Implementation of least restrictive environment (LRE) in Nevada rural schools according to the Rachel H standard

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IMPLEMENTATION OF LEAST RESTRICTIVE ENVIRONMENT (LRE)
IN NEVADA RURAL SCHOOLS ACCORDING TO
THE RACHEL H. STANDARD

by

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Bachelor of Arts
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A dissertation prepared in partial fulfillment
of the requirements for the degree of

Doctor of Education

in

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ABSTRACT

Implementation of Least Restrictive Environment (LRE) in Nevada Rural Schools According to the Rachel H. Standard

by

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Public Law 94-142, the Education of All Handicapped Children Act (1975); Public Law 101-476, the Individuals with Disabilities Education Act (1990); and Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997 require that all disabled students be placed in the Least Restrictive Environment (LRE) in their educational settings.

In 1994 the Ninth Circuit Court established the Rachel H. Standard, which provides a guide for school districts in determining the Least Restrictive Environment for their disabled students. All school districts within the authority of the Ninth Circuit must comply with the standard set forth in Sacramento City Unified School District v. Rachel H. (1994).
The purpose of this study was to identify compliance issues faced by school districts that are members of the Nevada Rural School District Alliance in determining the appropriate placement for their special education students, based on the Rachel H. Standard established by the Ninth Circuit Court.
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CHAPTER 1

INTRODUCTION

In 1975, Congress enacted the Education of All Handicapped Children Act (EAHCA, Public Law 94-142), which focused on (a) providing a free appropriate education tailored to the needs of each handicapped child, (b) protecting the due process rights of such children and their parents or guardians in dealing with school districts, (c) assisting the states and localities in providing a free appropriate public education (FAPE) to each handicapped child, and (d) monitoring the efficacy of efforts to educate handicapped children in the United States. Congress enacted the EAHCA after finding that over eight million handicapped children needed to be served by public schools as the result of their disabilities, and consequently were not sharing the benefits of public education with their non-handicapped peers. It decided that these children were being denied equal protection of the law (i.e., equal access) as guaranteed by the Fourteenth Amendment.

The EAHCA was renamed in 1990 the Individuals with Disabilities Education Act (IDEA, Public Law 101-476). In 1997, Congress reauthorized and amended the IDEA, creating Public Law 105-17.
Throughout all of this legislation, from its inception in 1975 through the present amendments to IDEA, Congress has stated that all children will be educated to the maximum extent feasible in the least restrictive environment (LRE), with a continuum of services provided in order that students can be successful in the most appropriate educational setting. In 1994, the Ninth Circuit Court provided guidelines for determining appropriate placement for achieving LRE when it ruled in the case of *Sacramento City Unified School District v. Rachel H.* (1994). The Court articulated a four-question test for determining appropriate placement:

1. How do the educational benefits of full-time placement in a regular class compare with those in a special education placement?
2. What are the nonacademic benefits to the student associated with interaction with regular education students?
3. What effect does the student with disabilities have on the regular classroom teacher and children?
4. Does the cost of mainstreaming significantly impact upon the education of the other students?

The Purpose of the Study

The purpose of this study was to identify compliance issues faced by school districts that are members of the Nevada Rural School District Alliance.
in determining the appropriate placement for their special education students, based on the Rachel H. Standard established by the Ninth Circuit Court. Telephone interviews of the special education directors of rural Nevada districts were conducted to identify and describe procedures, policies, issues, and obstacles faced by the rural school districts in complying with the four-point Rachel H. Standard, to which these districts are bound, along with all public schools under the jurisdiction of the Ninth Circuit.

In addition, the author went to Carson City, Nevada, to review each district's compliance monitoring profile to determine if survey responses were compatible with compliance monitoring results.

Questions Designed to Elicit Compliance Concerns

The research questions were developed around the four points of the Rachel H. Standard to determine appropriate placement in the Least Restrictive Environment (LRE), which the Individuals with Disabilities Education Act (IDEA) defines as:

"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 not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." Sec. 612 (5)(A).
The four points of the Rachel H. Standard deal with the following issues, which were addressed in the interview questions: (a) Educational benefits to the student, (b) Nonacademic benefits to the student (c) Effect on the teacher and children in the regular classroom, and (d) Cost to the school district.

1. Are you aware of the four points of the Rachel H. Standard?

2. Which point, if any, has the greatest effect on the student’s placement? (Academic benefit, nonacademic benefit, effect on the teacher and other students, cost).

3. What specific procedures does your school district use to locate students who might be eligible for special education services, such as: child find and outside community agencies?

4. What formalized procedures does your school district use for determining eligibility for special education services, such as: performance on two standardized tests, scores falling two standard deviations below the mean, parental and/or professional concerns?

5. Do parents participate in the IEP to determine placement of a student in special education?

6. Is your school district able to provide a continuum of service for special education students that contains: regular classroom, regular classroom
with resource room support, self-contained programs on regular campuses, special school, residential school, and hospitalization?

7. What supplementary aids and services is your school district able to provide, such as: speech therapy, occupational therapy, physical therapy, assistive technology, transportation?

Definition of Terms

The following terms are used by districts to meet the Least Restrictive Environment requirements of the IDEA.

Assessment: This refers to the specific features of a student’s evaluation and can include formal and informal tests, student records, student work products, and observations of the student in the classroom, other school environments, and even outside the school.

Continuum of Service: As applied to students with disabilities, this is a range of educational placements from least restrictive to more restrictive, starting with general education services through institutionalization.

Disabled: This term identifies disability areas specified in the Individuals with Disabilities Education Act (IDEA): learning, emotional, or behavioral disabilities; mental retardation; severe and multiple disabilities; autism; giftedness; health impairments; physical disabilities; speech and language disorders; hearing or vision impairment; traumatic brain injury; and developmentally delayed.
Education for All Handicapped Children Act of 1975 (EAHCA): Public Law 94-142 was the initial federal legislation enacted to ensure that handicapped children are educated in the appropriate placement as close as possible to their home school(s).

Eligibility Team (ET): This term refers to members of the school and/or district staff who determine if a student’s disability is severe enough for the student to receive special education services.

Free and Appropriate Public Education (FAPE): This concept is a kingpin for special education, articulated in a law that provides disabled students an appropriate public education, including related services, at public expense and under public supervision and direction, without charge to the parents. 20 U.S.C.A §§ 1401(a)(18), 1412(1).

IDEA Amendments of 1997: This legislation, Public Law 105-17, reiterates the same position on Least Restrictive Environment that was expressed in the EAHCA and the IDEA. Additionally, these amendments mandate that if a State’s funding formula is not consistent with the LRE requirement, an assurance by the State will be made that the necessary funding will be provided.

Inclusion: “Inclusion generally refers to a situation where the home base for the student with disabilities is the regular education classroom.” (Osborne, 1997).
Individualized Educational Plan (IEP): When a student has been identified as having a disability covered by the IDEA, an individualized education plan (IEP) will be developed by the involved educators and the child’s parent(s). The IEP is to be appropriate to the child’s needs, determine the appropriate placement, and devise a means of assessing how well specific goals are being met. IEP is defined as Individual Education Plan.

Individuals with Disabilities Education Act (IDEA) of 1990: This legislation amended the EAHCA of 1975 by substituting “disabled” for the term “handicapped” and by providing transitional programming for students and assistive technology as a related service. The IDEA is Public Law 101-476, 104 Stat. 1141 (1990).

Least Restrictive Environment (LRE): The IDEA defines LRE as “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 not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” Sec. 612 (5)(A).

Mainstreaming: “Mainstreaming is an educational term that refers to the practice of placing students with disabilities in regular education classes with appropriate educational support. Mainstreaming is one means of meeting
the LRE requirement, but the IDEA does not always require mainstreaming. It requires that each student be educated in the environment that is least restrictive for that student.” (Osborne, 1997).

**Multidisciplinary Team (MDT):** The MDT is comprised of staff members of a school and/or district who are assigned to assess the specific strengths and needs of an individual student. Each person performing his/her portion of the assessment must be certified in that area of assessment. The MDT determines if a student is disabled and qualifies for special education services in the Least Restrictive Environment.

**Neighborhood Schools:** “The implementing regulations for the IDEA state that unless the student’s Individualized Educational Program (IEP) requires some other arrangement, the student should be educated in the school that he or she would attend if not disabled.” (Osborne, 1997).

**Nevada Rural School District Alliance:** A consortium of rural school districts whose purpose is to share resources and to problem solve mutual concerns.

**Ninth Circuit Court:** The jurisdiction of the Ninth Circuit Court applies to the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington; and to the Territory of Guam and the Northern Marina Islands. School districts located within these states and territories are bound by the decisions rendered by the Ninth Circuit Court regarding the
IDEA, regardless of whether or not a particular case originated in that jurisdiction, unless reversed by the Supreme Court of the United States.

**Nonacademic Services:** These include counseling services, recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, referrals to appropriate outside agencies, and student employment opportunities. (Sperry, Daniel, Huefner, & Gee, 1998, p. 847).

**Nondisabled:** Students who are not challenged by the disabilities named in the IDEA are considered nondisabled.

**Procedural Safeguards:** As mandated by the IDEA, procedural safeguards provide protection for the rights of parents to have input into decisions affecting a child's special education. Key to protecting the rights of parental involvement are such items as (a) timely notice of meetings, (b) securing parental consent, (c) development of the IEP, (d) due process hearings, (e) stay-put provisions, and (f) reimbursement of attorneys' fees under certain conditions.

**Rachel H. Standard:** The four points for the Rachel H. Standard are (a) educational benefit, (b) nonacademic benefit, (c) effect on the teacher and other students, and (d) cost.

**Related Services:** In addition to appropriate transportation, these refer to such developmental, corrective, and other supportive services as may be required to assist a handicapped child to benefit from special education.
Speech pathology and audiology, psychological services, physical and occupational therapy, early identification and assessment of disabilities, counseling services, and medical services for diagnostic or evaluation purposes, school health services, social work services in schools, parent counseling and training are all possible components.

**Zero Reject:** This means that no student can be excluded from a Free Appropriate Public Education regardless of handicapping condition. Additionally, it was also established by the Supreme Court in *Timothy W. v. Rochester New Hampshire School District* (1989) that proof of educational benefit is not required.

**Rationale**

The reason for the study was to determine compliance issues encountered by school districts in the Nevada Rural School District Alliance in implementing the most appropriate placement for their special education students, based on the *Rachel H.* Standard.

**Limitations and Delimitations**

The following limitations and delimitations are important to consider when reviewing the findings of the study.

1. The information was gathered by telephone interviews of the special education directors of school districts in the Nevada Rural School District.
Alliance. A telephone interview is more personal than a written response, yet less so than a face-to-face meeting.

2. This study did not attempt to interview other stakeholders in the Nevada rural school districts; i.e., parents, students, and special education teachers. The reason for limiting interviews to special education directors was that they were presumed to have the broadest understanding of legal obligations and of what happens on a daily basis in their school districts.

3. The review of the compliance monitoring report did not encompass all areas of the compliance profile, which leaves additional opportunities for further study of the other areas monitored in the profile.

Significance of the Study

The education of disabled students in the Least Restrictive Environment has been mandated by Congress. All school districts, urban and rural, are obligated to provide an appropriate continuum of placements to meet the needs of students with disabilities. The study was undertaken to provide information to special education administrators on how rural districts are dealing with the requirements of the law. Its findings may also assist decision makers in the legal arena to develop programs to deal with the issues.
CHAPTER 2

REVIEW OF THE LITERATURE

Case Law Prior to the EAHCA

Prior to 1954, black students as well as disabled students were excluded from the public schools. Brown v. Board of Education (1954) was the landmark case for the “right to education” in general and special education in particular. It announced the entry of the Federal Government into public education, and set forth the principle of equal protection and due process for all students, based on the Fifth and Fourteenth Amendments to the Constitution. It stated that “separate schooling was not equal schooling” in the education of black students. (Turnbull, Turnbull, Shank, & Leal, 1995).

The idea of educating children with disabilities in the regular classroom as much as possible also found its roots in this Supreme Court decision, which said that black students will attend the same school as white students, and to educate them separately is detrimental to them.

PARC v. Commonwealth of Pennsylvania

PARC v. Commonwealth of Pennsylvania (1972) was the initial lawsuit filed by parents of disabled students charging a state with violating students’
equal protection rights provided by the Fourteenth Amendment, citing Brown. The PARC case supplied the constitutional basis for providing education to children with disabilities. The Court ruled that disabled students could not be discriminated against, and ordered the State of Pennsylvania to provide a Free Appropriate Public Education (FAPE) in the same schools as were attended by children who were not disabled.

**Mills v. Board of Education**

In Mills v. Board of Education of the District of Columbia (1972) the Court ruled that parents of disabled students must be provided procedural safeguards so they can challenge school districts which did not live up to court orders. In Mills, the plaintiffs argued that all children can profit from an education, either in regular classrooms with supportive services or in special classes adapted to their needs. Students had been labeled as behavioral problems, mentally retarded, emotionally disturbed, or hyperactive; and on those grounds had been denied admission to the public schools or excluded from them after admission with no provision for alternative educational placement or periodic review. This concept, which requires that all students attend school, later was to become known as “zero reject.” Because of these complaints, the Mills court mandated that due process include procedures relating to the labeling, placement, and including parents in decision making. The procedures should include a right to a hearing (with representation, a
record, an impartial hearing officer), a right to appeal, a right to have access to records, and written notice at all stages of the process. This was the first time in federal case law the term "least restrictive environment" was mentioned.

Background of Least Restrictive Environment

Challenged by the difficulty of defining an "appropriate" education, schools face another controversial mandate: "Removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." 20 U.S.C. § 1412(5)(B) (1988 & Supp. V 1993). This provision, commonly referred to as "least restrictive environment," was introduced into federal law as part of Public Law 93-380, 88 Stat. 484 (1974) and retained with the adoption of the Education of All Handicapped Children Act in 1975.

The least restrictive environment was to be selected from a "continuum" of placement options that were available to each child. These options ranged from a regular education classroom to instruction in hospitals. Further, school districts were directed to provide supplemental services in conjunction with regular class placements. (Goldman, 1994).

Easing the situation somewhat was the possibility of combining regular and special education placements. This option is shown later in this chapter in the discussion of Daniel R.R. v. State Bd. of Educ.
For the most part, school districts locate self-contained special education classrooms in buildings housing regular education to permit flexibility in designing combination placements. Early on, many schools instituted a practice known as “mainstreaming”—including disabled students in the regular classroom. Although this allows students with disabilities to join a general education classroom for all or part of the school day, mainstreaming often results in little or no support for the student or for the general education teacher into whose class the child is placed. Moreover, special education students who are “pulled out” for services often receive less direct instruction than their non-labeled peers. (Goldman, 1994).

Very often educators and the courts are inconsistent in their use of the terms “mainstreaming” and “inclusion.” An educational journal recently published the following definitions:

“Mainstreaming proponents generally assume that a student must ‘earn’ his or her opportunity to be mainstreamed through the ability to ‘keep up’ with the work assigned by the teacher to the other students in the class.

Inclusion involves bringing the support services to the child (rather than moving the child to the services) and requires only that the child will benefit from being in the class rather than having to keep up with the other students. (Rogers, 1993).

However, the Third Circuit in Oberti v. Clementon Sch. Dist. Bd. of Educ. provided the following definitions:
Integrating children with disabilities in regular classrooms is commonly known as "mainstreaming." The parents point out that some educators and public school authorities have come to disfavor use of the term "mainstreaming" because it suggests, in their view, the shuttling of a child with disabilities in and out of a regular class without altering the classroom to accommodate the child. They prefer the term "inclusion" because of its greater emphasis on the use of supplementary aids and support services within the regular classroom to facilitate inclusion of children with disabilities. While "inclusion" may be a more precise term, we will nonetheless use the term "mainstreaming" because it is currently the common parlance.

The "least restrictive environment" mandate was never intended to require that all children with disabilities be educated full-time in the regular classroom. As stated by Senator Robert Stafford of Vermont, author of the integration language of the Act (EAHCA): "We are concerned that children with handicapping conditions be educated in the most normal possible and least restrictive setting, for how else will they adapt to the world beyond the educational environment and how else will the nonhandicapped adapt to them." (Goldman, 1994).

Beyond improving educational outcomes, educational placement in the least restrictive environment was intended to give children the highest possible level of individual liberty. Rather, Congress had a view to integration with nonhandicapped children as the governing principle, especially where there is
clear evidence that just the opposite was what was occurring in the past. (Goldman, 1994).

There was significant resistance to least restrictive environment at its outset. In an advertisement in the New York Times, the late Albert Shanker, President of the American Federation of Teachers, warned that the new law required regular classrooms for all students and that

“the handicaps...we are talking about...involve hydrocephalic children who were born with holes in the hearts, who turn blue periodically and have water on the brain and tubes in their heads which drain off the excess water.”

The American Federation of Teachers argued further that the least restrictive environment mandate put undue safety burdens on teachers and heavy burdens on them to develop an individualized education program for each handicapped child.

The Council for Exceptional Children, a group of education professionals, responded that the AFT's “emotional concern” had no factual basis, and it was time to change the attitudes of such people who were engaging in “scare tactics” about mainstreaming. (Goldman, 1994).
Federal Laws

Congress Enacts Legislation

The basic framework set out in Mills was incorporated into the law of the land. In 1975 Congress enacted Public Law 94-142 (the EAHCA) and followed in 1990 with Public Law 101-476 (the IDEA). These pieces of legislation were enacted to provide a free and appropriate public education to all students at no cost to their parents. Their education was to be provided with their nondisabled peers to the extent that it could be provided satisfactorily. That concept has been labeled the "least restrictive environment alternative" or "least restrictive environment" (LRE). (Sperry et al., 1998, pp. 691-692).

The New Amendments to the IDEA

The IDEA Amendments of 1997 (Public Law 105-17) also address the placement of special education students in the least restrictive environment. The amendments do not modify either the placement or standards set forth previously in EAHCA and IDEA. The definition of LRE remains essentially the same, and appears as follows.

"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 not disabled, and special classes, separate schooling, or other removal of children
with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

Sec. 612 (5)(A).

The new amendment adds an additional requirement:

“(i) IN GENERAL- If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(ii) ASSURANCE- If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary an assurance that it will revise the funding mechanism as soon as feasible to ensure that such mechanism does not result in such placements.” Sec. 612 (5)(B).

Nevada State Law

In the Nevada Administrative Code for Special Education Programs, the following language regarding least restrictive environment is employed.

Nevada reiterates the Federal law, and does not offer any additional protection.
"388.245 Restrictions on placement of pupil with disability; continuum of alternative placements; annual determination of placement of pupil.

1. A pupil with a disability may not be placed in a special class, in a school different than the one he would normally attend, or otherwise removed from the regular educational environment unless:

   (a) His individualized educational program otherwise provides; and
   
   (b) The nature or severity of his disability is such that, even with the use of supplementary aids and services, he cannot be educated satisfactorily in the regular educational environment.

A pupil with a disability, including a pupil in a public or private institution or other care facility, must be educated with pupils who are not disabled to the maximum extent appropriate.

2. A public agency shall provide a continuum of alternative placements to meet the needs of any pupil with a disability for special education and related services necessary to implement the individualized educational program for each pupil with a disability. This continuum must include, as appropriate:

   (a) Consultative and supplementary services provided with regular class placement; and
(b) Instructing the pupil in:

(1) A regular class;

(2) A special class;

(3) A special school;

(4) A community-based program;

(5) His home;

(6) A hospital; or

(7) An institution.

3. In the case of a program of early childhood special education, the continuum of alternative placements required by subsection 2 may include, as appropriate:

(a) An integrated or self-contained center-based program in a regular or special school;

(b) A home-based program;

(c) An itinerant consultant working with a community-based facility; or

(d) Instruction of the pupil in a hospital or institution.

As used in this subsection, 'center-based program' means a program in which a group of pupils receives services at a central location.

4. In developing a pupil's individualized educational program, the committee which develops the program shall
provide for the least restrictive environment to the maximum extent appropriate. In making this determination, the committee shall consider any potential harmful effects on the pupil and the quality of services required by the pupil. The committee shall provide for the placement of the pupil in a regular class unless the committee determines that the pupil cannot receive an appropriate education in a regular class, even with special aids and services. The basis for any such determination must be clearly set forth in the individualized educational program of the pupil.

5. Unless his needs or performance preclude such participation, a pupil with a disability must be allowed to participate with pupils who are not disabled at mealtime, recess, or any other nonacademic or extracurricular activity occurring at school for the maximum extent appropriate. If a pupil with a disability is excluded from such participation because of his needs or performance, the basis for the exclusion must be clearly set forth in the individualized educational program of the pupil.

6. The placement of a pupil with a disability must be determined at least annually. A pupil must be placed in the school he would normally attend if possible, or in the school
closest to his home which is capable of providing the services required by his individualized educational program."

Judicial Interpretation of LRE Statutory Obligation


*Sacramento City Unified School District v. Rachel H.*

The means of determining least restrictive environment for children with disabilities in the states affected by Ninth Circuit rulings was set down in *Sacramento City Unified School District v. Rachel H.* (1994). The following are excerpts from the Appellate Court's findings.

SNEED, Circuit Judge:

I. FACTS AND PRIOR PROCEEDINGS

Rachel Holland is now 11 years old and is mentally retarded. She was tested with an I.Q. of 44. She attended a variety of special education programs in the [Sacramento City Unified School] District from 1985-89. Her parents sought to increase the time Rachel spent in a regular classroom and in the fall of 1989, they
requested that Rachel be placed full-time in a regular classroom for the 1989-90 school year. The District rejected their request and proposed a placement that would have divided Rachel’s time between a special education class for academic subjects and a regular class for nonacademic activities such as art, music, lunch, and recess. The district court found that this plan would have required moving Rachel at least six times each day between the two classrooms. Holland, 786 F.Supp. at 876. The Hollands instead enrolled Rachel in a regular kindergarten at the Shalom School, a private school. Rachel remained at the Shalom School in regular classes and at the time the district court rendered its opinion was in the second grade.

The Hollands and the District were able to agree on an Individualized Education Program ("IEP") for Rachel. Although the IEP is required to be reviewed annually, see 20 U.S.C. § 1401a(20)(B), because of the dispute between the parties, Rachel’s IEP had not been reviewed since January 1990.

The Hollands appealed the District’s placement decision to a state hearing officer pursuant to 20 U.S.C. § 1415(b)(2). They maintained that Rachel best learned social and academic skills in a regular classroom and would not benefit from being in a special education class. The District contended Rachel was too severely
disabled to benefit from full-time placement in a regular class.

The hearing officer concluded that the District had failed to make an adequate effort to educate Rachel in the regular class pursuant to the IDEA...

The District appealed the determination to the district court...The court affirmed the decision of the hearing officer that Rachel should be placed full-time in a regular classroom.

In considering whether the District proposed an appropriate placement for Rachel, the district court examined the following factors: (1) the educational benefits available to Rachel in a regular classroom, supplemented with appropriate aids and services, as compared with the educational benefits of a special education classroom; (2) the nonacademic benefits of interaction with children who are not disabled; (3) the effect of Rachel's presence on the teacher and other children in the classroom; and (4) the cost of mainstreaming Rachel in a regular classroom.

1. Educational Benefits

The district court found the first factor, educational benefits to Rachel, weighed in favor of placing her in a regular classroom.... The court noted that the District's evidence focused on Rachel's limitations but did not establish that the educational opportunities available through special education were better or
equal to those available in a regular classroom. Moreover, the court found that the testimony of the Hollands' experts was more credible because they had more background in evaluating children with disabilities placed in regular classrooms and that they had a greater opportunity to observe Rachel over an extended period of time in normal circumstances. The district court also gave great weight to the testimony of Rachel's current teacher. Ms. Crone stated that Rachel was a full member of the class and participated in all activities. Ms. Crone testified that Rachel was making progress on her IEP goals: She was learning one-to-one correspondence in counting, was able to recite the English and Hebrew alphabets, and was improving her communication abilities and sentence lengths.

The district court found that Rachel received substantial benefits in regular education and that all of her IEP goals could be implemented in a regular classroom with some modifications to the curriculum and with the assistance of a part-time aide.

2. Nonacademic Benefits

The district court next found that the second factor, nonacademic benefits to Rachel, also weighed in favor of placing her in a regular classroom. The court noted that the Hollands' evidence indicated that Rachel had developed her social and
communications skills as well as her self-confidence from placement in a regular class, while the district’s evidence tended to show that Rachel was not learning from exposure to other children and that she was isolated from her classmates...The court found the testimony of Rachel’s mother and her current teacher to be the most credible...

3. Effect on the Teacher and the Children in the Regular Class

The district court next addressed the issue of whether Rachel had a detrimental effect on others in her regular classroom. The court looked at two aspects: (1) whether there was detriment because the child was disruptive, distractive, or unruly, and (2) whether the child would take up so much of the teacher’s time that the other students would suffer from lack of attention. The witnesses of both parties agreed that Rachel followed directions and was well-behaved and not a distraction in class. The court found the most germane evidence on the second aspect came from Rachel’s second grade teacher, Nina Crone, who testified that Rachel did not interfere with her ability to teach the other children and in the future would require only a part-time aide. Accordingly, the district court determined that the third factor, the effect of Rachel’s presence on the teacher and other children
in the classroom weighed in favor of placing her in a regular classroom.

4. Cost

Finally, the district court found that the District had not offered any persuasive or credible evidence to support its claim that educating Rachel in a regular classroom with appropriate services would be significantly more expensive than educating her in the District’s proposed setting.

The District contended that it would cost $109,000 to educate Rachel full-time in a regular classroom. This figure was based on the cost of providing a full-time aide for Rachel plus an estimated $80,000 for school-wide sensitivity training. The court found that the District did not establish that such training was necessary. Further, the court noted that even if such training were necessary, there was evidence from the California Department of Education that the training could be had at no cost. Moreover, the court found it would be inappropriate to assign the total cost of the training to Rachel when other children with disabilities would benefit. In addition, the court concluded that evidence did not suggest that Rachel required a full-time aide.
In addition, the court found the District should have compared the cost of placing Rachel in a special education class of approximately twelve students with a full-time special education teacher and two full-time aides and the cost of placing her in a regular class with a part-time aide. The District provided no evidence of this cost comparison.

By inflating the cost estimates and failing to address the true comparison, the District did not meet its burden of proving that regular placement would burden the District's funds or adversely affect the services available to other children. Therefore, the court found that the cost factor did not weigh against mainstreaming Rachel.

The district court concluded that the appropriate placement for Rachel was full-time in a regular second grade classroom with some supplemental services and affirmed the decision of the hearing officer...

We affirm the judgment of the district court. While we cannot determine what the appropriate placement is for Rachel at the present time, we hold that the determination of the present and future appropriate placement for Rachel should be based on the principles set forth in this opinion and the opinion of the district court. AFFIRMED
The Rachel H. Standard became a yardstick for school districts to use in determining the appropriate placement for special education students within the Ninth Circuit's jurisdiction (including Nevada). The four points for the Rachel H. Standard are (a) educational benefit, (b) nonacademic benefit, (c) effect on the teacher and other students, and (d) cost.

**Clyde K. v. Puyallup School District No. 3**

As school districts throughout the country continue to meet the specifics of the Individuals With Disabilities Act (IDEA) regarding placing their students in the Least Restrictive Environment (LRE), the courts are being presented with numerous cases that challenge and ask for clarification of the intent of IDEA. The case of Clyde K. v. Puyallup School District No. 3 (1994) speaks to the concerns felt by many school districts regarding the disciplining of special education students.

**Background Information**

Ryan K., by his parents, Clyde and Sheila K., initiated a challenge to school authorities regarding Ryan’s educational placement in the Puyallup School District. He was a fifteen-year-old student who was identified as disabled with Tourette’s Syndrome and Attention Deficit Hyperactive Disorder (ADHD). He was enrolled in Ballou Junior High School in Puyallup, Oregon, from mid-January to mid-March, 1992. During his enrollment at Ballou JHS, Ryan’s behaviors began to escalate, resulting in two suspensions for a total of
two days and finally an expulsion. He had been verbally and physically aggressive with his peers and teachers and was using sexually explicit and obscene language in school, particularly toward young girls. His suspensions were for the above behaviors, and his expulsion occurred on March 12, 1992 for assaulting a staff member.

When the school met with Ryan's parents they initially agreed that it was no longer safe for Ryan to remain at Ballou and agreed to a self-contained classroom placement off campus called STARS (Students Temporarily Away from Regular School). The school district notified the parents on March 17, 1992, of the change in placement. The parents agreed. On March 27, 1992, they changed their minds and decided that they wanted Ryan to remain at Ballou and filed a request for a due process hearing on April 6, 1992. The hearing was held during the summer and the administrative law judge ruled on September 14, 1992, that the STARS program was the best placement for Ryan and the school district had followed all the proper due process procedures as outlined in IDEA. Ryan's parents disagreed and appealed the decision of the administrative law judge on March 23, 1993.

**Change in Placement**

Ryan's doctors felt that his behaviors were a part of his disability of Tourette's Syndrome and suggested that the school hire an aide to monitor
Ryan’s behaviors and report back to them for their evaluation. Even though the school district did not agree that his behaviors were a result of his disability, they agreed to hire an aide to monitor his behaviors. When Ryan was expelled on March 12, 1992, the school and his parents felt that he presented a “clear and present danger to himself and others.”

**What Was the Least Restrictive Environment for Ryan?**

The placement of Ryan in the Least Restrictive Environment was also challenged by Clyde and Sheila, who claimed that the district had violated the “stay-put” provision of the IDEA by moving Ryan to the STARS program. The Court ruled that Ryan’s current educational program was the STARS program, based on his parents’ consent, and on their failure to file a request for due process hearing until after the placement had been made.

**The Rachel H. Standard Applied**

Rachel H. established the four factor test (the “Standard”) to determine the Least Restrictive Environment (LRE) for students with disabilities. In Clyde K., the parents alleged that the STARS program was not the LRE for Ryan. The court disagreed and upheld the district’s position that the STARS program was the Least Restrictive Environment for Ryan because Ryan was not receiving any academic benefit from being in the regular classroom (test #1). In fact, Ryan’s grades were declining. The court also ruled that the assistance of a personal aide would not make any significant difference for
Ryan. Ryan was receiving very little non-academic benefit in the regular classroom at Ballou (test #2), since the children were isolating him and making fun of him. When he was in the classroom, Ryan had a negative effect on the class and prevented other students from learning (test #3). He was aggressive and had attacked students and staff. His verbal language also presented a serious problem for the administration, which could have been made to answer to sexual harassment charges from other parents. Test #4 is to determine the cost of Least Restrictive Environment in the classroom versus another program. Certainly it was less costly, in terms of litigation, for Ryan to be placed in the STARS program, but the judge ruled that factor #4 was irrelevant because an aide assisting Ryan in the classroom would have not resulted in Ryan’s being able to benefit from the regular classroom. The Circuit Court upheld the lower court’s ruling in favor of the school district.

The Conclusion of Clyde K.

Clyde K. is not a case where school officials failed to provide supplementary services or make reasonable adjustments to accommodate a student’s disability. Prior to Ryan’s enrollment at Ballou teachers and staff attended special training sessions designed to educate them about Tourette’s Syndrome...Ryan received maximum support from the school’s special education staff attending small group “resource classes” for each of his academic subjects...In addition, Ryan received the assistance of the school’s
behavior specialist, who secured standing permission for Ryan to leave the class whenever he needed time to relieve his ‘tics’ in private. The school designated a special area in the nurse’s office for this purpose...Ryan has now spent two years in a self-contained program originally intended to serve as a short-term interim placement.

The four points for the Rachel H. Standard are (a) educational benefit, (b) nonacademic benefit, (c) effect on the teacher and other students, and (d) cost. Writing in 114 Ed.Law Rep. 1011, a noted Massachusetts educator commented that:

"Students whose presence in the classroom pose a significant safety risk may be excluded. It requires a court order to accomplish this, however....In this regard the Ninth Circuit has upheld the removal of disruptive students with disabilities since issuing its Rachel H. decision." (Osborne, 1997).

Poolaw v. Bishop

Lionel and Daphne Poolaw, the parents of a profoundly deaf child, Lionel III, disagreed with the proposal of the rural Parker Unified School District No. 27 to send the boy to the Arizona School for the Deaf and Blind. They sued to have their son remain in a regular classroom with a full-time interpreter for the hearing impaired. The District Court determined in Poolaw v. Bishop (1995) that the school district, because of its size and location, could
not provide the degree of intensive instruction in American Sign Language that Lionel would require to be able to benefit from education in the regular classroom. The Court upheld the decision for a placement in the state school. When the Poolaws’ appeal was heard in Circuit Court, Judge Procter Hug wrote:

The district court’s finding that Lionel will receive no educational benefit from continued mainstreaming is not clearly erroneous. The IDEA only requires a state educational agency to mainstream a disabled student to the maximum extent appropriate. It would be inappropriate to mainstream a child when he can receive no educational benefit from such a policy. We conclude that the Parker School District complied with the IDEA’s mainstreaming preference and other procedural requirements. Because Lionel’s current IEP is reasonably calculated to result in educational benefit to him, the Parker School District did not violate the IDEA by concluding that Lionel be placed in a special education environment. Accordingly, the order of the district court is 

AFFIRMED.

The four points for the Rachel H. Standard are (a) educational benefit, (b) nonacademic benefit, (c) effect on the teacher and other students, and (d) cost.
Seattle School District No. 1 v. B.S., as parent of A.S., a minor

Determining appropriate placement under the IDEA was the issue in Seattle School District No. 1 v. B.S., as parent of A.S., a minor (1996).

Excerpts from the opinion of Circuit Judge Betty B. Fletcher follow.

This case involves a dispute over the appropriate educational placement of a disabled child, A.S., under the Individuals with Disabilities and Education Act ("IDEA"), 20 U.S.C. § 1400-1490. The Seattle School District appeals the decision of the district court affirming the Administrative Law Judge's decision that the School District violated the procedural requirements of the IDEA and failed to provide A.S. a free appropriate public education under the Act. Accordingly, the School District was ordered to reimburse A.S.'s parent the cost of an independent evaluation, to pay for A.S.'s placement at a residential facility in Montana, and to pay the parent's attorneys' fees and costs. We have jurisdiction, 28 U.S.C. § 1291, and affirm.

BACKGROUND

A. Procedural History

After A.S. was expelled from school and temporarily hospitalized in a psychiatric facility for severe behavioral and emotional problems, the Seattle School District identified her as
emotionally and behaviorally disabled and thereby qualifying for special education and related services under the IDEA. The School District did not propose placing A.S. in a residential school, contending that mainstreaming in the regular school was preferable.

Dissatisfied with this assessment, A.S.’s parent, B.S., requested an independent evaluation at public expense. The School District denied this request and initiated an administrative proceeding to establish the appropriateness of its evaluation and, consequently, that it did not have a duty to pay for an independent evaluation at the parent’s request. The parent requested a hearing to challenge the School District’s refusal to place A.S. in a residential school. The matters were consolidated and a 5-day administrative hearing held.

The parent prevailed on all claims. The ALJ found that the School District’s evaluation was deficient, that B.S. was entitled to reimbursement of the cost of the independent evaluation, that the School District’s proposal for educating A.S. was deficient, that Intermountain Children’s Home in Montana was an appropriate placement, and that the School District must pay for A.S.’s residential placement at Intermountain (except for the costs of medical care).
The School District appealed the decision by filing a civil action in district court pursuant to 20 U.S.C. § 1415(e). After reviewing the administrative record and conducting a four day bench trial, the district court affirmed the ALJ's decision in its entirety. In its oral ruling, the district judge commented that her "decision is not one that was a close call." The district court awarded B.S. attorneys' fees and costs.

B. Factual Background

A.S. was born on October 7, 1982. She has a history of early neglect, physical and sexual abuse, abandonment, and placement in several foster homes, which experts have identified as a cause of her emotional and behavioral problems. She has been diagnosed as having an attachment disorder, an oppositional defiant disorder, a conduct disorder, and a histrionic personality. She has resided with her adoptive mother, B.S., within the Seattle School District, since September, 1989.

At school, A.S. exhibited frequent behavioral problems, including physical and verbal aggression, oppositionality, tantrums, attention difficulties, and the showing of inappropriate affection toward adults. A.S. was referred to the School District for evaluation of a suspected disability in April 1990, but the District's assessment team did not identify a disability. Nonethe-
less, the School District attempted to cope with A.S.'s difficulties by providing individual staff attention, reinforcement for positive behavior, and other means of intervention. A.S. was placed in a special education classroom for students with serious behavioral disabilities. B.S. privately secured individual and family counseling for A.S.

In spite of these and other attempts at intervention, A.S.'s problems at school worsened. A.S. continued to exhibit physical and verbal aggression, lying, stealing, and oppositional behavior. A.S.'s therapists ultimately concluded that a day program supplemented by counseling was insufficient. They recommended a residential facility with a therapeutic environment. In March, 1992, B.S. sought an evaluation by Dr. Vera Fahlberg, a physician, who recommended placing A.S. in a residential setting employing strategies to address A.S.'s attachment difficulties and behavioral concerns. She identified Intermountain Children's Home in Montana as the nearest known program which met A.S.'s needs. This recommendation was supported by A.S.'s therapists.

By the fall of 1992, A.S.'s behavioral problems had escalated. School staff gave A.S. individual attention and attempted various interventions, including removal from class. A.S. became
isolated from other children. Her problems seriously affected her ability to benefit from classroom instruction. In December 1992, A.S. became so verbally and physically assaultive that she was placed in restraints, and taken to Fairfax Hospital. Based on her behavior, A.S. was expelled from school. She was discharged from the hospital in March 1993. As the School District had expelled her, A.S. remained out of school through the end of the school year. In May 1993, Dr. Springer, A.S.’s pediatrician, wrote the School District recommending that A.S. be placed in a residential facility to allow her to acquire the emotional skills necessary for attachment to others and to make use of her cognitive abilities. In May 1993, the School District reevaluated A.S. and concluded that she was seriously behaviorally disabled and eligible for special services. It noted that in spite of A.S.’s age-appropriate academic scores on standardized tests, A.S. had long exhibited behaviors that adversely affected her educational performance. The evaluation did not address the question of A.S.’s need for residential placement.

B.S. and the School District failed to agree on A.S.’s placement during two individualized education program (IEP) meetings held in June 1993. The School District rejected residential schooling, proposing instead a specialized self-contained
behavioral classroom with counseling services, to be provided during the regular school day. Disagreeing with this recommendation, and believing the School District’s evaluation to be deficient, B.S. sought an independent assessment from Dr. Ulrich Schoettle, a child psychiatrist. The School District refused to pay for this assessment. Dr. Schoettle concluded that A.S. was unable to progress outside a residential school environment.

As of the time of the administrative hearing, A.S. had received no educational services for six months. B.S. asked the School District to provide private tutoring pending the hearing decision. The School District refused, and B.S. obtained an order from the ALJ requiring the District to provide tutoring.

At the administrative hearing, Drs. Fahlberg, Schoettle, and Springer testified that the severity of A.S.’s disability affected her ability to participate in learning activities at school and to make productive use of what she might learn. Each recommended placement in a residential school as soon as possible, noting that they rarely made such a recommendation. Each concluded that A.S. was unlikely to derive any meaningful educational benefit from the School District’s proposed day program, as only a residential school could provide the intensity, structure, and consistency necessary for A.S. to progress...The ALJ agreed, and
ordered the School District to pay for A.S.’s placement at Intermountain.

The School District filed suit in district court, seeking to overturn the ALJ’s decision. Shortly thereafter, A.S. enrolled at Intermountain, where she has gradually made progress. At the time of trial before the district court, A.S. had been enrolled at Intermountain for seven months.

The district court reviewed the administrative record and entertained additional testimony. The School District introduced the testimony of one medical expert, Dr. William Sack, whom the district court found to be well-qualified but not as familiar with A.S. as the parent’s experts. The School District’s primary witness was Jody Decker, the tutor that the ALJ had ordered the School District to hire. Although Decker testified that the tutoring situation with A.S. was progressing, the district court found this situation irrelevant to predicting A.S.’s future, as the School District proposed mainstreaming, not private one-on-one tutoring. The district court agreed with the conclusions reached by the ALJ and affirmed the administrative decision. The court found that the ALJ’s decision was complete and thoughtful and its reasoning careful and accurate. The court noted that it would
arrive at the same conclusions and reach the same result independently.

**STANDARD OF REVIEW**

The School District had the burden of proving compliance with the IDEA at the administrative hearing, including the appropriateness of its evaluation, 34 C.F.R. § 300.503(b), and its proposed placement for A.S. *Clyde K. v. Puyallup Sch. Dist.*, 35 F.3d 1396, 1398 (9th Circuit 1994). As the party challenging the administrative ruling, the School District also had the burden of proof in district court. Id at 1399.

There is both a procedural and a substantive test to evaluate compliance with the IDEA. Reviewing courts must inquire First, has the State complied with the procedures set forth in the Act? And second, is the individualized education program developed through the Act's procedures reasonably calculated to enable the child to receive educational benefits? *Board of Educ. v. Rowley*, 458 U.S. 176, 206-07, 73 L.Ed. 2d 690, 102 S.Ct. 3034 (1982).

In evaluating a complaint under the IDEA, the district court "shall receive the record of the [state] administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate."
20 U.S.C. § 1415(e)(2). The Ninth Circuit has interpreted this as calling for de novo review. Union Sch. Dist. v. Smith, 15 F.3d 1519, 1524 (9th Circuit), cert. denied, 130 L.Ed. 2d 341, 115 S.Ct. 428 (1994). However, it has cautioned that this court, like the district court, must give deference to the state hearing officer's findings, particularly when, as here, they are thorough and careful. Id. This court also "must give 'due weight' to judgements of education policy when [we] review state hearings... Courts should not substitute their own notions of sound educational policy for those of the school authorities which they review." Id.

The district court's findings of fact are reviewed for clear error and its conclusions of law are reviewed de novo. The appropriateness of a special education placement under the IDEA is reviewed de novo. Sacramento City Unified Sch. Dist. v. Rachel H., 14 F.3d 1398, 1402 (9th Circuit), cert. denied, 129 L.Ed. 2d 813, 114 S.Ct. 2679 (1994). However, the district court's factual determination that a student is incapable of deriving educational benefit outside of a residential placement is reviewed for clear error. Id. (citing Ash v. Lake Oswego Sch. Dist., 980 F.2d 585,

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1 de novo is when all the evidence taken in a prior proceeding is re-heard as if it had not been in the record submitted to the court.
588 (9th Circuit 1992)). To the extent the district court's findings are based on determinations regarding the credibility of the witnesses, "Rule 52(a) demands even greater deference to the trial court's findings." *Anderson v. Bessemer City*, 470 U.S. 564, 575, 84 L.Ed. 2d 518, 105 S.Ct. 1504 (1985)...

**CONCLUSION**

The district court properly concluded that the School District's evaluation of A.S. was inadequate, its day-schooling proposal was unlikely to provide A.S. educational benefit, a residential program was the least restrictive alternative appropriate to A.S.'s needs, and Intermountain Children's Home was an appropriate placement. Accordingly, the IDEA required the School District to pay for an independent assessment of A.S. and to pay the nonmedical costs of A.S.'s placement at Intermountain.

The judgment of the district court is **AFFIRMED**.

The four points for the Rachel H. Standard are (a) educational benefit, (b) nonacademic benefit, (c) effect on the teacher and other students, and (d) cost.
Summary

In the four cases presented, it is evident that the placements were more restrictive than the regular classroom, yet appropriate for each individual student.

In *Sacramento City Unified School District v. Rachel H.* (1994), the Ninth Circuit Court concluded that the appropriate placement for Rachel was full-time in a regular second grade classroom with some supplemental services; and that the determination of the present and future appropriate placement for Rachel should be based on the principles set forth in the Circuit Court’s opinion (which paralleled the opinion of the district court).

In the matter of *Clyde K. v. Puyallup School District No. 3* (1994), the court used the *Rachel H.* Standard in upholding the school district’s position that Ryan K. was not receiving any academic benefit from being in the regular classroom; that he was receiving very little non-academic benefit; that Ryan had a negative effect on the class; and that the final test — cost — was irrelevant because an aide assisting Ryan would not have helped Ryan to benefit from the regular classroom.

In *Poolaw v. Bishop* (1995), the Ninth Circuit ruling was that it would be inappropriate to mainstream a child when he can receive no educational benefit—clearly a reference to test #1 of the *Rachel H.* Standard.
In Seattle School District No. 1 v. B.S., as parent of A.S., a minor (1996), the school district’s day-schooling proposal was found unlikely to provide A.S. educational benefit. This reference to test #1 shows that Rachel H. is regarded as the Ninth Circuit’s benchmark for LRE decisions.

Determining a Free and Appropriate Public Education

Other Judicial Guidance Cited Favorably by the 9th Circuit

Sixth Circuit

An early Federal Court utterance in the area of considering cost in the matter of determining an appropriate placement for students with disabilities came in Roncker v. Walter (1983). The school district had identified that a county school dedicated to handicapped children was the proper placement for Neill Roncker, a nine-year-old who was severely mentally retarded and also suffered from a seizure disorder. His inability to recognize dangerous situations dictated that Neill be continuously supervised. Neill’s parents, on the other hand, wanted him to have contact with non-handicapped students.

A formal hearing was convened, and it was proposed by the school district that Neill be placed in a special education program on the regular campus. The State Board of Education also required that Neill have interaction with non-handicapped students. The parents took the matter to the

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District Court, which upheld the school district’s proposal. Once again appealing, the Ronckers finally received from the Sixth Circuit the satisfaction they had sought. The Circuit Judge held that the proposed placement of Neill in a segregated school was not appropriate since it failed to provide mainstreaming. The Court instructed that the IDEA’s requirement that handicapped children be educated with non-handicapped children “to the maximum extent appropriate” indicates a strong preference for mainstreaming. Roncker v. Walter (1983).

The following test for appropriate placement was laid out by the Roncker court: (1) Could the supposedly superior facilities available in a segregated setting be provided in a non-segregated setting? If so, a segregated placement would be inappropriate under the IDEA. This meant that whenever feasible, schools should provide programs on regular campuses which are traditionally available on segregated campuses. Another test the Court outlined was: (2) Although cost is a factor, since excessive spending on one handicapped child deprives other handicapped children, “cost is no defense if the school district has failed to use its funds to provide a proper continuum of alternative placements for handicapped children.” Roncker v. Walter (1983).
Fifth Circuit

Additional aid in determining appropriateness came from the Fifth Circuit Court of Appeals. In Daniel R. R. v. State Board of Education (1989), the Court upheld the school district's decision to limit Daniel's peer association to lunch and recess because his education could not be achieved satisfactorily in the regular classroom. In the process, the Court established a two-part test which was different from, but perhaps not as exacting as the Roncker test. The Daniel R. R. test determined (a) whether education in the regular classroom, using supplemental aids and services, can be accomplished satisfactorily for a given child, and (b) whether the child has been placed in a setting with non-handicapped peers (mainstreamed) to the maximum extent.

In Flour Bluff Independent School District v. Katherine M (1996), the mother of a deaf student sought to have her child placed at a school nearer the family home. A hearing officer had supported the mother's request, ruling that it was consistent with the IDEA's encouragement of placements as close to home as possible. In the Appeals Court, however, the Judge ruled that since the original placement (a regional school specializing in serving the hearing impaired) was only a few miles more distant from the home school, and that the facilities there were a means for the state to maximize teaching and therapy for deaf children, placement there did not violate the IDEA.

Although the family court had ordered that a residential placement was best for a disabled boy, a hearing officer ruled that a program at the local
public school was appropriate under the IDEA. The school district refused to fund the residential placement, and on appeal to District Court, the school district prevailed. *King v. Pine Plains Central School District*, (1996). The judge ruled that once the placement had been made, the district had no further obligation.

**Third Circuit**

Additional considerations were tacked onto the *Daniel R.R.* test in *Oberti v. Clementon Sch. Dist. Bd. of Educ.*, (1993). The Court considered whether Rafael Oberti's inclusion had negative effects on the other children in the regular education classroom and whether Rafael had been included in school programs with non-handicapped students to the maximum extent appropriate. Through these and other cases, various courts were developing tests for appropriate placement and least restrictive environment that eventually led to the Rachel H. Standard.

**Eleventh Circuit**

In *Greer v. Rome City School District* (1991), the Eleventh Circuit Court of Appeals determined that “if the cost of educating a handicapped child in a regular classroom is so great that it would significantly impact upon the education of other children in the district, then education in a regular classroom is not appropriate.” In its ruling, the Court cited the earlier
Roncker matter decided in the Sixth Circuit. Although Circuit Court decisions are not binding on other Circuits, they are often “persuasive.”

Relevant District Court Case Law

A “win-win” decision came out of Christen G. v. Lower Merion School District (1996), when a Pennsylvania District Court judge ruled on a disputed placement for a disabled girl. The school district had recommended three optional placements, none of which was acceptable to the girl’s mother. The child was then enrolled in a private school while the controversy continued. In bringing suit, the mother sought reimbursement for the two years the girl had been in private school. The judge ruled that reimbursement was not due for the first year, since the district had offered an appropriate educational plan—even though it contained an emotional support component of which the mother had not approved. On the other hand, the district was found to have failed to offer a satisfactory IEP during the second year of the girl’s out-of-district placement, and the Court awarded the mother reimbursement for that time.

In Mather v. Hartford School District (1996), the Court found that the public school faculty were willing and able to accommodate the student’s disabilities, and that the IEP was “reasonably calculated to provide a FAPE as required by the IDEA. The parents had rejected the IEP and had placed their child in a residential school for the learning disabled.
Disappointed when after a year they felt that their child's IEP was inappropriate, Missouri parents placed their son in a private school and were awarded reimbursement of tuition and travel expenses by a state-level review officer. The review officer also found that the school was then able to provide similar services. Each ruling was disputed by the disfavored party, and both appealed. In *Fort Zumwalt School District v. Missouri Board of Education* (1996), the parents were upheld on two issues. The judge found that the district's proposed services were not comparable to those provided in the private school, and that the review officer's award of tuition was proper. The District Court refused to award reimbursement of interest on the loan taken out by the parents to pay the private school tuition, however.

When a school district refused to continue occupational therapy for a boy who had been switched to a private school by his parents, the District Court held that while a school district has some discretion in allocating IDEA resources among public and private school students, it may not exercise its discretion so as to totally exclude private school students from the benefits of the IDEA. *Natchez-Adams School District v. Searing* (1996). In its ruling, the Court directed the district to provide at least 30 minutes of occupational therapy per week at the private school or to convene a team to devise an acceptable IEP from which the student could benefit.

In Rutland, Vermont, disruptive students with emotional and behavioral problems attend their own school in order for regular schools to
provide a safe and orderly environment. Titled the “Success School Program,” the new location provides instruction in some areas for grades 6-12, while students attend other classes at their home schools. The objective of the program is to provide an “aura of safety” for the challenged students. Administrators consider the Success School a “common sense way to let the inclusion pendulum settle in the middle.” The cost to educate a child at Success is about $11,000, compared with the $3,824 the district spends per student in regular classes (Sack, April 1997).

Conclusion

“[The IDEA’s] least restrictive environment mandate has generated considerable judicial debate. Initially, judges deferred to the expertise of school authorities regrading where special education services could be provided. Thus, if school officials determined that it was necessary to place a student in a segregated environment to provide an appropriate education, that decision generally was upheld. Most courts ruled that the least restrictive environment provision was secondary to the mandate to provide an appropriate education.” (Osborne, 1977).

It seems clear that there are no firm guidelines for determining what constitutes the Least Restrictive Environment in every case. The decision may sometimes depend on a precedent a particular judge looks to; or it could be determined by a careful look at the minimum needs of the child versus the
ability of a school district to provide those needs in the context of a regular classroom placement. Again, it appears that when a school district does its honest best to comply with LRE mandates but still falls short, the courts are more inclined to find a reasonable compromise than to penalize the school. The study documents the efforts of rural Nevada districts to provide the Least Restrictive Environment for their disabled students based on the four points of the Rachel H. Standard: (a) educational benefit, (b) non-academic benefit, (c) effect on the teacher and other students, and (d) cost.

According to Osborne (1997), in Rachel H., the Ninth Circuit stated that "the first two factors a court [determining least restrictive environment] should examine are the educational benefits and nonacademic benefits to be derived by the students with disabilities from placement in the regular classroom. Since many previous courts had held that it is appropriate to sacrifice some degree of educational benefits for nonacademic benefits, it is appropriate to examine these two factors in common [as done by the court in Roncker v. Walter (1983)]. Recent courts have held that inclusion may not be appropriate if a student receives no benefits at all, or very few benefits, either academic or nonacademic [as in Poolaw v. Bishop (1995)]. For the most part, as emphasized by the Ninth Circuit itself, courts do not want students to fail for the sake of inclusion [Capistrano Unified School District v. Wartenberg (1995)]. However, the importance of considering a full range of supplementary aids and services to increase the benefits a student will receive cannot be overemphasized. In
arguing for a segregated or more restrictive placement, school officials must show that all feasible supplementary aids and services were either unsuccessfully attempted or considered but rejected for valid reasons. The argument that it is easier to educate the student in a segregated setting will not withstand judicial scrutiny.

The effect the student with disabilities will have on the teacher and other students in the classroom is a very legitimate consideration in inclusion cases. The fact that a student may need to have the curriculum modified does not justify exclusion; however, there are limits. The curriculum does not need to be modified beyond recognition [reference D.F. v. Western Sch. Corp. (1996)]. The fact that a student with disabilities learns differently from other members of the class also does not justify exclusion. Teachers are expected to make accommodations to meet the needs of a variety of learners. Students whose presence in the classroom poses a significant safety risk may be excluded. It may require a court order to accomplish this, however [see Honig v. Doe (1988)]. Students that are so disruptive that they interfere with the education of others may be removed from the mainstream; however, before such students are removed, school officials must show that a full contingent of supplementary aids and services were employed without success to curb the disruption. The disruption must be substantial. Minimal disruption is not a reason to exclude since many nondisabled students also cause frequent minimal disruptions. In this regard the Ninth Circuit has upheld the removal of disruptive students.
with disabilities since issuing its Rachel H. decision [a reference to Clyde K. v. Puyallup School District No. 3 (1994)].

The final factor that may be considered is the cost of mainstreaming. Courts have indicated that if the costs of inclusion are excessive, it is not warranted. Unfortunately, however, no guidelines have been handed down regarding how much is excessive.

The recent cases in which courts have approved segregated placements do not signal the end of the era of judicially-ordered inclusion. These cases simply indicate that courts will be reasonable when considering placement decisions. In each of the cases the courts applied the criteria established by the appeals courts for determining whether or not inclusion was warranted, but determined that, given the facts of the case, it was not. In these decisions the courts allowed school districts to place students in segregated settings when it was clearly in the best interests of the student (and other students in the mainstream) to do so.

In this respect school officials bear the burden of proving that the segregated setting is the least restrictive environment appropriate for the student’s needs. In the recent cases ordering segregated placements, the school officials met that burden. In [Oberti v. Clementon Sch. Dist. Bd. of Educ. (1993), Sacramento City Unified School District v. Rachel H. (1994), and Greer v. Rome City School District (1991)] school officials did not. In situations where school officials are unable to show that there is no feasible alternative to
educating a student with disabilities in a segregated setting, it is likely that the courts will order the school districts to develop programs in inclusionary settings.

There is no indication from the recent litigation that the courts will retreat from the emphasis they have placed on the IDEA’s LRE provision in the past few years. Before school officials can make the decision to exclude a student with disabilities from the mainstream, they must have either made a legitimate attempt at inclusion, and failed in spite of their best efforts, or have substantial evidence that inclusion will not work. Furthermore, the effort to include a child within the regular education mainstream must be genuine; window dressing will not suffice.”
CHAPTER 3

METHODOLOGY

The purpose of this study was to identify compliance issues faced by school districts that are members of the Nevada Rural School District Alliance in determining the appropriate placement for their special education students, based on the Rachel H. Standard established by the Ninth Circuit Court.

The study is a descriptive survey based on interviews of special education directors of districts which are members of the Nevada Rural School District Alliance, addressing their perceptions of compliance issues faced in determining the appropriate placements for students with disabilities based on the Rachel H. Standard established by the Ninth Circuit Court. Their responses were based on a set of questions dealing with identification, evaluation, and placement decisions. The questions posed appear in Appendix B.

The author also visited the Carson City offices of the Nevada Department of Education in order to review the compliance monitoring profiles (see Appendices C-G) for the school districts which had responded to the survey and to determine if the perceptions of each district's compliance with State mandates were supported by the reports of the compliance auditors who had
made tours of the districts. The portions of the State's monitoring reports which correspond to the research questions were tabulated and are presented in the study.

Selection of Subjects

In order to identify the subjects, the author approached her supervisor's office for a list of special education directors in the Nevada Rural School District Alliance. It was noted at that time that nearly all Nevada rural school districts had people with the title of special education director.

Sampling Procedure

The telephone interview procedure was selected for the following reasons: (a) telephoning would be less costly than conducting face-to-face interviews; (b) it would allow the selection of representative members of the target population spread over a large geographic area; (c) the interviews could be conducted from a central location, thus increasing quality control; (d) it would be easier to control conditions under which information would be obtained; (e) call-backs would be feasible if necessary; (f) it would be easier to reach people by telephone than in person; and (g) sensitive issues would be more easily dealt with by telephone than in person. Further, the timing of the interviews, which took place in May — at an especially busy time of the school year— strongly suggested that neither personal contact nor written responses were likely to meet with any better success.
In summary, research has shown that telephone interviewing reaches nearly the same proportion of the target population, obtains nearly as high a percentage of returns, and produces comparable information at about one-half the cost of personal interviews. (Borg and Gall, 1989).

The author is aware that there are other stakeholders who have perceptions regarding special education issues; including, but not limited to, teachers, parents, community members, and special education officials at the State level. This study attempted only to identify the perceptions of special education directors. Interviews with other stakeholders provide opportunities for future study.

Interview Protocol

The steps that were followed in setting up the study were as follows:

1. A letter of clarification was sent to the entire population (15 districts), explaining the study and soliciting a date and time for the interview. The letter was accompanied by a list of the questions to be asked, in order that subjects could prepare their responses ahead of time. An informed consent form was included in the original mailing.

2. The districts whose heads of special education would provide responses (67 percent, as it turned out) would become the sample on which the study’s conclusions would be based.
3. The list of contact names was turned over to the interviewer, with whom the author determined the procedure to be followed. Each contact was reached initially by telephone in order to set a mutually agreeable time for the interview to take place. The telephone interviews were then conducted over a period of two weeks in May. Of the 15 districts, ten were reached successfully and agreed to participate in the study.

4. Survey questions were formulated to address possible concerns and potential problems that might arise in appropriately placing special education students. The questions are phrased in the following manner:

1. Are you aware of the four points of the Rachel H. Standard?

2. Which point, if any, has the greatest effect on the student’s placement? (Academic benefit, nonacademic benefit, effect on the teacher and other students, cost).

3. What specific procedures does your school district use to locate students who might be eligible for special education services, such as: child find and outside community agencies?

4. What formalized procedures does your school district use for determining eligibility for special education services, such as: performance on two standardized tests, scores falling two standard deviations below the mean, parental and/or professional concerns?

5. Do parents participate in the IEP to determine placement of a student in special education?
6. Is your school district able to provide a continuum of service for special education students that contains: regular classroom, regular classroom with resource room support, self-contained programs on regular campuses, special school, residential school, and hospitalization?

7. What supplementary aids and services is your school district able to provide, such as: speech therapy, occupational therapy, physical therapy, assistive technology, transportation?

Administration of the Survey and Review of Compliance Profiles

Administrative personnel representing the following rural county school districts were surveyed: Carson City, Douglas, Elko, Eureka, Humboldt, Lander, Nye, Pershing, Storey, and White Pine. Representatives of the other rural districts (Churchill, Esmeralda, Lincoln, Lyon, and Mineral) did not respond despite up to five attempts to reach them.

Transcribing Responses

As each interview was conducted, the interviewer made notes of the director's responses to the seven questions—including any additional comments or information that was offered. Conversations triggered by the questions were not limited to a narrow response format. A summary of the directors' responses was compiled and analyzed in order to detect patterns. The questioning was deliberately open-ended and informal since the author's intention was to bring together the perceptions of special education
professionals and not to overlay their opinions with her own or the
interviewer's judgments. Each district's monitoring profile was reviewed at the
Department of Education and the results were tabulated.

Before this study, no one has published a survey of this kind involving
Nevada rural districts. The study has generated information that could lead to
further study.

Administration of the Interview Protocol

The introductory letter sent to the subjects identified the author as a
doctoral student at the University of Nevada, Las Vegas, who was completing a
dissertation on The Implementation of Least Restrictive Environment (LRE) in

The district directors received notification of the name, address, and
phone number of the author in a header at the top of each page; e.g.:

Laurie Magee Flanders
385 Thornhill Circle
Henderson, NV 89014
Tel: 702-898-9891
E-mail: GLF395@aol.com

The subjects were assured that their participation would be confidential.
They were thanked in advance for their participation. The cover letter and the
survey questions are presented in Appendix B to this document.

The author engaged a third party with expert knowledge of special
education concerns to conduct the actual interviews as a further assurance that
no personal biases of the author would find their way into the results of the study. The interviewer selected was Dr. Marshall Forstot, a former director of special education in rural Nevada who holds a Ph.D. in special education from Wayne State University. Dr. Forstot added the advantage of having been professionally acquainted with the interviewees during his recent tenure as Director of Special Education in a rural Nevada school district.

Dr. Ann M. Alexander, Special Education Consultant for the Nevada Department of Education, facilitated a review of the districts' monitoring folders and the compliance monitoring reports. State monitoring profiles are conducted every three years, and reflect what the Federal Government requires in the form of data. The State requires 80 percent compliance in order for the district to be in compliance. The objective is to uncover systemic problems, not to find specific errors in a file.
CHAPTER 4

FINDINGS OF THE STUDY

Of the 15 directors of special education in the Nevada Rural School District Alliance, ten (67%) were able to participate in the study. Those who were surveyed represent both larger and smaller rural districts in terms of student population. The districts which participated in the study included Carson City, Douglas, Elko, Eureka, Humboldt, Lander, Nye, Pershing, Storey, and White Pine.

Familiarity With the Standard

Question 1: Are you aware of the four points of the Rachel H. Standard? All the responses to this question were affirmative, which demonstrates that the rural counties are well informed and current with the best practice in administering special education programs.

Table 1

Awareness of the Rachel H. Standard

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>
This also reinforced the author's rationale for the selection of subjects: that interviewing the individuals with day-to-day accountability for special education in their districts would yield informed, authoritative information.

Determining Factor

The importance of each of the four tests for determining least restrictive environment, established by the Rachel H. ruling (academic benefit, nonacademic benefit, effect on the teacher and other students, and cost), was tested in the Question 2: Which point, if any, has the greatest effect on the student's placement?

The answers were divided, although interestingly no respondent named cost as bringing the most to bear on placement decisions. Table 2 indicates how the four points of Rachel H. were rated.

Table 2

<table>
<thead>
<tr>
<th>Determining Factors for LRE Placement: Survey Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Benefit</td>
</tr>
<tr>
<td>------------------</td>
</tr>
<tr>
<td>3</td>
</tr>
</tbody>
</table>

From this result, it is evident that the non-academic benefit to the disabled child is the primary consideration in determining the appropriate educational placement for special education students in rural Nevada.
Potential academic benefit of the disabled child's being taught with peers is next in importance. The impact on the classroom teacher and other students appears to be less of a problem. This bears out the claim further advanced in Appendix A that mainstreaming enables nonhandicapped students to accept students with disabilities, and to develop empathy, understanding, and responsibility for them; and that in the process, nonhandicapped children can build self-esteem by helping their peers who are less fortunate (Edwards, 1991). In Table 2, the "depends" respondent went on to say that a child's placement is the result of the IEP, his academic plan, and emotional IQ.

The following tables 3, 4, and 5 are derived from the State monitoring profiles.

Table 3.

Educating Handicapped Students with Nonhandicapped Peers

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
<th>Corrective Action Plan in Place</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

Table 4.

Student Participation in Nonacademic, Extracurricular Activities

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
<th>Corrective Action Plan in Place</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>
Table 5.

**Considering Disabled Student's Harmful Effect on Teacher and Students**

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
<th>Corrective Action Plan in Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

Procedures to Locate Students

Question 3 asked: What specific procedures does your school district use to locate students who might be eligible for special education services, such as: child find and outside community agencies? Table 6 shows the replies.

Table 6

**Procedures to Locate Disabled Students**

<table>
<thead>
<tr>
<th>Referral Source</th>
<th>School District Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child Find</td>
<td>9</td>
</tr>
<tr>
<td>Outside Agencies</td>
<td>5</td>
</tr>
<tr>
<td>Happy Program</td>
<td>3</td>
</tr>
<tr>
<td>Kindergarten Screening</td>
<td>2</td>
</tr>
<tr>
<td>Teacher Referrals</td>
<td>2</td>
</tr>
<tr>
<td>Media Advertising</td>
<td>2</td>
</tr>
<tr>
<td>Even Start</td>
<td>1</td>
</tr>
<tr>
<td>Community Outreach</td>
<td>2</td>
</tr>
<tr>
<td>Word of Mouth</td>
<td>1</td>
</tr>
</tbody>
</table>

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Nine respondents identified the use of Child Find as the primary source of special education referrals. Child Find is the procedure followed by the district at the time children are first registered for school to uncover special needs among students. If deemed necessary, age-appropriate IQ and performance tests are given at the time of enrollment.

Five districts reported relying heavily on referrals from outside sources such as pediatricians, pre-school programs, families and other interested parties. In some locales, service clubs help sponsor health fairs where screening can be done. Three districts reported that they utilize variations of Child Find called the “Happy Program.” Kindergarten screening and teacher referrals were in the lists provided by two districts. Direct contact with parents through community outreach and media advertising was said by some respondents to be more effective than receiving referrals from outside agencies. Referrals from Early Childhood teacher referrals were specifically mentioned by one district director. These responses show that rural school districts employ similar avenues to finding children with disabilities and placing them in appropriate programs as do the larger urban districts.

Table 7.

<table>
<thead>
<tr>
<th>Child Identification: Compliance Monitoring Profile</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td>-------</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
All districts surveyed reported that they had child identification procedures in place. That was verified in the monitoring profile.

Eligibility Procedures

Question 4 asked: What formalized procedures does your school district use for determining eligibility for special education services, such as: performance on two standardized tests, scores falling two standard deviations below the mean, parental and/or professional concerns?. Table 8 shows the results.

Table 8

Districts Adhering to Nevada Administrative Code

<table>
<thead>
<tr>
<th>Follow</th>
<th>Depart From</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>

Every respondent reported the use of formal instruments in his or her district to determine eligibility. All districts polled follow the guidelines set by Nevada Administrative Code (NAC) for special education, which include the examples cited in the question.

Table 9.

Evaluation Process: Compliance Monitoring Profile

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
<th>Corrective Action Plan in Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
Table 10.

Eligibility Determination: Compliance Monitoring Profile

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
<th>Corrective Action Plan in Place</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
</tbody>
</table>

There was a disparity between what the school districts reported regarding their evaluation and eligibility determination. The State auditors found five districts noncompliant in determining eligibility, and had those districts develop corrective action plans. One district was found noncompliant in evaluation criteria.

Parental Participation in IEPs

Question 5 was: Do parents participate in the IEP to determine placement of a student in special education? Every respondent reported that efforts were made consistently to inform and include parents in IEP meetings. One subject confided that younger students' parents show more interest, and that it is difficult to get parents of older students to come to IEPs. Moreover, there is always a chance that parents may cancel unexpectedly. Under the IDEA Amendments of 1997, Public Law 105-17, parents are also to be part of the Multidisciplinary Team meetings (MDTs) to determine what services are required for their child. Two of the districts polled made special note of this new provision, and said parents are urged to attend MDTs as well.
The compliance monitoring reports revealed that all of the ten rural districts which had been surveyed were in compliance with the law with regard to parental involvement.

Continuum of Service

Question 6 inquired: Is your school district able to provide a continuum of service for special education students that contains: regular classroom, regular classroom with resource room support, self-contained programs on the regular campus, special school, residential school, and hospitalization? Table 12 presents the responses to this question.

Table 12.

Service Options for Disabled Students

<table>
<thead>
<tr>
<th>Continuum of Service</th>
<th>Districts Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular classroom</td>
<td>10</td>
</tr>
<tr>
<td>Regular Classroom/Resource Support</td>
<td>10</td>
</tr>
<tr>
<td>Self-contained Classroom on Campus</td>
<td>10</td>
</tr>
<tr>
<td>Special School</td>
<td>2</td>
</tr>
<tr>
<td>Residential School</td>
<td>0</td>
</tr>
<tr>
<td>In-Hospital Instruction</td>
<td>1</td>
</tr>
</tbody>
</table>
Considering the size and locations of the rural districts, it appears that they are uniformly in compliance with the "basic floor of opportunity" spoken of in the Rowley decision. For the other alternatives of service delivery, the districts contract with resources outside their counties. This represents a vast change from earlier times across the nation when most disabled children were not included in schools at all—rural or urban, basically being denied the free and appropriate public education guaranteed them by the Fourteenth Amendment's equal access provision.

Table 13.

Continuum of Placements: Compliance Monitoring Profile

<table>
<thead>
<tr>
<th></th>
<th>Compliant</th>
<th>Non-reported</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7</td>
<td>3</td>
</tr>
</tbody>
</table>

Seven of the rural school districts were in compliance for offering a continuum of service. Three districts were not marked by the compliance monitors in this area. Those districts had reported offering a continuum of service, but the data was not recorded on the monitoring profile.

Table 14.

Variety of Programs Offered: Compliance Monitoring Profile

<table>
<thead>
<tr>
<th></th>
<th>Compliant</th>
<th>Non-reported</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>8</td>
<td>2</td>
</tr>
</tbody>
</table>
Supplementary Aids and Services

Question 7 asked: What supplementary aids and services is your school district able to provide, such as: speech therapy, occupational therapy, physical therapy, assistive technology, and transportation? Table 15 shows the number of responses in each category.

Table 15.

**Supplementary Aids and Services in the Rural Districts**

<table>
<thead>
<tr>
<th>Aid or Service</th>
<th>Number of Districts Providing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speech Therapy</td>
<td>10</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>10</td>
</tr>
<tr>
<td>Occupational Therapy</td>
<td>10</td>
</tr>
<tr>
<td>Assistive Technology</td>
<td>10</td>
</tr>
<tr>
<td>Special Education Transportation</td>
<td>8</td>
</tr>
</tbody>
</table>

Speech therapy and physical therapy are available in all reporting districts. Physical and occupational therapy is often provided on a consultative basis. Not all districts operate dedicated special education buses.

There was no specific breakdown in the compliance monitoring profiles regrading related services. The compliance in these areas was included as part of the entire report. As shown in Table 16, all districts offered services to disabled students at no cost to their parents, thus evoking the free portion of “free appropriate public education.”
Table 16.

Services Provided at No Cost: Compliance Monitoring Profile

<table>
<thead>
<tr>
<th>Compliant</th>
<th>Noncompliant</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
</tr>
</tbody>
</table>

In an August 19, 1997 memorandum from Dr. Ann M. Alexander to special education administrators throughout Nevada, Dr. Alexander wrote on the subject of the cost factor of the Rachel H. [Holland] Standard.

"The cost of placing the student in the general classroom would adversely affect the services available to other students in the system' should not be used. Even though the Holland court considered cost as a factor, it did not find that the cost to integrate Rachel Holland was significant enough to preclude regular class placement. It is unclear what amount, if any, a court would consider significant enough to influence LRE decision-making."
CHAPTER 5

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

FOR FURTHER STUDY

Summary

The purpose of this study was to identify compliance issues faced by school districts that are members of the Nevada Rural School District Alliance in determining the appropriate placement for their special education students, based on the Rachel H. Standard established by the Ninth Circuit Court.

The study is a descriptive survey based on interviews of special education directors of districts which are members of the Nevada Rural School District Alliance, addressing their perceptions of compliance issues faced in determining the appropriate placements for students with disabilities. Their responses were based on seven questions dealing with identification, evaluation, and placement decisions.

In addition, the study examined State of Nevada Compliance Monitoring Profiles of the 10 districts of the Nevada Rural School District Alliance that participated in the survey.
Based on the data generated by the survey and presented in Chapter 4, the study shows that rural Nevada school districts are not only well aware of the Rachel H. Standard and other recent developments in the laws that affect special education, but are also in compliance with the mandates that have been put in place to ensure appropriate placement for students with disabilities in the least restrictive environment.

Nonacademic benefit for the special education student being placed in the regular classroom is the overriding consideration in most of the districts polled. Two districts responded that academic benefit to the disabled child is their primary consideration in placements. The disabled student's effect on the class and teacher was the primary factor in one district. Another district reported that placement depended on the child's IEP, the academic plan, and his emotional IQ. However, the courts have ruled with consistency that academic benefit is the predominant factor in placing students with disabilities.

The school districts make an attempt through Child Find and programs such as kindergarten screening, community outreach, and media advertising, to locate students who may qualify for special education services. They unanimously reported that they use the formalized procedures outlined in the Nevada Administrative Code for student identification.

It is evident from the data that in large measure parents are participating in discussions and in decisions being made on behalf of their
children, although this involvement tends to diminish as the child advances in his schooling. For those parents who remain involved, their residing in rural areas does not appear to impact their ability to participate. One can assume that distance is not a factor in parent participation or in the child's programming.

These school districts are able to provide a continuum of service for children with special needs up through self-contained programs on regular campuses. Out-of-district placements for special schools and residential schools are done on a contractual basis with other providers. In-hospital instruction is available in one of the districts surveyed.

Supplementary aids and services are also being provided in most of the districts questioned, including speech therapy, occupational therapy, physical therapy, assistive technology, and transportation. Some of these services are done on a contractual basis in districts with smaller student populations.

The review of compliance monitoring profiles resulted in the following conclusions:

1. The Nevada rural school districts are doing well in child identification and parental involvement in the process.

2. There are significant problems in the eligibility determination portion of the evaluation process. Five districts are implementing corrective action plans.
3. All 10 districts surveyed and reviewed are providing services at no cost to the parents of disabled students.

4. Eight districts offer a variety of programs, while no report was found on the remaining two. All districts reported having an appropriate continuum of services during the survey, however.

5. The Least Restrictive Environment section also revealed a difference between survey responses and monitoring reports.
   a. Educating students with nondisabled peers: five districts were in compliance and five are implementing corrective action plans.
   b. Participation in nonacademic, extracurricular activities: Eight districts were found to be in compliance; two are implementing corrective action plans.
   c. Nine districts consider the effect of the disabled student on the classroom and teacher before making the placement decision. One district was found noncompliant in this area and is implementing corrective action.
   d. Seven of the 10 districts reviewed offer a continuum of placements, while three were not marked in that area.

Conclusions

The land area of the State of Nevada is nearly 110,000 square miles — close to half the size of Texas. A very large percentage of the state's population is located in two urban centers: the Las Vegas and Reno metropolitan areas.
Despite its size, Nevada has only 17 counties. By statute, school districts are concomitant with counties. This situation has created some geographically large school districts in which there are relatively few students.

Recommendations for Further Study

If there are compliance issues or gaps in service in any of the rural districts, then those districts should look to state authorities to assist them in resolving their needs and concerns.

Questions to be taken up in future studies might address the following areas:

- What is the State of Nevada doing to assist rural school districts in the implementation of their special education programs?

- What assistance do the Nevada rural school districts feel they need in the future, given growth patterns in the state?

- Would the results obtained in this study be duplicated in studies of rural school districts in other geographically large states?

- Would it add to our understanding of rural school districts' needs to evaluate additional areas of compliance covered by the State's monitoring reports?
REFERENCES

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CASE LAW AND STATUTES CITED


Capistrano Unified School District v. Wartenberg, 59 F.3d 884 (9th Cir. 1995).


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Poolaw v. Bishop, 67 F.3d 830 (9th Cir. 1995).

Public Law 94-142, the Education of All Handicapped Children Act (1975).

Public Law 101-476, the Individuals with Disabilities Education Act (1990).

Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997.

Roncker v. Walter, 700 F.2d 1058 (6th Cir. 1983).


Seattle School District No. 1 v. B.S., as parent of A.S., a minor, 82 F.3d 1493 (9th Cir. 1996).
Wise v. Ohio Department of Education, 80 F.3d 177 (6th Cir. 1996).
APPENDIX A

WHAT SCHOLARS AND EDUCATORS SAY ABOUT LRE

A Definition of LRE

Christine L. Salisbury, associate professor of special education at the State University of New York's Binghamton campus, and Barbara Smith, a research scientist at the Allegheny-Singer Research Institute in Pittsburgh, provide a legal and conceptual definition for LRE:

Conceptual Interpretation.

"What does LRE mean? There are both conceptual and legal answers to this question. Conceptually, the term 'least restrictive environment' means educating a child with a disability in a way that least limits or restricts that child’s opportunities to be near and interact with other typical children. Public agencies must ensure that a continuum of alternative placements are available to meet the special education and/or related services needs of each child with a disability.

Legal Interpretation.

The legal interpretation of LRE for preschool students with disabilities rests, in part, on the statutes pertaining to school-age students. Part B
of...[Public Law 94-142, in 1990 retitled IDEA]...requires that state and local agencies develop procedures to ensure that children with disabilities are educated to the maximum extent appropriate with children who are not handicapped. The law, therefore, presumes that services will be delivered in the classroom the child would attend were he or she not handicapped.

Professional educators have, in a number of articles, illustrated their attitudes regarding placing disabled public school students in the least restrictive environment (LRE). Edwards (1991) maintains that placing handicapped children in the least restrictive environment to the maximum degree possible not only meets the requirements of LRE, but also offers some advantages. His list of advantages includes allowing handicapped students to function in real-life situations with nonhandicapped peers in a regular classroom, and providing handicapped students with role models who demonstrate appropriate behavior. Full inclusion provides handicapped students with positive peer pressure, raises expectations for handicapped students, and enables nonhandicapped students to accept handicapped students, and to develop empathy, understanding, and responsibility for them. In the process, nonhandicapped children can build self-esteem by helping handicapped children, he claims.

In its periodical Curriculum Update, the Association for Supervision and Curriculum Development (ASCD) interviewed four educators on the
subject of whether full inclusion benefits all students. These were their replies:

Cherie Takemoto, training coordinator, Parent Educational Advocacy Training Center, Alexandria, VA: “Studies show that students with and without disabilities benefit from inclusive learning environments. All students learn important life lessons about interdependence, tolerance for differences, and appreciation of the individual gifts that each person has to offer. All students enjoy solving ‘real-life’ problems such as getting along, inventing physical accommodations, and finding new ways to communicate. They learn that all children belong... To me, inclusion of students with disabilities is as clear-cut an issue as the Brown v. Board of Education case. The only gray area concerns how educators can receive sufficient support to teach students with disabilities in regular classrooms.”

Allan Vann, principal, James H. Boyd elementary school, Huntington, NY: “Full inclusion of disruptive children in larger, regular classrooms places unfair supervision demands upon the teacher, thereby depriving other children of their Constitutional right to an education. When that happens, all children suffer and no one benefits from inclusion.”
Virginia Roach, director, Center on Teaching and Learning, National Association of State Boards of Education, Alexandria, VA: "Including special needs students in the general classroom, with proper supports and services, can benefit all students. Inclusive classrooms do not disrupt regular education; studies show no decrease in the academic achievement of the so-called 'regular' students. Moreover, several schools and districts have now documented advantages for all students."

On the other hand, in a 1993 statement, the Learning Disabilities Association categorically rejected placing all students in any one setting. It stated that "the least restrictive environment requires a placement that is (a) appropriate to the needs of each individual child and (b) offers a continuum of alternative placements to be available to meet those needs. The National Association of State Boards of Education claims that it recommends full inclusion only with adequate support, resources, and preparation."

Oscar Cohen, executive director of the Lexington School for the Deaf in Jackson Heights, NY, does not believe that providing an interpreter for a deaf child 'evens the playing field.' Because the student still can't communicate with classmates or the teachers and does not have full access to the school community, such an approach 'short-changes' the deaf child, he
Full inclusion advocates are like zealots, Cohen says. ‘This idea of one-size-fits-all is either misguided idealism or cost-cutting,’ he believes. Advocates for the deaf community will keep placement options only with a fight—‘and we’re fighting,’ he says.” Willis, S. (1994).

As verbalized in Roncker v. Walter (1983), the IDEA also states that schools must offer a continuum (range) of services from least restrictive to more restrictive placement, starting with general education classes, then general education with resource room support, special classes, special schools, home instruction, and instruction in hospitals and institutions. Schools must also provide for nonacademic and extracurricular activities for disabled students. The ASCD has reported that:

“The Council for Exceptional Children...believes that ‘a continuum of services must be available for all children,’ although it supports inclusion ‘whenever possible’ according to a policy statement. One expert who disagrees vehemently with full inclusion is Jim Kauffman, a professor of education at the University of Virginia and co-author of the book The Illusion of Full Inclusion.

The American Federation of Teachers (AFT) called for a ‘moratorium on full inclusion policies,’ urging that policy-makers put more time and thought into balancing the needs of special
education students. . .feeling that regular education students may get the pace of their instruction slowed down and regular education classroom teachers may not be given enough support to cope with diversity and demands of those with special needs. The AFT wants to preserve a continuum of placements to ensure the best education for all children.

[Beth Bader, a policy analyst for the AFT]: ‘Students who are severely emotionally disturbed or medically fragile, for example, may require tremendous amounts of attention—and may even pose a danger to others.’

Would their presence in a regular classroom be fair to other children? The AFT also has concerns about unreasonable demands on teachers to perform medical procedures, such as inserting a feeding tube or catheter.

The following material marked with the symbol (†) is from Turnbull, et al. (1995).

The Council for Exceptional Children (CEC) believes that a continuum of services must be available for all children, youth, and young adults. CEC also believes that the concept of inclusion is a meaningful goal to be pursued in our schools and communities. In addition, CEC believes children, youth, and young adults with disabilities should be served whenever possible.
in general education classrooms in inclusive neighborhood schools and community settings. Such settings should be strengthened and supported by an infusion of especially trained personnel and other appropriate supportive practices according to the individual needs of the child.†

(Supplement to Teaching Exceptional Children, 1993).

The Board of Trustees of the Council for Learning Disabilities (CLD) supports school reform efforts that enhance the education of all students with learning disabilities (LD). The Council supports the education of students with LD in general education classrooms when deemed appropriate by the Individual Education Program (IEP) team. Such inclusion efforts require the provision of needed support services in order to be successful. One policy that the Council cannot support is the indiscriminate full-time placement of all students with LD in the regular education classroom, a policy often referred to as “full inclusion.” CLD has grave concerns about any placement policy that ignores a critical component of special education service delivery: Program placement of each student should be based on an evaluation of that student’s individual needs. The Council cannot support any policy that minimizes or eliminates service options.
designed to enhance the education of students with LD that are guaranteed by the Individuals with Disabilities Education Act† (Learning Disability Quarterly, 1993). Consistent with IDEA, the Council for Children with Behavior Disorders (CCBD)² supports a full continuum of mental health and special education services for children and youth with emotional and behavioral disorders. Educational decisions depend on individual student needs. Consequently, in contrast to those individuals in groups who advocate for full inclusion, CCBD does not support the notion that all special education students, including those students with emotional and behavioral disorders, are always best served in general education classrooms...

CCBD supports the concept of inclusive schools whereby public schools serve all children, and whereby all personnel demonstrate ownership of all children in their school.† (CCBD Newsletter, 1993).

From the Division for Early Childhood³: Inclusion, as a value, supports the right of all children, regardless of diverse

² A subdivision of the Council for Exceptional Children.
³ A subdivision of the Council for Exceptional Children.
abilities, to participate actively in natural settings within their communities. A natural setting is one in which the child would spend time had he or she not had a disability. Such settings include but are not limited to home and family, play groups, childcare, nursery schools, Head Start programs, kindergartens, and neighborhood school classrooms.

DEC believes in and supports full access to health, social service, education, and other supports and services for young children and their families that promote full participation in community life. DEC values the diversity of families and supports a family-guided process for determining services that are based on the needs and preferences of individual families and children.† (Division for Early Childhood, 1993).

The American Council for the Blind‡ says: “Full inclusion,” a philosophical concept currently advanced by a number of educators, is not a federal requirement of special education law. Proponents of “Full Inclusion” take the position that all students with disabilities must receive their total instruction in the general public school classroom regardless of individual needs.

‡ Including seven additional organizations in the area of blindness in the United States and Canada.
Unfortunately "full inclusion" would eliminate all special placements, including "pull out" services, resource rooms and specialized schools. Such an arrangement would be seriously detrimental to the educational development of many students with disabilities.

- Educational decisions must be made on a case-by-case basis consistent with the Individuals with Disabilities Education Act.

- Extreme caution must be exercised so that full inclusion does not result in "full submersion," social isolation, lowered self-esteem, poor performance, or a setting in which services are unavailable.

- The mandate in IDEA that states "To the maximum extent appropriate, children with disabilities [should be] educated with children who are nondisabled," does not intend that blind children avoid interaction with each other.† (The Braille Forum, 1993).

Council of Administrators of Special Education, Inc. (CASE)§ believes in and supports the evolving practice of inclusion for all students as an appropriate goal of our

§ A subdivision of the Council for Exceptional Children.
educational community. CASE believes that the decisions about an appropriate education for students must be made on an individual student basis. While there are those exceptions where full inclusion is not appropriate, we believe strongly in the goal of including all children with disabilities into their own school and community. This necessitates a shift in the focus of IEP teams from the place for a student to the intensity and scope of services that a student needs to be appropriately educated.† (Council of Administrators of Special Education, 1993).

Advocates for students with learning disabilities also object to full inclusion. Children considered learning disabled (LD) are a heterogeneous group, says Justine Maloney, legislative chair for the Learning Disabilities Association of America (LDA). Most LD children are of average intelligence, yet many have great difficulty learning to read, while others have 'no sense of math.' Many have a very short memory; they are often disorganized; and some are hyperactive or easily frustrated. According to the LDA, in 1990-91 more than two million children in U.S. public schools were identified as having learning disabilities—more than half of all students considered disabled.
According to the LDA’s official position statement on inclusion, ‘the regular classroom is not the appropriate placement for a number of students with learning disabilities who may need alternative instructional environments, teaching strategies, and/or materials that cannot or will not be provided within the context of a regular classroom placement.

‘There will always be some students who aren’t able to survive and grow in the regular classroom,’ says Ann Kornblet, LDA’s president. A regular class of 25 to 30 students may not be a good setting for a child who has difficulty processing information, Kornblet says. The surroundings would simply be too distracting.†

Michele Dowdy, elementary guidance counselor, Roanoke, VA: “Just as placing all special needs students in a separate classroom in inappropriate, so is placing all special needs students in the regular classroom. Some just can’t learn there. . . Inclusion has always been an option in the continuum of services that the law provides. Let’s keep it in proper perspective, as just that—an option. However, to best serve our children, we must be assured that ‘pull-out’ programs also remain an option.”
In 1994, *Educational Leadership* magazine carried an interview with Jim Kauffman (the University of Virginia Professor of Education previously quoted) and Mara Sapon-Shevin, Professor of Education at Syracuse University.

"'Inclusion will succeed to the extent that it links itself with other ongoing restructuring efforts,' Sapon-Shevin says. 'The goal is not going to go away: the idea that we want to create a world in which all children are welcome, in which all children grow up comfortable with, knowledgeable about, and supportive of, all kinds of other children. Inclusion is consistent with multicultural education, with wanting to create a world in which many more people have opportunities to know, play, and work with one another.' " O'Neill (1994).

Concluding that "inclusion is on the rise," The ASCD reported:

"The movement to place children with disabilities in regular classrooms is 'a national trend,' affirms Virginia Roach, deputy executive director of the National Association of State Boards of Education (NASBE). 'Inclusion efforts are under way in virtually every state,' she says.

Inclusion 'has just exploded across the country,' says Beth Bader of the American Federal of Teachers. At first, inclusion...
was pushed by the disability community, she says, but now it’s being promoted by school administrators who want to check the mounting costs of special education.

Douglas Biklen of Syracuse University, author of *Schooling Without Labels*, says that ideally, when children with disabilities move to regular classrooms, their teachers receive support in the form of training, help from a special education teacher (consulting services or co-teaching), instructional aides, and so on. Of prime importance is collaboration with specialists.

"Inclusion is forging ‘a very different relationship’ between regular education teachers and special education teachers, who now often work in teams," Biklen says.

‘Maintaining needed support for disabled children in the regular classroom is an ‘enormous task,’ [NASBE’s Virginia Roach adds.] Inclusion has been most successful where it has been a part of broad reform of general education . . . such as team teaching, peer teaching, cooperative learning, authentic assessment, and thematic, interdisciplinary instruction . . . school reform and inclusion are synonymous,’ Roach believes.”

The continuing challenges of inclusion and the needs of classroom teachers were also reported by the ASCD in a 1996 article:
“Across North America, regular classroom teachers are facing a new challenge: teaching children with disabilities. With varying degrees of support from special educators and administrators, teachers are striving to meet the needs of students with physical, mental, and emotional disabilities—students who, in the past, were taught in settings other than the regular classroom.

Teachers are seeking—and finding—ways to make inclusion work, experts say. Until recently, educators were caught up in debating the pros and cons of inclusion, says Richard Villa, and education consultant from Colchester, VT, and co-editor of the ASCD book Creating an Inclusive School. Now teachers are asking How do I do it?

The answers are not simple. ‘What we’re asking teachers to do is so dramatically different,’ Villa says. ‘We’re asking them to feel uncomfortable and incompetent for a while.’ Teachers are far more likely to accept inclusion, he notes, if they get strong administrative support.

Administrators can support teachers in their inclusion efforts, Villa says, by providing them with training, listening to their concerns, helping them solve problems, adjusting schedules so they can collaborate, and giving them feedback.
Administrators can also make sure teachers get the resources—technological, material, and human—that they need to make inclusion work.

Even after the resources issue has been addressed, educators 'still haven’t dealt with the fundamental issue,' [Douglas] Biklen [Syracuse University] believes. 'The real challenge is to get all educators to have an open mind about the educational potential of children with disabilities,' he maintains. It’s universally accepted that nondisabled children need a good education, but disabled children may be seen differently. It’s ‘terribly important’ that society come to see a child with autism, cerebral palsy, or Down’s syndrome, for example, as ‘somebody who desperately needs a quality education,’ he says.”

(Willis, 1996)

It is apparent that many educational stakeholders and their advocacy groups hold differing opinions — some widely diverse — on the subject of full inclusion for children with disabilities. The matter is an ongoing debate.
APPENDIX B

SAMPLE COVER LETTER AND QUESTIONS

A sample of the letter sent to the target population is presented on the following page, followed by the questions that were discussed during the interviews.
To: Special Education Director  
Nevada Rural School District Alliance  

From: Laurie Flanders, doctoral student, University of Nevada, Las Vegas

Re: Professional interview. Anonymity will be maintained. Actual names of respondents and their school districts will not be used.

You are invited to participate in a brief, confidential telephone survey in which questions about the placement of special education students will be asked. The study being conducted is on the implementation of least restrictive environment in Nevada rural school districts according to the Rachel H.* Standard set by the 9th Circuit Court of Appeals.

The purpose of the study is to discover areas of common concern with respect to student placements and to bring together any methods and strategies which could prove beneficial to Nevada rural districts and other similar systems in the nation.

Confidentiality will be strictly maintained. Responses will not be attributed to specific interviewees or school districts. It is anticipated

* Sacramento City Unified School District v. Rachel H., 14 F.3d 1398 (9th Circuit, 1994)
that the interview will not exceed 5-10 minutes in duration.

Your participation is entirely voluntary, and you may withdraw from participation at any time. Should you have questions about your rights, please contact the Office of Sponsored Programs at UNLV at 702-895-1357. Any other questions about the study should be directed to the researcher at the location shown above.

In the stamped envelope provided, please sign and return the consent sheet included herewith. It will serve as your consent to be contacted pursuant to the study and agreement to provide answers to the questions, which follow:
Survey Questions

1. Are you aware of the four points of the Rachel H. Standard?

2. Which point, if any, has the greatest effect on the student’s placement? (Academic benefit, nonacademic benefit, effect on the teacher and other students, cost).

3. What specific procedures does your school district use to locate students who might be eligible for special education services, such as: child find and outside community agencies?

4. What formalized procedures does your school district use for determining eligibility for special education services, such as: performance on two standardized tests, scores falling two standard deviations below the mean, parental and/or professional concerns?

5. Do parents participate in the IEP to determine placement of a student in special education?

6. Is your school district able to provide a continuum of service for special education students that contains: regular classroom, regular classroom with resource room support, self-contained programs on regular campuses, special school, residential school, and hospitalization?

7. What supplementary aids and services is your school district able to provide, such as: speech therapy, occupational therapy, physical therapy, assistive technology, transportation?
Consent Form

I agree to participate in the study of least restrictive environment in rural Nevada school districts being conducted by Laurie Flanders, a doctoral student at the University of Nevada, Las Vegas. I understand that I will be contacted by telephone, and that I have been given a copy of the questions to be posed. I also understand that the survey is confidential, and that its results will not be specific to any school district or respondent.

Signature

(Calls will not be made before noon) The best time and day of the week to contact me is:

The telephone number(s) at which I can be reached:

Please provide the following information

Total County Population:______________

School Population:___________________

Special Education Population:__________

Number of Schools in District: HS_____ MS/JHS_____ ES_____
APPENDIX C

DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST

110
DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST

School District ____________________________
Date ____________________________

E-SITE REVIEW OF MATERIALS

VERIFICATION SOURCE

LP=Local Plan PP=Policy/Procedure Manual FD=Forms/Documents NV=Not Verified

ON-SITE INTERVIEW

VERIFICATION SOURCE

CNC

1. CHILD IDENTIFICATION

The district has procedures for testing, identifying, and assessing children with disabilities (0-21) including students attending private schools.

LP__________ PP__________ FD__________ NV_____

Comments:

The procedures include:

1. The organization of a program for screening children within the district.

LP__________ PP__________ FD__________ NV_____

2. The posting or publication of public notices within the district concerning the program for screening and the availability of special services and programs of instruction for children with disabilities.

LP__________ PP__________ FD__________ NV_____

The notice must include:

a. A description of the extent to which the notice is given in the native languages of the various population groups in the state.

VERIFIED_____

b. A description of the children on whom personally identifiable information is maintained.

VERIFIED_____

c. The types of information sought.

VERIFIED_____

d. A description of the methods and sources to be used in gathering the information.

VERIFIED_____

e. The uses to be made of the information.

VERIFIED_____

f. A summary of the policies and procedures to be followed regarding the storage, disclosure to any interested third parties, retention and destruction of personally identifiable information.

VERIFIED_____

g. A description of all of the rights of parents and minors regarding this information, including the rights under Section 438 of the General Education Provisions Act and Part B of the Family Educational Rights and Privacy Act of 1974, and the related regulations.

VERIFIED_____

2. The establishment of procedures for the referral of children with disabilities to agencies of state and local government providing services for those children.

LP__________ PP__________ FD__________ NV_____

3. Communication with these agencies.

LP__________ PP__________ FD__________ NV_____

4. The establishment of a system of records for the purpose of verifying the implementation of the foregoing measures and verifying that each student identified as disabled is receiving services appropriate to his disability category.

LP__________ PP__________ FD__________ NV_____

Note: Must verify on-site as well.

CNP-19

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II. PARENTAL INVOLVEMENT

There is a plan for parental involvement to adhere to the requirement to provide a free appropriate public education for all children with disabilities.

Comments:

III. CONFIDENTIALITY

1. There is evidence that the district permits parents to inspect and review education records relating to their child before any meeting regarding an individualized educational program or any hearing relating to the identification, assessment, or placement of the child, or provision of a free appropriate public education, and not later than 45 days after the request has been made.

Comments:

2. The district has a procedure to respond to reasonable requests for explanation and interpretations of records.

Comments:

3. The district allows representatives of the parents to inspect records.

Comments:

4. The district provides parents with copies of the records if, without the copies, any meaningful review of the records is impractical.

Comments:

5. The district maintains a record of the persons other than parents and authorized employees given access to education records.

Comments:

The record includes:

a. Name of the person.
   VERIFIED

b. Date access was given.
   VERIFIED

c. Purpose for which the person is authorized to use the records.
   VERIFIED

d. The types and locations of educational records the district collects, maintains or uses relating to students.
   VERIFIED

6. The district maintains a list of the type and location of education records collected, maintained or used relating to students.

Comments:

7. The district has a procedure for ensuring that any fees charged to parents for copies of records do not effectively prevent parents from exercising their right to inspect and review those records, and that no fees will be charged to search for or remove information.

Comments:

Note: Must verify on-site as well.
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<tr>
<th>PRE-SITE REVIEW OF MATERIALS</th>
<th>ON-SITE INTERVIEW</th>
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<tr>
<td>VERIFICATION SOURCE</td>
<td>VERIFICATION SOURCE</td>
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<td>8. The district has a procedure for the amendment of records at parent's request including an opportunity for a hearing.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<td>9. The district has procedures to protect the confidentiality of personally identifiable information at its collection, storage, disclosure and destruction.</td>
<td>Comments:</td>
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<tr>
<td>LP: PP: FQ: NV:</td>
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<td>10. The district has appointed one official to assume the responsibility for ensuring confidentiality of personally identifiable information.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<td>11. The district provides training on confidentiality requirements to all persons collecting or using personally identifiable information.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<td>12. The district maintains a current listing for public inspection of the names and positions of those employees within the district who may have access to personally identifiable information.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<td>13. The district has a procedure to inform parents when personally identifiable information is no longer needed to provide educational services to their child.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<td>14. The district maintains a permanent record of the student's name, address, telephone number, grades, attendance, classes he attended, grades he completed and the year he completed them.</td>
<td>Comments:</td>
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<tr>
<td>LP: PP: FQ: NV:</td>
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<td>15. The district has a procedure to ensure that it does not disclose any confidential information on a student contained in educational files to any person who is not employed by the school district, department or other authorized agency without first obtaining the consent of the parents in writing.</td>
<td>Comments:</td>
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<td>LP: PP: FQ: NV:</td>
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<tr>
<td>16. The district has a procedure for ensuring that if any education record includes information on more than one student, the parents of those students have the right to inspect and review only the information relating to their student or to be informed of that specific information.</td>
<td>Comments:</td>
</tr>
<tr>
<td>LP: PP: FQ: NV:</td>
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<tr>
<td>17. The district has a procedure to inform parents of their FERPA rights including the ability to file a complaint with the Secretary of Education.</td>
<td>Comments:</td>
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Comm.,
These include the parents' rights to:

a. Inspect and review any educational records relating to their children which are collected, maintained, or used by the district with respect to the identification, evaluation, individualized educational program, and educational placement of the student, and the provision of a free appropriate public education to the student, unless the district has been advised that the parent does not have the authority under applicable State laws governing such matters as guardianship, separation, and divorce. The district shall comply with a request without unnecessary delay and before any meeting regarding an individualized educational program or hearing relating to the identification, evaluation, or placement of the child, and in no case more than 45 days after the request has been made.

b. A response from the school district to reasonable requests for explanations and interpretations of the student's records.

c. Request that the school district provide copies of the records at a reasonable cost unless the fee would effectively prevent the parent from exercising the right to inspect and review the records in which case the copies shall be provided without cost to the parent.

d. Have a representative of the parent inspect and review the records.

e. Request a list of the types and locations of educational records collected, maintained, or used by the school district.

f. Request amendment of the student's educational records if there is reasonable cause to believe that they are inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. If the school district denies this request for amendment, it shall notify the parent within a reasonable time, and advise the parent of the parent's right to a hearing.

g. Request a hearing to challenge information in the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

1. If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing.

2. If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.

3. Any such explanation placed in the records of the child under this section must be maintained by the district as part of the records of the student as long as the record or corrected portion is maintained by the district; and if the records of the student or the contested portion is disclosed by the district to any party, the explanation must also be disclosed to the party.

4. Any hearing held will be in accordance with the regulations implementing the Family Education Rights and Privacy Act.

h. Refuse consent for the disclosure of personally identifiable information related to the student to anyone other than school officials or persons acting in an official capacity for the school district collecting or using the information.

i. Refuse consent for the use of personally identifiable information related to the student for any purposes other than the identification, evaluation, individualized educational program, or educational placement of the student, or the provision of a free appropriate education to the student.
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PRE-SITE REVIEW OF MATERIALS
VERIFICATION SOURCE

18. The district has policies and procedures regarding the extent to which children are afforded rights of
privacy similar to those afforded to parents, taking into consideration the age of the child and type or
severity of disability.
LP__________ PP__________ FO__________ NV______
Comments:

19. The district has policies and procedures to ensure that all rights under FERPA are given to either parent,
unless the district has been provided with evidence that there is a court order, state statute, or legally
binding document relating to such matters as divorce, separation, or custody that specifically revokes
these rights.
LP__________ PP__________ FO__________ NV______
Comments:

V. PROCEDURAL SAFEGUARDS

CONSENT

1. There is evidence that written parental consent is obtained prior to identification, assessment, placement
or provision of a free appropriate public education.
LP__________ PP__________ FO__________ NV______
Comments:

The consent form verifies that:

a. The parent has been fully informed of all information relevant to the activity for which consent is
sought in his or her native language, or other mode of communication.
VERIFIED_______

b. The parent understands and agrees in writing to the carrying out of the activity for which consent is
sought.
VERIFIED_______

c. There is a description of the activity for which consent is sought.
VERIFIED_______

2. Except for preplacement evaluation, three-year reevaluation, and initial placement, consent may not be
required as a condition of any benefit to the parent or child.
LP__________ PP__________ FO__________ NV______
Comments:

3. The district has policies and procedures including mediation and due process to override a parent’s refusal to
consent to preplacement evaluation and initial placement; if parents fail to respond to a request for
consent for a reevaluation, the district has procedures to demonstrate its reasonable
measures to obtain consent, and, if so, the reevaluation may take place.
LP__________ PP__________ FO__________ NV______
Comments:

PRIOR NOTICE

4. There is evidence that written notice is provided within a reasonable time before the district proposes
or refuses to initiate or change the identification, assessment, IEP, educational placement or provision of
a free appropriate public education.
LP__________ PP__________ FO__________ NV______
Comments:

5. The notice form contains the required components.
LP__________ PP__________ FO__________ NV______
Comments:

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The components include:

a. A description of the action proposed or refused by the school district.
   VERIFIED

b. The reasons for the proposal or refusal.
   VERIFIED

c. A description of any options the school district considered and the reasons why those options were rejected.
   VERIFIED

d. A description of the assessment procedures, tests, records, or reports upon which the action is based.
   VERIFIED

e. A description of any other factors which are relevant to the district's proposal or refusal.
   VERIFIED

f. A statement that the parents of a child with a disability have protection under the procedural safeguards of IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained.
   VERIFIED

g. Sources for parents to contact to obtain assistance in understanding the provisions of IDEA.
   VERIFIED

6. The notice is provided in understandable words and in the native language or other mode of communication of the parent unless that is clearly not feasible.
   LP  PP_________ FQ_________ NV_______
   Comments:

7. If the native language or other mode of communication used in the home is not written, the district has a procedure in place to assure that the notice is read to the parent in the native language and that the parent understands the notice.
   LP_________ PP_________ FQ_________ NV_______
   Comments:

8. The district maintains written evidence of parents' understanding of translated notices.
   LP_________ PP_________ FQ_________ NV_______
   Comments:

NOTICE OF PROCEDURAL SAFEGUARDS (PARENTS' RIGHTS DOCUMENT)

9. A copy of the procedural safeguards available to the parents of a child with a disability shall be given to the parents, at a minimum, upon initial referral for evaluation, upon each modification of an IEP meeting and upon reevaluation of the child, and upon registration of a due process request.
   LP_________ PP_________ FQ_________ NV_______
   Comments:

   The notice explains parents' rights related to:

ea. Independent educational evaluation:

   The district shall:

   1. On request, provide information about where an independent educational evaluation may be obtained.
   VERIFIED

   CMP-24
2. Insure that the evaluation is at no cost to the parents, unless a hearing has determined that
the district's evaluation is appropriate. 
VERIFIED_____

3. Consider the results of an independent educational evaluation obtained at private expense in
any decision made with respect to the provision of a free appropriate public education.
VERIFIED_____

4. Insure that parent-initiated evaluations may be presented as evidence at a hearing regarding the
student. 
VERIFIED____

5. Insure that if a hearing officer requests an independent educational evaluation as part of hearing,
the cost of the evaluation is at public expense. 
VERIFIED____

6. Insure that an independent educational evaluation at public expense is obtained under the same
criteria the district uses when it initiates an evaluation, including the location of the evaluation
and the qualifications of the examiner. 
VERIFIED____

b. prior written notice;
c. parental consent, including rights of refusal;
d. access to educational records;
e. opportunity to present complaints;
f. the child's placement during pendency of due process proceedings;
g. procedures for students who are subject to placement in an interim alternative setting;
h. requirements for unilateral placement by parents or children in private schools at public expense;
i. mediation;
j. due process hearings, including requirements for disclosure of evaluation results and recommendations;

Parents are notified that any party to a hearing has the right to:

1. Be accompanied and advised by counsel and by individuals with special knowledge or training
with respect to the problems of children with disabilities. 
VERIFIED____

2. Present evidence and confront, cross-examine, and compel the attendance of witnesses. 
VERIFIED____

3. Prohibit the introduction of any evidence at the hearing that has not been disclosed to that
party at least five days before the hearing (evaluation information must be disclosed
at least five business days before the hearing). 
VERIFIED____

4. Obtain a written or, at the option of parents, electronic verbatim record of the hearing. 
VERIFIED____

5. Obtain written or, at the option of parents, electronic findings of fact and decisions. The
public agency, after settling any personally identifiable information shall transmit those findings and
decisions to the State Advisory Panel and make those findings and decisions to the public. 
VERIFIED____

6. Appeal the decision of a hearing officer within 30 days after receiving the decision. The state
educational agency will appoint a review officer, and not later than 30 days after the receipt of a
request for a review a final decision will be reached in the review and a copy of the decision will be
mailed to each of the parties. The decision made by the hearing officer is final unless a party brings
a civil action. 
VERIFIED____

Parents have the right to:

1. Have the child who is the subject of the hearing present. 
VERIFIED____

2. Open the hearing to the public. 
VERIFIED____
3. The public agency shall ensure that:

1. Hearings are conducted by the public agency.

2. Not later than 45 days after the receipt of a request for a hearing, a final decision is reached in the hearing and a copy of the decision is mailed to each of the parties. A decision made in a hearing conducted under this section is final, unless a party to the hearing appeals the decision.

3. Hearing or reviewing officers may grant specific extensions of time beyond the periods set forth above at the request of either party.

4. Each hearing and each review involving oral arguments must be conducted at a time and place which is reasonably convenient to the parents and child involved.

5. A hearing may not be conducted by a person who is an employee of a public agency which is involved in the education or care of the child, or by any person having a personal or professional interest which would conflict with his or her objectivity in the hearing.

6. A person who otherwise qualifies to conduct a hearing under paragraph 5 of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a hearing officer.

7. Each public agency shall keep a list of the persons who serve as hearing officers. The list must include a statement of the qualifications of each of those persons.

8. The district has policies and procedures to ensure that during the pendency of any administrative or judicial proceeding regarding a complaint, unless the public agency and the parents of the child agree otherwise, the child involved in the complaint must remain in his or her present educational placement. If the complaint involves an appeal for initial admission to public school, the child, with the consent of the parents, must be placed in the public school program until the completion of all the proceedings.

9. state-level appeals;
10. civil actions; and
11. attorneys' fees.

11. The district has a policy to ensure that all rights afforded to students with disabilities served in its public schools are afforded to all students with disabilities placed by the district in private schools or facilities.

12. The district has established policies and procedures to ensure that not later than 45 days after the receipt of a request for a hearing (1) a final decision is reached in the hearing and (2) a copy is mailed to each of the parties.

13. The district has established policies and procedures to ensure that parental rights are transferred to the student at the age of majority, and that parents and the student are notified of the transfer of rights. This provision does not apply to a child with a disability who has been determined to be incompetent under state law.
13. The district has a procedure for the appointment of surrogate parents when the student's parents cannot be identified or located or when the student is a ward of the state.

Comments:

a. The district selects surrogates in accordance with state and federal law as described in the surrogate parent procedures manual.

VERIFIED

b. The surrogates have no interest that conflict with the interests of the student and have knowledge and skills that ensure adequate representation of the student's interest.

VERIFIED

c. The surrogates represent the student in all matters relating to the assessment and placement of the student and the identification and provision of an appropriate program of education.

VERIFIED

d. The surrogate may not be an employee of a public agency which is involved in the education or care of the child, and the surrogate is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

VERIFIED

V. PROTECTION IN EVALUATION PROCEDURES

1. Any person responsible for making a diagnostic decision pursuant to Nevada Administrative Code Section 388.320 to 388.440 must possess a license or certificate in the area of his professional discipline and be trained in the area of assessment in question.

Comments:

2. The district has a policy to ensure that in conducting evaluations, the district uses a variety of assessment tools and strategies to gather relevant functional and development information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities.

Comments:

3. There is evidence that the evaluation procedure is multifaceted, nonburdened, and valid.

Comments:

a. Testing and assessment materials and procedures are selected so as not to be racially or culturally discriminatory.

VERIFIED

b. Assessment materials are individually administered by a person trained and qualified in the use of the materials.

VERIFIED

c. Tests are administered in the student's native language or other mode of communication, unless the reason for not doing so is justified in the student's records.

VERIFIED

d. Assessments administered to a student with impaired sensory, manual or speaking skills accurately assess each domain being measured and are administered in a manner fulfilling the selective communication skills of the student.

VERIFIED
1. Assessment materials are validated for the specific purpose for which they were used and administered in accordance with any instruction provided by the producer of the materials.
   VERIFIED

2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
   VERIFIED

3. Students are assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, speech and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
   VERIFIED

4. Assessment tools and strategies are used that provide relevant information that directly assists persons in determining the educational needs of the child.
   VERIFIED

5. Technically sound instruments are used that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.
   VERIFIED

4. No single test or other device for assessment may be used as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child.
   LP___________ PP___________ FD___________ NV___________
   Comments:

5. The determination of whether the child is a child with a disability shall be made by a team of qualified professionals and the parent of the child.
   LP___________ PP___________ FD___________ NV___________
   Comments:

6. Any decision of a multidisciplinary team concerning the eligibility of a student for special services and programs of instruction must be justified in a written report, to be kept in the records of the student, and may be made by a majority of the team. A copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.
   LP___________ PP___________ FD___________ NV___________
   Comments:

7. Initial evaluations are conducted within 45 school days of the date written consent for the evaluation was given.
   LP___________ PP___________ FD___________ NV___________
   Comments:

8. Comprehensive reevaluations occur if conditions warrant or if the child's parent or teacher request, but at least once every three years.
   LP___________ PP___________ FD___________ NV___________
   Comments:

9. The district has a policy to ensure that as part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, shall review existing data, identify any additional data needed, and administer such tests and other evaluations as may be needed. If the IEP team and other qualified professionals determine that no additional data is needed, the district shall notify parents of that determination and of their rights to request an assessment, and shall not be required to conduct such an assessment unless requested to by the child's parents.
   LP___________ PP___________ FD___________ NV___________
   Comments:
VI. INDIVIDUALIZED EDUCATIONAL PROGRAMS

1. There is a procedure meaning that, except for academically talented students, an IEP is developed and in effect at the beginning of the school year and before the initiation of special services and programs of instruction for students with disabilities, including students placed in or referred to a private school or facility by a district and students enrolled in a parochial or other private school and receiving special education or related services from a district.

2. There is a procedure for initiating and conducting the meetings of the committees formed to develop the individualized educational programs, at least annually.

3. There is a procedure to assure that the IEP committee meets to develop the IEP no later than 30 calendar days after it is determined that the student is eligible for special services and programs of instruction.

4. There is a procedure to assure that for eligible children making the transition from Infant/Toddler programs operated by the Nevada Department of Human Resources, an IEP is developed and implemented by the child’s third birthday.

5. There is a procedure for maintaining detailed records of each such program and the procedure followed in developing it.

6. There is a procedure for assuring that each IEP is implemented as soon as possible after it is developed.

7. There is a procedure for providing a copy of the IEP and any revisions to the parents if they so request.

8. There is a procedure for forming an IEP committee which includes at least:

   a. A representative of the school district other than the student’s teacher who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities.

   b. The student’s teacher, if he has had one in the school district.

   c. If he has not had a teacher in the school district, a person qualified to teach him.

Comments:
d. One or both of the student’s parents.
   VERIFIED

e. The child, where appropriate.
   VERIFIED

f. If transition services are being planned, a representative of the participating agency.
   VERIFIED

9. There is assurance of parental understanding of the proceedings of the IEP meeting, including procedures for arranging an interpreter for parents who are deaf or whose native language is other than English.
   LP_________ PP_________ FQ_________ NV_________

Comments:

10. There are procedures for using reasonable efforts to secure parents’ participation in IEP meetings by written, telephonic or other means when the parents cannot attend the meetings.
    LP_________ PP_________ FQ_________ NV_________

Comments:

11. The district has a procedure to ensure that written notice of the IEP meeting is given to parents sufficiently far in advance of the meeting to enable parents to make arrangements to attend.
    LP_________ PP_________ FQ_________ NV_________

Comments:

The notice includes:

a. The purpose of the meeting (including the purpose of developing transition goals and objectives, if applicable).
   VERIFIED

b. The date and time of the meeting.
   VERIFIED

c. The location of the meeting.
   VERIFIED

d. Who will be in attendance at the meeting (including the intent to invite the student and representatives from agencies involved in transition planning, if applicable).
   VERIFIED

12. There is a procedure for keeping detailed records of any telephone calls, correspondence or visits made in attempting to arrange with parents a mutually agreed upon time and place for IEP meetings.
    LP_________ PP_________ FQ_________ NV_________

Comments:
13. The district has policies and procedures to ensure that if a representative of the participating agency is not present at an IEP meeting for developing transition goals and objectives, the district has consulted with the participating agency regarding the planning of such services. If the student enrolled in an individualized education program involving transition services does not attend, the district must document alternative methods used to ascertain student preferences and interests.

Comments:

14. The district has policies and procedures to ensure that if a participating agency involved in transition services fails to provide agreed-upon transition services contained in the individualized education program of an individual with a disability, the district notifies the acting for the purpose of identifying alternative methods to meet the transition objectives, and if necessary revise the individualized education program.

Comments:

15. The public agency has a procedure to ensure that a student with a disability placed in or referred to a private school or facility by the public agency is provided special education and related services in conformance with an individualized educational program.

Comments:

a. Before a public agency places a student with a disability in, or refers a student to, a private school or facility, the public agency shall initiate and conduct a meeting to develop an individualized educational program for the student.

VERIFIED

b. The public agency ensures that a representative of the private school facility attends the meeting. If the representative cannot attend, the public agency uses other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

VERIFIED

c. The public agency also develops an individualized educational program for each student with a disability who was placed in a private school or facility by the public agency before the effective date of 34 Code of Federal Regulations, Part 300.

VERIFIED

d. After a student with a disability enters a private school or facility, any meeting to review and revise the student's individualized educational program may be initiated and conducted by the private school or facility at the discretion of the public agency.

VERIFIED

e. The public agency and the State education agency are responsible for compliance with these regulations, even if a private school or facility implements a student's individualized educational program.

VERIFIED

g. The public agency ensures that special education and related services are provided at no cost to the parents.

VERIFIED

h. The public agency ensures that special education and related services are provided at a school or facility which means the standards that apply to State and local educational agencies.

VERIFIED

16. The district has a policy to ensure individualized educational program development for students with disabilities enrolled in parochial or other private schools who are receiving special education and related services from the district.

Comments:
The district includes and conducts meetings to develop, review, and revise individualized educational programs.

A. The district requires that a representative of the parochial or other private school attends each meeting, if the representative cannot attend, the district uses other methods to ensure participation by the private school, including individual or conference telephone calls.

17. The district has a procedure for developing an individualized educational program without the parents if efforts to involve parents are unsuccessful and parents are deemed unavailable.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

18. The IEP format includes all required components.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

These components include:

a. A statement of the student's present levels of educational performance.

b. A statement of the annual goals, including the short-term instructional objectives.

c. A statement of the specific special education and related services to be provided to the minor and the extent to which he will be able to participate in regular educational programs.

d. A statement of the assistive technology devices and services necessary for the student to be able to receive a free appropriate public education.

e. A statement of the transition services required, if any, and a statement of the responsibilities of each public agency in providing such services; or a statement, if appropriate, that transition services are not required and the basis for that determination.

f. The projected dates for initiation of services and the associated duration of the services.

g. A statement of the appropriate objective criteria, evaluative procedures and schedules for determining, on at least an annual basis, whether short-term instructional objectives are being achieved.

h. A statement of any modifications, including supplementary aids and services, deemed necessary to ensure the student's participation in the regular education program.

i. Provisions relating to case management and interagency transition services, if the student is entering the school district from another agency or the community.

j. A statement of the reasons for the placement of the student, including a statement of the other placement options considered by the team and the reasons why the team rejected a less restrictive placement.

Comments:

19. The district has a procedure for basing the programs if develops on the results of assessments made in accordance with Nevada Administrative Code Sections 388.330 to 388.440, inclusive.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:
20. The district is ensuring provision of all needed special education and related services to every student with a disability at no cost to parents, including the provision of non-medical care and room and board for necessary placement in a public or private residential program.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

21. The district has a policy for developing interim individualized educational programs for students with disabilities, other than academically talented, who are being considered for placement in a special education program.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

The policy assures that:

a. Interim IEPs are only developed for students who have not previously been in a special education program in the district and whose eligibility for special services and programs has previously been verified by the district.

VERIFIED

b. Upon the expiration of 30 days after the development of an interim IEP, an IEP must be developed for the student as provided in Nevada Administrative Code Section 388.281.

VERIFIED

22. The district has a policy for insuring that any change in the placement of a student with a disability is based upon:

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

a. The current individualized educational program of the student.

VERIFIED

b. An assessment of the student made within the preceding 3 years.

VERIFIED

c. Information relating to the current educational performance of the minor.

VERIFIED

23. The district has a policy to insure that no student with a disability, other than a student who is academically talented, may be suspended, expelled or excluded from attendance for more than 10 days during any school year except in accordance with the provisions of Nevada Administrative Code Section 388.255.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

The procedure includes provisions to assure that:

a. Before insisting any such suspension, expulsion or exclusion, the district convenes a meeting of the multidisciplinary team appropriate to the disability category of the student to determine whether the disciplinary problems of the student are associated with his disability category and prepare a report of its findings and conclusions.

VERIFIED

b. After the multidisciplinary team meeting, the district convenes a meeting of the committee responsible for developing the student’s IEP to review the findings of the MDT and revise the IEP as it deems appropriate under the circumstances.

VERIFIED

24. There are procedures to insure that students are placed in programs based on assessed needs and not solely on available placement options.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:

25. The district has established and implements a goal of providing full educational opportunity to all students with disabilities served by the district, including arts and cultural activities.

LP ____________ PP ____________ FQ ____________ NV ____________

Comments:
26. The district has established policies and procedures to ensure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the district, including art, music, industrial arts, consumer and homemaking education, and vocational education.

Comments:

27. The district has established policies and procedures to provide nonacademic and extracurricular services and activities in such manner as is necessary to afford students with disabilities an equal opportunity for participation in those services and activities. Nonacademic and extracurricular services and activities may include counseling services, athletics, special interest groups or clubs sponsored by the district, referrals to agencies which provide assistance to persons with disabilities, and employment of students, including both employment by the district and assistance in making outside employment available.

Comments:

28. The district has policies and procedures to ensure that physical education services, specially designed if necessary, are made available to every student with a disability requiring a less appropriate public education.

Comments:

a. Each student with a disability is afforded the opportunity to participate in the regular physical education program available to nondisabled students unless the student is enrolled full time in a separate facility, or the student needs specially designed physical education, as prescribed in the student's individualized educational program.

b. If specially designed physical education is prescribed in a student's individualized educational program, the agency responsible for the education of that student shall provide services directly, or make arrangements for it to be provided through other public or private programs.

VII. PARTICIPATION IN REGULAR EDUCATION PROGRAMS/PROGRAM CONTINUUM/LEAST RESTRICTIVE ENVIRONMENT

1. There is a procedure to ensure that the maximum extent appropriate students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled, and that special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when 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.

Comments:

2. There is a procedure to ensure that each student with a disability's educational placement is determined at least annually, is based on his or her current individualized educational program, and is as close as possible to the student's home.

Comments:

3. There is a procedure to ensure that a student is not placed in a special class, in a school different than the one he would normally attend, or otherwise removed from the regular educational environment, unless the student's IEP requires such placement.

Comments:

4. There is a procedure to ensure that to the maximum extent appropriate students with disabilities participate in mainstream, related, or any other nonacademic or extracurricular services and activities occurring at school with students who are not disabled, and the bases for any exclusion is set forth on IEPs.

Comments:
5. There is a procedure to ensure that in selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services which he or she needs.

   LP__________ PP__________ FQ__________ NV__________

   Comments:

6. There is a continuum of alternative placements available to meet special education and related services needs to the extent necessary to implement the individualized educational program for each student with a disability.

   LP__________ PP__________ FQ__________ NV__________

   Comments:

   The continuum must include, as appropriate:

   a. Consultative and direct related services.
      VERIFIED_____

   b. Accommodation of the student in:
      1. A regular class.
         VERIFIED_____
      2. A special class.
         VERIFIED_____
      3. A special school.
         VERIFIED_____
      4. A community-based program.
         VERIFIED_____
      5. His home.
         VERIFIED_____
      6. A hospital.
         VERIFIED_____
      7. An institution.
         VERIFIED_____

   c. For early childhood special education, the continuum may include as appropriate:
      VERIFIED_____
      1. An integrated or self-contained center-based program in a regular or special school.
         VERIFIED_____
      2. A home-based program.
         VERIFIED_____
      3. An itinerant consultant working with a community-based facility.
         VERIFIED_____
      4. Instruction in a hospital or institution.
         VERIFIED_____

   d. Supplementary services, such as resource room or itinerant instruction, provided in conjunction with regular class placement.
      VERIFIED_____

7. The district has established procedures to insure that parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

   LP__________ PP__________ FQ__________ NV__________

   Comments:
PARTICIPATION OF STUDENTS ENROLLED IN PRIVATE SCHOOLS

1. The district has policies and procedures for providing students enrolled in private schools with a genuine opportunity for equitable participation in accordance with federal and state requirements.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

2. To the extent consistent with the number and location of children in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of those children in special education programs. The school district must expend a proportionate amount of Federal funds available under Part B of the IDEA for the provision of services to students in private schools. Such services may be provided to children with disabilities on the premises of private, including parochial, schools, to the extent consistent with law.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

3. The district maintains continuing administrative direction and control over funds and property that benefit students enrolled in private schools.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

4. The district has a procedure to consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of programs, including which students will receive benefits, how the student's needs will be identified, what benefits will be provided, how the benefits will be provided, and how the program will be evaluated.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

5. The district has a procedure to consult with appropriate representatives of students enrolled in private schools before the district makes any decision that affects the opportunities of those students to participate in the program, and representatives have a genuine opportunity to express their views regarding each matter.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

6. The district has a procedure to determine the following matters on a basis comparable to that used by the district in providing for participation of public school students: the needs of students enrolled in private schools, the number of those students who will participate in the program, and the benefits the district will provide under the program to those students.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:

7. The district has a policy to assure that the benefits the district provides for students enrolled in private schools are comparable in quality, scope, and opportunity for participation in the program benefits that the district provides for students enrolled in public schools.

   LP: __________________  PP: ____________  FD: ____________  NV: ____________

   Comments:
8. The district has a policy that if it uses funds under a program for public school students in a particular attendance area, or grade or age level, the district shall ensure equitable opportunities for participation by students enrolled in private schools who have the same needs as the public school students to be served, and are in that group, attendance area, or age or grade level.

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________

9. The district has a policy that if the needs of students enrolled in private schools are different from the needs in public schools, the district provides program benefits for the private school students that are different from the benefits the district provides for the public school students.

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________

10. The district has a policy to spend the same average amount of program funds on a student enrolled in a private school who receives benefits under the program and a student enrolled in a public school who receives benefits under the program; however, the district spends a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs of those students is different from the average cost of meeting the needs of students enrolled in public schools.

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________

11. The district includes the following information in its local plan application:

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________

a. A description of how the applicant will meet the federal requirements for participation of students enrolled in private schools.

VERIFIED: ____________

b. The number of students enrolled in private schools who have been identified as eligible to benefits under the program.

VERIFIED: ____________

c. The number of students enrolled in private schools who will receive benefits under the program.

VERIFIED: ____________

d. The basis the applicant used to select the students.

VERIFIED: ____________

e. The manner and extent to which the district complied with requirements for consultation with representatives of private school students.

VERIFIED: ____________

f. The places and times that the students will receive benefits under the program.

VERIFIED: ____________

g. The reasons, if any, between the program benefits the applicant will provide to public and private school students, and the reasons for those differences.

VERIFIED: ____________

12. The district has a policy to ensure that it does not use program funds for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________

13. The district has a policy to ensure that program funds are not used to finance the existing level of instruction in a private school or to otherwise benefit the private school.

LP: ____________  PP: ____________  FQ: ____________  NV: ____________

Comments: ____________
14. The district has a policy for using program funds to make public personnel available in other than public facilities to the extent necessary to provide equitable program benefits designed for students enrolled in private schools and if these benefits are not normally provided by the private school.

Comments:

15. The district has a policy for using program funds to pay for the services of an employee of a private school if the employee performs the services outside of his or her regular hours of duty and under public supervision and control.

Comments:

16. The district has policies and procedures to ensure that equipment and supplies placed in a private school are used only for the purposes of the program, can be removed from the private school without remodeling the facilities, and are removed if they are no longer needed for the purpose of the program.

Comments:

17. The district has a policy to ensure that program funds are not used for the construction of private school facilities.

Comments:

OTHER REQUIREMENTS

1. The district has a procedure for providing reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program.

Comments:

Note: Must verify on-site as well.

2. The district has a procedure for assuring that, in the case of any application requiring construction, the project is not inconsistent with overall state plans for the construction of school facilities.

Comments:

3. The district has a procedure for assuring that in developing plans for construction, due consideration will be given to the excellence of architecture and design and to compliance with standards prescribed by the U.S. Secretary of Education under Section 504 of the Rehabilitation Act of 1973 in order to assure that the facilities constructed with the use of federal funds are accessible to and by disabled individuals.

Comments:

4. The district has a procedure for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research demonstrations and similar projects.

Comments:

5. The district has a procedure for adopting, if appropriate, promising educational practices developed through these projects.

Comments:

6. The district has documentation of fulfilling the excess cost requirement for elementary and secondary students.

Comments:

Note: Must verify on-site as well.
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<td>7.</td>
<td>The district has a procedure for monitoring its programs to ensure compliance with Nevada Administrative Code Chapter 385 and for keeping records to show its compliance with program requirements.</td>
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<td>8.</td>
<td>The district has a procedure for ensuring that the hearing aids worn by deaf and hard of hearing students in school are functioning properly.</td>
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<td>9.</td>
<td>The district has policies and procedures to ensure direct administration or supervision of administration of its programs.</td>
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<td>10.</td>
<td>The district has policies and procedures to use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for federal funds.</td>
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<td>11.</td>
<td>The district has policies and procedures to ensure that unless a longer period is required under 34 CFR Part 74, the district retains records for five years after completion of the activities for which they use federal funds.</td>
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<td>12.</td>
<td>The district has a procedure to survey the geographic area within its jurisdiction to determine the existence of other projects serving similar purposes and populations.</td>
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<td>13.</td>
<td>The district has documented its coordination of activities with the projects serving similar purposes and populations.</td>
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<td>14.</td>
<td>The district has policies and procedures to ensure that a free appropriate public education is provided to youth with disabilities incarcerated in adult correctional facilities (taking into consideration exemptions for participation in general assessments, transition planning for students whose eligibility will end before their release, and certain modifications of placement requirements).</td>
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<td>15.</td>
<td>The district has policies and procedures to ensure that students with disabilities are disciplined in accordance with the requirements of IDEA, including the requirements for parental notice, manifestation determinations, functional behavioral assessments and behavior intervention plans, interim alternative educational settings, due process hearings (including expedited hearings), residency, referral to law enforcement and judicial authorities, and transfer of records.</td>
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APPENDIX D

STUDENT RECORD REVIEW CHECKLIST
STUDENT RECORD REVIEW
CHECKLIST

School District:
School:
Date:

DIRECTIONS: Please use one of the following responses to indicate the completeness of student records which were reviewed.

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<th>Year</th>
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III. CONFIDENTIALITY

THE REVIEW OF THE RECORDS VERIFIES THAT EDUCATION RECORDS ARE MAINTAINED IN A MANNER THAT INSURES CONFIDENTIALITY:

1. An access list is present in the file.
2. Files are maintained in a secure manner.

IV. PROCEDURAL SAFEGUARDS

THE REVIEW OF THE RECORDS VERIFIES THAT PROCEDURAL SAFEGUARDS ARE IN PLACE.

1. Parental consent for the initial evaluation and each reevaluation is in the file. (Rev. eff. 6/4/97)
2. There is evidence that written consent of the parent or guardian was obtained prior to the initial placement.
3. There is evidence of written notice prior to each initiation or refusal to initiate actions relating to the identification, evaluation, educational placement, or provision of a free appropriate public education.
   a. The notice contains a description of why the district proposes or refuses to take action; a description of all options considered; reasons why those options were rejected; the assessment procedures, tests, records, or reports upon which the action is based; description of any other factors relevant to the district's proposal or refusal; a statement that the parents of a child with a disability have protection under the procedural safeguards of IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained; and sources for parents to contact to obtain assistance in understanding the provisions of IDEA.
   b. There is evidence that these rights were in the primary language of the parents, if the primary language is other than English.
4. There is evidence that a copy of the procedural safeguards was given to parents upon initial referral for evaluation; upon each notification of an IEP meeting and upon reevaluation of the child; and upon registration of a due process request. (eff. 6/4/97)
5. The notice of procedural safeguards contains an explanation of all required content. (eff. 6/4/97)

6. There is evidence that parental rights were transferred to the student at the age of majority, and that parents and student were notified of the transfer of rights. Note this provision does not apply to a child who has been determined to be incompetent under state law. (eff. 6/4/97)
V. PROTECTION IN EVALUATION

THE REVIEW OF THE RECORDS VERIFIES THAT EVALUATION PROCEDURES ARE IN ACCORDANCE WITH IAC.

SPECIFIC LEARNING DISABILITY

1. Eligibility was determined according to the minimum criteria outlined in IAC.
   a. The student exhibits a deficit in auditory or visual discrimination, memory, association or perception, visual-motor integration, auditory-visual integration or any other essential learning process.
   b. A severe discrepancy exists between predicted and actual achievement in oral expression, comprehension in listening, mathematical calculation or reasoning, written expression, basic reading skills or comprehension in reading, as determined through the use of a statistically valid formula which takes into account the age and level of ability of the student, the correlation between tests of ability and achievement, and the reliability of each test used.
   c. The severe discrepancy is not primarily the result of visual, hearing or motor impairment; mental retardation; a serious emotional disturbance; or an environmental, cultural or economic disadvantage.
   d. Pre-referral intervention strategies have not remedied the deficit.
   e. The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency. (eff. 6/4/97)

2. The multidisciplinary team contained the required members.
   a. The student's regular teacher, or if he does not have a regular teacher, a teacher qualified to teach a child of his age; for a child of less than school age, an individual qualified by the state to teach a child of his age;
   b. A special education teacher or specialist with knowledge in the area of the suspected disability;
   c. A school psychologist;
   d. If not already represented, one or more persons qualified, because of personal knowledge of the student, to interpret information relating to his health, family, and social and emotional condition. This person may be an administrator, nurse, parent, school counselor, school psychologist or any other certified or licensed professional.
   e. Parents. (eff. 6/4/97)

The assessment included the required evaluations.

a. Cognitive abilities;
   b. Social and emotional condition;
   c. Academic achievement;
   d. Performance in current educational setting;
   e. Any previous educational intervention;
   f. Health and developmental history;
   g. Essential learning processing skills;
   h. An observation conducted by someone other than the student's regular teacher was made of the student's academic performance in his classroom or in an environment appropriate to a child of his age;
   i. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related service providers observations. (eff. 6/4/97)
4. The multidisciplinary team prepared and gave parents a copy of a report of its conclusions which included the following: (parent copy eff. 6/1997)
   a. A statement whether the student has a specific learning disability;
   b. The basis for making that determination;
   c. A description of the relevant behavior noted during the observation of the student;
   d. A statement of the relationship of that behavior to the student's academic functioning;
   e. Any educationally relevant medical findings;
   f. A statement whether there is a severe discrepancy between the predicted and actual achievement of the student which cannot be corrected without special education and related services;
   g. The conclusion of the team concerning the effect upon the student of any environmental, cultural or economic disadvantage; and
   h. A certification by each member of the team that the report reflects his conclusions or, if the report does not reflect the conclusions of a member, a statement of the conclusions of that member.

5. The student is no longer eligible for special services if the multidisciplinary team concludes that he no longer meets the eligibility criteria, or the IEP committee concludes that he has made sufficient progress in meeting the goals of his IEP and has demonstrated an ability to function adequately, in view of his cognitive abilities, during a full-time trial placement in the regular program of not less than 8 nor more than 16 weeks.
MENTAL RETARDATION

1. Eligibility was determined according to the minimum criteria outlined in MAC.

MILD
a. The student's measured cognitive abilities, as determined by an acceptable individual standardized test, are at least two standard deviations below the mean score for that test.
b. The student's adaptive behavior, in comparison with that of members of his chronological peer group, indicates he is experiencing difficulty; and
c. His academic achievement is generally consistent with his cognitive abilities and adaptive behavior.

MODERATE
a. The student's measured cognitive abilities, as determined by an acceptable individual standardized test, are at least three standard deviations below the mean score for that test.
b. The student's adaptive behavior, in comparison with that of members of his chronological peer group, indicates he has markedly lower capabilities; and
c. The student's academic achievement and speech and language development is generally consistent with his cognitive abilities and adaptive behavior.

SEVERE
a. The student's measured cognitive abilities, as determined by an acceptable individual standardized test, are at least four standard deviations below the mean score for that test.
b. The student's adaptive behavior, in comparison with that of members of his chronological peer group, indicates he has extensively lower capabilities; and
c. The student's developmental functioning is generally consistent with his cognitive abilities and adaptive behavior.

PROFOUND
a. The student's measured cognitive abilities, as determined by an acceptable individual standardized test, are at least five standard deviations below the mean score for that test.
b. The student's adaptive behavior, in comparison with that of members of his chronological peer group, indicates that he has extremely limited capabilities; and
c. The student's developmental functioning is generally consistent with his cognitive abilities and adaptive behavior.

The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency.

2. The multidisciplinary team contained the required members.

a. A school psychologist;
b. A special education teacher or specialist in the field of mental retardation;
c. A speech and language specialist;
d. If not already represented, one or more persons qualified, because of personal knowledge of the student, to interpret assessments of the health and adaptive behavior of the student, and information relating to the family of the student. The person or persons may be, without limitation, an administrator, nurse, parent, school counselor, school psychologist or any other certificated or licensed professional;
e. Parents. (sft. 6/4/87)
2. The assessment included the required evaluations.
   a. Cognitive abilities;
   b. Adaptive behavior, including prevocational and vocational assessments if appropriate;
   c. Health, including a developmental history;
   d. Academic achievement;
   e. Performance relating to speech and language;
   f. A review of existing evaluation data, including evaluations and information provided by
      the parents of the child, current classroom-based assessments and observations, and
      teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to
   parents. (copy to parents eff. 6/4/97)

MULTIPLE IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in MAC.
   a. The student meets the requirements for MENTAL RETARDATION. (Monitor for
      compliance for determination of eligibility for mental retardation.)
   b. The student meets the requirements for eligibility for any additional disability OTHER THAN SPECIFIC
      LEARNING DISABILITY, DEVELOPMENTAL DELAY, or SPEECH AND LANGUAGE IMPAIRMENT.
      (Monitor for compliance for determination of eligibility for additional disability.)

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SERIOUS EMOTIONAL DISTURBANCE

1. Eligibility was determined according to the minimum criteria outlined in HAC.
   a. The student exhibits one or more of the following characteristics:
      1. An inability to build or maintain satisfactory interpersonal relationships within the school environment, including:
         (a) Withdrawal and isolation of the student from others
         (b) Efforts by the student to obtain negative attention from others through punishment, ostentation or excessive approval
      2. Inappropriate behavior or feelings under normal circumstances, including:
         (a) Manifestations of beingeither of a physiological origin, such as outbreaks of anger, crying or head banging, without apparent cause or reason.
         (b) A pervasive mood of unhappiness or depression.
      3. Fears or a tendency to develop physical symptoms associated with personal or school problems.
   b. These characteristics have been evident for at least 3 months.
   c. The characteristics adversely affect the ability of the student to perform developmental tasks appropriate to his age:
      1. Within the educational environment, despite the provision of intervention strategies; or
      2. In the case of a student under school age, in the home, child care or preschool setting.
   d. Special education support is required to alleviate these adverse affects.
   e. The student is not eligible solely because he exhibits the characteristics in (a) because of sensory, intellectual or health factors; social maladjustment or conduct problems.
   f. The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency.

2. The multidisciplinary team contained the required members.
   a. A school psychologist;
   b. A regular classroom teacher;
   c. A special education teacher or specialist in the field of serious emotional disturbances;
   d. If not already represented, one or more persons qualified, because of personal knowledge of the student, to interpret information relating to his health, development, family, and social and emotional condition. This person may be, without limitation, an administrator, nurse, parent, school counselor, school psychologist or any other certified or licensed professional;
   e. Parents. (eff. 8/4/97)

3. The assessment included the required evaluations.
   a. Social and emotional condition, based in part upon information from the student;
   b. Health and cognitive abilities;
   c. Performance of the student in his current educational setting;
   d. Any previous educational intervention on behalf of the student;
   e. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/8/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 8/4/97)
SPEECH AND LANGUAGE IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in HAC.

   a. The student suffers from a deficit or disorder with respect to one or more of the following conditions:
      1. Phonology or articulation, as indicated by the presence of three or more of the following conditions:
         (a) Physiological potential to make the neuromuscular adjustments necessary for oral expression;
         (b) The communicative ability of the student is impaired with by his lack of intelligibility;
         (c) The student cannot adequately discriminate, exhibit or sequence sound patterns;
         (d) The ability of the student to articulate is significantly less than that which is expected in view of his cognitive abilities and level of development; or
         (e) The deficit or disorder has an adverse social, emotional or academic effect upon the student.
      2. The use and comprehension of language, as indicated by the presence of two or more of the following conditions:
         (a) The ability of the student to comprehend language is significantly less than that which is expected in view of his cognitive abilities and level of development;
         (b) The use of expressive language by the student is significantly less than that which is expected in view of his cognitive abilities and level of development;
         (c) Pragmatic use of language by the student is inappropriate; or
         (d) The deficit or disorder has an adverse social, emotional or academic effect upon the student.
      3. Fluency of speech, as indicated by the presence of two or more of the following conditions:
         (a) The speech of the student is observed to be dysfluent;
         (b) The severity of the deficit or disorder is such that it interferes with communication by the student; or
         (c) The deficit or disorder has an adverse social, emotional or academic effect upon the student.
      4. The quality, pitch or intensity of his voice as indicated by the presence of two or more of the following conditions:
         (a) Voice therapy is recommended by a physician or another person certified as a specialist in the identification and treatment of oral, nasal or laryngeal anomalies;
         (b) The severity of the deficit or disorder is such that it interferes with communication by the student; or
         (c) The deficit or disorder has an adverse social, emotional or academic effect upon the student.

b. The student has demonstrated the ability to profit from speech and language therapy:

c. The student requires a program of instruction, due to the nature or severity of his disability, which is not feasible in his current educational setting because:
   1. Intensive remedial techniques or strategies, which can only be implemented in a special or therapeutic setting, are required to improve his communication skills;
   2. The nature of his impairment requires that the student receive the services of a teacher of the speech and language impairments;
   3. His impairment is of such severity of multiplicity that individual or small group management, available only in a speech and language program, is required.

d. A student with limited proficiency in English is eligible on the same basis as other students if his impairment manifests itself in his native language and in English and is not attributable to the phonological system of his native language, or to dialectical differences of articulation and language form between that language and English.
1. The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency.

2. The multidisciplinary team contained the required members.
   a. A speech and language specialist;
   b. A regular classroom teacher;
   c. If the student has another disability in addition to his speech and language impairment, a special education teacher;
   d. If not already represented, a person having personal knowledge of the student. This person may be, without limitation, an administrator, nurse, parent, school counselor, school psychologist or any other certified or licensed professional;
   e. Parents. (eff. 8/4/87)

3. The assessment included the required evaluations.
   a. Performance relating to language, articulation, fluency or voice, as relevant to his impairment;
   b. Health;
   c. If relevant to his eligibility determination, the student's cognitive abilities, academic achievement and social and emotional condition;
   d. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 8/4/87)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 8/4/87)
VISUAL IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in NAC.
   a. Visual acuity of the student does not exceed 20/200 in the better eye;
   b. Vision in the better eye is restricted to a field which subtends an arc of not more than 20 degrees; or
   c. The student suffers from a progressive deterioration of his vision, the probable result of which will be one or both of the conditions described in (a) and (b).

   MODERATE
   a. Visual acuity of the student is 20/70 or less in the better eye with the best possible correction; or
   b. The student suffers from a progressive deterioration of his vision, the probable result of which will be the condition described in paragraph (a).

2. The multidisciplinary team contained the required members.
   a. Not less than three persons with expertise in one or more of the following areas:
      1. Vision;
      2. Vision impairment;
      3. The interpretation of an assessment of health or academic achievement.
   b. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   a. A comprehensive examination of vision, performed by an eye specialist;
   b. An assessment of the health and academic achievement of the student.
   c. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)
HEARING IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in NAC.

   DEAF
   a. Routine auditory communication is impossible for the student, or nearly so, due to his inability to discriminate among and understand the sounds that reach him;
   b. The sense of hearing of the student is nonfunctional for the ordinary purposes of life, whether as the result of congenital or postlingual deafness; and
   c. The student has an average hearing threshold level, at 500, 1,000 and 2,000 Hz., of 92 decibels or more.

   HARD OF HEARING
   a. The student has the ability, if aided, to hear and understand most spoken words;
   b. The hearing mechanism of the student, though defective, is sufficiently functional with or without the use of a hearing aid to allow a receptive flow of information; and
   c. The student has an average hearing threshold level of 30 decibels or more.

   (Note: The student is eligible if he meets the criteria set forth in (c), notwithstanding his failure to meet the criteria set forth in (a) and (b).)

2. The multidisciplinary team contained the required members.

   a. Not less than three persons with expertise in one or more of the following areas:
      1. Audiology or the interpretation of an audiological report;
      2. Hearing impairment;
      3. The interpretation of an assessment of:
         (a) Health;
         (b) Communication skills and disorders;
         (c) Academic achievement.
   b. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.

   a. A comprehensive audiological examination, including pure tone and speech discrimination tests, performed by an audiologist;
   b. An assessment of the student's:
      1. Health, which must include a comprehensive examination of vision;
      2. Academic achievement; and
      3. Speech and language.
   c. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)

DEAF AND BLIND

1. Eligibility was determined according to the minimum criteria outlined in NAC.

   a. The student meets the criteria for DEAF or HARD OF HEARING and SEVERE or MODERATE VISUAL IMPAIRMENT.
### HEALTH IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in MAC.
   - a. The student suffers from limited strength, vitality or alertness, including, without limitation, heart conditions, tuberculosis, rheumatic fever, nephritis, asthma, sickle cell anemia, nephritis, epilepsy, lead poisoning, leukemia or diabetes;
   - b. This impairment could reasonably be expected to adversely affect the student's educational performance;
   - c. The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency.

2. The multidisciplinary team contained the required members.
   - a. A school psychologist;
   - b. A special education teacher;
   - c. A student's regular education teacher, or, if none, a person qualified to teach the student;
   - d. A school nurse or other person qualified to interpret an assessment of the health of the student;
   - e. If not already represented, one or more persons with sufficient knowledge of the student to interpret information relating to his social, emotional, developmental and familial condition. Such persons may include an administrator of the school, a nurse, a parent, a counselor, a school psychologist or any other certificated or licensed professional.

   i. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   - a. A health assessment;
   - b. An analysis of the student's ability to perform in a regular classroom;
   - c. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)
ORTHOPEDEIC IMPAIRMENT

1. Eligibility was determined according to the minimum criteria outlined in HAC.
   a. The student suffers from a severe orthopedic impairment including any impairment from a congenital anomaly, including clubfoot or the absence of a member; disease, including poliomyelitis or bone tuberculosis; or any other cause, including cerebral palsy, a neuromuscular disorder, an amputation, a fracture or a burn causing a contracture.
   b. This condition adversely affects the ability of the student to be educated.

2. The multidisciplinary team contained the required members.
   a. A school nurse or other person qualified to interpret an assessment of the health of the student;
   b. The student's regular classroom teacher or, if none, a person qualified to teach the student;
   c. One of the following:
      1. A physical therapist;
      2. An occupational therapist;
      3. Any other specialist whose presence on the team is deemed appropriate;
   d. If not already represented, one or more persons having personal knowledge of the student. Such persons may include, without limitation, an administrator, nurse, parent, school counselor, school psychologist or any other certificated or licensed professional;
   e. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   a. A health assessment of the student, which must include a physical examination;
   b. The student's functional limitations in relation to the demands of a regular classroom;
   c. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)
AUTISM

1. Eligibility was determined according to the minimum criteria outlined in MAC.
   a. The student has a condition which significantly affects his verbal and non-verbal communication and social skills and is often characterized by repetitive activities and stereotyped movements, resistance to changes in environment or daily routine and responding to sensory experiences in an unusual manner;
   b. This condition is usually apparent before the age of three years; and
   c. This condition adversely affects the educational performance of the student, causing significant delays or irregular patterns in learning, or both.

2. The multidisciplinary team contained the required members.
   a. A school psychologist;
   b. A special education teacher or a person with specialized knowledge of autism;
   c. The student's regular classroom teacher or, if none, a person qualified to teach the student;
   d. A specialist of speech and language;
   e. If not already represented, one or more persons who have sufficient knowledge of the student to interpret information relating to his social, emotional, developmental and familial condition. Such persons may include an administrator of the school, a nurse, a parent, a counselor, a school psychologist or any other certified or licensed professional;
   f. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   a. Health;
   b. Developmental history;
   c. Cognitive abilities;
   d. Social and emotional condition;
   e. Academic achievement;
   f. Adaptive behavior;
   g. Language and motor skills;
   h. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers' observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)
**TRAUMATIC BRAIN INJURY**

1. Eligibility was determined according to the minimum criteria outlined in KAC.
   - a. The student has an injury to the brain caused by an external force that results in the total or partial functional disability or psychosocial impairment of the student, or both.
   - b. This condition adversely affects the educational performance of the student.

2. The multidisciplinary team contained the required members.
   - a. A school psychologist;
   - b. A special education teacher or a person with specialized knowledge of traumatic brain injuries;
   - c. The student's regular classroom teacher or, if none, a person qualified to teach the student;
   - d. A specialist of speech and language;
   - e. A school nurse or other person qualified to assess the health of the student;
   - f. If not already represented, one or more persons with sufficient knowledge of the student to interpret information relating to his social, emotional, developmental and familial condition. Such persons may include an administrator of the school, a nurse, a parent, a counselor, a school psychologist or any other certified or licensed professional;
   - g. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   - a. Health;
   - b. Developmental history;
   - c. Cognitive abilities;
   - d. Social and emotional condition;
   - e. Academic achievement;
   - f. Language and motor skills;
   - g. Sensory and perceptual abilities;
   - h. Attention, comprehension, judgment and problem-solving skills;

   - i. A review of existing evaluation data, including evaluations and information provided by the parents of the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

   **NOTE:** In determining eligibility, the multidisciplinary team shall consider without limitation: (a) medical documentation of the injury; (b) the student's educational performance relative to a normative population; (c) the student's strengths and weaknesses; and (d) if possible, the student's educational performance before and after he acquired the injury.

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)
DEVELOPMENTAL DELAY

1. Eligibility was determined according to the minimum criteria outlined in MAC.
   a. The student is under the age of 6.
   b. The student demonstrates a delay of at least two standard deviations in one, or at least one standard deviation in two or more, of the following areas:
      1. Receptive or expressive language.
      2. Cognitive abilities.
      3. Gross or fine motor function.
      4. Self help.
      5. Social or emotional condition.
   c. The determining factor for eligibility is not the lack of instruction in reading or math or limited English proficiency.

2. The multidisciplinary team contained the required members.
   a. A special education teacher or specialist in the field of early childhood education;
   b. A licensed school psychologist or a licensed or certified psychologist with documented training in the assessment of preschool students with disabilities;
   c. If not already represented, one or more persons qualified, because of personal knowledge of the student, to interpret information relating to his health, family, and social and emotional condition. This person may be, without limitation, an administrator, nurse, parent, school counselor, school psychologist or any other certified or licensed professional;
   d. Parents. (eff. 6/4/97)

3. The assessment included the required evaluations.
   a. Health assessment;
   b. Developmental functioning;
   c. Social and emotional condition;
   d. A review of existing evaluation data, including evaluations and information provided by the parents or the child, current classroom-based assessments and observations, and teacher and related services providers observations. (eff. 6/4/97)

4. A written report of the results of the assessment is evident, and a copy was given to parents. (copy to parents eff. 6/4/97)

FOR ALL DISABILITIES:

5. The initial evaluation was conducted within 45 school days of the date written consent for the evaluation was given.

6. A comprehensive reevaluation has been performed in the last three years.

7. In an initial evaluation (if appropriate) and in a reevaluation, the IEP team and other qualified professionals reviewed the existing data, identified any additional data needed, and administered such tests and other evaluations as may be needed. If the team determined that no additional data was needed, the district notified parents of that determination and of their rights to request an assessment, and was not required to conduct such an assessment unless requested to by the child's parents. (eff. 6/4/97)

8. There is evidence that the student was evaluated before determining that the student is no longer a student with a disability. (eff. 6/4/97)
VI. INDIVIDUALIZED EDUCATIONAL PROGRAM

THE REVIEW OF RECORDS VERIFIES THAT AN INDIVIDUALIZED EDUCATIONAL PROGRAM IS DEVELOPED FOR EVERY SPECIAL EDUCATION STUDENT AND IS REVIEWED AT LEAST ANNUALLY.

1. A current IEP is in place.

2. The IEP has been reviewed before any change of program and at least once in the past 12 months.

3. The IEP meeting was conducted no later than 30 days after the determination that the student is eligible for special services and programs.

4. For eligible children making the transition from infant/Toddler programs operated by the Nevada Department of Human Resources, an IEP was developed and implemented by the child's third birthday.

5. The following persons were included in the IEP development meeting:
   a. Representative of the school district other than the teacher of the student, who is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities.
   b. The student's teacher, if he has had one in the school district; if not, a person qualified to teach him;
   c. One or both of the student's parents;
   d. If one is appointed, the person assigned to represent the parents pursuant to NAC 388.295;
   e. The child, where appropriate;
   f. If transition services are being planned, a representative of the participating agency;
   g. If an initial IEP meeting, a person familiar with the tests and other assessments performed on or by the student and their results;
   h. One member who has personal knowledge about the personnel and options for placement available to provide special education and related services to the student.

6. The school district took whatever action was necessary, including arranging for an interpreter for parents who are deaf or whose native language is other than English, to ensure that parents who attend a committee meeting understand the proceedings.

7. Parents were afforded an opportunity to participate in accordance with the requirements of law.

8. There is evidence of written notification to parents advising them that an IEP meeting has been scheduled:
   a. The notice states the purpose, date, time, and location of the meeting, and who will be in attendance (if transition services will be discussed, the notice must specify this purpose and state that the student is being invited);
   b. The notification of the meeting is given sufficiently far in advance to enable parents to make arrangements to attend;
   c. If parents did not acknowledge receipt of notice, the school district attempted to notify them by telephone or through a visit to their home or place of employment;
   d. If parents are unable to attend the meeting in person, the school district used reasonable efforts to secure their participation by written, telephonic or other means;
   e. There are detailed records of any telephone calls, correspondence or visits pursuant to this section and their results, if any, in attempting to arrange a mutually agreed upon time and place for the IEP meeting;
   f. The notice contained a copy of the procedural safeguards available to the parent. (eff. 6/4/97)
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 9. | If a representative of the participating agency does not attend the meeting for planning transition services, the district has consulted with the participating agency regarding the planning of such services. If the student was not present, there is evidence of alternative methods used to ascertain student preferences and interests. |
| 10. | If a participating agency involved in transition failed to provide agreed-upon services contained in the IEP, the district has initiated a meeting to identify alternative methods, and, if necessary, to revise the IEP. |
| 11. | If efforts to involve parents are unsuccessful, parents shall be deemed unavailable and the school district shall develop an individualized educational program without the parents. |
| 12. | The required components are included in the IEP. |
| a. | The student's present levels of educational performance; |
| b. | The annual goals, including the short-term instructional objectives set for the student; |
| c. | The specific special education and related services to be provided and the extent to which the student will be able to participate in regular educational programs; |
| d. | A statement of the assistive technology devices and services necessary for the student to be able to receive a free appropriate public education; |
| e. | A statement of the transition services required, if any, and a statement of the responsibilities of each public agency in providing such services; or a statement, if appropriate, that transition services are not required and the basis for that determination. (Transition services must be addressed beginning at age 16.) |
| f. | Projected dates for initiation of services and anticipated duration of the services; |
| g. | The appropriate objective criteria, evaluative procedures and schedules for determining, on at least an annual basis, whether the short-term instructional objectives are being achieved; |
| h. | Any modifications, including supplementary aids and services, deemed necessary to ensure the student's participation in the regular education program; |
| i. | If the student is entering the school district from another agency, provisions relating to case management and interagency transition services; |
| j. | A statement of the reasons for the placement of the student, including a statement of the other placement options considered by the team and the reasons why the team rejected a less restrictive placement; and |
| k. | A schedule of meetings with the student, if appropriate, and his parents to discuss the student's progress. |

Note: If the student has a speech impairment and no other disability, the individualized educational program developed may be limited to a statement of his speech needs.

Note: If both an individualized educational program and another individualized plan or program of services are required for a student, the latter plan or program may be incorporated in the individualized educational program, or the IEP may be incorporated into another plan if it meets the requirements of the IEP.
**VII. PARTICIPATION IN REGULAR EDUCATION PROGRAMS/PROGRAM CONTINUUM**

**LEAST RESTRICTIVE ENVIRONMENT.**

The review of records verifies that students participate in regular education programs to the maximum extent practicable, a continuum of program options is available, and students are served in the least restrictive environment.

1. Removal of students with disabilities from the regular educational environment occurs only when 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.

2. Each placement is determined at least annually, is based on the student's current IEP, and is in the school the student would normally attend if possible, or in the school closest to his home which is capable of providing the services required by the individualized educational program.

3. If the student has been placed in a special education class, in a school different than the one he would normally attend, or otherwise removed from the regular educational environment, the individualized educational program must clearly set forth the basis for making such a placement.

4. The student is allowed to participate with students who are not disabled at meal times, recess, or any other nonacademic or extracurricular activity occurring at school. If excluded from such participation, the basis for the exclusion must be clearly set forth in the individualized educational program.

5. In selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services required by the student.

6. There is evidence of a continuum of alternative placements necessary to implement the individualized educational programs of each student with a disability.

7. There is evidence that parents have been members of any group that makes decisions on the educational placement of the student. (eff. 6/1/87)

**Note:** The requirements of IDEA do not apply to students who are convicted as adults and placed in adult prisons if the case has a bona fide secular or compelling penological interest that cannot be accommodated. (eff. 6/1/87)
APPENDIX E

STUDENT RECORD REVIEW SCHOOL SUMMARY
SCHOOL PRINCIPAL/LOCAL EDUCATION AGENCY REPRESENTATIVE INTERVIEW

Name: _____________________________ Date: ______________________
Position: ___________________________ School: _______________
Interviewer: ________________________ School District: ____________

1. Describe the procedures used in your school from the time a student is suspected of having a disability through the time when the student exits the special education program?  OK? 

   Referral -
   Who can make referrals?
   What must that person do to make a referral?
   What happens next?

   Assessment -
   Who decides what kind of assessments will be done?
   How much time elapses between referral and assessment?
   Do some students take longer than others?
   What is done about students whose primary language is not English?

   Eligibility -
   Who decides whether a student is eligible for special education and related services?
   How is that decision made?

   Placement -
   What placement options exist in the district?
   Who decides where students are placed?
   What process is used to decide placement?

   Reevaluation -
   What process is used to conduct reevaluations?

   Exit -
   What process is used to decide whether students may no longer be eligible for services?

2. What actions in special education require parental consent?  OK? 

   What actions in special education require parental notice?  OK? 

   What content is required in the notice?  OK? 

3. What is the role of the multidisciplinary team at this school?  OK? 

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4. How are IEPs developed? Who actually attends the meetings? What happens in an IEP meeting? OK _____?

How is it decided whether and to what extent related services are provided? OK _____?

Who makes the decision? OK _____?

Is every special education student entitled to receive:
   Speech/Language Therapy? OK _____?
   Physical Therapy? OK _____?
   Occupational Therapy? OK _____?
   Extended School Year? OK _____?
   Assistive Technology? OK _____?

5. What procedures do you follow to suspend or expel a special education student? OK _____?

6. What procedures do you follow if you receive a request for a due process hearing? OK _____?

7. What are the strengths of the special education program in your school?
   In your district?

8. What suggestions do you have for improving the special education program in your school?
   In your district?

9. (Probes based on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, STUDENT RECORD REVIEW, or on other questions):

10. Based on this interview, district policies and procedures are effectively implemented. C N/C

CMP-62
SPECIAL EDUCATION TEACHER INTERVIEW

Name: ___________________________  Date: _______________
Position: ________________________  School: __________________
Student's Initials: __________________  School District: ___________
Interviewer: ______________________

STUDENT SPECIFIC

1. What was your involvement in the referral, MDT, and/or IEP process for this student?

2. What special education and related services are being provided to this student?  OK?

Is this student receiving all the services listed on his/her IEP?  OK?

If not, why not?

3. Which short-term objectives are being implemented at this time (or have already been met)?  OK?

How is progress toward meeting short-term objectives being evaluated?  OK?

4. Do you feel this student needs any other special services that aren't being provided at this time? If so, explain.  OK?

5. How much time does this child spend in the special education program? How much time in the regular classroom? Do you think the division of time between special and regular education is about right or, ideally, should it shift one way or the other?  OK?

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6. What procedures are followed in your school for referral? OK?

7. How long does it take between referral and assessment? OK?

What kinds of assessments are you asked to conduct? OK?

8. Who decides whether a student is eligible for special education? OK?

For related services? OK?

What is the purpose for a multidisciplinary (MDT) meeting?

9. Who actually attends IEP meetings? OK?

What decisions are made in IEP meetings? OK?

When/How/By whom are decisions made about related services?
   Speech/Language Therapy? OK?
   Physical Therapy OK?
   Occupational Therapy OK?
   Extended School Year OK?
   Assistive Technology OK?

10. How are placement decisions made? OK?

What process is used to change a student's placement? OK?
11. When is parental consent necessary for special education actions?  OK  

When is parental notice necessary for special education actions?  OK  

12. What kinds of professional development activities have been made available to you?  OK  

13. What would you say are the strengths of the special education program in this school?  

In this district?  

14. What suggestions do you have for improving the special education program in this school?  

In this district?  

15. (Probe based on STUDENT RECORD REVIEW or other questions):  

16. How many students are in your case load?  

What is the maximum number seen at any one time?  

17. Are there any questions you have which I might be able to answer?  

INTERVIEWER:  

Based on this interview, this student's IEP is currently being implemented.  C  N/C  

Based on this interview, case loads and class sizes conform to NAC.  C  N/C  

Based on this interview, district policies and procedures are effectively implemented.  C  N/C  

CMP-65  

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REGULAR EDUCATION TEACHER INTERVIEW

Name: _________________________ Date: ______________________
Position: _______________________ School: _____________________
Student's Initials:________________ School District: _______________
Interviewer ____________________

STUDENT SPECIFIC

1. What was your involvement in the referral, MDT, or IEP process for this student? OK____?

2. How much time does this student spend in your classroom? OK____?

3. Was it decided that accommodations should be made so that this student can participate in regular classroom activities? If so, what accommodations are being made? OK____?

4. Do you feel this student needs any other special services that aren't being provided at this time? If so, explain. OK____?

5. To what extent does this student participate in non-academic extracurricular activities? OK____?

GENERAL

6. What procedures are followed in your school for referral? OK____?

7. How long does it take between referral and assessment? OK____?

What kinds of assessments are you asked to conduct? OK____?

8. Who decides whether a student is eligible for special education? OK____?

For related services? OK____?

What is the purpose for a multidisciplinary (MDT) meeting?

CMP-66
9. Do you know who actually attends IEP meetings? OK?

Do you know what decisions are made in IEP meetings? OK?

When/How/By whom are decisions made about related services?
   Speech/Language Therapy? OK?
   Physical Therapy OK?
   Occupational Therapy OK?
   Extended School Year OK?
   Assistive Technology OK?

10. Do you know how placement decisions are made? OK?

Do you know what process is used to change a student's placement? OK?

11. What would you say are the strengths of the special education program in this school?

   In this district?

12. What suggestions do you have for improving the special education program in this school?

   In this district?

13. (Probe based on STUDENT RECORD REVIEW or other questions):

14. Are there any questions you have which I might be able to answer?

INTERVIEWER:

Based on this interview, this student's IEP is currently being implemented. C N/C
Based on this interview, district policies and procedures are effectively implemented. C N/C

CMP-67
# RELATED SERVICE PROVIDER INTERVIEW

Name:_________________________ Date:_____________________
Position:______________________ School:_____________________
Student's Initials:______________ School District:______________
Interviewer:___________________

## STUDENT SPECIFIC

1. **How were you involved in the referral, MDT, and IEP process for this student?** OK ___?

2. **How much time does this student spend receiving related services?** OK ___?

3. **Which short-term objectives are being implemented at this time (or have already been met)?**
   
   How is progress toward meeting short-term objectives being evaluated? OK ___?

4. **Do you feel this student needs any other special services that aren't being provided at this time?** If so, explain. OK ___?
GENERAL

5. What procedures are followed in your school for referral?  OK  

6. How long does it take between referral and assessment?  OK  

What kinds of assessments are you asked to conduct?  OK  

7. Who decides whether a student is eligible for special education?  OK  

For related services?  OK  

What is the purpose for a multidisciplinary (MDT) meeting?  

8. Who actually attends IEP meetings?  OK  

What decisions are made in IEP meetings?  OK  

When/How/By whom are decisions made about related services?  

Speech/Language Therapy?  OK  
Physical Therapy  OK  
Occupational Therapy  OK  
Extended School Year  OK  
Assistive Technology  OK  

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9. How are placement decisions made? OK

What process is used to change a student's placement? OK

10. When is parental consent necessary for special education actions? OK

When is parental notice necessary for special education actions? OK

11. What kinds of professional development activities have been made available to you? OK

12. What would you say are the strengths of the special education program in this school? In this district?

13. What suggestions do you have for improving the special education program in this school? In this district?

14. (Probe based on STUDENT RECORD REVIEW or other questions):

15. How many students are in your case load? ______
   What is the maximum number seen at any one time? ______

16. Are there any questions you have which I might be able to answer?

INTERVIEWER:

Based on this interview, this student's IEP is currently being implemented. C N/C
Based on this interview, case loads and class sizes conform to NAC. C N/C
Based on this interview, district policies and procedures are effectively implemented. C N/C

CMP-70
SCHOOL PSYCHOLOGIST INTERVIEW

Name: ________________________________ Date: ______________________________
School District: __________________________ School(s): __________________________
Interviewer: ____________________________

1. How are students referred for special education?

2. What is the timeline between initial consent for evaluation and the MDT eligibility determination?
   - - 45 school days

3. What is the procedure for completing a reevaluation within 3 years?
   - - The assessment must be comprehensive
   - - IEP team and other professionals evaluate existing data and determine no further
     assessment needed to reconfirm eligibility; if so, give notice to parents; parents can still request assessment

4. How are you informed of the results of various assessment data collected by other team members?
   - - Through the MDT process

5. How is eligibility for special education determined?
   For Learning Disabled students:
   - - Deficit in essential learning process
   - - Severe Discrepancy per regression formula
   - - Interventions have not worked
   - - Considered exclusions
   - - MDT includes student's reg. teacher, special ed. teacher or LD specialist, school psych. & parent

   For Mentally Retarded students:
   - - Knows levels: Mild, Moderate, Severe, and Profound
   - - Cognitive abilities 2,3,4 or 5 SDs below mean
   - - Adaptive behavior/academic achievement/speech and language development/developmental
   - - MDT includes school psych., MH specialist, speech and language specialist & parent

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For Seriously Emotionally Disturbed students:

- Exhibits one or more of the following characteristics: (1) problems with interpersonal relationships; (2) inappropriate behavior or feelings; (3) mood of unhappiness or depression; or (4) fears of physical symptoms associated with physical or school problems
- Characteristics evident for at least 3 months
- Affects ability to perform developmental tasks appropriate to age
- Special education only way to treat problems
- Considered exclusions
- MDT includes school psych., regular education teacher, special education teacher or EH specialist & parent

6. Through what process are eligibility determinations made?

- Through the deliberations of the MDT, including parents

Under what circumstances are eligibility criteria overruled by professional judgment?

- When the MDT decides to override a sole criterion in making the child eligible

How are the disagreements among decision-makers handled?

- Through submission of a minority report

7. How are the diagnostic evaluation results used in developing the student's Individualized Education Program?

- In the development of the student's present levels of educational performance

8. What placement options are available for Mentally Retarded students?

How is the specific placement decision made for a student?

- The IEP drives placement decisions
- Parents participate in placement decisions

CMP-72
10. When is parental consent necessary for special education actions?

   - initial evaluation, initial placement, reevaluation

11. When is parental notice necessary for special education actions?

   - when district proposes or refuses actions regarding identification, evaluation, placement, or provision of a free appropriate public education

12. How do you protect the confidentiality of records?

   - Files are maintained in the secure manner
   - An access list is present in the file

13. When is it necessary to give parents a copy of the procedural safeguards?

   - Initial referral
   - Notice of IEP meeting
   - Reevaluation
   - When they request due process hearing

14. What are the strengths of the special education program in this school and in the district?

15. What suggestions do you have for improving the special education program in this school and in the district?

16. (Probes based on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, STUDENT RECORD REVIEW, or on other questions):

INTERVIEWER:

Based on this interview, district policies and procedures are effectively implemented.  C N/C
PARENT INTERVIEW

Name: ___________________________ Date: ____________________________
School District: __________________ School: ____________________________
Student's Name/Initials: ___________ Interviewer: ______________________

1. Please describe your child's current special education program. Do you feel it is an appropriate program to meet his/her needs?

2. Can you describe how your child was referred for special education?

3. Can you describe the process the school district used to evaluate your child for special education?

   Before they conducted the assessments, did they inform you about the types of tests they were going to use and what those tests are for?

   Did you give written permission for your child to be tested?

   Did the school district explain the results of the assessments so that you could understand their findings?

   Did you agree with the results? Did you participate in making the eligibility decision? (eff. 6/4/97)

   Did you give written permission for your child to be placed in special education?

4. Can you describe the IEP process for your child's most recent IEP meeting?

   Written notice? Alternatives for times? Alternatives for participation?

   Who attended the meeting?

   What happened at the meeting?
Did you understand and agree with the goals and objectives in the IEP?

**Did you participate in making the decision about your child's placement? (eff. 6/4/97)**

5. Did the district inform you of your rights regarding the special education program?

   Were you informed of the options available to you if you disagree with the school's assessment, placement, or nonplacement of your child?

   Are you aware that you have a right to:
   - know the types and locations of your child's records? _____
   - view (and obtain copies) of your child's records? _____
   - have the records interpreted to you? _____
   - challenge information contained in your child's records? _____
   - permit disclosure of information to persons other than officials of participating agencies collecting or using the information only through your written permission? _____
   - be informed of who has had access to your child's educational records and for what purpose? _____

   Are you aware that your child has the right to be educated with children who are not disabled, when appropriate? _____

6. To the best of your knowledge, are the following services available at no cost to children in your school district, if needed?

   Adapted physical education? _____
   Speech therapy? _____
   Vocational education? _____
   Transportation? _____
   Counseling? _____
   Occupational therapy? _____
   Physical therapy? _____
   Services to assist transition from school to adult life? _____

7. What are the strengths of the special education program in your district?

8. What suggestions do you have for improving the special education program in your district?

   Please describe any parent training activities you have attended.
### STUDENT RECORD REVIEW -- SCHOOL SUMMARY

Date: ____________  
School: ________________  
School District: ________________  

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VI. Individualized Educational Program

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**To Compute Percentage:**

\[
\frac{\text{# C or N/A}}{\text{# records reviewed}} = \% 
\]

If percentage equals or exceeds 80%, enter C to indicate compliance for this school on the DISTRICT SUMMARY OF STUDENT RECORD REVIEW. If percentage is less than 80%, enter N/C to indicate noncompliance.
### STRUCTURED INTERVIEWS -- SCHOOL SUMMARY

- **Date:**
- **School:**
- **School District:**

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<th>NUMBER OF IEPs IMPLEMENTED</th>
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<tr>
<th>INTERVIEWED NUMBER</th>
<th>NUMBER REPORTING CASE LOADS/CLASS SIZES IN COMPLIANCE</th>
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* **TO COMPUTE PERCENTAGE:**

\[
\text{\%} = \frac{\text{# IEPs Being Implemented}}{\text{# IEPs Tracked}} 
\]

** **TO COMPUTE PERCENTAGE:**

\[
\text{\%} = \frac{\text{# Reporting Case Loads/Class Sizes in Compliance}}{\text{# Special Education Teachers Interviewed}} 
\]

If percentage equals or exceeds 80%, enter C to indicate compliance for this school on the DISTRICT SUMMARY OF STRUCTURED INTERVIEWS. If percentage is less than 80%, enter N/C to indicate noncompliance.
### STUDENT RECORD REVIEW – DISTRICT SUMMARY

**Date:** ____________________

**School District:** __________

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### VII. Regular Education Programs/Program Continuum/Least Restrictive Environment

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STRUCTURED INTERVIEWS — DISTRICT SUMMARY

Date: __________________________
School District: __________________________

Following are quantified descriptions of the responses given by interviewees during on-site interviews.

SCHOOL PRINCIPALS/LOCAL EDUCATION AGENCY REPRESENTATIVES

School principals and/or local education agency representatives were interviewed and asked to describe the procedures followed from the time a student is suspected of having a disability through the time the student exits the special education program. ________ school principals and/or local education agency representatives were interviewed, and the number of satisfactory responses given regarding specific procedures is listed below:

______ satisfactorily explained referral procedures
______ satisfactorily explained assessment procedures
______ satisfactorily explained eligibility procedures (Includes parents)
______ satisfactorily explained Individualized Educational Program procedures
______ satisfactorily explained placement procedures (Includes parents)
______ satisfactorily explained reevaluation procedures (Includes consent, options if no additional data is needed; notice to parent)
______ satisfactorily explained exit procedures (requires reevaluation)
______ satisfactorily explained consent and notice requirements (consent at eval, reeval, placement; procedural safeguards to be given at Initial referral, notice of IEP, reevaluation, due process request)

Responses which indicate district policies and procedures are not effectively implemented (see C/NC column on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, p. 19-39):

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SCHOOL PSYCHOLOGISTS

Of the ____ school psychologists interviewed:

______ satisfactorily explained referral procedures
______ satisfactorily explained assessment procedures
______ satisfactorily explained eligibility procedures (includes parents)
______ satisfactorily explained Individualized Educational Program procedures
______ satisfactorily explained placement procedures (includes parents)
______ satisfactorily explained reevaluation procedures (includes consent, options if no additional data is needed; notice to parent)
______ satisfactorily explained exit procedures (requires reevaluation)
______ satisfactorily explained consent and notice requirements (consent at eval, reeval, placement; procedural safeguards to be given at initial referral, notice of IEP, reevaluation, due process request)
______ satisfactorily explained confidentiality procedures

Responses which indicate district policies and procedures are not effectively implemented (see C/NC column on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, p. 19-39):

PARENTS

Of the ____ parents interviewed:

______ feel their children's special education program is appropriate to meet the child's needs
______ described a referral and evaluation process which met legal requirements
______ described an IEP process which met legal requirements
______ were informed of their legal rights regarding disagreement with the school district, confidentiality, and the right of their children to be educated with children who are not disabled
______ described an appropriate array of services available in the school district

Responses which indicate district policies and procedures are not effectively implemented (see C/NC column on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, p. 19-38):
SPECIAL EDUCATION TEACHERS/REGULAR EDUCATION TEACHERS/RELATED SERVICE PROVIDERS

Special and Regular Education Teachers and Related Service Providers were asked to respond to a series of questions about specific students in order to determine whether the IEP in the Student Record is currently being implemented, and whether case loads and class sizes are in compliance with Nevada Administrative Code requirements. The tabulation of that interview data is provided in the SCHOOL SUMMARY OF STRUCTURED INTERVIEWS. Results for individual schools are summarized below to determine district-wide compliance:

### SUMMARY OF STRUCTURED INTERVIEWS MONITORED FOR COMPLIANCE

<table>
<thead>
<tr>
<th>INTERVIEW SOURCE</th>
<th>SCHOOL</th>
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<tr>
<td>Special Education Teachers</td>
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<td>1. IEP Implementation</td>
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<td>2. Case Load/Class Size</td>
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<td>Regular Education Teachers</td>
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<td>1. IEP Implementation</td>
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<tr>
<td>Related Service Providers</td>
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<tr>
<td>1. IEP Implementation</td>
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<tr>
<td>2. Case Load/Class Size</td>
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</tbody>
</table>

To compute percentage:

\[
\frac{\text{# schools in compliance}}{\text{# schools monitored}} = \% 
\]

If percentage equals or exceeds 80%, enter C on the DISTRICT COMPLIANCE PROFILE. If percentage is less than 80%, enter N/C.

Responses which indicate district policies and procedures are not effectively implemented (see C/NC column on DISTRICT PROCEDURES AND FORM REVIEW CHECKLIST, p. 19-39):
## DISTRICT COMPLIANCE PROFILE

**Date:** ____________  
**School District:** __________________

<table>
<thead>
<tr>
<th>COMPLIANCE CATEGORIES</th>
<th>DISTRICT PROCEDURES AND FORMS REVIEW</th>
<th>STUDENT RECORD REVIEW INTERVIEWS*</th>
<th>OTHER DATA</th>
<th>CORRECTIVE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Child Identification</td>
<td>————</td>
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<tr>
<td>II. Parental Involvement</td>
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<td>III. Confidentiality</td>
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<tr>
<td>1. Parental inspection</td>
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<td>2. Explain/interpret</td>
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<td>3. Representatives inspect</td>
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<td>4. Copies for parents</td>
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<td>5. Access list</td>
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<td>6. List of records</td>
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<td>7. Fees for copies</td>
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<td>8. Amendment of records</td>
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<td>9. File security</td>
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<td>10. Official responsibility</td>
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<td>11. Training on confidentiality</td>
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<td>12. List of who has access</td>
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<td>13. Inform when records no longer needed</td>
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<td>14. Permanent record</td>
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<td>15. Unauthorized access</td>
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<td>16. Restricted access</td>
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<td>17. FERPA rights</td>
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<td>18. Children's rights</td>
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<tr>
<td>19. FERPA rights to either parent</td>
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</tbody>
</table>

*Interview data must be used in indicating compliance/noncompliance on IEP implementation and case loads/class sizes. Other notes may be made in this column to corroborate other compliance findings.

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### IV. Procedural Safeguards

<table>
<thead>
<tr>
<th>COMPLIANCE CATEGORIES</th>
<th>DISTRICT PROCEDURES AND FORMS REVIEW</th>
<th>STUDENT RECORD REVIEW INTERVIEWS</th>
<th>OTHER DATA</th>
<th>CORRECTIVE ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Consent for eval/reeval</td>
<td>______</td>
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<tr>
<td>2. Consent for placement</td>
<td>______</td>
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<td>3. Condition of benefit</td>
<td>______</td>
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<td>4. Override refusal</td>
<td>______</td>
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<td>5. Written notice</td>
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<tr>
<td>6. Notice components</td>
<td>______</td>
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<tr>
<td>7. Primary language</td>
<td>______</td>
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<td>8. Parental understanding</td>
<td>______</td>
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<tr>
<td>9. Written evidence of understanding of translated notices</td>
<td>______</td>
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<tr>
<td>10. Proc. safe. given</td>
<td>______</td>
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<td>11. Proc. safe. content</td>
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<tr>
<td>12. Rights of students in private schools</td>
<td>______</td>
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<tr>
<td>13. Due process procedures</td>
<td>______</td>
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<td>14. Transfer of rights</td>
<td>______</td>
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<td>15. Surrogate parents</td>
<td>______</td>
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### V. Protection in Evaluation

<table>
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<tr>
<th>COMPLIANCE CATEGORIES</th>
<th>DISTRICT PROCEDURES AND FORMS REVIEW</th>
<th>STUDENT RECORD REVIEW INTERVIEWS</th>
<th>OTHER DATA</th>
<th>CORRECTIVE ACTION</th>
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<tbody>
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<td>2. Evaluation process</td>
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<td>3. Comprehensive evaluation</td>
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<td>4. Single test as sole criterion</td>
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<td>5. Elig. determination</td>
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<td>6. Eligibility criteria</td>
<td>______</td>
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<td>7. Multidisciplinary team includes parent</td>
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<td>8. Assessment components</td>
<td>______</td>
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<td>9. Written report/copy to parent</td>
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</tbody>
</table>

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<table>
<thead>
<tr>
<th>Compliance Categories</th>
<th>District Procedures and Forms Review</th>
<th>Student Record Review</th>
<th>Interviews</th>
<th>Other Data</th>
<th>Corrective Action</th>
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<tr>
<td>10. LD exit criteria</td>
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<td>11. Timely initial evaluation</td>
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<td>12. Three-year reevaluation</td>
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<td>13. Eval/Reeval procedures</td>
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<td>14. Reeval before no longer eligible</td>
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</table>

**VI. Individualized Educational Program**

| 1. Current IEP          |                                      |                       |            |            |                  |
| 2. Annual IEP           |                                      |                       |            |            |                  |
| 3. 30-day meeting       |                                      |                       |            |            |                  |
| 4. 3-year-old IEPs      |                                      |                       |            |            |                  |
| 5. Record of IEP development |                                      |                       |            |            |                  |
| 6. IEP implementation   |                                      |                       |            |            |                  |
| 7. Copy of IEP to parents |                                      |                       |            |            |                  |
| 8. IEP team participation |                                      |                       |            |            |                  |
| 9. Parental understanding |                                      |                       |            |            |                  |
| 10. Parent participation |                                      |                       |            |            |                  |
| 11. IEP notice, includes procedural safeguards |                                      |                       |            |            |                  |
| 12. Mutual time/place   |                                      |                       |            |            |                  |
| 13. Transition participants |                                      |                       |            |            |                  |
| 14. Alternative strategies |                                      |                       |            |            |                  |
| 15. IEP in private school |                                      |                       |            |            |                  |
| 16. IEP in parochial    |                                      |                       |            |            |                  |
| 17. IEP without parents |                                      |                       |            |            |                  |
| 18. IEP components      |                                      |                       |            |            |                  |
| 19. Program based on assessment |                                      |                       |            |            |                  |
| 20. Services at no cost |                                      |                       |            |            |                  |

CMP-93
<table>
<thead>
<tr>
<th>Compliance Categories</th>
<th>District Procedures and Forms Review</th>
<th>Student Record Review</th>
<th>Interviews</th>
<th>Other Data</th>
<th>Corrective Action</th>
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<td>21. Interim IEP</td>
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<td>22. Placement change</td>
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<td>23. Suspended students</td>
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<td>24. Placement based on student needs</td>
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<td>25. Full educational opportunity goal</td>
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<td>26. Variety of programs</td>
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<td>27. Nonacademic/ extracurricular</td>
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<td>28. Physical education</td>
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</table>

VII. Regular Education Programs/
Program Continuum/
Least Restrictive Environment
1. Students educated with disabled
2. Annual placement
3. Justification for placement
4. Participation in non-academic, extracurricular activities
5. Consideration of harmful effect
6. Continuum of placements
7. Parents on placement team

VIII. Comprehensive System of Personnel Development

CMP-94
<table>
<thead>
<tr>
<th>COMPLIANCE CATEGORIES</th>
<th>DISTRICT PROCEDURES AND FORMS REVIEW</th>
<th>STUDENT RECORD REVIEW INTERVIEWS</th>
<th>OTHER DATA</th>
<th>CORRECTIVE ACTION</th>
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<td>Participation of Students Enrolled in Private Schools</td>
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<td>1. Participation opportunity</td>
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<td>3. Administrative control</td>
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<td>6. Comparable participation</td>
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<td>7. Comparable benefits</td>
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<td>8. Equitable opportunity</td>
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<td>9. Different benefits</td>
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<td>11. Local plan</td>
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<td>13. Funding restriction</td>
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<td>15. Private personnel</td>
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<td>16. Equipment</td>
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<td>17. Construction</td>
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<td>Other Requirements</td>
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<td>1. Participation in planning</td>
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<td>2. Construction consistent with overall plans</td>
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<td>3. Handicapped access</td>
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<td>4. Acquire/disseminate research</td>
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<td>5. Adopt promising educational practices</td>
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<td>6. Excess cost</td>
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<td>7. Monitoring</td>
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<td>8. Hearing aids</td>
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<td>9. Direct administration</td>
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<td>10. Fiscal control</td>
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<td>11. Record retention</td>
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<td>12. Existence of similar projects</td>
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<td>13. Coordination of activities</td>
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<td>14. FAPE to Incarcerated Youth</td>
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<td>15. Discipline Procedures</td>
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<td>16. Case Load/Class Size</td>
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CMP-96
CORRECTIVE ACTION REQUIREMENTS

I. CHILD IDENTIFICATION

The district must establish procedures for locating, identifying, and assessing children with disabilities (0-21).

II. PARENTAL INVOLVEMENT

The district must establish a plan for parental involvement to adhere to the requirement to provide a free appropriate public education for all children with disabilities.

III. CONFIDENTIALITY

1. The district must permit parents to inspect and review education records relating to their child before any meeting regarding an individualized educational program or any hearing relating to the identification, assessment or placement of the child, or provision of a free appropriate public education, and not later than 45 days after the request has been made.

2. The district must have a procedure to respond to reasonable requests for explanation and interpretations of records.

3. The district must allow representatives of the parents to inspect records.

4. The district must provide parents with copies of the records if, without the copies, any meaningful review of the records is impractical.

5. The district must maintain a record of the persons other than parents and authorized employees given access to education records.

6. The district must maintain a list of the type and location of education records collected, maintained or used relating to students.

7. The district must have a procedure for insuring that any fees charged to parents for copies of records do not effectively prevent parents from exercising their right to inspect and review those records.

8. The district must have a procedure for the amendment of records at parent's request including an opportunity for a hearing.

9. The district must have procedures to protect the confidentiality of personally identifiable information at its collection, storage, disclosure and destruction.

10. The district must appoint one official to assume the responsibility for insuring confidentiality of personally identifiable information.

11. The district must provide training on confidentiality requirements to all persons collecting or using personally identifiable information.

12. The district must maintain a current listing for public inspection of the names and positions of those employees within the district who may have access to personally identifiable information.
13. The district must have a procedure to inform parents when personally identifiable information is no longer needed to provide educational services to their child.

14. The district must maintain a permanent record of the student's name, address, telephone number, grades, attendance, classes he attended, grades he completed and the year he completed them.

15. The district must have a procedure to ensure that it does not disclose any confidential information on a student contained in educational files to any person who is not employed by the school district, department or other authorized agency without first obtaining the consent of the parents in writing.

16. The district must have a procedure for insuring that if any education record includes information on more than one student, the parents of those students have the right to inspect and review only the information relating to their student or to be informed of that specific information.

17. The district must have a procedure to inform parents of their FERPA rights including the ability to file a complaint with the Secretary of Education.

18. The district must have policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the student and type or severity of disability.

19. The district must have policies and procedures to insure that full rights under FERPA are given to either parent, unless the district has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.
IV. PROCEDURAL SAFEGUARDS

CONSENT

1/2. The district must obtain written parental consent prior to identification, assessment, placement or provision of a free appropriate public education (student record review items 1 and 2).

3. The district must have procedures to insure that except for preplacement evaluation, three-year reevaluation, and initial placement, consent is not required as a condition of benefit to the parent or student.

4. The district must have policies and procedures including mediation and due process to override a parent's refusal to consent to the preplacement evaluation and initial placement; if parents fail to respond to a request for consent for a reevaluation, the district must have procedures to demonstrate its reasonable measure to obtain consent, and, if so, the reevaluation may take place.

PRIOR NOTICE

5. The district must provide written notice within a reasonable time before the district proposes or refuses to initiate or change the identification, assessment, IEP, educational placement or provision of a free appropriate public education.

6. The notice form must contain the required components.

7. The notice must be provided in understandable words and in the native language of the parent unless that is clearly not feasible.

8. If the native language used in the home is not written, the district must have a procedure to assure that the notice is read to the parent in the native language and that the parent understands the notice.

9. The district must maintain written evidence of parents' understanding of translated notices.

10. The district gives a copy of the procedural safeguards to the parents, at a minimum, upon initial referral for evaluation; upon each notification of an IEP meeting and upon reevaluation; and upon registration of a due process request.

11. The procedural safeguards notice must include a full explanation of the procedural safeguards.

12. The district must have a policy to insure that rights afforded to students with disabilities served in its public schools are afforded to all students with disabilities placed by the district in private schools or facilities.

13. The district must establish policies and procedures to insure that not later than 45 days after the receipt of a request for a hearing (1) a final decision is reached in the hearing; and (2) a copy is mailed to each of the parties.

14. The district must establish policies and procedures to insure that parental rights are transferred to the student at the age of majority, and that parents and the student are notified of the transfer of rights. This provision does not apply to a child with a disability who has been determined to be incompetent under state law.
SURROGATE PARENTS

15. The district must have a procedure for the appointment of surrogate parents when the student's parents cannot be identified or located or when the student is a ward of the state.

V. PROTECTION IN EVALUATION PROCEDURES

1. The district must ensure that any person responsible for making a diagnostic decision pursuant to Nevada Administrative Code Section 388.330 to 388.440 must possess a license or certificate in the area of his professional discipline and be trained in the area of assessment in question.

2. The district has a policy to ensure that in conducting evaluations, the district uses a variety of assessment tools and strategies to gather relevant functional and developmental information, including information provided by the parent, that may assist in determining whether the child is a child with a disability and the content of the child's individualized education program, including information related to enabling the child to be involved in and progress in the general curriculum or, for preschool children, to participate in appropriate activities.

3. The evaluation procedure is multifaceted, nonbiased, and valid.

4. No single test or other device for assessment may be used as the sole criterion for determining whether a child is a child with a disability or determining an appropriate educational program for the child.

5. The district must assure that the determination of whether the child is a child with a disability shall be made by a team of qualified professionals and the parent of the child.

6. The district must assure that eligibility for special education services is determined in accordance with Nevada Administrative Code, Chapter 388.

7. The district must assure that multidisciplinary teams contain the required members in accordance with Nevada Administrative Code, Chapter 388, including parents.

8. The district must assure that assessments to determine eligibility include the required evaluations in accordance with Nevada Administrative Code, Chapter 388.

9. Any decision of a multidisciplinary team concerning the eligibility of a student for special services and programs of instruction must be justified in a written report, to be kept in the records of the student, and may be made by a majority of the team. A copy of the evaluation report and the documentation of determination of eligibility will be given to the parent.

10. The district must assure that learning disabilities exit criteria are implemented in accordance with Nevada Administrative Code, Chapter 388.

11. The district must assure that initial evaluations are conducted within 45 school days of the date written consent for the evaluation is given.

12. Comprehensive reevaluations occur a minimum of every three years.

CMP-101
13. The district must have a policy to insure that as part of an initial evaluation (if appropriate) and as part of any reevaluation, the IEP team and other qualified professionals, as appropriate, shall review existing data, identify any additional data needed, and administer such tests and other evaluations as may be needed. If the IEP team and other qualified professionals determine that no additional data is needed, the district shall notify parents of that determination and of their rights to request an assessment, and shall not be required to conduct such an assessment unless requested to by the child's parents.

14. The district must have a policy to insure that each child with a disability is evaluated before determining that the child is no longer a child with a disability.
VI. INDIVIDUALIZED EDUCATIONAL PROGRAMS

1. The district must have a procedure insuring that, except for academically talented students, an IEP is developed and in effect before the initiation of special services and programs of instruction for students with disabilities, including students placed in or referred to a private school or facility by a district and students enrolled in a parochial or other private school and receiving special education or related services from a district.

2. The district must have a procedure for initiating and conducting the meetings of the committees formed to develop the individualized educational programs, at least annually.

3. The district must have a procedure to assure that the IEP committee meets to develop the IEP no later than 30 days after it is determined that the student is eligible for special services and programs of instruction.

4. The district must have a procedure to assure that for eligible children making the transition from Infant/Toddler programs operated by the Nevada Department of Human Resources, an IEP is developed and implemented by the child's third birthday.

5. The district must have a procedure for maintaining detailed records of each such program and the procedure followed in developing it.

6. The district must have a procedure for insuring that each IEP is properly implemented.

7. The district must have a procedure for providing a copy of the IEP and any revisions to the parents if they so request.

8. The district must have a procedure for forming an IEP committee which includes the required membership in accordance with Nevada Administrative Code, Chapter 388.

9. The district must assure parental understanding of the proceedings of the IEP meeting, including procedures for arranging an interpreter for parents who are deaf or whose native language is other than English.

10. The district must have procedures for using reasonable efforts to secure parents' participation in IEP meetings by written, telephonic or other means when the parents cannot attend the meetings.

11. The district must have a procedure to insure that written notice (including required information) of the IEP meeting is given to parents sufficiently far in advance of the meeting to enable parents to make arrangements to attend.

12. The district must have a procedure for keeping detailed records of any telephone calls, correspondence or visits made in attempting to arrange with parents a mutually agreed upon time and place for IEP meetings.

13. The district must have a procedure to insure that if a representative of the participating agency is not present at an IEP meeting for developing transition goals and objectives, the district reconvenes the IEP meeting. If the student involved in an IEP meeting involving transition services does not attend, the district must document alternative methods used to ascertain student preferences and interests.

CMP-103
14. The district must have a procedure to insure that if a participating agency involved in transition services fails to provide agreed-upon transition services contained in the IEP, the district initiates a meeting for the purpose of identifying alternative strategies to meet the transition objectives, and if necessary revise the IEP.

15. The district must have a procedure to insure that a student with a disability placed in or referred to a private school or facility by the district is provided special education and related services in conformance with an individualized educational program.

16. The district must have a procedure to insure individualized educational program development for students with disabilities enrolled in parochial or other private schools who are receiving special education and related services from that district.

17. The district must have a procedure for developing an individualized educational program without the parents if efforts to involve parents are unsuccessful and parents are deemed unavailable.

18. The IEP format must include all required components.

19. The district must have a procedure for basing the programs it develops on the results of assessments made in accordance with Nevada Administrative Code Sections 388.330 to 388.440, inclusive.

20. The district must insure provision of all needed special education and related services to every student with a disability at no cost to parents, including the provision of non-medical care and room and board for necessary placement in a public or private residential program.

21. The district must have a policy for developing interim individualized educational programs for students with disabilities, other than academically talented, who are being considered for placement in a special education program.

22. The district must have a policy for insuring that any change in the placement of a student with a disability is based upon the current individualized educational program of the student, an assessment of the student made within the preceding 3 years, and information relating to the current educational performance of the student.

23. The district must have a policy to insure that no student with a disability, other than a student who is academically talented, may be suspended, expelled or excluded from attendance for more than 10 days during any school year except in accordance with the provisions of Nevada Administrative Code Section 388.265.

24. The district must have procedures to insure that students are placed in programs based on assessed needs and not solely on available placement options.

25. The district must establish and implement a goal of providing full educational opportunity to all students with disabilities served by the district, including artistic and cultural activities.

26. The district must have policies and procedures to insure that its students with disabilities have available to them the variety of educational programs and services available to nondisabled students in the area served by the district, including art, music, industrial arts, consumer and homemaking education, and vocational education.

27. The district must have policies and procedures to provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford students with disabilities an equal opportunity for participation in those services and activities.
28. The district must have policies and procedures to insure that physical education services, specially designed if necessary, are made available to every student with a disability receiving a free appropriate public education.

VII. PARTICIPATION IN REGULAR EDUCATION PROGRAMS/PROGRAM CONTINUUM/LEAST RESTRICTIVE ENVIRONMENT

1. The district must have a procedure to insure that to the maximum extent appropriate students with disabilities, including students in public or private institutions or other care facilities, are educated with students who are not disabled, and that special classes, separate schooling or other removal of students with disabilities from the regular educational environment occurs only when 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.

2. The district must have a procedure to insure that each student with a disability's educational placement is determined at least annually, is based on his or her current individualized educational program, and is as close as possible to the student’s home.

3. The district must have a procedure to insure that a student is not placed in a special class, in a school different than the one he would normally attend, or otherwise removed from the regular educational environment, unless the student's IEP requires such placement.

4. The district must have a procedure to insure that to the maximum extent appropriate students with disabilities participate at mealtime, recess, or any other nonacademic or extracurricular services and activities occurring at school with students who are not disabled, and the basis for any exclusion is set forth on IEPs.

5. The district must have a procedure to insure that in selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services which he or she needs.

6. The district must have a continuum of alternative placements to meet special education and related service needs of students in the least restrictive environment.

7. The district must have policies and procedures to insure that parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

VIII. COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT

The district must have a written system in place to implement the Comprehensive Personnel Development Plan of the Nevada Department of Education, Special Education Branch.
PARTICIPATION OF STUDENTS ENROLLED IN PRIVATE SCHOOLS

1. The district must have policies and procedures for providing students enrolled in private schools with a genuine opportunity for equitable participation in accordance with federal and state requirements.

2. The district must have policies and procedures to insure that such opportunity to participate is in a manner consistent with the number of eligible private school students and their needs, and that the district expends a proportionate amount of its Federal funds to provide these services.

3. The district must maintain continuing administrative direction and control over funds and property that benefit students enrolled in private schools.

4. The district must have a procedure to consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of programs, including which students will receive benefits, how the student's needs will be identified, what benefits will be provided, how the benefits will be provided, and how the program will be evaluated.

5. The district must have a procedure to consult with appropriate representatives of students enrolled in private schools before the district makes any decision that affects the opportunities of those students to participate in the program, and representatives have a genuine opportunity to express their views regarding each matter.

6. The district must have a procedure to determine the following matters on a basis comparable to that used by the district in providing for participation of public school students: the needs of students enrolled in private schools, the number of those students who will participate in the program, and the benefits the district will provide under the program to those students.

7. The district must have a policy to insure that the benefits the district provides for students enrolled in private schools are comparable in quality, scope, and opportunity for participation to the program benefits that the district provides for students enrolled in public schools.

8. The district must have a policy that if it uses funds under a program for public school students in a particular attendance area, or grade or age level, the district shall insure equitable opportunities for participation by students enrolled in private schools who have the same needs as the public school students to be served, and are in that group, attendance area, or age or grade level.

9. The district must have a policy that if the needs of students enrolled in private schools are different from the needs in public schools, the district provides program benefits for the private school students that are different from the benefits the district provides for the public school students.

10. The district must have a policy to spend the same average amount of program funds on a student enrolled in a private school who receives benefits under the program; and a student enrolled in a public school who receives benefits under the program; however the district spends a different average amount on program benefits for students enrolled in private schools if the average cost of meeting the needs of those students is different from the average cost of meeting the needs of students enrolled in public schools.

11. The district must include the required information in its local plan application.
12. The district must have a policy to insure that it does not use program funds for classes that are organized separately on the basis of school enrollment or religion of the students if the classes are at the same site and the classes include students enrolled in public schools and students enrolled in private schools.

13. The district must have a policy to insure that program funds are not used to finance the existing level of instruction in a private school or to otherwise benefit the private school.

14. The district must have a policy for using program funds to make public personnel available in other than public facilities to the extent necessary to provide equitable program benefits designed for students enrolled in private school and if those benefits are not normally provided by the private school.

15. The district must have a policy for using program funds to pay for the services of an employee of a private school if the employee performs the services outside of his or her regular hours of duty and under public supervision and control.

16. The district must have policies and procedures to insure that equipment and supplies placed in a private school are used only for the purposes of the program, can be removed from the private school without remodeling the facilities, and are removed if they are no longer needed for the purposes of the program.

17. The district must have a policy to insure that program funds are not used for the construction of private school facilities.

OTHER REQUIREMENTS

1. The district must have a procedure for providing reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program.

2. The district must have a procedure for assuring that, in the case of any application requiring construction, the project is not inconsistent with overall state plans for the construction of school facilities.

3. The district must have a procedure for assuring that in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the U.S. Secretary of Education under Section 504 of the Rehabilitation Act of 1973 in order to insure that the facilities constructed with the use of federal funds are accessible to and by individuals with disabilities.

4. The district must have a procedure for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research demonstrations and similar projects.

5. The district must have a procedure for adopting, if appropriate, promising educational practices developed through those projects.

6. The district must have documentation of fulfilling the excess cost requirement for elementary and secondary students.

CMP-107
7. The district must have a procedure for monitoring its programs to ensure compliance with Nevada Administrative Code Chapter 388 and for keeping records to show its compliance with program requirements.

8. The district must have a procedure for insuring that the hearing aids worn by deaf and hard of hearing students in school are functioning properly.

9. The district must have policies and procedures to insure direct administration or supervision of administration of its programs.

10. The district must have policies and procedures to use fiscal control and fund accounting procedures that insure proper disbursement of and accounting for federal funds.

11. The district must have policies and procedures to insure that unless a longer period is required under 34 CFR Part 74, the district retains records for five years after completion of the activities for which they use federal funds.

12. The district must have procedures to survey the geographic area within its jurisdiction to determine the existence of other projects serving similar purposes and populations.

13. The district must document its coordination of activities with the projects serving similar purposes and populations.

14. The district must have policies and procedures to insure that FAPE is provided to youth with disabilities incarcerated in adult correctional facilities.

15. The district must have policies and procedures to insure that students with disabilities are disciplined in accordance with the requirements of IDEA.

16. The district must maintain case loads and class sizes in accordance with Nevada Administrative Code Chapter 388.
VITAE

Laurie Stuart Magee Flanders

EDUCATION

B.A. in Communication Disorders, University of Minnesota - Duluth, 1972.
M.Ed. in Educational Administration, University of Nevada - Las Vegas, 1994.

FIELD EXPERIENCE

January 1998 - present: Speech Pathologist; member, district communications committee, Nye County public schools, Pahrump, Nevada.


Participated in Least Restrictive Environment inservice for the Martin Luther King staff. Member of At-Risk Committee, Eligibility Team, Learning Improvement Team, and Budget Committee at Martin Luther King Elementary School.

1995 -1996: Facilitator for special education programs, Adcock Elementary
School, Las Vegas, NV; work on special projects for Clark County School District. Inserviced teachers on Improving Learning in the Regular Classroom. Special Education co-presenter, New Teacher Inservice. Chair, Special Student Services Teacher Advisory Council.


1993 - 1994: Teacher, self-contained classroom for Communicatively and Behaviorally Challenged (autistic students), Mountain View Elementary School, Las Vegas, NV. Inserviced staff on implementing Least Restrictive Environment for autistic children. Member of the school's Systems Quality Schools Inservice Committee. Master teacher, Summer 1994, for UNLV student teacher in Special Education. Co-chairperson of the school's Multicultural Committee to implement the Clark County School District's High Priority Objective for elementary schools.
1992 - 1993: Teacher, self-contained classroom for Communicatively and Behaviorally Challenged (students with autism), Whitney Elementary School, Las Vegas, NV, a pilot school for UNLV's Accelerated Schools Project utilizing Multiage Grouping. Implemented full inclusion of students with autism into this format and curriculum. Member of the school's Parent Involvement Cadre and Social committee.

1991 - 1992: Itinerant Speech Pathologist, Clark County School District, Las Vegas, NV. Served students of all handicapping conditions Early Childhood through Grade 12 in urban and rural settings, utilizing the Collaborative Consultative Model.

1991 - February - June: Seigle Diagnostic Center, Las Vegas, NV. (Early Childhood classroom teacher, collaborative speech Pathologist for an additional Early Childhood classroom, and home-based speech Pathologist for Early Childhood speech-only students).

1990 - 1991: Gifted and Talented Coordinator, Early Childhood Classroom Teacher and Speech Pathologist, Winter Public Schools, Winter, WI., the largest rural school district in Wisconsin. Designed and implemented state mandates for the district in Gifted and Early Childhood education; established various service models in both areas; and inserviced school board and staff.

1972 - 1984: Speech Pathologist, Minnetonka Public Schools, Minnetonka, MN, Early Childhood - Grade 12. Lead clinician two years; served on numerous District and Regional committees, including the committee that
wrote the existing guidelines for speech therapy services in Minnesota Public Schools, the school District’s Restructuring Committee, and Special Education Student Placement Committee.

1969 - 1970: Speech Pathologist, Department of Public Health, Guam, Mariana Islands. (Educated public to services available from the Department of Public Health, utilizing various media including TV promotional spots. Member of the medical screening team to identify handicapped children throughout the Mariana Islands. Provided therapeutic services Early Childhood through adulthood).

1968 - 1969: Director, Sarpy County Development Center for Exceptional Children, Bellevue, NE. Established a day activity center for severely handicapped children. Obtained funding and materials, provided education, established a parent support group, and worked with local community agencies.

CERTIFICATION

Speech Pathologist  K-12, Administration K-12, Nevada.

ACTIVITIES AND ORGANIZATIONS

Association for Supervision and Curriculum Development; Council for Education; Family Research Council; Clark County School District Special Student Services Division Teacher Advisory Council; Clark County Classroom Teachers Association; Autism Research Institute; Clark County School District’s Autism Support Group; Nevada Autism Society; Autism Research
Institute; Wisconsin Council for Gifted and Talented Coordinators; Wisconsin Speech and Hearing Association; Minnesota Speech and Hearing Association; Minnetonka Special Education Parents Advisory Group.

OTHER RELATED EXPERIENCE

1997 Seminar: Hot Topics in Nevada School Law, sponsored by Lorman Education Services, Eau Claire, WI.


Nominated in 1983 by the parents of my Special Education students for Minnesota Excellence in Education.

Recipient of the Speech Department Scholarship, University of Minnesota - Duluth, three years.

Recipient of Outstanding Student Awards, University of Minnesota - Duluth, three years.

Student Assistant to the President, University of Minnesota - Duluth, two years.

Chairman, Convocations and Lectures Commission, University of Minnesota, Duluth, one year.
Direct Mail Campaign
Recruitment/Thesis-Dissertation
Graduate College
University of Nevada, Las Vegas

There are four primary phases to the Direct Mail Campaign. Two of the four phases require the Graduate College and individual Departments to share information on a timely basis and to send very specific information to prospective students. Departmental involvement in Phases 3 and 4 is optional. For each of the four phases, tracking is crucial. Accurate records must be kept.

PHASE 1: INCREASING INQUIRIES TO APPLICATIONS (Implementation Deadline: Now)

- Within 72 hours of receipt of an information request, the prospective student should receive from:

  The Graduate College:
  ◆ Admissions Application
  ◆ Cover Letter
  ◆ General College Brochure
  ◆ Financial Assistance Information

  The Department:
  ◆ Department App (if applicable)
  ◆ Cover Letter
  ◆ Department Brochure/Broadside
  ◆ Departmental Financial Assistance

- The name of the prospective graduate student should be forwarded to the Graduate College or Department within 72 hours depending upon which was the point of contact.

PHASE 2: (Implementation Deadline For Departments: On, or Before - 6/30/99)

GENERATING THE APPLICATIONS FROM INQUIRIES If an application is not received within 30 days of sending requested materials, the following should be sent from:

The Graduate College:
◆ Letter of encouragement from the Graduate Dean
◆ The Graduate College will forward the names of these individuals to university departments, offices, etc. that agreed to send additional materials

The Department:
◆ Letter of encouragement from the Department Chair
◆ Supplemental information piece (see Developing Effective Recruitment Materials for ideas)

- If an application is not received, no further contact is necessary.

GENERATING APPLICATIONS FROM RENTED PURCHASED, OR COMPILED LISTS Students meeting specific criteria whose names are obtained from rented, purchased, and/or compiled lists will receive from:

The Graduate College:
The Graduate College Post Card

The Department:

This phase is optional, however, you may want to send specific prospective students on these list a letter of encouragement from the Department Chair or Graduate Coordinator.

Generally, no other contacts will be made with these students until such time an 'inquiry' and/or application is received.

All UNLV graduating seniors will receive the Senior Brochure encouraging them to pursue a graduate education at UNLV.

PHASE 3: INCREASING APPLICATIONS TO ADMISSIONS (Implementation Deadline For Departments: On, or Before - 12/1/99)

Within 72 hours or receipt of an application, the following should be sent from:

THE GRADUATE COLLEGE:

- Letter of Acknowledgment
- Upon Admission: Congratulatory Letter from Graduate Dean
- Upon Admission: Orientation information

THE DEPARTMENT:

- Letter for Grad Coordinator indicating additional departmental admission procedures or requirements
- Upon Admission: Congratulatory Letter from Department Chair
- Other materials deemed appropriate: newsletter, calendars of events, etc.
- Upon Admission: Orientation information

PHASE 4: INCREASING ADMISSIONS TO MATRICULATIONS (Implementation Deadline For Departments: On, or Before - 12/1/99)

Two weeks prior to the beginning of the semester, the following will be sent:

By President & Provost:

- Welcome to UNLV letter

The Department:

- Any information deemed appropriate to encourage your students to matriculate. (Optional)