CHILD FIND:
Everything You Need to Know
to Satisfy Your Obligation

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ACSA

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Topics

- Introduction to Child Find Laws
- Best Practices
- Proving Your Case at Due Process Hearings
- Recent Case Law

What is Child Find?

The Rule:
States and school districts have an affirmative, ongoing duty to identify, locate, and evaluate all children with disabilities residing in the state that are in need of special education and related services.
What is Child Find?

California law:
- Each school district must "actively and systematically seek out" children with disabilities
  - Birth to 21 years
  - Includes children not enrolled in public school
  - Reside in district OR under jurisdiction of SELPA or COE

What is Child Find?

- Section 504
  - Child find requirements are similar to IDEA
  - Can meet obligations through Section 504 plan

What is Child Find?

- The key child find requirements:
  - It is an affirmative obligation
  - It is not dependent on a parent request for evaluation or service

IMPORTANT
What is Child Find?

- Why is child find required?
  - Ensure children with disabilities receive a FAPE
  - Helps connect families to resources and support

What is Child Find?

- Child Find vs. Special Education Eligibility
  - The child find duty applies to children with disabilities
  - Child find is only meant to locate, screen and identify children who may need services
  - Child find does not guarantee that a student will be eligible for special education and related services

What is Child Find?

- Special Education Eligibility
  - If a child needs special education and related services due to a qualifying disability:
    - Intellectual disability
    - Hearing impairment
    - Speech or language impairment
    - Visual impairment
    - Severe emotional disturbance
    - Orthopedic impairment
    - Autism
    - Traumatic brain injury
    - OHI
    - SLD
What is Child Find?

- Special education eligibility
  - Other Health Impairment:
    - Limited strength, vitality, or alertness
    - Due to chronic or acute health problems, and
    - Adversely affects educational performance

What is Child Find?

- A Note on ADHD
  - Not a separate disability category
  - Child with ADHD may be eligible based on
    ED, OHI, or SLD

Who Must Be Found?

- Child find duties apply to:
  - Highly mobile
  - Homeless
  - Migrant
  - Wards of state
Who Must Be Found?

- Child find duties apply to:
  - Children advancing from grade to grade
  - If suspected of having a disability

Who Must Be Found?

- Children advancing from grade to grade
  - Intelligent 8th grade student with ADHD earned passing grades
  - GPA dropped from 4.0 to 2.0 in one academic year
  - ADHD caused need for redirection, inattentiveness, and affected extracurricular activities
  - District failed its child find duties
  - Student should have been eligible as OHI

Who Must Undertake Child Find?

- Who is responsible for child find?
  - Public schools
  - Private schools
  - Other public agencies that have contact with potentially eligible children
  - Public health agencies
  - Juvenile correctional facilities
Who Must Undertake Child Find?

- SELPA's Role in Child Find
  - Establish written policies and procedures
  - Continuous child find policy
  - Often assists in public notice activities

Who Must Undertake Child Find?

- Private schools
  - Child find applies to parentally-placed private school children
  - Child find is the responsibility of the district in which the private school is located

When Must a Child Be Found?

- Child find obligation is triggered when:
  - There is knowledge or reason to suspect a disability, and
  - Reason to suspect that special education services may be needed to address the disability
- This is a low threshold
When Must a Child Be Found?

- Public schools
  - The school district should consider whether the child should be referred for an evaluation, not whether the child will qualify for services
  - This is based on information currently known at the relevant time

When Must a Child Be Found?

- Pre-referral General Education Interventions
  - Should be tried when appropriate
  - Decision must be made on case by case on a basis
  - Referral may be needed if general education interventions fail

When Must a Child Be Found?

- School District Deemed to Have Knowledge When:
  - Parent requests assessment
  - Parent expresses written concern that child needs special education or services
  - Teacher or other personnel expresses written concern that child needs special education or services
What if a Child is Not Found?

- Failure to meet the child find obligation may result in . . .
  - Procedural violation
    - May result in denial of FAPE if the child should have been identified
    - Not all procedural violations will result in a denial of FAPE

What if a Child is Not Found?

- Failure to meet the child find obligation may result in . . .
  - Hearing between district and parent
  - Fees and damages
  - Compensatory education

Best Practices

- How do school districts fulfill their child find obligation?
  - Neither IDEA nor Education Code provide details about what must be done
Best Practices

- Effective child find efforts:
  - Written policy (SELPA)
  - Year-round, on-going
  - Interagency collaboration
  - Communication with professionals and the community
  - Sensitive to individual community needs

Best Practices

- Get the word out
  - Written communications and/or notices to parents
  - Website publication
  - Brochures, flyers, letters, and posters in public places
  - Public service announcements, newspaper ads
  - Community events

Best Practices

- Staff Training
  - Child find education required element of general education credential
  - Teacher manual
  - Training in regular school site staff meetings
**Best Practices**

- Strategies for children advancing from grade to grade
  - Parent teacher meetings
  - Tutoring programs
  - Counseling
  - Student Study/Success Team meetings

**Best Practices**

- Pre-referral interventions
  - Take note of and consider:
    - Grade changes (sudden, gradual decline)
    - Behavior
    - Attendance
    - Medical diagnosis
    - Peer issues
    - Failing statewide tests
    - Past assessments

**Best Practices**

- Children in private schools
  - Child find activities must be similar to those used for public school children
    - Distribute informational brochures
    - Regular public service announcements
    - Community activities
    - Liaison with private schools
Best Practices

- Children in private schools
  - Child find activities must be conducted in a comparable time period to those for public schools
  - Reasonable
  - Without undue delay
  - Cannot wait until after child find for public schools

Best Practices

- Children in private schools
  - Meaningful consultation with private schools must include information about child find
  - Parents not allowed to file for due process over failure to conduct meaningful consultation

Due Process

- Background:
  - Children with disabilities are entitled to a FAPE
  - Procedural violation constitutes denial of FAPE if it:
    - Impeded the right to a FAPE
    - Significantly impeded the parent's opportunity to participate in the decision making process, or
    - Caused a deprivation of educational benefits
Due Process

- How to prove reasonable child find efforts:
  - Document monitoring of student needs
  - Record-keeping and copies of communications with parents
  - Pre-referral interventions
  - Evaluation and assessment efforts

Due Process

- SELPA's role in due process hearing
  - Provide credible testimony
    - By who?
    - About what?
      - Policies
      - Staff awareness of legal obligations
      - Public awareness efforts

Due Process

- K-4th grade: Student attended private school within boundaries of GUSD
  - Difficulty reading, memorizing, and with math facts
  - Parents contacted district for assessment at the beginning of 4th grade
  - District assessed and found not eligible
  - Parents obtained private assessment, which found that student had ADHD

- 5th grade: Student enrolled in a private school for students with special needs within boundaries of LAUSD
Did either district fail to meet child find obligations?

No
- GUSD:
  - Student did not request assessment
  - No knowledge that student had a disability and required special education
  - Child find activities complied with law
  - Did not deny FAPE substantively
- LAUSD:
  - Student was not eligible
  - No denial of FAPE
  - No remedy because already assessed


- Facts
  - Student diagnosed with ADHD and Central Auditory Processing Disorder
  - District provided services under Section 504 only
  - Student was benefitting from her general education classes with Section 504 support
- Did District fail to meet its child find obligations?
• NO
  - 9th Circuit affirmed the use of the "benefit standard"
    • If student benefits from regular education, the student does not need and is not eligible for special education
  - Student's Section 504 services were not considered "specialized instruction," but were general education classes open to many students who needed extra help
  - No evidence that student had a specific disability qualifying her for special education eligibility

• 6th grade:
  - Diagnosed with ADD, took various medications
  - Discontinued medication in 9th grade due to side effects
• 9th grade:
  - Began to abuse marijuana
  - At home: oppositional, angry, depressed, and defiant
  - No inappropriate behaviors at school
• 11th grade:
  - Enrolled in charter school
  - RTC after meltdown and involuntary hospitalization

• Should District have identified and assessed student?
  - Had appropriate policies and procedures in place to notify parents
  - Student's grades did not suffer until 9th grade
  - District provided general education interventions and counseling
  - District had no reason to know of student's depression, extent of marijuana abuse, cause of hospitalization, or issues at home
Result: District did not fail to meet child find obligations

PASS

- GPA dropped from 3.17 to 2.4
- Biology teacher was aware that student was taking Concerta to improve focus
- Behavior:
  - Student cheated and was truant
  - Threw two books at a classmate
  - Suspended and expelled for selling prescription medication to another classmate

- Should District have assessed?
  - NO
    - Behaviors did not give District a reason to suspect that student had a disability requiring special education
    - With exception of drug use, student's behaviors were typical of most teenagers
    - Did not trigger child find duties
• Student was diagnosed with Asperger's and anxiety disorder
• District delayed two years in developing an IEP for the student
• Did District fail to meet its child find obligations during the two-year period?

• NO
  - District was responsive to parents' concerns
  - Student received A's and B's
  - Teachers did not believe that student needed special education
  - District was not on notice that student had greater needs than indicated by her performance at school

Thank you for attending!