

# Section 504 Webinar

## Support for Students with Medical Needs

Utah State Board of Education

March 25, 2024

# Preliminary Notes

- The information provided in this presentation does not, and is not intended to, constitute legal advice. Instead, all information and content is for general information purposes only.
- Individuals with questions regarding any particular legal matter are encouraged to contact their attorney to obtain advice.
- USBE staff are not on your 504 team and cannot answer questions about specific students.
- Individuals needing accommodations to access these materials under the Americans with Disabilities Act (ADA) should contact the USBE ADA Coordinator at (801) 538-7539.

# NCPD Learning Outcome (for nurses)

At the conclusion of this activity participants who complete the evaluation will self-report they learned at least one new thing on implementing Section 504 plans for students with medical needs.

# NCPD Disclosures

- This activity is being jointly provided by the Utah Department of Health and Human Services (Office of Health Promotion and Prevention, Healthy Environment Active Living program) and the Utah State Board of Education.
- Utah Department of Health and Human Services, Office of Health Promotion and Prevention, Healthy Environments Active Living program is approved as a provider of nursing continuing professional development by the Colorado Nurses Association, an accredited approver by the American Nurses Credentialing Center's Commission on Accreditation

# NCPD Disclosures (continued)

- 1.5 Continuing Nursing Professional Development credits are available for those completing the evaluation after the event.
- Criteria for successful completion: Participant must attend 100% of the activity and completion of the evaluation is required to receive 1.5 NCPD hours. Evaluation must be completed by midnight, **March 31, 2024**.
- Participants must attend 100% of this webinar and complete the evaluation to receive credits.
- There are no relevant financial relationships with ineligible companies for those involved with the ability to control the content of this activity.

# Students with Medical Needs

# Whole school, Whole community, Whole Child Model

- A collaborative approach to learning and health (ASCD & CDC, 2014)
- Principles are surrounded by the fifth principle, Standards of Practice, which is foundational for evidence-based, clinically competent, quality care (NASN, 2016).



<http://www.ascd.org/ASCD/pdf/siteASCD/publications/wholechild/wsc-a-collaborative-approach.pdf>

# Classifications of Students with Medical Needs

1. Students with health concerns
2. Students with medically complex needs
3. Students that are medically fragile
4. Students that are nursing dependent



# Students with Health Concerns

Students with a physical and/or social emotional conditions that are currently uncomplicated and predictable. Occasional monitoring by the school nurse varies from biweekly to annually.

Examples of chronic health conditions these students may have include attention deficit disorder (ADD) or attention deficit with hyperactivity disorder (ADHD), mild asthma, mild allergies, or a condition which requires administration of medication.

These students may or may not require an healthcare plan.

# Medically Complex Students

- Students who are medically complex are defined as those who **may have an unstable health condition and who may require daily professional nursing services.**
- Students in this category have a health condition that requires a licensed registered nurse to do an assessment, write a healthcare plan, and teach and oversee tasks delegated to lay staff who work directly with the student.

# Medically Complex Students (examples)

- **Asthma**: Student that uses their rescue inhaler multiple times per week, may have frequent health room visits, on multiple medications for uncontrolled asthma.
- **Seizure**: Student is on seizure medication and has occasional breakthrough seizures at school.
- **Severe allergic reaction**: Student with a potentially life-threatening allergy that may require emergency medication.
- **Diabetes**: Student with type 1 diabetes that may/may not be independent.

# Medically Complex Students (examples, continued)

- **Mental/emotional/behavioral health**: Student on medication for mental/emotional/behavioral health issues with frequent medication dosage changes or complications that may require symptom monitoring.
- **Medication**: Student has a daily medication given at school by school staff, may require side effects monitoring.
- **Concussion**: Student with a recent concussion that needs monitoring and interventions to help with their recovery and academic success.
- **Miscellaneous examples**: Student requires catheterization daily; student has a feeding tube.

# Medically Fragile Students

Students who are medically fragile are those students who **may have a life-threatening health condition and who may require immediate professional nursing services.** Students in this category have a health condition which requires frequent (often daily) one-on-one medical intervention.

As students' medical conditions become more stable and students mature, the category may change to one which requires less intense school health services (i.e. medically complex).

# Medically Fragile Students (examples)

- **Asthma**: Student that require use of a rescue inhaler or nebulizer multiple times a day. Recent student asthma related emergency department visit(s).
- **Seizure**: Severe seizure disorder requiring immediate intervention; student has frequent cluster seizures making it difficult for unlicensed staff to identify beginning and/or end of seizure activity. Student often has prolonged post-seizure symptoms.
- **Severe allergic reaction**: Severe and/or multiple life-threatening allergies necessitating accommodations in the school setting, including administration of emergency epinephrine.

# Medically Fragile Students (examples, continued)

- **Diabetes**: Student with highly variable blood glucose levels, student requiring insulin administration at school by school staff, non-compliant student, student with cognitive impairment, and/or a newly diagnosed student.
- **Mental/emotional/behavioral health**: Suicidal ideation or volatile behavior, requiring frequent monitoring and interventions. Student who has recently been hospitalized for a mental/emotional/behavioral health issue.
- **Miscellaneous**: Multiple complex conditions that put the student at risk of a life-threatening event.

# Nursing-Dependent Students

Students who are nursing dependent are those who may have an **unstable or life-threatening health condition** and who may require daily, direct, and continuous professional nursing services. These students require direct one-on-one services by a nurse so that they are medically safe in the school setting.



# Nursing-Dependent Students (examples)

- Student with tracheostomy that requires nursing assessment & care to maintain airway.
- Student with multiple health conditions (e.g., compromised airway, severe seizure disorder, tube feedings) that requires skilled nursing assessment and intervention.

# Role of the School Nurse

# Different Healthcare Plans

## **IHP: individualized healthcare plan**

The Nurse Practice Act rules define this as *“a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes”*. This plan is written by the nurse – for the nurse, with input from the family and healthcare provider. The nurse should sign this document, but provider signature is not required. Only a registered nurse can write an IHP.

# Different Healthcare Plans

## **EAP: emergency action plan (aka emergency care plan or ECP)**

This is written by the nurse – for other school staff, with input from the family and healthcare provider. This document is usually in the “if you see this – do this” format for lay staff to follow. The nurse and parent should sign this document. Provider signature is only required if provider orders are included in the same document (i.e. medication, procedure order).

# When does a student need a healthcare plan?

“When students have chronic or significant health needs that require ongoing direct or indirect care from the school nurse” (School Nursing: A Comprehensive Text, page 174).

- Need health services on a daily or regular basis
- Have health conditions that may lead to a medical emergency
- Require specialized care
- Receive health services under an IEP or Section 504 plan
- Receive care delegated by an RN to unlicensed assistive personnel (UAP)

# Role of the School Nurse

- Identifying and assessing students who may need health related accommodations.
- Even if you think a child just needs a healthcare plan to meet their needs, a **Section 504 evaluation should be considered and the student should be referred for a 504 evaluation.**
- Participate on 504 Team when appropriate.
- If the student qualifies for a Section 504 plan and a healthcare plan, complete them separately. Healthcare plans do not include academic accommodations.

# Role of the School Nurse (continued)

- Determine what tasks might be appropriate for delegation (Nurse Practice Act rule requires all delegated tasks be included in the student's healthcare plan).
- Train lay staff who will perform health related interventions.
- Delegation of nursing tasks (only a nurse can determine if delegation is appropriate).
- Training and delegation require nurse to supervise and evaluation the lay staff and remediation when necessary.

# Not all tasks can be legally delegated

- Writing the healthcare plan
- Case management
- Training staff on specialized procedures
- Complex specialized medications and procedures requiring a nursing assessment
- Tracheostomy care
- Deep suctioning



# Role of the Section 504 Coordinator

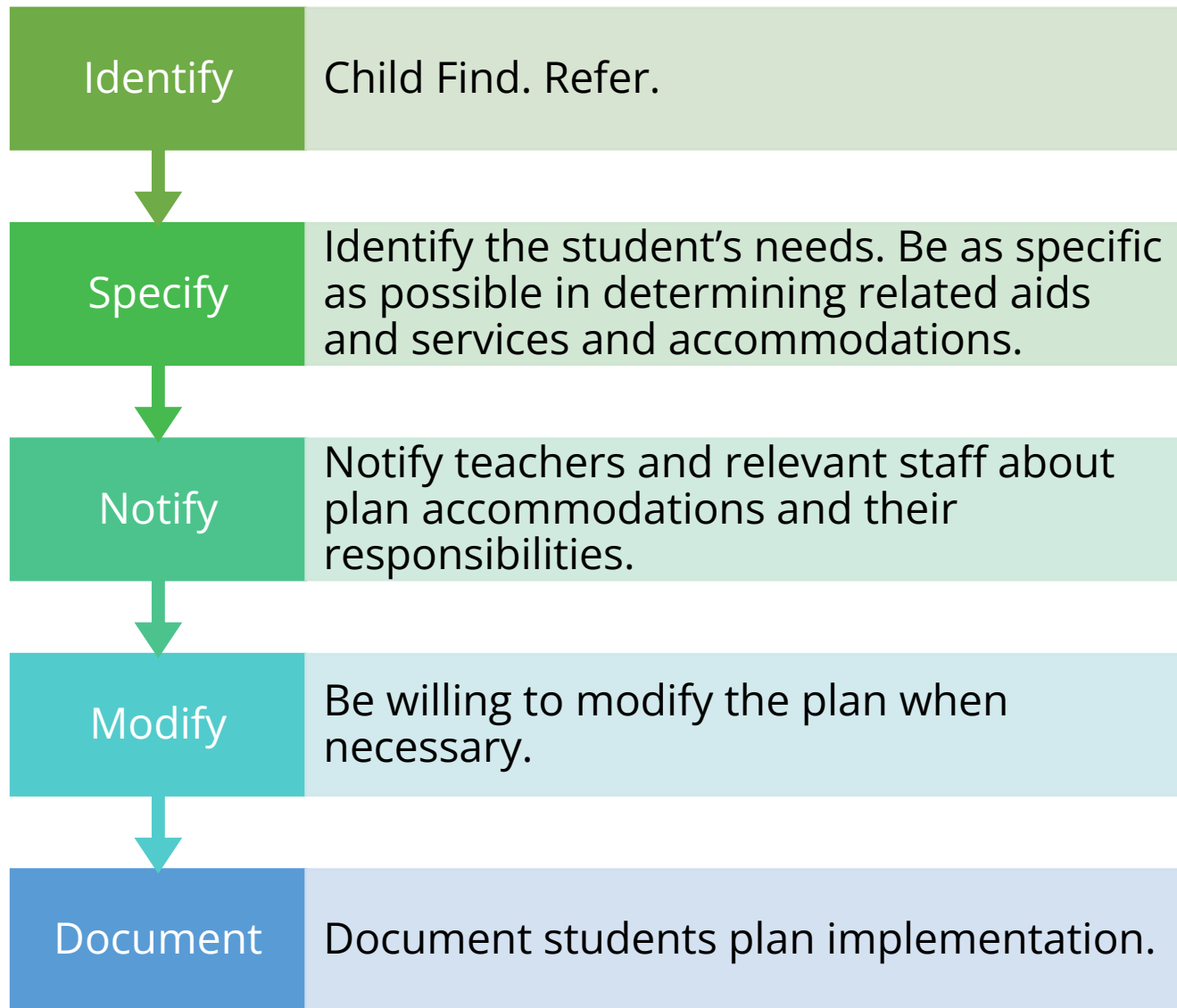
# Major Bodily Functions

(B) Major bodily functions: a major life activity also includes the operation of a major bodily function, including but not limited to, immune system, normal cell growth, digestive, bowel, bladder, neurological, respiratory, circulatory, endocrine, genitourinary, lymphatic, special sense organs & skin, hemic, cardiovascular, musculoskeletal and reproductive functions.

(42 U.S.C. 12102)

# Child Find Red Flags

- When a student has a chronic health condition
- When a student has an IHP/EAP
- When a student has a medical diagnosis (Section 504 eligibility is not dependent on a diagnosis)
- When a student returns to school after a serious illness or injury (e.g., sports injury, suicide attempt)
- It is known that child is taking medication (e.g., insulin, ADHD medication, inhaler)
- Information that the child is seeing an outside healthcare provider



# 504 Plan Process

Section 504 Compliance Advisor, November 2012, Volume 16, Issue 9, p. 8.

# Related Aids and Services

- Speech-language pathology
- Interpreting services
- Physical and occupational therapy
- Orientation and mobility services
- Recreation, including therapeutic recreation
- Medical services for diagnostic or evaluation purposes
- School health and nurse services
- Mental health services
  - School Counseling
  - Psychological
  - Social work
  - Rehabilitation counseling, & parent counseling and training
- Early identification and assessment of disabilities in children
- Audiology services

(34 CFR 300.34)

# Accommodations

- Permission to leave class early to make it to the next class or receive routine medical care
- Ability to monitor blood glucose anytime, anywhere, and eat snacks in class if necessary
- Dietary Considerations
- Transportation
- Provide relaxed attendance requirements if the student needs to miss school for healthcare provider appointments
- Ability for student to have electronic devices with them in class if necessary to monitor their health condition



# Best Practices for Transition Back to School

- Identify point-person to support student
- Communicate critical information between student support team members (i.e. caregiver, school nurse, school counselor, school psychologist, health care providers, administrator, teachers, etc.)
- Consider partial day attendance at first to ease transition
- Develop crisis plan
- Schedule 504 or IEP team meeting
- Set clear plan for addressing long-term absence and missed work, and allow for adjustments in classwork/homework upon return
- Implement daily check-ins with student
- Provide regular feedback to caregiver on student's adjustment back to school
- Provide family peer-to-peer support, if available

## Student Re-entry Plan

STUDENT INFORMATION						
Student:	ID:	Grade:				
Person Completing Form:						
Meeting Date:			Date Returning to School:			
Length of time out of school:						
Signed release of information from mental health provider	Yes	No				
Mental health provider present (if yes, provide name)	Yes	No				
Parent/Guardian present	Yes	No				
Student Safety Plan (must complete before re-entry)	Yes	No				
Student on 504 plan or IEP	Yes	No				
Daily check-in upon Reentry	Yes	No	With whom:	AM	PM	Both
Family Concerns						
Academic Concerns						
Re-entry Conference (Names & titles of all present)						
Modification on course assignments (list course and if assignments can be modified) List modifications on back						
Course	Can assignments be modified?		Can assignments be modified?			
	Yes	No	Yes	No		
	Yes	No	Yes	No		
	Yes	No	Yes	No		
	Yes	No	Yes	No		

RE-ENTRY PLAN COURSE MODIFICATIONS FOR	Course	Teacher
	Modification	
	Course	Teacher
	Modification	
	Course	Teacher
	Modification	
	Course	Teacher
	Modification	
	Course	Teacher
	Modification	
Course	Teacher	
Modification		
Course	Teacher	
Modification		



# Inappropriate

- Requiring students to have a 1:1 aid (under most circumstances)
- Waiving all academic tests for students
- Requiring parents to provide necessary related aids and services or accommodations
- Not allowing the school nurse to contact provider (e.g., verifying orders, diagnosis).

# Case Studies

# Feeding Tube

Khloe is a student with a feeding tube who receives a feeding over 45 minutes twice during the school day. The school nurse has delegated this feeding to a classroom aid.

- Does this student need a healthcare plan?
- Does this student need a 504/IEP?

# Diabetes

Jayden is a student with diabetes who has an insulin pump and a continuous glucose monitor. The student needs assistance throughout the day and is not independent. The school nurse has trained staff to help care for the student during the day.

- Does this student need a Section 504 plan/IEP?
- Does this student need a healthcare plan?

# Broken Leg

Cooper was in an auto accident and broke his leg. He leg is in a full cast and he needs to use crutches to get around the school.

Does he need a Section 504 plan/IEP?

Does he need a healthcare plan?

# OCR and Court Cases

# 2016 OCR Case

The 504 plan for a first-grade student with diabetes required the school nurse to troubleshoot issues with the student's insulin pump and conduct changes to the pump in the nurse's office. The district's legal counsel and state risk management advised the school to not to perform the procedures because it would expose the district to potential liability. Therefore, the school refused to adjust the pump site, which is where a part of the pump is inserted just under the skin to deliver insulin to the tissues. As a result, the parent had to come to school to make the adjustment.

**Was this a violation of Section 504?**

# 2016 OCR Decision

- The district violated Section 504 and Title II when it declined to implement the provision in the first-grade student's 504 plan requiring the school nurse to troubleshoot and readjust the student's insulin pump at school.
- Districts may not refuse to implement a health service a student needs to receive FAPE simply because doing so would expose the district to potential liability if something goes awry. If the 504 plan requires the service, the district must either implement it or make appropriate changes to the 504 plan. Here, the plan required the nurse to adjust the child's insulin pump at school. The fact that the district's legal counsel advised it not to perform such procedures didn't excuse the district's failure to comply with the child's 504 plan when it declined to adjust the pump infusion site.
- However, OCR found that the district took sufficient steps to remedy the violation when it agreed to adopt protocols and guidelines allowing school nurses to make changes to the insulin infusion site on the body.



# 2018 OCR Case

A school district prohibited a student with diabetes from carrying prefilled syringes in his medical bag. The student's Section 504 plan did not allow him to carry prefilled syringes. The plan said nothing about prefilled syringes. The student had a full-time nurse who carried insulin and syringes.

**Was this a violation of Section 504?**

# 2018 OCR Decision

OCR ruled that the district did not violate Section 504 or the ADA when it prohibited the student from carrying prefilled syringes in his medical bag. Noting that the student's Section 504 plan did not allow him to carry prefilled syringes, OCR closed the parent's disability discrimination complaint.

# 2010 Texas OCR Case

This case had to do with a district that provided health care plans for students instead of providing 504 plans.

OCR determined that a district's practice of providing health care plans to a student with diabetes, instead of determining the student's eligibility for a 504 plan, was a violation of Section 504 **Child Find** requirements. Districts must evaluate a student's eligibility for a section 504 and related aids and services, rather than automatically writing a health care plan.

Tyler (TX) Indep. Sch. Dist., 56 IDELR 24 (OCR 2010)

# Supreme Court Case

A 12-year-old medically fragile student was paralyzed from the neck down, dependent on the use of a ventilator for life support, and needed catheterization, suctioning of his tracheostomy tube, monitoring of his ventilator, ambu-bagging, assistance with food and drink, and positioning.

Did the Supreme Court determine these were reasonable related aids and services for the district to provide the student?

# Supreme Court Decision

The student's health care needs did not fall within the medical services exception to the IDEA, but rather, **were school health services that the district was required to provide as a related service to assist the student with his education.** Also, the increased expense to the district of hiring a full-time RN, which was the level of licensure required by the state board of nursing, would range between \$20,000 and \$30,000 annually--a figure which **was not considered unduly burdensome** for the district.

Cedar Rapids Community School District, Petitioner V. Garret F.

# Conclusions

# Question

Do all students with a Section 504 plan (or an IEP) need to have a school nurse on the team?

# Answer

**No**, only those students who need health or medical accommodations need to have a school nurse on the team.



# Important Reminder

- Not all students with a healthcare plan will need a section 504 plan, but all with a healthcare plan should be evaluated for the need for a section 504 plan.
- Not all students with a section 504 plan will need a healthcare plan, but it's a good idea for school nurses to evaluate those students to see if they might need a healthcare plan.

# NCPD Credit (for nurses)

Criteria for successful completion: Participant must attend 100% of the activity and completion of the evaluation is required to receive 1.5 NCPD hours. Evaluation must be completed by midnight, **March 31, 2024**.

Certificates will be emailed after **April 1, 2024**.

Link for evaluation: [https://utahgov.co1.qualtrics.com/jfe/form/SV\\_cvwbD8mgrspQljU](https://utahgov.co1.qualtrics.com/jfe/form/SV_cvwbD8mgrspQljU)

Or use this QR code:



# Inclusion of students with disabilities

Inclusion means ensuring that students are accepted and valued as members of the school community with equal opportunities to contribute by creating conditions for meaningful participation.



# Resources

- Office for Civil Rights, (2024).
  - [Section 504 Protections for Students with Asthma.](#)
  - [Section 504 Protections for Students with Diabetes.](#)
  - [Section 504 Protections for Students with Food Allergies.](#)
  - [Section 504 Protections for Students with GER or GERD.](#)
- [Utah Parent Center](#)
- [Re-entry plan and other disability resources](#)
- [Transitioning from Psychiatric Hospitalization to Schools](#)

# Resources (continued)

- Toilet training required for kindergarten enrollment
  - [HB 331 - School and Classroom Amendments requiring](#)
- Emergency epinephrine auto-Injectors required at every school
  - [26B-4-406 Voluntary Participation](#)
- [Model Concussion and Head Injury Policy \(2021\)](#)
- [Medical Statement to Request Special Meals, Accommodations, Milk Substitutes \(2017\)](#)
- Parents and Healthcare Provider Consent for Medication Administration at School
  - [53G-9-502. Administration of medication to students -- Prerequisites -- Immunity from liability -- Applicability](#)

# Contact Information

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