

# Getting Placements Right...

## The First Time

Presented by California Special Needs Law Group (CSNLG)  
February 21, 2019

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# What does the law say about Least Restrictive Environment (LRE)?

IDEA Part B Regulations - 34 CFR Part 300.114

- \* Each district to the **maximum extent** appropriate must ensure children with disabilities are educated with children who are nondisabled.
- \* Removal of children with disabilities from general education 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**.
- \* LRE applies to extended school year (summer)



# What does the law say about Continuum of Placement Options Least to Most Restrictive?

34 CFR 300.115

- \* Regular classroom
- \* Resource specialist programs
- \* Special classes
- \* Nonpublic, nonsectarian schools
- \* State special schools
- \* Instruction outside the classroom
- \* Instruction using telecommunication
- \* Instruction in the home or hospital
- \* Residential treatment





# What does the law say about Special Education Services?



- \* Special education means specially designed instruction at no cost to the parents to meet the unique needs of a child with a disability. (34 CFR 300.39)
- \* Related services means transportation, developmental, corrective and other supportive services to assist a child with a disability to benefit from special education. (34 CFR 300.34)



# What does the law say about Educational Placements?

34 CFR 300.327

- \* The district must ensure that parents are members of any group that makes decisions on the educational placement of their child.
- \* The IEP team must **consider** the concerns of the parents for advancing their child's education. (EDC section 56341.1)
- \* The district must make a formal specific offer of placement in the IEP.
- \* A district must provide a single specific offer of placement - this should be **rigorously enforced**. (Union School District v. Smith (9th Cir. 1994) 15 F.3d 1519, 1526)





# What does the law say about Collaboration of IEP Team?



- \* The legislative intent is that the IEP team be non adversarial and convened solely for the purpose of making education decisions for the good of the individual with exceptional needs. EDC 56341.1 (h)
- \* Among the most important procedural safeguards are those that protect the parent's right to be involved in the development of their child's educational plan (Amanda J. v. Clark County Sch. Dist. (9th Cir. 2001) 267 F.3d 877, 882)
- \* A parent has participated in the IEP process when they have had an opportunity to discuss a proposed IEP in a meaningful way and their concerns are considered by the IEP team. (Fuhrmann v. East Hanover Bd. Of Educ. (3rd Cir. 1993) 993 F.2d 1031, 1036)



# What does the law say about Free Appropriate Public Education (FAPE)?

- \* California Special education law and the IDEA provide that children with disabilities have a right to a FAPE that emphasizes special education and related services designed to meet their unique needs and to prepare them for employment and independent living. (20 U.S.C. Section 1400 (d); Ed. Code section 56000)







# Andrew F.

The IEP must be reasonably calculated (appropriately ambitious) to enable the student to make progress appropriate in light of his/her circumstances.



# Is General Education the Right Placement?

\* There are four factors used to determine if the general education placement is the LRE:

1. The educational benefit of a full-time placement in general education
2. The non academic benefit
3. The effect the child would have on the teacher and the other students
4. The cost of mainstreaming the child

(Sac. City USD v. Rachel H. (9th Cir. 1994) 14 F. 3d 1398,1404)

\* Additional Resources for families - K.A.D. v. NEST 9th Cir. 2012 Decision - A FAPE required a smaller general education setting of 6-8 students. District's program placed preschool student with autism in class of 42 students. Parents privately placed and recovered reimbursement.



# Specialized Academic Instruction (SAI)

- \* SAI is the primary service provided to students who qualify for special education.
- \* SAI must be clearly articulated in the IEP.





## SPECIAL EDUCATION and RELATED SERVICES

Service: Specialized Academic Instruction

Provider: District of Service

Duration/Freq: 360 min served Daily

Comments:

Start Date: 11/14/2018 End Date: 11/14/2019

☐ Ind ☒ Grp ☐ Sec Transition

Location: Separate classroom in public integrated facility

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Service: Language and speech

Provider: District of Service

Duration/Freq: 60 min served Weekly

Comments:

Start Date: 11/14/2018 End Date: 11/14/2019

☐ Ind ☒ Grp ☐ Sec Transition

Location: Separate classroom in public integrated facility

DRAFT

Service: Occupational therapy

Provider: District of Service

Duration/Freq: 30 min served Weekly

Comments:

Start Date: 11/14/2018 End Date: 11/14/2019

☐ Ind ☒ Grp ☐ Sec Transition

Location: Service provider location

Service: Adapted physical education

Provider: District of Service

Duration/Freq: 60 min served Weekly

Comments: The remainder of the state required P.E. minutes will be completed in the classroom program.

Start Date: 11/14/2018 End Date: 11/14/2019

☐ Ind ☒ Grp ☐ Sec Transition

Location: Service provider location

Programs and services will be provided according to where student is in attendance and consistent with the district of service calendar and scheduled services, excluding holidays, vacations, and non-instructional days unless otherwise specified.

**Special Education Transportation** ☒ Yes ☐ No Curb to Curb Transportation

## EXTENDED SCHOOL YEAR (ESY)

☒ Yes ☐ No

**Rationale:** There is significant likelihood that Merrick will regress on acquired skills over break and take longer to recoup any loss of these skills.

Service: Specialized Academic Instruction

Provider: District of Service

Duration/Freq: 240 min served Daily

Start Date: 6/17/2019 End Date: 7/12/2019

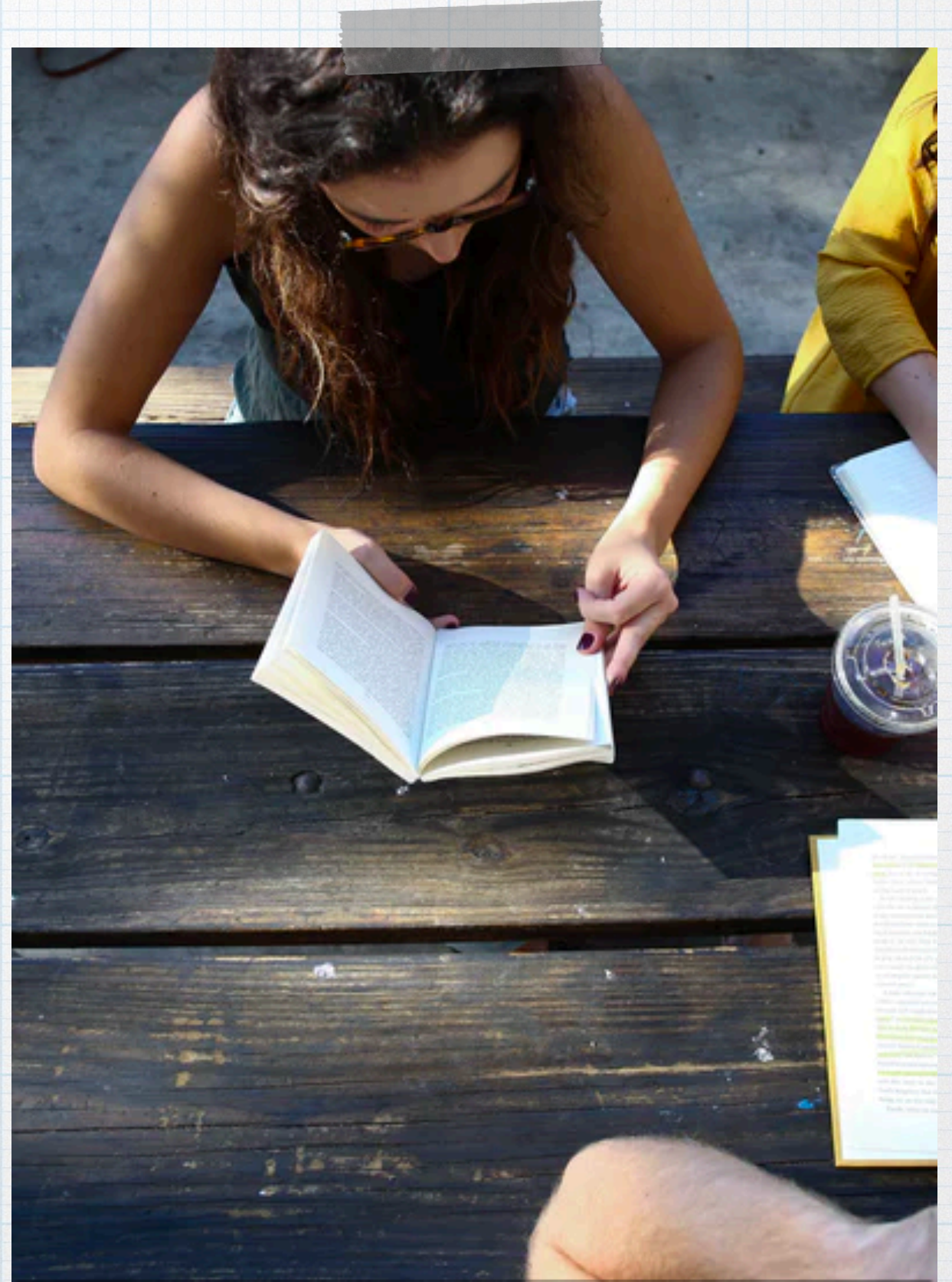
☐ Ind ☒ Grp ☐ Sec Transition

Location: Separate classroom in public integrated facility



# Mild Moderate and Moderate Severe

When is this the right  
placement?





# Home Hospital Instruction (HHI)

\* When is this the right placement?





# Residential Treatment Centers (RTC)

- \* When is this the right placement?





# Placement Discussion

- \* When do you discuss placement options at the IEP meeting?



# There may be more than one appropriate placement.

- \* Some parents may want a more restrictive environment while others more mainstreaming.

- \* Diagnostic placements.





# Getting Placements Right...

## The First Time

- \* Update present levels
- \* Develop goals
- \* Discuss services
- \* Review all potential placements
- \* Observe placements
- \* Put your requests and questions in writing
- \* Get clear answers to your questions
- \* Be collaborative and positive