Exceptional Teachers Teaching Exceptional Children

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Special Education Legal Alert

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This month's update identifies two recent court decisions addressing a range of IDEA issues, including child find and both the procedural and substantive dimensions of FAPE. For related publications and earlier monthly updates, see **perryzirkel.com**.

On September 19, 2022, the Fifth Circuit Court of Appeals issued an unpublished decision in Heather B. v. Houston Independent School District, addressing the respective IDEA obligations to a parentally-placed private school student when the private school is located in a school district other than the one in which the family resides. In this case, 4 years after withdrawing their child from preschool in district A and placing her in a private school within its boundaries, the parents moved to district B. Almost 2 years later they e-mailed representatives of both districts asking about the availability of vision services for their child with low vision. The district B representative soon resigned, without sharing the email with any colleagues. However, the district A representative arranged for an evaluation, which ultimately determined that she met the eligibility standards. The parents then sought services from both districts. Shortly thereafter, they filed for due process hearings against both districts based on child find and FAPE. District A agreed to meet to determine whether she qualified for a service plan under the IDEA obligation for equitable services. District B, where the parents resided, also agreed to eligibility and proposed an IEP with which the parents disagreed. Applying the statute of limitations, which in Texas is only one year, the hearing officers ruled in favor of the defendant districts. The case ultimately proceeded to the Fifth Circuit Court of Appeals.

The parents claimed that A, the district of location, violated its child find obligation by not referring her for an evaluation within a reasonable period of time after having reasonable suspicion of IDEA eligibility.

The Fifth Circuit concluded, based on the undisputed one-year limitation period, that district A took proactive steps that, under the particular circumstances of this case, met the reasonable-time component for initiating the formal eligibility evaluation of the child.

The parents claimed that B, the district of residence, had the requisite reasonable suspicion upon their email and did not initiate the evaluation within reasonable time thereafter.

The Fifth Circuit concluded that district B did not have the requisite notice until the parents followed up with their specific request for services and that the onemonth period until the initiation of the evaluation was "well within the boundaries of reasonableness."

The parents also claimed that, contrary to the regulations, district B did not propose its IEP until a month after the school year started. The Fifth Circuit concluded that this delay in meeting the regulatory deadline was attributable to the parents' delay in returning the consent form, their rescheduling of the IEP meeting, and a further delay caused by a hurricane.

This case illustrates the confusing IDEA obligations, which overlap but are not identical, when the private school and the residence are in different districts for a parentally-placed (as compared with unilaterally-placed) child who may have, or be suspected of having, a disability. Also of note, for due process complaints filed after September 1, 2022, Texas has changed its statute of limitations to conform to the two-year period (from the KOSHK date) that applies in most states under the IDEA.

On August 25, 2022, a federal district court in New York addressed multiple issues in an unpublished decision in E.L. v. Bedford Central School District. In this case, near the end of grade 1 the teacher noted the student J's struggles with reading and writing, suggesting to the parents that J might have dyslexia. During grade 2, the district provided J with tier 1 RTI services. Dissatisfied with J's progress, the parents arranged for private tutoring and an independent education evaluation (IEE), which concluded that J had a specific learning disability (SLD) in reading. Early in grade 3, the parents shared the IEE with the school district. Based on J's continuing difficulties with reading, the district provided J with tier 2 RTI services for a few months, but upon J's achieving the benchmark at that level, moved J back to tier 1. In grade 4, based on J's less-than-proficient score on the statewide testing in language arts, the district changed J back to tier 2. At a meeting in late October, the parents requested an eligibility evaluation under the IDEA. After the completion of the evaluation in December, the multi-disciplinary team determined that J qualified for special education services under the SLD classification. In January, the IEP team issued a proposed IEP that included resource room services in 45-minute intervals 4 times per week, access to voice-to-text software, monthly occupational therapy consultation, and various accommodations. The parents rejected the proposed IEP, also complaining about alleged bullying of J. After providing timely notice for tuition reimbursement, they unilaterally placed J in a private school. In July, the IEP team proposed an IEP for grade 5 in the district, which increased the resource room services from 4 to 5 days per week, added a monthly counseling consultation, and revised the goals in reading. The parents rejected this IEP and continued J at the unilateral private placement. The hearing officer ruled in favor of the district on the parents' child find and FAPE claims, denying reimbursement or other relief. The review officer reversed the child find ruling but provided no relief. The parents appealed to the federal court.

First, the parents claimed that the school district failed to comply with the IDEA's requirement for providing a response to

The court concluded that (a) the parents waived this claim by not raising it at the hearing officer or review officer levels, and,

| the parents' due process hearing | in any event, (b) the parents failed to show |
|---|--|
| complaint. | the requisite loss to the parents' rights for |
| | meaningful participation or the student's |
| | substantive right to FAPE. |
| Second, the parents claimed that the | The court concluded that the evaluation's |
| district's evaluation did not meet the | selection and administration of testing |
| requirement for valid and reliable testing. | instruments either were not procedural |
| requirement for valid and renable testing. | |
| | violations or, in any event, did not result in |
| | a substantive denial of FAPE to the parents |
| | or the student. |
| Third, the parents challenged the review | The court concluded that the district had the |
| officer's failure to provide a remedy for | requisite reasonable suspicion in grade 3 |
| the child find ruling, and the district | upon receiving the first IEE and not |
| claimed no such violation. | showing progress in its RTI services, but |
| | upheld the denial of reimbursement for |
| | tutoring based on the lack of parents' |
| | request for relief. |
| Next, the parents alleged that bullying | The court found that the principal had |
| amounted to a denial of FAPE. | investigated the alleged bullying and had |
| | credibly concluded that it had no connection |
| | to the student's disability or FAPE. |
| Last, the parents' claimed that the two | The court concluded that both IEPs met the |
| proposed IEPs were not substantively | Endrew F. "reasonably calculated" standard |
| appropriate. | and, thus, the parents were not entitled to |
| | tuition reimbursement without the need to |
| | address the appropriateness of the unilateral |
| | placement and the equities. |
| This multiple rulings in this case are typica | al of the judicially deferential approach, |
| although the lack of remedial relief for the child find violation is subject to question in | |

light of the court's rather cursory analysis and the child's undisputed eligibility for

FAPE.

Buzz from the Hub

All articles below can be accessed through the following links:

https://www.parentcenterhub.org/buzz-nov2022-issue1/

https://www.parentcenterhub.org/buzz-oct2022-issue2/

https://www.parentcenterhub.org/buzz-oct2022-issue1/

RAISE the Standard

Culturally competent transition practices can play a significant role in improving post-school outcomes for youth with disabilities. The November issue of RAISE The Standard explores what it means to bring a culturally competent approach to transition planning and why it is vital to do so. Be sure to check out the great list of resources in the newsletter, such as the one listed below.

Life after High School: A Guide for Culturally and Linguistically Diverse Families of Youth with Disabilities

This guide is offered in nine languages: English, Arabic, Chinese, Korean, Russian, Somali, Spanish, Tagalog, and Vietnamese. Wow, eh? From Open Doors for Multicultural Families.

Addressing the Impacts of Parent and Caregiver Loss on Children

(Also available in Spanish: Cómo afrontar el impacto de la pérdida de padres y cuidadores en los niños)

This Dear Colleague Letter from the Administration for Children and Families (ACF) discusses the urgent need to support children and youth who've experienced the traumatic loss of a parent or caregiver. It also includes an astoundingly thorough list of programs and resources available to address the spectrum of needs a child or family might have, from economic supports to behavioral health, to kinship and family supports, and more.

How to Work With Your Child's School

Children with emotional or learning challenges are entitled to support from their schools. Who should parents talk to? This suite of articles from the Child Mind Institute can sure help! It includes 6 separate briefs, with titles such as Building Your Education Team, Supporting Trans and Nonbinary Kids at School, How to Get Assistive Technology for Your Child in School, How to Make the Most of Your IEP Meeting, and About Section 504 Plans. All are also available in Spanish.

Treating Symptoms of Trauma in Children and Teenagers

(Available in Spanish: Tratar los síntomas de trauma en niños y adolescentes) The 2022 Children's Mental Health Report looks at the effects of psychological trauma on children and reviews the evidence for treatments aimed at helping them recover. From the Child Mind Institute, 15 pages.

Children's Mental Health: A National Family Guide

This 26-page guide from the RAISE Center is packed with helpful info about mental health and a multitude of resources for families. Topics discussed include what parents and professionals need to know about mental health, when to get help, diagnosis, medication, supports and services, schools and mental health, state agencies, and much more.

Sensory Processing Issues Explained

(Available in Spanish: Los problemas de procesamiento sensorial explicados)

This series from the Child Mind Institute delves into the many aspects of sensory processing issues in children, and can come in handy as we approach the chaotic holidays and social gatherings. The series includes such articles as Treating Sensory Processing Issues; How Sensory Processing Issues Affect Kids in School; Sensory-Friendly Party Ideas; and Tips for Going Places With Sensory-Challenged Kids. All are available in English and Spanish.

Food Allergies in Children

(Similar info in Spanish: Alergias a los alimentos en niños)

Holiday and everyday feasting can be very tricky if your child has a food intolerance or allergy.

This article from Johns Hopkins Medicine describes the most common types of such allergies, how to find out if and what types of allergies your child has, symptoms, and treatment, including tips for dining out with food allergies.

Navigating Food Allergies During the Holidays

Food allergies don't have to dampen the spirit of the holidays. See tips for celebrating with allergy-free foods, so everyone has a place at the table.

Responding to Your Child's Bite

(Available in Spanish: Maneras de tratar las mordidas de su hijo)

Many toddlers and young children bite. Developmentally, most toddlers don't have enough words to express how they are feeling. Biting is one of the ways toddlers express their needs, desires, or feelings. This handout provides information on why children bite, what to do and what not to do, and when to seek professional help. From the National Center for Pyramid Model Innovations.

IEP Tip Sheet Series

Parents and family members are critical members of the IEP team and the IEP development process. It's important that parents understand the IEP and its parts, why the IEP is important, and the valuable role that parents play in creating the IEP. This series begins with IEP Tip Sheet for Parents: An Overview of the IEP and then offers 7 fact sheets about specific components of the IEP. From the Progress Center.

Related Services Providers: Important Contributors to the Accommodations Decisionmaking Process

This 4-page brief from the National Center on Educational Outcomes suggests strategies for supporting related services providers so that they can participate more confidently as members of IEP teams when decisions are made about instructional and assessment accommodations.

Five Required Pre-ETS Services

For students with disabilities who are eligible or potentially eligible for VR services, pre-

employment transition services includes a specific set of activities by law: job exploration counseling, work-based learning experiences, counseling on postsecondary education opportunities, workplace readiness training, and instruction in self-advocacy. Want to learn more about each of these activities? Take advantage of this series from the National Technical Assistance Center on Transition: The Collaborative.

Webinar | The Transformative Power of Engaging Parents as Partners

This hour-long webinar was held in September 2022, and explores how one unified school district completely transformed its relationships with families, re-established trust, and even more importantly, improved students' learning experiences. Their intentional efforts to engage parents as partners also helped save the district millions of dollars in attorney fees and settlement costs. From CADRE, the TA&D's expert on dispute resolution.

U.S. Department of Education Launches New Initiative to Support Career-**Connected Learning and Increase Job Pathways for Young Americans**

The U.S. Department of Education (Department) announced the launch of *Raise the Bar*: Unlocking Career Success, a new Biden-Harris Administration initiative supported by the Departments of Commerce and Labor to increase and expand access to high-quality training programs to help young Americans pursue jobs in today's in-demand fields, and be prepared for careers of the future.

This new effort unites key agencies of the Biden-Harris Administration to strengthen the connection between K-12 education, postsecondary education, and workforce programs. With the support of the \$120 billion dollars dedicated to K-12 education in the American Rescue Plan (ARP) and Perkins funding, the Administration is ensuring the next generation is building the skills necessary to fill high-paying jobs like those created by the Bipartisan Infrastructure Law and CHIPS and Science Act. This includes expanding access to skills-based learning and training pathways, like Registered Apprenticeships in key industries such as advanced manufacturing, automotive, and cybersecurity.

As part of today's launch, the Department is announcing \$5.6 million dollars in Perkins funding for a new program to expand work-based learning opportunities for students and this morning will issue new guidance on how federal funds can be used to develop and expand career pathway programs, including Registered Apprenticeships. As part of this new initiative, the Department will host regional summits with students, educators, employers, and other stakeholders to learn about practices that have led to success and challenges that must be addressed.

"It's time we bridge the divide between our K-12 systems and our college, career, and industry preparation programs, which leave too many students behind and perpetuate inequities in our most diverse, underserved, and rural communities," said U.S. Secretary of Education Miguel Cardona. "An education system reimagined for the 21st century engages youth of all ages in the power of career-connected learning and provides every student with the opportunity to gain reallife work experience, earn college credits, and make progress towards an industry credential

before they graduate high school. Today, the Biden-Harris team is raising the bar with new investments and resources to support intentional collaboration between schools, colleges, workforce development agencies and industry partners and build clearer pathways for students to rewarding careers and lifelong success."

In support of today's launch, the First Lady Jill Biden, Secretary Miguel Cardona, U.S. Secretary of Commerce Gina Raimondo, and U.S. Secretary of Labor Marty Walsh will travel to northwest suburban Chicago, Illinois to meet with students enrolled in a career-connected learning program at Rolling Meadows High School. The Secretaries and the First Lady will also visit Aon's Chicago facility hosted by the Chicago Apprenticeship Network to highlight the value of Registered Apprenticeship, particularly in non-traditional industries and corporate careers with a focus on underrepresented populations and communities in key sectors of technology, finance, insurance, and banking. The visits coincide with the first day of National Apprenticeship Week, marking the 85th Anniversary of the National Apprenticeship Act.

"America is home to some of the world's brightest and most ambitious students, and we owe it to them to set them up for success," said U.S. Secretary of Commerce Gina Raimondo. "Career-connected education programs are essential to the success of the American economy and will spur a new generation of researchers, engineers, and manufacturers in critical industries. In launching this initiative, these programs and their graduates will enable us to continue outcompeting and out-innovating the rest of the world."

"During National Apprenticeship Week, the Biden-Harris administration is highlighting Registered Apprenticeship as a proven and industry-driven training model to address some of our nation's most pressing workforce challenges," said U.S. Secretary of Labor Marty Walsh. "The federal initiative announced today will further support private-public partnerships that help youth across the country access a college education, good-paying jobs, and strong pathways to the middle class."

The announcements include:

Investing \$5.6 million in Perkins funding for schools to expand work-based learning opportunities

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The Department announced that it will launch the "Career Z Challenge: Expanding Work-Based Learning Opportunities" competition in Spring 2023. The competition will foster multi-sector partnerships and expand work-based learning opportunities for students. Semi-finalists and finalists will be eligible to receive targeted technical assistance including professional development support, webinars and training, as well as a portion of a prize pool.

Providing new guidance to schools on using American Rescue Plan funds to expand career pathways for students to pursue in-demand jobs and support Registered Apprenticeships

The Department will publish a Dear Colleague Letter that provides information on how schools can use ARP funds to develop and expand career pathway programs and help more students pursue careers in in-demand fields.

This initiative builds on President Biden's FY 2023 Budget proposal, which invests \$200 million in Career-Connected High Schools and supports competitive grants to grow and build models of this bold vision. Funding would also support partnerships between local educational agencies, institutions of higher education—including community colleges—and employers, to encourage earning college credit while in high school through dual enrollment in core content and career and technical coursework; work-based learning opportunities; and academic and career counseling. President Biden's FY 2023 Budget proposal also includes \$1.4 billion for Career and Technical Education (CTE) programs. This includes an increase of \$20 million for CTE state grants that would expand access to career-connected programs for more students.

U.S. Department of Education Sends Letter to State Directors of Special **Education about Highly Mobile Children**

The Department of Education released a letter to State Directors of Special Education addressing high-quality education for highly mobile children, Nov. 10.

The Office of Special Education and Rehabilitative Services (OSERS) Deputy Assistant Secretary Katy Neas and the Office of Special Education Programs (OSEP) Director Valerie C. Williams emphasized the need for states, school districts, school staff, and families to help ensure the rights of highly mobile children with disabilities.

According to the letter, highly mobile children include, "children and youth experiencing frequent moves into new school districts, such as military-connected children, migratory children, children who are homeless, and children in the foster care system."

"Ensuring a high-quality education for highly mobile children is a critical responsibility for all of us," wrote Neas and Williams. "While these children often possess remarkable resilience, they also experience formidable challenges as they cope with frequent educational transitions." The letter includes a list of resources that provides guidance and describes principles that people working with students with disabilities may find helpful. It also addresses requirements and analysis of topics frequently associated with highly mobile children.

To read more, visit:

https://sites.ed.gov/idea/osers-letter-to-state-special-education-directors-about-highly-mobilechildren-20221110/

Individuals with Disabilities Education Act Services Provided in Head Start Programs

Government offices released documents last month to encourage collaboration between state and local education agencies and Head Start programs to effectively meet Individual with Disabilities Education Act (IDEA) requirements.

The U.S. Department of Education's Office of Special Education Programs and the U.S. Department of Health and Human Services' Office of Head Start authored a Dear Colleague Letter and guidance document.

These documents state that state and local educational agencies and Head Start programs have responsibilities for implementing IDEA to ensure that children with disabilities enrolled in Head Start programs receive a free appropriate public education in the least restrictive environment.

To learn more, visit:

https://sites.ed.gov/idea/idea-files/dear-colleague-letter-on-idea-services-in-head-start/

https://sites.ed.gov/idea/idea-files/guidance-on-creating-an-effective-memorandum-ofunderstanding-to-support-high-quality-inclusive-early-childhood-systems-oct-5-2022/

Guidance Helps Schools Support Students with Disabilities and Avoid Disparities in the Use of Discipline

The U.S. Department of Education announced the release of guidance from its Office for Civil Rights (OCR) and Office of Special Education and Rehabilitative Services (OSERS) to help public elementary and secondary schools fulfill their responsibilities to meet the needs of students with disabilities and avoid the discriminatory use of student discipline. These newly released resources are the most comprehensive guidance on the civil rights of students with disabilities concerning student discipline and build on the Department's continued efforts to support students and schools through pandemic recovery.

The resources are listed below and can be found at:

https://sites.ed.gov/idea/new-guidance-helps-schools-support-students-with-disabilities-andavoid-discriminatory-use-of-discipline/

- Letter from Secretary Cardona to Our Nation's Educators, School Leaders, Parents, and Students About the Importance of Supporting the Needs of Students with Disabilities.
- OSEP Dear Colleague Letter on Implementation of IDEA Discipline Provisions.
- Questions and Answers Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions.
- Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders.

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| • | Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student |
|---|--|
| | Discipline under Section 504 of the Rehabilitation Act of 1973 (Section 504). |

• Accompanying Fact Sheet.

Cultural Issues: Treating & Diagnosing ADHD

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***Article Excerpted from the Winter 2020 Journal of the American Academy of Special Education Professionals (JAASEP).

Abstract

ADHD refers to a diagnostic category applied to children exhibiting inattention, impulsivity, and hyperactivity. Approximately 1.2 to 2 million children are currently diagnosed with ADHD, making ADHD is considered to be the most common child psychiatric diagnosis in the United States. Public schools are constantly faced with the over-representation of students from minority populations in special education. Children with ADHD may be protected by three federal statutes: Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), and the Individuals with Disabilities Education Act, Part B (IDEA). Given that minorities constitute approximately one-third of the public school population, the purpose of this paper is to obtain a better understanding of the role culture plays in the diagnosis and treatment of ADHD.

Cultural Issues on the Diagnosis and Treatment of ADHD

ADHD refers to a diagnostic category applied to children exhibiting inattention, impulsivity, and hyperactivity (Barkley, 1990; Cantwell, 1996). Cantwell (1996) explains that ADHD begins early in life, is persistent over time, pervasive across settings, and functionally impairs home, school or leisure activities. It has been estimated that ADHD occurs in approximately 3% to 5%

of children in the United States (American Psychiatric Association, 2000; Berkley, 1998; Cantwell, 1996). According to Barkley (1990), the etiology of ADHD is unknown, yet its expression is believed to be the interaction of both psychosocial and biological factors (Barkley, 1990). Research suggests that the difficulties children endure as a consequence of this syndrome may affect their developmental trajectory and can result in impaired adult productivity and wellbeing (Manuzza et al. 1991; Manuzza et al. 1993). In order to effectively treat ADHD, the American Academy of Child and Adolescent Psychiatry recommends that not only a pharmacological treatment be used but a psychosocial treatment as well (AACAP, 1997). Individuals with ADHD oftentimes do not receive adequate pharmacological or psychosocial treatment. This is especially true for Hispanics and other persons belonging to an ethnic minority group (Jensen et al. 1999, Bussing et al. 1996). This is of special importance given that ADHD is considered to be the most common child psychiatric diagnosis in the United States (Bussing, 1998). According to Bloomingdale, Swanson, Barkley, and Satterfield (1991), approximately 1.2 to 2 million children are currently diagnosed with ADHD. Given that minorities constitute approximately one-third of the public school population, the purpose of this paper is to obtain a better understanding of the role culture plays in the diagnosis and treatment of ADHD (Reid, 1995).

International Differences in Diagnosing ADHD

It is important to keep in mind that ADHD is not diagnosed across countries in the same way, which can oftentimes explain the disparities when discussing the ADHD prevalence rates found in the research literature (Gingerich, Turnock, Litfin, & Rosen, 1998). For example, a study conducted by Mann et al. (1992) concluded that the perceptions of clinicians from several different countries with respect to hyperactivity varied significantly even when uniform rating criteria were applied. Furthermore, assessment instruments are not always used in the same way across countries, often using different cut-off scores for diagnosing hyperactivity (Holborow & Berry, 1986). According to Chandra (1993) cultural and societal tolerance for different behaviors vary, and how much a behavior deviates from the norm is based on culture-specific norms and not globally uniform criteria.

Reasons for the Inadequate Treatment of ADHD in Ethnic Minority Children

According to a study conducted by Bauermeister et al. (2003) in which he studied the treatment of ADHD among Puerto-Rican children, only one-fourth of the children who received the diagnosis received school-based services such as counseling and special education. Several explanations have been posited as to why ethnic minority children are currently receiving less adequate treatments than their white counterparts. One proposed explanation by Bussing (1998) is that ethnic minority parents had less knowledge of ADHD than their white counterparts even after controlling for socioeconomic status. Bussing (1998) believes that ethnic minority families often obtain medical advice from informal social networks and many times invalidate medical labels such as ADHD. The above may be due to these informal networks not recognizing the symptoms of the disorder or do not believe in the disorder. Therefore, parents who consult with these types of social networks are unlikely to view it as a disorder. A second explanation for the inadequate treatment of ethnic minority children is that different cultures have different thresholds for labeling behavior, different child-rearing practices, and also have different expectations for what constitutes appropriate behaviors (Weisz et al. 1991; Thiebaud, 1978).

Many times ethnic minority parents perceive ADHD symptoms as normal or as behaviors that will be outgrown, therefore not needing professional intervention (Bussing, 1998). A third explanation for this occurrence may lie in the trust parents place in their physicians. If parents do not trust their physician because they feel discriminated against, it is unlikely that parents will consider any pharmacological treatments that they prescribe (Bussing, 1998). Lastly, a fourth reason for the inadequate treatment of ADHD in ethnic minority children may lie in the fact their families many times have much more pressing concerns than their White counterparts, such as economic deprivation resulting from poorly paying jobs, low educational attainment, poor household structures, and a large number of dependents. Bussing (1998) believes that the main priority for many ethnic minority families is to prevent their children from incarceration, chemical dependency, and violence. Overall it appears that that the decision to treat ADHD is made within each family's cultural context and may explain the low number of children belonging to ethnic minority groups that receive adequate treatment.

Federal Statutes

Even though the decision to treat children with disabilities many times rests on the parents, who are often guided by the social network within their culture, the federal government enacted numerous laws to protect children with disabilities so that those children have a better opportunity to contribute to society. The Education for All Handicapped Children Act (PL 94-142) in 1974 and subsequent reauthorizations advanced education rights for all children with disabilities (Huefner, 2000). Parental input in their child's special education programming includes parental consent for initial evaluation (20 U.S.C. §1414 (a) (1) (C)), parental consent for placement (20 U.S.C. § 1414 (a) (5)), and parental involvement in the development of the child's Individualized Education Program (IEP) (34 C.F.R. § 300).

Evaluation procedures not only help determine if a child is eligible to receive special education services, but the Individuals with Disabilities Education Act of 1997 (IDEA) also stipulates that these procedures protect students from being misidentified based on race, culture, language difference, or the disability itself. Two ways of reducing the risk of misidentification are stipulated by the statute: (1) standardized tests must be administered by trained and knowledgeable personnel; and (2) standardized tests must be validated for the task for which they are used (20 U.S.C. § 1414(b) (3) (B)). In addition, tests must be used that are not racially or culturally discriminatory towards the child being evaluated (20 U.S.C. § 1414 (b) (3) (A) (ii)). Furthermore, students must be tested in their native language or mode of communication. Determination of a disability rather than differences due to language development should always be the focus of an assessment (34 C.F.R. § 300.532 (a) (2)).

To comply with federal mandates, the impact of culture and language on the assessments used to diagnose and treat ADHD has to be considered. By addressing these influences when evaluating children for potential ADHD, the over-representation of students in the special education system with cultural and linguistic diversity will be minimized.

APA Professional Standards in Working with Diverse Populations

The American Psychological Association (APA) has proposed several standards for psychologists that reflect and coincide with the aforementioned federal laws. The following suggestions were published by APA (1993) in an attempt to provide greater awareness to

practicing professionals in regards to practical issues when working with culturally diverse clientele:

- 1. Psychologists educate their clients on the processes of psychological intervention, such as goals and expectations; the scope and, where appropriate, legal limits of confidentiality; and the psychologists' orientations.
- 2. Psychologists are cognizant of relevant research and practice issues as related to the population being served.
- 3. Psychologists recognize ethnicity and culture as significant parameters in understanding psychological processes.
- 4. Psychologists respect the roles of family members and community structures, hierarchies, values, and beliefs within the client's culture.
- 5. Psychologists respect clients' religious or spiritual beliefs and values, including attributions and taboos, since they affect worldview, psychosocial functioning, and expressions of distress.
- 6. Psychologists interact in the language requested by the client and, if this is not feasible, make an appropriate referral.
- 7. Psychologists consider the impact of adverse social, environmental, and political factors in assessing problems and designing interventions.
- 8. Psychologists attend to as well as work to eliminate biases, prejudices, and discriminatory practices.
- 9. Psychologists working with culturally diverse populations should document culturally and socio-politically relevant factors in the records (p.45).

The Influence of Culture in the Assessment of ADHD

Research suggests that four types of equivalents must be considered in order to establish the cross-cultural validity of an instrument. The first type of equivalents is called a linguistic equivalent and refers to having an accurate translation of behavioral descriptors. If this type of equivalence is not established, then behavioral raters may not have a common understanding of the characteristic being rated. In order to satisfy linguistic equivalence in an instrument, a back translation is recommended. To do this, a word is first translated into a second language and then retranslated back into the original language. If the retranslation does not yield the same word that the translation did, then the translation did not have an equivalent literal meaning (Marsella & Kameoka, 1989). A second characteristic of a cross-culturally validated instrument is that of conceptual equivalence, which refers to the similarities found in the meaning of the constructs used in assessment. Different cultures can interpret a construct in different ways. For example, the term "dependency" has a negative connotation in Western societies, yet it has a positive connotation in Japanese society (Marsella & Kameoka, 1989).

Moreover, a study conducted by Reid, Maa, and Vasa (1994) revealed that there are clear differences in the perceptions of ADHD across European, British, and American professionals. The third characteristic of a cross-culturally valid instrument is scale equivalence. In order to meet this criterion, there must be a common understanding of how the scale is used and that the raters share a common metric. In an attempt to quantify an opinion, behavior rating scales usually use Likert Scales and employ descriptors such as "Not at All," "Just a Little," "Pretty Much," and "Very Much" (Marsella & Kameoka, 1989). Different cultures may interpret the frequency, intensity, and duration of the behavior corresponding to each of the aforementioned descriptors differently, resulting in interrater differences within a culture (Ross & Ross, 1982). The last characteristic constituting a culturally valid instrument is that of normative equivalence, which implies that the standards developed for one culture, are appropriate for another (Marsella & Kameoka, 1989). According to Reid (1995), in order for instruments to be comparable across cultures distribution should be similar, population means should be equal, and the symptomatology of a disorder should take place at the same base rate and intensity across cultures. Behavior rating scales can be very useful in diagnosing ADHD. However, practitioners should be aware that the results obtained when using an instrument cross-culturally may be inappropriate. Maag and Reid (1994) suggest other ways of assessing a child such as multimethod functional approaches like looking at behavior baselines, designing interventions to treat the behavior, reviewing the outcomes, and revising interventions if necessary.

ADHD within Special Education

Children with ADHD may be protected by three federal statutes: Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), and the Individuals with Disabilities Education Act, Part B (IDEA). Both State Education Agencies (SEAs) and Local Education Agencies (LEAs) are required to provide a Free and Appropriate Public Education (FAPE) to all eligible children with disabilities. A student with ADHD could be eligible to receive special education services as defined by Part B of the Individuals with Disabilities Education Act under the Other Health Impairment (OHI) category if the ADHD is adversely affecting the child's educational performance. A diagnosis of ADHD by a physician is not enough to make a child eligible for services; educational need must also be present.

According to Gregg (2000), states have ten responsibilities in implementing eligibility requirements for ADHD under IDEA. The first responsibility is to make sure that public schools are able to locate, identify, and evaluate children who are disabled by ADHD. The second responsibility is to ensure that children with ADHD are provided with a FAPE. The third responsibility is that school personnel must develop and implement an individual educational program (IEP) to meet that child's educational need. Positive behavioral interventions also may be developed to assist the child's learning. The fourth responsibility is that schools must make an effort to involve parents in all decisions regarding the evaluation, eligibility, placement, and programming for their children. The fifth responsibility is for schools to educate children with ADHD with nondisabled children in the regular education setting to the maximum extent appropriate. The sixth responsibility is that schools must provide parents with the procedural safeguards outlined by IDEA. The seventh responsibility is for schools to ensure that the personnel providing special education and related services to children with ADHD have met state qualification standards. The ninth responsibility that schools must enforce is that children with ADHD will participate in state and district wide assessment programs with appropriate accommodations. Finally, the tenth responsibility is for schools to monitor suspension and expulsion rates for children with ADHD as compared to children without disabilities.

In the 23rd annual report to Congress, there were a total of 253,795 United States children and 35,487 Texas children receiving services under the category of OHI. In comparison, there were a total of 291,474 United States children and 36,539 Texas children receiving services under the category of OHI in the 24th annual report to Congress. As one can note, there has been a significant increase in children being served. Although these numbers do not specify how many ADHD children are receiving services under OHI, we can estimate that a portion of students served under OHI is directly linked to ADHD. (U.S. Department of Education, 2001; US. Department of Education, 2002).

Disproportionate Representation of Minority Students in Special Education

Public schools are constantly faced with the over-representation of students from minority populations in special education (Daniels, 1998). According to Dunn (1968), the over-representation of students with cultural and linguistic diversity (CLD) in special education first came to light more than thirty years ago. Early research on this phenomenon by Li and Moore (1998) focused on demonstrating its detrimental impact on society, such as poor academic outcome and social stigma. Unfortunately, bringing this information to public attention was not enough to eliminate its pernicious occurrence. Nevertheless, the early research that was conducted yielded sufficient information to establish the educational inequities in key litigation cases. These cases would later pave the way for educational reform and legislation mandates.

Historically, children that have come from culturally and linguistically diverse backgrounds have been assessed in either a biased or discriminatory way (Diana v. State Board of Education, 1970; Larry P. v. Riles, 1979; Sattler, 1988). These types of biased assessments have led to the disproportionate pattern of diagnosis and placement in special education of Hispanics, African-Americans, and Asians. In a study conducted by Langsdorf et. al. (1979), they noted that Mexican American and African American children from low SES backgrounds are less likely to have adopted the middle-class values and attitudes that are characteristic of childhood socialization patterns in American education and are consequently more at risk of being referred for special education. Bahr and Douglas (1991) state that for the past two decades there have been an overwhelming amount of minority students overrepresented in special education. Lipman (1997) indicates that the overrepresentation of culturally diverse students in special education is particularly visible in racially integrated schools. Furthermore, Shinn, Tindal, and Spira (1987) found that teachers referred a higher percentage of black than white students in grades 4-6 and concluded that race is a factor that affects teacher referral decisions. Moreover, a

study by Zucker and Prieto (1977) found that when a student was described as being Hispanic, teachers found placement in special education as being more appropriate.

Currently, there is growing concern for the disproportionate number of minority students being served under special education. Studies have shown that ADHD appears to be more prevalent among children from low socioeconomic status (SES) as well as children who are ethnically diverse (LeFever & Dawson, 1999). Linguistic diversity also influences teacher referrals. Arcia, Frank, Sanchez-LaCay, and Fernandez (2000) state that the identification of children with ADHD becomes problematic in cases where English is the student's second language. These researchers further mention that characteristics of the behavior must be distinguished from inattentiveness or disruptiveness which may be the result of the child not understanding the language of instruction. Therefore, English Language Learners may be at particular risk for being inaccurately referred to special education for suspected ADHD. Even though professionals in the field are becoming more aware and sensitive to these issues, the instruments currently used to assess ADHD continue to lack the cross-cultural validity necessary to make accurate diagnoses (Reid, 1995). This has serious implication for children of minority status given that they may not receive the services and supports necessary to be successful in the classroom, and consequently in society.

Summary and Future Direction

As previously mentioned, it is evident that there are many limitations ranging from conceptual to psychometric to ethical in the assessment practices of ethnically and linguistically diverse populations. Again, given that ADHD is considered to be the most common child psychiatric diagnosis in the United States, and that minorities constitute one-third of the public school population, assessment instruments should, therefore, be up to par to meet the needs of these children. Both parents and educators should be informed about the behaviors associated with the different minority cultures so that they do not confuse these behaviors, like most uninformed observers do, as hyperactivity or inattentiveness, which could then lead to an ADHD referral or diagnosis. Presently, IDEA 97, Section 504, and ADA have set laws and procedures to protect students from being misidentified based on race, culture, language difference, or the disability itself.

Also, professional organizations such as APA have proposed several standards for psychologists that also reflect and coincide in the intent of the aforementioned federal laws.

Unfortunately, even though the law intends to protect children, the assessment instruments that we have to work with sometimes do not have the psychometric properties necessary to conduct valid cross-cultural assessments. Given the present limitations in the field, a multi-method functional approach should be implemented more frequently. It could be postulated that the disproportionate number of minority students being served under special education could have been subject to these injustices. As practitioners in the field of school psychology, we must take the lead in resolving some of these issues that have affected minority students for such a long period. This change must begin with becoming better educated about the minority cultures that practitioners encounter every day. Practitioners must also become aware of the present psychometric limitations of current ADHD instruments since they pertain predominantly to Western cultures and therefore do not represent children globally since their demographic characteristics are many times inadequately represented in the normative sample. Future research in this area should focus on developing new instruments that take the minority context into account such as race, language, traditions, and values. If the disproportionate number of ethnically diverse children in special education is to change for the better, these issues must be addressed and immediate action should be taken.

References

- American Academy of Child and Adolescent Psychiatry (1997). Practice parameters for the assessment and treatment of children, adolescents, and adults with attentiondeficit/hyperactivity disorder. Journal of the American Academy of Child and Adolescent Psychiatry, 36(10), 69-84.
- American Psychiatric Association (APA) (2000). Diagnostic and statistical manual of mental disorders-Text Revision (4th ed.). Washington, DC: Author
- American Psychological Association. (1993). Guidelines for providers of psychological services to ethnic, linguistic, and culturally diverse populations. American Psychologist, 48, 45-48.

- Arcia, E., Frank, R., Sanchez-LaCay, A. & Fernandez, M.C. (2000). Teacher understanding of ADHD as reflected in attributions and classroom strategies. *Journal of Attention* Disorders, 4(2), 91-101.
- Bahr, M. W., & Douglas F. (1991). Are teachers' perceptions of difficult-to-teach students racially biased? School Psychology Review, 20(4) 599-608.
- Barkley, R.A. (1998). Attention deficit hyperactivity disorder: A handbook for diagnosis and treatment (2nd ed.). New York: Guilford Press
- Barkley, R.A. (1990). Attention deficit hyperactivity disorder: A handbook for diagnosis and treatment. New York: Guilford Press
- Bauermeister, J.J., Canino, G., Bravo, M., Ramır R., Jensen, P.S., Chavez, L. et al. (2003). Stimulant and psychosocial treatment of ADHD in Latino/Hispanic children. *Journal of* the American Academy of Child and Adolescent Psychiatry, 42, 851–855.
- Bloomingdale, L. Swanson, J.M., Barkley, R.A., & Satterfield, J. (1991). Response to the notice of inquiry by the professional group for ADD 'and related disorders. (Available from the Professional Group for Attention and Related Disorders, Student Development Center, University of California, 19262 Jamboree, Irvine, CA 92715).
- Bussing, R., Perwein, A.R., & Belin, T. (1996, August). Predicting unmet service needs for ADHD among children in special education: Who is at risk? Poster session presented at the annual meeting of the American Psychiatric Association, New York, NY.
- Bussing, R., Schoenberg, N.E., & Perwien, A.R. (1998). Knowledge and information about ADHD: Evidence of cultural differences among African American and White parents. Social Science in Medicine, 46(7), 919-928.
- Cantwell, D.P. (1996). Attention Deficit Disorder: A Review of the Past 10 Years. Journal of the American Academy of Child and Adolescent Psychiatry, 35(5), 978-987.
- Chandra, P.S. (1993). Cross-cultural psychiatry and children with deviant behaviors. American Journal of Psychiatry, 150(8), 1279-1280.

- Diana v. California State Board of Education. No. C-70 37 RFP, District Court of Northern California (February, 1970).
- Daniels, V.I. (1998). Minority students in gifted and special education programs: The case for educational equity. Journal of Special Education, 32, 41-43.
- Dunn, L. M. (1968). Special education for the mildly retarded: Is much of it justifiable? Exceptional Children, 35, 5-22.
- Gingerich, K.J., Turnock, P., Litfin, J.K., & Rosén, L.A. (1998). Diversity and attention deficit hyperactivity disorder. Journal of Clinical Psychology, 54, 415-426.
- Gregg, S. (2000). ADHD and School Law. (ERIC Document Reproduction Service No. ED 449 597).
- Holborow, P.L., & Berry, P.S. (1986). Hyperactivity and learning difficulties. *Journal of* Learning Disabilities, 19, 426-431.
- Huefner, D.S. (2000). The risks and opportunities of the IEP requirements under IDEA '97. Journal of Special Education, 33, 195-204.
- Jensen, P.S., Bhatara, V.S., Vitiello, B., Hoagwood, K., Feil, M., & Burke, L.B. (1999). Psychoactive medication prescribing practices for U.S. children: gaps between research and clinical practice. Journal of the American Academy of Child & Adolescent Psychiatry *38*(5), 557-565.
- Langsdorf, R., Anderson, R.P., Waechter, D., Madrigal, J., & Juarez, L. (1979). Ethnicity, social class, and perception of hyperactivity. *Psychology in the Schools*, 16, 293-298.
- Larry P. v. Riles, C-71-2270 RFP, Opinion, October 10, 1979.
- LeFever, G.B., Dawson, K.V., Morrow, A.L. (1999). The Extent of Drug Therapy for Attention Deficit-Hyperactivity Disorder among Children in Public Schools. American Journal of Public Health, 89(9), 1359-1364.
- Li, A., & Moore, D. (1998). Acceptance of disability and its correlates. *Journal of Social* Psychology, 138(1), 13-26.

- Lipman, P. (1997). Restructuring in context: A case study of teacher participation and the dynamics of ideology, race, and power. American Educational Research Journal, 34 (1), 3-37.
- Maag, J.W. & Reid, R. (1994). Attention-deficit hyperactivity disorder: A functional approach to assessment and treatment. Behavior Disorders, 20, 5-23.
- Mann, C.A., Lubar, J.F., Zimmerman, A.W., Miller, C.A., & Muenchen, R.A. (1992). Quantitative analyses of EEG in boys with attention deficit hyperactivity disorder: A controlled study with clinical implications. *Pediatric Neurology*, 8, 30-36.
- Manuzza, S., Klein, R. G., Bessler, A., Malloy, P. & LaPadula, M. (1993) Adult outcome of hyperactive boys educational achievement, occupational rank, and psychiatric status. *Archives of General Psychiatry*, 50, 565–576.
- Manuzza, S., Klein, R.G., Bonagura, N., Malloy, P., Giampino, T.L., & Addalli, K.A. (1991). Hyperactive boys almost grown up: V. Replication of psychiatric status. Archives of General Psychiatry, 48, 77-83.
- Marsella, A.J., & Kameoka, V.A. (1989). Ethnocultural issues in the assessment of psychopathology. In S. Wetzler (Ed.), Measuring mental illness: Psychometric assessment for clinicians. Washington, DC: American Psychiatric Press.
- Reid, R (1995). Assessment of ADHD with culturally different groups: The use of behavioral rating scales. School Psychology Review, 24(4), 537-561.
- Reid, R., Maag, J.W., & Vasa, S.F. (1994). Attention deficit-hyperactivity disorder as a disability category: A critique. Exceptional Children, 60, 198-214.
- Ross, D.M., & Ross, S.A. (1982). Hyperactivity: Current issues, research, and theory (2nd ed.). New York: John Wiley.
- Sattler, J.M., (1988) Assessment of Children (3rd ed.). San Diego: Jerome Sattler.
- Shinn, M.R, Tindal, G., & Spira, D. (1987). Special Education as an index of teacher tolerance: Are teachers imperfect tests? Exceptional Children, 54, 32-40.

- Thiebaud, E.F. (1978). The transition from Childhood to Adulthood in Old and New Sub-Saharan Africa. In E.J. Anthony and C. Chiland (Eds.), *The Child and His Family* (pp. 143-153). New York: John Wiley and Sons.
- U.S. Department of Education. (2001). Twenty-third annual report to Congress on the implementation of the Individuals with Disabilities Act (IDEA). Washington, DC: U.S. Department of Education.
- U.S. Department.of Education. (2002). Twenty-fourth annual report to Congress on the implementation of the Individuals with Disabilities Act (IDEA). Washington, DC: U.S. Department of Education.

20 U.S.C. §1414 (a) (1) (C)

20 U.S.C. § 1414 (a) (5)

20 U.S.C. § 1414(b) (3) (B)

20 U.S.C. § 1414 (b) (3) (A) (ii)

34 C.F.R. § 300

34 C.F.R. § 300.532 (a) (2)

- Weisz, J., Weiss, B. (1991) Studying the "referability" of child clinical problems. *Journal of* Counseling and Clinical Psychology, 59, 266–273.
- Zucker, S.H., & Prieto, A.G. (1977). Ethnicity and teacher bias in educational decisions. *Instructional Psychology*, 4, 2-5.

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Book Review: Start with Why Frank Andres Lorenzo

Leadership in education plays an important role in the learning environment of teachers, administers, and studentts. Leadership it means supporting societal change that will increase all students' learning and advocating externally and internally for student learning. Leadership plays an important to in education and administration. In the administration position leadership can play an integral role in creating a positive school culture. It can influence student learning and achieving. Effective school leadership is increasingly viewed as the key to far reaching education transformation.

Thesis of the Book

After reading the book called "Leading Change", the central part of the book focuses on describing an eight-step change model, highlighting the psychological, cultural, and leadership foundations for successful shits to achieve in an organizational transformation. In this book Kotter, begins informing the reader the importance of change in an everyday life. In the book Kotter mentions that globalization as a major force pushing firms towards implementing change (Kotter, p. 10). In other words, he talks about how to differentiate management against leadership. Throughout the book it explains each step of leadership and how each step takes an important of leadership.

The main idea of this book in *Leading Change* is about how a successful organizational transformation can be attained by following eight easy steps in a gradual and in a consistent way. The steps that Kotter speaks of are the following, establishing urgency, creating guidelines, developing strategies, communication, generating short term wins, empowering actions, gaining and producing chance, and being able to approach anchoring in culture. In the book, there is a quote that says, "The first four processes can be regarded as preparatory because they aim to "defrost a hardened status quo" (Kotter, 2012, p. 24)". What this means is that it facilitates the employees to taking necessary actions by changing their point of views and being able to change through effective communication patterns. The other four basically focuses on reorganization and restricting. It implements organizational behaviors to be able to find evidence that can provide the employees and opportunities to change and provide organization.

"Leaders have to provide direction, create the conditions for effective peer interaction, and intervene along the way when things are not working as well as they could." (Fullan) This quote from Fullan caught my attention because it refers to having a purpose and characterization in being able to lead the employees with respect and direct eye contact as well as being able to understand what make their employees have knowledge as to what works best from them. Looking into this quote from Fullan, Kotter has a similar quote which is "Management is a set of processes that can keep a complicated system of people and technology running smoothly. The most important aspects of management include planning, budgeting, organizing, staffing, controlling, and problem solving. Leadership is a set of processes that creates organizations in the first place or adapts them to significantly changing circumstances. Leadership defines what the future should look like, aligns people with that vision, and inspires them to make it happen despite the obstacles". In other words, leadership and management both focuses on the importance of guiding all team members with respect, organization, planning, and supporting each other. Leadership does involve leading a group of people and management is taking responsibility for items. However, putting two and two together is leadership is a vital management function that helps direct an organization's resources to improve the efficiency goals.

In conclusion, Leading Change, is based on eight steps of approaches that a leader should use to be able to attain a successful environment among their team members. Also, that cultural and psychological elements constitute the core of the activities in Kotter's model, it is valid to conclude that leaders must take a more people-oriented approach while in the process of guiding innovation efforts. As Kotter says in his book, "Major change is often said to be impossible unless the head of the organization is an active supporter." (Kotter)

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References

Kotter, J. P. (2012). Leading change. Harvard Business Review Press.

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