



September 2026

NASET Special Educator e-Journal

Exceptional Teachers Teaching Exceptional Children

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Special Education Legal Alert

Perry A. Zirkel
August 2026

September 2026

This month's update identifies two recent decisions that respectively reflect the majority and minority outcome trends in the world of special education litigation. For related publications and special supplements, see perryzirkel.com

On July 28, 2026, a federal district court in California issued an unofficially published decision in *E.S. v. Newport-Mesa Unified School District*. The student in this case was a 14-year-old with autism, other health impairment, and speech/language impairment. Dissatisfied with the district's proposed placement in a public school, the parents unilaterally placed their child in a private school. They filed for a due process hearing, claiming that the district had procedurally and substantively violated its obligation to provide their child with a free appropriate public education (FAPE). Based on the alleged denial of FAPE, they sought tuition reimbursement. After 7 days of hearings, the administrative law judge (ALJ) issued a decision in favor of the school district. The parents filed for judicial review.

First, the parents claimed that the district committed procedural violations during the last 3 IEP meetings by not having all the invited members present.

Disagreeing, the court concluded that the relevant members had attended, others were not necessary, and, even if there was a violation, the parents failed to show the requisite resulting loss to the child's progress or the parents' participation.

Second, the parents asserted that the IEP's baselines were not sufficiently specific and the goals were not sufficiently measurable or ambitious.

Also rejecting this claim, the court affirmed the ALJ that the baselines and goals were sufficient in relation to the applicable judicial precedents and the preponderance of the evidence in this case.

Third, the parents claimed that their child needed a more intensive placement both in relation to the presumption for the least restrictive environment (LRE) and the substantive standard for FAPE.

Again disagreeing with the parents, the court ruled that the district's proposed placement met both the 4-factor test for LRE and the *Endrew F.* substantive FAPE standard of being reasonably calculated to enable the child to make progress appropriate under the circumstances.

Finally, the parents more specifically targeted the lack of a 1:1 aide as a fatal flaw in the substantive appropriateness of the proposed IEP.	Deferring to the ALJ's finding that the parents' experts were unpersuasive and emphasizing the snapshot standard for assessing the appropriateness of the IEP, the court concluded that the parents had not proven the necessity of a 1:1 aide.
In contrast to professional norms in special education, this court decision is another illustration of the courts' often rather non-nuanced assessment of the common claims of parents in light of (a) the largely relaxed standards for FAPE and LRE, (b) the traditional deference to hearing officers or school authorities, and (c) the burden of persuasion being on parents in most states.	

On August 12, 2026, the federal district court in Oregon issued an unofficially published decision in *Estacada School District v. Student*. At an early age, the child in the case had an individualized family service plan for developmental disabilities based on behavioral issues and social-emotional delays. A few months before kindergarten, the IEP team met and developed an IEP that had a social-emotional goal, a self-management goal, 30 minutes of special education per week for each of these goals, and various supports targeting transitions and elopements. The child's behavioral problems started almost immediately upon the start of his kindergarten year, including inappropriate language, physical aggression to peers and staff, and elopement. Each time the school responded by sending the child to the principal's office, having the parents pick him up early, or issuing a half- or full-day suspension. In September, based on his parents' request, the district conducted a functional behavioral assessment (FBA). A second IEP team meeting at the end of September added a behavior intervention plan (BIP) based on the FBA, but not the full-time 1:1 aide that the parents requested. After the child's problematic behaviors and the district's disciplinary responses continued without abatement, the IEP team met in late October, doubling the special education minutes per week for each goal and adding 60 minutes per week for transitions, which resulted in a reduction to 40% in the general education classroom. The unwanted behaviors, which included property destruction and multiple instances of hitting teachers, continued without sustained improvement. In December, the IEP team met to conduct a manifestation determination review (MDR) based on the accumulation of six suspension days, determining that his behavior was a manifestation of his disability. In January, the child was suspended after threatening to go home, retrieve a gun, and return to shoot peers and staff. In February, after the child had accumulated a pattern of more than 10 days of suspension, the IEP team met conducted another MDR, resulting in not only the same conclusion but also fine-tuning of his BIP. The team did so six more times in March, April, and May in response to suspensions for successive assaults on peers and staff in combination with elopements and other violations of the school conduct code. In April, the district assigned a 1:1 aide for 2/3 of the day and subsequently two such aides for a half-day each, but not the requested single 1:1 aide full-time. At the end of May, the IEP team met for a final time, proposing a therapeutic private school placement despite the parents' report, from their observations, that it was not a good fit. The parents filed for a due process hearing, and the district filed a motion for the ALJ to grant a 45-day interim alternate educational setting (IAES) at the private school based on an alleged substantial likelihood of injuring others. After successive expedited and regular stages, the ALJ respectively denied the district's motion and ruled that the district denied FAPE based on the lack of services for suspensions beyond the requisite cumulative pattern, the failure to revise the FBA-BIP upon the first MDR, and the proposed segregated private school rather than

providing suitable supports at his public school. As remedies, the ALJ ordered the district to (a) provide 200 hours of compensatory education, (b) hire an independent specialist to develop a new BIP, and (c) convene a facilitated IEP meeting that includes the behavior specialist. The district filed an appeal with the court.	
The district challenged the ALJ's expedited order that denied its request for the 45-day danger-based IAES at the private school.	The court deferred to the ALJ's determination based on (a) the lack of injury for the past repeated behavior without any relevant change, and (b) the district's failure to specifically prove that the IAES met the applicable standard.
The district argued that the first MDR was proactively prior to the requisite number of days and, thus, did not require revising the FBA-BIP.	The court disagreed, primarily because (a) there is not authority providing an exception to the requirements specific to an MDR and, alternatively, (b) the district's FAPE obligation extends to updating an ineffective IEP.
The district challenged the ALJ's remedial orders.	The court concluded that the orders were within the ALJ's equitable authority.
This decision, which extends to further rulings and is available on Google Scholar, is worth reading on your own as an example of what a specialized parent attorney and relatively unusually affirmative adjudicators may produce even upon at least partially proactive district actions.	

Buzz from the Hub

<https://www.parentcenterhub.org/buzz-july2026/>

Deafblindness

What exactly does it mean when a person is deafblind? When most people hear the term “deafblind,” they think of Helen Keller or someone with no vision or hearing. The term actually describes a person who has some degree of loss in both vision and hearing, which may vary from person to person.

This new page on the CPIR website, created in collaboration with the **National Center on Deafblindness**, provides information on deafblindness and resources that will be helpful in the different stages in a person’s life.

Visit the **Deafblindness page** to learn more and explore the available resources.

OCECD

The Ohio Coalition for the Education of Children with Disabilities (OCECD) is the federally funded Parent Training and Information Center for the state of Ohio. OCECD brings together parents, professionals, and community partners to advocate for children with disabilities, ensuring they have access to the educational services, supports, and opportunities they need to achieve their full potential.

Learn more about OCECD here!

Guided Play: Turning Everyday Play into Meaningful STEM Learning Opportunities

Are you looking for ways to help children learn STEM concepts and processes naturally and in a fun and engaging way? In this blog post **STEMIE** staff members Dr. Christine Harradine and Victoria Waters share teaching strategies and adaptations, such as prompting and scaffolding, to help children with disabilities engage in playful, meaningful STEM learning.

[Read the post here.](#)

AI in Education: What the Research Says

AI use in the classroom has increased dramatically in recent years, with research on its impacts on children's learning lagging behind. Is AI effective for helping students learn? What challenges do teachers face in using these tools and making sure children are completing their own schoolwork?

This new tip sheet from the **Children and Screens: Institute of Digital Media and Child Development** offers practical, evidence-based strategies to guide educators in the new AI-driven classroom, as well as parents navigating children's learning in the age of AI.

[Read the tip sheet here.](#)

Life Hacks for Transition

These 20-minute podcasts, created by the **National Technical Assistance Center on Transition (NTACT)**, provide work-based learning resources and strategies you can use on the fly!

[Start listening today.](#)

“Now What?” Resource Suite

The “*Now What?*” *Resource Suite* by the **Connecticut Pathways to Integrated Employment (CTPIE)** helps job seekers navigate common milestones and decisions throughout the employment process. Each resource provides simple, practical next steps to help individuals prepare for opportunities, build workplace skills, address challenges, and move toward long-term employment success. Topics include what to do after submitting a job application, preparing for interviews, following up after employer events, evaluating and responding to job offers, successfully transitioning into a new job, and addressing challenges that may arise in the workplace.

[Access the resources here.](#)

Pain Care Rights

Pain Care Rights is a patient advocacy organization that helps people with chronic pain and their caregivers navigate healthcare, document their symptoms, and advocate for better treatment. It provides practical resources and guidance to empower patients.

[Check out the website and explore all the available tools here.](#)

Leveraging Change Through the SAP and ICC

Join the State Advisory Panel (SAP) and the Interagency Coordinating Council (ICC) for a collaborative networking session focused on strengthening connections between the SAP and the ICC to create a more seamless experience for families navigating special education. Whether your state already has strong collaboration between its ICC and SAP or is exploring new opportunities to connect these efforts, this session is for you.

[When: September 23, 2026](#)

[Time: 3:00 PM EST](#) [Register here.](#)

Update from the U.S. Department of Education

<https://www.ed.gov/>

Birth to Grade 12 Education-Resources

<https://www.ed.gov/birth-to-grade-12-education>

Available Grants

<https://www.ed.gov/grants-and-programs/apply-grant/available-grants>

ICYMI: DOJ- Justice Department Sues Kansas City, Kansas Public Schools to Stop Secret Gender Transitions

Today, the Justice Department's Civil Rights Division, joined by the U.S. Attorney for the District of Kansas, filed a first-of-its-kind lawsuit against Kansas City, Kansas Public Schools.

U.S. Secretary of Education Linda McMahon Visits North Dakota on Returning Education to the States Tour

August 27, 2026

Today, U.S. Secretary of Education Linda McMahon visited North Dakota on her Returning Education to the States Tour.

ICYMI: Arizona Daily Star - Opinion: Arizona led the education freedom movement. Governor Hobbs should not hold it back.

August 27, 2026

Before education freedom became a national movement, Arizona was leading one.

U.S. Secretary of Education Linda McMahon Visits Colorado on Returning Education to the States Tour

August 27, 2026

Yesterday, U.S. Secretary of Education Linda McMahon visited Colorado on her Returning Education to the States Tour.

U.S. Department of Education Reminds Schools of Their Obligation to Comply with Parental Rights Law

August 26, 2026

Today, as students begin a new school year, the U.S. Department of Education's Student Privacy Policy Office (SPPO) issued a Dear Colleague Letter (DCL) reminding state and local education agencies receiving federal funding of their obligations.

Trump Administration Announces Additional Actions to Protect Parental Rights in Kansas

August 25, 2026

Today, the U.S. Department of Education's (ED's) Student Privacy Policy Office (SPPO) announced it has entered a Resolution Agreement with Topeka Public Schools.

Speech

Secretary McMahon Joins President Trump to Deliver Back-to-School Remarks at the White House

August 24, 2026

Today, U.S. Secretary of Education Linda McMahon joined President Trump at the White House Rose Garden to welcome parents and students back to school.

U.S. Department of Education Announces Additional Ed-Flex Approvals to Reach Historic 25-State Milestone

August 21, 2026

Today, the U.S. Department of Education announced the approval of Arizona, Nevada, and South Carolina's Ed-Flex applications, marking a historic milestone as 25 states now have access to this flexibility.

U.S. Secretary of Education Linda McMahon Visits Virginia on Returning Education to the States Tour

August 20, 2026

Today, U.S. Secretary of Education Linda McMahon, alongside Congressman Ben Cline, visited the Emil & Grace Shihadeh Innovation Center in support of the Returning Education to the States Tour.

U.S. Department of Education Releases Guidance on Responsible Use of Education Technology in the Classroom

August 20, 2026

Today, the U.S. Department of Education (the Department) released new guidance to help states, school districts, educators, families, and education technology providers make informed decisions about the responsible use of technology in classrooms.

U.S. Department of Education Approves Second Workforce Pell Grant Program in Indiana

August 19, 2026

Today, the U.S. Department of Education (the Department) approved the nation's second Workforce Pell Grant program in Indiana.

U.S. Department of Education Issues Proposed Rule to Overhaul and Improve America's Higher Education Accreditation System

August 19, 2026

Today, the U.S. Department of Education (the Department) issued a Notice of Proposed Rulemaking (NPRM) to reenvision America's postsecondary quality assurance system.

U.S. Department of Education Directs Schools to Stop Racial Balancing in Student Discipline Policies, Investigates Two School Districts

August 18, 2026

Today, the U.S. Department of Education (the Department) issued guidance to educational institutions to promote safe and fair school discipline policies.

U.S. Department of Education Investigates Alleged Antisemitic Harassment at Two California Universities

August 6, 2026

Today, the U.S. Department of Education's Office for Civil Rights (OCR) opened investigations into San Jose State University (SJSU) and San Francisco State University (SFSU) amid allegations that the schools permit and perpetuate antisemitic harassment.

U.S. Secretary of Education Linda McMahon Visits Pennsylvania on Returning Education to the States Tour

August 6, 2026

Today, U.S. Secretary of Education Linda McMahon visited Villanova University in support of the Returning Education to the States Tour.

U.S. Secretary of Education Linda McMahon Visits Kansas on Returning Education to the States Tour

August 5, 2026

Today, U.S. Secretary of Education Linda McMahon visited Manhattan High School and Kansas State University as part of her Returning Education to the States Tour.

When the IEP Isn't Enough: Rethinking Special Education Through a Mental Health Lens

By Joana Salas Bundoc, M.A.Ed., Special Education Specialist, Terra Nova High School

For years, I taught special education the way most of us are trained to: write a strong IEP, set measurable goals, track progress, adjust accommodations. It is careful, necessary work. But somewhere along the way, I kept running into the same wall. A student would be meeting every academic goal on paper and still be unraveling in every other part of their life. The data looked fine. The child did not.

That gap — between what an IEP measures and what a student actually needs to function — is what I was hired to help close when I joined the STEP Program (Support, Trust, Empowerment, and Progress) at Terra Nova High School in the Jefferson Union High School District, as its first classroom teacher. The program's foundation was set by our district; my task was to build the structures that would make it real in a classroom — the program overview, the classroom design, paraprofessional and behavior technician support model, the individualized and modified student schedules, and the mental health integration itself — along with the study skills and life skills curriculum that would carry it day to day.

The Problem I Kept Seeing

Students with IEPs are disproportionately likely to also be carrying anxiety, trauma, mood dysregulation, or unaddressed mental health needs. Special education, as it's traditionally structured, is built to answer the question "How does this student learn?" It is not built to answer "Why can this student not get through the school day?" Those are different questions, and for a growing number of the students I worked with, the second question was the one that actually mattered.

I watched capable students shut down before a test not because they didn't understand the material, but because their nervous system was in survival mode. I watched behavior plans fail because they treated a mental health crisis as a compliance issue. I watched families exhausted from shuttling between school meetings, therapists, and crisis lines with no one coordinating the whole picture. The support existed — it just lived in separate rooms, separate systems, separate paperwork, never in the same place at the same time for the student who needed all of it at once.

Building STEP

STEP was my answer to that fragmentation. Rather than treating academics, life skills, and mental health as three separate tracks a student has to navigate on their own, STEP puts them under one roof, with one team that actually talks to each other. The team includes a Mental Health Therapist, a Behaviorist, a Registered Behavior

Technician, a Paraprofessional, a Speech Therapist, a Transition Specialist, Wellness and Academic Counselors, and General Education Teachers — all working from the same understanding of the student, not six separate case files. When a student is struggling, the question in the room isn't "whose job is this?" It's "what does this student need right now, and who on this team is best positioned to give it to them?"

This matters more than it might sound. A behavior that looks like defiance to one adult might look like a panic response to a therapist, and a communication breakdown to a speech therapist, and a transition-skills gap to another. Without a shared team, a student gets three different responses to the same moment, none of which address what's actually happening. With STEP, they get one coordinated response, built from all three perspectives at once.

What Changed When We Named the Mental Health Piece Directly

The most important design decision in STEP wasn't a new form or a new schedule — it was refusing to treat mental health support as an add-on or a referral-out service. It's built into the daily structure, not bolted onto the side of it.

That shift changes what's possible. A student having a hard morning doesn't have to wait for an appointment three weeks out; there's someone on the team who can respond that day. A behavior plan gets written with a therapist's input from the start, not

revised after it's already failed. A transition plan for life after high school accounts for a student's emotional regulation skills, not just their vocational ones. Trust builds because the support is consistent and present, not something students have to ask for by name. I've come to believe this is the actual work of special education at this moment — not just accommodating how a student learns, but building systems sturdy enough to hold the whole student, including the parts that don't show up neatly in a goal bank.

What This Looks Like in Practice

Numbers and program structure only tell part of the story. The rest lives in the students themselves. Over the years, I've come to recognize certain patterns again and again among students carrying emotional disabilities or unaddressed mental health concerns — patterns that rarely show up where you'd expect them to.

Some are straight-A students whose bodies shut down under the pressure of a single timed test. Some are warm and easy to talk to one day and closed off the next, carrying an unstable home life into a classroom that has no idea it's there. Some are visibly talented — artistic, athletic, socially at ease — while quietly cycling through depression, mood swings, or a crisis at home that never shows up in a grade. Some pull away from people entirely, not out of shyness but because connection costs them more than it gives back. Some go through real instability, including stretches of being unsheltered —

without ever asking for help directly. Some stop coming to school altogether, not from apathy but from a kind of paralysis that only softens in response to a relationship, not a consequence.

On paper, each of these would call for a different plan. In practice, what they share matters more: each one needed an adult who could see past the surface — the grade, the behavior, the attendance record — to what was actually happening underneath it. That's the piece no IEP goal captures on its own, and it's the piece STEP was built to hold.

What I've Learned Leading This Work

Launching a program from nothing teaches you things a textbook can't. I learned that integration is harder to build than any single service, because it requires people from different disciplines to genuinely share ownership of a student's success instead of protecting their own lane. I learned that trust is the actual currency of this work — students don't engage with a program, they engage with people they believe are safe, and that has to be earned in small, repeated moments, not declared in a handbook.

I also learned that progress in this kind of work looks different than a compliance checklist. Sometimes the win is a student walking into class instead of walking out. Sometimes it's a family calling the school instead of calling 911. Those aren't outcomes

you can always graph, but they are the outcomes that matter most.

Where This Leaves Me

I didn't set out to build a program. I set out to stop watching students fall through the gap between "academically supported" and "actually okay." STEP is still young, still growing, still being refined term by term. But it stands on a premise I believe deserves wider attention in special education: students with IEPs don't need us to compartmentalize their needs into neat categories. They need the adults around them to work as one team, toward one understanding of who they are and what will actually help.

That's the work. I intend to keep doing it.

The Impact of Small-Group Reading Interventions on Elementary Students with Learning Disabilities

By Julianne Verdayes. Florida International University College of Arts, Sciences, and Education

Introduction

Reading proficiency is a foundational skill that underpins academic success, yet many elementary students with learning disabilities (LD) continue to struggle with decoding, fluency, and comprehension. These challenges, if not addressed early, can lead to long-term educational and social difficulties (Burns et al., 2020). Small-group reading interventions, commonly implemented within Multi-Tiered Systems of Support (MTSS) or Response to Intervention (RTI) frameworks, provide targeted, data-driven instruction to accelerate reading growth for students who experience significant learning difficulties.

Beyond academic outcomes, effective small-group interventions can also positively impact families. Children with improved reading skills often experience increased confidence, motivation, and independence, which can reduce family stress and support stronger home-school collaboration (Arakelyan et al., 2019; Mokhtar et al., 2023). Families who are engaged in the intervention process, informed about instructional strategies, and supported in facilitating reading at home are better equipped to reinforce learning and advocate for their children.

This literature review examines the effectiveness of small-group reading interventions for students with LD and explores how family involvement enhances intervention outcomes. The review synthesizes findings from six studies, highlighting best practices and implications for educators working with both students and families.

Effectiveness of Small-Group Reading Interventions

Small-group interventions provide intensive, targeted instruction that addresses students' specific reading needs. Fien et al. (2015) evaluated a first-grade multitiered reading program in which at-risk students received 30 additional minutes of small-group instruction daily. Results showed significant improvements in decoding and fluency, particularly when supplemental instruction aligned closely with core classroom content. Similarly, Burns et al. (2020) examined second- and third-grade students with severe reading deficits receiving Tier 2 small-group interventions. Findings revealed that these students made progress comparable to typically achieving peers and outperformed students receiving standard special education services, demonstrating the potential of high-quality small-group instruction to close achievement gaps.

Wanzek et al. (2020) investigated whether integrating mindset instruction with reading interventions could further enhance outcomes for upper elementary students. While both the reading-only and reading-plus-mindset groups outperformed the control group, the addition of mindset instruction did not significantly increase reading gains. This suggests that the quality and fidelity of reading instruction remain the primary drivers of student progress, though mindset interventions may enhance motivation and engagement.

Role of Family Engagement

Research highlights that family involvement is a critical factor in sustaining reading growth. Arakelyan et al. (2019) conducted a systematic review examining family factors that influence participation of children with disabilities. The study found that parents' knowledge, confidence, and active engagement in their child's learning significantly improved academic and social outcomes. Mokhtar et al. (2023) further emphasized that families who collaborate with

teachers, understand instructional goals, and implement supportive practices at home strengthen intervention effectiveness for students with LD.

Family literacy programs also complement small-group interventions by reinforcing reading skills in the home environment. Sénéchal and Young (2008) reviewed multiple family literacy interventions and concluded that children's reading outcomes improve when families are actively involved through shared reading, instructional guidance, and ongoing feedback. Collectively, these findings indicate that effective reading interventions require collaboration between educators and families to maximize student growth and engagement.

Factors Influencing Intervention Success

Several factors consistently influence the effectiveness of small-group reading interventions. Alignment with core instruction is critical, as students benefit most when supplemental small-group instruction reinforces the skills taught in whole-class lessons (Fien et al., 2015). Equally important is the quality and fidelity of instruction. Educator training, consistent implementation, and ongoing data-driven adjustments are essential to ensure measurable progress for students with learning disabilities (Burns et al., 2020).

Student engagement and motivation also play a significant role; even high-quality instruction will be less effective if students are not actively participating or lack perseverance. Incorporating strategies that build self-efficacy can enhance long-term growth in reading skills (Wanzek et al., 2020). Finally, collaboration with families strengthens the overall impact of interventions. When families are involved in reading practice, progress monitoring, and supportive home literacy routines, intervention effects are amplified, and students develop more positive attitudes toward reading (Arakelyan et al., 2019; Mokhtar et al., 2023; Sénéchal & Young, 2008). Together, these factors highlight the importance of a comprehensive approach that

integrates high-quality instruction, student motivation, and family engagement to maximize reading outcomes.

Conclusion

Evidence strongly supports that small-group reading interventions significantly improve decoding, fluency, and comprehension for elementary students with learning disabilities. These interventions are most effective when they are explicit, closely aligned with core curriculum, delivered with fidelity, and responsive to students' individual needs. High-quality instruction tailored to students' strengths and challenges allows educators to address gaps in reading skills and accelerate progress, ultimately supporting long-term academic success.

Family involvement further enhances these outcomes by reinforcing skills at home, providing motivation and encouragement, and fostering collaboration between educators and caregivers. To maximize the impact of small-group interventions, educators should provide families with clear guidance and resources for supporting reading at home, maintain consistent communication regarding instructional goals and student progress, and integrate evidence-based strategies that promote student engagement and confidence in reading. Additionally, interventions should be regularly monitored and adjusted using data to inform both instructional and family-support practices. By implementing these approaches, educators can create a holistic, inclusive framework that supports both students and their families, ensuring equitable access to literacy development and meaningful educational outcomes for children with learning disabilities.

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Acknowledgements

Portions of this or previous month's *NASET's Special Educator e-Journal* were excerpted from:

- Center for Parent Information and Resources
- Committee on Education and the Workforce
- FirstGov.gov-The Official U.S. Government Web Portal
- Journal of the American Academy of Special Education Professionals (JAASEP)
- National Collaborative on Workforce and Disability for Youth
- National Institute of Health
- National Organization on Disability
- Substance Abuse and Mental Health Services Administration
- U.S. Department of Education
- U.S. Department of Education-The Achiever
- U.S. Department of Education-The Education Innovator
- U.S. Department of Health and Human Services
- U.S. Department of Labor
- U.S. Food and Drug Administration
- U.S. Office of Special Education

The **National Association of Special Education Teachers** (NASET) thanks all of the above for the information provided for this or prior editions of the Special Educator e-Journal

Sarah S. Ayala, LSU | Associate Editor, NASET e-Journal