

What Parents Should Know about Inclusion

Least restrictive environment (LRE) is a key concept in federal and state special education law. LRE means that to “the maximum extent appropriate, children with disabilities, ... are educated with children who are nondisabled; and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” The regulations further say that “(d) in selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and (e) a child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.”

While the strong emphasis on keeping a child with a disability in regular classrooms is clear, implementation of this concept can be difficult for parents and school staff. Frequently (d) is used to explain and justify why a student needs to be moved from the regular classroom partially or totally. The regulations and court cases emphasize that education in the regular classroom/environment is to be as much as “appropriate”. Thus time in the regular or special education classroom or environment is not an either or. Educators and parents began to use the term mainstreaming and later the term inclusion to describe this concept. Some people talk about “full inclusion”, meaning that the child is totally in the regular environment.

What can parents say and do to build a case that more “inclusion” or mainstreaming is needed than the school is recommending or proposing? Like many special education issues inclusion has been dealt with by hearing officers and courts. A key decision that gives us guidance in Texas came from the U.S. 5th Circuit Court of Appeals in 1989 in Daniel R.R. v. State Board of Education. Daniel was a six year old child with Down Syndrome and a speech impairment, whose developmental age at the time was between two and three years.

The court decision discussed the fact that Congress had “created a strong preference in favor of mainstreaming”, (the term used at that time). They also noted that Congress also recognized that regular education is not a suitable setting for educating all children with disabilities. However, later they say “We recognize that some handicapped (remember this was 1989) children may not be able to master as much of the regular education curriculum as their non-handicapped classmates. This does not mean, however, that those handicapped children are not receiving any benefit from regular education. Nor does it mean that they are not receiving all of the benefit that their handicapping condition will permit. If the child's individual needs make mainstreaming appropriate, we cannot deny the child access to regular education simply because his educational achievement lags behind that of his classmates.”

Ultimately, the court ruled in favor of the school saying that the school “cannot educate Daniel satisfactorily in the regular education classroom. Furthermore, (the district) has taken creative steps to provide Daniel as much access to non-handicapped students as it can, while providing him an education that is tailored to his unique needs. Thus, (it) has mainstreamed Daniel to the maximum extent appropriate.” However, in so ruling the court set out a test that parents, and schools can use in determining if inclusion/mainstreaming has been implemented or considered to an appropriate extent.

Part one of this test considers whether education in the regular classroom, with the use of supplemental aids and services, can be achieved satisfactorily for a given child. If the answer is no and the school intends to provide special education or to remove the child from regular education, the second part is to ask whether the school has mainstreamed (included) the child to the maximum extent appropriate. In regards to part one, the court notes that the school should consider or provide supplementary aids and services and modifying its regular education program when they mainstream/include students. If the school did do this, the question becomes whether its efforts were sufficient. The court notes that “mere token gestures to accommodate” students are not adequate. But they also note that inclusion “would be pointless if we forced instructors to modify the regular education curriculum to the extent that the handicapped child is not required to learn any of the skills normally taught in regular education.”

The next step is to consider whether the child will receive an educational benefit from regular education. This focuses on the student's ability to grasp the essential elements of the regular education curriculum. "Integrating a handicapped child into a non-handicapped environment may be beneficial in and of itself." Thus, the inquiry must extend beyond the educational benefits that the child may receive in regular education.

Finally, the effect the child's presence has on the regular classroom environment and thus on the education that the other students are receiving must be considered. If the child requires so much of the teacher or the aide's time that the rest of the class suffers, then the balance will tip in favor of placing the child in special education.

In the conclusion the court said, "When a parent is examining the educational opportunities available for his handicapped child, he may be expected to focus primarily on his own child's best interest. Likewise, when state and local school officials are examining the alternatives for educating a handicapped child, the child's needs are a principal concern. But other concerns must enter into the school official's calculus. Public education of handicapped children occurs in the public school system, a public institution entrusted with the enormous task of serving a variety of often competing needs."

Parents and others should study and use these comments and concepts/tests in discussing the inclusion or mainstreaming of their child with the ARD/IEP team. For example, social, behavioral and language benefits that the child can or has made should be emphasized, even though they are not learning as much of the regular curriculum as their peers. Also parents can consider whether district efforts to provide supplementary aids and services and to modify its regular education program when they mainstream/include students are appropriate and not just "mere token gestures to accommodate".

Resources:

- Daniel R.R. v. State Board of Education; www.specialed.us/discoveridea/LITLOG/danielrvstateboard.htm; www.kidstogether.org/right-ed_files/daniel.htm
- The Special Ed Inclusion Network; www.specialednet.com/inclusion.htm
- Worldwide resource for families, schools, & communities; www.inclusiveschools.org
- *Foundations of Inclusion Birth to Five* video; <http://community.fpg.unc.edu/connect-modules/resources/videos/foundations-of-inclusion-birth-to-five>



The contents of this factsheet were developed under a grant from the US Department of Education, H328M120025 (PEN), H328M120026 (TEAM), & H328M120027 (PATH). However, those contents do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government. Project Officer, Greg Knollman.



PATH Project: 1-800-866-4726



PEN Project: 1-877-762-1435



TEAM Project: 1-877-832-8945

www.partnerstx.org