



# Recent Cases of Interest

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## Evaluation/Eligibility

- The IDEA does not penalize school districts for not timely evaluating students who do not need special education.
  - *D.G. v. Flour Bluff Indep. Sch. Dist.*, 481 F. App'x 887, 59 IDELR 2 (5th Cir. June 1, 2012) (Unpublished).



## Evaluation/Eligibility

- "A fear that a student may experience problems in the future is not by itself a valid basis for IDEA eligibility."
- A high school student with ED was found to no longer be IDEA-eligible based on his strong academic performance and interpersonal skills. A year after the student was removed from special education, he struggled with truancy problems, which his parents attributed to the lack of special education services. The Fifth Circuit held that IDEA eligibility determinations must be made by a "present need for special education services."

– *D.L. v. Clear Creek Indep. Sch. Dist.*, 695 F. App'x 733, 70 IDELR 32 (5th Cir. June 2, 2017)(Unpublished).

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## Evaluation/Eligibility

- "The District properly engaged in some reasonable evaluation process before its obligation to the child could arise."
- "School districts must seek to evaluate students with suspected disabilities within a reasonable time after the school district is on notice of facts or behavior likely to indicate a disability."

– *Dallas Indep. Sch. Dist. v. Woody*, 865 F.3d 303, 70 IDELR 113 (5th Cir. July 27, 2017).

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## Evaluation/Eligibility

- "Ashley's academic decline, hospitalization, and incidents of theft during the [fall 2014] semester taken together were sufficient to cause CISD to suspect that her several disabilities created a need for special education services."

– *Krawietz v. Galveston Indep. Sch. Dist.*, 900 F.3d 673, 72 IDELR 205 (5th Cir. August 17, 2018).

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## Evaluation/Eligibility

- "While requiring resident disabled children to be 'identified, located, and evaluated,' Child Find specifies that 'nothing in this chapter requires that children be *classified by their disability*' provided that each disabled child 'is regarded as a child with a disability under this subchapter.' The position that the diagnostic label affixed to a child should determine whether she has prevailed under IDEA 'reflects a preoccupation with *labels* that IDEA does not share.'" 'The IDEA concerns itself not with labels, but with whether a student is receiving a free and appropriate education.' The order at issue concluded that Lauren's existing plan provided precisely what IDEA promises – a FAPE – regardless of her diagnosis."

*Internal citations omitted.*

– *Lauren C. v. Lewisville Indep. Sch. Dist.*, 904 F.3d 363, 72 IDELR 262 (5th Cir. Sept. 14, 2018).

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