



Question: Can a Special Education Teacher provide instruction to students not verified with a disability?

Answer: It is not possible to provide a clear “yes” or “no” response to this question, as it depends on the nature of the duties to be performed by the personnel funded by IDEA funds.

Pursuant to **34 CFR §300.208(a)**, special education teachers fully funded by IDEA funds may perform duties for children without disabilities if they would already be performing these same duties in order to provide special education and related services to children with disabilities. For example, a special education teacher is assigned to provide five hours of reading instruction per week to three students with disabilities consistent with those students’ IEPs. The IEPs provide that the students need specialized reading instruction that is at grade level but handled at a slower pace because of auditory processing issues. The school decides that, although they are not children with disabilities, there are two general education children who would benefit from this instruction. The special education teacher must prepare lesson plans for each of these classes regardless of the number of children in the class. She may do so and conduct the class for all five children because she is only providing special education and related services for the three children with disabilities and the two children without disabilities are benefiting from that work. However, if fully funded by IDEA funds, this teacher may not grade papers, spend time on parent teacher conferences, or perform any functions for the children without disabilities not otherwise required as part of the provision of special education and related services to children with disabilities. In other words, 34 CFR §300.208(a) does not permit special education teachers fully funded by IDEA funds to perform duties other than special education and related services.

In the situation where a Special Education Teacher was providing intervention or instruction to non-sped students in a group along with sped students, it is always our recommendation that there be groupings where the sped students make up the majority (3 sped students to 2 non-sped students) of students.

