



Educationally-Related Mental Health Services (ERMHS)

Update to SERR Ch. 9



What are ERMHS?

ERMHS are related services, meaning they are supportive services required to assist a child with a disability to benefit from special education

ERMHS are provided to children who have significant socio-emotional or socio-behavioral needs that impede their ability to benefit from the special education services



Eligibility

Children may be eligible for ERMHS when their behavioral and emotional issues require counseling services of greater frequency, duration or intensity

The child's needs may be manifested in the school, home or community settings. The behaviors must affect the child's ability to access her educational program.

Educationally-Related means that it affects the child's ability to benefit from education.



Types of ERMHS services

Including but not limited to:

1. Counseling services
2. Parent Counseling and Training
3. Psychological Services
4. Social Work Services
5. Residential Treatment
6. Day Treatment Services
7. Medication Monitoring (still being decided on case by case basis)



ERMHS as distinguished from school counseling

Counseling as a related service involves counseling services that are provided to address a child's behavioral and emotional needs that affect her ability to benefit from her education and are manifested primarily at school

ERMHS are more intense mental health services used to address behavioral and emotional needs that affect the child's ability to benefit from special education and are manifested in school, at home, and in the community. The school must address behaviors not only at school but in the home and community when they are affecting the child's ability to benefit from her education. ERMHS may be offered outside the school day to provide parent training or more intensive individual counseling to the child



Chronological History of AB 3632

AB 3632: required a partnership between school districts and county mental health agencies to provide mental health related services for special education students

July 1986-October 2010: AB 3632 was live

October 2010-June 2011: AB 3632 on the books, but the mandate of counties was suspended for fiscal reasons (line item veto by Gov. in 2010)

July 2011-December 2011: AB 3632 is on the books but “inoperative”

January 2012 forward: AB 3632 repealed



Current Law

AB 114 replaced AB3632 and returned responsibility for ensuring students with disabilities receive mental health services back to the school districts. Eligibility for ERMHS is found within the general provisions of IDEA and CA Education Code.

School districts have claimed that AB 3632 was repealed because it went beyond IDEA and behaviors exhibited outside of school are not “educational” in nature. Under current law, ERMHS are still educational and required by IDEA. The major change is that all responsibility for providing services shifted back to the schools.



How can parents get ERMHS services for their children?

- 1) Child's IEP team must determine that ERMHS as a related service is required for the child to benefit from special education (there must be a direct relationship between the emotional/behavioral issues and the lack of benefit from special education)
- 2) IEP team's determination of appropriate services must be written into IEP



Can a child receive ERMHS without an Emotional Disturbance Diagnosis?

Yes. Students do not need an Emotional Disturbance diagnosis to receive ERMHS. Any disability category may make a child eligible for ERMHS if it is deemed necessary and appropriate by the IEP team.



Medication Monitoring

Medication monitoring includes all medication support services with the exception of medication or biological themselves and laboratory work. Medication support services include prescribing, administering, dispensing, and monitoring or psychiatric medications or biologicals necessary to alleviate the symptoms of mental illness.

Still covered and required of schools: medication that can be administered by a nurse or qualified lay person; services provided by a licensed physician for the sole purpose of diagnosis or evaluation; and psychiatric services if the service is part of an integrated program of services designed for educational purposes



ERMHS Assessments

- performed by trained and knowledgeable personnel who are capable of obtaining, integrating, and interpreting information about the child's behavior and conditions relating to learning
- use a variety of tools and strategies to gather relevant functional, developmental and academic information about the child. May consider attendance, declining grades, incomplete work, suspension data, substance abuse, and psychiatric hospitalizations
- looking for an emotional or behavioral issue that impedes her ability to benefit from special education services whether or not commonly linked to the disability category in which the child has been classified. The problem must simply be linked to the student's educational benefit.



What should be in the IEP to receive ERMHS?

The behavior must be documented at present levels. It should be noted that local educational agency-based counseling services were considered and found inappropriate. There must be a team recommendation for ERMHS referral, and parents must consent to the services.



Placement in Hospital or Residential Treatment Services

School districts must fund residential treatment facilities as a student's FAPE when behaviors impact the child's education in school. Although AB 3632 was repealed, the substance of services it provided has not changed much under the current law.

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, room and board, must be provided at no cost to the parents of the child.



School Districts Providing Residential Services

Kruelle v. New Castle County School District: held that when a student required consistency in care and learning and the only appropriate placement was a 24 hour residential home, this service would be provided at the school's expense as the student's FAPE. Education time limits, such as 180 school days and length of school day, are not indicative of what is appropriate for a child with special needs because the education is required to be unique.



How do agencies work together to provide services?

School district is responsible for providing ERMHS. The district must contract with Dept. of Mental Health and local vendors to provide ERMHS to students who require related services. All entities providing related services must be qualified.