Writing a Best Practice Psychoeducational Report for ELL Students: Integrating Legal Codes, Ethics and Best Practices

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Overview

- Demographics of English Language Learners
 - The Problem of Disproportionality
 - Best Practices in Report Writing

Demographics of Public School Children:

- 49, 293, 000 children in enroll in K-12 in U.S. (NCES, 2010).
 - 57% non-Hispanic White
 - 19% Hispanic/Latino
 - 16% non-Hispanic Black
 - 4% Asian and Pacific Islander
 - 4% Other
- 43% were were of cultural and linguistically diverse background.

Top Languages Spoken in by Students in U.S. Public Schools by Percentage (Kindler, 2005)

Language		Percentage	
Spanish		79.2	
Vietnamese		2	
Hmong		1.6	
Cantonese		1	
Korean		1	
Other	Olvera & Villapudua, 2014	15.2	5

Five states account for over 60% of total ELL's in grades 6-12 in public school systems in the United States:

- California
- Texas
- New York
- Florida
- Illinois

(Capps, Fix, Murray, Ost, Passel, & Herwantoro, 2005).

- Nationally, states that traditionally have not been accustomed to large ELL populations have experienced explosions in these groups.
 - For example, from 1993-2000 North Carolina saw over <u>500%</u>
 <u>growth</u> in ELL's entering their school systems.
 - During that same period, Oregon, Georgia, Colorado, Nevada, Nebraska, and Indiana saw a <u>200% growth</u> (Capps et al., 2005).
 - Over a ten-year period, Arkansas experienced a growth of <u>1200%</u> in their ELL population (Hobson, 2010).

Current Demographics of ELLs and California Enrollment by Ethnicity (CDE, 2013b):

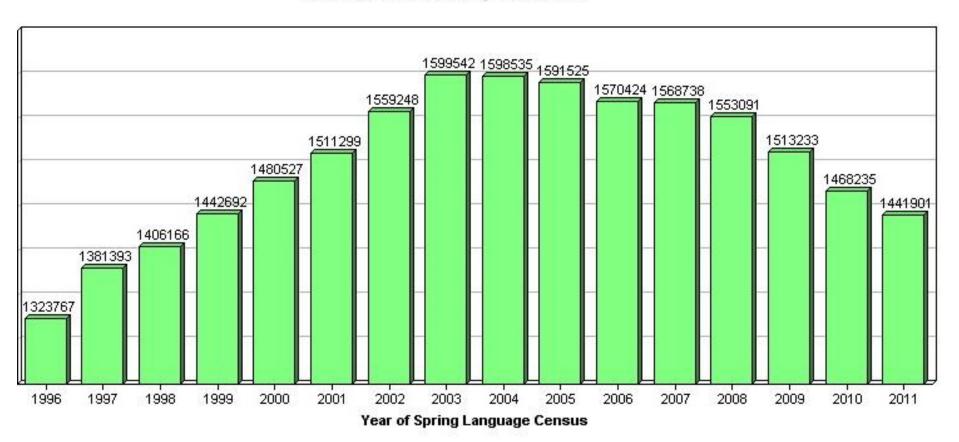
Ethnicity	Percent of Total Enrollment
Hispanic/Latino	52.66
American Indian/Alaskan	0.65
Asian, Not Hispanic	8.64
Pacific Islander	0.55
Filipino, Not Hispanic	2.48
African American, Not Hispanic	6.35
White, Not Hispanic	25.56
Two or More Races	2.41
None Reported	0.71
Total	100

Top Languages Spoken in by Students in *California Public Schools* by Percentage (CDE, 2013a)

Language	Percentage
Spanish	84.59
Vietnamese	2.38
Filipino/Tagalog	1.46
Cantonese	1.37
Hmong	0.97
Other	10 apudua, 2014

ELLs Trends in California (CDE, 2013c)

Statewide Number of English Learners



- Total Students in California Schools= 6,214,199
- Total Students Designated ELL in California Schools= <u>1,387,665</u>
- Total Students in California that are ELL= <u>22%</u>

- Total Students in SPED In California Schools= 686,352
- Total Students Designated in ELL in SPED in California Schools= <u>170, 391</u>
- Total Students in California that are ELL in SPED= <u>24.8%</u>

National Trends say that 1 in 10 School Psychologist are Bilingual.

Implications:

- Culturally and Linguistically Diverse (CLD) are on the rise.
- Some areas have experienced explosive growth ELLs.
- About 1.5 million ELLs in California
- There is a need for the provision of bilingual school psychology services.
- Psychoeducational reports need to address these trends.

The Problem of Disproportionate Representation in Special Education

"Disproportionality refers to the relationship between student representation in both general and special education."

Harry and Anderson (1994)

The over-representation/underrepresentation of minority students identified with a learning disability or other type of high incidence disability (MR, ED, OHI) under the IDEA, which endorses a statistically higher number of minority numbers in special education than they should be (Sullivan, et al.,2009).

Research in 11 urban districts in California with high proportions of ELLs, high minority enrollments, and high poverty levels, the results revealed an overrepresentation of ELLs in special education emerging by Grade 5 and remaining clearly visible until Grade 12 (Artiles et al., 2002).

ELLs were 27% more likely than English-proficient students to be placed in special education in elementary grades and almost twice as likely to be placed in secondary grades (Artiles et al., 2002).

- ELLs tend to be overrepresented for SPED in districts with small ELL populations (16%).
- Conversely, they are under-represented in in districts with ELL populations of 100 or more (9%).

NEA & NASP, 2007

- National Education Association (NEA) & National Association of School Psychologists (NASP) Report the Following Outcomes (NEA & NASP, 2007):
 - False impression of student's ability and academic potential
 - Tend to remain in SPED and not exit
 - Less rigorous curriculum
 - Limited post secondary opportunities
 - Stigmatized by society
 - Less access to non-disabled peers
 - Racial separation

A Review of the Literature

- Carriere & Hass, 2011 (slide #6):
 - Address the concerns of parents and teachers
 - Accurately document and integrate data from record review, interviews, observations and tests
 - The basis for the multi-disciplinary teams' decision of Special Education eligibility
 - The foundation for the IEP
 - Recommend changes in a student's educational program, including special education
 - Serves as a document that demonstrates compliance with legal mandates

• Sattler, 2008 (p. 705):

- Provides accurate assessment related information to the referral source and other concerned parties
- Serves as a bases for clinical hypotheses, appropriate interventions, and information for program evaluation and report
- Furnishes meaningful baseline information for evaluating the child's progress after interventions have been implemented or changes in the child have occurred after time
- Serves as a legal document

• Ownby (1997):

- Answer the referral questions explicitly as possible
- Providing the referring party with additional information when it is necessary
- Creating a record of assessment for future uses
- Recommending a course of action

- Lichtenberger, Mather, Kaufman, and Kaufman (2004, p. 3)
 - Determining appropriate adjustments, supports, and accommodations
 - Recommending behavioral interventions and instructional strategies
 - Considering eligibility and need for services

Implications for Writing ELL Psychoeducational Reports

Implications for ELL Psychoeducational Reports

Olvera & Villapudua Definition:

- Answer the referral concern
- Establish rationale for language of assessment
- Rule out cultural and linguistic factors as the primary source of learning/behavioral difficulties
- Ensure compliance of nondiscriminatory assessment mandates (state, federal, and ethics)
- Establish need for SPED services, or not
- Determine culturally and linguistically appropriate recommendations, goals, and strategies to enhance academic performance

Implications for Writing ELL Psychoeducational Reports

Selecting Interventions

- Ray-Subramanian & Coffee (2010, p. 34) outline the following suggestions/guidelines in selecting interventions for ELLs:
 - The student's language proficiency in his her native language and English across the domains of speaking, listening, reading, and writing
 - Whether the student is experiencing difficulty with literacy skills or demonstrating typical features of the second language acquisition process
 - The student's prior and/or current literacy instruction in English and in his or her native language
 - The linguistic demands (native language or English) of the literacy intervention
 - The availability of native language support

Legal Foundations of Report Writing



Individuals with Disabilities Education Act 2004 (IDEA 2004)

Federal Law

Code of Federal Regulations (34 CFR § 300)

Regulations developed & published by the U.S. Dep. of Education that clarify and explain the United States

Code

California Educational Code (EC)

California Statutes which are consistent with U.S. C. and CFR and may provide more rights than federal laws.

If they are in direct conflict, federal law has supremacy

California Code of Regulations (CCR)

An official compilation and publication of the regulations adopted, amended or repealed by state agencies pursuant to the Administrative Procedure Act (APA)

IDEA 2004

 The latest reauthorization of special education federal law originally known as "The Education of All Handicapped Children Act" Public Law 94-142 (1975). It governs how states, and public agencies provide early intervention services, special education and related services to children with disabilities and is in alignment with NCLB.

IT'S MISSION...

"....to ensure that all children with disabilities have available to them a free appropriate public education...designed to meet their unique needs and prepare them for further education, employment and independent living...to ensure that the rights of children with disabilities and parents of such children are protected..."

20 U. S. C. §14000(d)

IDEA 2004

A Response to Dramatic Changes....

- "Americas' ethnic Profile is rapidly changing".....20 U.S. C. § 1400 (c) (B)
- "Minority children comprise an increasing percentage of public school students" 20 U.S. C. § 1400 (c) (C)
- The limited English proficient population is the fastest growing in our Nation..." 20 U.S. C. § 1400 (c) (11)(A)
- "...Discrepancies in the levels or referral and placement of limited English Proficient children in special education...."
- 20 U.S. C. § 1400 (c) (10) (B)

IDEA 2004

- Part A- General Provisions
 - (11)(A) The <u>limited English proficient</u> population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation.
 - (12)(A) Greater efforts are needed to <u>prevent the</u> <u>intensification</u> of problems connected with <u>mislabeling and</u> <u>high dropout rates</u> among minority children with disabilities.
 - (B) <u>More minority children</u> continue to be served in special education than would be expected from the percentage of minority students in the general school population.

IDEA (2004)

IDEA (20 U.S.C. § 1414) Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.

(2) Conduct of evaluation

In conducting the evaluation, the local educational agency shall:

- (A) use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining—
- **(B)** not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child; and

IDEA (2004)

IDEA (20 U.S.C. § 1414) Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements.

- (5) Special rule for eligibility determination.--In making a determination of eligibility under paragraph (4)(A), a child shall not be determined to be a child with a disability if the determinant factor for such determination is:
 - (C) Limited English Proficiency (LEP)

Terms

Native Language (IDEA, 1997):

- The language normally used by the child and not the parents if there is a different between the two.
- In your contact with the child, the language most used by the child in the home or learning environment.
- For a child who is deaf or blind or has no written language, the mode of communication most used by the child (sign language, Braille, or oral communication).

Terms

Primary Language (California): A student's primary language is identified by the Home Language Survey as the language first learned, most frequently used at home, or most frequently spoken by the parents or adults in the home. Primary language is also referred to as L1. (R30-LC; CDE)

Practical Matters

- Native Language:
 - In your observations of the student, what language does the child speak?
 - In your interaction with the child, what language do they speak?
 - What language do they communicate with their peers?
- Primary Language:
 - Who is the child's caregiver?
 - Is the language of the "home" and the language of the caregiver the same? What is the % of time the child is exposed to each language? Quality of interactions?

Determining Language of Assessment

- Conduct a file review
- Attempt to determine language influence
 - Interview student
 - Ask questions in English
 - Ask questions in Spanish
 - Compare quality of response
 - Monitor the ease of communication for the student
 - Ask the student how they communicate at home and at school
 - Do their parents speak English?
 - Ask the child their comfort level when speaking English vs Spanish

Summary of Statutes related to ELL's in IDEA

- Use of a variety of assessment tools and strategies
- Not using a single measure of assessment as the sole criterion for eligibility
- Assessments and evaluation materials are nondiscriminatory on a racial or cultural basis
- Using technically sound instruments
- Assessment is administered in the language and from most likely to yield accurate information on what the child can do

Cont) Summary of Statutes related to ELL's

- Learning struggles are not primarily due to a lack of appropriate instruction
- IEP team should considered special factors including limited English proficiency
- Native language means the language normally used by the individual or the parents of the child
- Child should not be determined to be disabled if the determinant factor is limited English proficiency

Pre-Assessment

 EC 56303. A pupil shall be referred for special educational instruction and services only <u>after the resources of the regular</u> <u>education program have been considered and, where</u> <u>appropriate, utilized.</u>

(Refer to Report Pg.3 Section 3)

Assessment

- CCR 3001. (x) "Primary language" means the language other than English, or other mode of communication, the person first learned, or the language which is spoken in the person's home
- EC 56001. (j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining the placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited-English proficiency, as defined in subdivision (m) of Sections 52163 and in paragraphs (18) of Sections 1401 of Title 20 of the United States Code , shall be in the individual's native language, as defined in paragraph (20) of Section 1401 of Title 20 of the United States Code. All assessment materials and procedures shall be selected and administered pursuant to Section 5630.

• EC 56320. (a) Testing and assessment materials and procedures used for the purposes of assessment and placement of individuals with exceptional needs are selected and administered so as not to be racially, culturally, or sexually discriminatory. Pursuant to Sections 1412 (a) (6) (B) of Title 20 of the United States Code, the materials and procedures shall be provided in the pupil's native language or mode of communication, unless it is clearly not feasible to do so.

- (b)Tests and other assessment materials meet all of the following requirements:
- (1) Are provided and administered in the language and form most likely to yield accurate information on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to so provide or administer as required by Section 1414 (b) (3)(A)(ii) of Title 20 of the United States Code.
- (2) Are used for purposes for which the assessments or measures are valid and reliable.
- (d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills produces test results that accurately reflect the pupil's aptitude, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or speaking skills unless those skills are the factors the test purports to measure.
- (e) Pursuant to Section 1414 (b) (2) (B) of Title 20 of the United States Code, no single measure of assessment is used as the sole criterion for determining whether a pupil is an individual with exceptional needs or determining an appropriate education program for the pupil.
- EC 56324.(a) Any psychological assessment of pupils shall be made in accordance with Section 56320 and shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.
- CCR 3023. (a) In addition to the provisions of Section 56320 of the Education Code, assessments shall be administered by qualified personnel who are competent in both the oral or sign language skills and written skills of the indiCCR 3030. (B) When standardized tests are considered to be invalid for a specific pupil, the discrepancy shall be measured by alternative means as specified on the assessment plan. vidual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected.
- CCR 3001 (z) "Qualified" means that a person has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities in services of a graduate needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.
- (b) The normal process of second-language acquisition, as well as manifestations of dialect and sociolinguistic variance shall not be diagnosed as a handicapping condition.

Assessment

Just remember these 4 things...

Tools and Materials

Administration Procedures

Qualified Personnel

Do's and Don'ts

Tools and Materials

- EC 56001. (j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory.
- EC 56320. (a)(2) Tests and other assessment materials...are used for the purposes for which the assessments or measures are **valid and reliable.**
- EC 56320. (a) (d) Tests are selected and administered to best ensure that when a test administered to a pupil with impaired sensory, manual, or speaking skills <u>produces test results that accurately reflect the pupil's aptitude</u>, achievement level, or any other factors the test purports to measure and not the pupil's impaired sensory, manual, or <u>speaking skills</u> unless those skills are the factors the test purports to measure.

(Refer to Report Pg. 1, Section 1)

Administration of Tools

• EC 56320. (a)(b) (1) Are provided and <u>administered in the language and form most likely to yield accurate information</u> on what the pupil knows and can do academically, developmentally, and functionally, unless it is not feasible to provide or administer as required by Section 1414 (b) (3)(A)(ii) of Title 20 of the United States Code.

(Refer to Report Pg. 6 Section 4)

Brief Overview Commonly Used Assessments:
Reliability and Validity Issues
(Peer Reviewed Perspectives)

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Bilingual Verbal Abilities Test (BVAT) Ages 5- 90+	English & 16+ Languages	8,818	Subtests (.8090).	Good validity with other measure of language.	Allows demonstration of home language. Few bilinguals in sample. Lack of control for acculturation factors. Untranslatable words were not included.

Muñoz-Sandoval, Cummins, Alvarado, & Ruef, 1998

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Woodcock- Muñoz Language Survey- Revised (WMLS-R) Ages 2 years to Adult.	English and Spanish	8,782	Subtests (.7697) Composites (.8898)	Good correlations with other tests of language.	CALP in English and Spanish Comprehensive (includes academics) Can be time consuming Spanish version not clear about SES, gender, and/or geographic location of sample.

Alvarado, Ruef, and Schrank, 2005

Commonly Used Assessments

Cognitive Measures
Verbal

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Ages 2 yrs to 90+	Spanish Mexico, Cuba, Colombia, Argentina, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Peru, Puerto Rico, Uruguay, Venezuela, and one unreported location	1,413 1, 293 (USA) 120 from Latin America	Subtest (Median= .8093) Cluster (All Ages= .86- .95).	Confirmatory Factor Analysis supports strong support for the CHC Model.	Normed on native Spanish speakers both in and outside USA. How do you factor in bilingual students? Helpful in comparing English v. Spanish CALP.

Schrank, McGrew, Ruef, Alavardo, Muñoz-Sandoval, Woodcock, 2005

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Wechsler Intelligence Scale for Children 4 th - Spanish (WISC IV Spanish)	Spanish Mexico, Cuba, Puerto Rico, and the Dominican Republic, and Central and South America.	851 (ELLs that had been educated in the US <5 years).	Subtest (.7490). Cluster (.8297).	Good concurrent validity (UNIT & CELF).	Direct translation of the English. < 5 years of US education. Bilingual Spanish speakers in sample.
Ages 6-0 to 16- 11					Equated norms not actual separate Spanish norms. However, percentiles are based on parent education & years of schooling (student). Practice effect when administering English and Spanish.

Clinton, 2007

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Kaufman Assessment Battery for Children 2 nd Edition (KABC 2)	Mental Processing Index (MPI) (Minimal Language)	3, 025 across USA.	Internal reliability (split half)= .7292 for all ages.	Confirmatory Factor Analysis (CFA) demonstrates good measures of Gf, Gsm, Gv,	Neuropsychological model (Luria). Processing oriented. Recommended for
(Test- Retest = .7282.	Gc, and Glr.).	bilingual ELLs.
Ages 3-18				Good correlations with WISC IV & WJ	Translated directions are a direct translation of the English.
					Not based on ELL samples.
					Criticism about lack of utility for educational planning.

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Test of Auditory Processing Skills 3- Bilingual (TAPS 3 Bilingual) Ages 5-0- 18- 11	English & Spanish	851 Spanish (bilingual children) in the US and Puerto Rico. West Coast USA (N= 671).	.5390 (index level). Test-retest .6095 (14 Days).	Validity is well documented. Good construct validity. Good predicative validity of academic scores (WJ III)	Not a direct translation. Data regarding subcategories of Hispanics not provided. Norm sample does not exactly approximate US population. Good reviews of overall utility. Reviewers indicated that other factors are measured as well (verbal ability). Good attention to dialectical differences.

Vetter, 2010.

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Test of Auditory Processing Skills 3- Bilingual (TAPS 3 Bilingual) Ages 5-0- 18- 11	English & Spanish	851 Spanish (bilingual children) in the US and Puerto Rico. West Coast USA (N= 671).	.5390 (index level). Test-retest .6095 (14 Days).	Validity is well documented. Good construct validity. Good predicative validity of academic scores (WJ III)	Not a direct translation. Data regarding subcategories of Hispanics not provided. Norm sample does not exactly approximate US population. Good reviews of overall utility. Reviewers indicated that other factors are measured as well (verbal ability). Good attention to dialectical differences.

Vetter, 2010.

Commonly Used Assessments

Non-Verbal Measures

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Universal Nonverbal Intelligence	Nonverbal & Mediated Language Tasks	2,100	Subtests (.6491).	Strong concurrent validity with	Limited range of CHC abilities (non verbal).
Test (UNIT)	Universal Gestures	ELLS & Bilingual Education	Composites (.8393).	WISC III & Bateria R.	No evidence of predicting achievement mentioned in manual.

Bracken & McCallum, 1998

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Leiter-R	Nonverbal	1,719 Nationally Representative. (Included ELLs).	Subtests (.6990) Composites (.80s to .90s) for 11-20 years olds.	Good validity demonstrated when compared against the WISC III.	Studies of bias at the subtest have demonstrated few significant differences between Caucasian and Hispanic samples. Based on CHC Model. Good predictor of academics. Excellent peer reviews.

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Kaufman Assessment Battery for Children 2 nd Edition (KABC 2)	Nonverbal & MPI (Minimal Language)	3, 025 across USA.	Internal reliability=7292 for all ages. Test- Retest	Confirmatory Factor Analysis (CFA) demonstrates good measures of Gf, Gsm, Gv,	Direct Translation of the English. Not based on ELL samples. NVI subtests can be
			= .7282.	Gc, and Glr.). Good correlations with WISC IV & WJ III.	administered with gestures. Criticism about lack of utility for educational planning. NVI correlates best with math (.6067), reading (.60), and writing (.5060), and oral language (.5060)

Kaufman, Lichtenberger, Fletcher-Janzen, & Kaufman, 2005

Test	Language	Norm Sample	Reliability	Validity	Miscellaneous
Comprehensive test of Nonverbal Intelligence 2nd Edition (CTONI 2). Ages 6-89 years.	Instructions English, Spanish, Chinese, French, Tagalog, Vietnamese, German and Korean.	2, 827	Composite reliability ranged from .9095 (internal consistency) , 80 (or greater) for test retest, and interscorer= .95.	Good construct and criterion prediction validity. Good predictor of intelligence and achievement scores.	Decreases language and motor demands. Multiple languages (directions). Not standardized using the non-English languages. Possible bias on test items (i.e., American football).

Delen, Kaya, & Ritter, 2012

Qualified Personnel

- EC 56324.(a)shall be conducted by a credentialed school psychologist who is trained and prepared to assess cultural and ethnic factors appropriate to the pupil being assessed.
- CCR 3023. (a)competent in both the oral or sign language skills and written skills of the individual's primary language or mode of communication and have a knowledge and understanding of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an interpreter must be used, and the assessment report shall document this condition and note that the validity may have been affected.

(Refer to Report Pg. 6, Sections 4 and 5)

Interpreters

- Key points in working with interpreters:
 - Must be well trained in process and terminology
 - Must be proficient in the language and culture of the student.
 - Must be versed in the dialectal spectrum within the language being interpreted.
 - Must be disclosed in the report.
 - Should be versed in translation of documents.

DO's

EC 56001. (j) & EC 56320. (a)
 Procedures and materials for use with pupils of limited-English proficiency..., shall be in the individual's native language

(Refer to Report Pg. 6, Section 6)

DON'TS

- <u>EC 56001. (j)</u> & EC56320. (e) "...<u>No</u>
 single assessment instrument shall
 be the sole criterion for determining the placement of a pupil...".
- CCR 3023 (b) The <u>normal process</u>
 <u>of second-language acquisition</u>, as
 well as manifestations of dialect and
 sociolinguistic variance <u>shall not be</u>
 <u>diagnosed as a handicapping</u>
 condition.

(Refer to Report Pg. 13, Section 8 and 9)

Psychoeducational Report



Or more like this...?



EC 56327 a-g

The report shall include, but not limited to, all the following:

- (a) Whether the pupil may need special education and related services
- (b) The basis for making the determination
- (c) The relevant behavior noted during the observation of the pupil in an appropriate setting
- (d) The relationship of that behavior to the pupil's academic and social functioning
- (e) The educationally relevant **health and development, and medical findings**, if any
- (f) For pupils with learning disabilities, whether there is such <u>a discrepancy between</u> <u>achievement and ability that it cannot be corrected without special education and related services</u>
- (g) A determination concerning the effects of environmental, cultural, or economic disadvantage, where appropriate

(Refer to Report Pg. 13, Section 9, Pg. 12 Section 7; Pg. 14 Section 10, 11 and 12; Pg. 3 Section 2;)

Eligibility Determination



Exclusionary Factors

Corroboration of Data

Alternative Means

Exclusionary Factors

- EC 56329. (2) In making a determination of eligibility under paragraph (1), a pupil **Shall not**, pursuant to Section 1414 (b) (5) of Title 20 of the United States Code, and Section 300.306(b) of Title 34 of the Code of Federal Regulations, be determined to be an individual **with exceptional needs if the determinant factor** for the determination is one of the following in subparagraphs (A) to (C) inclusive, plus subparagraph (D):
- Lack of appropriate instruction in reading, including the essential components or reading instruction as defined in Section 6368(3) of Title 20 of the United States Code
- Lack of appropriate instruction in mathematics
- Limited-English proficiency

(Refer to Report pg. 14, Section 11)

Exclusionary Factors for SLD

• EC 56337. (a) ...The term <u>"specific learning disability"</u> includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. That term <u>does not include a learning problem that is primarily</u> the result of a <u>visual</u>, <u>hearing</u>, or motor disability, of mental retardation, of <u>emotional disturbance</u>, or of environmental, cultural, or <u>economic disadvantage</u>.

(Refer to Report Pg. 14, Section 11)

Exclusionary Factors

Ages 3-5

- EC 56441.11(c) A child <u>is not eligible</u> for special education and services if the child does not otherwise meet the eligibility criteria and his or her <u>educational needs are due primarily to</u>:
- (1) <u>Unfamiliarity with the English language</u>
- (2) Temporary physical disabilities
- (3) Social maladjustment
- (4) Environmental, cultural, or economic factors

Preschool ELLs

Things to think about when receiving a referral:

- When did the student start formal school instruction?
- •How does this child communicate?
- Language of instruction?
- English Language vs. Spanish Language usage

Corroboration of Data

• CCR 3030 (j) (4) (a) When standardized tests are considered to be valid for a specific pupil, a severe discrepancy is demonstrated by: first, converting into common standard scores, using a mean of 100 and standard deviation of 15, the achievement test score and the ability test score to be compared; second computing the difference between these common standard scores; and third, comparing this computed difference to the standard criterion which is the product of 1.5 multiplied by the standard deviation of the distribution of computed differences of students taking these achievement and ability tests. A computed difference which equals or exceeds this standard criterion, adjusted by one standard error of measurement, the adjustment not to exceed 4 common standard scores points, indicates a

severe discrepancy when such discrepancy is corroborated by other assessment data which may include tests, scales, instruments, observations and work samples, as appropriate.

(Refer to Report Pg. 14, Section 10)

Alternative Means

- CCR 3030. (B) When <u>standardized tests</u> are considered to be <u>invalid</u> for a specific pupil, the <u>discrepancy shall be</u> <u>measured by alternative means</u> as specified on the assessment plan.
- The IEP team must document that an severe discrepancy exists as a result of a disorder in or more of the basic psychological processes. The report shall include the area, the degree and the basis and methods used in determining the discrepancy.

5 CCR 3030

De-Emphasis On:

IQ

and

Discrepancy as defined as 1.5 standard deviation + one standard error of measurement

FOCUS ON!!!!

Students' response to intervention

Students received appropriate instruction

Pattern of strengths and weaknesses in performance, achievement, or intellectual development

Data and Documentation that proves it!

New California Regulation for SLD Eligibility (5 CCR 3030)

- (C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:
- 1. The <u>pupil does not achieve adequately for the pupil's age or to meet State-approved grade-level standards</u> in one or more of the following areas, when <u>provided with learning experiences and instruction appropriate for the pupil's age or State-approved grade-level standards:</u>
- (i) Oral expression.
- (ii) Listening comprehension.
- (iii) Written expression.
- (iv) Basic reading skill.
- (v) Reading fluency skills.
- (vi) Reading comprehension.
- (vii) Mathematics calculation.
- (viii) Mathematics problem solving, and

Cont) 5 CCR 3030

• 2.(i) The pupil <u>does not make sufficient progress</u> to meet age or State-approved grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1) of this section <u>when using a process based on the pupil's response to scientific, research-based intervention</u>; **O**

• (ii) The pupil <u>exhibits a pattern of strengths and weaknesses</u> in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments,

consistent with 34 C.F.R. sections 300.304 and 300.305; and

Cont) 5 CCR 3030

- 3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are <u>not primarily the result of:</u>
- (i) A visual, hearing, or motor disability;
- (ii) Intellectual disability;
- (iii) Emotional disturbance;
- (iv) Cultural factors;
- (v) Environmental or economic disadvantage; or
- (vi) Limited English proficiency.

Cont) 5 CCR 3030

- 4. To <u>ensure</u> that underachievement in a pupil suspected of having a specific learning disability is <u>not due to lack of</u> <u>appropriate instruction in reading or math</u>, the group making the decision must consider:
- (i) **Data** that demonstrate that prior to, or as a part of, the referral process, the pupil was provided **appropriate instruction in regular education settings**, delivered **by qualified personnel**;

and

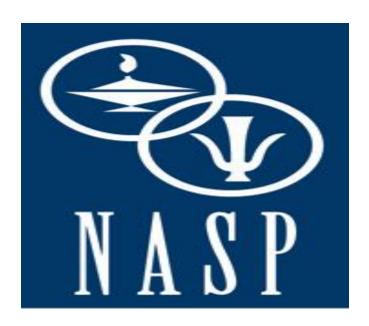
• (ii) <u>Data-based documentation</u> of <u>repeated</u> assessments of achievement at reasonable intervals, reflecting <u>formal</u> <u>assessment of student progress during instruction, which was provided to the pupil's parents.</u>

???

How might we continue to practice non-discriminatory assessment while using these emerging assessment models?

HOW MIGHT THIS LOOK IN OUR PSYCHOEDCUATIONAL REPORTS?

Principles for Professional Ethics 2010



NATIONAL ASSOCIATION OF SCHOOL PSYCHOLOGISTS

"In their words and actions, school psychologist promote fairness and justice..." Principle I.3

- ...do not engage in or condone actions or policies that discriminate against persons...based on socioeconomic status, primary language... Standard I.31
- ...work to correct school practices that are unjustly discriminatory or that deny students...their legal rights. Standard I.3.3
- ...pursue awareness and knowledge of how diversity factors may influence child development, behavior and school learning... Standard I.3.2
- ...obligated to pursue knowledge and understanding of the diverse cultural, linguistic and experiential background of students and families and will obtain training or supervision necessary to ensure competent assessments. Standard II.1.2

Maintain the <u>highest</u> standard in psychological assessment Principle II.3.

- ...use <u>assessments techniques and practices</u> that the profession considers to be responsible, <u>research-based practice</u>. Standard II.3.2
- ...<u>select assessment instruments and strategies</u> that are <u>reliable and</u> <u>valid</u> for the child and the purpose of assessment. Standard II.3.2
- ...adhere to the procedures for administration of the instrument...Standard II.3.2
- ...If modifications are made to the administration procedures for standardized test...such <u>modifications are identified and discussed</u> in the interpretation of the results. Standard II.3.2

(Refer to Report Pg. 1, Section 1)

- ...Psychoeducational assessment is based on a <u>variety of different types</u> of information from different sources. Standard II.3.3
- ...Conduct <u>valid and fair assessments</u> and actively pursue knowledge of students disabilities, cultural, linguistic and experiential background and then select, administer, and interpret assessment instruments and procedures in light of those characteristics. Standard II 3.5
- ...When interpreters are used...school psychologist take steps to ensure that the interpreters are appropriately trained... Standards II.3.6
- ...Adequately interpret findings and <u>present results in clear</u>, <u>understandable terms</u> so that the recipient can make informed decisions. Standards II.3.8

(Refer to Report Pg. 1, Section 1)

They assume a proactive role in identifying social injustices and strive to <u>reform systems-level</u> <u>patterns of injustice</u>... Theme IV

 ...School Psychologists promote changes in schools that will benefit children, advocate for school policies and practices that are in the best interest of children and respect and protect their legal rights. Standard IV.1.2

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School Psychologists promote changes in schools that will benefit children, advocate for school policies and practices that are in the best interest of children and respect and protect their legal rights. Standard IV.1.2

Will you be part of this change?



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