IDEA and Recovery Act Funds: What Special Education Advocates Need to Know

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Webinar Agenda
- Key Elements of Education Funding
  - Amounts, Timelines and Conditions
- IDEA
  - Maintenance of Efforts
  - State Performance Plan/Annual Performance Report
  - Coordinated Early Intervening Services
  - Uses of Funds
- IDEA Money Watch Website

Quality Education Key to the Nation’s Economic Well-Being

“In a global economy where the most valuable skill you can sell is your knowledge, a good education is no longer just a pathway to opportunity - it is a pre-requisite.”
President Barack Obama, 2/24/09
2 Guiding Principles for Use of Funds

- **Spend funds quickly to save and create jobs.** Avert layoffs, create and save jobs and improve student achievement. Use funds consistent with the law’s reporting and accountability requirements.
- **Ensure transparency, public reporting and accountability.** Recipients subject to heightened scrutiny and must publicly report on how funds are used.
- **Invest one-time ARRA funding for FY10 and FY11 to minimize the “funding cliff.”**
- **Improve student achievement through school improvement and effective reforms.** Close the achievement gap and help all students learn to high standards.

### Title XIV: State Fiscal Stabilization Fund (SFSF)

**$53.6 billion**

- **NEW** SFSF program - $48.6 billion to Governors to assist States in making up budget shortfalls in education and other essential services
- **NEW** “up to” $5 billion discretionary funds for “Race to the Top” State Incentive Grants for improving education outcomes for Title I/NCLB subgroup students. Competitively awarded
- **NEW** “Innovation Fund” $650 million to award LEAs for closing achievement gaps & identifying or replicating “best practices”

### $48.6 billion SFSF Funds

Allocated by formula to State Governors for commitment to advance core education reforms.

- **$39.8 billion (81.8%)** Education Fund to restore State support for public elementary, secondary & post secondary education to > FY08/FY09 level. Distributed thru State’s primary funding formula. Remainder, if any, to LEAs per Title I formula, but Title I program requirements do not apply.

- **$8.8 billion (18.2%)** Government Services Fund to fund public safety and any other government services, may include education; both pools allow for modernization, renovation or repair of public schools/higher ed. insti.
SFSF: State Fiscal Considerations

- To obtain SPSF funds, a State must assure it shall maintain same level of support for education in FY2009-11 at least at FY2006 level
- Sec’y may permit SFSF funds to be treated by a State as non-federal funds to meet MOE under Title I and/or IDEA, provided the State does not reduce proportional amount of state revenues for education
- No Supplement Not Supplant (SNS) requirement at State or school district level in use of SFSF funds.

Timing of release of SFSF

- $32.5 billion (67% of a state’s total stabilization allocation) within 2 wks of receipt of approvable application.
- Remaining 33% of Funds by 9/30/09 after US ED approves State plan as consistent with requirements for core areas, record-keeping and reporting
ARRA Title VIII: New $ for Existing Programs

$13 billion - Title I of ESEA or grants for extra services to schools and LEAs with high concentrations of low-income students, includes $3 billion School Improvement funds for Title I High Priority Schools

$12.2 billion IDEA grants to States
+ $11.3 billion Part B grants for school-age SWDs
+ $400 million Part B sec. 619 for preschool children
+ $500 million Part C for infants & toddlers

Remember!
ARRA Funds are in addition to regular FY09 allocations for existing Title I & IDEA Part B and C programs.

IDEA Part B Grants to States Federal Appropriations 2001-2009 (dollars in thousands)

ARRA IDEA Grants

- All LEAs will receive ARRA IDEA funds in addition to their regular annual FY IDEA Part B allocation using same funding formula and subject to same rules.

- ARRA IDEA Part B + FY2009 IDEA Part B grants to states & preschool grants = State’s Total FY09 Part B allocations.

(See IDEA FY09 and ARRA Part B 611 Comparison Chart)

Timelines for ARRA IDEA Funds to States

April 1, 2009
USED distributed 50% of ARRA Part B IDEA and Preschool grants to States based on State’s current FY08 eligibility determination and certification re/commit to 4 assurances under ARRA

By October 1, 2009
USED will distribute second 50% of ARRA Part B and preschool grant upon approval by ED of additional info about how State will meet accountability & reporting requirements (APPR sec. 1512)

By September 30, 2011
All ARRA Part B IDEA funds must be obligated. Goal is to use IDEA ARRA funds expeditiously but sensibly during 2008-09, 2009-10, 2010-11 school years
### Distribution of IDEA Part B ARRA: Effect on State & LEA Set-Asides

- IDEA Part B ARRA funds **DO NOT** increase amount a State may reserve for state administration/other state-level activities under its regular IDEA Part B FY09 grant.* *(IDEA authorizes states to reserve an amount equal to 10% of their FY 2006 allotment)*  
- This results in an **INCREASE** in the AMOUNT OF ARRA FUNDS GOING TO LEAs.  
- LEAs **MAY** (and sometimes **MUST**) set aside up to 15% of IDEA Part B ARRA funds for Coordinated Early Intervening Services (CEIS) *(more later...)*.

### Same Rules under IDEA Part B Apply to LEAs

LEAs must use IDEA Part B ARRA funds:

- consistent with Part B statute & regulations  
- only for the excess costs of providing special education & related services to children with disabilities — i.e., it has spent the minimum average amount for the education of its children with disabilities before Part B funds are used  
- consistent with non-waiveable local maintenance of effort and non-supplanting requirements  
- With proportionate share to private schools in same school district that serves SwDs placed by parents

### Supplement Not Supplant (SNS) Balancing Act

USED Sec'y has authority to grant a waiver of state level SNS **but**:

- State must provide *clear and convincing evidence* that all children with disabilities have FAPE available, which includes  
  - summaries of all federal and state monitoring reports w/in prior 3 years, State complaint decisions and hearing decisions [34 CFR 300.164]  
- ARRA Joint Explanatory Statement clarifies that additional federal funds are designed “to help mitigate the effect of the recent reduction in local revenues and state support for education.”

### STATE LEVEL Maintenance of Effort (MOE) under IDEA

- Sec'y may waive the **state-level MOE** requirements under IDEA Sec. 612(a)(18) for one fiscal year at a time,  
  - in exceptional or uncontrollable circumstances such as a natural disaster or  
  - a “precipitous and unforeseen decline” in the state’s financial resources.  
- SEA & LEAs are ensuring all SwDs are meeting state standards, including benchmarks for demonstrating APRs.  
- **SPECIAL NOTE**: Unlike the local MOE, the state’s level of effort in future years reverts to the level that would have been required if a waiver had not been granted.
LOCAL Maintenance of Effort (MOE)

- 50% RULE: LEAs may reduce local expenditures for special education by an amount equal to up to 50 percent of the amount of the increase in the LEA’s IDEA allocation over the prior year, provided the freed-up local funds are used for activities supported under the ESEA, [IDEA Sec. 613(a)(2)(C)]
  - may include early intervening services and core instruction and screening phases of RTI
  - activities under Title I, Impact Aid, etc., and
  - activities not currently being funded by the LEA under ESEA.
- IMPORTANT: This lower level becomes the new MOE for future years, unless the LEA elects to increase state and local expenditures.

Example

<table>
<thead>
<tr>
<th>FY 2008</th>
<th>FY 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal allocation</td>
<td>Federal allocation</td>
</tr>
<tr>
<td>$150,000</td>
<td>$315,000</td>
</tr>
<tr>
<td>(FY09 + ARRA)</td>
<td></td>
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</tbody>
</table>

LEA can reduce MOE by up to 50% of increase ($165,000; $82,500)

Exception to LEA Reduction to MOE

State must Prohibit an LEA’s Reduction of Maintenance of Effort for a FY if the:
- SEA finds an LEA is unable to establish and maintain programs providing FAPE as required by section 613(a) of IDEA or
- SEA has taken action against the LEA under section 616 of IDEA (e.g., finding of “significant disproportion”) [34 CFR 300.600-300.646]

And, most importantly ....

Exception to LEA Reduction to MOE

State determines that the LEA is not meeting the requirements* of IDEA Part B, including the targets in the State’s Performance Plan (SPP). [IDEA 616(f)]

(*LEA has rec’d any rating other than “Meets Requirements” on latest Annual Performance Report (APR) – see Appendices for details)
**Exception to LEA Reduction to MOE**

*Remember SEA’s Affirmative Duty!!*

- SEA has a duty to bar any LEA from reducing its MOE for a particular fiscal year if the SEA has found the LEA is not meeting the requirements of IDEA Part B, *including the targets in the State’s Performance Plan (SPP).*
- No requirement to publicly report LEA ratings…
- Only 12 States rec’d “Meets Requirements” rating from USED in 2008! (See Appendices for details)

**Using APR to inform ARRA activities**

- SPP, APR and State and LEA determinations provide critical sources of information to guide use of ARRA IDEA Part B funds
- State APR info and ratings on Ed.gov Website; LEA APR info (not rating) on State DOE websites….

**Coordinated Early Intervening Services**

*OPTIONAL*

An LEA may use up to 15% of its total Part B (including ARRA) allocation — minus dollar for dollar the amount it reduced its required maintenance of effort level of state and local funds under 50% RULE [§ 613(a)(2)(C)] for “Coordinated Early Intervening Services” for children who are not currently identified with disabilities but who need additional academic/behavioral support to succeed in general education (K-12 w/ emphasis on K-3).

**Coordinated Early Intervening Services (CEIS) and MOE**

- **2008 Allocation** $150,000
- **FY09 Allocation** $156,000
- **ARRA** $157,000
- **Total** $315,000

- **CEIS Budgeted:** $47,250 (15% of total)
- **Maximum allowable MOE reduction:** 50% of increase 08-09 $82,500
- **Maximum allowable MOE reduction:** $35,250 (Max reduction less CEIS)

*Services aligns with activities funded under ESEA*
Coordinated Early Intervening Services (CEIS) and MOE

Optional (10%)

In the case of a SEA determination of significant disproportionality based on race or ethnicity regarding identification, placement, or discipline of students with disabilities in an LEA, the LEA is required to reserve the maximum amount of funds (15% of IDEA Part B) to be used for CEIS for children in the LEA, particularly, but not exclusively, children in the over-identified group.

Coordinated Early Intervening Services and Local Maintenance of Effort

Required

LEAs required to use full 15% for CEIS cannot utilize flexibility under 50% RULE [Sec. 613(a)(2)(C)] to reduce their local maintenance of effort local. [34 CFR § 300.646 (b)(2)]
### Coordinated Early Intervening Services

**Authorized Use of Funds**

CEIS funds (up to 15% of total IDEA allocation Part B plus ARRA IDEA) may be used for:

- **Professional development** for teachers and other school staff to enable personnel to deliver scientifically based academic and behavioral interventions;
- **Direct interventions**, such as educational and behavioral evaluations, instructional services, and supports; and
- **Services** aligned with activities funded under the ESEA.

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**Eligible Students under CEIS**

§ 613(l) of IDEA; 34 CFR § 300.226(a)

- CEIS funds may only be used to provide academic/behavioral interventions to students who need academic or behavioral support to succeed in the general education environment.
- CEIS funds cannot be used to support interventions for students with IEPs who are identified as in need of special education and related services.

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**Coordinated Early Intervening Services**

**Reporting Requirement**

Each LEA that develops and maintains coordinated, early intervening services must annually report to the State (SEA) on:

- The number of children who received early intervening services; and
- The number of children who received early intervening services and subsequently receive special education and related services under Part B during the preceding two year period.

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**Use of CEIS Funds for RTI**

CEIS Funds can not be used across all stages (tiers) of schoolwide RTI programs — e.g., core instruction; school-wide screenings can not be funded with CEIS.

CEIS Supplement not Supplant Consideration: USED assumes supplanting exists if —

- An LEA uses CEIS funds to provide services that it provided in the prior year with State, local, or other Federal funds. (Note: this assumption may be rebutted, e.g., finding of disproportionality)

See USED guidance: Implementing RTI Using Title I, Title III, and CEIS Funds for add’l info.
Coordinated Early Intervening Services vs. Use of Freed-up Funds

2008 Allocation $150,000

Tota FY05 Allocation
FY2009($158,000);
+ ARRA($157,000) = $315,000 Total

CEIE Budgeted: $0

Maximum allowable MOE reduction (50% of increase $99,999): $82,500

Services aligned with activities funded under ESEA including RTI

No reporting requirement as under CEIE

Additional ARRA Requirements for Accountability & Reporting

- States and LEAs must separately process and track ARRA IDEA expenditures from expenditures under regular allocations.
- New and separate fund codes [CDFA] are assigned to each ARRA grant; and
- LEAs must report how ARRA funds were spent and what outcomes were achieved, including jobs saved, created.
- Quarterly reports of financial information and how funds are being used will be posted on ED website
- Other reporting sources: www.recovery.gov and www.gao.gov/recovery/bimonthly/

ARRA IDEA Funds: Uses that Support Assurances and Avoid the Funding Cliff

- Increase compliance and results for the indicators in State Performance Plan & Annual Performance Report;
- Purchase assistive technology & provide staff training in its use – to improve student outcomes by improving access to gen’l curriculum and use of valid assessment;
- District-wide professional development for cross training of sped and regular education teachers that focuses on scaling up, thru replication, proven evidence based strategies in the core academic subjects and PBIS;
- Inclusive placement options for preschoolers by developing capacity of preschool programs;

ARRA IDEA Funds: Uses that Support Assurances and Avoid the Funding Cliff

- Develop and enhance summer learning programs that build capacity and confidence of students with disabilities (use results on State Assessments to determine student need)
- Improve LEAs’ and schools’ capacity to collect and use data to improve teaching & instruction
- Develop more inclusion options for preschool age children w. disabilities, incl thru profess. development of staff of Headstart, other public & private programs
- Provide intensive in-service PD through site-based co-teaching collaboration for all teachers of students w. low-incidence disabilities

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ARRA IDEA Funds: Uses that Support Assurances and Avoid the Funding Cliff

- Hire community based transition coordinators to assist students with disabilities find employment through school to work, vocational and other collaborative programs
- Develop capacity of instructional and support staff to provide student supports at the secondary level that support graduation and reduce drop-outs (e.g., literacy instruction in content areas, master’s level interns in psychology, counseling, social work to implement model student support designs, assistive technology to enhance access to the curriculum and to the school community

ARRA IDEA Funds: Uses that Support Assurances and Avoid the Funding Cliff

- Post secondary outcomes study to improve secondary instruction and learning opportunities
- Purchase necessary software, other material resources and training for professionals in their appropriate use to support evidenced based effective interventions (e.g., progress monitoring tools and instructional tools to assist in identification and teaching of students w. disabilities and different learning needs)

ARRA IDEA Funds: Uses that Support Assurances and Avoid the Funding Cliff

- Implement family literacy initiatives that include adult literacy programs for parents, quality early childhood education for children that involve their parents/family members and collaborative educator-parent training on child development, use of PBIS
- Implement evidence based practices to mitigate use of in-school/out-of-school suspensions resulting in loss of learning opportunities for students with disabilities
- Provide staff and parent/family opportunities to collaborate with goal of increasing meaningful family engagement in the schools

QUESTIONS
TEXAS LEGISLATURE - Education stimulus funds in question

By KATE ALEXANDER
APRIL 5, 2009

The legislature in the 2010-2011 Texas budget is a $5.5 billion out of federal stimulus money for education that some say the state does not have the rights to spend.

State officials are still awaiting word from Washington about how that part of the stimulus money will be divided up to the state.

The answer could determine whether the budget proposals now working their way through the legislature are enough.


Recent Posts
- Texas Education - Education stimulus funds are controversial.
- Trends in education spending and funding are highlighted in the
- Texas Education Funding: What's in it for YOU?
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