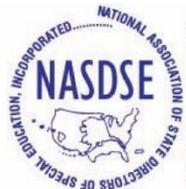


Chronic Absenteeism and Students with Disabilities: Health Issues of Students with Disabilities: Impact on Attendance

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The Every Student Succeeds Act (ESSA) that amended and reauthorized the Elementary and Secondary Education Act in 2015, requires states to develop a new accountability system that annually differentiates public school performance. Under ESSA, the system of accountability must include four academic indicators plus one or more new measures of an indicator called “school quality or student success.”¹ To meet this new requirement, designed to expand beyond test-based accountability systems, the majority of states (36 and DC) have chosen to measure student chronic absenteeism – either as the sole metric or one of a group of metrics (Jordan & Miller, 2017).

Absences that arise from health issues may require special consideration as chronic absenteeism gains attention across states that have chosen to use this metric in their statewide accountability systems under ESSA. This is especially the case for students with disabilities.

The purpose of this Brief is to provide basic information about students with disabilities who have chronic health conditions that cause or contribute to chronic and sometimes extended absences. These students have rights under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) to receive specialized or general instruction, health and other related services, and accommodations that help them remain in school and not be retained in grade.

Students with chronic health conditions, like other students, also are protected by the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The state and district are required to protect any sensitive personally identifiable information from unconsented disclosure.

Chronic absenteeism is a measure of how many students miss a defined number of school days for any reason—excused, unexcused, suspension. Most states using this metric in their accountability systems define chronic absenteeism as the number and percentage of students missing 10 percent or more of their school days in a year (Jordan & Miller, 2017).

Absences related to health conditions are included in a state’s chronic absenteeism data. Truancy (unexcused absences) overlooks the impact of health conditions on absenteeism. Similarly, average daily attendance (ADA) overlooks evidence that students may be missing school for health reasons.

¹20 U.S.C. §§6311(c)(4)(B)(v)

What Do We Know about Health-Related Absences Among Students with Disabilities?

National data on the characteristics and experiences of youth in special education (Liscomb, Haimson, Liu, Burghardt, Johnson, & Thurlow, 2017) indicated a much higher occurrence of health conditions among special education students. Specifically, chronic health conditions are nearly three times more common among youth with an Individualized Education Program (IEP) than among those without an IEP. Twenty-eight percent of youth with an IEP have a chronic physical or mental health condition that requires regular treatment or medical care according to parents, compared with 10% of their peers. The data also indicated that youth with an IEP are more likely than their peers to have poorer health, chronic conditions, and behavioral issues that need to be controlled medically.

There is also some evidence that students with health impairments and eligible for special education and related services are under counted (Morgan et al., 2015). This is because minority students in kindergarten through middle school are comparatively underrepresented in special education compared to similar white students from English-speaking families. Morgan et al. showed that students from families with lower levels of education or income, and without health insurance, are less likely to be recognized as having ‘other health impairments.’ For African American students, the odds of identification for ‘other health impairments’ was 64% lower than for similar white students.

Under-identification of children with health-related disabilities, especially children from racial and ethnic minority groups, can result from school districts failing to cast a wide enough net by failing to include some families who are not native-English speakers. It also sometimes is due to districts’ reliance on individual health plans instead of providing school-supported evaluations to students suspected of being in need of special education and related services they likely should receive. To meet their ‘Child Find’ obligations, districts should ensure that they recognize certain chronic health conditions that interfere with a student’s learning and attending school (e.g., Crohn’s disease, sickle cell disease, Tay-Sachs) as disabilities that warrant evaluation and consideration of eligibility under Section 504 and possibly IDEA.

Recent cases supporting the legal obligations of school districts in dealing with students with chronic health conditions include:

- **Tyler (TX) Independent School District:** The U.S. Department of Education Office for Civil Rights (OCR) found that the district was obligated under Section 504 to evaluate students with diabetes who may, because of their condition, require related aids and services.
- **Forest Hills (OH) Local School District:** OCR found that the district's practice of addressing the needs of students with diabetes strictly through health plans and conducting 504 evaluations only when parents specifically requested them violated Section 504.
- **Union County (NC) Public Schools:** OCR found that although the district provided services to the student pursuant to an Individual Health Plan (IHP), its failure to evaluate her to

determine whether she was eligible for services as a student with a disability under Section 504 denied the student a free appropriate public education (FAPE).

Parents, fearful that their children will be stigmatized, and denied future educational opportunities also may contribute to their chronic health needs not being met. This may happen when they are unwilling to share information about their children's health-related diagnosis, e.g., sickle cell disease (SCD) (Dyson, Atkin, Culley, Dyson, Evans, & Rowley, 2010) or symptoms, e.g., ADHD (Hervey-Jumper, Douyon, Falcone, & Franco, 2008; Hervey-Jumper, Douyon, & Franco, 2006) despite knowing that the condition is likely to interfere with the student's attendance and learning over time.

Some parents may be embarrassed by their child's disability (Zuckerman et al., 2014); others, such as parents of children with ADHD, are wary based on a perceived history of bias, lack of family history, research, and knowledge, and they are hesitant to accept both the ADHD diagnosis and pharmacological recommendations (Hervey-Jumper et al., 2008; Hervey-Jumper et al., 2006). Others may elect to remain silent, such as some African American parents of children with SCD, because they are aware that public knowledge of the genetic disorder primarily affecting persons of African descent is limited (Smith, Oyeku, Homer, & Zuckerman, 2006) and that persons with SCD are routinely challenged about the seriousness or even existence of their disease (Dyson et al., 2010).

Issues of trust, respect for privacy and cultural competence are paramount if parents are going to disclose sensitive health related information critical to their eligible children receiving supportive services and accommodations to educators, school nurses and other related services personnel. Training and professional development probably are essential, as suggested by one study in which educators "erroneously attributed the fatigue and chronic absences [of children with SCD] to low motivation, a chaotic family, drug problems, or [HIV]. None attributed these problems to [SCD]" (Koontz, Short, Kalinyak, & Noll, 2004).

School personnel should receive information about the range of health related needs of individual children. When parents and older students share this information, it can assist them in understanding and removing barriers to learning, and meeting these students' educational needs more effectively.

Legal Mandates

Both IDEA and Section 504 include mandates to identify and provide a Free Appropriate Public Education (FAPE) to eligible children with chronic health-related needs. Consistent with their affirmative "child find" obligations under IDEA, school districts must ensure that "[a]ll children with disabilities... who are in need of special education and related services, are identified, located, and evaluated."² Child find includes students "who are suspected of being a child with

² 20 U.S.C. § 1413(a)(1); 34 C.F.R. § 300.201, 34 C.F.R. § 300.111

a disability under IDEA and in need of special education, even though they are advancing from grade to grade.”³ Section 504 also requires school districts to identify and locate qualified students with disabilities.⁴

The importance of proactively providing school-based healthcare services, specifically delivered by nursing staff and school counselors or therapists to mitigate chronic absenteeism among students with chronic health needs is well established. Children with disabilities who have chronic health conditions should have access to school health services, including nurse services, to help monitor and manage their conditions during the school day. Students may also require accommodations, such as rest and hydration breaks, extra time between classes, or access to an elevator. Students with mental health needs may require access to counselors and school-based therapists in order to remain in school and benefit from instruction. All of these needs should be articulated in students’ IEPs or Section 504 plans to ensure they receive FAPE.

Too often children with health-related disabilities are deprived of the specialized instruction or related services and accommodations they need to remain in school to learn. To the extent children with IEPs or Section 504 plans are unable to remain in school because of chronic health conditions, they must be provided FAPE, e.g., through home or hospital-based instruction. For children whose pain is too great to attend school or even to be tutored at home, their right to FAPE should, upon their return to school, include supplemental instruction provided by qualified teachers and service providers to enable them to catch up and stay apace with their peers.⁵ Some children may also need to make up for lost learning resulting from their health conditions through an extended school year.

Districts should revise a student's IEP to address any lack of expected progress toward the annual goals described in the IEP and in the general education curriculum, if appropriate. When a student’s absences are interfering with his or her progress, the district should take steps to address the lack of progress. To do otherwise could be considered a denial of FAPE.

Recommendations

We provide several recommendations for states to consider as they develop policies and guidance for districts and schools to use in addressing the absences of students with disabilities that are related to health issues.

- **Formally document health issues that interfere with school attendance and steps to mitigate adverse outcomes from absences in the student’s IEP or Section 504 Plan.** If health issues that may cause absences arise during the school year, schools and districts should quickly update or revise the student’s IEP or 504 plan to include strategies and interventions responsive to the underlying causes of the absences.

³ 34 C.F.R. § 300.111(c)(1)

⁴ 34 C.F.R. §104.32

⁵ See Resolution Agreement, Boston Public Schools, Complaint No. 01-15-1075 (1/30/2018)

Documentation might include:

- Expectation of absences (number of days) based on type of disability and identified needs.
 - Recognized barriers or underlying causes of the student's chronic absences
 - Modifications made as a result of monitoring, review, and oversight of the student's progress in light of the number of absences.
 - How the student will be provided with instruction and supportive services by qualified personnel during periods of extended absence, when possible.
 - How students who are unable to be tutored or otherwise to receive instruction during their absence from school will be provided supplemental instruction to catch them up while not falling further behind through extended school day and year services, as needed.
-
- **Act quickly to address absences directly related to a student's disability, such as anxiety or depression that lead to refusal to attend or stay in school.** Students may need a behavior intervention plan or attendance incentives incorporated in their Section 504 Plan or IEP to help them overcome issues that interfere with attendance. At the high school level where rates of absenteeism often increase, involve students in developing solutions and strategies for reducing absences and improving the climate at the school so that they want to be there.

 - **Protect student privacy by ensuring that any policy and procedure does not have or encourage unintended consequences.** For example, school health care staff should not request blanket releases from parents to authorize routine access to their children's pediatrician or therapist. Student medical information, oral or written, and health records that are personally identifiable, whether or not they contain sensitive health, disability related, or family information, are protected under HIPAA or FERPA, and relevant state laws.

 - **Set reasonable goals for chronic absenteeism.** Establish absenteeism goals that consider students with disabilities whose chronic health needs are expected to result in substantial absences during the school year. Setting unrealistic goals that do not take into account absences that arise from health conditions can disincentivize the school community and lead to school de-enrollment or push-outs in order to avoid being penalized in school ratings.

 - **Encourage and support training for school personnel.** School staff should receive training on and be responsible for identifying children in need of referral for evaluation of possible health-related disability and monitoring the progress of all students with chronic health-related disabilities who are chronically absent. Training should include techniques and strategies for school personnel to communicate with parents and families to encourage their sharing information about their children's chronic health related needs that should

result in a timely evaluations and determinations of eligibility for specialized instruction, related services, and accommodations.

To build parent trust and identify all children who experience chronic absenteeism yet have not been identified with chronic health needs, including those who require mental health services, training should also emphasize school and district responsibilities under FERPA to protect personally identifiable information about any student's health, medical condition, or education that is maintained by the school district.

- **Encourage school districts to adopt, implement and provide in writing a policy that bars the misuse of individual health plans (IHPs)** that can have the effect of circumscribing protections that otherwise eligible students with chronic health needs would receive under IDEA or Section 504. Relying solely on IHPs to provide necessary accommodations and supports will leave districts vulnerable to failure to implement child find obligations and duty to provide all eligible students with FAPE. This is particularly important given the broader interpretation of disability under Section 504 brought about by the Americans with Disabilities Act Amendments Act of 2008 (U.S. Department of Education Office for Civil Rights).
- **Encourage districts to collect longitudinal attendance data, and then to calculate chronic absence rates by student subgroup and type of disability** and use the information to identify strategies, timely interventions, supportive services, including nursing, paraprofessional services, and resources targeted to reduce chronic absenteeism among students with health impairments, improve academic outcomes, and close the achievement gap. States should also encourage districts to regularly share effective strategies and interventions for reducing chronic absences among students with health related disabilities.
- **Document all efforts to address student absenteeism.** Maintain documentation of all attempts to convene IEP meetings, undertake re-evaluations, and provide effective interventions to mitigate loss of learning opportunities. A well-maintained record of a school's attempts to intervene early and often can be helpful should disputes arise.

With a majority of states adopting chronic absenteeism as a metric for accountability under the ESSA, a new focus should be on mitigation and prevention—how states and school districts can help students who are chronically absent to remain in school to learn. These students specifically include children with disabilities with chronic health related needs whose chronic absences are often overlooked. This enhanced attention to chronic absenteeism, which includes both *excused* and unexcused absences, provides an opportunity for strong state and district leadership engaging with all members of the school community to identify and explore innovative strategies and interventions for removing barriers to continuous teaching and instruction for these students.

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