

# NON-REGULATORY GUIDANCE TO THE RELATED SERVICES POLICY— ISSUED ON JANUARY 5, 2010

The Office of the State Superintendent of Education, Department of Special Education (OSSE DSE), issued the “Related Services Policy” on January 5, 2010. Every Local Education Agency (LEA) is responsible for providing related services to students with disabilities in accordance with their Individualized Education Programs (IEPs). The purpose of this guidance document is to provide additional clarification to assist LEAs in implementing the policy in a manner consistent with the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 *et seq.*

## Frequently Asked Questions (FAQ)

### I. Eligibility and Determination of Appropriate Related Services

#### 1. How does a student become eligible to receive related services?

A student must be determined, by the student’s IEP team, to be a “child with a disability” in order to be eligible to receive related services. To be considered a “child with a disability,” a student must have one of the disabilities specified by the IDEA and because of the disability, need special education and related services.<sup>i</sup> A student may also be found eligible for special education and related services if he or she, once evaluated, is determined to have a developmental delay.<sup>ii</sup>

#### 2. Who determines which related service(s) should be provided to a student with a disability?

A student’s IEP team determines which related services should be provided. This determination is based on current data which may include formal and informal assessments, progress reports provided by related service providers, and teacher and parent observations. All related services designated on the IEP must assist the student to achieve annual goals and meet the student’s educational needs. Examples of questions that an IEP team should consider include:

- Does the student need the related service to access the general and/or special education curriculum?
- Will the student make educational progress, as described in the IEP, if he or she does not receive the related service?
- Is the related service needed to assist the student to benefit from special education?

#### 3. What is meant by the frequency, location, and duration of a related service?

*Frequency* refers to how often a related service will be provided (i.e. the number of sessions per week and the length of each session). *Duration* refers to how long the LEA will continue to provide the related service (i.e. how many months of service as indicated by start and end date). *Location* refers to the physical site at which the related service will be provided. An IEP must state the frequency, duration, and location of the related services provided to the student.

#### 4. Should related service decisions be based on a student’s disability category?

No. Students who fall in the same disability category may not, by default, have the same needs. The IEP team must determine appropriate related service provisions based on the unique educational needs of each student with a disability. Services should be designed to assist the student to benefit from his or her individualized educational program.

#### 5. Should related service decisions be based on a student’s special education level?

No. Special education level is a classification based on the total number of hours of special education service provided to a student with a disability. A student’s special education level is only known after the IEP team determines the terms of service provision. Therefore, a student’s special education level is not a diagnostic tool and should not play a role in related service decisions.



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**6. Can a related service be added or removed from a student's IEP?**

Yes. The IEP team determines if it is appropriate to add or remove a related service from the student's IEP. A request for such a change may indicate a significant change in the student's needs. The IDEA encourages IEP teams to meet throughout the year when necessary to review and revise the IEP as appropriate to address a student's lack of progress toward the annual goals or any new areas of concern.<sup>iii</sup>

**II. Documentation of Related Services**

**1. How should a related service session be documented?**

Individual related service providers must complete a service log for each completed related service session. The purpose of a related service log is to capture data concerning the nature of the session (i.e. description of the IEP goal and corresponding skill/functionality taught) and any indicators of student progress demonstrated during the session. To be deemed complete, a related service log must include the date, start time, duration and location of the service, and the signature of the related service provider or qualified supervisor.

**2. Are LEAs required to document related service provision in the Special Education Data System (SEDS)?**

Yes. With the issuance of Title 5, Chapter 30, Section 3019 of the District of Columbia Municipal Regulations (DCMR) on December 4, 2009, all LEAs are required to fully utilize, implement, and enter accurate and complete data into SEDS for all aspects of special education practice.<sup>iv</sup> In terms of related service provision, to fulfill the documentation requirement, LEAs must ensure that all related service logs are completed, and that corresponding service tracker forms are created, signed, and stored in SEDS. OSSE has developed and issued a new tool in SEDS, the Related Services Management Report (RSMR), to assist LEAs with managing related service delivery. LEAs should use this tool to review trends in service delivery at both the student and LEA level to ensure that services continue to be delivered as prescribed for all students. OSSE will be reviewing RSMR data during its on-site monitoring visits to verify service delivery.

**3. Are LEAs responsible for ensuring that related services provided to students placed at nonpublic schools are documented in SEDS?**

Yes. With the issuance of Title 5, Chapter 30, Section 3019 of the District of Columbia Municipal Regulations (DCMR) on December 4, 2009, all LEAs are required to ensure that an accurate, complete, and up to date record exists in the SEDS for every student with an IEP enrolled in the LEA, including those placed in nonpublic schools.<sup>v</sup> An LEA determines the level of access that the nonpublic school has to student records in SEDS. Nonpublic school staff may be granted edit rights with full or limited responsibilities in SEDS or view only rights with no responsibilities in SEDS. Regardless of the type of access provided to the nonpublic school, the LEA remains responsible for ensuring that all related services are regularly documented and captured in SEDS.

**III. Implementation of Related Services**

**1. Can an LEA be excused from its responsibilities to provide related services if it lacks resources or expertise?**

No. An LEA's lack of resources or expertise does not release it from its legal responsibilities to provide appropriate and timely related services. LEAs are responsible for ensuring that qualified related service providers implement related services according to the terms outlined in each student's IEP. An LEA must make equitable, alternative arrangements if it is not equipped to provide designated related services. It is an LEA's responsibility to seek out guidance and technical assistance, as needed, when it has questions regarding related service implementation.

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**2. What responsibilities do LEAs have regarding the oversight of related services?**

LEAs must regularly monitor related service provision to ensure that service delivery occurs as required by the student's IEP, and that qualified related service providers implement, document and capture the delivery of services and the student's rate of progress in SEDS. Missed services must be addressed and documented in a timely manner, according to the LEA's policies and procedures, and reported to the IEP team when appropriate.

**3. Are LEAs responsible for the oversight of related services provided to students placed at nonpublic school?**

Yes. The responsibility for the oversight of related services in compliance with the IDEA remains with the LEA, even if a nonpublic school implements a student's IEP.<sup>vi</sup> The LEA is responsible for taking the appropriate steps to ensure that the student is receiving a Free Appropriate Public Education (FAPE) at the nonpublic school. The LEA must initiate the nonpublic school's access to SEDS, participate in the annual IEP review, communicate regularly with the nonpublic school to receive progress reports, confirm that appropriate related services are being designated and provided, and take steps to work toward transitioning the student back into the Least Restrictive Environment (LRE). The LEA must also make certain that any amendments made to the student's IEP are justified and implemented.<sup>vii</sup>

**IV. Specially Designed Instruction**

**1. What is the difference between special education services and related services?**

The term *special education services* refers to specially designed instruction provided at no cost to the parent which meet the unique needs of a student with a disability.<sup>viii</sup> *Related services* are services that are required to assist a student with a disability with benefiting from special education.<sup>ix</sup> Related services support special education services by directly or indirectly addressing an identified impairment resulting from a student's disability.

**2. What is specially designed instruction?**

The term *specially designed instruction* refers to the adaptation of content, methodology, or delivery of instruction as appropriate to meet the unique needs of a child with a disability. Specially designed instruction assists the student in accessing the general education curriculum, so that the student can meet the educational standards that apply to each student within the jurisdiction of the District.<sup>x</sup>

**3. Can a student have a disability or developmental delay that requires a related service, but not special education services?**

A student may experience a delay or deficit that does not negatively impact academic performance. For example, a student may not require additional academic supports or accommodations, but instead may only need a specific related service to address a specific physical impairment. In these cases, the related service is considered specially designed instruction if it otherwise meets the requirements of special education.<sup>xi</sup>

**4. Which related services may be designated as specially designed instruction?**

In the District of Columbia, related services that can be considered specially designed instruction under special education include: speech-language pathology services, vocational education, travel training, and instruction in physical education.<sup>xii</sup>

**5. Is physical education the same thing as physical therapy?**

No. In the District of Columbia, physical education includes: (a) physical and motor fitness; (b) fundamental motor skills and patterns; and (c) skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports. Students with disabilities must be provided physical education, specially designed if necessary, to the extent that physical education is provided to children without disabilities.<sup>xiii</sup> Physical therapy may be a related service and it is defined as services provided by a qualified physical therapist.<sup>xiv</sup>



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**V. Parent Participation**

**1. Are parents involved in the determination and provision of related services?**

Yes. Parents participate in the determination of appropriate related services through the IEP team decision-making process. Parents continue to play an active role even after services are designated. LEAs should regularly provide timely information regarding a student's related service delivery to parents, and afford parents opportunities to discuss the provision of related services with the related service providers. LEAs must notify parents of any proposed changes in service provision and provide parents with sufficient opportunities to participate in the IEP amendment process.

**2. What if a parent disagrees with the terms of related service designation or implementation of a related service?**

If the parent desires changes that are non-substantive in nature, such as scheduling changes regarding the date or time of service, the LEA should document the request and the agreed upon arrangement before implementing the change. However, more substantive changes such as type of related service or total service hours will require an amendment to the IEP. It is important for the related service provider to be present at any meetings that involve discussions about service implementation, so that the dialogue between parent and related service provider is captured as part of the student's special education record.

**3. Can a parent refuse or revoke consent for related services on his or her student's behalf?**

Yes. A parent may refuse to provide consent for special education and related services.<sup>xv</sup> A parent may also revoke parental consent for special education and related services.<sup>xvi</sup> A parent's revocation of consent must be submitted in writing. If a parent verbally revokes consent, the LEA should exercise due diligence in soliciting written documentation formally through calls, emails, and/or letters to the parent's residence.

**4. Can a parent revoke consent to some related services and not others?**

No. A parent's right to revoke consent applies to the provision of all special education and related services listed in the student's IEP. Once an LEA receives a parent's written revocation of consent for the continued provision of special education and related services and provides the parent with Prior Written Notice (PWN), the LEA must discontinue the delivery of all special education and related services to the student. In situations where a parent disagrees with the provision of a particular special education or related service and the parent and LEA disagree about whether the student would be provided with FAPE if the student did not receive a particular special education or related service, the parent may use due process procedures to obtain a ruling that the service with which the parent disagrees is not appropriate for the student.

**5. How should an LEA respond to a parent who revokes consent for the provision of special education and related services?**

Upon receiving written revocation of consent, an LEA must provide the parent with prior written notice before ceasing the provision of special education and related services.<sup>xvii</sup> LEAs may not challenge the parent's decision to discontinue a student's special education and related services through mediation or a due process hearing.<sup>xviii</sup> An LEA should continue to offer all interventions and supports available to students in general education. A student whose parent has revoked consent should be treated the same as any other general education student with regard to the LEA's Child Find and disciplinary procedures.

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## **VI. Transportation**

### **1. Who is eligible for transportation as a related service?**

Eligibility for transportation services is different from eligibility for special education services. Students who qualify for special education services do not automatically qualify for transportation services. It is the responsibility of a student's IEP team to determine if transportation, as a related service, is necessary in order for the student to receive FAPE and benefit from special education.

### **2. How should an IEP team determine whether a student is eligible for transportation as a related service?**

When determining if transportation, as a related service, is necessary in order for the student to receive FAPE and benefit from special education, the IEP team should consider whether the student can readily access services and be transported safely to and from school without specialized transportation. If so, then the student can likely benefit from the special education services provided as a part of FAPE without transportation services. In cases such as this, it would not be appropriate for the IEP team to designate transportation as a related service due solely to factors such as distance or convenience to the parent or student.

### **3. How often does an IEP team need to review the appropriateness of transportation as a related service once it is designated on a student's IEP?**

IEP teams must review the appropriateness of transportation as a designated related service a minimum of once a year during the annual IEP review process, and complete the corresponding documentation required in SEDS.

### **4. Can a student still receive transportation as a related service if the parent revokes consent for special education and related services?**

No. Once an LEA receives a parent's written revocation of consent for the continued provision of special education and related services and provides the parent with PWN, the LEA must discontinue the delivery of all related services to the student, including transportation.

## **VII. Missed Related Services Sessions**

### **1. How should LEAs determine whether to make up a missed related service session?**

LEAs should develop guidance for IEP teams and related service providers that clarifies criteria for determining in what circumstances a related service provider should make up a missed related service session, set timelines for making up any missed related service sessions, and provide instructions for the documentation of such make up sessions. LEAs must align the development of such policies and procedures to federal IDEA requirements related to the provision of FAPE, and policy letters formally issued by the U.S. Department of Education, Office of Special Education Programs (OSEP).<sup>xx</sup> In its authority as the State Education Agency (SEA), the OSSE will review LEA policies regarding related service delivery through the course of regular monitoring activities.

### **2. Are LEAs required to document missed and make up related service sessions in SEDS?**

Yes. In terms of related service provision, to fulfill the documentation requirement,<sup>xx</sup> LEAs must ensure that service logs are completed for all missed, attempted, and made-up related service sessions, according to the LEA's policies and procedures, and that corresponding service tracker forms are created, signed, and stored in SEDS.

### **3. How should LEAs demonstrate due diligence when making up missed related service sessions?**

When making up service sessions, LEAs should make at least three attempts to make up the missed service session. LEAs should schedule make up sessions in the timeliest manner possible since missed services sessions may adversely affect a student's educational performance and progress toward IEP goals.

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#### 4. Is it acceptable to “suspend” a related service when a student repeatedly misses the service?

No. The related service provider must be accessible onsite at scheduled session times, regardless of the number of previous sessions missed, unless alternative arrangements are agreed upon in advance by the parent. In cases of frequent/chronic absence, the LEA should contact the parent to provide notification of the missed service sessions and reschedule the sessions. If the parent does not respond to the first attempt, the next two attempts should vary in method of communication (e.g. phone call, email, letter sent home, etc.). The LEA should document each attempt in writing, recording the date, method of communication, summary of conversation or message left, and outcome. It may become necessary for an LEA to review the terms of service provision and amend the IEP. It is never appropriate for an LEA to amend the terms of service provision without first providing notice to the parent.

#### Additional Guidance

For additional information, please reference the “Related Services Policy” located on the OSSE website at <http://www.osse.dc.gov>. Please direct any questions regarding the content of this document to **Grace Chien, LEA Policy and Charter Implementation Specialist, at (202) 741-5098 or by email at [Grace.Chien@dc.gov](mailto:Grace.Chien@dc.gov)**. The OSSE has the authority as the SEA to issue additional guidance regarding LEA policy and related practice.

<sup>i</sup> “Child with a disability” means a child evaluated in accordance with §§300.304 through 300.311 as having mental retardation, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance (referred to in this part as “emotional disturbance”), an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services. 34 C.F.R. §300.8(a)(1)

<sup>ii</sup> The District of Columbia has adopted the term “developmental delay” to apply to a child aged 3 through 7 who (a) experiences severe developmental delays of at least two years below his or her chronological age and/or at least two standard deviations below the mean, as measured by appropriate standardized diagnostic instruments and procedures, in one or more of the following areas: 1) physical development, 2) language and communication development, 3) social or emotional development, 4) cognitive development, or 5) adaptive development; and (b) due to the delay(s) described above, requires special education and related services. No student shall be classified as having developmental delay based solely on deficits in the area of social and/or emotional development. Developmental delay does not apply to children with the following disabilities: (a) autism; (b) traumatic brain injury; (c) mental retardation; (d) emotional disturbance; (e) other health impairment; (f) orthopedic impairment; (g) visual impairment, including blindness; (h) hearing impairment, including deafness; or (i) speech/language impairment. District of Columbia Municipal Regulations (DCMR) Title 5, Chapter 30, §3001.1

<sup>iii</sup> 34 C.F.R. §300.324(b)

<sup>iv</sup> 5 DCMR §§3019.3(g) and 3019.4(d)

<sup>v</sup> 5 DCMR §§3019.3(g), 3019.4(d) and 3019.9

<sup>vi</sup> 5 DCMR §3019.9

<sup>vii</sup> 34 C.F.R. §300.325; see generally 5 DCMR §3019

<sup>viii</sup> Specially designed instruction can be conducted in the classroom, in the home, in hospitals and institutions, and in other settings. 34 C.F.R. §300.39(a)(1)

<sup>ix</sup> Related services include speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training. Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device. 20 U.S.C. §1401(26); 34 C.F.R. §300.34

<sup>x</sup> 34 C.F.R. §300.39(b)(3); 5 DCMR §3001.1

<sup>xi</sup> 34 C.F.R. §300.39(a)(2)

<sup>xii</sup> 5 DCMR §3001.1

<sup>xiii</sup> 34 C.F.R. §300.108

<sup>xiv</sup> 5 DCMR §3001.1

<sup>xv</sup> 34 C.F.R. §300.300(b)(3)

<sup>xvi</sup> 34 C.F.R. §300.300(b)(4)

<sup>xvii</sup> Prior written notice must be submitted in accordance with 34 C.F.R. §300.503.

<sup>xviii</sup> 34 C.F.R. §300.300(b)(4)

<sup>xix</sup> Letter to Clarke, 48 IDELR 77 (March 8, 2007); Letter to Balkman, 23 IDELR 646 (April 10, 1995); Letter to Copenhagen, 108 LRP 33574 (March 11, 2008)

<sup>xx</sup> 5 DCMR §3019.3(g); 5 DCMR §3019.4(d)

