

Statement of Disability Rights Texas to the Sunset Advisory Commission
Regarding the Texas State Board of Examiners of Psychologists
December 8, 2016

Disability Rights Texas is the federally designated legal protection and advocacy agency for people with disabilities in Texas. Our mission is to advocate, protect and advance the legal, human and service rights of people with disabilities. We appreciate the opportunity to comment on the sunset review of the Texas State Board of Examiners of Psychologists (TSBEP or Board).

We focus our remarks on new issues regarding licensed specialists in school psychology (LSSPs) beyond the issues in the November, 2016 staff report of the Sunset Advisory Commission on the TSBEP.

As you know, LSSPs provide valuable and essential services in Texas public schools. Our understanding is that currently there are approximately 3,350 LSSPs in Texas. Among other things, they perform evaluations of students with disabilities, participate in planning meetings of students with disabilities, and deliver psychological services to students with disabilities.

New Issue: Formal Cooperation with Texas Education Agency

We believe that students with disabilities in Texas would benefit if the TSBEP, or its successor agency, was required to enter into a memorandum of understanding with the Texas Education Agency (TEA) to periodically discuss, review and adapt, as appropriate, to new developments in the delivery of school psychological services. While a separate agency, the TEA has a significant role in the professional duties of LSSPs. For example, the TEA regulations for special education currently identifies a LSSP as among the professionals whose presence might be necessary on the school's multidisciplinary team that collects and reviews evaluation data in connection with the determination of a student's eligibility for special education (19 Tex. Admin. Code § 89.1040(b)(1)). The system of special education is not static as it is always evolving either as a matter of best practice or updates in law. It would be beneficial to the public if there was a formal mechanism for exchanges of information between TSBEP and the TEA to assist the Board in its regulation of LSSPs. We are not aware of any current memorandum of understanding between the Board and the TEA. Further, upon a review of minutes of Board meetings for over the past 12 months it appears that the Board had no formal communication or briefings with the TEA. Therefore, it would be appropriate for the sunset review to include a recommendation for the Board to pursue a memorandum of understanding with the TEA.

New Issue: Standard of Ethics for Licensed Specialists in School Psychology

Integrity and independence of LSSPs to provide objective, professional reports and recommendations is an issue for some advocates in special education. We believe that LSSPs owe a duty to each student with a disability that she or he evaluates or serves although the student does not employ or retain the LSSP for such school psychological services. School-based practice refers to the provision of school psychological services under the authority of a local educational agency, i.e. independent school district. School-based practice occurs if the school psychologist is an employee of

the schools or contracted by the schools on a per case or consultative basis. We are concerned about administrative pressure on LSSPs that certain students not be identified as a student with a disability. As you may be aware, the media recently exposed a policy of the TEA that encouraged school districts to minimize the number of students qualified for special education services (see www.houstonchronicle.com/denied/). The number of students with emotional disturbance, which LSSPs frequently serve, has shockingly fallen while the overall school population continues to grow in Texas. Per this policy of the TEA, LSSPs might have been complicit in denying students access to special education. Therefore, it would be appropriate for the sunset review to include a recommendation for the Board to adopt or clarify a specific ethical principle for LSSPs about their duty to students in the context of school-based practice. Further, the public would benefit from a recommendation that the Board develop and provide guidance on managing conflicts between adherence to ethical principles and requests from a school administrator or supervisor.

Conclusion

Thank you for this opportunity during the sunset review process to offer these observations on a critical aspect of the Board as it relates to students with disabilities in special education in Texas. We note and acknowledge that these comments will be considered public information and subject to disclosure under Chapter 552 of the Texas Government Code, commonly known as the Public Information Act.

Sincerely,

Disability Rights Texas

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