



PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | June St. Clair Atkinson, Ed.D., *State Superintendent*

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March 1, 2011

MEMORANDUM

TO: Exceptional Children Program Directors
Charter School Directors
State-Operated Program Directors

FROM: Mary N. Watson, Director *MNW*
Exceptional Children Division

RE: Related Services Question and Answer Guidance

Please find attached guidance regarding recent questions from EC administrators and related service providers. The guidance will be distributed to related service providers at the Lead Practitioners meetings on March 4, 2011, in Greensboro. It is provided here for EC Administrators in order to facilitate local discussion.

Questions about the guidance should be directed to the relevant NCDPI Consultant:

Laurie Ray, PT Consultant at laurie_ray@med.unc.edu

Lauren Holahan, OT Consultant at lauren_holahan@med.unc.edu

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**Exceptional Children Division
NC Department of Public Instruction**

Q&A: Related Service Delivery

1. Does “*location*” on the DEC 4 indicate where the student will participate in intervention or instruction?

- “***location***” on service delivery/DEC 4 must answer two questions:
 - 1) Where, physically, will the student participate in the intervention or instruction?
 - 2) Will the student receive the intervention/instruction with non-disabled peers?
- The purpose of describing “***location***” in the IEP is to document the extent to which the student will participate with nondisabled peers in the regular class and in extracurricular and other nonacademic activities. The explanation of location also serves to ensure that parents, educators, service providers, and monitoring personnel *understand the context* in which the student will be served.
- In documenting appropriate services in the least restrictive environment (LRE), service providers may need to use a combination of locations (requiring two or more lines on the DEC 4 to document how services will be provided. For example:
 - with nondisabled peers throughout campus,
 - away from nondisabled peers throughout campus,
 - with nondisabled peers in class,
 - away from nondisabled peers in class,
 - removed from all peers
- The use of “***total school environment***” does not reflect the context in which the student is receiving services. It generally answers the physical location question but does not answer whether the child will receive instruction with or without non-disabled peers (context question). The LRE is documented by describing the extent to which the child will receive this service while participating with nondisabled peers.
- The LRE and the general education classroom are not synonymous terms. The Individuals with Disabilities Education Act states that students with disabilities should be educated with nondisabled students to the maximum extent appropriate. The LRE is determined individually for each student, depending upon his/her unique educational needs.

2. Should the IEP team wait until the 3-year re-evaluation is due for a student to exit related services?

- Absolutely not. The need for all services and supports, including related services, must be determined by the IEP Team based on individual student need, not administrative convenience. Continuing a related service when it is not required for the student to benefit from special education violates the student’s right to LRE.
- A reevaluation may be conducted if the LEA determines that the educational or related services needs of the student (including improved academic achievement and functional performance) warrant a reevaluation or if the child’s parent or teacher requests a reevaluation.

- The reevaluation process requires that the IEP Team review existing data to determine what, if any, additional data are needed to determine whether the child continues to need special education and related services and/or the type of services required. Data reviewed must be documented. If existing data are insufficient, needed data are identified. A *Prior Written Notice (DEC 5)* must be given at this time. The team collects the data and re-convenes to review the new data and determine continued eligibility and appropriate services, if eligible.
- When the IEP Team is making a determination whether to terminate a related service for a student, a comprehensive re-evaluation process must be conducted. As a related service is provided to assist the student with a disability to benefit from special education, the Team cannot determine the need for a related service without addressing the primary disability area. The re-evaluation meeting resets the triennial evaluation date and parents should be provided notice of this.

3. What if we are in the middle of an annual review and we find ourselves considering exit of a related service?

- This should happen rarely, if ever, and indicates that the IEP team should improve communication and/or progress monitoring of the student.
- Efforts must be made to ensure that everyone on the IEP team, especially parents, completely understand the data and decisions being considered. The parents must agree that it is appropriate to proceed with any decision not listed on the prior notice. If parents are not in agreement, another meeting must be scheduled to discuss this issue and come to a decision.
- In this case, documentation should indicate that, although not included on the original invitation to conference, the IEP Team's review and discussion lead to the reevaluation process. The meeting minutes, dated documentation on the Invitation and other appropriate documentation, including the *DEC 5*, would document the IEP team's decision to conduct a reevaluation (see above discussion on the reevaluation process) and that the data was sufficient and the review of existing data lead to the IEP Team's decision to continue or exit the related service.
- *Good IEP team communication and ongoing progress monitoring of all goals and objectives should prevent surprise discovery at the annual review of the IEP. Planning, monitoring, and progress reports should alert appropriate team members, including the parent, of the need for a reevaluation to address the student's needs.*

4. How are we supposed to find the “crystal ball” to determine service type, frequency, duration and location?

- The IEP team needs to have valid and reliable formal and/or informal information for decision making.
- Service type, frequency, duration, and location must be determined based on the individual student needs as documented in the present level of academic achievement and functional performance (PLAAFP) and in the annual goals in the IEP. Service delivery must be specifically and accurately documented on the IEP.

- IDEA requires that the IEP include information about the amount of services that will be provided to the child, so that the level of the agency's commitment of resources will be clear to parents and other IEP Team members. The amount of time to be committed to each of the various services to be provided must be appropriate to the specific service, and clearly stated in the IEP in a manner that can be understood by all involved in the development and implementation of the IEP.
- The determination must not be based on administrative convenience (e.g., the availability of resources or staff). The determination of the LRE, if made appropriately, provides each student with a free appropriate public education, which is mandated by federal regulations and state policies. If a provider is, on a regular basis, providing more service or less service than is indicated on the IEP, the IEP Team needs to convene to discuss the student's current needs and accurately reflect those needs and services on the IEP.

5. When do services need to be made up?

- If the school makes IEP services available to the student at the normally scheduled time, the school is not obligated to make other arrangements to provide services if the student is absent from school because of the family's or physician's decisions, e.g., illness or family vacation. The reason for the missed service session should be documented.
- If the student does not receive services because of the participation in school-related activities such as field trips, the school generally will be responsible for making alternative arrangements for providing IEP services.
- If the student did not receive the services for reasons associated with participation in mandatory school-sponsored activities (e.g., field trips, assemblies) or the unavailability of needed personnel (e.g., therapist's absence or illness, continuing education, emergency, or logistical trouble) the school district is responsible for making up the services. In the event of personnel being unavailable, the school would be required to make other arrangements to provide the services at that time or to reschedule the required IEP services.
- Please note that special education and related services *do not* cease or suspend due to testing (need for proctors) or other school calendar issues. Please refer to the attached Balkman letter from OSERS.

6. Why can't we attach the Individualized Health Plan (IHP) to the IEP to indicate what nursing services are needed?

- The IHP contains personal and medical information that should *not* be available to everyone who has access to the IEP.
- The IHP has very specific information regarding medication dosages and other details that change often and quickly. If attached to the IEP, the IEP team will have to meet to amend the IEP each time these details are changed.
- The IHP is focused on what the nurse will do/provide to the student. It is not student centered or based on student skills, as the IEP is.
- *If attached to the IEP, the medications, services, supplies and supports described in an IHP could become the legal/financial obligation of the LEA if the family is unable or unwilling to provide at school.*