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The Intersection Between the School Responder Model Framework and Special Education Law

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INTRODUCTION: This brief will discuss how the School Responder Model (SRM) framework connects with federal special education and nondiscrimination law and highlight the ways in which SRMs may operate outside of the special education framework within a school.

The SRM is a framework for identifying student mental health needs and establishing pathways to community-based services to address those needs, either as a response to misbehavior in school or as a tool to prevent misbehavior in school. Implementing school-based mental health screening is a crucial first step in any SRM structure. Screening facilitates connection to a clinical assessment for students with an indicated need for further assessment.

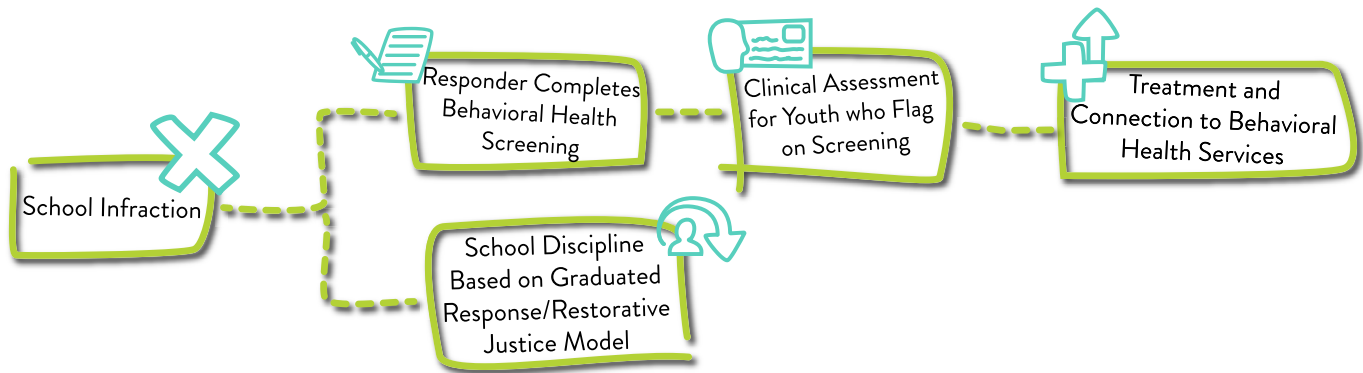
Potential identification of mental health needs among students often leads school personnel to question how the SRM and their obligations under the laws that govern special education and accommodations for students with disabilities intersect. This brief will address several of the frequently asked questions related to this concern, including:

- Should an SRM focus only on students classified with a disability under the IDEA or Section 504?
- How might the screening and assessment process of an SRM connect with a school's existing processes for students with disabilities under the IDEA and Section 504?
- Is there a connection between SRM services and special education services?
- Will a school district become responsible for payment of needed services as a result of an SRM?

The School Responder Model

The SRM framework was first developed as part of the Mental Health/Juvenile Justice Action Network operated under the John D. and Catherine T. MacArthur Foundation's Models for Change initiative.¹ A group of eight teams from different states worked together as part of that Action Network to address the overrepresentation of youth with mental health needs in the juvenile justice system.^{2,3} Developing new pathways for the identification and treatment of mental health service needs among students who were being processed in the juvenile justice system as a result of school misbehavior became a top priority for some Action Network participants. The SRM framework was developed by these participants in order to address this issue.*

The School Responder Model



Since that time, SRM structures have been replicated in several diverse jurisdictions across the United States, including schools in: Schenectady, New York; Beloit, Wisconsin; Lyon County, Nevada; New Orleans and Baton Rouge Louisiana; Oakland County, Michigan; and six school districts in Minnesota.[†] The SRM is not a prescriptive process. Instead, it is a set of four key components that provide a framework for developing new pathways to identify and address student mental health needs.

Key Components

Cross-System Collaboration

In order for SRM structures to be successful, they must be developed by teams of local stakeholders who cross youth-serving and justice systems. This includes, at least, schools, law enforcement, and community-based mental health service providers. Youth and families are also critical team members and their engagement is the second key component, discussed below.

Youth and Family Engagement

The second key component of an SRM is youth and family engagement. Designing an SRM in a way that is engaging for youth and families is critical to its success. More information on the need for family engagement

* The first two SRM structures were developed in the state of Connecticut and in Summit County, Ohio. The Connecticut SRM is called the School Based Diversion Initiative (SBDI) and continues to expand throughout the state of Connecticut. More information on SBDI can be found on their [website](#). Participants in Summit County, Ohio developed a School Responder Program at the Family Resource Center housed at their Family Court. More information in the Summit County School Responder Program can be found at the [Summit County Juvenile Court website](#).

† School districts in Minnesota, New York, Wisconsin, and Nevada developed their SRM structures as part of Policy Academy/Action Network projects supported jointly by the MacArthur Foundation and the Substance Abuse and Mental Health Services Administration between 2014 and 2016. SRM development in Louisiana and Michigan was supported through the National Institute of Justice Comprehensive School Safety Initiative between 2017 and 2019.

and suggested strategies for achieving family engagement in the context of an SRM can be found in “[Fostering Family Engagement in the School Responder Model](#),” an NCYOJ Research to Practice Brief. A [three-part podcast series](#) on this topic is also available.

Behavioral Health Screening and Assessment

The core function of any SRM is implementation of mental health screening for some selected group of students, with follow-up assessment and connection to services if needed. Local SRM planning teams define the group of students who are the focus of their SRM screening efforts.

Local planning teams also select the kind of non-clinical instrument to use and tailor the screening process to the resources available to implement screening. For additional information regarding screening tools, see [Behavioral Health Screening Tools for Children and Youth](#). Students who flag on the screening instrument are then connected to a clinician for a full assessment. This clinical assessment can result in a diagnosis of behavioral health conditions and identification of the specific service and support needs for students. The cross-systems SRM planning team leverages existing local resources across the education and mental health systems to implement screening and referral for assessment and services in a manner that works within each locally unique setting.

Formal Structures

The final key component involves implementing policies and procedures that formalize the new pathway for students created through the school’s SRM. This formalization is critical for the long-term survival of any SRM. Establishing these new structures within the fabric of school, law enforcement procedures, and service provider processes helps to ensure that an SRM will survive leadership changes or the loss of its initial champions.

The SRM and Special Education

Qualifying for Special Education

While the specific structure of any SRM is determined locally, there are some key differences between the SRM framework and the federal special education mandates placed on school districts.

The Individuals with Disabilities Education Act (IDEA) is the federal law that defines the obligation of school districts to identify children with disabilities and to provide them with the special education needed for them to receive a free and appropriate public education (FAPE).⁴

The IDEA sets out very specific criteria for how a student qualifies as a student with a disability and that criteria does not include every student who has a mental health condition. In order to fall under the IDEA definition of a child with a disability, a student must both:



Serious emotional disturbance (SED) and other health impairments are two of the specifically listed disabilities or impairments under this IDEA definition.⁶ These are the two categories under which a student’s mental health condition might meet this first prong of the criteria required by the IDEA.

The meaning of both SED and other health impairment are specifically defined for IDEA purposes in the *Code of Federal Regulations*. According to the regulations, emotional disturbance means a condition that has at least one of a prescribed list of characteristics over “a long period of time and to a marked degree that adversely affects

a child’s educational performance.”⁷ This language clearly requires long-term conditions as opposed to a short-term behavioral health need. For example, a child who is experiencing a one-time bout of depression that lasts only a couple of weeks would not have a long-term condition. However, a student who experiences symptoms of depression over a period of years would meet the long period of time requirement.⁸ A long-term condition alone is not sufficient to meet the definition of emotional disturbance. Instead, the condition must also negatively impact the child’s educational performance. According to federal regulations, the condition must also exhibit one of the following characteristics in order to qualify as an emotional disturbance:

A Long-Term Condition and One of the Below Characteristics Exhibited Qualify as an SED
An inability to learn that cannot be explained by intellectual, sensory, or health factors;
An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
Inappropriate types of behavior or feelings under normal circumstances;
A general pervasive mood of unhappiness or depression; or
A tendency to develop physical symptoms or fears associated with personal or school problems. ⁹

The federal regulations also note that the term emotional disturbance includes schizophrenia.¹⁰ At the same time, the regulations state that children who are “socially maladjusted” and do not otherwise meet the regulatory criteria that defines emotional disturbance do not meet the qualifications necessary to be classified for special education services under the umbrella of emotional disturbance.¹¹

The second allowable category of disability that often includes mental health conditions is the category of other health impairment. According to federal regulations, this category includes students who have “limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment.”¹² The required limited alertness must be due to a chronic or acute health problem and must adversely affect the child’s educational performance.¹³ Attention Deficit Disorder and Attention Deficit Hyperactivity Disorder are included in the federal regulations as examples of health conditions that may be the cause of the required limited alertness with respect to the education environment.¹⁴

Classification under both emotional disturbance and other health impairment require not just that there is a condition that meets the requirements of the regulations. It also requires that the condition adversely impacts the student’s educational performance. Courts have considered factors such as grades, academic progress, and attendance in drawing a connection between the qualifying condition and the necessary adverse educational impact.^{15,16,17,18}

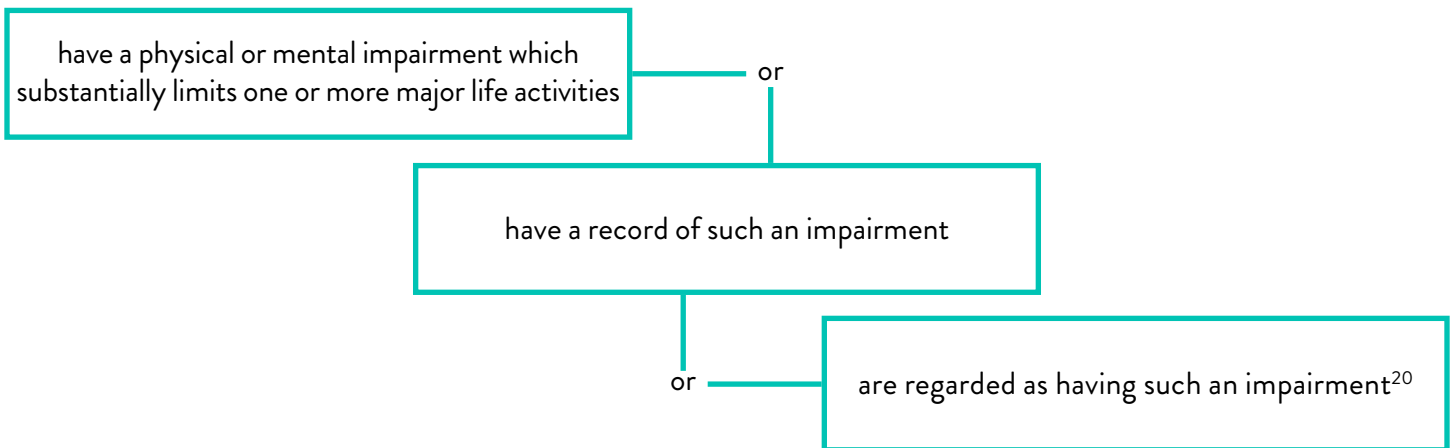
The existence of a mental health condition by itself is therefore not sufficient to meet the legal criteria necessary for a student to qualify for special education services under federal law. Additionally, all mental health conditions may not meet the criteria needed to fall under the categories of emotional disturbance or other health impairment.

Qualifying for Accommodations under Section 504

Many students who do not meet the legal criteria to be classified as a child with a disability under the IDEA meet the legal criteria of disability for the purposes of federal nondiscrimination law under Section 504 of the

Rehabilitation Act of 1973. Section 504 requires local education agencies to ensure that students with disabilities are not excluded from participation in, denied the benefit of, or subject to discrimination in school as a result of the student’s disability.¹⁹

The definition of disability under Section 504 is different from the definition of disability under the IDEA. For the purposes of Section 504, a student is considered to have a disability when they:



The definition of impairment explicitly includes “any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.”²¹

This definition of disability focuses on the impact of the mental health condition on the student’s major life activities as opposed to the IDEA focus on the nexus between the mental health condition and educational impact.

The impact of meeting the definition of a student with a disability under Section 504 also differs from the impact of meeting the criteria for classification as a student with a disability under the IDEA. Students who are classified under the IDEA are entitled to an Individualized Education Program, or IEP, that includes the special education and related services that will be provided to the student in order for that student to meet their annual goals, make progress in the general education curriculum and participate in extracurricular and other nonacademic activities, and participate with other students with and without disabilities.²² Section 504 requires that students with disabilities receive a free and appropriate public education (FAPE), but does not mandate that each student with a disability have an IEP nor that each student with a disability receives special education services.²³ While the needs of a student who meets the definition of disability under Section 504 can be met through the development and implementation of an IEP, students who meet this criteria more commonly receive a much more abbreviated 504 plan that contains reasonable accommodations needed for them to receive FAPE.²⁴

Frequently Asked Questions

Should an SRM Focus Only on Students Classified with a Disability under IDEA or Section 504?

No, many students with mental health needs may not qualify under the IDEA or Section 504. As previously described, there are very specific legal definitions of disability under both the IDEA and Section 504. These definitions require either a nexus to educational impact or to substantial limitations on major life activities. Some students may have mental health needs that result in significant educational impacts and/or substantial limitations on major life activities. Others may have important, unmet mental health needs that are not impacting their education or other major life activities in the substantial manner that is necessary for IDEA or Section 504 classification.



It may be helpful to consider the prevalence rates of various mental health disorders among adolescents versus the prevalence rates of SED in thinking about the range of impacts that mental health needs may have on students. For example, a study on the prevalence rates of mental health disorders on a nationally representative sample of U.S. adolescents found that 31.9% of adolescents had an anxiety disorder, 19.1% had a behavior disorder, 14.3% had a mood disorder, and 11.4% had a substance use disorder.²⁵ At the same time, this study found that the overall prevalence rate of a disorder with severe impairment and/or distress was 22.2%. A different 2018 meta-analysis on the prevalence of SED among youth in the United States found that 10% of youth experience a mental health need with impacts that rise to the level of serious emotional disturbance.²⁶

The prevalence rates in these studies shed light on the different populations that may be the focus of an SRM. The number of students with mental health needs is likely larger than the number of students with mental health needs and the necessary educational and/or life activity impacts that meet the criteria to be classified as a student with a disability under the IDEA or Section 504.

While the SRM structure allows planning teams to define their population of focus for their SRM, an SRM structure that focuses only on youth who meet criteria for classification under the IDEA or Section 504 is likely to miss many students who nonetheless have important mental health needs. Serving these students who do not meet criteria for special education or 504 classification may hold significant promise, as these students may not be receiving any supports or services to address their mental health needs.



How Might the Screening and Assessment Process of an SRM Connect with a School's Existing Processes for Students with Disabilities under the IDEA and Section 504?

Both the IDEA and Section 504 place a proactive requirement on states to identify children who are covered by the protections of each statute. The IDEA requires every state to have policies and procedures in place to identify, locate, and evaluate all children with disabilities who are in need of special education and related services.²⁷ Section 504 requires that any entity that receives federal funding to operate a public elementary or secondary education program identify and locate

all children who qualify as having a “handicap” under Section 504 and are not in receipt of a public education in order to inform them of the legal requirement to provide them FAPE.²⁸ These obligations are often referred to as the child find obligation.

SRM structures can assist school districts in complying with their child find obligations. Many local teams operationalize their SRM in a manner that utilizes screening followed by any needed assessment for students beyond those already classified under the IDEA or Section 504. For example, the SRM in Schenectady, New York utilizes screening for all students who have been referred for a superintendent’s hearing that may result in a long-term suspension and who opt into their diversion program with their guardians’ consent, regardless of whether or not that student is classified under the IDEA or Section 504. The School Based Diversion Initiative (SBDI) model in Connecticut is grounded in school personnel use of mobile crisis and stabilization services for students who are struggling with disruptive school behaviors, regardless of whether students are classified under the IDEA or Section 504. Some teams from small, alternative school settings have implemented universal screening on their students at enrollment or the beginning of each school year.

These kinds of SRM structures have the potential to support a school’s child find efforts. They build structured use of mental health screening into a school’s usual processes and connect youth who flag on any screening to a clinical assessment process. While many youth who flag on screening and are identified as having a clinical mental health need will not meet the legal criteria for IDEA or Section 504 classification, some may. An SRM can therefore function as a proactive strategy schools can use to enhance their child find efforts.

Is There a Connection between SRM Services and Special Education Services?

If a student qualifies as a student with a disability under the IDEA and mental health services are part of the plan in that student's IEP, the mental health services that a student is connected to through the SRM may be part of the student's special education services. However, for the many students who are in need of SRM services and who do not qualify for special education services or do not have mental health services as part of their IEP, SRM services are provided outside of the context of an IEP and are not connected to special education services.



Will a School District Become Responsible for Payment of Needed Services as a Result of an SRM?



Local SRM teams sometimes wrestle with concern that any sort of school-based screening for mental health needs may obligate the school to pay for needed mental health services that are identified through an SRM process. The question of when a school may be obligated to pay for needed services is closely connected to the relationship between an SRM and the IDEA and Section 504.

Both the IDEA and Section 504 require that students with disabilities receive FAPE.²⁹ These requirements mean that any special education services or accommodations deemed necessary for the student as part of their IEP or 504 plan must be provided to that student free of cost. Schools are therefore

used to bearing financial responsibility for special education and related services as well as any accommodations for students with disabilities.

To the extent that a student involved in an SRM qualifies as a student with a disability under either the requirements of the IDEA or Section 504, the school will be financially responsible for the services and accommodations in that student's IEP or 504 plan. Those services may or may not reflect the mental health services that the student needs.

As explained by a United States Department of Education Dear Colleague letter issued in 2015, "The cornerstone of the IDEA is the entitlement of each eligible child with a disability to a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet the child's unique needs and that prepare the child for further education, employment, and independent living."³⁰ At times this may mean that mental health services are a part of the services related to special education that are included in an IEP. In other instances, an IEP may not include mental health services as part of a student's related services.

An SRM process, alone, will not obligate a school to pay for mental health services that a student may need. A school will become obligated to pay for these services when the student is classified as a student with a disability under the IDEA or Section 504 and the plan developed to provide that classified student with FAPE includes the provision of mental health services. Many students identified as being in need of mental health services and supports through an SRM may not meet the legal requirements necessary for classification under the IDEA or Section 504. In addition, the plans developed to provide a FAPE for students involved in an SRM who are classified under the IDEA or Section 504 may not include the provision of mental health services. If these services are not part of a student's plan, the IDEA and Section 504 do not require a school to pay for them. For the many students with mental health needs who do not meet these criteria, schools often work with community partners to develop funding for services outside of the school district budget.

On the other hand, the special education system and federal nondiscrimination law will require the school itself to pay for any mental health services to students who are classified under the IDEA or Section 504 and require those services as part of their IEP or 504 plans. A joint information bulletin issued by the Substance Abuse and

Mental Health Services Administration (SAMHSA) and the Center for Medicare and Medicaid Services (CMS) in July of 2019 provides an overview of many of the financing structures schools can rely on to support mental health services for students.³¹ The guidance in this bulletin includes information on using third party payment mechanisms such as Medicaid, Children’s Health Insurance Program, and private insurance. It also includes information on collaborating with community partners to develop school-based health centers and the possibility of using telehealth services to address unmet mental health service needs.

As a cross systems team, an SRM team is the ideal setting for engaging in conversations about how the usual payment structures in place for mental health services might be leveraged to support a new pathway to services established through an SRM. This kind of funding strategy removes the burden from the school and maintains payment for mental health services inside the structure of the mental health service system.

Conclusion

It is possible that a student who comes into contact with an SRM may also meet the legal criteria for classification as a student with a disability for IDEA or Section 504 purposes. It is also likely that many students who come into contact with an SRM will not. Local SRM planning teams must be cognizant of the potential overlap. However, a much larger portion of students with mental health needs are likely to be served if the local SRM team does not think of the SRM solely, or even primarily, as structure only for exceptional students. Casting a wider net in an SRM structure will allow more students to access needed mental health services and prevent any financial burden related to needed services from falling entirely on the school.

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About

The National Center for Youth Opportunity and Justice aims to improve life opportunities for youth by advancing policy and practice improvements that ensure the well-being of youth, families, and communities.

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End Notes

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