

SPECIAL EDUCATION SEMINAR

Independence, Ohio
March 9, 2006

“The Effective Use of Paraprofessionals in Special Education”

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I. Introduction

II. Employment of Paraprofessionals Under Ohio Law

- A. “Educational assistant” is defined as “any nonteaching employee in a school district who directly assists a teacher as defined in section 3319.09 of the Revised Code, by performing duties for which a license issued pursuant to sections 3319.22 to 3319.30 of the Revised Code is not required.” [O.R.C. §3319.088]
- B. The State Board of Education is responsible for issuing educational aide permits and educational paraprofessional licenses for educational assistants and for adopting rules for the issuance and renewal of such permits and licenses. [O.R.C. §3319.088(A)]
 - 1. Educational aide permits and educational paraprofessional licenses may be of several types.

2. The rules shall prescribe the minimum qualifications of education, health, and character for each type of paraprofessional.
 3. The minimum qualifications prescribed may require special training or educational courses designed to qualify a person to perform effectively the duties authorized under an educational aide permit or educational paraprofessional license.
- C. The rules of the State Board of Education allow for the issuance of the following permits/licenses:
1. One-year educational aide permit. [O.A.C. 3301-24-05(I) and 3301-25-01]
 - a. Issued upon request and recommendation of employing superintendent.
 - b. Superintendent must submit evidence that applicant meets following minimum requirements:
 - (1) Graduate of an approved high school or has statement of high school equivalence.
 - (2) Sufficient promise of being able to profit from in-service training and a willingness to participate in such training.
 - (3) Valid only in district of employing board of education. [O.A.C. 3301-25-08]
 - (4) May be renewed. [O.A.C. 3301-25-02]
 2. One-year student monitor educational aide permit. [O.A.C. 3301-25-03]
 - a. Issued upon request and recommendation of employing superintendent.
 - b. Superintendent must submit evidence that applicant meets following requirements:
 - (1) Graduate of an approved high school or has statement of high school equivalence.

- (2) Sufficient promise of being able to profit from in-service training and a willingness to participate in such training.
 - (3) May be renewed. [O.A.C. 3301-25-04]
- 3. Four-year educational aide permit. [O.A.C. 3301-25-05]
 - a. Issued upon recommendation of employing superintendent.
 - b. Superintendent must submit evidence that applicant meets following requirements:
 - (1) Graduate of an approved high school or has statement of high school equivalence.
 - (2) Performed successfully in the tasks assigned in accordance with a written job description while employed on a renewal of a one-year educational aide permit, and has the recommendation of the administrator of the school or district in which employed.
 - (3) Participated in and profited from in-service training.
 - (4) May be renewed. [O.A.C. 3301-25-07]
 - (5) Valid in any approved public or nonpublic school in Ohio. [O.A.C. 3301-25-08]
- 4. Associate license. [O.A.C. 3301-24-05(G)]
 - a. Valid for five years.
 - b. Issued to an individual who holds an associate degree, deemed to be of good moral character, and completed an approved program of preparation in area of educational paraprofessional.
- 5. Educational assistants are subject to same license revocation standards and procedures that apply to teachers. [O.R.C. §§3319.088(B)(2), 3319.31, and 3319.311]

- D. Educational assistants shall at all times while in the performance of their duties be under the supervision and direction of a teacher. [O.R.C. §3319.088(C)]
1. May assist a teacher to whom assigned in the supervision of pupils, in assisting with instructional tasks, and in performance of duties which, in the judgment of the teacher to whom the assistant is assigned, may be performed by a person who is not a licensed teacher and for which a teacher license is not required.
 2. Duties may not include the assignment of grades to pupils.
 3. Duties need not be performed in the physical presence of the teacher to whom assigned, but the activity of an educational assistant must, at all times, be under the direction of the teacher to whom assigned.
 4. Assignment of an educational assistant does not have to be limited to a single teacher, but the assignments must be clearly delineated and arranged so that the educational assistant is never subject to simultaneous supervision or direction by more than one teacher.
 5. Educational assistants assigned to supervise children when the teacher is not physically present are required to maintain the degree of control and discipline which would be maintained by the teacher. An educational assistant may not render corporal punishment.
 6. Educational assistants may not be used in place of classroom teachers or other employees, and school boards are prohibited from compensating educational assistants for such services.
 7. School district may employ up to one full time equivalent educational assistant for each six full time equivalent licensed employees in district.
 8. Following the determination of the assignment and general job description of an educational assistant and subject to supervision by the teacher's immediate administrative officer, the teacher to whom the educational assistant is assigned shall make all final determinations of the duties to be assigned to the assistant. [O.R.C. §3319.088(D)]
- E. Educational assistants have all the same rights, benefits, and legal protection available to other nonteaching employees in the school district, except that civil service does not apply, and shall be compensated according to a salary plan adopted annually by the board. [O.R.C. §3319.088(D)]

- F. Nonteaching employees may not serve as educational assistants without first obtaining an appropriate educational aide permit or educational paraprofessional license from the State Board of Education, and may not render services that are inconsistent with type of service authorized by the permit or license held. No person may receive compensation from a school board for services rendered as an educational assistant who does not have a permit or license. [O.R.C. §3319.088(D)]
- G. Nonteaching employees whose functions are solely secretarial-clerical and do not perform any other duties, even though they assist a teacher and work under the direction of a teacher, and students preparing to become licensed teachers or educational assistants, are not required to hold a permit or license. [O.R.C. §3319.088(D)]
- H. Educational assistants are specifically prohibited from divulging, except to the teacher to whom assigned or the administrator of the school in the absence of the teacher, or when required to testify in court, any personal information concerning a pupil in the district which was obtained or obtainable while employed. Violation is grounds for disciplinary action and/or dismissal. [O.R.C. §3319.088(E)]

III. Employment of Paraprofessionals Under the No Child Left Behind Act (NCLB)

- A. On January 8, 2002, President Bush signed into law the No Child Left Behind Act (NCLB), which reauthorized and amended the Elementary and Secondary Education Act (ESEA).
- B. NCLB requires all school districts to ensure that all paraprofessionals hired after January 8, 2002, who have instructional duties in programs supported by Title I funds, meet the following requirements:
 - 1. Completed at least two years of study at an institution of higher education; or
 - 2. Obtained an associate's (or higher) degree; or
 - 3. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment, (a) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or (b) knowledge of, and the ability to assist in instructing, readiness for reading, writing, and mathematics as appropriate. [20 U.S.C. §6319(c)]

- C. Individuals employed as paraprofessionals on or before January 8, 2002, have until the end of the 2005-2006 school year to meet the requirements. However, all paraprofessionals working in programs supported by Title I funds, regardless of their hire date, must possess a high school diploma or its equivalent. [20 U.S.C. §6319(f)]
- D. NCLB requirements affect paraprofessionals employed in both targeted assistance schools and schoolwide Title I schools.
- E. The principal of each targeted assistance school and each schoolwide Title I school is required to annually attest, in writing, that the school is in compliance with NCLB's paraprofessional qualification requirements. [20 U.S.C. §6319(i)]
- F. Parents also have the right to know the qualifications of any paraprofessional providing services to their child. [20 U.S.C. §6311(h)(6)]
- G. For purposes of NCLB, a paraprofessional is a school district employee who provides instructional support in a program supported with Title I funds, including employees who:
 - 1. Provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
 - 2. Assist with classroom management, such as the organization of instructional and other materials;
 - 3. Provide assistance in a computer laboratory;
 - 4. Conduct parental involvement activities;
 - 5. Provide support in a library or media center;
 - 6. Act as translators; or
 - 7. Provide instructional support services under the direction of a highly qualified teacher. [20 U.S.C. §6319(g)(2)]

- H. A paraprofessional may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher. [20 U.S.C. §6319(g)(3)]
1. The teacher prepares the lessons and plans the instructional support activities the paraprofessional carries out, and evaluates the achievement of the students with whom the paraprofessional is working; and
 2. The paraprofessional works in close and frequent proximity with the teacher. [Title I Paraprofessionals Non-Regulatory Guidance (U.S. Dept. of Educ., March 1, 2004)]
- I. Each district that receives Title I funding must ensure that a paraprofessional working in a program supported by such funds is not assigned a duty inconsistent with the provisions of NCLB. [20 U.S.C. §6319(g)(1)] Thus, paraprofessionals should not:
1. Prepare lesson plans;
 2. Develop curricular materials;
 3. Provide direct instruction in place of a teacher;
 4. Introduce new content or skills;
 5. Assign grades to students; or
 6. Serve as substitute teachers.
- J. Paraprofessionals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar programs are not considered to be paraprofessionals under NCLB. Also, paraprofessionals who only serve as translators or bilingual aides or only conduct parental involvement activities do not have to meet the additional NCLB qualification requirements. [20 U.S.C. §6319(e)]
- K. The extent to which paraprofessionals working with special education students must comply with NCLB depends upon the paraprofessional's duties.
1. If the paraprofessional does not perform any instructional duties (bus aide or personal care attendant), the paraprofessional is not considered to be a paraprofessional for the purposes of NCLB.

2. If the paraprofessional works in a Title I targeted assistance program, has instructional support duties, and is paid in whole or in part with Title I funds, the requirements are applicable; however, if the paraprofessional is not paid with Title I funds, the requirements do not apply.
3. If the paraprofessional works in a Title I schoolwide program and has instructional support duties, the requirements are applicable regardless of the source of the funding that supports the positions. [Title I Paraprofessionals Non-Regulatory Guidance (U.S. Dept. of Educ., March 1, 2004)]

IV. Employment of Paraprofessionals Under the Individuals with Disabilities Education Improvement Act (IDEIA)

- A. Each state educational agency (SEA) is responsible for establishing and maintaining qualifications to ensure that personnel necessary to carry out the IDEIA “are appropriately and adequately prepared and trained including that those personnel have the content knowledge and skills to serve children with disabilities.” [20 U.S.C. §1412(a)(14)(A)]
- B. The standards must include qualifications for paraprofessionals that allow paraprofessionals and assistants to assist in the provision of special education and related services to students with disabilities under the IDEIA as long as they are appropriately trained and supervised in accordance with state laws, regulations, and written policies. [20 U.S.C. §1412(a)(14)(B)]
- C. Each school district must also take measurable steps to recruit, hire, train, and retain highly qualified personnel to provide special education and related services to children with disabilities under the IDEIA. [20 U.S.C. §1412(a)(14)(D)]
- D. Qualified personnel under the IDEIA are “defined as those who meet SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which individuals are providing special education and related services.” However, if the child’s IEP team determines that it is necessary for an individual providing special education or related services to the child to have specific training, experience, and/or knowledge in order to enable the child to receive FAPE, then it would be appropriate to include those specifications on the IEP. [*Letter to Dickman*, 37 IDELR 284 (OSEP 2002)]

- E. In Ohio, “paraprofessional services” are defined as “services provided by school, county board of MR/DD, and other educational agency employees who are adequately trained to assist in the provision of special education and related services to children with disabilities. Paraprofessionals work under the supervision of teachers, intervention specialists, and/or related service providers. Other titles used to identify these service providers include teacher assistants, educational aides, school psychology aides, and job coaches.” [O.A.C. 3301-51-01(CC)]
- F. Paraprofessionals providing services to students with disabilities must possess an educational aide permit or an associate license, and the district must have procedures providing for:
1. Criteria for staff selection;
 2. A planned sequence for continuing education;
 3. A process for direct continuing supervision and evaluation of the services of the paraprofessional; and
 4. A job description of the role and function of the paraprofessional. [O.A.C. 3301-51-09(E)(1)(a)]
- G. In addition, bus aides for preschool and special needs children are required to have certain minimum qualifications and receive additional training that must be completed prior to operating a bus with preschool or special needs children on board. [O.A.C. 3301-83-06(D) and 3301-83-10(A)(3)]
- H. Finally, paraprofessionals are required in certain circumstances.
1. A district must employ at least one full time paraprofessional to assist an intervention specialist serving children with emotional disturbances in a classroom without a classroom management and crisis plan. [O.A.C. 3301-51-09(G)(3)(d)(iv)]
 2. There shall be at least one full time paraprofessional in each special class for children with multiple disabilities. [O.A.C. 3301-51-09(G)(3)(e)(ii)]
 3. There shall be at least one full time paraprofessional in each special class for children with autism, deaf-blindness, and/or traumatic brain injury. [O.A.C. 3301-51-09(G)(3)(f)(ii)]

- I. The services of a paraprofessional are generally required when necessary to provide a student with FAPE, which is determined by the IEP team.
1. What are the student's needs that would require the services of a paraprofessional?
 2. What services or tasks would the paraprofessional be responsible for?
 3. Does the student require the services of a one-on-one paraprofessional or may the paraprofessional be assigned to more than one student?
 4. Would the paraprofessional require additional or special training to perform the tasks or deliver the services?
 5. Who would be responsible for supervising the paraprofessional?
 6. How would the student's dependence on the paraprofessional be addressed?
 7. Will the assistance of a paraprofessional allow the student to remain in, or have access to, the least restrictive environment?
- J. School districts generally have the authority to assign staff. Therefore, when a student's IEP provides for the assistance of a paraprofessional, the provision of the paraprofessional is mandatory, but the student is not guaranteed the assistance of a particular paraprofessional. [*Manalansan v. Board of Education of Baltimore City*, 35 IDELR 122 (D. Md. 2001)]
1. Court held that the school district was not obligated to utilize the services of the parents' personal care attendant for their child while he was at school, because no parent of a public school child, whether the child has a disability or not, is entitled to select every component of the child's education. Moreover, the court concluded that the choice of the paraprofessional was not a substantial or significant part of the child's IEP. [*Slama v. Independent School District No. 2580*, 39 IDELR 3 (D. Minn. 2003)]
 2. Court held that a student had been denied FAPE, because he was not provided with an aide for at least thirty school days as required by his IEP. [*Manalansan v. Board of Education of Baltimore City*, 35 IDELR 122 (D. Md. 2001)]

3. The Office for Civil Rights (OCR) determined that the school district violated the student's rights under Section 504 by failing to provide classroom aides in accordance with his IEP for the first six days of class, for one day in October and for five days in November. [*Lake Washington School District No. 414*, 34 IDELR 297 (OCR 2000)]
4. However, in another case, OCR concluded that the district justified its failure to provide a student with a paraprofessional on the first day of school, because the parent had cancelled several scheduled meetings, a lengthy IEP meeting was finally held on a Friday, a national holiday occurred on the following Monday, and the district was unable to notify the paraprofessional to report to work to assist the student on Tuesday. [*Miami-Dade County Public Schools*, 35 IDELR 101 (OCR 2000)]
5. Administrative law judge (ALJ) concluded that the school district had failed to provide the student with FAPE by not providing him with sufficient support services in the inclusive classroom. The ALJ found that the general education teacher did not receive the preparation she required and often had to act as a one-to-one aide when the regular aide was absent. As a result, the district was ordered to provide a one-to-one aide with specific training in autism. [*Metropolitan Nashville and Davidson County School System*, 25 IDELR 462 (SEA Tenn. 1996)]
6. OCR determined that the school district denied a student FAPE when it failed to provide him with a one-to-one aide provided in his Section 504 plan for approximately three months. [*Franklin Pierce School District No. 402*, 42 IDELR 179 (OCR 2004)]
7. Court held that the student did not require the services of full-time one-to-one paraprofessional in order to receive FAPE, because he was making meaningful educational progress with variable paraprofessional support. [*Reinholdson v. School Board of Independent School District No. 11*, 105 LRP 41262 (D. Minn. 2005)]
8. OCR determined that the school district did not discriminate against a student with severe and multiple disabilities by not providing a one-to-one paraprofessional in the classroom and on the bus, because his IEP did not address how the paraprofessional services were to be provided, and there was no indication the team intended the student to have a full-time paraprofessional. [*Los Angeles Unified School District*, 44 IDELR 285 (OCR 2005)]

- K. However, if the IEP team determines that it is necessary for a paraprofessional to have specific training, expertise, and/or knowledge in order for the child to receive FAPE, then it would be appropriate for the team to include those specifications in the child's IEP.
1. Impartial hearing officer concluded that a proposed paraprofessional for 9-year old child with autism was not appropriate, because she was not qualified to implement the behavior management plan or assist the classroom teacher in working with the child. [*Calaveras Unified School District*, 29 IDELR 1099 (SEA Calif. 1998)]
 2. Impartial hearing officer held that district did not comply with the IEP of a 5-year old student with Angelman Syndrome, which provided for the services of a paraprofessional "with professional status and experience which lends to student's educational needs." [*Hingham Public Schools*, 33 IDELR 292 (SEA Mass. 2000)]
 3. Hearing officer held that the school district denied the student FAPE, because the primary staff person responsible for implementing his behavior support plan (BSP) was an uncredentialed aide who had never seen the BSP. Moreover, the aides' lack of supervision by professional staff experienced in implementing a BSP for an autistic child was persuasive evidence that the BSP was not implemented as written. [*Redondo Beach Unified School District*, 43 IDELR 22 (SEA Calif. 2005)]
 4. Hearing officer rejected parents' argument that their child required the services of a male aide, because there was no evidence to demonstrate that the student's unique needs included an inability to work with female aides. [*Dublin Unified School District*, 37 IDELR 22 (SEA Calif. 2002)]
- L. Responsibilities when working with children with disabilities.
1. Student behavior management.
 - a. Charting student behavior.
 - b. Implementation of behavior intervention plans.
 - c. Crisis intervention and management.

2. Student health services.
 - a. Administering medication.
 - b. Performing other supervised health services (catheterization, suctioning tracheotomy tubes, etc.)
3. Daily living skills.
 - a. Assist with transportation.
 - b. Help student dress and undress.
 - c. Assist with toileting skills.
 - d. Assist with eating/feeding skills.
4. Inclusion/classroom support.
 - a. Providing supplemental, remedial, or intervention services.
 - b. Assist with tests, screenings, or assessments.
 - c. Implement portions of the IEP under the direct supervision of the special or general education teacher or other credentialed service provider.
 - d. Coordinate the use of assistive technology devices.
 - e. Assist with tape recording lessons, note taking, organizational skills, and other supplementary aids, services, and accommodations.
5. Transportation.
 - a. Riding with student on bus.
 - b. Monitoring behavior on the bus.
 - c. Ensuring student is safely transported.

6. Attendant services.
 - a. Assisting student in making necessary transitions during the school day.
 - b. Keeping student on task.
 - c. Accompanying student to community-based work sites or field trips.

M. Tips for properly utilizing paraprofessionals.

- ✓ Make sure paraprofessional is appropriately trained to perform assigned duties.
- ✓ Make sure paraprofessional is properly supervised by a teacher or other credentialed employee.
- ✓ Make sure paraprofessional has a copy of, or access to, the IEP and any other documents needed to perform his/her duties.
- ✓ Keep paraprofessional outside of the direct line of communication with the parent.
- ✓ Do not invite paraprofessionals to IEP meetings unless absolutely necessary.
- ✓ Make sure paraprofessionals keep student information confidential.

V. Conclusion