

## **MEMORANDUM #09-01 (Updated)**

**TO:** District Superintendents  
Directors of Special Education  
Other Interested Parties

**FROM:** Elizabeth Hanselman  
Assistant Superintendent for Special Education

**DATE:** May 1, 2009

**SUBJECT:** Guidance on Special Education Class Size for 2009-2010 and Beyond (23 Illinois Administrative Code 226.730(b) and (c))

The state special education rules at 23 Illinois Administrative Code 226.730(b) and (c) set forth the requirements for determining special education class size for the 2009-2010 school year and beyond. Over the last few months, several questions have arisen in regard to these requirements. To address those questions, the Illinois State Board of Education is providing the guidance contained herein.

### **Regulatory Language**

Section 226.730 states the following:

- (b) Class size means the total number of students an educator serves during any special education class. As used in this subsection (b), “class” means any circumstance where only students with IEPs are served and at least one special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).
- 1) Except as provided in subsection (b)(5) of this Section, classes in which all the students receive special education services for 20 percent of the school day or less shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class.
  - 2) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 20 percent of the school day but no more than 60 percent of the school day shall have at least one qualified teacher for each ten students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.

- 3) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.
  - 4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.
  - 5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007, by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education:
    - A) The maximum class size stated in subsection (b)(1) of this Section shall be 13 rather than 15;
    - B) The maximum class size stated in subsection (b)(2) of this Section shall be eight rather than 10; and
    - C) The maximum class size stated in subsection (b)(3) of this Section shall be six rather than eight.
  - 6) The provisions of subsections (b)(1) through (5) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.
- (c) The maximum class sizes set forth in subsection (b) of this Section shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education in the least restrictive environment to which they are entitled.

## **Class Formation**

As set forth in the opening paragraph of Section 226.730(b) and in subsection (b)(6), factors such as the age of students, the nature and severity of their disabilities and their needs for individualized instruction and services must be considered in the formation of all special education classes. Another factor that must be considered, in accordance with Section 226.730(c), involves "...the activities and services in which the affected educators participate in order to provide students..." with the services set forth in their IEPs. Each of these factors can pose further limitations on class size, as discussed below.

### Age

The requirements at 23 Illinois Administrative Code 226.720 (Facilities and Classes) must be followed in configuring special education classes. Specifically, subsections (b) and (c) state the following:

- (b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age, except that a district shall not be prohibited from permitting a child who reaches his or her sixth birthday during a year to complete that year.
- (c) Special education classes and services shall be delivered in age-appropriate settings.

### Nature and Severity of Students' Disabilities and Need for Individualized Instruction and Service

When forming special education classes, districts must ensure that all required services, as delineated in students' IEPs, can be fully and properly provided. Therefore, although subsections (b)(1) through (5) of Section 226.730 establish maximum class sizes, the provisions in the opening paragraph of Section 260.730(b) and in subsection (b)(6) may require further limitation of class size in accordance with the nature and severity of students' disabilities and their needs for individualized instruction and services. In other words, if providing full and proper instruction and services to meet students' needs requires a smaller class size than any of the ones prescribed at subsections (b)(1) through (5), the district must configure the size of the class accordingly. In addition, districts must either:

- a. Group students in relation to common educational needs and the types of services they require to meet those needs or
- b. If such grouping is not possible, ensure that the services to be provided can be individualized and the teacher is qualified to plan and provide appropriate instruction for each student in the group.

### Activities and Services in which Affected Educators Participate

In accordance with Section 226.730(c), it may be necessary to implement a class size smaller than the stated maximum if the classroom teacher has other duties that would impact his or her ability to serve the total number allowable. Assignments of particular tasks vary greatly from district to district, and districts must take into consideration the other claims on the teacher's time and attention, such as paperwork and IEP meetings, when determining how many students can be served effectively in a given special education class.

## **Determining Class Size**

### Basis for Determination

When determining class size for special education classes serving children ages three through five, the requirements at Section 226.730(b)(4), along with the factors discussed previously under Class Formation, must be followed. Class size requirements for all other special education classes are delineated at Section 226.730(b)(1) through (3) and (5).

In accordance with Section 226.730(b)(1) through (3), along with the factors discussed under Class Formation, the basis for determining special education class size is the percent of the school day during which students receive special education services. Therefore, the size of a particular special education class must be determined based on the amount of time each of the

students in question receives special education services during the school day, not on the amount of time for which those students are removed from the general education classroom.

### Calculating the Percent of School Day\* Receiving Special Education Services

The method used to calculate the percent of the school day during which a student receives special education services is the same as the method that districts currently use in iePoint for the purpose of special education reimbursement claims. The formula used for this purpose is the total number of special education minutes a student receives per week divided by the number of minutes in the student's instructional week.

$$\frac{\text{Total number of special education minutes per week}}{\text{Instructional week}}$$

Given that the daily amount of special education services provided to individual students may vary in accordance with their needs, utilization of the weekly percentage of time receiving special education services takes into account each student's daily services over an instructional week. Therefore, the weekly percentage is utilized in order to reflect the average and allow for daily fluctuation based on service schedule.

***\*For this instance, school day refers to the instructional day as specified within each student's IEP.***

### Which Class Size Applies?

In many instances, students within the same special education classroom receive special education services for different percentages of their day. When configuring special education classes under these circumstances, the number of students that a teacher can serve in a particular special education class must always be based on the student that receives services for the greatest percentage of the school day. Consider the examples below (in each example, students have common educational needs and their ages are within the allowable range).

1. A school has a group of 20 students whose IEPs call for at least part of their services to be provided in a special education classroom. Of the 20 students, 15 receive services for 15 percent of their school day and five receive services for 20 percent of their school day. The school team wants to determine if the class size provisions at Section 226.730(b) allow all of the students to be served in the same special education class.

Because all students receive special education services for 20 percent of the school day or less, the special education class size provision set forth at Section 226.730(b)(1) applies. This means that the maximum class size would be 15 students with one qualified teacher. If a paraprofessional is provided for the entire class, the class size could be increased by a maximum of two students (for a total of 17 students).

2. a) A school has a group of nine students whose IEPs call for at least part of their services to be provided in a special education classroom. Of the nine, four students receive special education services for 25 percent of the school day and five students receive services for 50 percent of the school day. The school team is trying to

determine if the class size provisions at Section 226.730(b) allow all of the students to be served in the same special education class.

Because all students receive special education services between 21 and 60 percent of the school day, the special education class size provision set forth at Section 226.730(b)(2) applies. This means that the maximum class size would be ten students with one qualified teacher, although the class size could be increased by a maximum of five students (for a total of 15 students) if a paraprofessional is provided for the entire class.

- b) Using the scenario above, a new student who receives special education services for 70 percent of the school day enrolls in the school, and her IEP calls for at least part of the services to be provided in a special education classroom. The school team is working to determine if under the class size provisions at Section 226.730(b) this student can be added the same special education class as the other nine students. Currently, one qualified teacher serves the students during that class period and there is no paraprofessional.

Given the circumstances above, the class size limitation set forth at Section 226.730(b)(3) applies. Because a student who receives services for more than 60 percent of the school day is being added to the group, unless a paraprofessional is provided for the entire class, the maximum class size decreases to eight students. However, if a paraprofessional is added, the class size of eight could be increased by a maximum of five students (for a total of 13 students).

Questions about this guidance document may be directed to Special Education Services – Springfield at 217-782-5589.