

Dated November 7, 2007

Dr. John Copenhaver Director
Mountain Plains Regional Resource Center
Utah State University
1780 North Research Parkway, Suite 112
Logan, Utah 84341

Dear Dr. Copenhaver:

This letter is in response to your electronic mail (email) request dated September 18, 2007, requesting clarification on an issue relating to the provision of extended school year (ESY) services. Specifically, your questions, indicated below, concern the relationship of the requirements regarding highly qualified teachers to the provision of ESY services:

Does the school district need to have a highly qualified staff to provide ESY services if the student with a disability is found to be eligible by the IEP [individualized education program] Team to need ESY services? For example, if a student qualifies for ESY services on a reading goal in the IEP, do ESY services need to be conducted by a staff considered highly qualified? Another example might be a student who qualifies for ESY services in speech -- would a licensed speech therapist need to implement the ESY services? In both cases, would it be permissible for a paraeducator, under the supervision and training of a highly qualified staff, to deliver the ESY services?

Under Part 13 of the Individuals with Disabilities Education Act (IDEA), each State and its public agencies must ensure that a free appropriate public education (FAPE) is made available to all children with disabilities in mandatory age ranges. FAPE includes, among other matters, the provision of special education and related services that meet State education standards and Part B requirements. Under 34 CFR §300.156(a), qualifications established and maintained by a State educational agency (SEA) must ensure that special education teachers and related service providers be appropriately and adequately prepared and trained. Paraprofessionals must be appropriately trained and supervised, in accordance with State law, regulation, or written policy. Under 34 CFR §300.156(c), the qualifications described in 34 CFR §300.156(a) must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 110(0)(2) of the Elementary and Secondary Education Act (ES EA). For related services providers and paraprofessionals, the State's qualifications must meet the standards in 34 CFR §300.156(b)(1) and (2). These standards must allow:

paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, . . . to be used to assist in the provision of special education and related services . .

34 CFR §300.156(b)(2)(iii).

Under Part B regulations, no distinction is made between the personnel qualifications for special education and related services provided pursuant to a child's IEP as part of the regular school program and those provided pursuant to an IEP as ESY services. Personnel providing ESY services should meet the same requirements that apply to personnel providing the same types of services as a part of a regular school program.

Based on section 607(e) of the IDEA, we are informing you that our response is provided as informal guidance and is not legally binding, but represents an interpretation by the U.S. Department of Education of the IDEA in the context of the specific facts presented.

We hope this provides the information you need. If you have questions, please do not hesitate to contact Deborah Morrow at 202-245-7456.

Sincerely,

/s/

Patricia J. Guard
Acting Director
Office of Special Education Programs