12 students that are in excess of the average annual per student expenditure during the preceding school year, *less capital outlay and debt*. To assist LEAs, the final regulations include an Appendix A to Part 300 – Excess Costs Calculation.

The final regulations also contain an Appendix B to Part 300 – Proportionate Share Calculation to assist LEAs in calculating the share of the state grant that they must spend on providing special education and related services to parentally placed children with disabilities in private schools.

Implications for ASHA Members

With the allowable use of state grant funds for early intervening services and high-cost services, ASHA members should be cognizant of the possible reduction in state funding for core IDEA services if their state opts to use their grant funds for these services. However, funds for early Intervening services also present a unique opportunity for SLPs and audiologists to engage in prevention activities, collaboration and consultation, and direct and indirect services through Response to Intervention (RTI) programs with students. For more information on school financing visit ASHA's School Finance Committee Web site at <http://www.asha.org/about/leadership-projects/committees/vpgspSchFin.htm>.

What ASHA Members Can Do

Become an advocate:

1. Become a local advocate for increased funding for speech, language, and hearing services in your school or school district.

Advocate for the opportunity to utilize a portion of Early Intervening Services funds under Part B for the prevention of speech, language, and hearing disorders. By working on prevention activities, the need to identify students as children with disabilities will be reduced. Although the potential exists for positions to be eliminated due to a reduction in caseload size, it is important for members to advocate with their administration for consistent funding of positions in order to provide services to identified and non-identified students. (See ASHA's issue brief on EIS at <http://www.asha.org/NR/rdonlyres/B321BCA9-F61F-4CB3-9D04-B44686A0B4D7/0/EarlyInterveningServicesBrief.pdf>).

2. Work with your special education colleagues, parents, and students to provide testimony to your local school board and administrators.
3. Work with your state association and lobby your governor, state legislature, and state department of education for more resources for SLPs, audiologists, and the school-based services they provide.
4. Go to ASHA's Take Action Web site at <http://www.asha.org/about/legislation-advocacy/grassroots/takeaction.htm> to send an e-mail to your U.S. representative or senator about IDEA full funding.

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