

FAPE, LRE, IEP, FBA, BIP...

It's all so confusing!

WHAT DO YOU NEED TO KNOW
TO BETTER ADVOCATE FOR YOUR CHILD

Presented by Dr. Brian Herndon

Parent, Professor, Advocate

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THE MOST APPROPRIATE LABEL IS
USUALLY THE ONE PEOPLE'S PARENTS
HAVE GIVEN THEM.

Why do people call
autism a label?

I don't think that's
right. My label is
Cadence. One of my
ingredients is autism.



Tomatoes 60%
Basil 0.1%
Oregano 0.1%
Acid regulator 3.30%

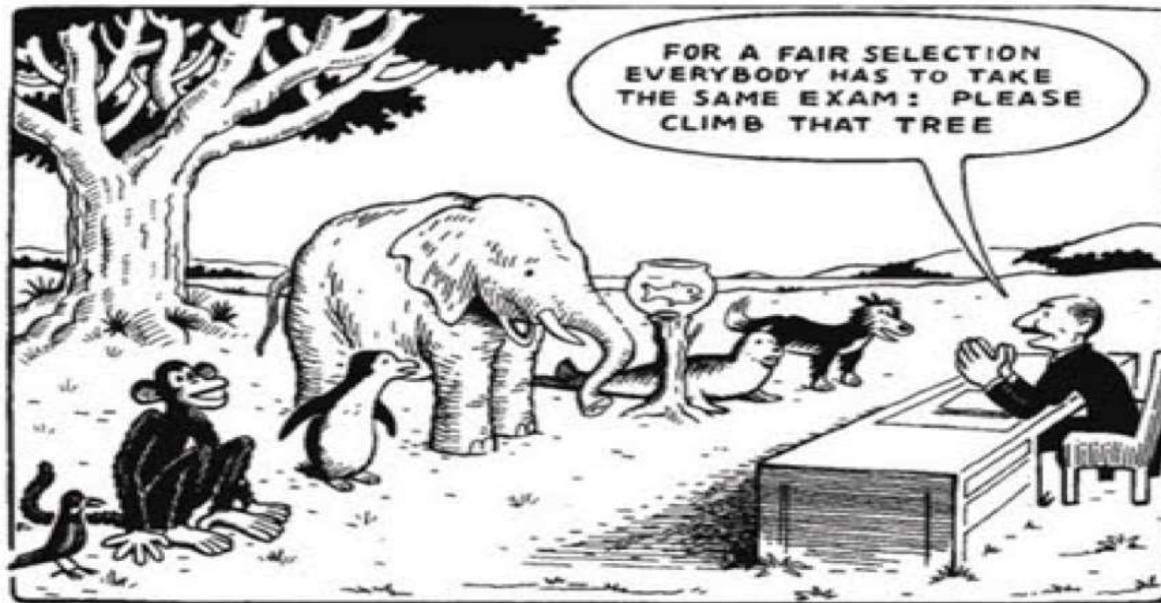
I have more ingredients
than tomatoes.

Cadence



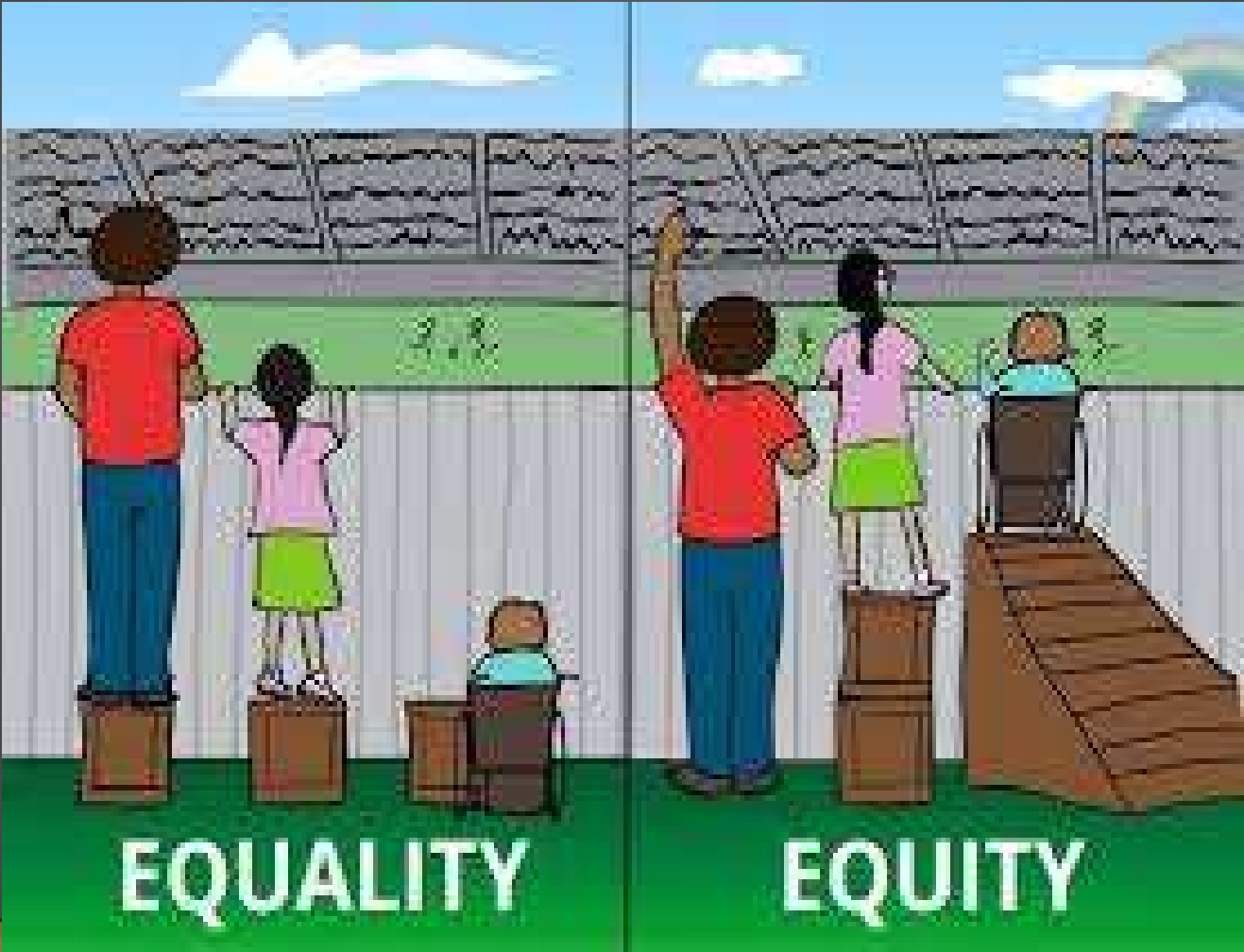
Autism
Organs
Bones
Blood
Clever cells
Caring cells

www.iamcadence.com



"Everybody is a genius. But if you judge a fish by its ability to climb a tree, it will live its whole life believing that it is stupid."

-Albert Einstein



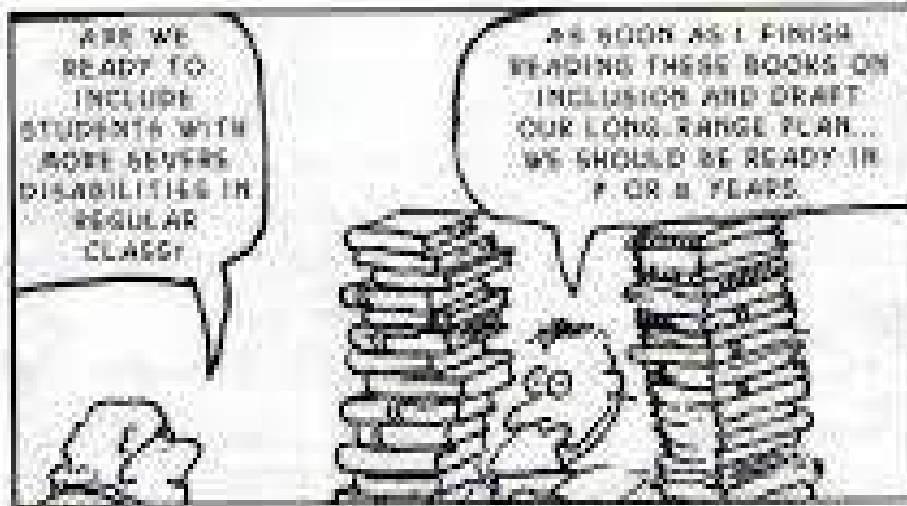
FAIR ISN'T

everybody getting the
same thing.....

FAIR IS

everybody getting
what they need
In order to be

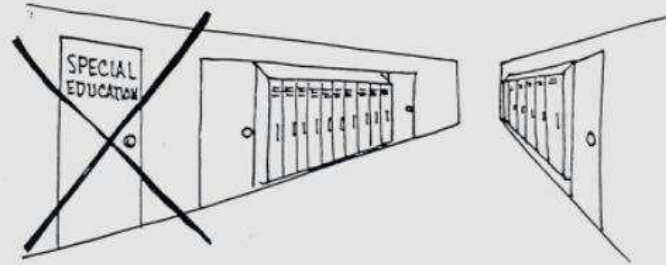
SUCCESSFUL



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A TALE OF TWO SCHOOLS.

SPECIAL EDUCATION IS NOT A PLACE



IT IS SUPPORTS & SERVICES
BROUGHT TO STUDENTS
THROUGH AN IEP



GOALS FOR TODAY

- Definition of Special Education
- IDEA 2004
- IEP
- Continuum of Services
- Supplementary Aids & Services
- Modifications vs. Accommodations
- Least Restrictive Environment
- Inclusion
- Burden of Proof
- When is it okay to become more restrictive?

WHAT IS SPECIAL EDUCATION?

- Specially designed instruction
- Provided to students with identified disabilities
- Access to the general education curriculum
- Least restrictive environment
- NOT special education students...person-first language
- General education students
- Children do not EARN their way into the general education classroom

-
- Special education is *not* a place. It's a set of services and supports!
 - Where a child with a disability receives special education services is that child's *placement*.
 - Placement is **NOT** determined by the number of minutes of specialized instruction needed by the child!
 - Placement (where a child gets special education services) should be one of the **LAST** things the team decides! This ensures that services are not driven by the placement.
 - *Children with disabilities must always be considered general education students first.*

IDEA 2004

- FAPE: **F**ree **A**ppropriate **P**ublic **E**ducation
- IDEA 2004
 - Zero Reject
 - Nondiscriminatory Evaluation
 - Individualized & Appropriate
 - Least Restrictive Environment
 - Procedural Due Process
 - Parent Participation
- Letter of the Law vs. Spirit of the Law

IEP

- Individualized **E**ducation **P**rogram
- Must be designed to allow the child with disabilities to access the general education, considering the individual, unique needs of the child, using the necessary supplementary aids and services.
- It's a **LONG** process!
 - 30 days to review existing data
 - 60 days to conduct testing
 - 30 days to create an IEP

IEP PARTICIPANTS

- Required participants
 - Parent/Guardian
 - Regular Education Teacher
 - Special Education Teacher
 - School administrator
 - Someone with expertise in interpreting evaluation results
 - Community service representative if discussing postsecondary transition goals
 - The student...when appropriate.

IEP CONTENTS

- Present Level of Academic & Functional Performance
- Special Considerations
- IEP Goals...designed to address deficits/concerns found in the PLAFP
- Services Summary
 - Supplementary Aids/Services*
 - Supports for School Personnel*
- Transportation as a related service
- Regular Education participation*
- Placement Considerations/Decision*

IMPORTANT TO KNOW...

- Once you give permission to provide services...
- 10 days to consider the changes made...

Disability		Disability Areas					
Other Health Impairment (Primary)							
Speech Impairment		Sound System Disorder					
Language Impairment		Morphology, Pragmatics, Semantics, Syntax					
IEP CONTENT (Required):							
Date of IEP Meeting: 8/14/17				Initiation Date of IEP: 8/14/17 <i>(Amended on 1/19/18)</i>			
Projected Date of Annual IEP Review: 8/13/18				Parent(s)/Legal Guardian(s) provided copy of this IEP: 8/28/17			
Service	Min/Wk	Frequency	Location	Notes	Begin*	End*	
Special Education Services							
Specialized Instruction in Sound System	20	1 time per week	Speech Classroom		8/14/17	8/13/18	
Specialized instruction in Language Therapy	20	1 time per week	Speech Classroom		8/14/17	8/13/18	
Specialized Instruction in Math Problem Solving	75	15 min daily	Regular Classroom		8/14/17	8/13/18	
Specialized Instruction in Reading Comprehension	75	15 min daily	Regular Classroom		8/14/17	8/13/18	
Specialized Instruction in Basic Reading	75	15 min daily	Regular Classroom		8/14/17	8/13/18	
Related Services							
Occupational Therapy	30	1 time per week	Regular Classroom		8/14/17	8/13/18	
<i>*N/A if will be same as initiation and annual review date indicated on page 1. If a date is listed, it must include the month, day, and year.</i>							

-
- The child's placement is determined at least annually, based upon the child's IEP, and is as close as possible to the child's home, unless the IEP requires some other arrangement.
 - Consideration must be given to any potential harmful effect on the child or on the quality of services that the child needs.
 - A child with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

-
- Given the age and assigned grade level of the student, and considering **ALL** of the general education opportunities this student would have if he/she were **NOT** a child with a disability...
 - How can this student participate and progress in regular classes and nonacademic settings with the use of supplementary aids and services?
 - This **MUST** be the **FIRST** conversation your team has when it comes to determining placement of your student!
 - Your school **CANNOT** say that “we don’t provide that here” as an excuse to become more restrictive! The law does not support that!
 - Location of services must not be assigned based on administrative convenience, providers’ schedules, or the master schedule of the school.

SUPPLEMENTARY AIDS AND SERVICES

- Aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings
- Enable students with disabilities to be educated with nondisabled children.
- What does the child need in order to be able to access the general education curriculum inside the general education classroom?

EXAMPLES OF SUPPLEMENTARY AIDS/SERVICES

- Special education instruction
- Paraprofessionals or personal assistants for individuals with physical disabilities for assistance in and about school or for transportation
- Instructional support provided by paraprofessionals
- Interpreters for students who are deaf or hearing impaired
- Materials and specialized equipment that help the child remain in the regular education classroom
- Intensive short-term specially designed instruction designed to help keep the student with his non-disabled peers
- Peer tutors or adult tutors
- Regularly scheduled consultation
- Regularly scheduled collaboration among staff
- Training for staff to be able to meet the needs of your child

-
- Educators must utilize all of the possible supplementary aids and services before determining that a student should leave the general education classroom.
 - “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.” Section 300.114 LRE Requirements
 - Sometimes, you have to be the creative one to suggest supplementary aids and services to the team! Educate yourself on what this means and offer suggestions!

MODIFICATIONS & ACCOMMODATIONS

- A child with a disability may not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

MODIFICATIONS

- Modifications
 - **Modifications** are adjustments to the requirements of an assignment or test (changes in what a student is expected to learn and demonstrate, changes in the instructional level, changes in the number of key concepts mastered, and changes in content).
 - **Modifications** change the construct through altering language load, content complexity, and/or cognitive complexity.

- Examples of Modifications

- Simplified reading passages
- Reduced response choices
- Modified Grading
- Modified Assignments
- Alternative Materials
- Portfolio

ACCOMMODATIONS

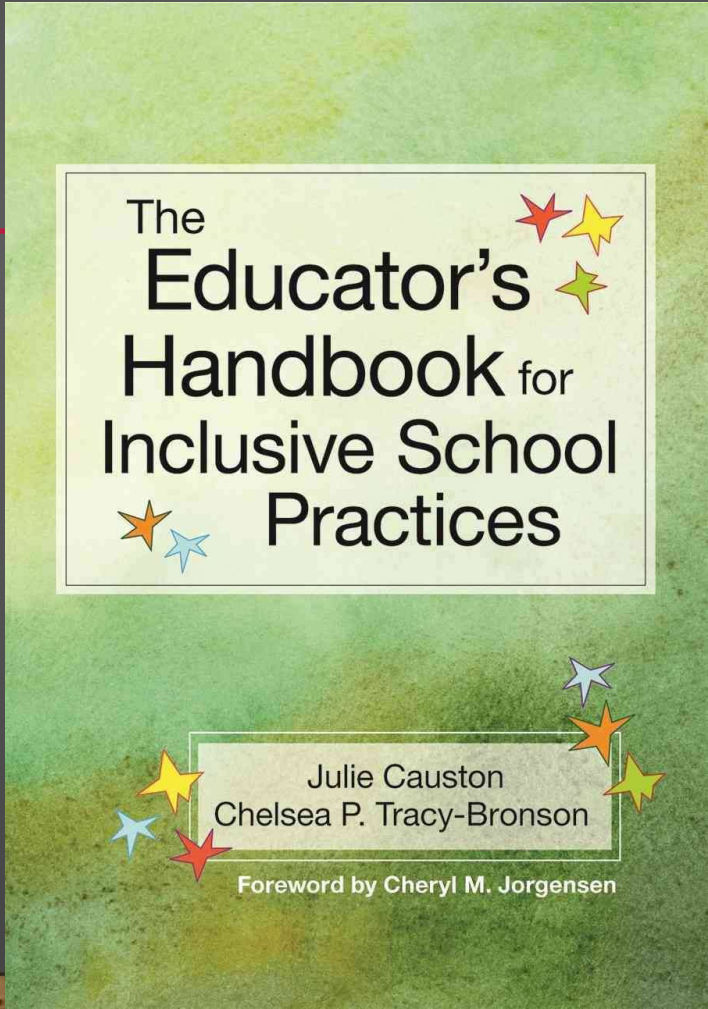
- Accommodations
 - Do not change the construct of the assignment/ assessment
 - Give student equal access to learning without “watering down” the content
 - Are not to be provided for score enhancement
 - Must be aligned or matched between classroom instruction, classroom assessments, district-wide and state-wide assessment
 - **Accommodations** allow a student to complete the same assignment/test as the other students but with adjustments in time, format, setting, presentation and/or response.

- Examples of Accommodations

- Student Marks in Book
- Student Reads Test Aloud to Self
- Test Administrator Reads Test Aloud
- Special Test Environments
- Extended Time

- Examples of Accommodations

- Multiple Test Sessions
- Testing in Separate Room
- Audio Tapes
- Preferential Seating
- Study Guide
- Preferential Seating



The
Educator's
Handbook for
Inclusive School
Practices

Julie Causton
Chelsea P. Tracy-Bronson

Foreword by Cheryl M. Jorgensen

WHAT IS LEAST RESTRICTIVE ENVIRONMENT (LRE)?

- To the maximum extent appropriate, children with disabilities are educated with children who are nondisabled.
- 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.
 - IDEA (2004)

DETERMINING LRE

- Roncker Portability Test
 - Can services provided in segregated setting be transported to the general education classroom?
- Daniel Two-Part Test
 - Can meaningful education be provided in the general education classroom with supplementary aids and services?
 - Is the student integrated to the maximum extent possible?

- Rachel H. Four-Factor Test

- How do the educational benefits of the general education classroom with supplementary aids and services compare to those of the segregated setting?
- What are the non-academic benefits of the general education classroom?
- What effect does the student's presence have on others in the general education classroom?
- What is the cost associated with provision of aids and services in the general education classroom?

- Hartman Three-Part Test

- What, if any, are the educational benefits of the general education classroom with supplementary aids and services?
- Do the educational benefits obtained only in a segregated setting outweigh those in the general education classroom?
- Is the student with a disability a disruptive force in the general education classroom?

-
- Why is LRE such a big deal??

INCLUSION



LONG AGO



NOT SO LONG AGO



TODAY

INSPIRED BY BEVERLY RAINFORTH

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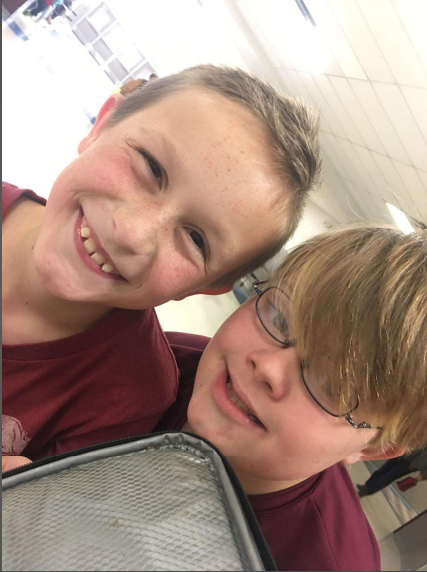
THE EVOLUTION OF SWIMMING LESSONS:
SURPRISINGLY SIMILAR TO THE EVOLUTION
OF INCLUDING STUDENTS WITH
DISABILITIES IN GENERAL EDUCATION.

WHAT IS INCLUSION?

- Not explicitly found in IDEA (2004)
- Not found in the ADA (1990)
- Not found in Section 504 of the Rehabilitation Act of 1973
- Brown v. Board of Education (1954)
- Oberti v. Board of Education of Clementon School District (1993)
- Greer v. Rome City School District (1990/1991/1992)
- Board of Education v. Holland (1992, 1994)

SO...WHAT IS INCLUSION?

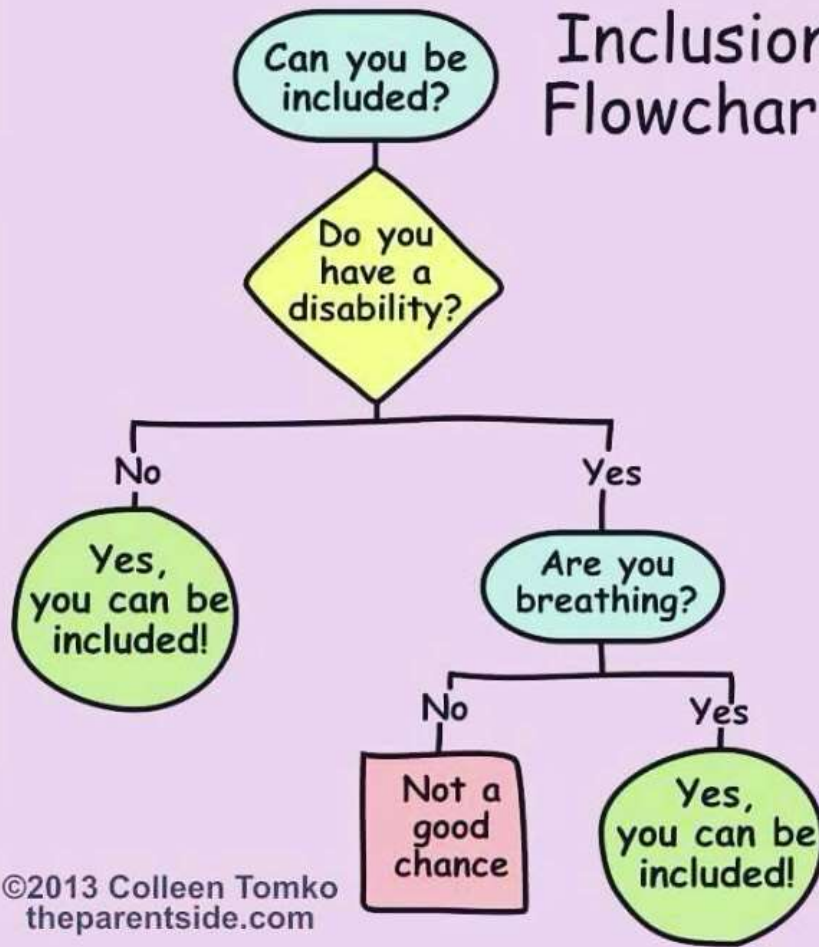
- Let's start with what it isn't...
 - It isn't simply being in the general education classroom.
- Inclusion is...
 - A continuum from 100% inside the general education classroom to a range of opportunities within and outside the general education classroom.
 - What happens inside the location...the culture of the classroom, building, district. A feeling of belonging exists for the child!
 - Cognitive access to the general education curriculum
- “Everyone has the right to belong, to have friends, to have engaging curricula, and to have powerful instruction. Everyone has the right to be treated with dignity and with gentle, respectful support and to experience that learning is intimately connected with feeling like part of the classroom” (Causton & Tracy-Bronson, p. xvii).
Reword this and put in your child's name!



IS INCLUSION APPROPRIATE FOR ALL CHILDREN?

- First of all, IDEA (2004) states that placement decisions *must* be based on a child's unique needs and IEP, *not* on administrative convenience, disability/program label, or allocation of funds.
- Secondly, yes, inclusion is appropriate for ALL children! We have a basic human right to be included. Segregation is a violation of a child's civil rights!
 - What inclusion looks like for your student will be different from what it looks like for other students.
 - Basic tenets should apply

Inclusion Flowchart



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theparentside.com

BURDEN OF PROOF

- The LRE statement must answer the question “why?” Why can’t the student’s education, even with supplementary aids and services, be achieved in the regular education class/environment? Why must the student be removed from his/her typically developing peers for specially designed instruction?
- This statement should not just restate the disability category or the setting...but focus on the educational needs of the student that require the removal from nondisabled peers.
- Special education services should be delivered in regular education classrooms except with the nature and severity of the disability of the child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

EDUCATIONAL PLACEMENT

- The educational placement decision is determined based on the percentage of time a student remains with his/her nondisabled peers.
 - Regular Classroom 100%
 - Inside Regular Classroom at least 80%
 - Inside Regular Classroom 40%-79%
 - Inside Regular Classroom less than 40%
 - Placement is based upon individual needs, not achievement or cognitive levels as compared to grade-level peers.

HOW DO I GET MY TEAM TO FOCUS MORE ON PROVIDING SERVICES INSIDE THE GENERAL EDUCATION CLASSROOM?

- Be willing to speak up
- Ask for support
- Know the law (IDEA 2004, ADA, Section 504)
- Offer ideas (supplementary aids & services, accommodations, modifications)
- Be willing to question the decisions proposed by the team!
- Know when it is in the best interest of your child to go more restrictive
- Stand your ground

-
- “Separate special education classrooms create separate lives. When students are removed from the general education environments, they live academic and social lives separate from those of their peers” (Causton & Tracy-Bronson, p. 6).

-
- Self-contained classrooms are “very controversial because not only do students in self-contained classrooms interact on a very limited basis, if at all, with students who do not have disabilities, but also they do not make greater educational gains than students with disabilities who are included in general education classes (Banjeri & Daily, 1995; Causton-Theoharis & Theoharis, 2008; Causton-Theoharis, Theoharis, Bull & Cosier, 2011; Vaughn, Moody, & Schumm, 1998; Waldron & McLeskey, 1998)” (Causton & Tracy-Bronson, p. 9).
 - It is okay to try and fail! Fail forward! Make inclusion work for your student!

SO, WHEN IS IT OKAY TO PLACE A CHILD IN A MORE RESTRICTIVE SETTING?

- “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.” Section 300.114 LRE Requirements
- *Holland*
 - Academic benefit to the student
 - Nonacademic benefit to the student
 - Negative effects of the LRE placement on the student and other students and staff
 - Cost of LRE placement

FBA & BIP

- Functional Behavioral Assessment
 - If a student is to be removed from the current setting because of behaviors, an FBA must be conducted to determine the function of the behavior.
- Behavior Improvement Plan
 - A BIP must be created to address the functions of behavior seen in the FBA.
 - Goals must be created in the BIP.
 - Time must be given for the interventions to work!
 - Positive Behavior Intervention & Support (PBIS)

RESOURCES

- <https://www.kcdsg.org/inclusion.php>
- <https://www.parentcenterhub.org/>
- <https://www.ndss.org/>
- <https://dscnwa.com/>
- Brian Herndon – 479-312-0858 or brianherndon@moinclusion.org