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## TRUANCY AS A POTENTIAL “CHILD FIND” TRIGGER

**Child Find.** Both the IDEA and Section 504 place an affirmative duty on school districts to locate, evaluate and identify children who may be in need of special education or a Section 504 Plan. Because the Child Find requirements of Section 504 are similar to the requirements of the IDEA, we will focus our discussion on the IDEA, keeping in mind that what applies to the IDEA typically also applies to Section 504.

The IDEA and its implementing regulations require public school districts to effectuate “policies and procedures to ensure that -

- (i) All children with disabilities residing within the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located and evaluated; and
- (ii) A practical method is developed and implemented to determine which children are currently receiving needed special education and related services. 34 C.F.R. §300.111(a)(i) and (ii).”

Similarly, the IDEA and its implementing regulations includes in its Child Find obligations, those students who are “thought to be” eligible as well as those students who are migratory. Specifically, the Child Find obligation also includes:

- (1) Children who are suspected of being a child with a disability under §300.8 and in need of special education, even though they are advancing from grade to grade; and
- (2) Highly mobile children, including migrant children. 300 C.F.R. §300.111(c)(1) and (2).

**Truancy and the eligible student.** If multiple unexcused absences (i.e., truancy) can reasonably be linked to a category of disability that could potentially, after an evaluation, lead to a finding of eligibility, then unexcused absences, in and of themselves, could potentially be a Child Find trigger that would obligate the school district to begin the evaluation process. Note that this is the same analysis that applies for a non-identified student. A school district’s Child Find obligation does not end once a student has been identified as eligible and is already receiving special education and related services.

Things to consider.

- Does the student have a disability that could conceivably be linked to truant behavior? If so, has the district appropriately programmed for the student’s identified areas of need?
- Have the student’s circumstances changed to warrant a re-evaluation?
- Is the change in the student’s circumstances related to a disability or is there some other intervening factor to which the truant behavior can be attributed? Can this determination be made without a re-evaluation?

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- Is the truant behavior having a negative effect on the student's ability to make meaningful educational progress?
- Has anyone asked the student what the reason is behind the truant behavior and taken reasonable steps to address the underlying problem, if not disability-related?

In sum, not every case of truancy will lead to the need to evaluate the truant student. However, caution must be taken in determining the underlying basis for the truant behavior and if there is any question as to whether that behavior is based upon either an identified or potential area of disability, an evaluation should occur in order to either rule out the possibility that the truancy is disability-related or, in the alternative, program appropriately to address to the truant behavior.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

1. Although this article refers only to school entities, the law applies to all agencies, programs, troops, clubs or other organizations in which children under the age of 18 participate.