

Busting Myths about the Least Restrictive Environment (LRE)

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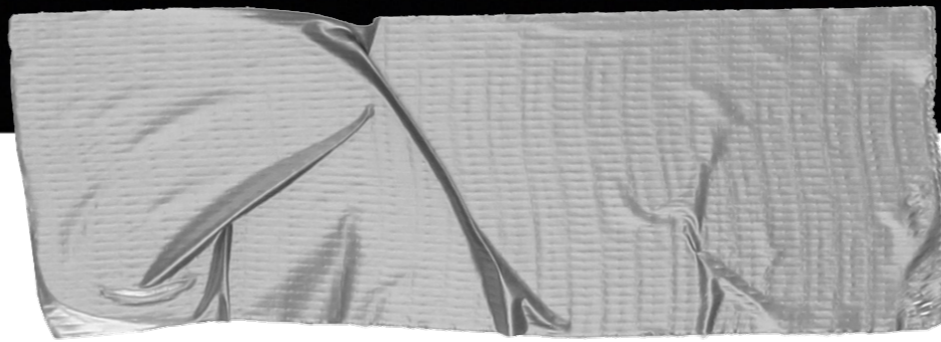
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A refrain we hear too often in special education

Johnny's LRE is the Autism Program. This program is 30 minutes away from his home school and is separate from the general education classroom, but Johnny has Autism so this really is the best program in the least restrictive environment for him.





LRE Myth:

What's wrong with this statement?

➔ **LRE is not individualized:**

This statement fails to follow the plain language of the LRE clause in the Individuals with Disabilities Education Act (IDEA), as well as case law and all of the research. In doing so, it changes the meaning and intent of the law.

➔ **Stuck in the Continuum**

This statement assumes that some children are too disabled to even start in the Least Restrictive Environment as the law intends.

➔ **Civil Rights and Outcomes**

This statement ignores the fact that LRE is a civil right, and supported by every research study on the matter.

What does the law say?

§1400.(c)(5) Congress finds the following:

(A) Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible.”

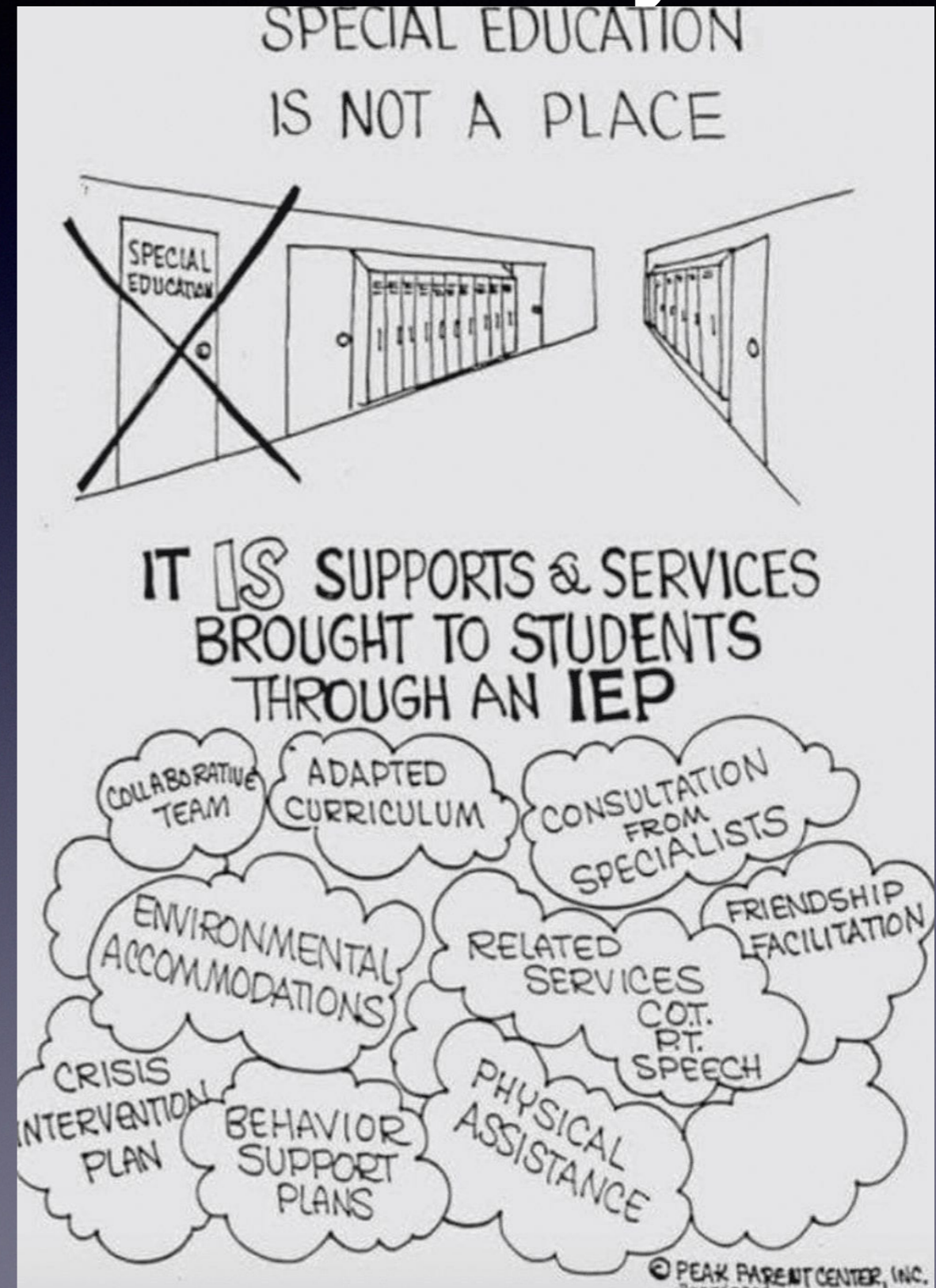
Research study that found there is no research showing an academic advantage for students with Intellectual Disabilities in separate settings:

Falvey, Mary A. (Spring 2004) Toward realization of the least restrictive educational environments for severely handicapped students. Research and Practice for Persons with Severe Disabilities. 29 (1), 9-10.

What does the law say?

§1400.(c)(5) Congress finds the following:

(B) Coordinating this title with other local, educational service agency State, Federal school improvement efforts, including improvement efforts under the Elementary and Secondary Education Act of 1965, in order to ensure that such children benefit from such efforts and that special education can become a service for such children rather than a place where such children are sent



What does the law say?

§300.114 LRE Requirements.

Each public agency must ensure that 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 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.



Tip

LRE can ONLY be a regular class with supports. LRE cannot legally be anything else. Any other setting than a regular classroom is more restrictive.

What does the law say?

§300.114 LRE Requirements.

(i) a State funding mechanism must not result in the placement that violates the requirements of LRE.

§300.116 Placement.

(b) For each child with a disability, including a preschool child with a disability, educational placement:

- (1) Is determined at least annually;
- (2) Is based on the child's IEP; and
- (3) Is as close as possible to the child's home;

(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.



Tip

What is your state or local LEA's funding mechanism? Are they promoting segregation by giving more funding to separate classrooms and programs? The state of Washington just passed a law giving more funding to students who spend at least 80% of their day in a regular classroom.

What does the law say?

Wrightslaw Special Education Law, Second Edition

Defines Least Restrictive Environment (LRE) as: The legal requirement to educate children with disabilities in general education classrooms with children who are not disabled to the maximum extent possible.



Tip

By simply changing our language to **THE LRE** we can get closer to the true intent of the law.

What does case law say?

Roncker Portability Test, 1983

- ✓ **Can services provided in segregated setting be transported to the general education classroom?**

Daniel Two-Part Test, 1989

- ✓ **Can meaningful education be provided in general education classroom with supplementary services and aids?**
- ✓ **Is the student integrated to the maximum extent possible?**

What does case law say?

Endrew F. v. Douglas City School District (2017)

- ✓ The U.S. Supreme Court recently made it clear that children with disability must make “meaningful progress” on general education curriculum in light of their disability. This means school districts must ensure IEPs are “appropriately ambitious,” and follow IDEA’s statutory intent to serve those students in the LRE.

Tip

Make sure to use the language from Endrew F. at your next IEP meeting:

- Meaningful progress in light of their disability
- Appropriately ambitious
- The IEP is not a form
- LEA response must be cogent and responsive

Exception to the Rule

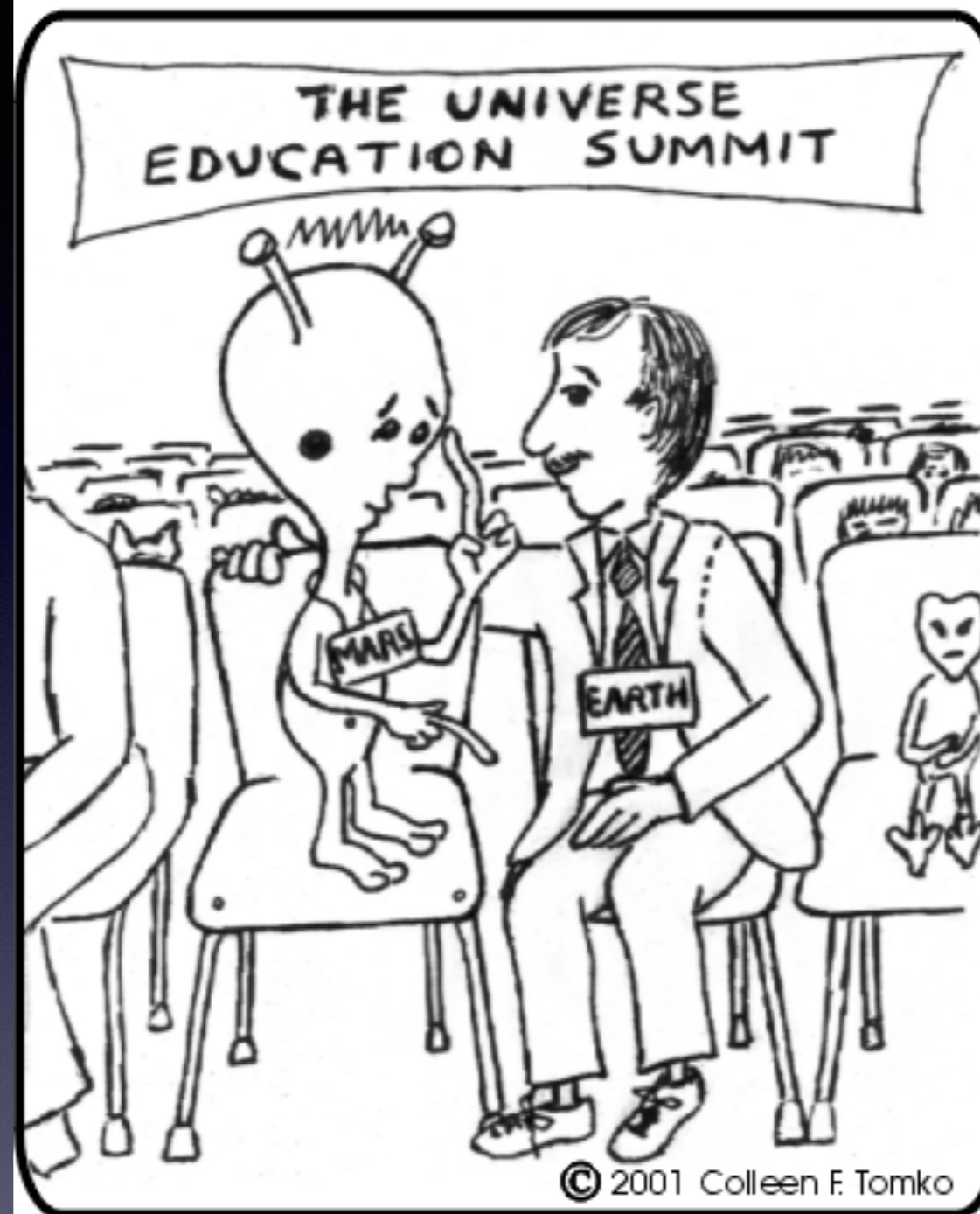
Department of Education OSEP Guidance Deaf Policy Guidance, 1992

“Meeting the unique communication needs of a student who is deaf is a fundamental part of providing a free and appropriate public education (FAPE) to the child. Any setting, including a regular classroom that prevents a child who is deaf from receiving an appropriate education that meets his or her needs, including communication needs, is not the LRE for that individual child.” Deaf Students Education Services; Policy Guidance, Fed Reg., Vol. 57, No 211, (October 30, 1992) pp. 49274-75.

The 1997 Reauthorization of IDEA codified this into law:

“Consider the communication needs of the child, and in the case of a child who is deaf or hard of hearing, consider the child’s language and communication needs, opportunities for direct communication with peers and professional personnel in the child’s language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child’s language and communication mode.” 20 U.S.C. §1414 (d)(3)(B).

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Let me get this straight... You label certain kids and take them away from the rest of the kids and call that special? Then you group those kids in the separate placements by their labels and call that individualized? What planet are you from?

What does the research say?

2019 study from Indiana University:

Found students with disabilities included in general education classrooms do significantly better on state assessments than their peers placed in separate special education classrooms.

In all but two of the analyses, the results are significant, meaning that the improved scores for students included in general education classrooms may be attributed to their classroom placement. Had students been placed in less inclusive classrooms (in this study less inclusive is defined as less than 80% of the student's school day), their test outcomes would have been less favorable and in line with the poorer outcomes of their peers in the more segregated placements.

What does the research say?

Does Self-Contained Special Education Deliver on Its Promises? A Critical Inquiry into Research and Practice. Causton-Theoharis, Julie; Theoharis, George; Orsati, Fernanda; Cosier, Meghan. Journal of Special Education Leadership, v24 n2 p61-78 Sep 2011.

The quantitative study found 58% of time spent in a self-contained classroom was classified as “non-instructional,” compared to 35% of the time in a general education classroom. The students with severe disabilities in general education classroom were also 13 times more likely than their typical peers to receive direct instruction during whole-class time, and 23 times more likely to receive one-on-one support.

What does the research say?

Wagner, M., Newman, L., Cameto, R., and Levine, P. (2006). The Academic Achievement and Functional Performance of Youth with Disabilities: A Report from the National Longitudinal Transition Study-2 (NLTS2). (NCSEER 2006-3000). Menlo Park, CA: SRI International

A study looking at the outcome of 11,000 students with all types of disabilities found that more time in a general education classroom correlated to less absences from school, fewer referrals for misbehavior, and more post-secondary education and employment options.

What does the research say?

Okilwa, Nathern S. A.; Shelby, Liz, (2010). The Effects of Peer Tutoring on Academic Performance of Students with Disabilities in Grades 6 through 12: A Synthesis of the Literature. Remedial and Special Education, v31 n6 p450-463 Nov-Dec 2010

A 2010, synthesis of research studies shows the academic effects that peer tutoring has on students with disabilities (regardless of disability type). The literature overwhelmingly reveals that peer tutoring has a positive effect on the academic outcome of students with disabilities in grades 6 through 12.

What does the research say?

The impact of including children with intellectual disability in general education classrooms on the academic achievement of their low-, average-, and high-achieving peers. Sermier Dessemontet R, Bless G. J Intellect Dev Disabil. 2013 Mar; 38(1):23-30. doi: 10.3109/13668250.2012.757589. Epub 2013 Jan 28.

No significant difference was found in the progress of low-, average-, or high- achieving pupils from classrooms with or without inclusion.

A Red Herring

- The LRE can only be the regular classroom with appropriate and individualized support
- The LRE is not individualized
- 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

Let's change our language

- **WRONG:**

- Johnny's LRE is the Autism program 30 minutes from home, because he has Autism.

- **RIGHT:**

- Data shows that Cathy is 3 grade levels behind in reading. The least restrictive environment is the regular classroom with reading supports, but we also propose placing her in a more restrictive placement for a portion of her day to work with a Reading Specialist using an evidence-based program for students with dyslexia.