

ZACHARY COMMUNITY SCHOOLS
GUIDANCE FOR INDEPENDENT THIRD PARTY
OBSERVATION AND SERVICE REQUESTS

I. Purpose

The purpose of this guidance is to provide relevant information concerning requests for independent third party providers to access the Zachary Community School System (ZCSS) premises for the purpose of observing students with and without disabilities during the school day and/or providing such students with non-educational services independently arranged by parents of such students or outside agencies and paid or otherwise funded by parents or others outside the authority of the ZCSS.

II. Safety & Welfare

While the ZCSS welcomes and encourages parents and other school patrons to visit schools at appropriate times and under appropriate circumstances, principals are responsible for establishing procedures that ensure the proper protection of instructional time and the safety and welfare of students and employees. The ZCSS has an affirmative duty to ensure the safety and well-being of all students on its campuses, including students with disabilities, students in foster care, students under supervision of juvenile authorities, and students served by other outside entities, whether public or private. In accordance with La. R.S. 17:416.10, public elementary and secondary schools are required to develop and adopt written rules, regulations, and procedures for granting authority to persons to go onto public school grounds or in any public school building or other school facility as a visitor during school hours and for notifying visitors of such rules, regulations, and procedures. A visitor is defined as any person, except employees of the school or school system; a member of the school or school system’s governing authority; a student enrolled in the school system; and a parent, guardian, or other person authorized by a parent or guardian who is delivering the pupil to school at the beginning of the school day or is picking up the pupil from school at the end of the school day.

Louisiana and the ZCSS are not alone in taking a cautious approach to protecting vulnerable students. In the 2013–14 school year, 93 percent of the nation’s public schools reported that they controlled access to school buildings during school hours.¹ Like hospitals and other healthcare facilities, public schools are adapting to changing conditions and reexamining what it means to have an open door policy. Visitor management is a key component among the security protections advocated by the national Safe and Supportive Schools initiative.

Third party individuals conducting observations or requesting to provide private therapy, counseling, or other services to ZCSS students are considered visitors and must be aware of and

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¹ National Center for Education Statistics (May 2015).

abide by the constraints and requirements imposed by ZCSS policy, educational practice, and law. In most cases someone employed by ZCSD must be present during observation(s)/services and that requests for observations/services may be limited by availability of staff. Safety, confidentiality, and liability are among the factors that must be considered by the ZCSS in any decision regarding student/facility access by third parties. To that end, the ZCSS has developed this guidance and a written agreement process to ensure that independent third party observers and independent third party professional service providers who are granted access to its premises are aware of and agree to follow applicable rules and requirements. Inquiries and requests should be directed to:

Aeneid H. Mason, Director of Student Services and Scott Devillier, Superintendent.

Student Absences from Instruction

All students, including students with disabilities and at-risk students, must be provided an equal opportunity to participate in and benefit from public educational services. In accordance with State laws and regulations, all enrolled students must attend regularly assigned classes during regular school hours established by the school board and must not be habitually tardy from school.² Student absences due to personal illness or other valid reasons may be excused in accordance with each school's absentee policy. However, it is expected that medical appointments, therapies, counseling, and other non-educational services will be scheduled before and after school hours to avoid interference with a student's access to and participation in the general educational curriculum, as well as the potential harmful effect on the program of services determined necessary for a student with disabilities to receive a free appropriate public education (FAPE) in accordance with an Individualized Education Program (IEP) or Section 504 Plan.

It is well documented that school attendance and classroom participation are essential to the success of all students. Habitual, chronic tardiness, early checkouts, and instructional interruptions are major factors in the loss of instructional time for students, regardless of age or ability. The loss of instructional time due to absence for any reason may affect a student's grades, achievement, and overall success in school. Children who are chronically absent from school/instruction are much less likely to acquire necessary reading and other skills, a factor which has long-lasting effects throughout the educational experience.³

III. Obligations to Students with Disabilities

In accordance with the Individuals with Disabilities Education Improvement Act (IDEA) and Section 504 of the Rehabilitation Act (Section 504), the ZCSS delivers a broad range of educational services to ensure that eligible students with disabilities have available to them a free and appropriate public education in the least restrictive environment (LRE). Each student's IEP Team or Section 504 Team (which includes the parents of the student with disabilities) determines

² La. R.S. 17:221.

³ See *Chronic Absenteeism in the Nation's Schools*, (U.S. Department of Education), 2016-2017 School Year.

the special education and related services required for the student to receive FAPE. A student's IEP or Section 504 Plan is a written document that outlines the program of services required to enable the student to have access to the general curriculum and to address the student's other unique educational needs resulting from disability. Independent third party services delivered outside of the IEP/Section 504 Plan context are not required to enable a student to receive educational benefit under the IDEA and Section 504.

Because the ZCSS is obligated to provide services necessary for a student with disabilities to receive FAPE, as outlined in the student's IEP or Section 504 Plan, additional services made available to students by independent third party providers are not considered necessary for educational purposes and are not authorized or sanctioned by the ZCSS. Like all medical appointments, therapies, and other services that are not required for educational purposes, it is expected that medical appointments and independently obtained services, including therapeutic services, counseling, and other services will occur before or after school hours to avoid interference with the teaching/learning process and implementation of the student's IEP/Section 504 Plan.

IV. Duplication of Effort/Resources

State Medicaid Services. In Louisiana, the IEP of a student with disabilities may include a number of direct services that are also considered medical services under Louisiana's Medicaid program, including: physical, occupational, and speech therapies; counseling services; and nursing services. All of these services are reimbursable by Medicaid if they are determined to be medically necessary in accordance with Medicaid policy and are part of the Medicaid-eligible recipient's IEP. The Centers for Medicare and Medicaid Services (CMS) has specifically clarified that federal Medicaid matching funds are available and may be used for health-related services covered under the Medicaid State Plan when those services are provided under the IDEA as part of an IEP.

Medicaid reimbursement for health and health-related services provided to students receiving special education, and for outreach and care coordination activities provided to all students, may be generated by the ZCSS. The ZCSS may draw down Medicaid reimbursement for the cost of such health and health-related services that are provided in accordance with an IEP to its enrolled students who are Medicaid recipients. Independent third party service providers should be aware of this Medicaid claiming possibility to ensure that the services they provide are not redundant to services already being provided by the ZCSS. Even where a Medicaid claiming conflict does not exist, care should be taken to ensure that third party services are complimentary to school-based services and not in conflict with such services.

With specific regard to Applied Behavior Analysis (ABA) Therapy for students with medical diagnoses of Autism Spectrum Disorder(ASD), the ZCSS adheres to the requirements of the IDEA and Section 504 in determining individually needed services for students with disabilities. The ZCSS is also mindful of guidance from CMS⁴ and the U.S. Department of

⁴ Clarification of Medicaid Coverage of Services to Children with Autism, CMS Informational Bulletin (July 7, 2014); Medicaid and CHIP FAQ: Services to Address Autism, CMS Informational Bulletin

Education⁵ regarding ABA services to students with disabilities. In pertinent part, the ZCSS “recognizes that ABA is just one methodology used to address the needs of children with ASD” and ensures that decisions regarding services for such students are made based on the unique needs of each individual student with a disability and not on the category of a student’s disability.

VI. Requests for Third Party Observation/Access

While the ZCSS acknowledges the parental right to secure or authorize third party non-educational services for their children, there is no corresponding obligation of the ZCSS to permit third party providers to utilize ZCSS school premises for such purposes. Requests for third party observation and/or access to ZCSS facilities, its enrolled students, and staff are subject to application and prior approval by ZCSS officials. An **application form**⁶ is attached to these guidelines and must be submitted at least five (5) school days before the requested activity.

If the application is approved, the parent of the student must sign the ZCSS **Release form**⁷ authorizing a specified individual(s) to interact with the student under the terms of a **Third Party Agreement**⁸. No third party visitor shall be permitted access to students on ZCSS school premises without first being granted written approval by ZCSS school officials following execution of the ZCSS Release Form and signed Third Party Observation/Access Agreement.

We thank you in advance for your cooperation and for partnering with us in taking reasonable steps to ensure that your child and other enrolled students are being properly supervised and engaging only with individuals who are authorized to be on our school campuses for legitimate purposes.

For more information or assistance regarding this guidance, please contact:

**Mr. Scott Devillier, Superintendent of Zachary Community School District and
Mrs. Aeneid H. Mason, Director of Student Support Services.**

(September 2014).

⁵ *Dear Colleague Letter*, U.S. Department of Education, Office of Special Education Programs (July 6, 2015).

⁶ See 3rd Party #1 (form attached).

⁷ See 3rd Party #2 (form attached).

⁸ See 3rd Party #3 (form attached).