

Ted Strickland, Governor  
Deborah S. Delisle, Superintendent of Public Instruction

## Use of Funds Guidance for IDEA Part B and ARRA IDEA Part B

### Overview of the American Recovery and Reinvestment Act of 2009 (ARRA)

**Principles:** The overall goals of the ARRA are to stimulate the economy in the short term and invest in education and other essential public services to ensure the long-term economic health of our nation. The success of the education part of the ARRA will depend on the shared commitment and responsibility of students, parents, teachers, principals, superintendents, education boards, college presidents, state school chiefs, governors, local officials, and federal officials. Collectively, we must advance ARRA's short-term economic goals by investing quickly, and we must support ARRA's long-term economic goals by investing wisely, using these funds to strengthen education, drive reforms and improve results for students from early learning through college. Four principles guide the distribution and use of ARRA funds:

- 1) **Spend funds quickly to save and create jobs.** ARRA funds will be distributed quickly to states and other entities in order to avert layoffs and create jobs. States in turn are urged to move rapidly to develop plans for using funds, consistent with ARRA's reporting and accountability requirements, and to promptly begin spending funds to help drive the nation's economic recovery.
- 2) **Improve student achievement through school improvement and reform.** ARRA funds should be used to improve student achievement and help close the achievement gap. In addition, the State Fiscal Stabilization Fund (SFSF) requires progress on four reforms previously authorized under the bipartisan Elementary and Secondary Education Act of 1965, as amended, and the America Competes Act of 2007:
  - a) Making progress toward rigorous college- and career-ready standards and high-quality assessments that are valid and reliable for all students, including English language learners and students with disabilities;
  - b) Establishing pre-K to college and career data systems that track progress and foster continuous improvement;
  - c) Making improvements in teacher effectiveness and in the equitable distribution of qualified teachers for all students, particularly students who are most in need; and
  - d) Providing intensive support and effective interventions for the lowest-performing schools.
- 3) **Ensure transparency, reporting and accountability.** To prevent fraud and abuse, support the most effective uses of ARRA funds and accurately measure and track results, recipients must publicly report on how funds are used. Due to the unprecedented scope and importance of this investment, ARRA funds are subject to additional and more rigorous reporting requirements than normally apply to grant recipients.
- 4) **Invest one-time ARRA funds thoughtfully to minimize the "funding cliff."** ARRA represents a historic infusion of funds that is expected to be temporary. Depending on the program, these funds are available for only two to three years. These funds should be invested in ways that do not result in unsustainable continuing commitments after the funding expires.

**Suggested Use of Additional ARRA Funds**

Beginning with the 2009-2010 and continuing through the 2010-2011 school years, districts may choose to use their Part B and Early Childhood Special Education (ECSE) resources to focus on one or more of the following priorities:

Category	Allowable Expenditures	Unallowable Expenditures
Instruction	<p>Employment of Special Education Intervention Specialist (k-12) and Early Intervention Specialist (preschool) and benefits to supplement state foundation unit funding.</p> <p>Cost associated with pay raise/increase in excess of local and or state funds currently being used to pay salaries and fringe benefits.</p> <p>Appropriate instructional supplies and materials designed to increase student achievement and outcomes while increasing access to and progress in the general curriculum, which can be an asset for both teaching and learning.</p> <p>Substitute personnel cost for district personnel who are participating in individualized education program (IEP) meetings and/or collaborative planning related directly to the provision of special education and related services.</p> <p>Cost of evaluations for students suspected of having or identified with disabilities that require said evaluation.</p> <p>Cost of instructional materials and media (such as books, study guides, computer programs, maps, videos, CD and DVD) that are related to the instruction of children with disabilities.</p> <p>Payment of excess cost for preschool and school age children with disabilities when direct services are being provided by a district other than the district of residence.</p>	
Promising Practices	<p>Scientifically-based research practices, strategies, methods and/or programs designed to respond to a specific educational need identified by the district. Instructional materials, hardware and software, related professional development activities, computers and peripherals necessary to support implementation could be included.</p>	

Category	Allowable Expenditures	Unallowable Expenditures
Support Services	<p>Related service personnel salary and fringe benefits.</p> <p>Cost of salaries and fringe benefits in excess of state or local monies provided for special education teacher aide(s), related service provider(s) and teacher aide substitutes serving children with disabilities.</p>	<p>Cost of a physician, school nurse or other medical personnel serving the health needs of all children within the district.</p>
Early Intervening Services	<p>A Local Education Agency (LEA) may choose to use <b><u>up to 15 percent of their total Part-B allocation (Part-B regular and ARRA Part B; school-age and ECSE) awards to implement a Comprehensive Early Intervening System (CEIS)</u></b> to provide early intervening services for those students not yet identified as needing special education or related services, but who may need additional academic and behavioral supports to meet grade-level indicators. More specifically, these services should be targeted to K-12 (with a focus on K-3) students.</p> <p>LEA activities may involve:</p> <ul style="list-style-type: none"> <li>○ Professional development to enable teachers and school staff to deliver scientifically based academic instruction and behavioral interventions</li> <li>○ Scientifically based literacy instruction</li> <li>○ Instruction in the use of adaptive and instructional software</li> <li>○ Provision of educational and behavioral evaluations, services and supports</li> <li>○ All day kindergarten</li> </ul> <p>Coordination of services aligned with the Elementary and Secondary Education Act (ESEA).</p> <p><i>* NOTE: Please see CEIS section in this document for fiscal caution.</i></p>	
Staff / Parent Visits	<p>Staff/parent visits to exemplary programs/or schools that have adopted effective scientifically-based programs/strategies.</p>	
Services to Children with Disabilities, Ages 3-5	<p>Services that supplement and increase services provided to preschool children with disabilities, ages 3-5. Part B funds may be used to pay costs for children ages 3-21 (ECSE funds may be used only for children with disabilities ages 3-5). Expand the availability and range of inclusive placement options for preschoolers with disabilities by increasing the capacity of public and private preschool programs through activities such as professional development and technical assistance.</p>	

Category	Allowable Expenditures	Unallowable Expenditures
Governance / Administration	<p>Indirect cost rates within the rates approved by ODE Office of Federal and State Grants Management.</p> <p>Cost incurred for an impartial due process hearing.</p> <p>Cost of special education administrator, director or coordinator, including preschool; provided 1) activities are directly attributable to the delivery of special education and related services to children with disabilities and 2) person holds a supervisory or administrative certificate/license issued by ODE.</p> <p>Mileage for district personnel to travel to and from IEP meetings, conferences and related services.</p> <p>Costs related to the offices of the Treasurer and related duties associated with the administration of Part B IDEA and/or ECSE funds.</p>	<p>Flat percentage of the total budget for “administrative” cost.</p> <p>Legal fees, costs and expenses paid to private legal counsel of either the district or the parents of a student with disabilities.</p> <p>Part-B Flow-thru Project Director or other regular administrative position. Federal Programs Director.</p>
Administrative Technology	<p>Cost associated with available technology to assist in certain administrative tasks. IDEA 2004 provides specific language supporting the use of technology in managing the special education process. Useful technology should be a tool available to classroom teachers, paraprofessionals, related services providers and administrators to collect and use data to improve teaching and learning.</p>	
Professional Development	<p>High quality district-wide PD activities designed and implemented in cooperation with regional providers that are designed to assist districts/buildings in implementing systems of support for addressing the academic (reading, math, writing, science) and behavioral needs of children with disabilities and children at-risk of being identified as disabled. HQPD activities focusing on the unique needs of students with autism.</p> <p>Note: For preschool this can include staff attendance at the early childhood conference co-sponsored by ODE and OAEYC.</p>	

Category	Allowable Expenditures	Unallowable Expenditures
Family and Community Engagement	Activities designed to increase the meaningful involvement of families in the educational process by improving cooperation and communication between schools and the parents of children with disabilities (i.e. cost of employing a Parent Mentor, dissemination of information and resources).	
Safety	<p>Cost attributable to creating a safe learning environment for all persons involved in a given educational setting.</p> <p>School – capital improvements to make building compliant with Americans with Disabilities Act (ADA).</p> <p>Cost attributable with securing state licensure for operating a preschool classroom.</p>	
Facilities	<p>Cost attributable for keeping the physical plant open for use, keeping the grounds and building in effective working condition and cleaning and maintenance which are clearly related to the provision of services to children with disabilities.</p> <p>Cost of construction and or alterations of facility if said activities would improve the program. LEAs <b>must</b> obtain prior approval from ODE Office for Exceptional Children or Office of Early Learning and School Readiness (details regarding the approval process will be forth coming). Any construction or alteration of facilities must comply with ADA regulations or Uniform Federal Accessibility Standards. Additionally projects must use only American made iron, steel and manufactured goods.</p> <p>See links below for the construction guidance and approval request form.</p> <p><a href="https://ccip.ode.state.oh.us/DocumentLibrary/ViewDocument.aspx?DocumentKey=66888">https://ccip.ode.state.oh.us/DocumentLibrary/ViewDocument.aspx?DocumentKey=66888</a></p> <p><a href="https://ccip.ode.state.oh.us/DocumentLibrary/ViewDocument.aspx?DocumentKey=66887">https://ccip.ode.state.oh.us/DocumentLibrary/ViewDocument.aspx?DocumentKey=66887</a></p> <p>The purchase/instillation of security/surveillance systems is not a construction expenditure. Districts should budget the cost as capital outlay/safety and identity the item(s) as equipment. The district should show the item in the CCIP in both the planning tool and enter it as a comment in the History Log. – See Equipment below.</p>	

Category	Allowable Expenditures	Unallowable Expenditures
Transportation	<p>Transportation – <b>cost of equipment</b> to make vehicles ADA compliant (e.g. wheelchair lifts, handrails, seatbelt or other restraints). <b>The district should budget the item(s) in the CCIP under capital outlay/transportation. The district should show the item in the CCIP in both the planning tool and enter it as a comment in the History Log.</b></p> <p>Purchase of an ADA compliant vehicle</p> <p>Pupil transportation</p>	Mileage for out-of-state student field trips.
Non-public	Cost related to providing products, tools and services to children with disabilities attending non-public schools (see section on parentally placed private school students).	
Equipment	Equipment necessary for the delivery of special education and related services to children with disabilities. <b>Item(s) valued at over \$5,000 are considered equipment. Such items are to be approved by ODE through the CCIP and logged and tracked in district inventory records. The purchase of equipment must be noted in the CCIP and identified by item description and cost in both the planning tool and as a comment in the History Log.</b>	Mobile/Modular Units may not be purchased with Part B funds.
Instructional Supplies and Materials.	Appropriate instructional supplies and materials designed to increase achievement and outcomes of students with disabilities while increasing access to and progress in the general curriculum.	
Assistive Technology.	State-of-the-art assistive technology, alternative and augmentative communication devices and software to enhance access to the general curriculum. Training cost associated with assistive technology.	
Transition	Salary and benefits for personnel to assist students with disabilities transition from high school to post secondary opportunities (e.g. transition specialist, job coaches, work study personnel, etc.).	

**NOTE: If a purchase does not benefit students with disabilities the expenditure is not allowable; ancillary benefit to non-disabled students is allowed however, the majority of the benefit must be students with disabilities.**

**Period of Availability**

IDEA Part B ARRA funds may be obligated during the period which began **July 1, 2009** and ends on **September 30, 2011**.

## **Parentally-Placed Private School Students**

The proportional share calculation required under IDEA section 612 (a)(10)(A)(i)(1) will be based on the aggregate of the regular Part-B award and the ARRA funds. As part of consultation, the LEA, private school representatives and parents of parentally placed private school students must consider how the proportionate share of IDEA funds (including regular IDEA and ARRA Part B) should be spent. One option is to spend a portion of the funds in school year 2009-2010 and the balance in school year 2010-2011. LEA's should consider the above referenced allowable use of funds when consulting with their respective private schools.

## **Allowable Replacement of Local Funds**

**Please note that this allowance pertains ONLY to Part B funds and does not include to ECSE funds.**

Section 613 of IDEA 2004 is very specific with regard to IDEA Part B funds supplementing not supplanting (SNS) state and local special education funding and the district's maintenance of effort (MOE) requirement. However, it should be noted that IDEA 2004 provides for an allowable replacement of local funds.

IDEA 2004 requires each state to have in place a State Performance Plan (SPP) that evaluates its efforts to implement the requirements and purposes of Part B of IDEA and describes how the state will improve such implementation. Annually states are required to report LEAs performance against the 20 indicators established by the OSEP. In addition, the law requires that states must evaluate each LEA on their performance against a set of targets established in the SPP.

For those LEAs who received a "Meets Requirements" annual determination from ODE Office for Exceptional Children *may* use up to 50 percent of the special education Part B IDEA funds and Part B ARRA funds received in excess of the amount received for the prior year to replace local education funds (see the example provided in the box below) as long as the local funds are then used for activities authorized by ESEA.

### **Additional Provisions:**

- Under IDEA 616(f), if an SEA determines that an LEA is not meeting the requirements of Part B, including meeting targets in the state's performance plan, the SEA *must* prohibit that LEA from reducing its MOE under IDEA section 613(a)(2)(C) for any fiscal year;
- An LEA must receive a determination under Section 616 of "Meets Requirements" from the state in order to take advantage of this flexibility; and
- An LEA that is required to use 15 percent of its IDEA Part B allocation on Coordinated Early Intervening Services (CEIS) because the SEA identified the LEA as having significant disproportionality under 34 CFR 300.646 will not be able to reduce local MOE under IDEA.
- **Please note that this allowance pertains ONLY to Part B funds and does not include to ECSE funds.**

## **Comprehensive Early Intervening Services**

LEAs may use up to 15 percent of the allocation received under IDEA Part B to provide early intervening services for those students not yet identified as needing special education or related services but who may need additional academic and behavioral supports to meet grade-level indicators.

- Specifically Section 613(f) (1)-(5) enables LEAs to use up to 15 percent of their IDEA allocation to provide early intervening services. These services should be targeted to grades K-12 (with a focus on K-3) students not yet identified as needing special education or related services but who need additional academic and behavioral supports to succeed in the general education environment.
- LEA activities may involve:
  - Professional development to enable teachers and school staff to deliver scientifically based academic instruction and behavioral interventions;
  - Scientifically based literacy instruction;
  - Instruction in the use of adaptive and instructional software;
  - Provision of educational and behavioral evaluations, services and supports; and
  - Coordination of services aligned with the Elementary and Secondary Education Act (ESEA).

**PLEASE NOTE: Funds used to provide early intervening services under section 613(f)(1)-(5) count towards the maximum amount of local expenditures that a district may reduce.**



## Maintenance of Effort and Early Intervening Services

LEAs that seek to reduce their local maintenance of effort in accordance with §300.205(d) and use some of their Part B funds for early intervening services under §300.226 must do so with caution because the local maintenance of effort reduction provision and the authority to use Part B funds for early intervening services are interconnected. The decisions that an LEA makes about the amount of funds that it uses for one purpose affect the amount that it may use for the other. Below are examples that illustrate how §300.205(d) and §300.226(a) affect one another.

**Example 1:** In this example, the amount that is 15 percent of the LEA's total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is greater than the amount that may be used for local MOE reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see §300.205(a)).

Prior Year's Allocation:	\$900,000.
Current Year's Allocation:	\$1,000,000.
Increase:	\$100,000.
Maximum Available for MOE Reduction:	\$50,000.
Maximum Available for EIS:	\$150,000.

- If the LEA chooses to set aside \$150,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$150,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$100,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$100,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$50,000 for EIS, it may not reduce its MOE (MOE maximum \$50,000 less \$50,000 for EIS means \$0 can be used for MOE).
- If the LEA chooses to set aside \$30,000 for EIS, it may reduce its MOE by \$20,000 (MOE maximum \$50,000 less \$30,000 for EIS means \$20,000 can be used for MOE).
- If the LEA chooses to set aside \$0 for EIS, it may reduce its MOE by \$50,000 (MOE maximum \$50,000 less \$0 for EIS means \$50,000 can be used for MOE).

**Example 2:** In this example, the amount that is 15 percent of the LEA's total grant (see §300.226(a)), which is the maximum amount that the LEA may use for EIS, is less than the amount that may be used for MOE reduction (50 percent of the increase in the LEA's grant from the prior year's grant) (see §300.205(a)).

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.

- 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).

- 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).
- 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).

All IDEA ARRA funds must be used consistent with the current IDEA Part B statutory and regulatory requirements and applicable requirements in the General Education Provisions Act (GEPA) and the Education Department General Administrative Regulations (EDGAR). An LEA must use IDEA ARRA funds only for the excess costs of providing special education and related services to children with disabilities except where IDEA specifically provides otherwise.