

# STUDENTS WITH DISABILITIES EXPERIENCING HOMELESSNESS

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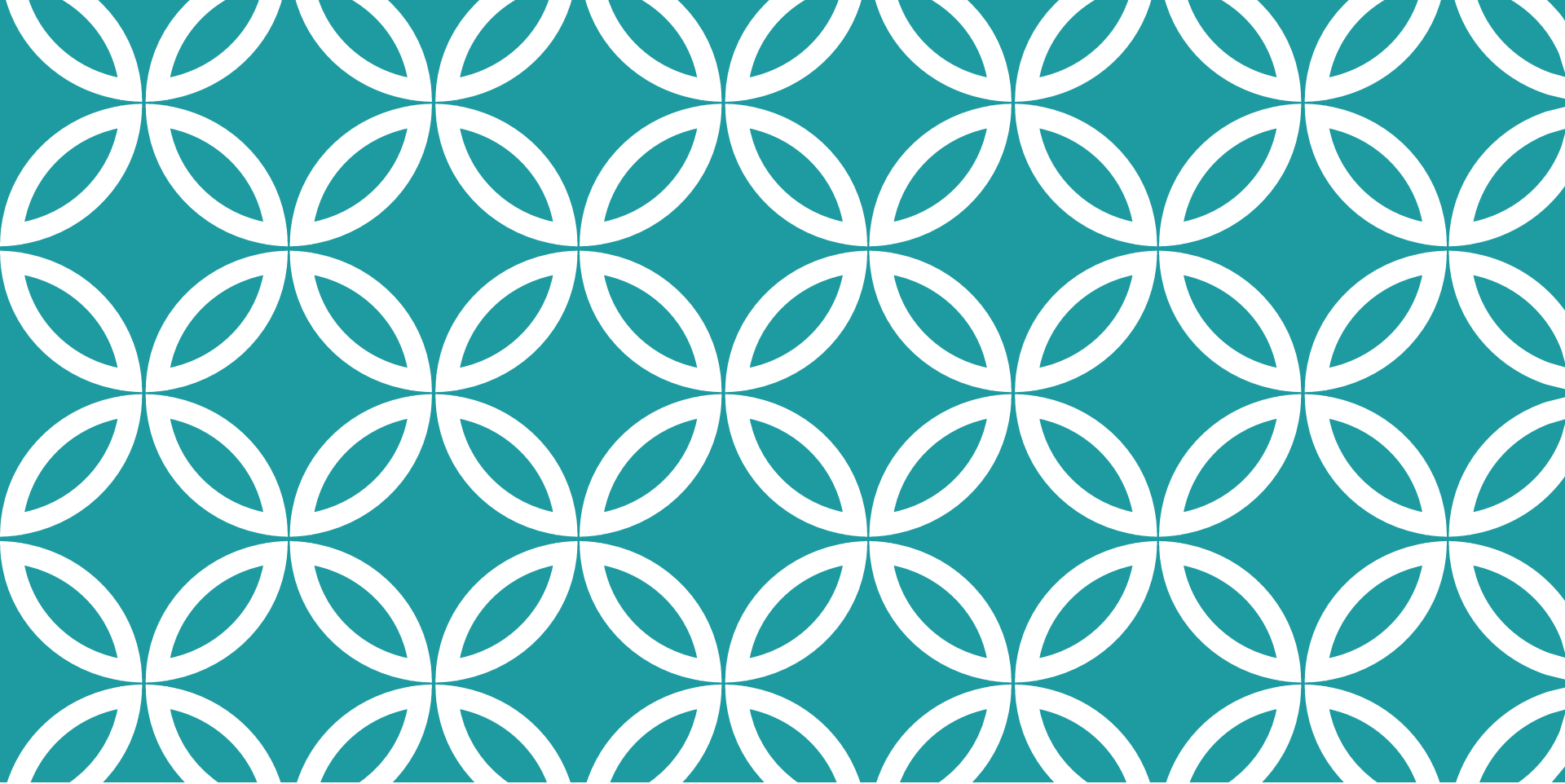


# WHAT ARE WE DOING HERE?

1. Who are we and what do we do?
2. What if I suspect a student has a disability and who is highly mobile due to homelessness?
3. What are common special education interventions and schools' responsibilities for students who are already receiving special education services and are experiencing additional struggles due to their homelessness?
4. What are the responsibilities of schools to provide services to students with disabilities who are transition age (14-22)?

# WHO IS DISABILITY RIGHTS TEXAS

- Disability Rights Texas is the federally mandated Protection and Advocacy organization for people with disabilities in the state of Texas.
- We have attorneys and advocates in offices across the state who inform people with disabilities and family members about their rights; represent people with disabilities whose rights are violated or threatened; and advocate for laws and public policies that protect and advance the rights of people with disabilities.
- We handle cases in the areas of special education, foster care, housing, employment, access, transportation, health care, civil rights and liberties, and others
- Free legal services



**STUDENTS WITH DISABILITIES  
EXPERIENCING HOMELESSNESS:**

# SPECIAL EDUCATION LAWS

- Individuals with Disabilities Education Improvement Act 2004 (IDEA)
- Section 504 of the Rehabilitation Act of 1973
- No Child Left Behind (NCLB)
- Family Educational Rights and Privacy Act (FERPA)
- State law and regulations

# SPECIAL EDUCATION (IDEA) V. 504

## Special Education (IDEA)

## Section 504

- Federal statute limited to education
- Specified categories of disability (later slide)
- Provides individual supplemental educational services and supports in addition to what is available for general education students to ensure child has access to and benefits from the general curriculum
- Broad civil rights law which protects rights of individual with disabilities in any agency, institution or school receiving federal funding
- Anyone who has a physical or mental impairment which limits one or more major life activity (or record or regard)
- Schools must eliminate barriers that prevent the student from participating fully in programs and services offered in general curriculum

# PURPOSE OF SPECIAL EDUCATION

To ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living

# FREE APPROPRIATE PUBLIC EDUCATION

- Specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability [Bd. Of Educ. v. Rowley]
- Available to all students with disabilities age 3-21 at public expense
- Student must meet the definition of one or more of several enumerated disabilities and “by reason thereof” need special education and related services
- Services must be based on student’s unique individual needs and be designed to confer educational benefit



# FAPE FOR STUDENTS EXPERIENCING HOMELESSNESS

- Under the McKinney-Vento Act, homeless children with disabilities **MUST** have equal access to FAPE under Part B as would be provided to other children with disabilities.
- Their ability to participate in special education programs cannot be hindered by homelessness or such related factors as frequent school transfers. 42 USC 11433 (d).

# CHILDFIND

- Parents can always request an evaluation of their child to determine if their child qualifies for special education
  - Do **NOT** have to wait to go through Response to Intervention (RTI) programs
- Regardless if parent requests evaluation, schools have affirmative, ongoing obligation to identify, locate, and evaluate all children with disabilities residing within the jurisdiction that either have, or are suspected of having, disabilities and need special education as a result of those disabilities
  - Includes children who are homeless, foster children, highly mobile children, including migrant children, and children with disabilities attending private school
  - Severity of disability does not matter

# PRACTICE TIP

- If you believe child needs to be evaluated for special education, REQUEST EVALUATION IN WRITING to school principal
  - 15 school days to provide consent
  - 45 school days from consent to evaluate
  - 30 calendar days to hold ARD
- If evaluation finds student ineligible, consider requesting independent evaluation at school's expense.
- For students with diagnosed disability where school may contest "educational need" for special education services, request Section 504 plan to begin immediately.

# INITIAL EVALUATIONS FOR STUDENTS EXPERIENCING HOMELESSNESS

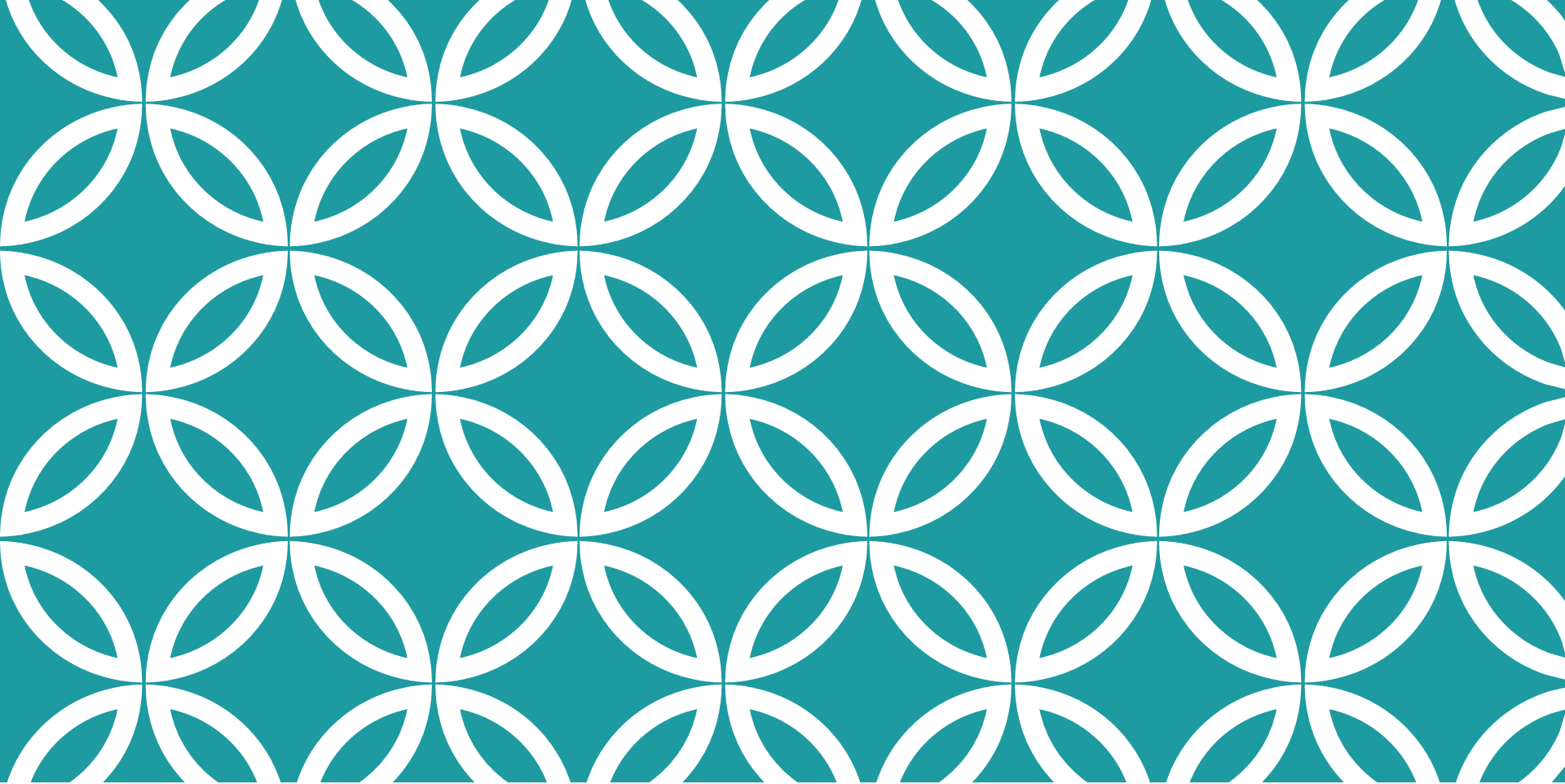
- Due to their high mobility, homeless students often fail to remain in a particular school long enough to be appropriately diagnosed with a disability. Therefore, district coordinators should have a deliberate process in place to identify homeless children who may have disabilities. OSERS stated that districts should seek the help of transitional shelters, street outreach programs, and other advocacy programs in identifying the warning signs of a disability as soon as possible.
- Evaluations for homeless students must be conducted in a timely manner, within 45 school days, just as they would be for students who are not homeless.
- Moreover, a district **MUST** begin the initial evaluation process even if it knows the child is homeless and therefore may leave school before the evaluation is completed.
- The ED interprets Section 504's child find requirement under 34 CFR 104.32 (a) as applying to an individual with a disability living in a district regardless of whether the student has an official residence or is homeless.

# RIGHTS OF PARENTS FOR HOMELESS YOUTH

- Same rights as all parents to prior written notice, a copy of procedural safeguards, informed consent, and the opportunity to resolve disputes
- If unaccompanied minor (ie not in the physical custody of parent or guardian): surrogate parent must be appointed as soon as possible, but not more than 30 days after need is determined
- Surrogate parent
  - Can not be an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child
  - Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents
  - Has knowledge and skills that ensure adequate representation of the child

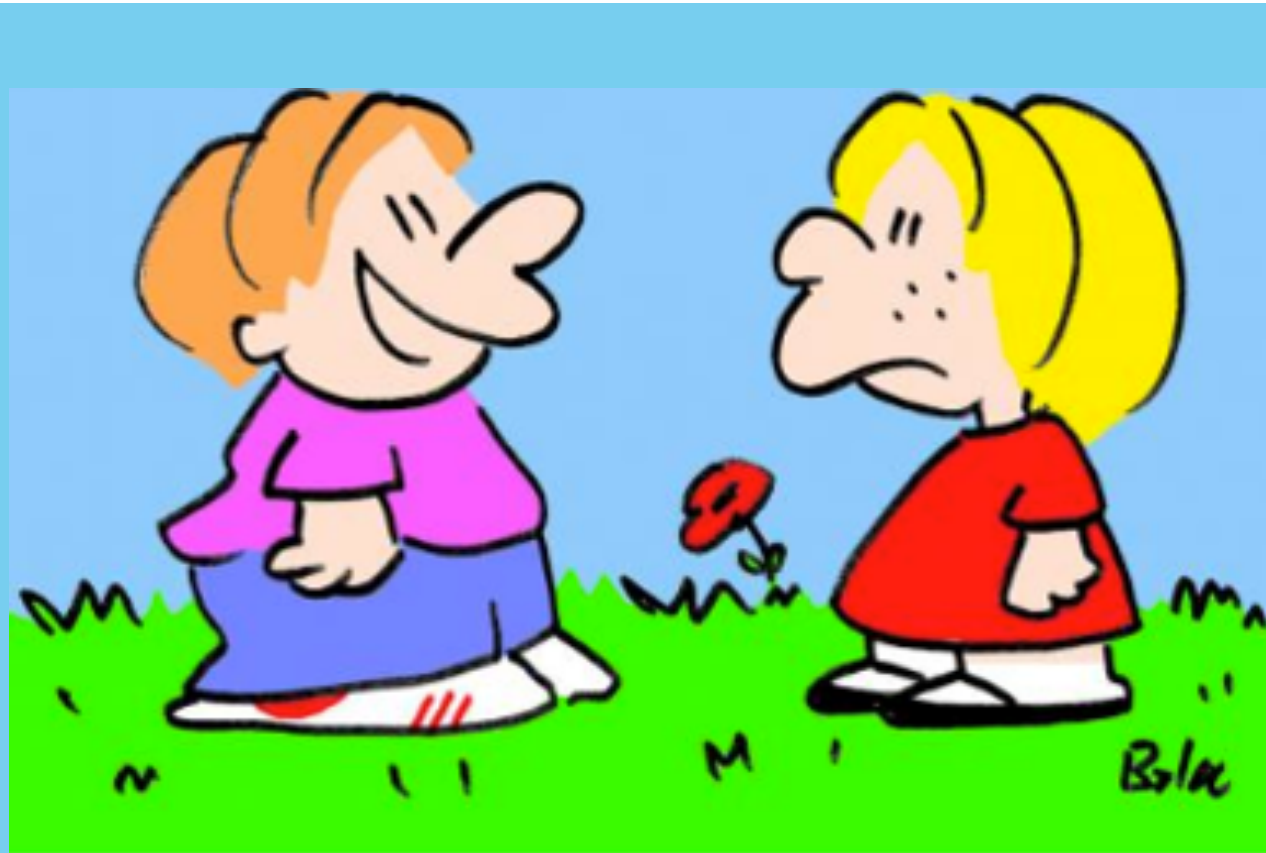
# UNACCOMPANIED MINORS NEEDING SURROGATE PARENT

- BUT: In the case of a child who is an unaccompanied homeless youth:
  - appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs
  - MAY be appointed as temporary surrogate parents even if they don't meet previous requirements, until a surrogate parent can be appointed that meets all of the requirements



**BEHAVIOR CHALLENGES FOR  
STUDENTS WITH DISABILITIES  
EXPERIENCING HOMELESSNESS**





"The Principal suspended me —  
School is the only place in the  
world where you can get time  
off for *bad* behavior."



# FAPE AND BEHAVIORAL SUPPORTS

- Behavioral supports might be necessary to provide a child w/ FAPE
- If a child's behavior interferes with his education or that of his peers, request an FBA and BIP! (Don't have to wait until disciplinary action happens)
- Behavioral supports vary and are individualized (no two kids should automatically have the same BIP just because they have the same eligibility)
- They should include incentives and not just negative consequences

# FUNCTIONAL BEHAVIOR ASSESSMENT

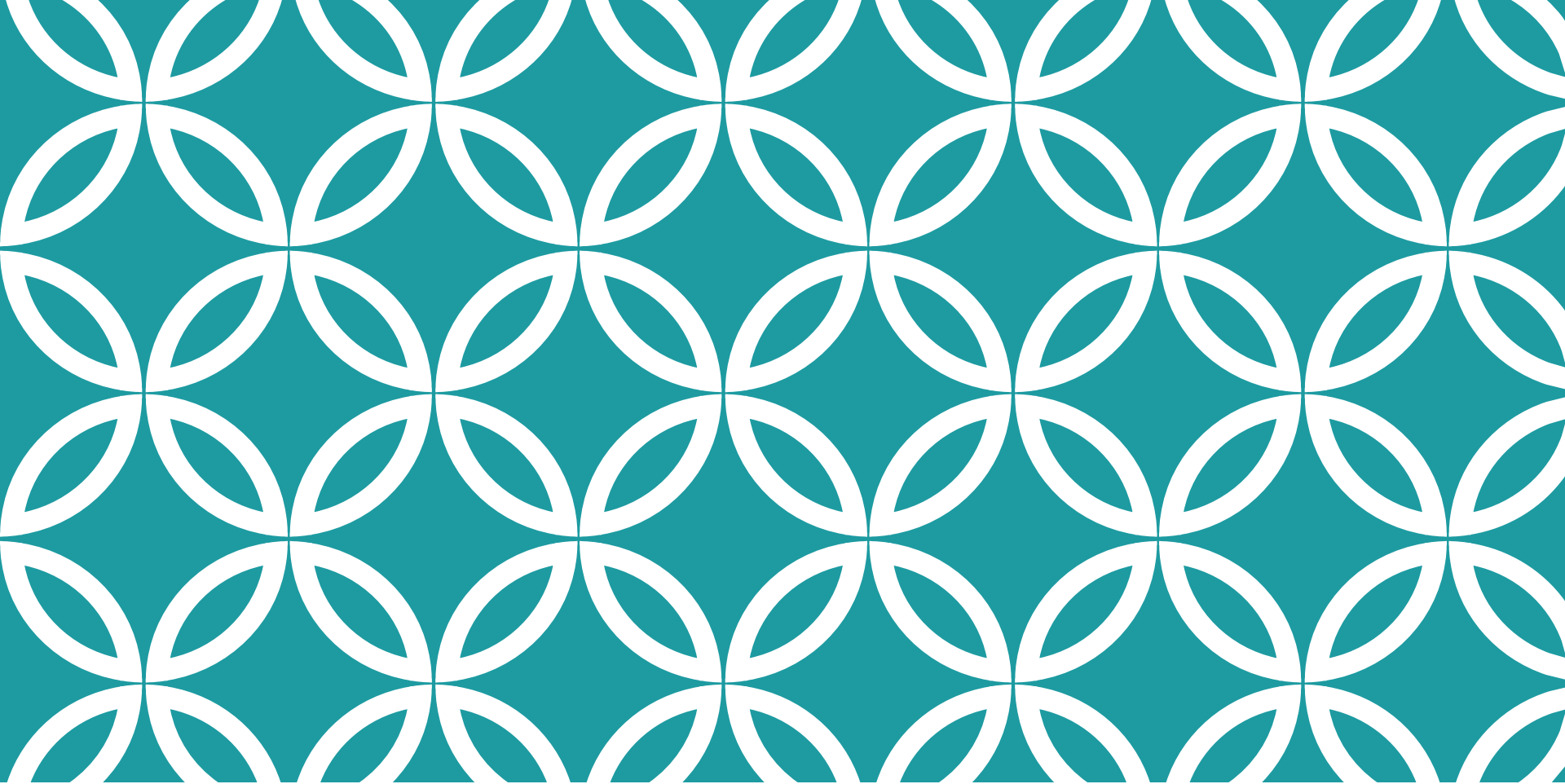
- Indirect assessment (interviews, rating scales, checklist, questionnaire)
- Direct observation (Antecedent, Behavior, and Consequence data, scatter plots)
- Develop a “hunch” as to why behavior is happening, Develop intervention to match hypothesized function (must be AS SUCCESSFUL at obtaining result as negative behavior), implement intervention with fidelity and monitor behavior’s response to intervention
- If not successful, repeat the process
- THEN Develop or update a Behavior Intervention Plan (BIP)
  - Must include positive supports and interventions

# WHAT IS A GOOD BIP?

- Based on Evaluation Data, including an FBA
- Must include positive supports and interventions (these should be described in the FBA)
- Be specific about each behavior at issue
  - “Jane is aggressive” is not specific.
  - “Jane hits other students at recess when she does not get her way” is specific.
- Give specific, actionable replacement behaviors
  - If the replacement behavior isn’t at least as effective of getting what the student wants, the student won’t use it
  - “Jane crumples math work sheet when teacher doesn’t respond to her hand in the air” → “Jane is approached by teacher immediately after math worksheet is passed out to address her frustration and anxiety over not understanding the problems.” Both ways, Jane gets attention.
- Target a few key behaviors with specific, individualized interventions
  - “Give Jane an opportunity to exercise control” is not specific.
  - “Give Jane the opportunity to choose the recess activity. Give Jane the opportunity to lead the class discussion” are specific interventions.
- Describe specific interventions to support the positive behaviors that the student already engages in
- Describe changes that should be made to the environment
- Address effective methods of redirection, modeling, de-escalation as appropriate (Remember, positive behavioral support is as much about changing adult behavior as it is about changing the student’s behavior)

# RELATED SERVICES

- Any non-medical service necessary for the child to benefit from instruction, including speech therapy, counseling, social work, parent training, transportation, physical and occupational therapy, mobility and orientation training, and any other service necessary to benefit from education
- Must be based on student's need and not on what the school already provides
- Must be free of charge to parent



**TRANSITION SERVICES** |

# TRANSITION SERVICES

- Over 90,000 16-22 year old special education students attend Texas public schools and need assistance preparing for life after high school.
- Effective and early transition planning is especially important in Texas, where wait lists for community based services often exceed ten years.
- Transition planning means preparing for work and living after high school
- Begin at age 14
  - Must invite student to participate in deliberations and if doesn't attend, ensure their preferences and interests
  - Engage other agencies (Dept of Aging and Rehabilitation Services, MH/IDD)
  - Consider alternatives to guardianship
  - Prepare student for independent living, employment and further education

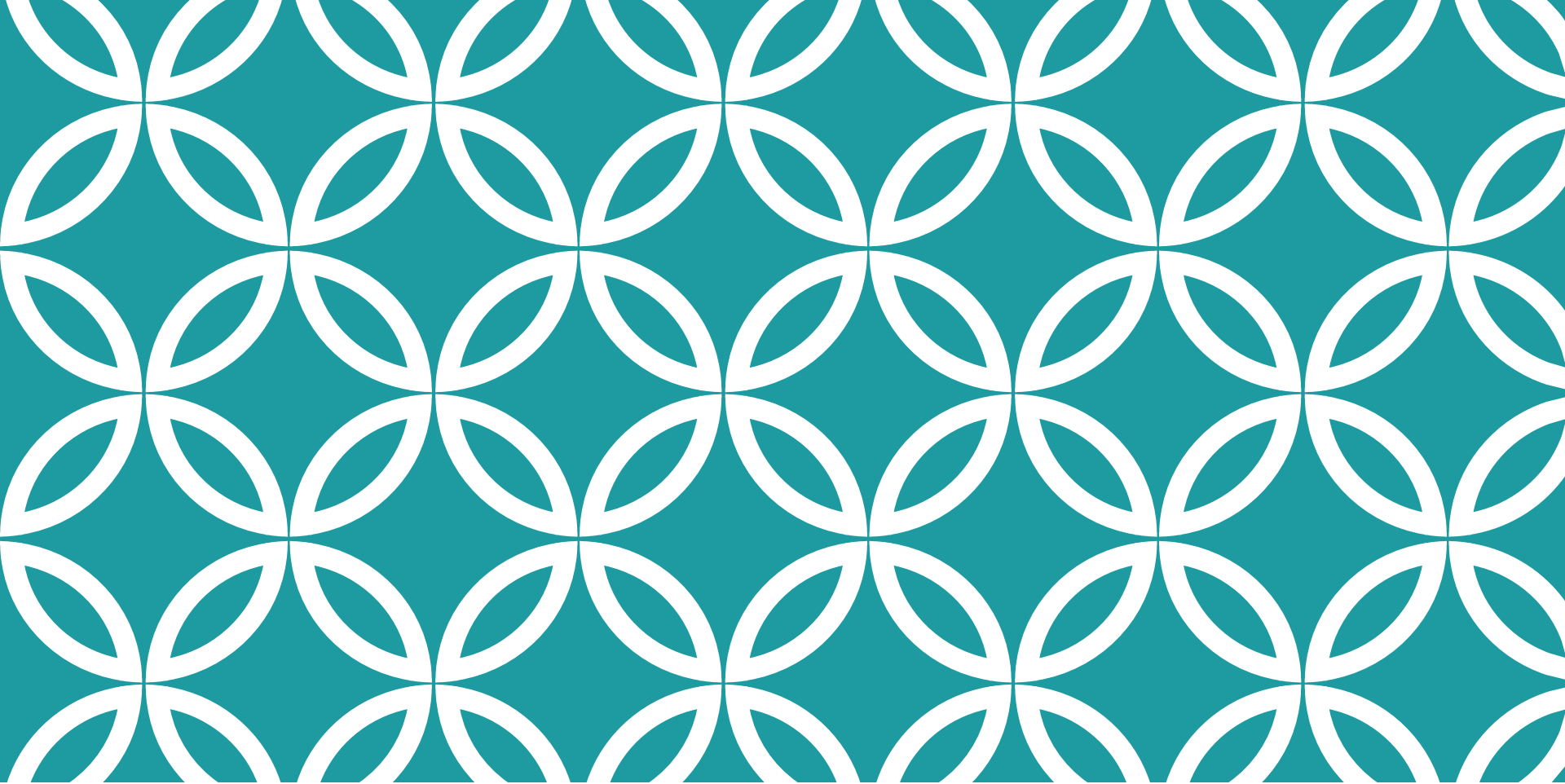
# ASK FOR HELP

## Disability Rights Texas

Toll-Free Statewide Intake Line: 1-800-252-9108

<http://www.disabilityrightstx.org/>

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**QUESTIONS?** |