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June 7, 2016

MEMORANDUM

TO: Superintendents
Business Managers
Special Education Directors
Charter School Administrators
Regional Education Cooperative Directors
Stars Coordinators

FROM: Michael Lovato, Director
Special Education Director, Special Education Bureau, PED

A handwritten signature in black ink, appearing to read "Michael Lovato".

RE: Calculation of Full-Time Equivalency (FTE) for Staff Providing Special Education Related Services

The purpose of this memorandum is to provide clarification on how Full-Time Equivalency (FTE) is calculated for instructional support providers as defined in 6.63.3, 6.63.4 - 6.63.7 NMAC providing special education related services to students qualified for a student with a disability as defined by 34 CFR Sec 300.8 and Subsection B(4) of 6.31.2.7 of the NMAC. According to 34 CFR §300.34, related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. It is critical that Local Education Agencies (LEAs) accurately calculate FTE of staff providing special education related services for reporting in the Student Teacher Accountability Reporting System (STARS) in order for the Public Education Department (PED) to appropriately fund LEAs in providing special education services.

The Public Education Department conducts reviews of data to ensure that LEAs report their special education and related services data accurately. The Public School Finance Act, Section

22-8-13 NMSA 1978, mandates that each local school board require each public school in its school district to keep accurate records concerning membership in the public school including special education membership as defined in Section 22-8-21 NMSA 1978. For instructional support providers providing special education services, the number of FTE certified or licensed ancillary service and diagnostic service personnel must be reported in order to determine the number of special education program units needed under Section 22-8-21(C)(5) NMSA 1978. Section 22-8-13(C) NMSA 1978 provides that "all information required pursuant to this section shall be on forms prescribed and furnished by the department which are the staff assignment templates in STARS. A copy of any report made pursuant to this section shall be kept as a permanent record of the school district and shall be subject to inspection and audit at any reasonable time." That provision gives PED the basis for requiring LEAs to justify their related services FTE and to maintain documentation to support their justification. In addition, 34 CFR §300.211 requires LEAs to provide PED with the information necessary to carry out its duties under Part B of Individuals with Disabilities Education Act (IDEA). This provision allows the PED to collect whatever information it deems is necessary, as long as it is related to carrying out its duties under IDEA. As a result, requiring LEAs to provide justification and supporting documentation for their related services FTE would be consistent with the requirements set out in 34 CFR §300.211 because it relates to providing accurate information needed for determining reimbursement from IDEA funds for related services. In each case when calculating related service FTE, all LEAs must always consider "other therapy services" in order to meet a student's educational needs as the primary variable. These additional therapy services include, but are not limited to initial evaluations, re-evaluations, collaborative services, etc.

The above calculations for related service FTE should include the following: direct related service time for students with related services needs identified in accordance with 34 CFR §300.304 through 300.306 and stated on the student IEP; "reasonable" prep time, and; travel time, within the districts or if related service personnel is a contract employee and compensation is allowed per the contract. For reporting staff whose time is divided between students with disabilities and children in the general population, base this FTE on only the percentage of time that the related service provider works specifically with students receiving or being evaluated for special education related services. Time spent with students in the general population, including students in tier 2 interventions or in the Student Assistance Team (SAT) process, does not count as special education related services and must be reported under a separate staff assignment code in STARS and OBMS.

34 CFR §300.34(a) states that related services include other supportive services that are required to assist a child with a disability to benefit from special education. This may include other developmental, corrective, or supportive services if they are required to assist a child with a disability to benefit from special education and have been documented as a required need in the student's IEP as the related service they have qualified for consistent with 34 CFR §300.34. Supportive services include, but are not limited to evaluations, collaboration, and preparation for therapy time, participation in IEPs, etc. If compensated, this time should be included in FTE calculations and will be accepted as justification for FTE for instructional support providers. Services that are not indicated in the IEP, not related to the students IEP, and direct services as per the IEP should not be considered a related service and are therefore not covered by IDEA funding.

34 CFR § 300.156 (b)(2)(iii) does not allow special education instructional support provider assistants, this includes Certified Occupational Therapy Assistants (COTA), Speech/Language Apprentices, SLP Clinical Fellows, and Physical Therapy Assistants, therefore these personnel are not allowed to carry a caseload; these related service hours should be reported under the licensed mentor who is monitoring and working with the assistant in question. Please refer to guidance provided in December 2010 <http://ped.state.nm.us/seo/guide/edu%20asst%20Paraprof.pdf>. The combined FTE of the instructional support provider and their assistant should be proportionate to the total time spent providing a related service to their students, as reported in STARS. These assistant positions, though critical and essential for providing services, are not funded through the State Equalization Guarantee Act. In order to assure that LEAs are receiving appropriate funding, they are required to list the direct services under the supervising instructional support provider. If the LEA reports FTE in excess of 1.10 due to supervision of an assistant, documentation must be submitted to the Education Administrator assigned to the LEA in order to justify the excess of 1.10 FTE.

If you have any questions regarding the how to calculate FTE for staff providing special education related services, please call the Special Education Bureau at (505) 827-1457 and ask to speak with the staff member assigned to your district or charter.

ML/wlc

cc: Paul "Hipolito" Aguilar, Deputy Secretary, Finance and Operations
Eileen Marrujo, Director, School Budget & Finance Analysis Bureau
Denise Koscielniak, Division Director, Federal Programs Division