

REPRESENTING CHILDREN AND PARENTS WITH DISABILITIES

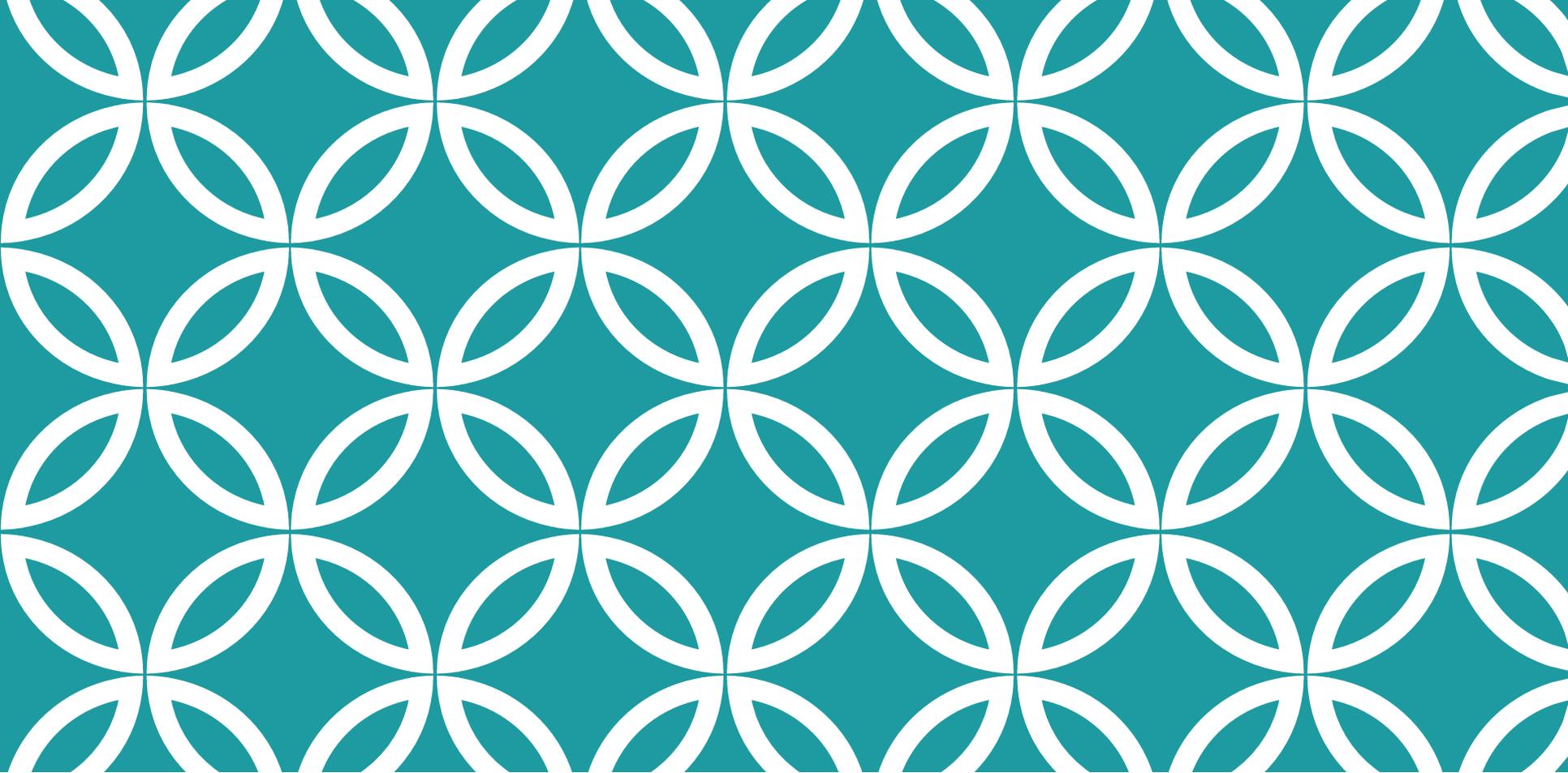
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OVERVIEW

1. Who are we and what do we do?
2. Who are persons with disabilities?
3. What legal protections exist for persons with disabilities?
4. What we can do to effectively advocate for these clients?

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



PERSONS WITH DISABILITIES |

WHO IS A PERSON WITH A DISABILITY PURSUANT TO THE AMERICANS WITH DISABILITIES ACT?

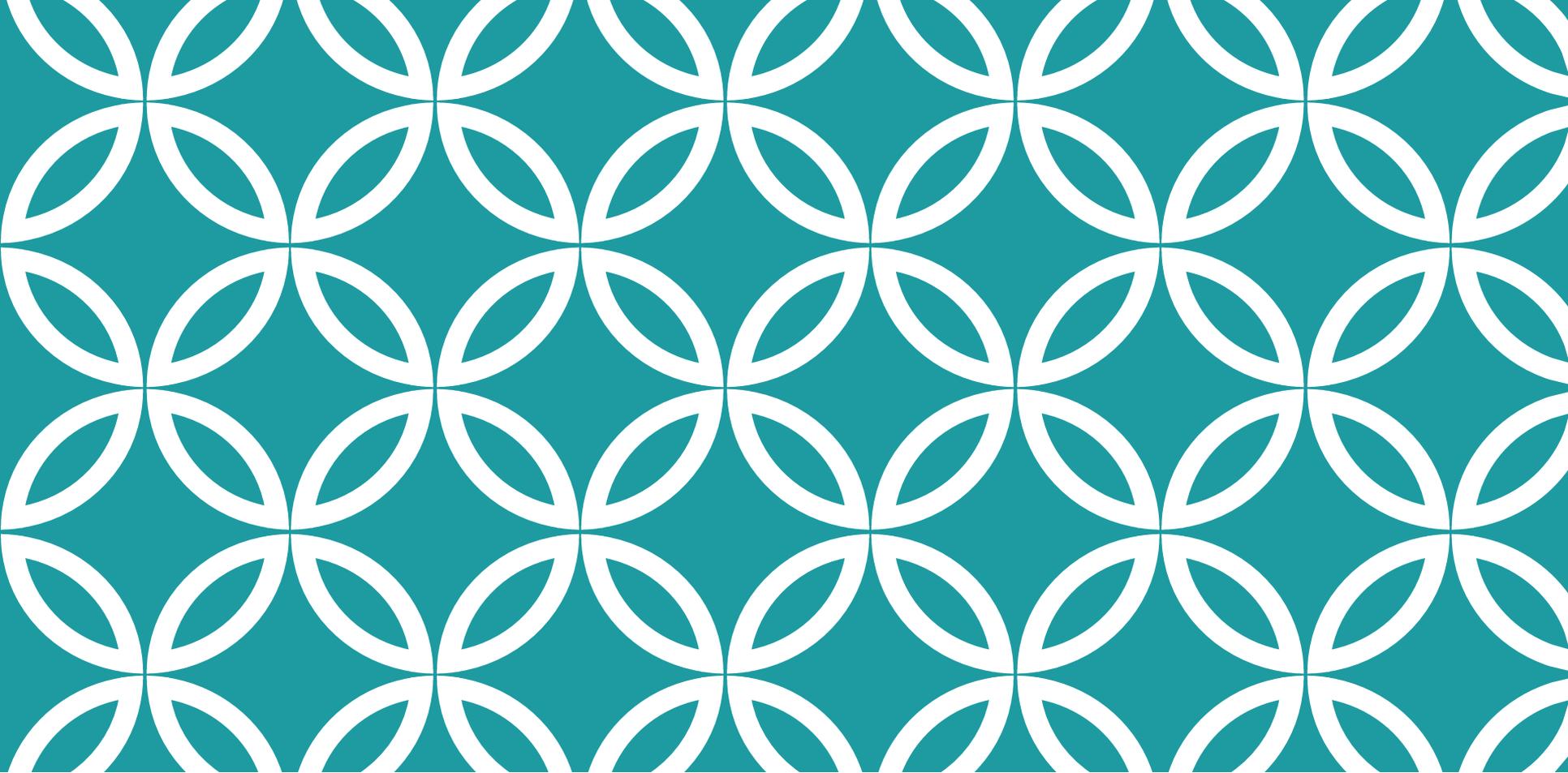
- 1) A person with a disability (a physical or mental impairment that substantially limits one or more major life activities)
 - a) Physical or mental impairment
 - b) Examples of major life activities: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, procreating
 - c) Substantially limits: unable to perform major life activity, or significantly restricted as to the condition, manner, or duration under which a major life activity can be performed, in comparison to the average person/most people
 - d) Must be assessed without regard to mitigating measures (prosthetics, assistive devices, medications, etc.)

WHO DOES NOT QUALIFY AS A PERSON WITH A DISABILITY?

- 1) Individuals who use illegal drugs and/or abuse alcohol are not covered if discrimination occurs on the basis of such use. Persons who are no longer illegally using drugs or abusing alcohol are protected from discrimination.
- 2) Homosexuality and bisexuality are not physical or mental impairments under the ADA.

HOW TO DETERMINE WHETHER YOUR CLIENT HAS A DISABILITY

- Screening at intake
- Psychological testing
- CANS Assessment
- ECI
- Primary physician can identify delays in infants and toddlers and make referrals for occupational, speech, and physical therapies
- Testing completed by school district to determine whether child is eligible for special education services or other supports and/or accommodations.



LEGAL PROTECTIONS FOR PARENTS WITH DISABILITIES



FEDERAL DISABILITY ANTI-DISCRIMINATION LAWS

- Rehabilitation Act of 1973 - Section 504 prohibits discrimination against people with disabilities in programs and activities receiving federal funds and in federally conducted programs. Section 504 does not address private employment and public accommodations.

CIVIL RIGHTS LAWS

- Americans with Disabilities Act of 1990 - Prohibits discrimination against people with disabilities in employment, public accommodations, activities of state and local government, transportation and telecommunications.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT

Except as provided in subparagraph (D), reasonable efforts shall be made to preserve and reunify families –

- (i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home; and
- (ii) to make it possible for a child to safely return to the child's home. 20 U.S.C. § 671(a)(15)(B)

PREVENTIVE AND REUNIFICATION SERVICES

- Protective Day Care - care provided for child for less than 24 hours at a time, 40 TAC § 700.903, CPS Handbook § 3220(1);
- Protective Homemaker Services - services provided to children and their families in their homes by trained and supervised homemakers; 40 TAC §§ 700.902 & 700.1711, CPS Handbook § 3220(2);
- Parent/caregiver training (parenting classes) - training provided to parents to improve their parenting skills, 40 TAC § 700.1712, CPS Handbook § 3220(3);

PREVENTIVE AND REUNIFICATION SERVICES

- Community-based Treatment Services - assessment and evaluation, treatment planning, treatment, individual, group, and family therapy, 40 TAC §§ 700.904 & 700.1714;
- Concrete services - goods and services that can be purchased that directly contribute to the safety of the home, allowing child to remain in the home, or expediting reunification, CPS Handbook §§ 3240-3244, Appendix 3177-A; and
- Family Based Safety Services (CPS Handbook §§ 3250-3335, Appendix 3130), Reunification Safety Services (CPS Handbook, appendix 3130) and Family Preservation Services (19 TAC § 700.713).

STANDARD FOR EMERGENCY REMOVAL OF CHILDREN

Facts sufficient to satisfy a person of ordinary prudence and caution that:

- (1) there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse;
- (2) continuation in the home would be contrary to the child's welfare;
- (3) there is no time, consistent with the physical health or safety of the child, for a full adversary hearing under Subchapter C; and
- (4) **reasonable efforts, consistent with the circumstances and providing for the safety of the child, were made to prevent or eliminate the need for the removal of the child.**

IS THE DEPARTMENT'S FAILURE TO MAKE REASONABLE EFFORTS A DEFENSE?

Section 161.001 of the Family Code does not require the Department to make efforts to reunite a family prior to termination. *Jones v. Dallas County Child Welfare Unit*, 761 S.W.2d 103, 109 (Tex. App. – Dallas 1988, writ denied).

INABILITY TO CARE FOR CHILD GROUND (TEX. FAM. CODE § 161.003)

- 1) Parent has a mental or emotional illness or a mental deficiency that renders the parent unable to provide for the physical, emotional, and mental needs of the child;
- 2) The illness or deficiency will continue to render the parent unable to provide for the child's need until the 18th birthday of the child;
- 3) The Department has been the temporary managing conservator of the child for at least six months preceding the merits hearing;
- 4) **The Department has made reasonable efforts to return the child to the parent; and**
- 5) The termination is in the best interest of the child.

CPS HANDBOOK: § 1517 CLIENTS WITH COMMUNICATION DISABILITIES

- CPS does not use family members or friends to interpret, sign, or read for person with a disability, except at the client's specific request.
- Child victims should not be used as interpreters except for brief interaction to ascertain the client's request and/or arrange requested interpreter services.
- CPS must ensure that communications with clients who have impairments are as effective as communications with others and that clients understand all significant CPS actions as fully as possible at each stage of service.

CPS HANDBOOK: § 1517 CLIENTS WITH COMMUNICATION DISABILITIES

- When emergency action must be taken to protect a child, CPS must provide, at the earliest possible opportunity, the use of auxiliary aids and services to ensure that the client with a communication disability understands as fully as possible all actions taken by CPS.
- **Exception:** When emergency circumstances may require immediate action to protect the child, CPS must not hesitate to protect the child while attempting to communicate with clients who have communication disabilities. Efforts to provide preferred method of communication must not delay or interfere with any actions to protect the child.

ACCOMMODATIONS FOR CLIENTS WITH VISUAL IMPAIRMENTS

The types of aids and services that should be considered include:

- Readers
- Audio tapes
- Braille
- Large print

ACCOMMODATIONS FOR CLIENTS WHO ARE DEAF, HARD OF HEARING OR SPEECH IMPAIRED

The types of aids and services that should be considered include:

- Sign-language interpreters
- Note takers
- Transcription services
- Written or printed materials
- Telephone handset amplifiers
- Assistive listening devices

CERTIFIED INTERPRETERS REQUIRED FOR COURT HEARINGS

- Under Chapter 57 of Texas Government Code, courts are required to provide interpreter services for persons who are deaf or hard of hearing during court and other proceedings.
- Interpreters must be a Court Interpreter Certified by the Texas Commission for the Deaf and Hard of Hearing.

CERTIFIED INTERPRETERS REQUIRED FOR COURT HEARINGS

- If the court has not indicated plans to provide the required interpreter, CPS should inform the District Attorney's Office in order to notify the court of this requirement.
- For more information regarding the duty to provide Court Interpreter, see brochure "The Legal Rights of People Who are Deaf or Hard of Hearing in Texas Courts" by Advocacy, Incorporated.

INTERPRETER REQUIREMENTS FOR CPS INTERVENTIONS

- When possible, CPS should arrange to use a Level III, IV or V interpreter certified by the Texas Commission for the Deaf and Hard of Hearing.
- Certified interpreters must be used during:
 - Interviews
 - Supervised Visitation
 - Family team meetings
 - Permanency planning meetings and other staffings
 - Family Group Conferences
 - Mediations
 - Court proceedings

CPS HANDBOOK: § 3177 REASONABLE ACCOMMODATIONS AND MODIFICATION OF SERVICES

- To be in compliance with the Americans With Disabilities Act (ADA), service plans must include “reasonable accommodations” and modifications of CPS services to persons with disabilities who require services. The ADA defines a person with a disability as someone with a physical or mental impairment that substantially limits one or more major life activity. The definition includes individuals who have a record of history of an impairment or who are regarded as having a physical or mental impairment.
- Persons with disabilities must be afforded the opportunity to receive services as effective as those provided to non-disabled persons. Ideally, services should be provided in a setting that integrates disabled and non-disabled persons.

CPS HANDBOOK: § 3177 REASONABLE ACCOMMODATIONS AND MODIFICATION OF SERVICES

DOCUMENTATION

- Staff must clearly, concisely, and comprehensively document each modified service offered to a client with disabilities and particularly note those services that involve a reasonable accommodation of the person's disabilities. The modified services may be either provided directly or through referrals to other agencies.
- Staff must provide persons with disabilities written notice of the name, address, and telephone number of the ADA compliance coordinator for PRS. This information can be found in the Parent's Guide booklet that is given to every parent during a CPS investigation.
- Refer to Appendix 3213-A, Americans With Disabilities Act Reasonable Accommodations in Service Planning, for information on providing reasonable service accommodations and modifications in service planning for persons with disabilities.

EXAMPLES OF MODIFICATIONS TO SERVICES

- Increased frequency with which the service is provided;
- Extended length of time the service is provided;
- Modified counseling/parenting skills training to provide more concrete, hands-on instruction in a natural environment;
- In-home parent modeling;
- Increased repetition of information and training over an extended period of time;
- Reminders for appointments/services on a more frequent and intensive basis;
- Concrete calendar with appointments clearly identified;
- Transportation arrangements made or provided directly;
- More extensive and thorough follow-up services;

EXAMPLES OF MODIFICATIONS TO SERVICES

- Moving a service from an upper level floor to the first floor of a building;
- Relocating a service to an accessible facility;
- Providing an aide or personal assistant;
- Providing benefits or services at an individual's home or alternative accessible site;
- Providing program information in large print, audio tape, braille, etc.;

EXAMPLES OF MODIFICATIONS TO SERVICES

- Linkage of parent with a co-parent or mentor;
- Interpreter services;
- Exploration of “supported housing” for parents with disabilities through local MHMR community centers;
- Specialized parenting education specifically tailored to the parent with mental health issues; and
- Protective day care services.

EXAMPLES OF MODIFICATIONS TO SERVICES

Linking parents to local resources such as:

- Americorps;
- The ARC, support group for developmental disabilities;
- Disability Rights Texas;
- United Cerebral Palsy;
- Department of Health and Human Services;
- Early Childhood Intervention;
- Local mental health authority;
- Local Independent Living Center;
- Texas Department of Human Services (DHS)
- Community Care for the Aged and Disabled (CCAD)
- Social Security Administration for Social Security;
- Community Resource Coordination Group (CRCG); and
- Children's Mental Health Plan

CPS HANDBOOK: ADA REASONABLE ACCOMMODATIONS FOR SERVICE PLANNING, APPENDIX 3213-A

- Staff will provide reasonable service modifications to parents with disabilities so that the services are as effective as those provided to non-disabled persons in every stage of client services delivery.
- Staff will utilize the risk assessment and family assessment instructions to help identify needs that may require modified services for clients with disabilities in order to reduce the risk of child abuse and neglect.
- Service plans developed jointly by staff and clients will address any modification in services to support parents with disabilities in preventing the removal of children from the home whenever possible, and/or to ensure the earliest possible return home of children from court-ordered placements when reasonable safety for children can be ensured.

CPS HANDBOOK - APPENDIX 3213-A (CONT.)

- Staff will make reasonable efforts to coordinate with all public and private agencies that provide treatment or support services to parents with disabilities.
- Staff will make reasonable efforts to obtain suggestions from providers offering services to clients with disabilities.
- Before considering termination of parental rights, PRS will provide modified services to parents with disabilities to accommodate their disabilities in order to give them the opportunity to demonstrate their ability to provide for the physical, emotional, and mental needs of their children.
- Staff should request that an attorney ad litem be appointed to parents with mental disability in all cases that require court intervention.

CPS HANDBOOK - APPENDIX 3213-A (CONT.)

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CPS HANDBOOK - APPENDIX 3213-A (CONT.)

- Staff may develop a “special safety plan” that involves using an advance directive executed by the parent to identify a caretaker for their children if the parent’s situation deteriorates to the extent that the parent can no longer assure the safety of the child. Staff must agree that the selected caretaker has the ability to provide a safe, healthy environment for the child. (Refer to Item 3172, Voluntary Placement Initiated by the Family.)
- In the event reasonable service modifications have been provided but the child’s safety cannot be ensured, PRS will discuss with parents placement options that will enable the parent to remain as involved as possible with the child. (Example: a voluntary placement agreement with a private provider.)

CPS HANDBOOK - APPENDIX 3213-A (CONT.)

- Staff may utilize the local Community Resource Coordination Group (CRCG) to assist in obtaining modified services for parents with disabilities.
- Staff will collaborate with local agencies providing services to persons with disabilities regarding training for staff and for families with disabilities.

ADA AS AN AFFIRMATIVE DEFENSE

- *In re C.M.*, 996 S.W.2d 269 (Tex. App.--Houston [1st Dist.] 1999, no pet.)
- *In re B.L.M.*, 114 S.W.3d 641 (Tex. App.-Fort Worth 2003, no pet.)
- *McKay v. Dep't of Family & Protective Servs.*, No. 01-06-00568-CV, 2007 WL 1775985, at *4 (Tex. App.– Houston [1st Dist.] June 21, 2007)
- However, *In re S.G.S.*, 130 S.W.3d 227 (Tex. App.-Beaumont 2004, no pet.), the court declined to create an affirmative defense out of noncompliance with the ADA.

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

- When counsel is appointed to represent a parent with disabilities:
 - Timely filed answer can include an affirmative defense for lack of compliance with ADA;
 - Throughout the case, request accommodations identified in the CPS Handbook;
 - Maintain thorough documentation of when DFPS did not provide accommodations consistent with the CPS Handbook; and
 - At trial, be prepared to put on evidence to prove the affirmative defense and secure necessary findings

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

■ Investigation Phase

- If a parent with mental illness does not consent to examination or allow access to mental health records, TDFPS may petition the court, for good cause shown, to have access to records or an examination of the parent under Tex. Fam. Code § 261.305. An indigent parent has the right to appointed counsel at this hearing.

■ Court Ordered Services

- The Court may order a parent to participate in services provided by TDFPS without removing the child from the home. Such services may include in-home programs, parenting skill training; youth coping skills; and individual and family counseling.

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

Initial Removal Hearing

- If TDFPS is seeking an emergency order to authorize the possession of a child, then the court must determine whether reasonable efforts were made to prevent or eliminate the need for removal before entering an ex parte order under Tex. Fam. Code §§ 262.102(a)(4) and 262.107(a)(3).

Full Adversary Hearing

- Within 14 days of TDFPS takes possession of child, the court must determine whether reasonable efforts have been made to enable the child to return home before entering temporary orders under Tex. Fam. Code § 262.201.

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

■ Initial Service Plan

- Within 45 days after TDFPS is appointed temporary managing conservator of the child, TDFPS in conference with the child's parents must state steps necessary for the return of the child to the child's home under Tex. Fam. Code §§ 263.101 & 263.102. The Court has the authority to render appropriate orders to implement the service plan under Tex. Fam. Code § 263.106.

■ Initial Status Hearing

- Within 60 days after the appointment of TDFPS as temporary managing conservator, the court must conduct a status hearing in which the court must determine whether the plan that has goal of family reunification ensures that reasonable efforts are made under Tex. Fam. Code § 263.202.

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

- Initial Permanency Hearing Before Final Order
 - Within 180 days after the appointment of DFPS as temporary managing conservator, the court must:
 - Evaluate the parties' compliance with the service plan and whether TDFPS has made reasonable efforts;

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

■ Motion for Further Temporary Orders

- At any time prior to the entry of a final order, the court may make a temporary order, including the modification of a prior temporary order, for the safety and welfare of the child under Tex. Fam. Code § 105.001(a).

WHEN SHOULD REASONABLE ACCOMMODATION CLAIMS BE RAISED

Fair Hearing

- Parent may request an administrative hearing to appeal the denial, reduction or termination of a preventive or reunification service under 42 U.S.C. § 671(a)(12) and 40 TAC § 700.310.

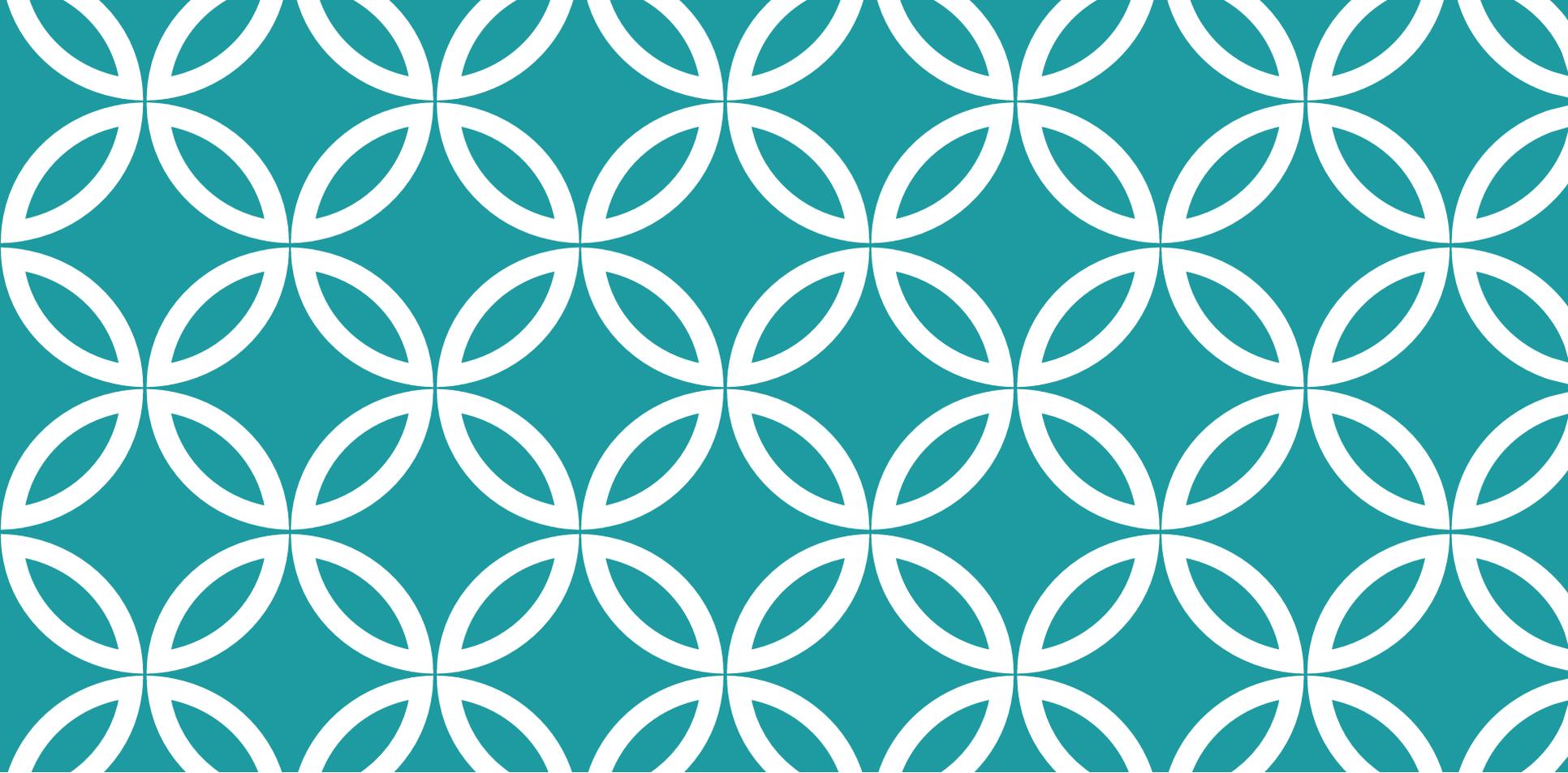
ETHICAL DILEMMA TO REQUEST ACCOMMODATIONS OR NOT TO REQUEST ACCOMMODATIONS

Tex. Disciplinary R. Prof. Conduct 1.03(b) & cmt. 5 provides:

- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

Client under a Disability

- Comment no. 5. In addition to communicating with any legal representative, a lawyer should seek to maintain reasonable communication with a client under a disability, insofar as possible. When a lawyer reasonably believes a client suffers a mental disability or is not legally competent, it may not be possible to maintain the usual attorney-client relationship. Nevertheless, the client may have the ability to understand, deliberate upon, and reach conclusions about some matters affecting the client's own well-being. Furthermore, to an increasing extent the law recognizes intermediate degrees of competence. The fact that a client suffers a disability does not diminish the desirability of treating the client with attention and respect.



**LEGAL PROTECTIONS AVAILABLE
TO YOUTH WITH DISABILITIES**



FOSTERING CONNECTIONS ACT

- Focus on permanency, safety and well-being for the child
- Federal law requiring states to develop plans ensuring children removed from their parents can attend the school they attended prior to removal.
- The Act also provides funding to states to assist foster families with transportation costs.

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

ELIGIBILITY CATEGORIES

- Intellectual Disability
- Hearing impairments, including deafness
- Speech or language impairments
- Visual impairments, including blindness
- Serious emotional disturbance
- Orthopedic impairments
- Autism
- Traumatic brain injury
- Other health impairments, such as a terminal or chronic disorder
- Specific learning disabilities, such as dyslexia

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.

PRACTICE TIP — SURROGATE PARENT

Court may appoint a surrogate parent for special education decision making if:

- Child is eligible to participate in a school district's special education program; and
- The appointment is necessary to ensure that the educational rights of the child are protected

PRACTICE TIP — SURROGATE PARENT

- Must identify someone who is willing to serve as the surrogate parent
- The individual must complete a training program before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent begins acting as the parent for the purpose of making special education decisions.
- Preference given to foster parents.
- Recommend requesting that CASA be appointed as surrogate parent when child has instability in placement.

LEAST RESTRICTIVE ENVIRONMENT

- *To the maximum extent possible*, children with a disability should be educated with children who are not disabled
- To justify removal from an inclusive setting:
 - The nature and severity of the disability of a child is such that education in regular education
 - With the use of supplementary aids and services
 - **CANNOT** be achieved satisfactorily

FAPE AND BEHAVIORAL SUPPORTS

- Behavioral supports might be necessary to provide a child with a free appropriate public education
- If a child's behavior interferes with his education or that of his peers, request an functional behavior assessment (FBA) and behavior intervention plan! (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

IDEA & DISCIPLINARY CHANGE IN PLACEMENTS

- Schools cannot use a “zero tolerance” policy towards a student with a disability
- IDEA allows schools to consider unique circumstances on a case-by-case basis
- School personnel can decide whether or not to order a change in placement for a student code of conduct violation

MANIFESTATION DETERMINATION REVIEW

The ARD committee must decide if the student's conduct:

- Was caused by, or had a direct and substantial relationship to the student's disability; OR
 - Was the direct result of the school's failure to implement the student's IEP.
- If the student's behavior was a manifestation, student cannot be expelled without parental consent and must be returned to pre-removal placement (unless involved drugs, weapons, or serious bodily injury)

IF BEHAVIOR IS NOT A MANIFESTATION

- School can discipline like a general education student BUT school must continue to provide FAPE
- Best practice: conduct new/update FBA and BIP to prevent negative behavior from reoccurring

EDUCATION SERVICES DURING SUSPENSION OR EXPULSION

- A district may be required to provide a Free Appropriate Public Education (FAPE) during suspensions and expulsions.
- If the removal is **less than 10 days**, the school is only required to provide the same services it provides to non-disabled students.
- If the removal is for **more than 10 days** then the school must provide services.
 - The services provided don't have to be exactly the same services but the school must enable the child to continue to participate in the general curriculum.

RESTRAINT/SECLUSION

Seclusion: Banned

- Students may not be confined in a locked box, locked closet, or locked room that: (A) is designed solely to seclude a person; and (B) contains less than 50 square feet of space. Texas Education Code § 37.0021.

Restraint: Restricted

- Only allowed in emergency situations, in which student's behavior poses a threat of: (A) imminent, serious physical harm to the student or others; or (B) imminent, serious property destruction. 19 T.A.C. §89.1053
- Notice Requirements See 89.1053(e)
- Staff Training Requirements See 19 T.A.C. 89.1053(d)

FOSTER PLACEMENT: LEAST RESTRICTIVE ENVIRONMENT

- If a child is placed in institutional care, efforts must be made by DFPS to ensure that the child is placed in the least restrictive environment consistent with the child's best interest and special needs
- Appropriate therapeutic interventions must be implemented
- Trauma informed care
- Treatment team meetings should be focused on discharge planning and getting the child back into the community
- Children should not be spending most of their time in care in institutions

FOSTER PLACEMENT: LEAST RESTRICTIVE ENVIRONMENT

- “ Most children will heal with stability, consistency, nurture and support of caregivers knowledgeable of trauma-informed care.
- This means that the child does not change placements and the caregiver:
 - Is patient, understanding, kind, loving, and gentle.
 - Gives clear instructions about expectations and house rules.
 - Gives consistent consequences when rules are broken.
 - Teaches the child coping skills and how to control their behavior and emotions in an age appropriate way.
 - Praises the child for positive behaviors.”

FOSTER PLACEMENT: LEAST RESTRICTIVE ENVIRONMENT

- Additional supports to prevent institutionalization and disruption in placement:
 - YES Waiver wraparound program for children with emotional disturbances;
 - Personal Care Services for in-home aides that can assist with cuing and redirecting child and make child takes medications;
 - Board Certified Behavior Analysts can come in home and develop behavioral intervention plans to assist the caregiver
- Normalcy activities

FOSTER PLACEMENT: LEAST RESTRICTIVE ENVIRONMENT

- Individual therapy should be trauma-informed and use bottom-up approaches
- Home Community Services available for children with intellectual development disabilities
- In-home and in-school therapies should be sought out for deficit in speech, writing, eating or walking/coordination delays
- Applied Behavior Analysis is the recommended treatment for Autism Spectrum Disorder

FOSTER PLACEMENT: DISCIPLINE

- Right to discipline that is appropriate for the child's age, maturity, and developmental level;
- Right to have restrictions or disciplinary policies explained to the child at admittance and when measures are imposed
- Right to discipline approaches that encourage self-esteem, self-control, and self-direction.

FOSTER PLACEMENT: RESTRAINT & SECLUSION

- Only caregivers qualified to administer emergency interventions may do so
 - Exception – Short Personal Restraint
- Before using emergency behavior intervention, caregiver must
 - Attempt less restrictive behavior interventions; and
 - Determine that the basis for the emergency behavior intervention is for an emergency or to administer intra-muscular medication or other medical treatments prescribed by a licensed physician

PSYCHOTROPIC MEDICATIONS

- Except in emergency cases, a child should not be prescribed psychotropic medication before the child receives the following:
 - A. Thorough health history;
 - B. Psychosocial assessment;
 - C. Mental status exam; and
 - D. Physical exam
- Non-pharmacological treatment should be considered first
 - Except in urgent situations (i.e. suicidal ideation, psychosis, self-injurious behavior, physical aggression that is acutely dangerous, or severe impulsivity endangering the child, etc)

PSYCHOTROPIC MEDICATION UTILIZATION REVIEW

- A PMUR review is triggered when:
 - There is an absence of a thorough assessment for DSM-5 diagnosis in child's medical record
 - Any child under age 4 is prescribed psychotropic medications;
 - Any child whose medication regimen appears to have class polypharmacy as defined
 - 2 or more concomitant stimulant medications;
 - 2 or more concomitant alpha antidepressants
 - 2 or more concomitant antipsychotics; or
 - 2 or concomitant mood stabilizers
 - Any child is prescribed 4 or more psychotropic medications
 - Any child is prescribed a dosage that exceeds typical recommended dosage
 - Any child who is prescribed antipsychotic medications continuously without monitoring of glucose and lipids every 6 months

TRANSITION OUT OF CARE

- Key identification documents:
 - Birth certificate
 - Social security card or replacement social security card, as appropriate
 - Personal identification certificate
- Supplemental Security Income benefits
 - 811 housing
- Texas Workforce Solutions Vocational Rehab program
- Support system

KEY DFPS CONTACTS

- Education Specialist
- Developmental Disability Specialist
- Well-being Specialist
- Preparation for Adult Living (PAL)
- Social Security Supplemental Income (SSI) Coordinators

WEB SITE RESOURCES

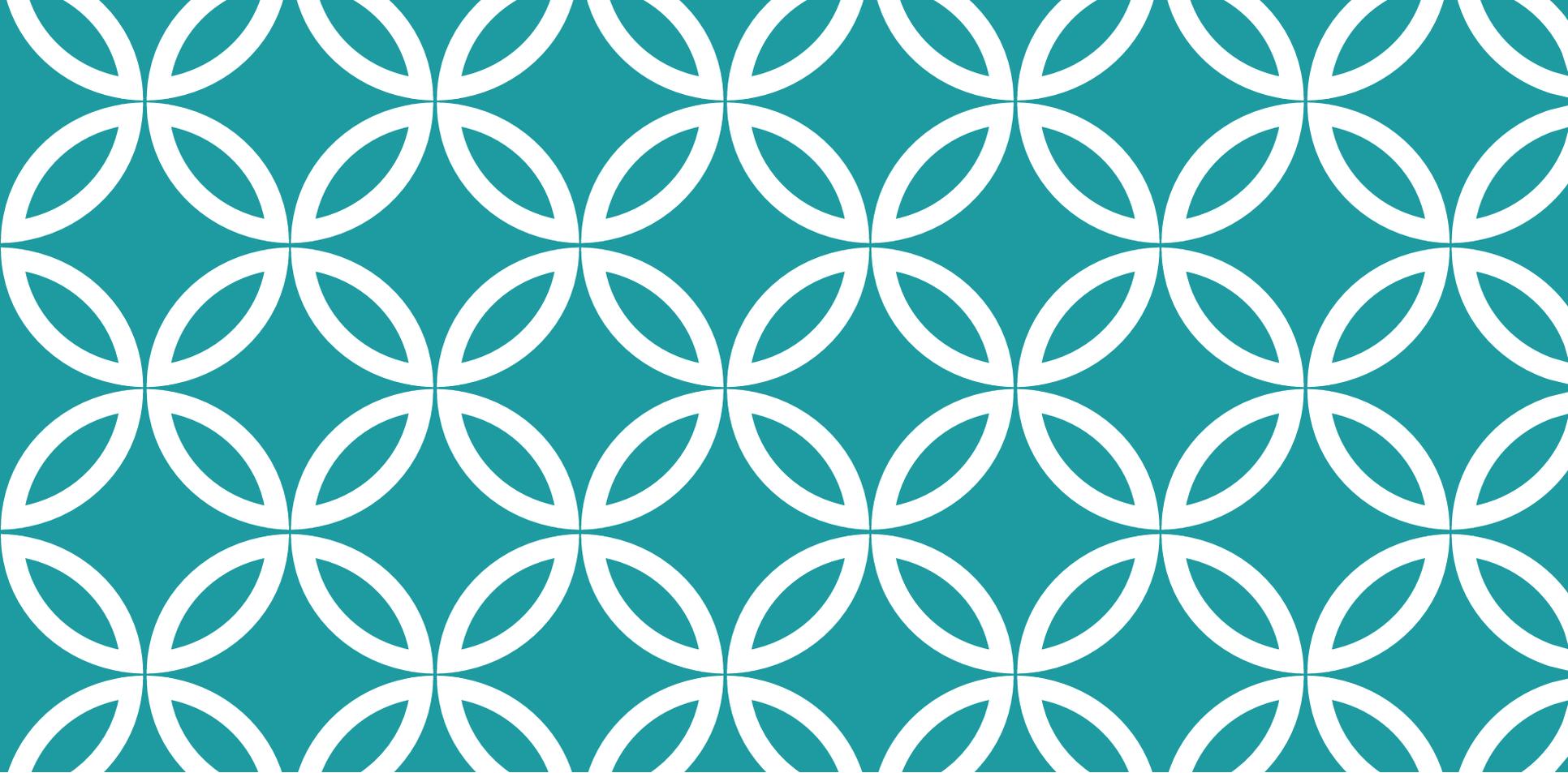
https://www.dfps.state.tx.us/Child_Protection/Medical_Services/documents/reports/2016-03_Psychotropic_Medication_Utilization_Parameters_for_Foster_Children.pdf

https://www.dfps.state.tx.us/Child_Protection/Medical_Services/documents/STAR_Health_PMUR_FAQ.pdf

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