

Representing Children with Intellectual and Developmental Disabilities in Child Welfare Cases

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Understanding Intellectual Disability

WHAT IS IDD?



Diagnostic Criteria (DSM-5)

- Intellectual Functioning Deficits
 - IQ score approximately two standard deviations below the mean (~70 or below)
 - Limitations in reasoning, problem solving, planning, abstract thinking
- Adaptive Functioning Deficits
 - Limitations in conceptual (e.g., academic), social (e.g., interpersonal), and practical (e.g., self-care) domains
- Onset During the Developmental Period
 - Symptoms must appear before age 18
- Levels of Severity
 - Mild, Moderate, Severe, and Profound
 - Emphasis on adaptive functioning—not IQ alone—as determinant of severity

Common Misconceptions

- Not just “low IQ”
- Not the same as learning disabilities or autism spectrum disorder (though may co-occur)
- Intelligence may appear variable due to trauma, environment, or inconsistent evaluation
- Even children with intact cognitive abilities can have difficulties with adaptive functioning

Tips for Attorneys Ad Litem (AALs)

- Do not make assumptions
- Engage with clients **on their level** in an environment best suited to conversation
- Provide an overview of what you need to discuss with them (first, next, finally) or offer choices about what to discuss first

Tips for Judges and AALs

- Check for understanding often
- Clarify your own understanding of what they said
- Avoid asking if they understand or posing other leading questions
- Offer to write or draw the main points



Assessment and Diagnosis in Practice

HOW IS IDD DIAGNOSED?



Neuropsychological Evaluations vs Psychological Evaluations

Neuropsychological evaluation

Medical diagnosis with brain impact

Comprehensive cognitive evaluation

Emphasis on brain-behavior relationships

Psychological evaluation

Emphasis on psychiatric/behavioral conditions

Limited cognitive evaluation

Often screening for cognitive factors that may influence emotional or behavioral functioning

What is the Referral Question?

Neuropsychological evaluation

What is the impact of the child's recent traumatic brain injury (TBI) on their cognitive, behavioral, academic functioning?

What is the child's cognitive functioning following recent neurosurgery to reduce epilepsy seizure burden?

Are there cognitive late effects from the child's early chemotherapy treatment for leukemia?

Psychological evaluation

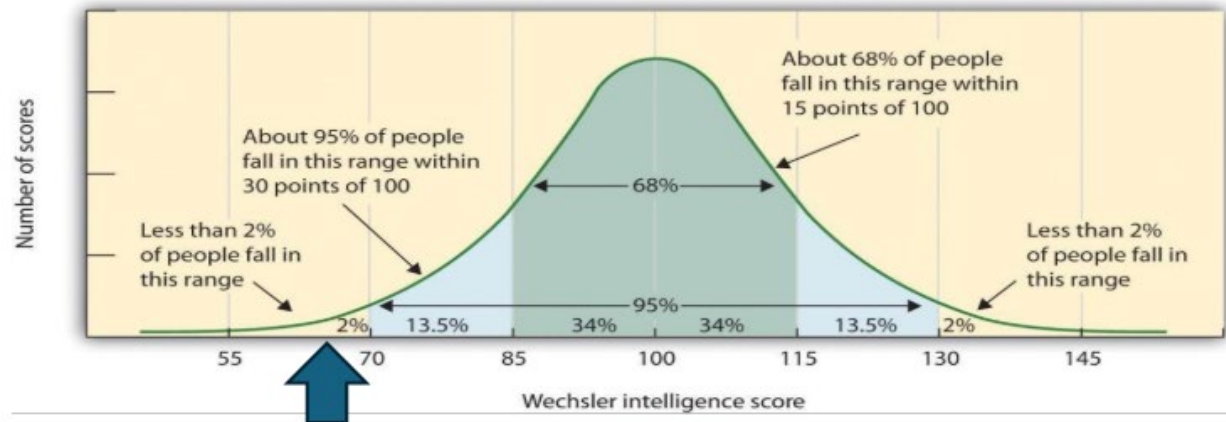
How are symptoms of ADHD, trauma, and/or depression impacting the child's behavior?

Why is the child struggling to keep up academically despite apparent effort?

What may be contributing to this child's behavioral outbursts?

Assessment Scoring and Interpretation

- Scores are based on comparison to a normative sample of children with no known medical or psychiatric history
- All measurement comes with error and variability
- Full Scale Intelligence Quotient (FSIQ) is generally thought to be the best estimate of overall intellectual functioning, but there may be circumstances when it is not



Weschler Intelligence Scale for Children- Fifth Edition(WISC-V)

Full Scale IQ (FSIQ)

Verbal
Comprehension
Index (VCI)

Visual Spatial
Index (VSI)

Fluid Reasoning
Index (FRI)

Working
Memory Index
(WMI)

Processing
Speed Index
(PSI)

Evaluation vs. Screening of IQ

Comprehensive

- Weschler Intelligence Scale for Children- Fifth Edition (WISC-V)
- Differential Ability Scales-Second Edition (DAS-II)
- Woodcock Johnson-IV Tests of Cognitive Abilities

Screening

- Weschler **Abbreviated** Scale of Intelligence- 2nd Edition(WASI-II)
- Kaufman **Brief** Intelligence Test- 2nd Edition, Revised(KBIT-2 Revised)

Evaluation vs. Screening of IQ, cont.

Wechsler Intelligence Scales for Children - 5th Edition (WISC-V)

	Standard Score	%ile
Full Scale IQ	63	1
Verbal Comprehension Index	84	14
Visual Spatial Index	57	< 1
Fluid Reasoning Index	61	< 1
Working Memory Index	72	3
Processing Speed Index	69	2
WISC-V Subtests	Scaled Score	%ile
Verbal Comprehension Subtests		
Similarities	6	9
Vocabulary	8	25
Visual Spatial Subtests		
Block Design	1	< 1
Visual Puzzles	4	2
Fluid Reasoning Subtests		
Matrix Reasoning	1	< 1
Figure Weights	5	5
Working Memory Subtests		
Digit Span	6	9
Picture Span	4	2
Processing Speed Subtests		
Coding	4	2
Symbol Search	5	5

Wechsler Abbreviated Scale of Intelligence - 2nd Edition (WASI-II)

	Standard Score	%ile
Full Scale IQ – 4	69	2
Verbal Comprehension Index	85	16
Perceptual Reasoning Index	45	< 1
WASI-II Subtests	T score	%ile
Verbal Comprehension Subtests		
Vocabulary	44	25
Similarities	38	9
Perceptual Reasoning Subtests		
Block Design	20	< 1
Matrix Reasoning	20	< 1

Important Considerations for Interpreting IQ

- Our tools are culturally-bound
 - Consider exposure
 - Consider acculturation and language exposure/dominance
- Remember that these tests are not perfect
- Consider the overall profile, rather than the FSIQ alone
 - Reasoning skills versus efficiency

Assessment of Adaptive Functioning

- Adaptive Behavior: Vineland-3, ABAS-3
 - Caregiver and/or teacher-report forms
 - Asks caregiver to report on the child's level of independence with skills
- Additional information: developmental history, school records, caregiver interviews
- Consider the source:
 - How long has the rater known the child?
 - What are the opportunities and/or expectations for independence?

What to Look for in a Report:

Are the results valid?

- Do the results seem like a valid representation of the child's day-to-day functioning?
- Are there comments about possibly underestimating the child's abilities?

What type of tool was used?

- Comprehensive vs. screener

Are there discrepancies?

- Are these scores discrepant from a previous evaluation?
- Why?

Assessment Considerations for Children in Child Welfare Cases

- Challenges related to lack of records, placement changes, and developmental knowledge
- Stability of IQ
- Repeated Assessment --> Practice Effects
- Appropriate re-assessment

Tips for Judges and AALs

- Provide the most accurate information possible
- Repeating IQ testing on yearly psychologicals can be harmful
 - Special Education Services
 - Medicaid Services – Home and Community Based Services (HCS)

We should **never** repeat IQ tests to open up placement options!



Supporting Children with IDD in the Child Welfare System

DIAGNOSIS AND TREATMENT



Importance of Diagnosis

- Masking
- Vulnerable Group
- Helps Secure Services and Supports
 - No medication to treat IDD
 - Avoids overmedicating
- Mislabeling and Stigmatization
- Difficulties with Transitions

Treatment Recommendations

- Local LIDDA
- Treatments that work: ABA and PMT
- Treatments that don't work for behavior: Talk Therapy
- Not all treatment works the same for someone with IDD
 - TF-CBT with IDD
- All interventions will require active caregiver involvement

Additional Considerations for Judges and AALs Working with Children and Youth with IDD

AALs: Legal Duty

“Attorney ad litem” means an attorney who provides legal services to a person, including a child, and who **owes to the person the duties of undivided loyalty**, confidentiality, and competent representation.

Tex. Fam. Code Ann. § 107.001(2)

AALs: Ethical Duty

“An attorney ad litem or an attorney appointed in the dual role who determines that the child **cannot meaningfully formulate the child's expressed objectives of representation** may present to the court a position that the attorney determines will serve the best interests of the child.”

Tex. Fam. Code Ann. § 107.008(b)

Judges and AALs: Housing for Young Adults with IDD

[Local Intellectual and Developmental Disability Authorities \(LIDDAs\)](#)

- Point of entry for ALL publicly funded IDD programs
- Enroll individuals into Medicaid Waiver programs (like HCS)
- Conduct Determination of Intellectual Disability (DID) assessments



It's time to loop in the DFPS Regional Developmental Disability Specialist (DDS)

Judges and AALs: HCS Requirements

- MUST have a Determination of Disability (DID)
 - Eligible if FSIQ of 69 or below, or an IQ of 75 or below, plus a related condition (not mental illness)
- MUST have SSI benefits
- Typically 10-15 year waiting list; access to aging out slots for foster youth



It's time to loop in the DFPS Regional SSI Coordinator

Judges and AALs: HCS Services

- Group home
- Host home/ companion care
- Respite services
- Day habilitation
- Employment services
- Nursing services
- Behavioral support
- Supported home living (transportation)
- Social work
- Occupational therapy
- Physical therapy
- Speech therapy
- Dietary services
- Audiology services
- Cognitive rehabilitation services (services for people with brain injury)
- Accessible minor home modifications
- Adaptive aids
- Transition assistance services

Judges and AALs: Who Can Be an HCS Provider?

Texas Health and Human Services Commission (HHSC)

- Existing HCS Providers
- Foster homes
- Biological relatives

Judges and AALs: Guardianship for Young Adults with IDD

- Requires a court order (Texas Estates Code § 1101.10)
- Removes the person's freedom of choice, self-determination, and independence
- Assigns decision-making to a third party (the guardian)
- Guardianship is difficult to terminate

Judges: Extended Jurisdiction

“[I]f the court believes that a young adult may be incapacitated ...the **court may extend its jurisdiction on its own motion** without the young adult’s consent to allow the department to refer the young adult [DADS, now HHSC] for guardianship services...”

Tex. Fam. Code Ann. § 263.603(a)

Judges and AALs: Pending Guardianship Application

- If a young adult turns 18 without a legal guardian, they are still a legal adult with all rights and privileges
- Even if DFPS is responsible for care, the young adult becomes their own medical consenter, educational consenter, financial manager, etc.

Judges and AALs: Guardianship Myths

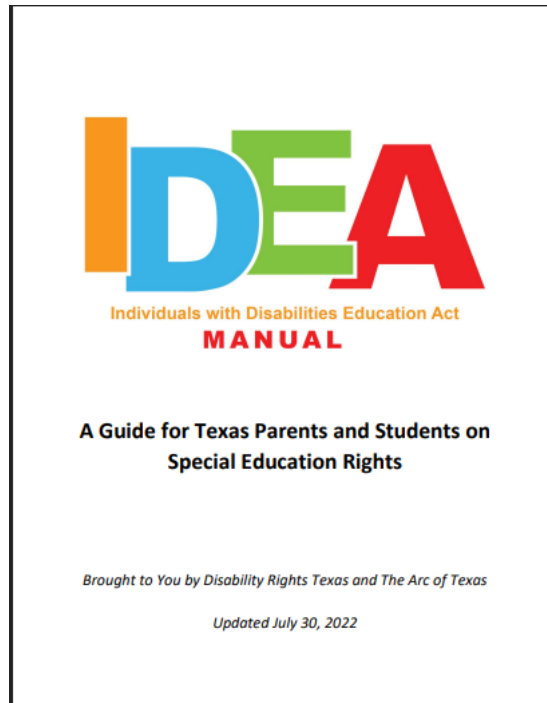
- All clients with IDD require a legal guardian
- Guardianship is necessary for the caregiver to support after 18
- Guardianship is necessary to address concerns about money
- Guardianship is required to access Medicaid waiver programs
- Guardianship is the only legal solution

Judges and AALs: Guardianship Alternatives

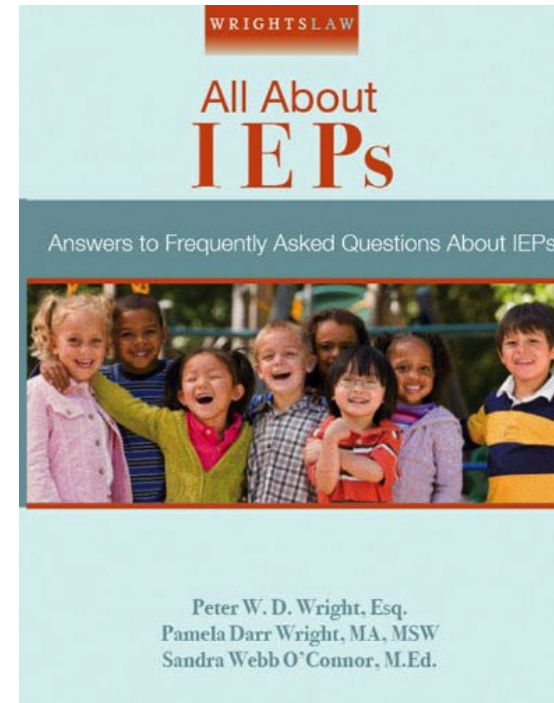
- [Supported Decision-Making Agreement](#) (SDMA)
- [Power of Attorney](#)
- [Representative Payee](#)

Consider the downsides of HCS providers as SDMs and representative payees

Special Education Resources for Judges and AALs



[DRTx IDEA Manual](#)



[WrightsLaw All About IEPs](#)

Questions?

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Thank you!

QUESTIONS RELATED TO MCLE SELF REPORTING MAY BE SENT TO: CCTRAINING@TXCOURTS.GOV

