

Least Restrictive Environment

FEDERAL REGULATIONS

Least restrictive environment

To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when 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. (20 U.S.C. § 1412(a)(5))

General least restrictive environment requirements

- Each local educational agency shall ensure:
 - That to the maximum extent appropriate, children with disabilities, aged two to 21, including those in public or private institutions or other care facilities, are educated with children without disabilities.
 - That 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. (34 C.F.R. § 300.114)

Educational placement

In determining the educational placement of a child with a disability, including a preschool child with a disability, each local educational agency shall ensure that the placement decision is made by the IEP team in conformity with least restrictive environment provisions. (34 C.F.R. § 300.116)

Restraint and Seclusion

- To view the full text of the restraint and seclusion bill currently making its way through Congress see:
http://edlabor.house.gov/documents/111/pdf/legislation/HR4247Seclusion_Restraint.pdf
- For the complete report compiled by the Department of Education see:
http://www.disabilityscoop.com/reports/doe_summary_by_state.pdf
- For the findings of the Government Accountability Office see:
<http://www.gao.gov/new.items/d09719t.pdf>

BIPs

Five essential “themes” needed when making decisions about BIPs:

1. A BIP "must be developed when a student's behavior interferes with learning." Unsuccessful substitutions on the part of schools have included informal BIPs, social skills programs, student contracts, and more restrictive placements.
2. The BIP must be based on "recent and meaningful assessment data." In some cases schools developed a BIP without using a functional behavior assessment (FBA).
3. The BIP "must be individualized to meet the student's unique needs." In some cases a behavior management system was used for the entire classroom, or group counseling sessions or a restrictive program were used rather than an individualized BIP.
4. The BIP "must include positive behavior strategies and supports." Appropriate BIPs used a variety of individualized, positive and student focused strategies, such as environmental alterations, alternative skill instruction, cooling off periods, curricular modifications and frequent contact with parents and professionals working with the student outside of school. BIPs that included punishment and discipline, shorter school days, excessive use of time-out and isolation, and the use of restraints as primary interventions were seen as inappropriate and contributing to students' lack of academic progress and negative self-image.
5. A BIP "must be implemented as planned, and effects must be monitored." Parents prevailed in cases where a BIP was simply not implemented at all, when the BIP was clearly inadequate and behavior of the student brought about more serious consequences, when staff was not trained to implement the plan, and when the plan was not updated by the IEP team as needed.

Cite: **Behavioral Intervention Plans: Pedagogical and Legal Analysis of Issues.**

Susan Etscheidt, Department of Special Education, University of Northern Iowa. Published in *Behavioral Disorders*, 31(2), 223-243

Example of Behavioral Intervention Plan

Name: John Smith Grade 6 Age: 12

School: ABC Middle School

Date Written: 11-18-99

Strengths of Student:

- Wants to be in the general ed. classes and usually wants to do the same work as his peers
- Likes science and hands-on activities
- Works hard and participates most days
- Usually responds well to teachers
- Enjoys praise and positive, social reinforcement

Individualized Information About the Student:

- Some behaviors associated with Obsessive/Compulsive Disorder and Tourettes are apparent. These include tapping, noises/verbalizations, some scratching/ rubbing hands and face, and some repetitive movements. These behaviors are exacerbated by anxiety.
- Often works and moves more slowly than peers
- Has difficulty with tasks necessitating writing
- Biological factors, medication interactions and anxiety can cause him to react to situations/directions differently on some days. He'll have productive days and not so productive days.

Previously Implemented Interventions:

- Time-out, negative reinforcement, positive reinforcement with tangibles - These interventions were not effective. Some success with a token economy using concrete reinforcers.

Behavior : Using profanity around younger students

- Baseline: average of 8 incidents per week for last 5 weeks
- Function of the Behavior:
 - attention-getting
 - relieving feeling of anxiety due to Tourettes or Obsessive/Compulsive Disorder
 - vent anger/frustration in a situation less threatening than with staff/peers
- Replacement Behavior:
 - get attention by interacting appropriately with peers
 - recognize anxiety or anger/frustration and get help to vent appropriately (cool down time, removing self from situation, talking with staff/peer)
- Intervention:
 - Provide opportunities for him to practice interacting appropriately with younger students (i.e. reading to them, tutoring...)
 - Praise for appropriate verbal interaction
 - When he is verbally inappropriate, he is directed to remove himself to a different location and is not allowed to participate in the activity (i.e. recess...) for 5 minutes.
- Documentation:

- record number of times he's verbally inappropriate with younger students
- record number of times he asks for help with anxiety or anger/frustration
- Amount of Improvement Expected:
 - no more than an average of 4 incidents per week for 3 consecutive weeks.

Schedule for Review:

- Documentation review at least each nine weeks when grade cards are distributed

Provisions for Home Coordination:

- Assignment notebook sent home daily. Assignments will be marked as attempted, completed or not attempted.
- On Fridays a note will be sent home with weekly grade for each class number of inappropriate verbalizations toward younger students and number of times student requested resource room and/or cool down.

Crisis Management Plan:

(For behaviors which may lead to suspension or expulsion)

(Let's say, for example, Johnny had a history of throwing chairs when he gets frustrated.)

1. Johnny will be given a cue that he can use with staff to indicate that he is getting upset and needs to cool down. Once he gives the cue, he can choose from the following options:

- walking in the hall or outside (a staff member will accompany him but not talk to him)
- go to resource room
- ask to see a support staff member

2. If staff sees that Johnny is becoming upset and he is not using the cue for help, staff will say, "I see you're getting upset. I need you to choose (list the options in number 1). If Johnny is unable to make a choice, he will be directed to go to time-out where he will remain until he can demonstrate compliance with a simple request.

3. If Johnny is not able to demonstrate compliance within 30 minutes or if he has had more than 3 timeouts, he will be seen by a support staff member as soon as possible.

4. If Johnny throws furniture or otherwise endangers himself or others, he will be isolated from his peers and Mom (or her designee) will be called. Johnny will remain in isolation until it is determined that he is no longer in imminent danger of hurting himself or others. He will finish his school day in the resource room.

5. If Johnny endangers himself or others while in isolation, physical restraint will be used by staff members trained in Mandt procedures.

6. If an injury or property damage occurs as a result of Johnny's behavior, a police report will be made and he will be suspended according to district policy (You might need to spell that out here). The IEP team will meet as soon as possible within 10 days to review the Behavior Intervention Plan and make modifications where necessary.

Cite: <http://www.projectstay.com/>

Alternatives for SOLs

	VAAP Virginia Alternative Assessment Program	VGLA Virginia Grade Level Alternative	VSEP Virginia Substitute Evaluation Program
Who takes this exam?	<ul style="list-style-type: none"> • most significant cognitive disabilities • current IEP 	<ul style="list-style-type: none"> • current IEP or 504 plan • not able to complete SOL with accommodations • do not qualify for VAAP 	<ul style="list-style-type: none"> • current IEP or 504 plan • not able to complete SOL with accommodations • do not qualify for VAAP
What is tested?	reading and math in grades 3-8 science and history in grade 11	3 – reading, math, science, history 4 – reading, math 5 – reading, writing, math, science 6 – reading, math 7 – reading, math 8 – reading, writing, math, science	any course for which there is an SOL assessment in grades 9-12
What is graded?	Collection of Evidence (COE): teacher collects work samples, observations, anecdotal records, videos, audiotapes	Collection of Evidence (COE): teacher collects work samples, observations, anecdotal records, videos, audiotapes	Course Work Compilation (CWC): Course content teacher and special education teacher create an evaluation plan; compilation includes work samples, audio or video tape, anecdotal record, interview
How is it graded?	Scoring teams apply a rubric to submitted evidence and enter ratings of student performance in an online scoring system.	Scoring teams apply a rubric to submitted evidence and enter ratings of student performance in an online scoring system.	Reviewed by individuals who are familiar with the course content area being assessed and student's characteristics.
What diploma is available?	student has education goals OTHER than Modified Standard Diploma, Standard Diploma, or Advanced Studies Diploma	no bearing on diploma	Modified Standard, Standard, or Advanced Studies
Where can I learn more?	www.doe.virginia.gov/testing/alternative_assessments/vaap_va_alt_assessment_prog/index.shtml www.ttaonline.org/staff/assessment/vaap/resource_files/Guidance_Significant_Cognitive_Disabilities-2009.pdf	www.doe.virginia.gov/testing/alternative_assessments/vgla_va_grade_level_alt/index.shtml	www.doe.virginia.gov/testing/alternative_assessments/vsep_va_substitute_eval_prog/index.shtml

Remember, the IEP team (including you!!) decides which assessment will be used to measure your child's achievements.

ESY



Major Myth ESY is just about regression and recoupment.

FIRST: Download the manual by VA DOE:

http://www.doe.virginia.gov/special_ed/regulations/federal/extended_schoolyear_services.pdf
(hereinafter *ESY*)

SECOND: Understand the Basics.

1. What is extended school year services (ESY)?

A summer IEP. Not summer school, not compensatory education, not childcare.

2. Think about your child's IEP.

Areas that your child's IEP currently addresses:

(1) _____

(2) _____

(3) _____



Key: Are FAPE benefits significantly jeopardized?

“[T]he IEP team [should] answer the basic question articulated by the courts:
will **the benefits** a disabled child gains during the regular school year be
significantly jeopardized if the child is not provided with the ESY program?
If the answer is “yes,” then the child must receive ESY services in order to receive FAPE.”
ESY pp. 4-5.

Your first sentence:

“Jadyne has made significant gains this year in math, reading and processing; however, the benefits she gained will be significantly jeopardized without ESY because . . .”

Available Evidence that you can use:

“It is important to note that the IEP team is not required to demonstrate previous student regression before ESY services are provided.

...

- **review of the current IEP goals** (or objectives or benchmarks, if required);
- **observation and data** from teachers, therapists, **parents**, and others having direct contact with the student before and during breaks in educational programming;
- **data and observations** regarding the student’s performance **after long weekends, vacations, and past summer breaks . . .**” *ESY* pp. 16-17.



FAPE THREAT #1: Deep Regression and Slow Recoupment that significantly jeopardizes . . .

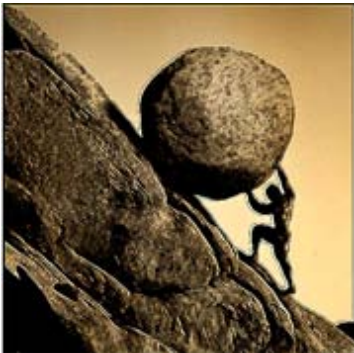
- examples using areas from IEP:
 - MATH: counting coins- 2 weeks off –she totally forgot –I had to start all over
 - READING: read in K4 –forgot by K5 and claimed she “could not read”
- **NEXT YEAR:**
 - Ask now for your child to be objectively tested in June and then in September.

“I have found that obtaining ESY is highly dependent on good documentation. The first few tests of the school year are VERY important. Document the time the student spends preparing for a test, the test grades (if failing), and comments from the teacher regarding the student’s preparedness at the beginning of the year. I usually ask a teacher to do this in a little note after the first two weeks of school.”

<http://www.wrightslaw.com/blog/?p=125>

FAPE THREAT #2: Degrees of Progress- your child is behind

- Is your child meeting their current IEP goals? detail year by year
- Cannot be the sole reason for ESY *ESY* p. 17.
- Do objective tests show your child falling further behind?



FAPE THREAT #3: Emerging skills/breakthrough opportunities- your child improved but...

- At a critical stage of learning a significant skill –lost if not mastered?
- Will regression jeopardize placement in LRE? *ESY* p. 16.

FAPE THREAT #4: Interfering behaviors (or physical problems)

- Does your child's **behavior** interfere with her ability to benefit from special ed?
- Number of **absences** due to disability (cannot get the 180 days like a non-disabled child)

FAPE THREAT #5: The nature and severity of the disability

- Severe disability usually equals severe regression
- Window of opportunity between 5 and 8 years old. *Lawyer v. Chesterfield County School Board*

FAPE THREAT #6: Special circumstances or other factors

- Why **you** cannot provide the services during the summer.
- No other available community resources?

FINALLY: Do the Ask!

"I then made my prepared and practiced statement:

- Multiple unmet IEP yearly goals show that Alex is making little progress in reading.
- Last summer's regression/recoupment measured by the school was demonstrated in the WPM rates.
- Serious regression in reading over the summer and probable slow recoupment is again likely.
- Alex's reading deficits affect his learning in other subjects.
- As he gets older, it is less likely that Alex will catch up to his peers in reading.

Therefore, we propose that Alex see a reading tutor 2 or 3 times per week for 6 weeks over the summer at the district's expense."

<http://www.fetaweb.com/success/esy.christine.htm>



You are not Alone

SPECIAL EDUCATION RESOURCES

Helpful Websites

General Special Education Resources

<http://www.seriweb.com/> - A good general database of information on many topics.

<http://www.yellowpagesforkids.com/> - A directory of helpful resources for children with special needs.

<http://www.disabilityscoop.com/> - Provides news and information regarding individuals with disabilities.

IDEA/Legal Information

United States Department of Education: <http://idea.ed.gov>

Virginia Department of Education: http://www.doe.virginia.gov/special_ed/index.shtml

Parent Educational Advocacy Training Center (PEATC):

http://www.peatc.org/peatc.cgim?template=special_education

Wrightslaw: <http://www.wrightslaw.com>

IEP/Special Education Resources

Writing IEP Goals: <http://www.specialed.us/issues-IEPissues/writingiep/writingindex.htm>

Suggested Reading List

Stories of Special Education

A Live Controversy: A Story of Autism and a Family's Determination, Roxana and Joseph Hartmann (<http://www.alivecontroversy.com/>)

Legal Resources

Special Education Law, Second Edition, Pete and Pam Wright (www.wrightslaw.com)

All About IEPs, Pam Wright, Pete Wright, and Sue O'Conner (www.wrightslaw.com)

How Well Does Your IEP Measure Up? Quality Indicators for Effective Service Delivery, Diane Twachtman-Cullen, Jennifer Twachtman-Riley. Starfish Specialty Products.

Advocacy Resources

From Emotions To Advocacy: Second Edition, Pam and Pete Wright (www.wrightslaw.com)

Getting Past No: Negotiating In Difficult Situations, William Ury. Bantam Press.

The Complete IEP Guide: How to Advocate for Your Special Ed Child, Lawrence Siegel. Nolo Press.

How to Compromise with Your School District Without Compromising Your Child: A Field Guide for Getting Effective Services with Special Needs, Gary Mayerson. DRL Books, Inc.