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# NJ's Special Education Code and Inclusion

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## Documents Referenced

- A copy of the new Special Education Code, effective September 5, 2006, is available at <http://www.state.nj.us/njded/code/current/title6a/chap14.pdf>
  - A copy of the State Performance Plan, effective March 28, 2006, is available at [www.state.nj.us/njded/special/ed/info/spp](http://www.state.nj.us/njded/special/ed/info/spp)
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# New Jersey's State Performance Plan (SPP)

- The NJDOE-OSEP has set targets to improve New Jersey's LRE statistics by 2010
  - Emphasis on reducing the percentage students with disabilities placed in out-of-district separate private and public special education schools by 2300 by 2010
  - In January 2008 NJDOE-OSEP reported little progress made in 2005-2006
  - Check out the LRE statistics for your district on the NJDOE website
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# Congressional Findings in IDEA 2004

- 30 years of research and experience demonstrate that the education of children with disabilities can be made more effective by...ensuring their access to the general education curriculum in the regular classroom to the maximum extent possible, to—
  - (i) meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children; and
  - (ii) be prepared to lead productive and independent adult lives, to the maximum extent possible. 20 U.C.S. 1401 (c) (5)
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## IDEA's least restrictive environment (LRE) provision...

- Requires that states educate students with disabilities with students without disabilities to the maximum extent appropriate.
  - Separate schooling or other removal of student with disabilities from general education classrooms should occur only when the nature or severity of the student's disabilities is such that education in general education classes cannot be satisfactorily achieved with the use of supplementary aids and services.
    - 20 U.S.C. § 1412 (a)(5)(A).
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# Defining LRE

“When determining the restrictiveness of a particular program option, such determinations are based solely on the amount of time a student with disabilities is educated outside the general education setting.” N.J.A.C. 6A:14-4.2(a)(11)

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# Zero Reject at the Point of Consideration

- Every child is entitled to *serious consideration* of their placement within the general education classroom with supplementary supports and services, regardless of the nature or severity of their disability.
    - *Oberti v. Bd. of Educ. of Borough of Clementon Sch. Dist*
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LRE discussion applies to *every* student, regardless of their disability

- N.J.A.C. 6A:14-4.3(a) requires that “all students” must be considered for placement in the general education classroom with supplementary aids and services and provides a list of supports to be considered, pointing out the list is not exhaustive.
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Annually discuss activities to transition a child from a more to a less restrictive setting...

IEP teams must *annually* “consider activities necessary to transition a student to a less restrictive placement.”

N.J.A.C. 6A:14-4.2(a)(4)

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For Children 0—3 years

## Early Intervention Parents

- N.J.A.C. 6A:14-3.3(e)(1)(ii) which requires that districts provide parents of children in Early Intervention written information on general education classroom options for preschoolers.
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A child need not be able to reach curricular standards of the rest of the class to be a classmate in a general education classroom

- N.J.A.C. 6A:14-4.2(a)(9) requires that a student will not be removed from an age-appropriate, general education classroom solely because he/she requires modifications to the general education curriculum.
  - N.J.A.C. 6A:14-4.6(i) removes the previous requirement that a student must meet the regular education curriculum requirements to be in an in-class resource program.
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# Increased Program Options

- N.J.A.C. 6A:14-4.5 (e) increases the flexibility of program options by providing for a consultation model



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## Some of the supplementary supports and services are...

- Curricular or instructional modifications or specialized instruction strategies
  - Individual instruction
  - Assistive Technology devices and services
  - Teacher aides
  - Related services
  - Integrated therapies
  - Consultation services
  - In-class resource programs
  - N.J.A.C. 6A:14-4.3
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# Serious Consideration of LRE

- Effective LRE decisions require serious discussion among at least three key people on the IEP Team; a general education teacher who is the expert on the curriculum in that school at the chronological grade level of the child, the special educator, who is the expert on strategies, and the parent, who is the expert on the child.
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# Regular Education Teacher

- The IEP team must include “at least one regular education teacher of the child.”
  - The general education teacher shall assist in the determination of appropriate positive behavioral interventions and strategies
  - The general education teacher shall assist in the determination of supplementary supports and services
    - 34 C.F.R. § 300.343(c)(1), 300.346(d)
    - 6A:14-3.7(a)(3), 2.3(k)(2)(ii)
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## Step 1: Suggested discussion approach to LRE

- First, the profile of the child is developed outlining their strengths and weaknesses in levels of academic achievement and functional areas.  
N.J.AC. 6A:14-3.7(e)(1)

In the literature and case law, functional skills are commonly accepted to refer to those social (including behavioral), communication, motor and life skills that will increase the participation of the child in school and community activities. Rainforth, B., York, J., Macdonald, C. (1992). *Collaborative Teams for Students with Severe Disabilities*. Baltimore: Paul H. Brookes Publishing Co.

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## Step 2

- Goals are developed in these areas which, if addressed will enable the child to access the general education curriculum to the maximum extent possible.

The IEP shall include a statement of measurable annual goals, including academic and functional goals, designed to meet the child's needs that result from the child's disability, to enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs that result from the child's disability. 20 U.S.C. 1414(d)(1)(i)(IV)

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## Step 3

- The general education teacher outlines, globally, what happens on a typical day in the classroom in terms of curriculum and activities used to teach the content.
  - Using this information, the team problem solves supplemental supports and adaptations, if any, which will be needed at different points in the schedule for the child to be an active participant while addressing their individual goals.
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# Step 4

## Team Planning & Curricular Organization (Simplified)

Daily Routines (Schedule)	Typical Activities (Global)	Supports?
(time)		

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## Step 5

- Discuss:
  - Can the child actively participate and achieve the same outcomes as the rest of the class without any support?
  - If not, will the student be able to achieve the same outcomes as the rest of the class with accommodations, adaptations and supports?
  - If not, what modifications can be made to support the child's active participation in the class activities and curriculum?
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# Supplementary aids and services

- N.J.A.C. 6A:14-4.5(a) reiterates that supplementary aids and services are provided to enable students with disabilities to be educated with peers who do not have disabilities.
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# Integrated Therapies

- The IEP may contain, “A statement, as appropriate, of any integrated therapy services to be provided addressing the student’s individualized needs in his or her educational setting.” N.J.A.C. 3.7(e)(5)
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# Teacher Aides

- N.J.A.C. 6A:14-4.5(b) indicates that “A teacher aide may provide supplementary support to a student or students with disabilities when the IEP team has determined that the student requires assistance in areas including, but not limited to:
    - Prompting, cueing and redirecting student participation
    - Reinforcing of personal, social, behavioral, and academic learning goals
    - Organizing and managing materials and activities; and
    - Implementation of teacher-designed follow-up and practice activities
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## A note about modifications:

- For a child with intellectual disabilities, the curriculum may need to be modified, i.e. he/she may not be expected to learn all of the curriculum content, but, major concepts, while classrooms activities are used as a vehicle to work on their social, communication and behavioral goals as well as academic goals.
  - Note: The better the teachers' classroom management skills, ability to differentiate instruction, assess progress, and use flexible grouping, the less individual adaptations are necessary. Teacher training in these practices is crucial.
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## Step 6

- For any segment of time during the day, removal from the general education classroom is the last option considered...and only if there is a reason to justify removal.
  - The same standard applies to removal from the school. All of the possible school-based support options within the school must be seriously considered before there is any discussion of removal.
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## Step 7

- The last critical step is to figure out how any individualized adaptations for individual students will be made on an ongoing basis as the curriculum content and class-wide objectives change from week to week.
  - This requires figuring out the relative responsibilities of the general education teacher, the special educator assisting with strategies and the paraprofessionals (aides) to implement the program effectively and provide time for them to plan.
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# Planning time for Staff Coordination

- N.J.A.C. 6A:14-4.5(d) requires that districts provide time for classroom aides (paraprofessionals) to consult with special and/or general education teachers on a regular basis
  - N.J.A.C. 6A:14-4.6(g) requires that districts provide regular planning time for special education teachers (i.e., supplementary instruction and resource teachers, both of whom must be appropriately certified as teachers of students with disabilities) to consult with general education teaching staff.
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## Informing Teachers about Their Responsibilities

- N.J.A.C. 6A:14-3.7(a)(3) requires that districts maintain documentation that teachers have been informed on their responsibilities related to implementing the child's IEP.
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Whether you think you can or  
think you can't, you're right!  
Henry Ford

