

COORDINATED EARLY INTERVENING SERVICES (CEIS) **Policy Forum**

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Project Forum at National Association of State Directors of Special Education (NASDSE) is a cooperative agreement funded by the Office of Special Education Programs of the U.S. Department of Education. The project carries out a variety of activities that provide information needed for program improvement and promote the utilization of research data and other information for improving outcomes for students with disabilities. The project also provides technical assistance and information on emerging issues and convenes small work groups to gather expert input, obtain feedback and develop conceptual frameworks related to critical topics in special education.

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COORDINATED EARLY INTERVENING SERVICES (CEIS) **Policy Forum**

INTRODUCTION

During the Leadership Conference in August 2007, the Office of Special Education Programs (OSEP) received several questions from a variety of stakeholders about coordinated early intervening services (CEIS) including requests to clarify the use of IDEA funds and other federal funds for CEIS. In response to this need, OSEP developed a memorandum and a guidance document¹ and determined that this topic should be addressed as one of two policy forums held annually by Project Forum, a federally funded technical assistance project housed at the National Association of State Directors of Special Education (NASDSE).

The CEIS policy forum was held in Bethesda, Maryland on May 12-14, 2008. The purpose of the CEIS forum was to solicit input from stakeholders on CEIS in the areas of

¹ The OSEP memorandum 07-09 can be found at www.ed.gov/policy/speced/guid/idea/letters/2007-2/osep0709disproportionality2q2007.doc. The OSEP guidance document, OSEP 08-09 can be found in Appendix B and will be available at <http://www.ed.gov/policy/speced/guid/idea/letters/revpolicy/index.html#L>.

implementation challenges, needed guidance and technical assistance and best practices in the field. Project Forum and OSEP collaborated in the development of the forum, set its purpose and worked together on the invitation list and the agenda. (See the Appendix for these materials.) This document is a report on the forum that includes background information about CEIS and a summary of the presentations and discussions that occurred at the forum. Project Forum completed this activity as part of its cooperative agreement with OSEP.

BACKGROUND

Regarding CEIS, IDEA regulations at 34 CFR §300.226 state that:

An LEA [local education agency] may not use more than 15 percent of the amount the LEA receives under Part B of the Act for any fiscal year, less any amount reduced by the LEA pursuant to § 300.205 [regarding local maintenance of effort], if any, in combination with other amounts (which may

include amounts other than education funds), to develop and implement coordinated, early intervening services, which may include interagency financing structures, for students in kindergarten through grade 12 (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.

In §§300.226, 300.646(b)(2) and 300.205(d), the regulations explain the following aspects of the CEIS provisions:

- activities that may be carried out with CEIS funds;
- reporting requirements for each LEA that develops and maintains CEIS;
- the requirement for some LEAs to reserve CEIS funds based on their identification as having significant disproportionality based on race or ethnicity;
- coordination with activities funded under the Elementary and Secondary Education Act (ESEA) and
- the relationship of funds expended by an LEA for CEIS to maintenance of effort. (See OSEP Guidance Memorandum 08-09 at www.projectforum.org.)

Requirement for LEAs to Use CEIS Funds if Significant Disproportionality is Identified

States must collect and examine data to determine if significant disproportionality based on race and ethnicity is

occurring in the State and LEAs with respect to: (1) the identification of children as children with disabilities; (2) the identification of children as children with a particular disability; (3) the placement of these children in particular educational settings; and (4) the incidence, duration and type of disciplinary actions, including suspensions and expulsions. If an SEA concludes that an LEA has significant disproportionality in any of the four categories, the SEA must require the identified LEA to reserve the maximum amount of funds for CEIS and publicly report on the revision of its policies, practices and procedures used in respect to identification of children as children with disabilities or the placement of these children in particular educational settings. See §300.646(b)(2) and (3).

CEIS Activities

Activities that may be supported with CEIS funds include:

- (1) professional development, which may be provided by entities other than LEAs) 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; and
- (2) providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction. (OSEP memo, July 2008)

Reporting Requirements

Each LEA that develops and maintains CEIS must annually report to the state on the number of children who received CEIS and the number of those who subsequently received

“ *Significant disproportionality is solely determined by an examination of numerical data alone and data must be reviewed and analyzed annually.* ”

special education and related services under Part B of IDEA during the preceding two-year period. State education agencies (SEAs) and LEAs must maintain these records for audit and monitoring purposes. (OSEP memo, July 2008)

The Relationship of CEIS to Maintenance of Effort

LEAs that are required or choose to use part of their Part B funds for CEIS may see an increase in their maintenance of effort base.

If an LEA uses additional local funds, or State and local funds, for special education and related services for children with disabilities in place of the Part B funds that are being used to provide CEIS to children who have not been identified as children with disabilities, the higher level of . . . expenditure becomes the LEA's new maintenance of effort base for the subsequent year. (OSEP memo, July 2008)

THE POLICY FORUM

Three concurrent discussion groups were held on the following topics:

- (1) significant disproportionality requirements, data analysis, and reservation of 15% for CEIS;
- (2) CEIS administrative issues including the requirements, appropriate use of funds, reporting and tracking of students, and fiscal issues; and
- (3) CEIS implementation issues such as evidence-based practices, response to intervention and collaboration.

Each discussion group began with a presentation by OSEP staff on CEIS requirements and continued with overarching questions that led to discussion points and suggestions.

After the concurrent small group presentations and discussions, all forum participants convened as a large group to address the following questions:

- What are the greatest challenges in collaborating with general education to implement CEIS?
- What can be done in order to gain general education buy-in?
- What are parents' concerns about CEIS?
- What should be communicated to parents about CEIS and how can this be done?

The final forum activity was a large group session to discuss challenges to collaboration between general and special education and parent concerns. The following sections summarize each presentation and the discussions. The report closes with brief observations

(1) Significant Disproportionality Requirements

Presentation

Perry Williams from OSEP presented an overview of the IDEA regulations (34 CFR §300.646) requiring states to collect and examine data to determine if significant disproportionality based on race and ethnicity is occurring in the state and its LEAs with respect to the four analysis categories. Significant disproportionality is solely determined by an examination of numerical data alone and

data must be reviewed and analyzed annually. The definition of significant disproportionality must be determined by the SEA and can be based on multiple years or trend data. SEAs can also calculate significant disproportionality differently for each of the four categories and/or change the definition over time and note this change in their annual performance report (APR) submitted to OSEP. While significant disproportionality is not reported in the APR and is not to be confused with disproportionate representation due to inappropriate identification, an SEA could take a coordinated approach of examining its data for both purposes by using a multi-level approach. An example of this might be:

- one level could be “potential for disproportionality” with risk ratio threshold levels at 1.2 – 1.99;
- the next level could be considered “disproportionate representation” for purposes of the APR with risk ratios between 2.00 - 2.99, which would trigger a process to determine if disproportionate representation is the result of inappropriate identification; and
- the next level would trigger “significant disproportionality” with risk ratios of 3.00 – 3.99.

SEAs should keep the following in mind as they analyze their data for significant disproportionality:

- Consider overrepresentation only (i.e., do not consider underrepresentation of groups).
- Consider data in, at a minimum, the six high-incidence disability areas of autism, multiple disabilities, other health impairments, learning disabilities, emotional disturbance and mental retardation.

- Consider using state’s 618 data for educational environments.
- States are not required to consider data for students who receive services in the regular class for more than 80% of the day or those served in home/hospital settings, parentally placed in a private school or in a correctional facility.
- In the category of discipline, consider the incidence (i.e., number of times a student receives a disciplinary action), and duration (i.e., the length of time the student is out of school or not receiving services including all suspensions, removal from extracurricular or office referrals and others) and type of disciplinary action including suspension and expulsion.

Discipline data is collected over a one-year period, so an examination of data would be collected for the 2007-08 school year and reported in November 2008. In this instance, the LEA would be required to reserve the next year’s funds for FFY 2009 (funds available on July 1, 2009) if there is a significant disproportionality finding. There is no requirement for SEAs to report these data to OSEP, but when an SEA determines that significant disproportionality is identified for a specific LEA, the SEA must require the LEA to do the following: reserve the maximum of IDEA funds for CEIS activities, review, and, if appropriate, revise their policies, procedures and practices and require the LEA to publicly report on any revisions to their policies, procedures or practices.

Discussion points and suggestions

Following the presentation on significant disproportionality and coordinated early intervening

“*The determination of significant disproportionality based on numbers only is difficult because of unique circumstances within specific LEAs.*”

services, participants raised the following points of discussion, questions and suggestions:

- It is important for an SEA to have a person with expertise in data analysis review data prior to deciding what definition of significant disproportionality a state should use. Similarly, technical assistance centers need to target their work to help states share what they are doing in this area.
- The determination of significant disproportionality based on numbers only is difficult because of unique circumstances within specific LEAs. For example, LEAs that have only one school and have a high number of placements in group homes or other extenuating circumstances could easily be found to have significant disproportionality. Yet reserving the maximum amount of funds to address early intervening services will not address the root causes. Using different standards for different LEAs or excluding certain LEAs from examination could address this issue.
- Comparing special education discipline data to general education discipline data is misleading because both programs collect different information across different dimensions (e.g., schoolwide data for general education and individual student data for special education). Given this, if an LEA contested a determination of significant disproportionality based on its discipline non-comparable data, the SEA would have no basis for supporting its position.

(2) CEIS: Administrative Issues

Presentation

Sara Doure from OSEP presented the regulatory requirements for CEIS found at CFR 34 §300.226, including what activities can be supported with CEIS funds. Except in cases where significant disproportionality is identified, the LEA decides if students need additional support and therefore who may be targeted with EIS-funded activities. If significant disproportionality is identified for specific racial or ethnic groups, then CEIS needs to be used particularly for members of the identified group(s). However, LEAs cannot exclude students from CEIS based on race.

Professional development using CEIS funds should be provided to teachers who are responsible for children in need of additional support. Other staff (i.e., those solely responsible for students who receive IDEA services or for students who are not in need of additional support) can participate in this professional development if they do not replace another teacher, increase the cost or decrease the quality.

The number of children who receive CEIS and the number who receive special education and related services during the two years following CEIS activities must be tracked. LEAs must report these data to the state and OSEP will check through verification visits to the state. When using CEIS funds for professional development, an LEA should only count the students and the personnel who participated in the professional development program in the year(s) of

“*[A]n LEA may not deduct funds for equitable services for students parentally placed in private schools before calculating the 15%.*”

or the year(s) immediately after the training, rather than counting the students and those personnel each year after the training. When CEIS funds are used for evaluations, states cannot use these funds to determine that a student is in need of additional supports, but may use funds to determine what supports are necessary for the evaluated student to be successful (i.e., a diagnostic assessment) and would only be allowed to count the student as a recipient of CEIS services for the one year, or the year immediately following the year, in which the student received the evaluation.

CEIS funds may be aligned with activities funded under ESEA, yet IDEA funds used for CEIS must be used to supplement, not supplant, funds made available under ESEA. An LEA that is required to use funds for CEIS because of significant disproportionality must use 15% of the total Part B funds awarded to the LEA under both sections 611 and 619 of IDEA. An LEA may not reduce the amount it uses for this calculation by any other amount required by IDEA. For example, an LEA may not deduct funds for equitable services for students parentally placed in private schools before calculating the 15%. LEAs that are required to reserve the funds based on a determination of significant disproportionality must use them during the period of time for which they are designated. LEAs that voluntarily reserve CEIS funds may carry over any unused CEIS funds to the next year and are not required to use the full amount set aside.

Following the presentation on CEIS administrative issues, participants raised the following points, questions and suggestions in the general areas of policy and practice.

Discussion points and suggestions: Policy

- Since professional development is seldom a “one-time event” and often consists of consultative and coaching activities, further guidance is needed from OSEP on determining how to count students as recipients of the benefits of CEIS activities.
- It was noted that the Secretary of Education is using her broad discretion to create flexibility in the No Child Left Behind Act and could do the same with IDEA, specifically in the respect to how CEIS can be implemented. For example, such flexibilities could include calculating significant disproportionality based on one year of data, and requiring LEAs to reserve the funds and plan for their use. But in the interim, if the LEA shows a positive change in the data, the LEA would not actually have to use the funds.
- Fund research to look at districts that have CEIS systems in place to determine what works and what does not work to support these targeted groups of students, for LEA reporting, for targeting and tracking funds, for collecting and analyzing data and in other areas.

Discussion points and suggestions: Practice

- Provide multiple sources of technical assistance and training to promote a general understanding of CEIS for all levels of stakeholders.
- Develop scenarios and identify concrete examples of what works in all areas of CEIS (e.g., professional development, counting and reporting, appropriate funding).
- Align criteria for “in need of additional support” with other school initiatives and criteria for other support (i.e., statewide assessment scores, response to intervention activities, Title I, at-risk, etc.) in order to simplify counting the students who receive CEIS and do not create a category of CEIS-eligible students.
- Connect CEIS to comprehensive school improvement plans and the root causes of the disproportionality (e.g., need for teacher improvement) in order to help LEAs focus CEIS funds on the appropriate area. Jointly monitor the plans (special education and school improvement units).
- Make clear the intent of following the students who receive benefit for two years in order to encourage accurate data collection from LEAs.
- Address confusion regarding terminology (e.g., early intervening services versus early intervention services; disproportionality versus disproportionate representation versus significant disproportionality; reporting and following versus tracking).

(3) CEIS: Implementation Issues

Presentation and discussion points

Larry Wexler from OSEP facilitated a discussion on CEIS implementation issues. OSEP is aware of some practices in the field that may be inconsistent with CEIS requirements (e.g., funds being used to support all-day kindergarten). At the practice level there are discrepancies between legal requirements and implementation. CEIS funding is intended to reduce the number of students served in special education.

During the policy forum participants noted a perceived dissonance between the funding focus of CEIS (i.e., fund activities that support a specific group of students who are in need of additional support) and the systems focus of CEIS (i.e., school improvement, specifically improvement of instruction in order to reduce the number of students being served by special education). There was concern that the funding focus on a group of students would create a new class of “CEIS kids.” When the funding is focused at a class of students, the practice necessarily moves away from the “coordinated” piece of CEIS and does not encourage shared leadership and school-wide strategies.

Participants agreed that, in order to determine if CEIS money has the impact of reducing the significant disproportionality of groups of students being served in special education programs (CEIS’ systemic function) a necessary but insufficient step would be tracking benefits for students. One concern participants voiced was about data validity and the purpose of collecting and analyzing more data. They noted that evidence of CEIS impact may be difficult to establish since so many factors are involved in

“*School business officials should develop a funding toolkit to assist in SEA and LEA efforts to coordinate use of funds across programs.*”

reducing the numbers of students served in special education.

Participants also agreed that in order for CEIS funds to prove beneficial, they must be used along with other funds to support a coordinated system. The participants clearly found the practice of “blending,” “braiding” or other forms of coordination of funding to be potentially beneficial but currently not attainable. Concerns ranged from a fear of violating one of the education laws (e.g., IDEA, Title I) to state staff not allowing coordination of funds.

Suggestions

Throughout the discussion on CEIS implementation, numerous suggestions were given. These can be grouped into the following themes.

- OSEP should provide more technical assistance focusing on examples of what is working (e.g., compliant, coordinated funding, response to intervention models that complement CEIS).
- The next reauthorization of IDEA should include provisions to support states and LEAs implement systemic approaches to CEIS geared towards improving instruction and reducing significant disproportionality. The Office of General Council and SEA and LEA staff should collaborate with OSEP on formulating a new policy in this regard.

- In order to reduce the burden placed on LEA and SEA systems, SEAs should not be required to track students who receive benefit from professional development, should not use CEIS funds for professional development and should use existing methods to identify student progress rather than identifying a new CEIS procedure.
- School business officials should develop a funding toolkit to assist in SEA and LEA efforts to coordinate use of funds across programs.

Large Group Discussion

Challenges to collaboration between general and special education

The challenges of collaborating between general and special education in the area of CEIS are the same as those of collaboration in general. There are language/terminology barriers, “turf issues” and various agendas and mandates that do not easily lend themselves to collaboration. The lack of widely disseminated fiscal guidance on how to coordinate the use of funds epitomizes these barriers.

In order to alleviate some of these barriers, participants suggested ensuring that CEIS language is part of NCLB in the next reauthorization. This would diminish the need to think categorically about students (i.e., special education students, CEIS students). A related suggestion given was to “begin with the big picture.” For instance, begin with the

general vision of education and include higher education and public school leadership and teachers from the beginning stages of planning to implement CEIS.

Addressing parent concerns

The consensus at the forum was that some parents of students with disabilities are concerned that taking money away from special education to serve students who are not already identified as needing these services diminishes their children's education. Parents are also concerned about the possibility that students who need special education services are not being identified because of CEIS and response to intervention programs, resulting in loss of parental rights under IDEA. Participants felt that, in general, parents of students who are struggling in school are unaware of CEIS and what it might mean for their children.

The forum participants believed that it is important to broaden the outreach from education systems at all levels (federal, state, local and building) to parent groups. This should be done through technical assistance that is equivalent to what the education community receives in order to provide the same information.

OBSERVATIONS

The rich discussions and format of this activity during this forum revealed noteworthy semantic issues in that similar terminology was often used to reference different ideas and concepts. For example, disproportionate representation and significant disproportionality are two different concepts, but the terms are so similar that they are often used

interchangeably and thus create confusion among practitioners.

Participants noted that traditional approaches to technical assistance (e.g., OSEP providing support in the form of issuing guidance documents to the field) may have limited impact. This is because effective CEIS efforts are not unique to special education and local contextual issues in the implementation of CEIS efforts cannot be effectively addressed in OSEP guidance materials. However, if guidance is not provided, the answers to similar questions in and among a variety of entities may be dissimilar and inconsistent. This will likely cause even more confusion and irregular implementation of CEIS, thus decreasing the validity of the information gathered and diffusing its impact on students. In other words, CEIS issues provoke concerns about two opposing needs: local flexibility and federal oversight. States need flexibility in the implementation of CEIS efforts to support students based on changing circumstances and local needs, while OSEP must ensure consistent implementation of CEIS and use of federal funds in accordance with the requirements of the statute/regulations to make a positive difference for students.

APPENDIX

Participants

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Early Intervening Services (EIS) Forum
May 12-14, 2008
Hyatt Regency, Bethesda, MD

Purpose

The purpose of the forum is to solicit input from stakeholders on EIS: implementation challenges, guidance and technical assistance that are needed and best practices in the field.

Monday, May 12th

- 6:00 pm Dinner
- 6:30-7:00 Opening Remarks
- Welcome and Remarks – Bill East, Executive Director, NASDSE
 - Welcome and Introduction of the Purpose – Patty Guard, Deputy Director, OSEP
 - Structure of meeting – Paula Burdette, Project Forum
 - Introductions – Paula Burdette, Project Forum
- 7:00-7:30 Overview of EIS basics – What are the requirements?
- Ruth Ryder, OSEP

Tuesday, May 13th

- 8:30-9:00 Continental Breakfast
- 9:00-9:30 Opening
- Welcome and Remarks – Bill Knudsen, OSEP Acting Director
 - Review structure of the day – Paula Burdette, Project Forum
- 9:30-12:00 Concurrent Discussion Groups
- Group A – Significant Disproportionality
 - Requirements, data analysis, reservation of 15% for EIS
 - OSEP presenter – Perry Williams
 - Note takers – Carol Massanari/Paula Burdette, Project Forum, Grace Duran, OSEP
 - Group B – EIS – Administrative Issues
 - Requirements, appropriate use of funds, reporting and tracking students, fiscal issues
 - OSEP presenter – Sara Doutre
 - Note takers – Carol Massanari/Paula Burdette, Project Forum, _____, OSEP
 - Group C – EIS – Implementation Issues
 - Evidence-based practices, RTI, collaboration
 - OSEP presenter – Larry Wexler

- Note takers – Eileen Ahearn, Project Forum, Dan Schreier, OSEP

Overarching Questions for Discussion Groups

- What questions can we answer now? (OSEP presentation)
- What additional questions and issues are there?
- Next steps: (last 30 minutes)
 - Is there a proposed answer to the question/issue? Are we aware of any models or best practice in this area?
 - If not:
 - Is it a legal or policy question? If so, what needs to be clarified?
 - Is it an implementation issue? If so, what needs to be clarified? What technical assistance is needed?

12:00-1:00 Lunch

1:00-3:30 Repeat of Concurrent Discussion Groups

3:30-4:30 Large Group Discussion (Facilitated discussion using note cards to solicit input)

- Project Forum Facilitator – Paula Burdette
- What are the greatest challenges in collaborating with general education to implement EIS?
- What can be done in order to gain general education buy-in?
- What are parents' concerns about EIS?
- What should be communicated to parents about EIS? How can this be done?

4:30-5:30 Facilitators and note takers meet to combine notes, discuss overlap among groups and prepare for report-out

Wednesday, May 14th

8:30-9:00 Continental Breakfast

9:00-11:00 Report-out on Questions Developed and Consensus Building on Priorities (Facilitated discussion using note cards to solicit input)

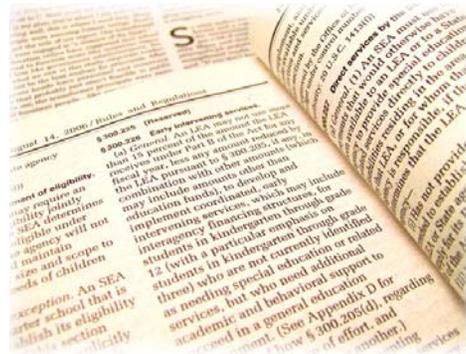
- Project Forum Facilitator –Paula Burdette

11:00-11:15 Break

11:15-12:00 Closing

- Next Steps
 - Project Forum Facilitator – Paula Burdette
 - Ideas for dissemination to States, LEAs, parents, etc.

Role of OSEP, TA Centers, partners



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PROJECT FORUM