

SANTA CLARA COUNTY  
NORTH WEST SPECIAL EDUCATION LOCAL PLAN AREA

**EDUCATIONALLY RELATED MENTAL HEALTH SERVICES  
(ERMHS) GUIDELINES**

*This document was developed through the Santa Clara County SELPA offices for the purpose of providing districts a guideline document for Educationally Related Mental Health Services. This document is intended to provide guidance only and any specific legal questions should be directed to your district's legal counsel.*

Santa Clara County SELPA member LEAs are committed to meeting the social, emotional, and academic needs of students in their schools. The following guidelines will assist IEP teams in determining when “educationally related mental health services” are necessary for the student to receive educational benefit. The below guidelines are intended to be a general overview of mental health procedures. Each student is unique and therefore all procedures may not strictly apply to all cases.

The IEP team makes the determination if a student’s social-emotional symptoms and/or related behavioral presentation impede his/her learning or the learning of others. It is also the responsibility of the IEP team or SST to ensure that all appropriate behavior interventions and pre-referral counseling have been fully implemented. School-based interventions can include such things as school-wide behavior supports, individual counseling, group counseling and character education. IEP based interventions can include such things as behavior specialist consultation/support services, pragmatics, or social skill instruction, DIS psychological counseling, Functional Behavior Assessment (FBA), and/or Behavior Intervention Plan (BIP) development/review.

**Definition**

“Educationally related mental health services” are identified as social/emotional and behavioral services required for a student to receive educational benefit from his/her special education program and services. These services may include individual and group counseling, counseling and guidance, parent counseling, social work services, psychological services, behavior intervention services, intensive support services and residential treatment services.

**Assessing and Determining Needs for “Educationally Related Mental Health Services”**

IEP teams should determine whether a student requires the related service of “educationally related mental health services” using the same general process used to determine the need for other related services.

Students with IEPs are eligible for “educationally related mental health services” as a related service if the student’s IEP team determines that “educationally related mental health services” are needed in order for the student to receive educational benefit. The IEP team determines what special education and related services are needed for the student to receive a free appropriate, public education in the least restrictive environment. This determination should be based on evaluative data. Such evaluative data may include formal assessments and evaluative testing, observations of the student in his/her environment, information from records, student/parent/provider interviews, and actual student performance. The method used will depend upon the individual student and circumstances. Regardless of the method used, IEP teams must be provided adequate information to determine the needs of a student and the type, frequency and duration of services necessary to meet those needs. In general, the assessment process for educationally related mental health services is the same as the process used to determine a student’s needs in any other area of educational functioning.

Following are examples of relevant data an assessment may collect:

- Input from student, teachers, parents or other providers through standardized testing and/or interview;
- History of absence or tardiness, truancy, detentions, discipline referrals, etc.;
- Hospitalization history and documentation;
- Observation of student;
- History with law enforcement or social services agencies;
- Other medical/educational information contained in a student's education files.

The IEP team should analyze and document that the student's current functioning, including cognitive functioning, is at a level sufficient to enable the student to benefit from educationally related mental health services (not including consultation services), and that the student exhibits emotional or behavioral characteristics or symptoms that:

- Are observed by, or reported to, qualified educational staff, that occurs in educational and other settings, as appropriate.
- Impede the student from benefiting from education services.
- Are identified as significant, as indicated by their rate of occurrence, intensity, and duration.
- Are associated with a condition that cannot be described solely as a temporary adjustment problem.

Typically, the IEP team should systematically design, implement and review a behavior intervention plan prior to providing educationally related mental health services. However, under some circumstances, a behavior intervention plan may not have been developed prior to the determination of the student's need for "educationally related mental health" services.

The IEP team has gathered data to support the implementation of behavioral and social/emotional practices to determine that less restrictive supports in the school setting are insufficient to provide educational benefit and that related services are necessary to provide the student with educational benefit in the least restrictive environment.

### **Goal Development**

The student's needs are identified by the IEP team using assessment data. Goals must be developed for every identified area of need, including the needs for which educationally related mental health services may be required. Goals must be observable, measurable, and educationally relevant. Progress reporting on goals must be on a regular basis, as identified by the student's IEP team.

### **Students Requiring "Educationally Related Mental Health Services"**

The IEP team determines that a student needs "educationally related mental health services" when the student has significant needs identified through assessment by qualified school personnel in the areas of social-emotional or social-behavioral functioning. In addition, the student must have a current IEP, and the IEP should contain behavior goal(s) or a behavior intervention plan which has been appropriately implemented. In exceptional circumstances, some students' IEPs may not contain behavior goals or a behavior intervention plan prior to a recommendation for educationally related mental health services. Students eligible for "educationally related mental health services" are not just those identified as having an emotional disturbance. However, the IEP team should consider reassessing the basis for eligibility if

more intensive services are being considered and a student has not previously been eligible under the category of emotional disturbance. Students can be anywhere on the continuum of placement and services, as long as their present levels and current baselines indicate a need for a social/emotional or behavioral goal, positive behavior plan, and “educationally related mental health services”. The doctrine of least restrictive environment applied to educationally related mental health services and best practices support, where appropriate, a tiered approach where lower level interventions have been implemented and that the data/observations collected indicate that a higher, more intensive level of support services is needed.

### **When should an IEP team recommend a student for more intensive mental health related services?**

After fully implementing the IEP and determining a student is not receiving appropriate educational benefit from the special education and related services on his/her IEP due to mental health needs, the IEP team should consider more intensive “educationally related mental health services”. IEP teams must clearly document the suspected/identified need related to mental health and any recommendation for “educationally related mental health services” utilizing data and information collected from sources such as various lower-level interventions, implementation of the BIP, Functional Behavioral Assessments, current scores on standardized behavior rating scales observations, IEP team member input and the student’s present levels of functioning. Subsequent to the IEP team recommendation, qualified educational personnel should validate and compile the following information:

- A narrative summary describing the student’s current mental health needs, the specific lack of appropriate educational progress and how this impacts educational performance in the school setting, a description of the pre-referral counseling, psychological, and/or guidance services, if any, and why the IEP team has determined that the services do/do not meet the student’s current educational needs. Or, in cases where these services are clearly inappropriate, the IEP team has documented which of these of the less restrictive services were considered and why they were determined to be inadequate [including, but not limited to, significant history of private psychological/psychiatric care (chronic) and/or hospitalizations (acute) that have clearly impacted educational performance].
- A recommendation for each related service being considered by the IEP team including duration and frequency.
- A current psycho-educational evaluation report completed within an appropriate period of time prior to the IEP team recommendation.
- Current IEP.
- Data or evidence describing the full implementation of the BIP and/or the student’s progress on the behavior goal(s).
- A Functional Behavior Analysis, if appropriate, has been completed.

A student *who is in the process of being evaluated* and suspected of being eligible for special education may require more intensive “educationally related mental health services”. Similar to the above requirements, the initial assessment team must clearly document the suspected/identified need related to mental health and the recommendation for assessment for more intensive “educationally related mental health services”. Qualified school personnel should validate and compile the above-mentioned information as it becomes available, and, most importantly, a comprehensive narrative describing the need for evaluation.

### **Strong Collegial Collaboration**

Counseling should not occur in isolation. It is crucial that counselors be trained to create strong collegial linkages based on the needs of their students. Whether the student is at the elementary, middle school or high school level it is important to have on-going communication with those staff persons that are most

involved with the student such as, the classroom teacher, school psychologist, case manager, school principal or assistant principal. Some of the issues that warrant on-going communication include, but are not limited to the following:

- Disciplinary actions
- Grades
- Scheduling for services and scheduling of classes
- Interpersonal strengths/weaknesses
- Follow-up relative to counseling goal
- Knowledge of traumatic event in student's life (confidentiality)

### **“Educationally Related Mental Health Services” Needs**

“Educationally related mental health services” are recommended and agreed upon at the IEP team meeting if the team determines these services are necessary for the student to access and benefit from his/her education program. The “educationally related mental health services” must have an educational purpose and must be directed toward helping the student meet his/her goals and progress in the general curriculum. Data from measurable goals should be used when possible, to determine whether the “educationally related mental health services” have contributed toward improved educational success. These services must also be provided in the *least restrictive environment*. “Educationally related mental health services” should therefore be provided on a school campus whenever possible. It is the responsibility of the provider of the service to ensure compliance with all confidentiality laws and regulations.

### **Service Locations**

#### Comprehensive campus

When “educationally related mental health services” are provided on a comprehensive campus, the service provider will discuss space requirements with the site administrator who is responsible to arrange for appropriate space availability. For services requiring confidentiality, a private room that will provide the student needed confidentiality and reliability in service provision will be available to the provider on a regular basis.

#### Students requiring services not available on a comprehensive school campus

When a student's needs are deemed beyond the capacity of a comprehensive campus and alternative settings are under consideration for the student, the IEP team should document the team's attempts to address the behavior and/or social emotional concerns in the *least restrictive environment*. All efforts must be made to address the student's needs within the continuum of services within the LEA (including SELPA regional programs) prior to consideration of residential and/or nonpublic school attendance.

Just as in any review of LRE and services, it must be evident that, outside of crisis intervention, the student's needs exceed the current supports and services. Therefore, it is vital to review student's related services, attendance, medication compliance (if applicable), educational environmental supports, and current eligibility status.

Due to the severity of a student's needs, it may be necessary for the IEP team to consider residential and/or non-public school to address the student's educational needs. When this is the case, it is required that the appropriateness of all LRE options relating to the continuum of services have been considered. In general, the IEP team will determine appropriate placement in the least restrictive environment based on a student's unique needs as determined by, among others, present levels of performance, service provider

recommendation, and recommended/adjusted goals.

### **Confidentiality**

Educationally related mental health service records prepared by LEA personnel or LEA contractors will typically be subject to the confidentiality requirements of the Family Educational Rights and Privacy Act (FERPA). However, depending on the circumstances, mental health records in the possession of an LEA or a provider of school-based mental health services may, in addition to FERPA, be governed by the Health Insurance Portability and Accountability Act (HIPPA); the California Education Code (see, e.g., sections 49060 through 49079); the California Civil Code (see, e.g., sections 56-56.37; and/or the California Welfare and Institutions Code (see, e.g., sections 5328-5329). Each LEA and provider of school-based mental health services shall be responsible to determine the confidentiality requirements applicable to each student’s school-based mental health service records and each LEA shall develop and implement processes to ensure that the confidentiality of these records is maintained in compliance with these requirements.

### **Exit Criteria**

When a student’s functioning stabilizes, as demonstrated by consistent goal achievement, general adaptive functioning improvement and stabilization, as well as academic progress; student will be reassessed for continued need or modification to “Educationally Related Mental Health Services”. As with any IEP service, recommendations for changes to or exit from services are made by a student’s IEP team.

