

SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES

Chapter 5

Information on Related Services

TABLE OF CONTENTS

Question	Page
1. What are related services?	1
2. What is the difference between “Related Services” and “Designated Instruction and Services” (DIS)?.....	9
3. What does “required to assist a child with a disability to benefit from special education” mean?.....	9
4. What is an example of a needed service that is not “related” to education?.....	9
5. When can my child get transportation as a related service?.....	10
6. Can the district refuse to provide out-of-district transportation for my child? .	12
7. Can the district stop providing transportation if my child attends regular classes?.....	13
8. Can a district limit transportation only to those students who live at least a specified minimum distance from their school site (for example, two miles)?.....	13
9. Can a district require parents to provide transportation if they are able?	13

Information on Related Services

10. When can my child get occupational or physical therapy as a related service? 14	
11. When can my child get psychological counseling or other mental health services as a related service?.....	15
12. Does my child need to be classified as “emotionally disturbed” to receive mental health services?	15
13. When can my child get speech or language therapy as a related service?.....	15
14. Can the district limit speech therapy sessions available per week because it only has one speech therapist on staff?.....	16
15. Can my child get communication services and equipment if she is non-oral or nonverbal?.....	16
16. Can my child receive vision therapy as a related service?.....	17
17. What are school health services and who provides them?	17
18. My child needs health services in order to attend school, but the district told me it does not have to provide such services because they are “medical.” Is this true? 18	
19. Can the district require me to attend school with my child to perform health-related services?	19
20. Who is qualified to provide a related service?	19
21. What must be written in my child’s IEP concerning related services?.....	19
22. If my child is placed full time in a regular classroom is she entitled to receive related services?	20
23. Are districts responsible for providing a student with a paraprofessional (instructional aide)?.....	21
24. What can I do if my child is not receiving a related service, as provided in the IEP, because the service provider is absent?	23

Information on Related Services

25. Are “nonacademic” services actually provided by school districts?	23
26. What psychological, mental health or counseling services can be provided for my child?	24
27. Must my child be classified as emotionally disturbed before she is entitled to a residential placement?	24
28. My child is placed in a non-public school. Can she receive related services from the school district if she needs these to benefit from education, and the services are not available from the non-public school, including a religious school? 24	
29. My child has ongoing behavior problems. Does the district have any responsibility to address those problems?	26
30. What does “behavioral intervention” mean and what purpose does it serve? 27	
31. What do the California positive behavior intervention regulations require? .27	
32. What is a “serious behavior problem”?	27
33. What is a functional analysis assessment and what information must be contained in a FAA report?	28
34. What is a positive behavior intervention plan (BIP)?	29
35. What are “positive behavior interventions”?	30
36. What behavioral interventions are prohibited?	31
37. What can school staff do if my child suddenly has a dangerous behavioral outburst?	32
38. What is assistive technology?	32
39. How can I determine when AT is a related service?	33
40. Can my child use the AT equipment outside of the school day?	34

Information on Related Services

41. Who pays for AT devices?34
42. My child is a special education student but must be educated at home for a while due to health issues related to her disability. The district says it will provide one hour of home instruction per day and no related services. Can the district do this? 35

SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES

Chapter 5

Information on Related Services

1. What are related services?

Related services are any services that are necessary to help a student benefit from her special education program. [34 Code of Federal Regulations (C.F.R.) Sec. 300.34(a).] To “benefit from special education” has generally been interpreted to mean making meaningful progress toward meeting IEP goals and objectives. [*County of San Diego v. California Special Education Hearing Office*, 93 F.3d 1458, 1467 (9th Cir. 1996).]

Code of Federal Regulations, Chapter 34, Section 300.34(a) defines related services as follows:

[T]ransportation 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. The same regulation further defines some of these services as follows:

- (1) **Audiology** which includes:
 - a. Identification of children with hearing loss;
 - b. Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing; Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip reading), hearing evaluation, and speech conservation;
 - c. Creation and administration of programs for prevention of hearing loss;
 - d. Counseling and guidance of children, parents, and teachers regarding hearing loss; and
 - e. Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
 - f. Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.
 - g. Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.
 - h. Interpreting services includes -- (i) The following when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and (ii) Special interpreting services for children who are deaf-blind.
 - i. Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

Information on Related Services

- j. Occupational therapy means services provided by a qualified occupational therapist; and includes:
 - i. Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;
 - ii. Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
 - iii. Preventing, through early intervention, initial or further impairment or loss of function.

- k. Orientation and mobility services:
 - i. Means services provided to blind or visually impaired children by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
 - ii. Includes teaching students the following, as appropriate:
 - iii. Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);

 - iv. To use the long cane or a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;

 - v. To understand and use remaining vision and distance low vision aids; and

 - vi. Other concepts, techniques, and tools.

- l. Parent counseling and training means (i) 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 the child's IEP or IFSP.

Information on Related Services

m. Physical therapy means services provided by a qualified physical therapist.

n. Psychological services includes:

i. Administering psychological and educational tests, and other assessment procedures;

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 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.

(2) **Recreation** includes:

a. Assessment of leisure function;

b. Therapeutic recreation services;

c. Recreation programs in schools and community agencies; and

d. Leisure education.

(3) **Rehabilitation counseling services** means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973 [29 U.S.C. Sec. 794], as amended.

- (4) **School health services and school nurse services** means health services that are designed to enable a child with disability to receive FAPE [Free Appropriate Public Education] as described in the child's IEP. School nurse services are serves provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.
- (5) **Social work services** in schools includes:
- a. Preparing a social or developmental history on a child with a disability;
 - b. Group and individual counseling with the child and family;
 - c. 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;
 - d. Mobilizing school and community resources to enable the child to learn as effectively as possible in her educational program; and
 - e. Assisting in developing positive behavioral intervention strategies.
- (6) **Speech-language pathology services** includes:
- a. Identification of children with speech or language impairments;
 - b. Diagnosis and appraisal of specific speech or language impairments;
 - c. Referral for medical or other professional attention necessary for the habilitation of speech or language impairments;
 - d. Provision of speech and language services for the habilitation or prevention of communicative impairments; and
 - e. Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- (7) **Transportation** includes:
- a. Travel to and from school and between schools;
 - b. Travel in and around school buildings; and

Information on Related Services

- c. Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

In California, the list of related services is somewhat similar and includes the following:

Language and speech development and remediation. The language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in subdivision (f) of Section 2530.2 of the Business and Professions Code;

- (1) Audiological services;
- (2) Orientation and mobility services;
- (3) Instruction in the home or hospital;
- (4) Adapted physical education;
- (5) Physical and occupational therapy;
- (6) Vision services;
- (7) Specialized driver training instruction;
- (8) Counseling and guidance, including rehabilitation counseling;
- (9) Psychological services other than assessment and development of the individualized education program;
- (10) Parent counseling and training;
- (11) Health and nursing services, including school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the IEP;
- (12) Social worker services;
- (13) Specially designed vocational education and career development;
- (14) Recreation services; and
- (15) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services. [California Education Code (Cal. Ed. Code) Secs. 56000.5 & 56026.5.]

Information on Related Services

(16) Interpreting services.

[Cal. Ed. Code Sec. 6363(b).]

California regulations further define many of these services and specify the qualifications of the providers of these services as follows:

- (1) Language, Speech and Hearing Development and Remediation [5 California Code of Regulations (C.C.R.) Sec. 3051.1.]
- (2) Audiological Services [5 C.C.R. Sec. 3051.2.]
- (3) Mobility Instruction, [5 C.C.R. Sec. 3051.3.]
- (4) Instruction in the Home or Hospital [5 C.C.R. Sec. 3051.4.]
- (5) Adapted Physical Education [5 C.C.R. Sec. 3051.5.] (Adapted Physical Education is actually considered special education.) [See 34 C.F.R. Sec. 300.39.]
- (6) Physical and Occupational Therapy [5 C.C.R. Sec. 3051.6.]
- (7) Vision Services [5 C.C.R. Sec. 3051.7.]
- (8) Vision Therapy [5 C.C.R. Sec. 3051.75.]
- (9) Specialized Driver Training Instruction [5 C.C.R. Sec. 3051.8.]
- (10) Counseling and Guidance Services [5 C.C.R. Sec. 3051.9.]
- (11) Psychological Services other than Assessment and Development of the IEP [5 C.C.R. Sec. 3051.10.]
- (12) Parent Counseling and Training [5 C.C.R. Sec. 3051.11.]
- (13) Health and Nursing Services [5 C.C.R. Sec. 3051.12.]
- (14) Social Worker Services [5 C.C.R. Sec. 3051.13.]
- (15) Specially Designed Vocational Education and Career Development [5 C.C.R. Sec. 3051.14.] (Vocational Education is another service identified by federal law as special education; [See 34 C.F.R. Sec. 300.39].)
- (16) Recreation Services [5 C.C.R. Sec. 3051.15.]

Information on Related Services

- (17) Specialized Services for Low-Incidence Disabilities [5 C.C.R. Sec. 3051.16.]
- (18) Services for Students with Chronic Illnesses or Acute Health Problems [5 C.C.R. Sec. 3051.17.]
- (19) Designated Instruction and Services for the Deaf and Hard of Hearing [5 C.C.R. Sec. 3051.18.]
- (20) Under both federal and California law, related services do not include a medical device that is surgically implanted or the replacement of that device. [20 U.S.C. Sec. 1401(26)(B); 34 C.F.R. Sec. 300.34(b); Cal. Ed. Code Sec. 56363(c).]

Federal law also requires that districts ensure that assistive technology devices and/or services are available to special education students who need them as part of their special education or related services or as part of the supplemental aids and services used to assist them in being placed in the least restrictive environment and to receive a FAPE. [34 C.F.R. Secs. 300.105 & 300.324(a)(2)(v).]

All related services must also be provided without any charge to the parent. In most cases, your local district is responsible for providing the related services directly or by contracting with appropriate persons. Under California law, some related services, including occupational and physical therapy and mental health services, are currently provided by other state agencies. [Cal. Government (Gov.) Code Secs. 7570-7588.] If the other agency, such as “community mental health” (sometimes referred to as “county mental health”) does not provide the services, and you can successfully demonstrate to the IEP team or a due process hearing officer that the services are necessary for the student to benefit from her education, the district is responsible for providing them. Disputes regarding related services are resolved in the same manner as disputes about any other part of your child’s special education program. See Chapter 6, *Information on Due Process/Compliance Procedures*, and Chapter 9, *Information on Inter-Agency Responsibility for Related Services (AB 3632/882)*.

2. What is the difference between “Related Services” and “Designated Instruction and Services” (DIS)?

“Designated Instruction and Services” (DIS) is California’s version of the term “related services.” [5 C.C.R. Sec. 3051; Cal. Ed. Code Sec. 56363.] California’s definition of DIS basically follows the federal definition of related services, although it is narrower in scope in some respects. However, a student’s entitlement to special education and related services is a right established under federal law; state law cannot be applied to deny services to which a child would be entitled under federal law.

3. What does “required to assist a child with a disability to benefit from special education” mean?

This phrase is the key in determining whether a district is responsible for providing a related service to a student with a disability. A district does not have to provide a service to a student with a disability just because she will benefit from the service, or even if she requires the service. The service is only “related” if it is necessary to help her benefit from educational instruction. Examples of such situations are given in the questions and answers below.

4. What is an example of a needed service that is not “related” to education?

A student and her family could require social work services because of problems at home. However, she is progressing appropriately in school in spite of the problems. The student needs the service, but not for educational reasons. If she were not performing appropriately in school as a result of family problems, social work services could be “related” to her ability to succeed in school. In that case, the services would be the district’s responsibility.

5. When can my child get transportation as a related service?

Transportation is a related service when it is necessary in order for a student to benefit from special education. If a student cannot get to school, she cannot benefit from her education there. If a student cannot get to school on her own because of the physical or cognitive characteristics of her disability (even though she may live very close to the school) transportation should be provided as a related service. Transportation is also available to and from other sites for related services which are not provided at the student's regular school. [34 C.F.R. Sec. 300.34(c)(16).]

The California Department of Education (CDE) has developed guidelines for IEP teams to determine when transportation is needed as a related service. The guidelines, issued November 23, 1993, state in part:

- (1) The specific needs of the student must be the primary consideration when an IEP team is determining any transportation needs. These may include, but are not limited to:
 - a. Consideration of whether long bus rides could affect a certain student's health (duration, temperature control, need for services, health emergencies); general ability and/or strength to ambulate/wheel; approximate distance from school or the distance needed to walk or wheel oneself to the school; consideration of student needs in inclement or very hot weather, other.
 - b. Physical accessibility of curbs, sidewalks, streets, and public transportation systems.
 - c. Consideration of a student's capacity to arrive at school on time, to avoid getting lost, to avoid dangerous traffic situations, and to avoid other potentially dangerous or exploitative situations on the way to and from school.
 - d. Behavioral Intervention Plans (5 C.C.R. Sec. 3001(f)) specified by the student's IEP and consideration of how to implement such plans while a student is being transported.

- e. Mid-day or other transportation needs as required on a student's IEP (for example, occupational or physical therapy or mental health services at another site, community based classes, etc.) must also be taken into consideration when the IEP team discusses a student's placement and transportation needs.
- f. . . .

Transportation Options:

Considering the identified needs of the student, transportation options may include, but not be limited to: walking, riding the regular school bus, utilizing available public transportation (any out-of-pocket costs to student or parents are reimbursed by the local education agency), riding a special bus from a pick up point, and portal-to-portal special education transportation via a school bus, taxi, reimbursed parent's driving with a parent's voluntary participation, or other mode as determined by the IEP team. When developing specific IEP goals and objectives related to the student's use of public transportation, the IEP team may wish to consider a blend of transportation services as the student's needs evolve.

Specialized transportation as a related service must be written on the student's IEP with specificity and should be approved by the transportation administrator. It is recommended that transportation services be described in sufficient enough detail to inform the parties of how, when and from where to where transportation will be provided and, where arrangements for the reimbursement of parents are required, the amount and frequency of reimbursement.

Suspension from the School Bus:

Occasionally students receiving special education services are suspended from bus transportation. [Cal. Ed. Code Secs. 48900-48900.7, "Grounds for Suspension."] The suspension of a student receiving special education services from California transportation can constitute a significant change of placement if the district: (1) has been transporting the student; (2) suspends the student from transportation as a disciplinary measure; and (3) does not provide another mode of transportation

(Office of Civil Rights, Letter of Finding, Complaint No. 04-89-1236, December 8, 1989).

A significant change in placement requires a meeting of the IEP team to review the student's IEP. During the period of any exclusion from bus transportation, students must be provided with an alternative form of transportation at no cost to the student or parent in order to be assured of having access to the required special education instruction and services. [Cal. Ed. Code Sec. 48915.5(c).]

The guidelines do not override the general provisions of federal or state law which would require a district to provide transportation in order for a child to benefit from special education. The full guidelines are available on the CDE website at <http://www.cde.ca.gov/sp/se/sr/trnsprtgdlns.asp>.

6. Can the district refuse to provide out-of-district transportation for my child?

When a student is placed at a school outside her own district pursuant to an IEP, presumably because of the unavailability of an appropriate program within the district, either the student's district or the district in which the school of attendance is located must provide any necessary transportation. The district providing the transportation will likely depend on the terms of the interdistrict agreement negotiated by the two districts to allow the student to attend outside her own district. [See Cal. Ed. Code Secs. 46600 and following.] Where a child's related services are delivered at a site not inside the child's district, transportation must be provided to and from those services. Where a student will attend school within her district, but wishes to be dropped off at a location outside the district after school (such as at a relative's home for childcare or a childcare center) the entitlement is not so clear and would only be ensured if specifically stated in the IEP.

7. Can the district stop providing transportation if my child attends regular classes?

No. So long as your child is eligible for special education and the IEP team determines that she needs transportation, she is entitled to receive it. Moreover, in California, because the state's transportation guidelines mandate transportation as a related service whenever a student lives beyond walking distance from school, the district is required to provide transportation even though the student's disability-related needs do not necessitate transportation. [34 C.F.R. Sec. 300.34(c)(16); *Simi Valley Unified District*, 23 IDELR 760 (1995).]

8. Can a district limit transportation only to those students who live at least a specified minimum distance from their school site (for example, two miles)?

No. Such a categorical limitation would be inconsistent with the requirement that related services be provided based on individual need. If, because of the child's disability, she needs transportation to attend school, the district must provide it.

9. Can a district require parents to provide transportation if they are able?

No. The parents' ability to provide transportation does not relieve the district of its responsibility. In some instances, where the parents have agreed, districts have reimbursed parents for mileage for providing transportation that the district would otherwise have to provide. In these instances, parents should be reimbursed for the total round trip mileage at the district's standard rate.

The district agency must ensure that any transportation service included in a student's IEP as a related service is provided at public expense and at no cost to the parents. [34 C.F.R. Sec. 300.39.]

10. When can my child get occupational or physical therapy as a related service?

Occupational Therapy (OT) and Physical Therapy (PT) are discrete related services, defined under state and federal law. [34 C.F.R. Secs. 300.34(a)(6) & (a)(9); 5 C.C.R. Sec. 3051.6.] It is not uncommon for these terms to be used together and for students to receive both forms of therapy. Occupational Therapy/Physical Therapy services generally address a student's gross and fine motor functioning. For example, a student may have difficulty running, walking, throwing, catching or jumping (gross motor), or writing, drawing or buttoning and zipping clothes. In addition, a student's motor functioning may affect independent living skills. If a student of average intelligence has verbal skills that are higher than motor skills, or if a student with significant disabilities has difficulty with daily living skills such as feeding or dressing, this may be an informal indicator of the need for OT/PT "related services."

Occupational Therapy/Physical Therapy services are affected by California legislation commonly referred to as AB 3632, which shifted responsibility for providing certain related services from districts to other agencies in certain circumstances (in this case, to California Children's Services (CCS)). Many of the issues that arise concerning OT/PT are discussed in Chapter 9, Information on Inter-Agency Related Services (AB 3632). Among these issues are the following:

- (1) What are the procedures for obtaining OT/PT?
- (2) What happens if a student does not meet CCS' eligibility requirements but still needs OT/PT for educational reasons?
- (3) If CCS determines that OT/PT are not "medically necessary," is the student still entitled to receive OT/PT as related services? If so, who provides it?

11. When can my child get psychological counseling or other mental health services as a related service?

Psychological counseling and other mental health services, including psychotherapy, may be available when your child’s emotional status has a negative effect on her educational performance, and are required for the child to benefit from special education. Other mental health services such as “day treatment programs” and “residential placement” can also be provided.

Like OT/PT, AB 3632 affects the delivery of mental health services, including psychotherapy. In this case, responsibility for mental health services is shifted in certain circumstances to community mental health agencies. Among the issues concerning AB 3632 and mental health services are the following:

- (1) What are the procedures for obtaining services from community mental health agencies?
- (2) Which mental health services are available from community mental health agencies?
- (3) What happens if a child does not meet eligibility requirements for services from a community mental health agency, but still needs mental health services to help her benefit from special education?

See Chapter 9, *Information on Inter-Agency Related Services (AB 3632)*.

12. Does my child need to be classified as “emotionally disturbed” to receive mental health services?

No. Mental health services, such as counseling and psychotherapy, must be provided to any student who needs the service to help her benefit from special education. If the related service being requested from the community mental health agency includes residential placement, then the student must be identified as emotionally disturbed (ED).

13. When can my child get speech or language therapy as a related service?

Speech and language therapy may be the most frequently requested related service. Speech therapy addresses articulation difficulties, a common disability. Language therapy addresses difficulties with memory, verbal expression, and listening. If your child has any difficulties with speech or language, you should ask the district, in writing, to do a speech and language evaluation. Any student eligible for special education may receive speech and language therapy if she needs the service to benefit from special education.

14. Can the district limit speech therapy sessions available per week because it only has one speech therapist on staff?

No. The frequency of a related service and the amount of time in each session must be individually determined based on your child's needs at the IEP team meeting. Frequency and amount of time must be written in the IEP. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV); 34 C.F.R. Sec. 300.320(a)(7); 5 C.C.R. Sec. 3051(a)(2); Cal. Ed. Code Sec. 56345(a)(7).] In what seems to be a cost-saving measure, districts may offer: (a) speech and language services in small groups, rather than one-on-one; (b) "consultation" with staff and not direct delivery of services to the student; or (c) services provided by classroom staff rather than a speech and language pathologist. While these options may be appropriate for some students, remember that services must be based on the unique needs of your child. [34 C.F.R. Sec. 300.39.]

15. Can my child get communication services and equipment if she is non-oral or nonverbal?

Yes. If your child is non-oral or non-verbal, you may want to ask the district to contract with a non-oral communications specialist to do an assessment. Depending on the results of the assessment, the IEP team may decide that your child needs specialized services such as a computerized communications device

and instruction in using this device in order to benefit from special education. See questions related to *Assistive Technology* below.

16. Can my child receive vision therapy as a related service?

Yes, if your child needs vision therapy in order to benefit from special education. Vision therapy may include remedial and/or developmental instruction provided directly by — or in consultation with — an optometrist, ophthalmologist, or by another qualified licensed physician or surgeon. [5 C.C.R. Sec. 3051.75.]

17. What are school health services and who provides them?

School health services are services provided by a qualified school nurse or other qualified person. These services include health and nursing services such as:

- (1) Managing a student's health problems on the school site;
- (2) Consulting with students, parents, teachers, and others;
- (3) Counseling with parents and students concerning health problems; and
- (4) Providing specialized physical health care services which are necessary during the school day to enable the child to attend school.

[5 C.C.R. Sec. 3051.12.]

California law defines specialized physical health care services to include “catheterization, tube feeding, suctioning, or other services that require medically related training.” [Cal. Ed. Code Sec. 49423.5(d).]

Under state law, there are two ways in which specialized physical health care services may be provided. DHS is responsible for providing a home health aide through Medi-Cal if the following conditions exist:

- (1) The child is eligible for Medi-Cal;
- (2) The child is being considered for a less restrictive placement from home to school;

- (3) The child requires the personal assistance or attention of a nurse, home health aide, or other specially trained adult; and,
- (4) Medical support services through the Medi-Cal program are being provided during the time the student would be in school, or traveling to or from school. [Cal. Gov. Code Sec. 7575(e); 2 C.C.R. Sec. 60400.]

For special education students who do not meet these conditions, specialized physical health care needs are to be provided by the responsible local district. [Cal. Ed. Code Secs. 49423.5 & 56363(b)(12); 2 C.C.R. Sec. 60400; 5 C.C.R. Sec. 3051.12.] See Chapter 13, *Information on the Rights of Students with Serious Health Conditions*.

18. My child needs health services in order to attend school, but the district told me it does not have to provide such services because they are “medical.” Is this true?

The distinction between “medical services” and school “health services” is important. Except for those medical services that are for “diagnostic or evaluation purposes,” districts are not responsible for providing medical services as *related services*. [34 C.F.R. Sec. 300.34(a).] “Medical services” are defined in federal law as “services provided by a licensed physician.” [34 C.F.R. Sec. 300.34(c)(5).] If a service can be performed by a school nurse or other qualified person, and is not one that must be provided by a licensed physician, then it is not a *medical* service. [*Cedar Rapids Community School Dist. v. Garret F.*, 526 U.S. 66 (1999).]

Districts must provide health services that are not medical services if they are related services. A health service is a related service if it is necessary to help a child with a disability benefit from special education. If your child needs the health service to be able to attend school at all, then she needs it to benefit from special education. [*Irving Independent School Dist. v. Tatro*, 468 U.S. 883, 892 (U.S. 1984).] Even if the services are expensive or time-consuming, such as continuous nursing services throughout the day, the district must provide them if they are “supportive services” that enable a disabled child to remain at school during the day and provide meaningful access to education. [*Cedar Rapids*

Community School Dist.; see also Chapter 14, Information on the Rights of Students with Serious Health Conditions.]

19. Can the district require me to attend school with my child to perform health-related services?

No. Your child’s right to attend school cannot be legally conditioned on your presence . Any such requirement violates the district’s FAPE obligation, because the education is not “free” if you must commit your personal time.

20. Who is qualified to provide a related service?

The CDE must “establish and maintain” qualifications to ensure that related services providers are appropriately and adequately prepared and trained. This means they must have the “content knowledge and skills” to serve students with disabilities. These qualifications must be consistent with state-recognized certification, licensing, registration, or other comparable professional requirements for related services providers. These qualifications cannot be waived for a service provider on an emergency, temporary or provisional basis. [34 C.F.R. Secs. 300.156(a) & (b).]

If provider qualifications are a central component to ensuring your child’s appropriate education, you should ask that the qualifications be written into your child’s IEP. For example, “Health Aide with CPR training,” “Instructional Aide fluent in signing,” and “Credentialed Language, Speech and Hearing Specialist.”

21. What must be written in my child’s IEP concerning related services?

Related services should be requested at an IEP meeting and, if determined appropriate, written in your child’s IEP regardless of what agency actually provides the services. It is not enough merely to list related services (e.g., “speech therapy,” “OT/PT,” “psychotherapy,” etc.) that your child is to receive in the IEP.

The IEP must also set out the specific frequency, location, and duration of the service to be provided. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV); 34 C.F.R. Sec. 300.320(a)(7); 5 C.C.R. Sec. 3051(a)(2); Cal. Ed. Code Sec. 56345(a)(7).]

Changes to the amount of services listed in the IEP cannot be made without holding another IEP meeting, unless you agree to a change being made without a meeting. [34 C.F.R. Sec. 300.324(a)(4); Cal. Ed. Code Sec. 56380.1(a).]

However, as long as there is no change in the overall amount, some adjustments in scheduling the services should be possible (based on the professional judgment of the service provider) without holding another IEP meeting. You should be notified whenever this occurs.

You should clearly describe in the IEP the services required. Instead of “speech therapy,” the statement might include:

individual instruction in phonology and syntax one time per week, 45-minute session; and small group (1-3 students) instruction one time per week, 45-minute session provided by a credentialed Language, Speech and Hearing Specialist, with supportive group activities on a daily basis in the classroom, provided by the teacher or paraprofessional (instructional aide) in consultation with the Specialist.

If an IEP contains goals for related services, such as speech articulation progress for speech therapy services, these goals should be written into the IEP in measurable terms along with a description of how progress toward those goals will be measured and what the schedule will be for informing you on the progress your child is making toward those goals. [34 C.F.R. Secs. 300.320(a)(2) & (3); Cal. Ed. Code Secs. 56345(a)(2) & (3).]

22. If my child is placed full time in a regular classroom is she entitled to receive related services?

Yes. The education program for all students in special education must be based on individual needs. Any student who meets the eligibility requirements for special

education is entitled to the related services needed to help her benefit from special education.

Special education law favors placement in regular classrooms whenever possible. Students are entitled to the supportive services that enable them to attend school or to function in a regular classroom environment. State regulations also say explicitly that related services may be provided to students “who are served throughout the full continuum of educational settings.” [5 C.C.R. Sec. 3051(a)(1); see Chapter 7, *Information on Least Restrictive Environment.*]

Even students with disabilities who are not eligible for special education and who attend regular education classes are entitled to receive supportive services (for example, school health services) necessary to enable them to benefit from their school programs. [Section 504 of the Rehabilitation Act of 1973; Cal. Gov. Code Sec. 11135.]

23. Are districts responsible for providing a student with a paraprofessional (instructional aide)?

The district must provide a paraprofessional if your child needs an aide to benefit from her education — including situations where your child needs an aide to assist her in a regular classroom. The district has a duty to educate special education students to the maximum extent appropriate with nondisabled peers. [34 C.F.R. Secs. 300.114 - 115.]

For example, a paraprofessional might be required to help a student with significant physical disabilities perform educational tasks (such as note taking), or to assist in a behavioral management program for a student with significant behavior problems.

Just as it does for related service providers, the CDE must “establish and maintain” qualifications to ensure that paraprofessionals are appropriately and adequately prepared and trained, with the “content knowledge and skills” to serve children with disabilities. These qualifications must be consistent with state-recognized certification, licensing, registration or other comparable professional requirements

for para-professionals. These qualifications cannot be waived for a para-professional on an emergency, temporary or provisional basis. [34 C.F.R. Secs. 300.156(a) & (b).]

Both IDEA and “No Child Left Behind” (NCLB) require those who teach students with disabilities to have certain credentials. [See CDE, “NCLB FAQ for Special Education Teachers,” available at <http://www.cde.ca.gov/nclb/sr/tq/nclbspedfaq.asp> (June 2009).] All teachers, including paraprofessionals assisting with instruction, must be “highly qualified” in order to comply with both IDEA and NCLB. [20 U.S.C. Secs. 1401(10)(D) & 1412(a)(14).] All teachers of core academic subjects, including special education teachers, must demonstrate subject matter competence in each core academic subject taught. Special education teachers, and those who assist with instruction, must also have the appropriate teaching credential. [20 U.S.C. Sec. 1401(10)(D).] These qualifications cannot be waived on an emergency, temporary or provisional basis and only apply to teachers who teach a core academic subject. [34 C.F.R. Secs. 300.18(b)(3) & 300.156(b)(2).]

Para-professionals do not need to meet the NCLB requirements if they are working with 3- through 22-year-old students who have severe disabilities and who function at a pre-academic level and if instruction is not in a core academic subject area and is primarily for personal care and life skills. [20 U.S.C. Sec. 1401(10)(D).]

The paraprofessional should also be qualified to perform the particular duties needed to implement a student’s IEP. Any required qualifications (for example, “trained in behavior modification,” “knowledgeable in algebra,” “fluent in signing”) should be written in the IEP, as well as the frequency, location, duration and type of services the paraprofessional will provide.

You may file a compliance complaint with CDE if you believe any of the “highly qualified” requirements have not been met by a teacher, paraprofessional or other service provider who assists with instruction. [34 C.F.R. Secs. 300.18(f) & 300.156(e); see Chapter 6, *Information on Due Process /Compliance Procedures.*]

24. What can I do if my child is not receiving a related service, as provided in the IEP, because the service provider is absent?

The best remedy is prevention. It would be proper to discuss the issue of a service provider's absence at the IEP meeting when the team writes the service in the IEP. The IEP team could then plan for, and set out in the IEP, what will happen if a related service provider is absent.

Obviously, advance planning is most critical in the case of services required to enable a child to attend school at all (such as transportation or school health services) or to attend school safely (such as a behavioral aide). It is not acceptable for a child to miss school or be denied the right to participate in special activities like field trips due to the district's failure to provide a necessary service. It is critical that the district has plans for ensuring that a substitute provider will be available. It would not be proper to deny services specified in an IEP when an absence occurs more than occasionally or is predictable. Where another agency (for example, community mental health or a "non-public agency" provider) fails to provide necessary services, it is the district's responsibility to do so. [34 C.F.R. Sec. 300.154(b)(2).]

Districts must provide services specified in a student's IEP. When the district (or a public or private agency provider) fails to do so, you may file a compliance complaint with the CDE. See Chapter 6, *Information on Due Process /Compliance Procedures*.

25. Are "nonacademic" services actually provided by school districts?

Yes. Districts are required to pay for any service which is "educationally necessary" or necessary for a student to "benefit from" special education. For example, parent training or counseling, recreation, complicated health services, etc. Because these services may be more costly or are not commonly provided, districts may resist offering them. Lack of funds or the availability of a needed service

cannot be used to deny services. You should be prepared to use a report from an independent expert to support your child's need for related services. For information on obtaining independent assessments at public expense, see Chapter 2, *Information on Evaluations/Assessments*.

26. What psychological, mental health or counseling services can be provided for my child?

Related services include: initial mental health assessment, psychotherapy (individual or group), medication monitoring, intensive day treatment, day rehabilitation and case management. [2 C.C.R. Sec. 60020(i)]. Medication monitoring includes all medication support services, but does not include the medications themselves or the laboratory work. Medication support services include prescribing, administering, dispensing, and monitoring of the medications. [2 C.C.R. Sec. 60020(f).] Interagency mental health services may also include residential placement [Cal. Gov. Code Sec. 7572.5 and 2 C.C.R. Secs. 60100(a)-(g)] and in rare cases out-of-state residential placement. [Cal. Gov. Code Sec. 7572.55; 2 C.C.R. Sec. 60100(h); see also Chapter 9, *Information on Inter-Agency Responsibility for Related Services (AB 3632)*.]

27. Must my child be classified as emotionally disturbed before she is entitled to a residential placement?

No. However, the vast majority of residential placements are financed as a related service under AB 3632, which does require that students be identified as emotionally disturbed. Other students who need residential placement for educational purposes are still entitled to such placements. They would not be covered by AB 3632, but school districts would remain responsible for their residential placement.

28. My child is placed in a non-public school. Can she receive related services from the school district if she needs these to benefit

from education, and the services are not available from the non-public school, including a religious school?

It depends on the circumstances under which your child is placed in the non-public school (NPS). If the IEP team placed your child at a non-religious, non-public school, she is entitled to receive appropriate related services. This may require delivery of services at the NPS site. [34 C.F.R. Sec. 300.146.] However, if you “unilaterally” place your child at a non-public school without the consent of the IEP team, she has no individual right to special education and related services. [34 C.F.R. Sec. 300.137(a).]

For students unilaterally enrolled in a NPS by their parents, a district is still responsible for full implementation of its “child-find” and assessment responsibilities, but has extremely limited obligations for providing related services. [34 C.F.R. Secs. 300.131 - 132.] This means that a student may receive a different, and significantly smaller, amount of services than a child in a public school. The amount of money spent on these students will be limited to a proportionate share (based on the number of these students there are in the district) of the federal dollars received by the district. [34 C.F.R. Secs. 300.133 - 138.] The services the district provides will be written in a service plan, not an IEP. The district makes the final decisions with respect to the specific services, after consultation with local NPS officials. [34. C.F.R. Sec. 300.137(b).] If transportation is necessary for a student to benefit from, or participate in, one of these services, the district must also provide the necessary transportation. [34 C.F.R. Sec. 300.139(b).]

You are not entitled to due process regarding the type, duration, and frequency of services. However, the compliance complaint process is still available to challenge issues such as the district’s failure to implement its child-find or assessment responsibilities or to consult with local NPS school officials in determining the nature and scope of its limited service responsibilities. [34 C.F.R. Sec. 300.140; see also Chapter 6, *Information on Due Process/Compliance Procedures.*]

Because of the constitutional separation of church and state, children attending religious schools can only attend these schools as a result of unilateral placement by their parents. However, the limited related services may be provided by districts on the site of religious schools “to the extent consistent with law.” [34 C.F.R. Sec. 300.139; see also Chapter 4, *Information on IEP Process.*]

29. My child has ongoing behavior problems. Does the district have any responsibility to address those problems?

Yes. Although not specifically identified as “related services” under federal or state special education law, services to address serious behavior problems must exist in California. In 1990, the Legislature enacted Assembly Bill 2586 (Hughes). [Cal. Ed. Code Secs. 56520 - 56524.] This law prohibits the use of “aversive behavior interventions” and mandates the development and implementation of positive behavior intervention plans for special education students with serious behavior problems, after conducting a “functional analysis assessment.” The Hughes Bill also required that CDE develop regulations to implement positive behavior intervention services for special education students. [5 C.C.R. Secs. 3001 & 3052.]

In addition, federal and state law require that, when appropriate, the IEP team consider strategies, including positive behavioral interventions, and supports to address that behavior, for a student whose behavior impedes her learning or that of others. [34 C.F.R. Sec. 300.324(a)(2); Cal. Ed. Code Sec. 56341.1(b)(1).]

The student’s behaviors may not rise to the level of a serious behavior problem which would entitle her to a functional analysis assessment. However, the IEP team should still consider specifying in the IEP “instructional/behavioral approaches” that address those behaviors, in what is commonly referred to as a “behavior support plan.”

30. What does “behavioral intervention” mean and what purpose does it serve?

“Behavioral intervention” means the systematic use of procedures that result in lasting positive changes in the student’s behavior. A behavioral intervention program is intended to provide the student with greater access to a variety of community settings, social contacts and public events, and to ensure that her behavior does not hinder her placement in the least restrictive educational setting. Positive behavioral interventions respect the student’s dignity and personal privacy and assure physical freedom, social interaction, and individual choice. Positive behavioral interventions do not include procedures which cause pain or trauma. [5 C.C.R. Sec. 3001(e).]

31. What do the California positive behavior intervention regulations require?

Every special education student who demonstrates a serious behavior problem must receive a “functional analysis assessment (FAA).” This assessment is used to develop a positive behavior intervention plan (BIP), when becomes part of her IEP. [5 C.C.R. Sec. 3001(g).] The BIP has its own set of goals and objectives related to reducing maladaptive behaviors and substituting appropriate behaviors.

A staff member who is trained in behavior analysis, with an emphasis on positive behavior intervention, must conduct the FAA, develop the BIP, and supervise its implementation. This staff member, known as a “behavior intervention case manager,” is supposed to become a part of the IEP team for every student with serious behavior problems. [5 C.C.R. Secs. 3001(f) & 3052(a)(1).]

32. What is a “serious behavior problem”?

A “serious behavior problem” is a behavior problem which: (1) is self-injurious or assaultive; (2) causes serious property damage; or (3) is severe, pervasive, and

maladaptive, and for which instructional/behavioral approaches specified in the student's IEP are found to be ineffective. [5 C.C.R. Secs. 3001(a-b).]

If milder behavioral problems develop into more severe, pervasive and maladaptive behaviors, the district may insist addressing these problems with instructional / behavioral approaches or a behavior support plan rather than with a formal functional analysis assessment and BIP. However, this may, in fact, be the appropriate time for you to request a FAA. You will be in a better position to make this request if you already have a behavior support plan in place that does not adequately address the behaviors.

33. What is a functional analysis assessment and what information must be contained in a FAA report?

The functional analysis assessment must include:

- (1) Systematic observation of the occurrence of the targeted behavior for an accurate definition and description of the frequency, duration, and intensity;
- (2) Systematic observation of the immediate antecedent events (sometimes called "triggers") associated with each instance of the display of the targeted inappropriate behavior;
- (3) Systematic observation and analysis of the consequences following display of the behavior to determine the function the behavior serves for the individual; the communicative intent of the behavior is identified in terms of what the individual is either requesting or protesting through the display of the behavior;
- (4) Ecological analysis of the settings in which the behavior occurs most frequently. Factors to be considered should include the physical setting, the social setting, the activities and the nature of instruction, the scheduling, the quality of communication between the individual and staff and other students, the degree of independence, the degree of participation, the amount and quality of social interaction, the degree of choice, and the variety of activities;

- (5) Review of records for health and medical factors which may influence behaviors (for example, medication levels, sleep cycles, health, diet); and
- (6) Review of the history of the behavior, including the effectiveness of previously used behavioral interventions.

[5 C.C.R. Sec. 3052(b)(1).]

The FAA involves a great deal of observation of the student, collection and analysis of data, and study of her environment and past history in order to obtain the information described above and required in the functional analysis assessment report. [5 C.C.R. Sec. 3052(b).]

A FAA report must include the following:

- (1) A description of the nature and severity of the targeted behaviors in objective and measurable terms;
- (2) A description of the targeted behaviors that includes baseline data, an analysis of the antecedents (things that occur immediately prior to the targeted behavior), consequences that maintain the targeted behavior, and a functional analysis of the behavior across all appropriate settings in which it occurs;
- (3) A description of the rate of alternative behaviors, their antecedents and consequences;
- (4) Recommendation for consideration by the IEP team, which may include a proposed positive behavior intervention plan as described below.

[5 C.C.R. Sec. 3052(b)(2).]

34. What is a positive behavior intervention plan (BIP)?

A positive behavior intervention plan must include the following:

- (1) A summary of information from the functional analysis assessment;
- (2) An objective and measurable description of the targeted serious behaviors and positive replacement behaviors;
- (3) Goals and objectives specific to the targeted behaviors;

- (4) A detailed description of the behavioral interventions to be used and the circumstances for their use;
- (5) Schedules for recording the frequency of interventions and replacement behaviors;
- (6) Criteria for determining when the interventions will be phased out or replaced with less intense or less frequent interventions;
- (7) The extent to which interventions will be used in the student's home and in other settings.
- (8) Specific dates for the IEP team to review the behavior intervention program's effectiveness.

[5 C.C.R. Sec. 3001(g).]

Behavioral Intervention Plans must contain sufficient detail to be easily and effectively implemented. [5 C.C.R. Sec. 3052(c).]

35. What are “positive behavior interventions”?

Positive behavior interventions are procedures which a teacher could use each time a student displays, or is likely to display, a targeted serious behavior problem. Behavior interventions must not simply eliminate serious behavior problems, but must simultaneously teach alternative positive behaviors. [5 C.C.R. Sec. 3052(a)(2).] In other words, districts should not use techniques that simply contain or suppress problem behaviors unless they also teach the student substitute appropriate behaviors which accomplish the same functions for the student as the inappropriate behaviors did.

The procedures include, but are not limited to:

- (1) Altering events in anticipation of a serious behavior problem to try to prevent its occurrence;
- (2) Teaching an alternative behavior that produces the same results for the student but is more socially acceptable;

- (3) Teaching adaptive behaviors, that is, methods of coping with unanticipated events; and/or
- (4) Manipulating the consequences for serious behavior problems and appropriate behavior so that appropriate behavior achieves the desired outcome and serious behavior problems are ignored.

[5 C.C.R. Secs. 3052(d)(1)-(4).]

Positive behavior interventions also include procedures for responding to, and reinforcing, appropriate behaviors. [5 C.C.R. Sec. 3052(e).]

36. What behavioral interventions are prohibited?

Under California law, behavior interventions cannot inflict pain or trauma, including emotional trauma. [5 C.C.R. Secs. 3001(e); 3052(a)(5) & (l).]

Additionally, behavior interventions cannot involve any of the following:

- (1) Releasing toxic or unpleasant sprays near the student's face;
- (2) Denying the student adequate sleep, food, water, shelter, bedding, comfort, or access to bathroom facilities;
- (3) Subjecting the student to verbal abuse, ridicule or humiliation, or causing excessive emotional trauma;
- (4) Using locked seclusion;
- (5) Preventing adequate supervision of the student;
- (6) Depriving the student of one or more of her senses;
- (7) Using any device, material or object that simultaneously immobilizes all four extremities (except for prone containment in emergencies).

[5 C.C.R. Secs. 3052(i) & (l).]

37. What can school staff do if my child suddenly has a dangerous behavioral outburst?

If your child exhibits unpredictable spontaneous behavior which poses a clear and present danger to himself or others, or serious property damage, school personnel may use emergency interventions, including prone containment by trained staff, for the time necessary to address the emergency. [5 C.C.R. Secs. 3001(d) & 3052(i).]

To prevent emergency interventions from being used in place of systematic behavioral interventions, the parent (and residential care provider, if appropriate) shall be notified of the emergency intervention, or if serious property damage occurs, within one school day and a “behavioral emergency report” shall be filed. [5 C.C.R. Sec. 3052(i)(5).] If the student does not have a BIP, an IEP meeting shall be scheduled within two days to determine whether a FAA is necessary as well as an interim behavioral intervention plan. If a functional analysis assessment is not initiated, the IEP team must document the reasons for that decision. [5 C.C.R. Sec. 3052(i)(7).] If the student has a BIP which did not address, or was not effective, for the emergency behavior, an IEP review shall be conducted to see if the plan needs to be modified. [5 C.C.R. Sec. 3052(i)(8).]

38. What is assistive technology?

An assistive technology (AT) device is any item, piece of equipment, or product system — whether acquired commercially off the shelf, modified or customized — that is used to increase, maintain, or improve the functional capabilities of students with disabilities. [34 C.F.R. Sec. 300.5; Cal. Ed. Code Sec. 56020.5.]

Assistive technology service means: any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device. It includes:

- (1) Evaluating the needs of a student with a disability, including a functional evaluation of the child in the child’s customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by students with disabilities;

Information on Related Services

- (3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;
- (4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
- (5) Training or technical assistance for a student with a disability or, if appropriate, that student's family; and
- (6) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the student.

[34 C.F.R. Sec. 300.6; 5 C.C.R. Sec. 3065(b).]

The list of items or services which can constitute AT under IDEA is quite broad and has been extended to items such as eye glasses and hearing aids. [U.S. Department of Education, Office of Special Education Programs (OSEP) (1995), 22 IDELR 629; OSEP (1993) 20 IDELR 1216; see also Fed. Reg. Vol. 71, No. 156, p. 46581, 8/14/06.] Medication, however, has specifically been excluded from consideration as an AT or service. [64 Fed. Reg. 12540 (3/12/99).] OSEP has stated that AT encompasses both a disabled student's own personal needs for devices (for example, electronic note takers, cassette recorders, etc.), as well as access to general technology devices used by all students. Therefore, if an eligible student is unable, without a specific accommodation, to use a technology device used by all students, the agency must ensure that the necessary accommodation is provided. Further, districts must ensure that students, teachers and other personnel receive the necessary in-service instruction on the operation and maintenance of technology. [64 Fed. Reg. 12540 (3/12/99).]

39. How can I determine when AT is a related service?

A determination of whether an AT device or service is a related service under IDEA follows the basic legal mandates for providing FAPE. It includes a determination of whether the device or service is necessary to assist the student in

benefitting from her education, and/or whether the device or service is necessary to fulfill the district's obligation to educate students with disabilities in the regular education environment unless "the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

40. Can my child use the AT equipment outside of the school day?

The IEP team must consider your child's need for AT in the development of the IEP. [34 C.F.R. Sec. 300.324(a)(2)(v); Cal. Ed. Code Sec. 56341.1(b)(5).] The district must permit your child to use school-purchased assistive technology devices at home or in other settings, if the team determines that she needs access to those devices in non-school settings in order to receive FAPE (for example, to complete homework.) [34 C.F.R. Sec. 300.105(b).]

41. Who pays for AT devices?

Although most assistive technology equipment is not expensive, one of the most frequent barriers to providing AT devices is cost and the question of who is responsible for purchasing the equipment. Under federal law, districts are responsible for providing (and funding) all services necessary to provide a student with FAPE, including assistive technology, at no cost to parents. [34 C.F.R. Sec. 300.105(a).] However, although the district may *own* the devices, parents may be liable for loss, theft, or damage due to negligence or misuse of equipment used at home or in other settings.

42. My child is a special education student but must be educated at home for a while due to health issues related to her disability. The district says it will provide one hour of home instruction per day and no related services. Can the district do this?

No. All special education students are entitled to an appropriate program. That is, an individualized program of specialized instruction and related services designed to meet a student's unique needs and which results in educational benefit. [*Board of Education v. Rowley*, 102 S.Ct. 3034 (U.S. 1982).] An arbitrary limit of one or two hours per day of home instruction without individualized assessment of the placement and related services is not designed to your child's unique needs. Therefore, any home instruction program, including the need for related services, must be individually developed at an IEP team meeting. See Chapter 4, *Information on IEP Process*.