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**When Does a
Mental Health
Concern
Become
a Special
Education Issue?**
Determining When
a Referral is
Warranted

Understanding the
Legal Standards

Child Find Under IDEA & 504
Emotional Disability
Adverse Impact on
Educational Performance

Child Find: Reason to Suspect—IDEA

“School districts must seek to evaluate students with suspected disabilities within a reasonable time after the school district is on notice of facts or behavior likely to indicate a disability.”

Dallas ISD v. Woody, 865 F.3d 303(5th Cir—2017);
W.B. v. Matula, 67 F.3d 484 (3d Cir—1995)

North Kansas City (MO) #74 School District
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Child Find: Reason to Suspect--§504

“The Section 504 regulation at 34 C.F.R. § 104.35(b) requires recipients to establish standards and procedures for the evaluation and placement of individuals who, because of disability, need or are believed to need special education or related services.”

North Kansas City (MO) #74 School District,
72 IDELR 166 (OCR 2017)

IDEA Eligibility? Emotional Disability

(i) Emotional [disability] means a condition exhibiting one or more of the following characteristics **over a long period of time and to a marked degree that adversely affects a child's educational performance:**

(A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(C) Inappropriate types of behavior or feelings under normal circumstances.

(D) A general pervasive mood of unhappiness or depression.

(E) A tendency to develop physical symptoms or fears associated with personal or school problems.

(ii) Emotional [disability] includes schizophrenia. The term does not apply to children who are socially maladjusted, unless it is determined that they have an emotional [disability] under paragraph (c)(4)(i) of this section.

34 C.F.R. 300.8(c)(4); 19 TAC 89.1040(c)(4)
(emphasis added)

IDEA vs. 504 Eligibility? Adverse Impact

Section 504 Eligibility

Substantial limitation of a major life activity? (i.e., consider general performance):

- Concentrating
- Sleeping
- Eating
- Self-care
- Emotional regulation

IDEA Eligibility

Adversely impacts educational performance? (i.e., consider progress in the TEKS):

- Attendance
- Engagement with instruction
- Availability during instructional time

Scenarios: Circumstances to Consider

- The student exhibited chronic absenteeism, missing 25–29 days in multiple core classes each year, with most absences excused by parents for travel or minor ailments.
- When she attended class, teachers consistently reported that she performed well academically, demonstrated comprehension, and showed no behavioral, psychological, or health-related indicators of a disability.
- Her academic failures were attributed to inconsistent attendance and refusal to seek extra help, not to any observed emotional, behavioral, or cognitive impairment.

A.P. v. Pearland ISD, 125 LRP 30747 (5th Cir—2025)

Scenarios: Circumstances to Consider

- The student experienced a psychotic break, was hospitalized, and was diagnosed with schizophrenia, resulting in significant emotional fragility and a need for a highly structured, closely monitored learning environment.
- After discharge, she exhibited ongoing psychological vulnerability, requiring stability, limited transitions, and continued psychiatric intervention to function in an educational setting.
- Professionals emphasized that a change in school placement could lead to relapse or emotional destabilization, indicating that her emotional condition materially affected her ability to access and benefit from instruction.

Dallas ISD v. Woody, 865 F.3d 303 (5th Cir—2017)

Scenarios: Circumstances to Consider

- The student displayed disrespectful, noncompliant, and disruptive behaviors after a recent interstate move, including repeated disciplinary referrals, a brief psychiatric hospitalization, and an arrest following escalation at school.
- School staff viewed the behaviors as within the range of what might be expected for an adjusting 13-year-old and implemented classroom-level and Section 504 interventions, concluding they did not yet suspect a disability requiring IDEA evaluation.
- Given the student's short enrollment, lack of prior special-education history, recent major life transition, and absence of clear disability indicators, the Sixth Circuit held the district did not overlook signs of disability and did not violate child find.

*J.B. v. Wilson County Board of Education,
61 F.4th 494 (6th Cir—2023)*

Scenarios: Circumstances to Consider

- The student experienced sudden-onset emotional crises—suicidal ideation, hospitalization, and school refusal—but these symptoms were recent in onset, and the district reasonably concluded they did not yet meet IDEA's requirement that ED characteristics exist “over a long period of time.”
- The district provided 504 supports, monitored the student closely, and initiated an IDEA evaluation immediately after the second hospitalization, leading to an eligibility determination within weeks.
- The Second Circuit held that the district acted with appropriate deliberation and reasonable speed, complied with Child Find, and provided a FAPE through STRIVE and its postsecondary transition planning.

*M.P. v. West Hartford Board of Education,
885 F.3d 735 (2d Cir. 2018)*

Scenarios: Circumstances to Consider

- The student had a documented history of behavioral disorders—including PTSD, ADHD, and OCD—and had previously required special-education services due to significant behavioral incidents, yet the district assumed she no longer needed IDEA supports when she re-enrolled.
- During 10th grade she showed clear academic decline, failing to complete half her expected credits, performing poorly on the PSAT, and demonstrating worsening behavior culminating in an October 2014 psychiatric hospitalization for theft-related incidents.
- The Fifth Circuit held that these combined indicators—long-standing behavioral conditions, deteriorating academic performance, and a serious hospitalization—required the district to act much earlier, and that its four-to-six-month delay constituted an unreasonable Child Find violation resulting in denial of FAPE.

Krawietz v. Galveston ISD, 900 F.3d 673 (5th Cir. 2018)

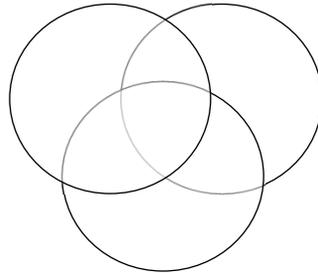
Don't let this be you: Common Mistakes

- Assuming conditions are 'short-term'—review the situation over time
- Over-focus on grades
- Relying on 504 without regard to declining conditions
- Under-emphasizing hospitalizations
- Misapplying 'over a long period of time'
- Considering concerns in isolation rather than part of a single picture of adverse impact

Adverse Impact: An Analytical Model

Attendance:

- Anxiety-based avoidance
- Depression-related fatigue
- School refusal
- Hospitalizations or partial-day attendance



Engagement:

- Withdrawal, shutdown, freezing
- Inability to sustain attention
- Inconsistent work production
- Lack of participation in group work
- Peer Distractions

Availability:

- Refusal to remain in class or assigned areas
- Behavior that interrupts instruction
- Emotional dysregulation requiring removal
- Recurring visits to nurse/counselor/ other settings, even with permission

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↑ **STAY IN TOUCH** ↑

The information in this handout was created by Walsh, Gallegos, Kyle, Robinson & Roalson, P.C. It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.

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