OTHER HEALTH IMPAIRMENT (OHI)

NELI – Disability Condition Series 2024

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TOPICS

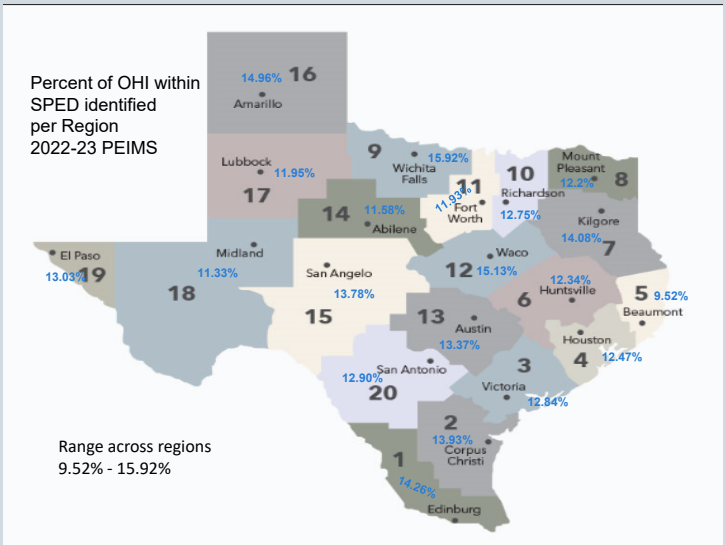
- Statistics
- Definition/Criteria for OHI
- Assessment/Evaluation of OHI
- Common challenges in identification and evaluation
- Case examples
- Litigation issues and implications

PEIMS DATA % of SPED for OHI

OHI – Primary Disability Category
All public school districts including charter schools
% of special education population across 7-year period
Total number of students classified as OHI within special education

2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23
13.85	14.12	14.35	14.33	14.15	13.82	12.88
66,125	70,360	76,291	84,263	85,644	87,775	90,543

National Center for Educational Statistics, School Year 2021-2022
% of students identified under special education for OHI = 15%



Other Health Impairment: Definitions/Criteria

IDEA	Commissioner's Rules
34 Code of Federal Regulations § 300.8 Child with a disability. (c) *Definitions of disability terms*. (9) *Other health impairment* means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that— (i) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; and (ii) Adversely affects a child's educational performance.	**19 Texas Administrative Code § 89.1040. Eligibility Criteria.** (c) *Eligibility Definitions* (8) *Other health impairment*. A child with OHI is one who has been determined to meet the criteria for OHI due to chronic or acute health problems. OHI means having limited strength, vitality or alertness that adversely affects a child's educational performance. The term health problems includes asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's Disorder as stated in 34 CFR, §300.8(c)(9). The group of qualified professionals that collects or reviews evaluation data in connection with the determination of the child's eligibility based on other health impairment must include a licensed physician, a physician assistant, or an advanced practice registered nurse with authority delegated under Texas Occupations Code, Chapter 157.

DEFINITIONS/CRITERIA

- OHI includes a multitude of conditions.
- The definition and criteria for each condition are not included in the IDEA or TAC. These are diagnoses typically determined medically.
- The student must have limited strength, vitality or alertness due to chronic or acute health problems.
- These limitations must adversely affect a student's educational performance.
- In Texas, a medical professional is a required member of the team that determines the condition.
- As with all disability categories, the degree of impact on educational performance and the need for special education will determine if the student meets eligibility for special education.

OHI

- How would a condition such as sickle cell anemia be conceptualized as an OHI?
- In the FIE, we would have the following:
- Definition of condition including level of severity for the student
- Exact symptoms being exhibited by the student
- How is this impacting the student's educational performance

OHI

- Mary has been diagnosed with sickle cell anemia by Dr. Jones. Sickle cell anemia affects the shape of red blood cells which carry oxygen to all parts of the body. Mary exhibits the following symptoms which vary in intensity: fatigue, swelling of hands and feet, and infections. This condition causes limited vitality for Mary and has implications for her participation in physical education activities. She fatigues easily in group activities. In addition, the condition leads to absences.

OHI

- Includes several disorders and conditions that are *very* different from one another
- Evaluation for this classification will need to address how the condition adversely impacts a child's educational performance
- Medical information (not just a signed form) is not only required, but is critical for the FIE

Questions to consider for OHI

- Are there medical implications only?
- Is there a medical basis with behavioral implications? (e.g., Tourette's)

District obligations

- Complete the FIE
- Obtain information and documentation from the appropriate medical professional about the disability condition
- Since we have no IDEA classification of ADHD, must use DSM-5 criteria to evaluate and identify the condition and have condition "diagnosed" by MD, PA or APRN for OHI

OHI – Medical Conditions

- Will rely on medical evaluations to determine the diagnosis
- MD, PA, or APRN will provide information about diagnosis, prognosis, medical management and medical treatments
- School will collect information from a variety of sources, conduct observations, administer assessment instruments and provide information about the student's educational performance, including the degree to which the condition adversely affects educational performance

Some Issues with OHI documents

- Medical professional puts several diagnoses on the form – e.g., ADHD, AU, Anxiety, Depression,…
- Since we have different categories for these conditions (OHI, AU, ED), we would note that these were indicated and that the diagnoses fall under other IDEA conditions.
- My suggestion: collect data/evaluate for those conditions and determine if present at school; if criteria are met, identify the condition under the appropriate category

Some issues with OHI documents

- There is no OHI documentation, but the student clearly exhibits ADHD
- Our FIE will evaluate for this condition and identify it if present
- We would seek MD's (PA, APRN) documentation
- If not possible or obtained, we would conclude ADHD, indicate that a medical diagnosis is required for OHI and this has not been obtained at the time of the finalization of this FIE (explain why)
- Since a condition is identified in the FIE, the student would then be referred for 504 consideration (if only condition, but if another condition present, then can address needs for ADHD in the IEP)

Some issues with OHI documents

- We receive an OHI documentation, but there is no evidence of the condition within the educational setting
- Again we conduct a thorough evaluation and note that there is no evidence that the condition is present or causes adverse impact in the educational setting; thus the student would not meet the criteria for OHI nor would they meet eligibility for special education

Some issues with OHI determination

- The student meets the criteria for a medical condition - but the impact does not rise to the level of requiring special education (thus no sped eligibility), but the student does need accommodations for the condition
- The student met the criteria for ADHD, was diagnosed by an appropriate medical professional, is on medication and currently does not exhibit symptoms in the school setting that adversely affect educational performance

IDEA Condition - OHI

- When we evaluate for the condition of ADHD, we follow all procedures and relevant rules for conducting an FIE.
- For OHI as a condition, an MD/PA/NP report is **necessary but not sufficient**
- **There must be a comprehensive FIE to determine a condition since adverse impact is part of the criteria for OHI.**

Remember

- Adverse impact is part of the criteria for IDEA disability conditions, but this is not equal to need for specially designed instruction
- For example, the condition may have impact on educational functioning
  - Jane is a very bright student who has ADHD-Inattentive Presentation. This does affect her functioning in that she needs redirection to stay on task, a graphic organizer to facilitate organization for writing, and a schedule to turn in work for a long project.
  - Do these require special education? ARD would decide this – not the FIE. But your FIE provides the information for this decision.

IDEA Condition - OHI

- Unlike other conditions, OHI is the IDEA category, but the diagnostic criteria for the medical diagnoses under it are defined elsewhere. (e.g., asthma, diabetes, nephritis)
- For ADHD, the criteria are in the DSM-5.
- Can other conditions other than those listed be under OHI? Yes. The list is prefaced by "such as."

Purpose

- The purpose of the OHI evaluation is the same as for all conditions.
- First, does the student meet the requirements for the presence of the condition?
- Second, how does the condition adversely affect education?
- BUT REMEMBER, THE PRESENCE OF A CONDITION ≠ ELIGIBILITY

Marshall Joint School District No.2 v. C.D.

United States
Court of Appeals
7th Circuit

Marshall Joint School District No.2 v. C.D. 7th Circuit

- In kindergarten, C.D. was diagnosed with *Ehlers-Danlos Syndrome ("EDS"), hypermobile type, which is a genetic disease that causes joint hypermobility, commonly called double-jointedness. In C.D.'s case the symptoms are serious: he has poor upper body strength and poor postural and trunk stability, and he suffers from chronic and intermittent pain and since then the school district has provided him with additional resources in his academic classes and special education in gym.* Two years later, he was also diagnosed with ADHD-inattentive type.
- In second grade, the district *reevaluated his eligibility for special education, and a team of educational professionals determined that he no longer met the criteria. His parents disagreed and sought administrative review; the administrative law judge ("ALJ") conducted a lengthy hearing, concluded that the school district had erred, and found that C.D. was still eligible for special education.*
- Appeal to district court and district court agreed.
- Appeal to 7th Circuit

Marshall v. C.D. (con't)

- *When reevaluated, C.D. was performing at grade level, had met many of his IEP goals for gym and no longer had many of the original problems*
- *C.D. did not need special education because his needs could be met in regular education with slight modifications for medical and safety needs* (health plan)
- Complicated case – thousands of pages in the records

Marshall v. C.D. (con't)

- Case centered around participation in PE
- ALJ (hearing officer) found student eligible because EDS causes pain and fatigue and when he does have pain and fatigue it can affect his educational performance
- 7th Circuit: *It is not whether something, when considered in the abstract, <u>can</u> adversely affect the student's educational performance, but whether in reality it does.*

Marshall v. C.D. 7th Circuit

- Even if the ALJ had erred in EDS having an adverse impact, the team must also determine if the child requires special education
- District said no – all needs could be met through health plan in regular gym class
- ALJ erred in crediting the physician's opinion over that of the IEP team
- *A physician cannot simply prescribe special education*

Marshall v. C.D. 7th Circuit

- A physician's diagnosis and input are important; The IEP team gave attention and careful consideration to the physician's information and opinion
- The IEP team is required to consider the physician's opinion; it does not have to defer to it
- Also addressed related services, but need for physical or occupational therapy is not what the district is charged with considering when evaluating for special education eligibility; these are not stand-alone services provided apart from special education

Alvin ISD and A.D.

United States
Court of Appeals
5th Circuit

Texas Due Process Hearing

- A.D. v. Alvin ISD – hearing filed by student for failure to identify, failure to evaluate, and failure to provide special education services
- Alvin ISD contends that A.D. is not eligible because he meets educational standards set forth by TEA (academic progress, …)
- SI, ADHD-OHI, and LD in early elementary (through 3rd grade)
- Dismissed and performed satisfactorily throughout elementary school

Context

- 7th grade – behavior problems begin; ISS 13 days, 8 detentions, Saturday class twice; passed 7th grade and passed TAKS
- 8th grade – behavior contract; continued discipline problems – burglarized school concession stand; tragic death of baby bother; alcohol abuse; strained relationship with stepfather and mother expecting new baby
- Passed 8th grade; passed TAKS and commended in Reading

Context

- FIE completed – not ED, not LD and not OHI due to educational need
- No disagreement about ADHD and no disagreement about behavior problems
- Psychiatrist and Pediatrician recommended OHI
- A.D. prevailed in the hearing and an IEE was ordered

Appeals

- Alvin ISD appealed decision of hearing officer in federal district court and prevailed. The judgment was that A.D. did not need special education by reason of his ADHD.
- A.D. then appeals the district court's judgment in favor of Alvin ISD to the 5th circuit
- No dispute that A.D. satisfies the first prong – student with a disability -

5th Circuit Central Issue/Dispute

- Central dispute is by reason of ADHD does A.D. need special education
- Alvin ISD says no and any need for special education services is due to other sources, not his ADHD
- *Adversely affects his educational performance* versus *adversely impacts his ability to benefit from regular education*

5th Circuit Decision

- Adversely affects is subpart of 1st prong – used to establish disability – adversely affects does not mean he is eligible
- 2nd prong – by reason of ADHD he needs special education – 5th circuit says no due to several reasons
  - Passing grades, success on TAKS, teachers testified that he was achieving social success in school

5th Circuit Decision

  - Testimony of teachers more reliable than much of testimony from physicians ("based their opinions on faulty information culled from isolated visits, select documents provided by A.D.'s mother, and statements from A.D.'s mother about what she believed was happening in school")
  - Behavior problems due to alcohol abuse, tragic death of brother, … not due to ADHD
- Decision is that A.D. <u>is not</u> a child with a disability under IDEA

ADHD

- Is a very complicated condition
- Symptoms vary widely in severity
- ADHD is a neurodevelopmental disorder and has much comorbidity with other conditions
- CDC: 64% with any mental, emotional, or behavioral disorder; 52% with behavior or conduct problem; 33% with anxiety; 17% with depression; 14% with autism spectrum disorder

Comorbidity → Co-occurrence of conditions

- Websites with information on comorbidity rates for ADHD
  - chadd.org
  - ncbi.nim.nih.gov
  - cdc.gov
- Study with 2447 children and adolescents (ages 5-17) with one or more psychiatric disorders: 27% ADHD only; 16% Psychiatric Disorder only; 57% with 2 or more psychiatric disorders comorbid with ADHD

American Academy of Pediatrics

- **Clinical Practice Guideline for the Diagnosis, Evaluation, and Treatment of Attention-Deficit/Hyperactivity Disorder in Children and Adolescents**
- Mark L. Wolraich, MD, FAAP; Joseph F. Hagan, Jr, MD, FAAP; Carla Allan, PhD; Eugenia Chan, MD, MPH, FAAP; Dale Davison, MSpEd, PCC; Marian Earls, MD, MTS, FAAP; Steven W. Evans, PhD; Susan K. Flinn, MA; Tanya Froehlich, MD, MS, FAAP; Jennifer Frost, MD, FAAFP; Joseph R. Holbrook, PhD, MPH; Christoph Ulrich Lehmann, MD, FAAP; Herschel Robert Lessin, MD, FAAP; Kymika Okechukwu, MPA; Karen L. Pierce, MD, DFAACAP; Jonathan D. Winner, MD, FAAP; William Zurhellen, MD, FAAP;
- SUBCOMMITTEE ON CHILDREN AND ADOLESCENTS WITH ATTENTION-DEFICIT/HYPERACTIVE DISORDER
- Address correspondence to Mark L. Wolraich, MD, FAAP. Email: mark-wolraich@ouhsc.edu

- *Pediatrics* (2019) 144 (4): e20192528.
- https://doi.org/10.1542/peds.2019-2528

AAP Guidelines

- Primary care physician should initiate evaluation for ADHD for any child 4 - 18 years of age who shows or presents with academic or behavioral problems and symptoms of **inattention, hyperactivity, or impulsivity**.
- To make diagnosis of ADHD, the primary care physician should determine that diagnostic criteria have been met based on the **DSM-5**.
- Making a diagnosis includes documenting that the child has difficulties in **more than 1 major setting** (e.g., in school and at home). The primary care physician should include reports from parents or guardians, **teachers, and/or other school** and mental health clinicians involved in the child's care.

AAP Guidelines

- The primary care physician should also **exclude** any other possible cause for the symptoms.
- When evaluating a child for ADHD, the primary care physician should assess whether other conditions are present that might **coexist** with ADHD, including emotional or behavioral (such as anxiety, depressive, oppositional defiant, and conduct disorders), developmental (such as learning and language disorders or other neurodevelopmental disorders), and physical (such as tics, sleep apnea) conditions.
- The primary care physician should recognize ADHD as a **chronic** (long-standing) condition and, therefore, consider children and adolescents with ADHD as children and youth with special health care needs.

DSM-5 Criteria for ADHD

- Inattention: Six (or more) of the following symptoms that have persisted for at least 6 months to a degree that is inconsistent with developmental level and that negatively impacts directly on social and academic/occupational activities
- Often fails to give close attention/makes careless mistakes
- Often has difficulty with sustaining attention in tasks or play activities
- Often does not seem to listen when spoken to directly
- Often does not follow through on instructions and fails to finish schoolwork, chores, or duties in workplace
- Often has difficulty organizing tasks and activities
- Often avoids, dislikes, or is reluctant to engage in tasks that require sustained mental effort
- Often loses things necessary for tasks or activities
- Is often easily distracted by extraneous stimuli
- Is often forgetful in daily activities

DSM-5 Criteria for ADHD

- Hyperactivity and impulsivity: Six (or more) of the following symptoms that have persisted for at least 6 months to a degree that is inconsistent with developmental level and that negatively impacts directly on social and academic/occupational activities (not solely a manifestation of oppositional behavior, defiance, hostility, or failure to understand the tasks or instructions) [for those 17 and older, must have 5 symptoms]
- Often fidgets or taps hands or feet or squirms in seat
- Often leaves seat in situations when remaining seated is expected
- Often runs about or climbs in situations where it is inappropriate
- Often unable to play or engage in leisure activities quietly
- Often "on the go," acting as if "driven by a motor"
- Often talks excessively
- Often blurts out an answer before a question has been completed
- Often has difficulty waiting his or her turn
- Often interrupts or intrudes on others

DSM-5 Criteria for ADHD

- Several inattentive or hyperactive-impulsive symptoms were present prior to age 12 years
- Several inattentive or hyperactive-impulsive symptoms are present in two or more settings
- Clear evidence that the symptoms interfere with, or reduce the quality of, social, academic, or occupational functioning
- Symptoms do not occur exclusively during the course of schizophrenia or another psychotic disorder and are not better explained by another mental disorder (mood, anxiety, dissociative, personality, substance intoxication, or withdrawal)

FIE Process

1. Have parent sign a consent for release of information <u>when</u> getting consent for FIE

✓ When getting consent, make sure all components of FIE are checked

RIOT Model

Review of Records

Interviews

Observations

Tests

R and I

- R: Medical, Educational, Prior evaluations
- I: with parent, teacher and student; external service providers
- Need thorough developmental, medical, social, behavioral and family history (e.g., BASC-3: SDH)
- Some specific interview scales:
  - Diagnostic Interview Schedule for Children-IV
    - NIMH
  - Conners-March Developmental Questionnaire - MHS

O

- Momentary time-sampling
- Should involve academic engagement
- Should have comparison to peers
- If comorbid learning problems, observe in classes where student is performing adequately academically
- B.O.S.S.
- BASC-3: SOS

Classroom observations

- **Reading:** students read a passage and had to answer 5 questions about the story; lesson length=12 minutes; on-task 71% and needed redirection 5 times during the 12-minute lesson; completed task and answers were correct. Off-task behaviors: looking around the room, fidgeting, twirling pencil in air, drumming pencil on desk, made a comment to a peer (soft voice), standing at desk (2x)
- **Math:** students instructed as a group on order of operations (PEMDAS) and then solved 2 problems with teacher guidance; worksheet with 10 problems was given for students to complete; on-task 40%; needed redirection 7 times in 15-minute time allowed and needed assistance with task (did appropriately ask for help and teacher reviewed directions); completed 7 problems and 3 were incorrect; Off-task behaviors: looking around the room, fidgeting, drumming pencil on desk , stood up at desk (4x), put head on desk (3x),

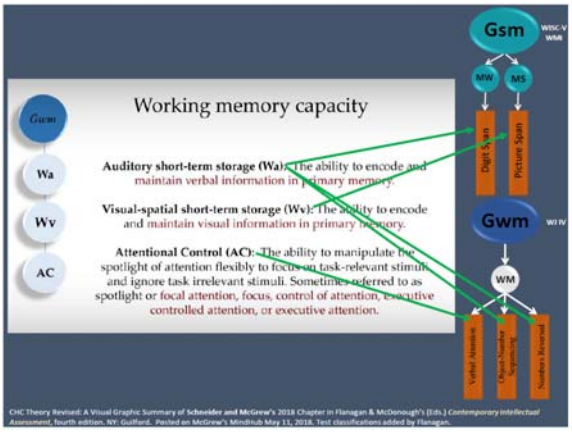
T

- Typically IQ tests are administered to address overall cognitive ability and working memory and processing speed
- Need instruments that address attentional control based on new formulation of Gwm
- Due to high levels of comorbidity, other IDEA categories are also evaluated when indicated (e.g., SLD, ED, AU, …)
- Misconception: The evaluation for OHI-ADHD is not as involved. Only need the physician's form.

Types of Attention

- Selective: focus on one feature of the environment/stimulus and block out other features
- Divided: paying attention to two things simultaneously
- Sustained: attention span; concentrating on a task, event or environmental feature for a long period of time
- Executive attention: goal-directed; focusing on important elements; following a plan

Recent formulation of Gwm



T – Behavior Rating Scales

- BASC-3
- Conners Comprehensive Behavior Rating Scale
- Child Behavior Checklist (ASEBA)
- Conners-3
- Brown AD/HD Scales (Activation, Attention, Effort, Affect and Memory)

This is not an exhaustive list.

Other tests

Functional Behavior Assessment

- ✓ Functional Analysis Screening Tool (FAST)
- ✓ Motivation Assessment Scale (MAS)
- ✓ Questions about Behavioral Function (QABF)

Executive Function

- ✓ Rating Scales: BRIEF, CEFI, D-REFS
- ✓ Direct Measures: NEPSY-II, D-KEFS

Procedures Specific to ADHD

- **Attentional Control**
  - Direct Measures: CPT-3 (Continuous Performance Test), CATA (Continuous Auditory Test of Attention), NEPSY-II, WRAML, WJ-IV COG Verbal Attention, CAS-2 Attention scale

Note: Select rating scales and direct measures that have norms for different groups or clinical studies (in test manual) of profiles for different groups

MHS: Use of the Conners3-P, CPT-3 and CATA = 93.8% overall correct classification

FIE Conclusion

- Other Health Impairment (OHI)-ADHD
- Mark was initially diagnosed with ADHD-Predominately Inattentive Presentation (ADHD-I) during 2nd grade. He is under a physician's care for this condition and is prescribed Strattera. The results of this FIIE indicate that Mark displays a profile consistent with ADHD. Several inattentive characteristics were noted in rating scales, interviews, classroom observations, and direct testing. Inattentive: fails to give close attention/makes careless mistakes, has difficulty with sustaining attention in tasks, does not follow through on instructions and fails to finish schoolwork and chores, has difficulty organizing tasks and activities, is easily distracted by extraneous stimuli, and is forgetful in daily activities. There were some hyperactive-impulsive characteristics (i.e., fidgets or taps hands or feet or squirms in seat, leaves seat in situations when remaining seated is expected, and blurts out an answer before a question has been completed), but an insufficient number to meet classification requirements. Given these characteristics, Mark displays ADHD-Predominately Inattentive Presentation consistent with his medical diagnosis.

FIE Conclusion

- Mark's pediatrician, Dr. _____, submitted an OHI Disability Condition Form with the diagnosis of ADHD. He noted that Mark would experience limited alertness (including heightened alertness to environmental stimuli that results in limited alertness) in the educational environment and may have difficulty maintaining alertness in class and performing activities in the general classroom. It was noted that Mark may need adaptations.

- Given the results of this FIIE and the physician's documentation, Mark meets the criteria for the educational disability condition of OHI.

BASC-3 CLINICAL PROBABILITY INDEX

- The BASC-3 yields three Clinical Probability Scales: ADHD, Autism (AU) and Emotional Behavioral Disturbance (EBD). The Clinical Probability Index provides an overall indication of the similarity between the obtained behavioral ratings and the ratings of similarly aged children known to have a behavioral or emotional problem or classification. The following table presents the scores for the clinical probability indices:

BASC-3 CLINICAL PROBABILITY INDEX

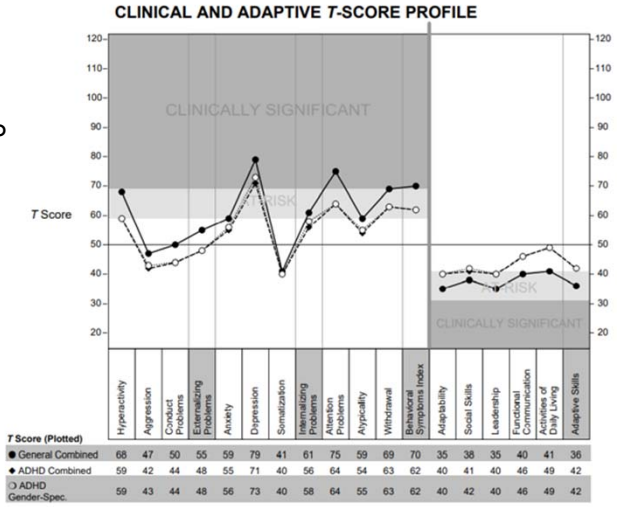
Example 1: ADHD and ED

Clinical Probability Scales	Mother	ELA Teacher	Math Teacher
ADHD	77	82	79
AU	58	60	56
EBD	82	99	85

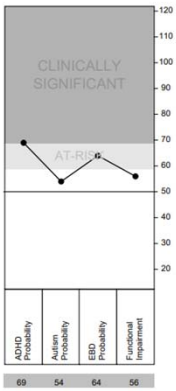
Be specific versus using generalizations

- C displays clinically significant characteristics across both EBD and ADHD. There is no indication of AU which is consistent with other data (observations, interviews).
- Regarding ADHD, C exhibits distractibility, poor sustained attention and difficulty completing work. He tends to blurt out answers in class and is often out of seat.
- Regarding EBD, C has difficulty controlling anger. He tends to become irritable quickly, misinterprets situations (e.g., thinks someone is looking at him inappropriately, teasing him) and then escalates to making threatening comments towards peers and teachers, exhibiting physical aggression (has pushed teacher, hit 2 students, tripped 1 student), and engaging in property destruction (has thrown a chair, ripped up papers on display).

Example 2: Comparison to ADHD Norms



Example 3: ADHD not ED on BASC-3

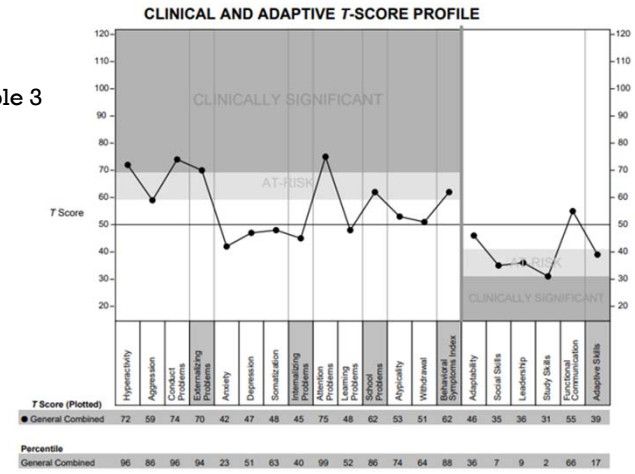


ADHD and EBD not clearly differentiated on Clinical Probability Index

EXECUTIVE FUNCTIONING INDEX SUMMARY

Overall Executive Functioning Index	Problem Solving Index	Attentional Control Index	Behavioral Control Index	Emotional Control Index
Elevated Raw Score: 52	Not Elevated Raw Score: 18	Extremely Elevated Raw Score: 25	Elevated Raw Score: 9	Not Elevated Raw Score: 0

Example 3



Example 4: ED not ADHD

Clinical Probability Scales	Mother	Reading Teacher	Math Teacher
ADHD	68	58	70
AU	52	54	54
EBD	72	78	74

Example 4

- J's prominent pattern of characteristics is consistent with an emotional disorder. While there are elevations in the area of attention, follow-up interviews with the parent and teachers indicate that inattentiveness and need for assistance to remain focused and complete tasks are associated with his mood and need for reassurance. Specifically, J displays significant anxiety and depression. He is fearful of many things, but especially of bugs, getting hurt (he broke his arm last year in a fall and has been very concerned that this could happen again), and the dark (at home). At school, he remains close to his teachers when outdoors and is very careful in physical activities. J also appears sad as evidenced by a blunted affect and crying under certain conditions (if he perceives someone has rejected him, if he does poorly on a test). His teachers and mother describe him as sensitive. As noted in the FIE, J has been diagnosed with anxiety and depression and is prescribed Zoloft. He also receives private counseling.

OTHER
HEALTH
IMPAIRMENT

OHI

1. How is OHI defined under IDEA?

A student with OHI is one who has been determined to meet the criteria for OHI due to chronic or acute health problems. OHI means having limited strength, vitality, or alertness that adversely affects a child's educational performance

2. What is limited alertness for OHI?

The term limited alertness includes a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

3. Are you required to evaluate students for special education services for OHI if that student attends a private school in your district?

Under the IDEA, school districts have a “child find” obligation and must identify and evaluate all students who are reasonably suspected of having a disability regardless of whether they are enrolled in a public or private school. This duty extends to students attending private schools located within a school district’s boundaries even if those students do not reside within the district. Once the district is on notice of facts likely to indicate a disability and the need for special education, it must identify, locate, and evaluate the private school student within a reasonable time.

4. If a parent brings a physician's statement that indicates that the student has ADHD and provides that the student has limited alertness that adversely affects a child's educational performance, does the student automatically qualify for Special Education services?

OSEP has stated that a doctor's statement alone does not establish the basis for an ADHD student's OHI eligibility. A multidisciplinary team must determine that the student needs special education and related services due to the impairment.

5. If the student with ADHD is making about average grades and State Assessment scores, but has several disciplinary referrals, would the student qualify as OHI?

Educational need encompasses more than academics. If the student's behavior is adversely affecting him within the school environment, then the student may qualify for special education services under OHI.

6. If the OHI form filled out by the physician states that the acute health problem is depression and anxiety, would the student qualify for special education services as OHI?

Depression and anxiety are not listed under IDEA as acute or chronic health problems. Nevertheless, if a physician indicates that the student has depression or anxiety, the district needs to explore conducting a psychological evaluation for emotional disturbance.

7. The physician has filled out the OHI form and indicated that the acute health problem is drug use. Does the student qualify for special education services as OHI?

Drug use is not a basis for OHI. The district should connect the parent with resources to address drug use.

8. Can a psychologist fill out an OHI form?

The OHI form must be completed by a licensed physician, a physician assistant, or an advanced practice registered nurse.

9. Can a medical professional licensed outside of the US sign the OHI form?

No.

10.If the student with ADHD is fine on medication, but is a holy terror when off medication, is that a basis to determine that the student does not qualify for special education services?

Medication cannot be considered a mitigating factor.

11. Where is the line for determining services under Section 504 for ADHD versus special education services for ADHD under Section 504?

The distinction between Section 504 and IDEA is whether the child's ADHD rises to the level that the student needs specially designed instruction in order to receive an educational benefit. If the student only needs accommodations, the student will qualify for Section 504.

12. If a student qualifies for OHI for diabetes, does the ARD committee need to develop a health care plan?

Yes. An individual health care plan should be developed when a student's medical condition requires action from the school.

13. Does a new OHI form need to be completed every three years?

No. A multidisciplinary team can determine as part of its review of existing evaluation data (REED) that a student still qualifies as OHI and not require a new OHI form to be completed by the physician.

14. If the district wants an OHI form to be completed, does the district need to pay for it?

Yes. A school can be responsible for paying for an OHI form to be completed if the school determines that the OHI form is necessary for the purposes of determining special education services. A school can pay for a medical evaluation for diagnostic and evaluative purposes.

15. For the purposes of educational programming, does it matter if OHI is tertiary?

As far as the child's educational program is concerned, the hierarchy of the disabilities has no bearing on what services are provided. The IEP committee is charged with providing an educational program based upon a student's strengths and weaknesses. The labels do not drive the programming.

16. When the school receives an OHI form filled out by the physician, does the school need to collect any other information?

It is important that the district obtain information from the teachers as to how the student is performing at school in order for the ARD committee to determine whether the student's condition adversely affects their educational performance.

17. Can the district's school psychologist determine whether the student has ADHD and meets OHI criteria?

No. The committee must have a medical professional complete the form. (i.e., a physician, physician assistant or nurse practitioner). However, the school psychologist can certainly indicate that the student has attention problems.

18. What should school do if the parent refuses to get an OHI form completed?

If the parent is uncooperative in obtaining the medical form, the school cannot place the student in special education if the OHI requirements are not met and that is the only way the student would qualify. However, if the student qualifies by other means, the IEP committee can still address the attentional issues in its educational programming.

19. If a student is found ineligible for services due to ADHD in its full individual evaluation and the parent puts her child in a private school and seeks reimbursement for the school, can the school district be potentially liable?

The Supreme Court has found that IDEA authorizes reimbursement for the cost of private special education services when a school district fails to provide a FAPE and the private-school placement is appropriate, regardless of whether the child previously received special education or related services through the public school.

20. If the student has been prescribed Adderall for his ADHD and the parent is not administering it, can the school require the parent to put their child on medication before the student can come to school?

No. Whether the student is on medication is a parent's choice unless it would cause the student or others harm.