

# **QUESTIONS AND ANSWERS FOR CHAPTER 14**

**October 10, 2008**

## **Special Education Plans §14.104**

**1. Are revisions to the special education plans required?**

Yes, each school entity will be required to amend its special education plan using the Special Education Plan Revision Notice (SPERN) for the 2009-10 school year to reflect revised caseload requirements. A Penn\*Link will be distributed to school entities prior to December 2008 regarding requirement for special education plan revisions and alignment with requirements in Chapter 14. School entities, however, must comply with the caseload requirements for all newly developed Individualized Education Programs (IEPs) starting at the beginning of the 2008-09 school year even though they have until 2009-2010 school year to submit the SPERN.

**2. If a district posts IU provided parent training activities on their website, does this satisfy the requirement or do districts need to provide their own training?**

The training session offered through the intermediate unit (IU) may meet part of the school entity's responsibility, however; it must also plan and offer training sessions for parents within the local school entity. The Bureau of Special Education recommends the school entity develop a process to include but not be limited to such procedures as; seeking parent input to increase parent attendance at training sessions and providing an opportunity for parent and staff to receive training together.

## **Paraprofessionals §14.105(a)**

**1. Do approved private schools (APSs) have to maintain documentation regarding the rigorous standard of quality for paraprofessionals?**

No, APSs are not covered by this provision in Chapter 14.

**2. Do APSs need to adhere to the 20 hours annual training requirement?**

Yes, APSs must maintain documentation of 20 hours of staff development annually related to the assignment for each paraprofessional employed by the APS to assist and support students with disabilities or eligible young children.

**3. Are Career and Technical Schools responsible for documenting the 20 hours of training annually for paraprofessionals who work in their schools?**

The school entity employing the paraprofessionals is ultimately responsible for documenting appropriate training of paraprofessional staff. The sending school entity is responsible for the provision of FAPE for individual eligible students placed by the school

entity in the CTC. Therefore, the CTCs and sending school entity should consult and maintain documentation of the provision of 20 hours of professional development for the paraprofessional requirements under Chapter 14.

**4. Regarding the 20 hours of professional development required of paraprofessionals annually, what if a person has to leave mid year?**

Determining how the requirement for 20 hours of staff development will be left to local discretion. A school entity may choose to pro-rate, or require all 20 hours.

**5. What if a paraprofessional does not complete the 20 hours of annual training?**

If a paraprofessional does not meet the required 20 hours of training per year, he or she does not meet the minimum requirement to hold a paraprofessional position, and the school entity should follow relevant portions of the collective bargaining agreement and consult with its solicitor regarding the appropriate response to address staff who are not qualified to serve in the position that they current hold.

**6. May an outside agency be used to provide paraprofessional training?**

Yes, an outside agency may be used to provide training, but it is at the discretion of the school entity if training from outside providers will be recognized as meeting the regulatory requirement.

**7. Are paraprofessionals hired by an agency rather than a school district required to fulfill the requirements in Section 14.105(a)?**

Yes, if they are working in the capacity of a special education paraprofessional as described in Section 14.105(a).

**8. Are the following examples of acceptable training to meet the required 20 hours of professional development:**

- a. Diversity Awareness
- b. Universal Precautions
- c. First Aid
- d. CPR (Infant & Child)
- e. Effectively working and communicating with peers and colleagues?

It will be left to the discretion of the school entity if the listed examples of training will meet the requirements of Section 14.105(a).

**9. If a paraprofessional has the Special Education Paraeducator Credential of Competency, does he/she still need to take the local assessment?**

No. The current Pennsylvania Special Education Paraeducator Credential of Competency will satisfy the rigorous standard of quality requirement. A school entity may, however, require additional training of its staff that exceeds the Credential of Competency.

**10. Do the rigorous standard requirements pertain to all paraprofessionals, or just to those hired on or after July 1, 2008?**

The rigorous standard requirements pertain to all paraprofessionals who meet the definition in Section 14.105(a) effective July 1, 2010 regardless of hire date.

**11. Will specific criteria be established for what constitutes appropriate study for an associate degree?**

No, a specific criteria for what constitutes appropriate study for an Associate's Degree will not be established. The criteria will be left to the discretion of the school entity.

**12. Can newly hired paraprofessionals be provided a grace period to obtain a qualified status?**

Whether or not a grace period to obtain qualified status will be provided is left to the discretion of the school entity.

### **Caseload §14.105(c)**

**1. If the student receives Speech and Learning Support, which caseload will the student be assigned to?**

The student would be assigned to both the special education learning support teacher's caseload and also the speech-language therapist's caseload.

**2. For children who receive only speech and language services, is the therapist the case manager?**

Chapter 14 does not define case manager, however; the speech and language therapist is the professional staff for whom the caseload requirements would apply for students whose primary disability is speech and language.

**3. Does caseload pertain to OT and PT?**

No, the Chapter 14 caseload requirements do not apply to OT (Occupational Therapy) or PT (Physical Therapy).

**4. If a student has a speech only IEP and the speech/language therapist manages that child's IEP, would the student be assigned to a special education teacher's caseload or to a speech/language therapist's caseload?**

The speech and language pathologist (SLP), as a special education professional is considered the student's special education teacher and the student described above would be assigned to the SLP caseload.

**5. Are Approved Private Schools responsible for maintaining compliance with caseload requirements in Chapter 14?**

No, APSs are not covered by caseload requirements in Chapter 14.

6. **Please clarify how the caseload requirement applies to special education teachers who have a combination of itinerant/supplemental services. How is the total number of students permitted on a teacher's caseload determined?**

The caseload is calculated using the Full Time Equivalency (FTE) of 1.0 = 1 special education professional. School entities are permitted to prorate the caseload chart. On the Program Profile as part of the Special Education Plan, one teacher may be reported as .75 (supplemental) and .25 (itinerant). The permitted number of students for this example is 14 supplemental students and 10 itinerant students.

**EXAMPLES of a Prorated Caseload Chart for the Special Education Plan**

Professional Staff	ITINERANT	SUPPLEMENTAL	FULL TIME (FOR LS/ES/BVIS/PS/LSS(K-6))	FULL TIME (FOR AS,SL, LSS (7-12))
1.0 FTE	50 STUDENTS	20 STUDENTS	12 STUDENTS	8 STUDENTS
.7 FTE	35 STUDENTS	14 STUDENTS	8 STUDENTS	5 STUDENTS
.5 FTE	25 STUDENTS	10 STUDENTS	6 STUDENTS	4 STUDENTS
.3 FTE	15 STUDENTS	6 STUDENTS	3 STUDENTS	2 STUDENTS

7. **If a student with disability is in a co-taught regular education class all day, how do we calculate the amount of special education service?**

Co-teaching is a service delivery option that involves one regular education and one special education professional, assigned to one classroom and one group of students. The amount and type of support is based on professional special education services and support provided to the student during the school day and documented on the IEP. This calculation is about "special education service" time with the special education professional and not the "place time." Do not include paraprofessional support when calculating the amount of special education that a student is receiving.

8. **Does Itinerant, Supplemental, Full-Time definitions refer to the amount of time that the students are receiving special education services in a regular education class?**

No, itinerant, supplemental, and full time definitions refer to the percentage of time per school day the student receives support from professional special education personnel regardless of the location in regular or special education class.

- **Itinerant** refers to special education supports and services provided by special education personnel for 20% or less of the school day.
- **Supplemental** refers to special education supports and services provided by special education personnel for more than 20% but less than 80% of the school day.
- **Full time** refers to special education supports and services provided by special education personnel for 80% or more of the school day.

9. **Does the calculation for the amount of special education services and support include all special education staff?**

No, the amount of special education services and support includes only the services provided by professional school personnel, including special education teachers and related

service personnel, including but not limited to speech and language therapy, occupational therapy, and physical therapy.

## **Access to Instructional Materials §14.106**

### **1. Does the term "other persons with print disabilities" include children who are dyslexic or are below grade in reading comprehension?**

Yes, if the student is identified as eligible for special education and documented by a competent authority as person with a print disability. To be NIMAS eligible, students must belong to at least one of the following groups:

- Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees.
- Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.
- Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.
- Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

NIMAS eligibility must be documented by a "competent authority," which is defined as follows in the case of a reading disability as doctors of medicine who may consult with colleagues in associated disciplines.

### **2. What is the procedure for school entities to use accessible instruction of materials from NIMAS?**

PaTTAN currently is in the process of developing a procedure for accessing files from the NIMAS. Information is available on the PaTTAN website under Accessible Instructional Materials. LEAs can continue to obtain Braille and large print materials from PaTTAN production services. For other accessible formats, LEAs are encouraged to utilize Bookshare and /or Recordings for Blind and Dyslexic (RFB&D), which are OSEP-funded accessible materials providers. Links to these providers are available on the PaTTAN website:

[http://www.pattan.net/supportingstudents/accessible\\_instructional\\_materials.aspx](http://www.pattan.net/supportingstudents/accessible_instructional_materials.aspx) .

## **Child Find §14.121**

### **1. When are school districts responsible for child find for children parentally placed in private schools?**

The school entities are responsible for child find and the offer of FAPE for all children that are residents and who are seeking eligibility for FAPE in the public school. The

intermediate units (IUs) are responsible for child find for children parentally placed in private schools for equitable participation only.

## **Screening §14.122**

### **1. Is screening permitted prior to conducting an initial evaluation?**

Not only is screening permitted, prior to conducting an initial evaluation, Chapter 14 requires each school entity to establish a system of screening to identify and provide initial screening for students prior to referral for a special education evaluation. A parent may elect to bypass the screening process and proceed directly to an initial evaluation. At that point, the school entity would either agree to the initial evaluation and seek prior written parental consent, or deny the parent's request, issue a Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN), and provide reasons for the school entity's refusal to conduct an initial evaluation and continue the screening process.

## **Evaluation §14.123 and Reevaluation §14.124**

### **1. Are there circumstances under which school entities may decide not to conduct an initial evaluation or a reevaluation?**

#### **Initial Evaluation**

Yes, school entities need not conduct an initial evaluation of a child if his or her parent fails or refuses to produce the child for the evaluation or the child enrolls in a school of another public agency. In addition, if the school entity has a reasonable basis to believe that the child does not have a disability, then the school entity may refuse to conduct an initial evaluation, but it must issue a NOREP/PWN stating the reasons for the refusal.

#### **Reevaluation**

Yes, school entities do not have to conduct a reevaluation if the school entity and parent have agreed in writing that a reevaluation is not necessary.

Also, if the parent does not grant prior written consent for a reevaluation (Permission to Reevaluate Consent Form), the school entity does not have to conduct the reevaluation. If the parent requests a reevaluation, and school entity staff do not agree, they must issue a NOREP/PWN indicating the reasons for the refusal. A reevaluation may not occur more than once a year, unless the parent and the public agency agree otherwise (34 CFR Sec. 300.303(b)).

### **2. What is the definition of school term for the evaluation and a student aging out of special education?**

School term is determined by the each individual school entity's calendar. For the purposes of the evaluation, the clock will begin to run on the first staff day and stop on the last staff day for each school term. If the student turns 21 on or after the first staff day, then the student with a disability is entitled to FAPE for the whole school term.

### **3. Is the "review of data" part of the reevaluation process or required only for the Agreement to Waive the Reevaluation?**

The review of existing data is part of the reevaluation process and must occur prior to the anniversary date of the reevaluation. There is no requirement for an IEP team to meet and conduct the review of existing data if the school entity representative and parent have agreed to waive the reevaluation.

- 4. Is there a limit to the number of years that lapse between a reevaluation with a waiver? (e.g. If a parent waives the reevaluation, must the LEA conduct one after the 6 years are up? Or, can the parent waive again?)**

Yes, the parent and school entity may agree to consecutive waivers. A reevaluation or waiver must occur every three years. The waiver process does not apply to **students with mental retardation, who must be reevaluated every two years.**

- 5. Is a Permission to Reevaluate Consent Form issued if a re-evaluation is conducted to exit a student?**

It depends on whether the reevaluation team has determined there is a need for additional data. A reevaluation is required when a change in eligibility is recommended by the IEP Team and/or parent. As part of the reevaluation process, the IEP team and other qualified professionals, as appropriate, will review existing evaluation data, and on the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine whether the child continues to have a disability, and the educational needs of the child. If the IEP team and parents determine that additional data are necessary to complete the reevaluation, the Permission to Reevaluation Consent form will be issued. If, however, the team determines that no additional data are necessary to complete the reevaluation, no Permission to Reevaluate Consent form will be issued because consent is not required for the review of existing data. The reevaluation report is generated from the review of existing data would indicate within the reevaluation report that the team conducting the reevaluation determined that no additional data were needed. The school entity should also document whether the child continues to be a child with a disability.

- 6. If, upon reevaluating a child, the school entity wishes to conduct additional assessments that were never done before, may it proceed to evaluate without parent consent?**

No, the school entity must make reasonable efforts to obtain informed parental consent when the school is requesting new and additional testing for a reevaluation. Reasonable efforts include;

- (1) Detailed records of telephone calls made or attempted and the results of those calls;
- (2) Copies of correspondence sent to the parents and any responses received; and
- (3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

The LEA may proceed with additional assessments after reasonable efforts to obtain parental consent have been made and documented.

- 7. If school entity sends a Permission to Re-evaluate Consent form to parents and they do not respond, is the school entity still required to complete the reevaluation within 60 calendar days and when does the timeline begin?**

Yes, the 60 calendar day timeline applies and it would begin on the date upon which the school entity concludes that it has completed its reasonable efforts to secure informed consent. School entities should factor this scenario into its reevaluation process because the reevaluation report still must be completed within the two year timeline for students with mental retardation or three year timeline for all other disability classifications.

**8. Is a psychological evaluation required for a child requiring an articulation evaluation by a speech-language therapist?**

No, a student suspected of having only a speech and language impairment does not require a certified school psychologist to be part of the initial evaluation or reevaluation team.

**9. Do school entities need to use the new evaluation form if the evaluation was issued after June 30, 2008?**

The evaluation report requirements in place at the time the evaluation was completed apply. So, if the evaluation was completed after June 30, 2008, the new evaluation forms should be used.

**10. What is the evaluation timeline for Permission to Evaluate received after July 1, 2008?**

If the signed Permission to Evaluate was received with informed parental consent after July 1, 2008, then the new evaluation timeline of 60 calendar days not including the summer applies.

**11. What does “informed written consent” mean?**

This phrase means the parent has been fully informed of all information relevant to the proposed action to be taken regarding the child and that information was provided in his or her native language, or other mode of communication, and that the parent/guardian agrees in writing to the school entity carrying out of the proposed action for which his or her consent is being sought.

**12. Does a request for an initial evaluation sent via e-mail count as “in writing request?”**

Whether or not a request sent electronically will count as a request for an evaluation will be left to school entity policy. It can not constitute “informed written consent” which is required prior to beginning the evaluation process and the start of the 60 calendar day timeline.

**13. Should an IEP meeting be convened within 30 calendar days upon completion of the evaluation and reevaluation report?**

Yes, an IEP must be convened within 30 calendar days upon completion of evaluation and reevaluation reports.



## **SLD Criteria §14.125**

- 1. When doing a 3 year mandated reevaluation, for a student already identified with a SLD, is the additional page required to be completed or is the additional form only needed if eligible under another category, and the team feels a need to see if the child may also have a SLD?**

The specific learning disability (SLD) section must be completed in both situations initial evaluations and reevaluations because the form represents documentation that must be completed for every student determined eligible under the classification of SLD, and also for each reevaluation to determine continued eligibility under SLD.

## **IEP §14.131**

- 1. If school entities revise IEPs after July 1<sup>st</sup>, do we use the new forms?**

Yes, as of July 1, 2008 the new forms must be used.

- 2. Section 14.131(a) includes requirements for students who receive autistic support services. Does this requirement include students in an autistic support placement and students identified under the autism spectrum disorder?**

Yes, if the child on the autism spectrum requires autistic support, an IEP must address the individual needs of each eligible student regardless of the disability category or type of support. A description of the amount of support and type of support must be included in the IEP and the determination of which may not be based on the categories of the child's disability alone. Students may receive more than one type of support as appropriate. Special education supports and services may be delivered in the regular classroom setting and other settings as determined by the IEP team. In determining the provision and location of services, the IEP team must first consider the regular classroom with the provision of supplementary aids and services before considering the provision of services in other settings. The IEP for a child on the autism spectrum who requires autistic support services but who is receiving learning support services should contain a description of all necessary services to be provided in the least restrictive environment across academic, non-academic, and extra curricular activities in order to address the student's needs. Nothing about the designation of learning support should prevent the needed services from being provided to a student with the eligibility classification of autism.

### **Questions and Answers Regarding Transition Planning and Services**

- 3. Are transition services required for a student who is 13 years old at the time of the IEP meeting and will turn 14 during the IEP year?**

Yes. Transition planning is to begin not later than the first annual IEP to be in effect when the child turns 14, or younger if determined appropriate by the IEP team.

4. **The age for transition planning has been changed to age 14. If the IEP for students aged 14 was developed prior to July 1, do the IEPs for these students have to be revised immediately?**

No. For IEPs developed for students aged 14 prior to July 1, 2008, the transition planning will be incorporated into the annual review of the IEPs during the 2008-09 school year or upon parent request.

5. **If the student attends a Tech School, does a representative from the Tech School have to attend the IEP meeting for transition planning?**

While a school entity must convene a team of individuals necessary to develop an appropriate IEP for a student and it must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If the transition planning is unrelated to the technical school, a representative of the technical school need not be invited or otherwise attend the meeting. In circumstances when the technical school services are the subject of the IEP, the school entity must invite a representative of the technical school, and the IEP team meetings, when scheduled by the school entity, must give timely notice to the career and technical education school representatives. If the representatives of the technical school does not attend the meeting, the IEP team may still make appropriate modifications to the student's IEP.

**Question Regarding Excusal of Required IEP Team Members from Attending the IEP Team Meeting**

6. **Do we invite all regular education teachers and then excuse them?**

No. Each school entity must invite required IEP team members, including one regular education teacher of the child if the child is, or may be, participating in the regular education environment (34 CFR Sec. 300.321(a)(2)). The regular education teacher who serves as a member of a child's IEP Team should be a teacher who is, or may be, responsible for implementing a portion of the IEP so that the teacher can participate in discussions about how best to instruct the child. If the child has more than one regular education teacher responsible for carrying out a portion of the IEP, the LEA may designate which teacher or teachers will serve as the IEP member(s), taking into account the best interest of the child. An LEA could also agree that each teacher attend only the part of the meeting that involves modification to, or discussion of, the teacher's area of the curriculum.

**Question Regarding Special Education/Related Services/Supplementary Aids and Services/Program Modifications**

7. **Can "training offered 1x a month to parents" be listed as a Related Service?**

Yes. Section 300.34(c)(8)(i-iii) lists parent counseling and training as a related service. A description of this training and who will schedule and offer it should be found somewhere in the IEP.

## **Positive Behavior Support §14.133**

### **1. When do FBAs need to be completed, by whom, and is there a state format?**

Functional Behavior Assessments (FBAs) must be conducted:

- a. When a behavior violates a “code of student conduct” and is determined by the IEP team to be a manifestation of the student’s disability.
- b. When a student is removed from his/her current placement as a result of weapon possession, and /or illegal drug possession/use, and/or serious bodily injury.
- c. When the student is removed from his/her placement for more than 10 consecutive or 15 cumulative school days and the behavior is determined not to be related to his/her disability.
- d. When the school contacts the law enforcement.
- e. Whenever the IEP team determines a student’s behavior is interfering with his or her learning or the learning of others and requires additional information to provide appropriate educational programming.

There is no state mandated format. For information on FBAs, go to [www.pattan.net](http://www.pattan.net)

### **2. If a student is referred to law enforcement by a school entity, on ANY occasion is an updated FBA and positive behavior support plan required?**

Yes, whenever, a referral to law enforcement is made by a school entity for students with disabilities who have positive behavior support plans, an updated functional behavior assessment and positive behavior support plan is required.

### **3. Does an FBA replace the manifestation determination meeting?**

No, an FBA does not replace the requirement to conduct a manifestation determination meeting.

### **4. Will PIMS be used to collect data on discipline?**

At this time, the discipline data for special education students will be collected using the Penn Data system. However, in the future, it is anticipated that all data will be collected via the Pennsylvania Information Management System (PIMS).

### **5. If a student brings drugs or weapons to school must the district complete an FBA and BIP prior to placement in an interim alternative educational placement?**

No, a school entity may unilaterally remove a student to an interim alternative educational placement due to drugs, weapons or serious bodily injury violations. The school entity must notify the parent of this decision.

### **6. Does the use of restraints to control episodic aggressive or self-injurious behavior trigger/necessitate notification of parent and a meeting of the IEP team?**

Yes. The use of restraints to control the aggressive behavior of an individual student or eligible young child shall cause the school entity to notify the parent of the use of restraint and a meeting of the IEP team within 10 school days of the aggressive behavior requiring

the use of restraints, unless the parent, after written notice, agrees in writing to waive the meeting. Even when a restraint is appropriately included into a child's IEP, each use of restraint requires a meeting of the IEP team unless the parent, after receiving written notice, agrees in writing to waive the meeting.

**7. Is PDE going to recommend a model for restraint?**

No, because the use of restraints should be extremely limited and will involve a highly individualized determination by the student's IEP team. **Prone restraints are strictly prohibited under 22 Pa. Code Section 14.133(c)(3).**

**8. "Excluded from the restraint definition are ...techniques prescribed by a qualified medical professional." What is the definition of a "qualified medical professional?"**

While "qualified medical professional" is not defined in either Chapter 14 or IDEA 2004, at a minimum the definition includes a professional who is certified or licensed in the medical field.

**9. If a restraint is used and the IEP team must meet within 10 days, what happens if the parent does not respond to the Invitation?**

Yes, the team must meet within 10 days whether or not the parent responds to the invitation or attends the meeting. The school entity needs to follow procedures in the same way as for all IEP team meetings. This includes keeping a record of attempts to arrange a mutually agreed on time and place for the meeting, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits. If reasonable attempts to secure parent participation have been documented, the IEP team meeting should take place without parent in attendance and the parent should be informed of the IEP team's decision making and given an opportunity to provide input.

**10. Do requirements in Chapter 14 regarding the use of restraints apply to Licensed Private Academic Schools (LPAs) and Private Residential Rehabilitation Institutions (PRRIs)?**

Yes, Chapter 14 requirements apply if the student is placed in that facility by a public agency or school entity. If a parent has unilaterally placed a child in a LPA or PRRI, Chapter 14 requirements do not apply

**11. Is the district responsible for creating its own tracking system for use of restraints?**

Yes, each school entity will need to track the use of restraints according to 22 Pa. Code Section 14.133(c). PDE will establish a statewide tracking system for submission by each school entity on the number of restraints and additional information. Reporting requirements will be sent to the school entity via Penn\*Link during the Fall 2008.

**12. Does the IEP team have to reconvene after every restraint?**

Yes, if the “restraint” meets the definition in 22 Pa. Code Section 14.133(b)(1) and the parent does not waive the required IEP team meeting (22 Pa. Code Section 14.133(c)(1)), then an IEP team meeting would need to be held for each occurrence of a restraint.

**13. Does the parent need to be notified and must an IEP meeting be held if restraints are used in school buildings that are residential schools?**

Yes. All students placed by a school entity in a residential facility are protected by the requirements of Chapter 14 regarding restraints.

**14. Is suspension considered an aversive technique?**

Aversive techniques are defined as “Deliberate activities designed to establish a negative association with a specific behavior.” A pattern of suspensions that exclude a student from school for more than 15 cumulative days in a school year is considered an aversive technique.

**15. Must a FBA be done only by a certified behavior analyst or can a classroom special education teacher conduct the FBA?**

The FBA does not need to be conducted by a certified behavior analyst. As the case manager, the special education teacher may conduct an FBA. Best practice suggests that an FBA be conducted by a group including individuals with training and experience in research-based behavior assessment and programming strategies, knowledge about the student and interaction with him or her on a regular basis in all environments in which he or she is under the authority of the school entity’s discipline code.

**16. Is there a timeline for updating/completing the FBA after a referral to law enforcement?**

No. However, the school entity should update the functional behavior assessment and positive behavior support plan whenever necessary in a timely manner.

**17. What constitutes referral to law enforcement?**

Referral to law enforcement includes any time that the school calls the police to report the activity of an eligible student. It is not necessary that the referral result in subsequent charges and/or arrest.

**18. If a student brings drugs or a weapon to school and is incarcerated or inflicts serious bodily injury, must an FBA and positive behavior plan be completed when the student returns or while the student is incarcerated or in an interim alternative educational setting (IAES)?**

Chapter 14 regulations do not specify a timeline in this circumstance. However, it would seem reasonable and most helpful to complete the FBA before the student returns to school which takes into consideration the student’s functioning during the incarceration or IAES. A plan revision may be necessary when the student returns to the school setting and if additional data is available supporting a modification.

**LRE §14.145**

1. **Can a student who is in regular education 100% of the time and receives paraeducator support for the entire school day, still be considered 100% in the LRE?**

Yes, LRE is the amount of time spent in the regular education environment with non-disabled students. This student is 100% in regular education and is 100% in the LRE. This would also be true if the students received professional support within the regular education classroom for the entire school day. LRE is about “place” time not “special education service” time.

2. **If a school district places students with disabilities into another district school because the neighborhood school is full, would the new school be considered the neighborhood school?**

No, a student’s neighborhood school is defined as the school the student would attend if they were non-disabled.

3. **For life skills support programs, do regularly scheduled, community-based field-trips count in LRE calculations?**

Yes, community-based instruction is included in the LRE calculation. Educational time spent in age-appropriate community-based settings that include individuals with and without disabilities, such as college campuses or vocational sites, should be counted as time spent inside the regular classroom. This includes community-based instruction in age-appropriate community-based settings that include individuals without disabilities. For example, if you take your life skills support classroom to a bank in order for the students to learn about setting up a checking account this would be counted as time in the regular classroom.

**Resolution Session §14.163**

1. **Is the term "Resolution Session" a step before an impartial due process hearing and expedited due process?**

Yes. The resolution session is a mandatory process that must occur within 15 calendar days of a school entity’s receipt of parent’s due process complaint and within 7 calendar days of a school entity’s receipt of a parent’s expedited due process complaint notice. Only in prescribed circumstances can this meeting be waived by parents and school entities.