

RESTART & RECOVERY

IDEA & COVID-19

State Strategies for Supporting Local Educational Agencies in Confronting the Effects of the Pandemic

We are grateful to our colleagues at the Federal Education Group, PLLC for their help in developing this guide.

AUTHORS: Melissa Junge and Sheara Krvaric

CCSSO
One Massachusetts Avenue, NW
Suite 700 Washington, DC 20001



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KEY POINTS

Sometimes, misperceptions about IDEA fiscal rules inadvertently affect services for students with disabilities.

IDEA-funded special education services can be delivered in a variety of settings including inside general education classrooms, if appropriate given a student's needs, and by a variety of personnel (like classroom teachers, content specialists, or special educators), if appropriately prepared and trained.

IDEA funds can be used to provide interventions and other supports to students with disabilities even if those same interventions and supports are provided to other students through other funding sources.

IDEA funds can be used for many activities to improve outcomes for students with disabilities, including coordinated efforts to improve outcomes for all students. For example, IDEA can contribute to initiatives like designing new learning environments to meet the needs of diverse learners in the same setting, training all teachers on strategies for addressing learning gaps experienced by students with disabilities as a result of extended school closures, redesigning school schedules to provide extra instruction to students with disabilities to address service disruptions during extended school closures and virtual learning, and more.

LEAs need state help to take advantage of IDEA's full range of service and spending options.

States can help LEAs by addressing misperceptions and clearly communicating local spending and program options under IDEA.

THIS DOCUMENT IS ONE OF THREE IN A SERIES:

Restart & Recovery: ESEA and COVID-19

(discussing ways states can support LEAs in adapting ESEA programs and spending to meet to new and evolving student needs the during the pandemic and beyond)

Restart & Recovery: IDEA and COVID-19

(discussing ways states can support LEAs in spending IDEA funds to meet the needs of special education students during the pandemic and beyond)

Restart & Recovery: Federal Funds and COVID-19 – A System Workbook for States

(outlining specific system actions an SEA can take to maximize LEA spending options for federal formula funds)

INTRODUCTION

School districts and other local educational agencies (LEAs) around the country are adapting in light of COVID-19. LEAs have an opportunity to rethink how special education and related services are delivered and how funding is used to support students with disabilities to better meet their needs.

LEAs need state support for this effort.

States play a key role in helping LEAs understand their obligations to students with disabilities under the Individuals with Disabilities Education Act (IDEA) and how IDEA funds can support efforts to improve outcomes for those students. IDEA is often subject to misperceptions that can impede its effectiveness and affect student services.

To support LEAs, states can:

1. Address their own misperceptions about IDEA rules and opportunities, and
2. Communicate clearly and consistently with LEAs about using IDEA funds to support effective practices for students with disabilities.

Section I of this document addresses some of the most common misperceptions about IDEA, and Appendix A provides a tool to help states identify them. Section II addresses the allowable uses of IDEA funds, and Appendix B provides spending examples.

Please note this document focuses on IDEA, Part B, which includes two grant programs that help LEAs provide a free appropriate public education to students with disabilities: (1) the Grants to States for Education of Children with Disabilities program (authorized under Section 611 of IDEA) to support students with disabilities ages 3 to 21, and (2) the Preschool Grants for Children with Disabilities program (authorized under Section 619 of IDEA) to support students with disabilities ages 3 to 5. This document does not address the option (and in some cases requirement) to spend Part B funds on coordinated early intervening services (CEIS). Instead, it focuses on the use of Part B for special education and related services to students with disabilities.

RESOURCES

For more information about how states can support students with disabilities please see CCSSO's [Ensuring an Equitable Opportunity: Providing a High Quality Education for Students with Disabilities](#).

For more information about how SEAs and LEAs can approach the 2020-2021 school year, see CCSSO's [RESTART & RECOVERY: Considerations for Teaching & Learning Overview](#) and related guidance documents, including a state-focused [State Policies and Actions](#) document and three documents focused on school systems on [System Conditions](#), [Wellbeing & Connection](#), and [Academics](#). These documents can be used together with this guide to help identify what activities might be most effective during restart and recovery and how IDEA funds can support them.

I. ADDRESS MISPERCEPTIONS ABOUT IDEA RULES & IDENTIFY OPPORTUNITIES

There are two common misperceptions about IDEA, Part B. The first is about the relationship between special education and general education services. The second is about spending rules that govern IDEA funds. These misperceptions are related and influence how LEAs serve students with disabilities. Addressing these misperceptions is crucial for ensuring LEAs can design services to meet student needs in light of COVID-19.

A. The Relationship Between Special Education and General Education Services

Many states and LEAs mistakenly believe that certain kinds of special education services under IDEA must be distinct from the services delivered in a general education classroom. For example, one common misperception is that a service, such as a reading intervention program, cannot be considered a special education service under IDEA if it is also part of a school's regular education program. This is not true.

IDEA defines special education services as "specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability."¹ Specially designed instruction "means adapting . . . the content, methodology, or delivery of instruction" to meet the unique needs of a student with disabilities so the student can access the general curriculum.²

In other words, special education is the process of adjusting what and/or how a student with a disability is taught so the student can access the general curriculum.³ This adaptation could occur inside or outside of a general classroom. As the U.S. Department of Education's (ED) Office of Special Education Programs (OSEP) has said:

The fact that some [special education] services may also be considered "best teaching practices" or "part of the district's regular education program" does not preclude those services from meeting the definition of "special education" . . . and being included in the child's IEP. The [local educational agency] must provide a child with a disability specially designed instruction that addresses the unique needs of the child that result from the child's disability, and ensures access by the child to the general curriculum, even if that type of instruction is being provided to other children, with or without disabilities, in the child's classroom, grade, or building.⁴

In practice, this means:

- Special education services can be delivered inside general education classrooms if appropriate given a student's needs (which is consistent with IDEA's requirement to educate students with disabilities in the least restrictive environment),⁵
- A service can be considered a special education service even if nondisabled students receive the same service, and
- Special education services can be delivered by a variety of appropriately prepared and trained staff.

Understanding these points will be particularly important given the effect COVID-19 is likely to have on classroom and school design.

¹ 34 CFR § 300.39.

² 34 CFR § 300.39(b)(3).

³ This also applies to students with the most significant cognitive disabilities who are able to participate in the general curriculum when provided with specially designed instruction, as well as any needed related services, supplementary aids, and services. These students can succeed in learning academic content aligned to their chronologically age-appropriate grade-level content standards and adapted to alternate achievement. In other words, the content is the same, but at a less complex performance expectation. See, for example, Browder, D. M., Flowers, C., Wakeman, S., Lee, A., Quenemoen, R. F., & Thurlow, M. L. NCSC's content model for grade-aligned instruction and assessment: "The same curriculum for all students" (NCSC Brief #7), 2015, available at <http://www.ncscpartners.org/Media/Default/PDFs/Resources/NCSCBrief7.pdf>.

⁴ U.S. Department of Education, Letter to Chambers, 2012, available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/11-026517r-ma-chambers-definitions-5-4-12.doc>.

⁵ Please note that IEPs should reflect the special education services to be received by a child, even if the services listed are received by students without disabilities in other contexts.

I. ADDRESS MISPERCEPTIONS ABOUT IDEA RULES & IDENTIFY OPPORTUNITIES

1. Special Education Services Can Be Delivered Inside General Education Classrooms

For example, a special education student with a reading disability that needs additional support to access the school's reading curriculum might be pulled out for interventions with a special educator. But, depending on the student's needs, it might be possible to offer supports inside the regular "classroom" (which might be remote or in-person) by training the student's classroom teacher on how to modify instruction for the student, providing the student with adapted materials in class, providing the student with appropriate accommodations, or scheduling additional instructional time where the classroom teacher can re-teach or pre-teach lessons to support the student's learning.⁶ Any of those supports could be a special education service under federal law, even though delivered in class by the classroom teacher.⁷

2. A Service Can Be Considered a Special Education Service Even if Nondisabled Students Receive the Same Service

Of course, it might not be possible to fully meet a student's needs inside the general education classroom, in which case additional interventions delivered outside of class are required. Often, LEAs use separate intervention programs for students with disabilities versus other struggling students based on the mistaken belief that only services delivered exclusively to students with disabilities can be considered a special education service. As OSEP makes clear in the quote above however, a service can still be considered a special education service and included in an IEP even if that same service is being provided to other children.⁸

For example, a school counselor might use a self-regulation intervention program with a student with an ADHD-related disability. The counselor could use the same program to support other students with self-regulation challenges even if they have not been identified as having a disability. This type of approach might be particularly important given the challenges faced by many students in an online learning environment.

3. Special Education Services Can Be Delivered by a Variety of Appropriately Prepared & Trained Staff

Another common misperception is that only services provided by a special educator can be considered a special education service. This is not true under federal law (state or local laws may vary). Under IDEA rules, a special education service can be delivered by any trained personnel including classroom teachers, academic content specialists, and student support specialists.⁹

⁶For more information about aligning special education and general education services please see Nathan Levenson and Christopher Cleveland. 2016. "Improving Special Education: DMC's Best Practices for Cost-Effectively Raising Achievement." District Management Journal, 20, available at https://dmj.dmggroupk12.com/publication/?i=587159&article_id=3378679&view=articleBrowser&ver=html5.

⁷See, for example, U.S. Department of Education, *Non-Regulatory Guidance on Using ARRA Funds Provided Through Part B of the Individuals with Disabilities Education Act (IDEA) to Drive School Reform and Improvement*, 2009, pp. 2-4, available at <https://www2.ed.gov/policy/gen/leg/recovery/guidance/idea-b-reform.pdf>. Please note ED developed this guidance to help LEAs spend the additional IDEA, Part B funds appropriated through the American Recovery and Reinvestment Act, but it applies to regular IDEA, Part B funds as well. The guidance will be referred to as *2009 IDEA Reform Guidance* from now on.

⁸IDEA funds can only pay costs related to students with disabilities, but that does not preclude LEAs from using another funding source to provide the same supports to other struggling students. (See next section for more information.)

⁹IDEA requires SEAs to establish and maintain qualifications to ensure personnel carrying out IDEA activities are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities. 34 CFR § 300.156. Please note the fact that a classroom teacher or content specialist might deliver a special education service to a student with disabilities does not mean their entire salary could be supported with IDEA funds. IDEA could only pay for the proportion of time spent on special education services.

I. ADDRESS MISPERCEPTIONS ABOUT IDEA RULES & IDENTIFY OPPORTUNITIES

B. IDEA Spending Rules

IDEA is governed by three fiscal rules designed to ensure LEAs use IDEA funds to expand services for students with disabilities rather than replace the state and local money they would otherwise spend on such students:

- Maintenance of effort (MOE), which requires LEAs to budget and spend at least as much local (or state and local) money on special education as they did the year before,
- Excess cost, which requires LEAs to spend, on average, the same amount of non-IDEA money on children with disabilities as they spend on children in the LEA as a whole, and
- Supplement, Not Supplant, which prohibits LEAs from using IDEA funds to replace the state, local, and other federal funds they would otherwise spend on special education if they did not participate in IDEA.

Two of these rules – excess cost and Supplement, Not Supplant – are commonly misunderstood to mean each activity supported with IDEA funds must be separate and distinct from activities supported with other funding sources. As a result, LEAs tend to limit their IDEA spending and silo their services.

1. Common Misperceptions About the Excess Cost Requirement

LEAs must use IDEA funds to pay for the “excess cost” of providing special education and related services to eligible students with disabilities.¹⁰ This is the cost above and beyond what an LEA spends, on average, to educate students generally.¹¹ In other words, LEAs spend a certain amount of money to provide services to all students. Students with disabilities need extra supports that generate additional costs for LEAs. IDEA is meant to help defray these additional costs, not the entire cost of educating a student with a disability.¹²

Determining excess cost is done through a process that looks at an LEA’s *aggregate spending*.¹³ It is not determined by looking at individual expenses; however, many states mistakenly apply a three-part test to determine whether each individual cost an LEA supports with IDEA is “excess”:

- In the absence of special education and related services, would the cost exist? If yes, the cost is not considered to be excess.
- Is the expenditure also generated by students without disabilities? If yes, the cost is not considered to be excess.
- If it is a child specific service, is the service documented in the student’s IEP? If no, the cost is not considered to be excess.

This three-part test does not come from federal law and is inconsistent with IDEA’s excess cost requirements.¹⁴ Under IDEA, excess cost is measured by looking at an LEA’s total spending (minus certain categories of cost), not any individual cost.¹⁵

¹⁰ 34 CFR § 300.202(a)(2).

¹¹ 34 CFR § 300.16.

¹² The excess cost requirement does not prevent an LEA from using IDEA, Part B funds to pay for the entire cost of educating a child with a disability aged 3-5 or 18-21 if the LEA does not use state and/or local funds to provide services to non-disabled students in those age ranges. 34 CFR § 300.202(b)(1)(ii). In other words, if the LEA does not normally serve students in those age ranges, but serves a student with disabilities solely because of the LEA’s responsibilities under IDEA, Part B, the LEA may use IDEA, Part B funds to pay for the entire cost of educating a student in that age range.

¹³ 2 CFR § 300.16, 2 CFR § 300.202(b)(2).

¹⁴ To meet IDEA’s excess cost requirement, LEAs must determine how much, on average, they spent per student in the last school year, after deducting: capital outlay and debt services; costs paid with IDEA, Part B, Title I, Part A, and Title III, Part A funds; costs paid with state and local funds for programs under Title I, Part A, Title III, Part A; and costs paid with state and local funds for children with disabilities. The resulting amount represents the minimum an LEA must spend in the next school year with non-IDEA funds (that is, state, local, and/or other federal funds).

¹⁵ 34 CFR § 300.16 and Appendix A.

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2. Common Misperceptions About Supplement, Not Supplant

LEAs must use IDEA funds to supplement state, local, and other federal funds and not to supplant those funds.¹⁶ In general, this means IDEA funds must add to the state, local, and other federal funds LEAs spend for special education, and not to replace those funds. Like excess cost, compliance with IDEA's Supplement, Not Supplant requirement is not based on testing individual expenses; instead, LEAs comply with IDEA's Supplement, Not Supplant requirement by meeting their maintenance of effort (MOE) obligations.¹⁷ In other words, an LEA that satisfies MOE satisfies Supplement, Not Supplant as well.¹⁸ There is no separate Supplement, Not Supplant test for IDEA at the local level.¹⁹

Yet, as with excess cost, many states and LEAs mistakenly believe IDEA's Supplement, Not Supplant requirement means each individual IDEA cost must be tested and that IDEA cannot pay for activities required by law, activities that were previously supported with state or local funds, or activities for students with disabilities if another funding source pays for the same activity for nondisabled students. **This is not true; individual IDEA costs are not tested for compliance under IDEA's Supplement, Not Supplant requirement.**²⁰

In practice, incorrect approaches to IDEA's fiscal rules may have significant implications for students by limiting the services available to struggling students both with and without disabilities and limiting efforts to make schools better for all students, including students with disabilities.

3. Incorrect Approaches to Excess Cost & Supplement, Not Supplant Limit Services to Struggling Students

The incorrect approaches to excess cost and Supplement, Not Supplant described above limit services by ruling out the use of IDEA funds to deliver an intervention to students with disabilities while using another funding source to deliver the same intervention to other struggling students. This is inconsistent with federal guidance that recognizes students with and without disabilities often benefit from the same interventions and encourages alignment to the extent possible.²¹

For example, federal law would permit an LEA to use IDEA funds to deliver a multi-sensory, structured, language-based reading intervention for students with disabilities and use another funding source to deliver the same intervention to other struggling readers. An LEA could, for example, hire a reading specialist to work with all struggling readers with a combination of IDEA, other federal funds, and/or state or local funds.²²

¹⁶ 34 CFR § 300.202(a)(3).

¹⁷ See U.S. Department of Education, *Non-Regulatory Guidance on Funds for Part B of the Individuals with Disabilities Education Act Made Available Under The American Recovery and Reinvestment Act of 2009* (2010), <http://www2.ed.gov/policy/gen/leg/recovery/guidance/idea-b-revised-910.pdf>, p. 13, Q&A C-6. Please note ED developed this guidance to help LEAs manage the additional IDEA, Part B funds appropriated through the American Recovery and Reinvestment Act, but it applies to regular IDEA, Part B funds as well. The guidance will be referred to as 2010 IDEA Guidance from now on.

¹⁸ This is different from how Supplement, Not Supplant is tested in other ED programs, which may be one reason for the misunderstandings.

¹⁹ For example, the federal guide auditors use to review local compliance with federal requirements as part of an annual process known as a Single Audit, says Supplement, Not Supplant is "not applicable" to local level IDEA, Part B spending. Office of Management and Budget, *2 CFR Part 200, Appendix XI, Compliance Supplement*, (2020), p. 4-84.027-10, https://www.whitehouse.gov/wp-content/uploads/2020/08/2020-Compliance-Supplement_FINAL_08.06.20.pdf.

²⁰ See 2010 IDEA Guidance at p. 13.

²¹ 2009 *IDEA Reform Guidance*. OSEP even permits non-disabled students to participate in an IDEA, Part B funded intervention when it does not increase the cost to IDEA. U.S. Department of Education, *Letter to Couillard*, (2013), available at <http://www2.ed.gov/policy/speced/guid/idea/letters/2013-1/couillard03072013useoffunds1q2013.doc>. This letter will be referred to as *ED Letter to Couillard* from now on.

²² See, for example, *ED Letter to Couillard*. See also U.S. Department of Education, *Actions to Ease the Burden of Time-and-Effort Reporting*, (2012), available at <https://www2.ed.gov/policy/fund/guid/gposbul/time-and-effort-reporting.html>, which provides an example of how an LEA could split an instructional aid's salary between IDEA and other funding sources without triggering overly burdensome paperwork requirements. Although this guidance is archived on ED's website and is based on a prior version of the regulations governing time and effort (which were updated in 2014), ED advised it is still valid.

I. ADDRESS MISPERCEPTIONS ABOUT IDEA RULES & IDENTIFY OPPORTUNITIES

4. Incorrect Approaches to Excess Cost & Supplement, Not Supplant Limit Comprehensive Improvement Initiatives

ED has advised that “IDEA, Part B funds can be used for a wide variety of strategies to improve student outcomes,”²³ which can include coordinating IDEA with other funding sources “to improve outcomes for all students, including students with disabilities.”²⁴ For example, an LEA could use a combination of IDEA and other funds to train all its Kindergarten and first grade teachers on evidence-based reading instruction or inclusive practices. IDEA could pay the share of costs related to special education teachers and another funding source – like state or local funds and Title II, Part A funds – could pay the rest.

More examples of allowable uses of IDEA funds are available in Section II below.

C. Steps for States

Determining if these misperceptions exist within an SEA is critical because they likely inform the SEA's policies, guidance and technical assistance, and IDEA-oversight activities. To identify and address misperceptions if they exist an SEA can:

- Provide high-quality professional development to a wide variety of SEA staff to ensure federal requirements are understood and understanding is shared across offices,
- Review state-developed IDEA-related rules (such as regulations) and policies and determine whether they reflect misperceptions and need to be revised,
- Review state-developed guidance and technical assistance materials and correct any misperceptions,
- Review state-developed grant materials – like application tools and monitoring instruments – and correct any misperceptions in them, and
- Develop guidance documents for blending and braiding funding to be shared with district superintendents.

Please see Appendix A for more information. Additional ideas for steps states can take to analyze the systems they use to oversee and manage federal programs are available in the related publication: **Restart & Recovery: Federal Funds and COVID-19 – A System Workbook for States.**

²³ 2009 IDEA Reform Guidance, p. 4.

²⁴ 2009 IDEA Reform Guidance, p. 2.

II. COMMUNICATING WITH LEAS ABOUT USING IDEA FUNDS TO SUPPORT EFFECTIVE PRACTICES

Once an SEA addresses its own misperceptions about IDEA rules and opportunities, it can take steps to ensure LEAs understand their full range of IDEA service delivery and spending options. This might mean both explicitly addressing misperceptions with LEAs and providing guidance with concrete examples of allowable uses of IDEA funds.

For example, if an SEA determines it misapplied IDEA's excess cost and/or Supplement, Not Supplant rules in the past, it is important to explain the correct standards to LEAs and what they mean for IDEA spending. Likely, LEAs have more spending and service delivery options than they realize.

RESOURCE

For tips about writing effective guidance please see CCSSO's [Developing Effective Guidance: A Handbook for State Educational Agencies](#).

Ensuring LEAs understand their spending options is important given their significant needs due to COVID-19. For instance, to address service disruptions during extended school closures and remote learning, LEAs might consider:

- The extent to which they can extend existing intervention programs to provide additional supports to students with and without disabilities who need them. IDEA could pay for things like training additional staff on using the interventions for students with disabilities, paying staff salaries to the extent they work with students with disabilities, and the like.
- The extent to which additional special education services can be incorporated into general classroom settings. IDEA could pay for relevant professional development to classroom teachers, adapted instructional materials, extended learning time for students with disabilities, and the like.

These are some examples of how LEAs can use IDEA funds to support students with disabilities. There are many other examples in the U.S. Department of Education's *Non-Regulatory Guidance on Using ARRA Funds Provided Through Part B of the Individuals with Disabilities Education Act (IDEA) to Drive School Reform and Improvement* which is summarized in Appendix B. Although ED developed this guidance to help LEAs spend the additional IDEA funds appropriated through the American Recovery and Reinvestment Act (ARRA), it applies to regular IDEA funds as well and many of the examples are still relevant for the COVID-19 era.

APPENDIX A: IDENTIFYING COMMON IDEA MISPERCEPTIONS

This chart can help SEAs identify whether three of the most common misperceptions about IDEA potentially affect spending and services in their states.

SERVICE DELIVERY OPTIONS (see pages 5-6)	
POSSIBLE MISPERCEPTION	POSSIBLE ACTIONS
<p>WHAT TO LOOK FOR</p> <p>Do LEAs understand and feel comfortable using the full array of service delivery options IDEA authorizes? For example:</p> <ul style="list-style-type: none"> · Does the SEA have data on the types of special education services LEAs typically provide for the most common disability categories? · Do LEAs know students with disabilities can receive interventions and other services even if other struggling students receive the same services and vice versa? · Does the SEA provide guidance on inclusionary strategies for embedding special education services in general education settings if appropriate for a student's needs? · Does the SEA permit LEAs to use IDEA funds to support special education services delivered inside general classrooms if appropriate for a student's needs (such as training for general education teachers, adapted instructional materials, and extended learning time for students with disabilities)? <p>Do LEAs have the option to use a variety of prepared and trained staff to deliver special education services (such as classroom teachers, reading specialists, interventionists, librarians, teacher assistants, etc.)? For example, does the SEA require that special education services be delivered exclusively by special educators?</p>	<p>WHERE TO LOOK</p> <p>State guidance (including guidance for IEP teams and guidance for program administrators on IDEA spending rules), state policies and regulations (particularly on staff qualifications).</p> <p>HOW TO TACKLE</p> <p>Consider whether state guidance, policies, and regulations incentivize LEAs to silo special education services and/or limit coordination with general education services. If so, consider whether they should be adjusted and/or whether to provide additional guidance on IDEA's full range of service delivery options including the option to support coordinated initiatives.</p>
<p>Special education is the process of adapting instruction to meet the unique needs of a student with disabilities so the student can access the general curriculum. This can be done a variety of ways, including inside general education classrooms, and with a variety of appropriately prepared and trained staff.</p>	

APPENDIX A: IDENTIFYING COMMON IDEA MISPERCEPTIONS

EXCESS COST COMPLIANCE (see pages 7-9)	
POSSIBLE MISPERCEPTION	POSSIBLE ACTIONS
<p>WHAT TO LOOK FOR</p> <p>IDEA does not require LEAs to verify individual costs are “excess” before using IDEA to pay for them. An SEA can review IDEA excess cost and spending guidance it has issued to LEAs to make sure the following three-part test is not included in guidance:</p> <ul style="list-style-type: none"> · In the absence of special education and related services, would the cost exist? · Is the expenditure also generated by students without disabilities? · If it is a child-specific service, is the service documented in the student’s IEP? <hr/> <p>This three-part test is not required by federal law and is inconsistent with IDEA’s excess cost requirements.</p> <div style="background-color: #2e7d72; color: white; padding: 10px; margin-top: 10px;"> <p>LEAs are not required to demonstrate individual costs charged to IDEA are “excess.” Instead, IDEA’s excess cost requirement is tested by looking at an LEA’s aggregate spending through a specific test in IDEA regulations.</p> </div>	<p>WHERE TO LOOK</p> <p>State guidance and technical assistance materials (like PowerPoint presentations), website, LEA-to-SEA application, budget documents, instructions for completing application, state monitoring documents, state presentations, and state policy documents.</p> <p>HOW TO TACKLE</p> <p>If discovered, consider repealing or removing this language, clarifying the change for LEAs, and providing guidance on how the change affects IDEA spending (for instance, giving examples of activities LEAs can support with IDEA funds that they may not have realized were options).</p>

SUPPLEMENT, NOT SUPPLANT COMPLIANCE (see pages 7-9)	
POSSIBLE MISPERCEPTION	POSSIBLE ACTIONS
<p>WHAT TO LOOK FOR:</p> <p>IDEA does not require LEAs to verify individual costs are “supplemental” before using IDEA funds to support them. SEAs can review IDEA Supplement, Not Supplant and spending guidance they have issued to LEAs to make sure the following types of questions are not included in guidance:</p> <ul style="list-style-type: none"> · Does the cost relate to an activity that is required by law? · Was the cost previously supported with state or local funds? · Will IDEA pay for a cost for students with disabilities while another funding source pays the same cost for nondisabled students? <hr/> <p>These questions are not required by federal law under IDEA.</p> <div style="background-color: #2e7d72; color: white; padding: 10px; margin-top: 10px;"> <p>LEAs are not required to demonstrate individual costs charged to IDEA are “supplemental.” Instead, LEAs comply with IDEA’s Supplement, Not Supplant requirement by meeting their maintenance of effort obligations.</p> </div>	<p>WHERE TO LOOK</p> <p>State guidance and technical assistance materials (like PowerPoint presentations), website, LEA-to-SEA application, budget documents, instructions for completing application, state monitoring documents, state presentations, and state policy documents.</p> <p>HOW TO TACKLE</p> <p>If discovered, consider repealing or removing this language, clarifying the change for LEAs, and providing guidance on how the change affects IDEA spending (for instance, giving examples of activities LEAs can support with IDEA funds that they may not have realized were options).</p>

APPENDIX B: EXAMPLES OF IDEA SPENDING OPTIONS

The chart below is based on the U.S. Department of Education’s [Non-Regulatory Guidance on Using ARRA Funds Provided Through Part B of the Individuals with Disabilities Education Act \(IDEA\) to Drive School Reform and Improvement](#). Although ED developed this guidance to help LEAs spend the additional IDEA funds appropriated through the American Recovery and Reinvestment Act (ARRA), it applies to regular IDEA funds as well and many of the examples are still relevant, particularly given challenges resulting from the COVID-19 pandemic.

Please note, to the extent any of these activities are carried out for the benefit of all students, IDEA cannot pay for the whole cost. ED’s guidance provides information about coordinating IDEA with other funding sources.

STRATEGY TO SUPPORT STUDENTS WITH DISABILITIES	COST THAT COULD BE PAID WITH IDEA, PART B FUNDS TO IMPLEMENT THE STRATEGY
<p>ACCESS TO EFFECTIVE TEACHERS</p>	<p>Hiring effective, dually certified special education teachers,</p> <p>Paying for teachers to participate in high-quality certification programs that increase teacher effectiveness in improving outcomes for students with disabilities,</p> <p>Providing site-based, job-embedded professional development for special education teachers that leads to certification in content areas through partnerships with an institution of higher education (IHE) and/or a recognized alternative certification program,</p> <p>Providing site-based, job-embedded professional development for general education teachers that leads to certification in special education through partnerships with an IHE and/or a recognized alternative certification program,</p> <p>Induction programs that use evidence-based practices such as creating ongoing support and opportunities for interaction between novice and experienced special education teachers (e.g., classroom observations, advising, group meetings for grade-level teams, and networking within and outside of the school),</p> <p>Teacher mentoring programs, including the cost of hiring substitute teachers to provide release time for special education teacher mentors, and</p> <p>Training mentors in adult development and learning, conferencing skills, and relationship and communication skills to work with special education teachers.</p>
<p>USE OF TECHNOLOGY</p>	<p>Paying for staff time outside the school day and for substitute teachers for release time during the school day, so special education staff can engage in a technology self-assessment and strategic planning,</p> <p>Purchasing technology hardware and software consistent with the LEA’s established technology integration plan to improve achievement for students with disabilities and to increase their access to the curriculum,</p> <p>Providing professional development and technical assistance to special education staff on the purchase and use of instructional technology, and</p> <p>Promoting the effective use of technology to improve instruction for students with disabilities by providing professional development and technical assistance and developing teacher mentor programs and communities of practice.</p>

APPENDIX B: EXAMPLES OF IDEA SPENDING OPTIONS

STRATEGY TO SUPPORT STUDENTS WITH DISABILITIES	COST THAT COULD BE PAID WITH IDEA, PART B FUNDS TO IMPLEMENT THE STRATEGY
<p>ASSISTIVE TECHNOLOGY (AT)</p>	<p>Purchasing AT devices and services for students with disabilities and providing training for teachers and other service providers, administrators, parents, and children,</p> <p>Establishing AT labs or lending libraries with a collection of AT devices and materials for use in AT evaluations and training, and</p> <p>Providing training on how to conduct a systematic analysis of the child’s specific needs and abilities, the environments in which the child must function, the tasks the child must perform, and the AT devices that may benefit the child.</p>
<p>UNIVERSAL DESIGN FOR LEARNING (UDL)</p>	<p>Purchasing assessments that utilize UDL approaches to ensure that assessments of students with unique learning needs are valid measures of their knowledge,</p> <p>Providing professional development related to UDL approaches and strategies for supporting emergent literacy, reading and math instruction, learners with disabilities in K-12, and the use of new technologies with evidence-based strategies for improved outcomes,</p> <p>Providing professional development related to the implementation of embedded assessments intended to inform the development of improved teaching and learning strategies,</p> <p>Purchasing consultant services to plan and implement new learning environments supportive of all learners within inclusive settings,</p> <p>Providing professional development related to the implementation of appropriate accommodations for children with disabilities on large-scale assessments,</p> <p>Providing professional development related to the acquisition and use of specialized formats to support students with disabilities within the least restrictive environment, and</p> <p>Acquiring and implementing technologies and specialized formats for students with print disabilities who qualify for National Instructional Materials Accessibility Standard derived textbooks in accordance with the Library of Congress National Library Service guidelines and for other students with disabilities who may not qualify under the four categories supported by the Chafee Amendment to Copyright Law.</p>
<p>RESPONSE TO INTERVENTION (RTI)</p>	<p>Providing any special education and related services that is in a child’s IEP, regardless of the tier the child is in,</p> <p>Developing a LEA strategy for implementing an RTI framework that provides guidance on tiers of instruction and the instructional approaches and programs appropriate for each tier, appropriate use of assessment data, supports needed for implementation, and evaluation of effectiveness of approach,</p> <p>Purchasing curriculum-based screening and progress monitoring and formative assessment measurement instruments, and curriculum materials for intensive instruction,</p> <p>Providing professional development for school or LEA staff to appropriately and effectively use the progress monitoring and formative assessment measurement instruments, and</p> <p>Providing professional development for school or LEA staff to appropriately and effectively implement evidence-based instructional and positive behavior practices.</p>

APPENDIX B: EXAMPLES OF IDEA SPENDING OPTIONS

STRATEGY TO SUPPORT STUDENTS WITH DISABILITIES	COST THAT COULD BE PAID WITH IDEA, PART B FUNDS TO IMPLEMENT THE STRATEGY
<p>LITERACY INTERVENTIONS</p>	<p>Purchasing evidence-based reading programs,</p> <p>Purchasing progress monitoring tools,</p> <p>Providing professional development for school staff across content areas in the implementation of effective instruction for students with disabilities who are struggling readers, and</p> <p>Employing and training literacy coaches to provide ongoing training and support to teachers.</p>
<p>MATH INTERVENTION</p>	<p>Purchasing evidence-based math screening instruments and intervention materials,</p> <p>Purchasing technical assistance and training in implementing math strategies,</p> <p>Employing staff to provide technical assistance and training in implementing math, and</p> <p>Supporting dual certification initiatives to ensure teachers can effectively work with students with disabilities who are struggling with math.</p>
<p>POSITIVE BEHAVIOR INTERVENTION & SUPPORT</p>	<p>Providing technical assistance and professional development for teachers, service providers, and school staff for training needed to initially implement and maintain a positive behavioral intervention and support system (PBIS),</p> <p>Providing technical assistance and professional development for teachers, service providers, and school staff for training needed to initially implement and maintain a PBIS program, including the funding for substitutes for staff release time,</p> <p>Employing and training for behavior coaches who would support the implementation of the PBIS program and train additional staff coaches to sustain the program,</p> <p>A schoolwide data system that measures school climate in a rigorous way so that progress can be assessed and measured, and</p> <p>Providing the specific positive behavioral interventions and supports that are included in the IEPs of children with disabilities including the professional development of personnel (both special education and regular education) involved in providing those interventions.</p>
<p>SOCIAL & EMOTIONAL DEVELOPMENT</p>	<p>Collaborating with other local early care and education programs to coordinate funds consistent with regulatory requirements, to provide professional development and fund the hiring and training of trainers and coaches to implement a multi-tiered framework for promoting social development and addressing challenging behavior in young children,</p> <p>Providing technical assistance to build the capacity of their community or LEA to develop the infrastructure needed to implement a multi-tiered model for promoting social development, including the training of trainers and coaches and the development of model demonstration sites using coordinated funds, and</p> <p>Hiring coaches to provide classroom and program support.</p>

APPENDIX B: EXAMPLES OF IDEA SPENDING OPTIONS

STRATEGY TO SUPPORT STUDENTS WITH DISABILITIES	COST THAT COULD BE PAID WITH IDEA, PART B FUNDS TO IMPLEMENT THE STRATEGY
<p>TRANSITION SERVICES</p>	<p>Hiring transition personnel who possess the knowledge and skills to work with teachers, businesses, employers, community colleges, technical schools, and IHEs to create an effective interagency transition system for students with disabilities that fosters interagency coordination between the school, the community, and the post-school adult service system,</p> <p>Purchasing transition-curriculum and career assessment, exploration, and development tools for students with disabilities,</p> <p>Providing technical assistance and professional development to enhance the knowledge and skills of special educators regarding transition strategies, including how to effectively use transition-curriculum and career assessment, exploration, and development tools,</p> <p>Employing staff to provide technical assistance and professional development to enhance the knowledge and skills of special educators regarding transition strategies, including how to effectively use transition-curriculum and career assessment, exploration, and development tools, and</p> <p>Hiring consultants to integrate data regarding the provision of transition services to students with disabilities into other data collection systems to better support and track student outcomes.</p>
<p>DATA SYSTEMS</p>	<p>Progress monitoring tools,</p> <p>Web-based IEPs,</p> <p>Purchasing hardware and software to enhance current data systems or purchase new data systems,</p> <p>Hiring consultants to address data challenges, including privacy concerns and cross-departmental technical and legal data transferability issues,</p> <p>Training personnel on how to use data for improving student outcomes,</p> <p>Building a local longitudinal data system that is interoperable with any existing statewide longitudinal data system, and</p> <p>Merging separate special education data systems into existing elementary, secondary, post-secondary, and workforce systems.</p>

APPENDIX C: IDEA, PART B COVID-RELATED GUIDANCE FROM THE U.S. DEPARTMENT OF EDUCATION

The U.S. Department of Education (ED) periodically releases guidance about IDEA issues in light of the COVID-19 pandemic. Below is a list of ED documents as of September 29, 2020. Please check <https://www.ed.gov/coronavirus/program-information> for the most up-to-date information.

- [Implementation of IDEA Part B Provision of Services in the COVID-19 environment](#) (September 28, 2020)
- [IDEA Part B Procedural Safeguards in the COVID-19 environment](#) (June 30, 2020)
- [IDEA Part B Use of Funds in COVID-19 Environment Q&A Documents](#) (June 25, 2020)
- [Flexibility in Implementation of IDEA Part B Fiscal Requirements](#) (June 26, 2020)
- [IDEA Part B Dispute Resolution in COVID-19 Environment Q&A Documents](#) (June 22, 2020)
- [Supplemental Fact Sheet \(Español\)](#) Addressing Serving Children with Disabilities during COVID-19 national emergency (March 21, 2020)
- [Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak](#) (March 12, 2020)