Assessment During COVID-19 School Closures
Maryland School Psychologists’ Association White Paper

Introduction

The COVID-19 pandemic, which started in earnest in the United States in March of 2020, has brought upon us extraordinary challenges that affect every student, family, and school staff member. The pandemic has required significant changes in the way schools interact with their students. Delivery of psychological services and other needed supports has been a particularly unique challenge as face-to-face interaction is ubiquitous in typical school psychological service, whether with students, families, classroom staff, or administration. Without question, school psychologists in Maryland and throughout the country have risen to this new challenge. We are adjusting our approaches to caring for students whose wellbeing is our primary responsibility. Still, the pandemic has created unprecedented legal, ethical, equity, and safety concerns, especially as related to federal and state laws that govern much of our profession.

School psychologists across the state have contacted the Maryland School Psychologists’ Association (MSPA) to share questions and concerns regarding best practices in assessment during this time. The purpose of this paper is to provide guidance regarding psychological evaluations under the Individuals with Disabilities Education Act (IDEA) and Section 504, including relevant legal guidance, ethical and professional issues, and equity and social justice considerations.

Legal Considerations

Providing services via virtual platforms is uncharted territory for most school psychologists. While our colleagues in clinical practice, especially those in rural and other low-access areas, have been engaging in telehealth services for some time, typical school-based services do not utilize virtual service delivery. As such, it is important for school psychologists to understand the legal implications of delivering telehealth services.

FERPA & HIPAA
Ever-present in school psychological practice is the Family Educational Rights and Privacy Act (FERPA; 20 U.S.C. § 1232g; 34 CFR Part 99). FERPA is a federal law that applies to all schools that receive funds through the U.S. Department of Education. The law gives rights to parents and students regarding educational records. These rights include inspecting records maintained by the school, requesting corrections to records that are believed to be inaccurate or misleading, and broad protection from disclosure of school records. While FERPA protects school-based services and school records, such services and records do not typically fall under the more stringent Health Insurance Portability and Accountability Act (HIPAA) regulations; however, services delivered by school psychologists via telehealth may.
The Health Insurance Portability and Accountability Act (HIPAA; Pub.L. 104-191; 110 Stat. 1936; 45 C.F.R. 160, 164) was enacted in 1996 to improve the health care system’s efficiency and effectiveness by establishing standards for health records as well as privacy and security of identifiable health information. HIPAA privacy rules require providers to protect individuals’ health records and personal health information by requiring appropriate safeguards and setting limits on disclosures of such information. HIPAA requires that providers utilize a secure platform that ensures appropriate encryption of data when engaging in telehealth services. In addition, the provider must obtain informed consent that clearly delineates the telehealth treatment process prior to formally engaging with a client.

United States Department of Education Guidelines

In March 2020, the United States Department of Education, through the Office of Civil Rights (OCR) and the Office of Special Education Programs (OSEP), released guidance for school systems and school teams to follow during closures related to COVID-19. Perhaps the clearest guideline issued thus far comes from the OCR Fact Sheet released on March 16th, which in part states, “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” (OCR, 2020, p. 3). The document goes on to indicate that, “Evaluations and reevaluations not requiring face-to-face assessment or observation may take place while schools are closed, so long as a student’s parent or legal guardian consents” (OCR, 2020, p. 3). In addition, OCR indicates that this guidance pertains to evaluations under both IDEA and Section 504. The Maryland State Department of Education (MSDE) echoes this guidance, stating that staff can complete the evaluation process if they do not require face-to-face assessments or observations and if they have the necessary data to make decisions (MSDE, 2020).

The Maryland School Psychologists’ Association (MSPA) has been made aware of local school systems attempting to implement processes for conducting initial and reevaluations despite this guidance. However, we have significant concern that any such evaluations, even when conducted virtually, may not meet legal thresholds defined in statute. Specifically, IDEA requires, for both initial and reevaluation, direct classroom-based observation(s) of the student in the learning environment to obtain information related to academic performance and behavior in specific areas of difficulty (34 C.F.R. §300.305). Given the OCR guidance that face-to-face evaluation “need” be delayed, such observation is not possible. Additionally, IDEA stipulates that assessments and measures (e.g., standardized cognitive and achievement tests), must be reliable and valid and administered according to the publisher’s instructions and standardization protocols (34 C.F.R. § 300.304(c)(1)). Deviations from standardized assessment procedures will significantly impact assessment results. As such, using those results would violate the ethical and professional standards typically used to make data-based decisions.

When making decisions about re-evaluations, Individualized Education Program (IEP) teams and school psychologists should keep in mind that the Code of Maryland Regulations (COMAR; 13A.05.01.06) require formal assessments only in specific circumstances: A re-evaluation is a review of a student’s IEP by an IEP team at least once every three years, unless the public agency and student’s parents agree otherwise. On the basis of the review and input from the student’s parents, the IEP team shall identify what additional data, if any, is needed to determine:

- whether the student continues to be a student with a disability;
- the educational needs of the student;
• the present levels of academic achievement and related developmental needs of the student;
• whether additions or modifications to special education and related services are needed to enable the student to meet the measurable annual goals in the student’s IEP and to participate in the general curriculum; and
• whether the student continues to need special education and related services.

**Ethical and Professional Considerations**

The National Association of School Psychologists (NASP) 2020 Standards and Practice Model and the NASP Code of Ethics provides professional and ethical guidance, to which the Maryland School Psychologists’ Association (MSPA) adheres and strongly believes applies to both virtual and in-person assessments during the COVID-19 pandemic. Inherent in both assessment format options are overlapping and unique features that compromise the ability to conduct professional, standardized, and comprehensive assessments; both methods endanger the validity and reliability of assessment results. Practitioners must be aware of the limitations and risks associated with psychological evaluation during this time and must be diligent in providing families with clear informed consent related to those risks and limitations. Similarly, supervisors and other administrators should consider these when creating procedures and providing guidance to practitioners.

The validity and reliability of assessments are cornerstones of data-driven and legally defensible psychological evaluations. Regardless of assessment format, school psychologists must consider how the substantial changes in students’ environments might impact their psychological well-being and, consequently, the validity of assessment results. In other words, assessment data collected during this time may not represent students’ true functioning prior to the global pandemic. Instead, they may represent students’ responses to trauma and other external stressors associated with the presence of COVID-19 and its societal impact. Furthermore, eligibility determinations require thorough and comprehensive evaluations that (a) answer the referral question(s), and (b) enable school teams to make decisions about instructional needs. For instance, when considering the presence of a Specific Learning Disability, IDEA (2004) requires teams to consider whether a student’s skill deficits are primarily due to:

• a lack of appropriate instruction (i.e., virtual asynchronous/synchronous instruction, workbook/packet learning, lack of traditional evidence based first-pass instruction) and/or;
• environmental, socioeconomic, and/or cultural factors (i.e., pandemic-related changes in daily routines, new or worsening familial financial burdens, challenges in coping, exacerbated mental and emotional health challenges, etc.) and;
• whether the results of the assessments reflect the student’s needs in the school setting (i.e., when in an educational setting, the child can perform the skills) (34 C.F.R. § 300.309)

While Individualized Education Program (IEP) teams must consider these alternative explanations under typical circumstances, the current COVID-19 context presents unique challenges to teams when considering these points. Thus, school teams should proceed with extreme caution in making eligibility determinations and recommendations.
Virtual Evaluations

Conducting psychological evaluations over virtual platforms raises additional concerns regarding assessment validity. Because normative data for tests and measurement tools largely do not include samples based on telehealth and/or virtual administration, threats to validity and reliability are significant. Such results may lead to inaccurate high-stakes decision-making. Moreover, school psychologists are ethically obligated to operate within their scope of competency. Yet, many have not had appropriate training in administration, scoring, and interpretation of virtual assessment data, which examiners would need to obtain to proficiently administer any assessments standardized for telehealth use. In fact, the learning opportunities for school psychologists for this delivery model of assessment remain limited (Farmer et al., 2020). In the end, invalid assessment results lead to misidentification of students who may then receive well-meaning yet inappropriate support, as well as delayed access to evidenced-based strategies to meet their individual instructional and social-emotional needs.

The American Psychological Association (APA) cautions that assessments requiring an interpersonal component due to the need to present physical items, adhere to standardized interpersonal exchange recommendations, and to make clinical observations are particularly impacted by social distancing guidelines (Wright et al., 2020). Consider the Wechsler Intelligence Scales for Children—Fifth Edition, (WISC-V), a commonly utilized intellectual assessment battery in schools. Pearson, the publisher of this assessment tool, reminds practitioners that they did not standardize the WISC-V for use in telepractice (Pearson, 2020). In fact, Pearson cautions examiners about the reliability and validity of utilizing such platforms, and further states that they do not recommend certain administration practices, such as holding the materials up to the camera, scanning or digitizing materials, or uploading materials to shared documents (2020).

Additionally, research regarding the convergence between in-person and virtual administration of cognitive, neuropsychological, and social interaction-based measures is extremely limited, and what exists may be difficult to generalize because it is based on highly controlled studies (Wright et al., 2020). Given the paucity of research, evaluators will find themselves unsure of whether virtual assessments are able to measure what they intend to measure, and whether observations, assessment results, and conclusions are consistent with what results would have been if delivered in a standardized face-to-face format. The APA further recommends that, if psychologists cannot simply “pause” their evaluation services, they should bear in mind the following six principles, noting that no one principle should be considered without thought given to all of the others (Wright et al., 2020):

1. Do not jeopardize test security, (e.g., photocopies, sending physical materials, exposing sensitive or confidential assessment materials, ensuring that housemates are not present during administration, etc.).
2. Do the best you can with what is available to you, (mindfully and ethically) (e.g., consider examiner and examinee Wi-Fi strength and reliability, proficiency with technology, keep assessment administration as standardized as possible, think through and prioritize rapport-building, ensure you are able to monitor the client via audio and video, consider any interruptions, etc.).
3. Be rigorously mindful of data quality, (e.g., address directly within reports the limitations and potential flaws within the data, consider audio and image quality and impact, thoughtfully determine whether it is best to engage in the evaluation using
standard assessments with modified procedures, to use alternative assessments, or to wait to safely resume in-person standardized evaluations, etc.).

4. Think critically about test and subtest substitutions, (e.g., if standardized assessments are necessary, administer those that do not require the use of manipulatives).

5. Widen confidence intervals when making conclusions and clinical decisions, (e.g., margins of error are broadened when assessments are not given in a standardized manner and have a higher incidence of confounding variables, practitioners should be clear that they are not able to achieve the same degree of confidence in the results than when administration is standardized, etc.).

6. Maintain the same ethical standards of care as in traditional psychological services, (e.g., avoid harm, engage in practices that promote positive outcomes for children, and consider issues of disparity, inequity, and diversity in assessment selection, procedures, and interpretations).

**Face-to-Face Evaluations**

Resuming in-person evaluations introduces risk of exposure to COVID-19 that is nonexistent when adhering to the OCR recommendations to delay such evaluations and/or observations until schools are safe to reopen; these guidelines are supported by the Maryland State Department of Education (MSDE). Face-to-face evaluations increase the risk of exposure to COVID-19 for students, building staff, practitioners, and especially high-risk family members and contacts of each of these groups. Given that the greatest ethical priority for school psychologists is to participate in service delivery in a manner that protects the physical and psychological health and safety of Maryland’s children, any opportunity to reduce virus exposure should be taken up to and including placing a hold on face-to-face evaluations. As Local Education Agencies (LEAs) continue to create and fine tune plans for resuming in-person evaluations, practitioners must consider (a) Does the risk of contracting coronavirus outweigh the need for the evaluation to take place? and, (b) Can examiners and examinees maintain the strict standards of social distancing, mask compliance, and disinfecting procedures? And, while these standards are necessary to safe social interactions, practitioners must consider to what extent such alterations to the assessment environment impacts test integrity and thus the validity of assessment results.

**Equity and Social Justice Considerations**

It is an unfortunate reality that educational and community inequities exist throughout Maryland. Across the state, school closures magnified disparities in access to technological resources and access to other necessary instructional materials. In addition, the COVID-19 positivity and mortality rates are disproportionately higher in communities with higher African American and Latinx populations when compared to rates within predominantly White communities (MDH, 2020). The Maryland School Psychologists’ Association (MSPA) recognizes that these considerable equity and social justice issues carry over into the realms of both virtual and in-person evaluations during the COVID-19 pandemic.

**Virtual Evaluations**

In June of 2020, Pearson released a document to support school psychologists with administering the Wechsler Intelligence Scale for Children—Fifth Edition (WISC-V) through telepractice. This document outlines several considerations that raise concerns about equity and social justice practices. For example, Pearson’s guidance on administering the WISC-V subtests states that
examinees should have access to resources such as a stable internet connection to support high quality video and audio, a peripheral camera, a screen size of at least 9.7 inches (e.g., iPad or larger), a private testing space free from distractions, and an in-person professional facilitator (i.e., a colleague that will travel to the student's home) (Pearson, 2020). According to Pearson (2020), the professional facilitator's role is to provide administrative and technical support to the examinee throughout the testing session; Pearson suggests, with caution, using a non-professional facilitator (e.g., parent, guardian, or other caretaker) if safety concerns prohibit the use of an in-person professional. Pearson also strongly recommends training the facilitators to ensure that they understand their responsibilities and parameters around testing (e.g., assisting in a manner that maintains the reliability and validity of assessment results). MSPA posits that even these few examples of testing considerations are a harbinger of inequality in virtual test administration for myriad reasons.

First, as Pearson (2020) indicates, families must have the appropriate technology for their children to engage in virtual evaluations. While some school districts continue to make efforts to ensure that students have access to the resources (e.g., laptops, tablets, WIFI hot-spots) necessary for distance learning, some of those tools have limits in their capacity to support virtual assessment. Moreover, families with multiple school-age children, or work-from-home requirements might have to share a single tablet or laptop. In addition, many of the families who require assistance with accessing technology, are those who face financial disparity. According to the Maryland Alliance for the Poor (MAP) 2018 Poverty Profiles document, 9.9% of Marylanders live below the state poverty line ($24,300 for a family of four in 2016). Moreover, 13.3% of children in Maryland live below the state poverty line (MAP, 2018). Assessing students in an equitable manner would require that any student engaging in a virtual assessment have access to appropriate and reliable technology. Given the cost, it is unlikely that these families would be able to purchase their own technology.

Second, in addition to economic disparities, many rural communities in Maryland have limited to no access to the high-speed internet needed to engage in virtual assessment. A map from the Governor’s Office of Rural Broadband illustrates the technology gap between counties in central Maryland and those on the eastern shore, southern, and western Maryland (MDBC, 2020). While Maryland’s Office of Rural Broadband continues to make a formidable effort to expand access to broadband services in the state’s most isolated and impoverished areas, the director of the Office suggests that he and his colleagues have much more work to do over the next several years (DHCD, 2020). Whereas urban and suburban communities typically have widespread access to broadband, families living in poverty in these communities often have limited to no access to the technological tools necessary to engage in virtual evaluations. These disparities will make it challenging for school psychologists to collect the data necessary to make informed decisions and recommendations regarding students’ educational programming.

Third, Pearson (2020) recommends the use of a professional facilitator to provide technical and administrative support if the examiner believes it is not appropriate or possible for the student to complete the assessment independently (e.g., younger students, low cognitive ability, low levels of technological literacy). This would require the facilitator to enter the student’s home and be in close physical proximity to the student. Given that entering a student’s home would pose significant safety concerns, districts would likely prohibit such procedures. Pearson further suggests that a parent, guardian, or other caretaker can be a non-professional facilitator if securing a professional facilitator is not possible. They also recommend that professional and non-professional facilitators receive training prior to the assessment date to ensure they understand their role and specific testing procedures. Examiners must consider several factors related to equity and social justice when
considering the possibility of using a parent, guardian, or other caretaker as a facilitator during assessment. The National Association of School Psychologists (NASP) 2020 Practice Domains state, “School psychologists have knowledge of individual differences, abilities, disabilities, and other diverse characteristics and the impact they have on development and learning” (Domain 8: Equitable Practices for Diverse Student Populations). Thus, it is well within our practice to consider non-professional facilitator characteristics such as, but not limited to, linguistic background (e.g., is the facilitator comfortable with receiving training in English?), family structure (e.g., is the facilitator the sole caregiver for multiple children?), and experience with technology (e.g., is the facilitator comfortable with troubleshooting technical issues if they arise?). Such factors will pose barriers to administering assessments virtually if the examiner determines the student requires a non-professional facilitator to assist.

Last, Pearson (2020) indicates that examinees should have access to a testing space within the household that is private and free from distractions. School psychologists take great care to minimize distractions and interruptions while testing within the school environment. Likewise, it is best practice to conduct standardized testing (e.g., WISC-V) when students are mentally available to engage in testing. The testing environment and student’s availability to engage are two important variables that can impact the reliability and validity of assessment results. For that reason, this recommendation raises significant concern regarding homeless and displaced students. According to the U.S. Department of Education’s EDFacts Initiative Data (2018), during the 2017-2018 school year, Maryland identified just over 17,000 students as homeless (e.g., living in a shelter, doubled up with another family, living in a hotel or motel). That figure represents 2% of all students enrolled in Maryland Public Schools. Of those students identified as homeless, over 3,000 have an IDEA disability. That figure represents 18% of all students Maryland identified as homeless during the 2017-2018 school year (ED, 2018). Given these lamentable statistics, MSPA maintains that it would be impractical, and likely unethical and discriminatory to engage students living with such conditions in virtual assessment.

Face-to-Face Evaluations
School psychologists as well as school districts must consider the possibility of unintentionally contributing to the disproportionate impact of COVID-19 on minoritized students who engage in face-to-face evaluations. The Center for Disease Control (2020) reports that racial and ethnic minorities face increased contraction and death rates for a multitude of reasons, including systemic and historical discrimination, access to quality healthcare, trust in healthcare systems, disproportionate representation in essential worker jobs, gaps in education, income and wealth, and multi-generational or shared housing conditions. It stands to reason that given the economic disparities both in homes and schools, students from racial and ethnic minority groups may not have consistent access to and experience with personal protective equipment, personal safety practices, and social distancing guidelines. The risk of viral exposure during testing limited when districts follow recommendations to wait until schools reopen to re-engage in assessments; the risk of COVID-19 exposure during face-to-face evaluations is unknown, yet certain to be higher than zero. With Maryland’s minority children and families in mind, MSPA recommends that districts hold-off on in-person evaluations whenever possible.

Conclusions

As our state continues to cope with the impact of the COVID-19 pandemic on the provision of educational services, the greatest priority for MSPA remains maintaining the physical and psychological health and safety of Maryland’s children, families, and school personnel. Between
advocacy groups, parent groups, school staff, and Maryland’s students themselves, there are a multitude of differing opinions on how to best provide services during school closures. As local districts continue in their efforts to balance safety with pressures to reopen schools, many have established guidelines for school psychologists to re-engage in psychological evaluations. MSPA advocates an approach that complies with federal and state law, upholds our ethical responsibility to keep children and families safe, and promotes equity and social justice by providing this guidance to support the use of best practices in psychological assessment during COVID-19 school closures.

**Final Recommendations**

- School psychologists should always use their own professional competence as their guide. This is especially true as most are delivering services virtually for the first time. Thus, it is important to self-evaluate competence and where necessary, seek continuing professional development.
- Ongoing assessment of technology available both to practitioners and families is necessary to ensure proper service delivery. It is important to be aware of students’ access to high quality internet and suitable hardware. School psychologists should advocate for equitable access to such resources.
- Professionals should only use virtual systems that ensure student privacy through appropriate data encryption, as well as make changes to established informed consent procedures to ensure families fully understand the implications of virtual service delivery.
- Given the challenges of virtual service delivery and evaluation, school psychologists can refocus efforts on helping schools provide strong first line academic and social/emotional instruction. School psychologists are also able to work with other school staff to ensure implementation of appropriate interventions when appropriate.
- School psychologists should continue to monitor federal, state, and local guidance related to virtual service delivery. When in doubt, practitioners should consult with their direct supervisors or other school system administrative personnel.
References


