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**MEMORANDUM**

**TO:** District and Charter School K–3 Plus Coordinators

**FROM:** Joan Davidge, K–3 Plus Coordinator

**RE:** **K–3 PLUS PROGRAM FREQUENTLY ASKED QUESTIONS  
REGARDING SPECIAL EDUCATION SERVICES**

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**1. What is K–3 Plus?**

New Mexico statute, 22-13-28 NMSA 1978, provides that the K–3 Plus program is created to provide funding for additional educational time for disadvantaged students in kindergarten through third grade. K–3 Plus provides the funding for approved full-day kindergarten and grades one through three to be extended by at least twenty-five instructional days, beginning up to two months earlier than the regular school years.

K–3 Plus is conducted in high-poverty public schools in which 80% or more of the students are eligible for free or reduced-fee lunch at the time the public school applies for the program or an elementary school with a D or F school grade the previous year.

The K–3 Plus program is an option for school participation and an option for parents to enroll their child to attend.

**2. What instruction is provided during the K–3 Plus program?**

K–3 Plus programs for kindergarten students include:

(1) a daily classroom schedule with at least 90 minutes of literacy instruction provided for kindergarten students and at least 120 minutes of literacy instruction provided for students in

grades one through three including time for all students to practice independent reading; instruction and intervention shall be provided to students based on screening assessment data to guide instruction to meet student needs;

(2) a comprehensive research-based early literacy core basal reading program or intervention in alignment with both the Common Core State Standards and additional New Mexico Standards as established in 6.29.13.8 NMAC that:

(a) identifies the concepts and skills necessary to establish the foundation of success in early reading;

(b) includes instructional strategies that ensure children learn identified concepts and skills; and

(c) includes key early literacy skills instruction including but not limited to phonological awareness, phonics, reading fluency, vocabulary, comprehension, and writing to support comprehension;

(3) a sequential comprehensive, developmentally appropriate early mathematics program with at least 90 minutes of instruction provided for students in grades kindergarten through three in alignment with the mathematics common core state standards published by the national governor's association center for best practices and the council of chief state school officers and incorporated by reference in 6.29.14 NMAC that:

(a) identifies the concepts and skills necessary to establish the foundation of success in early mathematics; and

(b) includes instructional strategies that ensure children learn identified concepts and skills; and

(4) implementation of the department's response to intervention (RtI) framework known as *The Three-Tier Model of Student Intervention* in reading and math. The state guidance manual, *The Student Assistance Team and the Three-Tier Model of Student Intervention* shall be the guiding document for districts and schools to use in the implementation of student intervention for academics and behavior for each tier of RtI.

K-3 schools provide intervention services in literacy and numeracy for students enrolled in the K-3 Plus program who are not meeting grade level requirements.

[6.30.12.9 NMAC - N, 10/30/2014]

### **3. What special education services are provided during the K-3 Plus program?**

The K-3 Plus program is an optional educational opportunity open to all students in kindergarten through grade three within eligible schools. If a parent chooses to have their child(ren), who has/have a disability as defined by the Individuals with Disabilities Education Act (IDEA) and an Individualized Education Program (IEP), participate in the K-3 Plus program, each school through the student's IEP team will determine what supplementary aides and services including accommodations and modifications are necessary for the student(s) to access and participate in the K-3 Plus curriculum as described above.

#### **4. What funding is used to pay for special education services during the K-3 Plus program?**

New Mexico Administrative Code 6.30.12.1 3 provides that K-3 Plus programming for students with disabilities shall be paid for by K-3 Plus funds. K-3 Plus funds pay for students with IEPs to ensure they can participate as a general education student.

If it is determined that special education services are necessary in order for the student(s) with disabilities to participate in the K-3 Plus program and go above and beyond those that the school's K-3 Plus includes in its plan, IDEA -B funds and/or the district's general funds may be used to supplement the additional costs for services. A student with a disability cannot be denied participation in the K-3 Plus program because the costs to have that student participate exceed the K-3 Plus budget. The student's IEPs must be written to reflect these services.

#### **5. How do districts maintain the Maintenance of Effort (MOE) as per IDEA regulations if IDEA B is picking up the expenditures for special education staff that are paid out of operations during the traditional school year?**

State K-3 Plus funds used to provide special education and related services for students with disabilities in the K-3 Plus program can be utilized as part of the district's expenditures in the annual MOE calculation. Since this is not a fund code that is reviewed by the State for MOE calculations, it is up to the district to submit these additional requests for the State's consideration. It is the district's responsibility to isolate and track the expenditures used to provide special education and related services. However, K-3 Plus funds used to provide the K-3 Plus curriculum may not be included in the MOE calculation.

School districts can only use IDEA funds for the excess cost of providing special education and related services for students with disabilities. IDEA funds cannot be used in place of State K-3 Plus funds for students with disabilities, since this is considered supplanting.

#### **6. Do we need to do an addendum to determine what services are needed during K-3 Plus or do they receive what is on the annual IEP?**

K-3 Plus is an optional program. If a student with a disability participates in the program, the IEP must include goals for the specific program, supplementary aides and services required to obtain a FAPE and any accommodations and modifications that are necessary for the student to participate. The K-3 Plus program can be included in the current IEP, when developed annually, or through an IEP addendum. The IEP should reflect the specific time period of the K-3 Plus program. The IEP must be current and up-to-date.

**7. If we can't provide the services (due to availability of Ancillary providers, etc.), do we owe compensatory services?**

If the IEP team includes a service in an IEP, even though it is for an optional program – and that service is not provided as written, the school/district will be responsible for offering and providing those compensatory services. A student with a disability cannot be denied participation in the K-3 Plus program because of a shortage of ancillary providers.

**8. If students qualify for Extended School Year (ESY) but attend the K-3 Plus program (and services are provided), does this meet the requirement for ESY?**

No. Students that meet requirements for ESY are to receive supports and services separate from the K-3 Plus program. The K-3 Plus program cannot substitute for ESY services. ESY services have certain criteria under the IDEA. A student with a disability who requires ESY services cannot be denied participation in the K-3 Plus program.

Guidance on ESY can be viewed at

<http://ped.state.nm.us/SEB/community/dl10/Extended%20School%20Year%20Services.pdf>.

**9. Can staff be shared between K-3 Plus and ESY?**

That is up to the LEA or school as long as the staff are available to meet the requirements for both programs, and that it is clear that ESY is not K-3 Plus or vice versa.