

Some Students with IEP's May Need Related Services

For some students with disabilities, special education alone is not sufficient for them to receive an appropriate education. For these students, related services are essential. The team faces these important questions:

- How are decisions made on whether a student needs a related service?
- What should be done when related services providers, parents, or external consultants recommend related services that school staff question in terms of educational necessity?
- Is it enough that someone recommends a service because it might be helpful or is even known to be helpful?

For a related service to be justified, it must have a clear purpose be educationally relevant and necessary. All three criteria are based on the IDEA definition of “related services” as well as on Rowley and Tatro, the two U.S. Supreme Court rulings on related services.

Ask Vital Questions About the Need for Each Proposed Related Service

In the following three sections, **educational relevance**, **clarity of purpose**, and **necessity** are discussed. Teams must address all three of these interrelated areas if they intend to make appropriate related services decisions.

1. Is the Proposed Related Service Educationally Relevant?

First, consider whether this potential service is educationally relevant. Educational relevance exists when a proposed service can be explicitly linked with a component of the student’s educational program.

2. What is the Purpose of the Proposed Related Service?

In considering whether to accept a recommendation to provide a proposed service, the team should clearly understand its purpose. A clear purpose promotes effective implementation and evaluation. Sometimes the purpose of providing a related service is to:

- Select and monitor the use of equipment
- Make adaptations
- Apply skills specific to the professional discipline

3. Is the Proposed Related Service Educationally Necessary?

Establishing educational relevance and understanding the purpose of a service are not sufficient to warrant service provision. They also must be educationally necessary. If a proposed service, with a clear purpose, is determined to be educationally relevant, it is time to consider whether it is educationally necessary by asking the following questions (Giangreco 1996):

Questions that Can be Asked to Help Establish Educational Necessity

If the team answers, “Yes” to the following question, it is an indication that the service under consideration **probably is** educationally necessary:

1. Will the absence of the service interfere with the student’s access to or participation in his or her educational program this year?

If the team answers, “Yes” to any of the following questions, the service under consideration **probably is not** educationally necessary:

2. Could the proposed service be addressed appropriately by the special educator or classroom teacher?
3. Could the proposed service be addressed appropriately through core school faculty or staff (e.g., school nurse, guidance counselor, librarian, teachers, administrator, bus drivers, cafeteria staff, or custodians)?
4. Has the student been benefiting from his or her educational program without the service?
5. Could the student continue to benefit from his or her educational program without the service?
6. Does the proposed service present any undesirable or unnecessary gaps, overlaps, or contradictions with other proposed services?

In many cases, IEP teams are asking the wrong questions such as, “Could the proposed related service help?” when this question is asked, the answer is almost always “Yes.” But, this is not the question that IDEA or court cases pose in the definition of a related service. Rather the question is better asked this way:

“If the student does not receive a proposed related service, is there reason to believe that he or she will not: (a) have access to an appropriate education; or (b) experience educational benefit?”

One criterion for educational necessity was established in the *Rowley* case. In essence, the court ruled that if a child was receiving educational benefit without the proposed service, that was evidence that the service was not needed, even though provision of the service could help. In such cases the school was not required to provide the related service.

Educationally, providing services to students with disabilities that do not meet the criteria for educational relevance and necessity interferes with quality education. Unnecessary services take away from, rather than improve, a student’s educational program.

Conversely, well conceived and carried out related services, that are both educationally relevant and necessary, can make a substantial contribution to a student’s educational program. They are essential for some students with disabilities to receive an appropriate education and to support teachers’ efforts to educate them.

Decide “What” Before “How”

Many teams encounter situations where a member starts a conversation by suggesting exactly what services are needed, how they should be delivered, by whom, and how often. For example, a member might say, “Jimmy needs two half-hour sessions of physical therapy directly from the physical therapist each week.” This suggestion might come from a therapist who has completed an evaluation or maybe a parent who has brought the recommendation from a physician or a clinic.

In either case, it’s time to step back and establish the educational relevance, proposed purpose, and necessity before considering whether a related service should be provided and if so, how (e.g., directly, indirectly, or through consultation). When the team members prematurely focus on how services will be provided, they may not fully understand the meaning of related services within the context of IDEA.

Students can surely benefit from some services that are not educationally necessary, but may be considered necessary or desirable by parents or non-educational service providers. Just because a particular service does not meet the educational relevance and necessity criteria to be considered a related service under IDEA does not mean that the service is unimportant. Rather, it could be that it’s not the responsibility of the public school district.

Parents may choose to have their child receive various services during nonschool hours, even though they are not related services under IDEA. In such cases, it’s not the responsibility of the school to provide or fund those services. For example, if an IEP team determines that music therapy does not meet the criteria of educational relevance and necessity, and thus is not a related service, parent could still choose to involve their child in music therapy after school or on weekends.

More Is Better

The more-is-better approach is misguided because it confuses quantity with value.

Some team members always want more related services. If one session of a particular therapy is recommended, they think two would be better, and three better still. The more-is-better approach is misguided because it confuses quantity with value. Often, although it is rooted in benevolent intentions, the more-is-better approach can have negative outcomes for students by interfering with participation in other school activities.

What is the student missing when he or she is spending time receiving a service someone has advocated for, but which is not necessary?

Providing more services than necessary may:

- decrease time for participation in activities with peers who do not have disabilities
- disrupt the normal flow of class activities and keep the student from becoming a full member of the classroom community
- cause disruption in acquiring, practicing, or generalizing other important educational skills
- cause inequities in the distribution of scarce resources when some students requiring services remain unserved or underserved
- overwhelm families with an unnecessarily high number of professionals
- result in students with disabilities feeling stigmatized by “special” services
- create unnecessary or unhealthy dependencies
- unnecessarily complicate communication and coordination among team members

Supreme Court Decisions

THE ROWLEY DECISION

The *Rowley* decision (*Board of Education of the Hendrick Hudson School District v. Rowley*, 1982) was the first U.S. Supreme Court case dealing with related services and remains an important precedent. The case addressed the education of Amy Rowley, a student who was deaf. She had some residual hearing, used hearing aids, and reportedly was skilled in lip reading. She attended regular education classes using a hearing aid, an hour of instruction daily from a tutor of deaf children, and three hours per week of speech therapy. Amy's parents requested that a qualified sign language interpreter be present in all of her academic classes. Based on Amy's achievement in school, recommendations of an interpreter who had worked with Amy, and the school's "Committee on the Handicapped," school officials decided that interpreter services were not educationally necessary. A due process hearing officer and the New York State Commissioner of Education agreed with the school district. The family sued in federal court claiming that the school was denying Amy a free appropriate public education (FAPE) by not providing the requested services and the court agreed. Although the court found that Amy was well-adjusted and progressing in school, they disagreed with the hearing officer and found that the disparity between her achievement and potential resulted in her not learning as much as she could. The U.S. Court of Appeals for the Second Circuit upheld the lower court in a divided decision. The U.S. Supreme Court overturned the lower court decisions which had decided that FAPE meant, "... *an opportunity to achieve [her] full potential commensurate with the opportunity provided other children.*" Instead, the court held that education provided to students with disabilities under the IDEA had to be, "... *sufficient to confer some educational benefit upon the handicapped child.*" The court stated that the purpose of FAPE was to provide a "*basic floor of opportunity*" for students with disabilities by providing access to specialized instruction and related services that have been individually designed to result in "*educational benefit.*" The court interpreted IDEA to mean that schools were required to provide what was needed to educate students with disabilities, but not everything that might be helpful. As the court stated, "... *the furnishing of every special service necessary to maximize each handicapped child's potential is, we think, further than Congress intended to go*" (cited in Yell, 1998, p. 152).

THE TATRO DECISION

Irving Independent School District v. Tatro (1984) concerned an 8-year old, Amber Tatro, who had spina bifida, orthopedic disabilities, and speech impairments. To avoid kidney damage, Amber needed her bladder drained every three-to-four hours using a relatively simple procedure called clean intermittent catheterization, known as CIC. Though Amber had an IEP, the school had made no provisions to provide CIC, suggesting that it was a medical service not covered by the IDEA. The federal court agreed with the school. The U.S. Court of Appeals for the Fifth Circuit reversed the lower court. Ultimately the U.S. Supreme Court agreed with the Court of Appeals. These two higher courts ruled that CIC was a supportive health service, not a medical service, because it could reasonably be performed by any trained lay person — a physician was not required to administer the procedure. The *Tatro* decision shows that sometimes related services are not linked to specific learning outcomes or curriculum; rather they provide access to education. As the Court stated, schools are required to make "... *specific provisions for services, like transportation, for example, that do no more than enable a child to be physically present in class*" (cited in Yell, 1998). Receiving CIC was a service that allowed Amber to stay in school, and therefore was necessary. If a student needs a health procedure during the school day (e.g., intermittent catheterization or tube feeding), it must be provided if it is required for the student to have access to education. Recognizing the potential of overburdening schools, the Court placed some restrictions on its decision. For

example: to be considered for a related service, the student had to be receiving special education under IDEA; the decision did not address the potential need for supportive services for students with disabilities who do not receive special education (e.g., students eligible for supports under Section 504). The only services that must be provided by schools were those that were necessary for the student to benefit from special education; services meeting the first two conditions had to be administered by a nurse or qualified service provider (e.g., physical therapist); schools were not required to provide the services of a physician; and if a service (e.g., dispensing medication) could reasonably be provided before or after school at home by parents for example, the school was not required to provide it.