



The Individuals with Disabilities Education Act (IDEA)  
92 NAC 51 (Rule 51)

GMS Flex Funding Application Preschool and School Age

Flex Funding Guidance Document  
February 2021



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## **Flex Funding Guidance Document**

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

### **State Statute**

79-1125.01.

Support services, defined.

Support services means preventive services for a student that is not identified or verified pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrates a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services. Support services include the educational services provided to a child pursuant to subdivision (10)(c) of section 79-215 by an interim-program school or an approved or accredited school maintained by a residential setting if such child has not been identified or verified as a child with a disability pursuant to sections 79-1118.01 and 79-1138 but demonstrates a need for specially designed assistance by residing in a residential setting described in subdivision (10)(a) of section 79-215.

79-1142.

Department; reimbursement for special education programs and support services; to whom; manner; limitations.

(1) Level I services refers to services provided to children with disabilities who require an aggregate of not more than three hours per week of special education services and support services and includes all administrative, diagnostic, consultative, and vocational-adjustment counselor services.

(2) The total allowable reimbursable cost for support services shall not exceed a percentage, established by the State Board of Education, of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services. The percentage established by the board for support services shall not exceed the difference of ten percent minus the percentage of the appropriations for special education approved by the Legislature set aside for reimbursements for support services pursuant to subsection (5) of this section.

(3) For special education and support services provided in each school fiscal year, the department shall reimburse each school district in the following school fiscal year a pro

rata amount determined by the department. The reimbursement percentage shall be the ratio of the difference of the appropriations for special education approved by the Legislature minus the amounts set aside pursuant to subsection (5) of this section divided by the total allowable excess costs for all special education programs and support services.

(4) Cooperatives of school districts or educational service units shall also be eligible for reimbursement for cooperative programs pursuant to this section if such cooperatives or educational service units have complied with the reporting and approval requirements of section 79-1155 for cooperative programs which were offered the preceding year. The payments shall be made by the department to the school district of residence, cooperative of school districts, or educational service unit each year in a minimum of seven payments between the fifth and twentieth day of each month beginning in December. Additional payments may be made based upon additional valid claims submitted. The State Treasurer shall, between the fifth and twentieth day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The director shall, upon receiving such certification, draw warrants against funds appropriated.

(5) Residential settings described in subdivision (10)(c) of section 79-215 shall be reimbursed for the educational services, including special education services and support services in an amount determined pursuant to the average per pupil cost of the service agency. Reimbursements pursuant to this section shall be made from funds set aside for such purpose within sixty days after receipt of a reimbursement request submitted in the manner required by the department and including any documentation required by the department for educational services that have been provided, except that if there are not any funds available for the remainder of the state fiscal year for such reimbursements, the reimbursement shall occur within thirty days after the beginning of the immediately following state fiscal year. The department may audit any required documentation and subtract any payments made in error from future reimbursements. The department shall set aside separate amounts from the appropriations for special education approved by the Legislature for reimbursements pursuant to this subsection for students receiving special education services and for students receiving support services for each state fiscal year. The amounts set aside for each purpose shall be based on estimates of the reimbursements to be requested during the state fiscal year and shall not be less than the total amount of reimbursements requested in the prior state fiscal year plus any unpaid requests from the prior state fiscal year.

**References:**

**Rule 51**

**003 Definition of Terms**

003.60 Support services means preventative services for students not identified or verified as having a disability as per Section 006 but who demonstrate a need for specially designed assistance in order to benefit from the school's general education curriculum and to avoid the need for potentially expensive special education placement and services.

## **011 School District Budget Development and Reimbursement Process for School Age Programs**

011.01A The special education assurances and flexible funding application of a school district and approved cooperative shall be submitted electronically via the NDE Grants Management System website to the Office of Special Education. Any amendment to the assurances and flexible funding application shall be subject to the same review as the initial assurances and flexible funding application.

011.01B10 Costs for support services, as defined in Neb. Rev. Stat. §79-1125.01 and 92 NAC 51-003.60, identified in 92 NAC 51-011.05 as the Flexible Funding Option.

011.04B1a Allowable expenditures for the preceding school fiscal year including any costs for the Flexible Funding Option.

011.04C2 The amount appropriated by the Legislature for special education programs including support services (Flexible Funding Option) shall be the basis for reimbursement. Payments authorized by Neb. Rev. Stat. §79-1142 shall be made only to a school district or approved cooperative.

011.05 Flexible Funding projects are optional for school districts or approved cooperatives and are intended for students not identified or verified for special education services but who demonstrate a need in the general curriculum. A school district or approved cooperative choosing to exercise the Flexible Funding Option must submit an application containing a narrative and proposed budget. Proposals shall be submitted electronically via the NDE Grants Management System website to the Nebraska Department of Education, Office of Special Education.

011.05A As part of the Flexible Funding Option Application, the narrative shall describe the support services designed for the targeted student subgroup who would benefit from preventative support services within the context of the general curriculum. The narrative must include:

011.05A1 An estimate of the annual number of students to be served;

011.05A2 The process(es) used in identifying the intended target student subgroup;

011.05A3 Methodology to be used including but not limited to:

011.05A3a The strategies and interventions to be applied;

011.05A3b The staff development activities to be funded for carrying out activities described in the proposal;

011.05A3c The intended student outcomes resulting from implementation;

011.05A3d How the proposed services are different from services currently available to the targeted student subgroup.

011.05A3e The proposed annual measurements that will be used to document changes in student performance; and

011.05A3f If the proposal is linked to school district or building level school improvement activities, information describing the relationship to the School Improvement Action Plan; and

011.05A4 The name of the person(s) responsible for proposal implementation as well as a mailing address, e-mail, fax and phone number.

#### 011.05B Flexible Funding Option Reimbursement

011.05B1 Reimbursement for support services as defined in 92 NAC 51-003.60 shall be limited to a percentage established by the State Board of Education not to exceed ten percent of the school district's or approved cooperative's total allowable reimbursable cost for all special education programs and support services.

011.05B2 Costs shall be limited to allowable costs as defined in Section 011 and the cost of salary and fringe benefits of general education staff providing support services.

011.05B3 Payments will be based upon the costs reported in the Final Financial Report and contingent upon completion and approval of a final report containing actual project costs and a report of student progress including the requirements of 92 NAC 51-012.07D. Payments will be made at the same percentage rate as for all special education reimbursement.

011.05C The fiscal year for the Flex Funding Option shall be September 1 to August 31.

#### 012 School District or Approved Cooperative Application and Payment Process for IDEA Flow-Through Allocations

012.04A11 Cost for support services as defined in Neb. Rev. Stat. §79-1125.01 and 92 NAC 51-003.59 and identified in 92 NAC 51-011.05 as the Flexible Funding Option.

## Flexible Funding Procedures

NDE, Office of Special Education in an effort to increase accountability for State special education dollars is clarifying and adding additional guidance in the flexible funding dollars. **The use of these dollars for students not identified as having a disability takes away from the available reimbursement to the district's cost for students with disabilities.** The intent of these dollars is to be preventative so as students would not be identified in need of special education services. The program also defines that through these dollars it provides needed support services. Support services is defined in 79-1125.01 and Rule

51: Support services means preventive services for a student that is not identified or verified pursuant to sections 79-1118.01, 79-1138, and 79-1139 but demonstrates a need for specially designed assistance in order to benefit from the school district's general education curriculum and to avoid the need for potentially expensive special education placement and services.

**In addition to align more closely with state and federal initiatives and the accountability for appropriate use of funds, the Flex Funding project will only be allowed for PreK-6 grade students. This will allow districts to align with the work being done in the district with the MTSS process and the use of evidence-based practices that provide early intervening services. Also, targeting at risk students in PreK-6 grade will help to reduce identification and thus help in improving the State Systemic Improvement Plan of improving reading for 3rd grade students.**

**Any Preschool program will only be allowed if a district is using local dollars for special education services to 3-4-year-olds. If all 3-4-year-old programs are funded through IDEA dollars a preschool application for flex funding will not be allowed. Historically, when Flex Funding dollars were put in place, below age 5 programs were reimbursed at almost 100%. The initial intent was for "school-age" projects. Most districts at that time were only running special education early childhood programs.**

**When the concept for the Flex Funding project was originated in 1997, Coordinated Early Intervening Services (CEIS) were not available to districts. For districts concerned about the project that no longer meet the new guidance for Flex funding they may utilize their CEIS dollars in the IDEA Consolidated Application.**

## **Guidelines**

**Applications for the next year are available to school districts through the NDE GMS website annually on June 1st and due July 15th with final approval by October 15. If the project does not have final approval by then the project will not be funded. If once the project has been approved and during the year you need to make changes in your project, please contact Suzie Pierce [suzie.pierce@nebraska.gov](mailto:suzie.pierce@nebraska.gov) or Kris Elmshaeuser [kris.elmshaeuser@nebraska.gov](mailto:kris.elmshaeuser@nebraska.gov) for assistance in making amendments to your application.**

**Final reports from the prior school year are due upon completion of the project and no later than September 30th with final approval by November 15. If the final report is not approved by then, the project will not be funded. If changes were made to the project prior approval needed to be obtained prior to the end of the project.**

Districts are allowed up to 5 applications not to exceed the 5% total allocation. Each application targets a different group of students who are at risk. **There is no appeal process for late applications.**

Applications require the district to submit a narrative describing the support services designed for the targeted subgroups(s) who demonstrate a need for specially designed

assistance in order to benefit from the school's general education curriculum and to avoid the need for potentially expensive special education placement and services. The narrative must include how the proposed services are different than what is currently provided to the targeted subgroup.

1. The narrative requires districts to report the following:

**This project cannot include students currently receiving special education! Programs that may include special education students as part of the project; (e.g., summer school for all students below benchmark) will not be allowed.**

- Targeted student subgroup(s)-the identification of the group of non-disabled students experiencing difficulty in general curriculum Identified students should be determined based on data obtained in the spring of the prior school year. How are these students determined at risk?
- Number of students to be served. Give specific numbers based on the previous target subgroup listed above. Define the specific location for the services. (Not just school building or elementary). e.g., Twelve 3rd grade students have been identified for targeted support and will receive this support in the general education 3 grade classroom and in the interventionist classroom for small group work.
- How determination of subgroup(s) was reached- e.g., teacher evaluations, informal/formal diagnostic instruments, criterion referenced measurements
- Strategies/interventions- what will be done with the student population? specific evidence-based intervention and strategies should be determined. What is the intervention? How often? The amount of time, small group/large group etc.
- Staff development activities that would be funded under the proposal. Those specific in-service activities which directly support carrying out the activities in the proposal.
- Description on how this proposal is different from what is currently available to the targeted subgroup(s) to improve student learning and performance. If this project is a continuation of the previous year's project describe what changes will be made regarding interventions/strategies and/or student groups.
- Position, role and responsibilities of those implementing the proposal: The person responsible for the supervision of implementation of this proposal should be listed as the Project Director on the contact information for the grant. If staff members are being paid through the grant they should be listed here and their direct role and responsibilities in this project.
- Annual measurement of success to document changes in student learning/performance. Student outcomes for the targeted subgroup(s) shall include the intended changes in student performance and incorporate indicators and timelines:
- Proposed line-item costs



- a) Prof. Salaries
  - b) Para Salaries
  - c) Substitute Salaries
  - d) Benefits (All project staff)
  - e) Instructional Supplies/Equipment: Supplies and materials listed for this proposal must be specified and specific to this project and used only by this project. Subscription to programs will not be allowed unless documentation of use is for just this project. Cannot be universal subscriptions for all students
  - f) Inservice: Tied directly to project
  - g) Purchased Services
  - h) Staff Mileage
- If this proposal is linked to building level school improvement activities describe the relationship to the School Improvement/MTSS Action Plan.

2. Final reports are submitted upon completion of the project and requires districts to report the following:

- Total Number of Students Served
- Of the targeted subgroup how many students went on to be identified as eligible for special education services?
- Changes that occurred from what initially proposed changes in methodology in reference to student performance. Must have prior approval if amended. The email approving the amendment must be included with the final reimbursement request.
- Give a narrative description of the project and the results of the project that is supported by your documentation. The narrative should describe the program implementation including staff and students impacted by this project, evidence of student progress, and how it made an impact on the student's improvement to no longer be at risk. Pre/post measurements of student performance as a result of teacher evaluations, informal/formal diagnostic instruments, and criterion referenced measurements, etc. Specific data relating to each student identified for growth made and target met or not met. Upload will be required of student specific pre- and post-assessment data.
- Project actual line-item costs

3. Claims for funding are reported on the support services line. SPEDFRS section: Allowable/Reimbursable AFR Account Information (Ages 5-21)

Documentation included in Supporting Documentation Upload

Expenditure cost must have been report on the AFR code 1125 for ages 5+ and AFR budge code 1195 ages 3-4

Reimbursements are provided in accordance with procedures outlined in 92NAC51-011 School District Budget Development and Reimbursement Process for School Age Programs.

Reimbursement for preschool programs will be based on the use of local district dollars for special education services to 3-4-year-olds. If all preschool programs are funded through IDEA dollars a Preschool application for flex funding will not be allowed.