



## **Supporting Mental Health, Anxiety, and Hidden Disabilities Under Section 504**

Presented by

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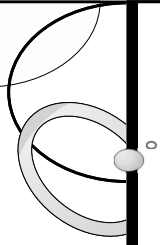
## **Students with Mental Health Issues**

A problem exacerbated by the COVID pandemic, but already was an escalating problem (anxiety, depression...)

No duty to provide or improve condition, but services addressing mental health issues that particularly affect FAPE may be required.

This is the “growth area” in Section 504, and schools must respond accordingly (awareness, ideas, resources, implementation).

Mental health disabilities raise legal issues in a variety of areas, including child-find, eligibility, attendance, services...



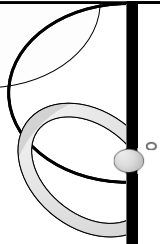
## **Child-Find**

### ***Zamora v. Hays Cons. Ind. Sch. Dist.*, 79 IDELR 12 (W.D.Tex. 2021)**

Middle-schooler diagnosed with ADHD, depression and an anxiety disorder misses some school and goes to nurse a lot.

When parents asked about §504, a meeting was held, and a §504 Plan put into place with accommodations (extra time, breaks, reminders, notetaking assistance).

In high school parents ask for sp ed evaluation, but then refused to sign consent. (??)



## **Child-Find**

### ***Zamora v. Hays Cons. Ind. Sch. Dist.*, 79 IDELR 12 (W.D.Tex. 2021)**

Parents submitted a psychiatrist's letter indicating student had generalized anxiety disorder (GAD) and requesting §504 Plan (school knew, and student was already on a §504 Plan).

Before giving consent to evaluate, parents filed for due process.

Parents placed student in a charter school (where he had attendance problems).



***Zamora v. Hays Cons. Ind. Sch. Dist., 79 IDELR 12 (W.D.Tex. 2021)***

HO had to order parents—twice—to submit the student for evaluation by the District.

Evaluation concluded student was not IDEA-eligible and HO ruled for the District.

On appeal, Court noted that parents had asked for §504 Plan, not sp ed, and that a district “does not commit a Child Find violation merely because it pursues §504 accommodations before pursuing a special education evaluation.... There may be cases where intermediate measures are reasonably implemented before resorting to evaluation.”



***Zamora v. Hays Cons. Ind. Sch. Dist., 79 IDELR 12 (W.D.Tex. 2021)***

With his §504 Plan, student received all As and Bs, including in AP classes, and scored at “Masters” level on State tests.

Court thus found §504 Plan was addressing student’s needs.

Moreover, Court also found that District did not delay in evaluating the student under IDEA after he was formally diagnosed with GAD, but the parents failed to consent.

Private Dr’s letter, moreover, only recommended §504, not special education services.



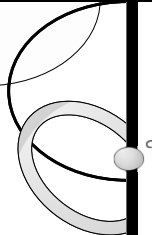
***Zamora v. Hays Cons. Ind. Sch. Dist.*, 79 IDELR 12 (W.D.Tex. 2021)**

*Notes*—A well-developed and executed §504 plan can save an IDEA child-find challenge in the right situations.

Note the recurring issue of students with anxiety taking the highest-stress advanced classes...

(Tactically, it cannot help a parents' child-find claim to refuse consent for evaluation when offered it...).

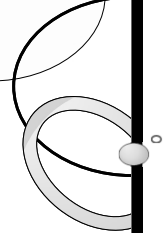
*See similar cases*—***G.D. v. West Chester Area Sch. Dist.*, 70 IDELR 180 (E.D.Pa. 2017)**(§504 plan sufficient for gifted student with anxiety; no child-find violation); ***Doe v. Brighton Sch. Dist. 27J*, 81 IDELR 218 (D.Colo. 2022)**(§504 plan sufficient for teen with PTSD; no child-find violation).



See also, ***Adams County Sch. Dist. #27J*, 76 IDELR 28 (SEA Colorado 2019)**, where a high-school junior was diagnosed with anxiety, depression, and PTSD that was addressed in a §504 plan.

Although the parents asserted she needed special education, the Hearing Officer found that, with her 504 plan, the student successfully completed grade-level courses in her junior year and her school psychologist testified she needed only accommodations such as extra time and homebound instruction.

Thus, the student did not need special education.



*Contrast Case*—At times, however, the mental health problems and need are simply too much for just a §504 Plan. In ***District of Columbia Pub. Schs., 123 LRP 1265 (SEA DC 2022)***, for example, a §504 plan was insufficient for a student with a long history of severe depression, anxiety, suicidal ideations and attempts, hospitalizations, and emergency room visits. The HO found that the school’s delay in evaluating under IDEA for more than a year, despite knowledge of the severity of the issues, constituted a child-find violation (and reimbursement for private school).



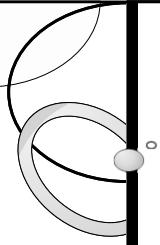
## **Child-Find**

### ***Wake County (NC) Pub. Sch. Dist., 125 LRP 25406 (OCR 2025)***

Student had long COVID, ADHD, Anxiety, and Depression.

At the beginning of the school year, staff had acknowledged that the student would likely need a §504 plan.

Instead of starting with a 504 evaluation and potential plan, the District evaluated her under IDEA, and the evaluation concluded she did not qualify for sp ed.



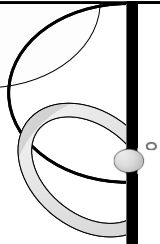
## **Child-Find**

### **Wake County (NC) Pub. Sch. Dist., 125 LRP 25406 (OCR 2025)**

Thus, the student had no plan at all for months while the District pursued the IDEA evaluation.

OCR found that there was untimely child-find under §504.

*Lesson*—If disability and need are apparent, start with 504 evaluation even if a sp ed evaluation is in process, so the student has some help while the lengthy IDEA evaluation process moves forward.



## **Child-Find**

### **Farmington (MO) R-VII Sch. Dist., 79 IDELR 20 (OCR 2021)**

A variant on the previous case involved a teenage girl who had been diagnosed with multiple mental health conditions and had received treatment at a facility.

Her mother informed the school and provided consent for staff to communicate with facility staff about the student.

The District conducted an IDEA evaluation that concluded she did not qualify for sp ed, but there was no follow-up 504 evaluation.



## **Child-Find**

### ***Farmington (MO) R-VII Sch. Dist., 79 IDELR 20 (OCR 2021)***

OCR found a 504 child-find violation and the District agreed to corrective action.

*Note*—504 designees need to coordinate with sp ed staff to ensure that in these situations, a 504 referral takes place.

That the student is not in need of sp ed does not mean she will not qualify for, and does not need, §504 plan services.



- **Child-Find Takeaways**

Take care not to over-rely on academic performance in making the child-find decision—students can qualify under §504 if they have a mental condition that impacts brain function, thinking, or concentrating (all major life activities).

Developing a solid §504 plan, when appropriate, can help student and assist in disputes involving timing of child-find, but effectiveness must be monitored.

If the condition is severe, and may require modified instruction or a specialized setting, a sp ed referral may be warranted.



- **Child-Find Takeaways**

When worrisome factors start coming together (excessive absences, parent concerns, private diagnoses, private treatment, social issues, work refusal), it's time to offer a §504 evaluation.

The presence of mental health diagnoses puts potential §504 or IDEA eligibility in play immediately, so careful with Rtl/gen ed interventions (are they really tailored for this type of problem? If you have disability plus some degree of difficulty justifying Rtl, are you not at the point of §504 eligibility anyway?).



## **Evaluation**

- Since the early 90's, OCR has clarified that a formal private diagnosis of a condition is not required for §504 eligibility.
- But, a 504 committee must have sufficient information, from a variety of sources, to find that the student has a physical or mental impairment.
- With some conditions, such as ADHD, the finding is simplified by checklist instruments (ADDES, Conners).



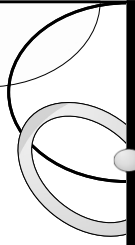
## Evaluation

- With mental conditions, such as depression or anxiety, it can be difficult to determine if the symptoms are circumstantial (i.e., natural reaction to a stressor) or pathological, or whether they truly fall into the atypical range.
- In most cases, parents will provide an existing private diagnoses that can be factored in with school-based information in the evaluation process.
- If there is suspicion of a mental health condition with apparent need for services, but no outside diagnoses, a sped evaluation might need to be considered.



## Evaluation

- Moreover, while the 504 evaluation process is pending, if the student commits a disciplinary offense, the district might want to wait until the conclusion of the evaluation and eligibility determination to proceed with its disciplinary action (as the student would be entitled to an MDR if eligible), as the following case shows....



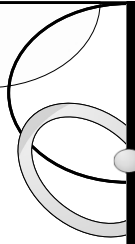
## Evaluation

### **Charlotte-Mecklenburg (NC) Schs., 117 LRP 7677 (OCR 2016)**

High-school senior in the District's IB program was hospitalized twice for mental health concerns.

Counselor initiated the §504 referral process as a result.

But, before the process could be finalized, the student committed a serious offense (communicating threats), and the school proceeded to disciplinary action and alternative placement without finalizing the 504 evaluation or conducting an MDR.



## Evaluation

### **Charlotte-Mecklenburg (NC) Schs., 117 LRP 7677 (OCR 2016)**

OCR determined that the failure to complete the evaluation, determine eligibility, and conduct an MDR prior to disciplinary placement resulted in a denial of FAPE in violation of §504.

*Note*—Although there is no actual regulation extending disciplinary protections to students pending the 504 evaluation process, a district cannot proceed to disciplinary change in placement without first determining if the student is 504-eligible and thus entitled to a prior MDR.



## Eligibility

### ***Independent Sch. Dist. No 283 v. E.M.D.H., 74 IDELR 19 (E.D.Minn. 2020), aff'd 76 IDELR 203 (8<sup>th</sup> Cir. 2020)***

High-schooler had depression and anxiety (and a number of other diagnoses over time), with an apparent capacity to comprehend and master class work, but with recurring attendance problems since elementary school.

In middle school, the student expressed she was afraid to go to school, stopped attending altogether, and was disenrolled.



- ***Independent Sch. Dist. No 283 v. E.M.D.H., 74 IDELR 19 (E.D.Minn. 2020).***

She began 9<sup>th</sup> grade, but attendance quickly became irregular, and she was admitted (again) to a day treatment program, and later, to an in-patient program in Wisconsin.

At the beginning of 10<sup>th</sup> grade, the school placed her on a §504 plan (extra time, shortened work, check-ins with teachers, breaks from class, pass to counselor's office, fidget device), but she was again disenrolled due to mounting absences.



- ***Independent Sch. Dist. No 283 v. E.M.D.H., 74 IDELR 19 (E.D.Minn. 2020)***

She re-enrolled 11<sup>th</sup> grade, school agreed to evaluate for sp ed.

While District evaluation was pending, student was offered a self-paced online learning environment. She attended only three days.

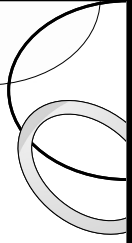
IEP team ultimately concluded student did not meet eligibility criteria under IDEA because her conditions did not adversely impact her educational performance, and because her impairments did not manifest in the classroom setting.



- ***Independent Sch. Dist. No 283 v. E.M.D.H., 74 IDELR 19 (E.D.Minn. 2020)***

With quick analysis, Court found that the student was both SED and OHI, as “her several diagnoses...appear to have directly impacted her attendance at school.”

”No one disputes that the Student excelled on standardized tests; neither can anyone dispute that her absenteeism inhibited her progress in the regular curriculum.”

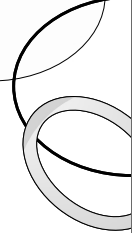
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- ***Independent Sch. Dist. No 283 v. E.M.D.H.*, 74 IDELR 19 (E.D.Va. 2020), aff'd 76 IDELR 203 (8<sup>th</sup> Cir. 2020)**

On appeal, the 8<sup>th</sup> Circuit agreed that the student wasn't missing school as a result of bad choices, "but rather as a consequence of her compromised mental health, a situation to which the IDEA applies."

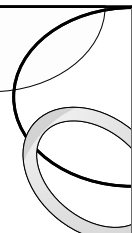
It also noted that "[t]his Student may not present the paradigmatic case of a special education student," but the District failed to offer her a FAPE.

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- ***Independent Sch. Dist. No 283 v. E.M.D.H.*, 74 IDELR 19 (E.D.Va. 2020), aff'd 76 IDELR 203 (8<sup>th</sup> Cir. 2020)**

*Note the school's misconception at work here*—if the student is bright and able to perform when in the classroom, then the mental health conditions are not adversely impacting education, even if she is failing and cannot finish school years...

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- ***Independent Sch. Dist. No 283 v. E.M.D.H.*, 74 IDELR 19 (E.D.Va. 2020), aff'd 76 IDELR 203 (8<sup>th</sup> Cir. 2020)**

*Note*—Here, it is hard to argue a §504 plan is addressing the disability-related problems when the student is not attending school, is in and out of treatment programs, and clearly in distress—at least in part—from mental health conditions.

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- ***Independent Sch. Dist. No 283 v. E.M.D.H.*, 74 IDELR 19 (E.D.Va. 2020), aff'd 76 IDELR 203 (8<sup>th</sup> Cir. 2020)**

*Note*—Indeed, some schools have simply ignored the student's mental health diagnoses, hospitalizations, and frequent visits to the counselor's office in determining a student was not eligible under §504. See ***Lauren G. v. West Chester Area Sch. Dist.*, 60 IDELR 4 (E.D.Pa. 2012)**.

The Court found that the student's depression and OCD substantially limited her learning, and that the school's failure to find her 504-eligible amounted to a denial of FAPE, thus entitling the parents to tuition reimbursement.



- ***F.C. v. Irvine Unified Sch. Dist., 125 LRP 2497 (C.D.Cal. 2025)***

A 17-year-old with a rare neurological disorder (Kleine-Levin Syndrome) slept all day for weeks on end.

Once he returned to school after an episode, however, he understood the curriculum, performed on grade level, and earned mostly A's and B's with the help of his 504 Plan accommodations.

His parents filed a sp ed legal action seeking IDEA eligibility and reimbursement for private placement.



- ***F.C. v. Irvine Unified Sch. Dist., 125 LRP 2497 (C.D.Cal. 2025)***

The Court found that the student's 504 Plan, with accommodations for reduced workload and make-up classes could appropriately "fill any gaps after prolonged absences due to a KLS episode."

*Note*—The KLS episodes lasted a few weeks, but the student had good academic abilities, which meant that he was able to catch up with a plan for make-up work under a 504 plan, without the need for any specialized or modified curriculum instruction.



- ***F.C. v. Irvine Unified Sch. Dist.*, 125 LRP 2497 (C.D.Cal. 2025)**

*Note*—Lastly, the Court also found that the private school would essentially offer the student what the public school was already providing with success.



- **Eligibility Takeaways**

It should be well-established that limitation on a major life activity is comprehensive of non-academic effects (e.g., behavior, absences, socialization difficulties, withdrawal).

Likewise, for students with mental health issues, §504 plans may be needed for purely non-academic reasons.

Careful with facile findings—without solid support—that students are engaging in willful refusal to attend or perform work.



- **Eligibility Takeaways**

Students with anxiety may present a "mixed bag," where part of the difficulties are due to disability and part are due to non-disability factors (e.g., family issues, willful behavior, attitudinal issues, etc), and where it is virtually impossible to parcel out the respective causes.



## **Attendance**

Perhaps the most vexing potential symptom of students' mental health problems is difficulty attending school regularly.

At times, academic demands can generate anxiety, leading to problems completing schoolwork, creating a vicious cycle.

Obviously, failure to attend has immediate impact on both academic and non-academic progress.

*Difficult Sub-Question*—When is the behavior willful non-attendance and when is it a result of the student's mental health diagnoses?



## Data Overview

### How many students are chronically absent from school?

16% of US public School students missed 15 or more days of school in 2015-16 school year (over 7 million students).

Minority students and English language learners are more likely to be chronically absent.

Students with disabilities are 1.5 times more likely to be chronically absent than nondisabled students.

The problem is most acute at the high school level (more than 20% of students are chronically absent).



## Data Overview

**Impact on reading?** Children who are chronically absent in PreK, K, and 1<sup>st</sup> grade are much less likely to read at grade level by the 3<sup>rd</sup> grade.

And, students who do not read at grade level by 3<sup>rd</sup> grade are 4 times more likely to drop out of high school.

Utah study indicates that chronic absences in just one school year between 8<sup>th</sup>-12<sup>th</sup> grade is associated with a sevenfold increase in likelihood of dropping out.

Impact of drop-out? More poverty, poorer health, more criminal justice involvement



## Data Overview

### Sources

*Chronic Absenteeism in the Nation's Schools: A Hidden Educational Crisis* (US Dept. of Education—updated January 2019)

*Why Is School Attendance Important? The Effects of Chronic Absenteeism* (AU School of Education Online Programs—January 14, 2021).



- **Berkley (MI) Schs., 125 LRP 8405 (OCR 2024)**

Middle-schooler with apparent mental health disorders (unspecified) and a 504 Plan exhibited excessive absences.

Parent expressed concern to the school about the student's increased absences and the amount of instruction she had missed.

She indicated to school officials that the student's disability "made it harder for her to attend school."

Nevertheless, the 504 committee did not meet to reevaluate the student's worsening situation.



- ***Berkley (MI) Schs., 125 LRP 8405 (OCR 2024)***

OCR expressed concern that the untimely reevaluation may have denied the student a FAPE, so the school agreed to a corrective action plan.

*Note*—If a student with mental health issues starts missing more school, 504 committee must meet to ascertain if the absences are due to the condition, and to make changes to the 504 plan to promote improved attendance (counseling, BIP, ideas for parent to implement at home, etc...).

Here, it was fairly clear that the student’s worsening mental health issues were the cause of the absences—that is not always the case, as can be seen in the next case....



- ***N.S. v. Randolph Bd. of Educ., 75 IDELR 103 (D.N.J. 2019)***

Student excelled academically and had no attendance problems from 6<sup>th</sup> to 10<sup>th</sup> grade.

He had a §504 plan based on a diagnosis of GAD, but was unwilling to attend school or work in home instruction.

His teachers saw no signs of anxiety at school, and he only stopped attending when he reached the end of compulsory attendance age.



- ***N.S. v. Randolph Bd. of Educ.*, 119 LRP 387700 (D.N.J. 2019)**

Court found that his anxiety was not the cause of his failure to attend school.

Thus, his anxiety did not require special ed, and there was no IDEA child-find violation.

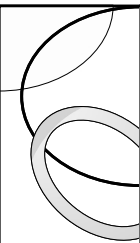
Parents' request for residential placement was denied ("there is evidence that plaintiffs decided to place him at Waypoint prior to the District's eligibility meeting to reduce stress and chaos in the home").



- ***N.S. v. Randolph Bd. of Educ.*, 119 LRP 387700 (D.N.J. 2019)**

*Notes*—Here, the fact that the student's mental health issues did not have an impact on his attendance until he reached the end of compulsory attendance age indicates that this was a willful decision, not a symptom of mental health issues.

Contrast with the *E.M.D.H.* case from earlier, where the student had exhibited attendance difficulties for as long as she had the mental health diagnoses. And, she always tried to attend early in the school years, only to experience problems finishing the years...



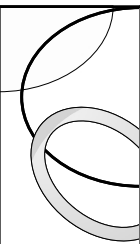
- **North Kansas City (MO) #74 Sch. Dist., 72 IDELR 166 (OCR 2017)**

9<sup>th</sup> grade girl was diagnosed with PTSD, depression, and anxiety.

She missed a significant amount of school due to hospitalizations and refusal to attend.

When at school, she sometimes left without permission or hid in the bathroom.

Despite the student's problems and the parent informing the District of the hospitalizations, no §504 evaluation was offered.



- **North Kansas City (MO) #74 Sch. Dist., 72 IDELR 166 (OCR 2017)**

The high school counselor had told the parent it was too late in the school year to have a 504 meeting.

When the parent filed a complaint with OCR, the District promptly held a meeting, but it was too late, as it had to agree to a corrective action plan with OCR that included consideration of compensatory services.

*Note*—Mental health conditions + resulting attendance problems = duty to refer to 504 (or IDEA).



## Homebound Placement

At times, a student's anxiety is such that they are unable to attend school or even leave the home, and homebound services may be the only feasible option for FAPE. **See, e.g., *Tindell v. Evansville-Vanderburgh Sch. Corp.*, 57 IDELR 71 (S.D.Ind. 2011).**

**Note on *Tindell* case**—Apparently, the student eventually began exhibiting an unwillingness to participate in homebound instruction as well.

Provision of instructional services in the home does not necessarily mean that the student will be willing to participate and engage in classwork, particularly independently.

Any homebound placement, from its inception, should be wedded to a gradual retransition plan back to school.



## Homebound Placement

Frequently sought by parents who are having trouble getting their children to school due to anxiety.

But, it is a double-edged sword that can entrench school avoidance, perpetuate problems with peer interaction, and lead to academic regression (which can itself cause more mental health problems).

Parents also might not understand that in a homebound setting, the student is expected to do their schoolwork independently, as the homebound hours will focus on instruction.

As a short-term measure with solid planning for transition back to school, it can be appropriate. The longer it goes, however, the more difficult the return to school.



## Response to Suicidal Ideations

Schools should have robust protocols and policies to respond to students who express suicidal ideations.

Generally, those policies call for informing parents and pointing them to mental health resources in the community.

Sometimes, however, schools can overreact in these situations in ways that contravene §504.

It is important to ensure students are not excluded from school due to their mental health conditions as part of the school's response to mental health crises.



## Response to Suicidal Ideations

### ***Boston (MA) Pub. Schs., 53 IDELR 199 (OCR 2009)***

A 16-year-old boy with neurological delays expressed a suicidal ideation to school personnel.

The school informed the parent, who arranged for treatment for the student.

District policy, however, required that the parent obtain a psychological evaluation and a “clearance letter” before the student could return to school.

The student wound up missing 17 days of school as a result.



## **Response to Suicidal Ideations**

### ***Boston (MA) Pub. Schs., 53 IDELR 199 (OCR 2009)***

OCR noted that the District failed to arrange for any services during the period the student was not allowed to return to school.

And, a 504 meeting to review the situation did not take place for 2 months.

OCR interpreted the forced removal as a disciplinary change in placement that had occurred without a prior 504 meeting/reevaluation, and thus violated §504.



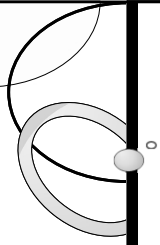
## **Response to Suicidal Ideations**

### ***Boston (MA) Pub. Schs., 53 IDELR 199 (OCR 2009)***

*Note*—Why is the school requiring the parent to obtain a psychological evaluation? If one is needed, it is the school's responsibility to conduct it.

Why does the student need a "clearance" letter to return to school? Prior to the student's return to school, the 504 committee should meet to address the student's situation and request consent to obtain records from the facility that is treating the student.

During the treatment period, work packets should be offered to the student.



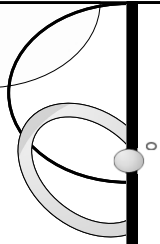
## **Response to Suicidal Ideations**

***D.M. v. East Allegheny Sch. Dist., 82 IDELR 171 (W.D.Pa. 2023)***

When a 9th-grader with learning disabilities was bullied at school, she developed anxiety, depression, and suicidal ideations.

The school responded by placing her in a “cyber-school” that offered no direct instruction.

After the parents filed a court action under §504/ADA, the school claimed her anxiety and depression were not disabilities under §504/ADA.



## **Response to Suicidal Ideations**

***D.M. v. East Allegheny Sch. Dist., 82 IDELR 171 (W.D.Pa. 2023)***

The Court disagreed, finding that the mental health conditions led to her having difficulty concentrating in class, academic struggles, skipping class, and suicidal ideations.

The parent’s claim, if proven, presented a valid case of discriminatory exclusion from school due to a mental health condition.

Thus, the Court refused to dismiss the case.



## **Response to Suicidal Ideations**

***D.M. v. East Allegheny Sch. Dist.*, 82 IDELR 171  
(W.D.Pa. 2023)**

*Note*—Why did the student’s committee not develop measures to address her anxiety at school? Why respond to mental health conditions and their symptoms by isolating a student at home with no instruction? Would that happen with a student with a physical impairment?....

Certainly, 504 committees can do more than that.



## **§504 Plan Services Issues**

Public schools do quite well with students with academic learning disabilities, and even for those with severe intellectual disabilities and autism, but mental health disabilities is an area where schools may still be in a “needs improvement” phase.

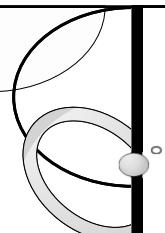
Unfortunately, we think of §504 services too much as an academic construct and not from a mental health perspective.



## §504 Plan Services Issues

This does not mean schools are responsible for treatment or improvement of underlying mental health disorders, but for providing the mental health services most necessary to facilitating equal educational opportunity.

Note the following excerpt from the July 2022 OSEP Discipline Q & A, at fn. 12:



“Additional services and supports, supplementary aids and services, and program modifications and supports for school personnel could include: **counseling** services for mental health needs (e.g., anxiety, depression, etc.); **social skill instruction**; explicit reinforcement of positive behavior (such as through a classroom token economy); **explicit instruction in stress, anxiety, and depression management**; consultation with a professional with expertise in behavioral interventions to create a positive behavioral support plan; increased access to counselors; access to **targeted strategies** based on peer-reviewed research to support social, emotional, behavioral, or mental health needs (**e.g., anxiety scaling, mindfulness exercises**); changing the student’s class schedule; training staff on additional positive behavioral supports and universal design for learning; and, access to consultation with related service providers and others with specialized expertise.”



## **Services Issues**

For students with mental health issues, there may be a need for mental health-oriented 504 plan services to enable the student to receive FAPE.

Ideally, the school-based based efforts are coordinated with outside mental health resources, if available, and if parents consent to the exchange of information.



## **Services Ideas**

### **Common Accommodations Ideas**

- Shortened assignments (to degree possible, in percentages)
- Alternatives to oral presentations
- Makeup work packets (if student falls behind)
- Extended deadlines (state extension for daily work and longer tasks)
- Tests in alternate location or small group
- Organizational aids (agenda, calendar, assignment lists)
- Avoid calling on in class unexpectedly
- Advanced notice of changes in schedule, substitutes
- Facilitate makeup work



## **Services Ideas**

### **Common Accommodations Ideas**

- Working with parents on documentation for excused absences
- Working with attendance officers
- Assignment of a "safe" person or persons in case of distress at school



## **Services Ideas**

### **Behavioral Interventions and Plans**

Depending on the FBA data, the 504 committee might focus on interventions such as:

- Positive reinforcement for attendance
- High-interest task at the start of the school day
- Close communication with parents
- Mentor or counselor meets student at start of day
- Counselor phone calls to home in early morning
- Counselor debriefs student at end of day
- Schedule high-interest class at start of day
- Safe "cool-down" location protocol



## Services Ideas

### Behavioral Interventions and Plans

**Caution**—”Cool-down” protocols must require close monitoring and logging of frequency of use, time in cool-down, effectiveness, as time in cool-down is lost instructional time.

Can become a task avoidance mechanism in some cases, so the 504 committee may want to set limits on frequency and time of use.



## Services Ideas

### Attendance Improvement Plan Ideas

Daily coordination with parent by messaging.

Assistance establishing a nighttime and morning routine.

Coordination with counselor.

Morning check-in with counselor (or other staff) to start the day.

Change in schedule to have preferred class first thing in the morning.



## Services Ideas

### Attendance Improvement Plan Ideas

As an aside, Texas law requires that school implement “truancy prevention measures” prior to filing of truancy action. See Tex. Educ. Code §§25.091, 25.0915.



## Services Ideas

### Counseling

Developing a good rapport with a school counselor can make all the difference in a student’s attendance.

Counselors can collaborate with parents and private counselors to coordinate approaches and share information.

*Note*—Parent consent is needed for school counselors to exchange information with private counselors. If the parents prefer, communication can be limited to school-based issues, such as attendance, and avoid discussion of family or non-school issues. Document offer and parents’ response.



## Services Ideas

### Counseling

504 committees should not decline to include counseling in 504 plan simply because a student has an outside counselor. Those counselors likely primarily address non-school issues, but can coordinate with school-based counselors.

**What if the student refuses to participate?** If the 504 committee believes the student needs counseling as a related service, it should be placed on the 504 plan, and then, if the student declines to participate, the counselor can encourage the student to participate and document their refusal.



## Services Ideas

### Counseling

**Session frequency and time?** These 504 committee decisions should be based on student's age, attention span, and the counselor's recommendations.

**Strategies?** OSEP's recent discipline guidance document mentions modern mindfulness techniques for anxiety that can help students live with their anxiety by emphasizing awareness of the present.

See, e.g., Sutton, *How to Use Mindfulness Therapy for Anxiety: 15 Exercises* (<https://positivepsychology.com/mindfulness-for-anxiety>); Hoffman, Sawyer, Witt & Oh, *The Effect of Mindfulness-Based Therapy on Anxiety and Depression: A Meta-Analytic Review* (American Psychological Assoc. 2022).



## Services Cases

### ***San Dieguito (CA) Union High Sch. Dist., 70 IDELR 114 (OCR 2021)***

A high-schooler with anxiety was on a 504 plan that included extended time for assignments.

But, the student started accumulating absences due to his condition.

Two of his teachers told the parent he would be unable to make up the work he had missed during his absences without “an overburden of stress” (one class was AP).

After the parent filed an OCR complaint, OCR found that the teachers may have unilaterally declined to provide the student with extended time.



## Services Cases

### ***San Dieguito (CA) Union High Sch. Dist., 70 IDELR 114 (OCR 2021)***

*Note*—It was the 504 committee’s job to meet and discuss how to address the spate of absences with some type of plan for making up the work.

Teachers cannot unilaterally decide the student will not be able to make up the work and will have to miss course credits.



## The Role of State Law Truancy Actions

**Risks to Schools**—When schools use punitive compulsory attendance or truancy laws to file legal actions against students or parents, and there are circumstances indicating the absences may be at least in part due to disability, legal repercussions are likely.

Before resorting to truancy actions, schools should ask themselves whether every 504 plan option has first been exhausted, as well as whether there is any likely benefit from a truancy filing, based on local experience with such actions.

**Risks to Students' Education**—At times, truancy actions can force parents into opting for homeschooling or self-paced online programs.



## The Role of State Law Truancy Actions

Easily, these filings can result in child-find or FAPE legal actions against the school.

And, some research indicates that referring children to the juvenile justice system for truancy appears to be ineffective in reducing truancy rates (see, e.g., Texas Appleseed, *Class, Not Court: Reconsidering Texas' Criminalization of Truancy* (March 2015)).