


March 9, 2009

( ) Action Required  
(X) Informational

MEMORANDUM NO. 09-004 Least Restrictive Environment and Inclusion Policy

TO: Local Education Agency Leaders

CC: Public Charter School Board

FROM: Deborah A. Gist   
State Superintendent of Education

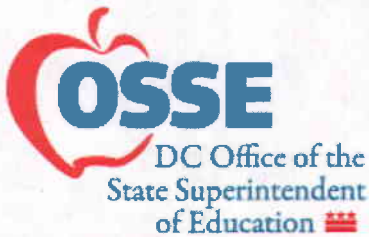
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RE: Least Restrictive Environment and Inclusion Policy

This policy is in reference to the Least Restrictive Environment requirements of the Individuals with Disabilities Education Act (IDEA). It supersedes all previous policy, memoranda and/or guidance promulgated by the State Education Agency. This policy takes effect on March 9, 2009.

### Background

All children are entitled to an equal opportunity, to a high quality education and to be included in all aspects of society. The **No Child Left Behind Act (NCLB)** strongly emphasizes the importance of appropriate education for diverse learners and how critical rich curricula are in improving academic success for all children. Congressional intent during the 2004 reauthorization of the **Individuals with Disabilities Education Act (IDEA)** was to improve the quality of education children with disabilities were receiving in public schools and to overcome environmental and attitudinal barriers through equal access to the general education curriculum. Additionally, Congress continued to connect NCLB and IDEA by holding schools accountable for measuring academic performance for all students, including students with disabilities. Furthermore, Title II of the **Americans with Disabilities Act** and Section 504 of the **Rehabilitation Act** prohibit public schools and school systems from discriminating on the basis of disability and promote equal access to public education.



In accordance with the provisions of IDEA Part B, 34 CFR 300.604(a)(1), and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2), the OSSE must monitor the number of hours special education students participate in the general education setting with the expectation of improving educational results and outcomes for all children with disabilities.<sup>1</sup> Today, the District of Columbia continues to score poorly on national measures of including children with disabilities in the general education classroom. According to the most recent comparative data from the US Department of Education, the District includes only 21 percent of students with disabilities in the general classroom for 80 percent or more of the day, compared to a national average of 58 percent. More District students with disabilities are educated in separate schools than in any other jurisdiction in the United States.<sup>2</sup> As a result of noncompliance with the federal Least Restrictive Environment requirements, the US Department of Education's Office of Special Education Programs (OSEP) placed the District of Columbia's IDEA grant funding under a Special Condition in federal Fiscal Year 2008.<sup>3</sup>

This Memorandum serves to clarify the expectations of the Office of the State Superintendent of Education (the OSSE) that every child with a disability residing within the District of Columbia receive an inclusive education that ensures equal opportunities to receive high quality instruction in the general education classroom. Enforcement of LRE is an effort to eliminate discrimination and promote the right for District children with disabilities to participate in all aspects of society, including public education.

### **Key Concepts to Inclusion**

The requirements of IDEA as it references and promotes inclusion are as follows:

- **Free Appropriate Public Education**  
IDEA requires that all children receiving special education services have access to and make meaningful progress in the general curriculum and have the right to full participation in all areas of school life. "Full participation" requires that children with disabilities have the "supplementary aids and services" necessary to assist them in participating in all areas of school life [34 C.F.R. §300.101].
- **Least Restrictive Environment**  
IDEA mandates that to the maximum extent appropriate, all children with disabilities shall be educated with their non-disabled peers [34 C.F.R. §300.114]. "Maximum extent appropriate" means that each child with a disability is educated in the public school the

<sup>1</sup> <http://idea.ed.gov/explore/view/p/,root,dynamic,TopicalBrief,24>,

<sup>2</sup> [http://www.ideadata.org/arc\\_toc9.asp#partbLRE](http://www.ideadata.org/arc_toc9.asp#partbLRE)

<sup>3</sup> Grant award letter at <http://www.ed.gov/fund/data/award/idea/2008partb/dc-letter-2008b.doc>

child would attend if not disabled and has access to, and meaningful participation in, the general education curriculum unless the Individual Education Plan (IEP) determines that the nature of the child's disability is such that general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- **Continuum of Service**

The 2004 IDEA regulations require that each LEA ensure that a "continuum of alternative placements" is available to meet the needs of children with disabilities. The continuum is a spectrum of placements where an IEP can be implemented. LEAs should consider placement in the general education classroom with appropriate supplementary aids and services before considering a more restrictive placement. Any alternative placement selected outside of the general education classroom must include appropriate opportunities for the child to interact with their non disabled peers to the maximum extent appropriate. The placement decision must always be based on the individual needs of the child.

- **Supplementary Aids and Services**

When contemplating educational placement, IDEA requires the IEP team to consider how the general education curriculum might be modified through the provision of supplementary aids and services to ensure accessibility of information as well enabling the child to be an active participant with their non disabled peers. Supplementary aids and services are "aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with non disabled children to the maximum extent appropriate in accordance with §300.114 through §300.116." [34 CFR §300.42] All supplementary aids and services determined necessary by the IEP team must be included in the child's IEP and implemented by the LEA.

### **The OSSE's Expectations for Inclusion**

The OSSE defines inclusive practice as, **an environment in which all children, including those with significant disabilities, have an equal opportunity to receive a high quality instruction in the general education classroom, to the maximum extent possible, with the necessary supplementary aids and services the child needs to be successful in the general education curriculum.** Placement in an inclusive environment must be made available to every child with a disability. A general education classroom is inappropriate only if the child cannot achieve positive learning outcomes while receiving needed supplementary aids and supports services. Positive learning outcomes are measured by progress toward the goals of the child's IEP and not mastery of the general education curriculum. The LEA should not wait for the child to fail in the general education classroom before considering an alternative placement.

In an inclusive educational environment, general educators do not relinquish responsibility for students with special needs, but instead work cooperatively with special educators to provide a high quality program. Inclusive educational environments:

- Maintain high expectations for all children;
- Actively identify and capitalize upon student strengths;
- Pursue the most effective instructional methods to foster high levels of achievement;
- Regularly monitor student progress and redesign learning opportunities as needed;
- Collaborate with families and community members;
- Create educational programs that allow students with disabilities to participate fully in school life;
- Embrace diversity.

To be successful in implementing inclusive practices within the school, LEAs must promote collaboration and communication between general and special educators, parents, related service providers, and the community. Moreover, all teachers must have the opportunity to interact with one another to discuss and become aware of best practices in the field of education.

### **Technical Assistance and Training**

The OSSE is committed to ensuring that LEAs have the knowledge base and tools to implement inclusion and encourage all school staff, including teachers, administrators, and support staff, to obtain appropriate and consistent training. The OSSE will conduct a series of activities annually to support LRE, including, but not limited to:

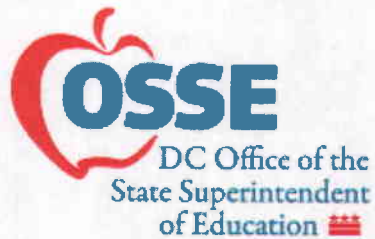
- Providing clear written guidelines and toolkits for schools concerning specific inclusion strategies, to be made available through the State Advisory Panel on Special Education and via the OSSE website;
- Strengthening in-person professional development for school personnel; and
- Providing clarification on the use of supplementary aids and services in the regular classroom.

### **Compliance and Monitoring of Inclusive Practices**

The U.S. Department of Education's Office of Special Education Programs (OSEP) requires every State Education Agency to monitor LEAs to ensure compliance with IDEA Part B, including the Least Restrictive Environment requirement.<sup>4</sup> A Finding of noncompliance by the OSSE results in the requirement to submit an Improvement Plan containing Corrective Actions for each area of noncompliance. The OSSE may suggest or require training and technical assistance to LEA staff when crafting Corrective Actions around the LRE requirement. All items of noncompliance must, by

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<sup>4</sup> 34 CFR 300.600



federal law, be corrected within one year of the finding; sustained noncompliance by an LEA may result in withholding of Part B grant funding.

The OSSE is committed to ensuring all children with disabilities receive a free appropriate public education in the least restrictive environment. If you have questions or concerns regarding this memorandum, please contact Tammie Picklesimer, Director of Policy, Division of Special Education, at (202) 481-3870, or by e-mail at [Tammie.Picklesimer@dc.gov](mailto:Tammie.Picklesimer@dc.gov).

