



Virginia M. Barry, Ph.D
Commissioner of Education
Tel. 603-271-3144

STATE OF NEW HAMPSHIRE
DEPARTMENT OF EDUCATION
101 Pleasant Street
Concord, N.H. 03301
FAX 603-271-1953
Citizens Services Line 1-800-339-9900

Bureau of Special Education FY'10 Memo #20

Date: December 16, 2009

To: Superintendents
Special Education Directors

From: Office of the Commissioner

Division of Instruction
Bureau of Special Education

RE: Health Evaluation and Eligibility Determination

The New Hampshire Department of Education (NHDOE), Bureau of Special Education is offering guidance regarding the special education eligibility process when a health evaluation is required.

Ed 1107.04, Table 1100.1 outlines the required assessments and qualified examiners by type of educational disability category. The school district is responsible to evaluate in all areas of suspected disability at no cost to the parent. A health evaluation is required when a child is suspected of having an educational disability under autism, orthopedic impairment, other health impaired, and traumatic brain injury. This evaluation provides the IEP team with information on the child's physical condition and may include, but is not limited to, a physical assessment and/or health screening, a review of a child's medical history (if parent consents), classroom observations of the child with health related concerns, identification of health barriers to learning, etc., as determined by the IEP team. A qualified professional licensed to provide a health evaluation is anyone, who under their specific licensing is qualified to provide a health evaluation as described above. This may include, but is not limited to: a school nurse, a registered nurse, physician, psychiatrist, naturopathic doctors.

* The health evaluation is not intended to provide a medical diagnosis; nor is a medical diagnosis required in the NH Rules for the Education of Children with Disabilities to determine the eligibility of a child for special education. As defined by Ed 1108, the IEP team determines whether a child is a child with a disability by considering information from a variety of sources such as, evaluations and assessments, parent input and teacher input and recommendations, as well as information about the child's physical condition, social and cultural background, adaptive behavior, and functional performance. *

A Medical Diagnosis is not Required for Other Health Impairment Eligibility

by Jonas Taub

Editor's note: Thanks to Jonas--a veteran in the field as both practitioner and teacher--for providing this sensible and child-centered explanation for evaluation teams. Jonas's first sentence refers to an email I sent asking for clarification for teams considering the "OHI" disability determination.

The question you ask is, "Does a child have to be seen by a doctor to diagnose Attention Deficit/Hyperactivity Disorder (ADHD) in order for a child to be identified under IDEA as having Other Health Impairment (OHI)?" The answer to your question lies in New Hampshire Department of Education, Special Education Memo 30, FY2010. The link at DOE is below. http://www.education.nh.gov/instruction/special_ed/memos.htm#fy10_11 Click on the Adobe icon for Memo 20.

A visit to the doctor is not required. But a Health Evaluation is, and that can be done by the School Nurse, who is one of the Qualified Examiners for a health Evaluation – "A Professional Licensed to perform a Health Evaluation." (NH Ed 1107, Table 1100.1, p.52). Here is what the Memo says about the health evaluation:

"This evaluation provides the IEP team with information on the child's physical condition and may include, but is not limited to, a physical assessment and/or health screening, a review of a child's medical history (if parent consents), classroom observations of the child with health related concerns, identification of health barriers to learning, etc., as determined by the IEP team.

Also, a Medical Diagnosis is not required:

"The health evaluation is not intended to provide a medical diagnosis; nor is a medical diagnosis required in the NH Rules for the Education of Children with

Disabilities to determine the eligibility of a child for special education."

As I understand it, the function of the health evaluation, particularly in ADHD determination and intervention, is to examine health conditions that might mimic or present as ADHD. While evaluation by a doctor is not required, if there are concerns, raised by the Nurse's Evaluation or by the Team that another condition might be present, then referral to a doctor would be appropriate and even required in order to rule out those concerns. It would be appropriate, in making that referral, to specify the questions that you are asking the doctor to evaluate and respond to. This is different from saying, "You have to see the doctor to evaluate for ADHD."

A blanket referral to the doctor for ADHD evaluation sets up a variety of ironic conditions with which we are all well acquainted. For instance, the school psychologist has conducted several hours of 1-on-1 testing, observed in multiple settings, consulted with the child's teachers and parents, scored and interpreted 5 or more ratings scales, and spent hours interpreting and writing a 10-20 page report, that clearly indicates significant difficulty with inattention and/or hyperactivity – ADHD. Yet, we refer the parent to a doctor who is going to spend 15 minutes with the child and the parent, skim our evaluation, if they even get a copy, and make a diagnosis.

On the flip side, we tell the parent at the referral meeting that we do not evaluate for ADHD because it is a medical diagnosis and they have to take their child to the doctor for that same 15 minute evaluation, **without** the benefit of our evaluation. Some doctors will send rating scales for the teachers and parent to complete. But rating scales do not

make a comprehensive evaluation. So, not uncommonly, the doctor will instead send a note to the school, in the hands of the parent, asking for or prescribing the psychological evaluation. Many doctors understand that a comprehensive psychological evaluation is an appropriate component of ADHD diagnosis. They also know that we do a good job, and that the parent is entitled to it at no cost as part of the special education identification process.

A health evaluation conducted by the School Nurse might include a review of the child's health record, their contacts and evaluation of the child, talking with the parent, maybe even the doctor, to determine if there might be a health condition that might be affecting educational performance. The School Nurse is not being asked to make a diagnosis of ADHD or to determine its presence. If the nurse cannot address the questions or concerns raised by the parent or the team, referral to a doctor may be appropriate. Also, if the parent wishes to consider medication as an intervention, they would pursue that independently with the child's physician. The parent should be encouraged to share the team summary report along with relevant individual evaluations with the doctor. But it is not necessary to wait for the doctor in order to identify the child as OHI and to provide intervention and special education.

It may be new and unfamiliar territory for school nurses to conduct such health evaluations for special education eligibility. They may need some training and/or guidelines for completing this evaluation. The district may also need to determine how this Health Evaluation

(Continued on Page 11)

Conscience, Ethics and Law

(Continued from Page 10)

with their dissent are not being honest and open and do not inspire trust. A better approach would be to have a meeting with the parents and other team members where the school psychologist can indicate to parents that differences of opinion do exist among team members and this in no way is a reflection of anyone's faults. If the situation is not "problematized" in a transparent manner, it can fester and contribute to a hostile atmosphere. In those cases where school psychologists are contracted, they still fall under the same ethical standards that full service school psychologists do, and they must also critically analyze the contextual basis of their opinions and decisions even though they may be less privy to a wider range of information.

School psychologists have the unique position of being somewhere between lone rangers and team players, and this makes it especially important for them to seek help in difficult cases where ethical dilemmas occur. Some situations may be particularly difficult to analyze from an ethical perspective. School psychologists consult ethical standards from related fields and seek assistance from knowledgeable, experienced school psychologists and relevant state/national associations to ascertain an appropriate course of action" (Code of Ethics III Professional Relationships, A General # 4). In other words, help is available and it is no sign of weakness to seek it when needed. On the contrary, it is a sign of strength to be able to admit that one does not have all the answers.

Sandra Lee and Barbara Cerson wrote on the "The changing role of the school psychologist."

They stated that "School psychologists must have a system of problem solving to employ when faced with ethical dilemmas. In addition, school psychologists must recognize that professional expertise brought to practice in the schools is not

value free. It is imperative that those who see themselves as helping others, especially children, clarify their ideals, goals, norms, and standards of behavior. It is important to consider questions of individual responsibility in the face of authority or in the face of unethical or ineffective behavior on the part of one's colleagues. School psychologists must be aware of their own biases and weaknesses. They must also become aware of the values of the community, and finally, of the values of the individuals with whom they interact. While psychologists make every effort to reconcile any differences which arise, individual ethical integrity must remain paramount.

The school psychologist who fulfills the role mandated by law, follows ethical guidelines, functions effectively in a bureaucratic structure, and when necessary, goes "beyond the guideline" may still encounter ethical dilemmas. Psychologists must gain practice in dealing with the processes involved in resolving ethical dilemmas, and must receive the professional support needed to live up to standards and ideals." (<http://eric.ed.gov/?id=ED301820>)

The role of the school psychologist is complex, multifaceted, and critical to the healthy functioning of schools. They must be able to grasp the big picture and to weigh all factors in making decisions. As long as they focus on the child as the primary client, they will be on the right track and their consciences will be clear



A Medical Diagnosis

(Continued from Page 9)

will be documented in the Team process. The School Nurse might also be asked to write an individual evaluation report, as well as document their findings on the Team Evaluation Report.

Nate Jones further notes that, if a health evaluation is a required assessment, and the team requests a full medical evaluation or diagnosis by an MD in order to qualify a child for services based on OHI, Autism, Emotional Disturbance, etc., the school is responsible to pay for it. That is part of why the DOE memo says a school nurse can do the health evaluation. Otherwise, it wouldn't just be a matter of asking a doctor to do an evaluation; the school would have to pay someone not already on staff for it.

As a relevant aside, it is not necessary to identify a child with ADHD under the category of OHI, if the child is identified or qualifies for special education under either Learning Disability (LD) or Emotional Disturbance (ED). The US Department of Education, Office of Special Education Programs (OPEP), has made it clear through a series of memos that children who have ADHD can be served under the category of LD or ED. If they are not eligible under either of those two categories, they can be served under OHI. Secondary identification is not required. I believe that NH law is consistent with this federal guidance. Once a child is eligible for Special Education, they are entitled to all the services necessary to meet their needs.

Jonas Taub
jonasjt@comcast.net