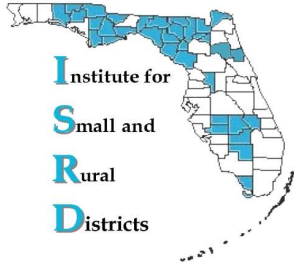


ISRD Staffing Specialist Newsletter

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Tips for Making Defensible LRE Determinations

Provided by Julie Weatherly, Esq.

1. Remember that the LRE mandate does not trump FAPE. The pertinent overall question for every student is “what is the least restrictive environment where this student can receive *meaningful* (rather than minimal or de minimis) educational benefit?”
 - a. Education with nondisabled peers is required to the “maximum extent *appropriate*,” not to the “maximum extent *possible*.”
2. Specifically identify the individual needs/target skills of the student and prioritize them, taking into consideration the nature/severity of the student’s disability and the student’s age:
 - a. Academic needs/skills
 - b. Nonacademic needs/skills (behavioral, socialization or interpersonal, communication, motor, modeling language/behavior, skills of independence or personal responsibility, generalization)
3. Determine what level of services/supports is necessary to meet the defined needs and to support progress on goals/objectives.
 - a. Intensive/one-to-one instruction
 - b. Supplementary aids and services
 - i. resource room
 - ii. itinerant instruction
 - iii. modification of curriculum
 - iv. teacher training
 - v. behavior management
 - vi. classroom aide
 - vii. personal aide
 - viii. assistive technology devices/services
4. Determine whether the student’s needs can be met *satisfactorily* in the regular education classroom with/without supplementary aids and services.
 - a. Level of disruption in the regular education environment
 - i. Acting out behavior (s)
 - ii. Deprivation of benefit to other students in class
 - b. Cost
 - c. Harmful effects upon autistic student
 - d. Meaningful educational benefit
5. Identify what efforts the school has made to educate in the regular education classroom/try less restrictive options.
 - a. Identify efforts made/supplemental services provided
 - b. Review data regarding progress/meaningful benefit
6. If needs can not be/have not been *satisfactorily* met in the regular education classroom, slowly move along the continuum of alternative placements beginning with less restrictive options and moving to the most restrictive to determine where meaningful benefit can be received:
 - a. regular classroom instruction for the entire school day, with modifications to the regular instructional program;
 - b. regular classroom instruction for the entire school day, with individualization of instruction by the classroom teacher for part of the school day;
 - c. regular classroom instruction for the entire school day, with individualized instruction services by a special education teacher or related service staff member for part of the school day;
 - d. regular classroom instruction for most of the school day, with individualized instruction or services provided in another setting for part of the school day;
 - e. regular classroom instruction for most of the school day, with special education instruction in basic skills areas and/or related services provided in a resource room for part of the school day;

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Professional Learning Community for Staffing Specialists

The first two books of the 2009-10 Staffing Specialists book club have received positive responses from the participants. Both are available for check-out from the ISRD Lending Library. The next selection is Wrightslaw’s *All About IEPs*. It is written primarily for parents but provides a good overview for what the law requires from districts and schools.

Prompts will be posted on the ISRD website, Message Board for Staffing Specialists.

- f. resource room instruction for part of the school day, with instruction in the regular classroom for part of the school day;
- g. self-contained classroom instruction, with instruction in the regular classroom for part of the school day;
- h. full-time instruction in self-contained classroom with opportunities for participation with non-eligible students in non-academic and extracurricular activities;
- i. full-time instruction in a self-contained (separate) school;
- j. instruction provided in a hospital or residential facility settings on an individual or group basis;
- k. homebound instruction.

7. If the parent disputes the school’s LRE recommendation, using a contrast/compare approach, define the academic and nonacademic benefits of the proposed placement versus the parents’ desired placement.

8. If removal from the regular classroom is determined to be appropriate, determine what alternative mainstreaming opportunities to the maximum extent appropriate can be made available.

- a. P.E., Art, Music, Electives
- b. Lunch
- c. Nonacademic and extracurricular activities
- d. Reverse mainstreaming

Legal Rulings - Inclusion

Case Where School District is Proposing Less Restrictive Program than Placement Parents Desire

R.V vs. Simi Valley Sch. Dist., 109 LRP 44928 (C.D. Cal 2008). School district’s decision is upheld that adolescent autistic student does not require self-contained, specialized program for students with autism in order to receive FAPE. Proposed placement in general education setting provided student with the opportunity to be in classes with typically developing peers, whereas in non-public school’s self-contained program sought by parents, almost all of the student’s classmates would have an autism diagnosis and because non-public program lacked female students, student would have little opportunity to establish friendships with other females.

Case Where School District is Proposing a Move to a More Restrictive Environment

Pachl vs. School Bd. Of Anoka-Hennepin Indep. Sch. Dist. No. 11, 46 IDELR 1, 453 F.3d 1064 (8th Cir. 2006). School district provided FAPE in the LRE to a sixth-grade student with developmental and physical disabilities, including autism, when it developed an IEP that provided that she spend two hours per day in a self-contained classroom. Placing student in small structured classroom for 30 percent of the school day and in selected general education programs for 70 percent of the day provided appropriate balance from which she would receive meaningful educational benefit along with social interaction with her non-disabled peers. In addition, student will receive greater benefit from small structure of segregated class rather than large, lecture-driven general education classroom for which the parents advocate.

Most Important Words

- The **six** most important words -
“**I admit that I was wrong.**”
- The **five** most important words -
“**You did a great job.**”
- The **four** most important words -
“**What do you think?**”
- The **three** most important words -
“**May I help?**”
- The **two** most important words -
“**Thank you.**”
- The **most** important word - “**We.**”
- The **least** important word - “**I.**”

Resources to Explore—Inclusion

- **Ace Disability** - <http://www.acedisability.org.au/inclusion/>
- **Center for Applied Special Technology (CAST)** - <http://www.CAST.org>
- **Kids Included Together** - <http://www.kitonline.org>
- **Inclusion Network** - <http://www.inclusion.com>
- **The Association for the Severely Handicapped (TASH)** - <http://www.TASH.org>
- **Wilderness Inquiry** - <http://www.wildernessinquiry.org>
- **Including All Kids** - <http://www.IncludingAllKids.org>
- **Including Samuel** - <http://www.includingsamuel.com> A documentary by Dan Habib. The ISRD lending library has a copy of the documentary, along with an education guide, that is available for check-out.

*****MARK YOUR CALENDAR*****

Heather Diamond, **FDOE/BEES Program Specialist for Specific Learning Disabilities**
Conference Call dates for District SLD Contacts:
March 26, April 30, May 28, June 25
10:00 am - 11:00 am
1-888-808-6959
Conference Code: 6351196864, followed by #

“You must have long range goals to keep from being frustrated by short-term obstacles.”

Bob Bales