

NASET Special **Educator** e-Journal

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Special Education Legal Alert

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This month's update identifies recent court decisions that illustrate the issues of eligibility, FAPE, and hearing officer remedial authority. For related publications and earlier monthly updates, see perryzirkel.com.

On July 25, 2023, the federal district court in New Jersey issued an unofficially published decision in *H.R. v. West Windsor-Plainsboro Board of Education* that addressed both the issues of eligibility and FAPE for a kindergarten student with an undisputed diagnosis of ADHD. In spring 2019, while the child was in the District's preschool program, the initial evaluation determined that the child was eligible under the IDEA, and he received an IEP related to his ADHD. After a delay due to the pandemic, the IEP team met in November 2020 of the child's kindergarten year, determining based on the recent reevaluation that the he was no longer eligible under the IDEA. The team concluded that, despite a 51-point discrepancy between his IQ and achievement test scores, he met his IEP goals and was progressing well in relation to his classmates in general education. The parents filed for a due process hearing, claiming that the 2019–20 and 2020–21 IEPs did not provide FAPE and that the determination of non-eligibility was incorrect. The hearing officer ruled in favor of the District. The hearing officer's conclusions included that the child's preschool and kindergarten teachers' and the District's special education teacher-consultant's testimony was more convincing than that of the parents' expert witness, who was a speech pathologist and clinical director of a private learning center. The primary reason the hearing officer provided for this conclusion was that the private expert did not have teacher

certification and did not observe the child in his school setting. The parents filed an appeal with the federal district court.	
First, the parents claimed that the hearing officer erred in relying on the opinions of the District’s witnesses over the “data-driven” recommendations of their private expert.	Citing the applicable judicial deference to the credibility determinations of hearing officers, the court concluded that the record showed that the hearing officer duly weighed the expert testimony and that the resulting factual findings were not “clearly erroneous.”
Second and more specifically, the parents claimed that the child continued to be eligible, pointing to the 51-point achievement-ability discrepancy.	The court concluded that under New Jersey’s permissive identification approach to the classification of specific learning disability, the 51-point discrepancy was relevant to the classification but not to the lack of adverse impact requiring special education.
Next, the parents claimed that the district committed various procedural violations, including a delayed reevaluation and IEP for kgn.	Citing the two-part harmless-error approach in the IDEA, the court ruled that none of the alleged violations resulted in the requisite substantive harm in light of the child’s continuing behavioral and academic progress and ultimate defensible declassification.
Finally, the parents challenged the substantive appropriateness of the IEPs due to the lack of the private expert’s recommended reading method.	Citing <i>Endrew F.</i> and the child’s notable progress, the court concluded that “even if the Fountas & Pinnell test is inferior to [the expert’s] suggested ‘structured literacy program,’ Defendant was not obligated to provide an ‘optimal level of services.’”

Although of negligible precedential weight more generally, this decision illustrates the prevailing case law approaches under the IDEA of (a) deference to school authorities and, upon appeal, to hearing officer credibility findings; (b) emphasis on the ultimate, so-called “need prong” in eligibility cases, (c) focusing the second step of the harmless-error test for procedural FAPE claims on substantive student loss, and (d) the relatively relaxed but not precise or necessarily predictable substantive standard for FAPE under *Endrew F.*

On September 20, 2023, the federal district court in New Mexico issued an unofficially published decision in *Los Lunas Public Schools Board of Education v. Schneider* addressing the FAPE obligation of school districts and the remedial authority of hearing officers. The child in this case has Angelman Syndrome, a rare neuro-genetic disorder that includes developmental delays, sleeping problems, a happy social disposition, and lack of speech. From preschool through grade 4, the child had an IEP that included speech therapy, occupational therapy, physical therapy, and assistive technology for communication. He enjoyed interaction with his peers and was well-liked. However, at times he engaged in disruptive behaviors, including on one occasion disrobing, defecating, and rubbing feces on a file cabinet. The problems started to escalate in grade 5. Despite the District hiring a specialist to provide training to the teachers about Angelman Syndrome, they were not effective in dealing with the child. After the parents rejected an addendum to the last IEP that would have changed placement to instruction in the home, the District moved him to a closet-like storage room for instruction without amending the IEP. After his mother’s objected, the District next provided 30-minutes of services Monday to Thursday at the cage-fenced tennis courts of his elementary school, although he would not participate unless his mother stayed with him. After several days of absence, the District, per its policy, disenrolled him with notice to the state but not to his parents. The parents filed for a due process hearing but withdrew it based on a settlement agreement that provided for his

attendance for grade 6 at the District’s middle school. During summer 2018, he visited the middle school twice but did not show up at the start of the school year. The District cancelled the scheduled IEP meeting, but in November 2018 the team met and prepared an IEP that provided for a shortened school day and week and that inaccurately reported him as receiving his actual placement and school. In December 2019, the parents filed a state complaint that resulted in a finding of denial of FAPE and a corrective action plan. However, all that the District provided to him was several weeks during the summer of 30 minutes per day of remote instruction and “co-treating” related services. He received no instruction in math, reading, or written language in grades 6, 7, or 8. Moreover, the District did not provide a reevaluation after 2014. The lack of instruction and reevaluation continued in grade 9 (2020–21), when the District provided system-wide distance learning, which he was not able to access due to lack of accommodations for his communication limitations. In April 2021, the parents filed for a due process hearing, resulting in a decision that the District committed various serious procedural violations and substantively denied FAPE for more than 4 years. The hearing officer’s remedies in addition to 4 years of compensatory education included an independent educational evaluation (IEE) by an educational expert in Angelman Syndrome within 30 days and a promptly subsequent IEP meeting facilitated by this expert to provide for the child’s transition to full-time return to school with the support of a Board Certified Behavior Analyst. The District filed an appeal with the federal district court.

First, the District claimed that it had made “reasonable efforts” for FAPE and, citing a 10th Circuit decision, that the fault was the parents’ failure to accept these efforts and assure the child’s attendance.

The court concluded that (a) the asserted “reasonable efforts” defense is antithetical to the FAPE obligation of the IDEA; (b) the cited court decision was not at all on point; and (c) the “disturbing facts” in the record amply supported the hearing officer’s FAPE ruling.

Second, the District claimed that two of the hearing officer’s remedies constituted an abuse of discretion—(a) the specialization that the hearing officer specified for the IEE expert, and (b) the IEP-facilitating role that the hearing officer designated for the IEE expert.	The court roundly rejected these claims, concluding that (a) the IDEA and its case law do not prohibit a hearing officer from designating IEE expertise in a child’s particular disability and (b) the record also amply supported this added role for the IEE expert so that “the District can finally begin to understand [this child’s] needs and provide him with a FAPE.”
This case shows the challenges that districts face in appropriately addressing the complex needs of some low-incidence disabilities and the broad equitable remedial authority that hearing officers have for those districts that fail in fulfilling their IDEA obligation to do so.	

Buzz from the Hub

All articles below can be accessed through the following links:

<https://www.parentcenterhub.org/buzz-sept2023-issue1/>

<https://www.parentcenterhub.org/buzz-aug2023-issue1/>

<https://www.parentcenterhub.org/buzz2023-july-issue1/>

<https://www.parentcenterhub.org/buzz2023-june-issue2/>

<https://www.parentcenterhub.org/buzz2023-june-issue1/>

<https://www.parentcenterhub.org/buzz-may2023-issue2/>

<https://www.parentcenterhub.org/buzz-may2023-issue1/>

<https://www.parentcenterhub.org/buzz-april2023-issue2/>

<https://www.parentcenterhub.org/buzz-april2023-issue1/>

OCR Releases Dear Colleague Letter on Race and School Programming

OCR's 13-page DCL on *Race and School Programming* is intended to guide schools on lawful programs to promote racially inclusive school communities. This resource clarifies the circumstances under which schools can develop curricula and programs or engage in activities that promote racially inclusive school communities.

The English Learner Family Toolkit

(Available in English, Arabic, Chinese, and Spanish)

This family toolkit (from the National Clearinghouse for English Language Acquisition) is meant to support families of English learners in the U.S. education system. It consists of 6 chapters, and each chapter contains 5 sections: an overview, family and student rights, questions to ask schools, tips, and resources.

IEP Tip Sheet: Age of Majority

This tip sheet introduces and briefly defines age of majority. The age of majority is defined by state law and is the age at which the child is no longer a minor and assumes rights and

responsibilities to make certain legal decisions. The tip sheet includes a brief summary of federal regulations, common questions, and additional resources. Check with state law for specific information about age of majority in your state.

Student-Centered Transition Planning

This IRIS module will help users to better understand the benefits of student-centered transition planning, identify ways to involve students in collecting assessment information and developing goals, and be able to prepare students to actively participate in their own IEP meetings.

Why Assessments are Important *(Video for Families)*

NCEO offers this short video on why assessments are important, and why children with disabilities should participate in them. This resource is designed to help families understand why assessments are a good opportunity for their children to show what they know, and for schools to better understand their children's needs. It also includes tips for families on how to better support their children when they take assessments.

Getting Help for Your Child When Taking State Assessments

Summarizes the purpose of state tests and describes test resources that students may need. Also provides parents with tips on how to work with teachers to access these resources.

State Testing of Your Child with a Disability

Describes resources and accommodations that are available specifically to students who have a disability, an IEP, or a 504 plan when they take state test

Bullying and Youth with Disabilities and Special Health Needs

Children with disabilities are at an increased risk of being bullied. Any number of factors—physical vulnerability, social skill challenges, or intolerant environments—may increase the risk. Bullying can include making fun of kids because of their allergies or exposing them to the things they are allergic to. What to do? Check out this article from StopBullying.gov, and its **accompanying tipsheet in PDF**.

Back-to-School Checklists from Bookshare

Bookshare is a fantastic resource for students with learning differences who need reading

support. Are you a parent that needs to find your child's schoolbooks in alternative formats? Follow these steps to ensure a smooth back-to-school experience. (Bookshare also offers **an attractive poster** that Parent Centers, schools, and community organizations can use to tell families about the books available and the benefits to all of registering for Bookshare's services.)

Small Steps for Big Vision: An Eye Health Info Tool Kit for Parents and Caregivers

The National Center for Children's Vision and Eye Health at Prevent Blindness partnered with the National Head Start Association to create this online resource to provide parents and caregivers with the information, suggested actions, and assistance they need to be empowered partners in their children's vision and eye health, and to care for their own vision and eye health. Also check out *Parents Need to Know*, which includes multiple articles in English and in **Spanish** to help parents and caregivers address children's vision needs (e.g., *10 take home messages*; *Signs of vision problems in children*; *Vision and classroom behaviors*; and *10 steps from vision screening to eye exam*).

The **results of the Parent Center data collection for 2021-2022** are now posted on CPIR's website, and we invite everyone to take a detailed look at the impact that Parent Centers have. We also share with you:

An Action-Packed Year for Parent Centers | Here's the infographic CPIR produced with the data Parent Centers submitted. It's 2 pages (designed to be printed front/back to become a 1-page handout or mini-poster). It's a stunning portrait of what can be achieved by a few, extremely dedicated people for the benefit of so many.

Adaptable Infographic for Parent Centers to Use | This infographic is designed so Parent Centers can insert just their Center's numbers, data results, and branding into key blocks of information. Adapt the PowerPoint file, and shine the spotlight on the work of your Center!

Quick Guide to Adapting the Infographic | This 2-page guide shows you where to insert your Center-specific information, just in case having such a "checklist" would be helpful.

Summer and Sensory Processing Issues

(Available in Spanish | [El verano y los problemas de procesamiento sensorial](#))

For children with sensory processing issues, summer can be a challenging time. Think about summer's onslaught of unfamiliar sounds, smells, and places: beach sand, fireworks, an amusement park, the shriek of animals at the zoo. Yet with preparation and planning, parents can help kids with sensory issues get the most out of summertime. Other articles in the series include:

Strategies for a Successful Summer Break | [*Estrategias para que las vacaciones de verano sean un éxito*](#)

13 Tips for Helping Anxious Kids Enjoy Summer Camp | [*13 consejos para ayudar a los niños ansiosos a disfrutar el campamento de verano*](#)

Summer Activities for Kids With Learning Disorders | [*Actividades de verano para niños con trastornos del aprendizaje*](#)

Summer Success Kit for Kids With ADHD | [*Kit para que los niños con TDAH tengan un verano exitoso*](#)

15 Tips for Self-Advocates

(Also available in multiple languages; see list below)

Youth and young adults with disabilities may need services and supports to reach their goals. This often means communicating with agencies and systems that offer services to people with disabilities. It can also mean attending meetings and advocating for themselves. This fact sheet includes tips to help youth prepare for meetings, develop a service plan, and resolve conflicts that may arise in the process. Available in: Spanish, Arabic, Armenian, Chinese, Farsi (Persian), Hmong, Khmer, Korean, Russian, Tagalog, and Vietnamese.

Applying for a Job: The Young Adults Guide *(Revised 2023)*

This is a 5-page tip sheet for youth and young adults with serious mental health conditions about finding, applying for, and interviewing for jobs.

Resources for Afghan Families

This webpage at the U.S. Department of Education is loaded with helpful connections for Afghan families—organizations to consult, workbooks and illustrated stories in Pashto and Dari for children, and lessons to help Afghan families learn English.

Resource on Confronting Racial Discrimination in Student Discipline

(Also available in Spanish: **Recurso para evitar la discriminación racial en la disciplina estudiantil**)

The U.S. Department of Education’s Office for Civil Rights and the U.S. Department of Justice’s Civil Rights Division jointly released the *Resource on Confronting Racial Discrimination in Student Discipline*. The departments recognize and appreciate school administrators, teachers, and education staff across the nation who work to administer student discipline fairly, and to provide a safe, positive, and nondiscriminatory educational environment for all students, teachers, and other educators.

How Technology Changes Families

(Also available in Spanish: **Cómo la tecnología cambia a las familias**)

This newsletter connects you with multiple articles on the impact of technology on families. Articles include such titles as *Is Internet addiction real?* and *Managing stress caused by social media with mindfulness*.

Supporting the Child Vaccination Decision Process

(Also available in Spanish: **Apoyo al proceso de decisión de vacunación infantil**)

Learn information about the science behind and benefits of child vaccines to more fully engage with families as they make decisions regarding their children’s health. View this course for free after creating an account at Better Kid Care On Demand.

Resources for Families with Children who have a Genetic Condition

(Also available in Spanish: **Recursos para las familias con niños que tiene una condición genética**)

Do you have a child with a genetic condition? Here's help in English and in Spanish, from the National Genetics Education and Family Support Center (Centro Nacional de Educación Genética y Apoyo Familiar).

Updated Resources and Proposed Regs for Schools to Deliver Health Care to Eligible Students

ED and the Department of Health and Human Services (HHS) announced a **Notice of Proposed Rule Making** under IDEA to streamline Medicaid services consent provisions when billing for Medicaid services provided through a student's individualized education program. They've also updated **A Comprehensive Guide to Medicaid Services and Administrative Claiming**.

Suspension, Expulsion & Informal Removals: Unexpected Realities in Preschool

This is the 6th blog in OSEP's series on **Discipline Discussions**. Focus? How exclusionary discipline in preschool can create stressful and isolating experiences for children and their families.

Sports and Children with Disabilities

All children can benefit from the exercise, energy release, and pure enjoyment of playing sports. This includes children with disabilities. This article talks about the benefits of sports, the types of sports for children with special needs, and how to get started with sports.

Fun Activities to Stay Active with Physical Disabilities

Just because a child is in a wheelchair or has other physical disabilities does not mean that he or she can't stay active. There are plenty of games and sports that children can play when properly modified. (Example: Lower the basketball hoop for children in wheelchairs or place a ball on a tee instead of having it be pitched.) Let children try a variety of activities and adapt those activities to their needs. From PediaPlex.

Physical Activity for Students with Disabilities

Check out this 5-step plan from Action for Healthy Kids that starts with "safety first" and includes consideration of each child's IEP and how wellness activities can support the overall

educational plan for each child. After explaining the steps in the plan, the article also covers general inclusion ideas for all students and concludes with ways to adjust physical activities to include students with disabilities.

Action for Healthy Kids offers lots of resources in *Spanish*. See the list

at: https://www.actionforhealthykids.org/game-on-activity-library/?activity_spanish%5B%5D=162

Including All Children: Health for Kids With Disabilities

Also from Action for Healthy Kids is this lengthier article that takes a look at barriers to participation across various types of special needs (e.g., medical, sensory-communication, social-psychological, mobility, cognitive), possible physical activity limitations associated with each, and inclusion tips for each.

Exercise And Activities For Kids With Physical Disabilities

Here are insights and suggestions from a physical therapist, with respect to kids and teens that use walkers, crutches or canes for mobility; kids and teens that use a wheelchair for mobility; and kids with significant movement limitations. From Pediatric Therapy Essentials.

Inclusion Resources

Need info on inclusion of children with disabilities in school and in the community? This site has a wealth of information, including videos on strategies and best practices for inclusion. Great stuff!

The National Center on Health, Physical Activity and Disability (NCHPAD) seeks to help people with disability and other chronic health conditions achieve health benefits through increased participation in all types of physical and social activities, including fitness and aquatic activities, recreational and sports programs, adaptive equipment usage, and more. Here are two sections of their website to explore in particular:

Factsheets | Factsheets describe various disabilities and health conditions, as well as physical activity, exercise, and overall health considerations and recommendations associated with each.

Home Workout Videos | Videos for kids and adults to guide their exercise at home; some videos are short, others are 20 minutes or more.

And last but not least from NCHPAD:

Love Yourself: Self-Care For People With a Disability

This 3-page article urges people with disabilities to “take some time to show yourself some love.” It highlights some ways they can do that, like foot checks, deep cleaning their wheelchair, or finding some movement that’s right for them.

Asian American and Pacific Islander (AAPI) Heritage Month

May is Asian/Pacific American Heritage Month. Check out the events, collections, exhibits, and collections available throughout the month from U.S. government agencies such as the Library of Congress and the Smithsonian to celebrate the influence, contributions, and achievements of AAPI communities in the United States.

Identity and Cultural Dimensions

NAMI is an excellent go-to source of info and guidance on mental health issues of all kinds. In this section of NAMI’s website, you’ll find individual pages examining the mental health realities of diverse communities such as Asian American and Pacific Islander; Black/African American; Hispanic; Indigenous; LGBTQI; and People with Disabilities.

Reinforcing the Resilience of Native American Parents and Youth

As part of supporting Native families, reminding Native families and youth of their innate resilience is extremely important. CPIR offers two resources on resilience to help Parent Centers and the Native families with whom they work: (1) *How Parent Centers Can Support American Indian and Alaska Native Parents* (linked above); and (2) ***Bouncing Back from Setbacks: A Message for American Indian and Alaska Native Youth***.

The 7 Most Important De-escalation Strategies for Challenging Behaviors

De-escalation is the process of calming down a situation before it escalates further. Learning to de-escalate situations is not always easy. It requires practice and a toolbox of techniques. What de-escalation strategies can educators and parents use when kids and teens are overwhelmed, upset, or engaging in challenging behaviors? This article describes the 7 more important.

Tailored Youth Suicide Prevention Efforts

Research shows that youth of color and LGBTQ+ youth are at higher risk of suicide than White and heterosexual youth, which suggests the importance of tailoring prevention approaches to the populations most in need of support. This Child Trends' new brief offers three powerful recommendations to help community-based organizations tailor their youth suicide prevention efforts to the unique needs and strengths of Asian, Black, Indigenous, Hispanic, and LGBTQ+ youth.

Self-Assessment of Cultural and Linguistic Competency

Dispute resolution systems must be culturally and linguistically competent to meet the interests and needs of diverse populations residing in the United States, territories, and tribal nations. CADRE offers this self-assessment tool, which can be useful in determining the level of cultural and linguistic competence in a dispute resolution system. It's part of a much larger package on the subject, including a User's Guide, a webinar, and recommended supplemental resources (e.g., *A Guide to Engaging Underserved Families in the CLC Assessment Process*).

RTI/MTSS May Not Be Used to Delay or Deny IDEA Evaluation

In March 2023, OSEP emailed copies of two memoranda to IDEA Part B Directors and Section 619 Coordinators regarding the child find requirements in IDEA. OSEP took this action in response to concerns that initial evaluations to determine whether a child has a disability have sometimes been delayed or denied by LEAs until a child goes through a state's multi-tiered system of supports (MTSS) process, sometimes referred to as Response to Intervention (RTI). Read OSEP's correspondence and connect with the memos at the link above.

Outreach and Engagement of Underserved Populations

Effective community engagement and outreach takes careful planning and acknowledgement that each population that we work with is unique and offers us opportunities to broaden our understanding of what makes a community. Lots of useful resources can be found in this article, which shares 6 essential strategies for inclusive engagement and culturally competent outreach. From the Vocational Rehabilitation Technical Assistance Center for Quality Employment (VRTAC-QE).

Partnering with Hard-to-Connect Families

Often, when people with disabilities consider seeking employment, their families strongly influence the decision. Especially with transition-aged youth, family influence can sway whether a consumer decides to try working. There is still a persistent belief that work income will cancel out any benefits the person with disability receives. Also from VRTAC-QE.

Native American Resource Collection

Don't forget about this invaluable resource collection designed expressly for Parent Centers to support new and current staff in their outreach to Native American parents of children with disabilities. The collection is organized in 4 tiers of learning that reflect what we know about journeys of multicultural growth. Each product within contains current information about the traditional culture and contemporary issues important to Native families. Consider, for example, articles such as **Cultural Awareness and Connecting with Native Communities** and **The Impact of Traditional Native Values on Transition Planning**.

Corporal Punishment in Schools Fact Sheet

From the Office for Civil Rights (OCR), issued Sept 2022, updated March 2023

The CRDC (Civil Rights Data Collection) defines corporal punishment as paddling, spanking, or other forms of physical punishment imposed on a child. The data reported in this **factsheet** is for K-12 students and includes data by sex, by race/ethnicity, and by state.

Dear Colleague Letter (March 24, 2023)

The Department issued this *Dear Colleague Letter* calling for the end to corporal punishment in schools. The letter reinforces the Department's position that corporal punishment in schools should be replaced with evidence-based practices, such as implementing multi-tiered systems of support that create a safe and healthy school environment. The Department included specific recommendations for evidence-based practices to give students what they need to learn and grow.

Discipline Discussions | Informal Removals Matter

Valerie C. Williams, Director of OSEP, writes about the pattern of informally removing students

with disabilities from school classrooms as a way to address disruptive behavior. The parents get a call from the school that their child has caused a disruption and must be picked up immediately to help their child “calm down.” This blog post from OSEP will connect you with the extensive **2022 federal guidance on discipline under IDEA**, many parts of which are also available in Spanish. OSEP ends this blog post by asking CPIR (yes, us!) to answer 4 specific questions about disciplinary practices, including “What are possible next steps a parent can take if their child’s school repeatedly calls them to pick up their child from school due to their behavior?”

Bipolar Disorder in Teens and Young Adults: Know the Signs

*(Also available in Spanish: **Trastorno bipolar en adolescentes y adultos jóvenes: Conozca los signos**)*

Bipolar disorder is not the same as the typical ups and downs every kid goes through. The mood swings are more extreme and accompanied by changes in sleep, energy level, and the ability to think clearly. Learn the signs and symptoms.

Borderline Personality Disorder

*(Also available in Spanish: **Trastorno límite de la personalidad**)*

Learn more about the disorder, how it’s diagnosed, and how to find support.

Advancing Racial Equity in Early Intervention and Preschool Special Education

This 9-page fact sheet provides key information and supporting evidence about racial disparities and inequities for young children with a disability, and questions for state and local leaders seeking to advance equity for all children with disabilities and their families. From the ECTA Center.

Addressing the Underrepresentation of Limited English Proficiency Learners in Special Education

By

Lesline Charles

Abstract

The underrepresentation of limited English proficiency learners (LEP) in special education is a growing concern. It is imperative for educators and families to understand how language proficiency impacts students in a variety of ways. The primary way LEP learners are affected is within their academics and the secondary way is in relation to the adaptation of social norms in western society. Often, this population of students are highly overlooked and may not be referred due to limited English proficiency. It also hinders accessibility to special education services for families of LEP learners. According to the Individuals with Disabilities Education Act (“IDEA”) a child is deemed as ineligible for special education services if the primary basis of the disability is limited English proficiency. This is important to address so that students who are of minoritized backgrounds can have equal opportunity to access special education services even with LEP.

Key Words: Special Education, Language Proficiency, Disability, and Accessibility

Addressing the Underrepresentation of Limited English Proficiency Learners in Special Education

My perspectives on the findings related to this topic derive from multiple sources of existing educational research. According to (Blaise, 2015) “Linguistic challenges are widely evident and create additional challenges for students in the school system, and not many educators are informed of how lack of language skills has a direct impact on a student’s abilities to learn subjects such as mathematics.” Based on the perceptions of my own cultural identity it can be

very difficult to master a subject area if the primary language spoken at home is not the same as the instruction given at school. For many students it can be very challenging to ask for help because their cultural identity is tied with a strong sense of resiliency and overcoming challenges independently and suffering in silence. In some cultures, the idea of asking for help is a sign of weakness so many students are unable to vocalize their frustrations or defend themselves when it comes to their education simply because they do not have the English proficiency needed to do so. It becomes highly unfortunate that our LEP students do not feel as they have a voice or a say in their educational needs especially if they are also facing the additional challenges related to a undiagnosed disability. LEP learners may not always be aware of the additional services offered through special education if there is not an authority figure present to provide them with such information. Imagine a child who arrives from another country emotionally distraught because they are not performing as well as their English-speaking counter parts only to find out they meet the criteria for SLD but cannot receive academic interventions all due to their limited English proficiency which is a factor that is beyond their control. An article written by (Mansouri et al., 2022) described the inclusion criteria for two group comparison study whereby students were aligned by characteristics across groups in the context of different educational setting which were identified as inclusive, self-contained, or special education classroom. The findings were identical to (Kleinert et al., 2015) who illustrated a positive correlation between the results of students with expressive communication, reading and mathematical skills. If a student is unable to provide expressive communication due to a linguistic barrier that is of no fault of their own, how then should it be acceptable to deny them of the opportunity to receive special education or linguistic services if needed. Communication and comprehension are the driving forces behind greater levels of academic achievement in literacy and mathematics.

Additionally, more research has been conducted on the topic of English Learner as a result of Every Student Succeeds Act (ESSA, 2016) which requires that each individual state must provide alternative English language proficiency assessments for EL with significant cognitive disabilities who are ineligible to participate in the standardized ELP assessment even with accommodations. According to (Karvonen & Clark, 2019) this is a nationwide issue because there is an in accuracy of identification of students with cognitive disabilities who are also English learners and there is a challenge in comprehending the characteristics of this specific

population of students who also have a direct impact on how instructional approaches, assessments for language acquisition, and academic achievement are developed. In the absence of consistent and reliable information regarding a student's English-language proficiency it becomes increasingly complex to target whether language-acquisition difficulties are linked to a student's disability or their status as a language learner (Thurlow et al., 2016). This inadvertently becomes a topic that is ambiguous for students and educators to navigate as there are multiple confounding factors that also play a vital role in the evaluation process.

Conclusion

All in all, the intent of this literature review is to remind educators and families of LEP learners that there are a variety of circumstances that need to be considered apart from limited language proficiency when it comes down to the accessibility of special education services. It is also imperative to be culturally sensitive and mindful that different students have a unique set of needs that should be met accordingly to ensure the highest quality of education possible for every child regardless of cultural background, disability, or limited language proficiency to provide the correct tools to assist them in becoming stronger and more successful learners.

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Exploring Intersectionality of Trauma and Special Education

By Kaitlyn Weaver

Abstract

Children with disabilities are at an increased risk of experiencing abuse, neglect, and trauma. Additionally, abuse is more likely to go unnoticed and unmediated due to the decreased likelihood of reporting as well as the difficulty of differentiating signs of abuse and behavioral symptoms of disabilities. Understanding this increased risk of abuse and neglect, as well as the signs is important as educators to ensure that students are protected. This review hopes to analyze the different increased risks as well as why reporting may not happen as quickly in these cases. It also hopes to add to the academic discussion of trauma informed prevention and intervention strategies for children with disabilities who may experience abuse or neglect.

Key Words: Trauma-informed, Abuse, Disabilities, trauma intervention for youth

Exploring Intersectionality of Trauma and Special Education

Child maltreatment, abuse, and neglect have been studied in literature and research for years. The experience of these throughout childhood and other traumatic childhood experiences have been found to have detrimental effects on the child starting at the time of abuse and leading on throughout the rest of their lives. The effects of abuse and neglect can cause cognitive and educational deficits, mental health impairments, increased risk of addiction and substance use, increased risk of risky sexual behavior, and lowered physical health (Strathearn et al., 2020). As such, it is important for educators to be aware of just how pervasive trauma is in the lives of American children with over two-thirds of Americans having experienced childhood trauma

(Center for Disease Control and Prevention [CDC], 2016). Furthermore, certain populations of children are at an increased risk of experiencing abuse or neglect during their lives. One of these populations is children with disabilities. Children with disabilities have been found to be at an increased risk for ACEs, or adverse childhood experiences (Morgart et al., 2021). The following literature review aims to explore the intersectionality of abuse, maltreatment, and trauma and children with disabilities. Additionally, it will introduce different trauma-informed practices that can be implemented when working with children with disabilities to prevent further victimization and to increase the identification of abuse in this population.

Intersectionality in special education

It is important to be exceptionally aware of the increased risk that children with disabilities are at for experiencing abuse or neglect in their lives. Increased rates of incidence vary depending on the source as well as based on what disability the child has. It has been found that in children who were being investigated by Child Protective Services and who were over the age of three, almost half of the children were not typically developing or delayed in some areas (Helton et al., 2019). This statistic is troubling alone; however, it is also stated that the rates of reported maltreatment in children are expected to be much lower than in reality. A study done by Maclean et al. found that children with intellectual disabilities were at the highest risk of experiencing abuse (2017). The study found that the next most likely population was children with conduct disorders and then mental or behavioral disorders. However, it was also found that children with autism and Down Syndrome had a lower risk as well and those with cerebral palsy had no more increased risk than peers without a disability. Another study found that children with disabilities who were more likely to go longer without diagnosis were at a higher risk of abuse due to the parents mistakenly viewing their behavior as purposefully disobedient (Nowak, 2015).

One reason that abuse in populations of children with disabilities could be reported less is due to lessened verbal articulation for some children (Flynn, 2019). That is, when abuse is happening, some children may not have the verbalization to be able to report it to the proper authorities. This could also be a risk factor for children with disabilities. Child predators may specifically target children with disabilities due to their decreased ability to report, as stated by Nowak (2015). Nowak goes on to discuss that when discussing sexual abuse, children with severe disabilities who may have a high dependency on others may be more likely to comply with the sexual abuse.

This dependency can also be due to the child not understanding the motives behind the sexual abuse or not understanding that it is abuse, which furthers the likelihood that the abuse will not be reported. Additionally, the behavioral effects of trauma are at risk of being ignored or explained as a symptom of the disability. This can lead teachers, school psychologists, and other members of the child's educational team to be less likely to notice the signs of maltreatment and a later intervention than may occur for a child with no disability. Specifically in children who have verbal delays, behavioral characteristics of trauma and abuse can be important in early identification and intervention. In a study focused on comparing characteristics between children with intellectual disabilities who have experienced sexual abuse and those who have no, children who have experienced sexual abuse were more likely to score higher on aggressive behaviors (self-injury, temper, agitation, etc.) (Smit et al., 2019). However, some of the children with ID who have not experienced sexual abuse also exhibited the same characteristics just not to the same high level. As such, it can be difficult to distinguish between the behavioral symptoms of a disability and the behavioral symptoms of experiencing abuse.

Flynn also theorized that parental abuse may be a greater risk due to the increased emotional and financial stress that having a child with a disability can cause (2019). This is not the only study that cited parental frustration as a risk for child abuse. In one study, parents of children with intellectual or communicatory disabilities were found to use physical punishment when their children did not respond to verbal instruction (Scaramella & Leve, 2004). The parents were found to overestimate their child's abilities and viewed their disobedience to the verbal instruction as stubbornness. Children with disabilities may need a large team of support, including teachers, coaches, therapists, and counselors. Having trusted respite care can decrease the risk of abuse in children with disabilities as no breaks in childcare can cause caregivers to have higher levels of frustration (Legano et al., 2021). Legano et al. also suggest that it is important that parents are given an accurate picture of what may be challenging for their child and what their strengths may be (2021). This helps the caregivers form reasonable expectations for their child's behavior which can decrease misunderstandings about the nature of misbehavior.

The increased number of caregivers and support staff can be helpful in preventing abuse but can also increase the possibility of abuse (Legano et al., 2021). This could be due to the fact that other support members have increased access to the child, and potentially in sensitive situations

such as helping the child use the bathroom. It is important to note, however, that additional caregivers can also help to alert to the presence of abuse sooner due to having multiple people being able to watch for changes in the demeanor or behavior of the child. Additionally, children with disabilities can experience victimization at school by their peers. Children with emotional disabilities have been found to be more likely to be victimized by students than other disabilities (Bear et al., 2015). Bear et al. expanded on this by stating that children with language impairments were often at a greater risk of victimization. Similarly, Rose et al. found that children with specific learning disabilities are subject to victimization more than children without disabilities, especially when there were receptive vocabulary differences (2015). The role that communication deficits play in increased bullying victimization has been confirmed by multiple different studies. This could be linked to the increased risk of peer isolation due to anxiety when children with social skill deficits and language impairments.

Additionally, estimates show that potentially 53% of youth in child welfare at the time of aging out of care have a physical, cognitive, or emotional disability (Cheatham et al., 2020). When entering into foster care, children often have a high need for mental health care in order to help heal from the trauma that led to them entering the system. Studies have found that youth in foster care are at an increased risk of experiencing multiple adverse childhood experiences and increased mental health concerns (Centers for Disease Control & Prevention, 2019). The population of children with disabilities in foster care is an incredibly vulnerable population due to their already higher risk of experiencing traumatic events. On top of that, children with disabilities are less likely to find permanent placements than their peers (Cheatham et al., 2020). This can lead to an increased chance of attachment issues, which can further their vulnerability to emotional or sexual abuse. Another study found that children with disabilities were overrepresented when looking at youth who were in both the child welfare and the youth justice system (Baidawi & Piquero, 2021). This is another alarming point that leads further to the importance of increasing the protective factors for children with disabilities, as well as the importance of increasing the efficacy of the child welfare system.

Lack of secure attachment can come from other places than just foster care though. During the pandemic, children with disabilities lost access to many of the services and providers that they were used to seeing regularly (Houtrow et al., 2020). This lack of stability and uncertainty can be

traumatic for children. Children with disabilities sometimes attend multiple therapies a week, such as speech, occupational therapy, or behavioral analysis therapy. They may also have home health aides or paraprofessionals who work with them at school. These trusted adults become a part of the child's inner circle and they come to rely on them. The sudden loss of these trusted adults during the pandemic was not only confusing for the children but also could have contributed to a further lack of reporting of child abuse due to less opportunity for seeing evidence of it. Additionally, a lack of stability and insecure attachment bonds can manifest through behavioral problems in children. Understanding that the children you are working with may have attachment issues due to previous experiences is important to understanding the function of behavior and working through it.

Working with families of special education children who may have experienced trauma

As stated before, trauma and its effects can be difficult to identify in children with disabilities due to existing behavioral symptoms from the disability that the child has. Knowing this, a helpful intervention to implement in working with children who are at risk of experiencing abuse or trauma is to build up their resiliency as well as teach methods for reporting if they experience abuse. One particular intervention program focuses on teaching individuals four different items: recognizing the signs of abuse, how to say 'no' to the abuser, how to recognize situations where there could be a potential for abuse, and how to report abuse when it occurs (Egemo-Helm et al., 2007). However, even though this training is often implemented, it is important to note that there has not been enough research done to know the empirical quality of the intervention on preventing and intervening when abuse is happening. Another common prevention program that can be implemented is peer support groups in which the same skills of recognizing signs of abuse and how to report it are taught, with the added protective factor of developing a system of support. These programs are also implemented frequently but once again need more research done to evaluate the effectiveness of it (Wilczynski et al., 2015).

A program that has been evaluated and found effective for children with intellectual disabilities is Kid & Teen Safe: An Abuse Prevention Program for Youth with Disabilities (Ortega et al., 2023). This program teaches boundary setting, self-advocacy, and avoidance of unsafe situations. The program also shares information with caregivers, teachers, and other team members for children with disabilities about the increased risk of abuse or neglect the children

face as well as prevention strategies. This intervention method does a good job of balancing teaching the children about abuse and how to help prevent it, while still sharing information with adults about how they too can prevent their child from being in unsafe situations where abuse may occur. While other programs focus solely on teaching children with disabilities prevention strategies for if they find themselves in unsafe situations, this does not help increase awareness about the increased vulnerability of abuse and the importance of early intervention in cases of abuse. This program ensures that caregivers are also aware so that they can be on the lookout for signs of abuse.

In a study done by Kroese et al., an adapted trauma-focused cognitive behavioral therapy (TF-CBT) was developed for people with mild intellectual disabilities who have experienced trauma and have PTSD symptoms (2016). The participants in the study worked as a group with a therapist leading the group in discussions about their stories and interventions that they could implement at home. Participants of the group found that they were anxious about the group at first, but only one member continued to feel anxiety as the group continued to meet. This intervention is especially interesting as TF-CBT is commonly used with people without disabilities who have experienced trauma. Knowing how to adapt it and that it will be effective for the use of children with disabilities opens the door for trained counselors and mental health professionals to utilize it with this population. Another study done by Wilczynski et al. mentions that TF-CBT can be especially helpful for individuals with disabilities as it helps to address the trauma and the behavior problems that often follow traumatic experiences (2015). Both studies reported that flexibility of the methods used, while still remaining high fidelity to the methods of TF-CBT, was most helpful when working with children with disabilities.

Still discussing children with intellectual disabilities, focused specifically on child sexual abuse. The intervention program is called Child Sexual Abuse Prevention Intervention (CSAPI) and is also focused heavily on education (Ortega et al., 2023). This intervention taught the children explicitly what was good touch and bad touch, about their bodies, and what may be an inappropriate situation. The program uses stories to teach this to the children. It also told the students how they could report the sexual offender. This program differed from others as well due to its focus on teaching the child what constituted sexual abuse. As mentioned before, children with disabilities may be more at risk for sexual abuse due to not knowing what touch is

inappropriate. This program teaches the children what is not appropriate and dangerous for them. It focuses on prevention at its most basic level, that is the understanding of what is abuse.

In reference to parental stress and its effect on abuse as analyzed by Legano et al., it is important for practitioners to remember to support the parents of the children as much as the children (2021). Sharing information about support groups and resources that can be found outside of the schools can help parents form a network of resources to turn to when times of stress get too much to handle. Another prevention method to help reduce parental stress is the use of Parent-Child Interaction Therapy (Weisleder, 2011). This therapy method helps the children gain many specific skills such as prosociality and to decrease their negative behaviors. It also helps the parents learn positive discipline, as well as helps decrease parental stress. This is a great prevention method to help parents of children with disabilities learn positive parenting methods and teach their children coping skills and emotional regulation. Having the skills to handle difficult moments helps to reduce parental stress when they occur. Another prevention method is called “The Incredible Years Parent Program” (Weisleder, 2011) In this, the parents are informed about the developmental abilities and social understanding that a child may have at any given age. It also focuses on positive parenting techniques and family-based problem-solving. This program would also be incredibly helpful in reducing parental stress. As mentioned previously, parents of children with disabilities have been found to resort to more aggressive discipline methods due to not understanding the developmental stages that their children may be at or viewing the behavior as direct disobedience (Scaramella & Leve, 2004). The use of the Incredible Years Parent Program helps to mitigate this issue before it can occur by helping the parents fully grasp the level of ability that their child may be at during certain ages.

Conclusively, children with disabilities are more at risk for experiencing abuse, neglect, or traumatic experiences. This is due to many different reasons. For some children with disabilities there may be high physical needs, such as help changing or going to the toilet. This can leave them in vulnerable positions for caregivers to take advantage of them. Additionally, parents of children with disabilities are under extra parental stress. This can come from financial stress, an inflated expectation of child’s abilities which causes frustration, or overall stress. The added vulnerability to abuse that children with disabilities face is not the only risk. Children with disabilities may also be less likely, or unable to, report abuse that happens to them. For example,

as stated earlier, when being sexually abused, they may be unaware of what is unacceptable touch or may go along with it in an effort to comply with their abuser. Additionally, for children who have limited or no verbalization, there is a risk that they will not be able to report the abuse to someone. For these reasons and more, abuse of children with disabilities may not be noticed or intervened. Knowing the added vulnerability of children with disabilities, it is important to educators to be aware of trauma-informed procedures for intervention of abuse, as well as prevention strategies.

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An Examination of Black Students' and their Families' Experiences in Navigating their Autism Spectrum Disorder Diagnosis within the School Environment

By Jessica Paul

The purpose of this literature review is to analyze and examine black students' and their families' experiences in navigating their autism spectrum disorder diagnosis within the school environment. It is important that we explore this topic because black individuals face multiple barriers when it comes to seeking care for mental, developmental, and physical disorders. Such barriers include socioeconomic, educational, and racial obstacles that can make obtaining care such as screening, diagnosis, and interventions very difficult for these students and their families. In addition, these students are likely to face disparities and difficulties such as bullying and victimization by other students in the classroom. It is important that educators and service providers are not only aware of the barriers and difficulties that these students face, but also are informed on inclusion practices and know how to implement culturally responsive interventions with these students.

According to Ramclam et al. (2022), there are various disparities that black children with autism face. Black children unfortunately are diagnosed at a later time, are more likely to receive an initial inaccurate diagnosis, and receive treatment such as ABA therapy or other interventions at a much later time when compared to their white peers. This information conflicts with the rising ASD rates that we are seeing in the classrooms. This is significant because the earlier a child is appropriately diagnosed, the more likely they are to receive early interventions and to receive services from agencies, public schools, and clinics. Thus, early interventions and services lead to vigorous development in weak skills such as social and interpersonal skills, which can lead to better long-term outcomes for the child down the line.

This is further supported by the research article by Hotez and Hudson (2023), where they discuss the difficulties that black students with autism face at the postsecondary level. This article discusses how students with autism may struggle to complete their degrees due to lack of

inclusion efforts and inaccurate educational fit. In addition to struggling with their academic performance, black students with autism in the college/university setting may have difficulty with developing social relationships, maintaining their physical and mental health, and experiencing bullying. Additionally, these students experience chronic stressors and race-related stress such as racial discrimination, victimization, stigma, and exclusion.

According to Matthias et al. (2021), students with disabilities are more prone to being bullied or are more likely to experience victimization because they exhibit characteristics that make them look “different” or “other” in comparison to typical students. In the case of students with autism, repetitive or stereotyped behaviors increase the students' chances of being bullied by other peers. This can unfortunately lead to these students being excluded socially and thus can cause further challenges in their social skills.

Black students with autism are not the only individuals in their familial systems that experience challenges when dealing with this disorder. Parents and caregivers have the important role of ensuring that their children get the care that they need, and this can often be met with barriers such as educational inequities and socioeconomic factors. It has been reported that black parents/caregivers of students with autism experience several difficulties when advocating for their child such as feeling confused, not feeling like an active member of the team, and feeling intimidated during the IEP or 504 planning process. Additionally, black parents/caregivers reported experiencing unmet service needs, negative experiences with school personnel, and difficulty in obtaining accommodations for their child (Koffer et al., 2023). Additionally, it has been found that a mother’s education can contribute to the variability seen in a child's receptive and expressive language. Specifically, lower socioeconomic factors have been linked with lower language skills in children with autism (Olson et al., 2021)

My perspective on the information that is shared in these articles is that misdiagnosis can potentially be linked to racial stereotypes. Black students are underrepresented in the ASD category but are overrepresented (especially males) in the oppositional defiant disorder classification. This can be due to different racial expectations of how children will behave inside and outside of the classroom. Additionally, there can be mistrust between black families and practitioners, lack of knowledge about autism spectrum disorder from both parents/caregivers and practitioners, and practitioners downplaying parents’ concerns about certain behaviors. In

terms of bullying/victimization, students with autism spectrum disorder are more likely to be bullied due to lack of social skills and difficulty communicating with their peers. Additionally, certain physical behaviors such as flapping or walking on the tip of their toes indicates to their peers that there is something different about them. This can lead to students with autism being on the receiving end of harmful words and actions. Finally, black parents/caregivers experience racial disparities that impact the educational system and thus the services that their children receive. Black parents/caregivers face many difficulties such as education service use and obtaining engagement with school personnel.

It is important that service providers such as school psychologists and special education teachers are informed of these disparities and do their best to provide their students with a welcoming and inclusive environment. Both parents/caregivers and students display a positive attitude to inclusive education. Inclusive education includes parents/caregivers collaborating with the school and being satisfied with their child's teachers (Simon et al., 2023). The following are suggestions/recommendations that special education teachers and school psychologists can follow to support black students with autism and their families. Service providers should reflect and think about how their current practice methods may unknowingly contribute to the disparities that black students face. They should also lead with a strengths-based approach where they recognize and build upon the strengths of the student and their family. If interested, these practitioners can also involve themselves in research so that other practitioners and the public can have a better understanding of how ASD affects individuals differently. Service providers can also provide interventions for their students to help them develop their social/interpersonal skills. Additionally, they can also lead trainings for students and other school personnel on how to acknowledge and appropriately respond to students being bullied in the school environment. Finally, the school should provide support mechanisms for parents of children with disabilities and ensure that parents/caregivers feel heard and acknowledged when bringing up concerns about their children.

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