Fields of Opportunities

STATE OF IOWA

CHESTER J. CULVER, GOVERNOR
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF EDUCATION
KEVIN FANGMAN, ACTING DIRECTOR

MEMORANDUM

TO: AEA Chief Administrators
AEA Special Education Directors
AEA Ed Services Directors
AEA Media Services Directors
LEA Superintendents
FROM: Kevin Fangman, Acting Director
RE: Coordinated Early Intervening Services – Updated Guidance On Use of 15 % of Part B Funds

Under the 2004 IDEA amendments and the 2006 IDEA regulations, AEAs and LEAs are permitted to use "not more than 15 %" of their allocations under Section 611 of Part B to "develop and implement coordinated, early intervening services, which may include interagency funding structures, for students in kindergarten through grade twelve (with a particular emphasis on students in kindergarten through grade three) 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." 34 C.F.R. § 300.226. These provisions of the law are based on the belief that improved interventions in general education may reduce the need for special education identification and services. The Department has since received refining interpretations from the federal government. This memo provides guidance on Coordinated Early Intervening Services (CEIS), and updates the Department's earlier memo on the same subject.

Q: What should a CEIS system "look like"?
A: It depends on the needs of each LEA or AEA. While LEAs and AEAs are given wide latitude in delivering CEIS, it is important that CEIS be coordinated within each agency and with potential interagency funding structures. Given that latitude, however, each AEA and LEA should carefully plan how CEIS funds will be spent. Each AEA and each LEA in an AEA are strongly encouraged to coordinate their CEIS plans.

Q: What children are eligible for CEIS?
A: A child who needs additional academic and behavioral supports to succeed in the general education environment is eligible for CEIS. Each LEA and AEA that uses CEIS funds is to develop objective criteria defining this population. While the development of such criteria is the responsibility of each AEA and LEA, the federal government suggests aligning these criteria with other data and activities (e.g., districtwide assessment data, Title I criteria, schoolwide behavior data) to maximize the combined effect of activities and to streamline data collection.

Q: Must an AEA or LEA use all of the allotted 15 % for CEIS?
A: With one exception, the use of "not more than 15 %" of Part B funds for CEIS is discretionary. AEAs and LEAs may use up to this amount, but may not use more than this amount. If an LEA has a significantly disproportionate rate of identification, placement, or disciplinary action based on race or ethnicity (as determined by an analysis of applicable data and subsequent notification of the LEA by the Department), however, then that LEA must use the maximum amount permissible on CEIS.

Q: If an LEA is determined to have significant disproportionality, how must it use CEIS funds?
A: If an LEA is determined to have significant disproportionality, it must expend the entire amount available to it for comprehensive CEIS. These CEIS activities must be "particularly" directed to students in the racial or ethnic group with significant disproportionality, but not "exclusively" so. A determination of significant disproportionality is made solely based on data submitted by the LEA, and is without regard to whether the disproportionality resulted from appropriate or inappropriate policies, practices, and procedures.

Q: What activities may an AEA or LEA provide with CEIS funds?

A: According to the 2004 IDEA amendments and the 2006 IDEA regulations, the following activities are possible CEIS activities:

· "Professional development (which may be provided by entities other than the LEA) for teachers and other school staff to enable such personnel to deliver scientifically based academic and behavioral interventions, including scientifically based literacy instruction and, where appropriate, instruction on the use of adaptive and instructional software."

· "Providing educational and behavioral evaluations, services and supports, including scientifically based literacy instruction."

· According to OSEP, other activities not listed may be permissible, so long as those activities are directed to providing assistance to students who need additional academic and behavioral support in the general education environment.

Q: Are supplemental instructional materials included in "educational and behavioral evaluations, services, and supports"?

A: Yes.

Q: May AEAs or LEAs use related services personnel in the delivery of CEIS?

A: Yes.

Q: Are there specific examples of activities that CEIS funds may support?

A: Whether they take the form of direct services or professional development, CEIS must be directed to those children "who need additional academic and behavioral support to succeed in a general education environment." Activities typically covered under Title I and not related to special education may be supported by CEIS funds, as well as trainings and professional development on Instructional Decision Making (IDM) and for building assistance teams. School-wide and classroom-wide activities, such as positive behavior support activities and Character Counts, may be supported by CEIS funds, but only to the extent the program or activity serves students not in special education who meet the criteria for CEIS. Academic or behavioral interventions with a child without an IEP may be supported by CEIS funds. Evaluations used to determine how to delivery CEIS or to determine a student's need for additional support may be supported by CEIS. AEAs and LEAs may use CEIS funds to employ consultants who provide services to general education students who need additional "academic and behavioral support."

Q: Are there examples of activities that may not be supported with CEIS funds?

A: Activities directed to students with IEPs may not be supported with CEIS funds. Likewise, evaluations intended to determine eligibility for special education may not be supported with those funds. Progress monitoring associated with the implementation and ongoing delivery of services described in a student's IEP may not be supported with CEIS funds, nor may any professional development (whether directed to general education teachers or special education teachers) about teaching students with disabilities and implementing IEPs.

Q: Some professional development supported by CEIS funds may be useful to special educators or to general educators who do not serve children who meet the criteria for CEIS. May they attend CEIS-supported professional development opportunities?

A: According to OSEP, personnel who solely provide special education and support and related services or who solely serve children who do not need CEIS may attend CEIS-supported professional development may participate in CEIS-supported professional development only if:

- The cost of the professional development does not increase;
- The quality of the professional development does not decrease; and
- Personnel who serve CEIS-eligible students are not excluded from attendance.

Q: What is the relationship between CEIS and Response to Intervention (RTI)?

A: The relationship between CEIS and IDM, Iowa's RTI model, is close and complex. Services provided as part of RTI that occur prior to parental consent to evaluate may be counted toward the 15 % that may be spent on CEIS. RTI may also be provided by AEAs with "special education support services" funds, regardless of when consent to evaluate has been given. CEIS may not be used for "core" services (services all students receive), but

only for "supplemental" or "intensive" services ("additional services" for students who need them). RTI services that are provided after parental consent to evaluation are not CEIS, but are governed by Part B's evaluation requirement.

Q: What is the "bottom line" for activities that CEIS funds may support?
A: There must be a close and demonstrable connection between CEIS funds and students in general education needing additional academic and behavioral supports. If the connection between the funded activity and children needing CEIS is remote or tenuous (e.g., paying clerical staff salaries), such use of funds will be subject to very close scrutiny and require well articulated justification and documentation.

Q: Is parental consent required before a student receives CEIS?
A: No.

Q: At what point must CEIS stop and consent to an evaluation be sought?
A: It depends on the needs of each child. OSEP makes clear there is no bright line for when CEIS must stop and an evaluation must be started; however, a child's receipt of CEIS may not delay an "appropriate evaluation of a child suspected of having a disability."

Q: May CEIS be provided to children who once received special education but who have been exited from special education?
A: Yes, if those children need "additional academic and behavioral support to succeed in a general education environment."

Q: What are the reporting requirements for LEAs?
A: Each LEA must annually report to the Department (1) on the number of students who receive CEIS supported by Part B funding and (2) the number of students who received CEIS "and subsequently receive special education and related services ... during the preceding two year period" (i.e., the two years after the child received CEIS). This reporting will be through Project EASIER. If an AEA provides CEIS, then the AEA should report to each LEA the names of the children who received direct services or the LEA employees who received professional development from the AEA.

Q: When CEIS involves professional development, how do LEAs calculate the number of children who benefited from that professional development activity?
A: If a teacher or other employee receives professional development supported by CEIS, then all of the students served by that teacher or other employee who are (1) not in special education and (2) who meet the agency's criteria for needing additional assistance are to be counted as receiving CEIS. For AEA-provided professional development supported by CEIS funds, use the AEA's criteria for whether children are eligible for CEIS. For LEA-provided professional development supported by CEIS funds, use the LEA's criteria for whether children are eligible for CEIS.

Q: What is the purpose of these reporting requirements?
A: The reporting requirements are designed to determine whether CEIS actually reduces the frequency of special education referrals and determinations of eligibility.

Q: Must AEAs or LEAs track students who benefit from Department-supported assistance or initiatives (e.g., workshops, technical assistance) for general education students who need additional academic or behavioral support?
A: An AEA or an LEA would be required to track such students only if the AEA or LEA used CEIS funds to participate in the Department-supported program (e.g., an LEA uses CEIS funds to hire a substitute for a teacher attending a Department workshop).

Q: What is the relationship between CEIS and funds received under the Elementary and Secondary Education Act (ESEA)?

A: CEIS funds may be coordinated with ESEA funds and must supplement, not supplant, those ESEA funds. ESEA funds include but are not limited to funds under Title I (including but not limited to Reading First, Even Start Family Literacy programs, education of migratory children, and programs for children who are neglected, delinquent, or at-risk), Title II (teacher and principal preparation programs), Title III (programs for students with limited English proficiency), and Title IV (Safe and Drug-Free Schools and Communities).

Q: May schools use CEIS funds to provide services to at-risk limited English proficiency students?

A: It is inappropriate to use CEIS funds to fund programs for English language learners who do not need additional academic and behavioral supports to succeed in the general education environment; however, OSEP states nothing in the 2004 amendments or the 2006 regulations would prohibit an LEA or AEA from using CEIS funds to provide CEIS to English language learners who are also at risk and "need additional academic and behavioral support to succeed in a general education environment." Remember that CEIS and ESEA funds for English language learners are subject to the supplement-not-supplant requirement.

Q: Are children in pre-school or pre-kindergarten programs eligible for CEIS?

A: No. Students who are in pre-kindergarten programs (as well as students beyond grade twelve) are not eligible for CEIS. Coordinated Early Intervening Services are not to be confused with Early Intervention (Early ACCESS) under IDEA's Part C.

Q: How do LEAs and AEAs properly document the receipt and expensing of the funds designated for CEIS?

A: The Department has developed a process for recording CEIS funds. To properly document the receipt and expensing of funds, the chart of account coding used by school districts will allow for segregated recording of transactions affecting CEIS funds. LEAs and AEAs should be prepared to document allowable transactions based upon the guidance provided by the Department. In addition, a process will be established to allow for State reporting of the amount expensed and the types of services provided. Lastly, the Department will train persons responsible for LEA and AEA finances on CEIS auditing guidelines. Additionally, CEIS funds must supplement, not supplant, other funds available to the LEA or AEA to provide these services.

Q: Does receipt or delivery of CEIS create a right to FAPE?

A: No.

Q: Does receipt of CEIS confer disciplinary protections under the IDEA?

A: No. A student who receives CEIS is a general education student, and may be disciplined as such. Furthermore, receipt of CEIS, standing alone, does not allow a student to assert that a school was "deemed to know" the student could have a disability, thereby allowing the student to attempt to invoke the IDEA's disciplinary protections.

Q: Who may I call with questions about CEIS?

A: For more information, contact either Steve Crew (Steve.Crew@iowa.gov or 515-281-6285), Thomas Mayes (Thomas.Mayes@iowa.gov or 515-242-5614), or Cheryl Merical (Cheryl.Merical@iowa.gov or 515-281-6203).

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