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Educationally Related Counseling Services in an AB 114 World

Editor's note: This article was written collectively by the CASP Ad Hoc Committee on Educationally Related Mental Health Services (ERMHS), chaired by Thomas Sopp. Committee members are listed at the end of this article.

Schools have repeatedly been demonstrated to be an ideal place to provide counseling services to students to support social, emotional, and behavioral health, as well as the ability to cope with challenges (NASP, 2008). School psychologists provide school-based services as part of a continuum of tiered interventions for the well-being of all students. Within the continuum of tiered interventions, school psychologists are able to provide these services at the universal, targeted, and intensive levels, in order to assist students with their social-emotional needs (NASP, 2006). This has been consistent in schools throughout the United States, except for a period in California, which created an exception at the intense level from 1987 through 2011, with the implementation of Assembly Bill 3632. That bill mandated that those services be provided by the county mental health agencies. This collaborative relationship between schools and mental health agencies was the norm for 27 years until the California Legislature passed AB 114, repealing the state mandate that county mental health agencies provide those services to pupils qualified for special education services (Fagen, Friedman, Fulfroost, 2011.) School districts are once again responsible for the provision of educationally related counseling services to pupils qualified for special education and that are necessary for them to receive a Free and Appropriate Public Education in the least restrictive environment.

Nationally, there is a renewed focus on developing Multi-tiered System of Supports (MTSS) in schools to support both cognitive-academic and also social-emotional-behavioral functioning for student success. MTSS is a framework encompassing universal prevention and wellness promotion for students, implementation of evidence-based interventions to support students' needs, monitoring student progress in response to interventions, and provision of more intensive and individualized services when needed (Vaillancourt, Cowen, & Skalski, 2003). Wellness promotion may include universal screening for academic, social-emotional, and behavioral problems that affect student performance and production (Dowdy, Furlong, Kauffman, Raines, Price, et al., submitted for publication). In California, districts have been looking internally to evaluate what services they are already providing to build their model of MTSS, incorporating educationally related counseling services within that system. At the Tier 1 or Universal level, Positive Behavior Interventions and Supports (PBIS) practices may support universal student wellness as well as counseling service delivery within a three-tiered system. Implementing school-wide PBIS practices by developing a behavior matrix targeted at positively defining for students the behaviors that are expected set the stage for Tier 1. When school staff is a part of the development of Tier 1 supports, they are more likely to participate in the Tier 1 practices of teaching and reinforcing the positive expectations of PBIS and provide appropriate behavioral supports, including re-teaching expected behaviors. This allows them to observe students who do not respond to Tier 1 and discuss with the PBIS team the possibility of a referral to Tier 2 support.

The interventions in Tier 2, may include individualized Check In Check Out (PBISworld.com) procedures or a small group intervention to increase and sustain expected behaviors. These interventions would complement educationally related counseling mental health services in a multi-tiered system of support model. Mentoring interventions such as Check In Check Out (CICO) and Check and Connect have shown positive effects on students in changing their

behavior. These changes can sometimes lead to increased academic performance. Incorporating small group counseling services within Tier 2 provides targeted interventions for students with emotional and/or behavioral challenges. Grant programs such as the federal Elementary and Secondary School Counseling and the School Climate Transformation grants were recently available for districts to apply for funds to assist with development, training, and implementation of MTSS and PBIS. Districts can utilize these grants to provide Tier 1 and 2 services to students through the use of school psychologists, school counselors, or guidance technicians assigned to elementary, middle, and high schools within the district. Guidance technicians at the elementary schools can utilize group curriculums such as "Second Step," "Strong Kids," or "Skill Streaming the Elementary School Child." Tier 2 secondary group counseling curriculums can include "Strong Teens" and "Skill Streaming the Adolescent."

Students who require more intensive support than is available through small group counseling to build prosocial or coping skills may benefit from Tier 3 individualized solution-focused brief therapy (SFBT) or a similar counseling approach to assist them with the acquisition of problem-solving and coping skills. Schools that invest in personnel including school psychologists, and that provide professional development for all staff, including classified staff, will be ahead of the curve in providing these much needed services to these students.

The Individuals with Disabilities Education Act, later revised as the Individuals with Disabilities Education Improvement Act ("IDEIA") mandates that students with IEPs be provided with appropriate related services if assessment demonstrates an educational need. Related Service as defined in 34 CFR 300.34, is also referred to as "Designed Instructional Services" in California, Education Code section 56363; these terms are used interchangeably in this article. Designated Instructional Services may include transportation and other supportive services as are required to assist a child with a disability to benefit from special education (Federal Register, vol. 71, no. 156, August 14, 2008, section 300.34).

A non-exclusive list of such services reflects many that fall under the category of educationally related counseling services, such as psychological services, counseling services, social work services in schools, and parent counseling and training. These are further defined to clarify that counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel. Parent counseling and training means assisting parents in understanding the special needs of their child, providing parents with information about child development, and helping parents to acquire the skills that will allow them to support the implementation of their child's IEP or IFSP. Psychological services includes planning and managing a program of psychological services, including psychological counseling for children and parents, and assisting in developing positive behavioral intervention strategies. Social work services in schools includes preparing a social or developmental history on a child with a disability, group and individual counseling with the child and family, working in partnership with parents and others on those problems in a child's living situation (home, school, community) that affect the child's adjustment in school, mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program, and assisting in developing positive behavioral intervention strategies.

In California, school psychologists are authorized to provide "psychological counseling for individuals, groups, and families (Pupil Personnel Services Credential for Individuals Prepared in California, Commission on Teacher Credentialing, last viewed, 6/26/14, at <http://www.ctc.ca.gov/credentials/leaflets/c1606c.pdf>), and many are additionally authorized to provide school social work services, depending upon their credential. In other states, school psychologists have offered and continue to provide psychological counseling services since

they were initially mandated in 1976. However, in 1984, California enacted legislation, commonly referred to as AB3632, that mandated some of these services be provided to the most severely impacted students by county mental health departments. Essentially, responsibility to provide any services beyond counseling and guidance were shifted to the counties. Accordingly, school districts and school psychologists adjusted to limiting intervention to less restrictive, counseling and guidance services, and an increased emphasis on behavioral intervention, as well as evaluation for special education services. In time, training programs similarly adjusted and changed focus from counseling to diagnostic and consultative skills.

When AB114 was enacted in June, 2011, eliminating the carve-out for services by the counties and again shifting all services back to local educational agencies, California school districts found themselves with a variety of financial and personnel resources. School psychologists have varied trainings, as reflected in differing credential authorizations, upon completing their graduate education, allowing them to perform diverse student counseling and related services. Presently, school districts are again responsible to provide all related services, including the counseling previously provided by the county mental health agencies; therefore, districts should collaborate with school psychologists to identify areas for continuing education and development to meet ongoing training needs in the most comprehensive manner.

Similar to any other special education Designated Instruction and Service (DIS), Local Education Agencies are responsible for assessing a student's need for counseling services by appropriately qualified credentialed or licensed staff. Subsequent to the origination of AB114 the question began to be asked, "Are school psychologists qualified to evaluate students for counseling services?" The answer is a resounding, "Yes." In fact, when the focus of assessment is on the impact of a student's emotional functioning and his or her ability to access general education and make meaningful academic progress, state law specifies "individual assessments of emotional functioning shall be administered by a credentialed school psychologist (EC §m6320(b)(3))."

If the comprehensive social-emotional assessment identifies educational needs in the areas of social-emotional functioning, related services that may be required for the student to receive educational benefit from their special education program are considered. Best practice indicates that the student's social-emotional functioning is established by collecting information from multiple sources (Position Statement on Students with Emotional and Behavioral Disorders, NASP, 2005), including interviews, observations, self and other rating scales, etc. The collected information is used to establish a baseline of strengths and needs by which an IEP team must determine if a social-emotional IEP goal is required. When a student has an educational disability (as defined under IDEA), ultimately it is the IEP team's decision whether a student must receive educationally related counseling services in order to gain meaningful educational benefit.

Conceptually, counseling services are a related service that a pupil, qualified for special education under IDEIA, must be offered for the pupil to benefit from his or her special educational program (34 *CFR* 300.34(a)). Counseling and related services are designed to assist the pupil in making progress toward the goals and objectives listed in the Individualized Education Program (IEP) (2 *CCR* 60010 (m)).

As LEAs develop a continuum of educationally related counseling services, "Educationally Related Mental Health Services (ERMHS)/Educationally Related Intensive Counseling Services (ERICS)" Have commonly been used to refer to intensive counseling services on a continuum which may reflect an increase in frequency, duration, or staff specialization.

Although this list is not meant to be exhaustive, Section 330.34 of the Code of Federal Regulations lists some of the services that may be appropriate to address the emotional and behavioral needs of students with disabilities and definitions of those services.

Counseling Services (34 CFR 300.34(c)(2))

Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

Parent Counseling and Training (34 CFR 300.34(c)(8))

- (i) Parent counseling and training means assisting parents in understanding the special needs of their child;
- (ii) Providing parents with information about child development; and
- (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's individualized education program (IEP) or individualized family service plan (IFSP).

Psychological Services (34 CFR 300.34(c)(10))

Psychological services include:

- (i) Administering psychological and educational tests, and other assessment procedures;
- (ii) Interpreting assessment results;
- (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
- (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
- (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
- (vi) Assisting in developing positive behavioral intervention strategies.

Social Work Services in Schools (34 CFR 300.34(c)(14))

Social work services in schools include:

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

Even though Residential Placement is not listed as a related service in Section 300.34 of Title 34 of the *CFR*, residential placement is briefly addressed in IDEA.

Residential Placement (34 CFR 300.104)

If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child (Assembly Bill 114: Related Services Under the Individuals with Disabilities Education Act, California Department of Education, Guidance Document dated September 12, 2011)

Within a Multi-Tiered System of Supports, educationally related counseling services are most appropriately provided by qualified personnel who are employed by the Local Education Agency. According to the California Department of Education's September 13, 2011, Guidance Document: Requirements for Securing the Services of Mental Health Professionals to Provide Related Services to Special Education Students, "all individuals employed to provide related services must hold a valid credential issued by CTC with the appropriate authorization for those services, or otherwise be authorized to provide services based on another section of statute or regulation, and must be appropriately supervised." Within the current school infrastructure, school psychologists are the first logical choice of the professionals who meet those criteria. School psychologists, specifically in California, are according to the law "credentialed professional whose primary objective is the application of scientific principles of learning and behavior to ameliorate school-related problems and to facilitate the learning and development of children in the public schools of California" (Cal. Educ. Code §49424). As such school psychologists are charged with providing "services to children, teachers, parents, community agencies, and the school system itself," which include consultation with administrators, teachers, parents, community agencies and other pupil personnel services workers; completion of psychoeducational assessments and the diagnosis of specific learning and behavioral disabilities, identification of recommendations for remediation or placement, as well as, a need for subsequent reevaluation; and most specific to the issue at hand, school psychologists are to provide psychological counseling and other therapeutic techniques to children and parents (Cal. Educ. Code §49424).

Although school psychologists employed within their Local Education Agency are the preferable choice to provide counseling as a related service, there are other professionals who may be able to provide these services. California Department of Education's September 13, 2011, Guidance Document: Requirements for Securing the Services of Mental Health Professionals to Provide Related Services to Special Education Students, states that if they are "authorized to provide services based on another section of statute or regulation" and are "appropriately supervised." Professionals, such as Licensed Educational Psychologists (LEP), who are school psychologists that have additionally have been licensed through the California Board of Behavioral Sciences (BBS), Business and Professions Code §4989.14 and who are working as independent contractors for the LEA, would be the next logical choice to provide counseling as a related service. However, other professionals potentially qualified to provide educationally related counseling services under the supervision of a Pupil Personnel Services credentialed individual may include licensed clinical psychologists, licensed marriage and family therapists, marriage and family therapist interns, licensed clinical social workers, associate social workers, licensed professional clinical counselors or a professional clinical counselor intern.

The needs of students in any arena are multi-faceted and often can be viewed along a continuum of intensity of need. This is true for the social emotional needs in particular. Not all students who have been identified as needing educationally related social emotional counseling support will require the same modality, frequency or duration of service. Research has highlighted that "outcomes for children and adolescents with social emotional challenges can be greatly enhanced through interventions that (a) are sustained, flexible, positive, collaborative, culturally appropriate, and regularly evaluated; (b) are built on the strengths of the students and their families; and (c) address academic as well as social behavioral deficits" (Bullock and Gable, 2006). As such, it is essential that the Individualized Education Plan team looks carefully at each individual student to identify the specific needs, develop appropriate goals, and specify the services that may meet those goals.

In an effort to determine how to best meet the educationally related counseling needs of special education students, many LEAs have implemented a MTSS framework even within this top tier of special education student support. This not only allows schools to effectively meet students' needs, but does so in such a way as to allow multiple levels of interventions before recommending more restrictive services or settings. However, as Averill & Rinaldi, 2011 found, this requires consensus, infrastructure, planning, and then implementation with fidelity. Fortunately for students throughout California, in this post AB114 world, students' social emotional needs are being successfully met by LEA personnel in many districts.

As we look around the state at the various MTSS frameworks, there appears to be a general consensus about the hierarchical order of the specific educationally related counseling services in relation to where the students' needs fall on the intensity continuum. Using the California Special Education Management Information System (CASMIS) code service descriptions to delineate the specific type of service being provided to a student, the service delivery model appears to include Individual Counseling (510), Counseling & Guidance (515), Parent Counseling (520), Social work services (525), Psychological Services (530) and Behavior Intervention (535) services, as described above. On the continuum of supports related to severity of need, Counseling and Guidance (515) services are usually the first level of implementation. These services are described as counseling that address social emotional challenges that are beginning to interfere with a student's access to and benefit from the educational plan. It is often at this point that the framework includes complementary Parent Counseling (520), which can be described as psycho-education or direct counseling aimed at assisting parents to have a clearer understanding and ability to more effectively utilize strategies to support their child's social emotional needs. When a LEA has school social workers, Social Work (525) services may also be effectively implemented to help the student and/or parent access or coordinate additional school and community resources. Also entering at this juncture and throughout the continuum may be Behavior Intervention (535) services in an effort to comprehensively support the student in making positive behavioral changes within the context of his or her educational world.

Following along on the hierarchical educationally related counseling service provision continuum, Individual Counseling (510) is seen as the next level. These individual counseling services are provided on a one-to-one basis, frequently for extended periods of time, and focusing directly on specific intense social emotional disturbances that profoundly and negatively impact the student's education. Parent Counseling (520), Social work services (525), and Behavior Intervention (535) services all also are often noted to be in place concurrently. This compilation of intense services may be equated by some as being similar to the type, intensity and duration of service that had previously been found under AB 3632. However, it is not accurate to surmise that these services are the same or in any way meant to be the replacement of AB 3632. These services, noted earlier as ERMHS or ERICS, are an alignment with the long-standing IDEIA mandate for the provision of related services that "are required to assist a child with a disability to benefit from special education" (34 CFR 300.34(a)).

Finally, Psychological Services (530), including psychoeducational assessment and interpretation as it relates to learning, and consultation to other school staff members, parents or other stakeholders, may be necessary in addition to individual counseling. Thus, multiple services along the continuum may be needed and implemented simultaneously to best support the individual student's educational goals.

As we have seen, passage of AB114 allows school psychologists and other credentialed mental health professionals to increase their support of students in need of educationally related mental health services. The use of MTSS and programs like PBIS may also lead to school climate gains that assist all students -- not just those with IEPs -- to learn in a safe environment. No matter the intensity of need, students are being better served in the school setting than prior to AB114. With additional training, all school psychologists, administrators, teachers and other mental health professionals working in the schools should feel comfortable with all MTSS tiers. The outcome, we hope, will be enhanced and appropriate educationally related mental health services for all students.

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