Schools are Required to Assess Students for Special Education Eligibility Based on a Range of Educational Factors

“IDEA and the regulations clearly establish that the determination about whether a child is a child with a disability is not limited to information about the child’s academic performance.”

-Alexa Posny, Assistant Secretary for Special Education and Rehabilitative Services [c. 2007]

Since the demise of AB 3632, some school officials have told parents that, despite serious mental health challenges that limit a child’s ability to attend school, follow classroom instruction or make friends, they will not assess the child for special education services because the child has demonstrated adequate academic performance. This position is unlawful and inconsistent with state and federal law.

Maybe the child passes all her classes. Maybe the child performs at grade level on standardized tests. Educational development is not limited to acquisition of specific academic skills. Schools are required to assess children for services based on their educational performance, not solely academic progress. Educational performance under federal law is clearly broader than receiving passing grades or scoring well on state tests. Federal law specifically embraces this principle when it recognizes the obligation of schools to provide services to

“any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.” (emphasis added) 34 CFR §301.101(c).

Further, to ensure that students who have mental health disabilities are assessed for special education, the Individuals with Disabilities Education Improvement Act (IDEA) clearly requires that schools include in their assessment process the use of “a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information,” which shall be used in determining if the child has a disability. 34 CFR § 300.304 (b)(1). While schools seek to limit the disabilities for which they assess, the law clearly states that assessment of a student involves “all areas related to the suspected disability, including, if appropriate, … social and emotional status, general intelligence, academic performance….“ (emphasis added) 34 CFR § 300.304(c)(4).

Despite serious mental health disabilities that impair social progress and development of life and vocation skills inherent to educational performance, a child may be able to obtain passing grades or acceptable test scores. That same child may, however, be isolated from her peers--unable to develop important social and communication skills. The child’s behavior may result in hospitalization or frequent “time outs” that disengage her from the classroom and broader educational community. To determine their obligation to assess for special education services, schools are legally mandated to look at the whole child and the child’s overall educational development and to assess for eligibility in a multitude of performance areas including social and emotional development.

Still have questions? Call Mental Health Advocacy Services at 213-389-2077, or Disability Right California at 800-776-5746 (voice) or 800-719-5798 (TTY)


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