



Information UPDATE

Wisconsin Department of Public Instruction/Tony Evers, PhD, State Superintendent/P.O. Box 7841/ Madison, WI 53707-7841

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[Ed. Note: Revision to Question 1 on 2-16-2011, Revisions to Questions 1, 3, 4, 7, and 8 on 3-4-2021]

TO: District Administrators, CESA Administrators, CCDEB Administrators,
Directors of Special Education and Pupil Services, and Other Interested Parties

FROM: Carolyn Stanford Taylor, Assistant State Superintendent
Division for Learning Support: Equity and Advocacy

SUBJECT: Describing Special Education, Related Services, Supplementary Aids and Services, and Program Modifications or Supports

The Department of Public Instruction (DPI) is responsible for ensuring local educational agency (LEA) compliance with state and federal special education requirements. DPI's oversight responsibility is explicitly established in 20 USC 1212(a)(11)(A)(i) and s. 115.762 (3)(g), Wis. Stats. As part of its general supervision system to ensure compliance with state and federal special education requirements, DPI monitors approximately 440 LEAs through the use of a procedural compliance self-assessment cycle. The purpose of this bulletin is to provide technical assistance on common procedural errors related to describing special education, related services, supplementary aids and services, and program modifications or supports (most commonly found on DPI Model Form I-9, Program Summary).

Special education is specially designed instruction to meet the unique needs of a student with a disability which is provided at no cost to the student or the student's parent by appropriately licensed staff. It is provided in the classroom, in the home, in hospitals and institutions, and in other settings. [34 C.F.R § 300.39 (2006) and Wis. Stat. § 115.76 (15) (2006)].

Related services are transportation and such developmental, corrective, and other supportive services required to assist a student with a disability to benefit from special education. [34 C.F.R § 300.34 and Wis. Stat. § 115.76 (14)].

Supplementary aids and services are aids, services, and other supports provided in general education classes or other education-related settings to enable a student with a disability to be educated with students without disabilities to the maximum extent appropriate. [34 C.F.R § 300.34 and Wis. Stat. § 115.76 (16)].

Program modifications or supports for school personnel are services or activities needed by school personnel to meet the needs of the student. [34 C.F.R § 300.320(a)(4) and Wis. Stat. § 115.787(2)(c)].

Throughout this bulletin, special education, related services, supplementary aids and services, and program modifications or supports for school staff will be referred to generally as "special education services."

Editorial Note: The example for the Easy Stand stander (Question 4) was edited for clarity. An example of supplemental aids and services in question 5 was deleted. 10/4/2010

Special education services must enable the student to advance appropriately toward the annual goals in the individualized education program (IEP), to be involved in and make progress in the general education curriculum, to participate in extracurricular and other nonacademic activities, and to be educated and participate with their nondisabled peers. The special education, related services, and supplementary aids and services must be based on peer-reviewed research to the extent practicable. [34 C.F.R § 300.320(a)(4)].

The IEP must include the projected dates for implementation of all services and their anticipated amount (how much) and frequency (how often), location (physical space/environment), and duration (period of the IEP when it will be in effect). [34 CFR §300.320(a)(7)].

Each IEP team is responsible for developing an IEP that includes a statement of the special education, related services, supplementary aids and services, and program modifications or supports for school staff based on each student's unique needs. The examples contained in this bulletin are for informational purposes only and should not be construed as appropriate for all students under all circumstances.

1. How must the IEP describe the services to be provided?

The student's unique educational needs drive the IEP team's determination of the special education services to be provided. An IEP must be written in a way that clearly states the amount of time committed to each service. The level of the LEA's commitment of resources must be clear to the parent and all involved in developing and implementing the IEP. The description of the amount, frequency, location, and duration must be appropriate to the specific special education service. A clear description of amount, frequency, and location clarifies the extent, if any, to which the student will not participate with students without disabilities in the general education class and other environments.

Whenever possible, the IEP should describe special education services, related services, supplementary aids and services, and program modifications and supports for school personnel using daily allotments of hours or minutes. Where a student's disability and unique educational needs are such that it would not be appropriate to reflect the amount in a daily allocation, the IEP should identify specific allocations appropriate to the needed special education services, related services, supplementary aids and services, and program modifications and supports for school personnel, preferably in weekly allotments. [*Letter to Copenhagen*, 21 LRP 2786 (OSEP 1994)]. In the case where it is impossible to describe special education services in daily or weekly allotments of time, the IEP must clearly describe the circumstances under which the service will be provided. (See question # 4.)

Some districts described regularly scheduled special education services as a total number of minutes per month or year. The amount and frequency should describe when the special education services will occur, most often by including the number of sessions and amount of time per session. Describing special education services as a monthly allotment is only appropriate in the rare situation where it is appropriate to the specific service and made by an IEP team based on a determination of a student's unique needs. In this case, the IEP must also describe the number and length of sessions and when the sessions will occur. Regularly scheduled special education services should not be listed with a frequency and amount of a certain amount of time per year. Special education services that will only occur once per month or once per year may be listed in monthly or yearly allotments.

Examples of *proper use* of special education services described in daily or weekly allotments include:

Supplementary Aids and Services

	Frequency & Amount	Location	Duration
One-on-one check-out at the end of the school day with general education teacher to ensure organization of materials and supplies needed for homework	5 minutes daily	General education classroom	IEP term

Special Education/Specially Designed Instruction

	Frequency	Amount	Location	Duration
Small group math instruction to reinforce concepts	Three times per week	20 minutes	General education classroom	IEP term
Individualized instruction in reading and written expression	Five days per week	40 minutes	Special education classroom	IEP term
Vocational skills training	Daily	3 hours	Community setting	IEP term

Related Services

	Frequency	Amount	Location	Duration
Physical Therapy	Two times per week	25 minutes	General education classroom	IEP term
Speech / Language	Two times per week	1 hour	Speech Language Therapy Room	IEP term

Program Modifications or Supports

	Frequency	Amount	Location	Duration
General education teacher and occupational therapist to consult on student's sensory diet	Weekly	10 minutes	General education classroom	Same term as IEP
General education teachers from previous and current school year to consult	At the beginning of each school year	30 minutes	General education classroom	Same term as IEP

Examples of special education services described in daily or weekly allotments that do *not* meet this standard include:

Special Education

	Frequency & Amount	Location	Duration
Direct instruction program for reading	1 class period	Resource Room	IEP term

Related Services

	Frequency & Amount	Location	Duration
Anger management counseling	Weekly	Counselor's Office	IEP term
Occupational therapy	Minimum of 15 minutes, three times per week	Therapy Room	IEP term
Speech / Language	650 minutes per year	Speech Language Therapy Room	IEP term

2. What is the LEA's responsibility when sessions are missed because of student absence?

The LEA must provide a free appropriate public education (FAPE) to each student with a disability by developing a program that meets the student's unique needs, documenting that program in the IEP, and implementing the program articulated in the IEP. LEAs should consider the impact of a student's absence on the student's progress and performance and determine how to ensure the continued provision of FAPE in order for the student to continue to progress and meet the annual goals in his or her IEP. Whether an interruption in special education services constitutes a denial of FAPE is an individual determination that must be made on a case-by-case basis. [*Letter to Clarke*, 107 LRP 13115 (OSEP 2007)]. If the student is absent from school for a prolonged period of time, or there is a pattern of repeated short-term absence from school for reasons associated with the student's disability, it may be appropriate for the LEA to reconvene the IEP team to discuss the student's current IEP to determine if it is necessary to modify the student's current program or placement. [*Letter to Balkman*, 23 LRP 3417 (OSEP 1995)].

3. Is it ever appropriate to write special education services as a range of time?

The amount of special education services to be provided must be stated in the IEP so the level of the agency's commitment of resources will be clear to parent and all involved in developing and implementing the IEP. The amount of time to be committed to each of the special education services to be provided must be appropriate to the specific service and stated in the IEP in a manner that is clear to all who are involved in both the development and implementation of the IEP.

The amount of special education or related service to be provided to a student may be stated in the IEP as a narrow range only if the IEP team determines stating the amount of services as a narrow range is necessary to meet the unique needs of the child. A narrow range may not be used for administrative convenience, such as personnel shortages or uncertainty regarding the availability of staff. The range also cannot be unreasonably wide (generally more than 15 minutes), because this does not provide a clear commitment of resources. Examples of *proper use* include:

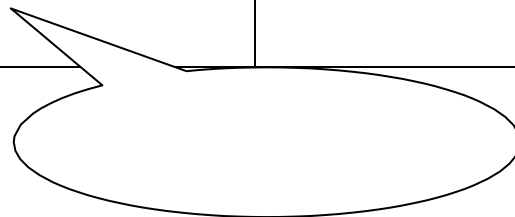
Related Services

	Frequency	Amount	Location	Duration
Occupational therapy (OT)	Weekly	20-30 minutes depending on student’s level of fatigue indicated by inability to maintain an upright posture for 5 minutes	OT room	IEP term

An example of a special education service described in a range that does *not* meet this standard is:

Related Services

	Frequency & Amount	Location	Duration
Occupational therapy for sensory needs	5-60 minutes daily	Resource Room	IEP term



4. What if it is impossible to describe the special education service in daily or weekly allotments of time?

All special education services must be described in a manner that can be understood by all involved in developing and implementing the IEP. In the case where it is impossible to describe special education services in daily or weekly allotments of time, the IEP must clearly describe the circumstances under which the service will be provided and for how long. This requires much more detail in the description of the special education service. Examples of *proper use* of circumstantial detail include:

Supplementary Aids and Services

	Frequency & Amount	Location	Duration
Second staff person to work with student 1:1 and redirect	When the student refuses to do work after two teacher prompts until the student resumes work	In all school environments	IEP term

Replace fill-in-the-blank and short answer questions with three-choice multiple choice questions	All tests in science and social studies	General education classroom	IEP term
Easy Stand stander	When class assignment requires work at the lab counter	Chemistry class	IEP term
Alpha Smart	For all written assignments	Home environment	IEP term
Laptop computer use	For all written assignments longer than 2 paragraphs	Across all school settings	IEP term

Related Services

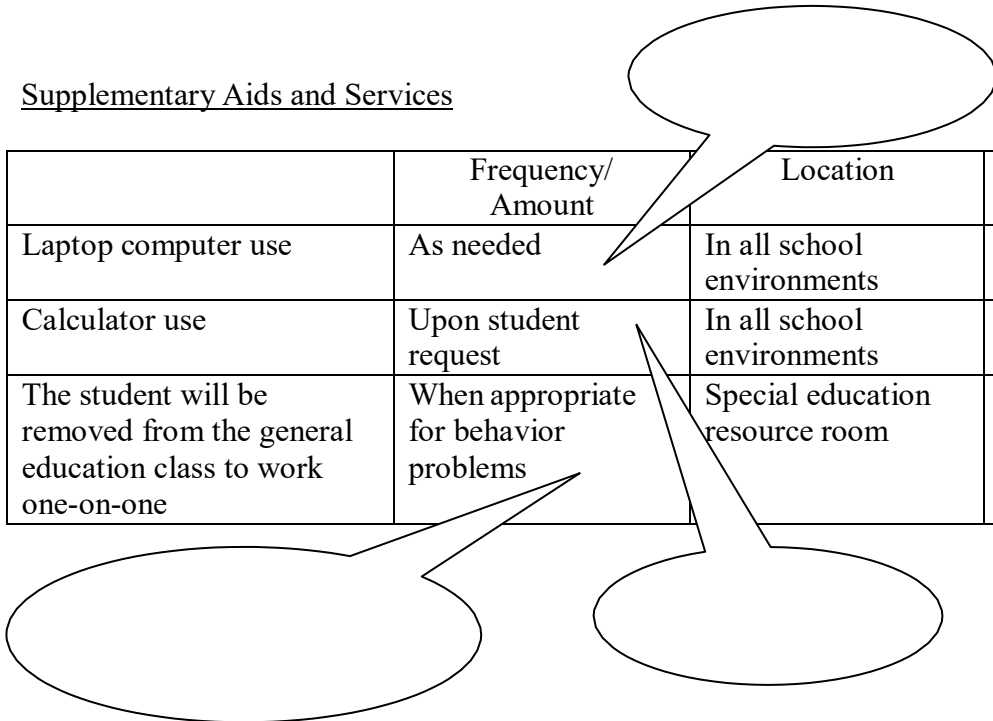
	Frequency	Amount	Location	Duration
Physical therapy	During the first week of each new unit in physical education	45 minutes	Gymnasium	IEP term

Statements describing special education services to be provided “as needed,” “upon student request,” “upon teacher request,” or “when appropriate” do not make clear the LEA’s level of commitment of resources and do not clearly describe the circumstances under which the service will be provided.

Examples of special education services described with circumstances that do *not* meet this standard include:

Supplementary Aids and Services

	Frequency/ Amount	Location	Duration
Laptop computer use	As needed	In all school environments	IEP term
Calculator use	Upon student request	In all school environments	IEP term
The student will be removed from the general education class to work one-on-one	When appropriate for behavior problems	Special education resource room	IEP term



5. If we can't write special education services "upon student request," where should we address student self-determination and self-advocacy skills in the IEP?

Phrases such as "upon student request" or "when student needs arise" are not permissible as a frequency or an amount because the LEA's level of commitment of resources and the circumstances under which the service will be provided are unclear. Teaching a student self-advocacy is an important skill that often may be documented in an IEP. Self-determination and self-advocacy skills may be included in the student's IEP including the present level of academic achievement and functional performance, post-secondary transition plan, or as part of an annual goal. An example of an annual goal which shows *proper use* is:

Annual Goal: Given a problem involving math calculation of more than two column subtraction, student will recognize his need for calculator and ask math teacher for it, 7/10 opportunities, as measured by the teacher checklist.

6. How should location be documented in the IEP?

The location is the physical space where the special education services will take place. A detailed description of special education service location clearly indicates when and where the student will be in a particular environment and how the student will spend her or his instructional time. The extent of removal from the general education environment, if any, must be clear.

In some situations, a special education service is not related to the amount of time a student spends in a particular location. In these situations, it is appropriate to list the use of this special education service with more than one location. If the student will have access to this special education service under all circumstances and in all school environments, a statement such as "across the entire school day" or "in all school environments" is appropriate.

7. What does duration mean?

Generally, the duration of a special education service is the time period from the beginning date to the ending date of the IEP. The duration may include extended school year services if they are necessary for the student to have FAPE. If a special education service is to be provided for a period of time different than the IEP duration, the beginning and ending date must be provided. An example of *proper use* of a related service with a predicted schedule other than the IEP term is:

Related Services

	Frequency	Amount	Location	Duration
Occupational therapy	Three times per week	30 minutes per session	OT Room	9/1/10-11/1/10
Occupational therapy	Two times per week	30 minutes per session	OT Room	11/2/10-1/15/11
Occupational therapy	Once per week	30 minutes	OT Room	1/16/11-6/3/11

8. If we decide the student will receive specially designed physical education, do we need to include a frequency/amount, location, or duration?

Yes. If the student requires specially designed physical education, the IEP team must also determine how the service will be provided using a frequency/amount, location, and duration. Merely checking the box “specially designed” is insufficient to document consideration of the specially designed physical education. If you do this:

Physical education: Regular Specially designed

It must also include the relevant information as in this example:

Special Education/Specially Designed Instruction

	Frequency	Amount	Location	Duration
Specially designed physical education	Three times per week	30 minutes per class period	Gymnasium	IEP term

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This information update can also be accessed through the Internet:

<http://dpi.wi.gov/sped/laws-procedures-bulletins/bulletins>