Academy for
IDEA Administrative Law Judges and Impartial Hearing Officers

Materials for Days 1 and 2

March 6-8, 2012
Duke University School of Law
Durham, NC

A Program of the Seattle University School of Law
Education Law Programs
S. James Rosenfeld, Director
# 2012 Special Education Law & Practice

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FACULTY
Faculty

Holly Almon, M.S. BCBA  
Clinical Services Director  
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24 Roy Street  
Seattle, WA 98109  
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Holly Almon is a Board Certified Behavior Analyst and a Washington State Certified Counselor who joined Blueprints in May 2010. Holly earned her Master of Science Degree in Behavior Analysis from the Department of Behavior Analysis at the University of North Texas (UNT), during which time she focused on providing behavior analytic intervention services to children with autism and their families. Holly has been providing direct intervention and consultative services to children, families, and school personnel since 1996, and has been providing consultative services in Washington State since 2003. She was most recently consulting for the Organization for Research and Learning (formerly Fabrizio/Moors Consulting) while also managing her own private practice, Almon-Morris LLC. In her private practice, Holly provided home and school-based behavioral consulting services to families with children with disabilities and behavioral disorders.

Holly’s areas of research have focused on staff training procedures, precision teaching, program development, observation and measurement systems, and social and leisure skills for persons with disabilities. Her current areas of expertise include family systems assessment and analysis, program development, the teaching of self-advocacy and pragmatic language skills, designing instructional materials, programming for non-vocal students using speech-generating devices, conducting functional assessments/analyses, and developing positive behavior support plans. Holly has presented her clinical work at the local, state, national, and international level across a variety of conference circuits. She currently serves as the Secretary of the Northwestern Association for Behavior Analysis, and currently maintains professional memberships in the Association for Behavior Analysis-International, the Association for Behavior Analysis Autism Special Interest Group, the Northwestern Association for Behavior Analysis, and the Standard Celeration Society.
Lyn Beekman
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For the first 16 years of his legal career Lyn represented parents and their children with disabilities. During this same period and later, he also represented the Michigan Education Association and its members, including teachers, school psychologists, school social workers, bus drivers, paraprofessionals, etc. From 1986 through 1997, he represented just school districts on matters relating to special education and Section 504. In January 1998, he left the practice of law to establish Special Education Solutions (SES), a special education dispute resolution and training center.

Since 1978, Lyn has served as a hearing officer in over 600 hearings. He has also served as a state review officer in 3 states, a mediator, neutral evaluator, arbitrator, and complaint investigator in another 400 cases. In addition, Lyn has provided consultive assistance or hearing officer trainings for 46 states and the Bureau of Indian Affairs, as well as presentations at state and national conferences on how to avoid and resolve disputes.

Most recently Lyn served as the Chief Hearing Officer of special education hearings for the Office of the State Superintendent of Education for the District of Columbia.

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Brenda Berlin is a Senior Lecturing Fellow and Supervisory Attorney in the Children's Law Clinic. From August 1999 to December 2001 she served as the Director of Pro Bono and a Lecturing Fellow at Duke Law School.

Before coming to Duke, Berlin was Director of the Pro Bono Program and a Staff Attorney at The Legal Aid Society of the District of Columbia where she represented low-income individuals in the areas of family law, landlord and tenant law and public benefits.

Prior to joining Legal Aid, Berlin was a senior trial attorney with the Employment Litigation Section of the Civil Rights Division of the United States Department of Justice where she was
responsible for enforcing Title VII of the Civil Rights Act of 1964. She also served as an Adjunct Professor of Law at the George Washington University National Law Center.

Berlin received her B.A. degree magna cum laude from Duke University in 1986 where she was also inducted into Phi Beta Kappa. She earned her J.D. with honors from Stanford Law School in 1990. After law school, Berlin clerked for the Honorable A. Wallace Tashima of the United States District Court for the Central District of California.

George D. Gopen

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Dr. Gopen, widely viewed as “The Dean of Legal Writing”, received his Ph.D. from Harvard Graduate School of Arts and Sciences, his J.D. from Harvard Law School, and his B.A. from Brandeis University. He has authored four books and numerous articles on writing. He has made literally dozens of presentations around the world, including participation in faculty writing workshops at academic institutions throughout the country. He has taught writing at Duke University, Campbell University, Harvard Law School, Loyola University of Chicago, University of Utah, and Harvard University.

Cinda Johnson

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In addition to her work as a professor and program director for the Special Education Graduate Program at Seattle University, Dr. Johnson is the principal investigator for the Center for Change in Transition Services. The Center is responsible for training, technical assistance and post-school outcome studies in transition services for every school district in Washington. Dr. Johnson is a national leader in the field of secondary special education, serving on the National Post-School Outcome Center Advisory and Technical Assistance Board and many other state and national committees. Dr. Johnson presents at national and international conferences on preparing children with disabilities for life after high school and is the author of the Guide to

**Laura Grofer Klinger, Ph.D.**

**Director, TEACCH Program**

**Associate Professor, Department of Psychiatry**

**University of North Carolina School of Medicine**

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Dr. Klinger is responsible for overseeing TEACCH’s regional centers across North Carolina, a Supported Employment Program, and the Carolina Living and Learning Center, an integrated vocational and residential program for adults located in Pittsboro.

Dr. Klinger has served as director of the Autism Spectrum Disorders Research Clinic at the University of Alabama, in Tuscaloosa, AL, since 1993. In 2007, she also started the University of Alabama Autism Spectrum Disorder College Transition and Support program for college students with autism. In addition, she serves as an Associate Professor of Psychology and a Clinical Assistant Professor of Psychiatry and Neurology.

She has been a member on the editorial board of the Journal of Abnormal Child Psychology and the Journal of Psychopathology and Behavioral Assessment. She also serves on the board of directors of the International Society for Autism Research.

Dr. Klinger earned her Ph.D. in Child Clinical Psychology at the University of Washington. She completed her predoctoral internship program at the TEACCH program at UNC and received the Martin S. Wallach Award of Outstanding Psychology Interns. Her research focuses on learning and memory in individuals with autism and the development of treatment programs based on these learning difficulties. Dr. Klinger attributes many of her research ideas to her earlier training at TEACCH.
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Deusdedi Merced has broad experience in special education and related litigation, including representing the New York City Board of Education in federal and state courts and administrative hearings, representing hundreds of parents in Individuals with Disabilities Education Act (IDEA) due process hearings, serving as a disciplinary hearing officer in New York City, presiding over more than 200 due process cases as an IDEA hearing officer in the District of Columbia, training and evaluating IDEA hearing officers as Chief Hearing Officer in the District of Columbia, training the 100+ New York State IDEA hearing officers, and providing training at national special education conferences. Mr. Merced's unique experience allows him to share the perspectives of school districts, parents, and hearing officers and understand the challenges that IHOs face in presiding over due process complaints.

Gail Rodin, Ph.D.
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Dr. Gail Rodin is a clinical neuropsychologist who lives and works outside Raleigh, NC. She majored in psychology as an undergraduate at Yale University and completed her Ph.D. in clinical psychology at New York University. In 1994 she opened the Center for Attention, Learning, and Memory in Raleigh, through which she offered clinical assessment services and training for fellow professionals. From 2000 to 2002, she served on the NC Department of Public Instruction Study Team for SLD Eligibility, which produced recommendations leading to the design of NC’s RTI model.

Since November 2002 Dr. Rodin has worked as an Assessment Consultant for Pearson (formerly Harcourt Assessment/The Psychological Corporation). Her clinical interests include developmental learning disorders (ADHD, learning disabilities, high-functioning autism/Asperger syndrome); psychopharmacology; and the integration of scientific findings into public policy.
Mary Schwartz has been an IDEA hearing officer in Illinois since July 2005. Prior to being appointed as a hearing officer, Mary's legal work focused on working with children and adults with disabilities. She worked in a small law firm representing families in special education matters, mental health issues and also was legal director at the Center for Disability and Elder Law (CDEL), a legal aid agency that provides services to people with disabilities and the elderly.

Mary also has an extensive background in mental health. She is a licensed clinical professional counselor in Illinois with over thirty years of mental health experience. She has experience in multiple treatment settings, including an outpatient clinic in a hospital, residential treatment, community mental health, and private practice. She worked at the University of Chicago's Sonia Shankman Orthogenic School for ten years as a counselor and therapist and later returned for a year as interim executive director. Mary also was mental health director at a community mental health center in Chicago that serves the Asian immigrant and refugee community.

Mary has a master's degree in educational psychology from the University of Chicago and a juris doctorate from Valparaiso University School of Law. She also is a trained divorce mediator and provides mediation services to parents who are seeking help developing parenting/child custody agreements.

Vicki Weinberg
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Vicki Weinberg received her Ph.D. from the University of Minnesota in 2001 with an emphasis in learning and cognition. She brings nineteen years of Special Education teaching experience ranging from residential treatment to inclusion specialist. Additionally she has four years experience with pre-service teachers as adjunct faculty for the University of Minnesota and University of St. Thomas in Minneapolis. Outside of teaching she spent five years as program director for a Learning Disabilities Association of Minnesota, a non-profit advocacy organization. Currently she is the Specific Learning Disabilities (SLD) specialist with the Minnesota Department of Education. Her primary duties include developing and implementing
policy and technical assistance on the changes to SLD criteria as well as Response to Intervention.

Jane Wettach

**Director, Children’s Law Clinic**
**Clinical Professor Law**
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Jane Wettach has directed the Children’s Law Clinic at Duke Law School since 2002. The clinic functions as a community law office staffed by supervised law students. It represents children in cases involving special education, school discipline, and government benefits appeals. In addition to directing the Children’s Law Clinic, Prof. Wettach teaches a seminar associated with the Clinic as well as Education Law. Previously, she was a Supervising Attorney in the AIDS Legal Assistance Project and has taught in the first year Legal Analysis, Research & Writing program. She joined the Duke Law School faculty in 1994 after more than a decade as a legal aid lawyer in North Carolina. She is a frequent speaker on issues involving the educational rights of children, especially children with disabilities.

Professor Wettach is a member of the Juvenile Justice & Children’s Rights Section of the N.C. Bar Association, the Council of Parent Attorneys and Advocates, the Clinical Legal Education Association, the North Carolina Association of Women Attorneys and the American Bar Association Children’s Rights Litigation Committee. Locally, she is member of the Board of Directors of the Achievement Academy, a local non-profit that provides education to young adults who failed to finish high school, and is involved in a number of community activities. Professor Wettach obtained a Bachelor of Arts in Journalism from the University of North Carolina at Chapel Hill in 1976 and worked as a journalist for several years. In 1981, she obtained a J.D. with Honors from the University of North Carolina School of Law, where she served on the North Carolina Law Review.
For the National Academy for IDEA
Administrative Law Judges and Impartial Hearing Officers

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Jim joined the Law School in September 2001 as supervisor of the Special Education Clinical program until 2005. Thereafter, he served as Director of Continuing Legal Education until June 2009, following which he became Director of Education Law Programs.

In 2002, he established the National Academy of IDEA Administrative Law Judges and Hearing Officers, which has trained special education hearing officers from over 25 states. He currently serves as Chair of the Special Education Section of the National Association of Administrative Law Judiciary (NAALJ). He is the founder of COPAA (The Council of Parent Attorneys and Advocates), a private, non-profit organization established to improve the quality and increase the quantity of legal resources for parents of children with disabilities. In April 2002, Jim was invited to testify before the President’s Commission on Excellence in Special Education. He also participated in the Monitoring Stakeholders Project convened by the U.S. Department of Education, Office of Special Education Programs (OSEP), to consider changes in OSEP’s monitoring and compliance (“Focused Monitoring”). The Founding Managing Editor of EHLR (now IDELR, the “Individuals with Disabilities Education Law Report”, he has had a long interest in improving the IDEA hearing system and, in 1985, testified before Congress on suggested improvements.
Tab

Testing
CONFIDENTIAL-PSYCHOEDUCATIONAL REPORT

NAME: 
STUDENT ID# 
PARENT(S): 
EXAMINER: 
BIRTHDATE: 
TESTING DATE: 
AGE: 7yrs 2mos 
SCHOOL: Elementary 
GRADE: 1st 

EVALUATION PROCEDURES 
Differential Ability Scales-Second Edition (DAS-2) 
Wechsler Individual Achievement Test-Third Edition (WIAT-III) 
Diagnostic Achievement Battery-Third Edition (DAB-3) 
Record Review

REASON FOR REFERRAL & BACKGROUND INFORMATION

During a Student Support Team/Personal Education Plan meeting in November 2011, XXXXXXXX’s mother reported that XXXXXXXX had an Individualized Education Plan from his previous charter school. A copy of this IEP was obtained by XXXXXXXX on December 2, 2011 after many attempts to contact his previous school. The IEP dates were from 11/29/10 to 11/28/11. The charter school information revealed that speech-language evaluations had been performed which indicated that XXXXXXXX was Speech-Language Impaired. Comprehensive psychological and educational evaluations were not conducted at that time. The previous speech-language evaluation indicated Core Language, Expressive Language, Language Content, and Language Structure standard scores that were in the very low/severe range and Receptive Language standard scores in the low/moderate range. XXXXXXXX’s referral paperwork from the previous evaluation process indicated that the IEP team had concerns in the areas of phonemic awareness, alphabetic knowledge, reading comprehension, reading fluency, written expression, vocabulary (reading/oral), difficulty with memory, problem solving, word problems, math reasoning, expressive language, receptive language, articulation, vocabulary, self-concept/esteem, fearful/anxious, tired at the end of the day, and sleeps during dismissal. At that time, teachers reported that XXXXXXXX worked better in small groups and during one-on-one instruction. He was said to have required prompts and frequent interventions to be successful on classroom tasks.

XXX’s current teacher at XXXXXXXX, Ms. XXXXX, reported that he has difficulty following directions for tasks in large group instructional situations and has difficulty completing independent work. She also noted that he is below grade level in reading, writing,
and math. The Speech-Language Pathologist from XXXXXXX, Ms. XXXX, observed XXXXXXXXXX during small group literacy instruction. He had difficulty sounding out words with consonant blends (for crab, he sounded it out “trad”). He also had some errors on vocalic /r/ in conversational speech, however, his general speech intelligibility was good. He attended in the small group setting with a few verbal reminders needed throughout the lesson. XXXXXXXXXX came to the group prepared with his folder but did not have his reading log signed that day. He needed some prompts to answer questions about the story, including “who” questions and questions about the setting of the story.

To provide information regarding XXXXXXXXXX’s early childhood and present functioning, his mother completed a social/developmental history. It was indicated that XXXXXXXXXX currently lives with his mother and father. He was born at 26 weeks gestation, weighed 1lb 13oz and required support through the neonatal ICU. It was reported that gross motor milestones were reached at typical times, though speech-language development was delayed. He reportedly did not speak words until he was 2.5 years old and did not speak in sentences until he was 4.5 years old. Medically, in addition to his premature birth, XXXXXXXXXX has nut allergy and has had an emergency room visit that resulted in him being sent home on oxygen and a heart monitor. XXXXXXXXXX reportedly enjoys playing with children of varying ages and enjoys riding his bike when at home. His parents have found that their most effective disciplinary techniques are taking away the privilege of playing outside and using Chuck-E-Cheese visits as rewards. Ms. XXXXXXXX listed XXXXXXXXXX’s academic strengths as being those of “math and hands-on activities”. She noted that she continues to be concerned with XXXXXXXXXX’s speech, his reading skills and independent work habits.

A snapshot of XXXXXXXXXX’s classroom behavior was obtained when Ms. XXXX, remedial reading teacher at XXXXXXX, observed in Ms. XXXX's classroom during a "word sort" activity. It was noted that XXXXXXXXXX attempted the task but struggled so significantly and was so obviously in need of support that the observation was halted. Ms. XXXX went on to offer him the assistance he required. After she provided assistance, Ms. XXXX noted that XXXXXXXXXX attempted the task and though he still appeared somewhat confused by the work, he did not ask for additional assistance.

**BEHAVIORAL OBSERVATIONS**

XXXXXXX presented as a friendly student who demonstrated strong perseverance and effort throughout the evaluation process. He readily asked questions for clarification and asked for items to be repeated when needed. XXXXXXXXXX used strategies such as “tracing” shapes with his finger to aid his memory on visual recall tasks, using self-talk to organize his thoughts and tracking text with his finger. XXXXXXXXXX carefully scanned visual materials before choosing responses and was able to parse construction tasks, building on correct portions of his responses and correcting those components that were
incorrect. In general, the attentiveness and effort shown by XXXXXXXXXXXX indicates that the current reevaluation results are a reliable and valid estimate of his present functioning.

RESULTS OF CURRENT TESTING

INTELLECTUAL: The Differential Ability Scales-Second Edition is an assessment tool which is made up of subtests that are combined to produce cluster scores. Items assessing receptive and expressive language are combined to form a Verbal Cluster. The Nonverbal Cluster is made up of items which assess visual-perceptual abilities and nonverbal conceptual formation. The Spatial Cluster contains subtests which address visual-spatial reasoning including the ability to form relationships among visually presented information. These Cluster scores are then combined to provide an overall estimate of current intellectual abilities. As documented above, XXXXXXXXXXXX has a history of speech and language impairments. As part of the current reevaluation process, a speech-language evaluation was recently conducted. XXXXXXXXXXXX’s standard scores indicated Core Language abilities in the Very Low/Severe Range with Expressive Language in the Very Low/Severe range and Receptive Language in the Borderline/Mild range. Due to his speech-language impairments, the DAS-2 components that yield a nonverbal intellectual measure were determined to be appropriate for providing the most accurate estimate of XXXXXXXXXXXX’s thinking and reasoning capabilities. XXXXXXXXXXX obtained a Nonverbal Cluster score of 92 and a Spatial Cluster score of 94. These Cluster scores resulted in a Special Nonverbal Composite score of 93, indicating intellectual capabilities in the average range for his age.

DAS-2-Core

<table>
<thead>
<tr>
<th>Subtests</th>
<th>T Score</th>
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<tr>
<td><strong>Nonverbal Cluster</strong></td>
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<tr>
<td>Matrices—measures perception and application of relationships among abstract figures</td>
<td>49</td>
</tr>
<tr>
<td>Sequential &amp; Quantitative Reasoning—assesses a student’s ability to detect sequential patterns in figures or numbers</td>
<td>41</td>
</tr>
<tr>
<td><strong>Spatial Cluster</strong></td>
<td></td>
</tr>
<tr>
<td>Recall of Designs—measures short-term recall of visual-spatial relationships through the reproduction of abstract designs by drawing</td>
<td>48</td>
</tr>
<tr>
<td>Pattern Construction—assesses nonverbal reasoning and spatial visualization through reproducing designs with colored blocks</td>
<td>47</td>
</tr>
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**Note—Cluster scores from approximately 90-109 are considered to be in the average range and T scores from 40-60 are considered to be average.**
**ACHIEVEMENT:** XXXXXXXXXX was given the Wechsler Individual Achievement Test—Third Edition to obtain information regarding his reading and math skills. XXXXXXXXXX’s reading decoding skills were found to be significantly below the average range for his age, with a particular weakness found on the subtest which measures his understanding of phonemic processes. His decoding skills were found to be significantly below the level anticipated by his estimated ability as well. XXXXXXXXXX’s reading fluency was significantly below the average range for his age and was significantly below ability expectations. His reading fluency was negatively impacted by the extremely slow pace of his reading, as well as by his high error rate. XXXXXXXXXX’s math skills were found to be consistent with his ability and were within the average range for his age. This pattern of academic strengths/weaknesses is consistent with his classroom performance. He obtained the following scores:

**WIAT-III**

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<th>Subtests</th>
<th>Standard Score</th>
<th>Ability/Achievement Discrepancy</th>
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<tr>
<td>Word Reading</td>
<td>81</td>
<td></td>
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<tr>
<td>Pseudoword Decoding</td>
<td>71</td>
<td></td>
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<tr>
<td>Reading Comprehension</td>
<td>87</td>
<td></td>
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<tr>
<td>Oral Reading Fluency</td>
<td>68</td>
<td></td>
</tr>
<tr>
<td><strong>BASIC READING</strong></td>
<td>76</td>
<td>-17</td>
</tr>
<tr>
<td><strong>TOTAL READING</strong></td>
<td>74</td>
<td>-19</td>
</tr>
<tr>
<td>Math Problem Solving</td>
<td>94</td>
<td></td>
</tr>
<tr>
<td>Numerical Operations</td>
<td>88</td>
<td></td>
</tr>
<tr>
<td><strong>MATHEMATICS</strong></td>
<td>90</td>
<td>-3</td>
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XXXxxxxx was given the Diagnostic Achievement Battery—Third Edition to assess academic functioning. Subtest scores are clustered to provide broad measures of skill, which are then compared to the student’s ability level to determine the presence or absence of learning disabilities or other academic difficulties. Profile analysis of XXXXXXXXXX’s writing skills indicates that when they are measured in isolation, he has acquired some age appropriate skills regarding the mechanics of writing. However, when asked to write a story in response to a pictorial prompt, XXXXXXXXXX was not able to communicate his ideas due to significant spelling errors (that were often non-phonetic), lack of punctuation and poor letter formation. It should be noted that the discrepancy between his ability and his achievement should be considered larger than it first appears, as two of the writing subtests had raw scores of 0. A subtest raw score of 0 indicates that a student was not able to receive credit for any of the items assessed on that subtest. XXXxxxxx obtained the following DAB-3 scores:
DAB-3

<table>
<thead>
<tr>
<th>Subtests</th>
<th>Standard Score</th>
<th>Quotient</th>
<th>Ability/Achievement Discrepancy</th>
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<tbody>
<tr>
<td>Capitalization</td>
<td>7</td>
<td></td>
<td></td>
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<tr>
<td>Punctuation</td>
<td>13</td>
<td></td>
<td></td>
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<tr>
<td>Spelling</td>
<td>7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Writing: Contextual Language</td>
<td>5*</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Writing: Story Construction</td>
<td>7*</td>
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**WRITING**

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<th>85</th>
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*raw scores of 0

Note: Standard scores from 8-12 and Quotients from 90-110 are considered to be within the average range.

**SUMMARY AND RECOMMENDATIONS**

Due to his significant speech-language impairment, it was determined that the best estimate of XXXXXXXXX’s thinking and reasoning skills would be obtained through the administration of a nonverbal intellectual measure. XXXXXXXXX’s Special Nonverbal Composite indicated intellectual functioning in the average range for his age. XXXXXXXXX’s reading skills were determined to be well below the average range for his age and were significantly below the level anticipated by his estimated ability. His math skills were in the average range for his age and approximated the level predicted by his ability. In writing, XXXXXXXXX showed some understanding of mechanics when they were measured in isolation but he was not able to use those skills to communicate his ideas in story format. This pattern of academic performance has been observed in the classroom as well. The school’s IEP will want to use all available data, including the results of the current speech-language evaluation and information regarding XXXXXXXXX’s response to targeted classroom interventions, when making a determination regarding his eligibility for special education services.

It will be important for XXXXXXXXX’s family to access the state’s Exceptional Children’s Assistance Center (ECAC) to obtain information about parent support groups and literature that may be helpful to them. ECAC’s phone number for Wake County is 571-8092. It would also be beneficial for them to access information on the internet and to begin to research information in their local library to become “experts” in the area of learning disabilities. A particularly useful website for parents to learn about the characteristics of learning disabilities, as well as ways to help their child work around their disability is that of the National Dissemination Center for Children with Disabilities (nichcy.org). It will also be important to educate XXXXXXXXX about learning disabilities as well and there are numerous publications available that are written to help children understand their learning styles.
The information provided through the speech-language evaluations indicates that it will be important to his family to continue to target that developmental area for growth. Exposure to other linguistic concepts can be gained through visiting local museums, participating in public library programs, watching educational television programming and playing educational games. Language development by modeling correct speech patterns and encouraging XXXXXXXXXX to mimic these patterns will be important as well. XXXXXXXXXX’s parents will want to answer his questions with detailed language to provide additional vocabulary exposure. It will be essential that he complete homework every night that it is assigned. On nights without homework and over the summer, his family will want to continue to work on academic types of activities and it may be beneficial to purchase some inexpensive workbooks. During the summer, or other lengthy vacation periods, it would be useful to have a portion of every day when XXXXXXXXXX would have “school time” to read, be read to and to complete workbooks or other academic activities. A nightly bedtime story will also continue to be a loving, comforting way to “sneak in” additional language exposure at the end of the day.

One of the most important tasks for the adults in XXXXXXXXXX’s life will be to help him maintain the motivation and positive attitude he has demonstrated thus far. His family can work towards that goal by helping him find a niche around an area of interest (art, music, sports, etc) where he could feel successful outside the academic arena. These feelings of success would hopefully provide confidence that could carry over into the school setting and help strengthen his ability to continue to persevere through any challenges he may face.

XXXXXXXXX, M.A., C.A.S.
School Psychologist
***CONFIDENTIAL***

PSYCHOEDUCATIONAL EVALUATION

NAME: Amelia
DATE OF BIRTH: 
AGE: 13 years, 7 months
EVALUATION DATES: 
SCHOOL: 

PARENTS: 
ADDRESS: 

GENDER: Female
GRADE: 8th

EVALUATION PROCEDURES:

California Verbal Learning Test (CVLT-C)
Comprehensive Test of Phonological Processing (CTOPP)
Delis-Kaplan Executive Function System, selected tests
Diagnostic Interview
Record Review
Test of Language Competence-Expanded (TLC-E)
Wechsler Individual Achievement Test, Second edition (WIAT-III)
Wechsler Intelligence Scale for Children, Fourth Edition (WISC-IV)
REASON FOR REFERRAL AND BACKGROUND:

The following information was gathered through an interview with Amelia's parents, written teacher and tutor comments, a record review, and a background questionnaire completed by her mother.

Reason for Referral

Amelia's parents referred her for psychoeducational evaluation to provide information helpful to supporting academic progress. Specific concerns include difficulties comprehending text and ability to synthesize and generalize concepts, make connections, and think critically.

Background

Amelia lives at home with both parents and her younger brother, Steven, age nine. Her parents describe her as a highly organized adolescent who works hard at everything she does. She is polite and dependable, pleasant to be around, and supportive of her friends. In addition, Amelia is a highly talented athlete who, as a middle school student, participates on a high school varsity soccer team this year. Other talents include dancing and participation in state-level chess competitions. She gets along well with family and friends alike.

Pregnancy and birth were without significant complication, and developmental milestones were met within normal limits with the exception of language. Her mother notes that she was slow to talk, possibly due to multiple ear infections. She was served by Project Enlightenment due to sound substitutions and reduced intelligibility prior to entering kindergarten. As a first grader, she was subsequently tested by Wake County speech personnel and received articulation services. Health history is negative for significant issues, and Amelia takes no medications. No problems with vision or hearing are noted. Neither learning disabilities nor attention deficits are formally identified in the immediate or extended family.

Educational history includes attendance at a private parochial school from kindergarten through third grade and enrollment at her current school, Private School Name, from fourth grade to the present, where Amelia is entering the 8th grade. Her parents note strengths in mathematics, average performance in foreign languages, occasional challenges in spelling, science, and social studies, and clear concerns in the areas of basic reading skills, reading comprehension, and written expression. Written comments were received from 6 of Amelia’s former teachers, her Learning Specialist at Private School Name, and her tutor. In general, teachers view Amelia as a hard-working student with excellent initiative, conscientiousness, and dependability. They report that she has learned and uses excellent strategies to support her work. Teachers also describe her as an easy-going student with a strong sense of self-worth. However, content-area teachers and those who work with her closely (learning specialist and tutor) uniformly report concerns about her ability to synthesize and generalize information: she appears to have difficulty processing oral and written information, making connections, and thinking critically. Sentence structure can sometimes be weak, and difficulties with figurative language are noted. She may also misread questions and confuse persons and places. She handles details well but may miss the broader picture.
Amelia has received support from a learning specialist at her school and her tutor, with whom she has worked for the past four years using the Wilson reading program. Current accommodations include 50% extended time, copy of class notes, minimal penalty for spelling errors where spelling is not the focus of the assignment, use of notepad or computer, preferential seating, additional wait time when answering orally, decoding assistance, checks for understanding of directions, assignment notebook initialed by teacher/parent, use of approved calculator, and option of less distracting test environment. Her grades are typically high B’s, but the grades tend to mask the effort that underlies them.

Amelia underwent a speech-language evaluation at the age of 8 years, 10 months. Results of the speech-language evaluation suggested age-appropriate (average) articulation, oral-motor fluency, voice, and language skills. Auditory memory span was weak at that testing, however.

BEHAVIORAL OBSERVATIONS:

Amelia was tested in two sessions on separate days and proved to be a delightful girl to work with. She consistently put forth excellent effort throughout the two testing sessions in spite of having just completed a challenging soccer tournament. In general, attention and concentration were strong; however, she did sometimes misunderstand questions, or appear not to get the “gist” of questions. Once having conceptualized a question in one way, it appeared difficult for her to then think of it in a different way. Though Amelia was always pleasant and responsive to conversational overtures, she rarely initiated conversation on her own. Because Amelia appeared relatively comfortable in the test setting and consistently put forth strong effort, test scores can be considered a valid estimate of her abilities.

HOW TO READ THIS REPORT:

Four main report sections follow. The first, Test Results, provides a general description of test findings and functioning across areas of interest. The following section, labeled Clinical Impressions, integrates history, observations, and test data to provide a profile of strengths and weaknesses across the domains evaluated. This section, therefore, provides both "objective" information gathered from test data and "subjective" information derived from best clinical judgment to respond to referral concerns. The Recommendations flow directly from identified strengths and weaknesses. An Attachments section follows the clinical impressions and recommendations. For each major test administered, the Attachments section includes a test description as well as specific test scores.

TEST RESULTS:

Intelligence

Amelia's intellectual functioning was assessed with the Wechsler Intelligence Scale for Children, Fourth Edition (WISC-IV) to set a general level of expectations for classroom performance. The WISC-IV yields an estimate of an individual's level of intellectual functioning
at a specific point in time and is best used to predict future school performance. Cognitive processes assessed by the WISC-IV include verbal knowledge and reasoning, nonverbal reasoning and perceptual organization, working memory and perceptual-motor speed and coordination. Individual subtests factor onto a number of scales and indexes. The Full Scale score is a composite score and is best interpreted when the discrepancy between measures is not great.

Amelia's Full Scale WISC-IV score of 120, which is typically a strong predictor of academic achievement, falls within the Superior classification range when it is compared to the scores of a national sample of others her age. However, her scores across the various subtests of the WISC-IV are highly variable. For this reason, her composite Full Scale score is limited in interpretive significance. Intellectual strengths and weaknesses are better understood by interpreting Index scores individually. Four Index scores are obtained through the process of factor analysis (a method of "clustering" subtest scores which are assumed to reflect a unitary underlying ability). The four Index Scores are: Verbal Comprehension, Perceptual Reasoning, Working Memory, and Processing Speed.

The Verbal Comprehension Index (consisting of the Similarities, Vocabulary, and Comprehension subtests) assesses verbal reasoning. Amelia's score of 112, percentile ranking of 79, falls within the High Average classification range. This score reflects Amelia’s verbal concept formation, fund of knowledge, ability to apply that knowledge to social and practical situations, and ability to understand and reason and express herself well using language. This factor is highly related to future school achievement. Two supplemental subtests were administered from the Verbal Comprehension Index (VCI) in an effort to better understand verbal comprehension. Amelia’s scores on these two subtests are somewhat weaker than her scores on the standard subtests of the VCI, falling at an average range and suggesting average long-term memory for verbal information and average verbal concept formation/reasoning. Within this grouping of tasks, Amelia’s strongest score occurred on the task of social and practical reasoning.

The Perceptual Reasoning Index (consisting of the Block Design, Picture Concepts, and Matrix Reasoning subtests) assesses nonverbal reasoning. Amelia's composite score of 112 on this Index falls at a percentile ranking of 79 and within the High Average classification range. This factor assesses visual spatial analysis and synthesis skills, nonverbal concept formation and reasoning, and nonverbal problem solving in novel situations. One task (Block Design) is timed and requires quick performance for optimal scores. Amelia’s scores across the three subtests included on this Index varied greatly. Her performance on the Matrix Reasoning subtest, a task that assesses fluid nonverbal reasoning, was her strongest score, falling at a very superior classification level, while her performance on the Picture Concepts subtest, a task that assesses concept formation through the use of visual pictures, was a significantly weak score for her, falling at a borderline classification level. Because of the unusual weakness of this score, follow-up testing was performed to test the limits of her ability. Amelia did not significantly improve her score with this additional investigation. However, she was able to describe the reasoning behind her responses. Though she was unable to identify the targeted relationships, she did express some creative reasoning for her choices. Finally, a supplementary subtest from this Index, Picture Completion, was administered. This task assesses attention to visual detail.
and spatial relationships. Amelia’s score falls at a high average classification level on this supplementary subtest.

The Working Memory Index (consisting of the Digit Span and Letter-Number Sequencing subtests) assesses working memory, or the ability to mentally hold information temporarily "on line" while manipulating or further processing this information to create a new product. Anxiety or distractibility can impair performance. Amelia's score of 102 (percentile ranking of 55) tests within the Average classification range. One of the subtests included on this Index, Digit Span, provides an estimate not only of working memory but also of auditory registration, or the “span” of auditory information of which one is capable. Amelia performed better on the digits “backwards” portion of this subtest, which assesses working memory, than on the digits “forward” portion, which assesses span of auditory information. The span of auditory information reflects the amount of auditory information that can be taken in at one time, not the ability to then manipulate that information (working memory). This pattern, in combination with her performance on a second subtest of this Index, Letter Number Sequencing, suggests that her Index score of 102 may underestimate her working memory (a relatively weak span of auditory information “contaminates” this score).

Finally, Amelia's score of 136 on a fourth factor, the Processing Speed Index (consisting of the Coding and Symbol Search subtests), falls within the Very Superior classification range and at a percentile ranking of 99. This factor provides an estimate of the speed with which an individual can process simple information, particularly information with a strong visual/motor component. When these processes are automatic, mental energy is freed for more complex thinking and planning. It is important to note that this Index assesses processing speed as it manifests in tasks that require visual input and a motor response. It does not provide an assessment of, for example, the speed of processing of verbal information.

**Academic Achievement**

Amelia completed reading, mathematics, and written language tasks from the Wechsler Individual Achievement Test, Third Edition (WIAT-III). Results across areas are discussed below.

**Reading**

Reading skills can be broken down into three primary areas. Basic reading skills are involved in single word identification. Basic skills include phonological awareness (awareness of the sequence of sounds within language), knowledge of sound/symbol associations (phonics), word analysis skills (syllabification), and sight word knowledge. Reading comprehension is the ability to understand written language, once words have been decoded. Reading comprehension depends on a number of more basic skills including decoding skills, sight word vocabulary, ability to use context cues, vocabulary knowledge, reading speed and fluency, familiarity with passage content, oral language, and general intelligence. Reading fluency, a third aspect of reading, is defined as the speed and accuracy with which a child is able to read.
The WIAT-III assesses basic reading skills through two word-reading tasks. One word list consists of real words, and a second list consists of nonwords that can be read only through the use of phonics and word analysis skills. Amelia’s Word Reading skills score of 87 falls within the Low Average classification range and at the 19th percentile. Her Pseudoword Decoding skills score of 87 also falls within the Low Average classification range and at the 19th percentile. These two scores are combined to form an overall estimate of basic reading skills. Amelia’s Basic Reading skills score of 87 falls in the Low Average classification range and at a percentile ranking of 19.

The WIAT III assesses reading comprehension through having the student read a series of passages and respond to questions about those passages while the text remains in view. Amelia’s Reading Comprehension score of 92 falls within the Average range, though toward the lower end of that range, and at the 30th percentile. Errors on this test can be explored to determine whether a child tends to miss questions with responses that are explicitly stated in the text or questions that are more inferential. In Amelia’s case, she missed only one of 11 literal questions (91% correct), while missing 6 of 11 inferential questions (45% correct).

Reading fluency is assessed on the WIAT-III through a series of timed oral reading passages. Amelia’s Oral Reading Fluency score of 90 falls at an average to low average range and at a percentile ranking of 25. Comprehension and fluency subtests can be combined to create a composite Reading Comprehension and Fluency score. Amelia’s Reading Comprehension and Fluency score of 88 falls within the Low Average range and at a percentile ranking of 21. In general, reading fluency was jerky and erratic.

Basic reading skills, reading comprehension, and oral reading fluency can be combined on the WIAT-III to create a Total Reading score. Amelia’s Total Reading score of 85, 16th percentile, falls within the Low Average classification range. It provides a good overall description of her reading ability and is significantly weaker than would be expected given her performance on the WISC-IV.

Written Language

Achievement in the area of written language was assessed in three broad areas: spelling, writing mechanics, and written expression. Spelling is the reverse process of decoding. Decoding involves translating printed words into their auditory form, while spelling (or encoding) involves translating the auditory representation of words into their printed form. Skills involved, therefore, include phonological skills (appreciation of the sequencing of sounds within a word), phonics (the ability to map language sounds onto visual symbols, or letters), and visualization skills (visual recall of the appropriate spelling pattern). Writing mechanics include knowledge of appropriate spelling, punctuation, and capitalization. They are related, in part, to attention and monitoring of effort, appreciation of the grammatical structure of language, fine motor skills, and teaching and memory. Written expression is the ability to express the quality of one’s ideas on paper without regard to writing mechanics. It is a highly complex activity that involves the rapid and automatic simultaneous integration of multiple processes including fine motor skills, language ability, memory recall, and organization.
Spelling is assessed on the WIAT-III by having the student write a set of orally-administered spelling words. Amelia earned a standard score of 98, percentile ranking of 45, on the Spelling subtest. This score falls within the Average classification range when it is compared to the performance of her peers.

Writing mechanics and syntax are assessed on the WIAT-III by combining scores on two subtests: The Sentence Combining subtest requires the student to combine two related sentences into one sentence, and the Sentence Building subtest requires the student to compose a simple sentence using a specified, common, word. Amelia’s score of 108 on the Sentence Combining subtest and her score of 110 on the Sentence Building subtest combine to yield a Sentence Composition score of 109, Average classification range, percentile ranking of 73.

Written expression is assessed on the WIAT-III by having the student write a short essay. Aspects of theme development, organization, and elaboration are scored and result in an Essay Composition score. Spelling and writing mechanics are not emphasized when calculating this score. Amelia’s score of 141, percentile ranking of 99.7, falls in the Very Superior classification range. It is important to note that this test is scored through a calculus that emphasizes a specified structure. Amelia adhered unusually well to the organizational format. She also provided excellent examples to clarify her statements. In these ways she was able to obtain maximum credit. She has clearly been able to incorporate writing instruction into her written work.

Spelling skills, writing mechanics, and theme development are combined on the WIAT-III to create a composite Written Expression score. Amelia’s Written Expression score of 121, 92nd percentile, falls within the Superior classification range. However, given the significant difference between Amelia’s performance across writing tasks, the Composite Written Expression score is of limited interpretive significance.

Mathematics

In the area of mathematics, math fluency and the ability to apply math concepts to solve practical problems were assessed. Due to time constraints and a lack of concern regarding math performance, knowledge of the mechanics of math was not assessed. Math fluency is the speed with which Amelia is able to recall basic addition, subtraction, and multiplication facts. Math application skills include a more complex understanding of the language of mathematics including appreciation of number concepts, ability to separate extraneous from non-extraneous information, language skills, metacognitive skills (the ability to make decisions about the best way to solve a problem), working memory (the ability to temporarily mentally hold and process information), and math reasoning and concept formation.

Math fluency is assessed on the WIAT-III by completion of simple addition, subtraction, and multiplication problems under timed conditions. Amelia’s scores of 109, 110, and 102 on the addition, subtraction, and multiplication tasks, respectively, result in a combined Math Fluency score of 108, Average classification range, percentile ranking of 70.
Math application skills are assessed on the WIAT-III through presentation of a series of word problems that are both read aloud to the student and presented visually. Amelia’s score of 120 on the Math Problem Solving test falls within the Average classification range and at a percentile ranking of 91.

Cognitive Processes related to academic functioning

A number of specific cognitive processes are fundamental to the development of sound reading, writing, and math skills. Processes of potential relevance to areas of concern were more specifically assessed. These include phonological processing, oral language, verbal memory, and concept formation.

Phonological Processing

Phonological processing, a prerequisite for fluent reading and spelling, is an umbrella term which involves at least three yet more specific processes, all related to the ability to process language sounds. Phonological awareness is the ability to process the smallest sounds which comprise words (phonemes). Phonological awareness, therefore, involves the ability to identify phonemes, to sequence phonemes, to segment phonemes, and to blend phonemes. The ability to appreciate rhymes or to speak "Pig Latin" are reflections of phonological awareness. Phonological memory involves the ability to hold language sounds temporarily in working/short-term memory for further processing or manipulation. For example, when decoding each separate sound in an unknown word, these sounds must be held temporarily in memory so that they can then be blended together to form a word. Finally, it is important to be able to quickly recall phonetic information from long term memory store (Rapid Naming). Without this ability, reading is slow and labored.

Each of these areas was assessed for Amelia through administration of the CTOPP. Her Phonological Awareness standard score of 100 falls within the Average classification range and suggests average ability to appreciate the ordering of language sounds. Phonological awareness is sensitive to instruction and is likely to have been strengthened through Amelia’s experience with the Wilson program as well as general instruction in phonics skills. Ability to hold phonemic information temporarily in mental store tests within the Average classification range, through toward the lower end of that range, as suggested by Amelia’s standard score of 91 on the Phonological Memory task. This score is consistent with her performance on digits forwards of the WISC-IV, which provides an additional estimate of auditory memory. Finally, Amelia's performance on tasks assessing the ability to rapidly recall phonological information from long-term memory store (Rapid Naming composite, standard score of 85) falls within the Low Average classification range. Thus, speed of retrieval of auditory information from memory (low average range) contrasts with speed of processing of visual/motor tasks (superior range).

Oral Language

Two aspects of oral language were assessed, listening comprehension and appreciation of figurative language. The first, listening comprehension, was assessed through administration of the Listening Comprehension test from the WIAT-III. Listening comprehension is the ability to
gain meaning from spoken language, and the tasks on the WIAT-III typically use common vocabulary and contextual information (for example, the student may be presented with an audiotaped “ad” for a product and subsequently asked questions about the contents of that ad). Amelia’s scores on tasks of receptive language are consistent with the results of the language evaluation completed when Amelia was younger, falling within the average classification range.

Oral language varies in multiple ways, including language content that ranges from very literal to more figurative. The Test of Language Competence-Expanded Edition was administered to assess pragmatic and figurative language. Amelia’s performance on this test (composite score of 84, low average range) suggested significant relative weaknesses in this area. Difficulties with abstract and figurative language may help to explain referral concerns regarding difficulties synthesizing information and making connections.

**Verbal Memory**

Memory is a multi-faceted concept; various aspects of memory functioning pervade a student's ability to master basic reading, writing, and math skills as well as to utilize higher order reasoning skills. Amelia was administered the California Verbal Learning Test-Children's Version (CVLT-C) to assess the strategies and processes involved in learning and recalling verbal material. Two hypothetical shopping lists are presented, each consisting of 15 items which cluster into three different categories (fruits, play things, and clothing). Lists are presented multiple times, and both short and long delay intervals are included. Memory processes assessed include recall, recognition, vulnerability to interference and depth of processing.

Amelia’s performance on the CVLT-C suggests generally age-appropriate or better functioning in the areas of initial attention span for auditory verbal information, total recall of words across the five learning trials, use of semantic clustering, vulnerability to proactive interference, retention of information after a delay interval, and encoding and retrieval skills. Intrusion and perseveration rates fell well within normal limits as well. Recall of words from the beginning, middle, and end of the list suggest an active learning style. In general, Amelia performed well on this task, and verbal memory seems age-appropriate.

**Concept Formation**

Concept formation can be assessed in multiple ways, and measures of the ability to form concepts are scattered throughout this assessment. The Sorting Test from the D-KEFS battery was administered to provide information regarding Amelia’s propensity to recognize verbal versus visual perceptual concepts. She was asked to sort cards that differed across a variety of dimensions, some of which were verbal, and some of which were visual/perceptual. For example, she might sort cards by verbal classification (animate vs. inanimate objects) or by visual similarities (color or shape). Amelia immediately recognized visual perceptual similarities among cards (earning scores within the average to high average range) but experienced very significant difficulty recognizing verbal sorts (scoring at a significantly weak range). Thus, it appears that Amelia is far more “at home” when dealing with visual conceptual as opposed to verbal conceptual information. Given referral concerns, this is not surprising.
IMPRESSIONS:

Amelia clearly possesses many strengths across the academic, athletic, and personal domains. She is a hard worker whose effort results in excellent grades, she is a conscientious and dependable friend, and she is a talented athlete and performer. The great majority of test information collected in this assessment also supports cognitive and academic strengths that, combined with her excellent work ethic, are likely to make her successful in school. Her general intelligence is strong (high average to superior range), verbal memory is strong (average to high average range), and math and writing skills also test as well-developed. However, within this sea of strengths, two areas of relative weakness are present and help to explain referral concerns.

First, reading skills are not consistent with WISC-IV predictions. As one of the primary criteria for identification of a learning disability, the North Carolina Department of Public Instruction requires a 15 or greater point differential between a test of intellectual aptitude (such as the WISC-IV) and a test of academic achievement (such as the WIAT-III). Amelia meets this discrepancy criterion in the area of reading. Amelia’s Total Reading composite score of 85 on the WIAT-III differs from her WISC-IV Full Scale score of 120 by 35 points. In addition, scores on tasks of basic reading skills as well as reading comprehension are both relatively weak (87 and 92, respectively), differ significantly from WISC-IV predictions, and suggest weaknesses in each of these components of reading. Reading fluency (speed and accuracy, score of 88), is also an area of significant relative weakness. In summary, reading disabilities are present across the areas of basic reading skills, reading comprehension, and reading fluency. The presence of these weaknesses predicts that gaining meaning from text will be a time-consuming and laborious process for Amelia.

Secondly, weaknesses in inferential language are present in spite of the fact that most other aspects of language seem developed appropriately to age. Weaknesses in this area are likely to explain the difficulties teachers note in Amelia’s ability to “make connections.” This area of weakness contrasts sharply with the ease with which she is able to appreciate visual-perceptual information. She seems very much “at home” when engaged in visual perceptual and visual motor tasks (for example, soccer) but much less comfortable in the auditory verbal domain. Given that academics are inherently verbal, she will require additional elaboration of verbal material and more processing time when engaged in verbal tasks, particularly those that approach abstractness.

Two final comments are in order. First, Amelia performed poorly on working memory tasks on prior evaluations, and her parents noted a concern about working memory on interview. A closer look at her profile across tasks included in this evaluation suggests that working memory may appear weaker than it actually is. She performs well within the average classification range on most working memory tasks. However, she demonstrated a relative weakness during this evaluation in the area of auditory span of information. This means that her ability to hold auditory information in memory may be a relative weakness, though still testing toward the lower end of the average range. However, once that information is in short term memory, she is as able to hold and manipulate it (working memory) as well as is her average peer. Thus, she may not “listen” well but can mentally manipulate information once in short term memory store. Secondly, estimates of processing speed vary tremendously. On perceptual-
motor tasks (for example, copying), Amelia tests at a very superior range. In contrast, processing speed for verbal tasks (for example, recall of verbal information such as math facts), tests at a much lower level (average to low average), and she is likely to require accommodations in this area.

RECOMMENDATIONS:

Amelia has had the benefit of tutoring and academic support that has resulted in the development (and her use of) many excellent strategies, in particular, those that help her elaborate upon concepts and compensate for weak reading skills. It will be important to continue in this vein as well as to continue to provide accommodations that will help to “level the playing field.” Current strategies and accommodations seem highly appropriate and should be continued. Additional thoughts are noted below and overlap with those already in place. In general, Amelia is likely to benefit from: 1) compensatory strategies for weaknesses in basic reading skills and fluency, 2) development of elaborative strategies to enhance reading comprehension and the processing of verbal information, 3) consideration of personal issues such as ensuring that she is ready to learn (not overly tired) and self-advocacy skills, and 4) accommodations to support learning and production.

Compensatory strategies for weaknesses in basic reading skills and fluency:

1. As time allows, a review of basic phonics principles learned through the Wilson system may be helpful.

2. Many books are available on tape and others can be created. Amelia should be encouraged to actively process information as she listens by also reading along in her book and periodically stopping to check for comprehension. Contact Recording for the Blind and Dyslexic at www.RFBD.org, telephone, (800) 221-4792. Many other electronic readers have recently come on the market and may be helpful to Amelia.

3. To improve sight word recognition and reading fluency, find a relatively simple brief reading passage. Reading out loud with a parent or friend, read this passage three to five times, with the fluent reader reading at a rate just quicker than Amelia's. Continue this exercise for approximately five minutes a day.

4. Amelia appears to be very successful with Latin. However, should she decide to tackle a spoken language, her weaknesses in phonological processing put her at some risk for success. She may wish to consider moving slowly into this area, ensuring plenty of support until she feels comfortable and successful.

Elaborative strategies to enhance the processing of abstract verbal information

1. Elaborate on learned information. Find as many connections between old learning and information to be learned as possible. Add personal interpretation, relate new information to prior experience, and talk about future applications. Studying for tests with friends may help to understand concepts in new ways and is another method of using the concept of
elaboration. Studying information in different ways, such as drawing diagrams and pictures, talking aloud, using concept maps and note cards, and making outlines is an additional method of using elaboration to improve comprehension.

2. Do not assume that new learning will generalize. Instead, patterns should be explicitly pointed out and reinforced over time. Help Amelia to organize information, draw parallels, note similarities, make relationships explicit, etc.

3. It will be helpful to Amelia to read ahead in her text before new information is taught. In this way, she will have the cognitive structures in place to help her more readily incorporate new information.

4. Use visual input to support language and more general understanding/comprehension.

5. Move from the concrete to the abstract and back to the concrete. Present details of a larger concept simultaneously, by writing them down or drawing diagrams. This strategy may help to direct attention to the whole of the problem as opposed to a focus on the separate parts.

6. Use a modeling procedure. Talk aloud while solving a problem, have Amelia perform the same type of task under guidance, then have her perform the same task while self-instructing.

7. Be sure that basic concepts are mastered before proceeding to more sophisticated concepts. A tenuous grasp of basic concepts can lead to incomplete understanding and a resulting difficulty applying the concepts. In addition, state abstract concepts in terms of practical, everyday, functioning.

8. Use reading materials to enhance the formation of concepts such as the difference between cause and effect and fact and opinion, to practice analogous reasoning, and to help teach the drawing of inferences. Check out a series of workbooks (grades 3-8) entitled Reasoning and Reading by Joanne Carlisle from Educator's Publishing Service. Another potential source of information is: Wiig, E.H. Words, Expressions, and Contexts: A Figurative Language Program. San Antonio, Texas: The Psychological Corporation, 1985.

9. Directions and instructions should be given carefully, using relatively simple statements, redundancy, and slow delivery, and providing checks for understanding. Visual reminders should also be useful.

**Strategies to improve reading comprehension**

1. Use a formal reading comprehension technique such as SQ4R to improve reading comprehension. A handout for using this technique is included with this report.

2. Allow Amelia to read for comprehension during times when her mental energy is high, perhaps at the start of day, after recess or physical education, etc.

3. Provide short but frequent breaks that allow Amelia to stretch or move around in order to rejuvenate mental energy.
4. Break up lengthy passages, and help Amelia get involved in the material she is reading by asking her questions about content as soon as she finishes each section.

5. Enhance the use of efficient and effective reading comprehension strategies. For example, teach Amelia how to use the table of contents and the index, skim chapters for key words, dates, and names, look at pictures for clues to meaning, and read the questions at the end of a chapter for key information or ideas.

6. Provide Amelia with text in which some words or ideas have been highlighted or underlined, as a model for her to follow.

7. Prioritize information that Amelia should be aware of (or attend to) in a certain passage. For example, suggest that she first read for facts second, read for important themes, etc.

8. Have Amelia read guiding questions before reading the text, and encourage her to refer to these questions while reading, as well.

9. Introduce new vocabulary words, important concepts, names, dates, etc. before Amelia reads a new text or passage.

10. Give Amelia opportunities to practice using tools that promote and reinforce comprehension, e.g., have her fill in outlines, complete tables, and create semantic maps to organize and consolidate ideas as she reads.

11. Provide Amelia with post-it notes to write down the gist or main point(s) of a passage. Suggest that she create notes at pre-determined intervals, or after reading a specified amount of text (e.g., after 3 paragraphs, after each page, etc.).

12. Encourage Amelia to highlight or underline as she reads, and to re-read information that she has underlined.

13. Introduce Amelia to note-taking techniques that may help with different types of reading materials. For example, a flow chart can be used to show causal relationships. Such a chart might be useful to illustrate narrative happenings in a story, events in history, procedural sequences in science, etc.

To further support personal development:

1. Amelia has many demands on her time. It will be important to ensure that she gets needed rest, respite, and social time.

2. Amelia’s teachers report that she is typically quiet in class and asks few questions. Advocacy skills will become more important as she matures and, to the extent that she is able, it will be important to begin to develop these at this time.
Suggested modifications/accommodations:

1. Amelia currently has available to her a number of accommodations that are likely to be helpful to her. These should be continued, as deemed necessary. In particular, additional time to complete assignments, use of notepad or computer, note-taking assistance, decoding assistance, and checks for understanding of directions should help to compensate for noted weaknesses.

XXXXXXXX XXXXXX, PhD
Licensed Psychologist, HSP-P
Wechsler Intelligence Scale for Children, Fourth Edition
(WISC-IV)

Test Description

The Wechsler Intelligence Scale for Children, Fourth Edition (WISC-IV), yields an estimate of general intellectual functioning for a given individual at a specific time. The WISC-IV consists of ten primary subtests and five supplementary subtests and yields five IQ scores: Verbal Comprehension, Perceptual Reasoning, Working Memory, Processing Speed, and a composite or Full Scale IQ. Verbal Comprehension subtests measure verbal knowledge and reasoning and require vocal responses to orally presented items. Perceptual Reasoning subtests assess nonverbal reasoning and typically require manual manipulation of test materials or pointing responses under timed conditions. Working Memory subtests can reflect one or more of a variety of intellectual and behavioral factors including attention, anxiety, ability to mentally manipulate abstract symbols, and short-term memory. The Perceptual Speed Index assesses perceptual-motor speed and coordination. The Full Scale score is a composite of the other four scales and is best interpreted when the discrepancy between scales is not too great.

It is important to understand that IQ tests measure only a portion of the competencies involved with human intelligence. The IQ results are best seen as estimates of likely performance in school and reflections of the degree to which children have mastered the middle class cultural symbols and broad culturally rooted facts, concepts, and problem solving strategies. This information is useful but limited. IQ tests do not reflect only innate genetic capacity, and the scores are not fixed. Some persons do exhibit significant increases or decreases in their measured intellectual abilities over time.

Results

Amelia's performance on the WISC-IV is compared to the performances of a national group of children her age. WISC-IV standard scores, score ranges, score percentiles, and classifications are listed below. Standard scores have a mean of 100 and a standard deviation of 15. Approximately half of all children will have standard scores between 90 and 109. The score range indicates the likelihood that, 90 out of 100 times upon retesting, the score would fall within the range noted. The percentile ranking indicates that Amelia scored higher than that number of individuals out of 100. The classification range provides an arbitrary qualitative description of Amelia’s performance as it compares to that of other similar-age children across the nation.
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<tbody>
<tr>
<td><strong>Full Scale</strong></td>
<td>120</td>
<td>114-124</td>
<td>91</td>
<td>Superior</td>
</tr>
<tr>
<td>Verbal Comprehension</td>
<td>112</td>
<td>105-118</td>
<td>79</td>
<td>High Average</td>
</tr>
<tr>
<td>Perceptual Reasoning</td>
<td>112</td>
<td>103-119</td>
<td>79</td>
<td>High Average</td>
</tr>
<tr>
<td>Working Memory</td>
<td>102</td>
<td>94-109</td>
<td>55</td>
<td>Average</td>
</tr>
<tr>
<td>Processing Speed</td>
<td>136</td>
<td>123-141</td>
<td>99</td>
<td>Very Superior</td>
</tr>
</tbody>
</table>

The Verbal Comprehension, Perceptual Reasoning, Working Memory, and Processing Speed scale subtests measure more specific abilities. Subtest scores range from 1 to 19 with an average of 10. These subtests and their respective scores are listed below. "S" and "W," when present, indicate subtests which are significant relative strengths or weaknesses, respectively. These latter comparisons are made relative to Amelia's overall performance within each scale and not to the performance of other similar-age children. Supplemental subtests are listed in *italics*.

<table>
<thead>
<tr>
<th>SUBTEST</th>
<th>SCORE</th>
<th>CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Verbal Comprehension Scale</strong> (112)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Similarities (finding likenesses between concepts)</td>
<td>11</td>
<td>Average</td>
</tr>
<tr>
<td>Vocabulary (word knowledge)</td>
<td>11</td>
<td>Average</td>
</tr>
<tr>
<td>Comprehension (social and practical judgment)</td>
<td>15</td>
<td>Strength</td>
</tr>
<tr>
<td>Information</td>
<td>9</td>
<td>Average</td>
</tr>
<tr>
<td>Word Reasoning</td>
<td>8</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Perceptual Reasoning Scale</strong> (112)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Block Design (copying designs with blocks)</td>
<td>14</td>
<td>Strength</td>
</tr>
<tr>
<td>Picture Concepts</td>
<td>6 (W)</td>
<td>Weakness</td>
</tr>
<tr>
<td>Matrix Reasoning (nonverbal problem-solving)</td>
<td>16 (S)</td>
<td>Exceptional Strength</td>
</tr>
<tr>
<td>Picture Completion</td>
<td>13</td>
<td>Strength</td>
</tr>
<tr>
<td><strong>Working Memory Scale</strong> (102)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Digit Span (repeating digit strings)</td>
<td>9 (W)*</td>
<td>Average</td>
</tr>
<tr>
<td>Letter-Number Sequencing (mental ordering)</td>
<td>12</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Processing Speed Scale</strong> (136)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Coding (copying symbols)</td>
<td>19 (S)</td>
<td>Exceptional Strength</td>
</tr>
<tr>
<td>Symbol Search (perceptual matching)</td>
<td>14</td>
<td>Strength</td>
</tr>
<tr>
<td>*  Digits Forwards = 8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Digit Backwards = 11</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Wechsler Individual Achievement Test, Third Edition
(WIAT-III)

Description

The WIAT-III assesses academic achievement in the areas of reading, mathematics, written language and oral language. Scores are derived for individual subtests as well as for composites of subtests. The Reading Composite assesses early reading skills, word reading skills and reading comprehension. The Mathematics Composite assesses skills in paper and pencil calculation, automaticity of math fact knowledge, and the ability to apply math skills to everyday problems. The Writing Composite assesses basic writing skills such as spelling as well as the ability to express ideas through writing. The Language Composite screens oral expression and listening comprehension.

Results

Standard scores, score ranges, and percentile rankings are listed below as they compare to other similar-aged children. Standard scores have a mean of 100 and a standard deviation of 15. Approximately half of all children will have standard scores between 90 and 109.

<table>
<thead>
<tr>
<th></th>
<th>Standard Score</th>
<th>Percentile</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total Reading</strong></td>
<td>85</td>
<td>16</td>
<td>Low Average</td>
</tr>
<tr>
<td><strong>Basic Reading</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Word Reading</td>
<td>87</td>
<td>19</td>
<td>Low Average</td>
</tr>
<tr>
<td>Pseudoword Decoding</td>
<td>87</td>
<td>19</td>
<td>Low Average</td>
</tr>
<tr>
<td><strong>Reading Comp. &amp; Fluency</strong></td>
<td>88</td>
<td>21</td>
<td>Low Average</td>
</tr>
<tr>
<td>Reading Comprehension</td>
<td>92</td>
<td>30</td>
<td>Average</td>
</tr>
<tr>
<td>Oral Reading Fluency</td>
<td>90</td>
<td>25</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Written Expression</strong></td>
<td>121</td>
<td>92</td>
<td>Superior</td>
</tr>
<tr>
<td><strong>Sentence Composition</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sentence Combining</td>
<td>108</td>
<td>70</td>
<td>Average</td>
</tr>
<tr>
<td>Sentence Building</td>
<td>110</td>
<td>75</td>
<td>High Average</td>
</tr>
<tr>
<td><strong>Essay Composition</strong></td>
<td>141</td>
<td>99.7</td>
<td>Very Superior</td>
</tr>
<tr>
<td>Word Count</td>
<td>134</td>
<td>99</td>
<td>Very Superior</td>
</tr>
<tr>
<td>Theme Dev. &amp; Org.</td>
<td>140</td>
<td>99.6</td>
<td>Very Superior</td>
</tr>
<tr>
<td>Spelling</td>
<td>98</td>
<td>45</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Mathematics</strong></td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Math Problem Solving</td>
<td>120</td>
<td>91</td>
<td>Superior</td>
</tr>
<tr>
<td>Numerical Operations</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Math Fluency</strong></td>
<td>108</td>
<td>70</td>
<td>Average</td>
</tr>
<tr>
<td>Addition</td>
<td>109</td>
<td>70</td>
<td>Average</td>
</tr>
<tr>
<td>Subtraction</td>
<td>110</td>
<td>75</td>
<td>High Average</td>
</tr>
<tr>
<td>Multiplication</td>
<td>102</td>
<td>55</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Oral Language</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Listening Comprehension</td>
<td>99</td>
<td>47</td>
<td>Average</td>
</tr>
<tr>
<td>Receptive Vocabulary</td>
<td>96</td>
<td>39</td>
<td>Average</td>
</tr>
<tr>
<td>Oral Discourse Comp</td>
<td>103</td>
<td>58</td>
<td>Average</td>
</tr>
</tbody>
</table>
California Verbal Learning Test  
(CVLT-C)

Description

The CVLT-C assesses strategies and processes involved in learning and recalling verbal material. It is helpful in diagnosing and treating memory impairments that are secondary to learning disabilities, attention-deficit disorders, and other learning and emotional problems. Both recall and recognition of words over a number of trials are tested by presenting two hypothetical shopping lists. The "Monday" list is read five times, and the child recalls as many words as possible after each successive reading. A second "Tuesday" list is then read and recalled as an interference task, followed by short-delay free-recall and short-delay cued-recall trials of the "Monday" list. After a twenty-minute delay, recognition memory and long-delay free and cued recall are tested.

Results

Multiple measures are available from the CVLT-C, and selected scores are listed below. The List A Total Trials 1-5 score has a mean of 50 and a standard deviation of 10. Scores on the remaining measures are z scores, which have a mean of 0 and a standard deviation of 1. Approximately 2/3 of children will score within one standard deviation of the mean.

<table>
<thead>
<tr>
<th>Selected Measures</th>
<th>Scaled Score</th>
</tr>
</thead>
<tbody>
<tr>
<td>List A Total Trials 1-5</td>
<td>60</td>
</tr>
<tr>
<td>List B Free Recall vs. List A Trial 1 Free Recall</td>
<td>-0.5</td>
</tr>
<tr>
<td>List A Short-Delay Free Recall</td>
<td>0.0</td>
</tr>
<tr>
<td>Short-Delay Free Recall vs. List A Trial 5</td>
<td>-0.5</td>
</tr>
<tr>
<td>List A Long-Delay Free Recall</td>
<td>1.0</td>
</tr>
<tr>
<td>Long-Delay Free Recall vs. Short Delay Free Recall</td>
<td>1.0</td>
</tr>
<tr>
<td>Semantic Cluster Ratio</td>
<td>-0.5</td>
</tr>
<tr>
<td>Serial Cluster Ratio</td>
<td>-0.5</td>
</tr>
<tr>
<td>Percent Total Recall from Primacy Region</td>
<td>-0.5</td>
</tr>
<tr>
<td>Percent Total Recall from Middle Region</td>
<td>0.5</td>
</tr>
<tr>
<td>Percent Total Recall from Recency Region</td>
<td>0.0</td>
</tr>
<tr>
<td>Intrusions (Free-and Cued-Recall Total)</td>
<td>-1.0</td>
</tr>
<tr>
<td>Correct Recognition Hits</td>
<td>0.0</td>
</tr>
<tr>
<td>Discriminability vs Long-Delay Free-Recall</td>
<td>-1.0</td>
</tr>
</tbody>
</table>
Test Description

According to the manual, the Test of Language Competence (TLC-E) was designed to evaluate delays in the emergence of linguistic competence and in the use of semantic, syntactic, and pragmatic language strategies. TLC-E subtests were constructed to sample a variety of content (some highly literal and some highly figurative) across a series of contexts (some fairly restrictive and some more interactive). Two levels are available: Level 1 for students 5 to 9 years old, and Level 2 for students 9 to 18+ years old.

Results

Amelia’s performance on the TLC-E is compared to the performances of a national group of children her age. WISC-IV standard scores, score percentiles, and classifications are listed below. Standard scores have a mean of 100 and a standard deviation of 15. Approximately half of all children will have standard scores between 90 and 109. The score range indicates the likelihood that, 90 out of 100 times upon retesting, the score would fall within the range noted. The percentile ranking indicates that Amelia scored higher than that number of individuals out of 100. The classification range provides an arbitrary qualitative description of Amelia’s performance as it compares to that of other similar-age children across the nation.

<table>
<thead>
<tr>
<th>SCALE / INDEX</th>
<th>SCORE</th>
<th>PERCENTILE</th>
<th>CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>TLC-E Composite</td>
<td>84</td>
<td>14</td>
<td>Low Average</td>
</tr>
<tr>
<td>Expressing Intents</td>
<td>88</td>
<td>21</td>
<td>Low Average</td>
</tr>
<tr>
<td>Interpreting Intents</td>
<td>85</td>
<td>16</td>
<td>Low Average</td>
</tr>
</tbody>
</table>

Four subtests measure more specific abilities. Subtest scores range from 1 to 19 with an average of 10. These subtests and their respective scores are listed below.

<table>
<thead>
<tr>
<th>SUBTEST</th>
<th>SCORE</th>
<th>PERCENTILE</th>
<th>CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ambiguous Sentences</td>
<td>8</td>
<td>25</td>
<td>Average</td>
</tr>
<tr>
<td>Listening Comprehension: Making Inferences</td>
<td>8</td>
<td>25</td>
<td>Average</td>
</tr>
<tr>
<td>Oral Expression: Recreating Sentences</td>
<td>8</td>
<td>25</td>
<td>Average</td>
</tr>
<tr>
<td>Figurative Language</td>
<td>7</td>
<td>16</td>
<td>Low Average</td>
</tr>
</tbody>
</table>
Comprehensive Test of Phonological Processing (CTOPP)

Description

The CTOPP is an individually-administered test which assesses three aspects of phonological processing in individuals ages 5 through 24: phonological awareness, phonological memory, and rapid naming. Deficits in phonological processing are viewed as the most common cause of reading disabilities. Phonological awareness refers to the individual's awareness of and access to the sound structure of the language: the ability to identify, segment, sequence, and blend individual language sounds. Phonological memory refers to the coding of phonological information for temporary storage in short term or working memory. Rapid naming of objects, digits, colors, or letters requires the efficient retrieval of information from long term or permanent memory storage.

Results

Standard scores and percentile rankings are listed below as they compare to other similar-aged children. Standard scores have a mean of 100 and a standard deviation of 15. Approximately half of all children will have standard scores between 90 and 109.

<table>
<thead>
<tr>
<th></th>
<th>Standard Score</th>
<th>Percentile</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Phonological Awareness</strong></td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td>Elision</td>
<td>9</td>
<td>37</td>
</tr>
<tr>
<td>Blending Words</td>
<td>11</td>
<td>63</td>
</tr>
<tr>
<td><strong>Phonological Memory</strong></td>
<td>91</td>
<td>27</td>
</tr>
<tr>
<td>Memory for Digits</td>
<td>9</td>
<td>37</td>
</tr>
<tr>
<td>Nonword Repetition</td>
<td>8</td>
<td>25</td>
</tr>
<tr>
<td><strong>Rapid Naming</strong></td>
<td>85</td>
<td>16</td>
</tr>
<tr>
<td>Rapid Digit Naming</td>
<td>7</td>
<td>16</td>
</tr>
<tr>
<td>Rapid Letter Naming</td>
<td>8</td>
<td>25</td>
</tr>
</tbody>
</table>
Description

The D-KEFS is a set of individually administered tests designed to assess a wide spectrum of verbal and nonverbal higher-level cognitive abilities in children and adults. These abilities are known as executive functions because they involve the integration and coordination of fundamental skills, such as attention, perception, and language, in order to produce goal-directed problem solving behavior. The Sorting test was administered. This test assesses concept formation and problem-solving. Concept formation is assessed in two modalities: verbal-semantic and visual-perceptual.

Results

Scaled Scores range from 1 to 19, with a mean of 10 and a standard deviation of 3. Average scores fall in the 8-12 range. Scaled Scores are derived for the primary measures of each task (usually based on time and accuracy of performance), as well as for combined measures (which integrate the performance of two or more tasks within a test) and contrast measures (which permit comparisons between tests of executive functions and their baseline component tasks).

Cumulative Percentile Ranks range from 0 to 100 and are used to analyze number and types of errors committed. This score expresses the percentage of same aged peers in the normative sample whose performance was equal to or weaker than that obtained in the current assessment.

Sorting Test

<table>
<thead>
<tr>
<th></th>
<th>Scaled Score</th>
<th>Classification</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Primary Measures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Free Sorting Correct Sorts</td>
<td>6</td>
<td>Weak</td>
</tr>
<tr>
<td>Free Sorting Description Score</td>
<td>5</td>
<td>Weak</td>
</tr>
<tr>
<td>Sort Recognition Description Score</td>
<td>7</td>
<td>Low Average</td>
</tr>
<tr>
<td>Combined Description Score</td>
<td>6</td>
<td>Weak</td>
</tr>
<tr>
<td><strong>Primary Contrast Measure</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sort Recognition vs. Free Sorting Description Score</td>
<td>12</td>
<td>Average</td>
</tr>
<tr>
<td><strong>Free Sorting Sorting Measures</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Correct Sorts Set 1</td>
<td>8</td>
<td>Average</td>
</tr>
<tr>
<td>Correct Sorts Set 2</td>
<td>4</td>
<td>Weak</td>
</tr>
<tr>
<td>Correct Verbal Sorts</td>
<td>4</td>
<td>Weak</td>
</tr>
<tr>
<td>Correct Perceptual Sorts</td>
<td>12</td>
<td>Average</td>
</tr>
</tbody>
</table>
Tab

Autism
Materials for this session will be provided by the presenter.
Tab

ABA
ABA: What it really is... and what it really isn’t
Holly Almon, M.S., BCBA
Seattle, Washington

Agenda

- Background – behavior analysis
- Defining applied behavior analysis
- Common ABA misconceptions
- Seven dimensions of applied behavior analysis
  - How elements of effective ABA programming tie into these dimensions
  - Testing usefulness of explanations/theories
- Ethical considerations in ABA

Background
Focus of behavior analysis

- The laws of human behavior.
  - Behavior = anything a person or animal does that can be observed or measured.
- We take a deterministic view-
  - Behavior is lawful (subject to prediction) and its causes can be rooted in environmental events.
  - We recognize systematic relationships among these events.
  - We consider human behavior as part of this system.

Why does behavior change over time?

- Biological variables
  - Anatomy
  - Physiology
  - Genetics
  - Injury/disease
- Environmental variables
  - Social behavior
  - Presence of stimuli that fulfill basic needs
  - Conditions (temperature, noise level, etc.)

2 Types of Conditioning

<table>
<thead>
<tr>
<th></th>
<th>Respondent/Classical</th>
<th>Operant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sequence of events</td>
<td>Stimulus ➔ Response</td>
<td>Antecedent ➔ Behavior ➔ Consequence</td>
</tr>
<tr>
<td>Example</td>
<td>Tap on top of knee ➔ Knee movement</td>
<td>Hunger ➔ Eat dinner ➔ Hunger dissipates</td>
</tr>
<tr>
<td>Founding fathers</td>
<td>Pavlov</td>
<td>Skinner</td>
</tr>
</tbody>
</table>

Our primary interest
A note on thoughts...

- “Manifestation of the inner self”
- Thoughts are acknowledged as (private) events that lead to more observable (public) behavior

What do behavior analysts do?

The many subfields of behavior analysis.

- Organizational Behavior Management (OBM)
- Animal training
- Crime, delinquency, and forensics
- Autism intervention
- Health, sports, and fitness
- Positive Behavior Support (PBS)
- Environmental sustainability
- Clinical behavior analysis
- Precision Teaching
- Direct Instruction
- Developmental behavior analysis
- And many more...
Endorsements

- Scientific/Professional
  - National Institute of Mental Health
  - National Institute of Child Health and Human Development
  - American Association on Mental Retardation ("Guidelines for the Treatment of Psychiatric and Behavioral Problems in Mental Retardation")
  - American Psychological Association (Division 33, "Guidelines on Effective Behavioral Treatment for Persons with Mental Retardation and Developmental Disabilities")
  - Association for Science in the Treatment of Autism
  - New York State Department of Health ("Guidelines: Autism/Severe Development Disabiliies, Assessment and Intervention for Young Children 0-5", Chapter IV - Behavioral and Educational Approaches)
  - California State Department of Developmental Services ("Autistic Spectrum Disorders: Best Practice Guidelines for Screening, Diagnosis and Assessment") Special Edition FEAT Houston Newsletter 8
  - Florida State Department of Children and Families ("Procedures for Implementation of the Developmental Services Home and Community Based Services")
  - Maine Administrators of Services for Children with Disabilities (Report of the MADSEC Autism Task Force)

Endorsements con’t.

- Empirical (outside of behavior analysis)
  - Current Opinion in Psychiatry (Grey & Hastings, 2005; Sturmey, 2002)
  - Pediatrics (Lilienfeld, 2005)
  - Psychiatric Times (Erickson, Swiny, Stigler, McDougle, & Posey, 2005)
  - Scientific Review of Mental Health Practice (Herbert, Sharp, & Gunderson, 2002)

- Legislative – landmark decisions made by
  - Federal District Court of Philadelphia
  - U.S. District Court for the Northern District of Illinois
  - U.S. District Court for the Eastern District of Michigan
  - South Carolina Federal District Court
  - U.S. District Court for the Southern District of Indiana
  - U.S. District Court for the Eastern District of Tennessee

Definitions

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ABA: what it is... in a nutshell.

- Applied Behavior Analysis
- Official definition: systematic application of behavioral principles to change socially significant behavior to a meaningful degree.
- Research tools enable users of these principles to verify a functional relationship between a behavior and an intervention.
- We apply this science of human behavior to increase desired behavior and decrease undesired behavior.
- Alberto & Troutman, 2003

What are “behavioral principles”?

<table>
<thead>
<tr>
<th>Behavioral Principle</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive reinforcement</td>
<td>Jack receives $5 per week for completing his assigned household chores. He continues to complete them each week.</td>
</tr>
<tr>
<td>Negative reinforcement</td>
<td>Dad relents and lets Amina borrow the car each time she raises her voice in protest to his initial objection. She continues to give this response each time her dad objects to her request.</td>
</tr>
<tr>
<td>Positive punishment</td>
<td>Scott stuck his hand inside his friend’s dog’s kennel, and the dog bit him. He no longer attempts to pet the dog when he’s in his kennel.</td>
</tr>
<tr>
<td>Negative punishment</td>
<td>Cara hit her brother, her mother would not let her watch her favorite TV show that evening. She has not attempted to hit her brother again.</td>
</tr>
</tbody>
</table>

Examples of basic behavioral principles
ABA: what it isn’t...
in a nutshell.

- Applied behavior analysis is not a technique or a procedure.
- It is not a standardized treatment protocol.
- It is not meant to be used exclusively for a particular population or for a particular kind of behavior.
- It is not a specific method of teaching children with autism.
- It is not synonymous with “discrete trial teaching”, “autism therapy”, or “the Lovaas method”.

Personnel factors

- Who can conduct actual ABA instruction?
  - Teachers
  - Paraprofessionals
  - Parents
  - Behavior Analysts
- Guidelines
  - Low student to staff ratios are preferable, but not always necessary
  - Ongoing supervision is provided by a competent, trained behavior analyst
  - Teams should collaborate with other disciplines, including medical staff as appropriate

Environmental factors

- Potential settings
  - Regular education classroom
  - Resource room
  - Self-contained classroom
  - 1:1 instruction at school
  - 1:1 instruction at home
  - Sports team practices
  - Community-based instruction
- Guidelines
  - Environment should be:
    - Structured
    - Predictable
    - Routine-based
Common Misconceptions

“ABA & Behavior Modification are synonymous”
- Behavior modification: often misused as “any procedure that has the potential to change behavior”
- Term has become contaminated
- Term has been associated with other non-ABA procedures:
  - Drug therapy
  - Hypnosis
  - Shock treatments
- Recommended that term be abandoned to prevent further confusion

“ABA is a type of teaching program”
- ABA is a FRAMEWORK, not a program.
- Framework consists of multiple teaching techniques/systems of instruction
  - Natural Environment Training
  - Discrete Trial Instruction
  - Activity-based instruction
  - Fluency-based instruction
  - milieu teaching
  - Incidental Teaching
  - Applied Verbal Behavior
  - Early Intensive Behavioral Intervention
  - Pivotal Response Training
  - Etc...
- These systems focus on different behaviors/approaches, but all stem from the science of human behavior
ABA Teaching Methodologies

ABA

Incidental Teaching  Direct Instruction

Natural Environment Training  Precision Teaching

Discrete Trial Training  Fluency-based instruction

Activity-based instruction  Milieu Teaching

Pivotal Response Training  Applied Verbal Behavior

“ABA/reinforcement doesn’t work for this person”

- Reinforcement is defined by consequences and timing; it’s not a “method”
  - By definition… if you have an effective reinforcer, behavior WILL change!
- If the strategy isn’t working, it’s probably because:
  - An effective reinforcer has not yet been identified
  - The problem has not been analyzed properly (functional relationship between behavior and other variables is inaccurate)
  - The skill hasn’t been broken down into needed components for teaching
- Saying you don’t believe in reinforcement is like saying you don’t believe in gravity

“ABA/reinforcement doesn’t work for this person”

- Things to keep in mind:
  - Principles WORK!
  - If you want to be an effective behavior change agent, you need to become a conditioned reinforcer!
  - Behavior will ALWAYS be changed via positive and negative reinforcement, (and positive and negative punishment) by definition
**Principles are defined by future occurrences of behavior**

<table>
<thead>
<tr>
<th>Something is ADDED TO the environment</th>
<th>Something is TAKEN AWAY FROM the environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Positive reinforcement</td>
<td>Negative reinforcement</td>
</tr>
<tr>
<td>Sr+</td>
<td>Sr-</td>
</tr>
<tr>
<td>Positive punishment</td>
<td>Negative punishment</td>
</tr>
<tr>
<td>Sp+</td>
<td>Sp-</td>
</tr>
</tbody>
</table>

**“Behavior is just ‘misbehavior’”**

- Behavior is anything a person or animal does that can be observed or measured
- ABA-based strategies can
  - INCREASE desired behavior
  - DECREASE undesired behavior

**“You need 40 hours/week for ABA to be effective”**

- This was the original recommendation in 1987.
- Updated recommendations from National Research Council (2012):
  - At least 25 hours/week of active engagement
  - Should include these activities:
    - Functional, spontaneous communication
    - Teaching of play skills focusing on appropriate use of toys and play with peers
    - Social instruction in various settings (not primarily 1:1 training)
    - Instruction leading to generalization and maintenance of cognitive goals in natural contexts
    - Positive approaches to address problem behaviors
    - Functional academic skills when appropriate
“ABA is too strict/rigid/uncomfortable for the child”

- ABA focuses on
  - Reinforcement
- Manipulation of the environment, not the individual
- Aversive interventions should only be used as a last resort (extremely rare use)
- ABA-based interventions should occur in the most natural environment possible
  - Not only done “at the table”
- Too often ABA is only understood superficially and consequently misapplied

Seven dimensions of ABA

...according to Baer, Wolf, & Risley (1968 & 1987)

- Applied
- Behavioral
- Analytic
- Technological
- Conceptually Systematic
- Effective
- Generalized
Applied

- Behaviors in focus should be socially significant
  - Social problems
  - Social interest
  - Problems (or related stimuli) are immediately important to the behaver
  - Ask: How important is this behavior or these stimuli to this subject?

Applied

- Elements of effective ABA programs
  - Curriculum should include:
    - Attending to environmental stimuli
    - Imitation skills
    - Understanding and using language
    - Appropriate social interaction
    - Engaging in play/leisure skills appropriately
    - Measures treatment acceptability (social validity)
    - Teaches generative/pivotal skills
    - Promotes self-management
    - Fosters independence

Behavioral

- Behavior should need improvement
- Behavior should be measurable
- Behavior should be monitored for effective behavioral change
  - Behavior of client
  - Behavior of those interacting with client
  - Ask: Was behavior changed? If so, whose behavior?
Behavioral

- Elements of effective ABA programs
  - Individualized programming
  - Baseline data are collected
  - Progress is monitored
  - Changes are made based on measures of progress

Analytic

- Evidence should show that the behavior change was directly a result of the intervention
- Ask: Is the procedure responsible for the behavior change?

Analytic

Two ways to test for reliability.

- Reversal design
- Multiple baseline design
Technological

- Procedures should be described completely enough so that the intervention can be implemented by more than one individual.
- Ask: Could a typically-trained reader replicate the same procedure well enough to produce the same results, given only the reading of the description?

Technological

- Elements of effective ABA programs
  - Behavior plans, programs, and teaching sequences are written.
  - Includes hierarchy of instructional priorities.
  - Skills taught include mastery criteria.
  - Include responses for alternative behaviors in addition to target behavior.
  - Monitors treatment integrity (the degree to which a program is implemented as intended).
  - Work closely with families - include caregivers and extended family members.

Conceptually Systematic

- Behavior should be relevant to established and effective behavioral principles.
- Ask: How relevant is the procedure to behavioral principles?
Conceptually Systematic

- Elements of effective ABA programs
  - Functional assessments of skills and challenging behavior are conducted
  - Use of empirically-validated teaching methods
  - Use of immediate, accurate models, errorless teaching
  - Immediate feedback to learner
  - Considers student motivation
  - High rates of active student responding
  - Elements of fluency (accuracy/speed) embedded

Effective

- Program should seek to change the targeted behavior to a meaningful degree.
  - Ask: How much did that behavior need to be changed?

Generalized

- Behavior should be promoted for change across a variety of people, environments, or similar behaviors
  - Ask: Has behavior change occurred in the necessary settings or situations?
- Elements of effective ABA programs
  - Plans for generalization to natural environment
Testing usefulness of explanations and theories

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Definition</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inclusiveness</td>
<td>Must account for substantial quantity of behavior</td>
<td>Only a very small portion of Connor’s behavior (diagnosis: ASD) can be explained via biological or hereditary means</td>
</tr>
<tr>
<td>Verifiability</td>
<td>Explanation is testable in a way that can account for the behavior</td>
<td>When a $2 allowance is provided at the end of the day for meeting chore expectations, Mariel completes them independently. On days when the allowance isn’t offered, she does not complete them</td>
</tr>
<tr>
<td>Predictive utility</td>
<td>Provide reliable answers about what people are likely to do in certain situations (provides practitioner opportunity to change behavior by changing conditions)</td>
<td>Attributing Ben’s hyperactivity to “brain damage” provides no information as to how he can be taught to stay in his seat</td>
</tr>
<tr>
<td>Parsimony</td>
<td>Simplicity to account for observed phenomena</td>
<td>Susie can’t use the restroom independently because she is developmentally delayed</td>
</tr>
</tbody>
</table>
Ethical considerations

Ethics

- "We propose that individuals who are recipients or potential recipients of treatment designed to change their behavior have the right to:
  - A therapeutic environment
  - Services whose overriding goal is personal welfare
  - Treatment by a competent behavior analyst
  - Programs that teach functional skills
  - Behavioral assessment and ongoing evaluation
  - The most effective treatment procedures available"
  - Van Houten et al., 1988, p. 111

A therapeutic environment.

- Safe
  - Outside of the classroom as well!
- Humane
  - Attempts at respectful communication and consent
  - Not talking about student’s problems in front of them
  - Treating older students with disabilities with dignity
- Responsive to individual needs
  - Comfortable
  - Engaging environment/enjoyable
  - Choices when possible
  - Least restrictive for individuals with special needs
Services focused on personal welfare.

- Programs should not be focused around behaviors that are disruptive to smooth functioning of school/institution but are not detrimental to students/residents.
- Students and/or parents must agree to goals.
  - Not required for every aspect of teaching programs, classroom management, or student motivation.
  - Consent is required for those procedures not yet widely accepted/those applied only to individual students.
- Consent:
  - Informed – full understanding, including risks.
  - Voluntary - if neither threats nor rewards are used to acquire such consent.

Treatment by a competent behavior analyst.

- Not possible in a few days to learn enough about ABA to implement effective programs.
- Principles may be easy to understand, but implementation requires thorough analysis of many contingencies.
- Requirements for Board Certified Behavior Analyst (BCBA):
  - At least a Master’s degree.
  - At least 225 hours of graduate-level coursework.
  - At least 1500 hours of Supervised Independent Fieldwork in behavior analysis.
  - Pass Behavior Analyst Certification Exam.
  - Must complete at least 36 hours of Continuing Education Units every 3 years after certified.
Programs that teach functional skills.

- What will enable this person to function effectively in their environment?
- Orientation toward full participation in community life
- Examples:
  - Take care of personal needs
  - Entertain him/herself
  - Simple shopping
  - Help around house/other residence
  - Behave appropriately in public
  - Perform routine tasks
- Those related to paid employment, if possible
- Eliminate maladaptive behaviors and replace them with appropriate behaviors
- An individual’s community dictates which skills will be functional!

*Do not attempt to do this without conducting a functional behavioral assessment!

Programs that teach functional skills.

- Important:
  - Don’t assume that a young child will not be capable of learning academic/pre-academic skills
    - YET...
  - Don’t waste the time of students for whom there is clear evidence that they will not be able to master traditional academics!
Behavioral assessment and ongoing evaluation.

- Goal selection is not arbitrary
- Ongoing data collection
- Ongoing data ANALYSIS
- Know where you’re heading next!

![Cartoon Image]

"Your classroom management techniques work in practice but not in theory. That worries me."

The most effective treatment procedures available.

- Continuous review of professional journals
- Use of aversive interventions
  - Reserved for severely maladaptive behaviors
  - Only use when these behaviors have not been successfully changed using positive means
  - Different districts may define some aversive interventions differently
References


(4) Behavior Analyst Certification Board, www.bacb.com


(7) National Resource Council, www.nap.edu

(8) Association for Behavior Analysis International website, www.abainternational.org

(9) Cambridge Center for Behavioral Studies, www.behavior.org

Tab

Comp-Ed
Re-thinking Compensatory Education

Vicki Weinberg, Ph.D.
Specific Learning Disabilities Specialist
3 New Ideas for Consideration

To What Extent Should We Consider the Following, Which is Already in Use in General Education?
General Education Is Conceptualizing What it Takes to Close the Achievement Gap

- Determining Sufficiency of Time

**Rough Rule of thumb**
- 13%’ile points or 8 RIT points below 50th =1 year growth
- Daily minutes for 1 year growth= 90min/day

What it Mathematically Takes for a Non-disabled Student: Sufficiency of Intervention Time

- 50th %ile = 13%ile or 8 RIT points
- 90 min. + 90 min. + 90 min. = 1 year

This curve is not to scale. Blue lines are not representing standard deviations, rather calculations of instructional time to make 1 year growth.

261 min (catch-up) + 90 for current year = 351 min. /2 years = 175. 5 min per day
Growth Rates are Part of Progress Monitoring

<table>
<thead>
<tr>
<th>Grade</th>
<th>Expected Growth Realistic</th>
<th>Ambitious Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>K</td>
<td>Letter Naming Fluency&lt;br&gt;Initial Sound Fluency&lt;br&gt;Phoneme Segmentation Fluency (PSF)</td>
<td></td>
</tr>
<tr>
<td>Grade 1</td>
<td>PSF 2-3 segments/wk&lt;br&gt;Nonsense Word Fluency (NWF) 2-3 letter sounds/wk&lt;br&gt;Oral Reading Fluency (ORF) 2.0 words/wk</td>
<td>ORF 3.0 words/wk</td>
</tr>
<tr>
<td>Grade 2</td>
<td>ORF 1.5 words/wk</td>
<td>ORF 2.0 words/wk</td>
</tr>
<tr>
<td>Grade 3</td>
<td>ORF 1.0 words/wk</td>
<td>ORF 1.5 words/wk</td>
</tr>
<tr>
<td>Grade 4</td>
<td>Maze Fluency (MAZE)&lt;br&gt;ORF .85 words/wk</td>
<td>ORF 1.1 words/wk</td>
</tr>
<tr>
<td>Grade 5</td>
<td>Maze Fluency&lt;br&gt;ORF .5 words/wk</td>
<td>ORF .8 words/wk</td>
</tr>
<tr>
<td>Grade 6</td>
<td>Maze Fluency&lt;br&gt;ORF .30 words/wk</td>
<td>ORF .65 words/wk</td>
</tr>
</tbody>
</table>

Fuchs, Fuchs, Hamlett, Walz, and Germann (1993).
The Team Should have Evolved a Picture of the Learner and Intensified Instruction

- Problem Solving Prior to Suspicion of Disability
- Present Levels of Academic and Functional Performance

Formal Evaluation Process
Is there Evidence of Systematic Alteration of what was in the Team’s Control?

**Intervention:** Directly address an identified area of weakness a.k.a. remediation + additional minutes

**Accommodations:** Supports that mitigate the symptoms without supplanting expectation of growth

**Expectation of systematic alteration:** instructional, curriculum, and environmental design with fidelity
Did the Team Fail to Systematically Manipulate the Variables in their Control?

See Examples in Handout Page 2

<table>
<thead>
<tr>
<th>Instruction</th>
<th>Curriculum</th>
<th>Environment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Instructional approach or method(s) align with curriculum standards</td>
<td>Content is appropriate given students' cultural and linguistic background</td>
<td>Arrangement of the room facilitates learning</td>
</tr>
<tr>
<td>Missing skills or gaps in knowledge are specifically taught and linked to existing knowledge</td>
<td>Content of materials aligns with standards and is appropriately timed</td>
<td>Expectations explicitly posted, modeled and taught</td>
</tr>
<tr>
<td>Percent of instructional time that is academic engaged time is maximized and transitions are minimized</td>
<td>Meets principles of Universal Design</td>
<td>Management plans in place and executed with skill</td>
</tr>
<tr>
<td>Structure of lessons includes clear expectations, predictable organization, and appropriate pace</td>
<td>Content is relevant and allows flexibility to develop gaps in prior knowledge</td>
<td>Task pressure is developmentally appropriate</td>
</tr>
<tr>
<td>Structure of lesson applies gradual release of responsibility</td>
<td></td>
<td>Social/behavioral skills</td>
</tr>
<tr>
<td>Opportunities for practice are maximized</td>
<td></td>
<td>Adaptive behavior skills</td>
</tr>
<tr>
<td>Feedback is specific and frequent</td>
<td></td>
<td>Motivation</td>
</tr>
</tbody>
</table>
# Alterable Program Components Used to Intensify Instruction

<table>
<thead>
<tr>
<th>Task Components</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td>Time and Response Opportunities</td>
<td>Increase attendance and ensure daily instruction delivered</td>
<td>Increase response opportunities outside group</td>
<td>Additional scoop of instruction</td>
</tr>
<tr>
<td>Program Efficacy</td>
<td>Research-based program and training</td>
<td>Supplement core instruction with enhancements</td>
<td>Specially designed instructional program on top of core</td>
</tr>
<tr>
<td>Fidelity of Implementation</td>
<td>Core program taught with high fidelity</td>
<td>Additional staff development</td>
<td>Highly trained instructor</td>
</tr>
<tr>
<td>Group Size</td>
<td>Placement appropriate to group</td>
<td>2-3 students</td>
<td>1:1 when indicated as absolute need</td>
</tr>
<tr>
<td>Coordination of Program Instruction</td>
<td>Instructional priorities</td>
<td>Aligned instructional language across periods</td>
<td>Examine progress weekly</td>
</tr>
</tbody>
</table>

### Alterable Task Components and Specific Adjustments to Intensify Instruction

<table>
<thead>
<tr>
<th>Task Components</th>
<th>Low</th>
<th>Medium</th>
<th>High</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Range of tasks</strong> (narrow to wide)</td>
<td>Narrow range and targeted examples</td>
<td></td>
<td>Wide range and extensive examples</td>
</tr>
<tr>
<td><strong>Task complexity</strong></td>
<td>Easy/familiar</td>
<td></td>
<td>Difficult with multiple steps</td>
</tr>
<tr>
<td><strong>Task schedule</strong></td>
<td>Responses 1-2 min. per period</td>
<td>1-2 response in 5 minutes</td>
<td>Multiple responses &gt; 15 min</td>
</tr>
<tr>
<td><strong>Task response</strong> (yes/no, choice, production)</td>
<td>Yes/no</td>
<td>Use choice form to teach task request</td>
<td>Production response</td>
</tr>
<tr>
<td><strong>Task modality</strong></td>
<td>Motor response</td>
<td>Oral response</td>
<td>Written response</td>
</tr>
</tbody>
</table>

Balanced Instructional Model

Gradual Release of Responsibility

- **Demonstration**
  - Teacher models
  - Explains
  - Demonstrates
  - Thinks aloud

- **Shared Practice**
  - Teacher explicitly teaches and teacher and student practise together

- **Guided Practice**
  - Students practice the strategy with coaching from the teacher

- **Independent Practice**
  - Students apply practice on their own and receive feedback

- **Independence**
  - Students transfer learning to a new situation
## Intense Instructional Models

<table>
<thead>
<tr>
<th>Most Intense</th>
<th>Less Intense</th>
<th>Least Intense</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Pretest</td>
<td>• I do it</td>
<td>• Cue</td>
</tr>
<tr>
<td>• Describe</td>
<td>• We do it</td>
<td>• Do</td>
</tr>
<tr>
<td>• Model</td>
<td>• All of you do it</td>
<td>• Review</td>
</tr>
<tr>
<td>• Controlled practice</td>
<td>• You do it</td>
<td></td>
</tr>
<tr>
<td>• Advanced practice</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Post-test/reflect</td>
<td>When skills are acquired</td>
<td>When transferring skills</td>
</tr>
<tr>
<td>• Generalize, transfer, apply</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Additional Components of Effective Instruction

- Accurate targeting of needs
- Explicit instruction
- Appropriate challenge (controlled difficulty)
- High ratio of opportunities to respond
- Immediate and specific feedback
- Fidelity of instruction--implemented as designed-dosage, intensity, components, etc.

Burns, VanDerHeyden, & Boice (2008)
Research-Based Instructional Practices

- Self-monitoring
- Reinforcement
- Self-questioning
- Strategy instruction
- Frequent and targeted feedback
- Strategy cues
- Drill-repetition-practice
- Direct instruction

- Repeated reading
- Error correction
- Formative evaluation
- Peer mediation
- Peer tutoring
- Direct questioning and response

Kavale (2005), Swanson (1999), Swanson & Sachse-Lee (2000)
Curriculum

1. Is Universally designed
2. Aligns with grade-level standards
3. Uses similar in instructional language
4. Is balanced and provides additional components to address areas of growth
5. Provides additional practice over time
Environment

1. Articulates and teaches expectations
2. Engages the learner 90-95% of the time
3. Provides positive models
4. Supports differing group size based on needs and data
Compensatory Education Should Leverage what is in the Team’s Control

**Interventions:** Uses research-based instruction + additional minutes in area that is preventing student from performing a full grade higher

**Accommodations:** Support student or mitigate the symptoms without supplanting instruction

**Systematically alters:** Instructional, curricular, and environmental supports are implemented with fidelity

**Interventions:** Uses research-based instruction + additional minutes in area that is preventing student from performing a full grade higher
Tab

Transition
Indicator 13 and Transition Services

Center for Change in Transition Services
Seattle University
Cinda Johnson
www.seattleu.edu/ccts
cinda@seattleu.edu

TRANSACTION SERVICES FLOW CHART

Age-Appropriate Transition Assessments
- Needs
- Strengths
- Preferences
- Interests

Write Measurable Postsecondary Goals
- Education/Training
- Employment
- Independent Living, as appropriate

Identify Transition Services
- Instruction
- Related Services
- Community Experience
- Employment, Adult Living & Daily Living

Write the Course of Study

Write the Annual IEP Goals

Coordinate Services with Adult Agencies

Age-Appropriate Transition Assessment
WAC 392-172A-03090(1)(j)(i)

- NSTTAC’s definition of **transition assessment**:
  - the ongoing process of collecting data on the individual's needs, preferences, and interests as they relate to the demands of current and future working, educational, living, and personal and social environments. Assessment data serve as the common thread in the transition process and form the basis for defining goals and services to be included in the IEP.
AGE-APPROPRIATE TRANSITION ASSESSMENT SUMMARY

Maria, age 16 (SLD)

- **NEEDS:** Maria needs to develop self-advocacy skills, increase her knowledge of her disability and ask for appropriate accommodations. She needs to increase her stamina to enable her to complete independent tasks and accept constructive criticism without ruminating. Maria needs instruction in the area of reading and written language. She has difficulty reading complex text instructions and needs to ask for elucidations and/or help to make adjustments to her work situation to complete complex tasks. Maria needs to learn how to conduct job searches independently (interviews, teacher, family report).

- **STRENGTHS:** Maria maintains good rapport and relationships with peers and adults. She takes orders without prompting. She is eager to learn new tasks and is able to accept constructive criticism without ruminating. She has good verbal communication skills and positive work ethic, she is hardworking. Maria is advanced and has above average computation skills. She understands written instructions with visual aids (teacher). Maria has positive worker characteristics and traits, good personal hygiene, excellent on-task behavior and is able to adapt to changes in routine and schedules. She has perfect job attendance (employee).

- **PREFERENCES:** Maria prefers working with people, helping others and working indoors. She works best in small groups or with one other person. She does not prefer to work alone or in isolation (teaching style, temperament survey).

- **INTERESTS:** Maria is interested in working with people and helping others, especially elderly people (WBI). She likes organizing activities and volunteering. Maria is interested in a career in the health occupations (Career Planning) or as a medical assistant (WBI).

WHAT TO CONSIDER for TRANSITION ASSESSMENT for STUDENTS with SIGNIFICANT DISABILITIES

1. Can the young adult express his/her interests? If not, obtain as much information from parents and caregivers as possible to develop the transition plan.
2. What are the special health care needs that must be addressed?
3. Describe needs or challenges that will prevent the young adult from working outside of the home.
4. Who can provide the education/training activities to assist the young adult?
5. What can the young adult accomplish without assistance?
6. What else could the young adult accomplish if assistance were provided by a job coach, habilitation training specialist or other caregiver?

ASSESSING STUDENTS with SIGNIFICANT DISABILITIES

- Academic
- Vocational Skills/Interests
- Behavior
- Sensory Needs
- Speech/Communication
- Self Determination
- Adaptive Skills
- Physical/Mobility
- Assistive Technology
- Leisure & Social Skills
- Medical Needs
- Special Skills/Interests
Transition Assessment Sources

- Sources of assessment information include, but are not limited to, the following:
  - Formal interest/aptitude tests and/or surveys,
  - Quarterly or semester grades throughout high school,
  - Current psychological assessment data indicating areas of strength and weakness,
  - College entrance exam scores (if applying to 4-year colleges),

Transition Assessment Sources (cont.)

- Informal interviews with students,
- Student completion of interest inventories,
- Questionnaires to establish student interests and preferences,
- Functional vocational evaluations,
- Interviews with the family, and
- Student observations.
**Transition - Postsecondary Goals**

- IEPs for students turning 16 and above must include appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to:
  - training or education, and
  - employment, and
  - if appropriate, independent living skills.

**Postsecondary Goals**

- Should reflect high but realistic expectations.
- Should reflect a “forward movement” instead of a “dead-end” approach.
- Can be “combined” considering the student’s stamina, endurance and ability level.
- Can incorporate external supports.
- May initially be less specific, increasing in detail as the student approaches graduation.
- May change from year to year, sometimes slightly, sometimes drastically.

**Writing Postsecondary Goals**

**Criteria:**
1. Must be written in measurable/observable terms.
2. Must be written to reflect a goal after high school.

**Formula:**

\[
\text{After high school} \quad \text{(behavior)} \quad \text{will} \quad \text{at} \quad \text{graduation} \\
\text{Upon completion of high school}
\]
Independent Living Skills Definition

- **Independent living skills** are those skills or tasks that contribute to the successful independent functioning of an individual in adulthood (Cronin, 1996) in the following domains: leisure/recreation, home maintenance and personal care, and community participation.

MEASURABLE POSTSECONDARY GOALS – Maria, age 15/16 (SLD)

- **Postsecondary education/training:**
  - After graduation, Maria will attend a community college training course in the health related occupations.

- **Employment:**
  - After college, Maria will have a career in the health/medical field

- **Independent Living:**
  - Not needed at this time.

MEASURABLE POSTSECONDARY GOALS – Maria, age 16/17 (SLD)

- **Postsecondary education/training:**
  - After graduation, Maria will attend the medical assistant course at Walrus Community College.

- **Employment:**
  - After college, Maria will work as a certified medical assistant.

- **Independent Living:**
  - Needed at this time.
MEASURABLE POSTSECONDARY GOALS – Maria, age 17/18 (SLD)

- **Postsecondary education/training:**
  - After graduation, Maria will complete the CNA certification course at Walrus Community College.

- **Employment:**
  - After college, Maria will work as a certified nursing assistant.

- **Independent Living:**
  - After high school, Maria will manage her personal finances independently.

Sample Postsecondary Goals – Kevin, age 18 (Multiple)

**Education/training:** After graduation, Kevin will participate in habilitative and functional skill training through Horizon Services and will attend courses designed to provide specialized academic, functional, and occupational preparation 2 times per week at the Resource Center or community college.

**Employment:** After graduation, Kevin will obtain a supported employment position that allows him to work to his maximum stamina and incorporates the use of assistive technology.

**Independent Living:** After graduation Kevin will effectively utilize an augmentative communication device at home and in the community that allows familiar and non-familiar individuals to communicate with him regarding needs, wants, and desires.

Postsecondary Goals – Education/training

- After graduation, Bob will attend a 2-year culinary arts program.
- Upon completion of high school, Sue will enroll in courses at a local community college.
- Sue will obtain a degree from a 4-year college with a major in Child Development.
- Ben will complete welding courses at a local community college to attain an Entry Level Welding Certificate.
- Upon graduation, Sue will continue to learn about life skills and reading.
- Bob will learn about welding.
- After leaving high school, Sue wants to take some classes.
- After high school, Bob will need to continue to work on his self-care skills.
**Postsecondary Goals – Employment**

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Non-Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>• After college, Sue will have a career in the field of early childhood education.</td>
<td>• Bob will attend a job fair on the college campus.</td>
</tr>
<tr>
<td>• In the future, Ben will be a self-employed welder.</td>
<td>• Sue hopes to work with young children someday. Ben wants to work as a welder.</td>
</tr>
<tr>
<td>• After graduation, Jorge will obtain a supported employment position that allows him to work to his maximum stamina and incorporates the use of assistive technology.</td>
<td>• Sue will work with DVR services to ensure community employment.</td>
</tr>
<tr>
<td>• After finishing high school, Bill will increase his work hours in the business department of a local office supply store.</td>
<td>• Sue will get a job.</td>
</tr>
</tbody>
</table>

**Postsecondary Goals – Independent Living**

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Non-Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>After graduation Sue will live at home and participate to the maximum extent possible in her daily routines (e.g. feeding, dressing, bathing, activating small appliances/media devices, choice making) and environment through the use of technology. After graduation, Bob will effectively utilize an augmentative communication device at home and in the community that allows familiar and non-familiar individuals to communicate with him regarding needs, wants, and desires.</td>
<td>Sue will learn to use the bus system. Bob enjoys watching DVD’s, looking at books, listening to his IPod, watching his younger sister play video games, sitting with family for meals, making music on electronic keyboard. Sue should continue to use her facial expressions as a reliable mode to communicate her preferences as well as practice increasing her communication skills via eye gaze at concrete objects.</td>
</tr>
</tbody>
</table>

**Postsecondary Goals – Combined Examples**

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Non-Compliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>After graduating from high school, Bob will enroll in a four-year college to obtain his undergraduate degree in history and education, to become a high school social studies teacher. (Combined ed. &amp; employment) • The summer after leaving high school, Sue will independently access transportation each work day to her job in food services, where she will participate in annual classes, as offered by her employer, to advance industrial kitchen skills. (Combined – all three areas)</td>
<td>Bob will meet the criteria for passing Spanish II, so that he can apply to college where he wants to major in education. Sue wants to get a job in food services and will develop skills to access the county's public transportation system.</td>
</tr>
</tbody>
</table>
Transition Services

- Transition services should be based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and
- Include instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and if appropriate, the acquisition of daily living skills and provision of a functional vocational evaluation.

Transition Services – Examples

- Instruction related to word processing / keyboarding skills
- Tutoring (peer or teacher) in reading comprehension strategies
- Self-monitoring instruction related to on-task behavior
- Social skills training
- Self-advocacy training
- Instruction related to on the job safety
Transition Services – Examples

- Instruction in accessing public transportation
- Occupational therapy to improve hand function
- Speech therapy to improve expressive language
- Community visits to local businesses in student’s area of interest
- Job shadow experiences related to the student’s postsecondary goal(s)
- Field trips to the local grocery store
- Visits to the local community college campus

Transition Services – Examples

- Conducting interviews with professionals in the student’s area of interest
- Vocational rehabilitation referral
- Applying for college and disability support services
- Completing job applications/mock interviews
- Instruction in maintaining a bank account
- Development of cooking skills
- Completing a career preference inventory

Transition Services – Non-Examples

- Shortened assignments
- Extra time to complete tests
- Modified grading
- Preferential seating
- Oral tests
- Use of calculator or other manipulatives
- Assistive technology devices
- Large print materials
Transition - Course(s) of Study

“A multi-year description of coursework to achieve the student’s desired post-school goals, from the student’s current to anticipated exit year.”

COURSE OF STUDY
Maria, age 16

Postsecondary goals:
Education/Training: After graduation, Maria will successfully complete medical assistant courses at Walrus Community College.
Employment: After college, Maria will be employed as a medical assistant.
Independent Living: Not applicable at this time.

Maria is in the 10th grade. She has a learning disability in reading and language. Maria will graduate with credits and requirements, appropriate assessment and project to earn a high school diploma.

Maria will take all the courses required to earn a high school diploma, take science courses that relate to her postsecondary goal, general science. She will apply and enroll in the Health Occupations course school in grade 11; the beginning course (2 hr) and continue in grade advanced Health Occupations course (3 hr) which includes a 2 hr after internship at Walrus Community Hospital.

Maria will apply to Walrus Community College during her senior year in school. She will apply to the 2+2 nursing program for medical assistant.
Course(s) of Study – Compliant Examples

- "Sue will continue to receive specially designed instruction with an alternate curriculum, including instruction focused on self-care and communication skills, and will participate in work experience and vocational elective courses for the last two years of school."

- "During his upcoming senior year, Bob will receive specially designed instruction with an alternate curriculum, including instruction focused career development, functional academics, and community referenced skills that are linked to the state standards for Language Arts, Math, and Science."

Course(s) of Study – Non-Compliant Examples

- The IEP lists the student's courses for the current year: English II, Algebra I, Physical Science, Government, and Theatre Arts II.
- The box is checked on the IEP indicating that the student is completing the coursework for a standard diploma.
- "The student took wood shop, auto body repair, and metal working last year."
- "Bob attends the self-contained classroom for students with developmental disabilities who are older than 18."

TRANSLITION SERVICES FLOW CHART

- Age-Appropriate Transition Assessments
  - Needs
  - Strengths
  - Preferences
  - Interests
- Write Measurable Postsecondary Goals
  - Education/Training
  - Employment
  - Independent Living, in appropriate
- Identify Transition Services
  - Instruction
  - Related Services
  - Community Experience
  - Employment, Adult Living
- Write the Course of Study
- Write the Annual IEP Goals
- Coordinate Services with Adult Agencies
Transition - Annual IEP Goals

• IEPs for students turning age 16 and above must contain annual IEP goal(s) that are related to the transition services needs and will reasonably enable the student to meet his/her postsecondary goals.

Transition - Annual IEP Goals Examples

- Academic goals, such as improving reading comprehension skills.
- Written language goals that include writing resumes and letters of application.
- Behavior goals addressing on the job behavior.
- Adaptive/life skills goals in the area of accessing community services (such as public transportation).

Compliant Annual IEP Goals Transition

• Sue will identify jobs of interest from indicating no jobs of interest by listing at least 3 potential jobs of interest as measured by career portfolio.

• Bob will increase his Work Experience Evaluation Rating from a 27/50 (graded on (date)) to a 40/50 or higher by (date).

• When given potential careers of interest, Bob will improve his vocational skills from being able to list 0 job-related requirements to listing at least 3 requirements as measured by teacher data collection sheets.

• When given contact information for Disability Student Services at the local community college, Bob will find out about accommodations and services, improving knowledge of the available accommodations/services.

• Sue will perform a specified job-related task, improving from being able to accomplish the task in up to 20 minutes with 2 or less verbal prompts as measured by data sheets.
Non-Compliant Annual IEP Goals – Transition

- Bob will pass classes and earn credit toward graduation.
- Bob will improve his job-related transitional skills in order to apply for admission into Tri Tech Skills Center.
- Bob will increase his knowledge of postsecondary education, employment, and community living as measured by documentation of successful activities by (date).
- Sue will increase her knowledge of postsecondary placement opportunities as well as research-based careers based on a completed functional vocational assessment.
- Sue will research possible career interests as measured by completion of an interest inventory by (date).

Transition - Student Participation

- There must be evidence that students were invited to participate in IEP meetings when postsecondary goals and/or transition services are discussed.
- If the student does not attend the IEP meeting, the district must take steps to ensure that the student’s preferences and interests are considered.
Transition – Agency Participation

- If any of the transition services identified on the IEP are likely to be provided or paid for by an agency other than the school district, representatives of that agency must be invited to participate in the IEP meeting.
- Written consent from the parent or adult student must be obtained prior to inviting agency representatives to the IEP meeting.

Secondary Transition Resources

- Center for Change in Transition Services:
  
  www.seattleu.edu/ccts/

- National Secondary Transition Technical Assistance Center (NSTTAC):
  
  www.nsstac.org

Contact Information

Cinda Johnson, Ed.D.
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cinda@seattleu.edu
Seattle University
Seattle, WA
Tab

FBA
TODAY'S AGENDA

- Some basic definitions
- Components of FBAs:
  - WHAT is a FBA?
  - WHY should you conduct a FBA?
  - WHEN should you conduct a FBA?
  - WHERE should it take place?
  - WHO should be involved?
  - HOW is a FBA completed?
- Embedded activities in some sections

FIRST, A REVIEW...

- Functions of problem behavior
  - To GET/OBTAIN something:
    - Sensory stimulation
    - Access to tangible
    - Attention
    - Control
    - Over environment
    - Over others' behavior
  - To GET AWAY from/AVOID something:
    - Escape from/avoid demand
    - Escape from/avoid activity
    - Escape from/avoid person
- Positive/negative reinforcement
SOME PRELIMINARY DEFINITIONS

- Functional Behavior Assessment
- Behavior Support Plan
- Behavior Analysis
- Applied Behavior Analysis
- BCBA (Board Certified Behavior Analyst)

WHAT IS A FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)?

- “A system of direct and indirect means of information gathering that leads to a hypothesis of function, and consequently a behavior support plan”

- Also known as:
  - Functional Assessment
  - Functional Behavioral Assessment

  Alberto & Troutman, 2003

WHAT IS A BEHAVIOR SUPPORT PLAN (BSP)?

- A Behavior Support Plan should contain the following components:
  - Operational definition of problem behavior
  - Results from Functional Behavior Assessment
  - Intervention strategies to be used
  - Behavioral objectives (IEP)

- Also known as:
  - Behavior Intervention Plans (BIPs)
  - Positive Behavior Support Plans (PBSPs)
WHAT IS BEHAVIOR ANALYSIS?

- "A natural science approach to the study of behavior, and the application and analysis of science-based interventions to problems of individual, social, and cultural importance"

  - Edward K. Morris of the Department of Human Development at the University of Kansas, Lawrence, Kansas

WHAT IS APPLIED BEHAVIOR ANALYSIS?

- "Systematic application of behavioral principles to change socially significant behavior to a meaningful degree. Research tools enable users of these principles to verify a functional relationship between a behavior and an intervention."

  - Alberto & Troutman, 2003

WHAT IS A BOARD CERTIFIED BEHAVIOR ANALYST?

- Requirements:
  - At least a Master’s degree
  - At least 225 hours of graduate-level coursework
  - At least 1500 hours of Supervised Independent Fieldwork in behavior analysis
  - Pass Behavior Analyst Certification Exam
  - Must complete at least 36 hours of Continuing Education Units every 3 years after certified

  - Behavior Analyst Certification Board, www.bacb.com
IMPORTANCE OF HAVING A BCBA CONDUCT A FBA

- Extensive training in behavior analysis and conducting FBAs
- A BCBA will be able to:
  - Conduct systematic and descriptive behavioral assessments
  - Provide behavior analytic interpretations of results
  - Design and supervise behavior analytic interventions
  - Effectively develop and implement appropriate assessment and intervention methods for use in unfamiliar situations and for a range of cases
  - Teach others to carry out ethical and effective behavior analytic interventions based on published research
  - Design and deliver instruction in behavior analysis

ALL BEHAVIOR SERVES A PURPOSE...

- Behavior usually occurs for one of these reasons:
  - To obtain something
  - To escape from or avoid something
  - To provide self-stimulation/“because it feels good”

EXAMPLES...

- Johnny hits his aide every time he is asked to begin working on his reading assignments.
- Maria sings during class in a disruptive way, but there are no specific times where the singing occurs at higher frequencies than other times.
- Every time Ali asks to see a video and her request is denied, she screams.
- When Gage gets to the “word problem” section of his math worksheets, he begins tapping his pencil on his desk and looking around the classroom.
WHAT IS A FBA?

WHAT?

- Common Misconceptions
  - FBAs (Functional Behavior Assessments) and FAs (Functional Analyses) are the same...
  - A FBA is just a form
  - A FBA only determines the function of the problem behavior...

DIFFERENCE BETWEEN FBA AND FA

<table>
<thead>
<tr>
<th>Functional Behavior Assessment (FBA)</th>
<th>Functional Analysis (FA)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provides direct and indirect means of information gathering that leads to a hypothesis of function, and consequently a behavior support plan</td>
<td>Provides for the manipulation of environmental variables that leads to a hypothesis of function, and consequently a behavior support plan</td>
</tr>
</tbody>
</table>
A FBA IS A PROCESS...
- ...not just a form
- ...and involves several steps

BASIC PARTS OF A FBA
- Records collection/observation/data collection for problem behavior
- Identify function of problem behavior
- Develop Behavior Support Plan (BSP) for problem behavior
- Implement and evaluate Behavior Support Plan

A FRIGHTENING THOUGHT...
- Scotti, et al. (1991)
  - Meta-analysis was completed to evaluate standards of practice and validity of treatment outcomes in studies designed to remediate behavior problems
  - Found that many of the generally accepted treatment principles of behavior intervention are often neglected in practice
    - Only 22% of studies used any form of Functional Behavior Assessment/Analysis to determine most effective intervention
WHY CONDUCT A FBA?

WHY?
• Common Misconceptions
  • Misbehavior only occurs due to skill deficits
  • The child should “want to be good”
  • It’s just the student’s fault and teachers have nothing to do with it
  • It’s just his autism “acting up”

WHY?
• Misbehavior occurs due to skill deficits and/or motivational deficits
  • Think “can’t do” vs. “won’t do”
• The child’s misbehavior is “paying off” somehow, otherwise he/she would not be engaging in that misbehavior
  • Why would they necessarily “want” to change that behavior?
WHY?
- All behavior occurs for a reason...
- Failing to determine the true function of the behavior may result in ineffective or overly restrictive interventions that may maintain or even exacerbate the problem behavior

WHEN TO CONDUCT A FBA

WHEN?
- Common Misconceptions
  - A FBA/BSP only needs to be conducted when the child is heading toward suspension or is otherwise in "crisis mode"...
WHEN?
- BSPs (therefore, FBAs) needed when:
  - Student’s behavior is such that it may result in a suspension up to 10 days or a change of educational placement
  - When a pattern of behavior impedes the learning of the student or of another student

--IDEA, 2004

WHEN?
- However...
  - “Functional behavioral assessment is not intended solely as a reaction to behavior problems that have reached a crisis point. Functional behavior assessment is most effective when problem behaviors are first exhibited.”

--Scott & Nelson, 1999

Steps involved in FBA Process

Teacher identifies problem behavior

Screening

Initial interventions attempted

Conduct functional behavior assessment

Problem behavior terminates

Problem behavior does not terminate

Conduct functional analysis

Develop and implement behavior support plan

Problem behavior does not terminate

Problem behavior terminates
WHERE SHOULD IT TAKE PLACE?

WHERE?

- Common Misconceptions
  - You only need to observe the misbehavior in the setting where it takes place...

WHERE?

- Problem Behavior should be observed across multiple settings
  - Where the problem occurs at the highest frequency
  - Settings similar to the setting where it occurs most often
  - Other similar settings where problem behavior does not occur, to compare/contrast environmental supports
WHO SHOULD BE INVOLVED?

WHO?
- Common Misconceptions
  - FBAs are only for the “severely impacted kids”
  - Just the teacher needs to provide input

- Children involved
  - Any child whose behavior impedes learning of themselves or others
  - Range of all disabilities, mildly to severely impacted
- Adults involved (IEP Team)
  - Parents
  - Teachers
  - Behavior Analyst
  - Any other support staff
  - School Counselor
  - School Psychologist
WHO?
- Why it’s difficult for teachers to run FBAs alone...
  - Only one source of input
  - Source of input is heavily involved in day-to-day interactions with student
  - Balancing FBA with other demands of classroom

HOW IS IT DONE?

HOW?
- Common Misconceptions
  - Just need to punish the misbehavior...
  - Aversive techniques are never okay...
  - "I am not reinforcing this problem behavior!"
  - The BSP must not be working...the misbehavior is escalating...
  - The problem will go away if we just suspend the student (i.e., use methods developed for typically-developing students)
  - All we have to do is ignore the behavior and it will go away
HOW?

- Information gathering/Determining the function of problem behavior
  - Direct means
  - Indirect means
- The more sources, the more reliable the information is likely to be
HOW?

- Hypothesis of function of problem behavior is determined
  - Should include variables occasioning and maintaining problem behavior
  - If these variables are unclear, a Functional Analysis should be conducted
HOW?

- Summary statements are developed, including:
  - The situations in which the behavior occurs (context/setting event)
  - What happens right before the behavior occurs (antecedent/trigger)
  - Description of problem behavior
  - The reinforcers/consequences that maintain that behavior

SUMMARY STATEMENTS

<table>
<thead>
<tr>
<th>Setting Event</th>
<th>Antecedent/Trigger</th>
<th>Problem Behavior</th>
<th>Maintaining Consequences</th>
</tr>
</thead>
<tbody>
<tr>
<td>When Lauren doesn’t receive her after-lunch medication dosage.</td>
<td>and her teacher asks her to complete her afternoon independent work packet,</td>
<td>Lauren will repeatedly play with school supplies in her desk (avoiding her work.)</td>
<td>Her teacher will then repeatedly give her directions to “get back to work”.</td>
</tr>
</tbody>
</table>

WHAT IS THE PROBABLE FUNCTION?

- At recess, when Heidi’s peers are engaged in group games without her, Heidi will try to hug her peers and grab their hands/arms.
- Her peers will then shout, “Stop it Heidi!!”
WHAT IS THE PROBABLE FUNCTION?

In Juan’s 2nd grade general education classroom, when his teacher asks him to work with peers on a project, Juan will verbally taunt his peers using obscene words. His teacher will send him back to his resource room to complete the assignment with his resource room teacher.

WHAT IS THE PROBABLE FUNCTION?

In Arianne’s 4th grade math class, when her teacher asks the class to complete their daily math exercise, she shouts, “I can’t do this!” and often whimpers. Her teacher then comes over and provides 1:1 assistance for the math exercise.

HOW?

- Competing Behavior Pathway is developed, including:
  - Summary Statement
    - What is currently happening?
  - Acceptable Alternative Behavior
    - What is an acceptable alternative/replacement behavior?
  - Desired Behavior
    - What is the desired behavior?
  - Desired Outcome
    - What would be the likely outcome of the desired behavior?

- O’Neill, et al., 1997
HOW?

- Behavior Support Plan is developed, including these important components:
  - Antecedent Strategies
    - Preventative Strategies*
    - Instructional Strategies (for teaching replacement behavior)
  - Consequence Strategies
    - Problem Behavior
    - Positive Behavior

*Primary focus should be here!

HOW?

- A note on teaching alternative replacement behavior...
  - Response should already be in behavioral repertoire
  - Response should be easily accessible
HOW?
- Behavior Support Plan is implemented
  - Data collection throughout
  - Consistent monitoring of progress
  - Revisions as necessary
  - Generalization of results to other environments
  - Fading of interventions as necessary
  - If the BSP is not effective, consider conducting a Functional Analysis

HOW?
- Important measures to track
  - Problem behavior
    - Frequency of occurrence
    - Duration of occurrence*
    - Intensity of behavior when it occurs*
  - Replacement behavior
    - Frequency of occurrence
  - Components of Behavior Support Plan implemented
    - Number of steps implemented daily (checklist)

*You will often see duration and intensity of the problem behavior decrease before its frequency.

HOW?
- Punishing misbehavior is never enough…
  - Punishment only suppresses the behavior in the short-term
  - Does not teach an appropriate, alternative behavior in alignment with the function of the problem behavior
  - Always include a plan to reinforce appropriate, alternative behavior!
HOW?

- Every behavior is maintained due to reinforcement...whether positive or negative

David talks loudly during seatwork → Teacher says, "Shhhhh!!!" → David continues to talk loudly during seatwork

Dad yells at Jamie to clean room → Jamie cleans room → Dad yells at Jamie next time her room needs cleaning

Mom picks up baby when he cries → Baby stops crying → Mom picks up baby next time he cries

HOW?

- A note on aversive procedures...
  - Aversive intervention:
    - "systematic use of stimuli or other treatment which a student is known to find unpleasant for the purpose of discouraging undesirable behavior on the part of the student"
  - Aversive interventions should always be the last option
  - IEP team must approve these interventions

HOW?

- A note on aversive procedures...
  - If used, the following documentation should be present:
    - Data validating aversive procedure
    - Data documenting need for use of aversive procedure
    - Data documenting training of staff in delivery of aversive procedure
HOW?

- A note on “extinction” and “extinction bursts”...
  - Extinction: “withholding the reinforcement for a previously reinforced behavior to reduce the occurrence of the behavior”
  - Extinction burst: “an increase in the rate, duration, and/or intensity of the behavior before significant reduction occurs”
    - Problem behavior will likely get worse before it gets better
    - Problem behavior will probably become more intense and more variable, and will probably occur at a higher frequency until the new appropriate behavior is learned and reinforced

HOW?

- Everyday examples of extinction...what do you do?
  - You put money in a soda machine and press the button, but the machine will not dispense your drink
  - Your car will not start
  - You press the button in an elevator to take you to the 7th floor, but the elevator does not move

HOW?

- Phenomenon of “extinction-induced resurgence”
  - Recurrence of previously-reinforced (problem) behavior when another behavior is placed on extinction
  - Problem behavior may reemerge if reinforcement is not provided consistently for alternative responses during treatment
HOW?
- Phenomenon of "extinction-induced resurgence"
  - For example:
    - Screaming to obtain candy → Reinforced
    - Screaming to obtain candy → Extinguished
    - Requesting candy using picture → Reinforced
    - Requesting candy using picture → Extinguished
    - Screaming to obtain candy → Reinforced

"BEYOND THE BASICS" CHECKLIST
- Information gathering/data collection process:
  - Multiple sources of information
  - Interviews should contain multiple respondents
  - Direct observation measures should be included in addition to interviews

"BEYOND THE BASICS" CHECKLIST
- Determining function of problem behavior:
  - Behavior in question should be clearly defined
  - Behavior should be measured with appropriate dimension
  - Functional Analysis procedure should be conducted if variables maintaining problem behavior are not clear
“BEYOND THE BASICS’ CHECKLIST

- Development of Behavior Support Plan:
  - More weight should be placed on preventative strategies than on consequence strategies
  - BSP should always contain a plan for teaching an appropriate, alternative behavior to the problem behavior
  - Functional reinforcers must be identified to use when teaching these appropriate alternative behaviors
  - Aversive procedures should be used only as a last resort

THANK YOU!

- Any further questions, please contact me at halmon@wcblueprints.com

REFERENCES

- Behavior Analyst Certification Board, www.bacb.com
Tab

IEE
A district has an affirmative duty to identify, locate, and evaluate all children with disabilities who are in need of special education and related services, regardless of the severity of the child's disability.

34 C.F.R. § 300.111(a)(1)(i)
INITIAL EVALUATIONS

A full individual evaluation of a child must be conducted within 60 calendar days of receiving written parental consent for the evaluation. The evaluation must:

- use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child;
- include information provided by the parents.

A single measure or assessment may not be used as the sole criterion for determining eligibility or placement.

34 C.F.R. § 300.304

EVALUATION REQUIREMENTS

The child must be assessed in all areas of suspected disability. The assessments used must be:

- Non-discriminatory, both racially and culturally;
- Technically sound and used for the purposes for which the assessments or measures are valid and reliable;
- Administered by trained and knowledgeable personnel in accordance with assessment instructions;
- Provided in the child’s native language or other mode of communication; and,
- Selected and administered to best ensure that, when given to a child with impaired sensory, manual, or speaking skills the assessment results accurately reflect the child’s aptitude or achievement level rather than the child’s impaired sensory, manual, or speaking skill.

34 C.F.R. § 300.304
A district must review existing evaluation data as part of its evaluation, including:
- Evaluations and information provided by the parents;
- Current classroom based, local, or State assessments;
- Observations by teachers and related service providers.

34 C.F.R. § 300.305(a)

A state must adopt criteria for determining whether a child has a specific learning disability (SLD).
- State criteria:
  - must not require the use of a severe discrepancy between IQ/achievement for determining whether a child has a SLD
  - must permit the use of RtI
  - may permit the use of other alternative research-based procedures for determining SLD.

34 C.F.R. § 300.307

“The procedures required by this section shall include the following:
An opportunity for the parents of a child with a disability to … obtain an independent educational evaluation of the child.”

20 U.S.C. § 1415(b)(1) (emphasis added)
When a parent requests an IEE, the district must:
- provide the parent with information about where an IEE may be obtained
- provide the district’s criteria that applies to IEEs.

The criteria under which the IEE at public expense is obtained must be the same as the criteria the district uses when it initiates an evaluation, including the location of the evaluation and the evaluator’s qualifications.

A district may not impose conditions or timelines related to obtaining an IEE at public expense, other than those above. 

34CFR § 300.502(a)(2)

If a parent requests an IEE, the district may ask for the parent’s reason why he or she objects to the district’s evaluation.

The district may not require the parent to provide an explanation.

34CFR § 300.501(b)(4)

A parent of a child with a disability has the right to an independent educational evaluation (IEE) at public expense if all the following conditions are met:
- The parent disagrees with an evaluation obtained by the district; and,
- if the parent requests an IEE at public expense, the district must – without unnecessary delay – either:
• File a due process complaint to request a hearing to show that its evaluation is appropriate; or
• Ensure that an IEE is provided at public expense, unless the district demonstrates in a hearing the evaluation obtained by the parent did not meet the district’s criteria.

If the final decision is that the district’s evaluation is appropriate, the parent still has a right to an IEE, but not at public expense.

34 C.F.R. § 300.502(a)–(c)

HOW MANY IEEs?

A parent is entitled to only one independent educational evaluation at public expense each time the district conducts an evaluation with which the parent disagrees.

34 C.F.R. § 300.502(b)(5)

IEE RESULTS

If a parent obtains an IEE at public expense or shares an evaluation obtained at private expense with the district, the evaluation results
• must be considered by the district in any decision made with respect to the provision of FAPE to the child, if the evaluation meets the district’s criteria, AND
• may be presented by any party as evidence at a due process hearing regarding that child.

34 C.F.R. § 300.502
If a hearing officer orders an IEE as part of a hearing on a due process complaint, the cost of the IEE must be at public expense.

34C.F.R. §300.502(d)

Discussion
- Potential problems in IHO-ordered IEE
- Proposed model of IHO-ordered IEE
LIST OF AUTHORITIES REFERRED TO IN PRESENTATION

SLIDE TWO: CHILD FIND


SLIDES FIVE AND SIX: EVALUATION REQUIREMENTS


OSEP Letters:

Letter to Anonymous, 22 IDELR 637 (OSEP 1994): parent may ask district about qualifications of diagnostician to ensure appropriate knowledge on child’s disability

Letter to Scheinz, 34 IDELR 34 (OSEP 2000): evaluation includes FBA if behavior impedes child’s learning or that of others

SLIDE TEN: District’s Obligation to Inform


OSEP Letters:

Letter to Anonymous, 56 IDELR 175 (OSEP 2010): district can require IEE evaluators to hold or be eligible to hold particular licenses when district requires same licenses for its personnel who conduct same types of evaluations, but cannot require licenses if only individuals employed by public agency may obtain license; parent may obtain IEE and seek reimbursement afterwards

Letter to Parker, 41 IDELR 155 (OSEP 2004): district can publish list of evaluators that meet its criteria as long as parents are given opportunity to select evaluator not on list but who meets criteria

Letter to Petska, 35 IDELR 191 (OSEP 2001): if necessary for child to be evaluated out of district, district may be required to pay for travel, related costs parents incur; criteria prohibiting IEE examiner who has association with private school, parent advocacy organizations, organizations advocating for particular instructional approaches, history of consistently acting as expert W against public schools are all unrelated to ability to
conduct IEE; also, district cannot in its sole judgment determine it will pay only its maximum allowable cost, it must file for due process hearing if it objects to cost

Letter to Anonymous, 22 IDELR 637 (OSEP 1995): district may set out minimum qualifications for IEE evaluators and these may include criteria established by producer of evaluation instruments; may establish maximum allowable charges for specific tests but these cannot be average of fees customarily charged

Letter to Heldman, 20 IDELR 621 (OSEP 1993): district must allow parent to demonstrate unique circumstances, including funding for expenses incurred for travel, meals, lodging and parents’ financial resources are not determinative in this analysis

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- Parents


T.G. by Mr. & Mrs. T.G. v. Midland School District 7, 112 LRP 5634 (C.D. Ill. 2012)


Lauren W. v. DeFlaminis, 480 F.3d 259, 275 (3rd Cir. 2007)


Meredith Kirkpatrick and Susan Kirkpatrick v. Lenoir County Board of Education, 30 IDELR 512 (E.D. N.C. 1999)
Warren G. v. Cumberland Community School District 78, 190 F.3d 80 (3rd Cir. 1999)

Board of Education of Murphysboro Community Unit School District v. Illinois State Board of Education, 41 F.3d 1162 (7th Cir. 1994)

PTP v. Board of Education of County of Jefferson, 488 S.E. 2d 61 (W.Va. 1997);


P.P. v. W. Chester Area School District, 585 F.3d 727 (3rd Cir. 2009)


OSEP Letters

Letter to Anonymous, 55 IDELR 106 (OSEP 2010): no federal regulation that parent must notify district in writing or in IEP meeting of IEE request; inconsistent with federal regulations to require parent to provide written statement of disagreement or notice of request in IEP meeting; if written consent required for IEE evaluator to provide IEE results to district and parent refuses consent, it is not inconsistent with IDEA for district to deny reimbursement since it would not be able to review/use evaluation

Letter to Zirkel, 52 IDELR 77 (OSEP 2008): where RtI is used prior to formal evaluation, district does not have to reimburse IEE if parent disagrees with RtI process – here, district has not completed evaluation; district may deny reimbursement request without filing for hearing if party has requested reimbursement prior to district completing evaluation; see [34 CFR 300.502(b)(1)]
Letter to Mamas, 42 IDELR 10 (OSEP 2004): if parents request IEE and evaluation requires observing child in educational placement, evaluator may need to be provided access

Letter to Anonymous, 21 IDELR 1185 (OSEP 1994): question is whether parents disagree with evaluation, not with district, and district cannot impose time period in which it can cure defects in its evaluation

Letter to Saperstone, 21 IDELR 1127 (OSEP 1994): parent may request hearing if district does not respond to IEE request, may also file state complaint

Letter to Anonymous, 17 IDELR 1113 (OSEP 1991): district may request hearing before or after IEE to show its evaluation is appropriate; parent may request hearing before IEE is performed if parent believes denial of advance funding would deny parent IEE at public expense

Letter to Thorne, 16 EHLR 606 (OSEP 1990): parent not required to provide notice of intent to obtain IEE as precondition for reimbursement

Letter to Reedy, 16 EHLR 1364 (OSEP 1990): IEE should be after district evaluation

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A.L. by L.L v. Chicago Public Schools, 111 LRP 71856 (N.D. Ill. 2011)

Los Angeles Unified School District, 57 IDELR 55 (Cal. SEA 2011)


Dover City Schools, 111 LRP 59555 (Ohio SEA 2011)


Panjaro Valley Unified School District, 47 IDELR 12 (N.D. Cal. 2006)
Board of Education of Murphysboro Community Unit School District v. Illinois State Board of Education, 41 F.3d 1162 (7th Cir. 1994)


Capistrano Unified School District, 56 IDELR 279 (Cal. SEA 2011)

Souderton Area School District, 111 LRP 64076 (Pa. SEA 2011)


Seattle School District No. 1 v. B.S., 82 F.3d 1493 (9th Cir. 1994)

Warren G. v. Cumberland School District, 190 F.3d 80, 87-88 (3rd Cir. 1990):

Letter to Gray, 213 IDELR 183 (OSEP 1988): question is if parent disagreed with evaluation not with district and fact that district disagrees with its own evaluation not relevant; district cannot impose precondition that it gets to correct it evaluation before parent can request IEE

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Caselaw
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CHILD FIND & EVALUATION

1. Jamie S. v. Milwaukee Public Schools, 2012 WL 336170 (7th Cir. 2012)

A class of children who are, have been, or will be denied or delayed entry into or participation in the IEP process is not a certifiable class because such a class is fatally indefinite, the claims lack the required commonality, and it is not possible to order final injunctive relief or corresponding declaratory relief on a class-wide basis.

In 2001, seven disabled students enrolled in the Milwaukee Public School (MPS) sued the district on behalf of themselves and a class of all school-aged children in the district who are or may be eligible for special education services. The district court rejected that broad class, but allowed a more narrowly-defined class to proceed, to wit, “students eligible to receive special education from MPS who are, have been, or will be denied or delayed entry into or participation” in the IEP process. A bench trial followed, after which the district court concluded that MPS had, on a system-wide basis, failed to identify children with suspected disabilities and refer them for evaluation within the statutory 90-day time frame, improperly extended the 90-day timeframe, imposed suspensions in a way that frustrated disability referrals, and failed to ensure that parents attended IEP meetings. Remedial orders were thereafter entered.

The Court of Appeals for the 7th Circuit reversed, holding that the district court erred in certifying the class. The Court held that the class was too indefinite, in that there was no way to readily determine which of all the unidentified children were potentially eligible for special education services without a complex and highly-individualized process. It further held that there was no allegation of a common question of law or fact that could be answered all at once that would resolve a central issue. Rather, the allegations were of many disparate violations of IDEA rather than proof of system-wide policies in violation of IDEA. Finally, no injunctive relief could be awarded that would provide final relief to the class as a whole. Instead, the injunctive order entered by the district court merely established a process to provide individualized relief for each potential class member.


By placing extensive conditions on the school district’s triennial reevaluation of their child, the parents’ effectively refused consent to the evaluation and were also not entitled to an independent educational evaluation (IEE).

G.J. is a nonverbal child with autism and brain injuries. At an IEP meeting the school district sought parental consent for a 3-year reevaluation and the parents refused to sign the consent forms, instead sending the district an “addendum” with seven conditions on the testing, including, that: the district use the parents’ evaluator; the parents have the right to discuss the assessment with the evaluator prior to its consideration by the IEP team, and the evaluation
results be kept confidential. The school district refused the conditions imposed by the parents and the testing did not go forward.

Parents filed for due process alleging numerous procedural and substantive violations of the IDEA. The ALJ found that the parents were not entitled to proceed on their claims, as the parents had “effectively refused to consent to the … IDEA-mandated triennial reevaluation” and by this refusal, were no longer entitled to receive any services from the school district. Moreover, since a parent is entitled to an independent educational evaluation only after a school has performed its own evaluation with which the parent disagrees, the parents in this case were not entitled to an IEE.

The district court did not perceive the parents’ actions as a refusal for their child to be evaluated, but held they could not dictate the terms of the reevaluation and found that they had not given consent. It agreed that the parents were not entitled to an independent evaluation, and ordered the school district’s reevaluation to proceed with specified conditions.

The Court of Appeals affirmed. Given the broad discretion given to the district court, it was proper for the district court to set the parameters for the reevaluation. In addition, the district court was correct in holding that the parents were not entitled to an independent educational evaluation at the district’s expense. Because the district had not conducted its evaluation, there was no evaluation with which the parents could disagree, and their rights were not triggered. In terms of any private evaluations the parents obtained, the district was obligated to consider them. The IDEA does not address whether, or to what extent, a private evaluator must be permitted access to the classroom to observe the child. The guidance from the Office of Special Education Programs (OSEP) in the U.S. Dept. of Education is that this is left to state and local policy. As the district court ordered the school district to consider the results of the private evaluator, and the record reflected that the private evaluator did have some classroom access, there was no error.


A due process petition pursuant to the IDEA may include a claim for compensatory services stemming from the district’s passive failure to timely identify a student for special education services, even though it did not actively refuse to initiate an evaluation. Due process petitions are not limited to those items subject to “prior written notice.”

Despite extremely low test scores and teacher reports that Addison’s work was “gibberish and incomprehensible,” the district did not make any efforts to obtain her parent’s permission to evaluate the student for special education. After receiving a formal request for evaluation from the parent, the district evaluated the student and found her eligible for special education services. The student sought compensatory services in light of the district’s failure to identify her needs and provide services to her. The ALJ found in the student’s favor, a decision that was affirmed by the district court.
The Court of Appeals affirmed. The court rejected the district’s argument that the student did not have a cognizable claim for the lack of identification. The district relied on the IDEA provision requiring it to provide written notice whenever the district “refuses to initiate or change the identification, evaluation, or placement of a child.” Because the district did not actively refuse to initiate the identification, assessment or educational placement, it argued, it could not be held accountable in due process. The court rejected the district’s position, holding that it did not comport with the Congressional intent in passing the IDEA of properly identifying children who need special education. A student may initiate a due process complaint regarding any matter relating to identification, evaluation or educational placement.

OSEP Guidance:

4. **Memorandum to State Directors of Special Education**, 56 IDELR 50, U.S. Dept. of Education, Office of Special Education Programs (Jan. 2011)

A school district cannot use RTI to delay or deny a timely evaluation to a child suspected of having a disability.

In this letter, OSEP clarified that if a parent refers a child for evaluation under the IDEA, then a school district must either: (1) refuse to conduct an initial evaluation and give the parent notice so that s/he may exercise their due process rights OR (2) seek parental consent “within a reasonable time” and conduct an initial evaluation within 60 days or within the state’s prescribed timeframe for initial evaluations. OSEP found that it would be “inconsistent with the evaluation provisions…for an LEA to reject a referral and delay provision of an initial evaluation on the basis that a child has not participated in an RTI framework.”

5. **Letter to Anderson**, (United States Department of Education, Office of Special Education Programs (Nov. 2010)

It would be a violation of the IDEA for Texas to adopt a regulation that allowed an extension from the 15-day timeline for resolution sessions for due process petitions filed shortly before or during winter break. Absent written consent from the parent not to hold the meeting (because the parties agree to waive the meeting or use mediation) the district may not deviate from the 15-day timeline.


When parents share the right to make educational decisions for a child, a school district must accept either parent’s revocation of consent for special education services, even if the other parent disagrees. Thereafter, if either parent requests services under the IDEA, the district must treat the request like an initial evaluation (rather than a reevaluation). While acknowledging that this interpretation puts school districts in a difficult situation when both parents share the right to make educational decisions for their child but disagree on the provision of services, it nonetheless declined to change its earlier interpretation of 34 C.F.R. §300.300(b)(4). **Letter to Cox**, (Aug. 2009).
Note that in *Letter to Cox*, OSEP also clarified that it is not a violation of the IDEA for one parent to revoke consent, and accordingly due process and mediation are not available to parents to resolve disputes regarding their consent for services.

**ELIGIBILITY**


The federal district court must consider supplementary evidence of evaluations conducted three years after the initial decision by the district denying special education eligibility when such evaluations showed a significant discrepancy between the student’s ability and achievement.

E.M. had a history of struggling in school. Prior to his 5th grade year, his parents had him evaluated by a private psychologist. That psychologist diagnosed E.M. with a learning disability based on a discrepancy between E.M.’s Wechsler Intelligence Scale for Children (WISC-III) and Woodcock Johnson Tests of Achievement-III (WJ-III) scores. E.M.’s parents then requested that the school district evaluate him for eligibility under the IDEA and the school psychologist performed a Kaufman Assessment Battery for Children (K-ABC) and new WJ-III achievement tests. The school found E.M. ineligible for services using E.M.’s score on the WISC-III (standard score of 104) (done by the private psychologist) and their WJ-III scores (while acknowledging that if it had instead compared their own evaluation results, the K-ABC (standard score of 111) and the WJ-III scores, then there would have been a discrepancy). During his 6th grade year E.M.’s parents obtained an auditory evaluation that concluded that E.M. had an auditory processing disorder. Soon thereafter they filed a due process petition alleging that the school district had failed to identify their child as a child with a disability.

OAH ruled in favor of the school district and the parents appealed to district court, where both parties filed cross motions for summary judgment. In district court, E.M. also moved to supplement the record with evidence obtained after the OAH hearing, including a report by a private psychologist who had reviewed E.M.’s records and conducted a WISC-IV. Based on her assessment, the psychologist found that E.M. had a learning disability and further found it “puzzling” that the school district had not found him eligible 3 years prior. The district court denied E.M.’s request to supplement the record with this report and remanded the case to OAH for further analysis as to some of its prior conclusions. In the meantime, the school district reevaluated E.M. and found him eligible for special education. After providing further written analysis, OAH returned the case to district court and the court granted the district’s motion for summary judgment.

In reversing the district court, the Ninth Circuit found that the court had erred in not considering the evaluation conducted after the OAH hearing, as it was relevant, non-cumulative and otherwise admissible. Accordingly, the appellate court remanded the case, for consideration, *inter alia*, of whether the report was relevant to the determination of whether the school district
met its obligations to E.M. In addition, the Ninth Circuit directed the district court also to consider the school district’s post-hearing assessment that determined that E.M. was eligible for services.


A child diagnosed with ADHD, bipolar disorder and conduct disorder meets the definition of a child with an emotional disability who is in need of special education when he has consistent behavior problems that result in suspension and performs very poorly in classes as well as on standardized tests. The case explores the distinction between a serious emotional disability and “social maladjustment.”

After an evaluation, the district found J.H. ineligible for special education services. His father challenged the eligibility decision through a due process petition. The evidence showed that J.H. was diagnosed with ADHD, conduct disorder, and bipolar disorder as early as the fifth grade. He was suspended numerous times for threatening his classmates and teachers, had made suicidal comments on multiple occasions, and had consistently performed poorly in his classes and on standardized tests. His father argued that he met the definition of a child with a serious emotional disability. The district characterized J.H. as “socially maladjusted,” which would exclude him from the definition of “emotionally disabled.” Contrasting J.H. to the student in *Springer v. Fairfax County School Board*, 134 F.3d 659 (4th Cir. 1998), who was found to be socially maladjusted rather than emotionally disturbed, the court noted that J.H.’s academic progress was very poor and his ability to maintain satisfactory personal relationships was lacking over a long period of time. The court also found that J.H.’s ADHD qualified him for special education under the category of “Other Health Impaired” because his impulsivity, inattention, and hyperactivity all adversely affected his educational performance.


Hawaii could not require that a student display a severe discrepancy between her intellectual capacity and her academic achievement in order to be considered eligible for special education services as a child with a specific learning disability.

The district of Hawaii, which is both the LEA (local education agency) and the SEA (state education agency), found Courtney G. ineligible for special education services because she did not have a severe discrepancy between her intellectual capacity and her actual achievement. Her parents submitted the evaluations of a number of experts which stated that Courtney was several years behind in reading, had dyslexia, and had a specific learning disability. The district declined the parent’s request that the district use a “response to intervention” model for determining eligibility for special education services. The parent hired specialized tutors for her daughter and eventually withdrew her from the public schools, enrolling her in a private school for dyslexic children. The parent then filed for due process for compensatory education and reimbursement.
After a hearing at which several experts testified, the hearing officer determined that the district properly denied eligibility because Courtney did not have a severe discrepancy between her intellectual ability and her actual achievement and because she was making some progress. The federal district court likewise concluded that the district correctly denied eligibility. It found that Hawaii could properly use only the discrepancy model for determining eligibility for specific learning disabilities.

The Court of Appeals reversed and remanded. Relying on the statutory changes made in 2006 which prohibit states from requiring the use of the severe discrepancy model, the court found that the regulations in effect in Hawaii at the time required the use of the severe discrepancy model to identify as child as having a specific learning disability. The court found that even though Hawaii was a direct provider of educational services, and thus subject to the regulations affecting local school districts, it was still bound by the federal regulations prohibiting a state from requiring the use of the discrepancy model. Its regulations that required the use the discrepancy model were in violation of IDEA.

The case was remanded for the district court to determine eligibility under the newly-promulgated regulations in Hawaii that are consistent with the federal regulations and the IDEA. They allow eligibility if a student satisfies two sets of criteria. First, the child must demonstrate either inadequate achievement or a severe discrepancy. Second, the child must demonstrate either insufficient progress, or a pattern of strengths and weaknesses in performance consistent with a specific learning disability.


A child who needs only related services, and not special education, is not a child with a disability for purposes of eligibility for special education under the IDEA.

The student, C.D., was diagnosed with Ehlers-Danlos Syndrome (“EDS”). This genetic disease, causing double-jointedness, resulted in poor upper body strength and poor postural and trunk stability, as well as chronic and intermittent pain. He was initially found eligible for an IEP and received adaptive physical education, physical therapy, occupational therapy, assistive technology, supplemental aids and services, and program modifications in his academic classes (including positioning aids; extra time to complete academics; a tape recorder, dictation and limited writing assignments, a special chair and a slant board.

When C.D. was reevaluated, the IEP team determined he was no longer eligible for an IEP. They determined that he was performing at grade level and that his needs could be met in the regular education setting with some slight modifications for his medical and safety needs, such as rest breaks. For physical education, the team determined, a health plan could be crafted by his physicians and the school nurse, to limit his repetitions in certain activities and provide alternative means for completing others.

At the hearing, the ALJ found that C.D. continued to need adaptive physical education and continued to be eligible for special education. The ALJ credited the opinion of one of C.D.'s
physicians who said that the EDS caused him pain and fatigue that can affect his educational performance. The ALJ found that the student’s condition adversely affected his ability to fully and safely participate in physical education and that he needed special education to meet his unique needs. The district court affirmed.

The Court of Appeals reversed. It found that the ALJ used the wrong standard. “It is not whether something, when considered in the abstract, can adversely affect a student's educational performance, but whether in reality it does.” The court found there was no substantial evidence in the record that C.D.’s condition, in fact, adversely affected his educational performance.

In addition, the IEP team concluded that C.D. did not need special education, as all of C.D.'s safety needs could be met through a health plan implemented in his regular gym class. The school felt it could address his needs by simply limiting his repetitions and ameliorating the potentially harmful aspects of gym. The court found that the modifications to certain activities of the regular gym class were not special education.

The court rejected the idea that a physician could prescribe special education; it said that the need for special education is the decision of the IEP team. Finally, while the court acknowledged the student’s need for related services, such as physical and occupational therapy, it held that the need for such related services is not sufficient to qualify a student for special education when the student is not otherwise qualified for special education.

**IEPs**

11. *Fort Osage R-1 School District v. Sims ex rel. B.S.*, 641 F. 3d 996 (8th Cir. 2011)

The IEP of a student with Down’s syndrome was not procedurally or substantively defective when it did not identify her as a child with autism, because the IEP was highly customized to meet the child's needs. So long as the IEP team took the child’s actual needs into account, the specific label given to the child was immaterial.

B.S. is a child with Down’s Syndrome who received early intervention services as well as services under an IEP when she became school-age. B.S.’s parents had her privately evaluated and this evaluation also found that B.S. met diagnostic criteria for autism. In 2005, during the 2004-2005 school year, the school district met with the parents to consider their evaluations and agreed to have a contract autism consultant observe B.S. Thereafter, the district agreed that B.S. met criteria for “other health impaired” based on her diagnoses of Down’s Syndrome and Autism. During the 2005-2006 school year the school met with the parents numerous times to review B.S.’s progress and modify her IEP.

A new IEP was developed with the parents in June 2006 for the 2006-2007 school year, but that IEP was never implemented because the parents enrolled B.S. in a private educational facility for the 2006-2007 and 2007-2008 school years. Some months later, in April 2007, after several meetings and a new IEP, the parents initiated a due process petition seeking reimbursement for the private placement arguing that the school district had denied B.S. a FAPE by committing
various procedural and substantive violations, including failing to identify and properly account for B.S.’s autism in the two proffered IEP’s.

The Court of Appeals found that even assuming that B.S. does suffer from autism and the IEP was procedurally flawed for not including this diagnosis, the parents failed to show that this error was harmful to B.S., as the IEP was “highly customized” to meet her needs. Specifically, the Court stated: “[g]iven the IDEA’s strong emphasis on identifying a disabled child’s specific needs and addressing them, we believe that the particular disability diagnosis affixed to a child in an IEP will, in many case, be substantively immaterial because the IEP will be tailored to the child’s specific needs.” Moreover, the Court found that there was ample evidence that the school district considered the parent’s outside evaluations and therefore adequately considered their concerns in developing an IEP.


When a child transfers within the state from one district to another, the new district must implement the most-recently implemented IEP; it need not immediately implement an IEP that had been drafted but never implemented in the previous district.

A severely-impaired student with cerebral palsy was receiving special education services from a virtual charter school network. The student’s IEP placed him at his home with an independent study program and multiple in-home therapies. The child’s IEP team met and concluded that his placement should be changed to a general education placement. A new IEP was developed reflecting this change of placement. Because the charter school network did not have a physical location for the student, he transferred to his local school district. Upon his enrollment, the district wanted to continue his placement at home for 30 days to make an assessment of him; the parents wanted the new IEP to be implemented immediately. Over the parents’ objections, the home placement was continued. Difficulties with scheduling the IEP meeting meant that the home placement continued for months. Eventually, the district developed an IEP without the participation of the parents, resulting in a placement not in the general education classroom, but in a special day class in another district. The parents objected and filed due process.

The parents claimed that the district was obligated to implement the current IEP during the initial 30 days. The district claimed that it was appropriate to implement the most recently- implemented IEP (which excluded the new IEP with its placement in the regular classroom). The court looked to the California Education Code provision: When an exceptional-needs student transfers from one California school district to another during the school year, the local school district shall provide “services comparable to those described in the previously approved [IEP] ... for a period not to exceed 30 days, by which time the local educational agency shall adopt the previously approved [IEP] or shall develop, adopt, and implement a new [IEP].” Cal. Educ. Code § 56325(a)(1). It also considered the federal law, which states: when an exceptional needs student who “had an IEP that was in effect in the same State” transfers to a new school, the school shall provide services comparable to the “previously held IEP.” 20 U.S.C. § 1414(d)(2)(C)(i)(I). The court agreed with the district’s position that it was required to temporarily implement the last implemented IEP, not one that had never gone into effect.
The case also raised a question regarding the impact of the school holidays on the 30-day requirement. The court noted that there is no authority for the proposition that school holidays toll the time period, though it also found that the delay by the district did not result in any meaningful educational deprivation to the student. Thus, no IDEA violation was found.

13. **Lathrop R-II School Dist. v. Gray**, 611 F. 3d 419 (8th Cir. 2010) (*cert. denied 2011*)

An IEP is not deficient because it does not contain objective baseline data so long as it contains a statement of the child’s present levels of educational performance and a statement of measurable goals. Further, an IEP is not deficient because it does not contain behavioral goals for a child with behavioral needs, so long as the behavior needs are considered and appropriate behavioral interventions are being employed by the district personnel.

D.G. was an autistic student with significant symptoms including academic deficits and disruptive behaviors. His parents claimed that he had been denied a FAPE because his IEP was not appropriate. Among their claims was that the IEP contained no baseline data. The administrative panel agreed with their claim, finding that “[i]f an objective states a student will perform a skill, and the student already knows that skill, mastering that objective would not show any progress.”

The court of appeals rejected that standard, finding that the IEP must include only “a statement of the child's present levels of educational performance,” including “how the child's disability affects the child's involvement and progress in the general curriculum[]” and “a statement of measurable annual goals, including benchmarks or short-term objectives [.]” The court determined that the challenged IEPs contained both detailed present level statements and measurable goals. For example, in one IEP, the section on the student’s present levels was twelve pages long; it elaborated on how D.G.'s disability affected his ability to access the general curriculum and discussed areas including his health, motor skills, sensory processing abilities, cognitive and adaptive behaviors, academic abilities, speech, and social skills. It enumerated twenty seven distinct and specific goals, each with internal benchmarks and most indicating D.G.’s present ability relative to the goal.

The parents also claimed that the IEP did not provide a FAPE because it did not contain behavioral goals. The court again rejected the parents’ position, holding that the IEP does not have to contain behavioral goals; the law requires only that the IEP team consider, when appropriate strategies, including positive behavioral interventions, strategies and supports to address that behavior. The court found that the IEP described D.G.’s disruptive behaviors and included a behavior intervention plan containing strategies to assist D.G. with his behavior. That was sufficient to meet the standards of the IDEA.

The Court also rejected the parents’ position that the IEP should be determined inadequate because D.G. did not make behavioral progress. The court found that D.G. made meaningful progress on many of his academic goals and that the IDEA does not require behavioral progress. The court was impressed by the “good faith effort” put forth by the district, which included
training for staff, the use of a one-on-one full time para-professional, and a variety of tailored positive behavioral interventions.

FAPE


Without evidence of loss of educational benefit, the absence of a valid IEP on the first day of the school year is not per se a denial of FAPE.

A student with disabilities was in private school at school district expense for the school year 2005-06, pursuant to a Settlement Agreement between parents and school district. There was uncertainty about whether C.H. would continue to attend the private school or attend public school the following year. The district obtained permission to conduct an evaluation of the child and did so during the summer months. One meeting was scheduled before school resumed in the fall to review the evaluation and to develop an IEP for the 06-07 school year; the parents attended that meeting, but the IEP was not completed at that time. District officials attempted to schedule another meeting before the beginning of the school year, but the parent was unavailable until after the year began. Thus, no IEP was in place on the first day of school. C.H. did not attend the public school on the first day of school; instead he continued his schooling at the private school and the parents filed for due process. They did not attend any more meetings with the district to complete the IEP and withdrew permission for an additional evaluation.

The Court of Appeals ruled for the school district. Although it did not have an IEP in place on the first day of school, it was the parents’ unavailability that resulted in the delay. The court stated, “we decline to hold that a school district is liable for procedural violations that are thrust upon it by uncooperative parents.” In addition, because C.H. never attended the public school that year, it was not possible to determine whether the failure of the district to have an IEP in place on the first day of school resulted in a loss of educational benefit for C.H. Without evidence of loss of educational benefit, the court was unwilling to establish a per se rule that any specific period of time without an IEP is a denial of FAPE.

The Court of Appeals also justified its ruling for the school district on equitable grounds because of the parents’ lack of notice to the district and lack of cooperation. The parents did not give the district 10 days notice of their decision to enroll C.H. in private school for the 06-07 school year. They thereafter declined to participate in the re-scheduled IEP meeting and declined permission for the district to conduct a further evaluation of C.H. The court rejected the parents’ position that the “stay put” provision of IDEA allowed them to cease cooperating with the district once they had filed for due process.

15. D.S. v. Bayonne Board of Educ., 602 F.3d 553 (3d Cir. 2010)

A student’s high grades are not necessarily indicative of progress, especially when those grades are for work in the special education class and not for work at grade level.
D.S. had a history of epileptic seizures and brain tumors. Surgery corrected some of his problems and he attended his local public school. His education was delivered pursuant to an IEP, but he was not keeping up with the level of instruction. By high school, D.S. was struggling to keep up, both academically and socially. Based on outside evaluations, D.S.’s parents concluded that his IEP was not offering him a FAPE. Despite the conclusions by the outside evaluators that D.S.’s skills were deficient, D.S. was awarded high grades in his classes. After an extensive due process hearing, the ALJ concluded that the IEP was not sufficient to address D.S.’s educational needs. The goals did not address his need for reading and language remediation, speech therapy, and did not address his memory deficits and weak auditory processing. The ALJ credited the testing done by the psychologists over the high grades in determining that D.S.’s educational needs were not being met. The ALJ also found that the private school selected by his parents was appropriate.

The district court reversed, relying on the high grades and testimony that some of the recommendations of the private evaluators were being used by D.S.’s teachers. The Court of Appeals reversed the district court’s decision. The court agreed with the ALJ that the student’s high grades were insufficient to show that the student was receiving a FAPE. It noted that passing from grade to grade may be indicative of progress, but it is not necessarily proof that the child is receiving a FAPE. Particularly when a student is receiving his education in special education classrooms, rather than in the regular classrooms, the grades in those classes may be quite disconnected from progress in regular classes. When a student is not being educated in the regular classroom, the importance of judging his progress by using standardized testing is greater.


Teachers have discretion to use an eclectic selection of teaching methods so long as they are reasonably calculated to provide educational benefit; teacher observation of skills was sufficient measurement so long as it was recorded; slow and non-linear progress can be sufficient evidence of FAPE; the IEP team for an autistic child need not include an autism expert on the IEP team.

C.P. is a child with autism. When he began school at the age of five, an IEP was developed for him. He was placed in a special education classroom and received special education and related services. When he began school he could barely speak, did not respond to his name, ran away from adults, showed no fear in unsafe situations, had a short attention span, and hit, pinched, and spat. By the time he was seven, he could respond to his name, say short phrases, was better able to communicate with adults, and could solve some puzzles. Nevertheless, he was not toilet-trained, could not draw a picture, and his academic skills remained at the preschool level. His parents found his progress to be so minimal as to not constitute a FAPE, and they filed for due process.

The court rejected the various claims made by the parents. The court’s finding rejecting the parents’ contentions include:
The services provided to R.P. were appropriate even if, as the parents complained, the teachers chose the methods “they liked” rather than “best practices” that have been demonstrated to be effective. The IDEA accords educators discretion to select from various methods, provided those practices are reasonably calculated to provide the students with educational benefit.

The lack of linear progress on all goals does not mean that the IEP was inadequate. The student’s slow but significant educational progress on many of his goals was sufficient to meet the FAPE standard.

The IEP team was properly constituted, even though it failed to include an autism expert. The IDEA and its regulations do not require such a specialist on an IEP team.

Nevertheless, the parents’ claims were not frivolous and the school district was not entitled to attorney fees.

### PLACEMENT & LEAST RESTRICTIVE ENVIRONMENT


After the school district failed to provide the ABA therapy called for by the autistic student’s IEP, a privately-created home placement was appropriate. While the concept of the “least restrictive environment” is a factor to be considered in the decision about whether a private placement is appropriate, a private placement need not meet the LRE standard in the IDEA. Further, the district’s later steps to remediate its failures did not truncate the parents’ claim that the district had not provided a FAPE to their son when the evidence of improvement was not certain or specific.

T.H., a child with moderate-severe autism, was enrolled in school for the 2005-06 school year with an IEP that required 15 hours a week of applied behavioral analysis (“ABA”) therapy. In fall 2005, he received only 7.5-10 hours a week of his therapy and his behaviors regressed. In January 2006, he had a new teacher who was a board certified ABA therapist. T.H. did well and his problematic behaviors subsided. The next school year, T.H.’s teacher left the school district and he had a special education teacher who had not been trained in ABA therapy. The school district hired a consulting company to provide ABA training and supervision for the new teacher, but the consulting company terminated the contract after it reported behaviors by the teacher toward the children that it felt were abusive and the school district did not fire the teacher. In September 2006, shortly after the consulting contract was terminated, T.H.’s parents removed him from school and hired an ABA therapist to provide 30 hours a week of ABA therapy to T.H. in his home. The parents thereafter initiated a due process complaint seeking a determination that the district was not providing T.H. with a FAPE and that he was entitled to compensatory services and reimbursement for this failure.

At the first hearing, the hearing officer agreed that the parents were entitled to some compensatory education for the school district’s failure to provide all of the ABA therapy under the IEP for the 2005-06 school year, but determined that the home placement was inappropriate as it was not the “least restrictive environment” in which to educate T.H. The parents appealed
the ruling to the state review officer (“SRO”) and the SRO determined that the school district had
denied the student a FAPE and further concluded that the home placement was appropriate as it
provided proper ABA therapy to T.H.; T.H. was making educational progress, and the parents
and the therapist were ensuring that T.H. had regular opportunities to interact with other
children. The school district appealed the decision to district court which also concluded that the
school district had denied T.H. a FAPE and his home placement was appropriate.

In affirming the district court, the Fourth Circuit found that the school district’s failure to provide
the prescribed amount of ABA therapy constituted a material failure to implement the IEP that
denied T.H. a FAPE. It also rejected the school district’s argument that the district court should
have found that it was capable of providing T.H. a FAPE as of the time of the OAH petition,
stating that although post-removal changes to a school educational program are relevant in the
remedial context, it was not an error to conclude that the school district was not capable of
providing a FAPE to the student. Finally, the court of appeals upheld the parental placement,
noting that a parental placement will not be considered inappropriate simply because it doesn’t
meet the “least restrictive environment” requirement of the IDEA, but rather that the
restrictiveness of the placement is a “factor” to be considered, and where, as here, the child had
daily social interactions and was progressing both educationally and behaviorally, it could be
found to be appropriate.


A residential placement is required only if residential care is necessary for the child to
make any educational progress. When a residential placement is necessitated by concerns
about a student’s safety, mental health and medical issues, and those issues are segregable
from the student’s educational needs, a school district is not obligated to fund it.

E.S. is a child with multiple disabilities including bipolar disorder, depression, post-traumatic
stress disorder, hearing impairment, speech and language impairment and learning disabilities.
During her 7th grade year, E.S. experienced increased social and emotional issues, including
suicidal ideation and depression. The IEP team placed her in a full-time, non-public special
education day school. During her first few years at the day school, E.S. was able to earn
educational credits, however her mental health deteriorated and she was eventually hospitalized
for suicidal ideations. Given her mental health issues, the IEP Team met to revise her IEP, but
agreed that it could be implemented at a private separate day school for the next school year.
During that school year (2004-2005), E.S.’s condition continued to deteriorate and she became
more oppositional and began to engage in self-mutilating behaviors at school. She also was in
danger of failing four classes.

During the spring of 2005, E.S. was again hospitalized, after which E.S.’s IEP Team met several
times to discuss her placement for the 2005-2006 school year. E.S.’s doctor recommended that
she be placed in a residential care facility, however the IEP Team concluded that a residential
facility was not necessary to meet E.S.’s educational needs and that her educational needs could
continue to be met at the private day school. E.S. returned to her day school; however, in
response to her request, the IEP Team did offer to change her placement to another private day
school and offered three possible options. Only one of the three schools stated that it could meet
E.S.’s IEP, but shortly thereafter E.S. again attempted suicide and was hospitalized. Following that hospitalization and at the recommendation of a psychologist, E.S.’s parents enrolled her in a residential treatment facility in Massachusetts.

The parents sought reimbursement from the school district for the residential placement. After a due process hearing, the ALJ found that the parents had failed to establish that E.S.’s day placement did not provide a FAPE. The parents appealed the ALJ’s decision and the district court granted summary judgment for the school district.

The parents raised two issues on appeal: (1) that E.S.’s IEP was deficient on its face because it failed to name a specific placement for E.S. and (2) that the lower court and ALJ erred when they concluded that E.S. did not require a residential placement to receive a FAPE. The court of appeals rejected both claims. First, it found that the school district in fact had made a specific placement, albeit interim, as E.S.’s IEP stated that E.S. would be served at her existing day school while the parties explored the other day school options and further, that those options were offered not because the day school could not provide E.S. with a FAPE, but to accommodate the request of the student to change schools. Second, in citing Burke County Bd. of Ed v. Denton, 895 F.2d 973 (4th Cir. 1990) and Kruelle v. New Castle County Sch. Dist., 642 F.2d 687 (3d Cir. 1981), the court of appeals found that E.S.’s placement in a residential facility was made primarily to address her severe mental health issues and that those issues were distinct and segregable from her educational needs and not necessary to provide her a FAPE.

19. C.B. v. Special School District No. 1, 636 F. 3d 981 (8th Cir. 2011)

A private placement need not satisfy the least-restrictive environment requirement to be determined a proper placement under the IDEA.

C.B., a child with a learning disability, spent years in his public school without making significant progress in learning how to read. His parents enrolled him in a private school for children with learning disabilities at the start of his 6th grade year and filed due process requesting reimbursement for the private school tuition. At the hearing, the ALJ found that “year after year, the School District set trifling goals for the Student and failed to help him achieve even those insignificant goals,” and ordered that the district reimburse the parents for the cost of the private school tuition. C.B.’s parents then brought an action in district court seeking attorney’s fees and the school district counterclaimed, challenging the ALJ’s decision. The district court granted the school district’s motion for summary judgment and reversed the ALJ’s decision awarding reimbursement, finding that although the school district had failed to provide C.B. a FAPE, the private placement was not an appropriate placement because it was not the least restrictive environment.

The Court of Appeals for the Eighth Circuit reversed. It agreed that the district had failed to provide an IEP that was reasonably calculated to provide some educational benefit, and thus denied him FAPE. It disagreed, however, that the private school should be found inappropriate because it was a school that served students with learning disabilities and thus not the least restrictive environment. The Court of Appeals stated that it was joining the Third and Sixth
Circuits in concluding that a private placement need not satisfy a least-restrictive environment requirement to be “proper” under the Act.


When a school district does not offer a preschool program for typically-developing children but does offer a special education preschool, the district need not first determine if the child’s needs can be met in a mainstream classroom.

Upon a finding that R.H. was a child with a disability (autism), the district placed him in a special education preschool. Not wanting him to be with all disabled children, the parents enrolled him in a private school where he had greater exposure to typically-developing peers. They thereafter filed due process for tuition reimbursement.

The ALJ, and later the court, credited the testimony of the district personnel that R.H. needed a low staff-to-student ratio, a special education teacher with knowledge of autism and regular collaboration with a speech pathologist. Because these needs could not be met in the more mainstream preschool, the district was justified in placing him in the special education preschool. The court rejected the parents’ argument that because the district did not offer a preschool for typically-developing children, it should have first considered whether it could provide the required support in a private preschool program for non-disabled children. The court found that private school placement is the exception, not the rule, under the IDEA, even here where there is no public school mainstream option. Finally, the court rejected the parents’ argument that he should have been placed at the private preschool because he was happier and developing better than in the public, special education preschool. Because he was making some progress in the public preschool program and the IEP was reasonably calculated to enable him to receive educational benefit, the parents were not entitled to tuition reimbursement.

TUITION REIMBURSEMENT


Parents of student who has never received special education services from the district may still be entitled to tuition reimbursement for placement in private school, particularly when, as here, the district had evaluated the student and found him ineligible for special education. Nevertheless, if the private school placement is in response to behavioral and drug abuse problems rather than educational needs, reimbursement should be denied.

In this case, the Supreme Court took up the issue of whether the 1997 amendments to the IDEA categorically prohibit reimbursement for private education costs if a child has not previously received special education and related services under the authority of the public agency. The 1997 amendments to 20 U.S.C. § 1412(a)(10)(C) included the following provision: “a ‘court or hearing officer may require [a public] agency to reimburse the parents for the costs of [private school] enrollment if the court or hearing officer finds that the agency had not made a free
appropriate public education available” and the child has “previously received special education and related services under the authority of [the] agency.”

In Forest Grove, the student attended public school into his junior year of high school. While he experienced problems with attention and other academic difficulties, he did not receive special education services. The district evaluated him when he was a freshman in high school and informed his parent that he did not qualify for special education services. By his junior year in high school, his problems worsened, and he began to abuse drugs. His parents enrolled him in a private school. The parents thereafter provided notice to the school district of the placement, and requested a due process hearing regarding the student’s eligibility for special education. The parents cooperated with the district’s evaluation of their son, a process which resulted in the district determining that the student was not qualified for special education services, despite a medical diagnosis of ADHD. The student continued to attend private school for his senior year in high school.

The hearing officer determined that the district had violated the IDEA when it erroneously found that the student was ineligible for special education services. Because the district had not offered a FAPE to the student, and because the private school was appropriate, the hearing officer awarded tuition reimbursement. The district court reversed the hearing officer, but the Court of Appeals reversed the district court.

At the Supreme Court, the majority relied on the previous case of School Committee of Burlington v. Dept of Educ. of Mass., 105 S. Ct. 1996 (1985) in which the Court held that parents can be awarded tuition reimbursement if they have unilaterally enrolled a child in private school when the district has failed to offer a FAPE. This rule was based on the Act’s language that a court could grant appropriate relief in an IDEA case. The Court saw no meaningful distinction between the situation in Burlington, in which the child received special education services from the school district prior to enrollment in private school, and in this case, in which the child never received special education because his eligibility was denied. The Court was unwilling to accept the school district’s argument that the 1997 amendments to the Act changed its interpretation of the still extant language authorizing appropriate relief. The amendments included language that a court or hearing officer “may require a [public] agency to reimburse parents for the cost of [private school] enrollment if the court or hearing officer finds that the agency had not made a free appropriate public education available” and the child has “previously received special education” under the authority of the agency. The Court held, however, that this new language did nothing to change the Burlington analysis and did not make this section the sole avenue for obtaining tuition reimbursement. Such a reading, the Court found, would be at odds with the general remedial purposes underlying the IDEA and leave parents without an adequate remedy when the school district unreasonably failed to identify a child with disabilities.

Upon remand, the district court determined that the student had been placed in the private school by his parents primarily in response to his drug abuse and behavioral problems, not because of any disability recognized by the IDEA. It therefore declined to award tuition reimbursement. In affirming, the Ninth Circuit Court of Appeals held that the district court was not required to award reimbursement even if the private school enrollment was motivated in part by his disabilities. The statute under which the district court made its decision allows relief “as the
court determines is appropriate” based on “the preponderance of the evidence.” Given that the record contained sufficient evidence that the enrollment in the private school was primarily, if not entirely,
in response to the student’s drug abuse and behavioral problems, the court of appeals declined to reverse the district court’s conclusion.

22. **C.B. v. Garden Grove**, 635 F. 3d 1155 (9th Cir. 2011), *(cert. denied, 2011)*

Even though a private placement did not meet all of the student’s educational needs, it was still a proper placement under the IDEA and the student’s guardian was entitled to full, not partial, reimbursement.

After the Garden Grove Unified School District failed to provide C.B. a free, appropriate public education, C.B.’s guardian enrolled him in a private program. While it met many of his needs, it did not provide instruction in arithmetic, which was among C.B.’s unique educational needs. C.B.’s guardian filed a due process petition seeking full reimbursement for C.B.’s tuition. The ALJ found that the school district had failed to provide C.B. a FAPE, but awarded only partial reimbursement because the educational placement did not meet all of C.B.’s educational needs. On appeal, the district court reversed and ordered full reimbursement.

The Court of Appeals for the Ninth Circuit affirmed. It adopted a standard set by the Second Circuit in determining whether a placement is “proper” under the IDEA. Noting the “perverse financial incentives” of penalizing parents just because they cannot afford or cannot find an educational program that meets all of their child’s educational needs, the court of appeals found that while the guardian’s placement did not satisfy all of C.B.’s needs, it was still “proper, reasonably priced … appropriate and … benefitted him educationally.”

23. **E.D. ex rel Doe v. Newburyport Public Schools**, 654 F.3d 140 (1st Cir. 2011)

A family’s move to another location for the sole purpose of enrolling their child in an appropriate school following their home school district’s failure to offer an appropriate IEP does not moot the claims they have at the time of the move. A school district that failed to offer a FAPE can be responsible for the advance tuition that became due while the family remained living in the district, even though the tuition covered a time period following the family’s move.

E.D. and his parents lived in the Newburyport Public Schools district in Massachusetts, where he was identified as a child with a disability. Dissatisfied with the IEP proposed by the district, the parents located a school in Connecticut that they found appropriate. E.D.’s mother rented an apartment in Connecticut so she could be with E.D. during the week, and they returned home to Newburyport on the weekends. This arrangement persisted for the 2008-09 school year. The parents filed due process to claim tuition reimbursement; the hearing officer ruled that the school placement offered by Newburyport was inappropriate, and ordered the district to explore other nearby public schools.
In the meantime, as the following school year approached, E.D.’s parents continued to disagree with the district about an appropriate education for their son, and were required to make an advance tuition payment to the Connecticut school. They were unable, however, to both pay the advance tuition and continue to afford two residences. Thus, they moved the family home to Connecticut.

The case was appealed to federal district court. The district court dismissed the action as moot, essentially holding that because the parents no longer lived in the district, the district was not responsible for the following year’s tuition. The Court of Appeals vacated the dismissal. It held that because the district did not make a FAPE available to E.D. in a timely manner, as required by the IDEA, it was potentially responsible for the financial obligations reasonably incurred before the move. The Court also held that the parents’ claim for attorneys’ fees was still viable for the portion of fees incurred in seeking the administrative order before their move, based on the finding that Newburyport had failed to do its part to produce an adequate IEP.

**PROCEDURAL MATTERS**


A hearing officer may grant requests for continuances made by the parents, even if it results in a decision being made outside the required time limits, because the time limits exist to protect the parents, not the district.

The parents brought a due process action in the Office of Administrative Hearings. The case was set for hearing, but the parents’ counsel asked for a continuance for several months. The continuance was granted. The school district brought suit in federal district court, asking for an injunction to require the state agency to proceed with the hearing within the 45 days mandated by statute. The district court dismissed the action on the basis of lack of standing. This decision was affirmed. The court of appeals analyzed the procedural requirements of the IDEA, finding that they are there for the protection of parents and children, not the school district. Thus, the school district had no standing to raise a complaint against the lack of timeliness.


The failure of an IEP to include a transition plan and a behavior intervention plan for an autistic child who was about to transition from an out-of-district school was not a *per se* violation of FAPE. At best, it was a procedural error that must be evaluated to determine if such an omission denied a FAPE.

This case involves the education of twin boys who are autistic. The parents objected to the IEPs that were developed for the boys because they did not offer sufficient one-on-one “errorless” instruction in a low sensory environment with positive reinforcement. They also complained of the lack of transition services and the lack of a behavior plan. The boys were enrolled in a private school before the IEPs were implemented. The due process panel determined that it was appropriate for the district to decline to constrain the IEP by the inclusion of specified
methodologies, but agreed that the IEPs did not offer FAPE due to the lack of transition plans and behavior intervention plans.

The Court of Appeals held that the absence of IEP provisions addressing transition and behavior issues does not, standing alone, violate the IDEA or deprive the disabled child of a FAPE. These were procedural, not substantive, errors. The IDEA does not require transition plans and behavior plans in most situations; these plans must only be considered by the IEP team when appropriate. Given that the parents refused to give the district an opportunity to implement the IEPs, there was no opportunity to determine if such plans were necessary. If the boys had attended a district school and if the transition services or behavior intervention plans the District actually provided were alleged to deny a FAPE, that would raise an issue of substantive error. Here, there was still time to plan for the transition to the district school and for the development of individual behavior plans if the usual strategies and methods used with other children were not successful.


A hearing officer who formerly worked with the school district’s attorney and currently worked with the wife of the school district attorney was not, per se, biased. Due process considerations did not require the hearing officer to disclose these working relationships.


A student is not entitled to a hearing before the school board regarding his suspension after his IEP team placed him in an alternative school following a Manifestation Determination Review.

A special education student was suspended for fighting and bringing a pocket knife to school. His initial suspension was to be “until a hearing with the school board can be arranged.” Prior to such hearing, however, his IEP team met and held a Manifestation Determination Review. The team concluded that his behavior was not a manifestation of his disability. It then changed his placement to an after-school alternative program, where he would get two hours of educational services per day until he could be transitioned back to the regular high school. Understanding this to be the only alternative, the student’s parent agreed to the change of placement. The district then took the position that he was no longer “suspended” and thus was no longer entitled to a hearing before the school board regarding the suspension. The student’s parent complained to the special education director that two hours per day of education did not offer the student a FAPE, but did not file for due process. The student stayed in the alternative placement for 38 days, then returned to his regular high school. After another suspension, the student’s parent removed him from the district, and later filed a §1983 action alleging that he had been denied due process when he was not given a hearing before the school board. The district court found that the placement in the alternative program was a constructive suspension, entitling the student to a school board hearing.
The Court of Appeals reversed. It held that after the conduct of the student was found not to be a manifestation of his disability, the IEP team had two procedural paths it could follow. First, it could allow the suspension to proceed as it would for any student, entitling him to a hearing before the school board. If it chose that path, it would have been obligated to provide continued educational services, although in another setting, that would allow the student to make progress toward his IEP goals and continue to participate in the general education curriculum. Second, it could change his placement to an alternative educational setting. To do this, it needed to have the parent’s consent. Such a change in placement is primarily an educational, not a disciplinary, decision. At that point, the IEP team becomes the “decision-maker” with regard to his placement. Any further due process rights are those granted through the IDEA. Only the IEP team, not the school board, can make a determination about placement in this situation.

Here, the parent consented to the change in placement made by the IEP team. Thus, the due process rights afforded to the student and his parent at that point were through the IDEA due process safeguards. The parent was required to bring her complaints about the inadequacy of the after-school program and the circumstances under which her consent was obtained to an IDEA hearing officer. Having failed to do that, she was not entitled to hearing before the school board and was not entitled to bring a §1983 action in federal court.

EXHAUSTION


The IDEA’s exhaustion requirement is not jurisdictional and non-IDEA federal and state law claims are not subject to the IDEA’s exhaustion requirement. The IDEA exhaustion requirement is a “claims processing provision” that can be offered as an affirmative defense.

The parents of a 5-year-old boy with autism and motor apraxia objected to the manner in which the teacher used a time-out room. The parents alleged that following an agreement that the door would always remain open and the child would not be left there alone, the teacher locked the child in the room without supervision on a number of occasions. This created significant stress for the child. The teacher eventually refused to allow the parents to visit the classroom.

After mediation, the parents and the district agreed that the child would move to another school; later the parents withdrew him from the district altogether and began homeschooling him. They did not file due process pursuant to the IDEA. Instead, they filed an action in federal court pursuant to §1983 asserting constitutional violations and state law claims relating to the use of the time-out room. The district moved to dismiss the action, on the grounds that the parents did not exhaust their administrative remedies. The district court dismissed on jurisdictional grounds, relying on circuit precedent that exhaustion applied where a plaintiff has alleged injuries that could be redressed to any degree by the IDEA’s administrative procedures and remedies. It held that when administrative remedies had not been exhausted, the district court had no jurisdiction.
In an *en banc* opinion, the Ninth Circuit reversed and overruled precedent holding that the exhaustion requirement in the IDEA was jurisdictional. It held that the IDEA’s exhaustion provision applied only in cases where the relief sought by a plaintiff in the pleadings is available under the IDEA. The IDEA co-exists with other remedies, such as §1983 actions for constitutional violations. The case was remanded to the district court.


Parents failed to exhaust their administrative remedies when they refused to go forward with an administrative hearing after the hearing officer ruled against them on a statute of limitations issue, filing an action in district court instead.

Parents filed for due process. An issue regarding the statute of limitations arose. The hearing officer ruled that the evidence would be limited to occurrences within a year prior to the petition, although the hearing officer left the door open for additional evidence on the limitations issue. Rather than go forward with the hearing, the parents filed an action in federal district court. The district court dismissed the action on jurisdictional grounds, holding that the parents failed to exhaust their administrative remedies. Parents claimed that exhaustion would be futile, because they would be unable to present a full factual record given the hearing officer’s decision on the statute of limitations. Court finds this argument premature, as there is no record of actual limitations placed on the plaintiff’s evidentiary presentation.

**ATTORNEYS’ FEES**


Because the school district did not obtain “judicial relief” when a hearing officer dismissed a due process petition as moot, it was not a prevailing party and was not entitled to recover attorney’s fees from the parent’s attorney.

A student had been placed at a private school by the DC Public Schools (DCPS). After his first year in the placement, the student’s multi-disciplinary team (MDT) met and determined that he required a comprehensive psychological evaluation. Neither the parent nor a representative of DCPS was at this meeting. Two months later, the student’s attorney (Ijeabuonwu) filed a due process complaint alleging that DCPS had failed to conduct the evaluation recommended by the MDT and had failed to conduct an appropriate triennial evaluation. Nine days later, the DCPS faxed a letter to the attorney authorizing an independent psychological and psychiatric evaluation; however the attorney did not accept or notify the parent of the offer, and several weeks later, the parties proceeded to the administrative hearing.

The Hearing Officer found that the matter had been mooted by DCPS’ authorization of an independent evaluation. Neither party appealed this determination. Thereafter, DCPS filed suit to recover the attorneys’ fees it had incurred defending the administrative complaint. The district court, on a motion for summary judgment, ordered that Ijeabuonwu pay the fees incurred after the date of the letter offering the independent evaluation. Ijeabuonwu appealed.
The Court of Appeals for the D.C. Circuit reversed, finding that D.C. was not a “prevailing party” as it did not obtain any “judicial relief” when a hearing officer dismissed a due process petition as moot. Citing District of Columbia v. Straus, 590 F.3d 898 (D.C. Cir. 2010), the Court of Appeals noted that considering the District to be a prevailing party would allow districts to “ignore its legal obligations until parents sue, voluntarily comply quickly, file for and receive a dismissal with prejudice for mootness, and then recover [attorney’s] fees from the parents’ lawyers. To allow this practice would deter lawyers from taking IDEA cases and thereby deprive parents of their most effective means of enforcing the statute.”


A parent who rejects a settlement offer and receives less relief after a hearing is still a prevailing party; nevertheless, the parent is not entitled to attorneys’ fees for work done by the attorney after the settlement offer, despite the fact that the offer did not include attorneys’ fees.

Due to the failure of the school district to deliver the speech therapy required by his IEP, the parents of Gary G. sought the services of an attorney to file a due process petition. Upon notice of the claim, but prior to the filing of the complaint, the district admitted the failure and offered to compensate Gary for the missed therapy. It did not agree to pay the parents’ attorney’s fees. The offer was rejected and the due process complaint was filed. At the resolution session, the district reiterated its offer to provide all the relief requested in the complaint, but did not offer to pay attorney fees. The hearing went forward and the ALJ refused to award all of the relief requested because some of it was barred by the statute of limitations. An action was filed in district court by the parents’ attorney, claiming the parents were the prevailing party and entitled to attorney fees. The district court held that Gary G. was the prevailing party, and did not unreasonably protract the litigation, because the district failed to include attorney fees in its settlement offer. Nevertheless, because he was only partially successful at the hearing, the fee claim was reduced by one third.

On appeal, the Fifth Circuit joined the D.C., Third and Seventh Circuits in holding that a party that rejects a settlement offer and later obtains less than was offered after hearing is still a prevailing party because it has obtained “judicially sanctioned relief.” However, the Court also noted that “[a] finding that a party is a prevailing party only makes him eligible to receive attorneys’ fees under the IDEA; it does not automatically entitle him to recover the full amount that he spent on legal representation.” Here, the Court of Appeals specifically declined to hold that the rejection of a settlement offer for failure to include an attorneys’ fees award was per se unjustified, but nonetheless found, on the facts of this case, that the rejection of the settlement offer was not substantially justified and therefore fees were only appropriate until the date of the initial settlement offer.

32. Alief Independent School Dist. v. C.C., 655 F.3d 412 (5th Cir. 2011)

A school district that requested a declaratory ruling from the administrative law judge regarding the satisfaction of its IDEA obligations can be a prevailing party and can potentially recover attorneys’ fees from the parents.
The parents of C.C. initially refused to give the district permission to re-evaluate C.C. The district filed due process to override such refusal, and obtained authorization to reevaluate without parental permission. The district then conducted a reevaluation, and prepared an IEP for C.C. C.C.’s parents then filed for due process, complaining about the completeness of the evaluation, the IEP, and other procedural matters. The district then filed its own due process, requesting a declaratory ruling that its evaluation and IEP were appropriate. It also asked for a ruling that the parents had filed their complaint to harass the staff and cause it to incur litigation costs. The hearing officer consolidated the two due process proceedings into one.

The parents thereafter dismissed their due process action without prejudice and moved for the dismissal of the district’s complaints. The hearing officer declined to dismiss the district’s complaints and took evidence. Thereafter, the hearing officer concluded that the district’s evaluation was proper and that C.C. had received a FAPE. The hearing officer refused to hold that the parents had brought their complaint for an improper purpose.

The district then filed an action in federal district court to obtain a reversal of the hearing officer’s decision that the parents had not filed their action for an improper purpose and for an award of attorneys’ fees against the parents. The district court dismissed the school district’s complaint. It held that because the parents voluntarily dismissed their complaint, AISD was not the prevailing party. In addition, it held that because the district’s action was not a complaint alleging a violation of the IDEA, the district was not entitled to attorneys’ fees pursuant to 20 U.S.C. § 1415(i)(3)(B)(i).

The Court of Appeals for the Fifth Circuit reversed and remanded. It engaged in a close statutory analysis concluding that the declaratory judgment request was an action in which attorneys’ fees could potentially be awarded to the school district. Given that the ALJ found that the district was taking appropriate measures to educate C.C., it was a prevailing party. The Court therefore remanded the case for a decision by the district court regarding whether C.C.’s parents brought their administrative complaint for an improper purpose and if so, whether the district should be awarded fees.
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<thead>
<tr>
<th>Day 1 – Tuesday, March 6 – Room 4047</th>
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<tbody>
<tr>
<td><strong>8:30 AM</strong> Welcome</td>
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<tr>
<td><strong>9:00 - 10:30 AM</strong> Psychological Testing: What You Need to Know About SLD and ADHD</td>
<td>Gail Rodin, Ph.D., Assessment Consultant, Clinical Assessment Pearson</td>
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<tr>
<td><strong>10:30 - 10:45 AM</strong> Break</td>
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<tr>
<td><strong>10:45 AM - 12:15 PM</strong> Current Issues in Diagnosis and Treatment of Autism Spectrum Disorder</td>
<td>Laura Grofer Klinger, Ph.D., Director, TEACCH Program, and Associate Professor, Department of Psychiatry, UNC-CH School of Medicine</td>
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<tr>
<td><strong>12:15 - 1:15 PM</strong> Lunch on your own</td>
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<tr>
<td><strong>1:15 - 2:45 PM</strong> What ABA Really Is</td>
<td>Holly Almon, Director, Clinical Services, blueprints, Seattle, WA</td>
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<td><strong>2:45 - 3:00 PM</strong> Break</td>
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<tr>
<td><strong>3:00 - 4:30 PM</strong> Rethinking Compensatory Education</td>
<td>Vicki Weinberg, Specific Learning Disabilities Specialist, Golden Valley, MN</td>
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<th>Day 2 – Wednesday, March 7 – Room 4047</th>
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<tr>
<td><strong>8:30 - 10:00 AM</strong> What's Supposed to Be in A Transition Plan?</td>
<td>Cinda Johnson, Director, Center for Change in Transition Services, Associate Professor, College of Education, Seattle University</td>
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<tr>
<td><strong>10:00 - 10:15 AM</strong> Break</td>
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<tr>
<td><strong>10:15 AM - Noon</strong> The Basic Elements of a Good Functional Behavior Assessment</td>
<td>Holly Almon, Director, Clinical Services, blueprints, Seattle, WA</td>
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<tr>
<td><strong>Noon - 1:00 PM</strong> Lunch on your own</td>
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<tr>
<td><strong>1:00 - 2:30 PM</strong> Who Can Get an IEE - and How</td>
<td>Mary Schwartz, IHO, Illinois</td>
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<td><strong>2:30 - 2:45 PM</strong> Break</td>
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<tr>
<td><strong>2:45 - 4:15 PM</strong> Update on Recent Special Education Caselaw</td>
<td>Jane Wettach, Director, Children’s Law Clinic and Clinical Professor of Law, Duke University School of Law and Brenda Berlin, Supervising Attorney, Children’s Law Clinic and Senior Lecturing Fellow, Duke University School of Law</td>
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<th>Day 3 – Thursdays, March 8 – Room 4042</th>
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<tbody>
<tr>
<td><strong>8:30 - 10:00 AM</strong> The importance of Pre-hearing Procedures</td>
<td>Deusdedi Merced, Esq, Ardsley, NY; Lyn Beekman, Special Education Solutions, Williamston, MI</td>
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<td><strong>10:00 - 10:15 AM</strong> Break</td>
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<tr>
<td><strong>10:15 AM - Noon</strong> Conducting Better Hearings</td>
<td>Lyn Beekman, Special Education Solutions, Williamston, MI; Deusdedi Merced, Esq., Ardsley, NY</td>
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<tr>
<td><strong>Noon - 1:00 PM</strong> Lunch on your own</td>
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<tr>
<td><strong>1:00 - 2:30 PM</strong> Writing Better Decisions -1</td>
<td>George D. Gopen, Professor of the Practice of Rhetoric, Senior Lecturing Fellow, Duke University School of Law</td>
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<tr>
<td><strong>2:30 - 2:45 PM</strong> Break</td>
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<tr>
<td><strong>2:45 - 4:15 PM</strong> Writing Better Decisions -2</td>
<td>Prof. Gopen (continued)</td>
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