



**CASP  
Convention  
2023**



# **Improving Referral Decision-making and Evaluation Conceptualization and Planning Using Formal Review of Existing Data (RED) Practices**

Wesley A. Sims, PhD, NCSP / Danielle Zahn, MA / Mikaela Pulse, MA  
University of California, Riverside

# Introductions

Who are we?



# Agenda

**01**

## **Background**

Rationale  
Reminders

**02**

## **What is a RED?**

What are REDs  
Guidance from US & CA DOE

**03**

## **Legal Defensibility**

What are “Legally  
Defensible” practices

**04**

## **Formal RED “How To”**

Collecting and Organizing  
RED Data

**05**

## **Using REDs**

Referral Determinations  
Case conceptualization &  
evaluation planning

**06**

## **Practice & Questions**

What else should we talk  
about?

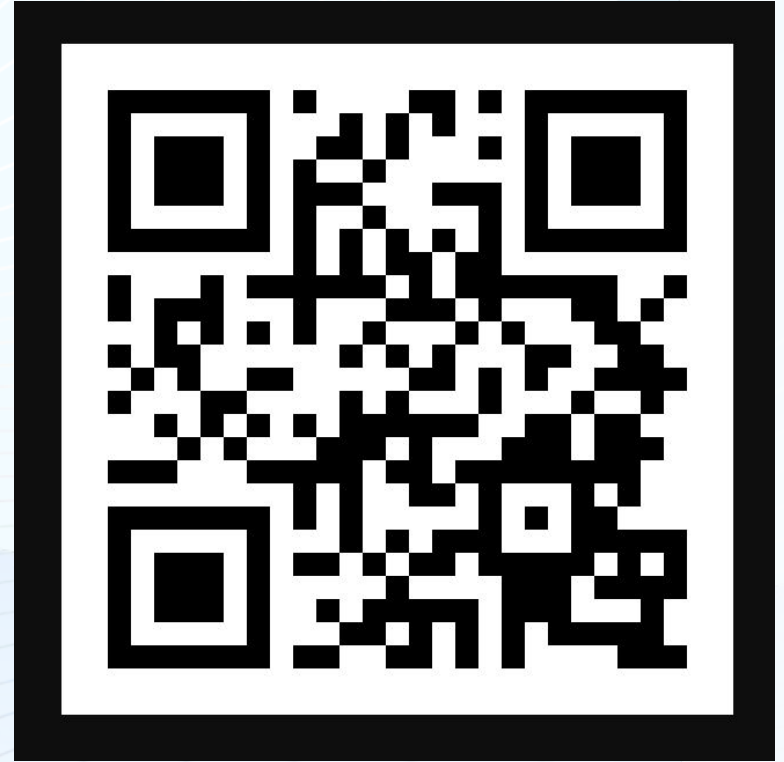
**01**

# Background

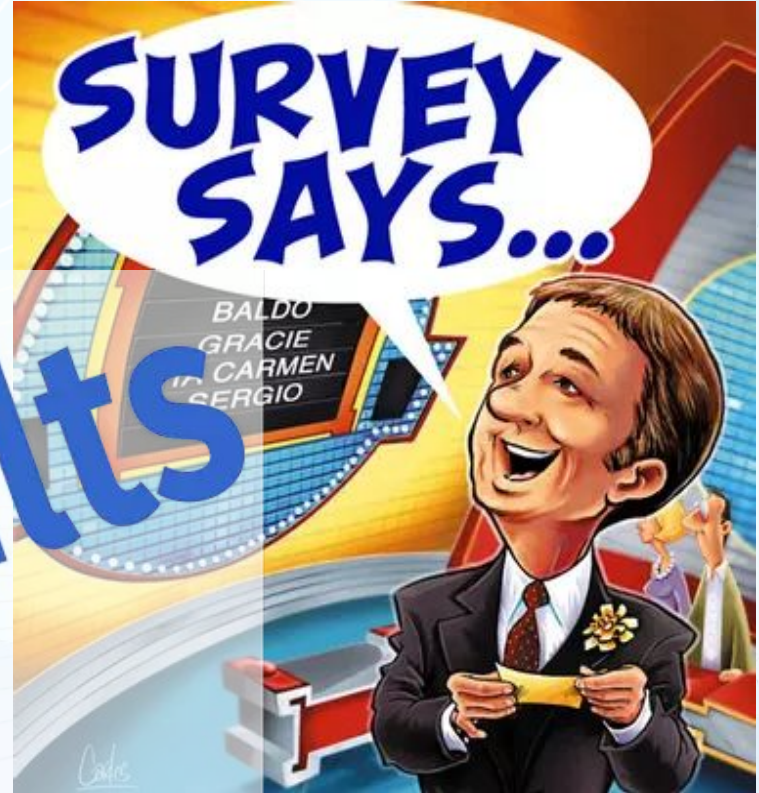
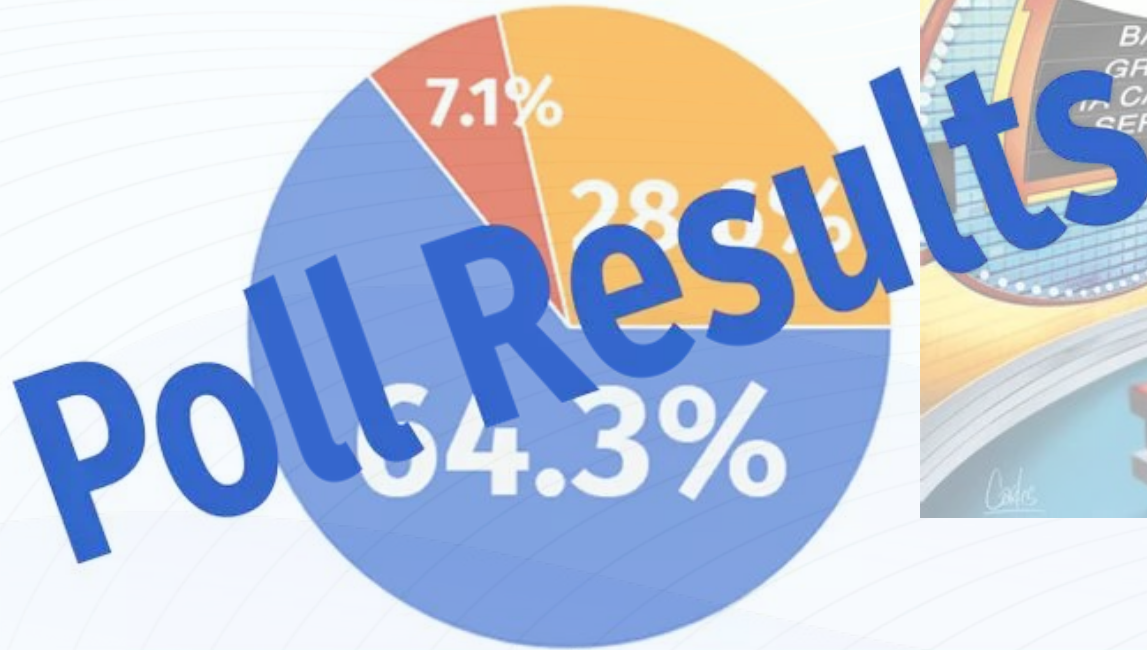
Why is this topic important? What are some important considerations, concepts, terms, etc. related to RED?

# Few Quick Questions

Scan the QR code and answer a few questions.

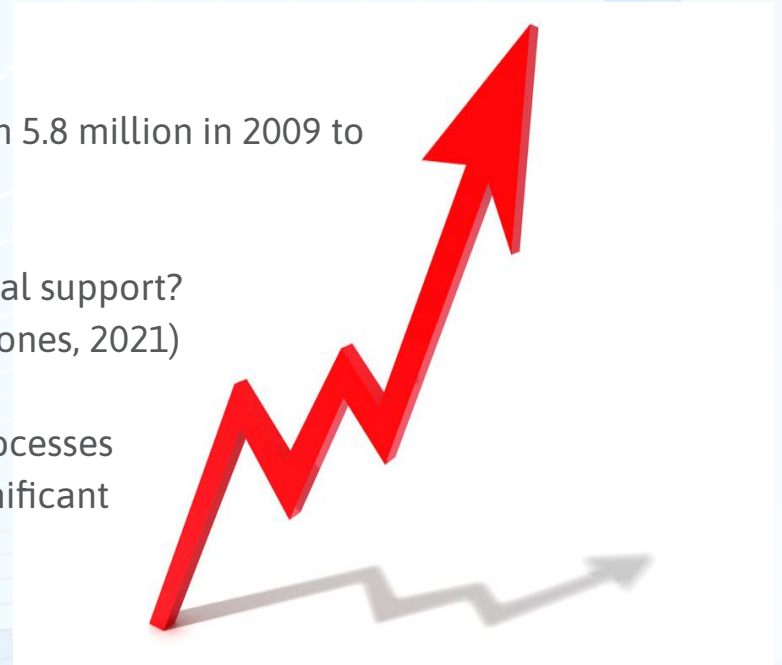


# Results



# Why this topic is important

- Students eligible for special education services rose from 5.8 million in 2009 to 7.2 million in 2021 (Ballis & Heath, 2021)
  - Poor universal and supplemental support?
  - Poor implementation of universal and supplemental support?
- General over reliance on SPED referrals and eligibility (Jones, 2021)
  - Test-and-place / Test first
  - Only “help” available - poor MTSS/intervention processes
- Difficulty/deficit/difference is NOT disability, even if significant
  - Fundamental attribution error
  - Bias, systemic oppression
  - Inappropriately pathologizes difference
  - Discounts environmental factors that impact learning
- Belief in the universal utility and defensibility of diagnostic evaluation activities
  - More specifically, diagnostic tests
  - “Standard battery” approach - rule out everything



# Reminder - What Special Education is NOT



**SPED is NOT tutoring**



**SPED is NOT modifications  
and accommodations**



**SPED is NOT a little  
extra help**



**SPED is NOT remedial**



# Reminder - What Special Education IS

## Modified, accommodated instruction



**Modified, accommodated instruction** is different than modifications and accommodations.

## Mitigation



**Mitigation** efforts manage and come with an acknowledgement that the issue (i.e., disability) won't be cured, only managed.

## More restrictive



**Education** is considered a right, a right that cannot be restricted w/o due process

# Why this topic is important

- Persistent, inappropriate that diagnostic evaluations are universally:
  - Applicable
  - Defensible
- Many questions facing Multidisciplinary Teams (MDT) and school psychologists can be addressed w/o use of diagnostic
  - Not all questions are diagnostic
- It is not the job of the MDT to prove a student DOES NOT have a disability
  - What is education/your default?
    - Disabled/Eligible/IN or Non Disabled/Ineligible/OUT
    - Analogies?



# Reminder - Assessment, testing, evaluation mean different things

## Assessment



**Assessment** is the practice of gathering data, typically from multiple sources

## Testing



**Testing** is a specific type of assessment activity

## Evaluation



**Evaluation** is the combination of assessment data to facilitate a diagnostic or eligibility determination

The activity and data generated should **match the question** a school psychologist or multidisciplinary team is trying to answer.

- Do we suspect the child has a disability/may be eligible for SPED?
- Where is this student reading in comparison to peers/grade level expectations?
- Does this child have a disability/meet eligibility criteria?

# Why this topic is

- Diagnostic evaluations require
  - Expenditure educational resources
  - Diversion of MDT time
    - THIS IS YOU!
    - More evals = less time for problem-solving
  - Removal of students from classroom
  - More restrictive educational requirements
    - High stakes determine graduation
    - Overall negative effects
      - Increased risk of dropping out
      - Decreased college enrollment
      - Lower graduation rates

**JUST SAY NO!**

**SOMETIMES**



# Use **FORMAL** Review of Existing Data (RED)

Evaluations to determine eligibility for SPED services (i.e., disability diagnosis)

1. Is a HIGH STAKES determination
2. Is an expenditure of time and resources
3. DO NOT answer the majority of questions asked of MDT
4. Are overutilized and contribute to disproportionality in less desirable outcomes for students from historically marginalized, underserved groups

# 02

## What is a RED?

What is a Review of Existing Data? What guidance is provided by IDEIA and CA Ed. code related to REDs?

# Review of Existing Data (RED)

## WHAT

- A review of all available, existing data - medical records, permanent educational records, prior test results, observation data, informal reports, anecdotal reports, universal screening data, etc. - for a student being considered for or currently eligible for SPED

## WHY

- To guide determinations regarding the merits of initial evaluation referrals and need for reevaluations with diagnostic testing.
- To establish initial or continued eligibility.
- To inform and guide formal evaluation planning (i.e., case conceptualization / evaluation planning / assessment plans)

**DATA-BASED/INFORMED DECISION-MAKING**

# RED References in IDEIA

§ 300.300 Parental consent

(d) Other consent requirements.

(1) Parental consent is not required before-

(i) **Reviewing existing data** as part of an evaluation or reevaluation; or

(ii) Administering a test or other evaluation that is administered to all children unless, before administration of that test or evaluation, consent is required of parents of all children.



# RED References in IDEIA

§ 300.305 Additional requirements for evaluations and reevaluations.

(a) **Review of existing evaluation data.** As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must-

- (1) **Review existing evaluation** data on the child, including-
  - (i) Evaluations and information provided by the parents of the child;
  - (ii) Current classroom-based, local, or State assessments, and classroom-based observations;  
and
  - (iii) Observations by teachers and related service providers; and

# RED References in IDEIA

- (1) On the basis of that **review**, and input from the child's parents, identify what additional data, if any, are needed to determine-
  - (i)
    - (A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or
    - (B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;
  - (ii) The present levels of academic achievement and related developmental needs of the child;
  - (iii)
    - (A) Whether the child needs special education and related services; or
    - (B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and
  - (iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.

# RED References in CA DOE Regs

Sec. 1414. Evaluations, eligibility determinations, individualized education programs, and educational placements

(c) Additional requirements for evaluation and reevaluations

(1) **Review of existing evaluation data**

As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the IEP Team and other qualified professionals, as appropriate, shall—

(A) **review existing evaluation data** on the child, including—

- (i) evaluations and information provided by the parents of the child;
- (ii) current classroom-based, local, or State assessments, and classroom-based observations; and
- (iii) observations by teachers and related service providers; and

# RED References in CA DOE Regs

(B) on the basis of that **review**, and input from the child's parents, identify what additional data, if any, are needed to determine—

- (i) whether the child is a child with a disability as defined in section 1401(3) of this title, and the educational needs of the child, or, in case of a reevaluation of a child, whether the child continues to have such a disability and such educational needs;
- (ii) the present levels of academic achievement and related developmental needs of the child;
- (iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and
- (iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate, in the general education curriculum.

# 03

## Legally Defensible Practices

What constitutes “legally defensible” practices? Core components and considerations for legally defensible practices.

# Legally Defensible Practice(s)

## Education / Special Education

- The ability of an entity (e.g., school or district) or individual (i.e., MDT member) to withstand legal claims that the processes (e.g., referral, administration, scoring, interpretation, and dissemination) or the outcomes (e.g., refusal of referral, eligibility determination, service provision) are not legally valid or equitably applied (Pope et al., 2007)

# Legally Defensible Practice(s)

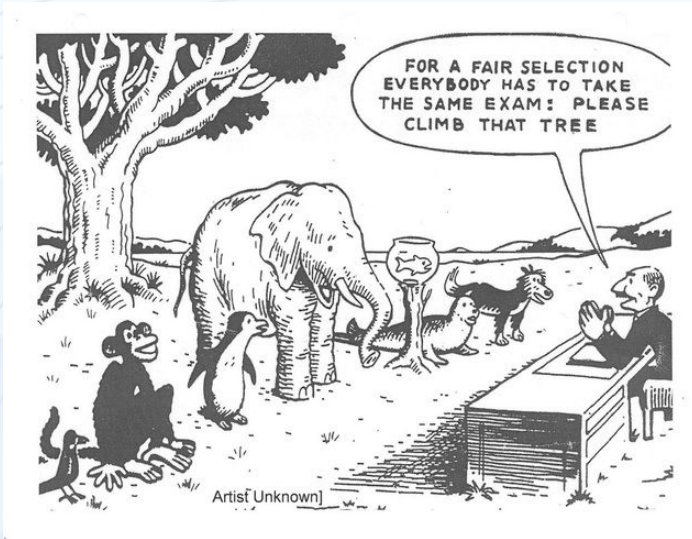
Ability to withstand legal claims (i.e., due process, civil litigation)

- Equitable adherence/application
- Align with best practice recommendations
- Consistent with legal guidelines
- Consistent with pertinent professional ethical standards
  - NASP
  - APA
  - Education?
- Transparent dissemination

LEA, MDT, or individual MDT members must provide evidence that activities were established after careful consideration of these considerations if challenged legally

# Equitable Application

- Disproportionality in SPED well-documented
  - Referrals
  - Eligibility / Placement Determinations



## DISPROPORTIONALITY

When minorities are inappropriately identified for special education services, suspended or expelled more than other students, or shifted inappropriately into settings other than general education classrooms





# Disproportionality Drivers

(Cruz & Rodl, 2018)



# Best Practice Recommendations

What is best-practice related to referral acceptance / suspicion of disability?

How should we conceptualize disability? Universal? Low incidence vs. high incidence?

More on this later...

# Relevant Legal & Ethical Guidelines

- Federal law - IDEIA
  - Purposefully worded non-specific way
  - Interpreted by states
- Federal law - Office of Civil Rights
  - Violations of civil rights law in educational settings
- State law - CA DOE Ed. Code
  - Interpretation of IDEIA
- Case law
  - Judge's rulings/resolutions to challenges to application of law

Problems with each that impact eligibility evaluations.

# Case Law

**CHALLENGE  
ACCEPTED**

- Open to further challenge / interpretation
- Should be informed by:
  - Equitable adherence/application
  - Align with best practice recommendations
  - Consistent with legal guidelines
  - Consistent with pertinent professional ethical standards



# Legally Defensible RED Practices

## Collection and use of data / information to guide school psychologists / MDT determinations related to...

- Determining suspicion of disabilities
- Conducting evaluations
- Determining eligibility / continued eligibility
- Determining “placement” (i.e., IEP services)

## ...using processes and procedures (e.g., assessment, testing) that are...

- Equitable adherence/application
- Align with best practice recommendations
- Consistent with legal guidelines
- Consistent with pertinent professional ethical standards

# 04

## Formal RED “How To”

What should formal RED processes and procedures look like?

# Develop a Standard RED Process

- Develop and use process and documentation
- Apply process and documentation procedures equitably
- Ensure the processes documented are consistent with legal, ethical, and best practice recommendations / guidance
- Disseminate information collected and determinations reached



# **RED Process (Form) Considerations**

1. Guide data collection
2. Document data collected
3. Guide decision-making
4. Document determination



# EXAMPLE RED



## Review of Existing Data Documentation Form

Student's Name: \_\_\_\_\_ School District: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Grade: \_\_\_\_\_ ID #: \_\_\_\_\_

This data review is being conducted as part of:

- an initial evaluation \_\_\_\_\_ (Date of Referral)
- a required three-year reevaluation \_\_\_\_\_ (Date of IEP Meeting)
- Standalone IEP/reevaluation meeting

IEP team members and other qualified professional, as appropriate

- met  conferred

to review all relevant existing evaluation information to determine what additional data, if any, was needed to determine:

- Whether the child has a particular category of disability or, in case of a reevaluation, whether the child continues to have a disability.
- The present levels of performance and educational needs of the student.
- Whether the child needs special education and related services, or in the case of a reevaluation, whether the child continues to need special education and related services.
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate in the general curriculum.

In making this determination, the following information was reviewed by the team:

AREA/ DATA SOURCE	DESCRIPTION OF DATA REVIEWED	SUMMARY OF INFORMATION GAINED
<b>Vision</b>		
<input checked="" type="checkbox"/> General screening		
<input type="checkbox"/> School health records		
<input type="checkbox"/> Previous assessments		
<input type="checkbox"/> Medical reports		
<input type="checkbox"/> Teacher		
<input type="checkbox"/> Parent		
<input type="checkbox"/> Other		
Further Assessment Information Needed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Assessment instruments, if known:	
<b>Hearing</b>		
<input checked="" type="checkbox"/> General screening		
<input type="checkbox"/> School health records		

# Collect RED Data

## Review ALL available records

- Permanent educational file / records
  - Grades, test scores, attendance, discipline, etc.
- “Talk” to parent
  - Release of Information - medical information
  - Social-Developmental History
  - Informal assessments
- “Talk” to teachers
  - Informal assessments
- Intervention and response to intervention efforts
- Screening data
- PLEP / IEP info

# Informals

- Semi-structured non-diagnostic assessment
- Collects data for each of the area for which testing is considered as part of an evaluation
- Completed by anyone that would have insight about that area of functioning for the student

# Document Data Reviewed

- Area
- Source
- What
- Summary / meaning
  - Describe results in affirmative / positive terms
  - What student has, skills attained, can do

## Review of Existing Data Documentation Form

Student's Name: \_\_\_\_\_ School District: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_ Grade: \_\_\_\_\_ ID #: \_\_\_\_\_

This data review is being conducted as part of:

- an initial evaluation \_\_\_\_\_ (Date of Referral)
- a required three-year reevaluation \_\_\_\_\_ (Date of IEP Meeting)
- Standalone IEP/reevaluation meeting

IEP team members and other qualified professional, as appropriate

- met  conferred

to review all relevant existing evaluation information to determine what additional data, if any, was needed to determine:

- Whether the child has a particular category of disability or, in case of a reevaluation, whether the child continues to have a disability.
- The present levels of performance and educational needs of the student.
- Whether the child needs special education and related services, or in the case of a reevaluation, whether the child continues to need special education and related services.
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the individualized education program of the child and to participate, as appropriate in the general curriculum.

In making this determination, the following information was reviewed by the team:

AREA/ DATA SOURCE	DESCRIPTION OF DATA REVIEWED	SUMMARY OF INFORMATION GAINED
<b>Vision</b>		
<input checked="" type="checkbox"/> General screening		
<input type="checkbox"/> School health records		
<input type="checkbox"/> Previous assessments		
<input type="checkbox"/> Medical reports		
<input type="checkbox"/> Teacher		
<input type="checkbox"/> Parent		
<input type="checkbox"/> Other		
Further Assessment Information Needed? <input type="checkbox"/> Yes <input type="checkbox"/> No	Assessment instruments, if known:	
<b>Hearing</b>		
<input checked="" type="checkbox"/> General screening		
<input type="checkbox"/> School health records		

# 05

## Using REDs

Using REDs to drive data-based referral determinations. Using REDs to guide case conceptualization/evaluation planning.

# Using RED - Initial Request for Eval.

1. Guide data collection
2. Document data collected
3. Guide decision-making
4. Document determination

Data-based/informed decision / Answer the question:

1. Is there a legitimate / meritorious suspicion of a disability?
  - a. Can we rule out all alternate explanations for any documented deficits?
2. Is there a legitimate / meritorious suspicion of a disability?

# What is “Suspicion of a Disability?”

1. High likelihood that formal, diagnostic evaluation results (i.e., assessment & testing) will meet yield information consistent with eligibility criteria / diagnostic criteria.
2. Identified deficits not better explained by adverse environmental factors.

# Using RED Purpose - Triennial Reevals

1. Guide data collection
2. Document data collected
3. Guide decision-making
4. Document determination

Data-based/informed decision / Answer the question:

1. Does the student continue to exhibit functioning consistent with:
  - a. their eligibility category and
  - b. a student that requires SPED?
2. Does the MDT need additional diagnostic information
3. Does the MDT need additional information to support programming?



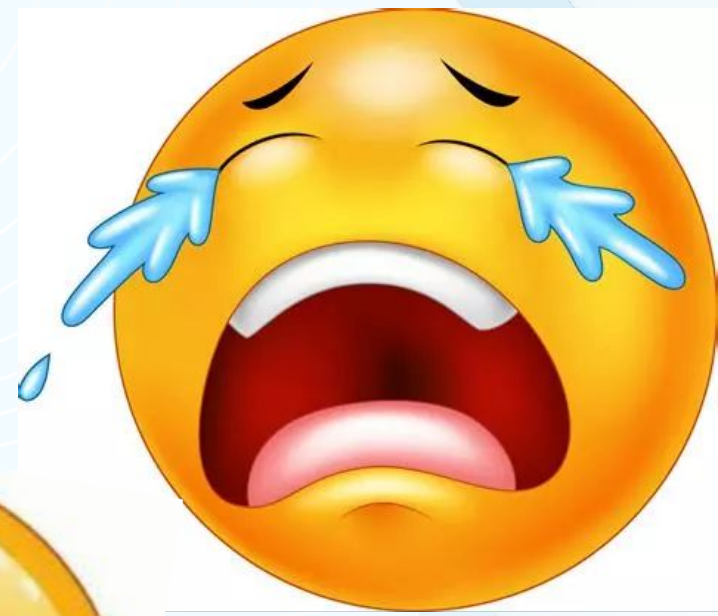
# Triennial Reevals with Formal/Diagnostic Testing

1. Current diagnosis is no longer appropriate
  - a. Question validity of previous evaluation
  - b. Another eligibility category may be appropriate
    - i. suspicion of other / new area of disability / eligibility
2. Addition of Related Services
3. Discontinue services
  - a. If parents want confirmation of RED

**DO MORE “RECORD REVIEWS”**

**HOLD A MEETING**

**PLEASE? I'M BEGGING!**



# Case Conceptualization / Eval. Planning

- RED information should be consistent with a specific eligibility / diagnostic category(s).
- Evaluation activities should collect diagnostic information related to criteria for that category(s).
- MDT DETERMINES whether evaluation data is consistent with / meets eligibility / diagnostic criteria.
- NOT decided by individual area, holistic evaluation relative to eligibility criteria.
- MDT should NOT conduct evaluations to “rule out” all eligibility categories / diagnoses. NO FISHING
  - SPED is more restrictive educational placement
  - Individualized process / eval processes

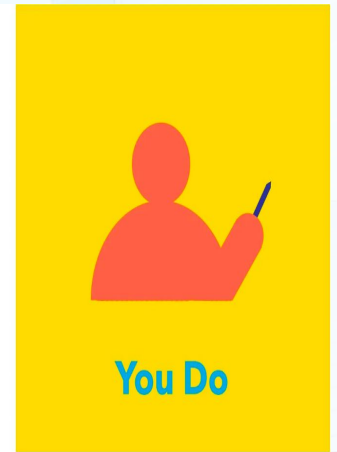
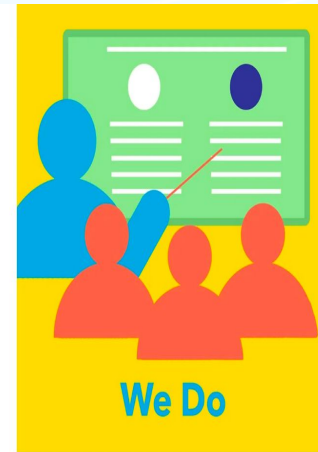
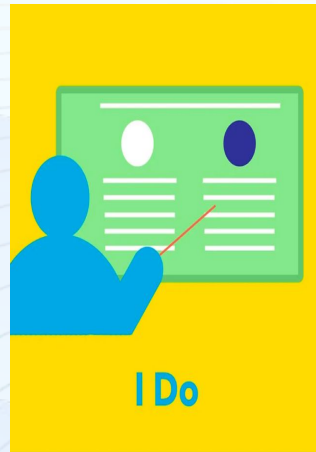


**06**

# Practice & Questions

Case study example. What else do you want to discuss or learn about?

# Example REDs



# Final Thoughts

What are your thoughts?

What are our thoughts?



# Thanks!

Do you have any questions or want more information?

wesleys@ucr.edu / ssprc.org

**CREDITS:** This presentation template was created by **Slidesgo**, and includes icons by **Flaticon**, and infographics & images by **Freepik**

