

Handout #1: What does the IDEA say?

With the changes to state statute outlined in AB 114 (Chapter 43, Statutes of 2011) that relieved county mental health agencies of the responsibility to provide mental health services to students with disabilities, local educational agencies must rely on the Individuals with Disabilities Education Act (IDEA) for guidance on the requirements for providing related services, including those that may have previously been provided by county mental health agencies. Related services under IDEA are defined in Section 300.34 of Part 34 of the Code of Federal Regulations.

34 CFR 300.34(a)

“Related services means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, and includes 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.”

Section 300.24 of the Code of Federal Regulations goes on to further define individual related services terms. The following list represents some of the services that may be appropriate when addressing the emotional and behavioral needs of students with disabilities.

Counseling Services (34 CFR 300.34(c)(2))

“Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.”

Parent Counseling and Training (34 CFR 300.34(c)(8))

- i) “Parent counseling and training means assisting parents in understanding the special needs of their child;
- ii) Providing parents with information about child development and
- iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child’s IEP or IFSP.”

Psychological Services (34 CFR 300.34(c)(10))

“Psychological services include-

- i) Administering psychological and educational tests, and other assessment procedure;
- ii) Interpreting assessment results;

- iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- vi) Assisting in developing positive behavioral intervention strategies.”

Social Work Services in Schools (34 CFR 300.34(c)(14))

“Social work services in schools includes-

- i) Preparing a social or developmental history on a child with a disability;
- ii) Group and individual counseling with the child and family;
- iii) Working in partnership with parents and others on those problems in a child’s living situation (home, school, and community) that affect the child’s adjustment in school;
- iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- v) Assisting in developing positive behavioral intervention strategies.”

Residential Placement is not listed as a related service in Section 300.34 of the Code of Federal Regulations. However, residential placement is addressed elsewhere in the IDEA.

Residential Placement (34 CFR 300.104)

“If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program including non-medical care and room and board, must be at no cost to the parents of the child.”

In addition, the list of related services in the IDEA is not exhaustive or finite. The IEP team must decide what related services are necessary to provide a free appropriate public education (FAPE) to each student with a disability. The federal Office of Special Education Programs provides further guidance in the “Analysis of Comments and Changes” section of the final IDEA regulations, pertaining to Section 300.34 (excerpt below):

Comment:

We received numerous requests to revise §300.34 to add specific services in the definition of *related services*. A few commenters recommended including marriage and family therapy. One commenter recommended adding nutrition therapy and another commenter recommended adding recreation therapy. A significant number of commenters recommended adding art, music, and dance therapy. One commenter

recommended adding services to ensure that medical devices, such as those used for breathing, nutrition, and other bodily functions, are working properly. One commenter requested adding programming and training for parents and staff as a related service. A few commenters requested clarification on whether auditory training and aural habilitation are related services. One commenter asked whether hippotherapy should be included as a related service. Other commenters recommended adding language in the regulations stating that the list of related services is not exhaustive. A few commenters asked whether a service is prohibited if it is not listed in the definition of *related services*.

Discussion (Response from OSEP):

Section 300.34(a) and section 602(26) OF THE Act state that *related services* include other supportive services that are required to assist a child with a disability to benefit from special education. We believe this clearly conveys that the list of services in §300.34 is not exhaustive and may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education. It would be impractical to list every service that could be a related service, and therefore, no additional language will be added to the regulations.

Consistent with §§300.320 through 300.328, each child's IEP Team, which includes the child's parent along with school officials, determines the instruction and services that are needed for an individual child to receive FAPE. In all cases concerning related services, the IEP Team's determination about appropriate services must be reflected in the child's IEP, and those listed services must be provided in accordance with the IEP at public expense and at no cost to the parents. Nothing in the Act or in the definition of *related services* requires the provision of a related service to a child unless the child's IEP Team has determined that the related service is required in order for the child to benefit from special education and has included that service in the child's IEP.