

Dr. Justin Porter
Texas Education Agency
Office of Special Populations and Monitoring
Department of Special Education

RE: Special Education Evaluation Timelines

I am writing on behalf of the Texas Association of School Psychologists and licensed specialists in school psychology (LSSPs) practicing across the state. In response to the Texas Education Agency's position on evaluation timelines for special education eligibility, we strongly discourage the continuation of assessments during this turbulent time of crisis. With schools now ordered closed until April 3, 2020 and possibly with extensions, virtual instruction is encouraged. Per the current guidance, if instruction is offered by virtual means to all students, the 45 school day evaluation timeline still maintains. As we are preparing for shifts in our comprehensive scope of service delivery, the COVID-19 pandemic presents unique challenges in regards to ethical assessment and decision making practices:

- Many direct services to students can be provided through virtual means; however, direct observation and assessment cannot be administered through means other than face-to-face. A full and individual evaluation, initial or reevaluation, requires direct classroom-based observation of the student in the child's learning environment to document the child's academic performance and behavior in areas of difficulty (34 C.F.R. §300.310(a)).
- In reference to the federal guidelines, assessments and other evaluation materials used to assess a child are used for the purposes for which the assessments or measures are valid and reliable, administered by trained and knowledgeable personnel, and are administered in accordance with any instructions provided by the producer of the assessment (34 C.F.R. §300.304(c)(1)).
- LSSPs are not typically trained or competent in completing evaluations through electronic means. The standardized tests used (i.e. IQ tests, formal achievement tests) are not designed to be administered electronically more or less outside of a school setting during a pandemic crisis. In short, the administration of tests must be given through the means in which they were standardized. Deviations from standardization must be reported and, at times, can invalidate test results, which could potentially impact eligibility determinations.
- If evaluations are to be conducted remotely, they should be conducted through platforms specifically designed for that purpose. At this time, such delivery would also require training beyond the evaluator, but also include training for the student and adult facilitator (likely parent/caregiver) who is assisting the student at home. It is unlikely the appropriate supports can be developed quickly.
- In addition, the unique circumstances pose validity issues which must be addressed when assessments are taking place in a time of anxiety for youth, their families and caregivers, and school personnel. The likelihood of making inappropriate eligibility determinations based on invalid assessment data is high.

With consideration of the ethical implications and irresponsible assessment practices, the Texas Association of School Psychologists strongly recommends upholding the advice provided by the U.S. Department of Education, Office of Civil Rights as follows, "If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student's parent or legal guardian consents." The state of California has followed this guidance and will not be completing face to face evaluations until normal school routines have returned for all students. We ask that Texas adopt similar guidelines during this delicate and uncertain time. Our goal as school psychologists is to consider the best interests of the students and families we serve, while not abandoning their social, emotional, academic, and mental health needs. We have an ethical responsibility to maintain the highest standard for professional practices in educational and psychological assessment.

Respectfully,

A handwritten signature in blue ink that reads "Stephanie Barbre". The signature is written in a cursive, flowing style.

Stephanie Barbre, PhD, LSSP
TASP President