

## **Q&A: Child Find**

### **Quick Facts:**

- Districts are legally required to identify and evaluate students who may have a qualifying disability requiring accommodations, special education and/or related services.
- Failure to identify and evaluate these students is a violation of the Child Find requirement and may result in a denial of a Free and Appropriate Public Education (FAPE).
- The district of residence is responsible for identifying students with disabilities who need special education services, even if the student attends an alternative placement.

### **What is Child Find?**

Child Find is the ongoing obligation of states and local school districts to locate, identify, and evaluate all children with disabilities residing in their area who may need special education and other related services. For more information on evaluation, visit our [Evaluation Q&A](#). By law, Child Find procedures must include children who are suspected of having a disability and in need of special education, even if they are advancing from grade to grade or in gifted programming, and children who are highly mobile, including migrant children and those who are unhoused. For more information on eligibility of students with disabilities, visit our [Eligibility Q&A](#).

### **What are the requirements for Child Find?**

Section 504 and the Individuals with Disabilities Education Act (IDEA) have similar, but not identical requirements.

#### *How are the IDEA and Section 504 requirements alike?*

Section 504 echoes the language of the IDEA, targeting students who, because their disability, need or are believed to need special education or related services. Schools must identify and locate every qualified disabled person residing in their district who is not receiving FAPE. This requirement includes individuals who may or may not have an official residence, including individuals who are unhoused.

Additionally, districts are required to take appropriate steps to notify students with disabilities and their parents or guardians about their Child Find duty. The district's duty to find and identify these students may be triggered even if a parent does not request an evaluation.

Both the IDEA and Section 504 state that parents, a district, or a public or private agency may initiate a referral for a preplacement evaluation. The existence of an individualized health plan does not negate the obligation to evaluate or justify unreasonably delaying an evaluation.

#### *How are the IDEA and Section 504 requirements different?*

Unlike the IDEA, Section 504 does not address when or whether districts need parental consent for initial evaluations. However, the Office for Civil Rights has concluded that parental consent is required because it is a necessary component of the evaluation phase. If a district suspects that a student may have a disability, it should initiate the Section 504 evaluation process even if they do not have an official medical diagnosis of a disability.

### **What are districts responsible for when initiating Child Find?**

Districts have considerable discretion as to how they conduct their Child Find responsibilities. While districts are required to take steps annually to identify and locate students with disabilities who are not in public schools, Section 504 regulations do not specify the manner in which they must execute their

Child Find activities with respect to students that are not enrolled in public schools. The Office for Civil Rights has noted that there are many means available to districts when locating students, including notices to private schools, state and local agencies, and notices placed in newspapers.

The district of residence is responsible for Child Find and evaluations, even if the student attends an alternative school.

In Colorado, the district of residence is the district that the child resides in on a day-to-day basis. There are exceptions for children with disabilities. For example, if the child lives at a regional center, facility school, mental health institute, or the Colorado School for the Deaf and Blind, the district of residence is still the district in which the parent or guardian resides.

However, if the child has been placed by the Colorado public agency and lives at a regional center, mental health institute, facility/group home, and the parents have lost/relinquished their rights, then the child is considered a resident of the district they are living within.

Foster children's district of residence is the district that the foster care home is located.

If a child is unhoused, their district of residence is the district in which they are presently seeking shelter or are physically located. Children who are unhoused may also be considered to reside in the district in which they previously attended before becoming unhoused, or the district found to be in the best interest of the child.

### **What are the consequences of failure to meet the Child Find requirements?**

Failing to meet Child Find requirements may be a violation of a student's right to a free appropriate public education (FAPE). The failure to identify and evaluate may entitle the student to compensatory services accruing from the time the district should have first suspected the disability. For more information on FAPE please see our [FAPE Q&A](#) and for more information about compensatory services, please see our [Compensatory Services Q&A](#).

### **What signs should the district look for when implementing Child Find?**

There are many circumstances in which a district should recognize a student's potential need and begin evaluating them.

For example, if a student's behavior is increasing to the point that parents are called repeatedly to pick them up early or if a student is excessively absent and the district is aware that the student might have a medical condition that is causing the absences, the district may have reason to suspect a disability. If a student has had repeated psychiatric hospitalizations indicating that the child's emotional health concerns are occurring over a prolonged period of time, that information might be sufficient to create suspicion that the student meets IDEA or Section 504 criteria for a disability.

Student absenteeism may relate to circumstances other than a disability, in which case, the Child Find requirement may not be triggered; however, it is something schools should keep in mind as they are considering root causes of a student's absences.

**Example of Child Find resulting from student behavior:** If a kindergartener demonstrates aggressive behavior and does not respond to informal interventions by the teacher, the district would be on notice that the student has a potential disability. Failing to refer the child in a timely manner for evaluation would likely violate Child Find under the IDEA.

There is no definite rule concerning whether and how the student's health or hospitalizations would trigger the Child Find requirement. Students who are attending school for the first time, for example, may need time to adjust. There is no specific rule regarding when a behavior rises to the level or lasts long enough that it becomes a reason to refer the student for an evaluation.

In general, if a child's behavior is both extreme and persistent, and the child does not respond to traditional, informal attempts to manage or intervene, educators should consider referring the student based on a possible behavior-related disability. In any case, if a parent or guardian requests an evaluation, the school needs to move forward with obtaining consent and evaluating and cannot delay an evaluation pending the outcome of interventions such as multi-tiered support services or response to intervention.

Districts should consider evaluating a child if they receive private reports diagnosing a student with a disability. If the district chooses to postpone an evaluation, it should document legitimate reasons for the delay.

### **[Do correctional facilities have to meet Child Find in the same manner as school districts?](#)**

Unless a specific exception exists, all IDEA protections apply to students with disabilities in correctional facilities and their parents. This specifically includes children in youth facilities who have never been identified as having a disability prior to entering the facility. Students suspected of having a disability who need special education and related services must be evaluated in a timely manner, **even if** the student will not be in the facility long enough to complete an evaluation.

Note that there are additional exceptions for individuals who are in adult correctional facilities when Child Find may not apply. Specifically, if the individual was not identified as having a disability or needing an IEP in the placement prior to entering the adult correctional facility.

### **[How did the 2009 ADA update impact Child Find?](#)**

The Americans with Disabilities Act (ADA) is a federal law that prohibits discrimination against people with disabilities in certain public spaces, including public schools. The ADA is the primary law determining who does and does not have a disability. On January 1, 2009, the ADA was amended. The Amendments explicitly state that the definition of "disability" should be interpreted broadly. This impacted not only the use of the term "disability" in the ADA, but also, the use of the term under Section 504. This meant that more students were potentially subject to a district's Child Find duties. Students who may not have been determined to have a disability prior to 2009 may have been eligible following this change.

In determining whether a student has a disability under Section 504, districts cannot consider mitigating measures such as medication and hearing aids. For example, if a student with epilepsy generally does not have seizures because they are controlled by medication, the district must consider the student off of their medication when determining if they have a disability.

Students with temporary or episodic disabilities can also be considered disabled under the ADA and Section 504. A temporary impairment is a disability under Section 504 if it is so severe that it causes a "substantial limitation of one or more major life activities for an extended period of time." An impairment that is episodic (comes and goes) or is in remission (not currently active) qualifies as a disability under Section 504 if it would substantially limit a major life activity when active.

### **[What can I do if I believe Child Find has been violated?](#)**

If you need help or have questions about your rights, you can contact [Disability Law Colorado](#).

For Section 504 violations, you have a right to file a complaint with the [U.S. Department of Education's Office for Civil Rights](#) (within 180 days of the alleged discrimination) or the [U.S. Department of Justice](#).

For IDEA violations, you have a right to file a complaint with the [Colorado Department of Education \(CDE\)](#).

More information about dispute resolution options can be found here: [K-12 Dispute Resolution Options](#).

### [Where can I get more information?](#)

To learn more about Child Find in Colorado, see:

- [More Information: Child Find from the Colorado Department of Education](#)
- [The interaction of ADA, section 504, and IDEA](#)
- [Section 300.111- Child Find](#)
- [Long COVID and Child Find](#)
- [Dear Colleague Letter and Resource Guide on Students with ADHD \(ed.gov\)](#)