



## Legal Aspects of Special Education

EDS 201; Fall 2017  
Wednesday, 4:00 to 6:50 PM  
Room: Alpine Hall, 205

Brock, Holland, & Gutierrez  
225 & 227 Brighton Hall  
Office Hours: Tue, 1:00 – 4pm; Wed. 12-3pm  
E-mail: [brock@csus.edu](mailto:brock@csus.edu); [mholland@csus.edu](mailto:mholland@csus.edu);  
[MGutierrez@loanosmith.com](mailto:MGutierrez@loanosmith.com)  
Office Phone (Brock): (916) 278-5919

### COURSE DESCRIPTION:

Legislative provisions related to implementation of special education programs and procedures will be a primary focus. Additional emphasis will be given to pertinent judicial decisions and to law as it relates to special education in a multicultural context.

### COURE OBJECTIVES:

From participation in this course it is expected that students will ...

1. be introduced to special education law, rules, and regulations
2. be introduced to ethical issues related to special education law and the practice of school psychology.
3. demonstrate the ability to produce graduate level writing products.

### READINGS:

- American Psychological Association. (2011). *Publication manual of the American Psychological Association*. Washington, DC: Author. Go to [http://csus.libguides.com/APA\\_Style\\_Guide](http://csus.libguides.com/APA_Style_Guide) for helpful resources.
- Brock, S. E., & Hart, S. R. (2013, September). DSM-5 and school psychology: Controversy surrounds release of DSM-5, *Communiqué*, 42(1). Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- Brock, S. E., & Hart, S. R. (2013, October). DSM-5 and school psychology: Changes to ASD diagnosis, *Communiqué*, 42(2). Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- Harrison, P. L., & Thomas, A. (Eds.) (2014). *Best practices in school psychology: Foundations*. Bethesda, MD: National Association of School Psychologists.
- Hart, S. R., Pate, C. M., & Brock, S. E. (2013, January/February). DSM-5 and school psychology: Meet the new (and improved?) DSM-5, *Communiqué*, 41(5). Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- Jacob, S., Decker, D. M., & Hartshorne, T. S. (2010). *Ethics and Law for School Psychologists* (6<sup>th</sup> ed.). New York, NY: Wiley. ISBN: 978-0-470-57906-0
- Kaplan, R., & Zirkel, P. A. (2017). Are student communications with school psychologists legally privileged? *Communiqué*, 46(2), 1, 18-21. Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- Lockwood, A. (2015, December). DSM-5 and school psychology: The specific learning disability diagnosis, *Communiqué*, 44(4). Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- Morera, C. C. (2014, March/April). DSM-5 and school psychology: Changes to intellectual disability diagnosis, *Communiqué*, 42(6). Retrieved from <http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx>
- National Association of School Psychologists. (2010). *Principles for professional ethics*. Bethesda, MD: Author. Retrieved from <http://www.nasponline.org/standards-and-certification/professional-ethics>

Other required readings are available online as **indicated on the attached course schedule**.

### LECTURE HANDOUTS:

Weekly lecture handouts can be downloaded from the web at the following address: <http://www.csus.edu/indiv/b/brocks> (Note: to keep readings and lectures current the instructor will be posting these materials just before the class meeting so please do not download and print out all materials for this class at one time.)



## **GRADES WILL BE BASED ON THE FOLLOWING:**

1. Reflection Papers: 90% (the first two papers are worth 20% of the final grade, and the final paper is worth 50% of the final grade).
2. Class Participation: 10%
3. Attendance: *Interactional learning cannot be duplicated outside the classroom. Students missing more than 2 classes cannot receive an A; students missing more than 3 classes cannot receive a passing grade. Students who miss more than 20 minutes of any class will be considered absent, even if able to attend the majority of the class period.*

## **SPECIAL NOTES:**

1. NASP Standards addressed in this class include:
  - III: Consultation and collaboration
  - VII: Diversity
  - VIII.2: Legal, ethical, and professional practice
2. CCTC standards addressed in this class:
  - Standard 6: Professional Ethics and Legal Mandates
  - Standard 12: Professional Leadership Development
  - Standard 19: Legal, Ethical and Professional Foundations
  - Standard 20: Collaboration and Consultation
3. Please turn off all cell phones or, if you need to be available for any emergency phone calls, put it on silent mode.
4. Computer use is not allowed (emailing, web surfing) unless it is a directed part of a classroom activity. If you need to use your computer for note taking during class please check with the instructor prior to doing so for this class (you will be asked to turn off your Wi-Fi).
5. Assigned grades will be consistent with CSUS grading policy as described in the course catalog.
6. All late assignments will have a minimum of a one full letter grade deduction (i.e., an assignment that might otherwise have been graded a “B” would receive a grade of “C”).
7. If you have a disability and require accommodations, you need to provide disability documentations to SSWD, Lassen Hall 1008, (916) 278-6955. Please discuss your accommodation needs with the instruction after class or during office hours early in the semester.
8. Academic Honesty Policy: Go to <http://www.csus.edu/umannual/AcademicHonestyPolicyandProcedures.htm> for the CSUS Academic Honesty Policy and Procedures. Per University Policy all students are responsible for:
  - a) Understanding the rules that preserve academic honesty and abiding by them at all times. This includes learning and following the particular rules associated with specific classes, exams, and course assignments. Ignorance of these rules is not a defense to a charge of academic dishonesty.
  - b) Understanding what cheating and plagiarism are and taking steps to avoid them. Students are expected to do this whether working individually or as part of a group.
  - c) Not taking credit for academic work that is not their own.
  - d) Not knowingly encouraging or making possible cheating or plagiarism by others.Please refer to <http://library.csus.edu/content2.asp?pageID=353> for a student tutorial on how not to plagiarize.

**COURSE SCHEDULE**

<b>DATE</b>	<b>TOPIC</b>	<b>READING</b>	<b>ASSIGNMENT</b>
8/30	1. Brock, Holland, Gutierrez; Course Introduction and overview		Obtain assigned readings
9/6	2. Brock, APA Style	American Psychological Association (2011) Go to <a href="http://csus.libguides.com/APA_Style_Guide">http://csus.libguides.com/APA_Style_Guide</a> for CSUS library resources	
9/13	3. Brock & Holland, Legal & Ethical Issues Associated with DSM-5	Hart, Pate, & Brock (2013); Brock & Hart (2013); Brock & Hart (2013); Morera (2014); Lockwood (2015). All available at <a href="http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx">http://apps.nasponline.org/resources-and-publications/periodicals/cq-index-list.aspx</a>	
9/20	4. Gutierrez, FAPE/IEP Basics	Hendrick Hudson Central School District v. Rowley (1982)	
9/27	5. Gutierrez, FAPE/IEP Basics and Assessment	Andrew F. v. Douglas City School District (2017) Timothy O. v. Paso Robles (2016)	1,000 word paper 1 due
10/6	6. Gutierrez, Discipline	Jay F. v. William Hart School District (2017)	
10/11	7. Gutierrez, LRE	Capistrano Unified School District (2014)	
10/18	8. Gutierrez, Remedies Even if Not Eligible	Forest Grove (2009)	
10/25	9. Gutierrez, SLD	San Francisco Unified School District (2015)	
11/1	10. Gutierrez, Legal Issues		
11/8	11. Brock, Ethical Issues, Respecting the Dignity and Rights of all Persons	Harrison & Thomas (2014, Chapters 32 & 33) National Association of School Psychologists (2010)	1,000 word paper 2 due
11/15	12. Holland, Ethical Issues, Professional Competence and Responsibility	Jacob, Decker, & Hartshorne (2016), Chapter 3 National Association of School Psychologists (2010) Practice Guidelines for Group Psychotherapy (pp. 47-64): <a href="http://www.agpa.org/docs/default-source/practice-resources/download-full-guidelines-(pdf-format)-group-works!-evidence-on-the-effectiveness-of-group-therapy.pdf?sfvrsn=2">http://www.agpa.org/docs/default-source/practice-resources/download-full-guidelines-(pdf-format)-group-works!-evidence-on-the-effectiveness-of-group-therapy.pdf?sfvrsn=2</a> Kaplan & Zirkel (2017)	
11/22	13. Holland, Ethical Issues, Professional Competence and Responsibility	Jacob, Decker, & Hartshorne (2010) National Association of School Psychologists (2010)	
11/29	14. Holland, Ethical Issues, Honesty and Integrity in Professional Relationships	Jacob, Decker, & Hartshorne (2010) National Association of School Psychologists (2010)	
12/6	15. Brock, Ethical issues, Responsibility to Schools, families, Communities, the Profession, and Society	Harrison & Thomas (2014, Chapter 34) National Association of School Psychologists (2010)	
12/13	16. Finals week, no class meeting, but papers are due on this date at 4pm		3,000 word paper 3 due

## Scholarly writing:

Three papers worth a total of 90% of the course grade are required during the semester and due at the start of class on the dates listed on the Course Schedule. Combined the papers must be a total of 5,000 words over the course of the semester.

*Paper 1; Legal & Ethical Issues Associated with DSM-5 (1,000 words).* Respond to one of the following two prompts, in doing so carefully attending to APA style, make references to the appropriate professional and/or empirical literature.

- a) From your review of the available literature discuss the relevance of DMS-5 to the practice of school psychology.
- b) From your review of the available literature discuss the relationship between a specific DSM-5 diagnoses and the practice of school psychology.

*Paper 2; Legal Issue (1,000 words).* From your review of available literature, with specific emphasis on relevant statutory and case law, please discuss what a school psychologist should consider, and what a school psychologist should do, when:

- a) Deciding what areas to assess a child for special education?

**Hypo #1 Assessment:** Zoe is 8 years old and is enrolled in a general education 2nd grade classroom at Some Elementary School. Zoe was retained in kindergarten because staff was concerned about her behavior, and low academic skills. In kindergarten, Zoe had difficulty focusing and would often not comply with teacher directions, after multiple reminders. Her parents requested a 1:1 aide in 1st grade, to address her continued behavior and academic struggles, which the district denied. Zoe ended her first grade school year reading at a primer reading level, and had 6 referrals to the office. In 2nd grade, parents stated concerns about reading and behavior. Principal started SST process. At the SST meeting, parents said they were taking Zoe to doctor to see if she has ADHD, and they asked for special education assessment.

- b) Deciding whether or not a student's misconduct is a manifestation of his/her disability?

**Hypo #2 Manifestation Determination:** Drake is an 8th grade student, eligible for special education under the category of OHI, for ADHD. He is recommended for expulsion after being caught at school with a knife. When questioned about the knife and why he brought it to school, Drake said, "it was an impulsive last minute decision" made right before leaving his house that morning for school. His IEP provides for specialized academic instruction for two hours per week, and a behavior plan. However, he has only been receiving specialized academic instruction for one hour per week, since the start of the school year.

- c) Deciding whether or not to recommend that the IEP team find a child for eligible for special education.

**Hypo #3 Eligibility:** L.J. attends elementary school in Some Unified School District (SUSD). He has been diagnosed with bipolar disorder, oppositional defiant disorder, and ADHD. Because of the behavioral issues, PUSD has transferred him between three different schools during grades second through fifth. L.J.'s mother requested on a number of occasions that he be made eligible for special education services. Although the school district provided him with special services, which included counseling, one-on-one assistance and instructional accommodations, it consistently refused to provide him with an IEP, saying that his needs were being met. During these same years, L.J.'s grades were A's and B's in all subjects. L.J.'s mom requested special education testing. SUSD conducted academic testing and cognitive testing, to look at eligibility under SLD. SUSD found that L.J. was not eligible for special education, since he did not meet the definition of SLD. In July 2015, L.J.'s mother requested a due process hearing. She claimed SUSD denied L.J. a FAPE by failing to make him eligible for special education and related services, and that PUSD had failed to conduct assessments in areas of suspected disability, specifically other health impairment and emotional disturbance.

## **Writing Tips for Paper #2**

Follow the F-I-R-A-C Format

- Prepare an outline
  - o Begin with attention Grabber (Quote, Question, Startling Facts, Story) and then follow FIRAC
  - o **F**ACTS: Discuss the facts presented with the hypo
  - o **I**SSUE: State the issue (question presented)
  - o **R**ULE: Summarize the main rules of law that will govern your analysis/answer to the issue/question presented
  - o **A**NALYSIS
    - § Discuss case #1 and how it applies to the hypothetical
    - § Discuss case #2 and how it applies to the hypothetical
    - § Discuss federal and state law and how they applies to the hypothetical
    - § Discuss other cases and how they apply to hypothetical
    - § Discuss both sides of the issue (separately, here, or within each of the above)
  - o **C**ONCLUSION
    - § Reconnect with the attention grabber
    - § Summarize main points and make a final determination/conclusion
- Minimize use of quotes
- Include discussion of at least two cases, and applicable IDEA and state law
- USE APA and follow rules for case and statutory citation.
  - o Educ. Code § 48900
  - o Educ. Code §§ 48900, 48901, 48902
  - o 34 C.F.R. § 300.300(b)
  - o 20 U.S.C. § 1415(i)(3)
  - o *Board of Education v. Rowley* (1982), 102 S. Ct. 3034, at 10.
    - § If you are going to reference again, then first cite start with: *Board of Education v. Rowley* (1982), 102 S. Ct. 3034, at 10 (“*Rowley*”).
    - § So that when you cite to it again, you can cite as: *Rowley, Id. (for the same page) or Rowley*, at 15 (for page 15, instead of page 10).
    - § Italicize case name, year in parenthesis, citation number, page number.

*Paper 3; Expansion of Paper 1 and/or 2 (3,000 words).* Keeping in mind instructor feedback and building upon paper(s) 1 and/or 2 write a final 3000 word essay. See the instructor for guidance on topic selection and expansion of your prior paper(s).

Grading will be based on the following rubric:

Criteria	Description	Possible Points	Points Earned
Length	Papers less than the length specified above will not be graded as they do not meet the GWI requirement.	10	/10
APA Style	Any and all APA style errors will result in deductions. In text citations and the reference list must be consistent. All references must be formatted per the APA style guide.	30	/30
Coherence	Easy to read text that has good flow. Grammar, spelling, punctuation, are all important here. The appropriate use of headings (consistent with APA style) can help coherence.	30	/30
Logic	Responds in a logical way to the writing prompt. Assertions are supported by appropriate references. Use of multiple sources, including multiple primary sources (cited using APA style, and which are typically relatively recent) will increase the power of your arguments.	30	/30
<b>Total</b>	100-94 = A; 90-93 = A-; 89-87 = B+; 86-83 = B; 82-80 = B-; below 80 = not passing	<b>100</b>	

*Any paper graded lower than a “B” will be read and graded by two of the three course instructors.*