

State of California

Department of Education

MEMORANDUM**To:** Special Education Consultants**Date:** May 29, 1997**From:** 
Leo Sandoval**Subject:** Clarification on the Use of Standardized Intelligence Tests with African-American Students for Special Education Eligibility Assessment

We are currently working with representatives of the California Association of School Psychologists and other interested parties to develop standards, criteria, and a review and approval process for recommendation of acceptable tests to be used in assessing African-American students' eligibility for special education and related services. We hope that this effort will result in a review process and a criteria that the State Board of Education will be able to approve by December 1997.

More immediately, there is a need to clarify some confusion regarding the implementation of the 1979 court ruling prohibiting the use of standardized intelligence tests for African-American students for special education eligibility assessment. Several districts have been found out of compliance on CCR visits for determining African-American students' eligibility for special education with assessment instruments not specifically prohibited as standardized intelligence tests by the Larry P. court decision of 1979 or the Larry P. Task Force Report of 1989.

The following guidelines are provided for clarifying this issue and for guiding coordinated compliance reviews. As a context for the implementation of these guidelines, Special Education Division staff need to **keep in mind that the judge in the 1979 Larry P. court decision found IQ tests to be racially and culturally biased against African-American students.**¹ In addition, the Individuals with Disabilities Education Act² and state law³ prohibit the use of discriminatory testing and evaluation materials. Thus, the following guidelines must be followed:

Compliance Guidelines

1. Based on the 1979 Larry P. court decision and a subsequent Department of Education legal advisory,⁴ the use of those intelligence tests listed in Attachment A, Part I is prohibited. This includes tests that had been identified in state regulations⁵ at the time of the court decision. Thus, school districts will be found out of compliance for using these specific tests, with African-American students.
2. The Department's Larry P. Task Force also recommended that several other tests that provide standardized measures of intelligence be prohibited from use with African-American students. These tests are listed in the Attachment A, Part II. Until they are validated as unbiased by the State Board of Education and approved by the court, school districts will be found out of compliance for using these tests with African-American

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students. You are reminded that there may be other tests issued with similar titles that are NOT prohibited.

3. The Larry P. Task Force also "cautioned" school assessment personnel about the use of other additional tests that might be regarded as IQ tests with African-American students. These are listed in Attachment A, Part III. These tests *may* be used by qualified school staff for *other* specific purposes indicated in publishers' test manuals, such as measuring the listening vocabulary, perceptual processing, or reading comprehension of African-American students. However, because these tests are designed to produce standardized intelligence scores as well as other specific measures for educational purposes, school districts will be found out of compliance for using these tests if there is noted scores that would provide a measure of intelligence of African-American students.
4. No other list of tests has been recognized by the Department of Education for the purpose of finding school districts out of compliance in testing African-American students for special education. Meanwhile, because the original Larry P. decision was not limited to a specific set or sets of standardized intelligence tests, school districts should be *advised* that any standardized measure of intelligence should not be used with African-American students until such time as they are validated as unbiased by the State Board of Education and approved by the court. There should be no "on-the-spot" judgements that result in finding districts out of compliance for using tests that are *not* listed.

For any districts that you found out of compliance during 1995-96 or 1996-97 CCRs for using tests that are *not* identified for use with African-American students, please remove their non-compliance status on item III-S25.

Thank you for your continued excellent work on behalf of students with disabilities. Should you have any questions about the content of this memorandum, please see Larry Boese.

Endnotes:

1. Larry P. v. Riles. 485 F. Supp. 926-992 (1979).
2. 20 U.S.C. 1412 (5) (C), 34 C.F.R. section 300.530.
3. California Education Code section 56320 (a).
4. California Department of Education Legal Advisory LO 1-92.
5. California Administrative Code, Title 5, Education, section 3401.

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Attachment A - Part I

Prohibited Tests for Black Assessments for Special Education

The basic list of intelligence tests from Larry P. included (*Larry P. V. Riles*, 495 F. Supp. 926 (1979, p. 931):*

- Arthur Point Scale
- Cattell Infant Intelligence Scale
- Columbia Mental Maturity Scale
- Draw-a-Person
- Gesell Developmental Schedule
- Goodenough-Harris Drawing Test
- Leiter International Performance Scale
- Merrill-Palmer Pre-School Performance Test
- Peabody Picture Vocabulary Test
- Raven Progressive Matrics
- Slosson Intelligence Test
- Stanford-Binet
- Van Alstyne Picture Vocabulary
- WISC, WISC-R, WAIS, WPPSI

*This list was entered as evidence in the Larry P. case from an APA listing and from CAC Title 5 regulations in effect at that time.

Attachment A - Part II

Additional Standardized Intelligence Measures

The Larry P. Settlement (1986) prohibits the use of IQ tests with Black pupils for special education purposes. IQ tests are construed to mean any test which purports to be or is understood to be a standardized test of intelligence. Additional tests recommended as subject to the Larry P. prohibition would therefore, include but not be limited to the following:

- Cognitive Abilities Test
- Expressive One-Word Picture Vocabulary Test
- K-ABC Mental Processing Subtests
- McCarthy Scales of Children's Abilities
- Structure of Intellect Learning Aptitude Test
- Tests of Non-Verbal Intelligence
- Tests of Cognitive Ability from the Woodcock-Johnson (including the cognitive section of the Bateria Woodcock Psico-Educativa en Espanol)
- Cognitive Subtest of the Battelle Developmental Inventories

Attachment A - Part III

Additional Tests Which Might Be Regarded as IQ Tests

School assessment personnel are cautioned regarding the use of other tests which may be controversial in the multidisciplinary assessment of Black pupils. Such tests include but are not limited to the following:

- Detroit Tests of Learning Aptitude
- Detroit Tests of Learning Aptitude--2, abd Primary
- Peabody Picture Vocabulary Test--Revised
- Test de Vocabulario en Imágenes Peabody

Criteria identical to those also cited by CASP were used to determine the appropriateness of these tests. See the Appendix for Task Force test reviews for the rationales in making these recommendations.