

Factors to Consider When Selecting an Expert

by
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Although evaluators and their reports are essential to successful advocacy, evaluators are rarely selected with the goal of making advocacy and/or litigation more effective, easier, or less costly. [1]

When parents choose individuals to evaluate their child, many factors influence the decision-making process - convenience, license or credentials, reputation, insurance issues, office location, referral from a health care provider, recommendation by a friend, family or school employee - unfortunately, even ads in the yellow pages.

A professional license does not guarantee competence. How should parents approach the task of finding competent experts?

Your task is to find an evaluator or evaluators who are knowledgeable about the child's disability. Evaluators work in the private sector, university medical centers, children's hospitals, and child development centers.

The Comprehensive Evaluation

The child should be evaluated in all areas that affect learning (i.e. vision, hearing, motor skills, speech-language skills, academic skills, etc.). The comprehensive evaluation will include intelligence and educational achievement testing. The evaluator should observe the child's responses and do additional testing to identify specific areas of weakness. If possible, the evaluator should observe the child in the classroom. [2]

Although it is not necessary to determine what caused a "physical or mental impairment which substantially limits one or more life activities", the comprehensive evaluation should determine the nature of the child's disability and how the disability affects the child's learning. The comprehensive evaluation should distinguish between the child's primary problem and secondary problems or symptoms that are due to an earlier inaccurate diagnosis or inappropriate interventions. [3]

Members of the Evaluation Team

Since a child's primary disability often co-exists with other disabilities, parents may decide to work with an evaluation team. Since the child's needs will change over time, members of the evaluation team may also change.

The **child's physician** should be a member of the evaluation team. The physician will evaluate and diagnose medical problems and alert the parent if the child misses important developmental milestones. Of course, the physician will prescribe and monitor the child's medication. If the school is not taking the child's problems seriously, medical records that document the child's physical, learning or behavioral problems may be useful.

The **psychologist** is a member of the evaluation team. Make sure your evaluator is qualified to administer a comprehensive intellectual or cognitive test (i.e., Wechsler Intelligence Scale, Stanford-Binet). In most states, intellectual or cognitive tests (IQ tests) may only be administered by licensed clinical psychologists and school psychologists. Licensed clinical psychologists may use psychological examiners or school psychologists to collect test data, administer tests, and draft reports. The psychological report should indicate who administered the tests and whether the psychologist supervised the examiner.

While IQ screening tests may provide useful information, screening tests do not provide sufficient information to develop an appropriate program, nor do they satisfy requirements for special education eligibility.

When parents have their child evaluated by a private sector evaluator, they should provide this individual with copies of earlier evaluations by the school and/or other private sector evaluators. If an earlier evaluation included incorrect information, the parents should identify this information so these errors are not perpetuated in subsequent reports.

The evaluator may use information from prior evaluations to make decisions about additional tests that need to be completed. The evaluator may also compare earlier testing with current testing to assess the child's progress or lack of progress.

A **neuropsychologist** may evaluate the child. Neuropsychological tests assess specific neurological issues that affect learning. Children who have difficulty processing information and have significant subtest scatter may benefit from a neuropsychological evaluation. A neuropsychological evaluation can also be valuable if the child's eligibility for special education services is disputed.

A **neurologist** or **pediatric neurologist** may be a member of the evaluation team. Neurologists are medical doctors who have specialized education and training in how the brain functions. However, neurologists may be less knowledgeable about how to write reports that pass muster with school districts and how to recommend educational interventions that provide the child with access to an education and enable the child to benefit from education. Neurologists who work at teaching hospitals are often excellent sources of information about the child's need for assistive technology.

The school will screen the child's hearing and vision as part of any evaluation for special education. While screening tests are important, they will not rule out all vision or hearing problems. If initial screening tests identify possible problems, the child should be referred to a specialist for a more comprehensive workup.

An **optometrist** may evaluate the child to diagnose focusing and tracking difficulties.
[4]

An **audiologist** may administer specific tests to diagnose a Central Auditory Processing Disorder.

A **speech language pathologist** may be a member of the evaluation team if the child has difficulty understanding or expressing oral or written information. Speech language pathologists are trained in how speech and language develops.

Depending on the child's disability, the evaluation team may also include an occupational therapist, social worker, recreational therapist, behavioral specialist, and /or psychiatrist. Typically, each professional on the team will evaluate the child and write a report. A comprehensive, multi-disciplinary evaluation may require several visits and direct observations of your child.

Some of these evaluators may need to observe your child in the classroom. They should have the same opportunities to observe in the classroom as school personnel. [5]

Some members of the evaluation team may provide direct services to the child (i.e., speech therapy, occupational therapy). [6] The child's **teacher** observes the child in the school setting and can provide valuable information by answer questions and filling out surveys and behavior rating scales.

Some **special education teachers** are qualified to administer academic achievement tests (i.e., Woodcock-Johnson Tests of Achievement, Kaufman Tests of Educational Achievement or KTEA) [7].

You may ask your child's Sunday School teacher, soccer coach, tutor, or music teacher to provide information about your child - this will help the team get an accurate picture of the child in different environments.

Parents are members of the team and important sources of information for the team. Parents have observed the child's emotions, behavior and skills in many different situations and environments.

Recommendations

The comprehensive evaluation will include specific recommendations about the child's needs. These recommendations should be supported by test data. Without objective test data, the IEP team is likely to write subjective, unmeasurable goals and objectives in the child's IEP.

Members of the evaluation team may be limited in their ability to make recommendations about the child's educational needs by several factors:

- (1) limited knowledge about effective, research-based instructional methodologies;
- (2) limited knowledge about what goes on in the classroom; and
- (3) difficulty translating evaluation findings about the child's disability into sound recommendations about teaching and educational intervention strategies.

Parents may help the evaluation team by providing members with citations for professional journal articles. [8]

Provision & Documentation of Services

After the child has received a comprehensive evaluation, reports are written, and an IEP or 504 plan is developed, the expert's role shifts to delivery of appropriate

services. All special education and related services or supplementary services should ensure access to the regular curriculum and/or benefit from an education.

Private sector health care providers document the child's progress in sessions. To ensure meaningful oversight, the school should have a policy to ensure that services are documented. Parents are entitled to see this documentation. Documentation helps parents and teachers know if skills that are developed or practiced at school are being generalized by the child in school and outside of school.

If parents get a comprehensive evaluation of their child by carefully selected private sector evaluators and request that the school implement the recommendations in these evaluations, it is more likely that the child will receive a free appropriate public education. If litigation does become necessary, this will also increase the odds of a positive outcome. [9]

Endnotes

[1] During the interview process, parents should ask professionals whether they will attend an IEP meeting and testify in court if necessary, what their customary fee and payment arrangements are for these services, and how much notice they need. Parents may choose a professional who will not agree to testify in court. If parents ask these questions in the beginning, they will know about these limitations -- and can compensate by getting stellar reports. The answers to these questions may also alert the parent that a professional has strong ties to the school, which may or may not affect the evaluation.

[2] See Chapter 8, "Evaluations and Your Child's Disability" in [Wrightslaw: From Emotions to Advocacy - The Special Education Survival Guide](#) by Pamela and Peter Wright (ISBN1-892320-08-8) published by Harbor House Law Press.

[3] This is particularly true in the area of behavior. The child with an undiagnosed or unremediated learning disability often displays inattentiveness, acting out behavior, withdrawal behavior, or self-medicating behavior. The child may be erroneously diagnosed with Attention Deficit Hyperactivity Disorder (ADHD) or Oppositional Defiant Disorder, leading to an inappropriate label of "Emotionally Disturbed" or "Behavior Disordered."

[4] The American Academy of Pediatrics, in conjunction with the American Association for Pediatric Ophthalmology and Strabismus and the American Academy of Ophthalmology issued the following policy statement:

". . . [N]o known scientific evidence supports the claims for improving the academic abilities of dyslexic or learning-disabled children with treatment based on (1) visual training, including muscle exercises, ocular pursuit, tracking exercises, or "training" glasses (with or without bifocals or prisms); (2) neurological organizational training (laterality training, crawling, balance board, perceptual training); or 3) colored lenses. . . Treatable ocular conditions . . . include refractive errors, focusing deficiencies, eye muscle imbalances, and motor fusion deficiencies." (Revised and approved 1998).

[5] Information about what goes on in the classroom is important. It is not unheard of for school professionals to recant professional opinions that the IEP was appropriate and would result in educational benefit when faced with a full description of what really happened in the classroom.

[6] In dealing with school professionals and private sector professionals who get much of their income from school districts, parents must remember that these individuals may be biased and may not maintain client confidentiality. Therefore, parents may choose less than full disclosure of previous evaluations. School personnel are unlikely to allow parents to review a rough draft for errors, much less correct identified mistakes, before disseminating a report to the IEP team.

[7] Test publishers require that individuals who administer tests have specific training. This is one reason why school districts may give one test and balk at giving others - they do not have appropriately trained staff or they object to the cost of additional training.

[8] Articles published in professional journals carry more weight than articles in the popular press. Since hearsay evidence is permissible in due process hearings, judges may admit journal articles. When you ask professionals to review journal articles, you are helping them to develop recommendations that will be defensible in court.

I also heartily recommend that parents, advocates and attorneys purchase the Winter 2001 issue of *Perspectives* (Vol. 27, No.1) about special education litigation. *Perspectives* is a quarterly newsletter published by the [International Dyslexia Association](#). (To order, call IDA at 410-296 0232).

[9] In a due process hearing, competent, articulate expert witnesses may be as important as an attorney. If you have the money to pay an excellent expert or an attorney's retainer (but not both), you may want to pick the expert. If the expert conducts a comprehensive evaluation of the child, and writes a report that includes useful recommendations about the child's educational needs, you may not need to request a due process hearing.

Some experts will not testify for parents unless they are represented by counsel. Parents may be able to use professors at the local universities as their expert witnesses.

Parents lose at due process when they do not have testimony from credible expert witnesses, comprehensive evaluations that describe the child's needs that result from the disability, and documentation of direct services.

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Rosemary N. Palmer is the parent for four children with disabilities, and has been the temporary parent for another 15.

Her experiences as a sworn law enforcement officer, city attorney, prosecutor and airport director pre-date her part-time civil rights, dependency, delinquency, and special education legal practice.

In describing her life and practice, she says, "I tilt at windmills". Ms. Palmer can be reached at floridalawlady@mstar2.net or 850-668-9203.

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