

Questions and Answers/January 7, 2009, Webinar

1. If a student has been suspended 45 days for a drug related infraction, and the Manifestation Determination indicates the infraction is not a manifestation of the student's educational disability, and there is no pattern of the behavior, do we have to complete a Functional Behavioral Assessment and/or a Behavioral Intervention Plan?

Answer: If the child is placed in a 45 school day interim alternative educational placement as the result of drug possession and the manifestation determination is that the conduct was unrelated to the disability, no Functional Behavioral Assessment or Behavior Intervention Plan is required.

2. What was the outcome of whether students with disabilities can be exempt from the follow-up End of Course Exams?

Answer: The Department wanted to give stakeholders a chance for input. The Special Education Advisory Panel (SEAP) advised us to go ahead and allow IEP teams to make the decision to exempt individual children from the non-mandatory EOCs. MPACT, our Parent Training and Information Center, agreed. We are awaiting advice from MO-CASE; I meet with the executive board at the end of the month. Then the Department will make the decision.

3. If an ECSE student is kindergarten age eligible for the coming year, but the parent wants to delay kindergarten entry until the following year, can the student still receive services? Would those services be through ECSE or through the elementary division?

Answer: If the child is kindergarten eligible and the parent is not interested in kindergarten yet, and the IEP team doesn't think the child needs continued ECSE services, then the child would get no services and the child would not be enrolled. The parent can keep their child out of school until age 7, the mandatory age of compulsory school attendance. If the IEP team, on the other hand, believes that the child is not ready for kindergarten and requires additional ECSE services instead, then the child remains in ECSE.

4. You just indicated that students can continue receiving ECSE services if the IEP team determines that student is not ready to attend kindergarten. However, the State Plan states that ECSE funding will not be provided for staff serving children who are age 5 and kindergarten age eligible. If the IEP team determined that continuing to serve the student in ECSE is appropriate, would Part B funds or local funds then have to be used?

Answer: Children who are kindergarten eligible but served in ECSE, are funded in the same way age 5-21 students are funded; in other words, the ECSE funding we provide, cannot be claimed for a child who is now kindergarten eligible even though you have continued to provide ECSE services to the child.

5. A response from Roy Blunt's office indicated that the social security question is still being investigated. But the letter did mention the possibility that Missouri educators might be subjected to the Wind Elimination Provision (WEP). I am not familiar with this term and wondered if you had any information regarding this?

Answer: No, I am not familiar with this. I recommend you contact the Office of Administration for more information.

6. With the new rule that parent's can take their child out of special education, how does this impact parochial students where the parents have chosen not to bring them to the school for services? Does their diagnosis continue or do we assume the parents are refusing services? Do we need this in writing?

Answer: The new federal regulation allowing for a parent to exit their child from special education appears to be addressing a child who is remaining in the public school but for whom the parents no

longer want served as a special education student. This should not affect private school students, as their parents always had discretion on deciding not to access any services offered by school districts through a Services Plan.

7. In the previous scenario about parochial students where parents refuse to bring them to the public school for services, what is the responsibility of the school district? Do we need to continue contacting the parent each year for services, continue reevaluations every three years? At what point can we "drop" the student as a special education student.

Answer: If the parents decide not to access the services offered in a Services Plan, then the next step would be to contact them again at the time of the three-year reevaluation. If they are not interested in a reevaluation, I would document that and send them a letter notifying them that if they ever change their mind and want to discuss reevaluation and/or services, to contact you.

8. What if the parochial student's parents only want reevaluation for continued modifications or accommodations at their private school? What are our obligations if they request reevaluation but have not accessed services?

Answer: They have the right to evaluations or reevaluations regardless of whether they access offered services.

9. Shouldn't we have choices for ECSE that mimic the percent of time placements that we have in K-12. We can match the reporting codes for core data easily except for the percentage placements.

Answer: The percent time placements used on the Model IEP, mimic the federal child placement data requirements/instructions. For ECSE, the federal child data requirements are focused on environment, not the IEP determination of "placement." However, we will look at whether it makes sense to revise the list of ECSE placements on the Model IEP to align with the K-12 percentage approach, and if this makes more sense to us, we will revise.

10. Any word on how Special Education Directors will be treated with social security/retirement changes July 1?

Answer: No, sorry. Please contact the State's Office of Administration for the latest on their negotiations with the feds.

11. Do you know in general when a special education student would qualify under the high needs fund?

Answer: Yes. If the cost of serving the child exceeds three times the cost of the district in serving the average student (Current Expenditure per ADA amount as calculated on the 2007-08 Annual Secretary of the Board Report (ASBR)).

12. If a child has a personal aide can you attribute that total cost to the student's educational cost?

Answer: If you mean a one-on-one paraprofessional required by the IEP provisions, then yes, you can use that cost as part of the calculation for the high need fund application.

13. ECSE child, receiving services, moves to another district and does not enroll or receive any services there. They move back to our district six months later - IEP was due in late December, reevaluation not due yet - Do we have to start over as an initial or just pick up where they left off?

Answer: This sounds like a similar issue to that discussed earlier in the webinar. However, the ECSE factor may be key, which I had not thought about as we talked during the webinar, because with ECSE there is no private school/homeschooling context. So the ECSE kid moves to another district and is not enrolled in that district and then returns to your district six months later. In that

case, I would say you pick up where you left off, because the child never became a “regular education” student.

14. If we have a student who has been evaluated for emotional disturbances and does not qualify, can that student be qualified as Other Health Impaired for behavior problems?

Answer: Only if that student meets the eligibility criteria for the OHI category in Missouri. If you need help walking through this on a particular student, please call one of our supervisors in our Compliance Section and they can help you.

15. Can the district decide that all kindergarten age eligible students that were receiving ECSE services will go to kindergarten?

Answer: Yes, as long as they can show that if an individual child’s IEP requires some continued ECSE services, the child will receive those.

16. Do we continue to use the placement categories for ECSE on the Model IEP and the categories for Educational Environments for purposes of Core Data, given that these are different?

Answer: Yes.

17. Who reports a student for drop out purposes when that student attends a state operated program (Missouri School for the Deaf, Missouri School for the Blind, Missouri Schools for the Severely Disabled), the resident district or the state operated school?

Answer: The State Operated School.

18. At a training regarding recent changes to the Americans with Disabilities Act (ADA), we were told that a student who is Section 504 eligible but not IDEA eligible must be provided special education services in a special education classroom if that is what his Section 504 Plan provides for. What is DESE’s position on this?

Answer: The U.S. Department of Education’s Office of Special Education Programs (OSEP) and Office of Civil Rights (OCR) have historically said that students who have been found ineligible under IDEA but identified under Section 504 and need special education services, raise red flags. These red flags trigger a suspicion that the IDEA evaluation was incorrect or incomplete; in general, if a child has a need for special education due to a disability, the expectation is that they are IDEA eligible. DESE agrees with this historical position. At this point, we have no reason to think the position has changes based on the revisions to the ADA. If we learn otherwise, we will alert you to a change.

19. If a student is a senior, has met all his goals and is doing well in all areas, expected to meet school district graduation requirements as well as on track to meet his post-secondary transition goals and just needs to maintain his current level of performance, how do you write a transition goal to “maintain” and what would be the baseline data?

Answer: The present level of performance should document that the student is achieving in the general education curriculum at a level commensurate with his peers and that he will need to maintain this level to meet graduation requirements – and this is the baseline. However, we would expect to see the IEP still include goals that would have him further improve. If he truly needs nothing, then he would be exited from special education.