



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

August 2, 2018

Linda McDowell, Ph.D.
Director
National Center on Deaf-Blindness
The Research Institute/Western Oregon University
345 N. Monmouth Avenue
Monmouth, Oregon 97361

Dear Dr. McDowell:

This letter responds to your December 7, 2017 letter and January 13, 2018 electronic mail communication addressed to me. In your correspondence, you request that the U.S. Department of Education (Department), Office of Special Education Programs (OSEP), provide clarification that individualized education program (IEP) Teams “may consider interveners as an appropriate related service for children who are deaf-blind, even though interveners are not specifically identified in the list of examples of related services in the [Individuals with Disabilities Education Act] IDEA.” We regret the delay in responding.

We note that section 607(d) of the IDEA prohibits the Secretary from issuing policy letters or other statements that establish a rule that is required for compliance with, and eligibility under, the IDEA without following the rulemaking requirements of section 553 of the Administrative Procedure Act. Therefore, based on the requirements of IDEA section 607(e), this response is provided as informal guidance and is not legally binding. This response represents an interpretation by the Department of the requirements of the IDEA in the context of the specific facts presented, and does not establish a policy or rule that would apply in all circumstances.

The term “related services,” as defined in 20 U.S.C. §1401(26)(a) means:

transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designated to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

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The definition of “related services” in the IDEA’s implementing regulation in 34 CFR §300.34(a) mirrors the statutory definition provided above. The IDEA Part B regulations also contain a definition of the term *include* which means “that the terms named are not all of the possible items that are covered, whether like or unlike the ones named.” 34 CFR §300.20.

Section 602(26) of the IDEA and 34 CFR §300.34(a) state that related services include other supportive services designed to assist a child with a disability to benefit from special education. Accordingly, the Department’s longstanding interpretation is that the list of related services in the IDEA and the Part B regulations is not meant to be 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 in order for the child to receive a free appropriate public education (FAPE). As is true regarding consideration of any related services for a child with a disability under Part B of the IDEA, the members of the child’s IEP Team (which include the parents, school officials, and whenever appropriate, the child with a disability) must make individual determinations in light of each child’s unique abilities and needs about whether the service, such as an intervener, is required to assist the child to benefit from special education.

If the IEP Team determines that a particular service, including the services of an intervener, is an appropriate related service for a child and is required to enable the child to receive FAPE, the Team’s determination must be reflected in the child’s IEP, and the service must be provided at public expense and at no cost to the parents. 20 U.S.C. §1414(d)(1)(A)(i)(IV) and §1401(9).

We hope that the information in this letter is helpful to you and others working to ensure that children who have been evaluated and identified as having deaf-blindness receive the necessary services that have been determined appropriate to meet their unique needs. We appreciate the work of the National Center on Deaf-Blindness and recognize that it has developed resources to assist IEP Teams with making a determination as to whether such children may need the services of an intervener in order to receive FAPE.

If you have further questions, please contact Lisa Pagano, Policy Specialist, at 202-245-7413 or by writing to Lisa.Pagano@ed.gov.

Sincerely,

/s/

Ruth E. Ryder
Acting Director
Office of Special Education Programs