Training Materials for Determining Eligibility of Intensive Needs Students
INTRODUCTION

The Department of Education & Early Development (EED) has developed the Training Materials for Determining Eligibility for Intensive Needs Students to provide assistance to school districts in correctly identifying and documenting students who may qualify for intensive needs funding.

These training materials contain four sections that will assist school district staff in understanding how the regulations concerning intensive needs students are interpreted and applied. In addition, this document includes a copy of the verification checklist EED staff and/or special education contractor’s use when reviewing students who are claimed for intensive needs funding.

This document is intended to provide the reader with a general familiarity with the requirements for funding of intensive special education students. This document is not binding and does not have the force of law. All decisions related to intensive funding will be governed by the relevant statutes and regulations.
SECTION 1
Regulation 4AAC 53.700 Public School Foundation Program

The following are the regulations as they appear in the Alaska Administrative Code as of 9/22/08 for determining eligibility for students for intensive needs funding. Included in this section are the relevant sections from the definitions section.

4 AAC 52.700. Public school foundation program

(a) Each district that files a plan under AS 14.17.420 (b) to provide special education and related services to children with disabilities is eligible for state financial aid under AS 14.17.300 - 14.17.490.

(b) Public school foundation reports must be submitted, on forms provided by the department, to the department's division of education support services.

(c) A student is eligible for funding as an intensive student if the student has been identified for special education and the student needs and receives individual attention and services that are significantly more complex and frequent, and require significantly more resources to provide, than the services received by other special education students. The services received by an intensive student will include services necessary to meet a critical medical need, services necessary to provide for the student's health, safety, and educational needs, and special education and related services provided by qualified staff for the entire school day both in and out of the classroom setting. A student who is able to function independently, with limited or no supervision, for a substantial period of time, inside or outside the classroom setting, is not an intensive student. Intensive services do not include new services due to discipline, alcohol or illegal drug use, or criminal activity that were not already provided to the student for educational purposes. For funding purposes under AS 14.17.420, a student will not be counted as receiving intensive services unless the student needs and receives intensive services and the -

(1) student's IEP provides for the following:
   (A) direct daily instruction by a certified special education teacher with an endorsement under 4 AAC 12.330 or special education alternate program certificate under 4 AAC 12.340;
   (B) multiple services, including related services;
   (C) that all services not provided by a certified special education teacher be supervised by at least one certified special education teacher or related service provider;
   (D) continuous special education programming;
   (E) beginning in the school year that commences July 1, 2010, assistance and training in two or more basic adaptive skills, appropriate to the age of the student;
   (F) that individual care will be provided to the student for the student's entire school day by staff who are trained to meet the student's individual needs;
   (G) special transportation when the student needs transportation, except that this transportation requirement does not apply in the case of a student who has received special transportation for at least a year and no longer needs it; or

(2) student experiences deaf-blindness, must read Braille, or needs and receives full-time the services of a deaf education interpreter or tutor;

(3) student's IEP team determines that out-of-state residential placement is necessary; or

(4) student has a disability that prevents the student from attending a regular or special education program even with the aid of special transportation, and the IEP team's evaluation and the IEP, itself, indicate that a home-based or health-care-facility-based instructional program is
appropriate to meet the student's needs; however, a student may not be counted under this paragraph as receiving intensive services if the student is placed in a detention facility, or is receiving home-based or health-care-facility-based instruction solely because of a disciplinary problem.

(d) A district may seek a department waiver, for one year, from one or more of the requirements of (c) of this section if the district needs additional money for a student whose IEP team has determined that the student's educational program includes high-cost services that do not meet the funding criteria in (c) of this section. The department will grant the waiver if the requested funding is consistent with AS 14.17.420 and this section and in the public interest. An application for a waiver must be in writing and include:

1. a statement of the component or components to be waived and the reason why the waiver is sought;
2. the student's IEP; and
3. any additional information that the department determines is necessary to address a particular student's needs.

(e) The department will notify a district of the action taken on a public school foundation report after receipt of the report.

(f) A district may not receive state financial aid under this section for special education or related services provided by the department.

(g) If, after an entitlement review under 4 AAC 52.780, or otherwise, the department determines that an overpayment has occurred, the department may require repayment or withhold all or part of one or more future payments. The decision to do so is subject to appeal under 4 AAC 52.750.

History: Eff. 7/1/83, Register 86; am 11/26/93, Register 128; am 8/22/2001, Register 159; am 8/29/2004, Register 171; am 9/29/2005, Register 175; am 1/17/2007, Register 181; am 3/24/2007, Register 181


4 AAC 52.790. Definitions
As used in 4 AAC 52.090 - 4 AAC 52.790, unless the context requires otherwise,

10) "IEP" means individualized education program;
15) "related services" has the same meaning given that term in AS 14.30.350;
20) "basic adaptive skills" means, beginning in the school year that commences July 1, 2010, rudimentary facility, as appropriate to the age of the student, in
   (A) communication;
   (B) social or emotional development;
   (C) motor development;
   (D) cognitive functioning;
   (E) behavior; and
   (F) daily living or self help skills;
21) "multiple services" means more than one special education service or related service;
23) "appropriate to the age of the student" means with consideration of the wide range of ages during which children develop skills, particularly children under six years of age for whom a basic skill may be developing or emerging;
24) "individual care" means providing for the health, safety, and educational needs of the student with personal attention by a certified special education teacher, a special education aide, or another trained person; for purposes of this paragraph, "personal attention" means
   (A) full-time one-on-one attention; or
(B) attention provided on other than a one-to-one basis if
   (i) one-on-one care is not required for a particular intensive student;
   (ii) the district has provided the level of care necessary to protect the health and safety of the child; and
   (iii) the teacher, aide, or another trained person attends to no more than three intensive students at a time.

(25) "rudimentary facility" means, beginning July 1, 2011,
   (A) scoring two standard deviations below the mean on a standardized adaptive measure approved by the department; or
   (B) if no standard measure is available, documentation that demonstrates a level of skill or performance that is two standard deviations below the mean.

History: Eff. 8/22/2001, Register 159; am 8/29/2004, Register 171; am 1/17/2007, Register 181; am 8/30/2007, Register 183; am 9/23/2007, Register 183
SECTION 2
Regulation Explanation and Examples

Section two of this document breaks regulation 4 AAC 52.700 down and provides the reader with questions to consider when claiming a student for intensive needs funding. Examples are provided, but the reader is cautioned that the examples are not all inclusive and will require some judgment on the school district’s part. Additionally, the reader is provided direction as to where EED staff will expect to find documentation in the student’s IEP to support a claim for intensive needs funding.

EED has separated regulation 4 AAC 52.700(c) into four sections for discussion because it establishes the basic criteria a school district must follow in order to correctly identify an intensive needs student. The basic criteria outlined in 4 AAC 52.700(c) must be met before moving to the additional seven criteria outlined in 4 AAC 52.700(c)(1)(A)-(G).

Below, each section of the regulation is underlined and italicized for easy reference followed by some basic questions and examples pertaining to each section. If the reader is still unsure about the eligibility of a student for intensive funding, they are encouraged to contact EED special education staff for additional clarification.

4 AAC 52.700 Public school foundation program.

(a) Each district that files a plan under AS 14.17.420(b) to provide special education and related services to children with disabilities is eligible for state financial aid under AS 14.17.300-14.17.490.

- School districts have completed this requirement.

(b) Public school foundation reports must be submitted, on forms provided by the department, to the department’s division of education support services.

- This is an annual reporting requirement.

(c) A student is eligible for funding as an intensive student if the student has been identified for special education and the student needs and receives individual attention and services that are significantly more complex and frequent and require significantly more resources to provide than the services received by other special education students.

- Students must be eligible for special education under one of the 14 state categories - 4 AAC 52.130.
- The IEP documents this criteria in this place:
  ✓ The student identification information section under “Disability Category”.
- Students must need and receive individual attention as defined by the IEP team and there must be evidence that these services are being delivered.
- The IEP documents this criteria in this place:
  ✓ Special Education & Related Services page
- Students must receive services that are significantly more complex and frequent than those of a typical special education student. What makes the services significantly more complex and frequent?
- The IEP documents this criteria in one or both of these places:
  ✓ Present Levels of Academic Achievement and Functional Performance
  ✓ Measurable Annual Goal(s)
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- Students must require more resources than other typical special education students to access needed services. What are the financial, staff and environmental resources? Why does the student require more resources?
- The IEP documents this criteria in one or both of these places:
  - Present Levels of Academic Achievement and Functional Performance
  - Measurable Annual Goal(s)

--- The services received by an intensive student will include services necessary to meet a critical medical need, services necessary to provide for the student’s health, safety, and education needs, and special education and related services provided by qualified staff for the entire school day both in and out of the classroom setting.

- Students must require services necessary to meet a critical medical need. What individual care is required for this student to meet a critical medical need? For example: tracheotomy care, wound care, tube feeding, ventilator care, psychotropic medication managed by school personnel, etc.
- The IEP documents this criteria in one or both of these places:
  - Services page
  - Program Modifications and Accommodations

- Students must require services necessary to provide for the students health, safety, and educational needs. What individual services are provided to meet the health, safety and educational needs of the student that are different from those of a typical special education student?
- The IEP documents this criteria in one or both of these places:
  - Services page
  - Program Modifications and Accommodations

- Students must require services necessary to provide special education and related services provided by qualified staff for the entire school day both in and out of the classroom setting. What services and supports are needed in all environments while this student is attending school?
- The IEP documents this criteria in one or more of these places:
  - Present Levels of Academic Achievement and Functional Performance
  - Measurable Annual Goal(s)
  - Program Modifications and Accommodations

--- A student who is able to function independently, with limited or no supervision, for a substantial period of time, inside or outside the classroom setting is not an intensive student.

- Can this student function independently with limited supervision in or out of school? For example: driving a car, driving a 4 wheeler, driving a snow machine, attending social or sports functions by self or with peers, shops independently, has a job, etc.

--- Intensive services do not include new services due to discipline, alcohol or illegal drug use, or criminal activity that were not already provided to the student for educational purposes.

- Is the student placed in a rehabilitation facility or detention facility due to discipline, alcohol or illegal drug use, or criminal activity unrelated to education services? For example, a placement of a student made by an entity other than the IEP team does not make the student eligible for intensive funding.
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For funding purposes under AS 14.17.420, a student will not be counted as receiving intensive services unless the student needs and received intensive services and the

(1) Student’s IEP provides for the following:

4 AAC 52.700(c)(1)(A) Student’s IEP provides for the following:

(A) Direct daily instruction by a certified special education teacher with an endorsement under 4 AAC 12.330 or special education alternate program certificate under 4 AAC 12.340.

- Is there evidence in the IEP that the Sped teacher is providing direct daily instruction to the student?
- Are the services identified in the IEP being provided?
- The IEP documents criteria A in one or both of these places:
  - Services page – provider needs to say SPED teacher not Sped staff
  - Measurable Annual Goal(s) – provider needs to say SPED teacher not SPED staff

4 AAC 52.700(c)(1)(B) Student’s IEP provides for the following:

(B) Multiple services, including related services:

- Is there evidence in the IEP that the student is receiving multiple services including related services?
  - This means that in addition to special education and special transportation, the child must also be receiving at least one related service involving instruction. (i.e. speech and language services, audiology services, psychological services, physical therapy, occupational therapy, recreation, therapeutic recreation, early identification and assessment of disabilities in children, counseling services, rehabilitation counseling, orientation and mobility services, medical services for diagnostic or evaluation purposes, school health services and social work services in schools)
- Are the services identified in the IEP being provided?
- The IEP documents criteria B in one or both of these places:
  - Services page
  - Measurable Annual Goal(s)

4 AAC 52.790 (15) AS 14.30.350: “Related Service” has the same meaning given that term in AS 14.30.350;

4 AAC 52.790 (21): “Multiple services” means more than one special education service or related service.

4 AAC 52.700(c)(1)(C) Student’s IEP provides for the following:

(C) That all services not provided by a certified special education teacher be supervised by at least one certified special education teacher or related service provider.

- Is there evidence in the IEP that services not being provided by the special education teacher or related service provider are supervised by a special education teacher or related service provider?
- Are the services identified in the IEP being supervised?
The IEP documents criteria C in one or both of these places:
- Services page
- Measurable Annual Goal(s)

**4 AAC 52.700(c)(1)(D) Student’s IEP provides for the following:**

(D) Continuous special education programming:
- Is there evidence in the IEP that the student is receiving continuous special education programming?
  - This means that the child has specially designed instruction for the entire school day.
  - Regular education time needs to say 0 hours or specify that special education support person is with the student
- Are the services identified in the IEP being provided?
- The IEP documents criteria D in this place:
  - Services page
  - If Regular Education time is identified on the district IEP, this section needs to say 0 hours or specify that a special education support person is with the student.

**4 AAC 52.700(c)(1)(E) Student’s IEP provides for the following:**

(E) beginning in the school year that commences July 1, 2010, assistance and training in two or more basic adaptive skills, appropriate to the age of the student:
- Is there evidence that the student is two standard deviations below the mean in two (or more) basic adaptive skills (includes: communication, social or emotional development, motor development, cognitive functioning, behavior, and daily living or self-help skills), appropriate to the age of the student?
- Is the assistance and training identified in the IEP being provided?
- The IEP documents criteria E in one or more of these places:
  - Present Levels of Academic Achievement and Functional Performance
  - The Evaluation Summary Eligibility Report (ESER)

**Definition 4 AAC 52.790 (20):** "basic adaptive skills" means, beginning in the school year that commences July 1, 2010, rudimentary facility, as appropriate to the age of the student, in

(A) communication;
(B) social or emotional development;
(C) motor development;
(D) cognitive functioning;
(E) behavior; and
(F) daily living or self help skills;

1) As set out in regulation, when defining basic adaptive skills use the large domain areas. They are not meant to be broken down into separate areas.

For example:
- a. Utensil use, chewing, and swallowing, are not separate domains areas. They fall under the single domain of daily living/self help.
- b. Receptive language, expressive language and articulation are not three separate domain areas. They fall under the single domain of communication.
c. Verbal aggression and physical aggression are not two separate domain areas. They fall under the single domain of behavior.

**Definition 4 AAC 52.790 (23):** “Appropriate to the age of the student” means with consideration of the wide range of ages during which children develop skills, particularly children under six years of age for whom a basic skill may be developing or emerging.

**Definition 4 AAC 52.790 (25):** "rudimentary facility" means, beginning July 1, 2011,

(A) scoring two standard deviations below the mean on a standardized adaptive measure approved by the department; or
(B) if no standard measure is available, documentation that demonstrates a level of skill or performance that is two standard deviations below the mean.

1) As set out in regulation, intensive students must **score two standard deviation below** the mean on two standardized adaptive measures.

For example:

a. A student scoring two standard deviations below the mean on the Kaufman Assessment Battery for Children, Second Edition (KABC-II) for cognitive and two standard deviations below the mean on the Slosson Articulation Language Test with Phonology (SALT-P) for communication would meet the criteria for 4 AAC 52.700(c)(1)(E).

b. A student scoring two standard deviations below the mean on the Behavior Evaluation Scale, Third Edition: Long (BES 3:L) for behavior, but not two standard deviations below the mean in any other area, would **not** qualify as intensive for 4 AAC 52.700(c)(1)(E).

**4 AAC 52.700(c)(1)(F) Student’s IEP provides for the following:**

(F) **That individual care will be provided to the student for the student’s entire school day by staff who are trained to meet the student’s individual needs:**

- Is there evidence in the IEP that individual care is provided to the student for the student’s entire school day by staff who are trained to meet the student’s individual needs?
  1) The expectation is that individual care means 1-1 attention.
  2) The only exceptions to 1-1 care is when the district can justify through documentation that:
     I. one-on-one care is not required for a particular intensive student;
     II. the district has provided the level of care necessary to protect the health and safety of the child; and
     III. the teacher, aide, or another trained person attends to no more than three intensive students at a time.
- Is individual care being provided to the student?
- The IEP documents criteria F in this place:
  ✓ Present Levels of Academic Achievement and Functional Performance (4AAC 52.790 (24) (A-B))

**Definition 4 AAC 52.790 (24):** “Individual care” means providing for the health, safety, and education needs of the student with personal attention by a certified special education teacher, a special education aide, or another trained person for purposes of this paragraph, “personal attention” means:

(A) full time one-on-one attention; or
(B) attention provided on other that a one-to-one basis if
(i) one-on-one care is not required for a particular intensive student;
(ii) the district has provided the level of care necessary to protect the health and safety of the child; and
(iii) the teacher, aide, or another trained person attends to no more than three intensive students at a time.

4 AAC 52.700(c)(1)(G) Student’s IEP provides for the following:

(G) Special transportation when the student needs transportation, except that this transportation requirement does not apply in the case of a student who has received special transportation for at least a year and no longer needs it; or

- Is there evidence in the IEP that the student needs and receives transportation or no longer needs transportation services?
- Are the transportation services identified in the IEP being provided?
- The IEP documents criteria G in this place:
  ✓ Services page
    ➢ If services are not being provided by the district the provider line should say person responsible (e.g., parent)
  ✓ In the case of the student who has received special transportation for one year and no longer needs it. The district will provide a Prior Written Notice stating the changes and conditions of transportation

4 AAC 52.700(c)

(2) Student experiences deaf-blindness must read Braille, or needs and receives full time the services of a deaf education interpreter or tutor;

- This includes a deaf student who needs an interpreter or needs a tutor
- This includes a blind student who reads or are learning to read Braille or needs a tutor
- This includes a dual sensory impaired (deaf/blind) student
- The IEP documents this exemption in one or more of these places:
  ✓ Present Levels of Academic Achievement and Functional Performance
  ✓ Measurable Annual Goal(s)
  ✓ Program Modifications and Accommodations
  ✓ Services page

(3) Student’s IEP team determines that out of state residential placement is necessary; or

- Placement is recommended by the IEP team and is paid for by the school district.
- The IEP documents this exemption in this place:
  ✓ Justification for Placement (Section XVI of the IEP)

(4) Student has a disability that prevents the student from attending a regular or special education program even with the aid of special transportation, and the IEP team’s evaluation and the IEP, itself, indicate that a home-based or health-care-facility-based instructional program is appropriate to meet the student’s needs; however, a student may not be counted under this paragraph as receiving intensive services if the student is placed in a detention facility, or is receiving home-based or health-care-facility-based instruction solely because of a disciplinary problem.
• If a student is prevented from attending a regular or special education program due to the student’s disability and the IEP team recommends and places the child in a home based or health care facility based instructional program they are eligible for intensive funding.
  ➢ Home-school/correspondence is not synonymous with home-based or health-care-based instructional program.
• Intensive services do not include new services due to discipline, alcohol or illegal drug use, or criminal activity that were not already provided to the student for educational purposes.
• Is the student placed in a Residential Treatment Placement Center (RTPC), rehabilitation facility or detention facility due to discipline, alcohol or illegal drug use, or criminal activity unrelated to education services? For example, a placement of a student made by an entity other than the IEP team does not make the student eligible for intensive funding.
• The IEP documents this exemption in one or more of these places:
  ✓ Justification for Placement (Section XVI of the IEP)
  ✓ Present Levels of Academic Achievement and Functional Performance

4 AAC 52.700(d)
A district may seek a department waiver, for one year, from one or more of the requirements of (c) of this section if the district needs additional money for a student whose IEP team has determined that the student’s education program includes high-cost services that do not meet the funding criteria in (c) of this section. The department will grant the waiver if the requested funding is consistent with AS 14.17.420 and this section and in the public interest. An application for a waiver must be in writing and include
(1) A statement of the component or components to be waived and the reason why the waiver is sought;
(2) The student’s IEP; and
(3) Any additional information that the department determines is necessary to address a particular student’s needs.

Sec. 14.17.600. Student counting periods.
(a) Within two weeks after the end of the 20-school-day period ending the fourth Friday in October, each district shall transmit a report to the department that, under regulations adopted by the department, reports its ADM for that counting period and other student count information that will aid the department in making a determination of its state aid under the public school funding program.

Example: District A submits its waiver request for Sally P. in January. The intensive funding for District A has already been processed and Sally P. was not approved as intensive. The waiver request is denied because it was not timely under AS 14.17.600 and 4 AAC 09.015(b).
INTENSIVE REVIEW WORKSHEET

DISTRICT: ______________ DISABILITY: ___________ APPROVED: ___ Yes ___ No

STUDENT NAME: ___________________ DOB: _______ AGE: ______

As of last day of Count

4 AAC 52.700
(c) A student is eligible for funding as an intensive student if the student has been:
   ___ -Identified for special education and
   ___ -The student needs and receives individual attention and
   ___ -Services that are significantly more complex and
   ___ -Frequent, and
   ___ -Require significantly more resources to provide, than the services received by other special education students.

The services received by an intensive student will include:
   ___ -Services necessary to meet a critical medical need,
   ___ -Services necessary to provide for the student's health, safety, and educational needs, and
   ___ -Special education and related services provided by qualified staff for the entire school day both in and out of the classroom setting.

- A student who is able to function independently, with limited or no supervision, for a substantial period of time, inside or outside the classroom setting, is not an intensive student.
- Intensive services do not include new services due to discipline, alcohol or illegal drug use, or criminal activity that were not already provided to the student for educational purposes.

- For funding purposes under AS 14.17.420, a student will not be counted as receiving intensive services unless the student needs and receives intensive services and the
   (1) student's IEP provides for the following:
      ___ (A) direct daily instruction by a certified special education teacher with an endorsement under 4 AAC 12.330 or special education alternate program certificate under 4 AAC 12.340;
      ___ (B) multiple services, including related services;
      ___ (C) that all services not provided by a certified special education teacher be supervised by at least one certified special education teacher or related service provider;
      ___ (D) continuous special education programming;
      ___ (E) beginning in the school year that commences July 1, 2010, assistance and training in two or more basic adaptive skills, appropriate to the age of the student;
      ___ (F) that individual care will be provided to the student for the student's entire school day by staff who are trained to meet the student's individual needs;
      ___ (G) special transportation when the student needs transportation, except that this transportation requirement does not apply in the case of a student who has received special transportation for at least a year and no longer needs it;

(OR)
   ___ (2) student experiences deaf-blindness must read Braille, or needs and receives full-time the services of a deaf education interpreter or tutor;
   ___ (3) student's IEP team determines that out-of-state residential placement is necessary; or
   ___ (4) student has a disability that prevents the student from attending a regular or special education program even with the aid of special transportation, and the IEP team's evaluation and the IEP, itself, indicate that a home-based or health-care-facility-based instructional program is appropriate to meet the student's needs; however, a student may not be counted under this paragraph as receiving intensive services if the student is placed in a detention facility, or is receiving home-based or health-care-facility-based instruction solely because of a disciplinary problem.

Is there a waiver in effect for this student? ___ Yes ___ No
COMMONLY REFERRED TO DEFINITIONS

4 AAC 52.790

(20) "basic adaptive skills" means, beginning in the school year that commences July 1, 2010, rudimentary facility, as appropriate to the age of the student, in

(A) communication;
(B) social or emotional development;
(C) motor development;
(D) cognitive functioning;
(E) behavior; and
(F) daily living or self help skills;

(23) "appropriate to the age of the student" means with consideration of the wide range of ages during which children develop skills, particularly children under six years of age for whom a basic skill may be developing or emerging;

(25) "rudimentary facility" means, beginning July 1, 2011,

(A) scoring two standard deviations below the mean on a standardized adaptive measure approved by the department; or
(B) if no standard measure is available, documentation that demonstrates a level of skill or performance that is two standard deviations below the mean.
### Approved Assessment List for Intensive Reviews

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<td>Communication and Symbolic Behavior Scales (DP, PP)</td>
<td>Test Of Language Development (1, 2, 3, 4, 5)</td>
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<td>Developmental Indicators for the Assessment of Learning (1, 2, 3, R)</td>
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<td>Wide Range Assessment of Memory and Learning (1, 2)</td>
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