



## Student Mental Health and Child Find: An Important Topic for Summer Professional Development

June 3, 2019

On the heels of national mental health awareness month and as school districts begin planning their summer inservices, it is a perfect time for a refresher on the extent to which schools can and should address the mental health needs of students. Although schools are not mental health care providers, a student's mental health condition and related issues may trigger an obligation to refer the student for an evaluation under or the IDEA or Section 504.

When considering whether a referral is appropriate, it is critical that school districts comprehensively consider relevant data and information about an individual student. Information such as mental health diagnoses and treatment, attendance, grades, behavior and discipline should not be compartmentalized or considered in isolation. For example, the Wisconsin Department of Public Instruction has concluded the following:

Based on the facts in this case, the district had an independent obligation to refer the student for a special education evaluation. Independently, failing grades, behavioral issues and poor attendance do not trigger a district's obligation to refer a student for a special education evaluation; however, in the aggregate, these factors may give rise to such an obligation. The student was enrolled in the district's high school for nearly two years. During that time, the student experienced periods of low and failing grades. Also, the student incurred excessive absences, including hospitalization and regular outpatient mental health treatment. District personnel were aware that the student received regular mental health treatment and had been hospitalized for mental health issues. Finally, the student exhibited behavior which resulted in multiple suspensions. Combined, these factors triggered the district's obligation to refer the student for a special education evaluation.

*Unnamed School District*, IDEA Complaint Decision 15-002 (Wisconsin Department of Public Instruction, 2015).

In order to comply with the Child Find requirement of the IDEA and Section 504, and to meet the unique needs of each student, we recommend the following best practices:

1. Systemize the communication and documentation of relevant student data and information so that the District is able to consider, as a whole, comprehensive student information in consideration of its Child Find obligations.

2. Consider taking the following steps upon learning that a student has been admitted to a mental health treatment facility (the particular steps taken will depend on the child's unique needs):
  - a. Ask the parents for consent to obtain relevant, limited information from the treatment facility. In particular, the school district should ask for evaluation reports and/or exit reports containing diagnoses and recommendations that would assist the school in educating the child and ensuring the child's needs are met.
  - b. Parents may be hesitant to provide the requested information, as it may contain sensitive medical information relating to the student and family members. Engage in a dialogue with the parents and explain why the requested information will help the school educate their child. If the parents refuse to give consent, document the requests for consent and the parents' refusal.
  - c. Ask the parents whether the child is able to receive academic work at the hospital and send work as appropriate.
  - d. Consider a Section 504 or IDEA referral. The evaluation should consider any information obtained from the treatment facility, and additional assessments should be conducted if appropriate (particularly if it was not possible to obtain information from the treatment facility).
  - e. If the student already has a Section 504 Plan or IEP, the team should reconvene to consider the need for a re-evaluation, as well as the development or revision of a BIP.
  - f. Request the parent's permission for appropriate school staff to attend certain portions of the exit meeting at the treatment facility. Oftentimes, recommendations for the student's transition back to school will be discussed at this meeting.
  - g. The Section 504 or IEP team should discuss and develop a plan for the child's transition back to school after he or she is released from the treatment facility. If the student does not have a Section 504 Plan or IEP, the transition plan should be developed by a team of people with knowledge about the student, with input from the parents.
3. Communicate and coordinate with other service providers and entities (e.g., private therapist, county case worker) to the extent possible and appropriate.

If you have any questions about this Legal Update or would like assistance with [professional development for school staff](#) in this area, please contact Alana Leffler at [aleffler@buelowvetter.com](mailto:aleffler@buelowvetter.com) or 262-364-0267 or Gary Ruesch at [gruesch@buelowvetter.com](mailto:gruesch@buelowvetter.com) or 262-364-0263 or [your Buelow Vetter Attorney](#).

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