



June 2013

CASES FOR: Educational Policies for Children with Special Needs; Cathy Scheiner MD and Joy Purcell JD

CASE 1.

An 8 year old boy has a history of poor academic performance in elementary school. His mother shows you a copy of his report card. For each marking period he is listed as being below grade level in reading. This pattern has persisted for the past 2-3 years. According to his teacher, he works hard to complete his school work.

1. What concerns you about this case?
  - a. The student has had academic problems for several years. According to the Child Find concept, written in IDEIA, the school has an obligation to identify, locate and evaluate all children with disabilities. His history is concerning for a reading disability. Reading disabilities affect ~5-10% of the pediatric population. It is the most common learning disability (LD).  
<http://www.wrightslaw.com/info/child.find.index.htm>
  - b. His mother may not have sufficient knowledge of the special education process to advocate effectively for her child. The office visit may be an opportunity to discuss school programs for children with academic problems.  
<http://pediatrics.aappublications.org/content/104/1/124.full.html>
2. What further information would be helpful?
  - a. Medical history: Children with special health care needs may be at increased risk for poor school outcomes. Risk factors include prematurity, low birth weight, sensory impairments (visual, hearing), neurological disorders, chronic illness, psychiatric disorders and medication. Although these conditions may be associated with a learning disability they are not the primary reason for the learning disability. This boy is healthy. He is not having any problems with behavior or organizational skills at home or at school.
  - b. Developmental history/educational history: Learning problems are associated with delayed language development, difficulty with rhyming, difficulty learning the letters of the alphabet



#### CASES: Educational Policies and Services for Children with Special Needs

- and the sounds associated with them, difficulty learning to count with one-to-one correspondence and academic problems in the early grades. Reading disabilities may be evident as early as kindergarten.
- c. Family history: Learning disabilities are familial and heritable. Genetic loci on chromosomes 2, 3, 6 and 15 may be involved. The mother reports that she had trouble learning to read as a young child. Environmental risk factors also play a part but less is known about their specific effects.
  - d. Surveillance and Screening tools: This child had no history of behavior problems at home or at school. If he had a history of inattention, impulsivity or hyperactivity you should screen for Attention Deficit Hyperactivity Disorder (ADHD). Choose screening tools that are well suited to your office environment. The Vanderbilt ADHD rating scale is available online. [http://www2.massgeneral.org/schoolpsychiatry/screeningtools\\_table.asp](http://www2.massgeneral.org/schoolpsychiatry/screeningtools_table.asp)
3. What factors may make this child eligible for special education services? This child has demonstrated poor academic performance for several years and the underlying reason may be a learning disability. He should receive an evaluation (psychological testing and achievement testing) by the public schools to determine his eligibility for special education services. A learning disability is typically diagnosed when there is a significant discrepancy on standardized testing measures between intellectual ability and achievement in one or more of the following: basic reading skills, reading comprehension, mathematics calculation, mathematics problem solving or written expression. Although achievement below expected levels for age and grade are taken into consideration when evaluating a child with a suspected LD, there are no standards of how low is 'too low.'
  4. What type of school services might be implemented immediately? In 2004 the IDEA was reauthorized as the Individuals with Disabilities Education Improvement Act (IDEIA). A new element called Response to Intervention (RTI) was added as a way to identify, instruct and monitor those children at risk for poor academic outcomes. Until this student is identified as a child eligible to receive special education services, he may qualify for evidenced based instruction in reading, to address his academic problems, based upon provisions under RTI. For further information see <http://nichcy.org/schools-administrators/rti> or <http://www.ldonline.org/article/15857/>



## CASES: Educational Policies and Services for Children with Special Needs

### CASE 2.

A 10 year old girl is receiving failing grades in several subjects. Until this year she was a good student. During a parent-teacher conference her parents were told that she is a capable and intelligent student. Her grades are suffering because she rarely returns homework, fails to finish in class assignments and talks with other students during class lectures. Many of these behaviors were present in elementary school. She appears happy and indifferent to her recent report card. She likes school, especially recess when she has an opportunity to socialize with her friends. At her second appointment to your office she is given a diagnosis of Attention Deficit Hyperactivity Disorder (ADHD).

1. What factors make this student eligible for a 504 Plan? Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of a disability. This child has a disability (ADHD) which substantially limits a significant life function, in this case, education/learning. Section 504 guarantees the right to full participation and access to a free and appropriate education to all children regardless of the nature or severity of the disability. The child may receive appropriate accommodations and modifications tailored to the child's individual needs. <http://nichcy.org/laws/section504>
2. Suppose a 504 Plan were implemented but her grades remain poor. Would she be eligible for an IEP? Yes. ADHD is a disability diagnosis under 'Other Health Impairments.'
3. A 504 Plan is implemented. You then prescribe medication for ADHD. Her grades improve significantly. May the school remove the 504 Plan? No. The school may not consider mitigating effects, such as medication to treat ADHD, to remove the 504 Plan.

### CASE 3.

A 4 year old boy receives weekly speech/language therapy through the public schools based upon an IEP disability code of 'speech/language delay.' His developmental skills in all other domains are age appropriate. At preschool, he is happy, impulsive and hyperactive but not aggressive. He has difficulty waiting his turn, topples over other children's toys and plays roughly with his peers. His mother is worried that these behaviors will persist when he attends kindergarten in 4 months.



#### CASES: Educational Policies and Services for Children with Special Needs

1. What advice would you give this mother about her child's behavior? The behavior may be modified through behavior management that focuses on positive support and positive reinforcement of age appropriate behaviors.
2. Would you suggest an evaluation for Attention Deficit Hyperactivity Disorder (ADHD)? Yes, but his mother would prefer to observe his behaviors in kindergarten and not pursue a diagnostic evaluation for ADHD at this time.
3. Would you consider making changes to his IEP disability diagnosis? It is not necessary to make changes to his IEP disability diagnosis in order to receive services to accommodate his challenging behavior. She could speak with his kindergarten teacher at the beginning of the school year and describe the challenging behaviors that have occurred in preschool. It is possible that this child's behavior would improve with informal support in the classroom. If the behaviors become more problematic she could request a Functional Behavior Assessment (FBA) to further evaluate the underlying reasons for his behavior. Or she could request an amendment to the IEP if additional services are needed to address the challenging behavior. An IEP meeting is not necessary to make an amendment, but a parent may request an interim meeting.  
<http://idea.ed.gov/explore/view/p/,root,regs,300,D,300%252E324>,  
<http://www.ncld.org/students-disabilities/iep-504-plan/how-to-change-iep-individualized-education-program>

#### CASE 4.

A 7 year old student has exhibited physically aggressive behavior towards his peers and teachers. These behaviors include spitting, hitting and throwing objects. The student receives an out of school suspension for 2 days.

- a. Can the school suspend this child? A child can be suspended if their actions violate the school's code of conduct. Most schools have different types of suspensions (in school, out of school) as well as guidelines for the number of days allowed for the suspension.
- b. What if the child has a known disability? The IDEA gives extra protections to students with disabilities. Several factors are taken into consideration including: 1. Is the student's conduct a manifestation of the disability? 2. Is the school district obligated to provide a Free and Appropriate Education (FAPE) during the suspension?
- c. As a clinician what further recommendations would you make? Further evaluation of the underlying reasons for this student's aggression is recommended. Consider a referral to a



## CASES: Educational Policies and Services for Children with Special Needs

mental health specialist, neurodevelopmental disabilities or developmental/behavioral pediatrics.

[http://www.doe.mass.edu/sped/IDEA2004/spr\\_meetings/disc\\_chart.pdf](http://www.doe.mass.edu/sped/IDEA2004/spr_meetings/disc_chart.pdf)

<http://www.clcm.org/edprotections.html>

## CASE 5.

A 6 year old kindergarten student has been receiving special education services since preschool under the disability code 'developmental delay.' At a recent IEP meeting, her mother was informed that this disability could no longer be used. The school would like your professional opinion about a more specific diagnosis.

- a. What are the age limits for using the developmental delay diagnosis? The term 'developmental delay' is a specific disability term defined under IDEA. According to federal guidelines, the term can be used through 9 years of age. It means a delay in one or more of the following areas: physical development; cognitive development; communication; social or emotional development; or adaptive [behavioral] development.

<http://nichcy.org/disability/categories>

- b. Do state guidelines differ from federal guidelines? Yes. The 'developmental delay' disability diagnosis must be made available by the local school systems for children ages 3 through 5 years. After age 5 years use of the term is at the discretion of the local school system. The Maryland Department of Education limits the use through 7 years of age. The Virginia Department of Education limits the use through 6 years of age. The District of Columbia limits the use through 7 years of age.

<http://www.marylandpublicschools.org/NR/rdonlyres/5F4F5041-02EE-4F3A-B495-5E4B3C850D3E/32092/21012TAB8DevelopmentalDelayRevised1.pdf>

[http://www.doe.virginia.gov/special\\_ed/regulations/state/fast\\_facts/fast\\_fact\\_dev\\_delay.pdf](http://www.doe.virginia.gov/special_ed/regulations/state/fast_facts/fast_fact_dev_delay.pdf)

[http://www.dccouncil.us/files/user\\_uploads/budget\\_responses/fy11\\_12\\_agencyperformance\\_dcps\\_q40\\_ose\\_referenceguide.pdf](http://www.dccouncil.us/files/user_uploads/budget_responses/fy11_12_agencyperformance_dcps_q40_ose_referenceguide.pdf)



#### CASE 6.

A mother is concerned about her child's academic performance. Despite many conferences with the child's teacher, no changes have been implemented in the child's school services.

- a. What explanation could you give to this parent about why this child has not been referred for further evaluation? If the teacher thinks the child's academic progress is appropriate, then no changes would be made to his/her school services.
- b. What action can you recommend? A parent or teacher can request an evaluation for special education services. The parent must consent to the evaluation.
- c. What is the time frame for the evaluation? IDEA states that the initial evaluation must be conducted within 60 days of receiving the parental consent. Each state may have established its own time frame for conducting an evaluation. For most states the entire process takes about 90 days from the initial request to the formation of an IEP.

<http://www2.ed.gov/parents/needs/speced/iepguide/index.html>

**Maryland:** evaluations (initial meeting, assessment and review) are completed within 60 days of consent for an assessment and within 90 days of the parent's written referral (parent writes letter day 1 ► assessment - max 60 days ► IEP review – max 90 days)

(<http://www.mdclaw.org/wp-content/uploads/2010/02/pub-special-ed-handbook-Sept-2009.pdf>) **Virginia:** eligibility for special education services must be determined within 65 days from the date the special education administrator receives the referral (parent writes letter to school based review team (SBRT) ► SBRT must meet within 10 days ► within 3 days the the SBRT must send their recommendation to the special education administrator if they suspect the child has a disability ► the evaluation process must be completed with 65 days after the special education administrator receives the referral

([http://www.doe.virginia.gov/special\\_ed/parents/parents\\_guide.pdf](http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf)) **District of Columbia:** assessments are completed with 45 days, the IEP meeting must occur within 120 days after the parent writes a letter.

[http://www.dccouncil.us/files/user\\_uploads/budget\\_responses/fy11\\_12\\_agencyperformance\\_dcps\\_q40\\_ose\\_referenceguide.pdf](http://www.dccouncil.us/files/user_uploads/budget_responses/fy11_12_agencyperformance_dcps_q40_ose_referenceguide.pdf)

