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Idea Early Intervening Services Policy Implementation in Six School Districts; Reducing Overidentification and Disproportionality

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**IDEA EARLY INTERVENING SERVICES POLICY
IMPLEMENTATION IN SIX SCHOOL DISTRICTS: REDUCING
OVERIDENTIFICATION AND DISPROPORTIONALITY**

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ABSTRACT

The Individual with Disability Educational Improvement Act (IDEA-2004) (P.L. 108-446) includes a policy called Early Intervening Services (EIS) which makes it permissible, but not mandatory, for a school district to use 15 percent of their IDEA Part B funds to provide services to non-disabled at risk students. However, a school district cited for disproportionality because of an overrepresentation of racial or ethnic minorities or second language learners receiving special education services or disciplinary action is required to use 15 percent of their special education funding to address these issues.

The purpose of this study was to obtain knowledge on the impact of this IDEA policy at the local public school district level on the overidentification of students in general and specifically on the overrepresentation of African Americans in special education services. The design of the study utilized parallel case studies in six Northeast Ohio school districts. Three of these districts were cited for disproportionality and three districts were not cited for disproportionality. The design relied on two interviews in each district. Additional data was obtained from reviews of federal, state and school district records and relevant secondary sources.

Four policy themes emerged from the Study: EIS policy was confusing because it lacked clarity on how disproportionality was determined; funding was punitive because it reduced funds for students with disabilities to provide interventions for general education

students; implementation was unfair because some districts were required to establish EIS services and some were not; and the additional workload created for administrators was excessive. The three districts that used EIS funding to address a disproportionate number of African American students assigned to special education categories showed a reduction in disproportionality and were not cited after a year of EIS. However, the cause of this success was questioned because the benchmark for determining disproportionality was raised. All of the districts thought EIS could reduce overidentification, but only one reported a reduction of special education students.

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CHAPTER I

INTRODUCTION

The Federal legislation that establishes legal policy and regulations for providing educational services to students with disabilities is titled The Individuals with Disability Education Act (IDEA). The most recent reauthorization is titled the Individuals with Disability Education Improvement Act (IDEA 2004) (U.S. Government Report, 2004). One change in the reauthorization is the inclusion of a policy called Early Intervening Services (EIS) which makes it permissible, but not mandatory, for a Local Educational Agency (LEA) to use 15 percent of their IDEA Part B funds to provide intervention services to non-disabled at risk students who have academic and behavioral challenges.¹ However, a footnote in this legislation makes it *mandatory* to use these funds for “comprehensive coordinated early intervening services” (U.S. Department of Education, 2005) if a greater percentage of minority or limited English proficient children as compared to the majority group are: (a) *identified for special education services*, (b) *receiving special education services*, or (c) *targeted for disciplinary actions*. When over-representation occurs in these three areas, the term disproportionality is used. The Office of Special Education Programs (OSEP) clarified in a memo that the term

¹ The term “at risk” is used to denote students with academic or behavioral challenges.

disproportionality for purposes of IDEA-2004 only refers to over-representation in specified areas not under-representation.

This gives rise to a number of questions regarding this new policy. What distinguishes Early Intervening Services from other intervention services? Is there a gap between the intent of this federal policy and the implementation of this policy at the local level? How are Local Educational Agencies (LEAs) using EIS for general education students? If an LEA is required to address disproportionality, what are they doing to meet this government expectation?

This qualitative dissertation hopes to clarify some of these concerns. However, the focus will be on two aspects of EIS policy, special education overidentification concerns for all students and disproportionality issues for African American students. Disproportionality regarding other ethnic groups and second-language learners as well as disproportionality regarding disciplinary action will be discussed, but will not be a primary focus. What will be explored in depth is how selected Northeast Ohio² school districts are interpreting EIS policy and what, if any, EIS services are being provided.

Overview

This research provides information on the policy implications of Early Intervening Services regarding the overidentification of students for special education services and the disproportionate identification of African American students for these services. The research focus is on how three Northeast Ohio school districts cited by the

² Northeast Ohio is generally considered to be a five county area running from the city of Cleveland along Lake Erie to the Pennsylvania border including Ashtabula, Cuyahoga, Geauga, Lake and Loraine counties. This study took place in Cuyahoga County where there are 36 school districts ranging in size from about 2,000 to 48,000 students.

Ohio Department of Education for disproportionality are addressing this issue and how three districts not cited are implementing intervention services for students with academic or behavior difficulties. The literature review provides background information on the development of intervention services for at risk students especially in Ohio. A brief history of the development of Early Intervening Services policy includes legislative developments and some of the controversy regarding this policy.

The Significance of this Shift in Special Education Policy

Funding prevention services.

This legislation is significant because it presents a major shift in special education policy from only funding services for students after they have been identified and labeled as disabled, to funding general education initiatives for at risk students. These services for general education students are intended to provide interventions to reduce the number of at risk students served by special education, address disproportionality in special education and help at risk students not identified as disabled by immediately addressing learning and behavioral barriers to student success (U.S. Department of Education, 2002). Although IDEA 1997 (34 C.F.R. §300.755) required states to gather data to document disproportionality, this is the first IDEA policy mandating the use of local special education dollars to address over representation of minorities identified for or receiving special education services.

It is important to note that this policy is separate from both “early intervention services” as specified in Part C of IDEA-2004 which was written to serve infants and toddlers with disabilities (birth through age two), and Part B, Section 619, the preschool sections of IDEA-2004, that focuses on children with disabilities ages three to five (U. S.

Government Publication, 2006). Early Intervening Services recommends focusing on kindergarten through third grade, but the legislation allows funds to be spent for students through grade twelve.

During the process of obtaining written comments on IDEA-2004 from parents and advocates, the Office of Special Education and Rehabilitative Services (OSERS) provided some clarification regarding the types of Early Intervening Services districts can develop and the goal of this section of IDEA-2004. Early Intervention Services can include professional development, educational evaluations and services as well as behavioral evaluations, services and supports. Literacy instruction is also included.

The Congressional goal of this section is to prevent the overidentification of students as students with disabilities by ensuring that a child with a reading or behavioral need – but not a disability – can still get help. By focusing on children in the earliest grades, it avoids premature judgments that a child has a disability when that child only needs extra help to catch up with his peers. However, it is also important to ensure that children with actual disabilities are identified and served promptly. (U. S. Department of Education, n.d.)

This new policy can have a significant impact on a school district. This legislation is not providing additional funds, so if a Local Educational Agency (LEA) implements Early Intervening Services using 15 percent of their current funding, they have to take away funds from current programs or services allocated for special education students (U.S. Government, 2006). This is of particular concerns because IDEA - 2004 is already under-funded. IDEA was supposed to be funded at a 40 percent level by the federal

government but is currently only funded at the 19 percent level (U. S. Department of Education, 2005).

Each district implementing EIS will need to develop new evidence based intervention programs. This will require considerable staff training, a shift in instructional models, application of new technology and additional educational materials.

Funding initiatives to address disproportionality.

There continues to be concerns with the overidentification of minority students for special education services and under-identification for gifted programs (National Alliance of Black School Educators (NABSE) & ILIAD Project, 2002). If Early Intervening Services policy effectively reduces disproportionality for minority students, this would be highly significant because the concern regarding over-representation of minorities receiving special education services has not been successfully addressed since the U. S. Department of Education; Office of Civil Rights (OCR) began tracking minority student involvement in special education in 1968. As Losen and Orfield (2002) point out, national surveys by OCR have consistently documented over-representation of minority children in specific disability categories since the early 1970s. The slow progress made toward addressing this educational and civil rights concern is described in the section of this dissertation titled: *History of Disproportionality in Special Education*.

Potential reduction in intervention delays.

A significant aspect of Early Intervening Services is that it supports providing immediate intervening services to at risk students rather than creating delays in services while waiting for an official eligibility procedure to be completed followed by placement in special education services. Lynn and Douglas Fuchs (2008) point out, learning

disability identification for students to receive special education services “typically occurs at fifth grade” using the traditional discrepancy formula comparing ability to achievement. This is a “wait to fail” model. Using EIS a student can receive services to determine academic or behavioral needs, receive treatment or services and then, only if no progress is made, be referred for special education. Therefore, fewer at risk students will languish without needed assistance.

An ongoing concern is the tendency for school staff and some parents to push for special education eligibility because they perceive special education as the only place a child can get help. As Harry & Klingner (2006) state: “...children...should not need a false disability label to receive appropriate instruction” (p. 136). However, there continues to be a debate regarding how effective special education services are for minority students. Case studies of individual students identified for special education in a book by Harry, Klingner and Cramer (2007) provide insights into the lives of at risk minority students being considered for or receiving special education services. Special education helped some of these students but others were clearly inappropriately diagnosed and could have received academic or behavioral help without being labeled as disabled.

Addressing the achievement gap.

Studying the implementation of Early Intervening Services is significant because of the potential for reducing the achievement gap between the higher rates of test performance, academic achievement and graduation of European American and Asian American students as compared to special education, African American, second language and low income students (Martínez, Nellis & Prendergast, 2006). Because No Child Left

Behind (NCLB) legislates the disaggregation of the assessment results for the four groups just mentioned, data is available documenting the achievement gap. Gloria Ladson-Billings in her 2006 Presidential Address for the American Educational Research Association (2006, p. 3) points out that the phrase “the achievement gap” has become so popular that Google produces more than 11 million citations. Ladson-Billings (2006, pp. 4-5) proceeds to provide a description of the prevalence of the achievement gap and some theories developed to explain this gap such as cultural deficits and clashes, the impact of stereotyping, teaching practices and the nature of the curriculum, and funding inequity. These theories are often the same theories used in attempts to explain the overrepresentation of African-Americans receiving special education services (Harry & Klingler, J., 2006; Artiles, Harry, Reschly & Chinn, 2002). There is a belief among educators that Early Intervening Services such as Response to Intervention (RTI) can be a tool to address and document progress toward reducing the achievement gap (Burdette, 2007; Bender & Shores, 2007).

Overidentification of students for special education services.

Another concern is that special education services have grown significantly. The Office of Special Education Programs, Data Analysis System (2008, July 15) reported 6,718,203 students age 3 through 21 receiving special education services in 2007. In 1977 this number was 3, 694,000. In 30 years the number of special education students receiving services has almost doubled. Education research is beginning to show that many of these students would not need special education services if their learning and behavioral concerns were addressed prior to being considered for special education services. As Burdette and Etemad (2009) point out: “In 2002, a National Research

Council Panel concluded that, ‘There is substantial evidence in regards to both behavior and achievement that early identification and intervention is more effective than later identification and intervention (Donovan & Cross, p. 6)’ ” (p. 1). EIS services have the potential to reduce the number of students placed in special education services. An example stated by Burdette and Etemad (2009) is: “Preliminary reports from *Iowa*, schools that seem to be implementing (*Response to Intervention*) with a high degree of fidelity indicate ... fewer referrals to special education and more students becoming proficient on state assessment” (p. 8). This is part of the rationale for changing the criteria for identifying students for learning disabilities to including Responsiveness to Intervention (RTI) (Fuchs & Vaughn, 2005; Fuchs & Fuchs, 2008).

Disproportionality and How It Is Determined

Artiles, Kozleski, Trent, Osher and Ortiz (2010) provided the following definition of disproportionality. “Disproportionate representation is defined as ‘the extent to which membership in a given (ethnic, socioeconomic, linguistic, or gender) group affects the probability of being placed in a specific disability category’ (Oswald, Coutinho, Best, & Singh, 1999, p.198)” (p. 280). Beginning in 1998, the Annual Reports to Congress on the Implementation of IDEA have included charts summarizing the race and ethnic data on disproportionality. Appendix F shows Ohio Annual Report Data for 2004 with risk ratios. Prior to 2007 each state sent data to the U.S. Department of Education which calculate each state’s rates of disproportionality in 13 disability categories. This data is returned to each state in their IDEA Part B Annual Report which shows areas of disproportionality and the corrective action each state must take. The Ohio Department of Education’s

procedures, categories for disproportionality and risk ratio criteria for determining disproportionality are described in this section.

Originally concerns regarding disproportionality could apply to any of the thirteen disabilities listed in these annual reports, but the major concerns have been with disabilities that are considered to have more of an educational or behavioral impact rather than a physical etiology such as an Orthopedic Disability. However with the passage of IDEA-2004 the U.S. Department of Education Office of Special Education Programs in a guidance memorandum sent to Chief State School Officers and State Directors of Special Education determined that only six disability categories need to be considered by the LEA.

14. What must States consider in the analysis of significant disproportionality in the identification and placement of children with disabilities required in 34 CFR §300.646?

In each of its LEAs, a State must examine data to determine if significant disproportionality based on race or ethnicity exists in each of the four analysis categories required by 34 CFR §300.646. When examining data to determine if significant disproportionality exists with respect to the identification of children with particular impairments, it is acceptable for a State to examine the data with regard to children with impairments in only the following six disability categories: specific learning disabilities, mental retardation, speech or language impairments, other health impairments, autism, and emotional disturbance. Because the remaining disability categories typically have very small numbers of children, the Department does not deem disproportionality in the number of

children with these disabilities to be significant. However, if a State has identified a problem or has reason to believe that there are issues with other disability categories (i.e., through written complaints, due process filings, etc.), then the State should explore the problems with those categories (U.S. Department of Education, 2008).

The two disabilities of greatest concern are over-representation of minorities in services for Mental Retardation (MR) [Cognitive Disability (CD) in Ohio] and Emotional Disturbance (ED). It is less frequent for school districts to be cited for over-representation of minorities in Specific Learning Disability (SLD) services. Parrish (2002) in Chapter 2 of Losen's and Orfield's (2002) book on *Racial Inequality in Special Education* provides data from the U.S. Department of Education (1997)³ comparing disproportionality using risk ratios for Mental Retardation, Emotional Disturbance and Specific Learning Disabilities by race and ethnicity. In Ohio, for example, for African Americans the risk ratio was 2.59 (Mental Retardation), 2.64 (Emotional Disturbance) and .84 (Specific Learning Disability).⁴ Each of these risk ratios is statistically significant at the .01 level.

A Northeast Ohio example is the risk ratios calculated in the Euclid City Schools in these three disability areas for a dissertation on disproportionality in special education.

The ratios reveal that in the category of SLD, white students were slightly over-represented. White students are 1.12 times more likely to be determined eligible for services under the category of SLD in Euclid City Schools than African

³ This report covers the 1997-1998 school year.

⁴ A risk ratio of 1.0 means the ratio is equal so a risk ratio of 2.59 shows over-representation of one group compared to another group and a risk ratio of .84 shows under-representation.

American students. In the category of ED, African American students were slightly over-represented. African American students are 1.23 times more likely to be determined eligible for services under the category ED in Euclid City schools than white students. Finally, in the category of CD, African American Students are significantly over-represented. African American students are 2.56 times more likely to be determined eligible under the category of CD in Euclid City Schools than white students. (Ivy, 2007, p. 48)

However, there is a concern that too many students regardless of ethnicity are being identified for SLD services. The Presidents Commission on Excellence in Special Education (2002) report stated that the population of students identified as Specific Learning Disabled has grown 300% since 1976. This was a special concern of the commission because 90 % were identified as SLD because of reading problems.

These three disability categories are referred to as “soft” categories (Parrish, 2002) because they are considered to require more discretionary judgment on the part of the evaluation team members participating in the eligibility procedures for special education services as compared to disabilities that have a more medical etiology. There is also a concern with under-representation of some minorities and second language learners in programs for the gifted (National Alliance of Black School Educators (NABSE) & ILIAD Project, 2002). However, IDEA-2004 EIS does not address disproportionality in programs for gifted students.

The federal government did not define disproportionality but instead left the definition up to each state. The introduction to a policy brief titled *State Definitions of*

Significant Disproportionality (Burdette, 2007) funded by the U.S. Department of Education states:

The 2004 reauthorization of the Individuals with Disabilities Education Act (IDEA 2004) gives states the flexibility and responsibility under Section 618 to define “significant disproportionality” based on race or ethnicity at the state (SEA) and local education agency (LEA) levels. This applies to identification, placement and disciplinary actions. States must make this determination annually based on an analysis of numerical information. According to Memorandum #07-09, April 2007 from the Office of Special Education Programs (OSEP) at the U.S. Department of Education, multiple factors for states to consider in making such determinations include population size, the size of the individual LEA and the composition of the state population.

According to the overview in Losen and Orfield’s (2002) study, there are three ways to calculate disproportionality.

In one, a given minority group’s percentage enrollment in the general population is compared to that group’s percentage identification in a given disability category. In the second, the actual risk level for a minority group is calculated by dividing the number of students from a given racial group with a given disability by the total enrollment of that racial group. And in the third way, the risk levels are calculated for each minority group and then compared (p. xix).

The U.S. Department of Education, Office of Special Education Programs - Data Analysis System (DANS) uses the first method to provide national discrepancy data for ethnic or racial groups in specific disability categories. In their 1998-99 annual report to congress, for example, the percentage of school age African Americans was 14.8 percent while the percentage placed in the Mental Retardation category was 34.3 percent (National Alliance of Black School Educators (NABSE) & ILIAD Project, 2002, p. 6). This method is only useful for national or state data.

School districts may use the second method as one way to determine disproportionality. If you have 300 Hispanics in your school district and 75 are receiving Emotional Disturbance services then you divide 75 by 300 and have a risk level of 25 percent. According to Burdette (2007) OSEP has set a standard that “if a minority population has a risk ratio of + or – 20 percent difference in minority representation in special education as compared to that district’s total educational population it will be flagged for a significant discrepancy” (p. 5).

The third method has been developed into a risk ratio formula which can be used at both the state and the school district level (Bollmer, Bethel, Garrison-Morgan & Brauen, 2007). A detailed technical assistance guide to calculate disproportionality is provided by the Westat/OSEP (2004) Task Force on Racial/Ethnic Disproportionality. This is important because it shows how each state and LEA can calculate a “risk ratio” that can be used to determine overrepresentation. An example of a risk ratio is when a state determines that African American students are 2.78 times more likely than all other students in the state or an LEA to receive special education and related services for a specific disability or disciplinary action. In Ohio at the LEA level the comparison to

determine the risk ratio is between an ethnic or racial group and all other students in the district not just White students.

Ohio initially used a risk ratio of 2.0 as the benchmark for determining a district should be cited for disproportionality. However, IDEA allows each state to determine the risk ratio on an annual bases so Ohio change their risk ratio to 3.5 for the 2007-2008 school year. For example, if an LEA calculates a risk ratio of +3.5 or higher for a group of African American students as compared to all other groups in a school regarding Cognitive Disability identification, then African American students are more than twice as likely to be overrepresented of in this category. When this occurs then the LEA must take remedial action (OSPA Listserve, 2006).

Ohio calculates a risk ratio in the following ten specific areas using LEA data from the Ohio Educational Management Information System (EMIS) (Ohio Department of Education, 2007a).

- Identification-- all disability categories combined
- Identification-- specific learning disability (SLD)
- Identification—cognitive disability (CD)
- Identification—emotional disturbance (ED)
- Identification—other health impairment (OHI)
- Identification-- autism
- Identification—speech/language impairment
- Placement—outside regular classroom more than 60 percent of the school day
- Placement—separate facility
- Suspension—(discipline)

When the degree of disproportionality is significant enough to cite a school district for being out of compliance with IDEA-2004 regulations, the LEA is required to provide comprehensive and coordinated EIS services for a general population of students (i.e. kindergarten through third grade) with the goal of reducing disproportionality for a specific group in the identified area(s).

The types of EIS services that can be implemented are specified in the regulations. The Ohio Department of Education encourages LEA's to use these funds in the following areas based on the Federal regulations:

- To address students at risk; not yet identified as a child with a disability
- To provide professional development surrounding scientifically-based academic instruction and behavioral intervention;
- To provide educational and behavioral evaluations, services and supports; and
- To coordinated services aligned with ESEA of 1965 (Ohio Department of Education, 2004)

The State of Ohio showed significant disproportionality in three of the above areas by the end of the 2003-2004 school year (see chart in Appendix IV). The data shows a risk ratio of 2.33 for the category "Black (not Hispanic)" in the identification area "Mental Retardation" (Cognitive Disability), 2.26 for the "Emotional Disturbance" area and 2.18 for "placement-outside regular classroom more than 60 percent of the day" (U.S. Department of Education, n.d., pp. 64-65). However, Ohio set a very high threshold for their risk ratio (3.5) so fewer districts in Ohio are likely to get cited for disproportionality as compared to states that selected a lower threshold.

Early Intervening Services Policy Development

An article by Marcus B. Weaver-Hightower (2008) points out that the policy process is often perceived as a logical model that flows from problem to research to solution and then to implementation (e.g., Lasswell, 1951). However, Weaver-Hightower (2008) quotes Ball (1998) as stating: “Most policies are ramshackle, compromise, hit and miss affairs, that are reworked, tinkered with, nuanced and inflected through complex processes of influence, text production, dissemination and ultimately, re-creation in context of practice” (p. 126).

Lindblom & Woodhouse (1993) in their book titled *The Policy-Making Process* state that: “Policy making is ...a complexly interactive process without beginning or end” (p. 11). These authors also state: “Elected functionaries and other officials, journalists, interest-group leaders, and concerned citizens often join in informed discussion on political issues, while specialized professional fact-finding, research, and policy analyses flourish as routine inputs into policy making” (p. 13). Because a number of factors converge to support the perceived need for a specific policy, it is difficult to cite a specific person or event that led to the creation of a specific policy. This holds true for IDEA policy development.

This is the case with the development of legislation to address the needs of students with disabilities. Since the early 1970s, parents, professionals and legislators have been strong advocates for legislation to help students with disabilities obtain a “free and appropriate public education.” The first federal legislation that supported the concept of a free and appropriate education (FAPE) was Section 504 of the *Rehabilitation Act of 1973* (U.S. Government of Education, Office of Civil Rights, 2007). Prior to 1975 over

half of the approximately four million children with disabilities in America were not attending public schools (Losen & Orfield, 2002, pp. xv-xx). As a result parents and educators lobbied for special education legislation.

Parent advocacy was instrumental in the passage of Public Law 94-142, the Education for all Handicapped Children Act (now IDEA-2004) in 1975 which also included the provision of FAPE for all students with disabilities. Parent support for universal special education is described in a document titled: *A Brief History of the Parent Advocacy Movement*:

In the mid-1970s, parents' efforts really paid off. Public Law 94-142, the Education for All Handicapped Children Act (now the Individuals with Disabilities Education Act) was passed. This landmark legislation, which was developed with input from parents and professionals, opened the doors of the public school system to all children with disabilities. Like other minorities, it was the first time that children with disabilities, as a class of individuals, were allowed into the mainstream of education. P. L. 94-142 invited parents into the special education process for the first time. It acknowledged the need for parental involvement in order to maximize the benefits of education. It gave parents, and their children, rights and responsibilities they had not had before." (Parent Information Center of Concord, NH, 2003, pp 3-4)

Parent support for EIS came in the form of advocacy from organizations such as the federally mandated Nation Association of Protection and Advocacy Systems as well as a desire on the part of the Office of Special Education and Rehabilitative Services (OSERS) to make sure there was parent and professional input into IDEA regulations.

During January & February 2005, OSERS held eight meetings in different locations throughout the country to obtain service input from providers, teachers, parents and advocates into the draft regulations (Alabama Disability Advocacy Program, 2005). Parents were encouraged to testify at these regional meetings and also submit written comments. The purpose for the EIS section in IDEA-2004 was described as an educational method to help reduce the overidentification of students with disabilities and help students with academics and behavioral needs succeed in a general education environment.

President's Commission on Excellence in Special Education

One reference advocating the use of IDEA Part B funds for early intervention is found in the published results of the President's Commission on Excellence in Special Education (U.S. Department of Education, 2002). Toward the end of the Section 3, titled, "Special Education Finances", the following statement is found:

....IDEA should allow states and local districts to pool existing Part C infant and toddler program funds and section 619 preschool funds with Part B to create seamless systems of early intervention services. States and local districts should also be allowed to use Part B funds to provide pre-referral services. (U.S.

Department of Education, 2002, Electronic Version, Section 3)

This recommendation was not implemented because EIS states that it is specifically for students in kindergarten through twelve grades with an emphasis on K to 3rd grades. IDEA-2004 regulations (see Appendix A) do allow braided funding for EIS. School districts that want to allocate more than the 15 percent of their Part B funds for

EIS projects can combine (or braid) these funds with other amounts from other district education sources or external non-education funding sources.⁵

Bi-Partisan Legislative Support for IDEA-2004 and EIS

There has been bi-partisan support for legislation to aid students with disabilities beginning in 1975 with Public Law 94-142, the Education for All Handicapped Children Act. Both the House and the Senate versions of the current bill were the result of collaboration between Republicans and Democrats. For example, on June 6, 2003 the Senate Health, Education, Labor, and Pensions (HELP) Committee chaired by Republican Senator Judd Gregg from New Hampshire with the support of the Democrat's Ranking Member Senator Edward Kennedy from Massachusetts unanimously passed IDEA Reauthorization legislation (U. S. Government Report, 2004).

There was a concerted effort to align IDEA-2004 with other education legislation. Section 1400 of IDEA-2004 titled "Findings & Purposes" states:

"(C) coordinating this title with other local, educational service agency, State, and Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent;" (U. S. Government Report, 2004).

The process of writing federal legislation policy follows specific guidelines. First someone must sponsor the bill in the House and then the Senate. Then details are worked out in House and Senate Committees. Information is gathered from specialist in the field and other stakeholders such as parents, organizations and lobbyists. The bill goes to

⁵ EIS funds can not be used to supplant funding for existing programs or services.

various mark-up committees for the final input from both parties, constituents and lobbyists before a final vote. It is then sent to the President for signature. After this the specific regulations are assigned to a government department for development & completion. IDEA-2004 was sent to the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) and Office of Special Education Programs (OSEP).

The IDEA reauthorization process began when House Bill 1350 was authored in the House of Representatives by Representative Mike Castle (R-DE) and was described as building on the reforms of the No Child Left Behind Act. It was written by the House Education & the Workforce Committee chaired by John Boehner (R-OH). Regarding early intervention services H.B. 1350 states:

Currently, too many children with reading problems are identified as learning disabled and placed in special education classes. This over identification hinders the academic development of students who are misidentified, and also takes valuable resources away from students who truly have disabilities. Experts agree that strengthening the quality of reading instruction programs will improve special education and address this problem directly. H.R. 1350 will give flexibility to local school districts to use up to 15 percent of their funds for early intervening services for students before they are identified as needing special education, as recommended by the President's Commission on Excellence in Special Education. (U.S. Department of Education, 2002)

The Senate version (S.1248) was sent to the Senate Health, Education, Labor, and Pensions (HELP) Committee Chaired by Senator Judd Gregg (R-NH). It was reviewed

and released from the committee on November 3, 2003 and titled the Individuals With Disabilities Education Improvement Act of 2003.

By November 17, 2004 the House-Senate Conference Committee had resolved any of the differences between the House bill and the Senate bill. The bill was sent to President Bush who signed IDEA-2004 (P.L. 108-446) on December 3, 2004. After IDEA was signed into law then the regulations were written and a review period was conducted in January and February 2005. OSERS conducted regional meetings in eight locations throughout the U.S. for constituents to provide comments on the regulations. The final regulations became effective October 13, 2006 and were sent to each state so that the states could reconcile the federal regulations with the state regulations. In Ohio, a draft of the proposed Ohio operating standards for IDEA-2004 Part B dated January 28, 2008 was posted on the Ohio Department of Education's web site. After 5 months of input from parents and educators the Ohio standards went into effect July 1, 2008.

Policy Debate about Early Intervening Services

There was some policy debate about Early Intervening Services. Some parent advocacy groups were concerned that designating 15 percent of IDEA funds would take funds from identified students. "As the districts have not seen fit to classify the student as eligible for special education, additional educational services should be funded by general education funding resources rather than depleting much need special education funds" (Brown, D., 2003). They also argued that there was not enough clarity regarding due process rights for students and parents receiving EIS services.

Further, there is no procedure or safeguards for a student receiving services in this method. No guidelines to protect the rights of the student

or the parent. It is at the school's discretion as to when such services are necessary, when a student no longer requires such services, as well as when that student requires an IEP. Discretionary authority by local school districts of the provision of special education services without procedural safeguards or accountability may lead to delayed appropriate educations for students who require IEPs. (Brown, D., 2003)

Parents as well as some school professionals were concerned that EIS would be used as a delay tactic slowing down the process of completing a multifaceted evaluation to identify students who legitimately needed special education services. This was in contrast to those who argued that EIS would actually speed up the process of obtaining academic and behavioral help for students because services could start immediately rather than after a lengthy process of assessment and IEP development.

Research Questions

Research questions one and two were developed to determine how school districts were implementing Early Intervening Services federal policy at the school district level. One focus of this research is how school districts required to use EIS funding to address disproportionality are responding to this policy as compared to districts that were not cited and, therefore, have the option to use or not use EIS funding.

1. How are selected school districts in northeast Ohio cited for disproportionality implementing Early Intervening Services policy?
2. How are selected school districts in Northeast Ohio not cited for disproportionality responding to the option to use 15 percent of their

special education funding to implement Early Intervening Services to reduce overidentification of special education students?

Definitions and Acronyms

At Risk. Students with academic or behavioral delays that impact educational progress are considered “at risk” students.

DIBELS: Dynamic Indicators of Basic Early Literacy Skills. A screening and intervention tool to address delays in literacy skills related to reading development.

Disproportionality. Refers to a situation where groups are compared and there is a disparity regarding the expected number in a defined group and the actual numbers in relation to a comparison group. The term is bi-directional. For Example, Hispanic students in a school could be over-represented in special education classes as compared to the building majority and under-represented in the gifted program.

Risk Ratio. “...the extent to which membership in a given (ethnic, socioeconomic, linguistic, or gender) group affects the probability of being placed in a specific disability category (Oswald, Coutinho, Best, & Singh, 1999, p.198)”.

EIS: Early Intervening Services. The original title of federal IDEA-2004 legislation that mandates or allows spending of 15 percent of Title VI B funds to help at risk students who are not receiving special education services. This is the same as CEIS. (See Appendix A for details).

CEIS: Coordinated Early Intervening Services. Often the more current literature and government reports on EIS will use the acronym CEIS. Both EIS and CEIS refer to the same IDEA-2004 legislation. A U. S. Government Report (2009, August) states: “CEIS is a set of coordinated services for students in kindergarten through grade 12 (with

a particular emphasis on students in K-3) 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.” [§ 613(f) of IDEA; 34 CFR § 300.226(a)]

Early Intervention Services. IDEA-2004 services provided to a child with a disability or developmental delay from birth through age 2.

EMIS: Education Management Information System. The primary data collection and data management system for school district data in Ohio. Education Management Information System is a statewide data collection system for Ohio’s primary and secondary education schools.

ESEA: Education & Secondary Education Act.

FAPE: Free Appropriate Public Education.

IAT: Intervention Assistance Team. In Ohio IAT refers to a team of educators from your child’s school that meets to design various forms of assistance for children who are experiencing difficulty.

LEA: Local Educational Agency. A term used to designate the school organization implementing state and federal policy at the local level. In Ohio a school district is called an LEA but also a single Community School (charter school) is referred to as an LEA.

LEP: Limited English Proficient.

OSERS: Office of Special Education and Rehabilitative Services. Under the U.S. Department of Education.

OSEP: Office of Special Education Programs. Under the U.S. Department of Education.

OISM: Ohio Integrated Systems Model. OISM is a tiered, school-wide model of prevention and intervention for districts and principal-led building teams to use in addressing the academic and behavioral needs of all students. In 2007 OISM was changed to the *Integrated Systems Model (ISM)* under the Ohio Department of Education's (2007, July) Comprehensive System of Learning Supports.

PBS: Positive Behavioral Supports. PBS is a school wide system to prevent student behavioral issues.

PLC: Professional Learning Community. According to Richard Dufour (2004) to create a Professional Learning Community a group of teachers and other school staff must: "...focus on learning rather than teaching, work collaboratively and hold yourself accountable for results".

RTI: Response to Intervention. "RTI is a multi-level framework to maximize student achievement by providing support to students at risk for poor learning outcomes. The approach includes: core instruction for all students; universal screening; increasingly intensive instructional interventions for students who need extra help; and progress monitoring. RTI can be used to improve academic achievement and improve classroom behavior."(U. S. Government Report (2009, August)

Title I.

"Title I is one of a number of programs funded under ESEA. It has been in existence since 1965. For the 2008-2009 school year, States received approximately 13.9 billion dollars of Title I funds to allocate to local educational

agencies, or LEAs, to improve the achievement of low-achieving students in more than 51,000 schools across the country.” (U. S. Government Report (2009, August)

“The purpose of Title I is to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education. Title I provides funds to school districts for use in high-poverty schools to improve the achievement of the lowest-achieving students – those who are failing, or most at risk of failing, to meet a State’s academic achievement standards.” (U. S. Government Report, 2009, August)

Title III.

“The purpose of Title III is to help ensure that limited English proficient (LEP) students master English and meet the same challenging State academic achievement standards that all children are expected to meet (U. S. Government Report, 2009, August)”.

CHAPTER II

LITERATURE REVIEW

Help for At Risk Students: Policy Development

History of special education in the United States and Ohio.

A brief review of special education history provides the context for addressing the needs of at-risk students. The first schools in America to address students with disabilities were primarily for students with medically based problems. These students were generally served in separate specialized schools. For example, in Ohio, the first public school for students with visual impairments in America was started in Columbus, Ohio in 1837 and was called “Ohio Institution for the Instruction of the Blind.” The first public school for students with hearing impairments was in the Cincinnati Public Schools in 1879; and the first public school for students with orthopedic impairments (referred to at the time as “crippled” students), was Sunbeam School which began in 1910 in Cleveland (Ohio Department of Education (n.d.), pp. 8-11). Residential training facilities for children with mental retardation were popular from 1892 until the 1950s when parents and advocates became disillusioned with these services and began to advocate for school based services (Biasini et. al., 1999). In Ohio, boards of mental retardation were

established in all of Ohio's counties in 1967 as a result of the strong lobbying efforts by parents whose local school districts refused to enroll their children.

As Franklin (1994, p. 6) asserts, there is an unclear history regarding when the first special classes were established for “backward” students in public schools. Providence, Rhode Island Public Schools was reported to have the first special class for backward children in 1896. Franklin (1994) stated: “A 1916 survey of education in Cleveland, Ohio, noted that the city had established a special school for delinquent boys in 1876” (p. 6).

Prior to compulsory attendance laws, students with disabilities that were not clearly medically based, such as mild mental retardation, emotional disturbance and learning disabilities, were often excluded from school. All states passed some form of school attendance legislation by 1918, but these compulsory attendance laws were poorly enforced. A few students with mild disabilities were placed in non-graded classes (Katz, 1976). However, a large number did not attend or were formally excused from school attendance. As previously stated one source estimated that prior to 1975 approximately four million children with disabilities in America were not attending public schools (Losen & Orfield, 2002).

According to Skiba, et al. (2008) the development of special education was predicated on and inspired by the civil rights movement (p. 264). Federal special education funding began in 1975 with the passage of Education for All Handicapped Children Act on November 29, 1975 (P.L. 94-142). When this act was reauthorized in 1986 (PL 99-457), two new sections were added. Part C focused on children with disabilities ages 3 to 5 and added the category of Preschool Child with Disability. Part H

was written to serve infants and toddlers (birth through age 2), but was not implemented until 1991 (U. S. Government Publication, 2006). In 1990, the act was renamed the *Individuals with Disabilities Education Act* (IDEA) (PL 101-476). With the reauthorization of IDEA in 1997, Part C was moved to Part B and Part H became Part C.

In Ohio, the 2006 special education child count documents 261,065 children with disabilities (Ohio Department of Education, EMIS data, 2007). Disabilities that are considered to have physical or medical causes are often referred to as low incidence disabilities because of their relatively small numbers. The Federal labels for low incidence disabilities include Multiple Disabilities, Hearing Impairments, Orthopedic Impairments, Other Health Impairments, Visual Impairments, Autism, Deaf-Blindness and Traumatic Brain Injury. High incidence disabilities include Specific Learning Disabilities, Speech or Language Impairments, Mental Retardation and Emotional Disturbance. Ohio substitutes the term Cognitive Disability for Mental Retardation and divides Health Impaired into Other Health Impaired-Major and Other Health Impaired-Minor.

Another law passed to help at-risk students is Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) supported by the American with Disabilities Act of 1990. These laws bar discrimination against adults and children with disabilities in federally funded programs. Any school receiving federal funds must comply with this law and make accommodation for any student who has a disability that interferes with a major life activity such as learning. Section 504 legislation was a motivating factor in the government's efforts to address disproportionality because over or under representation of minorities in selected services or programs could potentially constitute discrimination.

Section 504 regulations are monitored by the Office for Civil Rights (OCR) which began surveying special education placements in school districts in 1968. This data was then used to determine if there was an over or under representation of specific groups in special education classes.

The Federal Government began its involvement in special education under Lyndon Johnson's administration. One of the biggest events to aid at-risk students in poverty areas was Title I of the Elementary and Secondary Education Act (ESEA) first passed in 1965 (Schrag, 2003; Grubb & Lazerson, 2004). It was specifically developed to meet the needs of educationally deprived children. Title I has been reauthorized over the years so that it has grown from very specific programs to address academic concerns to one that can provide school wide services such as hiring teachers to reduce class size. Currently Title I policies are being aligning with NCLB to focus on academic achievement through better school and teacher accountability (Wong, 2003). In some Northeast Ohio districts, Title I funds were used to hire staff such as social workers and school psychologists to specialize in helping at risk students⁶.

School Based Interventions Policy in Ohio

Intervention teams.

In Northeast Ohio and throughout the state, school based multidisciplinary teams of professionals were initially referred to as Intervention Assistance Teams (IAT). In

⁶ As Manager for the Office of Psychological Services in the Cleveland Public School between 1995 and 1999, I hired school psychologists to provide mental health counseling using Title 1 funds allocated by school principals requesting these services.

some districts the term Intervention Based Assessment Teams (IBA) began to be used in the early 1990s.

The concept of interventions teams to address the needs of students at risk for academic failure or to address behavioral concerns began with early childhood teams in the late 1960s and early 1970s. The first strong advocates for intervention teams for school age students in Ohio were school psychology trainers at the University of Cincinnati (Ponti, et. al., 1988; Zins, Curtis, Graden, & Ponti, 1988). The intent of an Intervention Assistance Team is to provide support for at risk students prior to being considered for special education services, to support students not eligible for special education and to facilitate a multifaceted and multidisciplinary team approach to help students.

In Ohio, organizations such as the Ohio School Psychologists Association helped advocate for and implement IATs with support from the Ohio Department of Education. This facilitated the movement to have Intervention Assistance Teams in each school building. Each state began to develop these multidisciplinary teams using various names such as Teacher Support Teams, Student Support Teams, and Academic Intervention Teams. These teams consisted of an administrator, school psychologist, social worker, nurse, general and special education teachers and at times parents and students. The intent of these teams was to address academic and behavioral problems in the general classroom setting before considering the student for special education eligibility (Graden, Casey & Christenson, 1985).

In 1992 the IAT concept evolved into a state wide IBA (Intervention Based Assessment) team process (Bogdan, B. (n.d.); McNamara & Hollinger, 2003). This

change added an additional component to an intervention team process which advocated for pre-referral academic and behavioral assessment and interventions prior to special education identification. McNamara & Hollinger (2003) showed how the IBA problem-solving team approach as compared to the IAT approach reduced the proportion of students referred for special education eligibility determination. Because IAT's and IBA's were associated with Special Education (IDEA-97) other teams such as Mental Health Teams developed (Metis Report, 2003) to address social and emotional barriers to learning for students not eligible for special education services.

Part of the IBA process included Curriculum Based Assessment (CBA). The intent was to go beyond the use of standardized tests to determine a student's educational need. "The term curriculum-based assessment (CBA) means simple measurement that uses 'direct observation' and recording of a student's performance in the local curriculum as a basis for gathering information to make instructional decisions" (Deno, 1987, p. 41). The information obtained from CBA is also useful for IBA teams when considering students for referral to receive special education services.

Positive behavioral supports.

One national model to improve school climate and student behavior is called Positive Behavioral Intervention and Supports (PBIS) (National Technical Assistance Center on Positive Behavioral Interventions and Supports, 2006). This provides three levels of intervention. First are interventions for the whole school to improve school and classroom behavior management. Second are prevention and intervention groups and activities for the 15 to 20 percent of the students who need a little extra attention and support to improve their behavior. Third is intensive individual therapeutic counseling for

the 1 to 5 percent of the students with serious behavioral and emotional problems. The progress of PBIS is monitored by a software system called the School Wide Information System (SWIS) (2006).

In Ohio PBIS is referred to as Positive Behavioral Supports (PBS) and is part of the state initiative called the Integrated Systems Model which focuses on providing academic interventions at school wide, targeted small group and individual levels as well as behavioral interventions through school wide climate improvement, targeted small group interventions and individual treatment. The model in Appendix J shows the pyramid of academic and behavioral supports recommended in Ohio. Schools throughout Ohio receive support and training through regional State Support Teams. For Northeast Ohio school districts interested in implementing the Integrated Systems Model, training is provided by Region 3, 4 and 5 State Support Teams.⁷

School based mental health.

One initiative in Northeast Ohio aims to link school-based mental health services with the Integrated System Model. The goal is to help address barriers to learning for students with behavioral, social and mental health problems. The Ohio Department of Education works with government and other non-profit agencies such as the Ohio Mental Health Board to facilitate a model of student supports that involves the larger community. The model for this initiative is found in Appendix K. A document to help school districts implement services for students with behavioral and mental health issues is

⁷ State Support Team – Region 3 was previously called the Cuyahoga Special Education Service Center. All Ohio special education service centers were reorganized to serve general education and special education students in 2007.

called the Cuyahoga County School-based Mental Health Services Tool Kit (2008). This tool kit suggest that one way to fund mental health services in schools is to utilize EIS funds. The following provides a brief history of school-based mental health services.

There is a history dating back to the late 1800s and early 1900s of social service professionals hired directly by schools (nurses, visiting teachers, school social workers, counselors and psychologists), or available in the community at health and mental health clinics. However, the concept of developing school-based mental health services did not begin to take form until school based health clinics began to include mental health services in the 1980s (Flaherty, Weist & Warner, 1996). The need to address students with emotional and behavioral challenges became evident when Congress enacted the Education for All Handicapped Children Act (Public Law 94-142) on November 29, 1975 and created the special education category, Emotional Disturbance.

Specific mental health services, not directly associated with school health clinics, began to evolve in Los Angeles and Baltimore in the mid-1980s. The UCLA School Mental Health Project (2007) was created in 1986 and Dr. Lois Flaherty, a child and adolescent psychiatrist, at the University of Maryland in Baltimore, established another school mental health project in 1989. This led to the federal government funding two programs and designating them national centers to address school-based mental health services. One is called the Center for School Mental Health Analysis and Action (2007) in Baltimore, Maryland at the University Of Maryland School Of Medicine under Dr. Mark Weist. The other program is called the UCLA Center for Mental Health in Schools at the University of California at Los Angeles, under the direction of Dr. Howard Adelman and Dr. Linda Taylor.

Community interest in providing mental health services in public schools has increased over the past few years. At the federal level, the U.S. Public Health Service report (1999) on mental health developed by Surgeon General David Satcher helped the nation focus on mental health issues. A study by Shaffer et al., (1996) included in this report stated that 20.9 percent of youth between the ages of 9 and 17 had mental health concerns needing treatment. This was followed by President Bush's New Freedom Commission on Mental Health (2003), which specifically states the need for mental health services in the schools.

Because of a history of separate services for students with mental health problems in schools and in the community, the Office of Special Education Programs (OSEP) supported a unique collaboration. At the state level the National Association of State Directors of Special Education, the National Association of State Mental Health Program Directors and the Policy Partnership for Implementing IDEA (Author, 2002) wrote a pioneering position paper on collaborative mental health services. The concept paper is titled: *Mental Health, Schools and Families Working Together for all Children and Youth: Toward a Shared Agenda*. This paper advocates establishing statewide initiatives for the state departments of education to work with state mental health agencies to collaborate on school based mental health services. This consortium recommended that mental health agencies, schools and special education professionals work together to serve students with emotional disabilities. A few years ago, the Ohio General Assembly Legislative Leaders Forum (2003) focused specifically on mental health services in Ohio schools.

Of primary importance is data that demonstrates that school-based mental health services improve student behaviors and increase student academic success (Armbruster & Lichtman, 1999; Frey & George-Nichols, 2003; Hussey, 2006; Weist, et al., 1999, 2000). As a result, some states such as California and New York are introducing state legislation to support the implementation of school-based mental health services and federal legislation is pending. Senators Edward Kennedy, Pete Domenici and Chris Dodd introduced federal legislation titled: *Mental Health in Schools Act of 2007* to provide competitive grants to schools so that they can develop comprehensive school-based mental health programs (Chris Dodd newsletter, 2007).

Response to intervention.

Because of concerns regarding the of over identification of all students, for costly special education programs, and specifically the concerns regarding overrepresentation of some racial and ethnic groups, new concepts of evaluation, intervention and placement developed. One of the main concerns of regular and special educators is the high number of students being identified as having a Specific Learning Disability (SLD) primarily because of reading problems. Data from the 2002 Annual Report to Congress, Table AA9 reports that 50.5 percent of all special education students are SLD (The Advocacy Institute, 2002, June). Advocates want students with reading problems to receive reading interventions prior to being identified for special education services especially in the SLD category. One of the most active advocates for this change is the National Joint Committee on Learning Disabilities (NJCLD) (Bradley, Danielson & Doolittle, 2008)

The basic premise is that school-based professionals should provide interventions to students first instead of waiting until their problems become so severe that they need

special services. Instead of giving formal tests you give curriculum based assessments to determine the students current level of development in, for example, reading and math (Fuchs & Fuchs, 2008). The teacher or an assessment specialist measures current skill level and establishes a trend line as a benchmark to measure progress against.

Intervention is then provide using special curriculum or tutoring, and then progress is measured and monitored on a regular basis. If the student is making progress, then you do not consider placement in special education (Lose, Schmitt, Gómez-Bellengé, Jones, Honchell & Askew, 2007). The same process can be done for students with behavioral problems by using Functional Behavioral Assessment (Center for Effective Collaboration and Practice, 2006) or implementing Positive Behavioral Supports (National Technical Assistance Center on Positive Behavioral Interventions and Supports, 2006).

This process of using curriculum based assessment and intervention was initially called Response to Intervention or (RTI) but recently the name has been appearing in the literature as *Responsiveness* to Intervention with the acronym still RTI (Council for Exceptional Children, 2008; Fuchs & Fuchs, 2008). The term RTI is not formally used in IDEA-2004 regulations, but the process of using empirically based curriculum and instruction as part of the diagnostic process for identifying students with specific learning disabilities is encouraged (James, 2004; U.S. Government Report, 2004).

RTI is receiving a lot of attention and research because each state must determine if they are going to use RTI, the discrepancy formula, documented academic progress or any combination of these three options to determine Specific Learning Disability eligibility (Zirkel & Krohn, 2008). The concept is that if you use a scientifically based reading program as an intervention for a delayed reader then you may reduce the need to

label the student as disabled. For example, many districts in Ohio are using use DIBELS (The Dynamic Indicators of Basic Early Literacy Skills) (Official DIBELS Home Page, 2006) to provide a reading screening program to address potential academic problems as soon as a student enters school. The goal is to reduce false positives and false negatives when placing any student in special education and to thoroughly documenting intervention services for minority students before placing them in special education.

EIS may reduce the number of students identified for special education services by determining how they respond to the interventions provided. If the student responds and makes improvements then special education may not be necessary. However, if the student does not make progress, the intervention plan provides helpful information for developing an Individual Educational Plan (IEP) for students needing special education. Because about 5 percent of the special education population is identified as students with learning disabilities, mostly because of reading problems, pre-referral interventions could cut down on the number of students needing special education. If both academic and behavioral problems are addressed early and the interventions are successful then fewer at risk students would need special education. It follows that fewer minority students and second language learners would need special education services if attempts are made through RTI to address academic or behavioral needs.

Ohio's integrated systems model.

Ohio has developed an intervention model that combines Intervention Based Assessment with Positive Behavioral Supports to serve at risk students in the general education setting. The goal is to address both academic and behavioral concerns in a RTI type model. This model was previously called the Ohio Integrated Systems Model

(OISM) and is currently called the Integrated Systems Model. State Support Team Region 3 serving Cuyahoga County⁸ provides this description. “The Ohio Integrated Systems Model (OISM) is a tiered model of prevention and intervention aimed at closing the achievement gap among students with disabilities, at-risk learners, and the rest of the student body. OISM integrates school-wide positive behavior support (PBS) and literacy improvement activities to improve the performance of learners” (State Support Team Region 3, 2008, March 14). According to Bill Bogdan, Hamilton County Educational Service Center Assistant Superintendent - State Support Team Region 13 (2008, March 14), IBA was introduced in Ohio in 1992 and PBS in 1999. IBA & PBS were integrated in 2002 and then in 2005 became part of OISM. The term OISM faded from use in 2007 when ODE developed a more comprehensive model of student supports. Appendix K shows this three tiered model. ODE used the term “integrated support model” in their document titled: *A Comprehensive System of Learning Supports Guidelines* (Ohio Department of Education, 2007b).

This progressive development of academic and behavior interventions to help students prior to any consideration of special education services is important because it fits in well with Early Intervening Services. The results of this research will show the degree to which these services are being used and funded as part of EIS.

History of Overidentification for Special Education Services

Information on IDEA provided to the government annually, shows this is a legitimate concern. For example, data from the 23rd Annual Report to Congress, Table

⁸ Regional State Support Teams were developed in 2007 replacing Special Education Regional Resource Centers (SERRCs) with a focus on meeting the needs general and special education students.

AA12 shows that from the 1990-1991 school year to the 1999-2000 school year the number of students in all disability categories increased from a little over 4.2 million to 5.5 million. This is an increase of about 1.3 million students for a percentage change of 30.3%. (The Advocacy Institute, 2002). “The nation's special ed population increased by 63 percent between 1976 and 2006; it now accounts for 13 percent of the nation's public school students” (Biddle, 2009). The Presidents Commission on Excellence in Special Education report (U.S. Government, 2002) stated that the population of students identified as Specific Learning Disabled has grown 300% since 1976. This was a special concern of the commission because 90% were referred for identification because of reading problems. The commission also pointed out that there is an increase in students identified with Emotional Disturbance. A disproportionality concern was also evident in the data showing African American students are twice as likely to be identified as Mentally Retarded as White students and are more likely to be identified with Emotional Disturbance.

Local data shows this increase in special education identification especially for minority males.

Nineteen percent of black male students and 16 percent of their white male peers attending Cleveland's public schools in the 2005-2006 school year were labeled with some form of learning disability. This meant that they were likely placed into the traditional public school district's special education program, from which they are unlikely to ever graduate with a high school diploma.

Cleveland isn't some exceptional case. Fifteen percent of Ohio's black male students -- and one of every 10 white males -- were diagnosed as either

being mentally retarded, emotionally disturbed, developmentally delayed or otherwise learning disabled. Meanwhile a mere 7.6 percent of black female students and 5.5 percent of white females were considered learning disabled (Biddle, 2009, p. 1).

History of Disproportionality in Special Education

The first concerns regarding the disproportionality of minority students placed in special classes began in 1968. The U.S. Department of Education's Office of Civil Rights (OCR) began to monitor special education placement in 1965⁹ (National Alliance of Black School Educators (NABSE) & ILIAD Project, 2002) and by 1968 disparities between the percentage of school age African Americans and the percentage being placed in special education programs became evident.

Lloyd M. Dunn (1968) is regarded as the first educator to clearly articulate a concern that too many students from lower socio-economic levels, especially those with minority or second language status, were being placed in special education programs. This is verified in the article by Artiles et al. (2002) which provides the following example. A 1968 study by Jane Mercer (1973) showed that the Riverside California School's classes for students with mild mental retardation (MMR) had more African-American and Hispanic students than would be expected based on their respective school populations. Hispanics were 7% of the school population, but 12% of the MMR program; white students were 82% of the school and only 53% of the MMR program; and African

⁹ The Office of Special Education Programs (OSEP) provides an annual report to congress each year on the implementation of IDEA. In this report is listed the percentage of students age 6-21 in each of the thirteen school age disability categories by race/ethnicity including: American Indian, Asian/Pacific Islander, Black (non-Hispanic), Hispanic and White (non-Hispanic).

Americans represented 9.5% of the school but 32% of the MMR program (Reschly, 1996).

Because these concerns began to be reported to the Federal government from different States, the U. S. Department of Education, Office of Special Education Programs (OSEP) used their Data Analysis System (DANS) to provide national statistics to Congress on an annual basis. The *Annual Report on the Implementation of IDEA* reported the percentage of students ages six to twenty-one from five racial/ethnic groups receiving services in the thirteen disability categories. This figure was compared to the percentage of students in each racial/ethnic designation (resident population). Data for the 1998-99 school year shows that in 9 of the 13 disability categories the percentage of African Americans exceeds the resident population. For example, 14.8 percent of school age population in 1988-99 was African American while 34.3 percent of students identified in the category Mental Retardation were African American (National Alliance of Black School Educators (NABSE) & ILIAD Project, 2002, p. 6). The chart in Appendix F provides an example of risk ratios in each disability area for Ohio in 2004.

Losen and Orfield (2002) reports OCR's documentation of the over-representation of African America students in high incidence disabilities such as Mental Retardation, Emotional Disturbance and Specific Learning Disabilities. These are the three disability categories of most concern to educators and legislators.

The most pronounced disparities then [1970] were black children who, while only 16 percent of the total school enrollment, represented 38 percent of the students in classes for the educationally mentally retarded. After more than twenty years, black children constitute 17 percent of the

total school enrollment and 33 percent of those labeled mentally retarded—only a marginal improvement. During this same period, however, disproportionality in the area of emotional disturbance (ED) and the rate of identification for both ED and specific learning disabilities (SLD) grew significantly for Blacks (Losen & Orfield, 2002, pp. xv-xvi).

These types of data led OCR to provide funds to Harvard University to study this issue. The Harvard University Civil Rights Project (2002) which began in 1996 utilized their staff and resources to develop a briefing for federal policy makers on racial inequality in special education. This project provided much of the information on disproportionality for the book edited by Losen and Orfield (2002) titled, *Racial Inequality in Special Education*.

After the passage of the reauthorization of IDEA in 1997 it became evident that although the Federal government could determine overrepresentation of minorities in special education on a national level, it was often difficult to calculate on a state or local level. This data was needed if the Federal government was going to monitor disproportionality in each LEA in the country.

The footnote regarding disproportionality (U.S. Department of Education, 2005) was placed in the EIS section of the IDEA -2004 reauthorization, because there has been so little progress in addressing this issue over the past 40 years. OCR and OSEP along with advocates for the equal treatment of racial and ethnic groups, hope that if receiving part of special education Part B funds is contingent upon addressing disproportionality, then there will be an incentive to reduce the number of minority students identified.

There are a number of theories regarding the causes of disproportionality. In two articles (Artiles et al., 2002; Artiles et al., 2010), the authors do an excellent job of discussing the various factors that could have an impact on over-representation of minorities in special education. They begin by reviewing the socioeconomic issues and how poverty creates institutional discrimination, lower expectations, and over-referral to special education. Also addressed is the impact on disproportionality because of lack of funding, resources, and quality teachers in many urban areas. Cultural issues related to multifaceted assessment point out the possible inaccuracy of the eligibility determination process when evaluating minorities for special education. Some litigation has attempted to address discrimination in special education placement because of the tests used. These include *Larry P. v Riles* (1972, 1974, 1979, and 1984) that eliminated the use of I.Q. scores for special education placement in California and led to attempts at culture fair assessment and *PASE v Hannon* (1980) where a parent group was seeking a similar ruling in the Chicago schools. However, the judge ruled against them. Artiles, et. al. (2002) concluded by discussing the need for more investment to address the consequences of poverty; more early intervention and quality preschool programs; more teacher training in cultural sensitivity; and more school pre-referral interventions utilizing Teacher Assistance Teams so fewer students are referred and labeled.

Theories related to the causes of the achievement gap and disproportionality discussed in the section of this dissertation titled *Addressing the Achievement Gap* are considered by scholars using the critical race theory approach (Ladson-Billings, 2005 March). The 2006 American Educational Research Association Presidential Address by Gloria Ladson-Billings (2006) presented her theory that the “educational debt” was

similar to the national debt and influences the achievement gap. Basically we have created an educational debt for African American students in three areas: an historical debt because of past and continuing educational inequalities; a economic debt because of the funding disparities between schools for White students and African Americans students; and a sociopolitical debt because “communities of color are excluded from the civic process” (p. 7). Her argument is that this diminishes our society because “the cumulative effect of poor education, poor housing, poor health care, and poor government services create a bifurcated society that leaves more than its children behind” (p. 10).

The view of this author is that disproportionality is a manifestation of the achievement gap so these same concerns can be applied to the issue of disproportionality for African-American students. However, as Skiba et al. (2008) point out, there are multiple possible causes for disproportionality. The authors acknowledge economic disparities, but point out factors such as a higher referral rates for African American students especially regarding behavior, and the perception by school staff that one of the few places to obtain help for students is special education. Another theory is the possible impact of cultural reproduction where individuals in the educational system may be unconsciously perpetuating a social structure that maintains an inequitable status quo (Patton, 1998).

CHAPTER III

METHODOLOGY

Theoretical Framework

The theoretical framework for this qualitative study comes from the field of policy research. How educators view policy development, assessment and implementation has progressed over the past decade. As explained by Marcus B. Weaver-Hightower (2008), the policy process has historically been viewed as a stages process with a rather simplistic viewpoint that if implementers follow a model that researches a problem, agrees on a solution and then implements that solution the results will lead to predictable and efficient changes. This rational scientifically based policy process is described in Cochran & Malone's (1999) Chapter 2: "*Methods and Models for Policy Analysis.*"

The scientific policy approach leaves out the impact of the environment, so another approach to educational policy analysis utilizes *institutional theory* as a perspective to structure educational research in policy areas. Bunch (2007) describes how education scholars have drawn on the ideas of organizational sociologists "to examine interactions between educational policies and school and classroom practices" (p. 85). Bunch (2007) supports this approach and states that "...studies that draw on institutional

theory have brought needed nuance to our understanding of how educational policies and practices interact with institutional environments to shape policy outcomes” (p.85).

Weaver-Hightower (2008) has expanded the concept of the importance of educational environments through what he refers to as an “ecology metaphor” and discusses the advantages of this model to the understanding and implementation educational policy.

Educational policy might productively be conceptualized with an ecology metaphor. Each policy, thus considered, exists within a complex system that reflects varied international, national, regional, and local dynamics. Using this metaphor provides policy analysts with a view of the regularities and irregularities of any policy, its process, its texts, its reception, and its degree of implementation. The characteristics of policy ecologies alert analyst to the possibilities of great transformation, for good or ill, and give them a way to conceptualize how such transformations occur. Perhaps most important, using an ecology metaphor suggests specific ways that progressive researchers might positively intervene in the policy process. (p. 153)

An example of a more complex ecological approach is provided in an article by McCall and Skrtic (2009) titled: “*Intersectional Needs Politics: A policy Frame for the Wicked Problem of Disproportionality.*” These authors advocate the use of Collins (2000) intersectional approach to reframe disproportionality, disability and race (p.6). They describe Collins framework as including “group (macro) and individual (micro) approaches to understanding power at four levels of analysis – structural, disciplinary, hegemonic, and personal” (p.7). This policy approach encourages the adjustment of

conventional theories and practices to empower students, their parents and the community to address their educational needs. This policy framework urges professional educators to follow:

“the social planning model of classical pragmatism, a deliberative mode of inquiry in which alternative interpretations of needs and associated practices are judged and selected or integrated in terms of their educational and social consequences for children and families, and their contributions to the realization of democratic ideals in schools, communities, and society at large.” (p.18)

Policy research is an applied action oriented approach that is rarely politically neutral. Researchers are influenced by their ideologies, the institutions they associate with, political party affiliations and their values regarding what is best for them and their society (Cochran & Malone, 1999). Policy research focuses on three areas: advocacy, the efficacy of a policy and the outcomes of a policy. This action research uses an ethnomethodological approach that looks at a social/educational policy change initiative with an “interest in *what* is being accomplished, under *what* conditions, and out of *what* resources” (Gubrium, J. F. & Holstein, J. A., 2000, p. 488). The conceptual underpinnings of the framework for this research comes from this authors beliefs that school wide, small group, and individual academic and behavioral interventions are critical for the educational progress of at risk students; that critical race theory (Ladson-Billings, 2005 March) must be considered when addressing disproportionality; and that federal education policies can significantly impact local educational services.

The focus of this research is on the implementation of educational policy, specifically policies that create paradigm shifts in instructional approaches to help

students that are making inadequate behavioral or academic progress in school. This research will use a case study approach to illuminate how Early Intervening Services policy is being implemented by selected school administrators and staff in Northeast Ohio.

The bounded system for this case study is school districts. *A purposeful sample* (Bogan & Biklen, 2003) is being used so that comparisons can be made among districts not cited for disproportionality and districts that were cited in the 2006-2007 school year. Data from the Ohio Department of Education was used to determine which districts were cited for disproportionality and which were not so that a representation of both conditions is included in the research (Cuyahoga Special Education Regional Resource Center, 2006).

Purposeful Sample Selection

The purposive sample for this study consists of six school districts in northeast Ohio. The criteria for selecting these districts include:¹⁰

1. Three districts cited for disproportionality at the end of the 2006-2007 school year and three not cited.
2. Comparable number of students in cited and non-cited districts
 - a. School population [cited districts: 12,128 and non-cited: 13,085]
3. High, medium and low percentage of African Americans in selected districts
 - a. Three high (98, 98, 90); one medium (75) and two low (20, 8)
4. Total average of Economically Disadvantaged students similar in cited districts as compared to non-cited districts
 - a. Cited average 38.56 percent - non-cited 37.33 percent

¹⁰ The data is from the Ohio Department of Education's 2006-2007 School Year Report Cards.

5. Spread out over a broad geographic area in Northeast Ohio
6. There is a range of academic standing on the 2006-2007 Ohio Schools Report Card¹¹
 - a. Two rated as “Excellent”, two rated as “Continuous Improvement’ and two rated as “Academic Watch”

¹¹ Rankings are Excellent, Effective, Continuous Improvement and Academic Watch

Table 1

District Demographics

School District	Ohio Report Card Designation of District Progress	Disproportionality Cited: Yes or No	School Population	African American	Economically Disadvantaged
Arid Pond	Continuous Improvement	Yes	6,000	75%	50%
Blue Ocean	Continuous Improvement	Yes	4,000	90%	50.0%
Cold River	Excellent	Yes	2,000	20%	10%
Deep Valley	Academic Watch	No	4,000	98%	80%
Elevated Mountain	Academic Watch	No	2,000	98%	20%
Flat Hill	Excellent	No	7,000	8%	8%

Data from the Ohio Department of Education's 2006-2007 School Year Report Cards

Development of Research Questions

The research questions were developed based on the intent of the IDEA-2004 to address the overidentification of students for special education services and to address disproportionality. The questions are intended to address the fidelity of federal policy implementation at the local level and if these policies are moving in the right direction to address overidentification and disproportionality.

Research questions.

1. How are selected school districts in Northeast Ohio cited and mandated to address disproportionality implementing Coordinated Early Intervening Services policy?
2. How are selected school districts in Northeast Ohio not cited for disproportionality responding to the option to use 15 percent of their special education funding to implement Coordinated Early Intervening Services to reduce overidentification of special education students?

Data collection and information sources.

Three processes were completed to answer the research questions.

1. Twelve semi-structured interviews were conducted in six school districts. An interview with one administrator in six districts responsible for the use of EIS IDEA Part B Funding and an interview in the same districts with a staff member knowledgeable about or implementing EIS services or programs.
2. A review of archival data shared by the districts or gathered from federal, state and local documents helped support themes from the interviews.

3. The researcher immersed himself in professional activities in the fields of special education, mental health, and minority achievement to learn about the cultural, social and professional structures that impact EIS policy from the perspective of local school district administrators and staff. This included conferences, organization meetings and in-service activities related to EIS.

Rational for Interviewing Mid-Level Administrators

The administrator in each district responsible for addressing IDEA-2004 funding and the implementation of State of Ohio special education regulations was interviewed because they would have the highest likelihood of having a knowledge base of EIS implementation. It is important to point out that EIS is a special education regulation, but not a special education service. It is a general education service and requires collaboration with general education staff. The administrator assigned to implement IDEA-2004 funding should be the most informed regarding who in their district is assigned to be part of the implementation of EIS.

Part of my selection process was my belief that my experiences as a mid-level administrator in an Ohio school district may helped me develop rapport with the interviewees and provided me with empathetic understanding of the challenges they face as school administrators. A recent article by Thompson & O'Brian (2007) titled: *Many Hats & a Delicate Balance: The lives and Times of Today's Special Education Directors*, provides some insight into what the position of Special Education Director is like. The many hats include hiring, training and evaluating staff, being an instructional leader, implementing many federal, state and local mandates and completing reports. Other

duties include advocating for students, addressing parental concerns, handling payroll, purchasing, funding and grant implementation. When addressing disproportionality it is interesting to note that there are very few African American or Latino special education directors. A study conducted in Illinois reported that out of 67 special education directors in their study, half (49%) were male, half female (49%) and one was unknown. With regards to diversity 64 or 96% checked the category “White/non-Hispanic” with 3 unknown. The cultural/ethnic background of the 12 individuals interviewed included 8 Whites, 3 African-Americans and 1 Asian-American.

Rational for Interviewing Staff Assigned to Implement EIS

For the purpose of this research, a staff member in each district responsible for or knowledgeable about intervention services for at risk students were interviewed. The individuals interviewed were called “interveners” to coincide with the title of this legislation and to prevent confusion with school staff called “interventionists.”

Interviewing staff implementing or knowledgeable about EIS provided an opportunity to learn how educators in the schools and classrooms view EIS and how it impacts general education and special education. The degree to which interveners view EIS as successfully reducing the number of students served in special education can be explored and the impact of disproportionality can be addressed. For districts that decided not to use EIS funding, information was gathered to see how they are meeting the needs of at risk students especially ethnically, culturally and linguistically diverse students.

Procedures and Semi-Structured Interviews

Confidential face-to-face semi-structured interviews were conducted with mid-level school administrators responsible for implementing IDEA-2004 Ohio regulations

regarding EIS. Each of these administrators was contacted to see if they are willing to be included in this research. If they were willing to participate, they were asked who in the district is responsible for providing permission to conduct the research. The designated person was contacted and a permission form to conduct this research was signed by an administrator in each district. An appointment was set up with each interviewee. During this conference the research was discussed using both written and oral information. Each interviewee signed a permission form in compliance with Cleveland State University Human Subject Review Board requirements. Each interviewee filled out a demographics questionnaire and the semi-structured interview was completed.

The interviews were conducted at a place and time selected by the interviewee, so that there were minimal interruptions and adequate time. The tapes were transcribed and a copy shared with each interviewee as a “member check”, so they could have an opportunity to edit, clarify or add additional information. Field notes from conversations before and after the formal taping provided additional verification of the interviewees perspectives. Interviewees were asked if there had any documents regarding EIS that they were willing to share and some provided copies of regulations, PowerPoint presentations or local documents.

Thematic Analysis

Thematic analysis started with a modified classical content analysis approach. The codes were developed based on the literature review and centered on the interview questions. Some code categories were added based on information from the interviews as suggested by the constructivist grounded theory approach (Charmza, 1999).

Table 2

Structure and Categories Used for Theme Analysis

Districts Cited		Districts Not Cited	
Analysis 1	Analysis 2	Analysis 3	Analysis 4
Administrators	Intervener	Administrators	Intervener
<u>Arid Pond</u>	<u>Arid Pond</u>	Deep Valley	Deep Valley
<u>Blue Ocean</u>	<u>Blue Ocean</u>	Elevated Mountain	Elevated Mountain
<u>Cold River</u>	<u>Cold River</u>	Flat Hill	Flat Hill

Each interview was coded using the semi-structured themes below as a focus

1. How district responded to EIS 15 percent funding
2. Use of EIS funds
3. Issues with over or under identification under IDEA
4. Impact of State Performance Plan
5. Over or under representation of minority or second language learners
6. Pre-referral or intervention services - How are the academic and behavioral concerns of at risk students addressed
7. How were staff informed about EIS
8. Collaboration between special education and general education staffs
9. Reactions of parents to EIS policy
10. Your feelings or opinions about EIS Policy

Blocks of data from the interviews and field notes were coded. Relationships among these themes and models linking these concepts together were considered (Ryan & Bernard, 1999). Coded information was placed in a matrix to consolidate and clarify the information as an aid to interpretation. The themes were analyzed to inform a discussion on the implementation of EIS at the local school district level in Northeast Ohio. This process (see Table 2) facilitated comparisons of the responses of administrators in the three districts cited with each other as well as with interveners in cited districts. These same comparisons were made with administrators and interveners in

the districts that were not cited. Comparisons across the cited and non-cited districts could also be made using this chart.

The coding process was validated and expanded by using NVivo 8 (2008, April) software tree nodes to organize themes listed in the chart from the twelve interviews. NVivo 8 enabled the researcher to review and consider additional themes.

Institutional Review Board

An application to conduct this research was approved by the Institutional Review Board (IRB) of Cleveland State University. Because this research involved human subjects the approval of the IRB was required. A school district administrator from each of the six districts signed a consent form to conduct the research and each individual interviewed signed an informed consent form (see Appendix G & H).

The primary source of information for this qualitative study was confidential face-to-face semi-structured interviews. The subjects for these interviews were school district mid-level administrators and educators assigned to implement EIS services. All data will be locked in my personal files for three years as specified by federal regulations.

Researcher Perspective

Applied policy research is rarely politically neutral. This researcher has a strong bias toward the importance of addressing barriers to student success by providing prevention and intervention services through academic, social, behavioral and mental health interventions. However, I worked hard at giving voice to the individuals I interviewed and at keeping an open mind. My training as a licensed psychologist and nationally certified school psychologist helped my objectivity. Training in these fields

requires you to be an objective observer and to work hard at hearing everyone's perspective and both sides of the story.

As a retired Manager of the Office of Psychological Services from a large urban district, I have a long standing interest in early intervention to help at risk students. My particular interest is Intervention Assistance Teams (IAT's). I was a member of early childhood intervention teams in the early 1970s and was instrumental in implementing IAT's in the urban district I served by providing IAT workshops for schools and student support personnel from 1988 – 1996. Prior to retiring in 1999, I helped write a Federal Safe Schools/Healthy Students grant that provided funds to 20 schools to address the mental health needs of students. Since retiring I have continued to consult with schools to address barriers to learning through health and mental health services. From January 2009 to August 2009, I served as the Interim Coordinator of Special Education for a Northeast Ohio school district.

I did not enter this study with any preconceived notion that my findings would go one way or another. My hope was that the information obtained would expand the knowledge of policy implementation regarding EIS and help educators take actions that can make early intervening services more effective (Koshy, 2010). I am aware that in a case study the results can be instructive but only have very minimal generalizability to other school districts. However, the knowledge base developed and shared collaboratively with educators through action research can facilitate social and educational change (Greenwood & Levin, 2000).

It is important to note that from January 2009 to August 2009 I was hired as the Interim Coordinator of Special Education for a local school district. This provided me

with the opportunity to experience the roles and responsibilities of the six of administrators I interviewed who are either special education directors or pupil personnel directors. I also had to opportunity to work with and observe school based staff intervening with at risk students in groups or individually.

Methodology Summary

The primary source of information for this qualitative study is confidential face-to-face semi-structured interviews. The subjects for these interviews were school district mid-level administrators and educators assigned to implement EIS services. With the subjects' permission, the interviews were tape recorded and transcribed. Thematic analysis of the transcripts and field notes was conducted. A copy of the transcript was shared with each interviewee as a "member check", so they could have an opportunity to edit, clarify or add additional information. The results were triangulated with archival data and information gained by the researcher from experiences through immersion in the field. To improve external validity as described by Merriman (1998, pp 211-212) this research included rich descriptions of local policy, informants that other educators can relate to and a multi-site design that included six school districts.

CHAPTER IV

RESULTS

The purpose of this dissertation is to look at the implications of implementing IDEA- 2004 Early Intervening Services (EIS) policy in six Northeast Ohio school districts. Pseudonyms selected for the three school districts cited for disproportionality are “water” names: Arid Pond, Blue Ocean, and Cold River. Districts cited for disproportionality are underlined to distinguish them from non-cited districts. Pseudonyms selected for the three school districts not cited for disproportionality were “topographical” names: Deep Valley, Elevated Mountain and Flat Hill. The data from interviewing an administrator and an intervener in each district showed that the six districts are concerned with the overidentification of students for special education services, helping at risk students and second language learners, as well as addressing the educational concerns of students from different racial or ethnic populations. However, districts not cited for disproportionality did not exercise their option to use 15 percent of their IDEA Part B funds for EIS. These districts did have some services, procedures or programs using other funding sources to address the needs of some at risk students. Districts that were required to use 15 percent of their IDEA Part B funding because they were cited for disproportionality did set up Early Intervening Services. When EIS funds

became permissive for these three districts, rather than mandatory because they had addressed disproportionality, they chose to continue to use EIS funds for staff development, prevention and intervention services.

In order to qualitatively analyze the 12 interviews, a chart of the major topics and themes that could lead to theory development was used for ease of comparison across interviews (see Table 2). The administrator interviews utilized 9 semi-structured questions and the intervener interviews utilized 10 semi-structured questions to facilitate the interviews (see Appendix D & E). This researcher altered or added questions as the dynamics of the interviews impacted the dialogue.

Each educator that participated in the interview process was sent a packet that gave them an opportunity to review the transcript and make corrections, clarifications or comments. Eleven of the twelve interviewees responded to this “member check”. Two gave fairly extensive additional comments and updates since the interview took place while others made a few clarifications or edits.

Participant Demographics

There were six interviews conducted in the three school districts cited for disproportionality and six in the districts not cited. In the three districts cited for disproportionality, three administrators responsible for determining the use of special education funding and three interveners knowledgeable about or implementing services for at risk students were interviewed. The same numbers of administrators and interveners were interviewed in the districts not cited for disproportionality. Table 3 provides information on the age range, ethnic background, years of service as an

Table 3

Interviewee Demographics

	Age Range	Ethnic Background	Years as...	Years at Current School/District
<u>Cited Districts</u>			<u>Administrator</u>	
Female: 3	50-59:	White	22	19
	50-59	White	10	4
	30-39:	White	9	1
Male: 0				
			<u>Intervener</u>	
Female: 2	30-39	White	6	2 months
	60-69	White	2	3 months
Male: 1	30-39	White	13	2 years
<u>Not Cited Districts</u>			<u>Administrator</u>	
Female 1	40-49	Asian	6	6 months
Male: 2	40-49	Black	5	12
	50-59	Black	8	13
			<u>Intervener</u>	
Female 2	30-39	White	8	4
	60-69	White	14	6
Male: 1	30-39	Black	10	10

administrator or intervener, and years at the current school and/or district of each interviewee.

Job titles for administrators interviewed included: Director of Pupil Services, Special Education Coordinator, and Alternative Programs Director. The term “Intervener” was used for individuals responsible for or knowledgeable about services for at risk students. Job titles included: Principal, Behavioral Coach, Director of Education and School Psychologist. Administrators had a range of experience from 5 to 22 years with a mean of 10 years. Interveners had a range of experience from 2 to 14 years with a mean of 8.8 years. Six interviewees had a master’s degree; five had a specialist degree; and one had a doctoral degree. Interviewees were asked to provide an age range rather than a specific age. There were seven interviewees in the 30 to 49 age range and five in the 50 to 69 age range.

Early Intervening Services Policy Compliance

All school districts in Ohio are eligible for IDEA Part-B funds. Unless cited for disproportionality, it is optional for school districts to use 15 percent of these annual funds to provide comprehensive Early Intervening Services for non-disabled students. During the 2006 fiscal year the Ohio Department of Education Office of Exceptional Students provided school districts with a chart that showed the amount each district was permitted or mandated to use for EIS (Ohio Department of Education, Early Intervening Services Allocation, 2006) (see Appendix B). Among the six districts interviewed, amounts ranged from approximately \$80,000 for a smaller district to \$260,000 for a

larger district. The mean amount for the six districts participating in this study is approximately \$165,000.¹²

Arid Pond, Blue Ocean and Cold River were cited for disproportionality and mandated to use EIS funds to address the over-representation of African Americans students in the following special education services categories: Arid Pond School District [Cognitive Disability (CD), 2006-2007] and [Specific Learning Disability (SLD), 2007-2008]; Blue Ocean School District [Emotional Disturbance (ED), 2006-2007] and Cold River School District [Specific Learning Disability (SLD), 2006-2007].

Table 4

District Disproportionality Status: 2006-2007 School Year

ARID POND	BLUE OCEAN	COLD RIVER	DEEP VALLEY	ELEVATED MOUNTAIN	FLAT HILL
COGNITIVE DISABILITY (CD)	EMOTIONAL DISTURBANCE (ED)	SPECIFIC LEARNING DISABILITY (SLD)	NOT CITED	NOT CITED	NOT CITED

The Deep Valley School District, Elevated Mountain School District and Flat Hill School District were not cited for disproportionality, so the use of EIS funding for early intervention with non-disabled students was optional. These three districts decided not to use 15 percent of their Part B funds for EIS.

¹² The exact amounts are not listed to maintain confidentiality.

Interviews

All interviews were conducted in the fall of the 2008/2009 school year between August and December. The taped interviews ranged from 16 to 38 minutes.¹³ Eight of the interviews were held in offices within school buildings, three in school district central administrative offices and one in a community mental health agency. To facilitate the interview process and elicit information relevant to the topic, semi-structured questions were provided orally and in writing to the interviewees. All interviewees were provided with a brief description of the dissertation (see Appendix I) and the section of IDEA-2004 reauthorization describing EIS (see Appendix A). There were nine questions for administrators and ten for interveners (see appendixes D and E). The interview format was open and flexible. The questions were there to trigger discussion and were presented as part of an on-going conversation. All questions did not need to be formally asked if the topic was covered during the discussion.

Early intervening services.

The amount of knowledge interviewees had regarding EIS legislation and policy ranged from well informed to only learning about it from my interview process. Both administrators and interveners were asked how their district was responding to EIS legislation that allowed the use of 15 percent of special education funding for non-disabled students. All interviewees were also asked how staff members were informed about EIS.

In the three districts where EIS was mandated because of disproportionality, the administrators knew in great detail what the legislation said and what was expected of their school districts. These administrators could also specify how staff members were

¹³ Interview times in minutes: 16,18,18,19, 20, 23, 24, 25, 29, 32, 35, 38

informed about EIS through central office meetings, school based staff meetings or professional development in-service activities.

Two of the three interveners were not as well informed. Ms Coin, a school principle said: “We would hear about these things at the K-12 principles meetings at the central office.” Her school was providing both academic and behavioral interventions but she had not been provided with information that would link EIS funding to these services. The Blue Ocean intervener, Ms Lilly, was doing interventions for students identified as Emotionally Disturbed but had not heard of EIS legislation and did not know it was helping fund her services. The intervener in the Cold River District had budget and funding responsibilities for special programs in his district and therefore could describe specifically the use of EIS funding.

In the districts not cited for disproportionality two of the administrators had knowledge of EIS policy and provided reasons why they chose not to use IDEA Title B funds to address the needs of at risk students. The Deep Valley administrator, Mr. Burns, mentioned the optional nature of the funds and said: “At this point we haven’t actually taken advantage of that flexibility. We do provide services but not through that particular funding source so we do not use the 15 percent at this point.” Ms. Lander described how other funding cuts had an impact on Flat Hill’s decision not to use EIS funds to serve non-disabled students. She stated that district special education funds were cut by 25 percent in Ohio for the 2008-2009 school year. Using special education dollars for EIS would reduce needed dollars for students with disabilities by an additional 15 percent. Mr. Edwards, who administered programs for at risk students in the Elevated Mountain School District, stated: “... I had not heard of those funds, you know, until I had met you.

That was the first time I heard of those funds and that there was something the district could do.”

The interveners in Deep Valley, Elevated Mountain and Flat Hill expressed a vague awareness of EIS but equated it with the training provided to local school districts from State Support Teams on an intervention model for students at risk for academic or behavioral problems called the Ohio Integrated Systems Model (OISM) (State Support Team Region 3, 2008).¹⁴ Ms. Backus, the Flat Hill intervener, mentioned a legal update she attended two years ago. None of them received information on EIS from their districts.

Use of early intervening services funds.

The three districts that were mandated to use EIS funds because of disproportionality gave descriptions of how they used these funds. The three districts that were not cited did not chose to use EIS funds for non-disabled students but gave descriptions of some of their services for at risk students that could be considered early

¹⁴ There are 16 State Support Teams covering all geographic areas of Ohio. They partner with Educational Service Centers (ESCs) state support teams to provide support for school districts in the implementation of innovative projects. “The *No Child Left Behind* Act requires each state to provide a statewide system of support services to districts in need of improvement around the basic four stages in the reform process, as identified by the US Department of Education.” They are: Needs Assessment & Goal Setting; Planning; Implementation; and Evaluation (See <http://esc-cc.org/public/rs/sst3/index.cfm> for details).

intervention. Details of these services can be found in the section below titled: *Pre-referral and Intervention Services*.

Pre-referral and intervention services.

To obtain information on the types of services districts were using to address the needs of at risk students, interviewees were asked what types of specific intervention services were being implemented in their district regardless of the funding source.

Clarification was provided to explain that this research focuses on school age students not pre-school students.

All six districts described a pre-referral process that included an Intervention Assistance Team (IAT) or a team with a slightly different name but the same function. The goal of these teams is to provide a pre-referral process before students are identified as needing special education services. All districts mentioned Response to Intervention (RTI) as a process to document if a student needs to be considered for special education especially with regards to the new emphasis in the IDEA-2004 reauthorization encouraging less dependence on a discrepancy formula for SLD identification and more use of empirically based intervention. One consistent theme for all districts interviewed, except Deep Valley, was the use of the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) and Positive Behavioral Supports (PBS) as pre-referral processes for reading and behavioral interventions. Training for both DIBELS and PBS was provided to many districts in Northeast Ohio by State Support Teams under the model sanctioned by the Ohio Department of Education (2007, July) initially called OISM (Ohio Integrated System Model) and later just ISM (Integrated System Model) under a comprehensive system of learning supports.

The Arid Pond administrator, Ms. Smith, stated that five school teams attended six to eight training sessions to learn OISM. For the past three years, five elementary and two middle schools have been implementing PBS. Ms. Bates from the Blue Ocean district said they are using DIBELS for academic assessment and intervention and the Conner, GADS and BASC¹⁵ for behavioral assessment and intervention. Cold River administrator described the uses a four tiered model for academic and behavioral intervention similar to the three tiered OISM model. Cold River's fourth tier is special education so a student would have to experience school wide intervention, small group intervention and one on one intervention before special education eligibility is considered. Both the Cold River administrator, Ms. Foster, and intervener, Mr. Dean, discussed how their district has pre-referral protocols in place using the concept of the "Professional Learning Communities" (DuFour, 2004) to address academic and behavior problems before making a referral to IAT. For example, at the elementary grade level Professional Learning Communities (PLCs) that originally only included general education teachers now have special education teachers attending to facilitate the development of academic and behavioral interventions for at risk students. These PLC

¹⁵ Ms bates is referring to the Conners Rating Scales-Revised (CRS-R) developed by C. Keith Conners, PhD which is an instrument that uses observer ratings and self-report ratings to help assess attention deficit/hyperactivity disorder (ADHD) and evaluate problem behavior in children and adolescents. The Gilliam Asperger's Disorder Scale (GADS) developed by James E. Gilliam to Help identify children who might have Asperger's Disorder and the BASC -2 Intervention Guide & Materials developed by Kimberly Vannest, PhD, Cecil R. Reynolds, PhD & Randy Kamphaus, PhD.

teams are, according to the intervener, given “dedicated collaboration time (and) dedicated problem solving time” to share strategies to address the needs of students with learning and behavior concerns. The Cold River administrator stated that part of the special educators’ time to participate on the PLC teams is paid through EIS funds. Cold River also blends EIS funds with general district funds to support mental health workers who address mental health and behavioral concerns at the general (Tier I) and small group (Tier II) levels. An example of a Tier I mental health intervention would be consulting with a school staff to improve the emotional development of all students in the school or a classroom. An example of a Tier Two intervention would be doing social skill development with a small group of students having difficulty making friends.

The three districts that decided not to use EIS funds to support coordinated intervention services, all had pre-referral services centered around intervention teams. The Deep Valley administrator, Mr. Burns, and intervener, Ms Tomko, said their district was moving toward a RTI model. Currently they have a tiered approach prior to referral to special education. Step one is a teacher to teacher consultation. Step two is a specialist to teacher consultation. Step three is a team to teacher consultation. This pre-referral process usually takes about nine weeks but can last from two to five months before special education services are considered. Historically Deep Valley has use Curriculum Based Measurement (CBM) to measure the academic status of students as well as standardized assessment tools. They did not mention the use of specific programs such as DIBELS and PBS.

The Elevated Mountain administrator, Mr. Edwards, expressed concerns that students not identified as needing special education services often fell through the cracks

and did not receive academic or behavioral supports. He stated that currently (2007-2008) some drop-out prevention and character education programs were being implemented. He mentioned that some of the elementary schools received OISM training from the Cuyahoga Special Education Service Center now called State Support Team Region Three. The Elevated Mountain intervener stated that each school is suppose to have an IAT but some intervention teams are more active than others and each team is implemented differently. Elevated Mountain has been implementing DIBELS as a universal screening in some schools for reading and the reading fluency section is used for progress monitoring. There is nothing equivalent as a screening device for math functioning. She named one school that was using PBS and the behavior monitoring software called “SWIS” which stands for School Wide Information System. This is a web-based software system for collecting and summarizing office discipline referrals in schools.

The Flat Hill administrator, Ms Lander, reported that each school in her district has an IAT. Upon receiving a referral, a member of the IAT such as a school psychologist, nurse or guidance counselor goes to the classroom to observe the student. Students that need more intensive interventions can be referred to a special team (not named to maintain confidentiality) which includes the parent, administrators, teachers and support staff. This administrator reported that although the DIBELS is used in all elementary schools to screen for reading skills levels, there is very little progress monitoring. The RTI process at the time of the interview had not been initiated. This administrator was impressed with the “amazing job” some of the schools did with PBS to maintain a positive learning environment.

The Flat Hill intervener, Ms. Backus, provided more detailed information on the pre-referral intervention procedures described by the administrator. Students that showed reading delays on the DIBELS are assigned to a small group for intervention using the Voyager Passport Reading Intervention Program. Tools to help the intervention team members include a flow chart of the process, an “Accommodation Modification Checklist” and a “Thinking Through the Problem” worksheet. The intervener talked about the excellent staff available to address mental health and behavioral issues. There is a guidance counselor in every building that works with small groups and individual students.

Overidentification for special education.

All interviewees were asked: “Do you believe these services (EIS) will address over or under identification of students for special education services? Ten of the interviewees made comments that supported EIS as a method of reducing the number of students referred for special education services. One administrator believed that districts that were predominately African American do not over-identify and one intervener thought there was a drop in students identified for special education because Ohio tightened their criteria for Cognitive Delay eligibility from an IQ of 80 or below to the federal standard of an IQ of 70 or below.¹⁶ This was viewed as leaving a number of students un-identified and un-served.

¹⁶ The IDEA definition for the category of Mental Retardation has always included an IQ of 70 or below. Prior to the 1997 reauthorization of IDEA, Ohio used the term Developmentally Handicapped (DH) with one criteria for eligibility being a standard score of 80 or below on an intelligence test . After 1997 the term for mental retardation eligibility was changed in Ohio to Cognitive Delay with one criteria being a standard score of 70 or below on an intelligence test.

The Arid Pond administrator, Ms. Smith, stated that the districts field coordinators for the Dynamic Indicators of Basic Early Literacy Skills (DIBELS)¹⁷ and Positive Behavioral Supports (PBS) say the number of referrals for special education is going down but there is no data analysis to support this yet. However, the Arid Pond intervener, Principal Coin, did provide some data to support a reduction in referrals. She provided me with a copy of a PowerPoint presentation that showed a reduction in referrals to special education. She said teachers put little effort into interventions prior to OISM (Ohio Integrated Systems Model – see definitions). In her school, after OISM implementation for two years, data for the 2006-2007 school year showed that of the 76 referrals to the Problem Solving Team only 13 were referred for a multifaceted evaluation and only 7 qualified for special education. To my question: “Once you sort of got the program established, did you feel that there were some students that actually got some services earlier in their elementary career versus being identified for LD in third or fourth grade?” Ms. Coin said:

Correct... and we really talked, and the DIBELS was a huge indicator for us, we used the DIBELS for first and second grade and third grade to identify at-risk students... and we had a literacy coach who went in and what she did, she created protocols for targeting those kids in small groups... and we used outside millage tutors who were also trained in the same protocol, so that everybody was on the same page....and those kids got intensive intervention for five days for ten minutes each and they were either in a group of one or a group of two.... so it was

¹⁷ Dynamic Indicators of Basic Early Literacy Skills (DIBELS) is a screening and intervention tool to address delays in literacy skills related to reading development.

very targeted... and we saw a huge... We started in December with our December DIBELS data and by Spring those kids were up to the grade level they needed to be on with the targeted interventionso, had the DIBELS data had come in the past like it did in the Winter, you might sit down with the teacher and say you know these are at-risk kids. The teacher will go back and do the same instruction that they always had been doing, which means those kids are just getting further behind... so then they go to third grade... now they're not (*just*) reading a half a grade level below, they are reading a year or two years behind...so then the third grade teacher is like... 'you know that I need to refer this kid to special ed'... Where it really wasn't necessarily that the child needed special ed. The child needed more time and more instruction and different instruction in order to learn the material.

Principal Coin also provided information on behavioral interventions. Her elementary school used a software package called "Student Connections from Carter-Pertaine, Inc." to monitor where in her school behavior problems were occurring and by whom. She reported that her school went from 121 office referrals for inappropriate behavior in 2006 to only 22 office referrals in 2007.

The Blue Ocean administrator, Ms. Bates, was very concerned with overidentification of students for special education. When I asked her "Could you describe any issues your district is having with the overidentification of students for special education in general regardless of disproportionality? She stated:

Well, I would think there is an issue regarding that across the nation not just in Ohio...Not just in our district but across the nation. We have too many children

that are being identified into special education. If you look at the expectation from the Feds, they wouldn't want to see any more than 5 percent of your population identified either under IDEA or Section 504, but a lot of districts and our district being one of them, we're double or triple that. We're nearly 15 percent special ed. and then you count on top of that the 504 students and we are well over that 5 percent.... The reason for it?... Of course, I could give you my opinion and I'm not sure I'm even going to do that today, but there is a whole host of factors that could be impacting that.

When asked "Do you have a sense that doing Response to Intervention approaches might help reduce that number in your district?" Ms Bates stated: "In my experience, in my opinion and my belief, if Response to Intervention was a true buy-in by the Intervention – by the staff facilitating that intervention... then in my opinion it should have a significant impact. The challenge is the validity to the intervention."

The Blue Ocean intervener believes the district is working hard to reduce referrals to special education. Ms Lilly is concerned that some students should be identified as Emotionally Disturbed (ED) because they lack adequate services to meet their needs.

When asked about overidentification the Cold River administrator said: "...it has been a concern for the last couple of years. We are now at 13.3 percent special education. That's the lowest though it's has been in a couple of years. Three years ago it was at its height almost 16 percent. It was like 15.8 or 15.9 percent and so they dropped it down over the last two years by 2 percent. This is due to the collaboration between the general and special ed staff, the tiers of intervention across the district, and an understanding of

how that can work. We have also changed our IAT process. I think that has helped a lot as well.”

Mr. Dean the Cold River intervener stated: “When you have processes in place along the way that let you take more proactive deliberate steps to fixing problems before you give up on them, I think you have fewer referrals and therefore fewer issues of identification.”

Two of the districts that chose not to use EIS funds gave examples of programs or services that they believed reduce referrals to special education. The Elevated Mountain administrator, Mr. Edwards said: “We try to use the IAT (Intervention Assistance Team) team to eliminate the over population of students being identified for special education. As a principal last year ...you know...the Response to Intervention and the IAT team. That’s when we really started putting it together.” The Elevated Mountain intervener, Ms. Fisher said some students did not need testing because of the progress they make with DIBELS in school and the use of reading materials provided to parents to help their children with reading skills at home. She stated: “... when we implemented, we found that some children that were referred we didn’t test them because they were making progress.” Flat Hill administrator, Ms. Lander, stated that some buildings have reduced referrals to special education because they have an active intervention team while other buildings do not serve students until special education is ruled out after an assessment. The Flat Hill intervener, Ms. Backus, mentioned a specific program called *Voyager*, in which “Students are making nice gains and they are not needing to even go for a multifactored evaluation let alone special education.”

The Cold River intervener stated that he believes that “the programmatic initiatives are not getting at the issue of overidentification nearly as well as professional development.” He prefers funds be used for training staff to be effective Professional Learning Communities where academic and behavioral issues can be addressed before referral to special education.

The concern regarding the overidentification of students as disabled continues as the special education population grows and the expense of serving these students increases. It is difficult to find any clear definition of what percentage of a school population constitutes an unreasonable number of students with disabilities. I have yet to find any government statement setting an expected level because it would violate IDEA to set such limits when any child referred must be considered and served if eligible. Nationally the percentage of students enrolled in public schools for the 2007-2008 school year was 13.4 (Digest of Educational Statistics, 2009).

Using the most recent data available (Ohio Department of Education, 2010), the average percentage of students with disabilities (2008-2009) is 15.1 for Ohio while the average for California is 8.9. Some of the large urban districts in Ohio have over 20% of their school population receiving special education services. The ODE Annual Report Cards for the six districts in this research had the following percentage (rounded for confidentiality) of their students receiving special education services: Arid Pond (18), Blue Ocean (14), Cold River (15), Deep Valley (19), Elevated Mountain (19) Flat Hill (12). Three of these districts have a higher percentage of special education students as compared to the state percentage of 15.1 and all are higher than the California average of 8.9.

All six of the administrators interviewed thought they were serving too many students in special education. These administrators support the continuation of IATs, pre-referral interventions and intervention models such as the ODE Comprehensive System of Learning Supports (see Appendix K) and RTI as approaches to address the needs of at risk students early and prior to being considered for special education and hopefully reduce the need for special education for some students.

The six interveners also agreed that these pre-referral interventions can help reduce the need for special education. The Arid Pond intervener had data to document the early identification and treatment of academic and behavioral problems in one elementary school. This created a reduction in office referrals for behavior problems and fewer students being referred to special education as compared to the previous year. However, the mental health therapist at Blue Ocean thought there were some emotionally disturbed students not receiving needed special education services. One of the cited districts, Cold River, attributed a reduction of the number of special education students by 2% over a three year period to the comprehensive student support service models being implemented.

Disproportionality.

It is important to note that the term disproportionality was developed to look at either over or under representation of minorities or second language learners in educational groups. For example, Donovan & Cross (2002) include information on the under representation of African Americans in gifted programs. The U. S. Department of Education's Office of Special Education Programs (OSEP) (2008) put out a guidance document to clarify a number of issues regarding Early Intervening Services. This

included now calling this policy Coordinated Early Intervening Services (CEIS) and focusing primarily on overrepresentation.

OSEP clarified that “For the purposes of §300.646, it is acceptable for States to consider only overrepresentation by race or ethnicity, rather than underrepresentation by race or ethnicity”. OSEP also specified that only six disability categories needed to be considered: Specific learning disabilities, mental retardation, speech or language impairments, other health impairments, autism and emotional disturbance.

OSEP also clarified that there are two sections of IDEA requirements regarding disproportionality. One section uses the term “disproportionate representation” and only focuses on overrepresentation based on the identification process for special education eligibility. Each state must evaluate and report this to OSEP in their annual State Performance Plan (SPP). The other section uses the term “significant disproportionality” and provides procedures to be eligible to use EIS funds to address disproportionality in general. The following quote from OSEP’s guidance document to help school districts implement Coordinated Early Intervening Services clarifies these two sections of IDEA. (U. S. Department of Education’s Office of Special Education Programs, 2008) ¹⁸

It is important to consider some distinct differences between the requirements of 34 CFR §§300.600(d) (3) and 300.646. For example, under 34 CFR §300.600(d)(3), SPP Indicators 9 and 10 only require States to look at **identification data**, including by disability category, and are only concerned with disproportionality that is the result of **inappropriate identification**. In contrast, for purposes of determining whether an LEA must set aside 15 percent of its IDEA funds for comprehensive CEIS under 34 CFR §300.646(b) (2), States must

¹⁸ For clarification this author provided the bold emphasis.

examine the numerical data in four analysis categories -- identification of children with disabilities, identification of children with disabilities in a particular impairment category, placement of children in particular educational settings, and the taking of disciplinary actions. Further, 34 CFR §300.646 requires the identification of **all significant disproportionality**, whether or not it is the result of inappropriate identification.

Arid Pond was cited in 2005-2006 for over-representation of African Americans receiving services in the IDEA category of Mental Retardation (called Cognitive Disability in Ohio) and in 2006-2007 in the category of Specific Learning Disability. Due to a clerical error with their EMIS¹⁹ reporting system, they were also cited for over-representation of African Americans in the Ohio category called Other Health Impaired Major. The clerical error was discovered and the issue resolved. The Arid Pond administrator noted that the on-going monitoring of the EMIS process to prevent errors takes an inordinate amount of administrative time.

The Arid Pond administrator pointed out a number of concerns with the process of determining which districts are cited for disproportionality. She explained that the data used to make the determination is two years old so it is difficult for districts to backtrack to determine why the disproportionality occurred and what areas need to be addressed. “Sometimes we can’t even find out who the kids are!” The administrator explained that it also is difficult to determine the degree of disproportionality. Was it one too many African Americans placed in CD or three? As a result they proceed to do the best they

¹⁹ Education Management Information System (EMIS) is a statewide data collection system for Ohio's primary and secondary education schools.

can to provide pre-referral interventions for at risk students and hope this resolves the disproportionality. In the case of the SLD citation Arid Pond was only slightly over the criteria set by Ohio for disproportionality so Arid Pond made adjustments and was not cited in the 2007-2008 school year. It is important to note that the cutoff point of a risk ratio of 2.0 was changed by ODE to 3.5 for the 2007-2008 school year making it easier to meet compliance.

The Arid Pond intervener did not respond directly to the issue of disproportionality. She did indicate that she believed that implementing the Ohio Integrated Systems Model which included the use of DIBELS for academic concerns and Positive Behavioral Supports for school climate and behavioral concerns helped address overrepresentation of students in general in special education services.

The Blue Ocean administrator explained that her district was initially cited for disproportionality for too many African Americans placed in the category of Emotional Disturbance especially African American males. Blue Ocean contracted for mental health services with an external mental health agency to address this issue. At the same time they appealed the citation. Because the formula to determine disproportionality requires a comparison to other racial and ethnic groups it does not work in districts that are predominately from one group. In Blue Ocean the primary racial group is African American and there are too few other ethnic or racial groups for comparison. As a result the citation was withdrawn. Now Blue Ocean went from being required to use 15 percent of their Title B funds for EIS to having the option to use them or not use them. Blue Ocean decided to continue to use EIS funds to support the provision of mental health

services to their students. The Blue Ocean intervener was aware that because of the racial make-up of the district disproportionality issues were unclear.

Cold River was cited for overrepresentation of African American students in the area of Specific Learning Disability in 2006-2007. They resolved this issue by the next school year, so they now had the option to use or not use EIS funds for prevention. The Cold River administrator supported the continued use of these funds to support mental health services and grade level collaborative teams functioning as Professional Learning Communities.

However, at the state level there does not appear to be a strong commitment to addressing disproportionality. ODE received a number of complaints from superintendents, pupil personnel directors and special education coordinators throughout Ohio regarding the disproportionality policy under IDEA-2004. As a result of these complaints ODE set up criteria for disproportionality with a very high threshold by changing the risk ratio from 2.0 to 3.5. Based on the Annual Performance Reports (Ohio Department of Education, 2010, February) sent to OSEP for the last three school years beginning in 2007-2008, no district in Ohio has been cited for disproportionality in any of the four areas (see Table 5). Prior to the 2007-2008 school year when a district was cited, compliance monitoring was minimal. Two self-monitoring checklists were sent to the district to be completed by the district and someone representing parents.

Table 5

Disproportionate Representation in Ohio

LEAs	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Total	987	982	941	931	942
Cited	7	22	0	0	0
Due to inappropriate identification	0	0	0	0	0

Note. Indicator 10: Percent of districts with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. Ohio’s Part B State Annual Performance Report (APR) (Ohio Department of Education, 2008, February & 2010, February)

ODE provided an explanation of why they increased the threshold for disproportionality in their most recent Part B Annual Performance Report for 2005-2010.

OEC previously identified LEAs with overrepresentation based on a risk ratio of 2.0 or higher, using a group-size rule (n=30) that aligns with the calculation of Adequate Yearly Progress (AYP) for racial and ethnic subgroups. However, use of this ratio resulted in ongoing identification and mandatory redirection for the same group of LEAs, in which, in many cases, just a few court-placed students or a large family transferring into the district had a significant impact on their risk ratios. To prevent the identification of false positives, for FFY 2007 ODE raised the risk ratio to 3.5 for significant overrepresentation, based upon feedback from the stakeholders most directly affected by the requirements for this indicator (Ohio Department of Education, 2010, February, p. 30).

The ODE data as shown in Table 5 clearly documents the elimination of disproportionality as a problem for Ohio. No district in Ohio has been cited for disproportionality for the past three years and Ohio has never been cited because of the identification process.

The question is: Were districts no longer cited after the 2006-2007 school year because of the increase in the risk ratio cut off from 2.0 to 3.5, the comparison to all other students not just White students, and the increase in the “group size rule”²⁰ from 10 to 30, or because of the actions taken by the districts to decrease the number of minorities placed in special education categories?

In 2005-2006 Arid Pond was cited for disproportionality in the CD category. Because the criteria remained at a risk ratio of 2.0 the next year the actions and interventions implemented by Arid Pond that reduced the risk ratio to below 2.0 can be considered the cause of this reduction in disproportionality. However, the Arid Pond interventions to address the slightly over 2.0 risk ratio of African Americans served in the SLD category cannot be considered the reason there was no citation the next year because the criteria had been changed to a risk ratio of 3.5. Only if the disproportionality had become considerably worse would Arid Pond have been cited and in fact no districts in Ohio were cited in the 2007-2008 school year.

Cold River was also cited in the category of SLD in the 2006-2007 school year. As in the case with Arid Pond it would appear that the most likely reason Cold River was not cited in 2007-2008 was because of the change in disproportionality criteria. This does

²⁰ Districts with 30 or fewer students in a minority group are not included for disproportionality calculations. The group size rule originally was 10.

not mean that there was not an impact of the EIS interventions on disproportionality. The Cold River administrator, Ms. Foster, was new to the district and did not have the specific risk ratio figures. This researcher has been unable to retrieve these specific risk ratios from ODE or OSEP. Therefore, there could have been a reduction in the risk ratio.

Blue Ocean was cited in the category of ED in the 2006-2007 school year. They appealed the citation and it was withdrawn after a few months so no causative effect on disproportionality as a result of the school based mental health interventions can be made.

General and special education collaboration.

Because EIS is funded with special education dollars but requires implementation by general education staff, all interviewees were asked to describe how general education staff and special education staff are collaborating to implement EIS. The three administrators from the cited districts had positive comments about collaboration. Arid Pond and Blue Ocean stated that general staff and special education staff collaborated well during the OISM training by the State Support Team. The Cold River administrator said: In the “past two or three months, general ed and special ed staff have come together and created a real team oriented process”. The interveners from the cited districts had differing views. The intervener from Arid Pond said the general education teachers try to push the intervention process on to the special education staff. The Blue Ocean intervener said that in the two schools she works in, the ED teacher works well with the general education teachers who support inclusion. The Cold River intervener was not directly asked this question by this interviewer during the interview. However, during informal conversations there was a discussion which pointed out that the Cold River elementary schools had excellent collaboration. The staff members at the middle schools were

beginning to collaborate more effectively. However, some of the high school staff was struggling with the process of bringing general educators and special educators together to problem solve for at risk students.

The districts that did not use EIS funding had more negative comments regarding collaboration. The Deep Valley administrator said that there was friction at times because some of the regular educators are concerned with all the time spent on interventions when they believe the student is eligible for special education. This was supported by the Deep Valley intervener who said: “The older teachers that have permanent certification still think special education and general education are in separate bubbles. The new teachers have to renew certification every five years and are being taught that special education and general education are now under one bubble”. The Elevated Mountain administrator, Mr. Edwards, said the general education teachers and special education teachers were “totally separate... There is not a lot of interaction with those two populations.” and the general educators’ attitude toward students with disabilities was “you (special educators) take care of those kids”. He lamented that fact that his district had training in co-teaching for special and general education teachers and the teachers were getting excited about the collaborative process, but the process was delayed and has yet to be implemented. The Elevated Mountain intervener said that the general education teachers like the DIBELS but are reluctant to do the data collection and monitoring. She thought a good use of EIS funds would be to hire and train paraprofessionals to implement DIBELS. The Flat Hill administrator said there was a clear divide between special education and general education at the administrative level as well as the school level with little collaboration and team implementation of integrated instruction or services. This was supported by the

intervener who said Flat Hill needs to keep working on collaboration. “My three schools do not have a history of active teams with general and special educators collaborating.”

Parents and early intervening services.

Because parents were very active in the initial legislation that created services for students with disabilities in the early 1970s, I was interested in their knowledge of and involvement in EIS. When I looked for written documents to provide parents with information on EIS at the state and local level, I did not find any. All of the interviewees indicated that they believed that few parents have any awareness of EIS or where the funding comes from for intervention services. The administrator in the Arid Pond School District, Ms Smith, and I independently reviewed the State of Ohio due process document that informs parents of their rights under IDEA called *Whose IDEA is This? A parent’s guide to the Individual’s with Disability Improvement Act of 2004 (IDEA)* (Ohio Department of Education, Office of Exceptional Children, 2008). Neither of us found any information or reference to EIS.

At the Ohio School Psychologist Association’s fall meeting on November 5, 2009 the Assistant Director of Procedural Safeguards, Ann Guinan from the ODE Office of Exceptional Children said *Whose IDEA is This? A parent’s guide to the Individual’s with Disability Improvement Act of 2004 (IDEA)* will be revised to include the changes in SLD eligibility to reflect the need to include empirically based interventions as part of eligibility such as RTI. However, there was no mention of including EIS in this document.

In Arid Pond, if the intervention process takes too long, the parents are concerned that their child is not being placed quickly enough. This was supported by the Arid Pond

intervener who said some parents she worked with were not happy with tier two interventions and wanted their children identified for special education services. Two parents sent letters saying they want testing and to skip interventions. By contrast, the Cold River administrator said: “the parents are thrilled with intervention services but do not know where the funds come from.” Many of these parents resist special education identification for their children but want the interventions to continue to help them progress educationally. The Cold River intervener agreed that parents respond well to specific interventions especially those that they can help implement at home. The Blue Ocean administrator described state guidelines as allowing thirty days to do RTI and if this intervention is not shown to be effective then eligibility begins. She views parents as concerned that regular class interventions through EIS or RTI slows down the eligibility process for special education services.

The districts not cited for disproportionality talked about how parents react to pre-referral interventions. All three administrators agreed that parents are not well informed about the intervention process and generally request and want special education when their child is not doing well in school. Mr. Edwards said: “I don’t know who they (*parents*) are taking to but it seems like they are always trying to get their child tested for special ed.” The interveners, however, felt that when parents are well informed about the process, they like the fact that there is no delay in getting intervention and therefore support the team’s efforts. For example, Ms. Backus from Flat Hill said: “I would say that parents seem to be very supportive of the process. Once we let them know how this came about, that we were looking for consistencies and supports to be at all levels, parents really seemed to like the process. I think what they like...is that there is not going

to be a delay in intervention. The Elevated Mountain intervener, Ms. Fisher, reported that some parents do not want their child identified as a special education student and are more accepting of interventions.

The following quote supports the concerns expressed for the interviewees regarding parent knowledge and participation in EIS policy. This is the consensus at a forum on EIS policy held in Bethesda, Maryland on May 12-14, 2008. Participants included 20 special education administrators, 6 members of the National Association of State Directors of Special Education (NASDSE) and 7 members of the Federal Office of Education's Office of Special Education Programs (OSEP). They summarize their parent involvement concerns.

The consensus at the forum was that some parents of students with disabilities are concerned that taking money away from special education to serve students who are not already identified as needing these services diminishes their children's education. Parents are also concerned about the possibility that students who need special education services are not being identified because of EIS and response to intervention programs, resulting in loss of parental rights under IDEA. Participants felt that, in general, parents of students who are struggling in school are unaware of EIS and what it might mean for their children.

The forum participants believed that it is important to broaden the outreach from education systems at all levels (federal, state, local and building) to parent groups. This should be done through technical assistance that is equivalent to what the education community receives in order to provide the same information (Burdette, 2008).

Beliefs about early intervening services.

The last question in the interview was: What are your feelings or opinions about EIS Policy? This provided the opportunity for interviewees to discuss their beliefs and reactions to this policy.

The Arid Pond administrator agreed with and supported EIS but would like the funding to come from general education funds. She pointed out that this year her district experienced a drop of about \$250,000 in state funding. When that is combined with the close to \$200,000 IDEA Title B funds she is mandated to use for EIS, her district has about \$450,000 fewer dollars to serve students with disabilities. She had to make major cuts with regards to supplies and education materials for special education services. The Blue Ocean administrator related EIS to RTI. She said: “RTI was a lot like No Child Left Behind. It’s kind of hard to swallow. It’s kind of tough to implement. But in all honesty, it’s something and it is a starting point.” Cold River said: “I think it is a great policy and I think it’s ashamed [sic] if districts don’t know about it or don’t use it.”

Implementers in the three cited districts had some relevant comments. The Arid Pond implementer said “I think that it really needs to become part of college curriculum for our teachers. I think that they need to be versed in the tiers and different levels of intervention.” This points out the importance of linking a knowledge base about EIS with pre-service learning for future educators. The Cold River implementer felt EIS was a good idea poorly implemented. “It is hard to say how somebody from the federal government can figure out what is going to work in 612 local school districts in the State of Ohio”. A concern about how local school districts implement this federal policy led to the development of this research.

Districts not cited had similar concerns with the funding. Both the Deep Valley administrator and implementer believed this funding policy was unfair. The administrator said he is expected to do more with fewer dollars and needs all of his special education dollars to meet transportation costs as well as the cost of out-of-district placements. The intervener said you are “slighting one population for another...kind of like robbing Peter to pay Paul”. Both the administrator and intervener the Elevated Mountain District were supportive of any initiative that helps students. The Flat Hill intervener said she did not know how EIS would work in her district but knows that early intervention is critical for many at-risk students while the administrator said: “I think it is a great initiative, better than a ‘waiting to fail’ policy”.

Archival Information

Prior to my interviews I informed each interviewee that they were welcome to share any written information such as policies and procedures or other documents related to EIS. Only three of the educators interviewed provided archival information but the information shared was useful. Ms. Smith from Arid Bond shared a number of documents related to disproportionality that are part of the Focused Monitoring process by ODE when they review a districts compliance with IDEA. These documents included: Disproportionality Self-Review Citation Guidance, a list of 22 Disproportionality Questions and the Disproportionality Section of a Parent (Guardian) Input form. Also provided by Mr. Smith was an EMIS form that helped me understand how data on the percentage of time a student with a disability spends in a Least Restrictive Environment (LRE) is calculated. This relates to two of the Ohio disproportionality in placement categories of “outside regular classroom more than 60 percent of the school day” and

placement in a “separate facility”. The last form provided by Ms. Smith was a table called *Part B State Performance Plan (SPP) and Annual Performance Report (APR): Part B Indicator Measurement Table*. This showed the 20 areas that ODE must measure to report to OSEP annually regarding special education services. Items 9 and 10 are related to disproportionality. Item 9 states: “Percent of districts with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification.” Item 10 states: “Percent of district with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification” (U.S. Department of Education (n.d.).

Intervener, Ms Coin, also from Arid Bond shared a PowerPoint presentation that provided data showing the reduction of office referrals because of their behavioral intervention program (*Student Connections* from Carter-Pertaine, Inc.) and the reduction of referrals to special education because of their academic interventions for at risk students. The intervener at Flat Hill provided written materials on their IAT process.

Most of the additional supportive information and data regarding EIS came from three sources: U.S. Department of Education, Ohio Department of Education, and the Ohio Department of Mental Health.

Immersion in Special Education Culture

One aspect of qualitative research is immersion into the life and culture of the subjects you are studying to gain knowledge, empathy and understanding of their world (Hancock & Algozzine, 2006). The culture I became part of is that of the educator that address the needs of at risk students especially directors of special education or pupil

personnel services and individuals providing interventions such as teachers, counselors, school psychologists and behavioral/mental health interventionists.

I was already immersed in much of this culture in my current professional life. As a licensed psychologist, a nationally certified school psychologist and licensed school administrator, I maintain membership in local, state and national organizations for these fields. I received trade journals and attended workshops, conferences and webinars related to the educational and mental health needs of at risk students. I have also been active in special education organizations through the Council for Exceptional Children (CEC) especially the Council of Administrators of Special Education (CASE). The ultimate immersion experience occurred when I became the Interim Coordinator of Special Education for a local school district for 6 months.

My dissertation topic led me to focus my attention on EIS policy during discussions with colleagues, when selecting workshops at local, state or national conferences, and when attending organizational meetings. The insights I gained from this process helped with the discovery process during the development of this dissertation. For example, at the International CEC Convention in Louisville, Kentucky, I learned at a paper presentation (Elswick & Clark, 2007, April) that the State of West Virginia set up state wide policies and procedures to address disproportionality using 15 percent of their IDEA Part B funds in the counties that had the largest minority populations as compared to the district approach in Ohio. There were also presentations on how California and Louisiana were addressing disproportionality. At other local, state or national conferences I attended workshops, papers, symposiums and poster sessions on topics

related to EIS such as school based mental health, RTI, PBS, DIBBELS, IDEA funding, special education policy as well as presentation on the achievement gap.

I was struck by what little attention was given to EIS at conferences and meetings especially as compared to Response to Intervention (RTI). Most of the conferences I attended had presentations on RTI and a few discussed disproportionality but none were titled Early Intervening Services or focused specifically on this section of IDEA. At state day long meetings I attended in 2007 and 2008 provided by the Ohio Council of Administrators of Special Education (OCASE) and the Ohio Association of Pupil Services Administrators (OAPSA) with IDEA up dates from the ODE Office of Exceptional Children, there were no discussions regarding EIS.

In summary the interviews and archival data provided interesting results for this research. One unexpected outcome was that districts continued to designate EIS funds for intervention when they had corrected their citation for disproportionality. All three cited districts continued EIS services when continuation was no longer required. Even Blue Ocean that appealed their citation and won continued mental health services using EIS funds. It was also informative to learn that Blue Ocean used all of their EIS funds to help students at risk for behavioral or mental health concerns, and Cold River and Arid Pond used some of their EIS funds for this purpose as well.

From the archival data it was important to learn that ODE raised the benchmark that determined disproportionality at the end of the 2006-2007 school year and no district in Ohio has been cited for disproportionality after that change. Another change occurred in 2008 when the Office of Special Education Programs (OSEP) said districts only

needed to focus on six disability categories instead of thirteen regarding disproportionality and only needed to address overrepresentation not underrepresentation.

A recurring theme for all districts was that EIS is important and has the potential to reduce overidentification of students with disabilities, but the way EIS is funded using only special education dollars is unfair. Having to shift special education funds to serve general education students was one reason given by administrators who did not implement EIS. The three districts that decided not to use EIS funds did have some intervention services although these services varied greatly from school to school. Additional themes related to policy implementation, parent involvement, funding, and administrative work load are discussed in Chapter V.

CHAPTER V

DISCUSSION AND IMPLICATIONS

There are four major policy themes that emerged during the interviews regarding Early Intervening Services: policy implementation is confusing; funding is punitive; implementation is unfair and inconsistent; and the workload created is excessive. The discussion that follows reviews these four issues.

Policy Implementation

EIS policy was initially confusing for many of the educators interviewed in the six districts especially regarding disproportionality. Even the name was confusing. Policy implementation is impacted by the names and acronyms chosen to label a piece of legislation. What the term “early intervening service” meant and who it served was initially confusing to the educators interviewed for this research. Ms Fisher from Elevated Mountain, a non-cited district, when asked what early intervening services were available in her district said: “I don’t know. Do you consider a pre-school program as an early intervention?” One administrator and three interveners asked if EIS included pre-school programs and wanted to describe some of the pre-kindergarten programs that were provided by or housed in their school district. Many preschool programs are described as “early intervention programs” because they come early in a child’s educational journey.

Also, Part C, of the Infants & Toddlers section of IDEA-2004, provides grants to states for “Early Intervention Services” which focus on children birth through age two (U. S. Government Publication, 2006). Once it was explained that the EIS regulation specifies that the focus is on kindergarten through third grade, but can apply to students through the grade twelve, the interviewees were able to focus on and describe EIS services for the school age population. Most districts described pre-referral to special education screenings and interventions as early intervening services. For example, the administrator from another non-cited district, Flat Hill, stated: “One of the things that we have at the elementary level...pre-reading skills are screened through the DIBELS program...that is, all children kindergarten through third grade... and based upon those results students that are found to be at risk in any of the benchmark skills for the DIBELS are then identified as needing additional assistance and they are provided with what is called a Voyager Passport Reading Intervention Program.”

Perhaps because of this confusion there was a name change when the EIS regulations began to be implemented. In the Federal legislation IDEA-2004 is referred to as Early Intervening Services (EIS) and is described as comprehensive coordinated early intervening services. I have used the acronym EIS throughout most of this document when referring to the legislation. However, when the Office of Special Education Programs (OSEP) began to provide guidance documents to educators, they used the acronym (CEIS) for Coordinated Early Intervening Services (U.S. Department of Education, 2008, September) to refer to this legislation especially at the district level. The

intent appeared to be to convey that EIS was a broad coordinated initiative with multiple intervention services not just one program or service.²¹

As explained in Chapter IV what constituted disproportionality was confusing for interviewees because there are two sections of IDEA-2004 (34 CFR §§300.600(d) (3) and 300.646) that address disproportionality. The first section has a narrow definition addressing just the identification process for special education eligibility. The second has a broader meaning of disproportionality including the over-representation of minorities in a number of areas. These areas include: specific IDEA disability categories, certain educational settings, disciplinary actions, and all disability categories combined.

It is important to understand a new policy if implementation is to be successful. As a result of confusion regarding what constitutes EIS, the three districts required to implement EIS used some of the funding for professional development. Michael S. Knapp (2003) advocates that professional development is a pathway to successful policy implementation. “Want to improve teaching and learning in public education? Mount an improvement initiative that centrally features high-quality professional development, reflecting the latest consensus and research evidence concerning ‘best practice’ (p. 109). By receiving professional development regarding how the Ohio Integrated Systems Model (OISM) and Response to Intervention (RTI) fit into the EIS initiative and what procedures needed to be followed to address disproportionality, cited districts could determine what service might address disproportionality. Two of the administrators in the

²¹ Although the title of this legislation change during the writing of this document from Early Intervening Services (EIS) to Coordinated Early Intervening Services (CEIS) I have used the acronym EIS for Early Intervening Service throughout this document for consistency with the exception of quotes and definitions.

three districts not cited had an understanding of EIS but one had not heard of EIS. The interveners could describe intervention services for at risk students in their district but had no knowledge of EIS or had briefly heard about EIS from education organizations or publications. This is important because if those individuals responsible for implementing a policy have poor training and information on the policies purpose and how it fits into their responsibilities they will avoid implementing it.

Funding

All interviewees perceived special education funding in Ohio as inadequate. Arid Pond and Flat Hill administrators pointed out that all local districts in Ohio had a 25 percent reduction in special education dollars in the 2008-2009 school year because a supplemental grant had ended. These six districts would need to take an additional 15 percent, or between approximately \$80,000 to \$260,000 from their special education budgets, if they chose to or were required to implement EIS. This heightened the interviewee's view that EIS funding is a disadvantage, "take away," rather than a support.

The funding regulations for EIS do allow blended funding to facilitate the implementation of larger EIS projects. Ms Smith from Arid Pond mentioned combining EIS funds with Title I funds to support a pilot program called "Fast Forward." The Cold River administrator, Ms. Foster, said they combined general fund dollars with EIS dollars to support their school based mental health project.

For the three districts where EIS was optional, administrators and interveners were not convinced that there was any advantage to taking funds designated for identified students with disabilities and shifting those funds to unidentified at risk students. Mr. Burns from Deep Valley stated that he needed those funds for transportation costs and for

students with disabilities served out-of-district. They also argued that they already had funding from other sources to support their IATs and pre-referral interventions.

To support EIS initiatives for at risk students, the Cold River intervener described cutting special education funding to provide Autism and Applied Behavioral Analysis consultants and the Arid Pond administrator stated that she had to cut “my supplies and materials” to shift funds for EIS. The three districts cited for disproportionality agreed that disproportionality needed to be addressed, but because the interventions are implemented in a general education setting, they believed funding should come from general education budgets not special education budgets. This view was supported at a policy presentation at the Council for Exceptional Children’s (CEC) Annual Convention and Expo in Boston by Deborah Ziegler, the CEC Associate Executive Director of Policy and Advocacy Services. She quoted, in her PowerPoint presentation, a CEC policy recommendation.

CEC recommends that Congress reinforce the concept of Early Intervening Services (EIS) that currently exists in ESEA and IDEA by emphasizing the shared responsibility between general and special educators and the educational system to support struggling learners. Furthermore, CEC recommends that Congress include a comparable funding structure for EIS in ESEA as currently exists in IDEA where a certain percentage of funds can be used to support EIS activities, especially where instances of disproportionality in special education exists (Ziegler, 2008).

It is clear from the comments of the administrators and the interveners that they were not highly motivated to implement EIS because they viewed the funding for EIS as

punitive. Their districts would not be receiving increased funding to implement EIS.

They would have to shift funding already allocated to other projects or materials to a new initiative.

Fairness and Consistency

Cochran and Malone (1999) in their discussion of public policy implementation and operations state: “It is usually much easier to implement a policy if it is clearly stated and consistent with other policy objectives” (p. 51); and “Another factor that facilitates the implementation of a policy is its perceived legitimacy” (p. 52). Interviewees questioned the consistency and fairness of EIS policy that mandated that some districts use 15 percent of their Part B funds for EIS while for other districts it is not mandated. During a conversation this author had about EIS with a superintendent of a Northeast Ohio district cited for disproportionality, the superintendent said it was unfair that his district was cited because a few minority foster children had moved into his district.

The legitimacy of EIS funding policy came into question when only special education budgets were used for funding. The Northeast Ohio educators interviewed in this study supported a funding approach that would be fair to all. Ms. Smith from Arid Pond said: “It should be shared funding. There should be funding to help kids that need help. But I don’t understand why special ed takes the hit. If parents see that the only way to help their child is to label them special ed then we have a problem.” The Deep Valley administrator, Mr. Burns, decided not to use EIS funds for at risk students. While discussing his special education budget he said: “...the special education budget is being cut so I’m doing more with less and then to take 15 percent of my less... I think there are Title programs that can support that.” He also said: “I guess our actions sort of

demonstrate our position... to take 15 percent of a budget for special education that I can utilize ...I need every dollar I can possible get my hands on just to support out-of district placement.” The intervener in Deep Valley was more direct. “It is like robbing Peter to pay Paul...slighting one population for another.”

During the planning phase when EIS policy was developed, it might have been better to mandate that all districts implement EIS. Because EIS requires collaboration between general education and special education, funding could have come from both special education budgets and a general education budgets such as Title 1 or No Child Left Behind. However, the policy could still be viewed as another “unfunded mandate” from the federal government if no additional funds were allocated for EIS. Certainly there would be more consistent implementation in all six districts in Northeast Ohio if each district received an additional 15 percent for EIS rather than just shifting existing funds from special education to general education.

Another inconsistency in the policy is that when the majority student population of a district is a minority in the larger population such as a school district that is 98 percent African American, it does not get cited for disproportionality. One irony in EIS policy is that when a district is predominantly of one ethnic or racial group there is no comparison population so the disproportionality risk ratio formula adopted by Ohio from Westat/OSEP (2004) does not work. The student population in three of the six districts in this study is over 90 percent African American.

One of these districts, Blue Ocean, with about 10 percent of the students classified as White or other, was initial cited for disproportionality in the Emotional Disturbance

(ED) category and then after an appeal the citation was withdrawn. Ms. Bates described this situation in her district:

...we were found to be disproportionate in the area of our African American male population being over identified. Being the Director of Special Education, I did some research on that and discovered that the formula that the Ohio Department of Education used did not fit the situation here in Blue Ocean...And after much discussion among the mental health agencies here in our county, the superintendence, myself, staff in this district and the staff at the Ohio Department of Education, our districts name was removed from the disproportionate category at the state level.

Blue Ocean, however, voluntarily continued EIS mental health services. The other two districts with over 98 percent of their students identified as African American could not be cited for disproportionality because the formula did not apply.

Disproportionality in special education services has been an issue since 1968 as described in the literature review for this research (Dunn, 1968; Mercer, 1973). Disproportionality continues to be a concern when there is clearly still overrepresentation at the national and state levels for African Americans especially in the high incidence disability areas such as Mild Mental Retardation, Emotional Disturbance and Specific Learning Disabilities (Donovan & Cross, 2002). These two predominantly African American districts, Deep Valley and Elevated Mountain, had the option rather than a mandate to use EIS funds because there was no comparison group to determine disproportionality. They chose not to shift their special education dollars to prevention and intervention initiatives because EIS would reduce their special education budget. As

a result, one of the racial groups that this legislation was established to help because of disproportionality, African Americans, is less likely to receive EIS services to address any academic and behavior challenges earlier in their school experiences or to improve the validity of the identification process to potentially reduce their overidentification for special education services.

If all school districts, regardless of minority status or disproportionality, were required to implement EIS or were motivated to implement EIS because they could receive additional funding then all schools would have the opportunity to address the concerns of at risk students. Perhaps then school personnel would perceive EIS funding as fair and consistent. This is important because as Cochran and Malone (1999) point out: “There are a series of decisions and actions that are necessary to put a policy into effect, and as in chess, miscalculation in the original design strategy or in implementation may bring the entire effort to naught’ (p. 51).

Workload

For districts that were cited for disproportionality compliance was mandatory. They had to use 15 percent of their IDEA Part B funds to address disproportionality. This was a major challenge for a number of reasons and demanded a great deal of administrative time. For example, Arid Pond was cited for an over-representation of African Americans in Cognitive Disability services one year (2006) and in Specific Learning Disability services the next year (2007). Ms. Smith had to determine what special education services, materials or staff would have to be cut so the funding could be spent on non-disabled at risk students. Districts were restricted from targeting specific populations so you could not include just at risk African Americans or other ethnic

groups in EIS intervention services. You had to let all at risk students participate. As Ms. Smith reported during her interview, the citation for disproportionality was often determined two years after the occurrence so it was hard to go back two years and see exactly why the disproportionality occurred, how many students triggered the citation and if there were specific students inappropriately identified as needing special education.

It takes a great deal of administrative work to determine how to address disproportionality based on the EIS services allowed by the legislation. Should the money be spent on professional development, assessment or empirically based interventions? Should EIS address at risk students with academic delays, mental health/behavioral issues or both? When, how and by whom would implementation be conducted? Who would complete the paper work for monitoring required by the ODE and OSEP? Once these decisions are made then the process of assigning or hiring staff, training the staff, implementing the program and then monitoring the program's effectiveness must be completed.

One of the road blocks to implementing EIS services is the work overload experienced by special education coordinators and pupil personnel directors. A survey of 267 New Jersey Special Education Administrators showed that: "An overwhelming majority (91%) of the subjects perceived their workload to be heavy to impossible to complete (De Pierro, 2003, p. ii)." New initiatives take a great deal of planning and implementation time. The administrators in each district expressed frustration at the excessive workload and job expectations. A survey by the Counsel of Administrators of Special Education regarding the reasons why many special education administrators leave the job after their first year on the job included the following six areas: Lack of

administrative support, a burdensome amount of paperwork, time consuming legal actions, personnel issues such as finding, training and maintaining staff, burdensome state and federal regulations, and lack of finances to support special education programs and services (Rude, 2008).

The administrators in the non-cited districts were experiencing this type of work load and EIS policy had no incentives to encourage them to participate. One administrator did not know about EIS until I interviewed him, one was both the special education director and director of pupil personnel and the other was newly hired as a special education coordinator. Unless EIS is mandatory for all districts there needs to be some motivators such as additional funding or part of the funding designated for administrative support. There may be some bias by this researcher on this topic after just completing six months as an interim coordinator of special education for a local school district. I personally experienced the workload expectations of special education coordinators and found that the time constraints made it difficult to proactively implement new initiatives. When mandated to implement a new program I did, but then had to delegate some of my responsibilities, if I could, to other staff.

Parents Awareness of EIS

According to some of the educators in the six districts interviewed and secondary sources, parents are not knowledgeable about or involved with EIS. Ms. Lander from Flat Hill said: “no I don’t think parent groups are well informed about this.” Mr. Edwards from Elevated Mountain when asked if parents expressed any interest or involvement with early intervention services said: “No, no, not since I’ve been in administration here. No it seems the opposite. I don’t know who they are talking to but it seems like they are

always trying to get their child tested for special ed.” The EIS Policy Forum (Burdette, 2008, September) strongly advocated that there needs to be outreach to parents at all levels of the education systems regarding EIS. This is especially important because two of the goals of EIS are to get help to at risk students as soon as possible and to try interventions prior to labeling students as disabled. If parents believe that their child can only make progress if identified as disabled, they will not support EIS and the “wait until the child fails” model will continue. Mr. Fisher from Elevated Mountain and Mr. Dean from Cold River reported that when parents are well informed about the interventions their child needs and are provided with resources to help their child at home, they support early intervening services.

What is beginning to get the attention of parents is Response to Intervention (RTI). Parents are currently becoming more involved with interventions in the general education classrooms as the RTI initiative is being implemented as part of SLD eligibility. The parent IDEA information and due process guide in Ohio will soon include information on RTI. This document is handed to every parent when their child is being considered for special education services. It is helpful that a U. S. Government report (2009, August) on EIS and RTI supports the use of EIS funding to implement RTI.

Research Question 1

The following information is provided to answer the research questions posited in Chapter I. The first question is: *How are selected school districts in Northeast Ohio cited and mandated to address disproportionality implementing Early Intervening Services policy?*

The three districts cited for disproportionality each implemented EIS in unique and different ways. Arid Pond used a variety of approaches. They included professional development, intervention coaches and specific behavioral and academic interventions. Blue Ocean focused on reduction of referrals to ED by funding school based mental health services through an external mental health agency. Cold River emphasized collaboration between special education and general education through their IAT's and PLC's as well as supporting a special school for at risk adolescence and school based mental health services through a local mental health agency.

These three districts mentioned the training by one of the State Support Teams in the OISM model as helpful for establishing early intervention for at risk students. Only Arid Pond used EIS funds for this training. The other two districts used grants or other funding sources. The OISM model encouraged the use of DIBELS and PBS so these were the primary tools used for EIS although other tools were used as well (see Chapter IV: *Pre-referral and Intervention Services*). Having a comprehensive EIS model made it easy for these districts to identify this approach as RTI when considering eligibility for Specific Learning Disability services.

An interesting outcome for the districts that implemented EIS is that after they had met compliance for their citation for disproportionality, the EIS funding became optional not mandatory. However, these three districts continued to support and implement EIS. The Blue Ocean district appealed their citation for disproportionality, won their appeal and after only a few month EIS became optional rather than mandatory. Blue Ocean opted to continue to use EIS funds to support the mental health services that they had established. This leads to a theory that once a district implements and

experiences EIS they see its value in reducing academic and behavioral problems and work to maintain these prevention services. This theory is supported by the research that shows districts that implement comprehensive RTI see its value in reducing referrals to special education, serving at risk students sooner and improving student academics and behaviors (Fuchs & Fuchs, 2008). A recent article shows the growth of RTI across the nation.

In more districts than ever, Response-to-Intervention programs are gaining ground, nipping learning problems in the bud and keeping more students out of unnecessary special education classes, which, of course, is the goal. According to the Response to Intervention Adoption Survey 2009, which was conducted by Spectrum K-12 School Solutions with the American Association of School Administrators, the Council of Administrators of Special Education, and the National Association of State Directors of Special Education, 71 percent of respondents indicated their districts are piloting RTI, or are using RTI , or are in the process of district-wide implementation, compared to 60 percent in 2008 and 44 percent in 2007. RTI , a multi-tier intervention used to diagnose and address potential learning or behavioral problems early, is also increasing in popularity across all grade levels. There has been a significant increase in high school implementation, for example, with 51 percent of schools having some level of implementation in 2009, compared to 16 percent in 2008, the survey states. (Pascopella, 2010)

As it becomes clearer that RTI is a process that like EIS has the goals of addressing academic and behavior concerns early, and reducing overidentification, then

more districts will consider using EIS funds to support their school wide RTI programs (Burdette, 2007). The three districts in this study mandated to address disproportionality had intervention programs that could be labeled RTI.

Research Question 2

The second research question is: *How are selected school districts in Northeast Ohio not cited for disproportionality responding to the option to use 15 percent of their special education funding to implement Early Intervening Services to reduce overidentification of special education students?*

The three districts not cited for disproportionality all decided not to use 15% of their IDEA funds for EIS. However, the Flat Hill district, after the interviews were completed, decided to reconsider the use of EIS funds for the next school year. They all thought EIS services were a good way: to help students early; to make sure academic and behavior concerns were addressed prior to considering special education services; and to address overidentification for special education. However, they did not like using their limited special education funding for non-disabled students and chose not to. Each district did have some training in the OISM and a few, but not all, schools were implementing this three tiered model of academic and behavioral intervention. There is now an emphasis in Ohio on RTI in general and specifically for Specific Learning Disability eligibility (Fuchs & Vaughn, 2005). There are different RTI models (Bender & Shores, 2007). When used narrowly, RTI only addresses doing pre-referral interventions as part of special education eligibility. However, when RTI is implemented as a school wide service, then it can be considered a Comprehensive Early Intervening Service (Burdette, 2007).

None of the districts had consistent policies or models regarding how to serve at risk students at all grade levels. All six districts mentioned implementing OISM training through one of the State Support Teams but in each district only some buildings or grade levels had been trained. After training, some of the buildings implemented OISM but others did not, or only did part of the process such as DIBELS but not PBS. The momentum of this process has waned perhaps because of an emphasis on RTI or because ODE has stopped using the term OISM as funding for this project diminished and started calling the process “a comprehensive system of learning supports” (Ohio Department of Education, 2007b). I did not hear any of the districts mention SST training as part of in a “comprehensive system of learning supports”. The SST professional development training is currently focused on the new Ohio IEP and ETR forms and procedures plus the Ohio Improvement Process (Ohio Department of Education, 2008).

Implications

One implication of this study is that federal policy to address overidentification of students for special education services needs to be revisited. The three non-cited districts would not implement EIS because they saw no advantage in simply shifting funding. They resisted a policy that did not provide enough clarity and direction, took away funding from special education students and would add to their workload.

Another implication is that there are risks in adding a footnote to a bill that changes its dynamics. In this case adding a mandate to address disproportionality in cited districts created a scenario where the three cited Northeast Ohio districts selected for this study indicated they thought the policy was unfair. In fact there were enough complaints throughout Ohio that the state raised the benchmark for determining disproportionality

with the approval of OSEP. No districts have been cited for disproportionality in Ohio for the past three years. Does this imply that we have solved disproportionality in Ohio schools or have we set the criteria for measuring disproportionality too high?

It can also be deduced from this study that other intervention policies are having success in Ohio and perhaps EIS policy should collaborate with or fiscally support them. Specifically, in Ohio the Integrated Systems Model under the Comprehensive System of Learning Supports (see Appendix J and K). Some staff in all six of the districts in this study had some training in the Integrated Systems Model and associated it with RTI. During the interview process interviewees were more familiar with the term Responsive to Intervention (RTI) than EIS. Both RTI and EIS advocate that students should have the opportunity to respond to interventions to address their academic and behavioral concerns before being identified for special education services. The view is that RTI is an initiative broader than just a pre-referral intervention prior to SLD eligibility.

Since the passage of IDEA-2004 there have been training workshops at the national, state and local levels regarding using the term RTI for school based interventions to help at risk students. It is a broad initiative that includes addressing various academic problems and behavioral concerns as well (Bender & Shores, 2007; Bradley, Denielson, & Doolittle, 2008). Teachers as well as support staff such as school psychologists, speech therapists, and social workers, work with parents on a regular bases explaining that the school would like to see how their child responds to specific interventions before considering special education services.

The implication is that EIS policy should support RTI and help with its implementation. RTI is already having an impact on overidentification for special

education (Bradley, Denielson, & Doolittle, 2008) which in turn could reduce disproportionality.

Policy Recommendations

Based on the information shared by the twelve educators interviewed, the research literature on EIS and my interpretation of this information, school districts in Northeast Ohio might want to consider the following policy actions. At the national level, the first recommendation would be to work with unions, professional organizations, regional Supplemental Services Teams and the state departments of educations to lobby congress to include funding for Comprehensive Coordinated Early Intervening Services in the reauthorization of the Elementary and Secondary Education Act (ESEA) [No Child Left Behind (NCLB)]. This would provide a consistent funding stream for EIS and be part of a general education initiative to address the academic and behavioral needs of at risk students.

At the State of Ohio level ODE should be encouraged to include EIS in their Comprehensive System of Learning Supports. It would be especially helpful if districts had designated funding, hopefully blended funding from both general and special education, to implement response to intervention projects at all grade levels. This state level initiative could include procedures to address both the achievement gap and disproportionality for minorities and second language learners, regardless of a risk ratio formula, through a three tiered intervention model.

ODE's Office of Exceptional Children should include information on EIS as well as RTI in the parent information and due process booklet *Whose IDEA is this? A parent's guide to the Individual's with Disability Improvement Act of 2004 (IDEA)* (Ohio

Department of Education, Office of Exceptional Children, 2008). This would help parents understand the process of providing interventions in the general education classroom prior to considering special education services.

Local districts are encouraged to maintain and improve their intervention process for at risk students. The EIS model implemented by a school based Professional Learning Community team could be implemented across all grade levels using evidence based programs such as DIBELS and PBS. A special focus on kindergarten through third grade would get services to at risk students early. Additional attention to the unique needs of minorities and second language learners through EIS would help reduce the achievement gap and address disproportionality in special education at all levels without the need for risk ratio formulas. The EIS model could also help address the over-identifying of students for special education services and create a better balance between general education services for at risk students and special education services.

In the area of professional development, an EIS model can provide a structure to train staff to implement comprehensive tiered intervention services as demonstrated by the OISM model implement in many Ohio schools by regional State Support Teams. This researcher was impressed by the Professional Learning Community model (DuFour, 2004) as an intervention approach that I learned about from the two interviews in the Cold River school district. This model has been successful at all grade levels, helps staff focused on student learning and can facilitate general education and special education collaboration. Here is how DuFour (2004) describes a Professional Learning Community.

As the school moves forward, every professional in the building must engage with colleagues in the ongoing exploration of three crucial questions that drive the

work of those within a professional learning community. What do we want each student to learn? How will we know when each student has learned it? How will we respond when a student experiences difficulty in learning? (pp 6-11)

One important component that has been given minimal attention is parent involvement. Parent involvement should be considered at the national, state and local levels. Parents' rights and involvement is clearly spelled out in IDEA regarding special education eligibility. Federal and state guidelines and regulations for EIS need to include more information for parents. At the local level, clarity needs to be provided regarding the parents' role in addressing the academic or behavioral needs of their child during the intervention process. All of the districts interviewed agreed that parent involvement including direct tutoring and support at home enhances student progress.

Another recommendation is to encourage local colleges and universities to include information on EIS and disproportionality in their curricula for pre-service teachers and administrators. It would be beneficial for student teachers, support staff interns, and administrators in training to participate in Early Intervention Services and Professional Learning Communities during school based pre-service training. This would provide an opportunity for pre-service educators to experience the collaborative problem solving nature of educating students and learn in the field about concerns related to serving at risk students.

One funding recommendation for local districts is to consider using American Recovery and Reinvestment Act of 2009 (ARRA) funds for EIS. These funds will only be available through 2011, but 15 percent of the additional IDEA Part B funds provided to districts through ARRA legislation can be use for EIS (Oklahoma State Department of

Education, 2009). These funds could be used to initiate EIS programs, add additional dollars to expand current EIS initiatives or support other initiatives for at risk students such as RTI.

This recommendation was put at the end of this section to eliminate any confusion with the previous use of the term EIS. It is recommended that the term Early Intervening Services be eliminated in favor of the term Response to Intervention. It would be necessary to call pre-referral interventions associated with Specific Learning Disability eligibility by another term such as Pre-Referral Intervention (PRI). Response to Intervention is a more accurate description of what Early Intervening Services was established to do. This would eliminate confusion with pre-school intervention services and RTI is the term used for helping at risk students at the high school level. The Education for All Handicapped Children Act was changed to the Individuals with Disabilities Education Act (IDEA) so it is conceivable that title Early Intervening Services could be changed to Response to Intervention.

Limitations

Qualitative case study research can improve knowledge of a policy and may lead to positive action to improve the policy in other districts but can only be generalized to other districts with caution. The process of helping the reader apply the results of a study to their own situation is part of the intent of qualitative research. This researcher attempted to improve external validity described by Merriman (1998, pp 211-212) by using rich descriptions of local policy, interviewing informants that educators can relate to and applying a multi-site design that included six school districts.

There is a concern when researching a specific policy that the policy will change or be modified over time, making the study results and recommendations less relevant. Merriman (1998) points out: "...what is studied in education is assumed to be in flux, multifaceted, and highly contextual... (p. 206)." This makes it difficult to replicate policy studies.

For this research it was not always possible to interview the district administrators who had the most knowledge and control of EIS funds. Two of the three administrators in the districts not cited for disproportionality were asked to do the interview by a superior who controlled budget allocations. Also in the three non-cited districts the "intervener" was a school psychologist who had a vast knowledge of the interventions taking place in their respective districts but was generally not doing the direct interventions.

Confidentiality has advantages and limitations. The advantage is that interviewees often feel more comfortable in sharing information of a less positive nature regarding a policy. A limitation is that specific data that might make it easy to identify the interviewee or district has to be excluded or modified to maintain confidentiality.

Recommendations for Future Research

There are a number of research projects that could enhance the EIS initiative. There was no required outcome measures built into EIS funding. It would be useful to have research on the outcomes of EIS projects implemented by districts that elected to use EIS funds as well as outcomes for districts mandated to use EIS funds for disproportionality. A comparison of how different states implement EIS and their outcomes would be valuable. Are some states or local districts more successful at addressing disproportionality and/or overidentification than other states or local districts?

More specifically, research on how districts that are predominantly African American, Latino, Native American or of another ethnic or racial group are addressing special education identification would be valuable. Is there an alternative way to determine disproportionality in the districts where the risk ratio formula does not work? Should EIS be implemented in these districts to address state and national disproportionality?

Parents and students were not directly interviewed regarding EIS. It would be interesting and instructive to know more about parent and student views regarding EIS and RTI.

One of the recommended uses for the funds provided to school districts through the American Recovery and Reinvestment Act of 2009 (ARRA) is using 15 percent of the additional IDEA Part B allocated through 2001 for EIS (Oklahoma State Department of Education, 2009). There are many possible uses of ARRA funds for school districts. It would be helpful to know what school districts in Ohio are using ARRA funds for EIS and RTI. Are previous EIS projects being sustained through these funds or are new EIS projects being initiated?

Conclusions

The results of this qualitative research on the implementation of IDEA-2004-EIS policy in six local school districts in Northeast Ohio had some positive outcomes and some negative outcomes. On the positive side, the three districts cited for disproportionality used 15 percent of their Part B funding to help non-disabled at risk students. After a year of interventions all three districts were no longer cited for disproportionality.

Another positive aspect of EIS policy is that the three districts that implemented EIS thought the outcomes were helpful for students. One example of success was an elementary school in the Arid Pond district that showed a reduction in behavior problems and fewer referrals to special education because of early intervening services. As a result of these types of successes, all three districts proceeded the next year to continue the EIS services even though the use of these funds for non-disabled students had become optional not mandatory.

The three districts not cited chose not to use Part B funds for EIS but supported the concept of early interventions to help at risk students and reduce inappropriate referrals to special education. They also used other funding to implement early interventions through building support teams. One non-cited district, Flat Hill, after participating in two interviews about EIS, planned to consider using EIS funds next year to support their response to intervention initiative.

On the negative side, the implementation of a federal policy if not carefully thought through can have unwanted consequences at the local and state levels. One unwanted consequence in Northeast Ohio was the resistance at the local level to a funding policy that simply shifted funds from under-funded special education services to under-funded services for at risk students. None of the three districts not mandated to implement EIS because of disproportionality opted to set up EIS.

One of the consequences of a policy that mandates implementation for some districts and makes funding permissive in other districts can be resistance on the part of the group with the mandate. In Ohio there were so many complaints filed with the Ohio

Department of Education by districts mandated to implement EIS that the state changed the disproportionality citation criteria.

By bringing these issues to light I hope that this study can have an impact on future EIS policy. This study showed that in six local school districts the concept of intervening early to help at risk students is well accepted. The challenge is to find a funding mechanism that is not divisive and will encourage collaboration between general education and special education.

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APPENDICES

APPENDIX A

IDEA-2004 EARLY INTERVENING SERVICES

The regulations state (U.S. Department of Education, 2005):

IDEA 2004:

1. Adds “early intervening services” to the statute under local education agency (LEA) eligibility.

An LEA may not use more than 15 percent of the amount it receives under IDEA Part B for any fiscal year, less any amount reduced by the agency pursuant to Section 613(a)(2)(C), 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 have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment. [613(f)(1)]

Allows activities in implementing coordinated, early intervening services by LEAs.

- 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 instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
 - Providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.
- [613(f)(2)]

APPENDIX B

DISTRICT EIS FUNDS

This chart shows the approximate amount of IDEA Part B funds available to the six districts in this research for EIS. The amounts were adjusted to protect confidentiality

2006 Fiscal Year Ohio	Total Special Education Allocation	15% of Allocation
Arid Pond	1,700,000.00	255,000.00
Blue Ocean	900,000.00	135,000.00
Cold River	500,000.00	75,000.00
Deep Valley	1,300,000.00	195,000.00
Elevated Mountain	600,000.00	90,000.00
Flat Hill	1,500,000.00	225,000.00

APPENDIX C

INTERVIEWEE DEMOGRAPHICS

Position Title: _____

Highest Degree: _____

Areas of Certification/Licensure: _____

Age (Circle one): 20-29 30-39 40-49 50-59 60-69 70-79

Female Male

Years at current school: _____

Years as a school administrator _____

Other school positions and years of service:

Ethnic Background _____

APPENDIX D

SEMI-STRUCTURED INTERVIEW QUESTIONS

District Administrator Responsible for Early Intervening Services

Introduction: This interview is planned for a 20 to 40 minute period, but may extend beyond this time if both of us agree to continue. Your identity and that of the district will be kept confidential. I am providing you with a description of the section 613(f)(1) of IDEA-2004 to provide clarity regarding the topic of this interview.

1. How has your district responded to Early Intervening Service (EIS) Policy providing new flexibility to use 15% of special education IDEA Part B funding for non-disabled students?
2. How are you using EIS funds?
3. Describe any issues your district is having with over or under identification of students for special education services.
4. How are referrals to special education monitored to make sure there is not an over or under representation of minority or second language students identified for special education services in you district?
5. Describe any pre-referral or intervention services your district provides prior to special education identification.
6. How are administrators and staff in this district being informed about EIS policy?
7. Describe how general education and special education staff are collaborating to implement EIS.
8. Discuss any reactions from parents about this policy?
9. What are your feelings or opinions about EIS policy?

APPENDIX E

SEMI-STRUCTURED INTERVIEW QUESTIONS

District Intervener Responsible for or Knowledgeable

about for Early Intervening Services

1. How has your district responded to Early Intervening Service (EIS) Policy providing new flexibility to use 15% of special education IDEA Part B funding for non-disabled students?
2. What specific Early Intervening Services are you helping implement in your district using EIS funds?
3. Do you believe these services will address over or under identification of students for special education services.
4. How are referrals to special education monitored to make sure there is not an over or under representation of minority or second language students identified for special education services in you district?
5. Do you believe EIS services will address over or under identification (disproportionality) of minorities or second language learners for special education services?
6. Are referrals to consider eligibility for special education services handled differently because of the EIS program(s) you are implementing?
7. How are administrators and staff in this district being informed about EIS policy?
8. Describe how general education staff and special education staff are collaborating to implement EIS.
9. Discuss any reactions from parents about EIS policy?
10. What are your feelings or opinions about EIS policy?

APPENDIX F

OHIO DISPROPORTIONALITY DATA 2004

Part B Annual Report - Status of Program Performance

Risk Ratios for All Children with Disabilities, Ages 6 Through 21					
	American Indian/ Alaska Native	Asian/Pacific Islander	Black (not Hispanic)	Hispanic	White (not Hispanic)
All Disabilities	1.28	.37	1.20	.91	.90
Risk Ratios for Disability Categories					
	American Indian/ Alaska Native	Asian/Pacific Islander	Black (not Hispanic)	Hispanic	White (not Hispanic)
Mental Retardation	1.02	.23	2.33	.85	.49
Specific Learning Disabilities	1.44	.31	.87	1.05	1.18
Emotional Disturbance	1.39	.15	2.26	.77	.51
Speech or Language Impairments	1.31	.61	.79	.84	1.29
Other Health Impairments	.89	.38	.58	.57	1.83
Autism	1.53	1.03	.77	.55	1.33
Risk Ratios for Other Disability Categories					
	American Indian/ Alaska Native	Asian/Pacific Islander	Black (not Hispanic)	Hispanic	White (not Hispanic)
Hearing Impairments	.86	.72	1.02	1.27	.97
Visual Impairments	.70	.84	1.01	.87	1.03
Orthopedic Impairments	1.63	.85	1.22	1.20	.83
Deaf-Blindness	0.0	0.0	.43	2.61	1.66
Multiple Disabilities	1.23	.50	1.22	.85	.89
Traumatic Brain Injury	1.90	1.24	1.03	.55	1.01
Developmental Delay	n/a	n/a	n/a	n/a	n/a

Risk Ratios for Educational Environment Categories					
	American Indian/ Alaska Native	Asian/Pacific Islander	Black (not Hispanic)	Hispanic	White (not Hispanic)
Outside Regular Class <21%	.95	1.20	.63	.83	1.54
Outside Regular Class 21-60%	1.03	.76	1.03	1.05	.97
Outside Regular Class >60%	1.04	.87	2.18	1.32	.47
Combined Separate Facilities ²²	1.15	1.32	1.10	1.12	.89

Baseline/Trend Data (for period July 1, 2003 through June 30, 2004
Ohio APR (Annual Performance Report)
Conducted by The US Department of Education
Office of Special Education and Rehabilitation Services (OSERS)
Retrieved February 25, 2008 From:

<http://www.federalresourcecenter.org/frc/apr/Cluster%20IV%20Mar%2031%202005.doc>

APPENDIX G

INFORMED CONSENT FORM

Cleveland State University

College of Education

Urban Education Doctoral Program

Informed Consent

My name is James Harvey. I am doing research as part of my doctoral studies dissertation in the Urban Education Doctoral Program under the direction of Professor James Carl, Ph.D. Dr. Carl can be reached at 216-523-7303 if you have any questions or concerns. I hope to gain a better understanding of the implementation at the local level of the IDEA-2004 policy titled, "Early Intervening Services."

With your permission I will be conducting an interview with you that will take between 20 and 40 minutes. For note taking accuracy, I will be audio taping the interview and transcribing the results. All data collected are confidential and will be kept in locked storage for three years in my home office and Dr. Carl's office as required by federal regulations before being destroyed. The information obtained will be confidential. Your name, the name of the school and school district will not be included in any of the findings.

Your participation in this research is completely voluntary. If, at any time you wish to withdraw from the research, you are free to end your participation.

"I have read and understand the information regarding this research project. I understand that my participation is voluntary and I may withdraw at any time. I understand that if I have any questions about my rights as a research subject, I may contact the Cleveland State University Institutional review board at (216) 687-3630."

Participant's Signature

Date

Mailing Address: 2121 Euclid Avenue RT 1435 * Cleveland, Ohio 44115 Campus

Location: Rhodes Tower, Room 1435 * 1860 East 22nd Street * Cleveland, Ohio
(216) 532-7146

APPENDIX H

PERMISSION FROM SCHOOL DISTRICT TO CONDUCT RESEARCH

DATE:

TO: James E. Harvey, Ed.S.
CSU Doctoral Student
17115 Woodmere Drive
Chagrin Falls, Ohio 44023
Cell Phone: 440-263-7420
E-mail: james.e.harvey@gmail.com

FROM:

RE: Student research to be conducted by James Harvey, Ed.S. under the supervision of Professor James Carl, Ph.D..

Mr. Harvey has discussed the research project he would like to conduct and shared the procedures he will follow to obtain informed consent from the participants. He described how the district and staff member's names would be kept confidential and that students would not be used as participants.

I give my permission for Mr. Harvey to conduct his research in this district and I agree to have two members of my administration interviewed if they are willing to participate and understand that their participation is voluntary.

Sincerely,

APPENDIX I

INFORMATION ON EARLY INTERVENING SERVICES FOR INTERVIEWEE

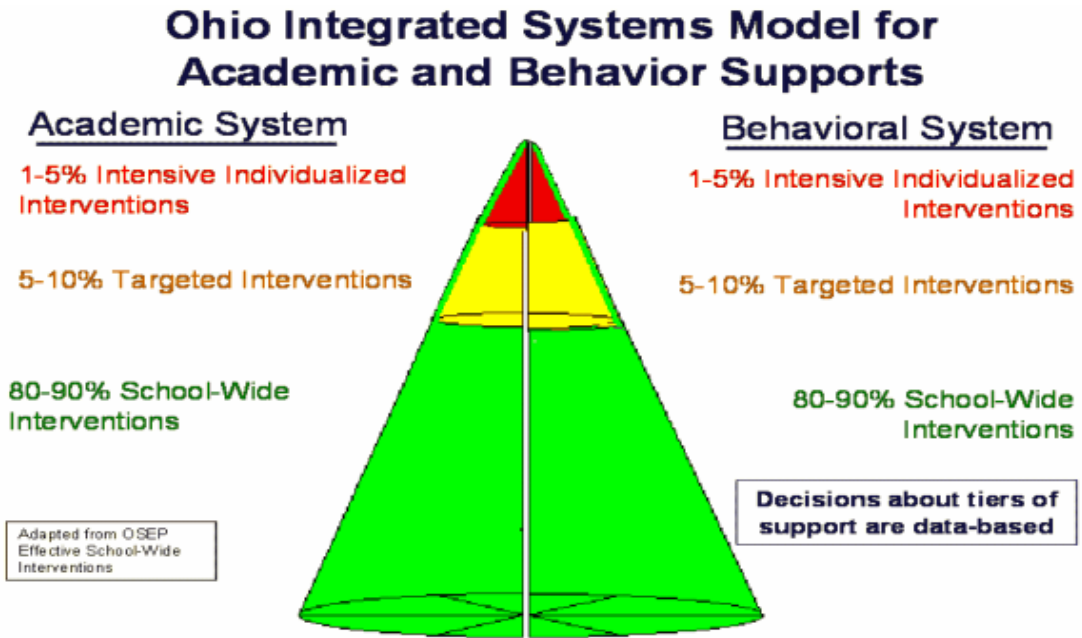
PRIOR TO INTERVIEW

This dissertation explores how the IDEIA-2004 policy of Early Intervening Services is being implemented in selected northeast Ohio public schools districts. A qualitative case study of how school districts in northeast Ohio are addressing this new policy will be conducted through interviews with administrators and other staff in districts choosing to (or required to) implement EIS.

The Individual with Disability Educational Improvement Act (IDEIA-2004) (P.L. 108-446) includes a policy called Early Intervening Services (EIS) which makes it permissible, but not mandatory, for a school district to use 15% of their IDEIA Part B funds to provide services to non-disabled students. However, a school district cited for disproportionality is required to use 15% of their special education funding to address over or under representation of racial or ethnic minorities or second language learners receiving special education services. Any imbalance in school disciplinary actions involving racial or ethnic minorities and second language learners is also addressed in this section of IDEIA-2004.

APPENDIX J

INTEGRATED SYSTEMS MODEL

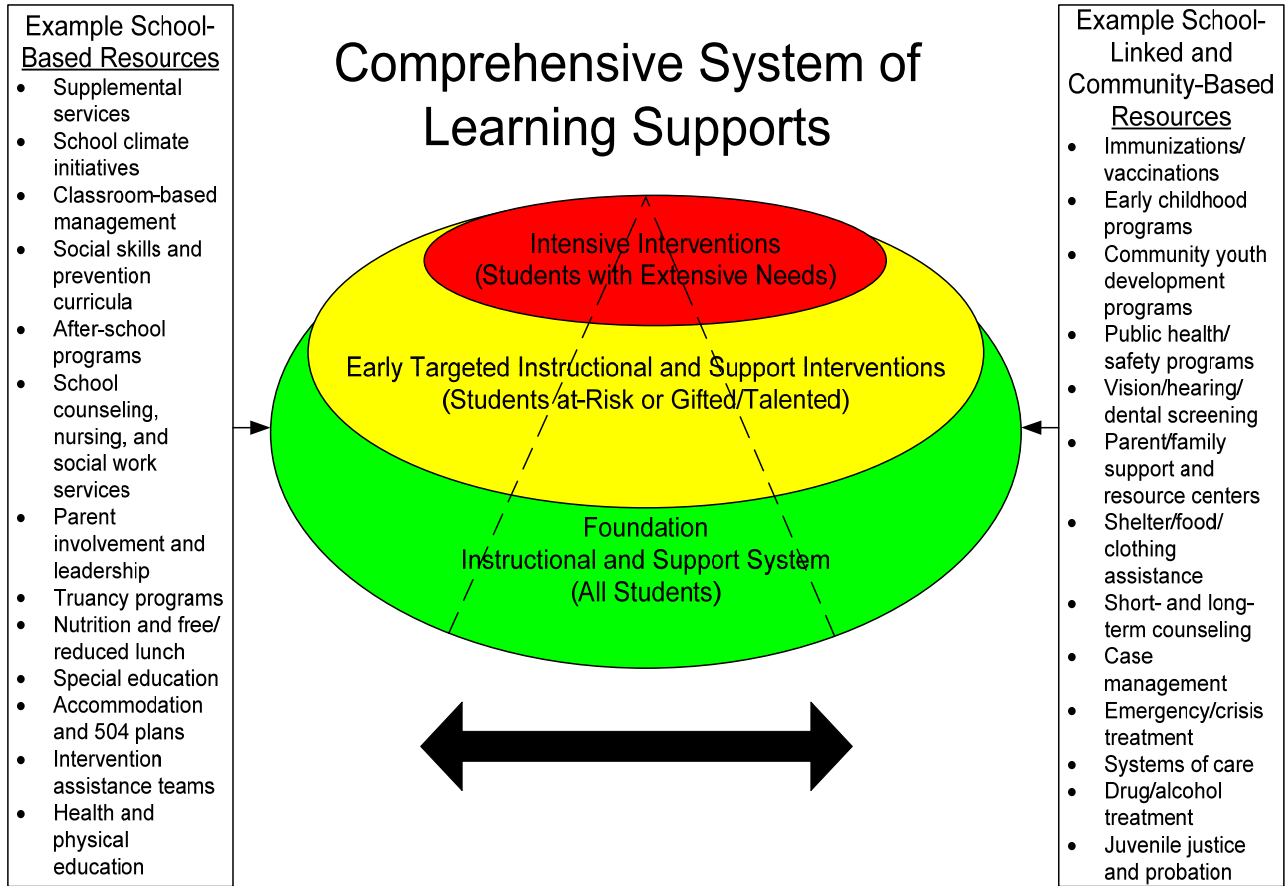


A comprehensive system of learning supports guidelines (p.6)

Ohio Department of Education (2007, July)

APPENDIX K

COMPREHENSIVE SYSTEM OF LEARNING SUPPORTS MODEL



A comprehensive system of learning supports guidelines (p.7)

Ohio Department of Education (2007, July)