



pennsylvania
DEPARTMENT OF EDUCATION

November 12, 2014

Ms. Kimberly Caputo
Deputy Chief
The School District of Philadelphia
440 North Broad Street
Philadelphia, PA 19130

Dear Ms. Caputo,

Although the Kellner v. the School District of Philadelphia settlement agreement has expired, the responsibility for the provision of special education services including one to one behavioral supports for students with disabilities remain the responsibility of the local educational agencies (LEAs). If an individualized education program (IEP) team or a 504 team determine that a student with a disability requires one to one support for all or part of a school day, the type, frequency, and duration of one to one support must be listed on the IEP or 504/Chapter 15 Service Agreement. Furthermore, it is the responsibility of the LEA to ensure there are no delays or gaps in the provision of one to one support as written in the IEP or Service Agreement.

Regardless of whether medical assistance funded resources are available, the LEA retains the ultimate responsibility for assuring that students with disabilities are provided with appropriate supports and services, including when necessary one to one support. An LEA cannot rely upon or delay the provision of one to one support based on the provision of a therapeutic staff support (TSS) by the MA system. The LEA has the duty of providing a free appropriate public education (FAPE) to students with disabilities and a delay of the provision of one to one support until a TSS is established is unacceptable. This delay is a denial that may prevent access to school or school transportation because of the unavailability of a one to one support.

The key question for the IEP team and Section 504 team is to consider whether the child requires one to one support to participate in the general education and to make meaningful progress toward annual goals, to access a free appropriate public education. If that type of support is determined necessary by the IEP team or 504 team, it must be listed on the IEP/504 service agreement and provided without delay.

The Bureau of Special Education has been contacted by advocacy agencies in your school district regarding concerns in reference to this issue. To proactively address this issue, we are requiring that you share this correspondence with all school staff who serve as the LEA representative on IEP teams to insure they are aware of the requirements regarding the use of one to one support staff necessary for the provision of FAPE for students with disabilities. If there are any questions or concerns regarding this issue, please feel free to contact me. Thank you

Sincerely,

Patricia Hozella
Director

Cc: William R. Hite, Jr.