

American Rescue Plan (ARP) Individuals with Disabilities Education Act (IDEA) Part B Program Overview

Purpose and Background

On July 1, 2021 the U.S. Department of Education released more than \$3 billion in American Rescue Plan (ARP) funds to states to support infants, toddlers, children, and youth with disabilities through a separate supplement to Part B and Part C of the Individuals with Disabilities Education Act (IDEA).

Funds were allocated within Section 2014(a) of the ARP to supplement IDEA's three major formula grants programs as follows:

- \$2.6 billion for IDEA Part B Grants to States (Section 611) for children and youth with disabilities aged 3 through 21.
 - Vermont received \$6,625,874
- \$200 million for IDEA Part B Preschool Grants (Section 619) for children with disabilities aged 3 through 5.
 - Vermont received \$472,522

Allocations by LEA are provided in [ARP IDEA Part B Allocations](#) and the U.S. Department of Education has also released a [Fact Sheet](#) to address basic program requirements. Please take specific note of the Maintenance of Effort and Proportionate Share requirements for ARP IDEA, which mirror those of IDEA.

This document provides an overview of the major statutory and regulatory requirements only for ARP IDEA Part B (Sections 611 and 619).

Program Overview

ARP IDEA is subject to the same requirements as Federal fiscal year (FFY) 2021 IDEA funding made available under [Public Law 116-260](#) (The Consolidated Appropriations Act of 2021).

ARP IDEA funds are formula grants and are therefore substantially approvable. Funds are available for obligation upon a signed award - with a start date equal to when the application was submitted in substantially approvable form through September 30, 2023 (this 2023 date is inclusive of Tydings).

Please Note: The ARP IDEA funds are a separate funding stream from IDEA and will require a separate grant application. To ensure the State and the LEAs can account for and track the use of IDEA ARP Act funds, the AOE has chosen to separate the IDEA B and ARP funds applications. LEAs will operate separate budgets for both traditional and ARP allocations, with

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separate reporting requirements. The AOE encourages LEAs to budget these funds for nonrecurring activities. ARP IDEA is a one-time funding opportunity that will not be available to sustain ongoing activities such as permanent employees. These funds must be tracked separately from IDEA in LEA accounting systems.

ARP funds will be allocated to LEAs following traditional procedures used for IDEA Part B allocations. All ARP IDEA funds must be obligated by September 30, 2023 and expended by January 28, 2024.

Coordinated Early Intervening Services (CEIS)

Coordinated Early Intervening Services (CEIS) Under ARP IDEA Part B, a 15% maximum reservation for *voluntary* CEIS is an option for LEAs. [34 CFR § 300.226 Early Intervening Services](#) permits LEAs to use IDEA funds for CEIS 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. Children who are not yet in kindergarten may not receive CEIS.

Examples of CEIS include but are not limited to:

- Professional development on scientifically based literacy instruction,
- Professional development on the use of adaptive and instructional software,
- Scientifically based literacy instruction,
- Reading or math specialists working with students who have not yet reached grade-level proficiency,
- After-school tutoring for students who are not proficient on the state assessment,
- High quality instructional materials
- Supports to struggling students delivered as part of a multi-tiered system of support, and
- Behavior interventions.

Additional Requirements

Some IDEA Part B requirements, which require calculations, are based upon the total IDEA sub award. These calculations would include the aggregate amount of IDEA FFY2021 funds and ARP funds. This includes:

- Comprehensive Coordinated Early Intervening Services (CCEIS)
- Proportionate Share

Comprehensive Coordinated Early Intervening Services (CCEIS/Significant Dispro) [34 CFR §300.646](#) LEAs identified with significant disproportionality *are* required to set aside 15% of their ARP IDEA-B Basic and PK funds. LEAs not meeting CCEIS and found to be Significantly Disproportionate will be required to reserve the maximum amount of funds (15%) of their total aggregated allocation. This includes Flow-Through, Pre-School, and ARP allocations combined. Districts have the option of choosing which program(s) the funds will be withheld from.

Proportionate Share

The Proportionate Share set aside must include both, IDEA and ARP funds, in accordance with 34 CDR §300.132. LEAs must hold an additional consultation if the original consultation did not include ARP funding. LEAs are required to hold a consultation (34 CFR §300.134 and 135) with the private school representative and parent/families of children with disabilities enrolled in the private school to determine what services will be provided.

Use of Funds

Funds may be used for all allowable purposes under Part B of IDEA and are subject to all requirements and provisions that apply to IDEA funds, including requirements under [IDEA](#), [EDGAR](#), and the [OMB Uniform Guidance](#). LEAs should consider and focus on challenges from the Pandemic such as:

- School re-entry
- Disruption in the education of children with disabilities
- Mental health services
- Equity in special education and early intervention services

Purchase of equipment, facilities improvement or school construction with ARP IDEA

Under [section 605 of the IDEA](#), if the Secretary determines that a program authorized under IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

Under [2 CFR §200.439](#), as the pass-through entity, the AOE is responsible for the prior approval of all purchases of equipment that meet the federal definition of equipment. To streamline the review and approval process, the AOE has developed [one, universal application](#) for all purchases of equipment with federal funds.

Similarly, all construction projects or improvements to facilities that fall under the definitions outlined in the [School Construction with Federal Funds Guidance](#), must receive approval through the [School Construction with Federal Funds Application](#) in GMS. Questions concerning this process should be directed to aoe.federalconstruction@vermont.gov.

Special note regarding “Excess Cost,” Supplement not Supplant and Special Education Services

To maximize the use of ARP IDEA funds, and IDEA funds more generally, the US Department of Education has recently clarified several, persistent misunderstandings.

Special Education Services using IDEA Funds

Many believe a service cannot be considered a special education service if other students receive the same service or if it is delivered as part of the “regular” education program. This is not true.

Under IDEA:

- Special education services can be delivered inside general education classrooms if appropriate given a student's needs,
- A service can be considered a special education service even if some nondisabled students receive the same service, and
- Special education services can be delivered by a variety of qualified staff.

“Excess Cost”

Many believe each cost charged to IDEA must be “excess.” This is not true.

For example, many states advise their LEAs to use some version of a three-part test:

- 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?

This test does not come from federal law and is inconsistent with IDEA's excess cost requirements. Determining excess cost is done through a process that looks at an LEA's aggregate spending, not individual expenses.

Supplement not Supplant

Many believe LEAs cannot use IDEA 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.

IDEA's supplement not supplant requirement is not based on testing individual expenses. LEAs comply with IDEA's supplement not supplant requirement by meeting their maintenance of effort obligations.

Maintenance of Effort requirements have not been waived and no exceptions are available for ARP funds. LEAs must maintain and not supplant their State and local expenditures with these funds. ARP funds may aid in allowing an adjustment regarding the 50% rule (34 C.F.R. § 300.205) if a LEA Meets Requirements on their annual district determination. LEAs that do not meet requirements will not qualify for the 50% rule.

Contact Information

Programmatic questions concerning ARP IDEA funds should be directed to Jacqui Kelleher (jacqui.kelleher@vermont.gov) and Kate Rogers (kate.rogers@vermont.gov).

Any questions pertaining to budgets or other financial topics should be sent to John Leu (john.leu@vermont.gov).