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Title 34 — Education

Subtitle B — Regulations of the Offices of the Department of Education

Chapter III — Office of Special Education and Rehabilitative Services, Department of Education

Part 300 — Assistance to States for the Education of Children with Disabilities

Subpart C — Local Educational Agency Eligibility

Authority: 20 U.S.C. 1221e-3, 1406, 1411-1419, and 3474; Pub. L. 111-256, 124 Stat. 2643; unless otherwise noted.

Source: 71 FR 46753, Aug. 14, 2006, unless otherwise noted.

§ 300.226 Early intervening services.

- (a) **General.** An LEA 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, 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. (See appendix D for examples of how § 300.205(d), regarding local maintenance of effort, and § 300.226(a) affect one another.)
- (b) **Activities.** In implementing coordinated, early intervening services under this section, an LEA may carry out activities that 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.
- (c) **Construction.** Nothing in this section shall be construed to either limit or create a right to FAPE under Part B of the Act or to delay appropriate evaluation of a child suspected of having a disability.
- (d) **Reporting.** Each LEA that develops and maintains coordinated, early intervening services under this section must annually report to the SEA on—
 - (1) The number of children served under this section who received early intervening services; and
 - (2) The number of children served under this section who received early intervening services and subsequently receive special education and related services under Part B of the Act during the preceding two year period.
- (e) **Coordination with ESEA.** Funds made available to carry out this section may be used to carry out coordinated, early intervening services 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.

(Approved by the Office of Management and Budget under control number 1820-0600)

(Authority: 20 U.S.C. 1413(f))