Providing School Based Physical Therapy Under IDEA & Section 504

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Description of this session

• Provide an overview of key federal laws that influence provision of physical therapy to children with disabilities in schools
  ◦ Focus: IDEA and Section 504
  ◦ Eligibility, service delivery, FAPE

• Relationship between Scope of Practice, PT Practice Act and School-based PT

And includes...

- Clarification: Related Service – Stand Alone
- Endrew F. v. Douglas County School District RE-1
  - Supreme Court decision 2017
  - Application to PT
- Eligibility definition Section 504
  - Extensions and clarifications

Learning Objectives

At the conclusion of this session, participants will:

1. Understand the primary federal laws pertaining to the education of children with disabilities in public schools
2. Understand the role of the physical therapist as a related service provider in schools under IDEA
3. Understand the role of the physical therapist in providing accommodations under Section 504 of the Rehabilitation Act
4. Understand eligibility for special education and related services under IDEA and for accommodations under Section 504
5. Provide examples of how PT services may be implemented differently in accordance with federal and state laws
6. Discuss the relationship between the state Physical Therapist Practice Act and school-based PT
Let’s Take a Look

• Review Laws
• History
• Connections
  • Similarities
  • Differences
• Application

The Laws

Individuals with Disabilities Education Act (IDEA)
  • Special Education and Related Services
  • Early Intervening Services
  • Response to Intervention (RTI)

Elementary and Secondary Education Act (ESEA)
  • Formerly, No Child Left Behind (NCLB)

Section 504

Americans with Disabilities Act (ADA)

Must first know IDEA

• Applies to most children receiving school-based PT
• Entitlement if eligible
• Eligibility different than Section 504
• Describes services available in school

Historical Perspective - IDEA

Public law 94-142: 1975
Public law 99-457: 1986
  • 3-6 year olds
  • Birth - 2 year olds and their families
Reauthorization/amendments
  • 1990
  • 1997 (Part H became Part C)
  • 2004
  • 20xx?
IDEA Amendments of 2004

Individuals with Disabilities Education Improvement Act of 2004
- Current law

Previously known as the:
- Education for All Handicapped Children Act
- Individuals with Disabilities Education Act

From Bill to Law - Reauthorization

108th Congress, second session
- PL 108-446
- President GW Bush - December 3, 2004
- Federal special education law
- ~ 6.8 million children/youth with disabilities

Next reauthorization
- "should have been" 2009
- 2019?? – doubtful

IDEA

- Part A
- Part B
- Part C
- Part D

• General Provisions
• Assistance for Education of All Children with Disabilities
• Infants and Toddlers with Disabilities
• National Activities To Improve Education of Children With Disabilities

Part B

• Children 3 through 21
  - Or until graduation
  - Some states serve 3-5 under Part C
• Child focus
• FAPE
• Individualized Education Plan (IEP)
• LRE
Part C

Infants and Toddlers
- Birth to child’s 3rd birthday
- Part C extension – in some states

Family focus
Individualized Family Service Plan (IFSP)
Natural Environment

Statute → Regulations

Regulations → foundation for implementation
- Federal
- State
- Local Policies & Procedures

Final Regulations – Federal Register
- Codified in the Code of Federal Regulations (CFR)

Implementation of the Law

Legislation to Regulation

Regulations – developed by designated agency of authority
- Federal: US Department of Education
- State: State Department/Agency of Education
- Local: School District
Providing School Based Physical Therapy
Under IDEA & Section 504

July 12, 2019
St. Louis, MO

The Statutory Process

Regulatory Law (Regulations)

Statutory Law (Statutes)

Constitutional Law

Let’s jump in >>>>

To IDEA, Part B

Related Services 34 CFR §300.34

“The term ‘related services’ means transportation, and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, ...

Related services

and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.”
## Part B - Special Education

34 CFR §300.39
- specially-designed instruction
- at no cost to parents
- to meet the unique needs of a child with a disability

Instruction in classroom, home, hospitals, institutions, and other settings – and in physical education

## Special Education includes:
- Speech-language pathology services, OR
- Any other related service
  - If the service is considered special education rather than a related service under State standards
- Travel training
- Vocational education

34 CFR §300.39 (a)(2)

## Missouri
Definition essentially identical to IDEA federal regulations.


## Washington – WAC 392-172A-01175
(a) The provision of speech-language pathology, occupational therapy, audiology, and physical therapy service as defined in WAC 392-172A-01155 when it meets the criteria in WAC 392-172A-01035 (1)(c)

WAC 392-172A-01035 Child with a disability or student eligible for special education.

"...has unique needs that cannot be addressed exclusively through education in general education classes with or without individual accommodations, and needs special education and related services."
Providing School Based Physical Therapy Under IDEA & Section 504

July 12, 2019
St. Louis, MO

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PT can be special education in WA

01035 (d) Speech and language pathology, audiology, physical therapy, and occupational therapy services, may be provided as specially designed instruction, if the student requires those therapies as specially designed instruction, and meets the eligibility requirements which include a disability, adverse educational impact and need for specially designed instruction. They are provided as a related service under WAC 392-172A-01155 when the service is required to allow the student to benefit from specially designed instruction.

What is a “stand alone” related service?

Not Equal?

If something is related, how can it also “stand alone”?

Related Services - Exception

• Services that apply to children with surgically implanted devices, including cochlear implants.
  ◦ Related services do NOT include a medical device that is surgically implanted, optimization of the device (eg, mapping), maintenance of the device, or replacement of the device.
  ◦ Limits responsibility of school to appropriately monitor and maintain medical devices while child is at school or being transported
  ◦ Child with surgically implanted device may receive related services – determined by IEP team to be necessary for child to receive FAPE.

Physical Therapy

IDEA, Part B, defines physical therapy as “services provided by a qualified physical therapist” [34 CFR§300.34(c)(9)].
PT as a Related Service

- Facilitate the child's ability to benefit from their educational program
- Optimize function and participation

FAPE

Free appropriate public education
- Special education
  - Individual
  - Specially designed
  - With some benefit to the child

Definition of FAPE - Statute

In general.—A free appropriate public education is available to all children with disabilities residing in the State between the ages of 3 and 21, inclusive, including children who have been suspended or expelled from school.

Definition of FAPE - Regulations

34 CFR §300.101
(a) General: A free appropriate public education must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in Sec. 300.530(d).

(b) FAPE for children beginning at age 3.

(1) Each State must ensure that—
   (i) The obligation to make FAPE available to each eligible child residing in the State begins no later than the child's third birthday; and
   (ii) An IEP or an IFSP is in effect for the child by that date, in accordance with Sec. 300.323(b).

(2) If a child's third birthday occurs during the summer, the child's IEP Team shall determine the date when services under the IEP or IFSP will begin.

(c) Children advancing from grade to grade.

(1) Each State must ensure that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade.

(2) The determination that a child described in paragraph (a) of this section is eligible under this part, must be made on an individual basis by the group responsible within the child's LEA for making eligibility determinations.

Colorado - Definition

2.19 Free Appropriate Public Education

Free Appropriate Public Education or FAPE means special education and related services that:

1. Are provided at public expense, under public supervision and direction, and without charge;
2. Meet the standards of the Department, including the requirements of these Rules;
3. Include an appropriate preschool, elementary school, or secondary school education in the State; and
4. Are provided in conformity with an individualized education program (IEP) that meets the IEP content, development, review and revision requirements of Section 4.03 of these Rules and 34 CFR §§300.320 through 300.324.

Endrew F. v. Douglas County School District RE-1

US Supreme Court
March 2017

Who is Endrew?

- 4th grader
- Autism and ADHD
- Severe behaviors - screaming, climbing on peers, running off, head banging, defecating on floor
- Shifted time from general education to special education classroom
- Parents rejected IEP for 5th grade
- Placed him in private school
- Sought tuition reimbursement

Endrew F.

- Addressed the standard of FAPE under IDEA
- Free appropriate public education
- Standard was in place for 35 since Rowley decision
  - Procedural aspects of FAPE
  - Substantive aspects of FAPE
- Issue in this case:
  - 10th Circuit applied the "some" educational benefit standard in favor of the school district
  - This was the precedent standard in the 10th circuit - the lower standard

- Two-part test for FAPE:
  - Procedural and Substantive
  1. Has the state complied with the procedures under “IDEA” (the Act)?
  2. Is the IEP developed under these procedures reasonably calculated to enable the child to receive educational benefits?

Application of Rowley over time

- Procedural part
  - Lower courts developed a 2 step analysis:
    - Did the school district violate one or more of IDEA’s procedural requirements?
    - If yes, did this procedural violation result in substantive harm to the child?

- Substantive part - Lower courts:
  - Only “some” educational benefit - more than de minimus
  - Requirement for a “meaningful” educational benefit

Decision in Endrew F.

- Added to the Rowley language:
  - “…a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”
  - Retained “reasonably calculated” - recognizing the IEP team’s judgement
  - Emphasis on the child’s “progress” rather than benefit

Conclusion

- New standard:
  - Remanded case back to lower courts to apply the new standard to Endrew’s IEP
  - PT application: Assist the child to make progress appropriate in light of the child’s circumstances.
    - Beyond “some” - “reasonably calculated” benefit
IDEA Eligibility and Services

➢ Medical diagnosis itself does not determine eligibility under IDEA.
➢ The disability must “adversely affect the child’s educational performance” (Part B)

➢ Medical necessity is replaced by need for satisfactory educational performance
   - child has a need for special education and related services
   - Tatro (US Supreme Court 1984)

Eligibility – IDEA (B)

20 USC (EDUCATION)
§ 1401. Definitions
(3) Child with a disability. –
(A) In general. – The term ‘child with a disability’ means a child –
   (i) with mental retardation...
   (ii) who, by reason thereof, needs special education and related services.

Title 34 (Education)
Code of Federal Regulations

34 CFR §300.8 Child with a disability.
(a) General.
   (1) Child with a disability means a child evaluated in accordance with §§ 300.304 through 300.311 as having mental retardation... and who, by reason thereof, needs special education and related services.

Part B Eligibility

✓ orthopedic impairment
✓ hearing impairment (including deafness)
✓ mental retardation
✓ speech or language impairment
✓ visual impairment (including blindness)
✓ emotional disturbance
✓ autism
✓ traumatic brain injury
✓ other health impairment
✓ specific learning disability
✓ deaf-blindness
✓ multiple disabilities

And who needs special education to achieve some educational benefit
**Colorado – Child with a Disability**

2.08 Children with Disabilities

- three to twenty-one years of age
- one or more of the following conditions
  - unable to receive reasonable benefit from general education without additional supports in the public schools because of specific disabling conditions
  - not be determined to have a disability if the determinant factor for that determination is lack of appropriate instruction in reading or math or limited English proficiency
  - A child reaching the age of 21 after the commencement of the academic year has the right to complete the semester in which the 21st birthday occurs or attend until he/she graduates, whichever comes first
  - if it is determined, through an appropriate evaluation that a child has one of the following disabilities but only needs a related service (and not special education), then the child is not a child with a disability under these rules

**Wisconsin – Determination of Eligibility**

(1) An evaluation conducted by an IEP team under s. 115.782, Stats., shall focus on the consideration of information and activities that assist the IEP team in determining how to teach the child in the way he or she is most capable of learning.

(2) A child shall be identified as having a disability if the IEP team has determined from an evaluation conducted under s. 115.782, Stats., that the child has an impairment under s. PI 11.36 that adversely affects the child's educational performance, and the child, as a result thereof, needs special education and related services.

(3) As part of an evaluation or reevaluation under s. 115.782, Stats., conducted by the IEP team in determining whether a child is or continues to be a child with a disability, the IEP team shall identify all of the following:
  - (a) The child’s needs that cannot be met through the regular education program as structured at the time the evaluation was conducted.
  - (b) Modifications, if any, that can be made in the regular education program, such as adaptation of content, methodology or delivery of instruction to meet the child’s needs identified under par. (a), that will allow the child to access the general education curriculum and meet the educational standards that apply to all children.
  - (c) Additions or modifications, if any, that the child needs which are not provided through the general education curriculum, including replacement content, expanded core curriculum or other supports.

Wisconsin Administrative Code, PI 11.35

**Missouri – Child with a Disability**

The Individuals with Disabilities Education Act (IDEA) defines students with disabilities as those children, ages three (3) to twenty-one (21), who have been properly evaluated as having Intellectual Disability, Hearing Impairments and Deafness, Speech or Language Impairments, Visual Impairments including Blindness, Emotional Disturbance, Orthopedic Impairments, Autism, Traumatic Brain Injury, Other Health Impairments, a Specific Learning Disability, Deaf Blindness, or Multiple Disabilities and, who because of that disability, require special education and related services.

As allowed under 34 CFR 300.87 implementing IDEA, the State of Missouri also defines a child with a disability to include ages three (3) through five (5) who have been properly identified as a young child with a developmental delay.


**Examples of Labels**

- Physical Disability
- Vision Disability
- Hearing Disability
- Significant Limited Intellectual Disability
- Significant Identifiable Emotional Disability
- Specific Learning Disability
- Speech Language Impairment
- Multiple Disabilities
Definitions (examples)

34 CFR § 300.8(c)

(8) Orthopedic impairment means a severe orthopedic impairment that adversely affects a child’s educational performance. The term includes impairments caused by a congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

(9) Other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—

(i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and

(ii) Adversely affects a child’s educational performance.

Other Health Impairment (MO)

...means having limited strength, vitality, or alertness, including a limited strength, vitality and alertness to environmental stimuli, that results in limited alertness with respect to the educational environment that is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette Syndrome, and adversely affects a child’s educational performance.

A child displays a Health Impairment when:

(1) A health impairment has been diagnosed by a licensed physician, licensed psychologist, licensed professional counselor, licensed clinical social worker, or school psychologist, and

(2) The health impairment adversely affects the child’s educational performance.

Developmental Delay

§300.111(b)

Part B eligibility may also include

Children aged 3 through 9 at State and local discretion who are experiencing developmental delay:

- as defined by the State
- as measured by appropriate diagnostic instruments and procedures
- who, by reason thereof, needs special education and related services.

Disability (definition) - continued

(2)(i) ... if it is determined, through an appropriate evaluation ..., that a child has one of the disabilities identified in paragraph (a)(1) of this section, but only needs a related service and not special education, the child is not a child with a disability under this part.

(ii) If,... the related service required by the child is considered special education rather than a related service under State standards, the child would be determined to be a child with a disability ...
In MO, allow for use of DD

3-5 years of age [pre-kindergarten]:
(1) The child's development is at or below 1.5 standard deviations, or equivalent levels, of the mean in any TWO areas of development OR at or below 2.0 standard deviations, or equivalent levels, in any ONE area of development as compared to typical development. Areas of development that can be used to determine eligibility include physical, cognitive, communication, social/emotional, or adaptive.
(2) The child needs special education and related services.

Children kindergarten age eligible may continue to be eligible if they were identified as such prior to attaining kindergarten age eligibility.

Planning for Services

• IEP Process
• Involves a Team
  ◦ Including the child’s parent(s)
  ◦ Including regular education classroom teacher
  ◦ Including special educator, related service provider, administrator

Individualized Education Program

34 CFR §300.320

A written statement for each child with a disability that is developed, reviewed, and revised and that must include—
  (1) A statement of the child’s present levels of academic achievement and functional performance, including—
    ◦ How the child’s disability affects the child’s involvement and progress in the general education curriculum; or
    ◦ For preschool children, how the disability affects the child’s participation in appropriate activities;
  (2) A statement of measurable annual goals, including academic and functional goals
  (3) A description of how the child’s progress toward meeting the annual goals will be measured;
IEP continued

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, to enable the child—
(i) To advance appropriately toward attaining the annual goals;
(ii) To be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities; and
(iii) To be educated and participate with other children with disabilities and nondisabled children

§300.320(a)(4)

Where must services be provided?

Least Restrictive Environment (LRE)

• To the maximum extent appropriate, children with disabilities…are educated with children who are nondisabled; and

§300.550(b)

LRE requirements (con’t)

• That special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

§300.550(b)

LRE Options (examples)

Most restrictive       | Continuum               | Least restrictive
---                   |---                      |---
• Home                | Special Classroom in Specialized School | Etc...
• Special Classroom in “regular” Neighborhood School | Regular General Education Classroom with Supplemental Special Classes
• Regular Classroom with Related Services Intermittently
What do you recall?

- IDEA
  - Statute and Regulations
  - Special education - eligibility
  - Related Services
- Assist a child to benefit from special education
- Some education benefit
  - Focus on function and participation
- Free, appropriate public education
- Least restrictive environment

Section 504 of the Rehabilitation Act (1973)

- How does this law apply to children in school?
- What is different from IDEA?
  - Eligibility
  - Service Delivery

Section 504 of the Rehabilitation Act of 1973

- Office of Civil Rights (OCR)
- U.S. Department of Education (US DOE)
- No age limitations
- Provides protection against discrimination
- Ensures access

AND comes with no funding... but does requires compliance

Section 504 of the Rehabilitation Act

- PL 93-112 enacted 1973, took effect 1977
- Guarantees certain rights and protections for individuals with disabilities
  - Programs receiving federal financial assistance can NOT deny benefits or discriminate against people with disabilities
  - Defines individuals with disabilities as "persons with a physical or mental impairment which substantially limits one or more major life activities"
- Precedes the ADA of 1990
Eligibility for 504 Services

- Follows definition of an individual with a disability under ADA:
  1. A physical or mental impairment which substantially limits a major life activity
  2. A record of such an impairment
  3. Being regarded as having such an impairment.

29 U.S.C. § 791; 42 U.S.C. § 12102(C)

Americans with Disabilities Act Amendments Act of 2008 (ADA AA)

- Amended the meaning of "disability" in the ADA and the Rehab Act (including Section 504)
  1. Broader interpretation of disability
  2. "Substantially limited" does not have to be significant or severe
  3. Limitation in "major life activities" only has to be in one activity

Major Life Activities – Expanded list

- Caring for oneself
- Performing manual tasks
- Seeing
- Hearing
- Eating
- Sleeping
- Walking
- Standing
- Lifting
- Bending
- Speaking
- Breathing
- Learning
- Reading
- Concentrating
- Thinking
- Communicating
- Working

Major Bodily Functions = Major Life Activities

- Functions of immune system
- Normal cell growth
- Digestive function
- Bowel function
- Bladder function
- Neurological function
- Brain function
- Respiratory function
- Circulatory function
- Endocrine function
- Reproductive function

Codified as amended at 42 U.S.C. § 12102
Conditions that are not impairments under Section 504 or the ADA:

- Substance abuse disorders resulting from the current use of illegal drugs
- Kleptomania
- Pyromania
- Exhibitionism
- Voyeurism
- Gender identity issues not resulting from physical impairment
- and other sexual disorders. (29 CFR §630.3(d))

Definition of Disability: Without Mitigating Measures

- Determination of disability must be based on disability itself - without mitigating measures
  - If the child uses a walker as an assistive device during ambulation, the walker is a mitigating measure. Therefore, the walker cannot be used to maintain that this child is not a child with a disability because they are able to ambulate (walk) from point A to point B. The child would be eligible as an individual with a disability - they are unable to move about independently without the mitigating measure of a walker.
  - Only exception is eyeglasses or contact lenses

Mitigating measures include:

- Medication
- Medical supplies, equipment, or appliances
- Low-vision devices (which do not include ordinary eyeglasses or contact lenses)
- Prosthetics, including limbs and devices
- Hearing aids and cochlear implants, or other implantable hearing devices
- Mobility devices
- Oxygen therapy equipment and supplies
- The use of assistive technology
- Reasonable accommodates or auxiliary aids or services
- Learned behavioral or adaptive neurologic modifications

Transitory and Minor – Not a Disability

- When a disability is considered to be “transitory and minor”, the student does NOT qualify as having a disability under Section 504
  - Also does not qualify as being “regarded as having a disability”
  - Transitory defined as “an impairment with an actual or expected duration of 6 months or less”

- New provisions from ADA AA 2008
Disability Under 504

- “Substantially limits” – defined by case law
  - No strict definition or criteria
- Temporary or permanent
- Major life activity – for children, we are likely to be talking about learning
- Academic and nonacademic

Section 504 of Rehabilitation Act

- Civil rights law
- Protects students with disabilities from discrimination or other civil rights violations
- Provides for Reasonable Accommodations
  - Purpose of the accommodations is to "level the playing field"

Equal Opportunity

- Does NOT mean equivalent or equally effective or identical
- Must afford equal opportunity for equal results

How does Section 504 assist?

- Provides modifications (as reasonable accommodations)
  - for children who are not eligible for services under IDEA
- Regular education function
  - 504 accommodations are NOT special education and related services under IDEA
Eligibility under 504

For elementary and secondary education programs, a qualified person with a disability is a person with a disability who is:

- [Meets the criteria of an individual with a disability]
- of an age during which it is mandatory under state law to provide such services to persons with disabilities;
- of an age during which persons without disabilities are provided such services; or
- entitled to receive a free appropriate public education under the IDEA.

http://www2.ed.gov/about/offices/list/ocr/docs/edlite-FAPE504.html

504 - Who’s Covered

- The definition of a disability is much broader than the definition under the IDEA.

- All students who are eligible under IDEA are also covered by Section 504, but not all students who qualify under Section 504 are eligible for services under IDEA.

Not all children with disabilities are eligible under IDEA, but they are entitled to protections under Section 504.

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Children who are NOT eligible under IDEA but likely are under 504

- Have a disability or a substantial physical or mental impairment -
  - does NOT adversely affect their educational performance, and
  - they are able to achieve some educational benefit but
  - still need assistance to fully participate in the educational environment (not just academic)

What about a child who has a disability but is not eligible for services under IDEA?

Example

- A child with Becker’s Muscular Dystrophy has been making satisfactory progress in the general education curriculum. This child would probably not meet the criteria for needing special education and related services under IDEA.
- But what if the child cannot negotiate stairs quickly enough to change classes in middle school? And what if the child cannot complete written assignments without the aid of a computer with specialized software. Then what?

Examples of Reasonable Accommodations

- More time to complete assignments and tests
- Provide an extra set of textbooks
- Adjust child’s seating - location, or alternate option for chair or desk
- Use of study guides and organizing tools
- Provide a peer tutor/helper
- Modify recess location, length or activities
- Identify alternate classroom location in building

http://www.kumc.edu/school-of-medicine/childrens/childhealth/supports/agep-3-21.html
The Accommodation Triangle

504 Plan

- Similar to an IEP in that it provides a PLAN for the school district to follow in providing accommodations to a qualified student with a disability.
  - Reasonable accommodations
  - Accommodations are described and stipulated in the plan

As a physical therapist, I can provide a Reasonable Accommodation for this child by:

- Supporting the child’s ability to...
- Modifying the environment to...
- Preventing the child from...
- Providing the teacher with...
IDEA is enough!

- Can a student have an IEP and a 504 plan?

- "The short answer is no, according to school attorney Dave Richards. When a student has a disability that qualifies him under the IDEA, address any other impairments that affect the student in the IEP, he says. Imagine that the IDEA "swallows a child whole," adds school attorney Jose Martin. "There's no taking a bite or taking parts of kids," Martin says. "Once you're in IDEA, you're completely covered by it." Remind your staff not to confuse "dual eligibility" with a need for separate plans. Typically, when a student meets the higher threshold of eligibility for special education under the IDEA, she also satisfies the criteria under Section 504. Although the student is "dual eligible," meaning that she's protected under both laws, it does not mean that the district provides two plans, Richards says."

(DailyEdNews, LRP, June 1, 2017)

Determination of FAPE

Determining whether there has been a denial of FAPE is different under IDEA and Section 504:

- IDEA: focuses on student’s individual needs
- 504: address whether students with disabilities have the same access to educational services as their non-disabled peers

Key questions to differentiate eligibility when the child is having difficulty in school:

Does the child have a disability?

Does the disability cause the child to have a substantial impairment in a major life activity?

Does the disability adversely affect educational performance?

Case Examples

Are these children eligible under IDEA or Section 504? Could/should they get PT services outside of the school setting?

Child with mild hemiplegia – issue: playground
Child with spina bifida – issue: indep mobility
Child with CP has a dorsal rhizotomy – intensive intervention
Child with low intellect and general motor delays - access
Child with Asperger’s Syndrome – motor function
Where to find more information:

- https://sites.ed.gov/idea/
- http://nichcy.org/idea.htm (Excellent training materials available, too)
- www.wrightslaw.com
- www.pediatricapta.org
- KU Center for Child Health and Development
- Your state’s Dept of Education website

Your role

**Related service provider**

- Assist a child with a disability “to benefit from special education”
- Achieve “some educational benefit”
- Least Restrictive Environment
- Free Appropriate Public Education

Scope of Practice

- What is within your Scope of Practice?
- How do you decide about Scope of Practice?
- Making legal and ethical decisions
  - State Practice Act
  - Physical Therapy Code of Ethics
  - Clinical experience and expertise
- Personal comfort

The “Layers” of Physical Therapy

**Clinical Reasoning Process:**

- Patient/client “management”
- Guide to Physical Therapist Practice
- Evidence – clinical experience & literature

**State Practice Act**

Other relevant LAWS AND POLICIES for school-based practice
IDEA Process

Guide Process — Similarities

Examination
Evaluation
Clinical Impression-Diagnosis
Prognosis and Plan of Care
Intervention
Outcomes

State Practice Act

• PT license supersedes — need a license in order to provide physical therapy
  ◦ Is the IEP considered a plan of care?
  ◦ What are the criteria for “discharge”?
  ◦ Is there a documented transition to a new “therapist of record”?
  ◦ What are your responsibilities regarding supervision of unlicensed personnel?

Focus on Function

• Within the context of the school and daily routines — Is this PT service necessary to assist the child to benefit from special education?

• Within the context of the general curriculum — Is this PT service going to support the child’s IEP and help the child make progress?

Other Resources

IEP Template
https://sites.ed.gov/idea/files/modelform1_IEP.pdf

504/ADA Student Eligibility Form
https://perryzirkel.files.wordpress.com/2018/05/sec504eligibilityform.pdf
Questions??

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