



School Psychologist Academy

EL DORADO CHARTER SELPA

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Topics We'll Cover

I. Educationally Related Mental Health Services

- Child Find Obligations
 - Appropriate Mental Health Assessments
 - Legally-Defensible Mental Health Goals
 - Services
 - Residential Placement
- II. Your Questions



COVID-19 and Children's Mental Health: Addressing the Impact

“The pandemic created a perfect storm of stress, anxiety and trauma.”

<https://lhc.ca.gov/sites/lhc.ca.gov/files/Reports/262/Report262.pdf>



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Alarming Statistics

- Suicide is now the second leading cause of death among people aged 10-24 and is responsible for more childhood and adolescent deaths than cancer and heart disease combined.
- Mental illness is the leading reason for hospitalization among children.
- In January 2021, 46% of parents had seen a decline in their teenaged child's mental health since the start of the pandemic.



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Barriers to Addressing Children's Mental Health Needs

- 70% of California children aged 3-17 received mental healthcare when needed, compared to 82% nationally.
- Children of color and from low-income families can confront linguistic, cultural, and social barriers to accessing mental health care.



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Geez! Any good news??

- There has been significant efforts to reduce the stigma of mental health and substance abuse, particularly for young people.
- Celebrity examples:
 - Shawn Mendes
 - Simone Biles
 - Michael Phelps
- California public education systems has prioritized mental health as a top priority for funding.



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Mental Health as a Related Service

Under IDEA –

Related services accompany special education to allow a child with a disability to benefit from special education.

- E.g., psychological services, counseling, social work services, parent counseling/training.

Under Section 504 –

Related aids and services must be provided to the extent they enable a school to meet the needs of students with disabilities as adequately as it meets the needs of nondisabled students.



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“Child Find” Under IDEA

Affirmative, ongoing obligation to identify, locate, and evaluate all children with disabilities that either:

Have disabilities and need special education as a result of those disabilities; or

Are suspected of having, disabilities and need special education as a result of those disabilities.

Parent is not required to request that a school assess the child.

LEAs cannot take a passive approach and wait for others to refer a student for special education services — rather; the school must seek out IDEA-eligible students.



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“Child Find” Under IDEA

Failure to identify may entitle a student to compensatory education or tuition reimbursement accruing from the time the LEA first should have suspected the disability.



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Role of General Education Teachers in Child Find

Some teachers may:

Tell parents that they should take the child to the doctor if they have a concern; or

After learning from a parent about a student's diagnosis, take it upon themselves to provide informal accommodations without referring the student for an evaluation.



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Role of General Education Teachers in Child Find

If teacher suspect a student is exhibit depression, anxiety, or other mental health conditions:

Discuss with school psychologist, counselors who are skilled in evaluating these conditions.

Teacher can describe observations of student

Note: Discipline referrals are not always the best screener for finding students with internalizing behaviors (e.g., depression/anxiety)



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Child Find

Oakland Unified School Distr. V. N.S., 115 LRP 53402 (N.D. Cal. 11/10/15)

FACTS: Student was born in Africa and adopted from an orphanage around 8 years old.

Letter in record from a therapist who treated Student for reactive attachment disorder, depression, and PTSD.

Student was eligible for special education under the category of SLD.

At start of high school, he was often late to class, refused to participate, and often appeared to be under the influence of controlled substances.

District attributed this behavior to drug use.

District funded an IEE which concluded that Student's eligibility should be ED and required counseling.



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Child Find

Oakland Unified School Distr. V. N.S., 115 LRP 53402 (N.D. Cal. 11/10/15)

Student was hospitalized, and District did not offer mental health services until it could complete its own assessment.

Parents unilaterally placed Student out of state, filed due process and requested reimbursement.

District offered a mental health assessment, but argued that Student must be available locally.

District did not take any steps to determine if it would be safe for Student to return for an assessment.



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Child Find

Oakland Unified School Distr. V. N.S., 115 LRP 53402 (N.D. Cal. 11/10/15)

HELD: Failure to timely assess mental health needs and offer mental health services was a denial of FAPE,

Threshold trigger for mental health assessment is relatively low.

That Student was using marijuana did not relieve District of its duty to conduct an assessment of his mental health functioning.

District was on notice that Student's mental health needs adversely affected his education.



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Child Find Triggers

Reasons parents provide for choosing charter school or a particular program (including virtual schools and/or independent study) may put school on notice of suspected disability.

Anxiety

School phobia

School refusal



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Child Find Triggers

Excessive absenteeism by itself is not a per se basis for suspecting the child has a disability.

A district's child find obligations may be triggered where:

There are significant absences

There is reason to believe the absences are linked to a disability, and

There is a need for services.

Where truancy is the result of social maladjustment, family or social circumstances, unlikely that district has a duty to refer to student for an evaluation.



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Who May Conduct “Mental Health” Evaluations?

Under California law, only **credentialed school psychologists** may perform tests of emotional and psychological functioning.

However, LEAs may, as appropriate, obtain additional assessments by qualified mental health professionals that are not credentialed school psychologists.

LEAs may contract with qualified personnel, such as licensed educational psychologists, to conduct psychological assessments **if credentialed school psychologists are temporarily unavailable.**



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Mental Health Evaluations

While not binding authority, there are administrative decisions where the Office of Administrative Hearings has determined that an assessment of a student's social-emotional functioning was inappropriate and invalid due to, among other reasons, the assessment being conducted by a licensed clinical psychologist rather than a credentialed school psychologist.

See e.g., *Student v. Garvey Elementary School District*, OAH Case No. 2009120683, explaining that the purpose of a clinical evaluation was to develop a treatment plan, and not conducted for the primary purpose of supporting a determination of eligibility for special education.



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Evaluation Components

1. Review records
2. Developmental History
3. Observations, such as:
 - a) in academic activities
 - b) during PE
 - c) during lunch/break time, etc.
4. Interviews, such as:
 - a) student
 - b) school staff
 - c) parents
 - d) health care providers, etc (exchange information)
5. Administer tests & rating forms



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Rating Forms – Cautions and Limitations

- Do not rely solely upon rating forms.
- They do not directly measure student functioning...they measure someone's opinion of student behavior.
- Some are too specific, some are too broad.
- Teachers may be unwilling or too busy to be sufficiently careful.



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Rating Forms – Cautions and Limitations

- Teachers & parents may exaggerate concerns in effort to obtain help.
- Student may be unwilling to acknowledge problems.
- Student may have distorted perceptions.



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Evaluations and Information Provided by Parents

Consider relevant information from Student's private providers.

Consider whether school needs to seek parent's permission to exchange information with private providers.



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New Guidance Re: Impact of "Long COVID"

U.S. Dept of Education released guidance on **Long COVID Under Section 504 and the IDEA** (July 26, 2021)

Ongoing symptoms that characterize "long COVID-19," such as difficulty concentrating, mood changes, and difficulty breathing, may trigger child find obligations under the IDEA or Section 504.

Long COVID-19, according to the CDC, is a wide range of new, returning, or ongoing health problems individuals can experience more than four weeks after being infected. Can result in a combination of various symptoms, including fatigue, difficulty thinking or concentrating, shortness of breath, mood changes, sleep problems, and chest or stomach pain.



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New Guidance Re: Impact of “Long COVID”

Example:

IEP Team could determine that a child meets definition of Other Health Impairment under IDEA due to difficulty concentrating and anxiety symptoms related to long COVID and may need special education and related services to improve academic engagement, counseling services, and positive behavior interventions and supports to promote on-task behaviors and responses to stress triggers.



Mental Health Goals

Student v. Marin County Mental Health Youth and Family Services (OAH CASE NO. 2011081106).

Goal held to not meet Student’s mental health needs and denied Student FAPE.

Student will utilize “specific coping skills and awareness of emotional issues to maintain attentional focus” so he could complete classroom assignments as required for 80 percent of the time.

No evidence as to how progress on the goal would be measured, how a teacher would know if Student silently used a coping skill, or if Student had to announce that he was aware of an emotional episode, or if someone was going to keep track of his vocal outbursts or moments of defiance and conclude that he had not tried to use a coping skill or “awareness” of an emotion, or if the incident had to be tied to not completing an assignment.



Guidelines for Defensible Mental Health Goals

#1. Do not write goals for feelings.

Not an IEP team’s responsibility to “cure” children of their disabilities.

Avoid writing goals that require the person responsible for implementation to “mind-read.”

Example: “When Sara is feeling depressed, she will ...”

How will the teacher know when Sara is feeling depressed?



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Guidelines for Defensible Mental Health Goals

#2. Write goals and baselines to improve measurable behaviors.

Focus on the relevant behavioral manifestation of the identified social-emotional problems...(i.e., measurable behaviors that result from social-emotional problems & prevent student from getting FAPE)

When you are tempted to write unmeasurable terms such as "difficulty," "trouble", stop and ask yourself:

What do I see the student doing that makes me make this judgment call?

What you actually see the student doing is the measurable content you need to identify in your baseline.



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Guidelines for Defensible Mental Health Goals

#3. Observations, classroom based data collection, and/or other staff reports can provide useful quantified baseline data.

Without adequate baselines, it is difficult to determine if goal adequately addresses Student's needs or whether progress can be accurately evaluated.

Baseline information that merely restates a child's need to develop skills in a certain area does not provide IEP team members with sufficient information on a child's present levels



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Guidelines for Defensible Mental Health Goals

#3. Observations, classroom based data collection, and/or other staff reports can provide useful quantified baseline data.

Bad Example:

Student has difficulty completing assignments and turning them in on time.

- What percent of the time? Once a day/week?
- Homework assignments or class work?
- In which classes?



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Guidelines for Defensible Mental Health Goals

#4. Wording in Baseline and Goal should be very similar.

Baseline information that merely restates a child's assessment scores, with no mention of scores in goal

Example:

Baseline: Student's scores for anxiety were clinically significant on the Behavioral Assessment System for Children, 2nd edition of yielded standard score of 65.

Goal: By [date], when in a counseling setting, Student will list five ways to decrease personal anxiety with school activities and peer interactions with 100% accuracy in two out of three trials as measured by interview, data collection, and/or observations.

No link between baseline and goal!



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Guidelines for Defensible Mental Health Goals

#5. Make the goals easy for a layperson to understand.

The Stranger Test: someone unfamiliar with the student could read the goal and understand it.

Keep it simple, have only one variable in a goal.



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Poorly Written Mental Health Goals

#1. By _____, Student will improve self esteem, as measured by participation in weekly group counseling.

Participation in group counseling is not proof of improved self esteem, student could participate in group counseling but still perform poorly in school; the goal is not quantified; the term participation is vague.



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Poorly Written Mental Health Goals

#2. By _____, when in need of clarification on an assignment or task, Student will seek assistance from staff and only ask questions related to the assignment or task 70% of the time as measured by teacher observations.

Requires mind reading (to know when the student needs or doesn't need clarification); it has two distinct variables; impossible to measure accurately.



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Poorly Written Mental Health Goals

#3. By _____, Student will appropriately interact with peers and adults by maintaining healthy boundaries and engaging in appropriate communication in 2 out of 4 situations as measured by staff observations and charting.

It is too vague (what is a healthy boundary? How is it determined that the student has moved from a healthy boundary to an unhealthy boundary?); it has two variables (healthy boundaries & appropriate communication) that need to be measured separately.



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Well-Written Mental Health Goals

Improving Conduct

BASELINE: Student currently demonstrates inappropriate behaviors in class including swearing at students and staff, mumbling under his breath, glaring at others, and slamming objects down on his desk 9 times per month.

GOAL: By _____, Student will reduce the frequency of his inappropriate behaviors in class (e.g., swearing at students and staff, mumbling under his breath, glaring at others, and slamming objects down on his desk) to 2 or fewer times per month as measured by daily behavior logs.



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Well-Written Mental Health Goals



Compliance with Directions

BASELINE: In core academic classes, Student complies with staff directives 40% of the time.

GOAL: By _____, in core academic classes Student will comply with staff directions 80% of the time as measured by daily behavior logs.



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Well-Written Mental Health Goals



Task Completion

BASELINE: Student completes 20% of his assignments each month, as measured by teacher assignment completion/grade book.

GOAL: By _____, Student will complete 70% of his assignments per month, as measured by teacher assignment completion/grade book.



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Well-Written Mental Health Goals



Coping Skills

BASELINE: Following one verbal prompt from school staff, Student moves to a time out area, study carrel, or other identified area to calm self, in 2 out of 10 situations.

GOAL: By _____, following one verbal prompt from school staff, Student will move to a time out area, study carrel, or other identified area to calm self in 8 out of 10 situations.



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Mental Health Services

Not just available for children qualifying as emotionally disturbed!

Mental health needs may, however, be a significant consideration when developing an IEP for a child who qualifies as emotionally disturbed.

1. Counseling and Guidance Services
2. Parent Counseling/Training
3. Psychological Services
4. Social Work Services



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Counseling and Guidance Services

5 C.C.R. 3051.9

Designed to supplement the regular guidance and counseling program

May include:

- ✓ Educational counseling to assist in planning and implement immediate and long-range program
- ✓ Career counseling to assist in assessing aptitudes, abilities, and interests in order to make realistic career decisions
- ✓ Personal counseling to help develop ability to function with social and personal responsibility
- ✓ Counseling and consultation with parents and staff members on learning problems and guidance programs.



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Counseling and Guidance Services

5 C.C.R. 3051.9

Who may provide it?

- License as a Marriage and Family Therapist, or Marriage and Family Therapist Registered Intern who is under the supervision of a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Professional Clinical Counselor, a Licensed Psychologist, or a Physician who is certified in psychiatry by the Medical Board of California, the Board of Behavioral Sciences, or the Board of Psychology, within the Department of Consumer Affairs.
- License as a Clinical Social Worker, or Associate Clinical Social Worker who is under the supervision of either a Licensed Clinical Social Worker or a licensed Mental Health Professional by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or
- License as an Educational Psychologist issued by a licensing agency within the Department of Consumer Affairs; or



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Counseling and Guidance Services

5 C.C.R. 3051.9

- License in psychology, or who are working under supervision of a licensed psychologist, both regulated by the Board of Psychology, within the Department of Consumer Affairs; or
- Pupil Personnel Services Credential, which authorizes school counseling or school psychology.
- License as a Licensed Professional Clinical Counselor, or a Professional Clinical Counselor Registered Intern who is under the supervision of a Licensed Professional Clinical Counselor, a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Clinical Psychologist, or a Physician who is certified in psychiatry by the American Board of Psychiatry and Neurology.



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Parent Counseling/Training

Must assist the child in developing skills needed to benefit from special education or correct conditions that interfere with progress toward IEP goals and objectives.

Letter to Dagley, 17 IDELR 1107 (OSEP 1991), Stanislaus COE, 507 IDELR 364 (SEA CA 1985)

May include:

- ✓ Assisting parents in understanding the special needs of their child
- ✓ Providing parents with information about child development
- ✓ Helping parents acquire the necessary skills that will allow them to support the implementation of their child IEP or IFSP.

34 C.F.R. 300.34(c)(8).



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Parent Counseling/Training

5 C.C.R. 3051.11

Who may provide it?

- Credential that authorizes special education instruction; or
- Credential that authorizes health and nursing services; or
- License as a Marriage and Family Therapist, or Marriage and Family Therapist Registered Intern who is under the supervision of a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Professional Clinical Counselor, a Licensed Psychologist, or a Physician who is certified in psychiatry by the Medical Board of California, the Board of Behavioral Sciences, or the Board of Psychology, within the Department of Consumer Affairs; or
- License as a Clinical Social Worker, or Associate Clinical Social Worker who is under the supervision of either a Licensed Clinical Social Worker or a licensed Mental Health Professional by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or



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Parent Counseling/Training

5 C.C.R. 3051.11

- License as an Educational Psychologist, issued by a licensing agency within the Department of Consumer Affairs; or
- License as a Psychologist, or who are working under the supervision of a licensed Psychologist, both regulated by the Board of Psychology, within the Department of Consumer Affairs; or
- Pupil Personnel Services Credential that authorizes school counseling or school psychology or school social work.
- License as a Licensed Professional Clinical Counselor, or a Professional Clinical Counselor Registered Intern who is under the supervision of a Licensed Professional Clinical Counselor, a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Clinical Psychologist, or a Physician who is certified in psychiatry by the American Board of Psychiatry and Neurology.



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Social Work Services in Schools

34 C.F.R. 300.34(c)(14); 5 C.C.R. 3051.13

Includes—

- ✓ Preparing a social or developmental history on a child with a disability;
- ✓ Group and individual counseling with the child and family;
- ✓ Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- ✓ Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program;
- ✓ Making appropriate referrals and maintaining liaison relationships among the school, student, family, and various agencies providing social, income maintenance, employment development, mental health, or other developmental services
- ✓ Assisting in developing positive behavioral intervention strategies.



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Social Work Services in Schools

34 C.F.R. 300.34(c)(14); 5 C.C.R. 3051.13

Who may provide it?

- License as a Clinical Social Worker, or Associate Clinical Social Worker who is under the supervision of either a Licensed Clinical Social Worker or a licensed Mental Health Professional by the Board of Behavioral Sciences, within the Department of Consumer Affairs; or
- License as a Marriage and Family Therapist, or Marriage and Family Therapist Registered Intern who is under the supervision of a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Professional Clinical Counselor, a Licensed Psychologist, or a Physician who is certified in psychiatry by the Medical Board of California, the Board of Behavioral Sciences, or the Board of Psychology, within the Department of Consumer Affairs; or
- Credential authorizing school social work.
- License as a Licensed Professional Clinical Counselor, or a Professional Clinical Counselor Registered Intern who is under the supervision of a Licensed Professional Clinical Counselor, a Licensed Marriage and Family Therapist, a Licensed Clinical Social Worker, a Licensed Clinical Psychologist, or a Physician who is certified in psychiatry by the American Board of Psychiatry and Neurology.



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Psychological Services

34 C.F.R. 300.34(c)(10).

Includes—

- ✓ Administering psychological and educational tests, and other assessment procedures;
- ✓ Interpreting assessment results;
- ✓ Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- ✓ Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- ✓ Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- ✓ Assisting in developing positive behavioral intervention strategies.



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Psychological Services

5 C.C.R. 3051.10

Psychological Services may include:

- ✓ Counseling provided to a special education student by a credentialed or licensed psychologist or other qualified personnel.
- ✓ Consultative services to parents, pupils, teachers, and other school personnel.
- ✓ Planning and implement a program of psychological counseling for special education students and parents.



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Psychological Services

5 C.C.R. 3051.10

Who may provide it?

- Licensed Educational Psychologist pursuant to Business and Professions Code section 4989.14;
- Licensed Marriage and Family Therapist pursuant to Business and Professions Code section 4980.02;
- Licensed Clinical Social Worker pursuant to Business and Professions Code section 4996.9; or
- Licensed Psychologist pursuant to Business and Professions Code section 2903; or
- Pupil Personnel Services Credential that authorizes school psychology.


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Residential Placement

IDEA provides that:

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child.

34 C.F.R. 300.104.

Key Question: What evidence exists that Student would be unable to attain education benefit outside of a residential treatment facility?


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Placement Must be for Educational Purposes

Must focus on whether placement is necessary for **educational purposes**, or whether the placement is a response to medical, social, or emotional problems that is necessary quite apart from the learning process.

Clovis Unified School District v. Cal. Office of Admin. Hearings (9th Cir. 1990) 903 F.2d 635.



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Substance Abuse Treatment

LEAs are not responsible for the provision of substance abuse treatment to a disabled student even when the substance abuse interferes with the student's education and is intertwined with emotional disturbance or other disabling condition.

See e.g., P.K. v. Bedford Cent. School Dist. (S.D. N.Y. 2008) 2008 WL 298648, *Blickle v. St. Charles Cmty. Unit Sch. Dist. No. 303* (N.D. Ill. 1993) 1993 WL 286485.



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Residential Placement: Case Example

Edmonds School District v. A.T., 74 IDELR 218 (9th Cir. 2019)

Parents sought reimbursement for unilateral placement of teenager with ADHD, ODD, and schizophrenia in a residential placement.

District argued that residential placement was solely due to medical needs because he could perform well academically when medical conditions were under control.



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Residential Placement: Case Example

Edmonds School District v. A.T., 299 F.Supp.3d (9th Cir. 2019)

Support services student received at residential facility included psychological services, social work services, therapeutic recreation, counseling, and medication management.

All services were considered related services under IDEA which were necessary for Student to receive FAPE.

Needed those services in a residential setting to address truancy and tendency to elope – both which significantly impeded his learning.



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Residential Placement: Case Example

M.S. v. Los Angeles Unified Sch. Dist., 73 IDELR 195 (9th Cir. 2019)

Dept. of Children and Family Services (DFCS) placed student in a locked residential treatment facility for mental health reasons pursuant to a Juvenile Court order.

Court held that Student's IEP team still must independently consider whether she requires residential placement for educational reasons.

DFCS and District have different criteria in determining the appropriateness of residential placement.



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Residential Placement: Case Example

M.S. v. Los Angeles Unified Sch. Dist., 73 IDELR 195 (9th Cir. 2019)

IEP teams should still consider whether a student requires residential placement **for educational reasons** even when the Juvenile Court has ordered residential placement to be funded by another public agency.

Notably, the Court in this case expressly took no position regarding which public entity may ultimately be responsible for payment of residential treatment services in the event that multiples entities, like DCFS and a local school district, independently decide a particular residential placement is appropriate for a given child under the agencies' respective statutory frameworks and obligations.



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Your Questions!

Do all team members need to do an observation for an assessment? Or just psych? Or can an IEP team member other than the psych



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Your Questions!

Do districts/attorneys recommend Multidisciplinary Team reports (where all assessors combo information into one written report and collectively sign) or individual assessor reports (traditional method)? Or either?



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Your Questions!

What if a parent asks you not to look at an area for assessment... for example, parents says “please do not consider ID”



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Your Questions!

I have heard previously that we should legally only include previous assessment scores if we were the ones who conducted the assessment. I was told that we should not include previous assessment scores if they were completed by a different assessor. Could you provide some clarity on this?



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Your Questions!

I have only heard that if a student has an open assessment and they came to me with assessments previously done. Basically, do I trust those scores or do I need to do my own?



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Your Questions!

Do you have any legal advice for students engaging in school refusal?



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THANK YOU!

Heather M. Edwards

EDWARDS, STEVENS & TUCKER LLP

Tel: (916) 565-7697

E-mail: edwards@ESTattorneys.com

Website: ESTattorneys.com



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