



ECHO IDAHO: **K12 School Nurses**

Section 504 and IEP Considerations

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Please keep in mind that your School District policies and Health Services procedures, medication administration protocols, process guidelines, remain the guiding principles to your practice.

None of the planners or presenters for this educational activity have relevant financial relationship(s) to disclose with ineligible companies whose primary business is producing, marketing, selling, re-selling, or distributing healthcare products used by or on patients.

Learning Objectives

- Understand the role of school nurses as it pertains to section 504 and the Individuals with Disabilities Education Act (IDEA).
- Understand how school nurses fit into the related services framework.

IDEA

- Three Prongs of IDEA Eligibility:
 1. Meet one of the 14 eligibility categories
 2. The disability has an academic impact
 3. The student requires specially designed instruction.

IEPs Definition and Description

- The IDEA defines an IEP as "a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with 34 CFR 300.320 through 34 CFR 300.324. " 34 CFR 300.22. Among other requirements, an IEP must include a statement of the child's current educational performance, articulate measurable educational goals, and specify the nature of the special services that the district will provide. 34 CFR 300.22 ; and 34 CFR 300.320 (a).
- The IEP sets forth the FAPE that is offered to the child with a disability. If an IEP fails it is likely a denial of FAPE.

Who is Eligible to be Covered Under Section 504?

- Any person who:
 - Has a mental or physical impairment which substantially limits one or more major life activities.
 - Is discriminated against based upon a record of such impairment, or
 - Is discriminated against based upon being regarded as having such an impairment.

IEP v. 504

- An IEP provides specialized instruction and supports to allow academic progress.
 - Specially designed instruction.
- A 504 Plan is provided for students with a disability so they can access their educational environment at the same level as their non-disabled peers.

Role(s) of School Nurses

- School nurses may have obligations to refer students with health conditions for evaluation under the IDEA or Section 504.
- May be required to provide related services to students with disabilities in school or on the bus
- May be required members of an IEP or 504 team for a particular student with a medical condition

Role(s) of School Nurses

- **Child-find:** School nurses may have obligations to refer students with health conditions for evaluation under the IDEA or Section 504.
 - School nurse may be the first individual to have reason to suspect a disability and thus, have the obligation to refer the student for a possible evaluation. *Jana K.* (holding that the district's knowledge of the student's declining grades, frequent visits to the school nurse, and acts of self-harm were sufficient to trigger the district's child find duty).
- **Individual Healthcare Plan:** Just because a student's health needs can be accommodated with a health plan does not mean the district is relieved of its obligation to refer the student for a 504 evaluation.
 - The "individualized health management plan" a district created to address the pancreatitis-related dietary needs of a student who had frequent medically related absences was not equivalent to a 504 plan. *Springer.*

School Nursing as a Related Service

IDEA

- Related services mean transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education. Related services under the IDEA include school nurse services. 34 CFR 300.34 (a). School nurse services are services provided by a qualified school nurse. 34 CFR 300.34 (c)(13).

Section 504

- Generally, related aids and services under Section 504 are interpreted as being substantially similar to related services under the IDEA. Section 504 requires districts to provide students with disabilities health-related services, which may include services provided by a nurse, that must be performed during the school day to allow the student to benefit from his education.

School Nursing as a Related Service

- A child must be provided school nurse services if the student needs the services to receive FAPE, as indicated in the child's IEP or Section 504 plan. 71 Fed. Reg. 46,574 (2006)
- EXAMPLES
 - Unclear whether a large school's only nurse could reach a preschooler with cerebral palsy in time if he aspirated during a G-tube feeding, the child needed a full-time nurse. *School Dist. of Philadelphia.*
 - A student with complex medical needs required a full-time nurse at school. *Prince George's County.*

School Nurse Role on IEP Team

- Not “required” team member, but can be helpful
- Assessing “need” vs “nice to have”
- Ask the question, “Is nursing service required to allow the student to benefit from his/her education?”
- EXAMPLE
 - Concluding that a district did not have to provide a student nursing services because they were not necessary for him to receive FAPE and would only serve to make him more comfortable. *Gwinnett*.
 - Lyndon: Diabetic Student Example

FERPA & HIPAA

- Federal Guidance: *Joint Guidance on the Application of FERPA and HIPAA | HHS.gov*
- Key points:
 - In most cases FERPA overrides HIPAA in schools.
 - Examples.

Questions?



References

- *Jana K. v. Annville Cleona Sch. Dist.*, 63 IDELR 278 (M.D. Pa. 2014)
- *Springer (NM) Mun. Schs.*, 111 LRP 65450 (OCR 06/17/11)
- *School Dist. of Philadelphia*, 12 ECLPR 5 (SEA PA 2014)
- *Prince George's County (MD) Pub. Schs.*, 123 LRP 15915 (OCR 02/28/23)
- *Gwinnett County Sch. Dist.*, 64 IDELR 92 (SEA GA 2013).
- <https://www.hhs.gov/hipaa/for-professionals/special-topics/ferpa-hipaa/index.html#:~:text=The%20U.S.%20Department%20of%20E%20ducation%20and%20the%20office%20for%20Civil>