

Obtaining and Analyzing School-Related Data in a Child Custody Evaluation

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Professionals who conduct child custody evaluations (CCE) routinely collect data about academic performance and classroom behavior of the children involved. Parents understand the needs of their child from their own point of view and may provide dissimilar views of the school environment and the child's performance and adjustment. Parents may disagree about school placement or a multitude of school-related variables and decisions. Teachers and school personnel are important collateral sources of information. Currently, guidelines for the systematic collection of school data do not exist. In this article, an overview of the data collection process regarding school records and the areas of consideration relevant to a CCE are presented and organized for the forensic examiner to consider.

KEYWORDS *custody evaluation, school records, teacher interview*

It is common for referral questions involving a child custody evaluation (CCE) to include issues regarding school placement. Ackerman (2001) stated that 77.4% of family law judges and 78.9% of attorneys expect psychologists to review school records when conducting custody evaluations. When the CCE includes concerns related to relocation, issues regarding present school fit versus proposed school fit are essential to a thorough analysis. Regardless of whether relocation questions are relevant, the “best interests” doctrine should lead the evaluator to assess how to maintain or improve the school experience and/or how to minimize any detriment to the child’s school experience within the context of an appropriate parenting plan.

When conducting a CCE, the evaluator must gather data about a child’s school experience including attendance, academic achievement, classroom behavior, peer relationships, and special needs (Ackerman, 2001; Gudas &

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Sattler, 2006). The acquisition of school data includes interviewing the child's teacher(s), obtaining adequate and appropriate school records, and obtaining parental and child observations about school and learning. Thorough collection of information allows for a broader view of the child. It provides information about parent perception regarding the child as a student, and the extent to which a parent is appropriately involved in a child's school experience.

"Real world" information from individuals who have direct observational knowledge of the child is essential for the child custody evaluator to obtain and weigh (Gould, 2004; Kirkland, McMillan, & Kirkland, 2005). Details about how a child behaves and achieves in school may assist the child custody evaluator in the analysis of parenting. Studies have shown that children perform better in school when their parents are involved. Parents who attend school events, communicate well with their child's teacher, and are involved with homework and course selection improve their child's opportunity to succeed in school (Steinberg, Lamborn, Dornbusch, & Darling, 1992).

Teachers are considered valuable collateral sources as they have a considerable exposure to a child over a long period of time and in a variety of conditions. In addition, teachers are commonly less biased in favor of one parent, lending credence to their observations (Austin, 2002).

For most children, the school classroom is their primary environment and their basic task is to succeed as a student academically and socially. Passage through school produces a paper trail commonly contained within a student's cumulative file or cum folder. These documents may include report cards, test scores, disciplinary actions, awards, correspondence, and documentation of special needs and accommodations. However, a significant amount of information is undocumented, yet critical to collect. This information includes teacher observations of social interaction, classroom behavior, and anecdotal information about parent involvement; all are areas of potentially important data for analysis.

It is important that individuals who conduct a CCE do so in a standardized manner that allows for appropriate and thorough data collection. Models for forensic evaluations have been suggested and reviewed (Gould, 2006; Gould & Martindale, 2008). Given the dearth of current information about collecting and reviewing school-related data, this article reviews the process, proposes a structure, and discusses considerations for collecting and reporting school-related data. The validity of the information collected regarding a child's school experience may be confirmed by answering the following general questions.

IS THE DATA COLLECTION PERFORMED IN A SYSTEMATIC AND STANDARDIZED MANNER?

It is important that all data in a CCE be collected systematically and in a standardized manner. This means having knowledge of what data is

available, what types of data should always be requested, and having a standardized process for collecting and reviewing the data.

IS THE DATA CONVERGENT?

Data should be collected from multiple sources and compared (Gould, 2004). Having collected data from multiple sources (records, teachers, parents, and child), the information must be compared to determine if it is generally convergent, and inconsistencies must be identified and explored (Association of Family and Conciliation Courts [AFCC] Model Standard 5.3, 2006). For example, if a mother states that her child struggles in math, but a father reports no such problem, having input via report cards and the teacher should help determine the source of the inconsistency.

DOES THE DATA ADEQUATELY DESCRIBE THE CHILD'S PAST AND PRESENT ACADEMIC STATUS?

The CCE report should illustrate the child's educational history as well as the current level of functioning. Strengths and weaknesses should be identified along with special needs, classroom accommodations, special programs, and private assistance (i.e., tutors, speech therapists, etc.).

WHAT DOES AN ANALYSIS OF THE DATA SUGGEST RELATIVE TO A PARENTING PLAN?

The CCE report should specifically address the appropriateness of the child's current academic placement and services received as opposed to any alternatives or recommendations. In situations in which neither parent suggests changes regarding the child's school, the concept of stability provides a primary rationale for recommending the status quo. Nevertheless, a competently written report requires that the evaluator state the reasons for maintaining the status quo.

In circumstances in which concerns about school are raised by parents, the child, or become evident in the course of the evaluation, an assessment of school-related data may assist in the development of recommendations that improve the child's opportunity for success at school, whether academically, socially or emotionally. If changes are recommended regarding services or school placement, a section of the report should be devoted to the data, the analysis thereof, and the rationale for the recommendations. In addition, a description of the information that was unavailable, not pertinent, or deemed not credible for consideration should be provided along with alternative hypotheses (AFCC Model Standard 5.12, 2006).

STEPS IN DATA COLLECTION

There are several steps in collecting school-related data that may occur simultaneously. The review and analysis of school-related data should also occur concurrently, as inconsistencies need to be resolved, and missing or incomplete data may spur the request for additional records or interviews. Data will be collected through interviews and observation and provided by parents (or the child's primary care taker or guardian) in written form. Written documents may include school records as well as parental responses to written questions. As this information is not always available extemporaneously, the use of a questionnaire that can be given to the parent ahead of time is preferable.

Request That Each Parent Provide Written Responses to a Questionnaire

Each parent should be requested to provide current and historical information about the child's education. The following is a suggested list of input needed from parents:

1. A chronological listing of all schools attended by grade level. In a follow-up interview regarding the child's school placements, the evaluator can note repeated grades, frequent changes in schools including mid-year changes, stability of school placement, public versus private placement, and schools with specialty missions (continuation schools, vocational schools, schools for the gifted, etc.).
2. A description of academic performance that includes mention of honors, programs for gifted students, accelerated curricula, and areas of general and specific strength. Input from parents needs to include current and past academic performance level (at grade level, below grade level, or above grade level).
3. An explanation of areas of concern, special needs, and any services, accommodations, or adaptations provided for the child. Support services include speech therapy or subject-specific remediation (i.e., reading, math, and writing); accommodations can include providing a student extended time to complete tests or preferential seating; and adaptations can include use of a computer or dictation software for writing. Additional information should include identified or suspected learning disabilities or learning differences, physical disabilities that impact learning, and the degree to which the school is providing appropriate assistance. Any years of retention or special education services should also be noted.
4. An account of the child's attitudes about school and learning in general. What is the child's positive and negative attitudes regarding school? What

are the child's interests academically? Is there a history of attendance problems or school refusal? If parents have recently attended a parent-teacher conference or spoken with the teacher, they may recall teacher comments about academic and/or social performance.

5. A description of homework habits and study skills. It is important to gather information about homework, as this is a primary area of conflict in many homes (Olympia, Sheridan, & Jenson, 1994). Pertinent information includes when and where homework is completed, who assists the child, and should address the use of tutors. An attempt should be made to determine how long homework typically takes to complete.
6. A description of the child's interaction with the school environment. School environments can be traumatic for many reasons. A history of failure, moving mid-year, or the move or death of a teacher or classmate can cause stress or disruption to a child. Harassment and bullying are pervasive and serious mental health threats (Smith & Brain, 2000). It is important to understand if the child is the recipient, or the instigator, of any bullying.
7. A family history of learning disabilities, exceptional learning experiences, and level of education attained by parents, siblings, and close relatives.
8. Information regarding trusts or college funds set up for the child that provide for educational needs, and if there are conditions attached to the use of trust money.
9. Additional questions for parents of older children may include academic goals and future plans for additional education (technical school, college, etc.).

Obtain School Records

Information about a child is available from a variety of records kept in multiple locations. Locations for school records include the child's cumulative folder or official school file, current teacher records, parent files, and web-based information. Information kept by the current teacher may include current grades and samples of the child's work; parent files may include grade reports, testing, letters, notices, and school pictures; school web sites/portals contain communication from teacher to student and parent regarding current grade and assignments information.

There are many types of school records and forms used across the developmental spectrum and from various geographic regions. Public school records may vary significantly from private school records. Some schools use grades while others provide narrative information. Nevertheless, the following records should be available for review: Transcripts or report cards, state achievement testing for reading, mathematics and writing, immunization records, notices of formal discipline, and special needs documentation (Individualized Education Plan [IEP], 504 Plan, Student Study Team, Assessment Reports, etc.).

Some schools keep sensitive student data separately in a “private” file. This information may include mental health reports, police reports, and information that the parents or school have deemed inappropriate for the primary student file. This information may or may not be disclosed to the custody evaluator, but will hopefully be provided by one or both parents.

Children identified as having special needs must meet specific criteria to obtain services or receive accommodations from their school. While it is beyond the scope of this article to familiarize the reader with the universe of information that is part and parcel of special needs children, a review of several basic terms and principles is provided in a glossary at the end of this article. A good resource for additional information is www.wrightslaw.com.

It is likely that most custody evaluators will, at some time, collect school-related data for a student with special needs. Recent years have seen a significant increase in the population of young children with special needs, including acute, life-threatening medical conditions; chronic developmental disorders; and psychological and behavioral syndromes. These are children for whom ordinary parenting skills are insufficient. They require extraordinary parenting and place extraordinary demands upon the adults who care for them (Saposnek, Perryman, Berkow, & Ellsworth, 2005).

School records are confidential. It is important to bear in mind the legal and ethical obligations regarding the procurement of school records. The parent of a minor child holds the privilege relative to school records. Parents may request copies of any and all school records, including test protocols to be released to a third party, such as a mental health professional, and the school must comply. The Family Education Rights and Privacy Act (FERPA) is a US federal statute that addresses access to student records from any school that receives federal funds (United States Code at 20 U.S.C. 1232g and 1232h). These statutes ensure that parents have access to their child’s educational records, and they protect the privacy rights of parents by limiting access to these records without parental consent. FERPA ensures that parents, as well as professionals outside of the school system, have much greater access to student records than in the past (DeMers & Nellis, 2006). The law states that a school must provide school records when requested by a parent “without unnecessary delay, but no more than 45 days.” (U.S. Code of Federal Regulations, 34 CFR 300.613(a)).

Private schools and religious schools that do not receive federal funds are not covered by FERPA; nevertheless, most schools follow similar guidelines, established by their governing body or institution.

In most cases, HIPAA (Health Insurance Portability and Accountability Act of 1996) does not apply to school records. Therefore, when school records are requested as part of a CCE, use of a standard consent form signed by the custodial parent(s) shall suffice (U.S. Department of Health and Human Resources & U.S. Department of Education, 2008). The best practice is to use a standard consent to request information form and have the

parent(s) complete and sign it. The consent form should specify the child's legal name and date of birth, and should include both the teacher(s) name(s) and pertinent school administrators (principal or registrar). The completed consent form should be sent to the school with a cover letter that identifies the evaluator professionally, provides context for the request, and offers to pay for copying costs. In some instances, offering to pick up the records personally is appreciated by busy school personnel and can coincide with a planned teacher meeting or classroom observation.

Interview the Child as Student

The goal of the student interview is to document the child's voice regarding his or her school experience. In addition to gathering anecdotal examples of the child's school-related experience, the custody evaluator seeks to gain an understanding of the underlying attitudes regarding achievement, authority, social relations, self-discipline, motivation, perceived parental expectations, and perceived strengths and weaknesses.

When interviewing a child as a student, the informed custody evaluator should consider developmental age, cognitive ability, language ability, vocabulary, cultural variables, and context. The interview should begin with an attempt to establish rapport and put the child at ease. The child must be informed of the absence of confidentiality and be given an age appropriate overview of the evaluation process. The interview should contain closed questions designed to elicit specific data: "What is your favorite subject?" along with open-ended questions that promote a narrative response: "Tell me about the students at your school."

Specific topics of inquiry for the student interview should include:

1. Academic achievement and grades
2. Areas of strength and enjoyment
3. Areas of weakness or concern
4. Peer relationships
5. Awards, honors, accelerated study
6. Disciplinary actions, suspension, fights
7. Bullying, teasing, harassment, discrimination
8. Homework load and parental expectations about homework
9. Educational goals
10. Extracurricular activities.

Gather Data From the School Environment

A framework for gathering school-related data is necessary to address a variety of concerns, including acting out in class or academic achievement that is below grade level. It is important to note that when addressing cases where

students have been suspended multiple times, are failing, are refusing to attend class, or are receiving special education services, data collection will be a much larger and more time-consuming part of the assessment process. Nevertheless, following a framework helps to ensure that data is not overlooked, leading to a comprehensive assessment.

It may be tempting to assume that a student's decline in academic performance or recent classroom antics, are the result of parental conflict; however, this will not always be the correct conclusion. A careful review of historical data is an important part of determining the source of the problem that results in recommendations that are in the child's best interests.

The literature is virtually silent regarding methods for interviewing teachers, and is scant in providing guidance for broadening procedural steps to include a greater breadth of data. Therefore, the following procedures are suggested for collecting information from the school environment.

Interview the Teacher

For any child who attends school, a teacher interview is necessary. The teacher interview is likely to be a critically important collateral contact in the CCE. Teachers are often more objective and less biased as sources of information about a student (Austin, 2002). A 2001 review of CCE practices found that 78% of evaluators conducted teacher interviews with a mean time of .62 hours (Bow & Quinnell, 2001). It is an accepted standard of practice to interview a teacher if a child is of school age.

The teacher interview protocol suggested in the following section is designed for the broadest set of questions and is designed to be used with an elementary home room teacher. Questions will differ for a single-subject teacher.

TEACHER BACKGROUND

Rationale: Knowing whether a teacher is experienced or a novice is important in weighing their observations. Knowing whether a teacher is trained and credentialed to teach at a specific level or in a specific subject area is important to understanding if he or she is teaching at the level and in the subject for which they are trained (teachers are often placed where they are needed, not necessarily where they are trained).

- When did you first become credentialed to teach?
- For what specific areas of teaching are you credentialed?
- How many years have you been teaching?
- How many years have you been teaching at this school? At what grade level or subject area?

SCHOOL AND CLASSROOM STATUS

Rationale: Understanding the environment in which a child works and associates is important. A classroom with a teacher, an aide, and 12 students is much different than a classroom with one teacher and 32 students.

- How many students are there in your room?
- What are the gender, age, and socioeconomic make-up of your classroom?
- Does the child leave the classroom for other classes or activities during the day?
- Is this a parent-participation school/classroom?
- Is this a state distinguished school?
- How competitive is the school and classroom environment?

ACADEMIC STATUS

Rationale: Obtaining the teacher's appraisal of a child's performance allows the evaluator to go beyond grade reports and hear the teacher place a child's academic performance in context to his or her peers; in context to prior performance; and in context to expectations.

- How is the child performing academically?
- How does the child's academic performance compare to his peers?
- How does the child's academic performance compare to your expectations of him?
- How does the child's performance compare to last year or prior performance?

CLASSROOM BEHAVIOR

Rationale: Obtaining teacher observations about how a child behaves in the classroom allows the evaluator to better understand how a child behaves when away from parents and with other children. Questions may also be asked about behavior related to anxiety, anger, sadness, isolation, bullying, social skills, communication skills, and concerns raised by parents. It is good to obtain information about peer relationships. Always try to start with broad, open-ended questions.

- How does the child typically behave in the classroom?
- Do you have any concerns about the child's classroom behavior?
- Describe how the child gets along with his peers.
- Describe how the child demonstrates leadership skills.
- Describe how the child gravitates toward certain types of students or groups.
- Describe any limitations in the child's ability to interact socially.

STRENGTHS AND INTERESTS

Rationale: Teachers are able to comment on solitary versus group interests, interests versus obsessions, interests that are out-of-synch with age or peers, and areas of academic, personal, social, athletic, or artistic strengths.

- Describe the child's areas of interest and strength.
- Do peers identify this child as exceptional in some way (sports, music, academic achievement, leadership, technology, etc.)?
- Are this child's interests age appropriate?

WEAKNESSES AND ACCOMMODATIONS

Rationale: Teachers are able to comment on areas of academic or social weakness, poor gross or fine motor control, social skills deficits, and accommodations or remedial services.

- Describe any special education services, resource assistance, or remediation that the child receives.
- Describe any classroom accommodations (extended time for testing, preferential seating, additional cues for directions or to be on task, use of a keyboard or laptop computer, etc.) that the child is allowed to use.
- Describe anything extra you do for the child that he needs to be successful or anything you wish you could do to help him to be successful.

HOMEWORK COMPLETION

Rationale: Homework can be an indicator of problems at school or home. It is important to know if a child's homework load is a problem or takes too much time on a regular basis. It is important to know if one parent contributes to homework completion more than another.

- How much time do you expect the child to put in on homework on a routine basis?
- Is homework completion a problem?
- Is there a pattern of when homework does or does not come in regularly?
- Discuss how each parent is or is not involved in homework completion.

PARENT INVOLVEMENT

Rationale: Obtaining information about levels of parental involvement in the child's school is critical to understanding the nature of their parenting and how well each parent understands and meets the needs of their child. While teachers may prefer that information about parents remains confidential, if encouraged to share observations and not opinions, they may be more willing to provide

information about how a child behaves with each parent. Teacher observations about parental involvement are a source of important collateral data.

- Describe how the child is dropped off and picked up from school.
- Describe the extent to which either parent volunteers in the classroom and school.
- Describe each parent's attendance at parent/teacher conferences.
- Describe how communication between the school and home occurs: To what extent do you communicate with and receive communication in return from each parent?
- Describe your impression of each parent's involvement in the child's education.

Request That Teacher Complete a Student Rating Scale

Asking a teacher to complete a standardized rating form allows for the collection of a wide variety of observations in a systematic and objective manner that can then be compared with student and parent data as well as normative data.

If a child has multiple teachers, consider asking each teacher to complete a rating scale to allow for comparison of observations across multiple raters. For young children, consider asking the teacher from the prior academic year to complete a rating form; this is especially true if the custody evaluation occurs within the first quarter of the academic year. Since junior high and high school students often interact with five to eight different teachers, consider having three core subject teachers complete the forms. The teachers should be chosen by the parent and child.

Teacher rating forms should be compared with parent and child rating forms across similar areas of concern. The use of normative data when comparing information collected about a specific child allows for the generation of a profile containing scores and percentiles that have significance for identifying at-risk and clinically significant behavior. For the informed custody evaluator, examining the areas of congruence and disparity between parents, teachers, and the child's view of themselves is a robust and reliable means of accessing and presenting data.

The use of reliable rating forms for parents, teachers and the child allows for the collection of observations across a wide spectrum of school-related behaviors that can then be compared to normative data, which in turn allows for a determination of degree of severity and risk assessment. Merrill (1994) defines behavioral rating scales as "... the standardized format for the development of summative judgments about the child or adolescent's behavioral characteristics, supplied by an informant (usually a parent or teacher) who knows the subject well" (p. 66). Scores from rating scales are compared with normative to data to determine if the scores of a specific student fall within the normal range (Fennerty, Lambert, & Majsterek, 2000).

Fennerty et al. (2000) recommended selecting rating scales based on appropriateness to the referral question. In addition, he urges the collection of rating scales data from multiple sources (raters) and supplementation of that data with direct observation.

The use of standardized rating forms is important. There is a broad range of rating scales available for use. Some are comprehensive in nature, whereas others are more clinical or subject-specific (i.e., anger, depression, or Attention-Deficit, Hyperactivity Disorder [ADHD]). For the CCE, any of the following three systems often quoted in the literature are appropriate in that they are comprehensive, normed, and widely used in the field.

THE ACHENBACH SYSTEM OF EMPIRICALLY BASED ASSESSMENT (ASEBA)

The ASEBA is a comprehensive evidence-based assessment system that assesses competences, adaptive functioning, and behavioral, emotional, and social problems from age 18 months to over 90 years. The ASEBA documents clients' functioning in terms of both quantitative scores and individualized descriptions in respondent's own words. The Child Behavior Check List (CBCL) is the parent-completed portion of the ASEBA.

THE BEHAVIOR ASSESSMENT SYSTEM FOR CHILDREN, SECOND EDITION (BASC-2)

The BASC-2 (Reynolds & Kamphaus, 2004) is a comprehensive set of rating scales and forms for teachers and parents and a student self-report to identify and manage behavior and emotional strengths and weaknesses in children and young adults, ages two to 21 years.

CONNERS RATING SCALES, THIRD EDITION (CONNERS 3)

The Conners 3 assesses ADHD and related learning, behavior and emotional problems in children and teenagers. The Conners 3 provides teacher, parent, and student reports to provide a detailed and comprehensive evaluation of student behavior with links to the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), and updated norms for ages six to 18.

Interview Additional School Personnel

Additional interviews may be necessary when a teacher's report is minimal or suspect, or when other school personnel are involved in the student's school experience. For example, if a child chronically complains of being ill and requests to go home, interviewing the school nurse may provide valuable insight about the nature of a child's anxiety as well as the appropriateness of the parental response. Other school personnel may all be able to provide additional data or different points of view: Counselors, principals, resource

teachers, aides, school nurses, after-school providers, and prior teachers. If there are other school personnel who spend considerable time with the student, such as an athletic coach or aide, he or she may provide valuable insights about the student that is available through no other means.

Observe Student in the School Environment

Observation provides an opportunity to observe the child directly in a school setting. While observer effects will be introduced, it is this author's experience that most children revert to baseline behavior within a short period during which the observer is quiet and unobtrusive. Classroom observation allows for clarification of on-task versus off-task behavior, social interaction, child-teacher interaction, and academic ability, in addition to contrasting the target child's behavior to that of his or her peers.

Observing a child in their classroom often provides useful information regarding attention, task completion, and social functioning. Some studies suggest that social and emotional adjustment is a better predictor of school success than academic performance (Caprara, Barbanelli, Pastorelli, Bandura, & Zimbardo, 2000). Being on campus provides access to the teacher and other school personnel for questions and interviews. Examples of the child's classroom work are often available, and observing the child's interactions with the teacher and peers can provide information that would otherwise be impossible to obtain.

Review School Records

School records provide facts. These facts will include grades, credits earned, absence and tardy rates, citizenship marks, disciplinary summaries, special education services, and goals. Test scores will indicate academic strength as compared with state or national norms, and anecdotal comments provide glimpses into behavior patterns.

CREATE A TIMELINE

It would behoove the custody evaluator to create a timeline of the child's academic and social progress in school and compare this to the timeline of the marital conflict, separation, and custody conflict. This may provide clues as to how family influences have impacted academic performance and provide a context for school data review.

CONSULT AN EXPERT

When appropriate, the custody evaluator should seek consultation. Some custody evaluators may request a review of the student file by an independent expert. A consultant can often help determine what documentation is

missing or necessary to best understand a child's abilities and needs, and place the test data in a meaningful and age appropriate context.

In some cases, it is essential to recognize the need to obtain consultation with an educational expert to review school records and discuss analysis. Discussing test data with an expert who is familiar with school test data and scores can be very helpful. These professionals routinely evaluate students and understand school records and testing.

At the highest level of concern, it may be necessary to request independent assessment of a child's cognitive and achievement functioning by a testing professional. Questions about a child's intellectual functioning, achievement ability, and emotional or behavioral functioning may necessitate testing performed by the evaluator, or it may need to be referred out to a psychologist who specializes in testing school age children. A battery of cognitive and achievement testing may be performed to provide current data about a child's abilities.

AREAS OF CONCERN

When collecting school data, there are many areas of concern that should be explored: Multiple school changes, absences, low grades, acting out, engaging in risky behavior, learning differences, giftedness, and other challenges. The evaluator must understand how this information impacts recommendations related to parenting, time share, and recommendations for the child's best interests. Areas of concern include:

School placement. It is important to understand the school a child currently attends, the district or organization that supports the school, and how the child came to be placed there. There is a wide variety of school settings: public school, private school, boarding school, and home school. Significant concerns include frequent school changes, mid-year changes, and the fit of the school to the needs of the child.

Attendance. What is the child's attendance record? How many missed days, late days, and sick days have occurred? Does the attendance pattern differ depending on whom the child is staying with? Are absences and late arrivals attributable to factors related to the parent or parent-child interaction?

Achievement. Grade reports, transcripts, and teacher comments on grade cards are all important sources of information. Teacher comments can be found on report cards with the caveat that these comments are often very general and congratulatory in nature; occasionally, they will point out concerns and areas for remediation.

Are grades stable, improving, or declining? If a child is in high school, what is his or her class load like? Are there honors and/or Advanced Placement (AP) classes, or repeated math or science classes? Has the child ever repeated a grade? What do citizenship and classroom behavior marks indicate about the child?

High risk behaviors. There are many behaviors that occur at school that are high risk and may be undocumented. In these cases, interviews with teachers and school personnel may be the best avenue to obtain data. Letters regarding exceptional behavior (both positive and negative) or teacher comments may be useful to establish a pattern of behavior or performance.

High risk behaviors include substance abuse, sexual promiscuity, bullying (electronic and physical), teasing, hazing, harassment, theft, and gang participation. Bullying is a pervasive problem in American schools with adverse outcomes to victims and perpetrators (Olweus, 1991; Smith & Brain, 2000). Recent estimates suggest that 11% of middle school students reported they had been the victim or perpetrator of electronic bullying (also known as cyber bullying, online social cruelty) (Kowalski & Limber, 2007).

Learning differences. Given that the incidence of learning disorders impacts one in ten normally developing children, and as many as one in four children with health or developmental problems (Altarac & Saroha, 2007), most child custody evaluators will encounter families with children who receive services for diagnosed disorders, as well as families with children who have undiagnosed disorders and need services. Likewise, there will be children who are identified and do not receive services because the parents disagree with the diagnosis or proposed treatment, and also children who are over-treated in some fashion.

Learning differences most commonly include deficits related to reading, writing, or mathematics. Common areas of disability encompass learning disabilities, attention-deficit disorder with and without hyperactivity, mood disorders, adjustment disorders, anxiety, autism-spectrum disorders, substance abuse disorders, sleep disorders, and gender identity or personality disorders. Learning can also be impacted by medical conditions, hearing loss, loss of sight, physical handicaps, non-verbal learning disorders, and a host of additional causes when properly diagnosed.

Misdiagnosis is not uncommon. Gifted children are often misdiagnosed as having behavioral disorders (Hartnett, Nelson, & Rinn, 2004). Children with anxiety or depression are misdiagnosed as having an Attention-Deficit Disorder. The incidence of Bipolar Disorder, once thought to be solely an adult-onset disorder, is now also recognized as a pediatric disorder (Birmaher et al., 2006).

Learning differences and learning disorders often mimic other mental health disorders or they are misrepresented as laziness or stubbornness.

For the CCE, it is critical to understand the exceptional parenting expectations and stress often associated with children with special needs. Saposnek et al. (2005) has addressed these issues succinctly in the Family Court Review article titled, "Special Needs Children in Family Court Cases."

Gifted and accelerated learners. Gifted children are just as different from the norm as children with disabilities. It is a myth that gifted children are better adjusted, more popular, or happier than other children (Winner, 1996). Gifted students tend to be creative and they perceive things in unique ways, but they face many social and emotional problems (Freedman & Jensen, 1999). "The myth that high-ability students do not face problems and challenges is an attractive one for school personnel. If the myth is true, teachers, principals, and superintendents have no responsibility to recognize the existence of this special population of students or attempt to address their needs" (Moon, 2009, p. 274).

Some gifted children attend schools that accept students with very superior IQ scores and a resume of accomplishments. Some gifted students participate in programs developed through their state Gifted and Talented Education (GATE) program, although these programs vary greatly due to funding differences and the priorities established by various school districts. Many gifted students do not participate in any specialized programs due to the fact that many schools and districts do not develop gifted and talented curricula (Moon, 2009).

If a student is identified as gifted, issues involving an appropriate school placement may become more substantive. For example, if a parent seeks to relocate and the child currently attends a school with curriculum developed for gifted and talented children, the issue of an appropriate new school setting for this child may carry much more weight in the decision-making process than for a child without special needs.

A recent issue of the *Gifted Child Quarterly* (October, 2009) concisely presents nineteen myths associated with gifted students and their education. The Table of Contents may be viewed at <http://gcq.sagepub.com>.

Attention-Deficit, Hyperactivity Disorder (ADHD). ADHD is a common disorder that significantly impacts the ability of an individual to manage time, organize resources, and complete tasks (Barkley, 2005). Robert Eme (2009, p. 651) states:

ADHD is the most commonly diagnosed behavioral disorder in childhood, occurring in 12 percent of males and 5 percent of females aged 8–15 [9 percent overall]. However, persistent prejudices describe ADHD as a simple problem of hyperactive behavior along with not listening when in truth, ADHD is a complex disorder involving a range of "Executive Functioning" impairments, with or without hyperactivity.

When children are identified as having symptoms of ADHD, the informed clinician seeks to rule out co-morbid disorders. Barkley (2005, p. 99) writes, "Children with ADHD are more likely than children without ADHD to have learning disabilities (LD). . . . Between 20% and 30% of children with ADHD have at least one type of LD, in math, reading or spelling." ADHD appears to have one of the highest rates of co-occurring disorders including learning, behavior and emotional disorders, than any other psychiatric disorder (Brown, 2009).

For the CCE, it is important to bear in mind the significant impact ADHD has on education, self-image, mood, behavior, and the family. As Eme (2009, p. 658) reports from a 2008 article by Pelham and Fabiano: "It is estimated that a typical child with ADHD has about a half million negative interactions with parents, teachers, peers, and siblings per year!" In addition, because ADHD has such a strong genetic component, one or more family members may also exhibit symptoms of ADHD, further exacerbating already strained family relations.

Autism Spectrum Disorders (ASD). The DSM-5 is poised to significantly update the diagnosis of and nomenclature of current pervasive developmental disorders. This recognition of a spectrum of disorders will bring Asperger's Disorder under the umbrella of the autism spectrum and recognize two sub-domains regarding social/communication deficits and fixed interests and repetitive behaviors (American Psychiatric Association [APA], 2010).

Studies indicate that the number of individuals diagnosed with autism spectrum disorders has grown substantially in the past decade and now estimates that one in 110 8-year-old children in multiple areas of the United States has an Autism Spectrum Disorder (National Office of Public Health Genomics/Centers for Disease Control and Prevention [CDC], 2009, p. 586).

Jennings (2005) has written persuasively about the unique considerations for CCE when a child is diagnosed with an ASD. Jennings states, "When a child has an ASD and one of the conflicting parents exhibits extreme rigidity, egocentricity, and inability to participate in give-and-take, that parent may have an undiagnosed ASD" (p. 586).

Special needs regarding mood, behavior, and health. Many children have difficulty in school due to health concerns, physical handicaps, speech delays, mood disorders, anxiety, hyperactivity, bullying or being bullied, acting out behavior, and more (see Saposnek et al., 2005). Some children have acute, life-threatening conditions while others have chronic and pervasive developmental disorders. One 7-year old recently seen by this author had already undergone several life-saving surgeries, and his medical care was the source of great conflict with his parents, as the father believed the mother used the child's illnesses to control his access to his son.

When special needs children are the subject of a CCE, there may or may not be special procedures, policies, or accommodations in place in the classroom. It is important that the evaluator determine what has been done and should be maintained, as well as what has not been done and should be recommended. It would be a mistake to presume that all concerns of special needs child have been fully identified and are being appropriately and completely met. Many children are given only basic screening tests, and IEP goals are often too narrowly focused. Many times screening is exclusionary, rather than diagnostic, in order to determine that a child does not meet criteria for services. There may be occasions when independent test data is appropriate and should be requested to assess a child's needs. This may mean a referral to a testing expert who can assess the child and provide an independent report to the CCE evaluator.

In some cases, school personnel are caught between two highly conflicted parents when their only desire is to assist the child to obtain an education. Teachers and other school personnel can be good sources of information about parents, but they are also susceptible to bias and it is critical to determine the credibility of everyone providing information.

REPORT SIGNIFICANT FINDINGS

The primary goal of the custody evaluator is to determine if both parents understand their child's needs and support appropriate intervention, accommodations, or services. A secondary goal is to recommend changes in the school, family, or treatment of a child that will better serve the needs of the child and promote safety, health, academic success, and stability.

The degree to which one or both parents are aware of and act appropriately as a result of their understanding of their child's school-related needs is to be described in the custody report and used to support an analysis of parenting skills. The parent who is involved in their child's education and understands their needs is likely to foster healthy school adjustment. Chapter Six of *In The Name of the Child* (Johnston & Roseby, 1997) provides a good review of the school aged child in the custody setting. While we have known for years that "... parents who have become locked into battle position often have difficulty focusing on the concerns of their school-age child in any realistic way" (Johnston & Roseby, 1997, p. 150), custody evaluators are often not as likely to understand the impact of the special needs child on the family.

The special needs child places a unique burden on the family to cope, adapt, and provide care. Without a basic understanding of how the disability impacts the parents, mental health professionals are less able to accurately discern what is needed or provide effective interventions for the child and family. (Perryman, 2005, p. 596)

IMPLICATIONS FOR THE CHILD CUSTODY EVALUATION

By the law of averages, most child custody evaluations will include school age children. As a result, the collection of relevant school data will be a customary task. The compilation and analysis of sufficient school data allows the child custody evaluator to provide the parties and the court the data necessary to make informed decisions.

It is critical to verify if one or both parents is providing accurate information about the child. In some families, one parent is tasked with overseeing the child's school life and academic pursuits. It is important to note which parent promotes school attendance and an appropriate level of involvement in school, or if both parents share these tasks equally. It is important to know how each parent best monitors and assists with homework completion and test preparation; how each parent is involved with school life including parent-teacher contact and classroom volunteering; and how each parent handles pick-ups and drop offs.

Clearly, a range exists relative to the degree to which a child custody evaluator will gather information about a child's school. For children who have not been in school for very long or who are progressing normally, a brief teacher interview should suffice. When parents express concerns about their child's academic performance or classroom behavior, more scrutiny is necessary and the various elements of data collection discussed in this article may come into play.

The competent child custody evaluator should never hesitate to seek consultation (AFCC, standard 5.11, 2006). When a child is suspected of having special needs and has not been identified as such; when records present conflicting data or analyses; or when there are questions about the types of services that a student should be receiving, consulting with a professional who specializes in assessing school age children may prove highly beneficial.

Whether parents bring school issues as presenting problems to the CCE or not, it is important for the evaluator to collect sufficient school data so that informed recommendations can be made, and to provide the court with the information necessary to accept or modify the recommendations in the CCE report.

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APPENDIX: GLOSSARY

Many of the glossary definitions provided here are provided with permission from www.wrightslaw.com

Accommodation: An agreed upon alteration that allows a child to complete an assignment or test as other students, but with a change in the timing, formatting, setting, scheduling, response and/or presentation.

This accommodation does not alter in any significant way what the test or assignment measures. Examples of accommodations include a child who is blind taking a Braille version of a test or a child taking a test alone in a quiet room.

Behavior Intervention Plan (BIP): A plan of positive behavioral interventions in the IEP of a child whose behaviors interfere with his or her learning or that of others.

Confidential file: File maintained by the school that contains evaluations conducted to determine whether child is handicapped, other information related to special education placement; parents have a right to inspect the file and have copies of any information contained in it.

Cumulative file: General file maintained by the school; parent has right to inspect the file and have copies of any information contained in it.

Disability: A physical, sensory, cognitive or affective impairment that causes the child to need special education. Specific disabilities are itemized in IDEA and must be documented by a professional.

Emotional disturbance (ED): Disability category under IDEA; includes depression, fears, schizophrenia; adversely affects educational performance.

FAPE: Free and Appropriate Public Education; a right guaranteed to all special needs students under IDEA.

Inclusion: Practice of educating children with special needs in regular education classrooms in neighborhood schools. See “mainstreaming” and “Least Restrictive Environment.”

Individualized Education Plan (IEP): The document developed at an IEP meeting which sets the standard by which subsequent special education services are usually determined appropriate. This process, described in the Individuals with Disabilities Act, provides educational services to students who require significant remediation or assistance. Only students with disabilities more severe than those covered in a 504 Plan may qualify; and services are often provided separately from the mainstream classroom for a portion of, or for the entire school day.

Individuals with Disabilities Education Act (IDEA): The IDEA (Federal Law passed in 1990 and re-authorized in 2004) modifies and extends the Education for All Handicapped Children Act (EHA), a Public Law 94-142 enacted by congress in 1975). This law ensures that all children with disabilities have available to them a *free and appropriate public education* (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment and independent living.

Least restrictive environment (LRE): Requirement to educate special needs children with children who are not disabled to the maximum extent possible.

Mainstreaming: The preference for the education of every child in the least restrictive environment (LRE). This IDEA based-concept is most widely used to refer to the return of children with mild disabilities to a regular classroom for a portion of each school day. Mainstreaming is also called “inclusion.”

Modification: An adjustment to an assignment or a test that changes what the assignment or test is supposed to measure. Examples of possible modifications include a child completing work on *part* of a standard or a child completing an alternate assignment that is more easily achievable than the standard assignment.

Related services: Services that are necessary for a child to benefit from special education; includes speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, early identification and assessment, counseling, rehabilitation counseling, orientation and mobility services, school health services, social work services, parent counseling and training.

Section 504: Provision of the Rehabilitation Act of 1973 which prohibits recipients of federal funds from discrimination against persons with disabilities. A 504 Plan is an agreed upon process to remove barriers and allow a student with disabilities to participate freely in his or her education. Disability in this context refers to a physical or mental impairment that substantially limits one or more major activities. This can include physical impairments, illnesses or injuries, communicable diseases, chronic conditions like asthma, allergies and diabetes, and learning problems. A 504 Plan spells out the modifications and accommodations that will be needed for the student to have an opportunity to perform at the same level as his or her peers.

Special education: Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability.

Student Study Team (SST): The first step in identifying a student's needs is to call together a Student Study Team, also called a Child Study Team. This is an informal meeting or series of meetings, to discuss the student and his or her needs and may result in an agreement to make minor changes. More often, the result is a referral for assessment and the development of a 504 Plan or IEP. Many students fail to meet the requirements for services as a result of the assessment process.

Transition services: Services designed to facilitate a student's movement from school to the workplace or to higher education; an IEP requirement.

www.wrightslaw.com: A website designed to provide information about the intersection of students with special needs and their legal rights. Parents, educators, advocates, and attorneys use www.wrightslaw.com for accurate, reliable information about special education law, education law, and advocacy for children with disabilities.