Colorado Department of Education
FAST FACTS
EXCEPTIONAL STUDENT SERVICES UNIT

Early Intervening Services

November 2011

The reauthorized Individuals with Disabilities Education Act (IDEA) was signed into law on Dec. 3, 2004 by President George W. Bush. The reauthorized IDEA took effect on July 1, 2005. This document addresses the provision for EIS contained in the final Part B regulations published on August 14, 2006.

What Are *Early Intervening Services*?

Early Intervening Services (EIS) are defined in IDEA 2004 as *coordinated services for students in Kindergarten through 12th grade (with particular emphasis on students in K-3rd grade) who have NOT been identified as needing special education, but who need additional academic and behavioral supports in order to succeed in the general education environment*. An Administrative Unit (AU) may use "not more than 15 percent" of the amount it receives under IDEA Part B to implement these services. If an AU is cited for disproportionality based on race or ethnicity, the Colorado Department of Education MUST require the AU to use the maximum amount allowable under this provision to address that issue.

NOTE: This is NOT new money; rather, AUs can decide to reallocate how they spend federal Part B dollars. **[34 CFR 300.226(a)].** State ECEA monies are not available for this effort.

Are *Early Intervening Services* The Same As Early Intervention?

No. EIS is intended for the students in Kindergarten through twelfth grade (not preschoolers). Early Intervention Services are for infants and toddlers provided under Part C of IDEA. Part C established the Program for Infants and Toddlers with Disabilities, a federal grant program that assists states in operating a comprehensive statewide program of early intervention services for infants and toddlers with disabilities, ages birth through two years, and their families.

What Is The Purpose Of Allocating Funds For These Services?

Colorado is continuing to address the issues of improving student outcomes, disproportionate representation, and over-identification for special education services. Schools must take a preventive approach rather than a wait to fail approach. This is an opportunity to collaborate with and integrate general, remedial and special education services.

Why Would An Administrative Unit Choose To Use Part B Money For *Early Intervening Services* If It Is Not New Money?

EIS are designed to encourage school districts to provide additional support for struggling students within the general education classroom. When these supports are successful, the AU, the school and the student can benefit. The AU can save money on costly evaluations required to determine eligibility for special education as well as the additional costs associated with special education services. Typically, pre-referral interventions are provided in the student's general education classroom so that he/she may receive support aimed at helping him or her work at grade level.

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The goal is to help as many students as possible reach their potential in school without needing to be placed in special education programs. However, nothing requires an AU to designate Part B funds for EIS, unless the AU has been determined to have a significant disproportionality with respect to identification of children as children with disabilities. **However, if an AU chooses to use Part B funds for EIS, it may mean more general fund dollars will be required to support special education costs.** General and special education administrative staff should work together to understand the implications in using these dollars for EIS to decide which approach allows the greatest benefits.

Which Students Should Receive *Early Intervening Services*?

Students designated to receive EIS are those who are at risk for developing academic and/or behavioral problems. These are students who have NOT been identified as needing special education, but rather who may be at risk for being referred for special education services <u>if appropriate instruction and interventions are not provided.</u>

NOTE: Nothing in the EIS regulations may be construed to limit or create a right to free appropriate public education or to delay the appropriate evaluation of a child suspected of having a disability.
[34 CFR 300.226(c)]

May These Funds Be Used For Students In Any Grade K-12?

Yes. Although the emphasis is on prevention in kindergarten through third grade, these funds may be used to provide intervention at any grade level except preschool for students who are at risk. **[34 CFR 300.226(a)]**

What Activities Can Be Implemented Through *Early Intervening Services*?

In implementing coordinated EIS, an AU may carry out activities that include:

- Provision of personnel to deliver scientifically-based academic and behavioral interventions. Funds may be used to pay for personnel (do not have to be special education licensed and endorsed) who are providing direct instructional interventions to students using a school-wide service delivery model. Additionally, AUs must continue to provide FAPE to students with IEPs.
- Utilization of strategies for universal screening and progress monitoring, primarily targeting students in grades K-3. These activities <u>must</u> identify students at risk for developing academic and/or behavioral difficulties and <u>must</u> have the ability to be used for frequent progress monitoring;
- Instruction/intervention that meets the evidence-based criteria for at-risk students *may* be provided during a summer school program;
- Provision of professional development to support training in areas such as assessment, instructional interventions, the problem solving process, positive behavior supports, and evidence-based instruction in reading. Funds could be used to cover the cost of consultants or to pay travel expenses for staff participation in training opportunities;
- Funds allocated in addition to Title I funding to provide instruction for students;
- Funds designated for direct instruction or instructional materials in addressing the needs of students for whom existing instruction has not proven to be successful; funds may <u>NOT</u> be used to purchase equipment.

Do AUs Need To Assure Maintenance Of Effort (MOE) When Designating Funding For *Early Intervening Services*?

Yes. AUs must use caution in reducing their local maintenance of effort (MOE) while using Part B funds for EIS. The

amount of funds available for MOE impacts the amount available for EIS. An AU must compare its current allocation to the previous year's allocation. Only 50% of any increase can be used to decrease local support. Once an AU has determined how much will be used for EIS, that amount must be reduced by the amount determined to decrease local support. **[34 CFR 300. 205(d)]**

For example, an AU who has a current allocation of $550,000 received a $50,000 increase from the previous year's allocation. 50% of that increase, or $25,000, may be used to decrease local support. 15% of the current allocation may be used for EIS, which is $82,500. When you subtract the amount available to decrease local support from the amount available for EIS [$25,000 from $82,500] there remains $57,500 available to use for EIS.

Are *Early Intervening Services* Different From Response To Intervention?

"EIS" is a federal term linked to IDEA Part B funding. Response to Intervention (RTI) may be used as a means of providing EIS. Whether or not an AU decides to use RTI as a way of providing EIS is a local decision. RTI is a process of providing direct evidence-based instructional and/or behavioral interventions by highly qualified staff. It includes careful progress monitoring at a frequency determined by individual needs. The data collected through progress monitoring helps determine the effectiveness of the prescribed intervention and informs the next instructional decision. It is a valid way to address and document EIS.

What Are The Reporting Requirements For *Early Intervening Services*?

Each AU that develops and maintains EIS, or is required to participate due to significant overrepresentation and disproportionality, must annually report the following information to CDE:

- The number of students served by EIS; and
- The number of students served by EIS who subsequently receive special education and related services under IDEA during the preceding two-year period.

[34 CFR 300.226(d)]

How Will *Early Intervening Services* Coordinate With The *No Child Left Behind* Act?

Funds made available to develop and implement coordinated EIS may be used to support activities funded by, and carried out under NCLB. These funds are to be used to supplement, not supplant, funds made available under NCLB.

[34 CFR 300.226(e)]

What Are The Requirements Regarding *Early Intervening Services* When Colorado Identifies Significant Disproportionality?

IDEA 2004 requires CDE to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the state as well as in the AUs with respect to the:

- Identification of children as children with disabilities, including the identification of children in accordance with a particular impairment as described in Section 602(3) of IDEA;
- Placement in particular educational settings of such children; and
- Incidence, duration, and type of disciplinary action, including suspensions and expulsions.

If significant disproportionality is identified within an AU, CDE *must*:

- Provide for the review and revision of an policies, procedures, and practices to ensure compliance with the

requirements of IDEA 2004 and its regulations;

- Require any public agency identified under 34 CFR 300.646(a) to reserve the maximum amount of funds (15% of federal Part B allocation) to provide comprehensive coordinated EIS, particularly to serve children who are significantly over identified; and
- Require the AU to report publicly on the revision of policies, procedures, and practices.

[34 CFR 300.646(b)(2)]

For additional information and resources on EIS, please go to the following links:

Colorado IDEA 2004, FAQ, section O:
http://www.cde.state.co.us/cdesped/dircorner.asp

http://idea.ed.gov/explore/home
major topics: early intervening services