

Guidance for Special Education and Related Services Personnel Assisting Students within General Education Settings

Many questions have been raised about the perceived restrictiveness of laws, rules and policies limiting flexibility in a district's special education program delivery system. It is important, therefore, first to understand the flexibility permitted, and to dispel any myths surrounding this issue.

Special education and related services are designed to meet the unique needs of students with disabilities. Special education, however, is a part of the whole; it is dependent on the quality, philosophy and diversity of the total educational program for meeting the needs of all students and cannot be viewed in isolation from general education. All students should be educated in the least restrictive environment (LRE) and have access to the general education curriculum to the maximum appropriate extent. It is common, therefore, for general and special education personnel to work together in inclusive environments.

The three main issues that guide decision making about general education students receiving instruction by a special education teacher are due process, funding and licensing. Students may not receive special education services of any kind unless they have gone through proper referral, evaluation and placement procedures. All staff must work within the scope of the position for which they were hired and are funded. Finally, all staff must be appropriately licensed under PI 34, and working within the parameters of their certifications and contracts.

Team teaching between a special education teacher and a general education teacher is one method used to provide effective educational opportunities for students with disabilities within general education classes. Each teacher in a team teaching situation brings unique qualifications and skills to the situation, and there is a shared responsibility for developing and delivering instruction. Within a team teaching situation each teacher must remain within the parameters of her or his license and teaching assignment. The special education teacher's primary focus must be on ensuring special education services are implemented for students with disabilities in accordance with their IEPs.

PI 8.01(2) SCHOOL DISTRICT STANDARDS. (a)*Licensure*. 1. Each school district board shall certify annually that every teacher, supervisor, administrator and other professional staff member has been issued a valid certificate, license or permit by the department for the position for which he or she is employed before entering on duties for such a position and that a copy of the valid certificate, license or permit is on file in the district.

Incidental Benefit:

CFR §300.208 Permissive Use of funds. (a) *Uses.* Notwithstanding §§300.202, 300.203(a), and 300.162(b), funds provided to an LEA under Part B of the Act may be used for the following activities: (1) *Services and aids that also benefit nondisabled children.* For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from these services.

This provision addresses incidental benefit, the indirect benefits received by the participation of a student not identified as eligible for special education services in instructional activities provided by a special education teacher. This commonly occurs when students who are receiving special education services are being educated alongside their nondisabled peers in a general education classroom. The following bullets outline the parameters of what is permissible in Wisconsin.

- Each teacher in a team teaching situation brings unique qualifications and skills to the situation, and there is a shared responsibility for developing and delivering instruction. The special education teacher's primary focus must be on ensuring special education services are implemented for students with disabilities in accordance with their IEPs.
- The special education teacher participating in the general education classroom instruction must primarily be doing so to meet the instructional needs of the students requiring special education services as defined by their IEPs. Students with disabilities must be provided a free, appropriate public education (FAPE) in the least restrictive environment (LRE) in conformance with an IEP that is based on individual need.
- Special education teachers may work with individual students with disabilities or with small groups within the general education class, which may include students with disabilities as well as students without disabilities. Within these groupings care must be taken to avoid long term situations that could result in de facto placement into special education, (e.g., without the proper referral, evaluation and placement processes). The implementation of IEPs must be the primary purpose for the special education teacher's presence in the general education classroom. Special education personnel may not provide ongoing, individualized supports to non-disabled students.
- Proper referral, evaluation and placement procedures must be followed prior to academic or behavioral instruction or intervention by a special education teacher that reaches beyond the limits of incidental benefit.

Special Education Personnel within Response to Intervention (RtI) Models and Coordinated Early Intervening Services (CEIS) Funding:

One component of both RtI and CEIS is increased supports for specific general education students; utilizing special education personnel appropriately within these models is important. For more information on IDEA Part B entitlement grants, including CEIS, visit <http://dpi.wi.gov/sped/lpp-budgets.html> . In Wisconsin:

- Guidelines under incidental benefit above apply.
- Strong universal instructional programs and practices are central to an RtI model. Reading specialists, general education teachers, special education personnel, pupil services personnel, curriculum specialists, gifted and talented coordinators, family and community liaisons, and other specialists have unique knowledge to contribute toward establishing these core systems. Consulting these individuals on effective research-based core instruction, data collection, interventions, and enrichment activities provides a wealth of diverse knowledge.
- Within an RtI model, staff members from varied backgrounds are encouraged to be members of collaborative teams. Care must be taken to have a formal referral for special education in place prior to conducting tasks that relate to eligibility determination and require informed consent.
- Special education personnel may not provide ongoing, individualized supports to non-disabled students in an RtI model.
- Special education personnel may not be funded with CEIS dollars (CFR §300.226 Early Intervening Services).
- Unlike incidental benefit, wherein a non-disabled student may happen to benefit from an activity conducted by a special education teacher, CEIS funds are specifically to be used to provide increased supports for selected general education students. These targeted supports may not be carried out by special education personnel. For more information on the appropriate use of staff within CEIS funding see http://www.ed.gov/policy/speced/guid/idea/ceis_pg4.html.
- Pupil services providers are licensed to work with all students, regardless of the student's special education status. For more information on the funding of these positions see <http://dpi.wi.gov/sfs/speced.html>.

Special Education Personnel Participation on Building Consultation Teams (BCT):

Collaborative teams that are used to problem solve individual students' barriers to learning when standard interventions are not effective are often called Building Consultation Teams. However, these teams may be referred to by other, district-specific names. The following bullets outline the extent to which special education and related services personnel may participate on such teams in Wisconsin.

- It is permissible for special education personnel to give general suggestions and information to their colleagues on a consultative basis. Special education personnel, reading specialists, pupil services personnel, and others who have specific expertise in data collection tools, using data to inform instruction, and interventions are excellent resources when implementing systems to identify students in need of interventions and enrichment.
- Under IDEA, a formal referral for evaluation for special education services, including parental consent, must be in place prior to special education personnel performing activities that relate to eligibility determination.
- Occupational and physical therapists may not be assigned to participate as regular BCT members (OT 4.03 Standards of Practice).
- Pupil services personnel may be assigned as regular BCT members. This includes school psychologists, school social workers, school nurses, and school guidance counselors.