

BRIDGING THE GAP BETWEEN THE INDIVIDUAL HEALTHCARE PLAN (IHP) AND THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

How Special Education and School Nurses Can
Collaborate to Ensure Students' Health and Educational
Needs Are Met

The number of students with serious health care needs in public schools is on the rise, and the growth in numbers can be expected to increase.

Definitions

INDIVIDUAL HEALTH PLAN (IHP)

A document that outlines health care to be provided to a student in the school setting, developed by the school nurse in conjunction with the student's parent(s) or guardian(s) and may contain the orders from the physician, certified registered nurse practitioner operating under a valid collaborative agreement, or physician assistant operating with a valid supervisory agreement. (Safe at School Act #2014-437)



INDIVIDUALIZED EDUCATION PROGRAM (IEP)

A written document required for each child who is eligible to receive special education services. It is provided to a student who has been determined first to have a disability and, second, to need special education services because of that disability. The IEP Team that develops the program, and what it must contain are governed by Part B of the Individuals with Disabilities Education Act (IDEA) and amendments to it. The IEP provides information on children's current levels of performance and directs the special services and supports that are provided to students who have an IEP. It includes provisions for defining annual goals, evaluating progress, and formalizing what is to be a free and appropriate public education (FAPE) for the student with the disability. (education.com)

Rights and Privacy Laws

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

- Privacy Rights
 - Prohibits covered entities from disclosing protected health information unless authorized in writing
- Persons or Entities Covered
 - Any healthcare provider who transmits health information in electronic format

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

- Privacy Rights
 - Prevents disclosure of personally identifiable information, including student health data, without the written consent of the parent or student aged 18, or the age of majority.
- Persons or Entities Covered
 - All educational institutions and agencies that receive federal funds
 - Only persons who have educational responsibilities



Note: Discussion of student personal or healthcare information in any public area is both illegal and unethical.

Laws that Apply When Working with Students with Disabilities Who Have Medical Needs

- Americans with Disabilities Act of 1990 (ADA)
- Section 504 of the Rehabilitation Act of 1973
- Individuals with Disabilities Education Act of 2004 (IDEA)
- Family Education Rights and Privacy Act (FERPA)
- Alabama Nurse Practice Act, Code of Alabama, 1975
- School Nurse Law (Act 98-672 amended by Act 2001-639)
- Self-Administration of Medication Law (Act 2003-271)
- Alabama State Immunization Law
- McKinney-Vento Homeless Act
- Safe at Schools(Act# 2014-437) Diabetic Law
- Anaphylaxis Preparedness(Act # 2014-405)
- Most recently Act ## 2016-96 Portable Do Not Attempt Resuscitation(DNAR) recently signed on 3-18-16
- Alabama Administrative Code, Chapter 290-8-9, Special Education Services

U.S. Supreme Court Case Law

- *Irving Independent Sch. Dist v. Tatro* (1984)
- Service at issue: Clean intermittent catheterization (CIC)
- Holding: CIC is a related service that must be provided by a school district.
- Reasoning:
 1. The student, who had spina bifida, needed CIC in order to attend school.
 2. The service was not medical in nature, was relatively simple, and could be performed throughout the day in a manner not different from other procedures already being provided by school nurses.
- Test: “Medical services” referred only to services that must be performed by a physician, and not to school health services.

U.S. Supreme Court Law

- *Cedar Rapids Community Sch. Dist. V. Garret F.* (1999)
- Service at issue: One-to-one nursing services, including intermittent urinary track catheterization, tracheostomy tube suctioning, and ventilator monitoring on a constant basis.
- Holding: The services are related services that must be provided by a school district.
- Reasoning:
 1. The student, who had a severed spinal cord needed the services to have meaningful access to public education, because it was undisputed that the services must be provided for him to remain in school.
 2. The school argued that, although the services needed were on their own not “medical services”, the continuous nature of the services made them akin to medical services. The Court disagreed: “Continuous services may be more costly and may require additional school personnel, but they are not thereby more “medical.”

The test that emerged from *Tatro* and *Garret F.* case is:

- A medical service is a “related service” (which means a school district must provide it) if:
 1. It is for purposes other than diagnostic or evaluative purposes;
 2. It is a “supporting service” necessary for the student to receive an educational benefit;
 3. It is provided by someone other than a licensed physician or in a hospital.

Bright Line Test

- If the service being requested can be provided by someone who has been trained to provide the service and is not the type of service that can only be provided by a licensed physician, the service being requested is a related service that must be provided by the district at no cost to the parents.



SCHOOL NURSE

- Develops the IHP individually from medical orders, information provided by family, the nursing assessment, and the daily needs of the student.
- Ensures dissemination of information to all parties that require knowledge of the IHP, including obtaining required signatures.
- Must provide continued oversight of the IHP, and make adjustments as needed.

Responsibilities

SCHOOL NURSE & IEP CASE MANAGER

- Be knowledgeable about applicable local policies, state and federal laws.
- Work collaboratively to develop IEPs that address health care needs of students with disabilities that are needed to ensure the student receives a Free Appropriate Public Education (FAPE).
- Work collaboratively to determine how health services are addressed within the IEP. (Profile page, Annual Goal, Services page, Related Service, etc.)
- Implement appropriate plans



IEP CASE MANAGER

- Develops the IEP, with a team, from current assessment data, information provided by stakeholders (parents, teachers, student, related service providers, etc.).
- Ensures IEP information is provided to all parties responsible for its implementation, including obtaining signatures of persons responsible.
- Must ensure provision of all services identified within the IEP, and make appropriate amendments when necessary.

Who qualifies for healthcare services within an IEP?

- A medical diagnosis alone is not sufficient to determine eligibility for special education services.
- The medical disability must have an adverse affect on the educational performance of the student.
- Students identified under any of the thirteen disability areas may qualify for healthcare services if these services are necessary in order to provide the student with a free appropriate public education (FAPE).
For example, a student with a specific learning disability may also have a diagnosis of asthma. If the condition is affecting attendance, the issue may need to be addressed within the IEP.

Examples of health services that must be provided by school districts:

- Suctioning a student's tracheostomy tube
- Monitoring and suctioning a portable ventilator system
- Applying ointment to a student's eyes who cannot close his eyes
- Clean intermittent catheterization
- Administration of Diastat
- Routine checking of external components of a surgically implanted device
- Nebulizer treatments

Examples of health services that need not be provided by a school district:

- Optimization (e.g. mapping) a surgically implanted medical device
- Maintenance of a surgically implanted medical device
- Replacement of a surgically implanted medical device

Ways the School Nurse and the IEP Case Manager Can Collaborate

- Demonstrate consideration and respect for the other party.
- Include each other in the decision-making processes.
- Include the school nurse in the IEP Team Meeting when developing and amending the IEP, when the medical condition requires services through the IEP.
- Update the other party when changes need to be made or are made in the IHP or IEP.
- Ensure the implementation of both the IHP and the IEP.

Ways to Address Medical Needs Within the IEP

- In the profile of the IEP:
 - Provide general, need-to-know, information about the student's condition in the "Other" section of the profile page.
 - Identify whether the medical condition requires special transportation as a related service on the second page of the profile.
 - Identify any supports that may be needed for the student to participate in extracurricular activities on the second page of the profile page.

Things to Remember

- The IHP and the IEP are the guiding documents for each student.
- The IHP must be an agreement between the school nurse, the physician, and the parent(s)/guardian(s) of the student.
- The IEP is a legally-binding document that is created by a team, which includes the parent(s), General Education teacher, Special Education teacher, the Local Education Agency Representative, someone who can interpret assessment results, and the student where appropriate. The IEP addresses academic, functional, and behavioral needs of a student with a disability.
- Improved collaboration between the school nurse and the IEP Team will lead to better student achievement and success.