

Special Education Staff Meeting
December 19, 2008

Compliance Issues:
Related Services and Parent Referrals for Special Education

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Clarification from *Vol. 1, Issue 1, Question 1*: For a new evaluation as part of a Reevaluation, the student must be re-assessed in all areas that were assessed in his/her initial evaluation **UNLESS the student was found by the initial IEP team NOT to be in need of the service in order to benefit from the instructional program or** UNLESS the student has been previously exited from the service and the IEP team believes the student may still be in need of the service. In addition, if the **IEP team suspects** there may be new areas of disability those areas should be addressed/included in the new evaluation.

1. Question: What are the *eligibility criteria* for related services?

Answer: *There are no specific criteria in the IDEA for determining whether a student is eligible for related services. As such, IEP teams must use their best judgment when deciding whether a student needs a related service to receive FAPE. Nevertheless, the IEP team must review all data and assessments prior to deciding whether the student requires special education or related services to receive a meaningful educational benefit. The decision must be unique to the facts and circumstances of a particular child and must be made on an individual basis. Case name: Letter to Anonymous, 50 IDELR 47 (OSEP 2007).*

2. Question: When is it appropriate to provide “monitoring” services, if ever?

Answer: “Monitoring” services are appropriate when an IEP team is considering exiting a student from all special education (instructional and related) services. The purpose of “monitoring” is to provide the student with a *transitional period* from special education to general education wherein the staff member responsible for the monitoring identifies the supports or accommodations, if any, that will be needed for the student to function successfully in general education. At the end of the transitional period, and the student is officially exited from special education, the SAT team *must* convene to ensure that the instructional and/or behavioral accommodations are clearly written in the student’s SAT plan. The transitional period should last, at a minimum, for the remainder of the semester in which the IEP team decided to exit the student from special education, or at a maximum, for one additional semester after the semester the student was exited from special education.

With respect to related services alone, it is the responsibility of the IEP team to decide that a student does need a related service to benefit from special education, or he/she does not. If the student does need the service, it is to be provided

directly to the student by the related service provider, or provided indirectly from the related service provider by the instructional staff based on regularly scheduled input from the related service provider. In either case, a *specialized* service is being actively provided to the student. *Therefore it is inappropriate to develop an IEP specifying a passive or “monitor” related services model from which the student receives no benefit.*

3. Question: What is the procedure to follow if a parent requests and evaluation for special education *without* having been through the SAT/RtI process?

Answer: It depends on whether the district has reason to suspect that the child may be a child with a disability in need of special education and related services. If it DOES, as a result of the parent’s request, the district must *expedite* the process of completing the SAT forms with available information and forward the request for an evaluation to the special education department. (Example: The district was not aware, until so informed by the parent, that the student is suffering from a physical or mental impairment which may be interfering with learning, and which may be the basis for a *non-SLD* disability category.)

If the district does NOT suspect the student is disabled and in need of special education and related services (*as evidenced by the fact that there has been no referral to the SAT team for instructional or behavioral interventions*), the district must provide the parent with a Written Notice of Refusal explaining WHY it does not suspect the student is disabled and therefore is NOT going to proceed with an evaluation. (Example: The student’s performance on district and state assessments is not significantly different from his or her peers – which would be required for a dual discrepancy! - and there is no evidence that the student’s behavior has been of concern to the student’s teacher or campus administration.)