

Special Education Matters...

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BRUSH COUNTRY COOPERATIVE

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Special Points of Interest:

BCC office closed

July 4—12

CPI courses will continue to be offered through BCC throughout the 2013-14 school year

ESC₂ Summer Workshops

Physical Fitness Training for Students with Disabilities—
June 19

Tricks of the Trade—July 11

Improving Math Learning for Struggling Students (gr 6-8) -
Aug 6,7,8

LIDS Conference—Aug 15, 16

Director's Message

As we quickly approach the end of another school year, I would challenge us all to “look back” as we look ahead. To improve what happens in the classroom, any successful educator must review what worked, what needs revising, and what action plan is needed to ensure effective change.

I challenge each of you to “take inventory” of your classroom this school year, while asking those im-

portant questions that can help prepare for an effective 2013-2014.

I wish each of you a restful, well-deserved summer break!

Dru Childs
Brush Country Co-op
Special Education Director

Farewell from Margarita

Are you prepared for Your test? Its ok, it is only a fill-in-the-blank. But is anything ever that simple?

Our families are already surviving a big disappointment. NO one expects to have a child with a disability. Let's not add to their pain by short changing them. We not only made a choice to be educators, but we decided to work in Special Education. That commitment should be the first thing we think about when we look in the mirror.

Margarita to educators: “I ask you to reflect on how we can break the cycle of _____”.

In searching for an answer there are so many clichés that come to mind, but the loudest to me is “our children are our future.” The question remains, *What can I do to help them be prepared for their future?*

Often a parent needs us to “just” listen. They need to let some steam off and vent about the helplessness they feel. They know their kids depend on them 24/7.

They get no breaks.

As educators we need to look outside the box to refresh and refuel our love for the profession we have picked. I encourage you to take the time and reflect on the _____ and how you will fill it.

Poverty Power
Helplessness Empower
Apathy Love

In my seven years with Brush Country, I have met many people who are dedicated to their careers. To those people I humbly applaud you and wish you well. Keep up the good work. You have big hearts and I will continue to reflect on those positive experiences. In my new venture after BCC, I hope our paths cross again. May you have much success, joy and peace of mind.

Your social worker,
Margarita

Teacher Extended School Year (ESY) Services Reminder

As we approach the end of another school year, please review the procedures and considerations for extended year services. The need for ESY must be determined on an individual basis by the ARDC in accordance with 34 CFR §300.106. In determining the need for and in providing ESY services, the district may not:

- A. Limit ESY services to particular categories of disability; or
- B. Unilaterally limit the type, amount, or duration of ESY services.

The need for ESY is determined through formal and informal evaluations provided by the district or parent. The documentation shall demonstrate that in one or more critical areas addressed in the current IEP objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time.

Throughout the school year, after each six weeks, holiday breaks,

etc., keep documentation of student work, anecdotal records, charting, etc., on any student exhibiting regression on critical skills that you will be recommending ESY services.

In summary:

- ESY services are not automatic year after year.
- ESY is not “summer school.”
- ESY services are not provided simply for recreational reasons.
- ESY is not provided for students to gain new skills.

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RtI and Child Find: A School District's Legal Obligations

Best practice has always involved the use of differentiated instruction in general education interventions for struggling learners, regular assessment to determine the effectiveness of those interventions, and a review of the student's progress. State law requires the consideration of general education interventions prior to referring a student to special education. More recently, IDEA was amended to prohibit a student from being identified for special education if the student's difficulties are due to lack of appropriate instruction in reading or math. Navigating the intersection between RtI, §504, and special education can be hazardous. Knowing whether to implement RtI or refer a student to the 504 committee or special education isn't always easy, and collecting good RtI data can be a challenge. Data-driven decisions are the key to implementing RtI with fidelity and are critical to defending against a "failure to identify" complaint.

"Child find" refers to the ongoing duty of public school districts to identify, locate, and evaluate all children suspected of having disabilities residing within the jurisdiction that either have or are suspected as having disabilities and need

special education as a result of those disabilities. 34 CFR§300.111.

"RtI" is defined by TEA as the practice of meeting the academic and behavioral needs of all students through a variety of services containing these elements:

- High-quality instruction and scientific research-based multi-tiered interventions aligned with individual student need;
- Frequent monitoring of student progress to make results-based decisions; and,
- Application of student response data to important educational decisions regarding placement, intervention, curriculum, and instructional goals and methodologies.

A complaint regarding your school district's child find and RtI procedures may likely involve an investigation into how the school responded to a request for an evaluation and whether any delay in evaluation was the result of a strict adherence to completion of the RtI process. It is important to document consideration of appropriate interventions, even while the evaluation is pending.

~ Eric Gilbert Rodriguez. Adapted from training materials presented at TCASE Legal Conference April 17, 2013.

Health Services and Nursing Services Under IDEA and Section 504

Are health services and nursing services a related service under IDEA?

Yes. Related service 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. 34 CFR§300.34. These services are provided to the student at no cost to the parent consistent with the definition of FAPE under IDEA.

Is there an exception to the definition of related services regarding surgically implanted devices?

Yes. Related services do not include a medical device that is surgically implanted (including cochlear implants), the optimization of the device's functioning, maintenance of that device, or the replacement of that device.

How does the law define "school health services?"

"School health services and school nurse services" means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a

qualified school nurse. School health services are provided by a qualified school nurse or other qualified person. 34 CFR§300.34(c)(13) (2011).

Is the administration of medication at school a related service?

Yes. If a student with a disability must take medication during the school day to access his/her education, then the administration of the medication is a related service under IDEA or Section 504.

Must health services and nursing services be included in the student's IEP if necessary for FAPE?

The IDEA implementing regulations requires that a statement of the related services be included in the IEP, as well as the frequency and duration of the related services. 34 CFR§300.320(A)(4)-(7).

NOTE: When determining the appropriate health services and/or nursing services for a student in an ARD meeting, document the frequency and duration of any necessary health services and/or nursing services on the schedule

of services page. Also include the position of the district staff member providing the health services and/or nursing services, and any necessary training.

Can a district delegate an aide to provide health services?

It is important to ensure that the task delegated to aides or staff are consistent with the TAC rules. Seeking consent to consult with the student's physician, or even consent to conduct the district's own medical evaluation, may assist in resolving disputes regarding whether certain tasks may be delegated to an aide or other staff, as opposed to conducted by a nurse.

Which rules apply to confidentiality of a student's health services and/or nursing services?

Unless the school district maintains a separate health clinic that bills insurance directly, the records related to the student's medical needs are education records and subject to disclosure under the provisions of FERPA.

~ Gigi Maez. Adapted from training materials presented at TCASE Legal Conference April 17, 2013.