

Q & A for Directors' Webinar
April 1, 2014

OCS

1. What are the current course requirements (titles) per OCS? How will HQ be identified with the course coding changes?

2014-2015 Course Code link:

<http://www.nc-sis.org/courses.html>

The courses required for the Occupational Course of Study (OCS) are identified in the Graduation Policy document. (info inserted below)

9210B through 9248B are OCS courses; all OCS courses are indicated by the 5th digit character of "B" and all Extended Content Standard (ECS) courses are indicated by the 5th digit character of "A". Clarification on the use of ECS or 5th digit character "A" high school courses: typically all students on the ECS will have course codes beginning with the 9310A series of course numbers. However, it may be appropriate for students on the ECS to participate in a few courses in the OCS series, for example: the Occupational Preparation I, II, III, & IV courses may be appropriate for some students and are now an option available with the "A" 5th digit character. These courses would be considered electives for students on the ECS because they are not required courses for the graduation certificate, but they are required for the OCS.

A series of content courses is now available K-8 with the "A" 5th digit character option as well; these are the content area courses for students on the ECS. Please note that the NCEXTEND1 will be associated with the appropriate course by the "A" character designation.

The OCS and ECS wording has been removed from course titles, as per Section 504 and ADA regulations; and, will be removed from the policy document and website.

HQ is not determined by the course code. District data entry personnel create sections in Power School to indicate the class, students enrolled, and the teacher associated with that course; this may require two sections for some courses to capture co-taught situations with more than one teacher. The HQ Analysis is completed by a review of the course content information, teacher(s) associated with the class and percentage of EC students within that class.

2. Are students who take NCEXTEND2 in 3rd grade exempt from R2A passing standard?

Per the February 4, 2014 memo from Dr. June Atkinson to Superintendents:

"For the school year 2013-14, the Good Cause Exemption for students with disabilities, as defined in G.S. §115C-106.3(1), whose individualized education program indicates the use of alternative assessments and reading interventions will include students who take NCEXTEND1 and NCEXTEND2. This is the final year NCEXTEND2 tests will be available for administration."

New Directors

3. Will there be another Institute for New Directors & Coordinators? If not, where can you get the information?

The current cohort will be completed in April 2015. It is the Division's plan to begin another cohort in the fall of 2015. Summer Institute sessions will be offered for new EC Directors not involved in the current cohort. Please check the Summer Institute listings for this information.

Special Education-DEC 4

4. Would you provide guidance at the new ways of defining EC services given that “special education” has been removed, so that continuity between districts can take place? How do you document EC services on the IEP in co-taught high school classes?

Refer to the Q&A from the February webinar which is posted on the EC Division website. The response in that Q&A provides the regulatory citations to support the requirement for the IEP to contain a statement of the special education and related services that a child receives and the frequency, location and duration of those services.

How do you document EC services on the IEP for co-taught high school classes?

Document the same as you do for any other skill or domain for which a child receives specially designed instruction. Identify the skill or domain for which the child receives service as identified through the evaluation process; write the present levels of academic achievement and functional performance; formulate the annual goal as determined by the present levels; and determine the frequency, location and duration of services. The determination of the services and the frequency, location and duration of services must not be dictated by the school schedule. These must be determined by the student’s needs. If a high school student needs reading all year, these services must be provided for the year, not just for a semester.

PRTFs

5. Would you review in-state PRTF obligations for LEA – ie. Student placed by mental health and state program in a PRTF and asking LEA to contract services?

The LEA within which the PRTF is located is responsible for Child Find. The PRTF has a private school as part of its’ license and just like any other private school, the local LEA is responsible for providing evaluations for eligibility under Child Find regulations. The Division has been meeting with representatives of the PRTFs. In these meetings we have, in response to questions, indicated that the PRTFs should reach out to the local LEAs to help work through various concerns related to training and related services. There is no obligation to enter into an agreement but LEAs can negotiate with the PRTFs if it is mutually beneficial. If the legislation in the short session holds true to what was in the legislation in the long session, there will be money allocated by the legislature for teaching positions at the PRTF. Again, there is no obligation to contract with the PRTFs but there may be opportunities for LEAs to provide teachers, through contracts, to the PRTFs using the legislated monies. We will wait but as was stated on the Webinar, there still seems to be support to pass the bill.

Expenditure Report

6. Will we receive any directions/guidance to complete the combined expenditure report that is due July 31?

The first Tab of the expenditure report includes directions for completion and submission. A reminder email will be sent from Sherry Thomas, to remind LEAs of details on the completion of the report and its submission, in late spring.

RtI

7. Can Tier III RtI and EC instructional materials/program overlap?

When students have no or poor response to intensive Tier III intervention delivered with fidelity and are assessed and determined eligible for special education, it is the IEP team’s responsibility to define the specially designed instruction the student will need to meet the student’s unique learning needs. Since the student had poor or no response to the Tier III interventions provided previously, it would be

presumed that the specially designed instruction needs to be different than the Tier III interventions provided. This could mean that the same materials/program (if evidence-based) are provided, but customized for the student to increase their rate of growth. For example- instructional delivery may need to be customized (i.e. more practice opportunities, increased modeling, increased scaffolding, adjusted pacing, and/or increased explicitness), group size may need to be changed, frequency of delivery of the instruction might need to be increased, etc. Special education is not the end point and problem solving should continue to ensure the student is progressing. It is critical that regular and frequent progress monitoring be utilized to verify that growth increases and to inform decisions about specially designed instruction that is needed for the student.

8. Has there been clarification about EC teachers teaching students in Tier III? What would their funding source have to be?

Based on the Allowable Usage document sent to Directors, EC teachers can teach regular education students in an intervention group. The funding source would be the regular EC dollars. Obviously they can't teach all EC students and I think a good rule of thumb is never more than 15% of the total intervention group – usually 2 no more than 3 students out of a group of 10-12 .

Please refer to the Allowable Usage document and if you have further questions contact us.

IEP

9. Can reading and writing goals be combined on the DEC 4? It is difficult to separate the time spent on Reading and Writing (on service delivery time).

The reading and writing goals on the IEP can be combined as long as they are measurable. If combined, the present levels of academic achievement and functional performance must address, for reading and writing, the required components of the present levels and the annual goals. On the service delivery, the IEP must address the frequency, location and duration of each area of service. Parents, service providers, and potential service provider at another school to which the child may transfer need to know this information.

10. Is a reevaluation required to add or delete related services?

Yes, a re-evaluation is required to add or delete a related service. Since a related service is to assist a child with a disability to benefit from his/her special education, the need for a related service cannot be determined in isolation. The North Carolina Policies Governing Services for Children with Disabilities do not directly address adding or removing services from an IEP. However, the Office for Special Education Programs (OSEP) states that an evaluation is the procedure required to determine a student's eligibility and the nature and extent of the special education and related services that a child needs. As part of the evaluation process, the IEP Team would need to review existing data and determine what, if any, additional data are needed/ required to determine the student's present levels of performance. Based on the data, the IEP Team would need to decide if the student requires the related service to receive a free appropriate public education (FAPE). Finally, prior written notice must be provided to the parent documenting the decision and the basis for the decision. While the student is already eligible for special education and related services, the Division's position (based on the OSEP information) is that the reevaluation is required to determine the student's need for the related service.

VI Services

11. Should students being served on consultation by the VI teacher have goals for this consultation?

Consultation by a VI teacher could be considered a supplementary aid or service if the purpose is to enable the child with a visual impairment to be educated in his/her least restrictive environment (e.g., supporting the classroom teacher, modifying materials, etc.). It should be listed on the IEP, but would not necessarily require an annual goal. However, if the consultation is about specific skills the student is supposed to learn and demonstrate (e.g., self-advocacy), either for academic achievement or functional performance, then one or more annual goal(s) addressing these skills should be listed on the IEP.

12. Would a student have to be considered VI as primary or secondary area of eligibility or be MU with VI as one of the areas if he or she received consultative services from the VI teacher?

In this instance, no. Services from a specific special education teacher do not require a particular area of eligibility for the child. Once a child is determined eligible for special education and related services and supplementary aids and services, those specific services are determined based on the unique needs of the child, not the child's eligibility area. With that, the LEA must assure that special education and related services and supplementary aids and services are provided by qualified personnel.

Divorced or Non-Married Parents

13. If the parents are divorced, separated, or never married and one parent is involved but does not share the information concerning the other parent, is it our obligation to find the other parent? If so, to what lengths should we go to make contact if the information is not forthcoming?

Both parents of students with disabilities must be afforded all of their rights under the IDEA, unless these rights have been altered by a by court orders. The first step in determining obligation is to establish which parties have parental rights. Ask for divorce decrees, custody orders, separation agreements, and restraining orders. Consult with your school attorney regarding these documents.

LEAs should establish a process for obtaining such documents. If both parties have parental rights, determine whether both parents have educational rights. The school should review the student's accumulative record for registration documents or other information that would contain the contact information for the other party. The district should also request the contact information from the known parent.

14. What are the school's responsibilities related to parental rights?

If both parents have parental rights, the LEA should ensure that each parent has been afforded the opportunity to have meaningful participation in their child's special education processes. This includes invitations to conference, prior written notices, copies of all IEP documents and progress report, etc.

15. If the invitations are sent to both parents and the custodial parent does not respond or come but noncustodial parent does respond and come, can we meet and make the decisions (as long as educational rights have not been taken away)? What if the custodial parent and noncustodial parent do not agree with each other's decisions and we are aware of this?

If the custodial and non-custodial parents both have parental rights, both or either can attend and make decisions, as long as the LEA has extended the notice to each parent. If there is a disagreement between the parents, the LEA can make the informed decision and provide both parents prior written notices and procedural safeguards.

16. What happens in the case of joint custody? What if the parents don't agree (i.e. for consent)?

The LEA needs the consent of only one parent. However, the other parent may revoke consent.

17. What about ESY if the student lives with another parent during the summer? - Do they just opt out if the child will not be available but the IEP team makes the recommendation for ESY?

LEAs can offer ESY but can't make students attend. If the parents do not make their child available for services, you need to document why. You can do a note to the file or call another IEP meeting where you indicate in the DEC 5 what occurred.

ASSESSMENT

18. Is it possible to raise the Extend 1 assessment "cap" to 3%?

This is based on federal guidelines and states are not allowed to set the caps. There has not been discussion of raising the cap at this time. This is in place to assure that students are not assessed using assessments and instruction that are not appropriate for the student's cognitive level. The 1% is not about the number of students taking the assessment but those scoring proficient or advanced.

The discussion at the 2% meeting that I attended in February was that there will be no increase in the cap...99% of all students are expected to be taught and assessed on the state adopted/general standards.

19. With the elimination of NCEXTEND2 and the delay of a state assessment that incorporates computer assisted assessment using universal design, we desperately need an alternative for grades 3-8 students with cognitive disabilities who do not meet the definition for Extended Content Standards or a 1% cap on Extend 1 assessments. How do we explain to parents about NCEXTEND2 going away?

The NCEXTEND2 is still in place for 2013-14, but it is not available for 2014-15 school year. Going forward, there will not be an alternate available for students who previously participated in NCEXTEND2. These students will take the general assessment with IEP determined and approved accommodations. In response to the USED requirement, North Carolina specified in the Flexibility Waiver that NCEXTEND2 would not be available beginning in 2014-15. This was clearly a USED expectation and other states are complying with this as well.

Behavior Issues

20. When we have exhausted the allowable days of suspension, FBAs and BIPs, separate setting, etc, what other ideas or suggestions do you have for dealing with this population, when we have expended all the resources we have? What do we need to do to ensure that we are in compliance with EC regulations for these situations?

Dr. Charlene Myklebust, Psy.D. did a workshop through LRP which was stated Alternatives to Suspension: Creative and effective ways to increase your graduation rates. What is suggested through the presentation those schools that are doing PBIS with fidelity serve all students well.

Confidentiality

21. Are principals allowed to share EC student information contained in the EC file with police officers if the student is being charged by the school?

According to the IDEA regulations at 34 CFR 300.535, ...Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the

application of Federal and State law to crimes committed by a child with a disability. (b) Transmittal of records. (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime. (2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act. Under FERPA at 99.31 (10), a public agency may disclose personally identifiable information from the education record without consent if knowledge of the information is necessary to protect the health or safety of the student or other individuals (See 99.36). Only the records relevant to the situation should be released without consent.

22. How does sharing information that should be confidential apply to the SRO?

The school principal should adhere to the requirements of FERPA. The district should review its school resource officer agreement with local police and sheriff agencies for further clarification.

Private Schools

23. Would you please discuss private school requirements?

The webinar agenda on April 1, 2014 did not allow time to discuss all of the LEAs' responsibilities related to Parentally Placed Private School Children with Disabilities. Please refer to NC Policies, NC 1501-6 on pages 30 through 36 and federal regulations at CFR 34 300.131 through CFR 300 144. Also, the OSEP Q&A on Parentally Placed Private School was reissued to EC Directors on April 3, 2014.

The OSEP Q&A provides responses to some very pertinent questions. LEAs should give particular notice to question and answer B. 5.

Below are some general requirements:

- *The LEA in which the private school is located is responsible for the provisions related to Parentally Placed Private School Children with Disabilities.*
- *Each LEA must locate, identify and evaluate all children with disabilities who are enrolled by their parents in private schools. Child find activities must be similar to those carried out for children attending school in the LEA.*
- *Each LEA must obtain an accurate count of all parentally-placed private school children, not just those receiving equitable services. Through the consultation process, the LEA should establish a mechanism for obtaining an accurate of all children with disabilities enrolled in the private school. This count must be conducted between October 1 and December 1, inclusive, each year. This count is used to calculate proportionate share in the subsequent fiscal year.*
- *The December 1 child count includes only the parentally placed private school children for whom the LEA is providing proportionate share services.*
- *Each LEA must consult with private school representatives and representatives of parents of parentally placed private school children with disabilities during the design and development of special education and related services for the children.*
- *In North Carolina, private schools include home schools that are registered with the Division of Non-Public Schools.*
- *Parentally placed private school children receive services through a Services Plan rather than an IEP. However, if the child is a resident of the LEA where the private school is located, then that LEA must make FAPE available to the child, which means developing an IEP, unless the parents make it clear that they do not intend to bring the child back to the LEA. See question B5 of the OSEP Private School Q&A that was sent to EC Directors.*
- *The LEA must conduct reevaluations for all parentally placed private school children.*

- **Private School Scholarships and Evaluations:**
Based on the present legislation, LEAs are required to provide 3 year reevaluations, when needed, for students who participated as part of the previous Tax Exempt legislation. There are expected changes in this legislation in the short session. The Division will keep you posted regarding the changes and the implications for the districts. Other students who are eligible for consideration for entry into the scholarship program must meet the following criteria:
 1. *Under the age of 22*
 2. *Has an IEP*
 3. *Receives special education or related services on a daily basis*
 4. *Has not been placed in a nonpublic school or facility by a public agency at public expense*
 5. *Has not spent time enrolled in a post- secondary institution as a full time student taking at least 12 hours of academic credit*
 6. *Has not received a high school diploma*
 7. *Meets at least one of the following:*
 - a. *Was enrolled in a NC Public School during the previous semester,*
 - b. *Received special education or related services through the NC public schools as a pre-school child with a disability during the previous semester.*
 - c. *Received a scholarship grant the previous semester,*
 - d. *Is eligible for initial enrollment in Kindergarten or the first grade in a North Carolina public school*

The children defined above who are in private school and who need a reevaluation to determine continued eligibility to qualify for a scholarship are also eligible for 3 year reevaluations. We are in the process of writing another memo that will be ready during the next week regarding the issue of transition IEPs for districts writing school year IEPs (meaning writing them all in the spring for the next school year) vs. anniversary IEPs (annually from the due date of initial placement). There is an OSEP letter that addresses this issue. The Division memo will interpret the OSEP letter and address a way to remedy the “not before 30 days of the end of the school year” restriction placed on writing transition IEPs for districts practicing school year IEPs.

24. Would you provide additional information on the Organizational Chart for Consultation (Private schools) we received?

This is a tool that the OSEP, USDOE developed. It is not required to be used. It is checklist that may be helpful in developing your consultation process.

Teacher Shortage

25. Is anything being done to address the teacher shortage in EC, since this has a huge impact on our ability to complete paperwork/IEPS when we have long-term substitutes in classrooms?

Recruitment and retention of special educators is a challenging and complex problem (which also folds in induction and mentoring) not only within NC, but across the country. We are presently consulting periodically with national experts in the field. We will be bringing together a stakeholder planning committee for the purpose of designing the 2nd Recruitment and Retention of Special Educators Summit (probably late Jan. or early Feb. 2015). The location is to be determined. Presently, we offer tuition reimbursement for provisionally and/or lateral entry licensed special education teachers. The announcement about this support goes out each semester and is posted on the EC Division website. We also have a small and very focused Transition to Teaching grant in conjunction with the Ohio State University. The grant, called mobilizing National Educator Talent

(mNET), is for targeted LEAs with high poverty, high turnover that have a history of being hard to staff and retain special educators. The goal is to gain commitment from the teacher/s to attain fully certification and stay in the LEA for three years.