OSEP Leadership Conference

Building the Legacy: IDEA 2004

August 28-30, 2006   Washington, D.C.

Response To Intervention (RTI) and Early Intervening Services (EIS)

No Child LEFT BEHIND℠

U.S. Department of Education
Office of Special Education Programs

Introduction

- Topics for breakout sessions were selected by OSEP because each highlights critical implementation issues under the *IDEA* 2004 Statute and Regulations

- Presentation will track the Topic Briefs (TB page-paragraph)

Introduction

- Referenced Topic Briefs are:
  A. Identification of Specific Learning Disabilities (SLD)
  B. Early Intervening Services (EIS)

Key Issues: RTI

- Specific learning disabilities (SLD) evaluation

- RTI definition

- Parent notice

- Parent bypass and LEA request for evaluation

Key Issues: EIS

- General requirements
- Activities
- Relationship to FAPE
- Relationship to disproportionality by race/ethnicity
- Reporting requirements
- Coordination *ESEA (NCLB)*

Key Issues: EIS

- Which students served
  - Previously in special education
- Defining significant disproportionality
- Relationship to maintenance of effort (MOE)
  - Fiscal example

RTI

Ranked in "top three" topics for number of comments on the NPRM

Key Issues: RTI
SLD Evaluation (TBA 1-1)

- Must not require the use of a severe discrepancy

- Must permit the use of a process based on the child's response to scientific, research-based intervention

- May permit the use of other alternative research-based procedures for determining whether a child has SLD

Key Issues: RTI
SLD Evaluation   (TBA 1-1)

A public agency must use the state criteria…in determining whether a child has SLD

Key Issues: RTI SLD Evaluation

(TBA 2-3)

Determining existence of SLD

- The child does not achieve adequately for the child's age or to meet state-approved grade-level standards in one or more of the following areas, when provided with learning experiences and instruction appropriate for the child's age or state-approved grade–level standards

Key Issues: RTI SLD Evaluation (TBA 2-3)

Determining existence of SLD (cont)

- To ensure that underachievement in a child suspected of having a SLD is not due to lack of appropriate instruction in reading or math, the group must consider:

  - Data that demonstrate that prior to, or as a part of, the referral process, the child was provided appropriate instruction in regular education settings, delivered by qualified personnel; and

Key Issues: RTI SLD Evaluation

(TBA 3-3/4)

Determining existence of SLD (*cont*.)

- Data-based documentation of <u>repeated assessments</u> of achievement at reasonable intervals, reflecting formal assessment of student progress during instruction, which was provided to the child's parents

- Trained observer revised to just observer

Key Issues: RTI
SLD Evaluation   (TBA 3/4-5)

- If the child has participated in a process that assesses the child's response to scientific, research-based intervention, documentation of eligibility determination must include a statement that the child's parents were notified about—

    - The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided

    - Strategies for increasing the child's rate of learning, and

    - The parents' right to request an evaluation

Key Issues: RTI As Evaluation

SLD identification—Components of Comprehensive Evaluation

- RTI does not replace a comprehensive evaluation

- Must use a variety of data-gathering tools and strategies even if RTI is used

- Results of RTI may be one component of the information reviewed

Key Issues: RTI As Evaluation

SLD identification—Components of Comprehensive Evaluation (*cont*)

- Variety of assessment tools/strategies
- Cannot rely on single procedure as the sole criterion for determining eligibility
- Each state must develop criteria to determine whether a child has a disability

Key Issues: RTI
Parent Bypass and LEA Request for Evaluation

Length of time in RTI—Discussion

- Instructional models vary in terms of the frequency and number of repeated assessments that are required to determine a child's progress

- It would be inappropriate for the Department to stipulate requirements in Federal regulations that would make it difficult for districts and states to implement instructional models they determine appropriate to their specific jurisdictions

Key Issues: RTI Definition (TBA 1-1)

RTI: Must permit the use of a process based on the child's response to scientific, research-based intervention

34 CFR 300.307(a)(2)

- There are many RTI models and the regulations are written to accommodate the many different models that are currently in use

- The Department does not mandate or endorse any particular model

Key Issues: RTI
Parent Notice (TBA 2-3)

The public agency must <u>promptly</u> request parental consent to evaluate the child to determine if the child needs special education and related services, and must adhere to the timeframes described in
34 CFR 300.301 and 300.303

Key Issues: RTI
Parent Bypass and
LEA Request for Evaluation (TBA 2-3)

Length of time in RTI—Parent Bypass

- Instructional models vary in terms of the frequency and number of repeated assessments that are required to determine a child's progress

- The public agency must promptly request parental consent to evaluate the child to determine if the child needs special education and related services

Key Issues: RTI
Parent Bypass and
LEA Request for Evaluation

Length of time in RTI—Discussion

- Models based on RTI typically evaluate the child's response to instruction prior to the onset of the 60-day period

- RTI models provide the data the group must consider on the child's progress when provided with appropriate instruction by qualified professionals as part of the evaluation

Key Issues: EIS

- General
- Activities
- Relationship to FAPE
- Relationship to disproportionality by race/ethnicity
- Reporting requirements
- Coordination *ESEA (NCLB)*

Key Issues: EIS

- Which students served
  - Previously in special education
- Defining significant disproportionality
- Relationship to MOE
  - Fiscal example

Key Issues: EIS

Committee Report:

...and early intervening services to reduce the need to label children as disabled in order to address the learning and behavioral needs of such children

Key Issues: EIS

- Adds "early intervening services"
  - Not more than 15% of amount LEA receives
  - K-12: Emphasis K-3
  - Not <u>currently</u> identified
  - Need additional academic and behavioral support to succeed in general education environment
- Which students served
  - Allows child previously identified to receive EIS

Key Issues: EIS

Activities

- Professional development

- Providing educational and behavioral evaluations, services, and supports, including scientifically-based literacy instruction

Key Issues: EIS

Relationship to free appropriate public education (FAPE)

- Nothing in this section shall be construed to either limit or create a right to FAPE under Part B or to delay appropriate evaluation of a child suspected of having a disability

- EIS do not equate to FAPE

- **<u>Regardless of LEA use of funds for EIS, FAPE remains an entitlement</u>**

Key Issues: EIS

Reporting requirements

- The number of children served under this section who received EIS, and

- The number of children served under this section who received EIS and subsequently receive special education and related services under Part B during the preceding two-year period

Key Issues: EIS

Coordination with *ESEA (NCLB)*:

Funds made available to carry out this section may be used to carry out coordinated, EIS aligned with activities funded by, and carried out under the *ESEA* if those funds are used to **supplement**, and **not supplant**, funds made available under the ***ESEA*** for the activities and services assisted under this section

Key Issues: EIS

Significant disproportionality by race/ethnicity:

> In the case of a determination of significant disproportionality…reserve the maximum amount of funds… to provide… early intervening services to serve children in the LEA, particularly, but not exclusively…children in those groups that were significantly overidentified

Key Issues: EIS

Definition of significant disproportionality

- Each state has discretion to define the term for the LEAs and for the state in general

- State may determine statistically significant levels

Key Issues: EIS (TBB 3-7)

Definition of significant disproportionality:

> This requirement recognizes the fact that significant disproportionality in special education may be the result of inappropriate regular education responses to academic or behavioral issues

Key Issues: EIS

Definition of significant disproportionality

- Establishing a national standard for significant disproportionality is inappropriate because of multiple factors to consider in making such determinations within each state, such as
  - Population size
  - Size of individual LEAs
  - Composition of State population
  - Guidance:
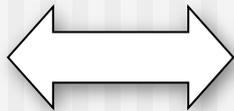   www.ed.gov/policy/speced/guid/idea/bapr/index.html

Key Issues: EIS

- **Definition of significant disproportionality:**
  - Comment: Gender in basis?
    - No statement of Congressional intent

Key Issues: EIS

- Relationship to MOE: LEA can reduce MOE by 50% of increase in Part B funds

- Note: Reduced MOE goes to activities authorized under *ESEA*

- MOE EIS Interconnected

Key Issues: EIS (TBB 3/4-8)

- **Prior Year's Allocation:** $1,000,000

- **Current Year's Allocation:** $2,000,000

- **Increase:** $1,000,000

- **Maximum Available for**
  - MOE Reduction: $500,000
  - Maximum Available for EIS: $300,000

Key Issues: EIS

- If the LEA chooses to use no funds for MOE, it may set aside $300,000 for EIS (EIS maximum $300,000 less $0 means $300,000 for EIS)

- If the LEA chooses to use $100,000 for MOE, it may set aside $200,000 for EIS (EIS maximum $300,000 less $100,000 means $200,000 for EIS)

Key Issues: EIS

- If the LEA chooses to use $150,000 for MOE, it may set aside $150,000 for EIS (EIS maximum $300,000 less $150,000 means $150,000 for EIS)

- If the LEA chooses to use $300,000 for MOE, it may not set aside anything for EIS (EIS maximum $300,000 less $300,000 means $0 for EIS)

Key Issues: EIS (TBB 3/4-8)

- If the LEA chooses to use $500,000 for MOE, it may not set aside anything for EIS (EIS maximum $300,000 less $500,000 means $0 for EIS)

Key Issues: EIS   (TBB 2-6; 3/4-8)

If significant disproportionality by race/ethnicity is found

- 15% EIS funds take precedence over MOE

- MOE can only be reduced if after 15% deducted from eligible MOE funds there are eligible MOE funds remaining

Key Issues: EIS

If significant disproportionality by race/ethnicity found

- 2006 =   LEA receives $1,000,000
- 2007 =   LEA receives $1,100,000
- Increase = $100,000
- MOE =   50% increase = $50,000
- 15% precedence = $165,000
- MOE = $0

Web Resources

- National Research Center for Learning Disabilities
  - http://www.nrcld.org/
- IRIS Center for Faculty Enhancement
  - http://iris.peabody.vanderbilt.edu/
- WESTAT: Disproportionality TA
  - www.ideadata.org/docs/Disproportionality%20 Technical%20Assistance%20Guide.pdf

Regional Implementation Planning Meetings

What implementation issues and challenges on this topic should be addressed at the *IDEA* Regional Implementation Planning Meetings?

- January 30 and 31, 2007
  - *Washington, D.C.*
- February 12 and 13, 2007
  - *Los Angeles, California*
- February 15 and 16, 2007
  - *Kansas City, Missouri*

For More Information

Please go to

http://sites.ed.gov/idea

for resources on IDEA 2004 Final Regulations

RTI and EIS

Implementation Challenges?