

ORSPN QUESTIONS SUMMER 2021

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OFFICE FOR EXCEPTIONAL CHILDREN

1. ***Per IDEA (Individuals with Disabilities Education Act) and Operating standards for the Education of Children with Disabilities 3301-51, please clarify if and when a related service provider is required to attend the meetings noted. Also, note if attendance can be in person or virtual. Lastly please indicate when a written excusal is required in particular circumstances.***

Evaluation planning meeting: the planning for the evaluation can take place in a variety of ways. RSP can participate at a scheduled in-person meeting, during a virtual meeting, on the phone, via email.

ETR team meeting: Initial evaluation- State and federal regulations state for an initial evaluation, "a group of qualified professionals and the parent" attend the ETR team meeting and determine eligibility.

Guidance from the Office for Exceptional Children (OEC) is that the group of qualified professionals may be: 1) The student's general education teacher; 2) A person qualified to conduct individual assessments such as a school psychologist or speech-language pathologist (SLP); 3) District representative

ETR team meeting Reevaluation- The ETR team is the IEP team required members (Parent, General Education Teacher, Intervention Specialist, and District Representative)

IEP meeting: Generally, a RSP is not a required member of an IEP meeting, and therefore does not need to be "excused." If, as an RSP, you are an individual who can interpret the instructional implications of evaluation results, you may be a required member.

You may attend at the discretion of the parent or the school district, as a member with special knowledge or expertise, but you are not a required member, and therefore do not need to be excused.

2. **Do I sign the Evaluation Team Summary (Part 2 of the ETR) if I am not present when the team discusses eligibility determination? I attended the beginning of the meeting and provided my individual evaluation assessment summary, which I had signed and dated.**

If you do not participate *at the meeting* during the evaluation team discussion that considers the potential educational disability of the student, you do not sign the Team Summary.

3. **Please clarify the process for ETR determination ---does a student "qualify" for special education and related services based upon a test score or is the student "eligible" based upon team collected data and discussion? Please indicate the IDEA requirement and/or the Ohio Operating Standard that applies.**

Students are determined “eligible” for special education and related services following a comprehensive team evaluation and thorough discussion about whether the student meets the definition of a particular educational disability. The student does not “qualify” for a related service based on a score or other performance measure.

The ETR team determines the eligibility category, educational needs and implications for instruction. The IEP team then determines the services the student needs.

4. How does ESSA describe the role of the Specialized Instructional Support Personnel (aka related service personnel) when working with general education students? Is there a resource or guidance document from the federal or state?

As defined in the [Every Student Succeeds Act \(2015\)](#), the term ‘specialized instructional support personnel’ means: “school counselors, school social workers, and school psychologists; and other qualified professional personnel, such as school nurses, speech language pathologists, and school librarians, involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services (including related services as that term is defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401) as part of a comprehensive program to meet student needs.” The federal term “early intervening”, included in IDEA and ESSA, is used to describe tiered services to general education students to promote, prevent or intervene to address barriers to educational success

Congress adopted the term with the passage of ESSA, the reauthorized version of the Elementary and Secondary Education Act (ESEA). “Specialized instructional support personnel” (SISP) replaced “pupil services personnel” and is often being generalized to refer to related service personnel as defined in IDEA. The term was adopted a number of years ago by the National Alliance of Pupil Services Organizations, renamed as the National Alliance of Specialized Instructional Support Personnel ([NASISP](#)).

There is nothing in state or federal law that would prohibit related service personnel from working with general education students, on a direct or indirect basis, however students with disabilities are the priority and must receive all services as written on their IEPs. There may be funding issues if the related service provider is compensated with IDEA funds, so always check with the supervisor prior to providing services to regular education students. IDEA provides that up to 15% of IDEA funds may be used for “early intervening services” for students who “are not currently identified as needing special education or related services” ([34 CFR 300.226 Early Intervening Services](#)). Most schools in Ohio have elected to do this so providing services to regular education students is generally not a funding problem.

SISPs may participate in *screening* conducted in general education. This screening is not likely child specific, but rather conducted with groups of children. Screening to inform instruction is not considered an evaluation and parent consent is not required. (Some districts may use a school district form “Permission to Review”, but it is not required.) Per IDEA, “*the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.*” (Please refer to [34 CFR 300.302 Screening for instructional purposes is not evaluation](#), <https://sites.ed.gov/idea/regs/b/d/300.302>, and Operating standards 3301-51-06.)

SISPs will also want to check with their respective state licensure boards to determine if there are other requirements with regard to screening.

When SISPs are asked to conduct a more in-depth assessment/ evaluation of a general education student's needs (most likely to occur in Tier 3), parent consent is required. Parent permission should be obtained on a district/provider created form. Again, SISPs should be aware of any parent permission requirements indicated in state licensure laws and rules.

If a general education student is suspected of being a student with a disability at any point during the early intervening process, the district team should consider this a referral for special education evaluation and use parent permission, form PR-05. All initial evaluation procedures as outlined in Operating Standards 3301-51-06, must be followed, including the ETR planning, which would include all early intervening data accumulated.

Guidance: I strongly encourage the SISP/RSP to provide professional development, consult with general education teachers, develop interventions general education teachers may use or model techniques and strategies for general education teachers. SISP/RSP can be excellent consultants and resources for general education teachers. Determining the need for direct services to general education students should only occur after thoughtful considerations by the SISP, in collaboration with the building team, regarding the need for the SISP's expertise, the short-term impact of the SISP provided intervention and the ability to resolve or mitigate the student's educational barrier.

5. Please explain when a RSP can state the “location” in Section 7 of the IEP as “school environment”.

If you support a student goal written in Section 6 and working on the goal applies to a variety of school settings and situations (social skills, behavior, functional skills, attention to task, etc.) then it is appropriate to indicate “school environment” as the “location”. If the student goal is setting specific, such as recess (use playground equipment), cafeteria (eat a variety of food textures), then the use of “school environment” as the location would not be applicable.

6. When will the revised Operating standards 3301-51 be adopted?

The revised Operating Standards will most likely be in effect by July 2022. The State Board of Education voted approval of the revised Operating Standards in June 2021. Currently, the revised Operating Standards are currently being analyzed under the Business Initiative Impact. Once that analysis is complete, they will go before JCARR, Joint Committee on Agency Rule Review.

7. Is there a guidance document or webinar regarding effective IEP progress monitoring?

Please see the [Universal Support Materials](http://education.ohio.gov/Topics/Special-Education/Special-Education-Monitoring-System/IDEA-Onsite-Reviews/OEC-Monitoring-Training-Materials), IEP-Part 2, [here](http://education.ohio.gov/Topics/Special-Education/Special-Education-Monitoring-System/IDEA-Onsite-Reviews/OEC-Monitoring-Training-Materials)
[http://education.ohio.gov/Topics/Special-Education/Special-Education-Monitoring-System/IDEA-
Onsite-Reviews/OEC-Monitoring-Training-Materials](http://education.ohio.gov/Topics/Special-Education/Special-Education-Monitoring-System/IDEA-Onsite-Reviews/OEC-Monitoring-Training-Materials)

Measurable Goals and Specially Designed Instruction, Slide 6. The transcript states:

Progress Monitoring- Progress monitoring is used to determine if the student is making progress on IEP goals. Frequent data collection on how the student is performing in relation to IEP goals and how the specially designed instruction is being implemented helps determine if the specially designed instruction, accommodations and interventions in the IEP are working. The data compiled from progress monitoring can be a basis to reevaluate the IEP and reconvene the IEP team to make any needed adjustments in the services and supports to better meet the needs of the student.

In Section 6 of the IEP, you will indicate the method that will be used to measure the student's progress towards each goal. By simply hovering over the listed method on the form, a definition appears explaining each method. Progress should be monitored using the same unit of measurement in a goal to best determine progress toward the goal. You will also indicate the frequency of reporting progress to the child's parents. Remember: while progress REPORTING to parents occurs at each grading period, progress MONITORING can occur throughout the grading period to guide instructional decisions.

Guidance- Generally speaking, the more data points the better. OEC's Supports and Monitoring has indicated that at least three data points should be documented.

8. Sometimes the district forgets to notify me of an IEP meeting. If I don't attend the IEP and don't provide input prior to the meeting, do I sign at the top or bottom of Section 14.

If you did not attend the meeting or contribute in any way to the development of the IEP, you do not sign the IEP. The signature reflects those who attended or participated. Signatures in Section 14 do not indicate agreement. If the team writes goals which you are to support and notes the related service in Section 7, you are still able to serve the student. This is a provision of IDEA and Ohio Operating Standards 3301-51-07.

9. I didn't get to attend an IEP meeting but I provided written and verbal input prior to the meeting. How do I sign and date the IEP?

You would sign the student's IEP, Section 14 at the bottom of the page. This section indicates you provided input to the development of the student's IEP but did not attend the meeting. The date you document is the actual day you provided the input. This date must be a date prior to the meeting or the day of the meeting. You would never use a date after the meeting.

10. How do I list the services of an assistant on Section 7 of the IEP?

The assistant is documented under "support for school personnel" (OTA, PTA, etc.), with the RSP services described in the "type of service" column and further noted in the "Provider Title" column (physical therapist, occupational therapist, etc.)

11. When documenting services in Section 7, if I am not sure about the availability of an assistant to help me with caseload responsibilities, am I able to state in the SSP that an assistant "may"

be available to support the delivery of IEP services? Please provide an example of how to state this.

The IEP document represents what the student *is* to receive not possibility what the student “may” receive. Should the school district hire an assistant or you are later able to partner with an assistant to deliver some component of the IEP services, the IEP Section 7 would be amended under SSP to reflect the addition of an assistant. The student remains on your caseload and you remain the responsible provider on the IEP.

12. Please explain how a related service such as OT or PT become SDI. Please address what data is needed, who makes the determination, and are only certain disability categories applicable (vs. any). Please indicate the Operating Standard that addresses this.

The definition of special education can be found in OAC 3301-51-01 (60). Any of the educational disabilities listed in this same rule under (10) “Child with a disability” can be considered.

If the IEP team makes the determination that the only service a student needs is the related service, then that related service becomes the Specially Designed Instruction (SDI).

Example: Student is identified as having the disability of Other Health Impaired (OHI). The IEP team determines that the student only needs occupational therapy (OT). OT becomes the SDI.

Note: The federal government allows states to determine that a related service may become the SDI if that is all the student needs according to IEP team decision. Ohio has elected to do this. Not every state has chosen to do this so if a service provider or supervisor has moved to Ohio from another state, they may not be aware of Ohio’s law.

13. When a student is not making sufficient progress on their IEP goals, how is this determined and by which team members? When is it more appropriate to amend certain goals vs. reconvene the IEP team to potentially rewrite the IEP? Should the team lower student performance expectations? What are indicators that a re-evaluation should occur?

The student’s IEP progress report should clearly indicate their status; student is moving toward the goal or lacks improvement. Be specific with data reporting and statements about the student’s performance. If a student is not benefitting from the service provided, something has to change. Don’t wait until the annual review to report about progress or change a goal to better reflect student needs. Frequent collaboration with your team will uncover contributing factors you may not be in position to know.

Possible response/probes for the team: Are there student and/or non-student factors negatively impacting the progress, such as *family dynamics, absences, behavior, illnesses, unmet mental health and social emotional needs, personnel/staff issues, ineffective instructional approach, goals are based on insufficient information or data about the student, goals too generic and not unique to the student, measure of progress is subjective, etc.*

If many team members are seeing the lack of progress for a student, it may be more time efficient to reconvene the IEP team to review the documentation, and decide next steps. As far as writing a sufficiently challenging IEP goals for the student, it may be more appropriate for team members to investigate methods, approaches, style of service delivery, amount of service time and other root causes, before “lowering” student expectations.

14. When students have not attended class remotely (for various reasons) during the pandemic, how do RSP document student lack of progress or no progress?

Team members impacted should document absences on service note, attendance record and IEP progress report, as appropriate. A possible statement might be: *due to student absences, progress toward IEP goals and current student performance is unknown.*

Be sure school administrators are aware of absences, and document attempts to offer services as well as attempts to contact parents regarding absences.

15. Regarding student absences, please indicate which situation *legally* requires direct therapy time to be made up. Also indicate any other actions that need to be taken

- a. Student is absent a few days per grading period**
- b. Student missed scheduled therapy time due to school calendar, such as holiday, teacher in-service or work day, spring/winter breaks**
- c. Student is frequently absent and progress is being impacted**

(a.) If student occasionally misses school on the days the service is scheduled, the missed minutes should be documented but technically do not have to be “made up”. As part of best practice, the RSP would want to attempt to “serve” the student in some way and document the activity.

(b.) If absences occur due to the school calendar become a pattern or impact the student’s progress, some effort should be made to reschedule the related services being missed. Again, document the reason for the absence and if progress is being impacted, document the impact and any attempt to serve the student in some way.

(c.) The student’s progress would be a major factor here. Again, the RSP needs to specifically document the absences and impact to student progress. The IEP team would want to meet to discuss how best to deliver RSP services being missed or other actions that need to be taken.

In addition to the above, please refer to the OSEP letter, Letter to Clarke, [here](#).

<https://www2.ed.gov/policy/speced/guid/idea/letters/2007-1/clarke030807disability1q2007.pdf>

This letter is from 2007 but is still in effect. See page 2. The question is about speech-language services but applies to any service. Basically, state and federal regulations do not directly address missed sessions. However, IEPs are to be implemented as written including delivery of services per an agreed upon schedule. If the service is offered per the schedule and the student is unavailable due to illness, field trip or any reason, the school is not obligated to “make up” the missed session. If the service is missed due to service provider absence and the service was not offered at the

scheduled time but the student was available, then the school is obligated to “make up the missed session.”

Sessions missed due to holidays, in-service days, snow days, etc. are considered part of the school calendar and do not need to be “made up.”

If the student repeatedly misses sessions for any reason to the point that the school may not be providing a free appropriate public education (FAPE) meaning the student is in danger of not making progress on IEP goals and in the general curriculum, then the school must address this situation. The IEP team will need to make the determination that the student may not receive a FAPE and how to address it.

16. Please provide example statements regarding how the type of service, amount of time and frequency should be documented in Section 7 of the IEP (see each column)

This is the official response from ODE Supports & Monitoring:

Example statement: “160 minutes per month, when school is in session, intended to be delivered in twice weekly sessions of 20 minutes each.”

Please note, that Supports & Monitoring does not approve of anything listed for a period longer than a month. For example, “400 minutes per quarter” would not be accepted.

17. If I work with a child outside of the classroom (pull out), do I need to explain this delivery type in Section 11 (LRE)?

Yes. Please see the Universal Support Materials, [Here](#) IEP Part 3, Least Restrictive Environment and Testing, slide #3 Least Restrictive Environment:

<http://education.ohio.gov/Topics/Special-Education/Special-Education-Monitoring-System/IDEA-Onsite-Reviews/OEC-Monitoring-Training-Materials>

The Least Restrictive Environment section requires a justification statement if a child receives services, including related services, anywhere other than in the general education setting with nondisabled peers. When students are removed from the general education classroom, districts must explain why the instruction CAN NOT be delivered in the general education setting with nondisabled peers along with access to accommodations and modifications. Please note that the presence of a disability alone is not a reason for removal. For example, “Due to the student’s disability”, is not a justification for removal. Give specific examples of why a separate setting, away from nondisabled peers, is the best learning environment to assist the student in making progress in the IEP goals.