



NeMTSS FRAMEWORK



Regarding NeMTSS Funding

A plan without money is only a great idea. — Anonymous

Nebraska educational leaders have requested guidance around the funding of multi-tiered systems of support (NeMTSS) within their schools and communities for children from birth through age 21. The following information, from listed resources, may help districts to develop a plan that fits their unique financial situation:

Adapted from the RtI Action Network, June 2019 linked [here](#), the references to “RtI” have been changed to “MTSS” in support of NeMTSS established definitions. The excerpts below address federal funding sources and their use in MTSS implementation.

There are components of the multi-tier framework that are inappropriate for funding by any source other than the LEA’s unrestricted general operating budget. All students are to receive high-quality, research-based core instruction in their regular classroom. Because core instruction is provided to all students, in small or large group settings, it generally may not be funded with any of the federal formula programs. The same rule is true for screening that is conducted for all students.

When the results of screening or other data indicate that an intervention program is warranted, we then begin to see opportunities for federal funding to assist in the delivery of a program.

IDEA 2004 Part B:

It is a common myth that MTSS is a special education intervention rather than instruction that involves both general and special education working collaboratively. This myth has perpetuated the belief that IDEA 2004 funding should fully support implementation of MTSS. IDEA 2004 dollars, by nature, are to be spent only on supplemental services and supports for students who have been identified as having a disability. It is only through the allowance for districts to expend IDEA 2004 dollars on coordinated early intervening services (CEIS) that an opportunity exists to assist general education with the implementation of MTSS strategies.

The regulations define CEIS as services to students who have not been identified as needing special education or related services, but who need increased academic and behavioral support to succeed in a general education environment (e.g., professional development for general education teachers and implementation of academic instruction). IDEA 2004 specifically references scientifically based literacy instruction.

The regulations permit an LEA to use not more than 15% of its IDEA 2004 Part B funds to develop and implement CEIS. The regulations also indicate how CEIS funds can be expended, for whom the CEIS funds can be spent, how to report CEIS spending, how disproportionality based on race and ethnicity affects an LEA's use of CEIS funds, and the relationship of CEIS to maintenance of effort.

Because MTSS often involves tiers of increasingly intense levels of service for students, a model with a three-tier continuum of school-wide support might include the following tiers and levels of support:

- **Tier 1** (primary instruction), for all students. It would not be appropriate to use CEIS funds for these activities because students receiving these services do not need additional academic and behavioral support to succeed in a general education environment.
- **Tier 2** (secondary intervention), for specialized small group instruction for students determined to be at risk for academic and behavioral problems. It would be appropriate to use CEIS funds to support these activities.
- **Tier 3** (tertiary intervention) for specialized, individualized instructional/behavioral support for students with intensive needs. CEIS funds could not be used if students receiving these services were currently receiving special education or related services. If that is not the case, CEIS may be used to supplement Tier 3.

Once a student has been referred to special education and is undergoing the evaluation process, evaluation expenses are no longer CEIS expenses. These are general IDEA 2004 program expenses associated with child find and evaluation, so they would not be included in the reporting of CEIS costs.

There is nothing in IDEA 2004 that prohibits children with disabilities who are receiving special education and related services under IDEA 2004 from receiving instruction using MTSS strategies, unless the use of such strategies is inconsistent with their IEPs. However, children with disabilities who are currently identified as needing special education and related services may not receive MTSS services that are funded with IDEA funds used for CEIS.

Title I, Part A

The purpose of Title I, Part A, is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education. Title I, Part A funds must be expended for programs, activities, and strategies that are scientifically based on research and that meet the needs identified in the site's comprehensive needs assessment process, which are listed in the site's improvement plan. These services must be concentrated to serve the students not meeting, or most at-risk of not meeting state standards, and they must meet "supplement, not supplant" provisions of the law.

The federal supplement, not supplant provision is intended to ensure that services provided under Title I are in addition to, and not in place of, services that would otherwise be provided to participating students with state and local funds if Title I, Part A funds were not allocated to the school site. Any program activity required by state law or local policy may not be funded with Title I funds. A statutory provision in Title I, known as the "exclusion provision," permits an LEA, under certain circumstances, to provide comparable services with non-federal funds to non-Title I students while providing the same services with Title I funds to Title I students. This exclusion provision may be very helpful in supporting MTSS implementation across schools and LEAs. Efforts must be carefully coordinated with federal program staff.

The key component in answering the question of how Title I funding can be involved starts with defining the school as a targeted assistance or school-wide program. In a Title I school-wide program, all resources, services, and personnel are blended to have a cohesive program that upgrades the educational opportunities for all students throughout the school. Therefore, if the school adopts an MTSS methodology, then Title I would be an integral part of the process. Any activity would be allowable as long as it is addressed in the Title I school-wide plan.

If a building or site has been identified as targeted assistance, further considerations apply. There is less flexibility in this setting regarding the use of federal funds when they are not consolidated. As appropriate uses of Title I funding are reviewed, it is important to remember that all allowable uses apply only to those students who have been identified as Title I eligible and only for the grades supported by Title I services.

In a school-wide school, Title I funds may be used to provide services to any student. In a targeted assistance school, however, Title I funds may be used to provide services only to those students who are not meeting, or most at risk of not meeting, a state's academic achievement standards. In implementing MTSS, therefore, a Title I targeted assistance school must identify which students are most at risk, determine what interventions will be used, and then use Title I funds to provide those interventions to the most at-risk students under the MTSS framework being used. In effect, the

eligibility criteria for the interventions could be the same as the eligibility criteria for Title I services in a targeted assistance school.

The table below listing allowable and not allowable expenses for a Title I targeted assistance school is certainly not all-inclusive but it should offer a starting point for discussions as an MTSS framework is developed at an LEA.

Table 1: Allowable and Not Allowable Uses of Title 1 Funds

Allowable	Not Allowable
Professional development pertaining to interventions that can be applied to at-risk students by regular education teachers and other staff.	Use of Title I funds for professional development pertaining to the core curriculum, including the reading or math program.
Title I teachers providing supplemental assistance in reading and math to eligible at-risk students.	Title I teachers team-teaching with regular education staff.
Use of Title I staff to assist in the universal screening assessments that will identify which students are in need of Tier 2 services.	Use of Title I funds to pay for the universal screening assessments that will identify which students are in need of tiered services.
Title I teachers working with Title I eligible students in Tiers 2 and 3 whose parents have been notified.	Title I teachers working with all or any student within the classroom.
The classroom teacher rotating her time through several groups of students while the Title I staff give Title I students additional instructional time.	Regular education, special education, and Title I staff dividing students into three groups and each being responsible for providing instruction to their group.

Because of the supplement, not supplant requirement for Title I, personnel providing Title I services do not provide replacement services. They must always provide supplemental instruction or additional instruction that is not provided to students who are not identified as requiring Title I services.

Title III and Discretionary Grants

The purpose of Title III is to help ensure that students with limited English proficiency master English and meet the same challenging state academic achievement standards that all children are expected to meet. An LEA must use Title III funds to provide high-quality language instruction programs and high-quality professional development for classroom teachers. Title III does not advocate a particular instructional approach, such as English as a second language or bilingual education, but it does require LEAs receiving Title III funds to fund instructional approaches that are scientifically based.

Title III funds could be utilized in much the same manner as Title I funds, if specifically directed toward students who are eligible under the program guidelines. These funds would likely not support a full program or even a stand-alone portion of a program on their own. Allocations would be useful, however, when braiding funds either in a school-wide program or as outlined in Table 1 above.

As plans are developed and funding is identified for implementation of MTSS, the LEA must have clearly defined MTSS components. MTSS is a framework, not a specific intervention. Questions to address are as follows:

What is the core instruction?

- What interventions will be provided?
- What criteria will be used to determine who receives interventions?
- What will be the intensity, frequency, and duration of the interventions?
- What tools will be used for universal screening and progress monitoring, and how often will the tools be used?

The answers to these questions will drive the funding considerations and major factors that then must be addressed:

- Type of school (e.g., school-wide or targeted assistance)

- Eligibility of students
- Supplement, not supplant funding requirements

Further guidance around MTSS funding was provided by the US Department of Education, Office of Special Education and Rehabilitation Services: March 7, 2013 in a Letter to Troy Couillard, State of Wisconsin, with questions and OSEP's responses transcribed below.

A summary of this OSERS Guidance is also present in *NDE Document IDEA Funding Incidental Benefit Exemption, September, 2015*, linked [here](#).

Question 1: May special education personnel provide formal interventions (tier two or three interventions; longer term beyond "incidental") in the context of MTSS to students within a small group comprised of students with and without disabilities?

OSEP's Response: It is not possible to provide a clear "yes" or "no" response to this question, as it depends on the nature of the duties to be performed by the personnel funded by IDEA Part B (non-CEIS) funds. Pursuant to 34 CFR §300.208(a), special education teachers fully funded by Part B (non-CEIS) funds may perform duties for children without disabilities if they would already be performing these same duties in order to provide special education and related services to children with disabilities. For example, a special education teacher is assigned to provide five hours of reading instruction per week to three students with disabilities consistent with those students' IEPs. The IEPs provide that the students need specialized reading instruction that is at grade level but handled at a slower pace because of auditory processing issues. The school decides that, although they are not children with disabilities, there are two general education children who would benefit from this instruction. The special education teacher must prepare lesson plans for each of these classes regardless of the number of children in the class. She may do so and conduct the class for all five children because she is only providing special education and related services for the three children with disabilities and the two children without disabilities are benefiting from that work. **However, if fully funded by Part B IDEA (non-CEIS) funds, this teacher may not grade papers, spend time on parent teacher conferences, or perform any functions for the children without disabilities not otherwise required as part of the provision of special education and related services to children with disabilities.** In other words, 34 CFR §300.208(a) does not permit special education teachers fully funded by Part B (non-CEIS) funds to perform duties other than special education and related services.

An LEA or school may wish to consider split funding teachers from special education funds, general education funds, and CEIS funds. This funding mechanism offers full flexibility for a particular teacher to work with diverse groups of students, regardless of disability or intervention status. If a teacher is providing special education, general education, and RTI interventions and is supported by funds from several sources, an LEA must document separately, consistent with OMB Circular A-87, the amount of time the teacher spends providing services to students with disabilities, services to students 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, and services to nondisabled students who do not need additional support, to ensure that IDEA Part B funds are properly expended. See OMB Circular A-87, Cost Principles for State, Local and Indian Tribal Governments (05/10/2004), Attachment B, 8.h., relocated to 2 CFR Part 225, Appendix B, 8.h.

Question 2: May special education personnel provide formal interventions (tier two or three interventions; longer term beyond "incidental") in the context of MTSS to students within a small group comprised solely of students without disabilities?

OSEP Response: No. Except when the funds are being used in a Title I schoolwide program, a special education teacher paid solely with IDEA Part B (non-CEIS) funds may not provide interventions to a small group comprised only of students without disabilities.

Question 3: May special education personnel within the context of co-teaching/team teaching and inclusion have equal responsibility for the instruction of students not identified as students with disabilities? Equal responsibility would be defined as whole group instruction, lesson plan development, and grading.

OSEP Response: OSEP encourages States and LEAs to use a variety of service delivery models to meet their responsibilities to educate children with disabilities in the least restrictive environment, provided all requirements of Part B are met. As discussed above, 34 CFR §300.208(a)(1) permits LEAs to use IDEA Part B (non-CEIS) funds for the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a student with a disability in accordance with the student's IEP, even if one or more nondisabled children benefit from these services. Therefore, for example, IDEA Part B (non-CEIS) funds could be used for lesson plan development if the same lesson plans will be used for children with disabilities and general education children. In other situations, determinations as to whether the expenditure of IDEA Part B (non-CEIS) funds is allowable would have to be made on a case by case basis. However, this provision does not permit the special education teacher to perform functions that go beyond the provision of special education and related services. Therefore, based on your description of the duties, the special education teacher could not grade papers for students without disabilities.

As noted above, LEAs may want to consider funding a teacher from a variety of sources in order to provide maximum flexibility in the classroom. If a teacher is providing special education, general education, and RTI interventions and is supported by funds from several sources, an LEA must document separately, consistent with OMB Circular A-87, the amount of time the teacher spends providing services to students with disabilities, services to students 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, and services to nondisabled students who do not need additional support, to ensure that IDEA Part B funds are properly expended.

Question 4: May special education personnel be permanent members of collaborative MTSS teams that determine whether to refer a student to special education based on data collected from interventions?

OSEP Response: We assume your question is whether special education personnel fully funded by IDEA Part B (non-CEIS) funds may be a permanent member of such a team. Pursuant to 34 CFR §300.111, the State must have in effect policies and procedures to ensure that all children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated. Under the circumstances you describe, in order to ensure that the child find provisions are met under 34 CFR §300.111, a State may allow special education personnel to be permanent members of collaborative MTSS teams that determine whether to refer a student for an evaluation to determine whether the student is a student with a disability based on data collected from interventions.

Question 5: May special education personnel be permanent members of collaborative MTSS teams that plan instructional interventions for students not identified as students with disabilities?

OSEP Response: In the context you raise of a collaborative team that is working with struggling learners, special education personnel may share their expertise in addressing the needs of children with disabilities with other personnel, as this may be considered professional development for general education teachers to assist them in identifying, locating, and evaluating children with disabilities in accordance with the child find responsibilities in 34 CFR §300.111. However, except for services that are a part of a schoolwide program as authorized under 34 CFR §300.206, personnel paid with IDEA Part B (non-CEIS) funds may not perform duties solely designed to help meet a child's needs in the general education classroom for a student who is not currently identified as needing special education or related services, but needs additional academic and behavioral support to succeed in a general education environment. Personnel paid with Part B CEIS funds may perform duties, including planning instructional interventions, for students

who are not currently identified as needing special education and related services, but who need additional academic and behavioral supports to succeed in a general education environment.

Districts are advised to conduct a comprehensive scan of existing funding opportunities in order to:

- **Establish partnerships with community programs and other agencies and organizations to expand available services, resources, and infrastructure.**
- **Think beyond dollars and consider exchanging services, training, or resources.**
- **Develop an MOU that documents agreed upon services.**

Additional funding sources to consider include:

- **Nebraska Flex Funding Project**

The flexible funding option provides for the use of a percentage of special education funds for the education of students not verified as having a disability as defined within 92 NAC 51 (Rule 51). The concept originated out of legislation passed in the 1997 unicameral session. In that legislation (Neb. Rev. Stat. 79-1142) school districts were allowed to channel a percent of their total allowable reimbursable special education costs to preventative support services for students not identified or verified as having a disability, but who demonstrate a need for specially designed assistance in order to benefit from the school’s general education curriculum. As approved by the State Board of Education, the flexible funding option expenditures available for reimbursement to school districts and approved cooperatives is limited to a maximum of five percent (5%) of the total allowable and reimbursable special education costs.

- **IDEA Discretionary Funds, PeAK Grant for birth through age 21**

The Nebraska Department of Education Office of Special Education will continue to financially support districts in the implementation and evaluation of Targeted Improvement Plans (TIPs) through a Positive Engagement and Knowledge (PEaK) Grant. The PEaK Grant will allow for a set allotment of funds that will be available annually beginning with the 2018-19 school year and continuing through 2019-20 and 2020-21.

- **Federal Title II A: Teacher and Principal Training**
- **State Personnel Development Grant (SPDG focused on NPBiS)**
- **Local/district/county**
- **Tribal**
- **Medicaid funding for school-based mental health services**
- **Private foundations and donors**
- **Early Childhood Grants: e.g.: Rule 11, Planning Region (Professional Development/Training), Sixpence**

Regardless of the funding sources, it is essential that districts form a plan that will sustain their MTSS efforts over time. The chart below was adapted from the *School Health Services National Quality Initiative: Sample Resource Mapping Worksheet*, and can be utilized for district planning efforts.

Strategies/Activities	Source of Funds	Amount	Restriction on Use of Funds, if any	Expected Time Frame Funding is Available
Materials/Supplies				
Staffing				
Infrastructure Investments				
Services and Supports				

Training, TA, and Consultation				
Management and Administration				

Additional discussions and funding resources may be found within the following documents:

CEIS, Nebraska: https://www.education.ne.gov/wp-content/uploads/2017/07/CEIS_Guidance.pdf

CEIS, US Department of Education: https://www2.ed.gov/policy/speced/guid/idea/ceis_pg3.html

OSEP Letter to Dr. Rick Dale, Farmington, Maine: November, 2012

Collaborating for Iowa’s Kids: (Staff, 2019) May, 2014:

<https://www.educateiowa.gov/sites/files/ed/documents/CollaborativeInquiryQuestionsandUseofSpedFunds.pdf>

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