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Governor

MEMORANDUM

September 8, 2004

TO: District and Charter School Special Education Directors  
Other Interested Parties

FR: Sam Howarth  
State Director of Special Education

RE: Frequency of Service Stated on an IEP

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The New Mexico Public Education Department's Special Education Bureau has received questions and reviewed several situations recently regarding the appropriate way to specify the frequency of a particular service on a student's Individualized Education Program (IEP). This has come about because some IEP teams are stating the amount of services to be provided in terms of **hours per year/month** or **as needed**. It appears this practice may allow for some flexibility in the overall scheduling of services (based on the professional judgment of the service provider) without having to hold a new IEP meeting to make adjustments within the allotted time.

While the IDEA regulations at 34 CFR Sec. 300.347 say that the content of the IEP must include a statement of the special education and related services to be provided to a student, there is no requirement as to how to specify the amount of services—that is, yearly, monthly, weekly or daily. **However**, the U.S. Office of Education's Office of Special Education Programs (OSEP) has provided guidance on this matter. It has stated that the IEP must be clear to all who are involved in its development and implementation. "It would be inconsistent with that requirement to adopt a practice of using a range of time for a particular service. In situations where a child's disability and unique educational needs cannot be reflected through a **daily** allocation, public agencies should determine **weekly** allocations for amount of services."<sup>1</sup> **Thus the department's expectation is that IEP teams develop IEPs in compliance with OSEP's guidance about this matter.**

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<sup>1</sup> See *Letter to Copenhagen*, 21 IDELR 1183, (OSEP, 1994).