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Helping Children Live Better Lives by providing consultation and training services to schools, school health professionals, families, and agencies serving children and families, in order to promote health and educational success for all Nebraska children

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## Contact

*Carol Tucker BSN, RN, NCSN*

School Health Program

402 471-1373

[carol.tucker@nebraska.gov](mailto:carol.tucker@nebraska.gov)

[www.dhhs.ne.gov/schoolhealth](http://www.dhhs.ne.gov/schoolhealth)

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**NEBRASKA**  
Good Life. Great Mission.  
DEPT. OF HEALTH AND HUMAN SERVICES

## **5 Things That Should Make You Think 504**

**Karen A. Haase, JD, MA, BA**

In an effort to serve students school nurses often create Individual Health Plans for students at their schools. Some of these plans may be informal: (Charlie's Allergy Plan), and some may rival the in-depth rigor found in a 504 Plan (Emergency Response for Anaphylaxis in Charles P. Student). The important thing to remember from a legal stand point, is that whether or not to do a 504 Plan has nothing to do with your competency as a nurse. The Individual Health Plan you write for a specific student may take great care of a student, but it will not meet the 504 standards.

### **1. If You Find Yourself Coordinating with Staff to Support a Student...**

School staff often adapt to their student's needs in subtle ways that don't amount to an Individual Health Plan, but still show a level of extra support and intervention. This could be evidence that a 504 Evaluation is necessary. Remember, this is not a test of how well the staff is meeting the student's needs. Frustratingly, 504 Plans are not about results. In qualifying students, they are part of a required process that school nurses must carry out to keep the school in compliance with Section 504 of the Rehabilitation Act.

### **2. If a Student Has a Health Plan...**

If a student requires enough intervention to need an Individual Health Plan, they should be considered for a 504 Evaluation. A school is required to make a 504 Evaluation when:

- It is believed the student has a physical or mental impairment that substantially limits one or more major life activities AND
- The student is in need of either regular education with supplementary services OR special education and related services.<sup>1</sup>

If you have a student on an Individual Health Plan, take a look at the interventions and support you are offering. They will likely need to be evaluated.

### 3. If a Student Has a Substantial Limitation of a Major Life Activity...

#### A. What is a substantial limitation?

In the past the Office of Civil Rights (OCR) has provided three factors to look at when assessing a student’s limitation, which are:

1. The nature and severity of the impairment;
2. The duration or expected duration of the impairment; and
3. The permanent, long-term impact or expected impact of the impairment.<sup>2</sup>

However, more recently the OCR stated that it’s up to the school district stating, “There is no specific formula for determining whether a student’s impairment substantially limits a major life activity. Districts must make that determination on a case-by-case basis.”<sup>3</sup>

The three-factor test is definitely a good place to start, as the OCR applied the standard established in the Americans with Disabilities Act (ADA). But it is important to note that the OCR places the burden of determining whether or not a substantial limitation exists at the feet of the school district.

#### B. What is a major life activity?

Recent updates to the ADA via the ADA Amendments Act of 2008 expanded the list of things considered to be major life activities. It now includes:

“Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.”<sup>4</sup>

<sup>1</sup> 28 CFR 35.108 (c)

<sup>2</sup> *Snowflake (AZ) Unified Sch. Dist.*, 102 LRP 38676 (OCR March 24, 1998).

<sup>3</sup> *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Education of Children with Disabilities*, 67 IDELR 189 (OCR Oct 16, 2015).

<sup>4</sup> 28 CFR 35.108 (c)

Of note is the inclusion of the terms: learning, reading, concentrating, and thinking. These cognitive activities are within the definition of what constitutes a major life activity.

Substantial limitation in these areas is not an analysis of whether the student barely gets past grade level. The OCR has specifically stated, “Students with learning disabilities who pass from grade to grade while functioning further below norms for their age arguably are not succeeding in regular education.”<sup>5</sup>

### 4. If a Student Uses an Assistive Device or Medication...

The regulations lump assistive devices and medication together into a category called mitigating measures. The regulations state that the evaluation of each student must be made as if they did not have the medication or device.<sup>6</sup>

For example, if a student carries and uses their own inhaler, or manages their own insulin levels, the student must be evaluated as if the medication was not present. So although students participate in their own care, and generally require little intervention, the 504 Evaluation process looks past that to ask: would the student have a substantial limitation of a major life activity if they didn’t have their daily medication?

### 5. If a Student Has Good Days and Bad Days...

To put it simply, you need to evaluate your student on their worst day.<sup>7</sup> If a condition presents worse on some days, or is episodic, the student’s overall condition should not be averaged out. If the disability in question would create a substantial limitation when at its worst, it creates the need for a 504 Evaluation and Plan.

This is not an exhaustive list of flags to look for when deciding whether a student needs a 504 Evaluation, but hopefully it points you in the right direction. Please keep in mind that the 504 Regulations are a process that your school is required to follow. Fighting the process, looking for shortcuts, or failing to document your plan can result in significant legal cost to your school, and

<sup>5</sup> *Saginaw (MI) City School District*, 352 IDELR 413 (OCR 1987).

<sup>6</sup> 28 CFR 35.108 (d)(1)

<sup>7</sup> *Id.*

could diminish the level of care provided to your students.



### Blood-borne Pathogen Training

Thanks to Jill Bates RN from ESU 8 who has developed and is willing to share to Blood-borne Pathogen Training via YouTube. You can access this at [https://www.youtube.com/watch?v=-7NOr9\\_2FSE](https://www.youtube.com/watch?v=-7NOr9_2FSE)



### Pests on Kids

You may be itching as you read through this article. Just thinking of lice or bedbugs always seems to do that to me anyway. For such little creatures, they sure do make a big fuss among people!

I get calls from school nurses, school administrators and parents about head lice. Head lice, while they do not carry any infection, they do have what I call a huge “ICK” factor. No one wants to think about them or have to manage them.

The American Academy of Pediatrics released guidelines on managing head lice. (<https://www.aap.org/en-us/about-the-aap/aap-press-room/pages/AAP-Updates-Treatments-for-Head-Lice.aspx>) Some specifics from their article include:

- Screening for nits or live lice is not cost effective or accurate.
- Exclusion often results in missing school unnecessarily.
- Educating parents on finding and treating head lice may be helpful.
- Encourage parents to check their children’s heads for lice regularly.
- If a child is found to have head lice in the school setting, notify the parents, but send child home at the end of the day.
- Recommend the child be seen by the family health care provider.

- Encourage family to use a metal lice comb daily for 2 weeks to remove nits from the child’s hair.
- Provide instructions on managing the head lice in the home
- Maintain confidentiality of the child with the suspected infestation by not notifying the parents of other students.
- At periodic times, general letters can be sent to all parents reminding them how to identify head lice and manage an infestation.

I also get calls about bedbugs. These are considered an annoyance but not a medical or public health hazard according to the Centers for Disease Control and Prevention (CDC). Information can be found on the CDC site at <https://www.cdc.gov/parasites/bedbugs/faqs.html>. Some people can have serious allergic reactions to the bed bug bites and may need medical attention. The best way to treat a bite is to avoid scratching the area, apply antiseptic creams and keep the area around the bite clean. Sometimes steroid creams are applied. Misuse of pesticides to get rid of the bed bugs can be dangerous.

The University of Nebraska-Lincoln Extension has information about bed bugs on their website at (<http://lancaster.unl.edu/pest/resources/bedbug263.shtml>).



### Is it the Flu, a Cold, or Pertussis?

It is the season for those respiratory infections. Many of these have common symptoms and people may put off seeking medical care because they think it is “just a cold” or “just a cough”. There is a table of “Characteristics of common respiratory infections that lists the “Disease and Cause, Season and Transmission, Common Symptoms, and Unlikely symptoms from CDC that may be helpful in making the decision to refer a student for medical attention. You can access this chart at [http://dhhs.ne.gov/publichealth/Documents/flu\\_colds\\_pertussis.pdf](http://dhhs.ne.gov/publichealth/Documents/flu_colds_pertussis.pdf)

## Wellness Ideas

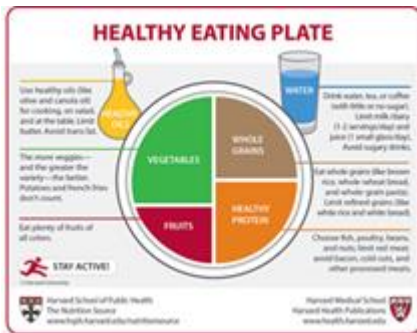


### Healthy Eating Plate

Many of you may use the MyPlate to teach students about nutrition choices. In an article from Harvard Health Publications, the Healthy Eating Plate is advocated. "Here is what the Healthy Eating Plate recommends:

- Make half your meal vegetables and fruits. Go for variety. And keep in mind that potatoes and French fries don't count.
- Choose whole grains whenever you can. Limit refined grains, like white rice and white bread, because the body rapidly turns them into blood sugar.
- Pick the healthiest sources of protein, such as fish, poultry, beans, and nuts; cut back on red meat; avoid bacon, cold cuts, and other processed meats.
- Healthy oils (like olive and canola oil) are good for you. Don't be afraid to use them for cooking, on salad, and at the table.
- Drink water, tea, or coffee. Milk and dairy are not must-have foods—limit them to 1-2 servings/day. Go easy on juice. Avoid sugary drinks.
- And stay active!

You can access the article including a full-size picture of the Health Eating Plate at <http://www.health.harvard.edu/blog/harvard-to-usda-check-out-the-healthy-eating-plate-201109143344>



## Marketing Salad Bars in Schools

Does your school have a salad bar in the cafeteria? Do you students use it for lunch? A study by Brigham Young University showed that marketing the salad bar increased the use of it by students. Signage, pictures, mentions in school newsletters and online information all helped increase students eating from the salad bar. <https://www.sciencedaily.com/releases/2017/03/170313134935.htm>

### Updates from the National Association of School Nurses (NASN)

Mission of NASN: To optimize student health and learning by advancing the practice of school nursing.

Vision for NASN: All students will be healthy, safe, and ready to learn.

#### *New Definition of School Nursing:*

School nursing, a specialized practice of nursing, protects and promotes student health, facilitates optimal development, and advances academic success. School nurses, grounded in ethical and evidence-based practice, are the leaders who bridge health care and education, provide care coordination, advocate for quality student-centered care, and collaborate to design systems that allow individuals and communities to develop their full potential. Adopted by the NASN Board of Directors February 2017.

#### Core Values:

- Child Well-being
- Diversity & Inclusion
- Ethics
- Excellence
- Innovation
- Integrity
- Leadership
- Scholarship

## Web Resources

### Public Health Strategies for Motor Vehicle Safety

Information on Child Passenger Safety, Distracted Driving, Teen Driver Safety, Motorcycle Safety, and

Seat Belt Use -  
<http://dhhs.ne.gov/PublicHealth/InjuryPrevention/Pages/MotorVehicleSafetyStrategies.aspx>

### May is Mental Health Month

Media Materials, Fact Sheets & Posters, Worksheets, Social Media Materials, & Images to download -  
<http://www.mentalhealthamerica.net/may>

### Don't Fry Day

The National Council on Skin Cancer Prevention has designated the Friday before Memorial Day as "Don't Fry Day" to encourage sun safety awareness and to remind everyone to protect their skin while enjoying the outdoors. -  
<http://www.skincancerprevention.org/programs/dont-fry-day>

### April is National Child Abuse Prevention Month

This is a good time to help educate school staff members and community members on child abuse and neglect. There are many resources on the US DHHS website at  
<https://www.childwelfare.gov/topics/preventing/preventionmonth/>

### Continuing Education Opportunities

April 19, 2017

#### Recharge for Resiliency

Younes Center, Kearney, NE

A conference for professionals that work with children and families in their home, such as: home visitors, parent coaches, visiting nurses or home health care workers, service coordinators, early childhood or classroom teachers, migrant coordinators, Head Start or Early Head Start teachers, Family Support workers, early childhood

mental health providers... anyone invested in helping all children & families succeed!

Registration available at:  
<https://www.recharge4resilience.org/2017/registration>

#### June 1, 2017 Summer Splash!

Sheridan Lutheran Church, 6955 Old Cheney Rd, Lincoln, NE 68516.

Application will be made for 7.4 contact hours

#### June 4, 5, 6, 2017 Annual School Health Conference

Holiday Inn, 110 2<sup>nd</sup> Avenue, Kearney, NE 68847

#### New School Nurse Conference

Tentatively set for Lincoln and Kearney sites the end of July or first week in August.

#### Oral Health Report 2016 just released

Many of your schools participated in the Oral Health Survey. See the full report at  
<http://dhhs.ne.gov/publichealth/OralHealth/Pages/OOHDHome.aspx>

#### May 10, 2017 is National School Nurse Day

See poster below, print it off and post it in your school! You can find more information on celebrating National School Nurse Day at

<http://schoolnursenet.nasn.org/home/schoolnurse/day>





National  
Association of  
School Nurses

# National School Nurse Day

## May 10, 2017



# CELEBRATE YOUR SCHOOL NURSE!

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(School Nurse Name)

**Healthy Nurse.  
Healthy Students.**



For more information and resources, please visit [www.schoolnurseday.org](http://www.schoolnurseday.org)

## Letters to the Editor

Do you have a story you want to share about school health? Is there a topic you would like to see in this newsletter?

Other suggestions?

Send your items and/or requests to:

Carol Tucker BSN, RN, NCSN,

School Health Program Manager, at:

[carol.tucker@nebraska.gov](mailto:carol.tucker@nebraska.gov) or call 402-471-1373.

Check out the School Health Program website for updates to at:

[www.dhhs.ne.gov/schoolhealth](http://www.dhhs.ne.gov/schoolhealth)

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