

CHILD FIND:
Everything You Need to Know
to Satisfy Your Obligation

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Topics

- Introduction to Child Find Laws
- Best Practices
- Proving Your Case at Due Process Hearings
- Recent Case Law



What is Child Find?

The Rule:

States and school districts have an affirmative, ongoing duty to **identify, locate, and evaluate** all children with disabilities residing in the state that are in need of special education and related services.



What is Child Find?

California law:

- Each school district must **"actively and systematically seek out"** children with disabilities
 - Birth to 21 years
 - Includes children not enrolled in public school
 - Reside in district OR under jurisdiction of SELPA or COE

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What is Child Find?

- Section 504
 - Child find requirements are similar to IDEA
 - Can meet obligations through Section 504 plan


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What is Child Find?

- The key child find requirements:
 - It is an affirmative obligation
 - It is not dependent on a parent request for evaluation or service




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What is Child Find?



- Why is child find required?
 - Ensure children with disabilities receive a FAPE
 - Helps connect families to resources and support


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What is Child Find?

- Child Find vs. Special Education Eligibility
 - The child find duty applies to children with disabilities
 - Child find is only meant to locate, screen and identify children who may need services
 - Child find does not guarantee that a student will be eligible for special education and related services



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What is Child Find?

- Special Education Eligibility
 - If a child needs special education and related services due to a qualifying disability:
 - Intellectual disability
 - Hearing impairment
 - Speech or language impairment
 - Visual impairment
 - Severe emotional disturbance
 - Orthopedic impairment
 - Autism
 - Traumatic brain injury
 - OHI
 - SLD

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What is Child Find?

- Special education eligibility
 - Other Health Impairment:
 - Limited strength, vitality, or alertness
 - Due to chronic or acute health problems, and
 - Adversely affects educational performance

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What is Child Find?

- A Note on ADHD
 - Not a separate disability category
 - Child with ADHD may be eligible based on ED, OHI, or SLD




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Who Must Be Found?

- Child find duties apply to:
 - Highly mobile
 - Homeless
 - Migrant
 - Wards of state




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Who Must Be Found?

- Child find duties apply to:
 - Children advancing from grade to grade
 - If suspected of having a disability



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Who Must Be Found?

- Children advancing from grade to grade
 - Intelligent 8th grade student with ADHD earned passing grades
 - GPA dropped from 4.0 to 2.6 in one academic year
 - ADHD caused need for redirection, inattentiveness, and affected extracurricular activities
 - District failed its child find duties
 - Student should have been eligible as OHI

*Mill Valley School District,
OAH Case No. 2011050724 (January 25, 2012)*

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Who Must Undertake Child Find?

- Who is responsible for child find?
 - Public schools
 - Private schools
 - Other public agencies that have contact with potentially eligible children
 - Public health agencies
 - Juvenile correctional facilities

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Who Must Undertake Child Find?

- SELPA's Role in Child Find
 - Establish written policies and procedures
 - Continuous child find policy
 - Often assists in public notice activities

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Who Must Undertake Child Find?

- Private schools
 - Child find applies to parentally-placed private school children
 - Child find is the responsibility of the district in which the private school is located



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When Must a Child Be Found?



- Child find obligation is triggered when:
 - There is knowledge of or reason to suspect a disability, and
 - Reason to suspect that special education services may be needed to address the disability
- This is a low threshold

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When Must a Child Be Found?

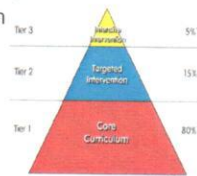
- Public schools
 - The school district should consider whether the child should be referred for an evaluation, not whether the child will qualify for services
 - This is based on information currently known at the relevant time

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When Must a Child Be Found?

- Pre-referral General Education Interventions
 - Should be tried when appropriate
 - Decision must be made on case by case on a basis
 - Referral may be needed if general education interventions fail



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When Must a Child Be Found?

- School District Deemed to Have Knowledge When:
 - Parent requests assessment
 - Parent expresses written concern that child needs special education or services
 - Teacher or other personnel expresses written concern that child needs special education or services

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What if a Child is Not Found?

- Failure to meet the child find obligation may result in . . .
 - Procedural violation
 - May result in denial of FAPE if the child should have been identified
 - Not all procedural violations will result in a denial of FAPE

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What if a Child is Not Found?



- Failure to meet the child find obligation may result in . . .
 - Hearing between district and parent
 - Fees and damages
 - Compensatory education

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Best Practices

- How do school districts fulfill their child find obligation?
 - Neither IDEA nor Education Code provide details about what must be done



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Best Practices

- Effective child find efforts:
 - Written policy (SELPA)
 - Year-round, on-going
 - Interagency collaboration
 - Communication with professionals and the community
 - Sensitive to individual community needs

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Best Practices

- Get the word out
 - Written communications and/or notices to parents
 - Website publication
 - Brochures, flyers, letters, and posters in public places
 - Public service announcements, newspaper ads
 - Community events



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Best Practices

- Staff Training
 - Child find education required element of general education credential
 - Teacher manual
 - Training in regular school site staff meetings



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Best Practices

- Strategies for children advancing from grade to grade
 - Parent teacher meetings
 - Tutoring programs
 - Counseling
 - Student Study/Success Team meetings

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Best Practices

- Pre-referral interventions
 - Take note of and consider:
 - Grade changes (sudden, gradual decline)
 - Behavior
 - Attendance
 - Medical diagnosis
 - Peer issues
 - Failing statewide tests
 - Past assessments

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Best Practices

- Children in private schools
 - Child find activities must be similar to those used for public school children
 - Distribute informational brochures
 - Regular public service announcements
 - Community activities
 - Liaison with private schools

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Best Practices

- Children in private schools
 - Child find activities must be conducted in a comparable time period to those for public schools
 - Reasonable
 - Without undue delay
 - Cannot wait until after child find for public schools



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Best Practices

- Children in private schools
 - Meaningful consultation with private schools must include information about child find
 - Parents not allowed to file for due process over failure to conduct meaningful consultation

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Due Process

- Background:
 - Children with disabilities are entitled to a FAPE
 - Procedural violation constitutes denial of FAPE if it:
 - Impeded the right to a FAPE
 - Significantly impeded the parent's opportunity to participate in the decision making process, or
 - Caused a deprivation of educational benefits

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Due Process

- How to prove reasonable child find efforts:
 - Document monitoring of student needs
 - Record-keeping and copies of communications with parents
 - Pre-referral interventions
 - Evaluation and assessment efforts



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Due Process

- SELPA's role in due process hearing
 - Provide credible testimony
 - By who?
 - About what?
 - Policies
 - Staff awareness of legal obligations
 - Public awareness efforts

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*Glendale Unified School District and
Los Angeles Unified School District*

- K-4th grade: Student attended private school within boundaries of GUSD
 - Difficulty reading, memorizing, and with math facts
 - Parents contacted district for assessment at the beginning of 4th grade
 - District assessed and found not eligible
 - Parents obtained private assessment, which found that student had ADHD
- 5th grade: Student enrolled in a private school for students with special needs within boundaries of LAUSD

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Did either district fail to meet
child find obligations?



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NO

- GUSD:
 - Student did not request assessment
 - No knowledge that student had a disability and required special education
 - Child find activities complied with law
 - Did not deny FAPE substantively
- LAUSD:
 - Student was not eligible
 - No denial of FAPE
 - No remedy because already assessed

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- Facts
 - Student diagnosed with ADHD and Central Auditory Processing Disorder
 - District provided services under Section 504 only
 - Student was benefitting from her general education classes with Section 504 support
- Did District fail to meet its child find obligations?

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- NO
 - 9th Circuit affirmed the use of the “benefit standard”
 - If student benefits from regular education, the student does not need and is not eligible for special education
 - Student’s Section 504 services were not considered “specialized instruction,” but were general education classes open to many students who needed extra help
 - No evidence that student had a specific disability qualifying her for special education eligibility

- 6th grade:
 - Diagnosed with ADD, took various medications
 - Discontinued medication in 9th grade due to side effects
- 9th grade:
 - Began to abuse marijuana
 - At home: oppositional, angry, depressed, and defiant
 - No inappropriate behaviors at school
- 11th grade:
 - Enrolled in charter school
 - RTC after meltdown and involuntary hospitalization

- Should District have identified and assessed student?
 - Had appropriate policies and procedures in place to notify parents
 - Student’s grades did not suffer until 9th grade
 - District provided general education interventions and counseling
 - District had no reason to know of student’s depression, extent of marijuana abuse, cause of hospitalization, or issues at home




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Ventura Unified School District,


OAH Case No. 2011080552 (April 11, 2012)

Result: District did not fail to meet child find obligations



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Capistrano Unified School District, OAH Case No.

2011040869 (November 23, 2011)

- GPA dropped from 3.17 to 2.4
- Biology teacher was aware that student was taking Concerta to improve focus
- Behavior:
 - Student cheated and was truant
 - Threw two books at a classmate
 - Suspended and expelled for selling prescription medication to another classmate

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Capistrano Unified School District, OAH Case No.

2011040869 (November 23, 2011)

- Should District have assessed?
 - NO
 - Behaviors did not give District a reason to suspect that student had a disability requiring special education
 - With exception of drug use, student's behaviors were typical of most teenagers
 - Did not trigger child find duties

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- Student was diagnosed with Asperger's and anxiety disorder
- District delayed two years in developing an IEP for the student
- Did District fail to meet its child find obligations during the two-year period?

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- NO
 - District was responsive to parents' concerns
 - Student received A's and B's
 - Teachers did not believe that student needed special education
 - District was not on notice that student had greater needs than indicated by her performance at school



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Thank you for attending!

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