



Technical Assistance Bulletin 3

Division of Special Education/Early Intervention Services Effective Service Delivery and Staffing Supports

June 2001

Below is additional guidance to assist Individualized Education Program (IEP) team members in the consideration of appropriate and effective staffing and service needs of students with disabilities. The provision of appropriate services is necessary to ensure students with disabilities receive a free appropriate public education (FAPE) in the least restrictive environment. The Individuals with Disabilities Education Act (IDEA) Amendments of 1997 emphasize providing greater access by students with disabilities to the general curriculum and to educational reforms, as an effective means of ensuring better results for these students.

Both the Senate and House Committee Reports on Public Law 105-17 state that: "The Committee wishes to emphasize that, once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it." (S. Rep. No. 105-17, p. 20; H.R. Rep. No. 105-95, p. 99 (1997)). This Technical Assistance Bulletin is designed to pose critical issues that should be considered when an IEP team meets to develop, review, or revise a student's IEP.

1. How does an IEP team determine how services shall be delivered to a student with a disability?

A student's IEP team is responsible for the development of an "individualized" plan that will address the student's unique needs, whether or not those needs are commonly linked to the student's disability. Writing and implementing an effective IEP involves many people and collaborative decision-making. The IEP team includes the student's parents and other qualified individuals, at the discretion of the parent or the public agency. The decisions made by the IEP team also include the consideration of special factors, in accordance with 34 CFR §300.346(b) and COMAR 13A.05.01.08A, as appropriate. This is the cornerstone of special education.

Decisions should be based upon current relevant information about the student from a variety of sources. This information includes the most recent evaluation of the student; assessment results from State and district assessments; input from the student's special and general education teachers; and information from the student's parents. Assessments include any assessments or reports completed by outside agencies and provided to the IEP team by the parents. The consideration of this information is inherent in the requirements that the IEP include a "statement of the present levels of educational performance." This includes a description of how the student's disability affects the student's involvement and

	<p>participation in the general curriculum and serves as the basis for determining the goals, services, and accommodations the student needs in order to participate in the general curriculum to the maximum extent appropriate. Within the present levels of performance, the IEP team should also discuss the student's strengths, unique needs of the student, and the parents' ideas for enhancing their child's education.</p> <p>The amount of special education and related services to be provided to a student or on behalf of the student must be stated in the IEP so that the level of the agency's commitment of resources will be clear to parents and other IEP team members. The IEP team must consider the full range of supplementary aids and services that if provided would facilitate the student's placement and participation in the regular classroom.</p> <p>[34 CFR §§300.344(a); 300.345(a); 300.346; 300.347(a); 300.531-300.536; Attachment 1 - Analysis of Comments and Changes March 12, 1999; Appendix A Questions 1 and 35]</p>
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<p>2. What is the role of the IEP team in determining student/staff ratio?</p>	<p>The IEP team is responsibility for determining the specific special education and related services needs for an individual student identified with a disability under IDEA. When determining a student's service needs, the team must identify the supplementary aids, services, and supports needed to enable the student to participate in the same general curriculum as the student's age appropriate nondisabled peers. This may include a recommended number of peers with whom the student would work with in order to enable the student to participate in the general education class.</p> <p>A public agency is not required to change or reduce the size of a general education class size to accommodate the needs of a student with a disability. What is required of the public agency is to propose an appropriate setting that will enable the student to participate and progress in the general curriculum. In determining the extent, if any, to which a student will be removed from the regular education environment, a public agency must ensure that such removal occurs only if the nature or severity of the student's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Special education is to be provided to a student with a disability in the general education environment in which the student would attend if not disabled with the student's age appropriate nondisabled peers. The IEP team is to document the supplementary aids and services to be provided to enable the student to progress in the general curriculum and achieve the goals on the IEP in that environment. A student with a disability shall not to be removed from the general education setting solely because of needed modifications in the general curriculum.</p> <p>An IEP that clearly states the frequency (how often), duration (how long), and location a public agency is to provide specified services and/or modifications will enable the parents, general educators, and special education service providers to effectively implement the intended special education and related services needed</p>
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	<p>in order for the student to receive a FAPE and evaluate the student's progress toward mastering the identified goals.</p> <p>Parents are equal members of their child's IEP team, and should participate in the discussion about whether there are any obstacles to ensuring the child's full and effective participation in the general curriculum. If the parents are not satisfied with the outcome of the IEP meeting, a process is available to them under both the Act and its regulations for sharing their concerns.</p> <p>[34 CFR §§300.344(a); 300.345(a); 300.346; 300.347(a); 300.531-300.536; 300.506-300.514; 300.550(b); 300.552(e); 300.553; Attachment 1 - Analysis of Comments and Changes March 12, 1999; Appendix A Question 35]</p>
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<p>3. Should a student's IEP specify the type of staff support a student needs?</p>	<p>Yes. The services for each student should be tailored to address the unique needs that affect the student's ability to make measurable progress in the general curriculum. With respect to preschool students, the term "appropriate activities" is used to refer to typical activities that students of that chronological age engage in as part of a preschool program, such as coloring, story time, pre-reading activities, play time, sharing time, etc.</p> <p>Specific and unique adult support may be needed depending upon a student's ability to perform a specific task. Decisions concerning support should be linked to the student's present level of performance and address deficits related to the student's disability. Many times, adult assistance is dependent upon the task to be performed. If a student is in need of adult assistance, the IEP should specify the types of assistance, in what settings, and be stated in a manner that is clear to all who are involved in both the development and implementation of the IEP. The IEP needs to provide both sufficient detail and flexibility in describing the student's needs and the circumstances that require such assistance.</p> <p>The IEP should clearly identify the specific supplementary aids, services, supports, and modifications, provided to the student or on behalf of the student. This includes services that are provided to the parents or teachers to help them effectively work with the student. Supports for school personnel could include special training for a student's teacher that would be targeted to assist the teacher in meeting the unique needs of that student and not just an inservice training program available within the public agency.</p> <p>[34 CFR §§300.347(a); 300.550(b); 300.552(e); 300.553; Attachment 1 - Analysis of Comments and Changes March 12, 1999; Appendix A Question 35]</p>
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<p>4. Should the IEP team document a student's need for</p>	<p>Yes. Students with disabilities will be educated in the regular education environment along with their nondisabled peers, including extracurricular and nonacademic activities offered to students at the school. Students are only removed from that environment if it is determined that they cannot be appropriately served in the regular education environment, even with the use of</p>
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<p>need for supplementary aids, services, or supports in extracurricular and nonacademic activities?</p>	<p>supplementary aids and services. This requirement also applies to the participation and involvement of a student with a disability in extracurricular and nonacademic activities. Each IEP team must carefully consider the extent, if any, to which the student will not participate with nondisabled students in the regular class, the general curriculum, and in extracurricular and other nonacademic activities. If an IEP team determines a student cannot participate full time with nondisabled students in extracurricular and nonacademic activities, and other activities described in § 300.347(a)(3)(ii), the IEP must include a statement that explains why full participation is not possible. The IEP team must consider the full range of supplementary aids and services that if provided would facilitate the student's participation in extracurricular and nonacademic activities.</p> <p>[34 CFR §§300.347(a); 300.550(b); 300.552(e); 300.553; Attachment 1 - Analysis of Comments and Changes March 12, 1999; Appendix A Question 1]</p>
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<p>5. What personnel data is submitted to the Maryland State Department of Education (MSDE) and reported to the U.S. Department of Education?</p>	<p>Personnel data is collected and reported to the United State Department of Education annually as part of the State's <u>Comprehensive System of Personnel Development</u>. The personnel data reports the number of special education teachers and related service providers employed by a local school system. This data is categorized as follows:</p> <ul style="list-style-type: none"> • Employed (Fully Certified & Not Fully Certified); • Vacant positions; • Retained Teachers (Fully Certified & Not Fully Certified); and • Total Demand. <p>A local school system's annual personnel report of special education teachers includes all special education teachers who work with students with disabilities including itinerant/consulting teachers, home/hospital teachers, and speech/language teachers. The personnel reported does not include general education teachers that work with students with disabilities. The number of staff who are not fully certified includes emergency or provisional employees who are not certified and long-term substitutes. Retained personnel are those who were in the same position during the previous year. The personnel count is to report the number of personnel employed as of December 1. This data is reported to MSDE on March 1 annually.</p> <p>The special education teacher data is separated into the number of personnel who work with students with disabilities who are:</p> <ul style="list-style-type: none"> • Three (3) to five (5) year olds; and • Six (6) to 21 year olds. <p>The number of related services personnel employed is reported for the following professions that provide related services to students with disabilities, ages three (3) to 21 years old within a local school system: Vocational Education Teachers, Physical Education Teachers, Work Study Coordinators, Psychologist, School Social Workers, Occupational Therapist, Audiologist, Teacher Aides, Recreation & Therapeutic Recreation Specialist, Diagnostic and Evaluation Staff, Physical Therapists, Counselors, Speech Pathologist, Supervisors, Administrators,</p>
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	Interpreters, Rehabilitation Counselors, Other Professional Staff and Non-Professional Staff.
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	[20 U.S.C. §1412(a)(14); 34 CFR §§300.136; 300.380-382; COMAR 13A.05.02.04C; 13A.05.02.11; 13A.05.02.13C(1)(c); 13A.05.02.13G]
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