



Working with Students With Disabilities

Preparing School Counselors

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Chapter 3

Laws and Ethics

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“We know that equality of individual ability has never existed and never will, but we do insist that equality of opportunity still must be sought.”

—Franklin D. Roosevelt

School counselors are important members of multidisciplinary teams (MDTs) that provide services to an increasing number of students with disabilities in the K–12 classroom. This increase is due to both the number of identified students with disabilities, as well as the fact that most of these students are educated in their *least restrictive environment* (LRE); for many of these students, approximately 89.3%, that means the general education setting (U.S. Department of Education, 2004). It is due specifically to this increase, and the school counselors’ role in schools, that they must be cognizant of legislation that governs students with disabilities (Erford, House, & Martin, 2003). Additionally, a school counselor may work with a particular student over a number of years and thus be the individual in the school who is best able to advocate for the student, overseeing services and plans, such as the Service Agreement Plan (SAP), also known as the Section 504 Plan, as designated under Section 504 of the 1973 Vocational Rehabilitation Act, or a student’s Individualized Education Plan (IEP) as designated under the Individuals with Disabilities Education Improvement Act (IDEIA) of 2004 (Erford et al., 2003). These plans encompass the student’s functional life skills, academics, the student’s social and emotional growth, as well as career goals and postsecondary school outcomes. As the content and implementation of these plans are governed by

regulation, it is critical that school counselors know the legislation relevant to serving students with disabilities and their families and know their role in implementing these laws.

After reading this chapter, you will be able to carry out the following:

1. Identify legislation and relevant case law to serving students with disabilities.
2. Identify legal and ethical issues encountered in schools.
3. Understand the ethical standards and principles needed to adhere to the legal aspects of their role.
4. Gain access to resources, which address relevant legislation.

FEDERAL LAWS AND LEGISLATION RELEVANT TO SERVING STUDENTS WITH DISABILITIES

There are two main statutes that impact school counselors' work with students with disabilities—the Education for All Handicapped Children Act of 1975 (reauthorized in 2004 as the Individuals with Disabilities Education Act [IDEA] and Section 504 of the Vocational Rehabilitation Act of 1973 (Section 504). Other important statutes that will be touched upon are the No Child Left Behind Act (NCLB), the Families Educational Rights and Privacy Act (FERPA), and the Americans with Disabilities Act (ADA). (Note, as of 2004, IDEA is now identified as the Individual with Disabilities Education Improvement Act, or IDEIA.)

Understanding the content and language and how to effectively and legally implement these laws will help to support students and assist schools to avoid liability. In addition, understanding the categories of disability, their definitions and characteristics is critical for the school counselors' role. A thorough understanding of the special education process includes screening, assessing and evaluating, goal setting and planning, and implementing the students' plan. School counselors will also need to know how to best advocate for students, in order to obtain resources, to interact with outside agencies, as well as to provide direct counseling. Counseling with students with disabilities may be coordinated with outside services (i.e., medical, related services, etc.), as well as with family members and the students themselves (Tarver-Behring & Spagna, 2004). Specific laws that school counselors need to know and their roles with respect to these laws will now be covered.

Section 504

Section 504 of the 1973 Rehabilitation Act provides that

[n]o otherwise qualified individual with a disability in the United States, as defined in §706(8) of this title, shall, solely by reason of her or his handicap,

be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by any executive agency or by the United States Postal Service . . . (29 U.S.C. § 794(a) (1973))

Section 504 is a Civil Rights Act that prohibits discrimination and requires that reasonable accommodations be provided to the students with disabilities so that they may access the general education curriculum. Thus, the Office for Civil Rights (OCR) is the governing body of this law. The definition of students served under Section 504 is very broad and includes any physical or mental impairment, which substantially limits a student's major life activity (29 U.S.C. § 794(a) (1973)). Students who are not eligible under IDEA for special education may still be eligible for protection under Section 504. For example, students who are identified as having ADHD may be covered under Other Health Impairment (OHI) under IDEA, and receive an IEP due to their needing specially designed instruction (SDI) and related services. However, children identified as ADHD under Section 504 may be in need only of accommodations to access the general education curriculum. For special education services under IDEA, students must be eligible under one of the 13 disability categories outlined in Table 3.1 below, and they also need to be in need of SDI and related services. However, students served under Section 504 receive a SAP with modifications and/or accommodations to the general education curriculum so that they may access the general education curriculum. A sample Section 504 Plan may be found in Appendix A. Table 3.1 provides some common examples of students considered with disabilities (either temporary or long term) who may be protected under Section 504 and require such accommodations and/or modifications to the curriculum.

Table 3.1 Students Who May Require Accommodations Under Section 504

<i>Type of Condition</i>	<i>Possible Modification/Accommodation</i>
Students with allergies and/or asthma	Visits to nurse
Students with communicable diseases (e.g., AIDS)	Time away from class to rest
Students who are substance abusers	Medication administration
Students with attention-deficit hyperactivity disorder (ADHD)	Preferential seating
Students with chronic fatigue syndrome	Less questions to answer and problems to solve
Students with a terminal illness	Less homework
Students with physical impairments	Transition to classes early

Like IDEA, Section 504 has procedural safeguards that provide the family and the student with due process rights in the event that there may be disagreement with the schools in regard to eligibility, evaluation, and/or implementation of services. Parents also have the right to review relevant records and to receive notice regarding referral, evaluation, and placement of their child. Students served under Section 504 have the right to have access to all academic and co-curricular school activities, and to a free appropriate public education (FAPE) in the general education setting that includes accommodations and/or modifications. In the next section, the school counselors' role, with the constructs of Section 504 in mind, is discussed.

The role of school counselors under Section 504

One main role school counselors have under this statute is to conduct periodic evaluations for the purpose of establishing and continuing eligibility and for reassessing needs and continued eligibility (Owens, Thomas, & Strong, 2011). The Association for Assessment in Counseling and Education is an excellent resource that school counselors may utilize in regard to assessment competencies, which are required (http://aac.ncat.edu/documents/atasc_cmptncy.htm), as are the ethical standards in regard to testing outlined by both the American Counseling Association and the American School Counselor Association. In addition, counseling reference books, such as *Assessment in Counseling: A Guide to the Use of Psychological Assessment Procedures* (Hays, 2013), are very useful resources in which specific qualifications for test administration and interpretation are outlined. Typically, a school psychologist would be involved in conducting standardized testing, while school counselors would be doing such evaluations as classroom observations, structured interviews, and surveys. Specific examples of assessment measures used by school counselors are presented in Chapter 8. When the students are identified, another task is to work with the MDT to ensure that the accommodations that make up the students' Section 504 Plan are in place and implemented effectively. Accommodations and/or modifications may include

- how curriculum material is presented, such as providing audio tapes, large print, a designated reader, instructions read orally, and/or reducing the number of items on a page;
- ways in which the student is asked to respond, such as allowing for verbal responses, answers to be dictated, or recorded into a recording device or computer;
- changing the setting, such as providing preferential seating, special lighting or acoustics, a space with minimal distractions, or administering testing in small groups and/or in an alternative site;

- timing such as allowing for frequent breaks or extended time to complete tests or assignments; test scheduling, such as administering tests over several sessions, allowing subtests to be taken in a different order, administering a test at a specific time of day; and other, such as providing special test preparation, and focusing and tasks (Council of Administrators of Special Education, 2011).

Once the Section 504 Plan is in place, depending on the district of employment, school counselors may be responsible for monitoring and updating this plan and for serving as what is known as the Section 504 coordinator, the professional accountable for the development and oversight of implementation of the SAP. A SAP, developed by the Section 504 team, specifies the plan of services students need to have in order to have an equal opportunity to succeed.

Another role of school counselors in relation to Section 504 may be that of the school-based coordinator. In a study done by Madaus and Shaw (2008), data reflected that, in schools, Section 504 is not under special education but is under the auspices of general education administrators, *followed by school counselors*, school psychologists, social workers, and general educators, then, followed by special education teachers, in terms of coordinating Section 504 meetings and subsequently the Section 504 plans for students.

Thus, school counselors need to be familiar with the students, the evaluation process, and the data obtained from the evaluation, as well as accommodation options that students are entitled to (Owens et al., 2011). For example, if a student has broken his or her leg and needs extended time or use of an elevator to reach his or her classes, the school counselor could be a vital resource in collaborating with teachers and administrators in communicating these needs, obtaining approval for the elevator use, and in the exploration of how missed class time may be made up. In addition, if the student has been involved in team sports and is struggling with this temporary lack of involvement, the school counselor is a great asset in the provision of individual counseling to assist the student to adapt. Even though Section 504 is not a special education law, coordination with special education is critical, so no children *fall between the cracks*.

IDEA of 2004

For special education services under IDEA, a student must be eligible under one of the 13 disability categories outlined in Table 3.2.

From the inception of the first federal special education law, the Education For All Handicapped Children Act of 1975 (PL 94–142), services for students with disabilities and their parents have been mandated, and it has been recommended that

Table 3.2 Thirteen Categories of Disability Served Under IDEA

Autism
Deaf-Blindness
Deafness
Emotional Disturbance
Hearing Impairment
Intellectual Disability
Multiple Disabilities
Orthopedic Impairment
Other Health Impairment
Specific Learning Disability
Speech or Language Impairment
Traumatic Brain Injury
Visual Impairment including Blindness

Source: Regulation 300.8c: Definitions of disability terms. *Building the Legacy: IDEA 2004*. U.S. Department of Education.

school counselors be familiar with the special education process and procedural safeguards of the law (Helms & Katsiyannias, 1992). The Procedural Safeguard Notice (PSN) under IDEA is quite lengthy, as it covers in full all of the processes and procedures under the law for which families and students are entitled. School districts are required to provide parents (unless parents waive this right) a copy of the PSN at least one time per year, upon their filing of a complaint and/or upon request for the PSN. The PSN covers such things as access to records, how to handle complaints, discipline, dispute resolution, due process hearings, evaluation procedures, informed consent, and LRE. It also includes other areas that may apply to only some parents such as private school placements, surrogate parents, and transfer of parental rights after their child turns age 18. School counselors who know the procedural safeguards will support you in following this law, as well as in advocating for the students you serve. For example, school counselors would need to understand the difference between eligibility criteria under Section 504 and IDEA and how best to advocate for students who are deemed eligible under each act.

IDEA provides funds to states and subsequently their local education agencies (LEA) to provide services to those students who are classified under the statute of having one or more of the 13 defined disabilities listed in Table 3.2. The special education process includes pre-referral, evaluation, decision of eligibility, IEP development, implementation of the IEP, and re-evaluation.

Since its inception in 1975 as the Education for All Handicapped Children Act, there have been six defining principles that make up the law. They are the principles of zero reject, LRE, FAPE, parent and student participation, due process safeguards, and nondiscriminatory evaluation. These principles are described next in more detail (<http://www.education.com/reference/article/six-major-principles-idea/>).

Zero reject

Schools must educate all children with disabilities between the ages of 5 and 21; however, if a state educates children without disabilities between the ages of 3 to 5, it must also educate children with disabilities in that age range. This principle applies regardless of the nature or severity of the disability and essentially means *no* children with disabilities may be excluded from a public education. Each state education agency is responsible for locating, identifying, and evaluating all children with disabilities or those who are suspected of having disabilities. This requirement is also referred to as the Child Find system. In a recent reauthorization of the law in 1997, which occurred as a result of various court cases (i.e., *Doe v. Koger*, 1979; *Goss v. Lopez*, 1975, etc.), the principle of zero reject has been extended into the area of disciplining students with disabilities. In 1988, the U.S. Supreme Court heard *Honig v. Doe*, which further spoke to discipline of students with disabilities, and confirmed that suspensions of students with disabilities over 10 days is considered a change in placement. This case also called attention to the *stay put* provision of the law that asserts that students remain in their current education placement during the manifestation determination process (described in Chapter 9), which supports the decision as to whether or not the problem behavior was a manifestation of the student's disability; thus, they cannot be denied a free appropriate public education (FAPE) at any time.

Nondiscriminatory identification and evaluation

IDEA specifics that all schools must use nonbiased methods of evaluation to determine whether a child has a disability. Testing and evaluation procedures must not discriminate on the basis of race, culture, or native language. All tests must be administered in the child's native language, and identification and placement decisions cannot be made on the basis of a single test score. For certain disability types, further guidelines and procedures for diagnosis may be specified, such as the use of response to intervention (RTI; a tiered method of academic intervention used prior to diagnosing a child with a specific learning disability, described in more detail in Chapter 4) and a medical doctor's diagnosis required for diagnosis of a child with ADHD.

Free appropriate public education (FAPE)

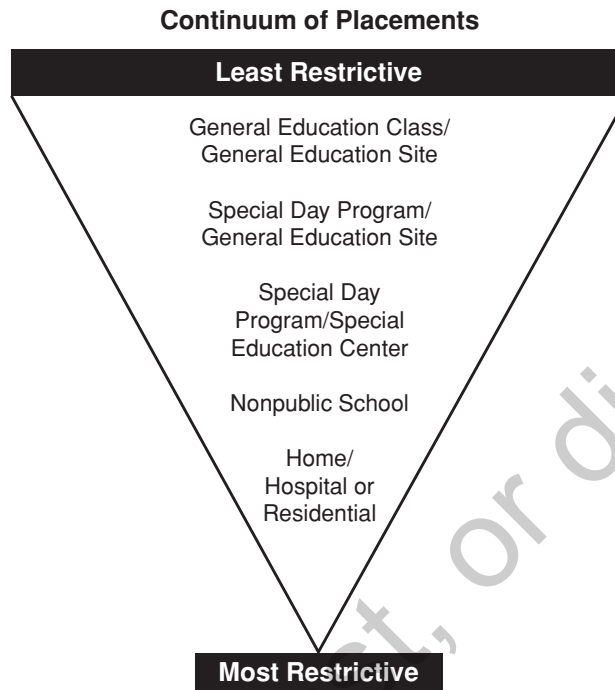
All children with disabilities, regardless of the type or severity of their disability, must receive FAPE. This education must be provided at public expense, and an IEP must be developed and implemented to meet the unique needs of each student with a disability. The IEP specifies the student's individual needs, states present levels of performance in all areas of need, identifies measurable annual goals and short-term objectives to address such needs, and describes the specific special education and related services that will be provided to help the student attain those goals and benefit from education.

Least restrictive environment (LRE)

IDEA mandates that students with disabilities be educated with children without disabilities to the maximum extent appropriate. It further states that students with disabilities be removed to separate classes or schools only when the nature or severity of their disabilities is such that they cannot receive an appropriate education in a general education classroom with supplementary aids and services. IDEA creates a presumption in favor of inclusion in the general education classroom by requiring that a student's IEP contain a justification and explanation of the extent, if any, to which a child will not participate with peers without disabilities in the general academic curriculum, extracurricular activities, and other nonacademic activities (e.g., lunch, recess, transportation, and sports). However, since LRE is still the law, and under LRE a continuum of placements must be provided to ensure that all students with disabilities are educated in their LRE, school districts must provide a continuum of placement and service alternatives. Figure 3.1 provides the continuum of placements offered to students with disabilities.

Due process safeguards

Schools must provide due process safeguards to protect the rights of children with disabilities and their parents. For example, parental consent must be obtained for the initial and all subsequent evaluations of their child and for any placement decisions regarding special education. Schools must maintain the confidentiality of all records pertaining to children with disabilities and make those records available to the parents. When parents of children with disabilities disagree with the results of an evaluation performed by the school or an educational placement decision, they can obtain an independent evaluation at public expense. When the school and parents disagree on the identification, evaluation, placement, or recommended plan and related services, the parents may request a due process hearing, a formal hearing conducted by an impartial due process hearing officer who renders a binding decision. States are

Figure 3.1 Continuum of Placements

Source: Supporting Special Student Populations. (2006). *The Two-Way Immersion Toolkit*. Howard, E. R., Sugarman, J., Perdomo, M., & Adger, C. T. (Eds.).

also required to offer parents an opportunity to resolve the matter through mediation by a third party before holding a due process hearing. However, parents may elect to forgo the mediation and head directly to due process. Parents have the right to attorney's fees if they prevail in due process under IDEA. The law also includes provisions that allow the court to award reasonable attorney's fees to the prevailing school district against the attorney of a parent, or the parent who files a frivolous complaint. Although "due process hearings are a last resort to resolve conflicts or problems between school districts and parents" (Getty & Summey, 2004, p. 40), they occur with increasing frequency, and the majority of due process hearings are over placement or program issues (Newcomer & Zirkel, 1999).

Parent and student participation and shared decision making

As family members are a vital part of the MDT, the IDEA recognizes that schools must collaborate with parents and students with disabilities in the development and implementation of special education services. The parents' and, whenever appropriate, the students' input must be considered in the development of IEP goals and objectives, related-service needs, and placement decisions.

How school counselors may be involved in utilizing these six principles is demonstrated in Guided Practice Exercise 3.1.

Besides the six principles, the IDEA also guides states and LEAs in such things as components of the IEP, manifestation determination, and Functional Behavioral Assessment. The IEP is mentioned in a number of the principles and thus is covered in more detail below.

Individualized Education Plan (IEP)

IDEA requires that the MDT create an IEP that provides an appropriate education for all students with disabilities whose educational performance is impacted and is in need of specially designed instruction and related services. (A sample IEP form may be found in Appendix B.) This instruction is to take place in the student's LRE. An IEP is a legal document that must be followed and must contain the following components:

- A statement of the child's present level of academic achievement and functional performance, including how the child's disabilities impact his or her involvement in general education
- A statement of measurable annual goals
- A description of how the child's progress toward meeting the annual goals will be measured and when progress reports will be provided
- A statement of the specially designed instruction (SDI) and related services and supplementary aids and services to be provided

Guided Practice Exercise 3.1

"HOW DO THE SIX MAIN PRINCIPLES GUIDING IDEA PERTAIN TO YOUR ROLE AS SCHOOL COUNSELOR?"

As the school counselor on your school's leadership team, you will be involved in making a presentation regarding the principles to your Parent Teacher Association. Your leadership team colleagues have asked you to focus on the six principles and your role as the school counselor in each.

You will have about 10 minutes for your part of the presentation. What will you say about these topics? How will you bring them to life in a manner that is responsive to parents?

- A statement of the program modification or supports for school personnel that will be provided to enable the student to advance appropriately toward meeting the annual goals
- An explanation of the *extent, if any, to which the child will not participate with nondisabled children* in the regular class and in extracurricular and non-academic activities
- Individual accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district assessments, or if the child participates in an alternative assessment, why that particular alternate assessment is selected
- If the child is 16 years old, a transition plan
- If the child is in need of it, a Behavior Intervention Plan (BIP)
- The projected date for the beginning of services and the anticipated frequency, location, and duration of those services and modifications (Friend, 2014)

Note: A sample IEP template may be found at http://www.sagepub.com/gargiulo4e/study/resources/plans/88919_siep.pdf.

With this understanding of the IEP, how school counselors can assist in this process is next described.

The Role of School Counselors in the IEP Process

The role of school counselors in the IEP process is increasing (Geltner & Leibforth, 2008). More children are being identified; thus, more are in need of those services that are typically provided by school counselors (i.e., referral, direct counseling, postsecondary school outcomes, etc.). Additionally, school counselors already possess unique knowledge, skills, and training that can be beneficial in guiding the MDT in the special education IEP process (Milsom, 2004). In the IEP process, school counselors can assist in developing relevant goals, specifying supports needed to obtain those goals, and making referrals to outside agencies for services. They also may provide direct service as indicated in the IEP such as individual or group counseling. Milsom (2004) found that 83% of school counselors engage in either individual or group counseling with students with disabilities at some point in the school year. In the next section, the No Child Left Behind Act (Milsom, 2004) is presented.

THE NO CHILD LEFT BEHIND ACT (NCLB)

NCLB is a reauthorization of a law passed in 1965, the Elementary and Secondary Education Act. The main thrust of this law is directed at making sure at-risk

youth are not left behind, and state and local education agencies are held accountable in carrying out that mandate through a standards-based reform movement. To accomplish this, many districts have instituted accountability standards through testing and adopting the Common Core Standards. Presently, 47 states have adopted Common Core State Standards (<http://www.ascd.org/common-core-state-standards/common-core-state-standards-adoption-map.aspx>). NCLB has made federal funding contingent on students' progress in regard to such standards, and it outlines corrective measures for schools that fail to maintain adequate yearly progress (AYP). Subgroups data (specifically, on those students at-risk due to, for example, their race or ethnicity, their migrant or income status, and those who are English language learners and have disabilities) are analyzed under this law (U.S. Department of Education, 2004). However, it should be noted at this time that due to many states and LEAs not meeting the goals of the law, there have been numerous state and LEA waivers granted, relieving schools of making the goal of all students proficient in reading and mathematics by the year 2014. In the next section, the role of school counselors in implementing NCLB is addressed.

The Role of School Counselors in Regard to NCLB

This emphasis on accountability has resulted in a significant change in the way schools do business and, thus, the way school counselors' responsibilities are defined (Dollarhide & Lemberger, 2014). In a study done by these authors, 210 school counselors responded to a survey that addressed perceptions regarding NCLB. Questions on the survey specifically explored school counselors' knowledge of NCLB, the effect of this legislation, and their role in relation to NCLB. Findings of this study included school counselors' reported knowledge of the legislation. Eighty-one percent of the school counselors identified student, parent, teacher, and/or community notification of test results as an activity and, positively, that data obtained from such testing resulted in educational changes for students. Most revealing was the school counselors' role in testing. The American School Counselor Association (ASCA) in 2005 stated that school counselors should counsel students about test anxiety and strategies, and they should interpret tests and analyze them in conjunction with multiple measures of student achievement. However, in the aforementioned Dollarhide and Lemberger study, only 25.1% of the respondents described such involvement (2014). The majority listed their primary tasks as coordinating and administering tests and serving as building test coordinator (29.2%) and possibly district coordinator (2.9%); proctoring tests and providing makeup testing (13.3%); and determining and monitoring for accommodations (3.3%). Academic remediation after testing was cited by 2.9% of the participants. Only 7.7% indicated that they did not participate in testing and/or analysis of data.

The concern raised by the participants of the study was that as more time is spent on these types of activities, less time is given to the emotional/social and academic needs of the students. School counselors identified the stressful effects of the legislation on teachers and students as resulting in *more* students having difficulties with teachers and teachers spending increased time on administrative types of paperwork and less on teaching. Thus, it is evident that school counselors may need to advocate for providing more direct services to teachers and students, such as the provision of direct counseling for test anxiety and test-taking strategies, and interpretation of test results in relation to the students' Section 504 Plan and/or IEP. In the next section, the Family Educational Rights and Privacy Act is addressed in relation to school counselors.

Family Educational Rights and Privacy Acts (FERPA)

School counselors must be aware of the rights afforded students and their parents regarding school records. Personal information about students in school records must be accurate, and access must be restricted to those with a justifiable purpose for use of that information. Confidentiality in schools and thus the protection of student privacy is given much needed attention, and has always been a component of the special education law. One of the main laws that govern the confidentiality of student information is the Family Educational Rights and Privacy Acts (FERPA; Fischer, Schimmel, & Stelman, 2003). This law is also known as the Buckley Amendment and addresses the legislation on who may and may not see student records, and how they are accessed and disclosed. The main components of this law are as follows:

- Parents, and students who have reached the age of majority or 18, have the right to review their school records.
- Schools must receive parental consent before evaluating or admitting students in school programs that would change their values or behavior.
- Schools must restrict unauthorized access to student information and protect the privacy of their records.
- Schools must protect children who are being used to gather data for federal surveys (Fischer et al., 2003).

FERPA is needed to deal with past abuses of student records that occurred, specifically providing access to outsiders and the denial of sharing records with the student and the family (Fischer et al., 2003).

According to Fischer et al. (2003), there are five main components of the act:

- Parents must be informed of their rights on an annual basis.
- Parents have the right to inspect and review records.

- Parents can challenge the accuracy of records.
- Students' records are confidential, and there is no disclosure of personal information without prior parental consent.
- Parents may file complaints with the U.S. Department of Education for lack of compliance with the act.

FERPA applies to all educational records, such as personal logs, treatment records (such as physician, psychiatrist, or psychologist notes), and directory information (such as dates of attendance, grades, and demographic information; Family Educational Rights and Privacy Act [FERPA], 1974; Underwood & Mead, 1995).

Schools must inform the parents before a disclosure of student information is made. Additionally, parents have the right to challenge the information contained in the records if they believe it to be inaccurate or misleading. The school must provide an opportunity for a hearing if they disagree or refuse to alter the record. There are exclusions in the law in terms of record handling. For example, amendments to FERPA clarify that a school may include, without prior consent, information in a student's records concerning disciplinary actions taken and disclosure of education records to certain state and local officials. An example would be if a child with a disability was removed from one school and moved to another for aggressive behavior; because the behavior was a manifestation of his disability, it did not result in expulsion.

The connections between FERPA and working with students with disabilities is evident in the IDEA in which clear guidelines for schools were set when collecting, storing, releasing, and destroying identifiable information for students with disabilities. Additionally, state education agencies (SEA) must have written procedures that notify parents of their right to inspect records and how such information is stored, disclosed, retained, and destroyed. In addition, annual notices must be given to parents on their rights to file a complaint or amend the child's records (Sealander, Schwiebert, Oren, & Weekley, 1999).

School districts must have a written release of information form in which it specifies the records to be released, reasons for release, and to whom the records would be released, and they must have an established procedure in the event parents resist giving consent. All other parties, other than who is designated to have access to records, must have parental consent. In the following section, the role of school counselor in relation to FERPA is presented.

The Role of School Counselors in Relation to FERPA

Confidentiality is a legal requirement and an ethical issue. How school counselors handle records of students may or may not establish trust. School counselors must be knowledgeable about the laws that govern the confidentiality of school

records, what are considered to be exceptions, and the nature of privileged communication. They must also be aware of their own professional organizations' ethical standards and practices regarding confidentiality (ASCA, 2005). School counselors may assist students and their parents in educating them as to the law, and in accessing student records which must be delivered within 45 days of the request. They may also refer them to knowledgeable professionals who can further address specific questions. Examples of these issues are illustrated in Case 3.1.

The final regulation, the Americans with Disabilities Act (ADA), is addressed in the next section.

AMERICANS WITH DISABILITIES ACT (ADA)

The ADA and Section 504 are both Civil Rights Acts and apply to all programs and activities offered by a school system, for example, school board meetings,

CASE ILLUSTRATION 3.1

“SHOULD SUSAN BE INCLUDED?”

Susan, age 7, spent her first 2 years in a segregated special education classroom for students labeled as intellectually disabled. The MDT had concerns about Susan's inappropriate behaviors that include elopement from the classroom; falling to the floor and screaming and crying when “she didn't” get her way; and aggressing toward classmates. Susan was verbal and tested in the moderate range of ID. At the most recent MDT meeting called by the special education teacher who has just completed a course at the local university, the question of including students in some general education class time was being discussed. Susan does not have a behavior intervention plan as part of her present IEP. In this meeting, a BIP was not discussed, but instead, it was decided that the school counselor, along with the psychologist, should conduct observations in Susan's classroom as well as the general educational setting in which Susan would be placed. The school counselor observes Susan on three different occasions for 45 minutes each and notices some environmental triggers really set Susan off—which, if addressed in the general education setting, could decrease the number of problem behaviors. The general education teacher is concerned and defensive, and in seeing this as Susan's problem, thinks that Susan should remain full-time in her special education class. What is the school counselor's role? What are his or her next steps?

extracurricular programs, teacher conferences, recreational activities, social and cultural activities, and summer school. Section 504 requires accommodations be provided to people with disabilities, when necessary, such as qualified interpreters, real-time captioning (CART), assistive listening devices, or other auxiliary aids, in order to ensure effective communication among all parties. These are services provided to all schools that receive federal funds. However, the ADA takes the law further in that Title II of the ADA requires comparable access by all state and local government programs, regardless of whether or not the programs get federal financial assistance. As such, it can be seen from the list of accommodations above (not an exhaustive list), any activity that the school is involved in must be accessible! The ADA discusses accessibility in relation to reasonable accommodation. A reasonable accommodation may include such things as making a facility accessible by adding a ramp, modifying a work schedule to take into consideration a person's stamina, and providing an interpreter.

Public schools must comply with the ADA in all of their services, programs, or activities, including those that are open to parents or to the public. For instance, public school systems must provide accessibility to parents and guardians with disabilities to these programs, activities, or services; and appropriate auxiliary aids (e.g., interpreters, note takers, transcription services, and written materials) as defined in the law below:

- services whenever necessary to ensure effective communication (56 Fed. Reg. 35696, July 26, 1991); and
- determination of what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities (28 C.F.R. § 35.160). There is a lot of regulation in the ADA governing the provision of services to the deaf, as well as accessibility features for those persons with physical disabilities.

In the next section, the role of school counselors in implementing the ADA is addressed.

The Role of School Counselors Under ADA

As many school programs and services are supporting students with disabilities, the school counselors should see this provision as one of supports to the students they serve. All public trainings and communications must be accessible. School counselors need to know where to look to get support in implementing this law. Thus, they must be aware of needed resources and make the necessary referrals. Knowing the community and networking within that community will help.

All federal legislation has been presented above. However, prior to laws being passed there were many cases decided that helped to shape law. Cases are heard at the local, state, and circuit levels. See Appendix B for some of the more significant case rulings.

LEGAL AND ETHICAL ISSUES ENCOUNTERED BY SCHOOL COUNSELORS

School counselors will encounter legal and ethical dilemmas, all of which will be difficult, some more so than others. In a study done by Bodenhorn (2006), school counselors were asked to indicate their most common and challenging ethical dilemmas. Those areas participants identified most included student confidentiality, dual relationships with faculty, parental rights, and acting on student danger to themselves or others. In addition, Remley and Herlihy (2001) discussed reporting of child abuse as an issue that school counselors encounter far too often in their practice. These concerns are illustrated in Case 3.2.

Ethical dilemmas are extremely difficult with any child, but what happens when disability is a characteristic of the child? Although rules and regulations of reporting child abuse are clear, what happens when school counselors are working, for example, with a child who is nonverbal, such as a child on the autism spectrum may be, and/or one with multiple disabilities, where the decision of whether or not abuse may have occurred is not that easily identified? Other ethical and legal dilemmas emerge when working with children with disabilities. For example, with

CASE ILLUSTRATION 3.2

THE ISSUE OF MEDICATION

Susan, a 13-year-old girl with ADHD at her local middle school, splits time between her mother and father who were divorced last year. When with her father, she diligently takes her medication and “looks quite different in school.” For example, she may concentrate, her grades are better, and she is more cooperative. However, when with her mother, who is spending a lot of time out of the home working and with a new boyfriend, Susan is given the message that it is “her body, and she can decide what she will and will not put into it.” The teachers are complaining to the school counselor, indicating that Susan must take her medication. What are the next steps?

CASE ILLUSTRATION 3.3

BULLYING AND SEXUAL HARASSMENT

You are a school counselor who has been working with Stephanie, a 15-year-old child with learning disabilities, in direct counseling for a number of months since she came to you about possible bullying and sexual harassment outside of the school. It has been very difficult getting Stephanie to trust you, and now you are preparing for her IEP meeting in which you are not sure if the results of your counseling sessions should be shared or not as they may possibly lead to important goals being established on the IEP. What do you do?

respect to confidentiality as it relates to children with disabilities, FERPA and IDEA certainly give guidance and regulation; however, what about school counselor-student privilege, as all school counselors' records may be subpoenaed?

In a study done by Hermann (2002), of the 273 school counselors who were surveyed, over 90% indicated they felt they were well prepared to determine reported child abuse; 75% felt well prepared to determine whether a child would harm himself or herself; however, they felt least prepared to respond to being subpoenaed in a legal proceeding. It was not noted, however, as to whether or not any of these students were children with disabilities. With the consistently high and increased number of due process hearings for students with disabilities, school counselors must be prepared to deal with school records and legal proceedings and ethical conflicts that arise.

In addition, all school counselors are required to abide by the ethical standards of their personal organization, the American School Counselor Association (ASCA, 2005).

Table 3.3 provides an example of standards related to legal and ethical issues for school counselors.

According to Stone and Zirkel (2010), fulfilling the legal requirements and ethical standards may pose challenges for school counselors, as legal positions do not necessarily accompany ethical norms. What has been reported in the school counselor literature is that, in many situations, school counselors considered breaking confidentiality, based on the age and maturity level of the student (i.e., more likely to break confidentiality of the younger student and less so with increasing age; Isaacs & Stone, 1999). However, what has not been addressed is that when working with students with disabilities, the chronological age may not match the student's developmental/functional age; for example, a child with an intellectual disability may have a chronological age of 16 but function on a 5-year-old's age level cognitively.

Table 3.3 Ethical Standards

An example of a State’s Competencies	<ol style="list-style-type: none"> 1. Understand the role, function, and professional identity of the school counselor as a facilitator of the academic, career, and personal/social development of all students, and as a leader and advocate for systemic change within the school; 2. Are knowledgeable about current educational issues, local policy, administrative procedures, state and federal laws, and legislation relevant to school counseling. <p>IV.B Advocacy—Studies involving the use of knowledge and competencies to advocate on the behalf of students and families of diverse and multicultural backgrounds, including understanding the advocacy process and the school counselor’s role as an advocate for students and change within the school system to better meet the needs of students.</p> <p>Candidates:</p> <ol style="list-style-type: none"> 1. Know the roles and processes of school counselors advocating on behalf of others; 2. Understand advocacy processes needed to address institutional barriers that impede access, equity, and success for students and families; 3. Demonstrate the ability to articulate, model, and advocate for an appropriate school counselor identity and program.
ASCA School Counselor Competencies	<p>I-A-7. Legal, ethical, and professional issues in pre-K–12 schools</p> <p>I-A-8. Developmental theory, learning theories, social justice theory,</p> <p>I-B-3. Advocates for student success</p> <p>I-B-3d. Reviews advocacy models and develops a personal advocacy plan</p> <p>I-B-3e. Understands the process for development of policy and procedures at the building, district, state, and national levels</p> <p>Acts as a systems change agent to create an environment promoting and supporting student success</p> <p>I-B-5a. Defines and understands system change and its role in comprehensive school counseling programs</p> <p>I-B-5b. Develops a plan to deal with personal (emotional and cognitive) and institutional resistance impeding the change process</p> <p>I-B-5c. Understands the impact of school, district, and state educational policies, procedures, and practices supporting and/or impeding student success</p> <p>II-B-4. Applies the ethical standards and principles of the school counseling profession and adheres to the legal aspects of the role of the school counselor</p>

(Continued)

Table 3.3 (Continued)

	II-B-4c. Understands and practices in accordance with school district policy and local, state, and federal statutory requirements
	II-B-4d. Understands the unique legal and ethical nature of working with minor students in a school setting
	II-B-4e. Advocates responsibly for school board policy and local, state, and federal statutory requirements in students' best interests
	II-B-4i. Practices within the ethical and statutory limits of confidentiality
	II-B-4j. Continually seeks consultation and supervision to guide legal and ethical decision-making and to recognize and resolve ethical dilemmas
	II-B-4k. Understands and applies an ethical and legal obligation not only to students but to parents, administration, and teachers as well
CACREP	B. Skills and Practices
	1. Demonstrates the ability to apply and adhere to ethical and legal standards in school counseling.

Source: American School Counselor Association (2005). *The ASCA national model: A framework for school counseling programs* (2nd ed.). Alexandria, VA: Author.

The answers will lie in ongoing professional development, developing cultural sensitivity, practicing within one's professional organization's standards, ongoing collaboration and communication with the MDT, and applying leadership and advocacy skills. Since school counselors must address the needs of all students they serve, they must assume responsibility for expanding and enhancing their own professional development (Scarborough & Deck, 1998). They must know and follow laws and policies and deal with ethical dilemmas, and as mentioned throughout this chapter, school counselors must serve as advocates for their students. According to Dahir and Stone (2009), the Transforming School Counseling Initiative (1997) placed emphasis on leadership and advocacy; school counselors are the professionals in schools to serve as *social justice advocates* to eliminate achievement gaps and ensure success. Since the inception of special education, the disproportionality of minorities placed in special education has been documented. An understanding of the challenges that race, ethnicity, and cultural barriers may place on a student is necessary knowledge for school counselors. How these variables impact evaluation and services is critical.

Within the ASCA (2005) model, school counselors are encouraged to pursue systemic change through leadership, advocacy, and collaboration. Advocating for students is an appropriate activity for school counselors, and it may be especially important to those students with disabilities to support empowerment of them and their families, and to advocate for their individual needs.

As a result of legislation, school counselors will be required to

- support the identification of students and the evaluation of students with disabilities,
- serve on MDTs,
- define and implement appropriate services for students with disabilities,
- counsel students with disabilities,
- provide the same services to students with disabilities that are provided to students without disabilities,
- consult with MDT members and outside agencies on the educational and affective needs of students with disabilities, and
- support staff development.

The work of school counselors is ever growing and exciting. All of their skills, knowledge, and dispositions are put to use on a daily basis in serving children and families. Being an important member of the MDT, many professionals, families, and, most importantly, students will turn to you for your support. Being knowledgeable of the legislation will ensure successful work with children and families with disabilities.

KEYSTONES

- Understanding the content and language of, and how to effectively and legally implement, laws will help to support students and to assist schools to avoid liability.
- A thorough understanding of the special education process includes screening, assessing and evaluating, goal setting and planning, and implementing the students' plan. The law governs us in all of these actions.
- School counselors will need to know how to best advocate for their students in order to be able to obtain resources, interact with outside agencies, and provide direct counseling.
- One main role school counselors have is to conduct periodic evaluations for the purpose of establishing and continuing eligibility of students for special education services and for reassessing their needs and continued eligibility.
- When the students are identified, school counselors work with the MDT to ensure that the legally sound plans are in place and implemented effectively.
- In the IEP process, school counselors can assist in developing relevant goals, specifying supports needed to obtain those goals, and making referrals to outside agencies for services. They also may provide direct counseling service as indicated in the IEP, such as individual or group counseling.

- Under NCLB, school counselors should counsel students about test anxiety and offer strategies, as well as interpret tests and analyze them in conjunction with multiple measures of student achievement. In some instances, they may also coordinate and proctor tests, serve as the building test coordinator, and, possibly, the district coordinator.
- School counselors must be aware of the rights afforded students and their parents regarding school records, such as the laws that govern the confidentiality of school records, what are considered to be exceptions, and the nature of privileged communication.
- School counselors must be aware of their own professional organizations' ethical standards and practices regarding confidentiality (ASCA, 2005).
- School counselors will encounter legal and ethical dilemmas, such as those pertaining to student confidentiality, dual relationships with faculty, parental rights, and acting on student danger to themselves or others.

ADDITIONAL RESOURCES

Print

Bartlett, L. D., Etscheidt, S., & Weistenstein, G. R. (2007). *Special education law and practice in public schools* (2nd ed.). Upper Saddle River, NJ: Pearson.

Norlin, J. W. (2007). *What do I do when: The answer book on special education law* (5th ed.). Horsham, PA: LRP.

Norlin, J. W., & Gorn, S. (2005). *What do I do when: The answer book on Section 504* (2nd ed.). Horsham, PA: LRP.

Yell, M. L. (2012). *The law and special education* (3rd ed.). Boston, MA: Pearson.

Web Based

ADA Document Center: <http://adata.org/ada-document-portal>

Federal Register Daily: <https://www.federalregister.gov/>

“The Office of the Federal Register informs citizens of their rights and obligations, documents the actions of Federal agencies, and provides a forum for public participation in the democratic process. Our publications provide access to a wide range of Federal benefits and opportunities for funding and contain comprehensive information about the various activities of the United States Government. In addition, we administer the Electoral College for Presidential elections and the Constitutional amendment process” (Mission section).

FindLaw: <http://www.findlaw.com>

Provides legal information and services for lawyers, businesses, and individuals.

IDEA Final Regulations: <http://www.ed.gov/legislation/fedregister/finrule/index.html>

Contains final regulations, priorities, and other rules and pdfs.

IDELR-Ed Admin online: <http://www.lrp.com/ed/>

“Obtain practical guidance, build professional capacity, and conduct legal/regulatory research about Autism, Behavior and Discipline, Early Childhood, IEPs, Inclusion, LRE, Specific Disabilities, Transition, and more!”

OSERS IDEA 97 Home Page: <http://www.ed.gov/offices/OSERS/IDEA/>

“An overview of the bill, a summary of the bill, and a brief set of frequently asked questions and answers are provided for people interested in having a broad understanding of some of the changes in IDEA’97.”

Special Education Advocate: <http://www.wrightslaw.com>

“Parents, educators, advocates, and attorneys come to Wrightslaw for accurate, reliable information about special education law, education law, and advocacy for children with disabilities. You will find thousands of articles, cases, and resources about dozens of topics including IDEA 2004, Special Education, Law and Advocacy.”

Types of Evaluations: <http://www.concordspedpac.org/TypesEvals.html>

“This website provides a sampling of evaluations that may be utilized by school systems.”

U.S. Congress on the Net: <http://thomas.loc.gov/>

“Congress.gov is the official source for federal legislative information. It replaces the nearly 20-year-old THOMAS.gov site with a system that includes platform mobility, comprehensive information retrieval and user-friendly presentation. It currently includes all data sets available on THOMAS.gov except nominations, treaties and communications.”

U.S. Department of Education: <http://www.ed.gov/pubs/index.html>

“ED’s mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.”

Wrights Law: <http://www.wrightslaw.com/>

Provides summaries of cases, resources, and references.

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Appendix A

Sample Completed IEP (Created by Author's Legal Issue Class)

INDIVIDUALIZED EDUCATION PROGRAM (IEP) SCHOOL AGE

Student's Name: Michelle Smith

IEP Team Meeting Date (mm/dd/yy): 12/17/2015

IEP Implementation Date (Projected Date when Services and Programs Will Begin): 12/18/2015

Anticipated Duration of Services and Programs: 12/17/2016

Date of Birth: 7/13/94

Age: 16

Grade: 10th

Anticipated Year of Graduation: 2018

Local Education Agency (LEA): Delaware County 2

County of Residence: Delaware County

Name and Address of Parent/Guardian/Surrogate: Mr. and Mrs. Kyle Smith Phone (Home): 484-589-1234
135 Joy Lane Phone (Work): 484-734-5678
Chester, PA 19013

Other Information: _____

The LEA and parent have agreed to make the following changes to the IEP without convening an IEP meeting, as documented by these individuals:

--

Date of Revision(s)	Participants/Roles	IEP Section(s) Amended

IEP TEAM/SIGNATURES

The Individualized Education Program team makes the decisions about the student’s program and placement. The student’s parent(s), the student’s special education teacher, and a representative from the Local Education Agency are required members of this team. Signature on this IEP documents attendance, not agreement.

Role	Printed Name	Signature
Parent/Guardian/Surrogate	Susan Smith	
Parent/Guardian/Surrogate	Kyle Smith	
Student*	Michelle Smith	
Regular Education Teacher**	Alisa Dianna – English Teacher	
Special Education Teacher	Alexander Hilliemeyer	
Local Ed Agency Rep	Mary Payne	
School Psychologist	M. Mei Lu PhD	

- * The IEP team must invite the student if transition services are being planned or if the parents choose to have the student participate.
 - ** If the student is, or may be, participating in the regular education environment
 - *** As determined by the LEA as needed for transition services and other community services
 - **** A teacher of the gifted is required when writing an *IEP* for a student with a disability who also is gifted.
- One individual listed above must be able to interpret the instructional implications of any evaluation results.

Written input received from the following members:

Not applicable

Transfer of Rights at Age of Majority

For purposes of education, the age of majority is reached in Pennsylvania when the individual reaches 21 years of age. Likewise, for purposes of the Individuals with Disabilities Education Act, the age of majority is reached for students with disabilities when they reach 21 years of age.

PROCEDURAL SAFEGUARDS NOTICE

I have received a copy of the *Procedural Safeguards Notice* during this school year. The *Procedural Safeguards Notice* provides information about my rights, including the process for disagreeing with the IEP. The school has informed me whom I may contact if I need more information.

Signature of Parent/Guardian/Surrogate: _____

I. SPECIAL CONSIDERATIONS THE IEP TEAM MUST CONSIDER BEFORE DEVELOPING THE IEP. ANY FACTORS CHECKED AS “YES” MUST BE ADDRESSED IN THE IEP.

Is the student blind or visually impaired?

Yes The IEP must include a description of the instruction in Braille and the use of Braille unless the IEP team determines, after an evaluation of the student’s reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student’s future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student.

No

Is the student deaf or hard of hearing?

Yes The IEP must include a communication plan to address the following: language and communication needs; opportunities for direct communications with peers and professional personnel in the student’s language and communication mode; academic level; full range of needs, including opportunities for direct instruction in the student’s language and communication mode; and assistive technology devices and services. Indicate in which section of the IEP these considerations are addressed. The Communication Plan must be completed and is available at www.pattan.net.

No

Does the student have communication needs?

Yes Student needs must be addressed in the IEP (i.e., present levels, specially designed instruction [SDI], annual goals, etc.).

No

Does the student need assistive technology devices and/or services?

Yes Student needs must be addressed in the IEP (i.e., present levels, specially designed instruction, annual goals, etc.).

No

Does the student have limited English proficiency?

Yes The IEP team must address the student’s language needs and how those needs relate to the IEP.

No

Does the student exhibit behaviors that impede his/her learning or that of others? Yes

The IEP team must develop a Positive Behavior Support Plan that is based on a functional assessment of behavior and that utilizes positive behavior techniques. Results of the functional assessment of behavior may be listed in the Present Levels section of the IEP with a clear measurable plan to address the behavior in the Goals and Specially Designed Instruction sections of the IEP or in the Positive Behavior Support Plan if this is a separate document that is attached to the IEP. A Positive Behavior Support Plan and a Functional Behavioral Assessment form are available at www.pattan.net.

 No**Other** (specify):

Not applicable

II. PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE**Include the following information related to the student:**

- Present levels of academic achievement (e.g., most recent evaluation of the student, results of formative assessments, curriculum-based assessments, transition assessments, progress toward current goals)

Academic History:

On April 28, 2013, Michelle transferred to TCAHS, an emotional support school for the latter half of the 9th grade. She was referred for the out-of-district placement due to ongoing acts of aggression and, finally, two police arrests for fighting on school grounds. Before arriving at TCAHS, she was held at the Detention Center. The Notice of Recommended Education Placement (NOREP) dated 3/29/2011 stated that Michelle's current program at Chester High School did not have sufficient behavioral support to address her needs. At TCAHS, she is provided with accommodations, supports, and related services. There is a low teacher-to-student ratio, as well as a school-wide positive behavior support system. As part of her educational program at TCAHS, Michelle receives weekly individual therapy sessions (30–45 minutes/session) and bi-weekly group therapy (30 minutes/group). A vocational component, culinary arts, is embedded into Michelle's educational programming at TCAHS. She is currently in 10th grade.

Aptitude and Achievement Tests:

Michelle was initially evaluated in 2007 and began receiving full-time special education services in 5th grade. An evaluation was prompted by Michelle's difficulty in keeping up with classes, behavioral challenges, and poor ability to focus. In October 2009, she transferred to Wetherill School due to reported difficulties getting along with teachers at Smedley. Also at that time, Michelle was said to be emotionally affected by the decision to exclude her from the graduation ceremony after all expenses were paid in full.

Test of Word Reading Efficiency (TOWRE): 7/25/2010

<u>Subtests</u>	<u>Standard Score</u>	<u>Percentile</u>
Sight Word Efficiency	69	2
Phonemic Decoding Efficiency	75	5
Total Reading Efficiency	66	1

(Scaled Scores between 85 and 115 are within the Average range)

Grades

According to records, Michelle has earned 2.4375 credits to date. The following grades and comments were reported during her high school career:

TCAHS—10th grade (2011/2012)—1st marking period	
English	85
Reading	Pass
Math	94
Earth Science	95
Social Studies	95
Physical Education	85
Health	70
Vocational Shop (Food Prep)	85

A=90–100
B=80–89
C=70–79
D=60–69
F=50–59
Possible credits for year: 7.75

Comments: Completes class work, completes homework, cooperative/interacts positively, responsible/dependable, pride in achievement/appearance, making steady progress

TCAHS—9th grade (2010/2011)	
English	75
Reading	98
Math	95
Earth Science	90
Social Studies	87
Physical Education	85
Health	80
Vocational Shop (Food Prep)	60
Social Skills	Pass

A=90–100
B=80–89
C=70–79

D=60–69
F=50–59
Possible credits for year: 1.9375

Comments: Completes class work, completes homework, cooperative/interacts positively, responsible/dependable, making steady progress, frequently absent (English), careless/indifferent (Food Prep)

Reading

In Reading, Michelle was assessed on skills of oral fluency, rapid automatized naming (RAN), phonological awareness, sight word recognition, decoding, and reading comprehension.

Oral fluency is the ability to produce a series of words or ideas related to a specific criterion or visual cue rapidly by quickly retrieving information from long-term memory. Michelle completed two subtests in this category: Associational Fluency and Naming Facility. In Associational Fluency, she was verbally asked to provide words that were associated with a semantic criterion or initial phoneme sound, and she performed within the Average range (SS-97). On the second task, Naming Facility, Michelle also scored in the Average range (SS-95). Naming Facility is a task measuring rapid automatized naming (RAN), an important skill necessary for the quick and efficient retrieval of phonological information from long-term memory. RAN involved the ability to perceive visual stimuli (e.g., objects, colors, numbers, or letters) and to name it rapidly and accurately. It represents a very basic indicator of how fast the brain can integrate visual and verbal processes, which is an important part of reading.

Sound-symbol knowledge is the awareness, understanding, and store of information that an individual has of the association between sounds and print (also known as phonological awareness). This is the understanding that words are composed of individual phonemes, which are represented by letters of the alphabet. The Nonsense Word Decoding subtest measured Michelle's application of phonics by asking her to decode letter sequences that were not authentic words but made up of letter units that adhered to Standard English pronunciation; she performed in the Well Below Average range (SS-70). Michelle displayed ending sound confusion with /b/ for /p/ and difficulty with medial sounds.

The Letter and Word Recognition subtest measured both Michelle's ability to recognize vocabulary and her ability to decode unfamiliar words. She scored within the Significantly Below Average range (SS-66). She was not able to establish a basal point at her recommended grade level. On unfamiliar words, Michelle observably employed phonemic knowledge to assist with decoding; however, this is a weakness for her. Generally, she would break down parts in phonetic pieces and blend them as best as she could. She also appeared to rely on visual aspects to stimulus words (e.g., with → width, beard → bored).

Reading fluency tasks measured the speed, ease, and accuracy (i.e., automaticity) in which Michelle was able to read. On the Word Recognition Fluency subtest, she scored within the lower limits of the Well Below Average range (SS-66) due to poor word recognition and phonetic application skills.

Reading comprehension is the ability to extract meaning from printed text. On this subtest, Michelle was required to read a series of passages and to answer a number of literal and inferential questions regarding the passage's content. Her performance suggested much difficulty with questions that required reasoning and the integration of information, as opposed to responses that were explicitly provided in the text. In the most instances, she read silently to herself and referenced back to the text before providing an answer. The latter behavior indicated a lack of comprehension during her initial read; however, it is a good strategy to employ when comprehension is in question. Additionally, Michelle displayed difficulty searching and locating the appropriate place in the passage that contained the necessary information. As a result, she

typically reread the entire passage before providing an answer. Michelle's reading comprehension score fell in the Significantly Below Average (SS-64).

At this time, Michelle demonstrated significant weakness in all major domains of reading. Precursory reading skills of oral fluency and rapid automatized naming were within the Average range. At this time, Michelle needs considerable remediation through an intense and explicit phonics-based reading program.

Group Reading Assessment and Diagnostic Evaluation (GRADE) 9/22/2011

Subtest	Stanine	Percentile
Listening Comprehension	1	—
Vocabulary	1	<1
Sentence Comprehension	1	
Passage Comprehension	1	—
Comprehension Composite	1	<1
Total test	1	<1

Date	Lesson #	Score	
5/6/2011	5	122 wpm/0 errors	Pass
5/10/2011	10	137 wpm/2 errors	Pass
5/10/2011	15	146 wpm/ 1 errors	Pass
10/6/2011	20	152 wpm/1 errors	Pass
10/6/2011	25	125 wpm/1 errors	Pass
10/6/2011	30	130 wpm/2 errors	Pass
10/6/2011	35	130 wpm/ 2 errors	Pass

AIMSweb—8th grade probes

Computation
9/7/11 – 2/80
(Goal – 20/80)

Written Language

In the area of written language, Michelle was assessed in spelling and written expression. She scored comparably in both areas. On spelling tasks, Michelle displayed behaviors similar to those exhibited when reading. On several items, she wrote visually and/or aurally similar words despite the oral presentation of words in context-rich sentences. This consistent tendency to interchange homonyms and synonyms provides further evidence of lexical limitations. On the Spelling subtest, she obtained a score in the Well Above Average range (SS-74). On written expressive tasks, Michelle put forth much effort but had difficulty grasping lengthier and more complex items. As a result, further clarifications were sometimes needed after the standardized directions were provided. She scored in the Well Above Average range (SS-73) in this assessment of writing. Michelle needs improvement in the following areas: vocabulary, conventions, grammar usage, sentence structure, and theme development. Her written products often reflected her verbal expressive skills stylistically. For example, "I think yall doing a good job in spite of yall just need a little more work."

"Dear fan and Director which one of yall like the movie that bout to come out."

PSSA Writing Sample

A persuasive writing sample was collected on October 8, 2010, by Mr. Kappenstein. Michelle was asked to write an essay in response to a prompt, and a visual outline of the writing process was provided. The writing sample was scored by two raters according to the Pennsylvania System of School Assessment (PSSA) Scoring Guidelines, which rates each response according to five areas. Scores range from 1 to 4, with 4 indicating superb writing.

	Mr. Kappenstein Score	Comments	Mr. Maynard Score	Comments
Focus	1	Minimal focus	1	Very little focus
Content and Development	1	Superficial; no details	1	Unelaborated argument
Organization	1	Minimal organization	1	Lack of logical order and transitions
Style	1	Minimal variety in word choice and sentence structure	1	Minimal control of language and sentence structure
Convention	1	Minimal control in all areas	1	Minimal control, awkward sentences, many errors

Mathematics

In the area of mathematics, computational and mathematical reasoning skills were assessed. Michelle scored within the Well Above Average range in both domains (Math Concepts and Application, S-71; Math Computation, SS-70). Quantitative reasoning assessed her knowledge of math concepts and application to everyday situations such as time, money, reading graphs and charts, determining patterns, and creating and solving math problems. Some of the tasks required Michelle to listen to math problems while looking at coinciding pictures, to recognize the procedures to be followed, and then to perform the calculations. Michelle consistently had trouble with problems involving money, such as counting appropriate change. Although finger counting was observed, Michelle's performance on the Math Computation subtest did suggest a sufficient knowledge base with addition and subtraction math facts and algorithms. Problems were presented in a worksheet format, and Michelle was asked to complete as many problems as she could without time limitations. Michelle struggled with multiplication and division. She attempted to calculate the product of several multiplication problems; however, she was inconsistently successful. Michelle did not complete any division problems, including those for division facts (e.g., $8/2=$). She stated that she does not understand the concept even though she had a general gist of multiplication. No problems involving fractions, decimals, percentages, or more complex items were attempted. At this time, Michelle should develop a conceptual knowledge base for these mathematical ideas before proceeding to complete worksheet-type problems involving those concepts. At this time, Michelle's history and pattern of development support the educational disability categories of Other Health Impaired and Emotional Disturbance. It appears that difficulties with ADHD and management of social-emotional-behavioral functioning have impeded her learning. Academic instruction for enhancing reading, writing, and math is highly recommended.

Curriculum-Based Measurement

9/17/11 – 2/25/114 CDPM

9/23/11 – 1/53 CDPM

(Goal – 12.5 Correct Digit Per Minute)

Concepts and Applications

9/15/11 – 0/42

9/30/11 – 1/42

10/7/11 – 3/42

10/15/11 – 4/42

10/21/11 – 0/42

Vocational Interests

Cluster	Cluster Quotient	Percentile	Rating
Mechanical	107	68	Average
Outdoor	97	42	Average
Mechanical-Outdoor	109	73	Average
Food Service-Handling Operations	123	94	High
Clerical-Social Service	81	10	Below Average

On the R-FVII:2, Michelle indicated a strong preference for vocations geared toward food service, housekeeping, and materials handling. She scored in the Above Average range for duties falling under food service. These occupations involve working in businesses and companies that are responsible for any meal prepared and serviced outside of the home. Her ratings also indicated a High level of interest for occupations in the housekeeping and materials handling sectors. Housekeeping involves the process of maintaining a building in neat and clean condition. These occupations involve receiving, moving, storing, packing, and shipping raw materials, components, and/or finished products. These scores are highly consistent with Michelle's desire to work in the food catering business since it incorporates tasks from each identified interest area.

Interest	T-Score	Percentile	Rating
Automotive	48	42	Average
Building Trades	57	75	Average
Clerical	41	18	Below Average
Animal Care	41	18	Below Average
Food Service	63	90	Above Average
Patient Care	27	1	Low
Horticulture	52	58	Average
Housekeeping	68	96	High
Personal Service	46	34	Average
Laundry Service	40	16	Below Average
Materials Handling	67	95	High

(T-scores between 43 and 57 are within the Average range)

- Present levels of functional performance (e.g., results from a functional behavioral assessment, results of ecological assessments, progress toward current goals)

According to Michelle's responses on the Conners CBRS, a Very Elevated score was found for the Oppositional Defiant Disorder diagnostic scale. She endorsed statements such as very frequently getting angered by other people and getting even when mad at someone and often arguing with adults and getting easily annoyed by others. An Elevated score was found for the ADHD, Predominately Hyperactive-Impulsive Type diagnostic scale, which indicated that Michelle may have high activity levels, restlessness, difficulty being quiet, and poor impulse control. Accordingly, Elevated scores were found for the following content scores: Aggressive Behaviors, Academic Difficulties, Hyperactivity/Impulsivity, and Violence Potential.

On the Conners CBRS, critical items requiring immediate attention included Michelle's report of hopelessness and knowledge of where to obtain a weapon. When queried, Michelle reported that there was no gun in her house. Her response to the question referred to a sharp weapon that she would use only if her life was threatened (i.e., "use for protection. Like if someone tries to kill"). Ms. Smith also noted Michelle's very frequent inclination to carry and occasional tendency to use a weapon. Ms. Smith expressed concerns regarding Michelle's thoughts of death and dying, ramifications of bullying victimization, feeling of helplessness, cruelty to animals, and disregard for others' rights. Clinical indicators include possible post-traumatic stress and phobic symptomology (e.g., bugs).

Functional Behavior Assessment

At TCAHS, Michelle's teachers completed a functional behavior assessment (FBA) to determine behaviors that may interfere with her ability to learn. If necessary, the data collected will help formulate a Positive Behavior Support Plan in which the identified behaviors will be addressed.

In Mr. Cruice's Food Preparation class, Michelle was reported to be a "perfect student in Food Prep." No behavior issue has been observed.

In Mr. Kappenstein's Social Studies class, Michelle will engage in verbal arguments with peers on an infrequent basis. At most, this targeted behavior occurs on a monthly basis. Argumentative behaviors last for approximately 10 to 15 minutes, and it takes varying amounts of time before Michelle is able to refocus after staff intervenes. The trigger of this behavior appears to be in response to the provocation of peers. According to Mr. Kappenstein, the identified behavior has the function of escaping from work or attention seeking. However, considering the context, the situation may be better interpreted as Michelle being disrupted from her work, feeling the need to defend herself, and seeking help from staff by engaging in escalated behaviors.

In Mr. Maynard's Science class, Michelle sometimes completes assignments quickly without demonstrating adequate effort toward other class activities. This occurs approximately once a week and is triggered by the assignment of independent seatwork. Teacher redirection has been successful in stopping the targeted behavior. Michelle's rush through work functions as a way to obtain a tangible reinforcement since she is allowed to work on the computer or other desirable activity once class work is complete.

In Mrs. Dianna's English class, Michelle has not demonstrated any behavior that interferes with learning at this point.

Classroom Observations:

Mrs. Alisa Dianna (English)

According to Mrs. Dianna, Michelle participates in class for 100% of the time. She follows class and school rules. She appears to have adjusted well to TCAHS despite a constant proclamation of her dislike for the school. Michelle is very motivated to do well at TCAHS for the possibility of transferring to another

program. She is generally very focused despite any issues occurring in the class. She completes all assigned tasks. When frustrated, she is willing and able to ask for assistance. Her interactions with staff and peers are appropriate; however, when taunted, she will respond in a hostile manner. In English, Michelle works hard, completes assignments, and is kind to staff. Mrs. Dianna would like to see Michelle improve her reading and writing skills, including reading comprehension.

Mr. Alexander Hillemeier (Math)

According to Mr. Hillemeier, Michelle is very friendly and appropriately behaved. She completes work and follows directions. Her time on task is very high, and she demonstrates an excellent ability to focus. She is very motivated to do well in school and will ask for help when needed. Although she does not like the environment at TCAHS, Michelle does appear to like learning. She is very respectful of staff and is mature and appropriate with peers. Mr. Hillemeier would like Michelle to improve her understanding of mathematical concepts and math fluency.

Mr. Eric Maynard (Science)

According to Mr. Maynard, Michelle is respectful, focused, and cooperative. Her affect, attitude, and social interactions have all been positive. Michelle follows rules and is invested in the school-wide behavior support system. She is on task and completes assignments about 95% of the time. So far, she has received good test scores on exams. Michelle is motivated to do well for the purpose of transferring to another educational placement. Mr. Maynard reports that she sometimes would rush through her work. Helpful educational techniques include positive reinforcement, praise, and one-on-one instruction.

Mr. Robert Kappenstein (Social Studies)

According to Mr. Kappenstein, Michelle is a highly motivated student. She is responsible and successful at getting work completed. She begins assignments immediately and can stay on task and focused until completion. Michelle is making excellent academic progress in Social Studies. She is not easily distracted. When distracted, Michelle is very good about making up any missed work. A strong desire to return to a within-district placement has been communicated, and it appears she is working hard and diligently toward that goal. She is able to follow rules and engage positively with staff and peers. Although Michelle initially had several “blowups” in school, she appears to have much better control over her emotions and behaviors this academic year. Mr. Kappenstein encourages Michelle to work on and maintain her level of self-control.

Mr. William Cruice (Vocational Shop-Food Prep)

According to Mr. Cruice, Michelle is polite, attentive, and hard working. She is focused and on-task about 99% of the time. She is motivated and demonstrates a great attitude in culinary class. The quality of her interactions with staff is very polite; however, Michelle does have some issues with peers who try to upset her or disrupt her day intentionally. Although Mr. Cruice never observed an incident of bad temper, he would like Michelle to receive anger management counseling to address past concerns of aggression.

Ms. Elizabeth Deegan (Mental Health Counselor)

According to Ms. Deegan, Michelle is respectful to adults, puts forth much effort in classes, has a strong desire to succeed in school and life, and has worked hard to change her behaviors. She does well in individual and group therapy sessions. She uses her individual sessions appropriately and works well with peers in group sessions. In class, she tries very hard to not get involved in any conflict, and for the most part, has been successful. Ms. Deegan believes Michelle may be able to function more easily in a smaller class

setting. She does well with the majority of the students at TCAHS, but some students have persistently teased her. A prolonged period of taunting has caused Michelle to break down and misbehave in the past. Recommended goals for Michelle include anger management by activating resources that are available during difficult situations and improving her self-esteem. Michelle does not take any medication currently, and she enjoys gardening and working on creative projects.

Social-Emotional and Behavioral History:

In early childhood, Ms. Smith reported that Michelle was a happy, quiet, and well-behaved child. She was hesitant to leave her mother's side. Michelle continued to display good behaviors in Head Start and elementary school. However, beginning in middle school, a history of behavioral concerns emerged. Concerns included a quick temper, aggression, cutting class, running in the halls, issues with trust, and getting along with others. Difficulty maintaining relationships with certain teachers also started appearing. In high school, Michelle's aggression escalated and she began physically fighting with peers. In January and February 2013, she was arrested two separate occasions for a physical altercation during school. Since April 28, 2011, Michelle has been enrolled in an emotional support program at TCAHS.

According to both Ms. Smith and Michelle, she sometimes fights with her younger sister, Sally (aged 14 years). However, Michelle stated that she does not feel good when she and her sister are in conflict. Ms. Smith revealed that Michelle gets along well with family members as long as she is not annoyed by excessive questioning. She also stated that Michelle and her siblings might still be affected by the death of their maternal grandmother who passed away from illness in 2004. Michelle reportedly does not have a history of substance abuse.

Ms. Smith described Michelle's positive attributes as helpful (e.g., helps with chores, babysitting, and food preparation), affectionate, organized, protective, willingness to ask for assistance when needed, and her motivation to do well academically.

Attendance:

As of November 12, 2013, her current attendance for this school year

Days Present	41
Days Tardy	0
Excused Absences	4.5
Unexcused Absences	1.5
Out-of-School Suspension	1

For the previous school year (9th grade), Michelle's attendance from her date of enrollment at TCASH (April 28, 2011) through the last day

Days Present	38
Days Tardy	0
Excused Absences	1
Unexcused Absences	8

At Smith Upland High School, Michelle was absent 64.5 days before her withdrawal in January 2013.

- Present levels related to current postsecondary transition goals if the student's age is 14 or younger if determined appropriate by the IEP team (e.g., results of formative assessments, curriculum-based assessments, progress toward current goals)

Michelle is currently in her 10th year of school. Currently, she is taking a food preparation course through TCAHS vocational program. She enjoys the class and has stated a career interest in culinary arts, possibly food catering. Mr. Cruice, her food prep teacher, stated that Michelle has demonstrated great potential in his class. Michelle has had the opportunity to partake in various catering events through her involvement in the food prep class. As part of this evaluation, Michelle completed a vocational assessment, which indicated employment interests in food service, housekeeping, and materials handling.

Transition Needs:

- Develop and maintain an appropriate plan for high school graduation
- Develop and maintain ability to function independently and appropriately in a social environment
- Develop and learn to spontaneously employ coping strategies
- Develop positive social judgment
- Develop life skills for independent living
- Explore career interest in food service, housekeeping, and materials handling
- Explore vocational training for desired occupation

- Parental concerns for enhancing the education of the student

According to the Re-evaluation, Ms. Smith states she has concerns regarding Michelle's display of aggression, social aspects with her peers, and Michelle's nutritional diet. Parental concerns will be discussed further at the IEP meeting.

- How the student's disability affects involvement and progress in the general education curriculum

Michelle qualifies for Special Education as a child with an Emotional Disturbance that [*sic*] the involvement and progress in the general education setting is not possible due to her high need for unique and specially designed instruction throughout the school day. Michelle exhibits inappropriate types of behavior or feelings under normal circumstances, and she has inappropriate verbal and physical behaviors. She qualifies for emotional support. Michelle qualifies for a secondary category of Special Education under the category of Other Health Impairment for ADHD and ODD.

- Strengths

- Motivated to do well in school
- Good attendance
- Strong relationship with family
- Ability to ignore negative behaviors of others
- Willing to make up missed assignments
- Respectful toward adults
- Responsive to interventions

- Academic, developmental, and functional needs related to student’s disability

- To continue developing coping strategies for mood and behavior management
- To improve academic achievement—in reading, writing, and mathematics
- To enhance self-esteem and self-confidence
- To begin setting and developing postsecondary goals and plans

III. TRANSITION SERVICES — This is required for students aged 14 or younger if determined appropriate by the IEP team. If the student does not attend the IEP meeting, the school must take other steps to ensure that the student’s preferences and interests are considered. Transition services are a coordinated set of activities for a student with a disability that is designed to be within a results-oriented process; these services are focused on improving the academic and functional achievement of the student with a disability to facilitate the student’s movement from school to postschool activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation that is based on the individual student’s needs, taking into account the student’s strengths, preferences, and interests.

POST-SCHOOL GOALS—Based on age-appropriate assessment, define and project the appropriate measurable postsecondary goals that address education and training, employment, and, as needed, independent living. Under each area, list the services/activities and courses of study that support that goal. Include for each service/activity the location, frequency, projected beginning date, anticipated duration, and person/agency responsible.

For students in Career and Technology Centers, CIP Code:

Not applicable

Postsecondary Education and Training Goal: Michelle has the goal to attend postsecondary education in the interest of culinary arts upon graduation from high school.				Measurable Annual Goal Yes/No (Document in Section V)	
Courses of Study: English, math, science, social studies, vocational shop-food prep, Emotional Support period					
Service/Activity	Location	Frequency	Projected Beginning Date	Anticipated Duration	Person(s)/ Agency Responsible
One-on-one individual conference with school counselor to review graduation plan and program	TCAHS	One time per school year	12/18/2015	12/16/2016	School Counselor
Provide opportunity to attend Career Day	TCAHS	When offered by school	12/18/2015	12/16/2016	School Counselor
Support and instruction in behavior and social skills	TCAHS	One period per school day	12/18/2015	12/16/2016	Emotional Support Teacher

Support and instruction in computation and math reasoning skills	TCAHS	One period per school day	12/18/2015	12/16/2016	Learning Support Teacher
Support and instruction in expressive language (writing)	TCAHS	One period per school day	12/18/2015	12/16/2016	Learning Support Teacher
Support and instruction in reading fluency and comprehension	TCAHS	One period per school day	12/18/2015	12/16/2016	Learning Support Teacher
Employment Goal: Michelle has the goal to obtain competitive employment upon postsecondary education.				Measurable Annual Goal Yes/No (Document in Section V)	
Courses of Study: English, math, science, social studies, vocational shop-food prep, Emotional Support period					

IV. PARTICIPATION IN STATE AND LOCAL ASSESSMENTS

Instructions for IEP Teams:

Please check the appropriate assessments. If the student will be assessed using the PSSA or the PSSA-Modified, the IEP Team must choose which assessment will be administered for each content area (Reading, Mathematics, and Science). For example, a student may take the PSSA-Modified for Reading and the PSSA for Mathematics and Science. If the student will be assessed using the PASA, the IEP Team need not select content areas because ALL content areas will be assessed using the PASA.

- **PSSA** (Please choose the appropriate option and content areas for the student. A student may be eligible to be assessed using the PSSA-Modified assessment for one or more content areas and be assessed using the PSSA for other content areas.)
- **PSSA-Modified** (Please choose the appropriate option and content areas for the student. A student may be eligible to be assessed using the PSSA-Modified assessment for one or more content areas and be assessed using the PSSA for other content areas.)

Allowable accommodations may be found in the PSSA Accommodations Guidelines online: www.portal.state.pa.us/portal/server.pt/community/testing_accommodations__security/7448

Criteria regarding PSSA-Modified eligibility may be found in Guidelines for IEP Teams: Assigning Students with IEPs to State Tests (ASIST) online: www.education.state.pa.us/portal/server.pt/community/special_education/7465/assessment/607491

Criteria regarding PASA eligibility may be found in Guidelines for IEP Teams: Assigning Students with IEPs to State Tests (ASIST) online: www.education.state.pa.us/portal/server.pt/community/special_education/7465/assessment/607491

Not Assessed (Please select if student is not being assessed by a state assessment this year)

xxx	Assessment is not administered at this student’s grade level
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Reading (PSSA grades 3-8, 11; PSSA-M grades 4-8, 11)

	Student will participate in the PSSA without accommodations
	Student will participate in the PSSA with the following appropriate accommodations:

	Student will participate in the PSSA-Modified without accommodations
	Student will participate in the PSSA-Modified with the following appropriate accommodations:

Math (PSSA grades 3-8, 11; PSSA-M grades 4-8, 11)

	Student will participate in the PSSA without accommodations
	Student will participate in the PSSA with the following appropriate accommodations:
	Student will participate in the PSSA-Modified without accommodations
	Student will participate in the PSSA-Modified with the following appropriate accommodations:

Science (PSSA grades 4, 8, 11; PSSA-M grades 8, 11)

	Student will participate in the PSSA without accommodations
	Student will participate in the PSSA with the following appropriate accommodations:
	Student will participate in the PSSA-Modified without accommodations
	Student will participate in the PSSA-Modified with the following appropriate accommodations:

Writing (PSSA grades 5, 8, 11)

	Student will participate in the PSSA without accommodations
	Student will participate in the PSSA with the following appropriate accommodations:

PASA (PASA grades 3-8, 11 for Reading and Math; Grades 4, 8, 11 for Science)

	Student will participate in the PASA
--	--------------------------------------

Explain why the student cannot participate in the PSSA or the PSSA-M for Reading, Math, or Science:

Explain why the PASA is appropriate:

Choose how the student’s performance on the PASA will be documented.

- Videotape (will be kept confidential as are all other school records)
- Written narrative (will be kept confidential as are all other school records)

Local Assessments

Local assessment is not administered at this student’s grade level; OR

Student will participate in local assessments without accommodations; OR

xx	Student will participate in local assessments with the following accommodations; OR
	Extended time/Separate location

	The student will take an alternate local assessment.
	Explain why the student cannot participate in the regular assessment:
	Explain why the alternate assessment is appropriate:

V. GOALS AND OBJECTIVES – Include, as appropriate, academic and functional goals. Use as many copies of this page as needed to plan appropriately. Specially designed instruction may be listed with each goal/objective or listed in Section VI.

Short-term learning outcomes are required for students who are gifted. The short-term learning outcomes related to the student’s gifted program may be listed under Goals or Short-Term Objectives.

MEASURABLE ANNUAL GOAL Include: Condition, Name, Behavior, and Criteria (Refer to Annotated IEP for description of these components)	Describe HOW the student’s progress toward meeting this goal will be measured	Describe WHEN periodic reports on progress will be provided to parents	Report of Progress
<p>Fluency Given 1 minute to read an unfamiliar passage at the 10th grade level, Michelle will increase her oral reading fluency from a baseline score of ____ correct words to a goal of ____ correct words for 3 consecutive probes assessed twice monthly.</p> <p>Baseline: to be determined within 10 days of implementation</p>	Progress Monitoring, assessed twice a month	Quarterly with Report Cards	
<p>Comprehension Given an unfamiliar 10th grade passage, Michelle will orally read the passage and answer comprehension questions increasing her baseline from ____ answers correct to ____ answers correct given twice monthly for 3 consecutive probes.</p> <p>Baseline: to be determined within 10 days of implementation</p>	Progress Monitoring, assessed twice a month	Quarterly with Report Cards	

<p>Written Language Given an unfamiliar writing prompt, 1 minute to think, and 3 minutes to write, Michelle will respond to the prompt increasing from a baseline of _____ total mechanical errors to a goal of _____ total mechanical errors for 3 consecutive probes assessed twice monthly.</p> <p>Baseline: to be determined within 10 days of implementation</p>	<p>Progress Monitoring, assessed twice a month</p>	<p>Quarterly with Report Cards</p>	
<p>Math Given a 10th grade level probe containing math computation problems (with point values increasing from 1 point for the easiest problems to 3 points for the most difficult, with the maximum points being 10) and 8 minutes to complete the problems, Michelle will write correct answers to computation problems increasing from a baseline score of 2 points to a goal of 20 points on 3 consecutive probes assessed twice monthly.</p>	<p>Progress Monitoring, assessed twice a month</p>	<p>Quarterly with Report Cards</p>	
<p>Behavior When provoked by a peer in the school setting, Michelle will increase her positive verbal and physical responses as mentioned in her BIP, from a baseline of _____ responses to a goal of _____ responses for 3 consecutive probes for 4 consecutive weeks.</p> <p>Baseline: to be determined within 10 days of implementation</p>	<p>Progress Monitoring, assessed twice a month</p>	<p>Quarterly with Report Cards</p>	

SHORT-TERM OBJECTIVES – Required for students with disabilities who take alternate assessments aligned to alternate achievement standards (PASA).

<p>Short-term objectives / Benchmarks</p>
<p> </p>
<p> </p>

VI. SPECIAL EDUCATION / RELATED SERVICES / SUPPLEMENTARY AIDS AND SERVICES / PROGRAM MODIFICATIONS – Include, as appropriate, for nonacademic and extracurricular services and activities.

A. PROGRAM MODIFICATIONS AND SPECIALLY DESIGNED INSTRUCTION (SDI)

- SDI may be listed with each goal or as part of the table below.
- Include supplementary aids and services as appropriate.
- For a student who has a disability and is gifted, SDI also should include adaptations, accommodations, or modifications to the general education curriculum, as appropriate for a student with a disability.

<i>Modifications and SDI</i>	<i>Location</i>	<i>Frequency</i>	<i>Projected Beginning Date</i>	<i>Anticipated Duration</i>
Structured academic time – daily agenda written in the classroom, behavior expectations and consequences clearly displayed in the classroom	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	Daily, in all academic settings	12/18/2015	12/16/2016
Access to the Resource Room for remediation in material to check for Michelle’s understanding	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	At least 60 minutes per school week	12/18/2015	12/16/2016
Provide academic materials at instructional level when guidance is available	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	When guidance is necessary for academic instruction	12/18/2015	12/16/2016
Provide academic materials at independent level for homework assignments	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	For each given homework assignment	12/18/2015	12/16/2016
Presentation of materials in manageable parts – assignments need to be broken down into monitored manageable steps	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	Per presentation and assignment	12/18/2015	12/16/2016
Materials should be presented visually and auditorily	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	During class when materials are being presented in front of the class	12/18/2015	12/16/2016
One-on-one instruction when needed	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	During class when one-on-one instruction is required/ requested by Michelle	12/18/2015	12/16/2016

Extended time for tasks and tests (up to 50%)	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	When extended time is needed for a given task or test	12/18/2015	12/16/2016
Calculator for math reasoning problems	Math	When given math reasoning work	12/18/2015	12/16/2016
Graphic organizers for reading and writing assignments	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	When given a reading or writing assignment	12/18/2015	12/16/2016
Completed modeled math problems	Math, Science	When expected to complete math problems both in and out of school	12/18/2015	12/16/2016
Support and instruction in behavior and social skills	Emotional Support Classroom	One class period per school day	12/18/2015	12/16/2016
Support and instruction in computation and math reasoning skills	DI Math Class	One class period per school day	12/18/2015	12/16/2016
Support and instruction in expressive language (writing)	DI English Class	One class period per school day	12/18/2015	12/16/2016
Support and instruction in reading fluency and comprehension	DI Reading Class	One class period per school day	12/18/2015	12/16/2016
Access to Emotional Support Classroom when feeling emotionally charged to discuss situation and apply learned coping strategies to cope with current situation	TCAHS, English, Math, Science, Social Studies, ES Class, Reading, Food Prep class	As needed by Michelle when feeling emotional	12/18/2015	12/16/2016

B. RELATED SERVICES – List the services that the student needs in order to benefit from his/her special education program.

<i>Service</i>	<i>Location</i>	<i>Frequency</i>	<i>Projected Beginning Date</i>	<i>Anticipated Duration</i>
Transportation to and from TCAHS	TCAHS	Daily, during the school year	12/18/2015	12/16/2016

C. SUPPORTS FOR SCHOOL PERSONNEL – List the staff to receive the supports and the supports needed to implement the student’s IEP.

<i>School Personnel to Receive Support</i>	<i>Support</i>	<i>Location</i>	<i>Frequency</i>	<i>Projected Beginning Date</i>	<i>Anticipated Duration</i>
Teachers and staff working with Michelle	Michelle’s teachers will receive a copy of her IEP at the beginning of her school year and upon any revisions	TCAHS	As noted in support	12/18/2015	12/16/2016
Teachers and staff working with Michelle	Ongoing consultation between special education case manager and general education teachers	TCAHS	Weekly consultation as a minimum – consultation can be more frequent if required or requested by the general education teacher	12/18/2015	12/16/2016
Teachers and staff working with Michelle	Consultation with Behavior Specialist and/or consultants for successful implementation of Michelle’s FBA	TCAHS	At least one time per month	12/18/2015	12/16/2016

D. GIFTED SUPPORT SERVICES FOR A STUDENT IDENTIFIED AS GIFTED WHO ALSO IS IDENTIFIED AS A STUDENT WITH A DISABILITY – Support services are required to assist a gifted student to benefit from gifted education (e.g., psychological services, parent counseling and education, counseling services, transportation to and from gifted programs to classrooms in buildings operated by the school district).

<i>Support Service</i>	
<i>Support Service</i>	
<i>Support Service</i>	

E. EXTENDED SCHOOL YEAR (ESY) – The IEP team has considered and discussed ESY services, and determined eligibility:

Student IS eligible for ESY based on the following information or data reviewed by the IEP team:

OR

xx As of the date of this IEP, student is NOT eligible for ESY based on the following information or data reviewed by the IEP team:

A review of records will be completed to determine Michelle’s eligibility for ESY by February 2016.

The Annual Goals and, when appropriate, Short-Term Objectives from this IEP that are to be addressed in the student’s ESY Program:

If the IEP team has determined ESY is appropriate, complete the following:

<i>ESY Service to Be Provided</i>	<i>Location</i>	<i>Frequency</i>	<i>Projected Beginning Date</i>	<i>Anticipated Duration</i>

VII. EDUCATIONAL PLACEMENT

A. QUESTIONS FOR IEP TEAM – The following questions must be reviewed and discussed by the IEP team prior to providing the explanations regarding participation with students without disabilities.

It is the responsibility of each public agency to ensure that, to the maximum extent appropriate, students with disabilities, including those in public or private institutions or other care facilities, are educated with students who are not disabled. Special classes, separate schooling or other removal of students with disabilities from the general educational environment occurs only when the nature or severity of the disability is such that education in general education classes, EVEN WITH the use of supplementary aids and services, cannot be achieved satisfactorily.

- What supplementary aids and services were considered? What supplementary aids and services were rejected? Explain why the supplementary aids and services will or will not enable the student to make progress on the goals and objectives (if applicable) in this IEP in the general education class.
- What benefits are provided in the general education class with supplementary aids and services versus the benefits provided in the special education class?
- What potentially beneficial effects and/or harmful effects might be expected on the student with disabilities or the other students in the class, even with supplementary aids and services?
- To what extent, if any, will the student participate with nondisabled peers in extracurricular activities or other nonacademic activities?

Explanation of the extent, if any, to which the student will not participate with students without disabilities in the regular education class:

Michelle requires instruction to meet the outcomes identified in her measurable annual goals in reading, math, and behavior. This instruction will require a direct, explicit teacher of skills that are not within the scope of the general curriculum at her current grade level, and the time required for such instruction

will supplant time during which she would otherwise participate in the general curriculum. The required replacement instruction will occur in a special education classroom, during which time Michelle will not be participating in regular education classroom instruction and activities.

Explanation of the extent, if any, to which the student will not participate with students without disabilities in the general education curriculum:

Michelle requires direct instruction of skills and strategies in the areas of reading, math, and behavior that are not part of the general education curriculum at her grade level and cannot be meaningfully articulated within the curriculum, even with adaptations and support. She is included within the general education curriculum for all other subjects.

B. TYPE of SUPPORT

1. Amount of special education supports

- Itinerant: Special education supports and services provided by special education personnel for 20% or less of the school day
- Supplemental: Special education supports and services provided by special education personnel for more than 20% of the day but less than 80% of the school day
- Full Time: Special education supports and services provided by special education personnel for 80% or more of the school day

2. Type of special education supports

- Autistic Support
- Blind-Visually Impaired Support
- Deaf and Hard of Hearing Support
- Emotional Support
- Learning Support
- Life Skills Support
- Multiple Disabilities Support
- Physical Support
- Speech and Language Support

C. Location of student's program

Name of School District where the IEP will be implemented:

Smith Upland

Name of School Building where the IEP will be implemented:

The County Alternative High School

Is this school the student’s neighborhood school (i.e., the school the student would attend if he/she did not have an IEP)?

Yes

No. If the answer is “no,” select the reason why not.

Special education supports and services required in the student’s IEP cannot be provided in the neighborhood school.

Other. Please explain:

VIII. PENNDATA REPORTING: Educational Environment (Complete either Section A or B; Select only one Educational Environment)

To calculate the percentage of time inside the regular classroom, divide the number of hours the student spends inside the regular classroom by the total number of hours in the school day (including lunch, recess, study periods). The result is then multiplied by 100.

SECTION A: For Students Educated in Regular School Buildings with Nondisabled Peers – Indicate the percentage of time INSIDE the regular classroom for this student:

Time spent outside the regular classroom receiving services unrelated to the student’s disability (e.g., time receiving ESL services) should be considered time inside the regular classroom. Educational time spent in age-appropriate community-based settings that include individuals with and without disabilities, such as college campuses or vocational sites, should be counted as time spent inside the regular classroom.

Calculation for this Student:

Column 1	Column 2	Calculation	Indicate Percentage	Percentage Category
Total hours the student spends in the regular classroom per day	Total hours in a typical school day (including lunch, recess, & study periods)	(Hours inside regular classroom ÷ hours in school day) × 100 = % (Column 1 ÷ Column 2) × 100 = %	Section A: The percentage of time student spends inside the regular classroom:	Using the calculation result – select the appropriate percentage category
3.5	7.5	$3.5/7.5 \times 100 = 46\%$	<input checked="" type="checkbox"/> 46 % of the day	<input type="checkbox"/> INSIDE the Regular Classroom 80% or More of the Day <input checked="" type="checkbox"/> INSIDE the Regular Classroom 79%-40% of the Day <input type="checkbox"/> INSIDE the Regular Classroom Less Than 40% of the Day

SECTION B: This section required only for Students Educated OUTSIDE Regular School Buildings for more than 50% of the day – select and indicate the Name of School or Facility on the line corresponding with the appropriate selection: (If a student spends less than 50% of the day in one of these locations, the IEP team must do the calculation in Section A)

<input type="checkbox"/> Approved Private School (Non-Residential) _____ <input type="checkbox"/> Approved Private School (Residential) _____ <input type="checkbox"/> Other Private Facility (Non-Residential) _____ <input type="checkbox"/> Other Private Facility (Residential) _____ <input type="checkbox"/> Other Public Facility (Residential) _____	<input type="checkbox"/> Other Public Facility (Non-Residential) _____ <input type="checkbox"/> Hospital/Homebound _____ <input type="checkbox"/> Correctional Facility _____ <input type="checkbox"/> Out of State Facility _____ <input type="checkbox"/> Instruction Conducted in the Home _____
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EXAMPLES for Section A: How to Calculate PennData – Educational Environment Percentages

	Column 1	Column 2	Calculation	Indicate Percentage
	Total hours the student spends in the regular classroom – per day	Total hours in a typical school day (including lunch, recess, & study periods)	(Hours inside regular classroom ÷ hours in school day) x 100 = % (Column 1 ÷ Column 2) x 100 = %	Section A: The percentage of time student spends inside the regular classroom:
Example 1	5.5	6.5	$(5.5 \div 6.5) \times 100 = 85\%$	85% of the day (Inside 80% or More of Day)
Example 2	3	5	$(3 \div 5) \times 100 = 60\%$	60% of the day (Inside 79%-40% of Day)
Example 3	1	5	$(1 \div 5) \times 100 = 20\%$	20% of the day (Inside Less Than 40% of Day)

Source: Adapted by author from “Student EP Assignment” from EDA 506 Course, Legal Issues in Special Education, (2013, July).

Appendix B

Decisions From U.S. Supreme Court

Brown v. Bd of Education, 347 U.S. 483 (1954). In this landmark decision, the Supreme Court found that segregated public schools are inherently unequal; decision is relevant to children in segregated special education placements.

Board of Ed. of Hendrick Hudson Central School Dist. V. Rowley, 458 U.S. 176 (1982). First decision in a special education case by the U. S. Supreme Court; defined “free appropriate public education.”

Irving Independent Sch. Dist. v. Amber Tatro, 468 U.S. 883 (1984). The Supreme Court found that a medical treatment, such as clean intermittent catheterization (CIC), is a related service under the Education for All Handicapped Children Act and that the school is required to provide it.

Honig v. Doe, 484 U.S. 305 (1988). Strong decision in school discipline case on behalf of emotionally disturbed children who had academic and social problems. Court clarified procedural issues designed to protect children from school officials, parent role, and stay put rule and that schools shall not expel children for behaviors related to their disabilities.

Cedar Rapids v. Garret F., 526 U.S. 66 (1999). Supreme Court issued a favorable decision on behalf of child who needed related services to attend school.

Schafer v. Weast, 546 U.S. (2005). Supreme Court held that the burden of proof in a due process hearing that challenges an IEP is placed upon the party seeking relief.

Winkelman v. Parma City School District (No. 05-983) (2007). Supreme Court rules that parents may represent their children’s interests in special education cases and are not required to hire a lawyer before going to court. The Court held that parents have legal rights under the IDEA and can pursue IDEA claims on their own behalf, although they are not licensed attorneys.

Bd of Ed of City of New York v. Tom F (2007). The question before the Court was whether parents of a child who has never received special education from the public school district can obtain reimbursement for a unilateral private placement. The U.S. Supreme Court issued a split decision (4–4) in the case.

Forest Grove School District v. T.A. (2009). In a 6–3 decision, the Court held that IDEA allows reimbursement for private special education services, even when the child did not previously receive special education services from the public school.

U.S. Circuit Court of Appeals

Doug C. v. Hawaii (9th Cir. 2013). Important decision about parental participation at IEP meetings. “All special education staff who conduct IEP meetings should be familiar with this landmark ruling about IEP meetings and parental participation.”

KM. Tustin Unified School District (9th Cir. 2013). Court of Appeals issued decision about the relationship between IDEA, Section 504 and ADA AA.

C.B. v. Garden Grove Unified Scho. Distt. (9th Cir. 2011). CA school failed to provide FAPE; guardian placed child in private program and requested reimbursement. The administrative law judge (ALJ) found that the child received “significant educational benefits” but ordered reimbursement for only half of tuition because private program did not meet all child’s needs.

H.H. v. Moffett & Chesterfield School Bd. (4th Cir. 2009). Special ed teacher and an assistant restrained child in her wheelchair for hours during the school day while they ignored her, verbally abused her, and schemed to deprive her of educational services. In an unpublished decision, the court held that their conduct “violated H.H.’s clearly established right to freedom from undue restraint under the Fourteenth Amendment, and Appellants are therefore not entitled to qualified immunity as a matter of law.”

Terrance D. and Wanda D. v. Sch. Dist. Philadelphia (E.D. Pa 2008). District failed to provide FAPE for many years, performed inadequate evaluations, misdiagnosed child as mentally retarded and emotionally disturbed, and misled the parent about her son’s rights to autism services and ESY services.

J.D. v. Atlanta Independent School System (N.D. GA 2007). School district misdiagnosed a dyslexic boy as mentally retarded and placed him in a self-contained program for years where he did not learn to read. School district failed to complete 3-year reevaluation, as required by law. The court ordered the school system to provide J. D. with compensatory education at a private special education school for 4 years or until he graduates with a regular high school diploma.

Henrico County School Board v. R.T. (E.D. VA 2006). Tuition reimbursement case for young child with autism; comparison of TEACCH and ABA, comparison of FAPE and least restrictive environment, deference to decision of hearing officer, witness credibility, impact of low expectations, and “an insufficient focus on applying replicable research on proven methods of teaching and learning.”

Winkelman v. Parma City Scho. Dist. (6th Cir. 2006). In a case on behalf of a child with autism, the court held that the school district’s proposed placement was appropriate, that the parents’ placement in a private school that educates children with autism was not the child’s FAPE.

Legal cases retrieved from <http://www.wrightslaw.com/>.