



ECKCE

Focus

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Cooperative in Education*



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Muscular Dystrophy
Awareness Month

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Knowing the Difference Between IEP and 504

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There are a lot of questions that come up around 504 plans and whether or not a student should be on one vs. being on an IEP. I want to take the time to address the difference so that you will know what direction to take when having that discussion.

To do that, a little history lesson would be appropriate. Stay with me. Back in 1973, congress passed what was known as the Rehabilitation Act, which contained section 504, prohibiting discrimination against people with disabilities by any agency or organization which receives any federal assistance. This section was actually the impetus for the Americans with Disabilities Act of 1990, but more importantly, it was the springboard of PL 94-142, otherwise known as the Individuals with Disabilities Education Act, which went into law 2 years later in 1975. So before the Rehab Act was passed, there were no protections for kids with disabilities in schools—and the Rehab Act didn't specifically address educational activities.

So when IDEA was passed, it took Section 504 of the Rehab Act and expanded it to target educationally relevant tenets of section 504 and make them the law for public schools. IDEA is essentially Section 504 for education, with a



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Frequently (Recently) Asked Questions

Every month I will include questions that you have asked – others probably need the answers

Q: I have a student whose IEP meeting was scheduled for next week and their reevaluation and meeting are due in two weeks. The parent has just requested that we push it back until the end of the month. Is this possible?

A: Absolutely. We do have deadlines and cannot usually extend them, but by parental request, we can extend for a reasonable time period, which we usually interpret to mean 30 days. Just keep a copy of the request documentation and send the original to be placed in the student's file.

Q: We've had a parent request that his child be evaluated for a learning disability. In order to do that we need to collect adequate data in the classroom before saying that he isn't responding to the interventions that we are putting in place. Is it ok to let the parent know that we have to have more time before getting them to sign consent for evaluation?

A: I used to say that it was fine to have a conversation with the parent and let them know the process, but because each of those conversations are held differently, I've changed my answer. Certainly it is fine to let them know what the process is, but parents view that as a

refusal to evaluate, which it very well could be. I don't ever want to have a parent contact me and let me know that they tried to have their child evaluated in the past, but nobody listened, or they were talked out of it. The fact is that under Kansas statute, we have 60 school days to evaluate a child. That's more than enough time after getting a signature for consent to evaluate to begin the intervention if it hasn't been in place, collect the data, analyze the data and make a determination as to whether or not a student is responding. It is a much more lenient than more states timelines—most are a 45 calendar day timeline, which includes weekends and holidays. So regardless of whether or not the request is in writing, although that is preferred, we need to respond to a parental request for evaluation with a consent to evaluate form. The worst thing that can happen in that scenario is that we are unable to determine with certainty whether a disability exists, in which case we find them ineligible, continue the interventions and come back around the table once we feel that adequate progress is not occurring. The alternative is to give the parents a PWN saying that we are refusing to evaluate and opening up the door for them to request an independent educational evaluation which is their right under the procedural safeguards of the IDEA, and we are then liable to pay for it.



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couple of key differences. The first is that the IDEA stipulates that children with disabilities must have an individualized education plan put in place upon qualifying for eligibility in special education, but that qualification is based upon two criteria, both of which must be met. The first is that the student must be determined to have a disability by meeting state approved criteria. In the state of Kansas, there are 13 different disability categories, including a specific learning disability, autism spectrum disorder (ASD), speech language impairment, etc. The second criterion that must be met is that the student must need specialized instruction in order to benefit from the general education curricula. THAT is when qualification for special education is met and an IEP is developed.

So the reality is that a student *may* meet the criteria for a disability and still not qualify for special education. That is when section 504 comes into play. If a person has a disability, say ASD, but they are still able to be successful in the classroom without supports, including social skills training, specialized instruction, etc., they might still need a 504 plan to address certain accommodations they may need, such as a quiet testing environment or extra time on assignments. The requirements for needing a 504 plan are that you must have an identified disability that impacts one or more major life areas. A person with ASD, in the previous example, may have obvious shortcomings in social communication, which is life-impacting for certain, but may not need any modifications to the curriculum to be successful. Likewise there are many individuals with Orthopedic Impairments who need accommodations like door openers or physical assistance for daily living activities who can achieve success in the general education curriculum just fine when given those adaptations or accommodations. Those could be achieved through a 504 plan, because that individual wouldn't qualify for special education.

The most important outcome of this distinction is that there should be no IEP created if there is not a specific specialized instruction service that can be pointed to in the IEP. This essentially means that if you have an IEP which has only consultative services, which is not specialized instruction, you need to determine whether or not eligibility for that student exists. In Kansas, where parental consent is required to exit a student from special education upon determination of ineligibility, there may actually be cases where this cannot be achieved. Please let me know if you have any IEPs which fit this description and I will work with you to find a solution.

While there are some differences in how the IEP and the 504 plans are reviewed and implemented, both carry the obligation of law and must be followed. But the Office of Special Education Programs in Washington stresses that there should not be both plans for any one student, as there may be conflicts between the recommendations of the teams, since one is a general education team and one is comprised mostly of specialists. The fact that all of the 504 protections are embodied within the IEP should make the consideration of both plans unnecessary. If you have any questions, please don't hesitate to ask.



DOs & DON'Ts

Here are things to consider when determining which plan is right for a particular student

DO always consider all the needs of the child and determine whether the team believes the student can be successful without specialized instruction

DO consider that independence is the ultimate goal of all kids and that putting unnecessary supports in place will only hinder that

DON'T sacrifice your professional opinion to any member of the IEP team just to take the path of least resistance. It may appear easier, but it isn't.

DON'T be fooled into believing that a 504 is less than an IEP. The important thing is to keep the student's needs in focus and craft the appropriate plan around the team determination.

News and Notes Around the Interlocal

First SEAC Meeting Held

The first ever Special Education Advisory Council met on August 28 at the Baldwin Intermediate Center. The initial meeting saw several families come out representing all 3 districts, which was the hope, and there was some excitement as to what the future of the group might hold. Several parents commented to me about how grateful they were to the teachers who work with their children and it was a very positive meeting overall. Our next meeting is scheduled for September 25 at a location to be determined by the group, as we would like to host in all three communities if we can. Flyers for the event will be sent to you in the next 2 weeks to distribute to your families again. As always, staff is welcome to attend if they would like. Topics for this meeting will include community access and extra-curricular activities. Thanks to all who participated!

CPI Training Set for September 17 in Eudora

There is a CPI (Crisis Prevention Intervention) training that is scheduled for September 17 from 8:00 – 2:00 at Eudora West (Admin building) in room 108. This training is the full course for those who are new to the district or who do not have current certification that a refresher course would renew. Remember that all staff who can reasonably anticipate the need for participating in an ESI (Emergency Safety Intervention) with students who may need such intervention must by law be trained in a de-escalation/restraint methodology in order to intervene. Space is limited, so sign up soon. To sign up, use the following link: <https://www.signupgenius.com/go/508084caea72da7fb6-cpicrisis3>

Para Corner

Please share this newsletter with your paras, just in case they did not receive it via email. If you have questions about paras as a group, don't hesitate to now contact Shelly McCart @ smccart@eckce.com.

Welcome Back to School Paraeducators!

For all of you who are returning this fall, welcome back! For those of you who are new, welcome aboard! Regardless, I hope you had a great summer and are eager to fill your role helping our students with all the things they need to succeed!

Just a few reminders--If you are new or returning to ECKCE, please remember that the training hours that you are required to have (for most of you this is 20) must be completed in a timely fashion and submitted to Shelly McCart in our office. While the deadline is not until February, it is good to be tackling little chunks of it at a time so that it doesn't get overwhelming nearer the deadline. Don't wait until you have all of them finished to submit your sheets—send them in as you go. Shelly will let you know how many you have left.

Just another reminder—the use of cell phones in the classroom are not allowed in the majority of situations. Please refrain from having your teacher or administrator having to come around to remind you. Also, you may not use your cell phones to clock in/out. And please remember that you are in this position to provide assistance to students in the classroom, so attendance is critical. If you have any concerns about your duties or responsibilities, please ask. Thanks for all you do for our kids!