

CHAPTER 177

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 08-089

BY SENATOR(S) Williams, Spence, Boyd, Gibbs, Groff, Windels, Bacon, Keller, Mitchell S., Penry, Schwartz, Tochtrop, and Tupa;
also REPRESENTATIVE(S) Gardner C., Peniston, Borodkin, Fischer, Frangas, Gallegos, Garza-Hicks, Green, Hodge, Jahn, Kerr A., Labuda, Looper, Madden, Massey, Merrifield, Middleton, Romanoff, Solano, Stafford, Stephens, Summers, and Todd.

AN ACT**CONCERNING EARLY INTERVENING SERVICES FOR STUDENTS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) All state and federal special education dollars are required to go towards providing services to students with special needs. However, the general assembly hereby finds that special education is under-funded at both the state and federal levels and available funds do not come close to meeting the needs in Colorado school districts. In fact, state and federal funds combined cover only about thirty percent of the costs of special education services for the average school district, leaving local dollars to cover the remaining costs.

(2) Early intervening preventative supports encourage educators to work with a struggling student who has not yet been identified as needing special education, but who does need additional academic or behavioral supports to succeed in a general education environment. Special educators and general educators support intervening early with struggling students and recognize that preventative strategies play a significant role in reducing a student's need for special services and, for a small percentage of students, perhaps eliminating the need for special services altogether. When these supports are successful, the student and the school district can benefit because the student is able to succeed in a general education environment without more extensive and costly special education services.

(3) Now, therefore, the general assembly finds and declares that it is appropriate to allow additional flexibility to school districts that choose to use up to fifteen percent of state funding for special education to provide early intervening supports

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

to students who are struggling in a general education environment, but who have not yet been identified as needing more costly special education services.

SECTION 2. 22-20-106, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-20-106. Special education programs - special educational programs - early intervening services - rules. (3.5) (a) AN ADMINISTRATIVE UNIT MAY PROVIDE EARLY INTERVENING SERVICES TO A STUDENT WHO IS NOT IDENTIFIED AS A CHILD WITH A DISABILITY AT THE TIME THE EARLY INTERVENING SERVICES ARE PROVIDED. AN ADMINISTRATIVE UNIT MAY PROVIDE EARLY INTERVENING SERVICES TO STUDENTS IN KINDERGARTEN THROUGH GRADE TWELVE, WITH AN EMPHASIS ON STUDENTS IN KINDERGARTEN THROUGH GRADE THREE.

(b) EARLY INTERVENING SERVICES MAY INCLUDE PROGRAMS AND ACTIVITIES, INCLUDING RESPONSE TO INTERVENTION, AS DETERMINED BY THE STATE BOARD AND SET FORTH IN RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS SUBSECTION (3.5).

(c) AN ADMINISTRATIVE UNIT MAY ANNUALLY USE NO MORE THAN FIFTEEN PERCENT OF THE FUNDING AMOUNT THAT THE ADMINISTRATIVE UNIT ANNUALLY RECEIVES PURSUANT TO THIS ARTICLE FOR THE PROVISION OF EARLY INTERVENING SERVICES.

(d) EACH PARTICIPATING ADMINISTRATIVE UNIT SHALL COLLECT INFORMATION AND REPORT TO THE DEPARTMENT, ON AN ANNUAL BASIS, THE UNIQUELY IDENTIFYING STUDENT NUMBERS OF THE STUDENTS RECEIVING EARLY INTERVENING SERVICES PURSUANT TO THIS SUBSECTION (3.5).

(e) NOTHING IN THIS SUBSECTION (3.5) SHALL BE CONSTRUED TO CREATE A RIGHT FOR A STUDENT TO RECEIVE EARLY INTERVENING SERVICES NOR ACT TO IMPROPERLY DELAY THE DETERMINATION, PURSUANT TO SECTION 22-20-108, THAT A CHILD HAS A DISABILITY AND IS ELIGIBLE FOR SPECIAL EDUCATION SERVICES.

(f) THE STATE BOARD BY RULE SHALL IDENTIFY THE PROGRAMS AND ACTIVITIES THAT QUALIFY AS EARLY INTERVENING SERVICES AND THE ALLOWABLE EXPENSES RELATED TO THOSE PROGRAMS AND ACTIVITIES. THE STATE BOARD MAY ALSO PROMULGATE SUCH OTHER RULES AS MAY BE NECESSARY TO IMPLEMENT THIS SUBSECTION (3.5).

SECTION 3. 22-20-103, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

22-20-103. Definitions. As used in this article, unless the context otherwise requires:

(8.3) "EARLY INTERVENING SERVICES" MEANS PROGRAMS AND ACTIVITIES FOR STUDENTS IN KINDERGARTEN THROUGH GRADE TWELVE, WITH AN EMPHASIS ON STUDENTS IN KINDERGARTEN THROUGH GRADE THREE, WHO AT THE TIME THEY RECEIVE EARLY INTERVENING SERVICES ARE NOT IDENTIFIED AS CHILDREN WITH DISABILITIES, BUT WHO NEED ADDITIONAL ACADEMIC AND BEHAVIORAL SUPPORTS

IN ORDER TO SUCCEED IN A GENERAL EDUCATION ENVIRONMENT.

(8.5) "EARLY INTERVENTION SERVICES" MEANS THE SERVICES AND SUPPORTS SPECIFIED IN SECTION 27-10.5-102 (12), C.R.S., PROVIDED TO CHILDREN WITH DISABILITIES WHO ARE LESS THAN THREE YEARS OF AGE.

SECTION 4. Effective date. This act shall take effect July 1, 2008.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 25, 2008