The LSSP, the LP, and the Law: Making Legally Defensible Decisions in Every Day Practice

Presented by:

Dr. Stephanie Barbre, Dr. Stuart Spendlove, & Janet S. Bubert, JD

Texas Association of School Psychologists

Annual Convention 2018

Saturday, October 27, 2018

Panel Discussion Topics and Reference Material

* Standards of Practice and Requirements of the School vs. Outside Agencies
* FIEs and Psychological Reports
* Referral to placement
* Contributing Factors: Attendance Issues, Compliance, Progress, Grades, Promotion/Retention
* Recommendations into Practice: Fidelity and Implementation Issues
* Best Decision-Making at the Time
* What would any other LSSP do? What would the best LSSP do?
* Working relationships with counselors and outside, community professionals
* Working with Parents
* Disagreement and 10-day recess
	+ - MDR: Can anything be traced back to disability?
* Other Issues in Assessment
	+ Independent Educational Evaluations
	+ Dual licensures
	+ Bilingual Evaluations

Standards of Practice and Requirements of the School vs. Outside Agencies

Common pitfalls:

* “The student just needs help.”
* “He can’t remember anything and every day is a new day.”
* “My son is depressed/has a low self-esteem/has autism. I know he can have an IEP.”
* “Dr. So and So said he needs to take his tests alone.”

Parents’ often come to school personnel with expectations, requests, and demands that may not be appropriate or necessary for the student, but **communication** and **collaboration** is key in determining the next steps. Parent and teacher involvement and input is a critical piece in developing the student’s IEP.

**22 TAC § 465.38. Psychological Services in the Schools**

1. This rule acknowledges the unique difference in the delivery of school psychological services in the public schools from psychological services in the private sector. The Board recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of public school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in the public schools which reflect these occupational distinctions from the private practice of psychology.
2. Scope of Practice.

(1) A Licensed Specialist in School Psychology (LSSP) means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance for educational purposes, using psychological techniques and procedures is considered the practice of psychology

*NASP Practice Model* indicates:

* School psychologists use a consultative problem solving process as a vehicle for planning, implementing, and evaluating academic and mental health services.
* School psychologists effectively communicate information for diverse audiences, such as parents, teachers and other school personnel, policy makers, community leaders, and others.
* School psychologists facilitate communication and collaboration among diverse school personnel, families, community professionals, and others.
* School psychologists function as change agents, using their skills in communication, collaboration, and consultation to promote necessary change at the individual student, classroom, building, and district, state, and federal levels.
* School psychologists apply psychological and educational principles necessary to enhance collaboration and achieve effectiveness in provision of services.

*NASP Principles of Professional Ethics*

* **Forthright Explanation of Professional Service, Roles, and Priorities, Standard III.2.3**- The school psychologist’s commitment to protecting the rights and welfare of children is communicated to the school administration, staff, and others as the highest priority in determining services.
* **Respecting Other Professionals, Standard III.3.1-** To meet the needs of children and other clients most effectively, school psychologists cooperate with other psychologists and professionals from other disciplines in relationships based on mutual respect. They encourage and support the use of all resources to serve the interests of students. If a child or other client is receiving similar services from another professional, school psychologists promote coordination of services.

NOTES:

Recommendations into Practice with Fidelity and Implementation Issues

Common Pitfalls:

* “I’ve tried everything. Nothing works.”
* “We’ve followed the IEP and it’s not working.”
* “Wait, he has a BIP? I don’t know anything about it.”
* “He has that accommodation, but I don’t think he needs it.”
	+ How can we create legally defensible behavior plans and monitor implementation and fidelity?
	+ How do we defend ourselves and/or the district administration?
	+ “Help me help you prevail.”

*NASP Practice Model* indicates:

* School psychologists use assessment data to develop and implement evidence-based instructional strategies that are intended to improve student performance.
* School psychologists work with other school personnel to develop, implement, and evaluate effective interventions for increasing the amount of time students are engaged in learning.
* School psychologists address intervention acceptability and fidelity during development, implementation, and evaluation of instructional, behavioral, and mental health interventions.
* School psychologists provide support for classroom teachers in collecting and analyzing progress monitoring data.
* School psychologists evaluate implementation and outcomes of behavioral and mental health interventions for individuals and groups.
* School psychologists assist administrators, teachers, other school personnel, and parents in understanding and adhering to legislation and regulations relevant to regular education and special education.

*NASP Principles of Professional Ethics*

* **Responsible Assessment and Intervention Practices, Standard II.3.9** School psychologists use intervention, counseling and therapy procedures, consultation techniques, and other direct and indirect service methods that the profession considers to be responsible, research-based practice:
	+ School psychologists use a problem-solving process to develop interventions appropriate to the presenting problems and that are consistent with data collected.
	+ Preference is given to interventions described in the peer-reviewed professional research literature and found to be efficacious.

NOTES:

Best Decision with What We Have and Know at the Time

Common Pitfalls:

* Borderline eligibility issues, “How did he NOT qualify?”
	+ - Educational need, with or without a disability, “He just needs help!”
		- Unpopular opinion, but an educated opinion, “Whatever, I still think he has autism…”

*NASP Practice Model*

* School psychologists systematically collect data from multiple sources as a foundation for decision-making and consider ecological factors (e.g., classroom, family, community characteristics) as a context for assessment and intervention in general and special education settings.
* School psychologists, as part of an interdisciplinary team, conduct assessments to identify students’ eligibility for special education and other educational services.
	+ Data sources and rating scale data vs. our professional judgement
		- How to justify eligibility with seemingly skewed data (i.e. interpret with caution, face validity, confirmation bias, etc.)?

*NASP Principles of Professional Ethics*

* **Responsible Assessment and Intervention Practices, Standard II.3.1-** Prior to the consideration of a disability label or category, the effects of current behavior management and/or instructional practices on the student’s school performance are considered.
* **Standard II.3.2-** School psychologists use assessment techniques and practices that the profession considers to be responsible, research-based practice.
* **Standard II.3.3-**A psychological or psychoeducational assessment is based on a variety of different types of information from different sources

Relevant Case Law:

*Richardson v. District of Columbia*, 117 LRP 39964 (D.D.C. 2017).

A school psychologist's evaluation was not invalidated because it relied upon classroom observations and teacher interviews conducted by the district's speech-language pathologist. The parent alleged that the psychologist's failure to conduct his own classroom observations and teacher interviews invalidated his assessment of the child. The court disagreed and recognized that the IDEA regulations do not require a specific individual to conduct classroom observations or teacher interviews. Rather, the regulations state that the IEP team must review the evaluation data to make determinations about eligibility. Here, the IEP team had access to notes about the classroom-based observation and teacher interviews through the speech-pathology evaluation and occupational therapist's notes.

The court was critical of the psychologist's reliance on a developmental assessment conducted in October 2014; however, without any evidence that updated testing would have altered the outcome of the eligibility determination, the court could not find that the district denied the child FAPE when it determined the child did not qualify for services in July 2015.

NOTES:

Attendance Issues, Compliance, Progress, Grades, Promotion/Retention

Common Pitfalls:

* When does attendance and truancy become an educational need?
* School refusal vs. learned behavior
* What is the school’s responsibility and what is the parents’ responsibility?

*NASP Principles of Professional Ethics*

* **Promoting Healthy School, Family, and Community Environments, Standard IV.1.2** School psychologists use their professional expertise to promote changes in schools and community service systems that will benefit children and other clients. They advocate for school policies and practices that are in the best interests of children and that respect and protect the legal rights of students and parents.

**TAC §129.1045. Best Practices (Attendance)**

* (a)  A school district shall consider the following best practices for truancy prevention measures.
	+ (1)  Develop an attendance policy that clearly outlines requirements related to truancy in accordance with Texas Education Code (TEC), Chapter 25, Subchapter C, and communicate this information to parents at the beginning of the school year.
	+ (2)  Create a culture of attendance that includes training staff to talk meaningfully with students and parents about the attendance policy and the root causes of unexcused absences.
	+ (3)  Create incentives for perfect attendance and improved attendance.
	+ (4)  Educate students and their families on the positive impact of school attendance on performance.
	+ (5)  Provide opportunities for students and parents to address causes of absence and/or truancy with district staff and link families to relevant community programs and support.
	+ (6)  Develop collaborative partnerships, including planning, referral, and cross-training opportunities, between appropriate school staff, attendance officers, program-related liaisons, and external partners such as court representatives, community and faith-based organizations, state or locally funded community programs for truancy intervention or prevention, and law enforcement to assist students.
	+ (7)  Determine root causes of unexcused absences and review campus- and district-level data on unexcused absences to identify systemic issues that affect attendance.
	+ (8)  Use existing school programs such as Communities In Schools, 21st Century Community Learning Centers, Restorative Discipline, and Positive Behavior Interventions and Supports (PBIS) to provide students and their parents with services.
	+ (9)  At the beginning of each school year, conduct a needs assessment and identify and list, or map, services and programs available within the school district and the community that a school, a student, or a student's parent or guardian may access to address the student's barriers to attendance and make the information available to staff, students, and parents. The information must include, but is not limited to:
		- (A)  services for pregnant and parenting students;
		- (B)  services for students experiencing homelessness;
* (C)  services for students in foster care;
* (D)  federal programs including, but not limited to, Title 1, Part A, of the Elementary and Secondary Education Act;
* (E)  state programs including, but not limited to, State Compensatory Education programs;
* (F)  dropout prevention programs and programs for "at risk" youth;
* (G)  programs that occur outside of school time;
* (H)  counseling services;
* (I)  tutoring programs and services available at no or low cost;
* (J)  mental health services;
* (K)  alcohol and substance abuse prevention and treatment programs;
* (L)  mentoring programs and services;
* (M)  juvenile justice services and programs;
* (N)  child welfare services and programs;
* (O)  other state or locally funded programs for truancy prevention and intervention; and
* (P)  other supportive services that are locally available for students and families through faith-based organizations, local governments, and community-based organizations.
	+ (10)  After identifying and listing, or mapping, services available in the district and community, school districts should target any new resources, programs, or services to gaps in services identified during the needs assessment.
	+ (11)  School districts should ensure that personnel, including truancy prevention facilitators or juvenile case managers, attendance officers, McKinney-Vento liaisons, foster care liaisons, Title IX coordinators, 504 coordinators, pregnancy and parenting coordinators, dropout prevention coordinators, special education staff, and other appropriate student services personnel, meet to contribute to the needs assessment, discuss opportunities to work together, and identify strategies to coordinate both internally and externally to address students' attendance barriers.
		- (b)  In determining services offered to students identified in TEC, §25.0915(a-3), a school district shall consider:
			* (1)  offering an optional flexible school day program and evening and online alternatives;
			* (2)  working with businesses that employ students to help students coordinate job and school responsibilities; and
* (3)  offering before school, after school, and/or Saturday prevention or intervention programs or services that implement best and promising practices.

NOTES:

FIIE vs. Outside Reports

* **SBOE Commissioner’s Rules §89.1011. Full Individual and Initial Evaluation.**
1. Referral of students for a full individual and initial evaluation for possible special education services must be a part of the district's overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial; compensatory; response to evidence-based intervention; and other academic or behavior support services. If the student continues to experience difficulty in the general classroom after the provision of interventions, district personnel must refer the student for a full individual and initial evaluation. This referral for a full individual and initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.

(f) If a student was in the process of being evaluated for special education eligibility by a school district and enrolls in another school district before the previous school district completed the full individual and initial evaluation, the new school district must coordinate with the previous school district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation in accordance with 34 CFR, §300.301(d)(2) and (e) and §300.304(c)(5). The timelines in subsections (c) and (e) of this section do not apply in such a situation if:

(1)  the new school district is making sufficient progress to ensure a prompt completion of the evaluation; and

(2)  the parent and the new school district agree to a specific time when the evaluation will be completed.

* + The student has received an outside psychological, do you or could you consider the recommendations from outside report without accepting the whole report?
	+ “If I could only have seen this student three years ago!” Utilizing and referencing the outside report in the FIE could provide useful background information and data on the student.
	+ Correspondence and collaboration with outside evaluators, counselors, etc.- With a release of confidential information, it would be beneficial to reach out to community professionals, build a partnership, and share information not only about the student, but respective professions and competencies.

Relevant Case Law:

* *G.D. v. West Chester Area Sch. Dist*., 117 LRP 33803 (E.D. Pa. 2017).

Just because a parent disagrees with an evaluator's interpretation of assessment data, it does not prove the evaluation is deficient. If the evaluation includes reasonable support for the evaluator’s conclusions, a court or hearing officer is unlikely to disturb the findings. Here, the parents alleged that the school psychologist failed to consider treatment notes from a private therapist, which the parents argued established their daughter's inability to attend school. However, the evaluation report showed that the school psychologist considered the private therapist's input and explained why IDEA services were not necessary to address the private therapist's concerns.

The parent’s complaint related to the school psychologist 's review of treatment notes provided by the student's private therapist. According to the parents, the notes proved that the student was unable to return to school due to her severe anxiety. However, the psychologist spoke with the therapist two weeks before she issued her evaluation report. The school psychologist testified that the private therapist did not tell her the student could not return to school, but instead told her the student “is able to hold it together at school and the behaviors are displayed at home."

Additionally, the private therapist characterized the school as "an unhealthy environment" for the student based on the student's mistrust of her assigned school counselor. Because the school psychologist recognized the student's need for a trusted adult on campus and indicated that the district could put such a support in place, the court determined that the psychologist appropriately considered the private therapist's input. The court held that the district adequately addressed the student's anxiety by developing a Section 504 plan.

NOTES:

What would any other LSSP do? What would the best LSSP do?

Common Pitfalls:

* “Unfortunately, I can see both sides of the situation.”
* “There are multiple right answers, but what is the best answer?”
* “If I make the wrong decision, everyone will question my competency.”

NASP Practice Model

* School psychologists apply the problem-solving process to broader research and systems-level problems that result in the identification of factors that influence learning and behavior, the evaluation of the outcomes of classroom, building, and system initiatives and the implementation of decision-making practices designed to meet general public accountability responsibilities.

8 step problem solving model

* Describe parameters of the situation
* Define the potential ethical-legal issues involved
* Consult ethical and legal guidelines and district policies that might apply to the resolution of each issue; Consider the broad ethical principles
* Evaluate the rights, responsibilities, and welfare of all affected parties
* Generate a list of alternative decisions possible for each issue
* Enumerate the consequences of making each decision
* Consider any evidence that the various consequences or benefits resulting from each decision will actually occur
* Make the decision
* Consult with other LSSPs

NOTES:

Parent roles

* + Starts at the very beginning with open communication
	+ ARD Guide and Procedural Safeguards- As an LSSP working in special education, READ THESE DOCUMENTS! You know the law, but this is what your parents will refer to and you need to make sure you know what they say.
	+ Consent for evaluation and services
		- * Pick and choose what will be evaluated?
* Independent Educational Evaluations
	+ Can the committee disagree with the LSSPs disability conclusion and proceed with SPED eligibility without an IEE?
	+ Rights vs. Ridiculous
	+ Educational evaluation? Does the evaluator have appropriate credentials?

Relevant Case Law:

* *Luo v. Owen J. Roberts Sch. Dist.*, 72 IDELR 86 (3d Cir. 2018).

Although the father of a student with autism objected to a school psychologist 's comparison of parent and teacher rating forms during an adaptive behavioral assessment, he could not show that the school district violated his constitutional rights by failing to disclose the psychologist's methodology in advance. The court recognized the parent’s right to make decisions concerning the care, custody, and control of his children. However, it rejected the parent’s argument that this included the right to know which assessment methodologies a district intends to use.

The parent filed his claim after the school psychologist recommended that the student’s IEP include parent training. That recommendation was based on a comparison of parent and teacher rating forms, which led the psychologist to believe the student was more independent in school than he was at home. The parent argued that the district's failure to disclose the psychologist's methodology deprived him of his right to informed consent, but the court disagreed.

* + Do the parents know their rights? Do they take advantage of the rights?
	+ When advocates are involved, are they friends or foes?

NOTES:

Disagreement and 10-day recess

**SBOE Commissioner’s Rules §89.1050. The Admission, Review, and Dismissal Committee.**

(g)  All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

(1)  When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

(2)  During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

(3)  If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student.

(4)  Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

* Stay Put Rule for normal ARD disagreement vs. MDR disagreement, they are different
	+ 1) MDR- No 10 day recess, LEA decides placement, and parent can challenge§ 300.533 Placement during appeals. When an appeal under §300.532 has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in §300.530(c) or (g), whichever occurs first, unless the parent and the SEA or LEA agree otherwise.
	+ 2) ARD Committee disagrees, student ‘stays put’ in current environment until consensus or appeal is resolved.

NOTES:

Manifestation Determination Reviews

* Referral to placement- Behavior problems, referral, SPED placement, discipline for behavior (despite BIP), out of placement, new FBA...
	+ - Can anything be traced back to disability?

Relevant Case Law

* *Upper Darby Sch. Dist*., 117 LRP 48405 (SEA PA 2017).

A school psychologist’s testimony was important to establishing that a school district did not violate the IDEA when it suspended a student with ADHD for bringing a knife to school in violation of a student code of conduct. Holding that the district applied the correct standard during the MDR meeting, the hearing officer ruled in favor of the district, finding that the MDR and the proposal to change student's placement were appropriate.

A middle school student brought a knife to school but lost it. The student made efforts to relocate the knife, but a classmate found it and turned it in to the school administrators. The district held an MDR and determined that the student's behavior was not a manifestation of the student's disability. It recommended placement in an alternative school. The parents maintained that the student's behavior was a manifestation of the student's ADHD and requested an order requiring the district to continue the student's regular placement.

The Hearing Officer pointed out that the issue is whether "the conduct in question was caused by, or had a direct and substantial relationship, to the child's disability." In speaking with the school psychologist, the definition of ADHD was defined as an impairment of a child's executive functions, such as an impairment of impulse control, or "impulsive" behavior that was instantaneous or in the "moment."

The Hearing Officer recognized that evidence of an intention to do something or the knowledge that one is doing something, such as bringing a knife to school, is not an impulsive action. The school psychologist presented her opinions that the student's efforts to find a knife, bring it to school, and possess it at school showed that the student's actions were not impulsive and did not implicate any of the other executive functions. The Hearing Officer ruled that the student's disability did not cause the student's misbehavior, as the student stated he brought the knife to feel safe. This demonstrated that the cause was a need for a feeling of security, not the operation of an impulse.

* *Regional Sch. Unit #72*, 114 LRP 13097 (SEA ME 2013).

During a manifestation determination review, a district should consider all relevant information in the student's file, including staff observations and records submitted by the parents. Reviewing a broad range of data will ensure that the district appropriately considers whether the student's disability is the cause of his actions. Here, the district relied upon testimony from a school psychologist and a speech-language therapist, which indicated that the student's disabilities didn't increase his propensity to steal. Without evidence to rebut the testimony, the parent couldn't dispute the district's determination or the student's expulsion.

The parent of a high schooler with a speech-language impairment and learning disability challenged the district’s decision to expel her child for stealing a classmate's shoes during school. Here, the student's parent alleged that the district's determination and the student's expulsion were improper because the student tended to steal sneakers due to his disabilities. She believed that the student had stolen sneakers on other occasions.

However, the Hearing Officer found insufficient evidence showing that the student's actions were caused by or related to his disabilities. Rather, testimony from the school psychologist revealed that the student had no "unusual thought disturbances that one might find with an individual who has a significant theft problem." Additionally, the student's speech-language therapist opined that the "theft of the sneakers was not a social communication problem or an initiating problem related to the student's disabilities." The parent failed to offer other testimony, expert or otherwise, to support her assertion that the student's disabilities made him more likely to steal. The Hearing Officer concluded that the district appropriately based its manifestation determination on the available information concerning the student's behaviors.

NOTES:

Working Relationships with Counselors and Community Professionals

*NASP Practice Models*

* School psychologists engage in effective, collaborative, and ethical professional relationships.

*NASP Principles of Professional Ethics*

**Respecting Other Professionals Standard III.3.1** To meet the needs of children and other clients most effectively, school psychologists cooperate with other psychologists and professionals from other disciplines in relationships based on mutual respect. They encourage and support the use of all resources to serve the interests of students. If a child or other client is receiving similar services from another professional, school psychologists promote coordination of services.

**Standard III.3.2** If a child or other client is referred to another professional for services, school psychologists ensure that all relevant and appropriate individuals, including the client, are notified of the change and reasons for the change. When referring clients to other professionals, school psychologists provide clients with lists of suitable practitioners from whom the client may seek services.

NOTES:

Dual Licensures

* + Can they ‘diagnose’ in the school setting also?
	+ School-based mental health clinics

*NASP Principles of Professional Ethics*

* **Multiple Relationships and Conflicts of Interest. Standard III.4.9** School psychologists who provide school-based services and also engage in the provision of private practice services (dual setting practitioners) recognize the potential for conflicts of interests between their two roles and take steps to avoid such conflicts. Dual setting practitioners:
	+ are obligated to inform parents or other potential clients of any psychological and educational services available at no cost from the schools prior to offering such services for remuneration.
	+ may not offer or provide private practice services to a student of a school or special school program where the practitioner is currently assigned.
	+ may not offer or provide private practice services to the parents or family members of a student eligible to attend a school or special school program where the practitioner is currently assigned.
	+ may not offer or provide an independent evaluation as defined in special education law for a student who attends a local or cooperative school district where the practitioner is employed.
	+ do not use tests, materials, equipment, facilities, secretarial assistance, or other services belonging to the public sector employer unless approved in advance by the employer.
	+ conduct all private practice outside of the hours of contracted public employment.
	+ hold appropriate credentials for practice in both the public and private sectors.

NOTES:

Bilingual Evaluations

* + Cultural considerations
	+ Differential eligibility
	+ Relevant Case Law:

*B.G. by J.A.G. v. Board of Educ. of the City of Chicago*, 118 LRP 35107 (7th Cir. 2018).

Although a special education evaluation included a few errors, it did not invalidate the evaluation for a 14-year-old boy with a specific learning disability and an emotional disturbance, and the parent was not entitled to an independent educational evaluation (IEE) at public expense.

The court acknowledged that the district's evaluator had years of experience in her field, she used a variety of assessment tools, and considered the student's former status as an English learner. The few errors identified by the parent did not invalidate the evaluator's report or her recommendations about the student's special education needs. The alleged errors included a failure to explain certain scores on one assessment and a failure to consider the results of a behavioral rating scale. It was further alleged that these errors invalidated the district's reevaluation of a bilingual seventh-grader with SLD and ED. The court upheld an independent hearing officer's determination that the flaws were harmless, and the parent was not entitled to a publicly funded IEE. It was also noted that even the parent’s expert witness was not willing to state at the due process hearing that the alleged errors invalidated the results.

The court also observed that many of the alleged errors identified by the parent were not errors at all. For example, although the parent argued that the school psychologist should have administered assessments in Spanish, the student was proficient in English and preferred it to Spanish. The court also rejected the parent's argument that the district failed to report academic data, noting that the student's refusal to cooperate with certain subtests did not prevent the psychologist from identifying his academic weaknesses.

NOTES:

Links and References

*Letter to the Administrator: Attendance, Admission, Enrollment Records, and Tuition* [https://tea.texas.gov/About\_TEA/News\_and\_Multimedia/Correspondence/TAA\_Letters/Attendance,\_Admission,\_Enrollment\_Records,\_and\_Tuition\_-\_August\_2017/](https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/Attendance%2C_Admission%2C_Enrollment_Records%2C_and_Tuition_-_August_2017/)

TAC Chapter 129 Student Attendance and Preventative Measures and Sanctions <http://ritter.tea.state.tx.us/rules/tac/chapter129/ch129bb.html>

*Instructional Decision-Making Procedures for Ensuring Appropriate Instruction for Struggling Students in Grades K-12* [*http://buildingrti.utexas.org/sites/default/files/booklets/K-12\_IDM\_procedures.pdf*](http://buildingrti.utexas.org/sites/default/files/booklets/K-12_IDM_procedures.pdf)

*NASP Principles for Professional Ethics* [*http://www.nasponline.org/standards-and-certification/professional-ethics*](http://www.nasponline.org/standards-and-certification/professional-ethics)

*NASP Practice Model* [*https://www.nasponline.org/standards-and-certification/nasp-practice-model*](https://www.nasponline.org/standards-and-certification/nasp-practice-model)