

Information Brief:

Response to Intervention (RTI): Funding Questions and Answers

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The National Center on Response to Intervention receives questions from the field on a regular basis about how to fund Response to Intervention (RTI). This document provides written responses from the U.S. Department of Education Office of Special Education Programs (OSEP) on the use of *Individuals with Disabilities Education Act* (IDEA) funds for the implementation of RTI and answers eight commonly asked questions on funding RTI.

On July 28, 2010, a State department of education submitted questions to OSEP about funding RTI. The State requested this information for the purpose of providing the division heads within the State with a shared understanding on how to help implement and fund Response to Intervention (RTI) for State Educational Agency (SEA) staff. In its correspondence, the State explained that when it used "IDEA funds" in its questions, it meant "not CEIS funds." The responses to the questions in this document are specific to a particular State. If your State has questions related to this or other IDEA funding matters, please communicate with your OSEP contact.

Uses of Funds under IDEA

The purpose of the *Individuals with Disabilities Education Act (IDEA) Part B* grants is to assist States, outlying areas, freely associated States, and the Secretary of the Interior to provide special education and related services to children with disabilities. States must ensure that all children with disabilities residing in the State within the State's mandated age range have access to a free appropriate public education (FAPE). The term FAPE refers, in part, to special education and related services that are designed to meet a child's unique needs and that will prepare the child for further education, employment, and independent living. In general, *IDEA Part B* funds must be used only to pay the excess costs of providing special education and related services to children with disabilities, such as costs for special education teachers and administrators; related services providers (speech therapists, psychologists, etc.); materials and supplies for use with children with disabilities; professional development for special education personnel; professional development for regular education teachers who teach children with disabilities; and specialized equipment or devices to assist children with disabilities. Generally *IDEA Part B* funds cannot be used for core instruction in the general education classroom, instructional materials for use with non-disabled children, or for professional development of general education teachers not related to meeting the needs of students with disabilities, except as described below. Two exceptions to these guidelines are when *IDEA Part B* funds are used for coordinated early intervening services (CEIS) or are consolidated in a Title I school wide school (under the *Elementary and Secondary Education Act, or ESEA*).¹

¹ For additional guidance on the use of Part B funds, please refer to the document located at: <http://www2.ed.gov/policy/gen/leg/recovery/guidance/idea-b-reform.pdf>



Local educational agencies (LEAs) may use up to 15 percent of their *IDEA Part B* funds for *coordinated early intervening services (CEIS)*² to assist students in grades K through 12 (with an emphasis on K through 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment. CEIS funds can be used to provide professional development to educators who are responsible for helping children who need additional academic and behavioral support to succeed in a general education environment or to provide direct interventions to children who need academic and behavioral support. CEIS funds may be used in coordination with ESEA funds but must supplement, and not supplant, ESEA funds for those activities.³

An LEA⁴ may use *IDEA Part B* funds to carry out a school wide program under section 1114 of the ESEA. The amount of *IDEA Part B* funds that can be used in any such program cannot be more than the number of children with disabilities participating in the school wide program times the amount provided per child with a disability under the LEA's total *IDEA Part B* award.⁵ In a Title I school wide school that consolidates Federal funds (e.g., *ESEA*, *IDEA*, etc.), a school may use those funds for any activity in its school wide plan without accounting separately for the funds.⁶ The LEA must ensure that children with disabilities in school wide program schools continue to receive FAPE, but would not need to show that *IDEA* funds used in the school wide program were spent only on allowable special education and related services expenditures.⁷

Further information on the programmatic and fiscal issues associated with school wide programs can be found in the *IDEA* Topic Brief entitled *Alignment with the No Child Left Behind Act*,⁸ and in the *Designing School wide Programs*⁹ non-regulatory guidance.

² For additional guidance on CEIS, please refer to: http://www2.ed.gov/policy/speced/guid/idea/ceis_pg2.html

³ *IDEA* Section 613(f)(5)

⁴ For additional guidance on the implementation of RTI using Title I, Title III, and CEIS funds, please refer to: <http://www2.ed.gov/programs/titleiparta/rtifiles/rti.pdf>

⁵ *IDEA* Section 613(a)(2)(D)

⁶ *ESEA* Section 1114

⁷ *IDEA* Section 613(a)(2)(D); 34 CFR §300.206

⁸ <http://idea.ed.gov/explore/home>

⁹ www.ed.gov/policy/elsec/guid/designingswpguid.doc



Response to Intervention (RTI) and Use of CEIS funds

There are a number of RTI frameworks, and while the Department does not endorse a particular RTI framework, several core characteristics tend to be present in RTI. These characteristics are: (1) high quality, evidence-based instruction in general education settings; (2) screening of all students for academic and behavioral problems; (3) two or more levels (sometimes referred to as “tiers”) of instruction that are progressively more intense and based on the student’s response to instruction; and (4) continuous monitoring of student performance. For example, one RTI framework may include a primary, secondary, and tertiary level of instructional support. In this framework, primary level applies to all students in a general education setting. It would not be appropriate to use CEIS funds for primary level activities that support these students because these activities are designed to provide high-quality instruction to the entire class or school and not principally intended to address the needs of students who are struggling. Secondary level activities provide specialized small group instruction for students determined to be at risk for academic and behavioral problems. It would be appropriate to use CEIS funds to support these secondary level activities for at-risk, general education students. If students who are receiving special education and related services participate in the small group instruction, it would not be appropriate for CEIS funds to be used for these students as CEIS may not be provided to students that are currently identified as needing special education or related services. Tertiary level includes specialized individualized instructional or behavioral support for students with intensive needs. As in the case of secondary level activities, CEIS funds could be used for activities that support general education students at risk for academic and behavioral problems, but could not be used for students who are receiving special education or related services.

If an LEA is required or chooses to use part of its Part B funds for CEIS, it must consider the effect that the decrease in the available Part B funds might have on the LEA’s maintenance of effort obligation. States and LEAs should review the requirements in 34 CFR §§300.205(d) and 300.226(a), and the examples provided in Appendix D to the Part B regulations, to better understand how CEIS and maintenance of effort calculations might affect one another.

The following federally supported resources can provide additional information:

- <http://www.rti4success.org>
- <http://www.studentprogress.org>



RTI Funding Questions and Answers

- 1. Can a special education teacher paid with 100% IDEA Part B [non-CEIS] funds provide services to a group of students that includes both students with identified disabilities and those “at-risk” students that have not been identified? Would the answer be different if the special education teacher were paid from both IDEA Part B funds and state and local funds?**

Except when IDEA Part B [non-CEIS] funds are used in a school wide program, special education teachers who are fully funded with IDEA Part B [non-CEIS] funds must provide special education and related services to students with disabilities consistent with their individualized education programs (IEPs). Under 34 CFR §300.208(a), IDEA Part B funds provided to an LEA may be used for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a student with a disability in accordance with the student’s IEP, even if one or more nondisabled children benefit from these services. Therefore, if a special education teacher fully funded with IDEA Part B (non-CEIS) funds is providing special education and related services in a group to students with disabilities in accordance with their IEPs, this provision permits one or more “at-risk” students who have not been identified to benefit.

It is important to note that a special education teacher cannot be fully funded with IDEA Part B (non-CEIS) funds and provide special education and related services to students with disabilities during one portion of the day and perform other functions at other times for which the LEA cannot pay using Part B (non-CEIS) funds. If a special education teacher paid from both IDEA Part B (non-CEIS) funds and State and local funds is serving students with disabilities during one portion of the day and “at-risk” students who have not been identified during another portion of the day, the LEA must document, consistent with OMB Circular A-87, the amount of time the teacher spends providing services to students with disabilities as distinct from nondisabled students to ensure that IDEA Part B [non-CEIS] funds are properly expended. In order to be counted for meeting local maintenance of effort (MOE) requirements in 34 CFR §300.203, State and local funds for special education can only be used for the education of students with disabilities. In many RTI programs, the intervention provided at the highest intervention level may be special education services that are included in the students’ IEPs.

- 2. Could IDEA Part B funds be used for universal screening (e.g. using Child Find screening as universal screening for RTI)?**

Except when used in a school wide program, IDEA Part B (CEIS and non-CEIS) funds cannot be used for universal screening that is conducted on a regular basis for an entire school as a means of identifying students who are struggling and may need additional, specific educational supports and interventions.



3. Can IDEA Part B funds be used to train regular education teachers in RTI?

Except when used in a school wide program, IDEA Part B (non-CEIS), funds may not be used to provide professional development to all personnel who are responsible for students who need additional academic and behavioral supports to succeed in a general education environment, but who have not been identified as needing special education. However, CEIS funds may be used for this purpose. Under limited circumstances personnel who are solely responsible for students receiving special education services or students who do not need additional support may participate in professional development funded with CEIS funds. These personnel may participate so long as the cost of the professional development does not increase, the quality of the professional development does not decrease, and including those personnel would not exclude other personnel who are responsible for students who need additional support but have not been identified as needing special education.

4. Since the majority of special education is not funded through IDEA - it's funded through State and local dollars - can a district use a special education teacher for RTI interventions?

See response to questions 1, 2 and 3 above. A district's ability to use a special education teacher for RTI interventions depends on whether the funds are being used in a school wide program, how the teacher is funded, and the students the teacher is serving. A district can use a special education teacher for RTI interventions for students who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment, if the teacher is being paid with CEIS funds. Except when the funds are being used in a school wide program, a special education teacher paid solely with IDEA Part B [non-CEIS] funds only can provide RTI interventions that are special education and related services to students with disabilities. State and local funds used to pay a special education teacher can be counted for meeting local MOE requirements in 34 CFR §300.203, if the funds are being used for the education of students with disabilities.

If the special education teacher is being funded with a combination of funds and providing RTI interventions, depending on the funds used, the LEA must document, consistent with OMB Circular A-87, the amount of time the teacher spends providing services to student with disabilities as distinct from students who are not currently identified as needing special education or related services, but who need additional academic and behavioral support to succeed in a general education environment, as distinct from nondisabled students who do not need additional support to ensure that IDEA Part B funds are properly expended.

5. How are LEAs supposed to count special education teachers (described in question four) for local maintenance of effort?

See response to question 4.



6. The Federal regulations require that attempts be made to meet all children’s needs in the general education classroom prior to referral for an evaluation for special education and related services. In this course of action, the work of the school psychologist is mainly in the area of the referral process (before a child is identified). Therefore, is it possible for IDEA funds to be used for school psychologists or should LEAs be instructed to budget all of their school psychological services through state and local dollars? If the activity is required by Federal regulations but IDEA funds cannot be used, what is the basis for that decision?

The Federal regulations do not require that attempts be made to meet all children’s needs in the general education classroom prior to referral for an evaluation for special education and related services. Under 34 CFR §300.307(a), in adopting criteria for determining whether a student has a specific learning disability, a State must permit the use of a process based on the child’s response to scientific, research-based intervention. Under 34 CFR 300.301(b), if a parent or LEA suspects a child may have a disability, the parent or LEA may request an initial evaluation to determine if the child is a child with a disability and to determine the educational needs of the child. An LEA may use information generated by the RTI process to decide whether to refer a child for an initial evaluation. However, at any time during the RTI process, parents may request an evaluation for special education, and school staffs must fulfill the request within the time limits specified in the regulations. The LEA must either obtain consent to evaluate and begin the evaluation, or if the LEA declines the parent’s request, issue a prior written notice under 34 CFR §300.503.

Whether IDEA Part B funds can be used for a school psychologist depends on the type of duties being performed by the school psychologist, and whether those services are being provided as part of a school wide program. LEAs may use CEIS funds for school psychologists who provide behavioral and educational evaluations to determine the supports that are needed by students to succeed in a general education environment. A school psychologist that is paid with CEIS funds can perform duties that would be considered preventative interventions (designed to help meet the child’s needs in the general education classroom) for students who are not currently identified as needing special education or related services, but need additional academic and behavioral support to succeed in a general education environment. This would include the work of a school psychologist who is involved in the referral process before a child is identified. See responses to questions 7, 8 and 9 below regarding use of IDEA Part B (non-CEIS) funds for school psychologists.

7. If a school psychologist or special education teacher is paid through IDEA Part B (non-CEIS) funds, does that prohibit them from performing duties that would be considered preventative interventions (designed to help meet the child’s needs in the general education classroom)?

Yes, except as provided in 34 CFR §300.208(a), and for services that are a part of a school wide program as authorized under 34 CFR §300.206. The type of duties being performed by the school psychologist or special education teacher dictate whether or not the duties would be prohibited uses of IDEA funds. A school psychologist or special education teacher



that is paid through IDEA Part B (non-CEIS) funds cannot perform duties that would be considered preventative interventions (designed to help meet the child's needs in the general education classroom) for students who are not currently identified as needing special education or related services.

8. Can a school psychologist or special education teacher paid through IDEA Part B (non-CEIS) funds consult with classroom teachers on academic and behavioral interventions in an attempt to meet children's needs in the general education classroom and prevent referral to special education?

No, except for services that are provided as part of a school wide program. If not a part of a school wide program, a school psychologist or special education teacher paid with IDEA Part B (non-CEIS) funds may not consult with classroom teachers on academic and behavioral interventions in an attempt to meet children's needs of children (who are not currently identified as needing special education or related services) in the general education classroom in an effort to prevent referral to special education.



About the National Center on Response to Intervention

Through funding from the U.S. Department of Education's Office of Special Education Programs, the American Institutes for Research and researchers from Vanderbilt University and the University of Kansas have established the National Center on Response to Intervention. The Center provides technical assistance to states and districts and builds the capacity of states to assist districts in implementing proven response to intervention frameworks.



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