

**TOWARD ENDING THE SEGREGATION OF STUDENTS WITH  
DISABILITIES IN NEW JERSEY**

Submitted by

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## Table of Contents

<b>ABSTRACT .....</b>	<b>4</b>
<b>INTRODUCTION .....</b>	<b>6</b>
<b>THE LAW .....</b>	<b>7</b>
<b>METHODOLOGY .....</b>	<b>9</b>
<b>DISCUSSION AND FINDINGS.....</b>	<b>12</b>
<i>I. The Statewide Findings: Evidence of Disability Bias within New Jersey Special Education .....</i>	<i>12</i>
Background.....	12
The Compliance Index.....	12
Results .....	13
<i>II. The Individual Student Findings.....</i>	<i>22</i>
Finding # 1: Movement To More Integrated Schools Was Rarely Considered For Those In Segregated Placements .....	22
Finding # 2: Movement to More Integrated Classrooms and Classes Was Rarely Considered For Those in Segregated Placements .....	24
Finding # 3: The Potential Benefits Of Placement In General and Special Education Classrooms and Classes Were Not Compared .....	27
Finding # 4: Actual Beneficial and/or Harmful Effects of Placement in Segregated Classrooms and Classes and General Education Classrooms and Classes Were Not Determined .....	31
Finding # 5: Supplementary Aids and Services Were Not Provided In Many Instances.....	35
Finding # 6: Professionally Acceptable Modifications and Accommodations Were Not Provided .....	40
Finding # 7: Academic and Functional Objectives Were Not Measured Acceptably, If At All.....	41
Finding # 8: Participation in School-Sponsored Extracurricular, Non-Academic And Community Activities Was Unacceptable .....	44
Finding # 9: Behavioral Interventions Were Often Inadequate .....	49
<i>III. Secondary Findings of Disability Bias .....</i>	<i>51</i>
1. Background.....	51
2. The Mental Retardation Label .....	52
3. The Combined Mental Retardation and Multiple Disability Labels .....	53
4. The Emotional Disturbance Label .....	54

<b>SUMMARY AND CONCLUSIONS .....</b>	<b>56</b>
<i>NJDOE.....</i>	<i>57</i>
<i>NJDOE and School Districts.....</i>	<i>59</i>
<i>USDOE.....</i>	<i>61</i>
<i>Colleges and universities .....</i>	<i>61</i>
<i>Legislators.....</i>	<i>62</i>
<i>Parents .....</i>	<i>62</i>
<b>REFERENCES &amp; RELEVANT LITERATURE.....</b>	<b>64</b>
<b>APPENDICES.....</b>	<b>69</b>
<i>Appendix A. Validity of the Sample of Students in New Jersey’s Special Education System .....</i>	<i>70</i>
<i>Appendix B. List of Reports Submitted by the Center for Outcome Analysis: 2010 to 2014 .....</i>	<i>88</i>
<i>Appendix C. New Jersey Model IEP .....</i>	<i>89</i>
<i>Appendix D. Student Booklet for IEP Review.....</i>	<i>121</i>
<i>Appendix E. IEP Compliance Assessment (11-Question Checklist).....</i>	<i>144</i>
<i>Appendix F. Summary of 11-Question IEP Compliance Index .....</i>	<i>145</i>
<i>Appendix G. Student Booklet Questions Related To “Most Recent” IEP .....</i>	<i>156</i>
<i>Appendix H. Annotated IEP Checklist with Corresponding IDEA Regulations.....</i>	<i>162</i>
<i>Appendix I. New Jersey Codes for Special Education Placement – An Index of Overall Level of Inclusion with Nondisabled Students .....</i>	<i>167</i>

## ABSTRACT

In New Jersey, which has the lowest level of inclusion in the nation, children with disabilities who receive special education services have been unusually segregated for many decades. By 2007, parents and advocates frustrated with exclusionary practices had banded together and filed a federal lawsuit to compel the New Jersey Department of Education (NJDOE) to reduce unnecessary segregation. These plaintiffs included Disability Rights New Jersey, the Education Law Center, the Statewide Parent Advocacy Network, and the Arc of New Jersey. The suit aimed to force NJDOE to comply with federal requirements tied to special education funds under the Individuals with Disabilities Education Act (IDEA).

The plaintiffs retained several experts in quantitative and qualitative special education research to assist. The experts obtained the statewide data on student disability labels, school placement, inclusion, and other factors in 2012. They found compelling evidence of high rates of exclusion, particularly for certain disabilities, minorities, and genders. By far the most excluded students were those with the labels of intellectual or developmental disabilities, African Americans, and females. (Males were more likely to be labeled, but females were disproportionately likely to receive the intellectual and developmental disability labels, and then to be placed in non-inclusive classrooms.) The data were then used to select a statewide fair and representative random sample of students. The qualitative experts obtained real-world, live data on the Individualized Education Program (IEP), and other facets, of those students' experiences. The qualitative experts used this information to conduct an analysis of representative individual student experiences. The analysis of the student sample powerfully revealed the degree, types, and human impacts of New Jersey's non-compliance with the central requirements of federal law to educate students in the Least Restrictive Environment (LRE) appropriate for each.

This carefully designed scientific investigation of the special education system doubtless contributed materially to the decision by NJDOE to settle the lawsuit. On February 19, 2014, federal Judge Mary Little Cooper signed the settlement agreement, under which NJDOE must address the claims that it violated the IDEA by failing to ensure that more students with disabilities are educated in general education classrooms. The settlement is only 14 pages long, but according to a leading disability advocacy publication, “it has the potential to affect more than 230,000 students with disabilities” (Considine, B. 2014).

This report is an explanation of what the expert witnesses did in their investigation, and what they found. It is organized into quantitative and qualitative sections, so that both the numbers and the power of the individual stories of exclusion are presented.

## INTRODUCTION

For over 40 years, students with disabilities have had legal rights to individually appropriate special education and related services in the least restrictive, i.e., the most integrated or inclusive, settings. Tragically, these rights have rarely been honored in New Jersey. In 2004, a coalition of parents of children with disabilities, professionals who serve them and several other disability rights advocates, including New Jersey's Education Law Center, Disability Rights New Jersey, the Statewide Parent Advocacy Network and the ARC of New Jersey, recognized that far too many students with disabilities were not being educated in the least restrictive environments. They filed a complaint in federal district court in New Jersey in 2007 against the New Jersey Department of Education. Then, a team of experts that would assist in gathering and analyzing relevant information was established. Lou Brown, Jim Conroy and Steve Devlin were some of those experts.

Conroy and Devlin (Center for Outcome Analysis) were responsible for a) deciding how to secure a representative random sample of the more than 200,000 students receiving special education services in New Jersey, and b) gathering and organizing specific information about the nature of the services they were receiving. A sample of 142 students was ultimately selected via an unbiased random sampling design (*See Appendix A for a summary of the sampling methodology*). As set forth below, the characteristics of the sample were determined to represent the parameters of the population. The information gathered and analyzed by Conroy and Devlin is presented below (*See Appendix B for a comprehensive list of reports written by the Center for Outcome Analysis*).

In addition, Brown, Conroy, Devlin and several dozen education professionals reviewed one to three IEPs<sup>2</sup> for each of the 142 randomly-selected students.

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<sup>2</sup> IEPs are also referred to as Individual Education Plans, the preferred terminology in some states and in Canada.

## THE LAW

At each IEP meeting where placement is discussed, and regardless of the child's disability or present placement, districts are required to give serious consideration to placement in the general education classroom with supplementary aids and services (SAS)<sup>3</sup>. To ensure that the SAS are appropriate, the process of determining the placement must be an active one, not one based on assumptions of what happens in the classroom or what a child cannot do. The expectation is that the IEP Team focuses on **how**, not whether, to include the child. School-based professionals must actually view what takes place in a typical day in the general education classroom at the child's chronological grade level in that school, and through collaborative brainstorming, develop strategies and supports for the IEP which will optimize the possibility of the child's success.

Moreover, the process does not stop at the initial planning level. General education teachers need support in learning and using inclusive educational practices, e.g., collaboration, differentiation, flexible grouping, class-wide adaptations, universal design for learning, positive behavior supports, etc. Challenges arise with individual children who require problem-solving, and their supports may need to be frequently revisited and refined, and the IEP updated.

In addition, IEP teams must annually "consider activities necessary to transition a student to a less restrictive placement." N.J.A.C. 6A:14-4.2(a)(4).

Each person on the IEP team plays a crucial role in the LRE decision-making process: the parent as the expert on the child; the general educator as the expert on the curriculum and

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<sup>3</sup> New Jersey's regulations require documentation of the following in the IEP, any time a placement is being recommended which will result in a student being placed in general education classrooms less than 80% of the school day:

1. Identification of the supplementary aids and services that were considered to implement the student's annual goals. Explain why they are not appropriate to meet the student's needs in the general education class

2. Documentation of the comparison of the benefits provided in the general education class and the benefits provided in the special education class, keeping in mind the "unique benefits which the child may obtain from integration in a regular classroom which cannot be achieved in a segregated environment, i.e., the development of social and communication skills from interaction with nondisabled peers."

3. Documentation of the potentially beneficial, or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class.

N.J.A.C. 6A:14-4.2(a)(8). *See also Oberti v. Board of Education of Clementon*, 995 F.2d (3d Cir. 1993).

classroom instructional activities; and the special educator as the expert on disability and the strategies that can help children make progress in their standards-based individual goals.

The child study team (CST) is the district part of the IEP Team -- at a minimum, the school social worker, the school psychologist and the learning disabilities teacher-consultant (LDTC). The CST case manager is the school representative required to coordinate the development of the IEP and to monitor the child's progress in the IEP goals. N.J.A.C. 6A:14-3.2 (b). In the 20 years since the LRE decision-making process was first outlined in law, inclusive education practices have become synonymous with best practices, and the traditional role of school professionals has moved from focusing on diagnosis–eligibility toward using the professionals' special expertise to support student outcomes (Blackwell & Rozetti, 2014).



## **METHODOLOGY**

New Jersey advocates<sup>4</sup> (hereinafter “the Advocates”) worked with experts at the Center for Outcome Analysis to collect specific information in New Jersey about Individualized Education Programs (IEPs), the Least Restrictive Environment (LRE), Free and Appropriate Public Education (FAPE), Related Services, Teacher and District practices, and Family Viewpoint. The central objective of this data collection was to find out, in concrete terms, “What happens to students and families on the ground?” We wanted to illuminate for the public what the large-scale, statewide statistics really mean in the lives of the average student and family – and why all the ostensible isolation and segregation continues to take place in New Jersey schools. Where does the “system” break down on the ground? Why does it continue? What might change it for the better?

The data obtained from NJDOE is required by the Federal government to be collected annually for every student in special education. The original data file contained what purported to be information about all classified students in New Jersey -- 212,549 students from 590 school districts. From this, 19,074 were removed at the families’ requests, leaving 193,475 in the working data set. The Advocates determined that the goal was not to remediate the situations of students who received the classification label “Eligible for Speech-Language Services,” and information about 20,189 students thus classified was therefore removed from the working data file, leaving a universe of 173, 286 students from which a sample could potentially be drawn. A more detailed report of the sampling and its validity can be found at Appendix A.

Twenty districts were selected at random, but with probability proportional to their size (number of students), and 20 student records were then randomly selected from each of those districts. The resulting sample size of 400 is associated with a “margin of error” of plus or minus 5%.

Originally, the plan called for an observation of each student in the sample, plus an interview of each student’s family, primary teacher(s), and principal, and each of the 20 district’s

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<sup>4</sup> The New Jersey advocates involved in the efforts to ensure greater inclusion of students with disabilities in New Jersey included the ARC of New Jersey, Disability Rights New Jersey, the Education Law Center, the Statewide Parent Advocacy Network, as well as the law firms of Freeman Carolla Reisman & Gran LLC, Lowenstein Sandler, Loughlin & Latimer, and the Law Offices of Todd Wilson.

superintendents. Expert Brown, with the survey design assistance of the Center for Outcome Analysis, produced interview / survey instruments for general education teachers, special education teachers, case managers, administrators, and parents, as well as a “student booklet” to guide review of the student IEPs.<sup>5</sup>

This plan was not approved by the court system. Instead, the experts were forced to rely entirely upon paper methods, that is, we could review documents, but we were not permitted to collect any data directly from students or those involved in their educational process, at least not during work hours or on school property. This rendered the original, fully valid field discovery design unrealistic. There were not enough teachers and principals willing to use their own time and travel to make the court process feasible or worth doing. We tested the process, nonetheless. We found that only a handful of Administrators and no Teachers volunteered their time and travel to be interviewed about the students in the sample for whom they bore responsibility.

The process was therefore scaled back to a thorough review of, and extraction of data from, the IEPs from as many of the students in the sample as possible.

The age distribution of the students in the population was extremely well represented in the resulting sample and the subsample (*See* Appendix A). The gender distribution showed fewer males in the sample compared to the state-wide special education population. The sample of 400 was intended to be perfectly representative of the entire population of students in special education, less those solely in speech and language classes. The subsample of 142 IEPs mirrored the sample of 400, meaning that it too had fewer males than it should have. The differences between the percent of males in the sample and males state-wide were not large, but this nonetheless required caution in interpreting any gender-related findings from these data<sup>6</sup>.

The ethnicities and diversity of the population of special education students were well represented by the sample and subsample for five ethnic groups: Caucasian/White, African-American/Black, Asian-American, American Indian, and Pacific Islander. Notably, the New

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<sup>5</sup> The “student booklet” is annexed hereto as Appendix D. The interview / survey instruments are currently being updated and, together with related articles, will be made available at <http://www.inclusioncampaign.org/>, as well as at [www.website.education.wisc.edu/~lbrown/](http://www.website.education.wisc.edu/~lbrown/).

<sup>6</sup> As the expert analysis does not focus on gender differences, this sample discrepancy does not, by any means, invalidate the overall sample

Jersey database does not count Hispanic, Latino, or other Spanish-speaking heritage groups as a separate ethnic category.

For the subsample of 142 (from the sample of 400), there was a difference of .056 which, as it is above the probability level of .05 (one in twenty) which is considered “not statistically significant,” is to be taken as evidence of equivalence of the two groups. The distribution of the students with regard to special education classification (disability level) was also extremely well represented in the sample and the subsample (*See Appendix A*).

COA and Expert Lou Brown reviewed IEPs and designed Individual Student Experience Protocols or “Student Booklets” in order to extract the most pertinent information. A New Jersey Model IEP form and the final Student Booklet are attached (*See Appendices C and D*).

The final Booklet contained 108 questions relating to the documents reviewed. The documents reviewed for each student were up to three IEPs – the “Most Recent IEP,” the “IEP One Year Before” and the “IEP Two Years Before.” The questions were grouped into three major groups: Demographics, Placement and Educational Background, and IEP Compliance which permitted the Experts to take a “student’s eye view” of the system. By beginning with the student, the Experts worked upward to consider the IEP, the placement, the supplemental aids and services.

When such information was aggregated over the entire student sample, we had an accurate picture of the performance of the entire system, from the bottom to the top. In this model, we learned about the “system” by combing the experience of many individual students (*See Appendix A*).

## DISCUSSION AND FINDINGS

### **I. The Statewide Findings: Evidence of Disability Bias within New Jersey Special Education**

*(Submitted by the Center for Outcome Analysis)*

#### **Background**

As set forth above, the core of the Student Booklet was the 33 questions in which the evaluators assessed whether each student's IEP was in compliance with the New Jersey Model IEP (up to three IEPs per student, with 11 questions about each IEP). All the students in the sample (n= 142) had a "Most Recent IEP," 130 students (n= 130) had an IEP from the year before and 111 students (n=111) had IEPs dating back two years.

#### **The Compliance Index**

In order to determine overall compliance, a New Jersey Model IEP Compliance Index was computed using the 11 questions per IEP (*See Appendix E for 11-question Compliance Index checklist*). Three scores were computed based on what percentage of the 11 questions was answered "Yes" in each year's IEP. Thus each student had up to three Compliance Index scores – one for the Most Recent IEP, one for the IEP One Year Before, and another for the IEP Two Years Before.<sup>7</sup> The scores on the scales were simply percent "Yes" out of the 11 potential items, and thus could range from 0 to 100 percent, with 100% being full compliance. This score provided a very simple way to ask "What percentage of each student's IEP is in compliance compared to New Jersey's Model IEP?" Then we were able to determine the degree to which the entire sample's IEPs have conformed to model IEP characteristics. Individual Compliance scores were computed for each year along with an overall Index score combining IEP scores for those students with multiple IEPs -- i.e., 33 questions for students with three IEPs, 22 questions for students with two IEPs, and 11 questions for students with one IEP.

A secondary goal of computing a Compliance Index was to move beyond using rates of inclusion (80% or more, 48%-79%, less than 40%) as a means of measuring whether the

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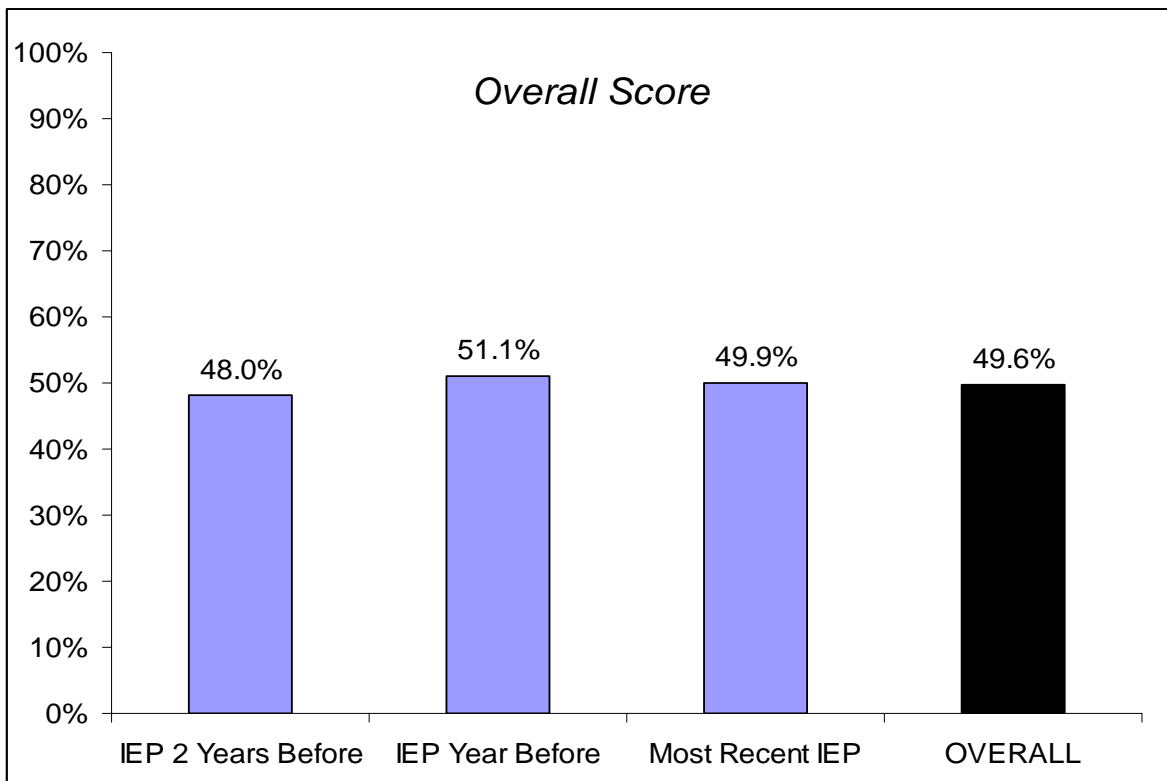
<sup>7</sup> Students who did not have IEPs prior to the current year had to be left out of this analysis.

requirements of IDEA are being implemented. Research suggests that using a sole measurement of inclusion level can lead to erroneous conclusions about a state's compliance with IDEA (Mark, Kurth, & Pirtle, J., 2013). The analysis of data from six southwestern states indicates that rigorousness of goals is essential to determining whether actual changes have occurred in the lives of the students. Setting intentionally low goals gives the impression of growth when, in fact, the students have not changed in a significant manner. Conversely, setting too high a goal masks actual improvement (Mark, *et al.*, 2013). The Compliance Index computed in our analysis measures the rigorousness of the goal setting and is a more rigorous assessment of the quality of the IEPs.

### **Results**

Figure 1 below shows the IEP Compliance Index scores for the entire sample of students for each of three years and overall. The graph shows that, on average, the IEPs in this state-wide sample are only about 50% in compliance with the New Jersey Model IEP. These data also indicate that the overall IEP compliance did not change over the past three years – with scores ranging from 48% to 51% out of 100%. There was neither statistically significant improvement nor decline in the IEP compliance over three years.

**Figure 1: IEP COMPLIANCE INDEX**



The fact that the scores were stable over time is of considerable scientific importance. Clearly, it suggests that compliance was relatively unchanged over the three years. In addition, it also suggests that the Index is a reliable measurement. Reliability is a means of determining whether an attribute is consistently measured. A scale is reliable if scores are similar regardless of who collects the data or when it is collected. Time between tests (“test-retest” reliability) and the person collecting the data (“inter-rater”) should not introduce any biases in the result. In addition, the Index should measure the same attribute throughout the questions (“internal consistency”). A math test, for example, should not include questions about literature.

Test-retest reliability is normally examined across a period of one week or two. Since the Compliance Index measures over three consecutive years it is actually a very conservative approach to test-retest reliability. The correlation between students’ scores on the most recent IEP versus the IEP from the year before is very strong, at  $r=.792$ . By the third year, the correlation weakens to  $r=.441$ . Both correlations are statistically significant at  $p<.001$ . This suggests there is a one in one thousand chance that the relationship between these two variables

is merely due to chance. In other words, the relationship is very real and very strong, consistently measuring IDEA compliance year after year.

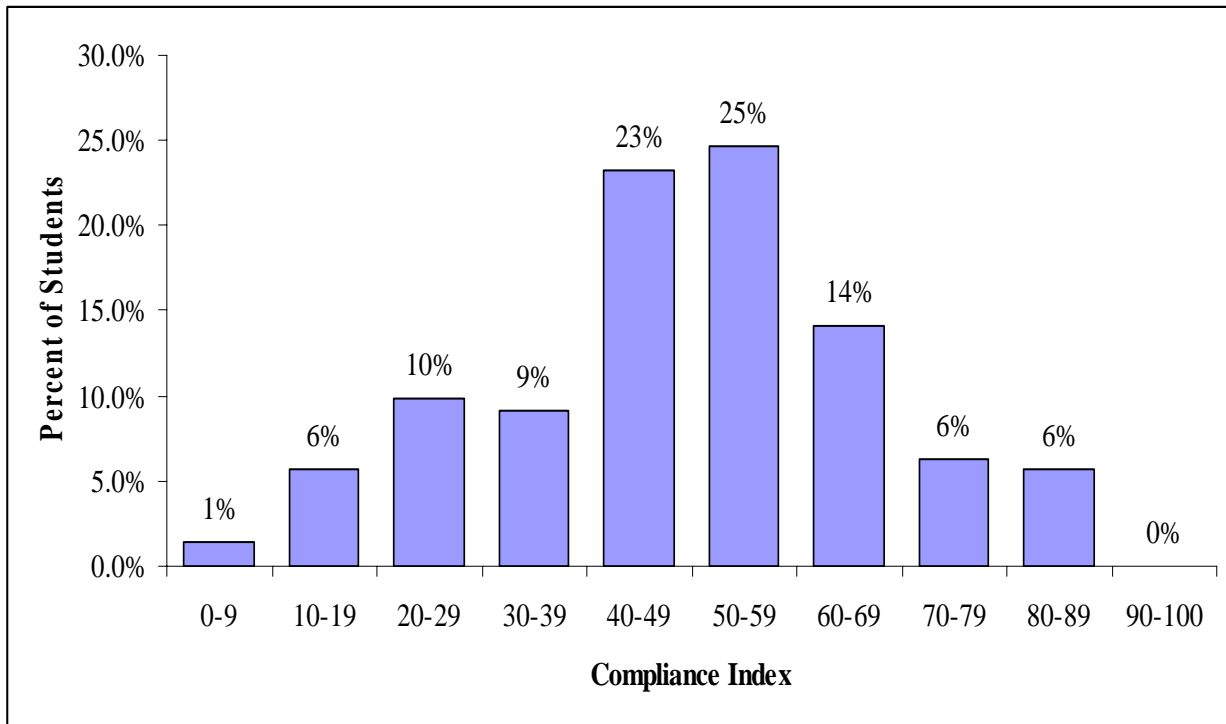
We had no way to test inter-rater reliability, but for internal consistency, we applied Cronbach's Alpha to all 33 items from the three years of IEPs for each student. The Cronbach's Alpha statistic determines if each question in the Index was consistently measuring compliance. A low Alpha indicates the items are measuring different attributes while a high Alpha indicates the items are "holding together" and providing a strong score of a single attribute.

The overall Alpha for the Compliance Index was 0.768 (possible range of -1 to +1, suggesting a lack of consistency or perfect consistency), which is in the range accepted by psychometricians and peer-reviewed journal. In other words, the Compliance Index suggests is a consistent and reliable way of measuring IDEA compliance. There is an extremely small probability that this scale is measuring something different<sup>8</sup>.

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<sup>8</sup> See Appendix F and Section 2 below for graphs of the compliance percentage for each of the 11 questions used to compute the Compliance Index.

**Figure 2: Distribution of Compliance Index Scores**

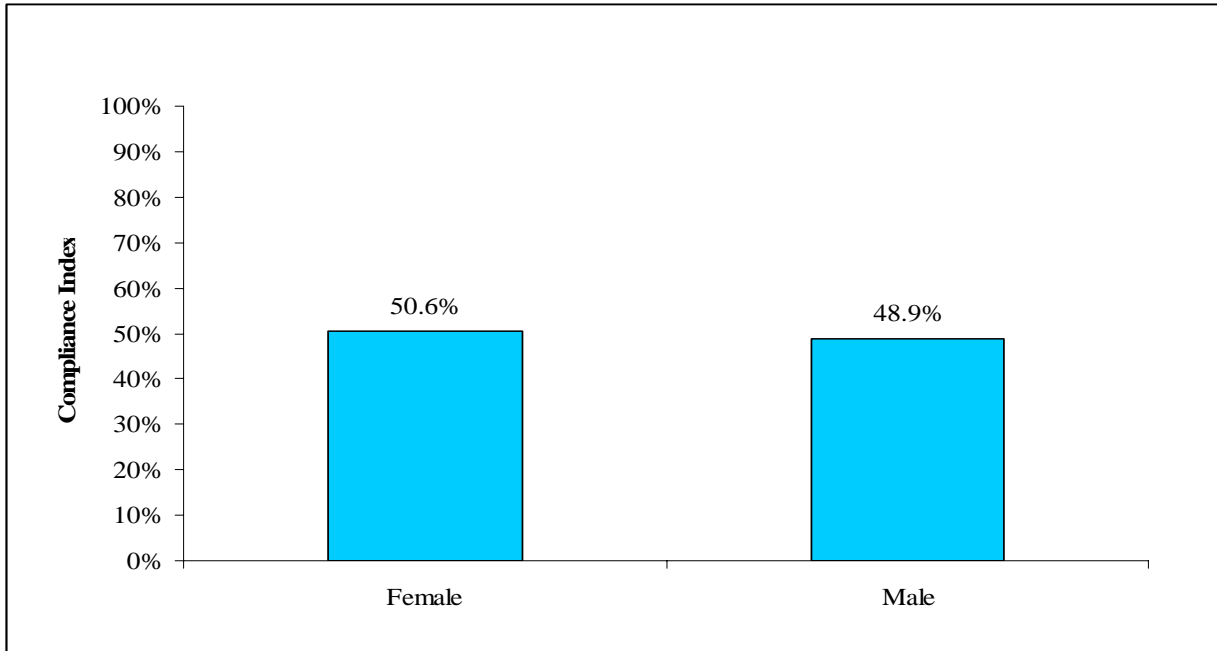


Compliance Index scores of the students in this sample ranged from 9.1% to 87.9%.with an overall average score of 49.6%. These data suggest that, on average, the IEPs in this state-wide sample are in compliance with only 49.6% of the New Jersey Model IEP. While there were some IEPs that were nearly in full compliance at 87.9%, there were a nearly equal number of IEPs that fell below 20% compliance. The graph above shows the distribution of the Compliance Index for the 142 students in our state-wide sample. While these data provide a quantitative assessment of compliance, it is clear that full compliance (100%) was not achieved for any of the IEPs reviewed.

Further analysis was conducted to determine if there were differences in the Compliance Index between gender, race/ethnicity or multiple IEPs per student. These analyses revealed that there were not any statistically significant differences between these different groups. Females and males had, on average, the same level of compliance at approximately 50% per IEP (See Figure 3 below). There were no statistically significant differences based on gender.



**Figure 3: Compliance Index Scores by Gender**

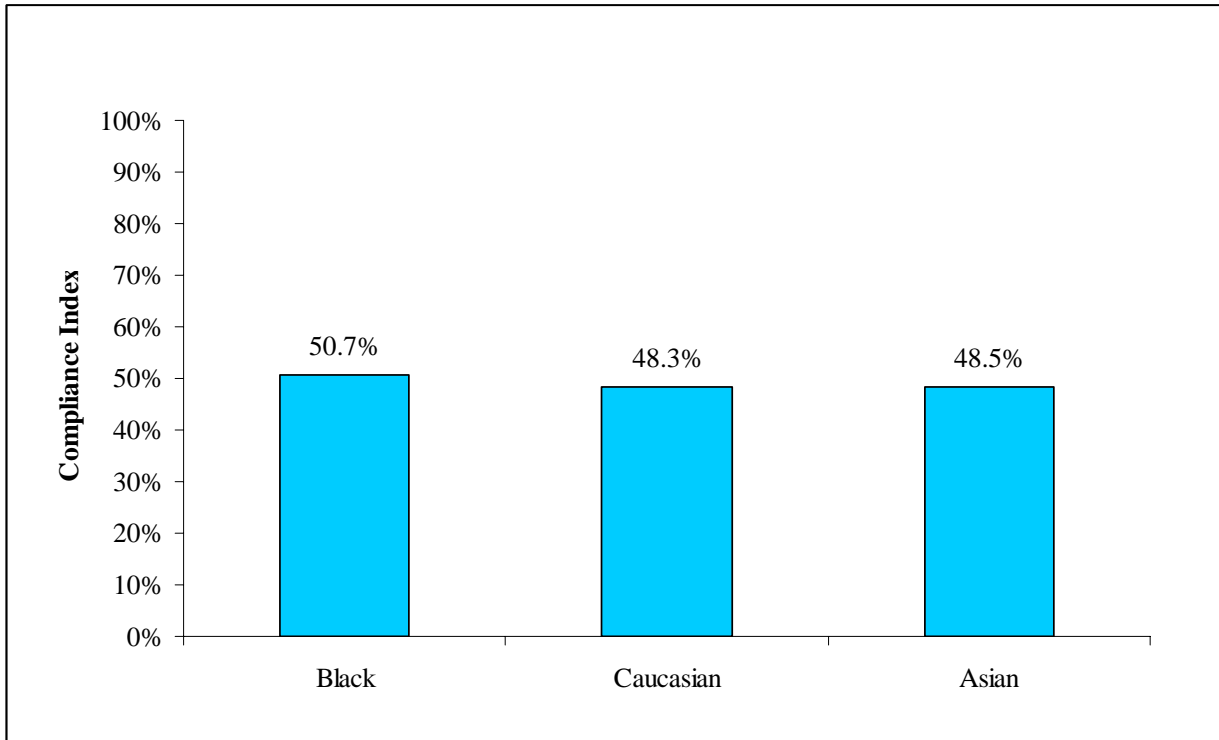


Equal compliance scores were also found for White, African-American, and Asian students.<sup>9</sup> The graph below indicates there were no statistically significant differences between these three groups with an average compliance ranging from 48.3% to 50.7%.

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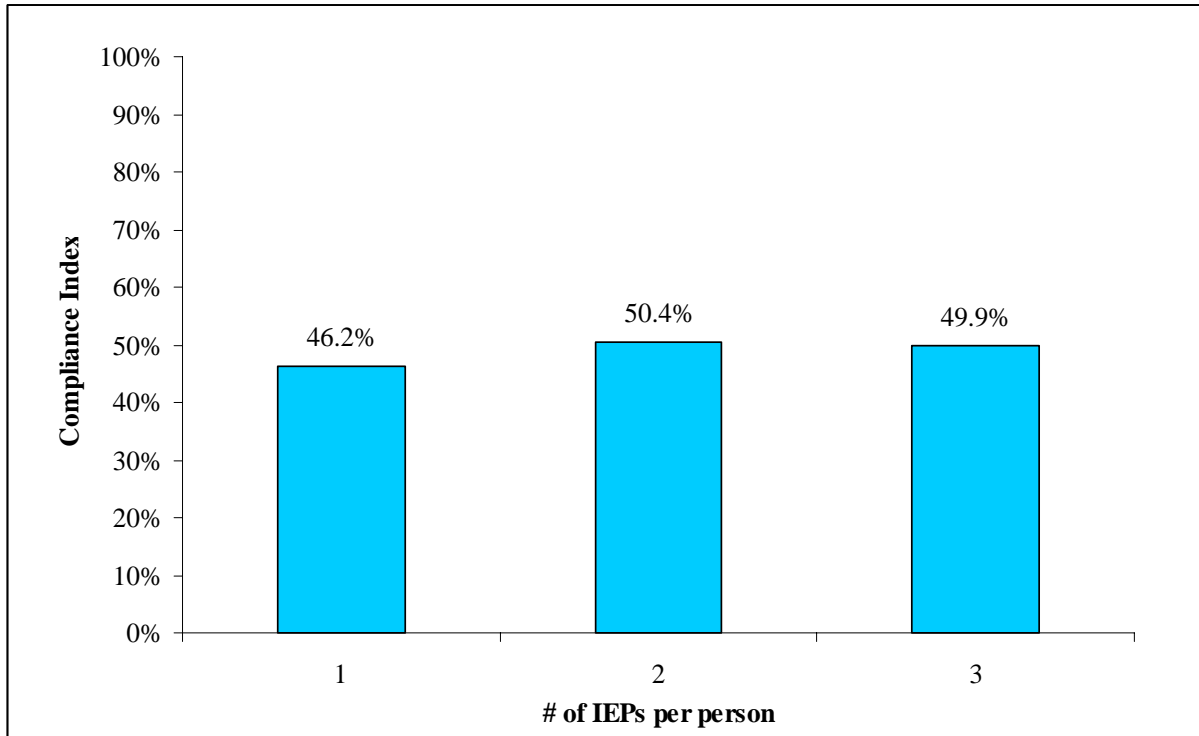
<sup>9</sup> Information about students with Latino/Hispanic backgrounds was not made available by the State.

**Figure 4: Compliance Index Scores by Race**



We also hypothesized that IEP compliance might be greater for those students with multiple IEPs. As experience with an individual student increased, there might be a significant difference between those students with only one IEP and those with two or three IEPs. In other words, experience with a student might result in “better” IEPs. These data did not fully support that hypothesis. As Figure 5 below illustrates, there were small differences in compliance for those students with one IEP (46.2% compliance) and those with two or three IEPs (50.4% and 49.9% compliance, respectively), these Index scores were not significantly different.

**Figure 5: Compliance Index Scores by Number of IEPs per Person**



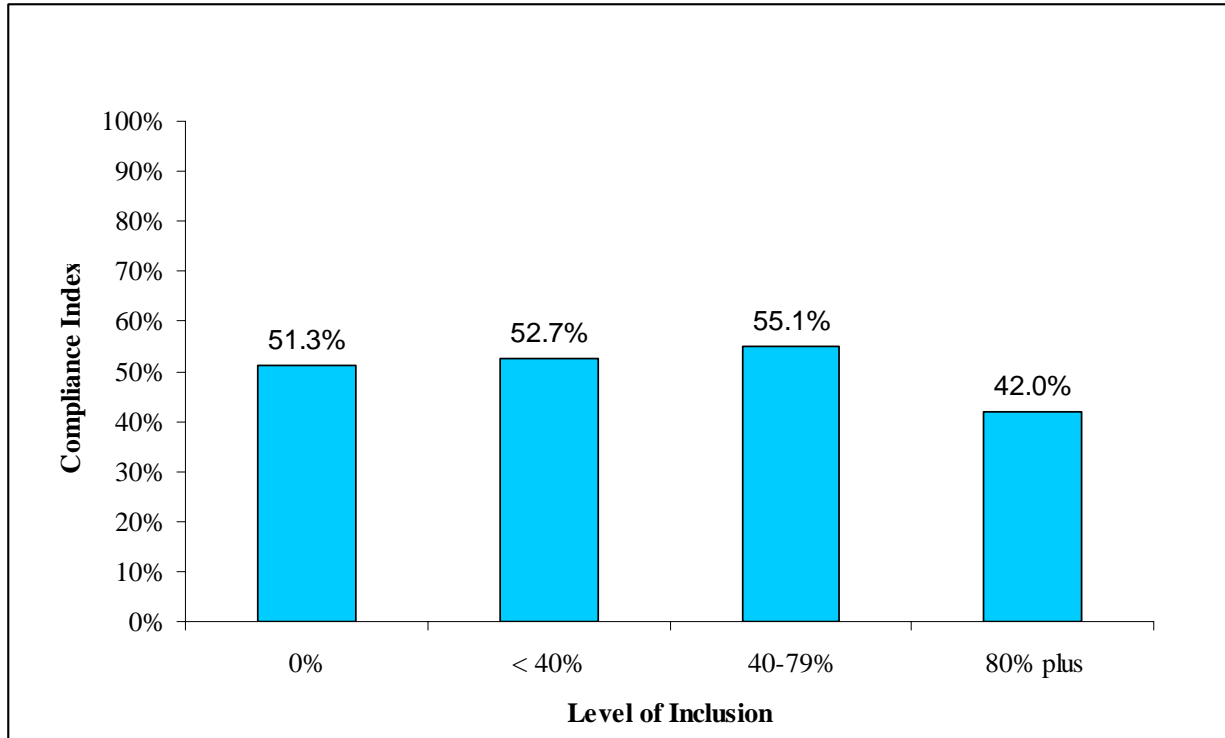
In spite of a lack of significant differences based on gender, race/ethnicity or multiple IEPs per student, significant differences were found based on each student’s Educational Placement as established in the NJ DOE data base. These data divide student placement into three levels of inclusion – i.e., 80% or more time in non-segregated classrooms, 40% to 79%, and less than 40%.

The results suggest that the students in the most inclusive educational settings (80% or more in a non-segregated classroom) – on average – had statistically significantly lower IEP Compliance Index scores (42%) than students in less inclusive settings (51.3% to 55.1%). In fact, these data suggest that the trend toward improved compliance with more inclusion peaks at the 40-79% level of inclusion and then declines for students in more inclusive settings (*See* Figure 6 below).

This strongly suggests that, particularly where students are placed in non-segregated classrooms, the IEP legal mandates and best practices are being overlooked the most. It is as though inclusive placement was the only goal, and after that, IDEA mandates and best

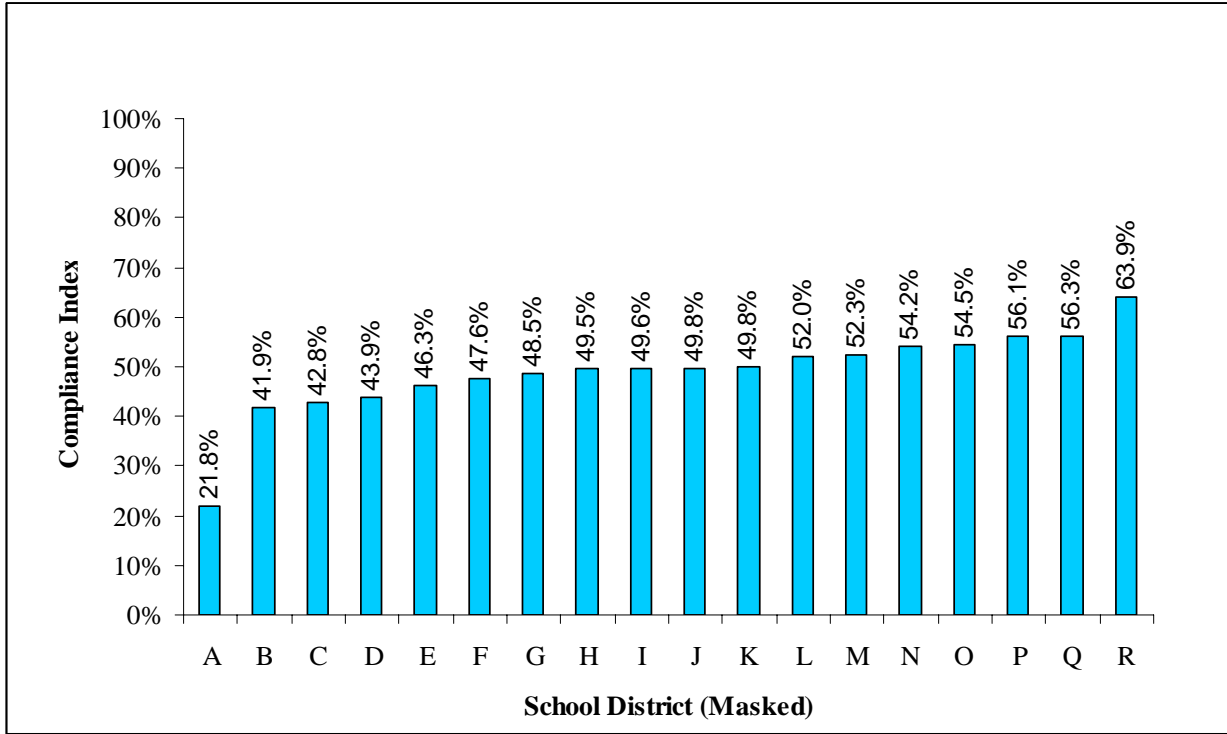
practices were – on average – ignored. Inclusive placement is not enough – best practice is still needed – and the empirical evidence shows that does not occur.

**Figure 6: Compliance Index Scores by Level of Inclusion**



Finally, analysis of the Compliance Index across different school districts further confirms the finding that the lack of compliance is limited to a few districts or relegated to outlying districts. While there is one school district with a 21.8% level of compliance – i.e., the average IDEA compliance with that district is 21.8% -- all the remaining districts fall between 41.9% and 63.9% (*See* Figure 7 below). There are no districts at the high end of the Index to suggest overwhelming compliance. At best there is one school district in which two-thirds of student IEPs are in compliance. The overwhelming majority of districts have only 40% to 50% of the IEPs in compliance.

**Figure 7: Compliance Index Scores by School District**



## **II. The Individual Student Findings**

*(Submitted by Lou Brown, PhD, based on Compliance Index data provided by the Center for Outcome Analysis)*

Based on Brown's review of the completed Student Booklets (*See Appendix D for Student Booklet and Appendix G for summary of responses to individual questions*) the following findings were made:

### **Finding # 1: Movement To More Integrated Schools Was Rarely Considered For Those In Segregated Placements**

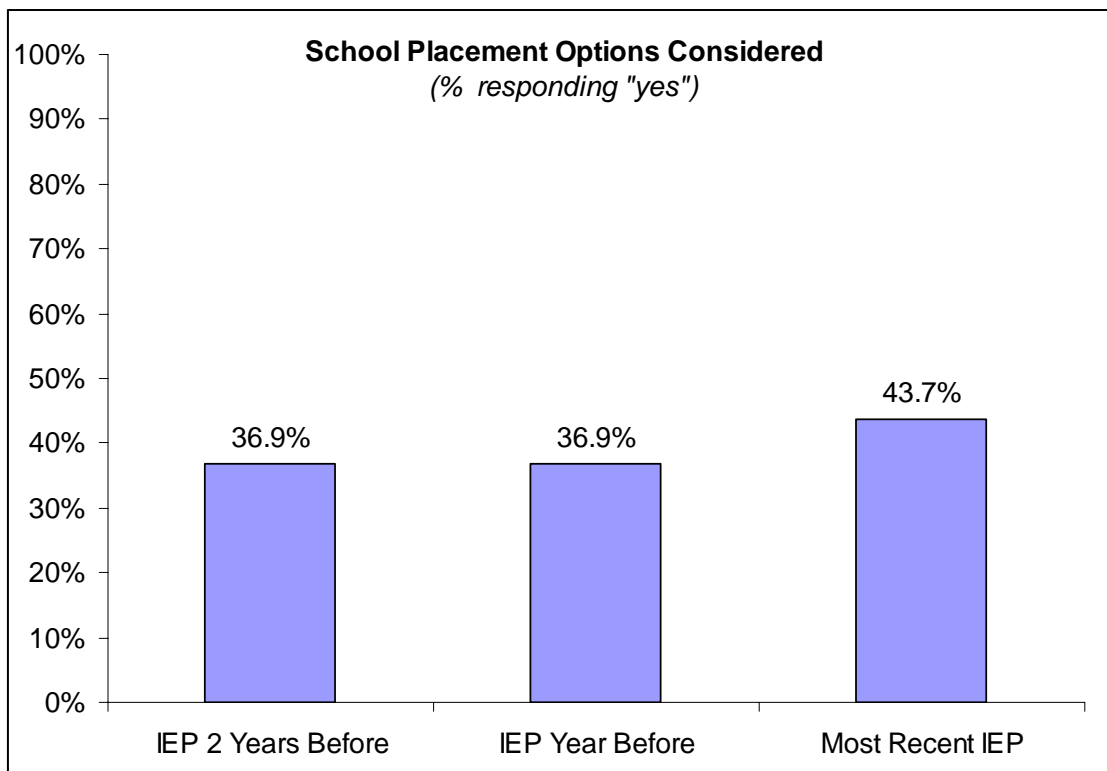
State and federal laws, reasonable judgments about what are "best educational practices" and the NJDOE model IEP development guidelines (*See Appendices C and H*) require that at least the following procedures relevant to placing a student with disabilities in a school be implemented:

- First, a student should be placed in a general education, i.e., integrated/inclusive school, preferably the one which she/he would attend if she/he did not have disabilities. (IDEA, 2004; Rozalski, Stewart, & Miller, 2010).
- Second, if a student is removed from, or is not attending, such a general education school, her/his IEP team must seriously consider, at least annually, returning or moving her/him to, or increasing the amount of time she/he spends in, such a school. Attending, in this context, refers to a student spending at least 80% of her/his school days in an integrated school. If a student's placement is a segregated school, the law requires that, at least annually, the IEP team seriously discuss, moving her/him to an integrated school (IDEA, 2004). In every IEP meeting, the first placement discussed, regardless of the student's current placement, must be the general education school, not just as it currently exists, but as it could be modified to meet the student's needs (IDEA, 2004; McLeskey, Waldron, Spooner, & Algozzine, 2014; Rozalski, *et al.*, 2010).

Based on the information provided in the IEPs examined (See Figure 8), we note the following findings.

- The IEP teams for students who were placed in general education schools rarely considered more restrictive school placements (*See Figure 8 below*). It is likely that this is because most of those students attending general education schools were functioning at relatively high academic and behavioral levels, or that the classifications assigned them determined the school placements.

**Figure 8: Compliance Index Question 1.** *Does the IEP state that the IEP team considered school placement options other than the one the student is in?*



(Based on Student Booklet questions 33, 34 and 35)

- The IEP teams for students who were placed in segregated or non-home general education schools were rarely moved to home schools or to more integrated schools. It is likely that this is because most of those attending segregated or non-home schools functioned with more pronounced disabilities, or that the classifications assigned them determined the school placements.

- Many IEP teams appear to have considered school placement options, but few placements were actually changed. It would appear that once a school placement was made, it was sustained (Kluth, Biklen, English-Sand, & Smukler, 2007). This is highly problematic because, if students are not in general education schools, and if placement in such settings is not given careful consideration annually, the risks that these students will be segregated throughout their educational careers are great (Rozalski, *et al.*, 2010).

**Finding # 2: Movement to More Integrated Classrooms and Classes Was Rarely Considered For Those in Segregated Placements**

State and Federal laws, reasonable judgments as to what are “best educational practices” and the NJDOE model IEP development guidelines require that students with disabilities be given reasonable opportunities to function in the same classrooms and classes in which they would function if they did not have disabilities, at least 80% of their school days (McLeskey, Landers, Williamson, & Hoppey, 2012; Rozalski, *et al.*, 2010). Further, if they spend less than 80% of their school days outside of general education classrooms or classes, their placements must be evaluated, and professionally defensible plans intended to transition them into more integrated settings must be seriously considered, at least annually (IDEA, 2004; Rozalski, *et al.*, 2010). In addition, the resources needed for the students to move to general education settings 80% of the school day must be made available (IDEA, 2004; McLeskey *et al.*, 2012; McLeskey, *et al.*, 2014; Rozalski, *et al.*, 2010). Reasonable procedures relevant to this requirement follow:

- First, professionals must actually visit and study the less restrictive, more integrated general education setting in which the student would be placed if he/she did not have a disability.
- Second, the supplementary aids and services (“SAS”) and other accommodations that will most likely be needed for success in the less restrictive general education setting must be delineated and arranged.
- Third, if at all reasonable, the student must be given opportunities to function in the less restrictive placement with appropriate SAS and other accommodations.

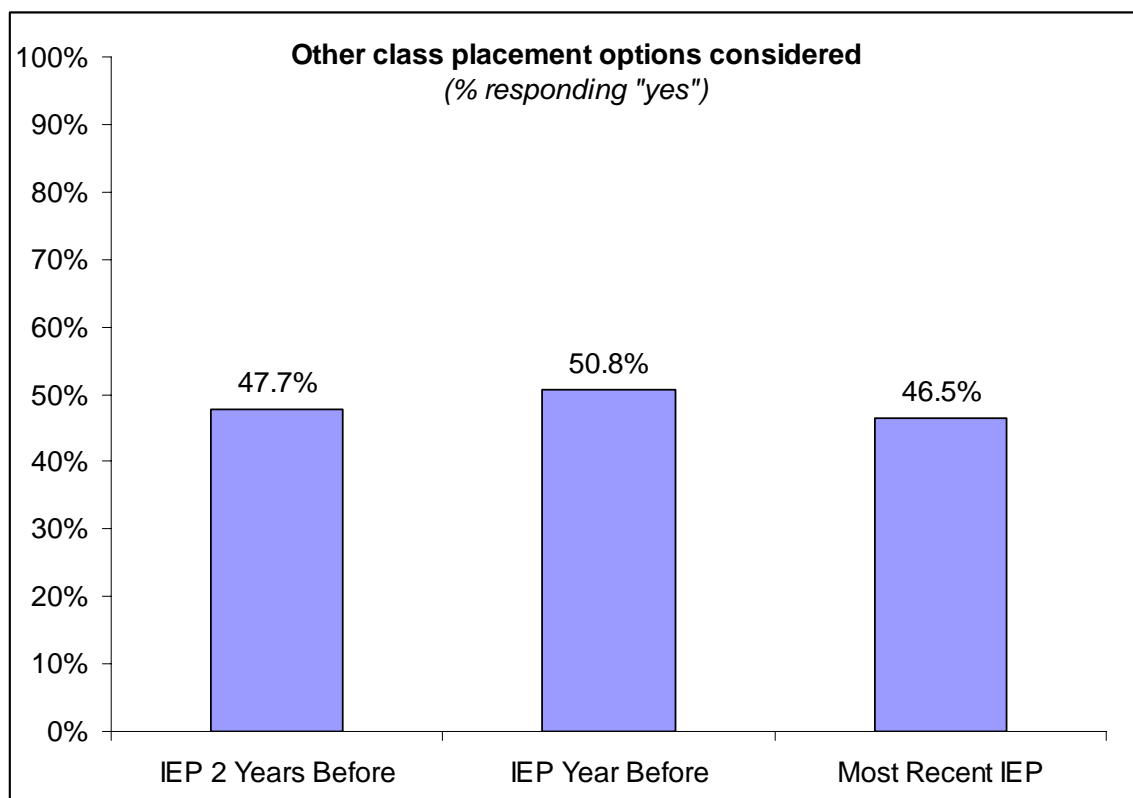


- Fourth, the effectiveness of the new placement must be evaluated empirically (IDEA, 2004; McLeskey *et al.*, 2012; The No Child Left Behind Act, 2001; Rozalski, *et al.*, 2010).

Based on the information provided in the IEPs examined (See Figure 9 below), we note the following findings:

- In many instances, less restrictive, more integrated placements were rejected as inappropriate, without evidence that IEP team members actually visited the placements and considered the actual SAS needed, etc.

**Figure 9: Compliance Index Question 6.** *Does the IEP state that the IEP team considered class placement options other than the one the student is in?*



(Based on Student Booklet questions 68, 69, and 70)

- Transition plans from segregated to integrated classroom and class placements were rare, if present at all. In addition, many IEP teams rejected transitioning students to more

integrated general education placements for professionally questionable reasons. Low academic levels, the need for low student - teacher ratios, slower-paced instruction, class size and a therapeutic emotional environment are examples. None of these should prevent placement in general education settings, as they can be, or are being, successfully provided in general education settings across the country (Causton-Theoharis, Theoharis, Orsati, & Cosier, 2011; Weiner, 2010).

- In many instances, the option of transitioning to a more inclusive/integrated general education placement was addressed, but was not given sufficient value or importance by IEP teams.
- It is extremely unlikely that placement in segregated Special Education schools, classrooms and classes affords meaningful opportunities to learn to function in integrated settings and activities (Causton-Theoharis *et al.*, 2011). Thus, once a student is placed in a segregated setting, it is extremely unlikely that she/he will be moved to an integrated setting. Very few of the 142 placements studied actually changed over a three-year period.
- Many IEP teams considered placement options, but it was not clear if and how such considerations affected actual placement decisions. It is likely that such considerations were perfunctory, as so few placement changes were made over time.
- The vast majority of the students who were placed in general education classes more than 80% of their school days were classified as having a “Specific Learning Disability” or as “Other Health Impaired.” In contrast, only two students with the classification “Cognitively Impaired” spent at least 80% of their school days in general education classrooms or classes. None of the nine students with the classification “Autistic” spent at least 80% of their school days in general education classrooms or classes. Indeed, all nine students with the classification “Autistic” were placed in special education schools, classrooms or classes. In contrast, many students across the country who have been classified with the label “Cognitively Impaired” and “Autistic” spend at least 80% of their school days in general education classrooms and classes (U.S. Department of Education, 2013). Thus, it appears likely that, in New Jersey, if a student is given a

classification of “Cognitively Impaired” or “Autistic,” she/he is *de facto* excluded from integrated educational settings. Such exclusion by label is wholly unacceptable and illegal.

- Some IEP teams reported that students spent less than 80% of their time in general education classrooms and classes because they needed small group instruction, individualization, different reinforcement schedules, etc. These IEP teams appear to function from the premise that such accommodations cannot be provided in general education classrooms and classes. In fact, such accommodations, and many others, can be, and are being, provided in many general education settings across the country (Carter, Moss, Hoffman, Chung, & Sisco, 2011; Causton-Theoharis, *et al.*, 2011; Haring & Breen, 1992; McDonnell *et al.*, 2006; Polychronis, *et al.*, 2004; Wishart, Willis, Cebula, & Pitcairn, 2007). In addition, one New Jersey IEP team reported that a student was removed from a general education classroom because of “cognitive weakness.” “Cognitive weakness” is not an acceptable professional justification for removal from a general education class. In short, the reasons some IEP teams used for removal from, or denial of, more integrated classroom and class placements are not valid.
- The required annual serious contemplations of decreasing times spent in special education settings, and concomitantly increasing times spent in general education settings, were not reported by many IEP teams. Without such plans, it is highly likely that segregated placements are being sustained throughout school careers.

**Finding # 3: The Potential Benefits Of Placement In General and Special Education Classrooms and Classes Were Not Compared**

State and federal laws, reasonable judgments as to what are “best educational practices” and the NJDOE model IEP development guidelines require that the potential benefits of different classroom or class placements be considered annually by IEP teams in professionally responsible ways (IDEA, 2004; Rozalski, *et al.*, 2010).

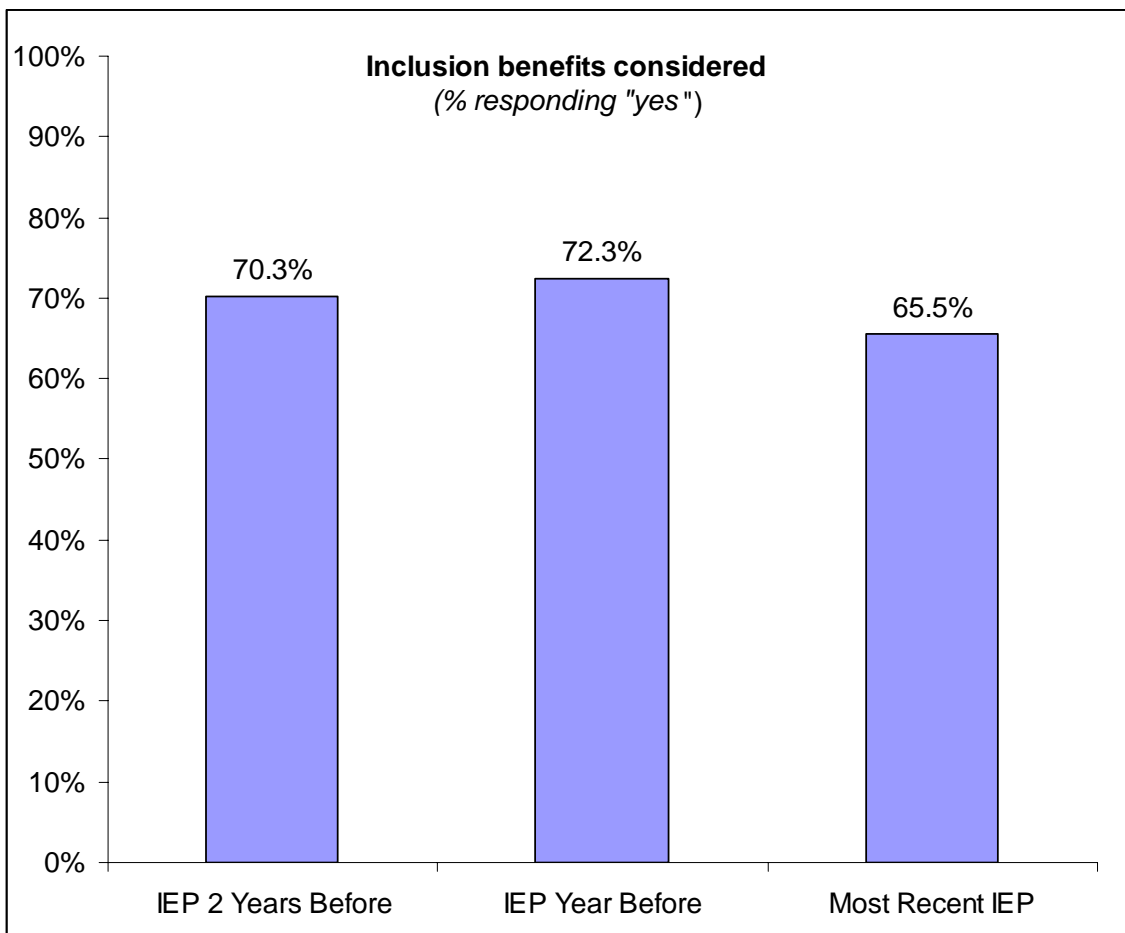
Based on the information provided in the IEPs examined, we note the following findings:

- Many IEP teams addressed the potential benefits of a student functioning in general education and in Special Education classrooms and classes, but did not do so in

professionally responsible ways. That is, they did not entertain alternatives. They did not visit actual potential classrooms or classes; they did not specify extra supports that might be needed, etc.

- Some IEP Teams listed, but did not compare, the potential benefits of general education and Special Education classroom or class placements.
- Some IEP teams considered the potential benefits of Special Education classrooms and classes, but did not consider the potential benefits of general education classrooms and classes.

**Figure 10: Compliance Index Question 3.** *Does the IEP document the comparison of the benefits provided in the general education class and the benefits provided in the special education class?*

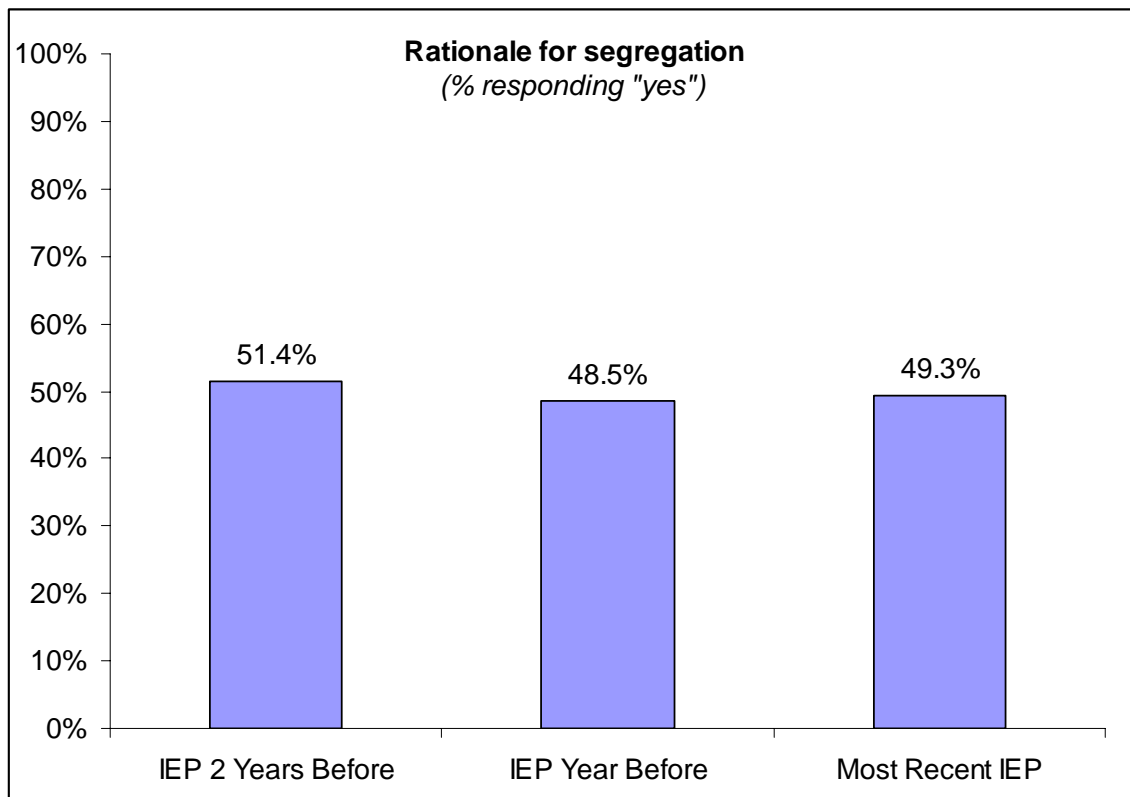


(Based on Student Booklet questions 40, 43, and 46)

- It is not clear what relation, if any, the lists of potential benefits or difficulties reported in IEPs had to actual placement decisions. Much more than simply considering potential benefits or difficulties is required to make professionally responsible decisions.
- Many IEP teams ascribed potential benefits to Special Education classrooms and classes. However, they did not appear to realize that those potential benefits can be, and for many other students across the country are being, realized in general education settings. Individualization, small group instruction and applied behavior analysis are examples (Carter, *et al.*, 2011; Causton-Theoharis, *et al.*, 2011; Dillenburger, 2012; Polychronis, *et al.*, 2004; Wishart, *et al.*, 2007). In addition, there are many benefits that can be realized in integrated general education settings that cannot be realized in segregated Special Education settings. Enhancements of social relationships, role models and communicative partners are examples (Carter & Kennedy, 2006; Carter, *et al.*, 2011; Haring & Breen, 1992; Heiman, 2000).
- In some instances, because services were not available in a general education classroom or class in a home school, a student was placed in a Special Education setting in a non-home school. If a needed service is located in a specific place and is not portable, it may be acceptable to transport a student to that place. However, if the needed service is portable, it must be made available to the student in the least restrictive educational environment (*Ronker v. Walter*, 1983; Rozalski, *et al.*, 2010).
- Some IEP teams listed potential benefits of general education and Special Education classrooms and classes. However, they rarely, if ever, evaluated the realities of the potential benefits empirically. If the potential benefits of a placement are used to make a decision, the professionals must empirically validate the actuality of the benefits. Because a class or classroom placement decision can have such profound effects on a student with disabilities, it is not acceptable to simply delineate the potential benefits of general education or Special Education placements and then merely choose one (IDEA, 2004; Causton-Theoharis, *et al.*, 2011; Rozalski, Stewart, & Miller, 2010).

- Many IEP teams reported that academic needs could not be met in general education settings. However, they did not provide any evidence that the academic needs were being met in the Special Education settings in which the students were placed.
- Many IEP teams simply did not consider benefits that might be realized in general education and in Special Education settings and either did not provide reasons why they did not do so, or offered reasons that were not professionally acceptable. Why did the professionals not provide the information when they were legally and administratively responsible to do so? Were they unaware they were required to do so? Were the training, supervision and monitoring provided inadequate? These and related questions must be answered and responded to in professionally acceptable ways.

**Figure 11: Compliance Index Question 10.** *If the student is included in the general education setting for less than 80% of the day, is the rationale for the student's removal from general education provided in the IEP?*



(Based on Student Booklet questions 102, 103, and 104)

**Finding # 4: Actual Beneficial and/or Harmful Effects of Placement in Segregated Classrooms and Classes and General Education Classrooms and Classes Were Not Determined**

State and federal laws, reasonable judgments about what are “best educational practices” and the NJDOE model IEP development guidelines require that professionally acceptable ways to determine the actual beneficial or harmful effects of segregated and inclusive class or classroom placements be implemented (IDEA, 2004; McLeskey, *et al.*, 2012; The No Child Left Behind Act, 2001; Rozalski, *et al.*, 2010). The following procedures are considered here as minimally acceptable:

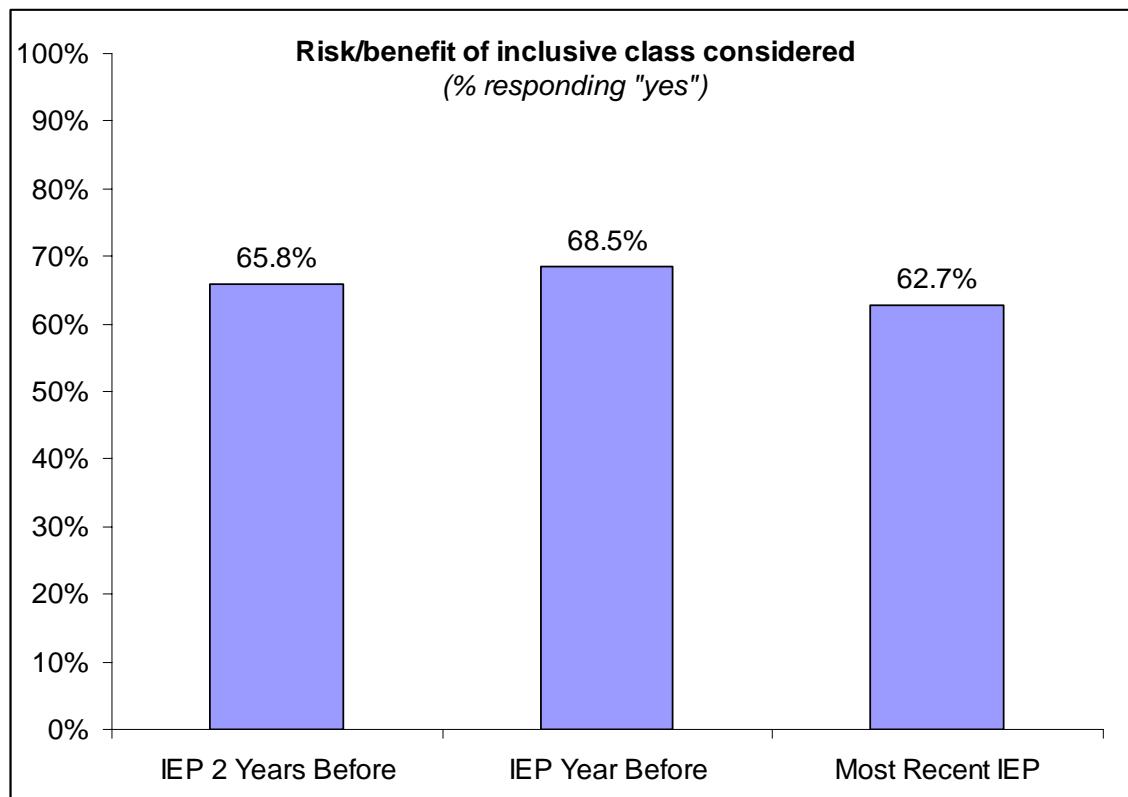
- First, a student with disabilities is placed in a general education classroom or class.
- Second, the actual harmful effects of the placement on that student are empirically validated in professionally acceptable ways. If the potential or actual effects are clearly described, evidence of their presence or the lack thereof, can be seen, heard, touched, felt, tasted, smelled or otherwise sensed. If the potential or actual effects are not clearly described, it is extremely difficult or even impossible to empirically validate the extent of their presence or absence.
- Third, the actual harmful effects of a placement on students without disabilities are empirically validated in professionally acceptable ways. Higher or lower grades, increases or decreases in instructional engagement, clear indications of interference with academic achievement or enjoyment, and meaningful complaints of parents or teachers are examples.
- Fourth, if the student with disabilities is placed in a segregated Special Education setting, the actual harmful effects of that segregated placement on that student are empirically validated.
- Fifth, the actual harmful effects of that placement on other students with disabilities in the classroom or class are empirically validated.

- Sixth, the actual harmful effects realized in both integrated and segregated placements on the student with disabilities and on other classmates are compared (IDEA, 2004; McLeskey, *et al.*, 2014; Rozalski, *et al.*, 2010; Villa & Thousand, 2000).

Based on the information provided in the IEPs examined, we note the following findings:

- Without actual evaluative information, it is extremely difficult to determine the actual harmful and/or beneficial effects of individual placements. Professionally acceptable evaluative information was not presented in the reviewed IEPs.

**Figure 12: Compliance Index Question 4.** *Does the IEP document the potentially beneficial or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class?*



(Based on Student Booklet questions 41, 44, and 47)

- Many IEP team members reported awareness of the potential benefits of integrated placements and then denied their students opportunities to experience them.



- The IEPs reviewed clearly communicate that the benefits of Special Education settings can be realized in general education settings, but the benefits of general education settings cannot be realized in Special Education settings.
- In many instances, IEP teams appeared to report “standard” listings of potential beneficial or harmful effects of general education and Special Education classrooms or classes on students with and without disabilities. However, no actual determinations of harmful or beneficial effects of different placements on individual students with or without disabilities were reported.
- For students with disabilities who were placed in general education settings, few, if any, actual negative effects of their placement on them or on their peers without disabilities were reported.
- Some IEP teams reported that the self-esteem of students with disabilities would suffer, and unnecessary frustrations would be experienced, if the students were placed in general education settings. Some IEP teams reported that self-esteem would suffer, and frustrations would be experienced, in segregated settings. Actual verifications of self-esteem and frustration were not reported. Without professionally acceptable evaluative information, these potential effects can be pondered, but not validated empirically.
- Some IEP teams seem to operate from the premise that students with certain diagnoses and kinds of disabilities cannot function effectively in general education settings. Specifically, the assumption seemed to be that some students need to be in small, structured Special Education settings where they could experience slower-paced instruction, repeated practice, individualization, etc., particularly for academic subjects. Rarely, if ever, did the IEP teams document whether a student learns best in a Special Education, as opposed to a general education, classroom or class. Rarely, if ever, did the IEP teams document whether the general education class and the Special Education class were actually more structured, slower paced, individualized, etc. In fact, many general education teachers operate highly structured classrooms, provide small group instruction and individualize for all students (Causton-Theoharis, *et al.*, 2011; Dillenburger, 2012). Moreover, many Special Education teachers operate classes that are unstructured or even

chaotic, offer large amounts of “dead time” and offer relatively little individualization or engagement time (Causton-Theoharis, *et al.*, 2011).

- Remarkably, many IEP teams reported almost exactly the same potential beneficial or harmful effect information and rationale for multiple students, even when the students attended different schools. Very little thought seems to have been devoted to the unique and actual circumstances experienced by individual students.
- Some IEP teams considered potential benefits of Special Education classroom and class placements, but not those that might be realized in general education placements. This underestimates, ignores or denies the potential deleterious effects of exclusion and segregation.
- Some IEPs contained no information about actual harmful or beneficial effects of a classroom or class placement. One student had a one-page IEP, with no meaningful information related to this or any other important educational phenomena.
- Most IEP teams serving students in general education settings did not provide any information about potential harmful effects on students with or without disabilities and thus appear not to have concerns about such effects.

### **Finding # 5: Supplementary Aids and Services Were Not Provided In Many Instances**

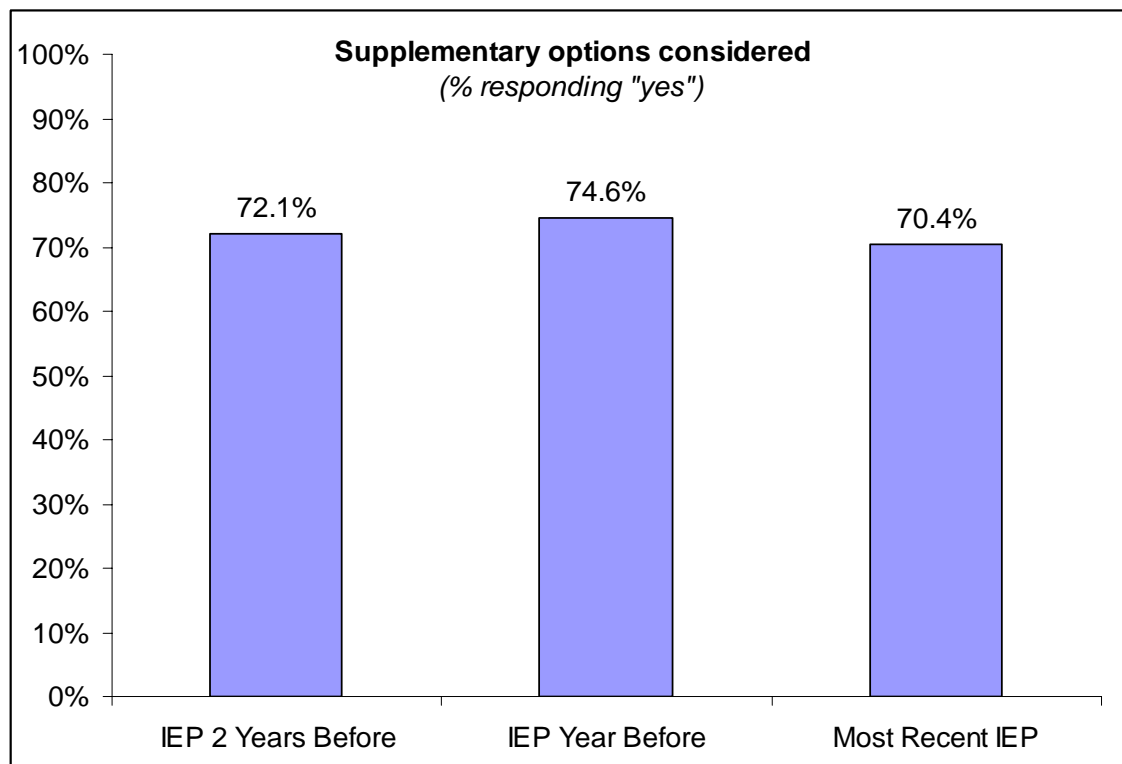
State and federal laws, reasonable judgments about what are “best educational practices” and the NJDOE model IEP development guidelines require that the following procedures relevant to providing professionally acceptable SAS be implemented:

- First, a student is placed in a general education/integrated setting, preferably in the same school and classroom or classes in which she/he would be enrolled if she/he did not have a disability.
- Second, a reasonable range of individualized SAS must be provided as needed.
- Third, the effectiveness of the SAS provided must be evaluated empirically. If the SAS provided are clearly described, evidence of their effectiveness, or the lack thereof, can be seen, heard, touched, felt, tasted, smelled or otherwise sensed. If they are not clearly described, it is extremely difficult or even impossible to empirically validate the extent of their effectiveness.
- Fourth, if appropriate, the SAS provided must be modified, added to, etc., and then re-evaluated empirically (IDEA, 2004; McLeskey, *et al.*, 2014; Villa & Thousand, 2000; Yell, Katsiyannis, Ryan, McDuffie, & Mattocks, 2008).

Based on the information provided in the IEPs examined, we note the following findings:

- A wide array of SAS which have been demonstrated across the country to be effective in general education settings was mentioned in some of the IEPs reviewed. However, it does not appear that the professionals involved in many reviewed IEPs were aware of, or had utilized, many of these SAS. Knowledge of a reasonable array of professionally defensible and empirically validated SAS is critical for providing individually appropriate educational and related experiences. All IEP teams should have access to this knowledge (IDEA, 2004; McLeskey, *et al.*, 2012; McLeskey, *et al.*, 2014; Rozalski, *et al.*, 2010; Villa & Thousand, 2000; Weiner, 2010).

**Figure 13: Compliance Index Question 2.** *Does the IEP identify the supplementary aids and services that were considered to implement the student’s annual goals and explain why they are not appropriate to meet the student’s needs in the general education class?*



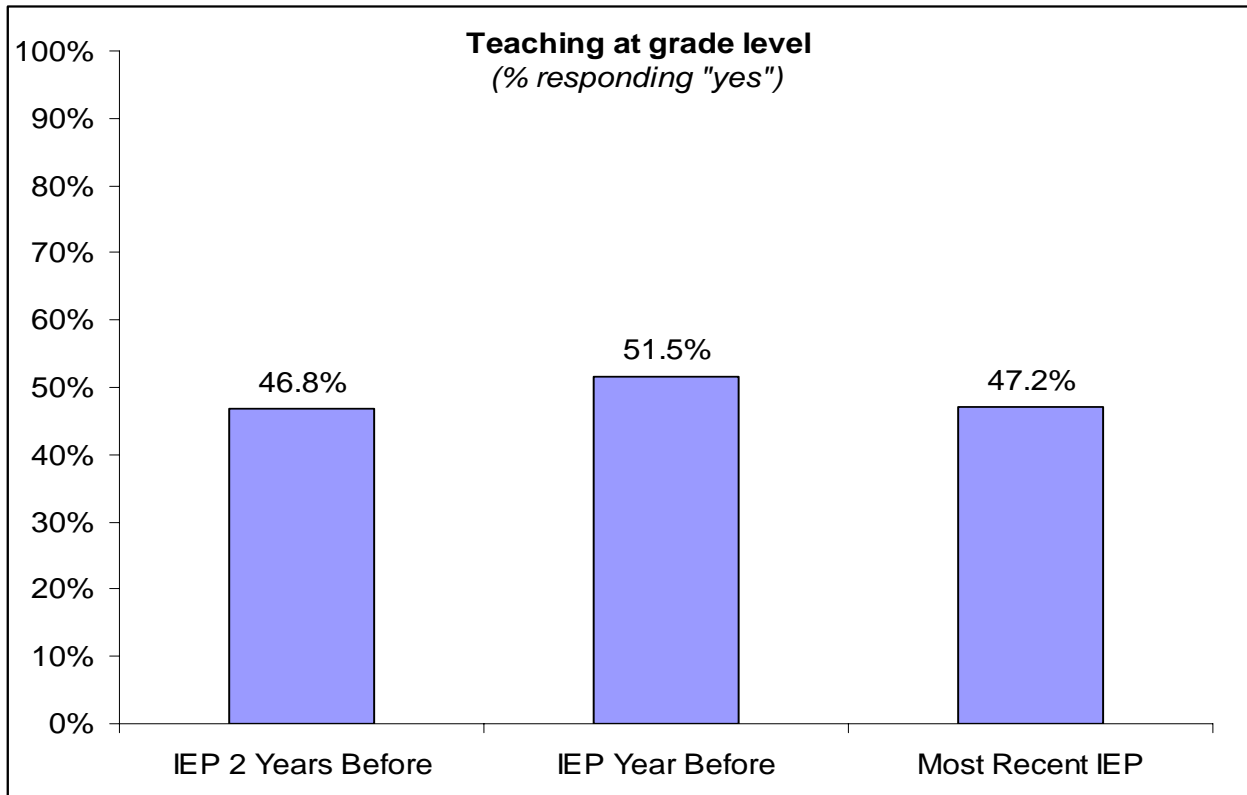
(Based on Student Booklet questions 39, 42, and 45)

- Many SAS were listed, but there is no indication as to whether they were actually provided, evaluated, modified if not effective, etc.
- Some of the IEPs contained examples of how individualization, small group instruction and many other SAS could be and were operationalized effectively in general education settings and activities in home schools. However, other IEP teams considered the SAS needed by a particular student -- such as “individualization” and “small group instruction” -- then decided that the SAS needed could not be provided in general education settings or in a student’s home school. One IEP team reported that some SAS, including repetition of new information, reinforcement of learned information, extended time, clarifying/rewording/repeating directions and/or instructions and instructing on functional level were not provided in general education settings, but were provided in a

Special Education setting. Thus, students were placed or maintained in segregated or non-home school settings. These SAS, and many others, have indeed been provided effectively in many general education classes and classrooms across the country (McLeskey, *et al.*, 2014; Villa & Thousand, 2000). Why SAS were not made available in general education classes in home schools, and then evaluated, was not reported. Considering and then rejecting is not the same as trying and evaluating. If SAS are needed and portable, they should be made available in general education classes in home schools, if at all reasonable (*Ronker v. Walter, 1983*; Rozalski, *et al.*, 2010).

- Some IEP teams stated that individual students had not mastered the skills necessary to function in general education settings, and therefore should be excluded or ejected from them and placed in segregated settings (*See Figure 14 below*). One of the reasons offered for such exclusion was that the students were functioning below grade level. This is in total disregard of state and federal laws which were passed to ensure that such entrance criteria should not be operative. Indeed, such policies are extremely problematic because, once segregated, students rarely learn the skills necessary to function in general education settings. Students in general education settings do not suspend growth and learning while students who are segregated catch up.

**Figure 14: Compliance Index Question 5.** *Does the IEP show that the student's class is taught at grade level?*



(Based on Student Booklet questions 61, 62, and 63)

- Some IEP teams considered SAS, but rejected them because of the significant functioning difficulties of particular students. Most, if not all, of the SAS considered and rejected are being effectively provided to students with significant disabilities in general education settings elsewhere. Watson and Johnston (2007) describe the use of various types of assistive technology in the inclusive science classroom – using digital recorders for students who have difficulty taking notes, symbol or picture based communication software for students with language, reading, and/or cognitive impairments, and computer-aided speech to print transcription systems for students with hearing impairments. Giangreco (2000) highlights the increasing request for speech and language pathologists to work in inclusive classrooms, and provides an outlines a team process for making decisions regarding related services for students with low incidence disabilities. Some IEP teams did not think particular students could function in general education settings because of the fast pace of instruction therein. Kinds and levels of disabilities

cannot be used to take away opportunities for integrated experiences. In fact, varied paces of instruction are the rule in many integrated settings.

- Many IEP teams did not report any SAS whatsoever. Why did the professionals not provide required SAS information when they were legally required to do so? Were they unaware they were required to do so? Was the supervision provided inadequate? Were they not trained appropriately? Clearly, training, supervision and monitoring are required.
- Many of the SAS reported as having been considered were therapies, extended school year services and specialized transportation. However, many other kinds of SAS appear not to have been considered. Curricular modifications, adaptive equipment and peer tutoring are examples.
- On many IEPs, no SAS were listed, no SAS were deemed applicable or SAS were declared not needed. It is extremely difficult to understand how so many students would be declared eligible for Special Education and related services, but would not need or receive SAS. Indeed, when a student is declared in need of Special Education and related services, it is assumed that he/she is in need of individualized accommodations that would not be needed if he/she were not so classified.
- Many IEP Teams seemed unaware of the many SAS that can be provided effectively in general education settings and activities. If the IEP teams knew of the SAS possibilities, as well as their responsibilities to implement them, they likely would have done so. Training related to how to implement and evaluate a wide array of SAS in integrated classes and classrooms is clearly needed.

**Finding # 6: Professionally Acceptable Modifications and Accommodations Were Not Provided**

State and federal laws, reasonable judgments about what are “best educational practices” and the NJDOE model IEP development guidelines require that at least the procedures delineated below be followed when addressing the provision of individualized modifications and accommodations:

- First, a student is placed in the least restrictive setting, preferably in the same school, classroom and classes in which she/he would function if she/he did not have disabilities.
- Second, the professionals involved must have comprehensive and valid information about the unique abilities and difficulties of the student.
- Third, the professionals involved with a particular student must have a wide variety of accommodation/modification information in their repertoires.
- Fourth, the professionals must select the accommodations and modifications that will likely result in the delivery of individually appropriate educational and related experiences.
- Fifth, the professionals must implement the individualized accommodations and modifications and evaluate their effectiveness in professionally responsible ways.
- Sixth, the professionals must make the necessary additions, adjustments, substitutions, etc., and evaluate them continuously. If their effectiveness is validated empirically, they should be continued, supplemented, etc. If they are not validated as empirically effective, they should be terminated, replaced, etc. (IDEA, 2004; McLeskey, *et al.*, 2014; The No Child Left Behind Act, 2001; Rozalski, *et al.*, 2010; Sailor, 2009; Villa & Thousand, 2000).

Based on the information provided in the IEPs examined, we note the following findings:

- Many IEPs listed professionally acceptable accommodations and modifications, almost all of which can be, and are being, utilized effectively in general education settings. However, merely listing accommodations and modifications is insufficient. Actually



implementing, evaluating and adjusting them in individualized ways are required. There was little evidence that listed accommodations and modifications were actually applied, evaluated empirically and adjusted appropriately.

**Table 1: STUDENT BOOKLET QUESTION 80.** *Report what the most recent IEP sets forth as the student’s modifications and accommodations, if any.*

RESPONSE	COUNT
Yes, modifications & accommodations listed	126
None listed	13

- Several IEPs contained descriptions of accommodations and modifications, but they were not of professionally acceptable quantity or quality. For example, accommodations and modifications must be highly individualized. In many instances, little individualization was discerned. Indeed, several IEPs contained information that appeared to be downloaded or copied verbatim from commercially available lists.
- No accommodations and/or modifications whatsoever were reported on 13 IEPs. It is extremely unlikely that 13 students with IEPs could be declared eligible for Special Education and related services and not be in need of some accommodations or modifications.

**Finding # 7: Academic and Functional Objectives Were Not Measured Acceptably, If At All**

Most, if not all, IEP-generating strategies require the specification of short-term objectives and the establishment of individually appropriate performance criteria and evaluation procedures that can be used to empirically validate progress toward the realization of the actual objectives selected for instruction, or the lack thereof (IDEA, 2004; Kurth & Mastergeorge, 2010; McLeskey, *et al.*, 2012; McLeskey *et al.*, 2014; ; The No Child Left Behind Act, 2001; Sailor, 2009; Villa & Thousand, 2000; Yell, *et al.*, 2008). In each subject area and therapy, the specific objectives a student is being taught, the work products produced, the direct observations of persons in authority and other evidence of actual progress, or the lack thereof, must be clearly stated so they can be empirically verified (McLeskey, *et al.*, 2012; McLeskey, *et al.*, 2014;

Rozalski, *et al.*, 2010; Villa & Thousand, 2000; Yell, *et al.*, 2008). That is, evidence of progress toward the realization of objectives, or the lack thereof, must be seen, heard or otherwise sensed.

If instructional objectives are not clearly stated, it is extremely difficult or even impossible to empirically validate progress toward their realization or the lack thereof. Performance criteria are also extremely important (Blackwell & Rossetti, 2014; McLeskey, *et al.*, 2012; McLeskey, *et al.*, 2014; Villa & Thousand, 2000; Weiner, 2010; Yell, *et al.*, 2008). Reasonable professional practice requires that individually appropriate and professionally defensible performance criteria be established for each instructional objective (Kurth & Mastergeorge, 2010; McLeskey, *et al.*, 2012; McLeskey, *et al.*, 2014; Rozalski, *et al.*, 2010; Villa & Thousand, 2000; Yell, *et al.*, 2008). It is untenable to operate from the premise that one performance criterion will suffice for a large proportion of, or all, instructional objectives.

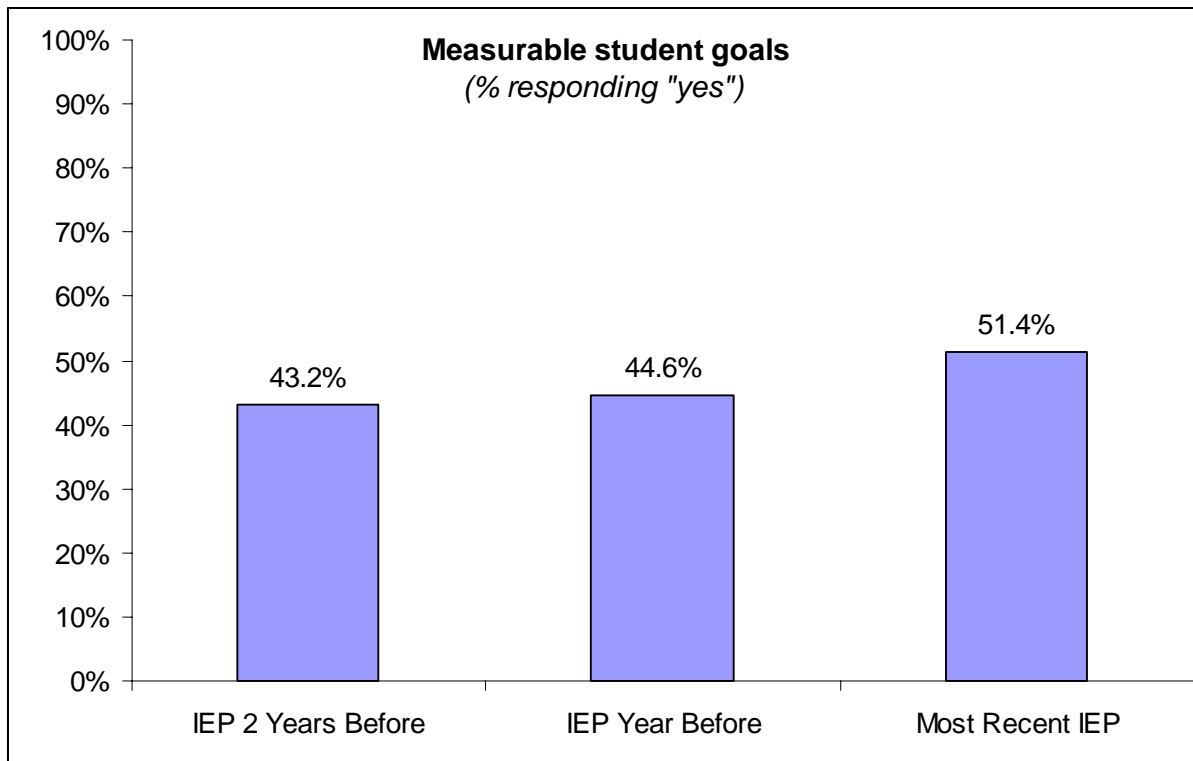
If objectives are stated clearly, professionally defensible performance criteria can be established. If objectives are not stated clearly, it is extremely difficult to establish professionally defensible performance criteria (Kurth & Mastergeorge, 2010; McLeskey, *et al.*, 2014; Villa & Thousand, 2000; Westling, Fox, & Carter, 2013). For example, “Joe will sequence a series of events with 70% accuracy.” What if the events were driving a car, changing the diaper of a baby, hitting a baseball safely in a real game, purchasing that which is on a ten-component grocery list, refilling toilet paper dispensers at a worksite, getting dressed for school, taking a shower or stopping an electric wheelchair at a curb in the presence of traffic? Would 70% accuracy be reasonable and acceptable for each event? Of course not. Objectives, performance criteria and evaluation procedures cannot be established because of convenience, in perfunctory ways or ritualistically. They must be individualized for a student and her/his curriculum.

Finally, if an objective is essentially meaningless or of little importance, the performance criteria established for it are also meaningless or unimportant (McLeskey, *et al.*, 2014; Westling, *et al.*, 2013). Selecting instructional objectives that are meaningless or unimportant is unacceptable.

Based on the information provided in the IEPs examined, we note the following findings:

- The goals and objectives stated on a good number of IEPs were acceptable. However, many of the goals and objectives on many other IEPs were vague or were not sufficiently individualized. Examples are “make progress toward mastery,” “recognize humor,” “increase understanding” and “improve habits of mind.” What a student must actually do to demonstrate progress or to realize mastery of such goals and objectives was not reported.
- Some performance criteria were clearly inappropriate. Verbalizing 70% of the alphabet correctly is an example. Moreover, use of performance criteria of 70% or 80% accuracy across many objectives is typically unacceptable. Indeed, eight out of 72 IEPs contained performance criteria as low as 70% or 80% for all objectives.

**Figure 15: Compliance Index Question 8.** *In your opinion, are/were the academic and/or functional goals set forth in the IEP measurable?*



(Based on Student Booklet questions 86, 88, and 90)

- Often, the strategies used to measure progress toward realizing objectives, if any, were not acceptable or properly stated. For example, many IEP teams used standardized grade level achievement tests. This is acceptable if students are making reasonable progress through grade level general education curricula. If students are not doing so, and many were not, alternative and more individualized measurement strategies are in order.
- While many IEPs contained a listing of standard, grade-level goals and objectives, they did not contain any evidence that the goals and objectives were evaluated for individual appropriateness or that progress toward reaching them was validated empirically.
- Some IEP teams established goals and objectives for some subjects, but not for others.
- Many IEP goals and objectives were not presented in measurable, quantifiable ways. Baseline or pre-instruction evaluative data were rarely, if ever, reported. Without such information, it is extremely difficult to verify progress or the lack thereof. Moreover, almost no evidence of skill accumulation or demonstration across school years was provided.
- Eight IEP teams did not report any annual goals whatsoever. This is unacceptable. Explanations for this and corrective actions are clearly in order.
- One IEP was only one page in length. No acceptable IEP can be but one page long. Professionals who produce such IEPs are in dire need of training, supervision and monitoring.

**Finding # 8: Participation in School-Sponsored Extracurricular, Non-Academic And Community Activities Was Unacceptable**

Each year, millions of students without disabilities are afforded opportunities to realize constructive and enjoyable social, educational, physical and other benefits from participating in a wide variety of school-sponsored extracurricular, non-academic and community activities

(Eriksson, Welander, & Granlund, 2007; Wagner, Cadwallader, Garza, & Cameto, 2004). Community-based instruction and work internships are examples (England & Marcinkowski, 2007). Students with disabilities should have the same opportunities. In addition, a basic purpose of schooling is to prepare students with disabilities to live, work and play in an integrated society (Eriksson, *et al.*, 2007).

An important component of adulthood is being able to enjoy and benefit from interacting with individuals with and without disabilities in a wide variety of environments and activities (Eriksson, *et al.*, 2007). The more individuals with disabilities interact with peers without disabilities, and vice versa, during school years, the better able, and thus more likely, they are to participate in recreation/leisure activities, work break and lunch times, etc. with adults without disabilities in post-school years (Brown, Shiraga, & Kessler, 2006; Westling, *et al.*, 2013). Thus, it is extremely important that students with disabilities be afforded frequent opportunities over long periods of time to participate in a wide variety of integrated extracurricular, non-academic and community activities. School officials are responsible for expending all reasonable efforts to arrange such opportunities and outcomes. Concomitantly, barriers to participating in a reasonable array of extracurricular, non-academic and community activities must be removed (Westling, *et al.*, 2013). In order to ensure that these opportunities are available to students with disabilities, the following, at a minimum, must take place:

- First, IEP team members must learn of the extracurricular, non-academic and community activities available to students without disabilities at or near the school the student with disabilities would attend if she/he did not have disabilities.
- Second, the array of opportunities at the home school and in the community should be communicated to the student with disabilities and his/her parents or legal guardians.
- Third, the SAS, accommodations, modifications and other extra supports the student might need in order to participate in a particular activity must be delineated and communicated to the student and her/his family members.
- Fourth, the student should be encouraged and assisted to participate in one or more of the available activities.
- Fifth, if the student chooses to participate in an extracurricular, non-academic or community activity, the district must provide the modifications, accommodations and

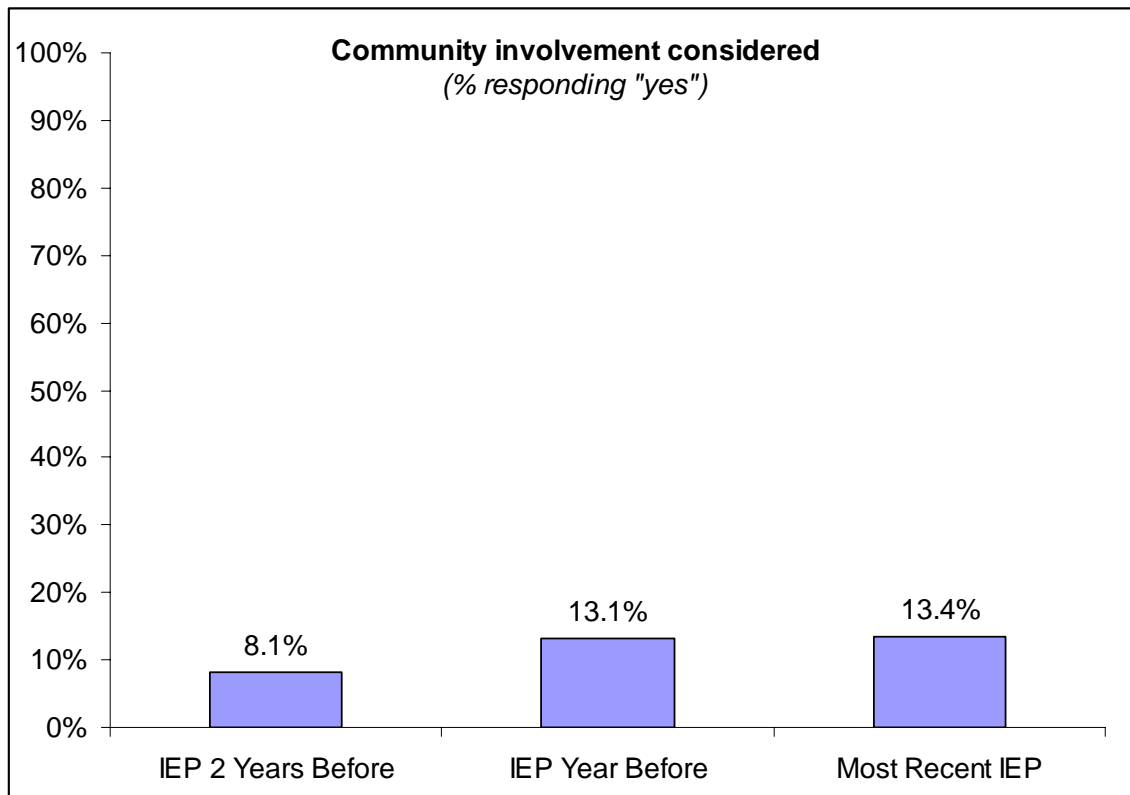
other extra supports needed for success therein. If the student attends an out-of-district placement, the district must also provide the transportation needed to participate in the activities.

- Sixth, participation must be evaluated continuously, and appropriate adjustments must be made as needed (The No Child Left Behind Act, 2001; Westling, *et al.*, 2013).

Based on the information provided in the IEPs examined, we note the following findings:

- Each year, districts typically compile listings of all the extracurricular, non-academic and community activities available to their students. Very little, if any, evidence that IEP team members were aware of such options available at the home schools of their students was provided. IEP team members should have presented these listings to the students and their families, and discussed in detail how involvement might be generated and sustained.
- There was very little, if any, evidence that IEP team members were aware of the individualized SAS, modifications, accommodations and other extra supports that could be, and are being, used to arrange for successful participation in extracurricular, non-academic and community options available at and near the home schools of their students. Many successful extracurricular modifications and accommodations are presented in professional and popular publications (Eriksson, *et al.*, 2007; Hill, 2014; Madden, 2013; Westling, *et al.*, 2013). At the very least, IEP team members could have presented these examples to their students and their families and discussed in detail how they might be provided in individualized ways.

**Figure 16: Compliance Index Question 9.** *Does the IEP set forth opportunities for involvement in the community (e.g., community-based instruction, internships, etc.) as part of the student's school program?*



(Based on Student Booklet questions 99, 100, and 101)

- Some IEP team members communicated that particular students were “encouraged” to participate in school-sponsored extracurricular, non-academic and community activities. However, details as to the nature and effectiveness of this “encouragement” were not provided.
- Some IEP team members communicated that particular students “will” or “could” participate in school-sponsored extracurricular, non-academic and community activities. However, no details were provided as to how the students would actually participate in such activities. Where details were provided, there was no indication that the necessary modifications and accommodations so critical for meaningful involvement were, in fact, provided.
- Some IEP team members communicated that the same accommodations reported for use in classrooms would be used for extracurricular, non-academic and community activities.

However, information as to why or if these accommodations were appropriate in both kinds of settings was not provided.

- Some students did not attend their home schools or schools in their home district. Thus, access to, or participation in school-sponsored extracurricular, non-academic and community activities was severely restricted or, in fact, prohibited.
- Some IEP teams reported that accommodations, modifications and other extra supports would be provided, as needed, in school-sponsored extracurricular, non-academic and community activities. However, whether or not specific SAS, accommodations, modifications and other extra supports were actually provided could not be determined. Many IEPs did not contain any information whatsoever about modifications and accommodations that were actually provided.
- Some IEP teams reported that participation in school-sponsored extracurricular and non-academic activities was the responsibility of parents/guardians to make the necessary arrangements. This is unacceptable and a violation of the law.
- Evaluative information about the success, effectiveness or enjoyment of individual student participation in extracurricular, non-academic and community activities was not provided in any of the IEPs.
- Few IEP teams reported the extent to which students with disabilities would participate with nondisabled peers in extracurricular, non-academic and community activities.
- Many IEP teams reported that there were no restrictions relevant to an individual student participating in extracurricular, non-academic and community activities and that many were able to do so. However, whether the students actually participated is not indicated, and little information as to if or how such participation might be arranged was reported.
- The school placements of some students precluded their involvement in extracurricular, nonacademic and community activities with peers who do not have disabilities, since transportation and other arrangements were not made to facilitate their participation.



- One IEP team reported that a student did not have any involvement with peers without disabilities, thereby suggesting awareness of the obligation to provide opportunities for such interactions. However, that team did not arrange for such opportunities.

**Finding # 9: Behavioral Interventions Were Often Inadequate**

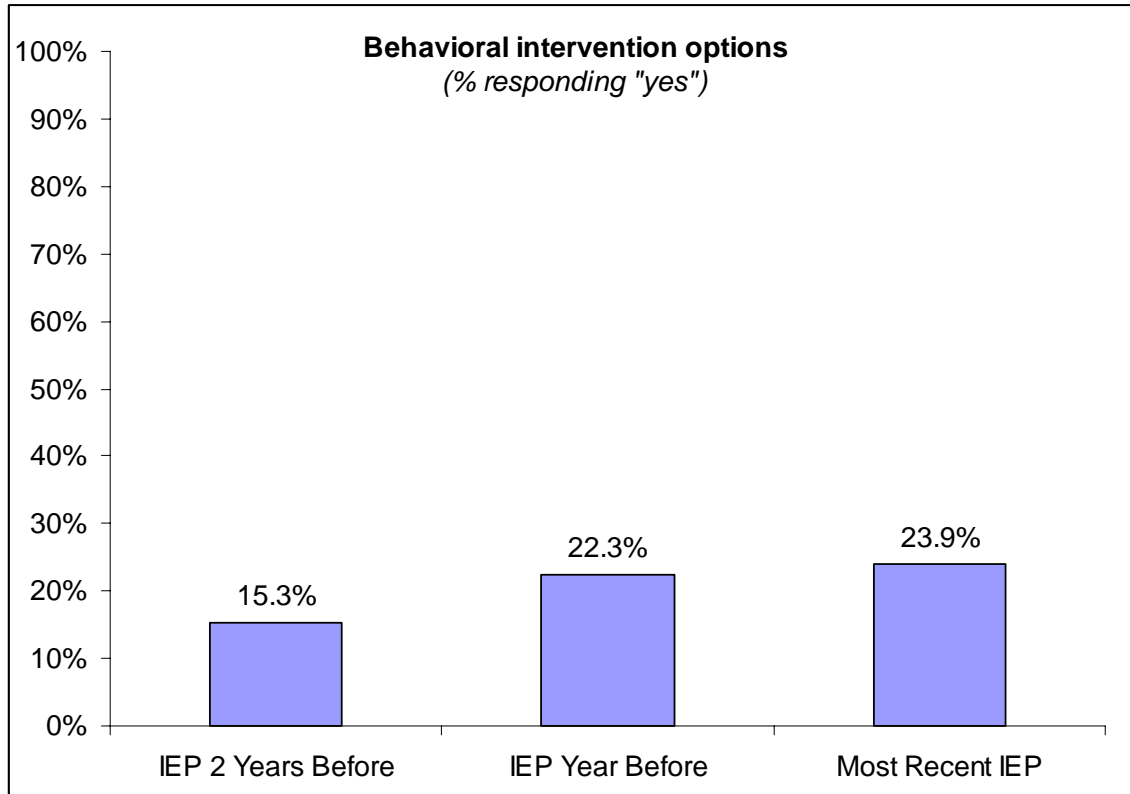
State and federal laws, reasonable judgments about what are “best educational practices” and the NJDOE model IEP development guidelines require that procedures relevant to professionally acceptable behavioral intervention plans be operative as follows:

- First, the problematic behaviors of concern must be described in ways that allow reasonable individuals to empirically validate their nature, including descriptions of frequency, rate, intensity, duration and situational and interval occurrence.
- Second, interventions that are designed to constructively address the problematic behaviors must be clearly communicated to all involved so they can be implemented consistently in accordance with agreed-upon protocols.
- Third, the effects of the interventions on the specific actions of concern must be evaluated empirically.
- Fourth, if the problematic behaviors do not improve, alternative intervention plans must be designed, implemented and evaluated (IDEA, 2004; McLeskey *et al.*, 2012; McLeskey *et al.*, 2014; Strain, Wilson, & Dunlap, 2011; Villa & Thousand, 2000; Wacker & Berg, 2002).

Based on the information provided in the IEPs examined, we note the following findings:

- Many IEP teams did not describe problematic behaviors in sufficient detail to allow for empirical verification and evaluation of the interventions, or a determination of whether the interventions were applied consistently across persons and settings. Evidence of professionally acceptable functional behavioral assessments was not discerned.

**Figure 17: Compliance Index Question 7. Does the IEP set forth student's behavioral interventions, if any?**



(Based on Student Booklet questions 74, 75, and 76)

- Comments regarding behavioral intervention plans were included in some IEPs, but many did not meet minimal professional standards. Some were very vague. Some IEPs included goals for problem behaviors observed, but did not include intervention plans. Some included reasonable intervention plans, but did not contain evaluation strategies or actual evaluations. It is relatively easy to design a behavioral intervention plan. It is much more of a professional challenge to secure valid evaluative information, make adjustments to the plan, etc.
- Several of the behavioral intervention plans reported appeared reasonable.

### **III. Secondary Findings of Disability Bias**

*(Submitted by the Center for Outcome Analysis)*

#### **1. Background**

The Advocates sought to determine if, and to what extent, certain disability classification labels were applied differentially to students according to their gender and ethnicity and whether inclusion practices differed by gender/ethnic group.

It is widely known and universally accepted that boys are more likely than girls to be inducted into special education. The ratio across dozens of disability prevalence studies is approximately 2/3 boys and 1/3 girls. It is also widely known and universally accepted that minority students are more likely than white or Caucasian or Western European students to be inducted into special education (Conroy, 2003; Conroy, Nerney, & Bowen, J., 1998; Fierros and Conroy, 2002; Losen and Orfield, 2002).

Past studies have also suggested that minority students are sometimes more likely to be assigned the most onerous and stigmatizing labels of mental retardation, multiple disability, emotional disturbance, and then, once so designated, to be even less likely to experience inclusive practices than their otherwise identical non-minority classmates. We set out to determine whether this is true in New Jersey, based on the State's own data.

Interest in discriminatory labeling practices in the disability field dates back to a 1972 study of labeling practices within the Latino and Anglo communities of California. From that time until the 1990s, a body of research grew in the special education arena, showing inequity in labeling and placement (Losen and Orfield, 2002). In the 1990's, an additional form of differential treatment was found that included both ethnicity and gender (Conroy, Nerney, & Bowen, J. (1998) Some of these findings were instrumental in the case of *P.J. v. Connecticut*, and were later published (Fierros and Conroy, 2002), Similar patterns of gender bias, combined with ethnic bias, were found in the case of *Gaskin v. Pennsylvania Department of Education* in the early 2000's (Conroy, 2003). This pattern was found again in the New Jersey special education data set, and is described here.

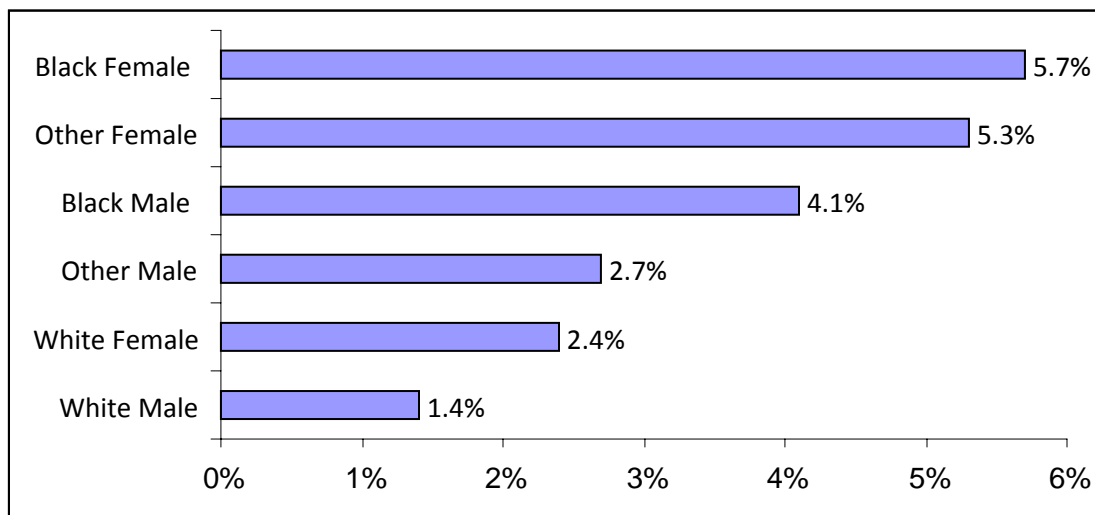
## 2. The Mental Retardation Label

It is abundantly clear that students of different genders and ethnic backgrounds who enter special education receive different disability labels based on their gender and ethnicity, with girls and children of color more likely to receive the MR label than boys and white children. See Table 2 and Figure 18 below, derived from the New Jersey special education 2009-2010 data sets.

**Table 2. Among Students in Special Education, is the Mental Retardation Disability Label Associated with Gender and/or Ethnicity?**

	Black Female	Other Female	Black Male	Other Male	White Female	White Male	All
MR Labels Only	733	113	1,038	129	735	855	3,603
All Labels	12,861	2,138	25,471	4,773	31,194	63,237	139,674
Proportion	5.7%	5.3%	4.1%	2.7%	2.4%	1.4%	2.6%

**Figure 18. Of the NJ Students Who Receive Labels, What Percentage are Labeled “MR”**



The table and the graph above make very clear the fact that Black Male students are more than 2.5 times more likely to receive the Mental Retardation label than White Male students (1.4% of White Males get that label, compared to 4.1% of Black Males). Black females are more than twice as likely to be labeled as Mentally Retarded compared to White Females (5.7% vs. 2.4%, respectively).

Moreover, the gender and race effect is equally obvious, with minority females, in general, more likely to be labeled Mentally Retarded than males. The most likely of all to be labeled Mentally Retarded is Black Females (at 5.7%, more than double the rate for White Females at 2.4%, and four times the rate for White Males at 1.4%).

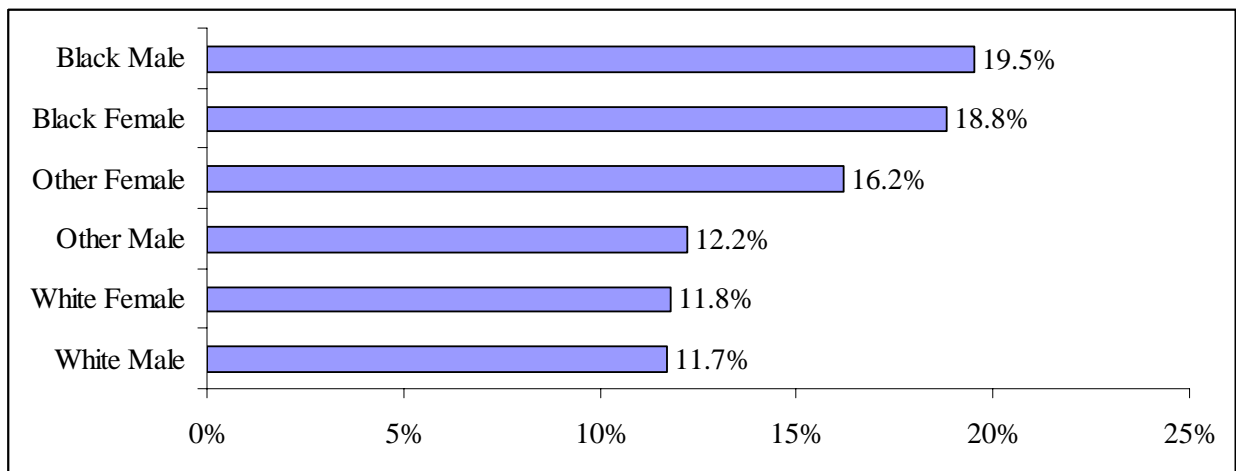
**3. The Combined Mental Retardation and Multiple Disability Labels**

Combining the “mental retardation” (or “MR”) label with the “multiple disability” (or “multi-handicapped”) label shows that the disparities persist even when the disabilities that are more likely to be biologically based are included (*See* Table 3 and Figure 19 below, derived from the New Jersey special education 2009-2010 data sets).

**Table 3. Among Students in Special Education, Are the Labels Mental Retardation Plus Multiple Disabilities Associated with Gender and/or Ethnicity?**

	Black Male	Black Female	Other Female	Other Male	White Female	White Male	All
MR & Multiple Disability Labels	4,977	2,423	347	583	3,686	7,380	19,396
All Labels	25,471	12,861	2,138	4,773	31,194	63,237	139,674
Proportion	19.5%	18.8%	16.2%	12.2%	11.8%	11.7%	13.9%

**Figure 19. Of the NJ Students Who Receive Labels, What Percentage Get Labeled as “MR” or “Multiple Disabilities”?**



These data indicate that 20% of the New Jersey students who are labeled as “mentally retarded” or with multiple disabilities are black males. In contrast, only 11.7% of labeled students are white males or males of other ethnicities. The same pattern is seen in terms of

labeled female students. Almost 19% of the labeled students are black females, while white females make up only 11.8% of this population.

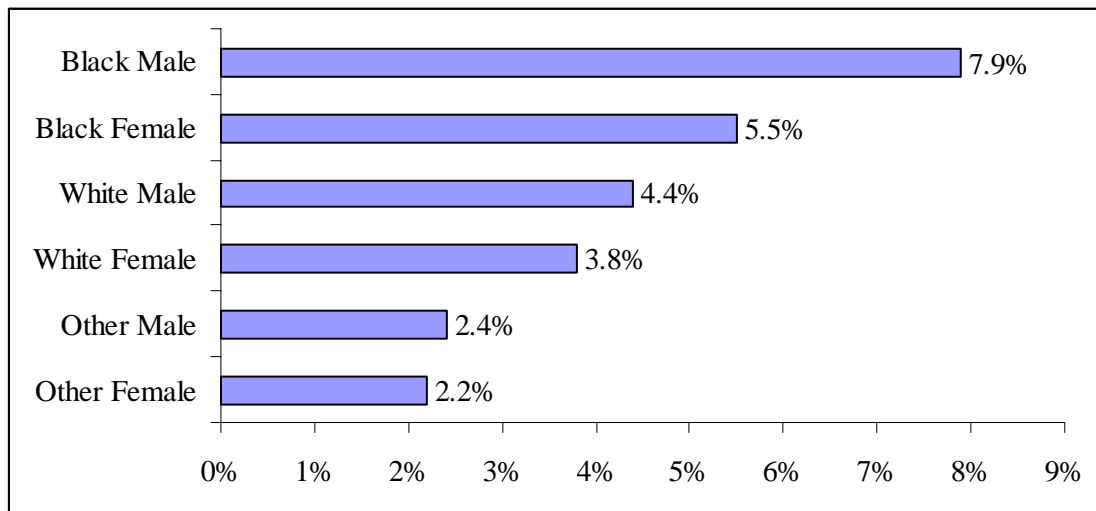
#### **4. The Emotional Disturbance Label**

As has been amply reported in past special education research over a 50-year period (Fierros & Conroy, 2002), Black students, and particularly Black males, are far more likely than others to receive the “emotional disturbance” label, along with other emotional and behavioral diagnostic labels. Extensive research has also shown that this label is a tool used to exclude, isolate, and/or expel Black students from a free appropriate public education – often for infractions that would not be judged in the same way for non-black students (Losen & Orfield, 2002). The New Jersey data in Table 4 and Figure 20 below, derived from the New Jersey special education 2009-2010 data sets, show this pattern very clearly, specifically gender and ethnic bias.

**Table 4. Distribution of NJ students receiving labels by ethnicity and gender**

	Black Male	Black Female	White Male	White Female	Other Male	Other Female	All
Emotional Disturbance	2,023	704	2,763	1,185	113	47	6,835
All Labels	25,471	12,861	63,237	31,194	4,773	2,138	139,674
Proportion	7.9%	5.5%	4.4%	3.8%	2.4%	2.2%	4.9%

**Figure 20. Of the NJ Students Who Receive Labels, What Percentage Are Labeled as “Emotionally Disturbed”?**



These data indicate that, of the New Jersey students who are “labeled,” black males are more likely to be labeled as “emotionally disturbed” than any other group. They are nearly twice as likely to be labeled in this way than either white females or males (7.9% versus 3.8% and 4.4%, respectively). Black female students also show a greater likelihood of being labeled as emotionally disturbed (5.5% of students labeled).

## **SUMMARY AND CONCLUSIONS**

For over 40 years, students with disabilities have had legal rights to individually appropriate special education and related services. Tragically, these rights were often not honored in New Jersey and far too many students with disabilities were not receiving individually appropriate education and related services in the least restrictive environments. New Jersey advocates, therefore, filed a complaint in federal district court in 2001 against the New Jersey Department of Education (NJDOE). A team of experts which included the authors of this report -- Lou Brown, Jim Conroy and Steve Devlin -- reviewed and assessed information gleaned from up to three IEPs for each of 147 randomly-selected students from 20 school districts, as well as other educational information made available by NJDOE. The experts made the following judgments and arrived at the following conclusions:

- Too many children with disabilities in New Jersey fail to receive a "free and appropriate public education" in the least restrictive / most integrated / inclusive environment. Specifically, too few children with disabilities attend the schools they would attend if they did not have disabilities, their home schools or those that are as close as possible to their homes. Too many children with disabilities are restricted to segregated schools, classrooms and classes.
- The movement of students with disabilities from segregated to more integrated schools classrooms and classes was rarely given professionally defensible consideration. As a result, very little movement from segregated to integrated placements was reported.
- When making placement decisions, the potential benefits of general and special education schools, classrooms and classes were not compared in professionally acceptable ways as required. In addition, the actual, rather than the hypothetical, beneficial and/or harmful effects of placements in segregated schools, classrooms and classes and in general education schools classrooms and classes were not determined. Specifically, too many Individualized Educational Programs failed to contain evidence that students with disabilities were realizing meaningful educational benefits. In fact, in too many instances, IEPs contained the same instructional objectives across three years.
- Too many children were denied access to, or otherwise did not experience, a wide array of proven, effective, much needed and individually appropriate supplemental aids and services, modifications and accommodations. Indeed, it is doubtful that many professionals were even aware of the supplementary aides, services, modifications and accommodations that have been and are being used effectively in general education settings and activities in other places.
- Academic and functional objectives were not measured in professionally responsible ways, and in too many instances, were not measured at all.



- The kinds and amounts of participation in school-sponsored extracurricular, non-academic and community activities were unacceptable. Children with disabilities do not participate in school programs to the same extent as, and alongside, their peers who do not have disabilities.
- Behavioral interventions were too often inadequate. That is, they did not meet minimally acceptable professional standards.

The judgment of the authors is that the findings regarding the randomly selected students represent the experiences of the population of students who function with IEPs in New Jersey, within a 5 % margin of error. It should be noted and emphasized that the IEP teams involved here are responsible for many children. It should also be noted that if a student is placed in a segregated school, classroom or class, she/he is being provided services quite similar to other students in those settings. How long can this go on? Who is responsible for this terrible state of affairs? How can we tolerate this waste of scarce and valuable taxpayer dollars? How can we inform parents about the inadequate services being provided their children? What can we do to improve the conditions?

It is the judgment of the authors that at least the following must happen forthwith:

## **NJDOE**

NJDOE must improve its monitoring activities to comply with federal and state education laws. NJDOE must develop an initiative to update, clarify and widely disseminate concrete technical assistance and step-by-step guidelines for implementing the LRE decision-making process, for students with a wide range of disabilities, which emphasize actual knowledge of classroom practice and active problem-solving, consistent with the law and best practices, by:

- Updating the NJDOE LRE Memo, [www.spannj.org/njiccp\\_resourceguide/resourceguide\\_schoolagedchildren.htm](http://www.spannj.org/njiccp_resourceguide/resourceguide_schoolagedchildren.htm), with concrete steps that districts are expected to follow in ensuring serious consideration of placement of children with disabilities in general education classrooms.
- Widely disseminating the updated LRE Memo online and in print to district administrators, professional associations, parents, all departments within the NJDOE, the New Jersey Office of Administrative Law, and any other agencies and organizations

involved with education and children, e.g., the New Jersey Department of Children and Families, Special Child Health and Early Intervention Services, etc.;

- Updating the State's Model IEP in light of the updated LRE Memo, and working with district directors of special education to ensure that their district's IEP software aligns with the updated Model IEP;
- Developing New Jersey LRE guidance with guidelines for LRE decision-making (hereafter referred to as "LRE Guidelines") that district administrators can distribute to staff and use as a basis for training and implementation;
- Clarifying these LRE Guidelines with district directors of special education at county directors meetings, workshops and other in-person opportunities;
- Offering interactive trainings at the NJDOE Learning Resource Centers to CST members, teachers and parents on their role in the implementation of the LRE Guidelines;
- Working with the CST professional associations to disseminate information about the LRE Guidelines from their websites, through workshops at their conferences, and other means;
- Collaborating with deans at New Jersey universities, training school psychologists, learning disabilities teacher consultants and social workers on ways to update their preparation, in line with the LRE Guidelines and with a focus on problem-solving and supporting educational outcomes;
- Reviewing regulations with a focus on ensuring a positive, active LRE decision-making process;
- Reviewing a significant number of randomly selected IEPs across districts within five years of the issuance of the LRE Memo to determine progress in LRE decision-making and implementation.

## **School Districts**

School districts must learn and live by the operative special education laws, must constantly move their students to more integrated schools, classrooms and classes and must upgrade the instructional skills, attitudes and values of all who function with, and on behalf of, students with disabilities in their charge.

School districts must send a consistent, ongoing message, by multiple means, to all staff and the greater school community, that inclusion benefits all children and that all staff members are responsible for supporting inclusive education through activities such as:

- Reviewing present district practices and taking steps to ensure the district is: (1) giving serious consideration to general education classrooms for every child with a disability at every IEP meeting where placement is considered; (2) putting a transition

(to LRE) plan in place for any student in separate settings, with steps to prepare for their placement in the LRE;

- Assessing CST knowledge of the LRE decision-making process and checking to see that decisions are being made based upon actual observations and problem-solving, rather than upon assumptions about a child's present placement, disability type or severity of disability;
- Assessing the knowledge of general and special education teachers of the LRE decision-making process and inclusive practices through surveys and observations, and ensuring in-service training and coaching are provided to address gaps in knowledge and practice;
- Clarifying the roles and responsibilities of special and general education teachers in the collaborative models being implemented in the district, e.g., co-teaching, collaborative consultation, etc. for all staff (general and special educators and administrators) and parents;
- Giving parents the opportunities to participate in, and give input into, district inclusion initiatives and training;
- Monitoring IEPs on an ongoing basis to ensure the LRE Guidelines are being followed;
- Reviewing and updated the district's IEP software, as necessary, to support the LRE decision-making process;
- Offering workshops to parents about what inclusion is all about, the inclusive practices that support it and how parents can work with the district to support their children in general education settings.

### **NJDOE and School Districts**

Gaps in essential information and skills must be addressed at both the state and district level as follows:

- Providing training for CSTs in areas such as:
- Developing and assisting with implementing standards-based IEP goals;
- Providing tips for making classroom observations which result in useful information for problem-solving the supports and details of inclusion for an individual child;

- Identifying, using and explaining to teachers the results of skill-based assessments to assist them in helping a child learn within the context of classroom activities and instruction;
- Avoiding unacceptable reasons for denying placement within the general education classroom, e.g., type or severity of disability, lack of training, fact that the student cannot reach the curricular standards of the rest of the class, etc.;
- Creating a plan in the IEP, with target dates, to transition an individual student from more restrictive (separate school/classrooms) to less restrictive settings (neighborhood school/general education classrooms);
- Establishing inclusive classroom practices (i.e., scaffolding, differentiation, flexible grouping, classwide adaptations, universal design for learning, positive behavior supports, etc.) which are related to decisions on individual student supports;
- Understanding the difference between accommodations and modifications and when each is used;
- Planning the details of inclusion for students with significant disabilities, including students with intellectual disabilities;
- Determining when a functional behavioral assessment (FBA) is needed and how to perform an FBA, creating a behavioral intervention plan (BIP) using the FBA, and supporting teachers in implementing the BIP;
- Understanding the effects of different disabilities on task engagement in typical general education classroom instructional activities (e.g., lectures, group activities, reading-based activities, etc.) and being able to develop possible strategies and tips for communicating this information to teachers.
- Providing training for teachers on inclusive practices (e.g., collaborative models of support, scaffolding, differentiation, flexible grouping, classwide adaptations, universal design for learning, positive behavior supports, etc.) and their role in the LRE decision making process;
- Providing training/information for administrators on how federal and state initiatives (e.g., teacher evaluation systems, student growth outcomes (SGOs) , implementation of the Common Core Curriculum, Response to Intervention/Multi-Tiered Systems of Support, etc.) relate to inclusive education;
- Providing training for parents on the benefits of inclusive education, the LRE Guidelines and their important role for the IEP team, and home/school collaboration;

## **USDOE**

USDOE must make sure that New Jersey is in substantive and procedural compliance with special education laws.

### **Colleges and universities**

Colleges and universities in New Jersey must use a systematic and coordinated approach to explicitly address the preparation of general education teachers, special education teachers and related services personnel to support students with disabilities in multi-ability classrooms. Teachers and related services personnel must know how to provide, and desire to provide, professionally responsible educational and related services that include currently acknowledged evidence-based and research-based practices in inclusive settings. This is especially true in light of the mandate to provide students with disabilities with access to the general education curriculum and the emergence of the Response to Intervention/Multi-tiered Systems of Support (RTI/MTSS) movement. Colleges and universities must:

- Establish strong school-university partnerships to provide pre-service students with hands-on experience and guided practice in inclusive practices
- Work toward creating a merged program, i.e., where all students get both a general and special education degree and have a completely unified curriculum (e.g., the education program at Syracuse University)
- Require field experience in collaboration
- Provide Special Educators training in:
  - Specific problems that students with disabilities may experience during particular instructional activities and strategies to ensure access to learning
  - Standard's based IEP goals and supporting student's progress in these goals
  - Technology
  - The LRE decision making process and their role at the IEP meeting
  - The IEP and the range of possible supplementary supports and services
  - Adapting and modifying materials
  - Data-based decision making
- Provide General Educators training in:
  - Their chosen content area and how to teach it
  - Assessment (pre-assessment, formative assessment, summative assessment) and its relationship to differentiation

- Planning and presenting differentiated units/lessons based upon common core curriculum objectives
- Grouping strategies
- Creating and implementing a classroom management plan
- Use of classroom technology such as a white board to enhance instruction
- Provide both General and Special Educators training in:
  - Collaborating and problem-solving with colleagues
  - Research to determine evidence-based practices
  - Scaffolding instruction
  - Holding positive expectations for all students
  - Implementing the concepts of universal design for learning (UDL) and classwide adaptations
  - Positive behavior supports
  - Roles and responsibilities in collaborative models, e.g. co-teaching and consultation
- Provide Related Services Professionals training in:
  - Addressing related services goals within the general education classroom and other settings with typical peers, rather than pulling students out of core curriculum instruction
  - Using evidence-based practices
  - Collaborating with related services professionals in other areas to create unified goals
  - Collaborating and problem solving with teachers

## **Legislators**

Federal and state legislators must hold school districts accountable for ensuring that the outcomes of students with disabilities improve over time

## **Parents**

Parents must learn about, and advocate for, the basics of quality inclusive educational experiences that their children need and deserve. Parents must seek out accurate information about inclusion through workshops, conferences, online forums, webinars, and from other well-informed parents. Topics to explore include the following:

- Research on the benefits of inclusive education

- Sections of the state special education code which support inclusive education
- Purpose and organization of the IEP
- The meaning of “standards-based goals”
- Steps that need to be taken during the IEP meeting to ensure serious consideration of the general education classroom and plan the details of inclusion for the child, i.e., the LRE decision-making process
- How to respond to unacceptable justifications for exclusion, e.g., that the student is “not ready” for inclusion; that the student cannot reach the same standards as the rest of the class; that there is no more space in the “inclusion class;” that, since the child is doing well in his/her present placement, he/she should not be moved; that related services cannot be provided in the general education classroom; etc.
- Steps in problem-solving the appropriate type and level of supports and the downside of providing too much or unnecessary supports
- Effective ongoing communication and problem-solving with the general education classroom teacher and special educator
- Basics about inclusive practices such as collaboration, differentiation, positive behavior supports and RTI

If parents live in one of the districts targeted by the *DRNJ v. NJDOE* inclusion lawsuit, they should:

- Share information about the *DRNJ v. NJDOE* settlement with other parents and professionals.
- Attend school board meetings and SEPAG meetings and ask questions about implementation of the *DRNJ v. NJDOE* settlement.
- Participate in focus groups during state monitoring, and/or find other ways to share information with the *DRNJ v. NJDOE* monitors.
- Review the district’s Training and Technical Assistance Plan and discuss its progress with the SEPAG, district administrators and the school board.
- Informally monitor implementation of the *DRNJ v. NJDOE* settlement; share concerns with the *DRNJ v. NJDOE* Stakeholder Committee and the *DRNJ v. NJDOE* Plaintiffs, as well as with the local board of education, superintendent, director of special services and other administrators and educators.

If parents live in a district not targeted by the *DRNJ v. NJDOE* inclusion lawsuit, they should:

- Share information about the *DRNJ v. NJDOE* settlement with other parents and professionals.
- Review NJDOE’s LRE Needs Assessment and monitoring tools and share them with the school board, superintendent, principal, SEPAG and others, for possible use in the district.
- Monitor the district’s LRE data and activities; share concerns with the *DRNJ v. NJDOE* Stakeholder Committee and the *DRNJ v. NJDOE* Plaintiffs, as well as with the local board of education, superintendent, director of special services and other administrators and educators.

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## **APPENDICES**

Appendix A. Validity of the Sample of Students in New Jersey’s Special Education System

Appendix B. List of Reports Submitted by the Center for Outcome Analysis: 2010 to 2014

Appendix C. New Jersey Model IEP

Appendix D. Student Booklet for IEP Review

Appendix E. IEP Compliance Assessment (11-Question Checklist)

Appendix F. Summary of 11-Question IEP Compliance Index

Appendix G. Student Booklet Questions Related To “Most Recent” IEP

Appendix H. Annotated IEP Checklist with Corresponding IDEA Regulations

Appendix I. New Jersey Codes for Special Education Placement – An Index of Overall Level of Inclusion with Nondisabled Students

## **Appendix A. Validity of the Sample of Students in New Jersey’s Special Education System**

*(Submitted by the Center for Outcome Analysis)*

### ***1. Purpose***

1.1 Our goal was to select a fair, representative, unbiased sample of the students in special education in New Jersey.

1.2 This sample needed to be designed in adherence to accepted scientific, statistical, and probability standards, and hence be able to withstand critical review.

1.3 At the same time, the sample needed to be efficient – it could not demand travel by experts to a high number of different locations or districts.

1.4 From each student in this sample of students, the field work’s purpose was to collect very specific information about each student’s status and provision of the Individualized Education Program (IEP), the Least Restrictive Environment (LRE), Free and Appropriate Public Education (FAPE), Related Services, Teacher and District practices, and Family Viewpoint.

1.5 The central objective of this sample and the field data collection by experts was to find out, in concrete terms, “What happens to students and families on the ground?” We wanted to illuminate for the public what the large-scale, statewide statistics really mean in the lives of the average student and family – and why all the ostensible isolation and segregation continues to take place in New Jersey schools. Where does the “system” break down on the ground? Why does it continue? What might change it for the better?

### ***2. Sampling Background***

2.1 A “Population” is every item or person of interest. It is also often called a “Universe” or “Sampling Universe” or “Sampling Frame.” A “Sample” is a smaller number of items or people selected from that Population. This is usually done simply because we need to know things about the Population, but cannot afford the time or resources to get information from every member of the Population.

2.2 The best sample in virtually any large scale study is the Simple Random Sample, or SRS. It is defined by this simple statement: “Each item (or person) in the Population has an equal

probability of being selected for the Sample.” With large Samples, the Simple Random Sample will come out with all the same characteristics as the Population – same gender split, same age distribution, same ethnic proportions, and so on.

2.3. However, a Simple Random Sample would usually require data collection from items or people in every geographic unit occupied by the entire Population – clearly not feasible for most studies of any kind.

2.4 Political pollsters used the science of survey sampling long ago to solve this dilemma. When pollsters wanted to collect surveys, face to face and house to house, to represent an entire state, survey scientists suggested the "two-stage" or "multi-stage" sampling method<sup>10</sup>. This method has been employed for more than 50 years with demonstrable accuracy, compared to other methods. Political surveys are often wrong and just as often misleading – but it has not often been because of inaccurate sampling.

2.5 The two-stage sampling method works as follows.

STAGE 1: Twenty school districts are selected with probability proportional to size. Larger districts (those with more students) are more likely to be selected at this stage. This tends to over-represent the larger districts.

STAGE 2: Within each selected district, equal numbers of students are selected. This tends to under-represent the larger districts.

SAMPLE OUTCOME: The over- and under-representation effects tend to balance out, and we are left with an unbiased sample that is a good approximation of simple random.

2.6 With any sample, there is a tradeoff between precision of the estimates one can expect from that sample, and the size of the sample – and therefore the effort and cost of collecting information from the sample<sup>11</sup>.

2.7 In the present case, each student in the sample needed to be accorded intensive expert scrutiny, including records, classroom situation, travel requirements, placement, IEP, related services, and local policies – as well as family experiences and opinions wherever feasible. Because of the intensity of the necessary effort in this discovery process, the sample to be drawn needed to be of reasonable size – small enough to make individual student visits and conclusions

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<sup>10</sup> Cochran, W. G. (1977) *Sampling Techniques*. New York, John Wiley & Sons.

<sup>11</sup> Kish, L. (1965), *Survey Sampling*, New York: John Wiley & Sons

possible, while still maintaining an acceptable "margin of error" – preferably not to exceed plus or minus 10%.

2.8 The accuracy of a Sample is sometimes described as the "margin of error" – how far off could we be from the truth, if we take a Sample of this kind? The same concept is often called a "confidence interval." Both are about "how confident" we can be about the accuracy of what we learn from a Sample. How "close" is a sample estimate likely to be to the true Population figure?

2.9 The accuracy of a Sample depends almost not at all on the proportion of Sample to Population – such as the notion of taking a "10% sample." That is a deep misunderstanding. Although intuitively sensible, it is very misleading.

2.10 If a 10% sample were needed to represent a Population, how many phones would have to be answered in the United States for any national survey? The patently absurd answer would be 30 million. This illustrates the flaw in "percentage thinking" about Samples.

2.11 In sampling mathematics, the accuracy of a Sample depends almost entirely upon how many items (or people) are drawn in the Sample.

2.12 In very rough terms, no matter the size of the Population, a Simple Random Sample of 400 will yield a Margin of Error of roughly plus or minus 5%.

2.13 In rough terms, a sample of 100 gives a Margin of Error of about plus or minus 10%. A sample of 200 is linked to a Margin of Error of 7%.

2.14 Counterintuitive though it may be, this margin of error does not change with extremely large populations which is why national samples used in political polling can be based on 1,000 people. Drawn in an appropriate method, in order to get representative results for a national population of 100 million it is only necessary to sample 1,000 people. Sampling 10,000 or 100,000 people would have the same 5% margin of error. In other words, the margin of error decreases until a threshold of 1,000 people is reached. After that point the error levels off at 5%.

### ***3. The Student Data and Its Transmission to the Advocates***

3.1 New Jersey is required by the Federal government to collect individual data for every student in special education every year.



3.2 New Jersey advocates<sup>12</sup> (hereinafter “the Advocates”) requested direct access to that data set, appropriately stripped of all identifiers, so that its experts could examine patterns of variation in disability, inclusion, and placement, including gender and ethnic effects. Many of these can only be examined with the full individual data – not at all from summary tables. In other words, there are times when it is necessary to look beyond the aggregated numbers and look at the experience of individuals. Those details can reveal and explain a great deal and allows more complete understanding of the data.

3.3 The data were obtained via a protracted process of negotiation between the Advocates and the New Jersey Department of Education (“DOE”). The final data file was redacted. In addition, DOE contacted all special education families and offered them the option of removing themselves from the data set that would be provided to the Advocates. The original data file contained 212,549 students. From this, 19,074 were removed at the families’ requests, leaving 193,475 in the working data set. This was the “Universe” of students from which a sample could potentially be drawn.

3.4 The Advocates determined that the goal was not to remediate the situations of students who received the classification label “Eligible for Speech-Language Services” – which was coded as a “17” in the data file. There were 20,189 such students, and COA removed them from the working data file. This left 173, 286 students in our Population, from which it was necessary to draw a valid, fair, unbiased, and representative.

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<sup>12</sup> The New Jersey advocates involved in the efforts to ensure greater inclusion of students with disabilities in New Jersey included the ARC of New Jersey, Disability Rights New Jersey, the Education Law Center, the Statewide Parent Advocacy Network, as well as the law firms of Freeman Carolla Reisman & Gran LLC, Lowenstein Sandler, Loughlin & Latimer, and the Law Offices of Todd Wilson.

3.5 This is a summary of the numbers involved:

**Table A-1: Summary of Students within New Jersey Special Education Population**

By calculation, the Original data file contained:	212,549
Deleted students	19,074
Data file transmitted to plaintiffs	193,475
Number labeled "Eligible for Speech-Language Services"	20,189
Sampling Universe without "Eligible for Speech-Language Services"	173,286

3.6 The data file was transmitted as a simple file in the common format for data exchange called a Comma Separated Value file, often called a CSV file. A CSV file is easily readable into most spreadsheet, database, and statistical software.

3.7 The data file became available to the Advocates on March 16, 2010, and reached COA on April 21, after certain technical questions and problems were resolved.

3.8 The data were read into the Statistical Package for the Social Sciences<sup>13</sup>, or SPSS.

3.9 The data set consisted of one line of information for each of the 193,475 students in special education in New Jersey in the most recent school year -- the 2009-2010 school year.

3.10 DOE also provided a separate file in Microsoft Excel which contained the number of students in each school (with each school represented by a numeric code) whose families had declined to be included in the investigation. The records of the students whose families declined inclusion in the investigation had been removed from the data file provided to the Advocates.

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<sup>13</sup> Nie, N. H., Hull, C., Jenkins, J., Steinbrenner, K., & Bent, D. (1975), *SPSS: Statistical Package for the Social Sciences*. 2nd ed. New York: McGraw-Hill.

#### ***4. Sample Design***

4.1 The sample was designed and drawn by James W. Conroy, Ph.D., Quantitative Expert of COA, at the request of the Advocates.

4.2 The sample was designed to select a number of school districts small enough to permit investigations of student situations – without necessitating interacting with the more than 600 school districts in New Jersey. With the two-stage method, widely used and well documented since the original works on Sampling Theory appeared, the districts were selected at random, but with probability proportional to their size (number of students).

4.3 There were 20 districts thus selected in our sample, and 20 student records were then selected purely at random from each of those districts, for a sample size of 400. A sample of this size is associated with a “margin of error” of plus or minus 5%. We knew, however, that in the real world, many of those students might be difficult to find, might have moved, might have incomplete records, and so forth. Hence our planning included more students that we would actually need to make strong claims of statistical validity from our sample of students to all students in special education in New Jersey. For that, the ultimately completed number of students in the sample with complete quantitative and qualitative data would need to be 100 to 200.

4.4 It was decided to sample by “DistrictCodeResident.” The intention was to obtain a representative sample of students, wherever they live, and perform field work to find out what happened to them all. (For example, how many had IEPs that the families were in agreement with? How many were sent out of district? How many were put into separate classes/schools in district? How many and what kinds were fully included?)

#### ***5. Sample Draw***

5.1 In order to draw a representative sample of students from the 20 sampled school districts the expert preference was for a random start, because it would include the largest district, without which the sample would be continually criticized.

5.2 COA used the statistical software to assign a random number to each student in the data set.<sup>14</sup> Then the file with 172,880 students was reduced by selecting only the students from the 20 districts. There were 20,327 students in the 20 districts, as follows:

**Table A-2: Students in Special Education in the 20 Sample Districts**

<b>District Name</b>	<b>District Code</b>	<b>Number of Students in Sampling Universe</b>
Berlin Borough	330	123
Brick Twp	530	1,868
Camden City	680	2,771
Clifton	900	1,310
Evesham Twp	1420	1,116
Galloway Twp	1690	768
Gloucester Twp	1780	1,464
Hopewell Valley Regional	2280	418
Lindenwold Borough	2670	352
Long Beach Island	2760	61
Marlboro Twp	3030	629
Middlesex Borough	3140	223
Midland Park Borough	3170	165
Montclair	3310	886
Newark	3570	5,221
Rahway	4290	530
Roselle Borough	4540	459
South Brunswick Twp	4860	968
South River	4920	287
Teaneck Twp	5150	708
Total		20,327

<sup>14</sup> SPSS function UNIFORM was used to generate random numbers from 0 to 1 for each student.

5.3 The sample draw was as follows:

**Table A-3: Sampling Draw**

<b>District Name (Sorted by number of students)</b>	<b>District Code</b>	<b>Number of Students</b>	<b>Sampling Interval Cumulative (Sampling Interval = 8,642)</b>
Newark	3570	5,221	2,266
Camden City	680	2,771	10,908
Brick Twp	530	1,868	19,550
Gloucester Twp	1780	1,464	28,192
Clifton	900	1,310	36,834
Evesham Twp	1420	1,116	45,476
South Brunswick Twp	4860	968	54,118
Montclair	3310	886	62,760
Galloway Twp	1690	768	71,402
Teaneck Twp	5150	708	80,044
Marlboro Twp	3030	629	88,686
Rahway	4290	530	97,328
Roselle Borough	4540	459	105,970
Hopewell Valley Regional	2280	418	114,612
Lindenwold Borough	2670	352	123,254
South River	4920	287	131,896
Middlesex Borough	3140	223	140,538
Midland Park Borough	3170	165	149,180
Berlin Borough	330	123	157,822
Long Beach Island	2760	61	166,464

5.4 The statistical package was then used to write 20 new Excel files, each with all the students from one of the 20 sampled districts. Those 20 files were combined into one large Excel Workbook for convenience. This Workbook contained 20 Worksheets, in the terminology of Excel, one for each sampled district.

5.5 Each district's students were sorted by the random number that had been assigned, and we then identified the 20 students with the first random numbers. Because the numbers were random, the 20 students in each district constituted a Simple Random Sample with no biases whatsoever. Every student had an exactly equal probability of being selected.

5.6 This sorted and demarcated Excel file, then, became the source document for the selected sample of 400 students to be transmitted to DOE as the first step in obtaining the students' files.

5.7 Because DOE chose to deliver the original student data without any kind of individual student code, ID number, or identifier of any sort, it was necessary for DOE to figure out who these 400 students were and communicate this to the Advocates.<sup>15</sup>

## ***6. Disposition of the Sample***

6.1 This section shows the results of the sampling process. Results in this case really mean, first, "How good is the sample of 400 students from 20 Districts that we drew?" Secondly, "Because we only received information for, and analyze IEPs of, 142 students, how well did this subsample work?"

6.2 The Universe of students that we are dealing with is 172,880. After discussion with the Advocates, 20,070 students who were in the database with the label "Eligible for Speech/Language Services" were removed.

6.3 Once the sample and the subsample were complete, COA went back to the entire population and asked "How well did our sample and subsample represent the population of students in special education?" The ways in which to answer this question are limited, however, to the contents of the State's database. It contained elementary demographics – age, gender, and ethnicity – and these were sufficient for testing how representative the Sample was. COA was able to go one step further and test disability labels in Population and Sample, which added another level of strength to our testing of the Sample's adequacy.

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<sup>15</sup> Originally, the Advocates' plan called for an observation of each student in the sample, plus an interview of each student's family, primary teacher, and principal, and each of the 20 district's superintendents. To that end, Brown, with the survey design assistance of COA, produced six interview/survey instruments. This plan was not approved by the court system, and the Advocates were thus forced to rely entirely upon a review of student documents, and the plan described herein was undertaken (*See* Appendix D for final Student Booklet form)

## 7. Sample Representativeness with Regard to Age

7.1 Table A-4 shows the comparisons of the sample and subsample to the population on the age dimension:

**Table A-4: Age (Year of Birth) Comparisons for Population, Sample, and Subsample**

	Number Valid in Population of 172,880	Number Valid in Sample of 400	Average (Mean) Year of Birth for Population	Average (Mean) Year of Birth for Sample of 400	Test of Significant Difference by Student's t-test for Groups, 2-Tailed
<b>1. Entire Population of 172,880 Compared to Sample of 400</b>	172,480	400	1996.93	1996.82	p=.577 Not Significant
	Number Valid in Subsample of 258 out of 400	Number Valid in IEP Subsample of 142 out of 400	Average (Mean) Year of Birth for Subsample of 258 out of 400	Average (Mean) Year of Birth for IEP Subsample of 142 out of 400	Test of Significant Difference by Student's t-test for Groups, 2-Tailed
<b>2. Sample of 400 Compared to Subsample of 142</b>	258	142	1996.66	1997.10	p=.269 Not Significant

7.2 The table's data show that the age distribution of the students in the population was extremely well represented in the sample and the subsample.

**8. Sample Representativeness with Regard to Gender**

8.1 The sample’s gender composition represented females well, but slightly under-represented males, as shown in Table A-5:

**Table A-5: Gender Comparisons for Population, Sample and Subsample**

	<b>Number Valid in Population of 172,880</b>	<b>Number Valid in Sample of 400</b>	<b>Percent Male for Population</b>	<b>Percent Male in Sample of 400</b>	<b>Test of Significant Difference by Student’s t-test for Groups, 2-Tailed</b>
<b>1. Entire Population of 172,880 Compared to Sample of 400</b>	172,480	400	66.7%	61.0%	p=.015 Marginally Significant
	<b>Number Valid in Subsample of 258 out of 400</b>	<b>Number Valid in IEP Subsample of 142 out of 400</b>	<b>Percent Male for Subsample of 258 out of 400</b>	<b>Percent Male for IEP Subsample of 142 out of 400</b>	<b>Test of Significant Difference by Student’s t-test for Groups, 2-Tailed</b>
<b>2. Sample of 400 Compared to Subsample of 142</b>	258	142	63.2%	57.0%	p=.229 Not Significant

8.2 The proper interpretations of these results are:

(a) The sample of 400 that was intended to be perfectly representative of the entire population of students in special education, less those in language classes, turned out to have fewer males than it should have.

(b) The subsample of 142 IEPs mirrored the sample of 400, meaning that it too had fewer males than it should have.

8.3 The differences were not large – on the order of 5% – but this nonetheless requires that we be cautious in interpreting any gender-related findings from our samples. This “caution” cannot be perfectly quantified, but a reasonable rule of thumb would be that we must have less



confidence in any gender-related findings than in other areas – for example, instead of a plus or minus 10% margin of error, we might cautiously use plus or minus 20%.

8.4 However, as the expert analysis does not focus on gender differences, this sample discrepancy does not, by any means, invalidate the overall sample. The other evidence indicates that our extremely efficient and cost-effective sampling approach was successful.

**9. Sample Representativeness with Regard to Ethnicity**

9.1 Table A-6 shows that the ethnicities and diversity of the population of special education students were well represented by our sample and subsample:

**Table A-6: Ethnicity Comparisons for Population, Sample and Subsample**

	Number Valid in Population of 172,880	Number Valid in Sample of 400	Percent Caucasian in Population	Percent Caucasian in Sample of 400	Test of Significant Difference by Chi-Square, 2-Sided
<b>1. Entire Population of 172,880 Compared to Sample of 400</b>	138,987	343	67.6%	63.8%	p=.328 Not Significant
	Number Valid in Subsample of 258 out of 400	Number Valid in IEP Subsample of 142 out of 400	Percent Caucasian for Subsample of 258 out of 400	Percent Caucasian for IEP Subsample of 142 out of 400	Test of Significant Difference by Chi-Square, 2-Sided
<b>2. Sample of 400 Compared to Subsample of 142</b>	220	123	68.6%	55.3%	p=.056 Not Significant

9.2 Table A-6 confirms that the 400 students selected in our statewide two-stage sample reflected the ethnic makeup of the population well, with no significant difference between population and sample in the distribution of five ethnic groups: Caucasian/White, African-American/Black, Asian-American, American Indian, and Pacific Islander. Notably, the New Jersey database does not count Hispanic, Latino, or other Spanish-speaking heritage groups as a separate ethnic category.

9.3 In turn, the subsample of 142 for whom we obtained and analyzed IEPs was not statistically different from the sample of 400. It did approach significance, however, so some may be tempted to speculate. The proper scientific position is that a difference above the probability level of .05 (one in twenty) is considered “not significant,” and, barring other evidence, is to be taken as evidence of equivalence of the two groups. Here, the difference, at .056, was indeed above .05, but not by great magnitude.

**10. Sample Representativeness with Regard to Special Education Classification (Disability Label)**

10.1 Table A-7 shows the distribution of disability labels in the data originally provided:

**Table A-7: Population Distribution of Special Education Classifications**

1 = 'Auditorily Impaired'	1,325
2 = 'Autistic'	10,072
3 = 'Cognitively Impaired – Mild Cognitive Impairment'	3,625
4 = 'Cognitively Impaired – Moderate Cognitive Impairment'	1,172
5 = 'Cognitively Impaired – Severe Cognitive Impairment'	174
6 = 'Communication Impaired'	16,800
7 = 'Emotionally Disturbed'	8,083
8 = 'Multiply Disabled'	19,068
9 = 'Deaf-Blindness'	16
10 = 'Orthopedically Impaired'	450
11 = 'Other Health Impaired'	27,863
12 = 'Preschool Child with a Disability'	9,619
14 = 'Specific Learning Disability'	73,923
15 = 'Traumatic Brain Injury'	772
16 = 'Visually Impaired'	324
17 = 'Eligible for Speech-Language Services' <sup>16</sup>	20,189
Total	193,475

<sup>16</sup> As set forth above, the Advocates chose to remove the students with the “Eligible for Speech-Language Services” classification from the analyses.

10.2 The result of comparing populations to sample and subsample across all these categories is shown in Table A-8:

**Table A-8: Disability Label Comparisons for Population, Sample and Subsample**

	<b>Number Valid in Population of 172,880</b>	<b>Number Valid in Sample of 400</b>	<b>Test of Significant Difference by Chi-Square, 2-Sided</b>
<b>1. Entire Population of 172,880 Compared to Sample of 400</b>	172,480	400	p=.648 Not Significant
	<b>Number Valid in Subsample of 258 out of 400</b>	<b>Number Valid in IEP Subsample of 142 out of 400</b>	<b>Test of Significant Difference by Chi-Square, 2-Sided</b>
<b>2. Sample of 400 Compared to Subsample of 142</b>	258	142	p=.284 Not Significant

10.3 These results indicate that the sample worked well in terms of disability distribution. This is the most important of the dimensions for a sample of students in special education. The fact that our sample is representative in terms of disability distribution does mean that our experts can draw statewide conclusions about all the subgroups – particularly those that are rare.

***11. Sample Representativeness with Regard to Special Education Inclusion Levels (Special Education Placement)***

11.1 Congress has required that every state collect information about every special education student’s level of inclusion in his/her day-to-day life in school. The data are collected in a set of categories as shown in the left-hand column of Table A-9. The national practice fostered by the federal government has been, and is, to report each student’s approximate level of inclusion in ranges of time spent with students who do not have disabilities. (New Jersey’s full definitions of these categories are shown in complete detail in Appendix I.) These ranges are 80% to 100%,

40% to 79%, and 0% to 39%. These ranges are shown in the third column of Table A-9, headed “Range of Inclusion Covered.”

**Table A-9: Inclusion Level Categories Used by New Jersey for Reporting to United States Department of Education, Office of Special Education and Rehabilitation Services for Compliance Reporting under the Individuals with Disabilities Education Act**

<b>Code</b>	<b>For Age 3-5:</b>	<b>Range of Inclusion Covered</b>	<b>Midpoint Estimate for Calculation of Index</b>
01	80% or more of the school day in the presence of regular education students	80-100%	90%
02	Between 40-79% of the school day in the presence of regular education students	40-79%	60%
03	Less than 40% of the school day in the presence of regular education students	0-39%	20%
	<b>For Age 6-21:</b>		
09	80% or more of the school day in the presence of regular education students	80-100%	90%
10	Between 40-79% of the school day in the presence of regular education students	40-79%	60%
11	Less than 40% of the school day in the presence of regular education students	0-39%	20%

11.2 On the right hand side of Table A-9 is the column headed “Midpoint Estimate for Calculation of Index.” This column shows the number used in the next analysis for estimating the overall level of inclusion for a *large group* of students.

11.3 This estimation method for large groups works because, in a group of students who received rating # 9 (80% to 100% inclusion), some will be at the high end, some will be at the low end, and most will be somewhere in the middle. For simple estimation and calculation purposes, then, it makes good sense to use the midpoint of the range, which is 90%. The other categories of inclusion used in New Jersey are treated similarly, as Table A-9 shows.

11.4 As an example of how well this simple calculation works in the New Jersey student data set, Table A-10 shows the average inclusion rating for all students with the three levels of intellectual disability (Cognitive Impairment):

**Table A-10: Inclusion Ratings by Level of Cognitive Impairment**

Special Education Classification	Mean Inclusion Rating	N
3 = "Cognitively Impaired – Mild Cognitive Impairment"	34.5	3,623
4 = "Cognitively Impaired – Moderate Cognitive Impairment"	21.2	1,170
5 = "Cognitively Impaired – Severe Cognitive Impairment"	10.7	174
Average for the entire "Cognitively Impaired" population	58.3	172,880

11.5 As the level of impairment increases from Mild to Severe, the level of inclusion rating goes down. This is an unfortunate fact, but nonetheless one that is both true in fact and intuitively predictable.

11.6 Having established a simple index of level of inclusion for groups of students, we can examine whether the sample of 400 reflected the population of 172,880; and next, whether the subsample of 142 reflected the sample of 400, with regard to levels of overall inclusion.

11.7 The data in Table A-11 below show that both the sample of 400 and the subsample of 142 mirror the population very accurately with regard to overall levels of inclusion:

**Table A-11: Inclusion Index Comparisons for Population, Sample, and Subsample**

	Number Valid in Population of 172,880	Number Valid in Sample of 400	Average Index of Inclusion for Population	Average Index of Inclusion for Sample of 400	Test of Significant Difference by Student's t-test for Groups, 2-Tailed
<b>1. Entire Population of 172,880 Compared to Sample of 400</b>	172,480	400	58.31	58.18	p=.935 Not Significant
	Number Valid in Subsample of 258 out of 400	Number Valid in IEP Subsample of 142 out of 400	Average Index of Inclusion for Subsample of 258 out of 400	Average Index of Inclusion for IEP Subsample of 142 out of 400	Test of Significant Difference by Student's t-test for Groups, 2-Tailed
<b>2. Sample of 400 Compared to Subsample of 142</b>	258	142	58.14	58.24	p=.976 Not Significant

**12. Quantitative Data Conclusions**

12.1 The overall conclusion of this analysis of the disposition of the Sample is that the Two-Stage Sample worked well. The ideal Sample is one in which every student in the state has an equal chance of being drawn in the Sample. What matters is that the Sample of individual students “looks just like” the population of all students. This report shows that we achieved that goal in all respects except for gender distribution, with our sample and subsample having a lower proportion of males than the population. This, however, merely meant that caution is required in conclusions about gender differences.

12.2 In all other respects, the evidence demonstrates that the sample worked as intended. The overall conclusions reached by expert analysis of our sample of 142 IEPs can be treated with confidence. Specifically, our “margin of error” can be thought of in the range of plus or minus 10%. The majority of public opinion and political polls, with vastly greater resources than ours, aim for plus or minus 5%. Hence the inferences and findings of our experts reached on the basis of our sample are very likely to be accurate within that 10% range.

12.3 For example, if the experts found that 70% of the students in the sample had not had inclusion options fully considered, then the true value for the entire population is highly likely to be in the range of 60% to 80%. The true value could be a little higher, or a little lower, but not by far.

12.4 That is the ultimate purpose of sampling – to get accurate estimates efficiently, without having to survey everyone in a state or a category of people or a nation.

**Appendix B. List of Reports Submitted by the Center for Outcome Analysis:  
2010 to 2014**

1. Conroy, J. (2010, June). *Design for a Valid Sample of Students in New Jersey's Special Education System*. DRNJ vs. NJDOE, Brief Report Number 1. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
2. Conroy, J. (2010, July). *Evidence of Ethnic and Gender Bias within New Jersey Special Education*. DRNJ vs. NJDOE, Brief Report Number 2. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
3. Conroy, J. (2010, July). *Outline for Field Data Collection: The Individual Student Experience Protocol*. DRNJ vs. NJDOE, Brief Report Number 3. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
4. Conroy, J. (2010, September). *Families that Declined Consent to be Included in the Disability Rights Network's Investigation of Special Education Practices: Patterns of Redaction Requiring Attention*. DRNJ vs. NJDOE, Brief Report Number 4. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
5. Conroy, J. (2010, September). *Drawing a Valid Sample of Students in New Jersey's Special Education System*. DRNJ vs. NJDOE, Brief Report Number 5. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
6. Devlin, S. & Conroy, J. (2013, January). *Summary of Student Booklets Questions Related To "Most Recent" IEP*. DRNJ vs. NJDOE, Brief Report Number 6. Submitted to Disability Rights of New Jersey and the Education Law Center of New Jersey. Havertown, PA: Center for Outcome Analysis.
7. Conroy, J. (2013, February). *Validity of the Sample of Students in New Jersey's Special Education System*. DRNJ vs. NJDOE, Brief Report Number 7. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
8. Conroy, J., & Devlin, S. (2013, June). *Adherence to New Jersey Model IEP Guidelines: Finding from a Statewide Sample across Three Years*. DRNJ vs. NJDOE, Brief Report Number 8. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
9. Conroy, J., & Devlin, S. (2013, July). *IEP Compliance Index: Monitoring Adherence to New Jersey Model IEP Guidelines*. DRNJ vs. NJDOE, Brief Report Number 9. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.
10. Conroy, J. (2014 March). *Final Report: Research Performed for the Case DRNJ vs. NJDOE*. Submitted to Disability Rights of New Jersey. Havertown, PA: Center for Outcome Analysis.



## Appendix C. New Jersey Model IEP

Revised April 2007

(Available at <http://www.nj.gov/education/specialed/form/>)

<b>IEP COMPONENTS</b>	
<p><b>STUDENT INFORMATION</b></p> <p>A section may be added at the beginning of the IEP format to include pertinent student information as determined necessary by the school district.</p>	
<b>IEP PARTICIPANTS</b>	
<p>Please sign in the appropriate space.<sup>17</sup> A signature in this section of the IEP documents participation in the meeting and does not indicate agreement with the IEP.</p>	
Student, if appropriate or required	Date
Parent	Date
General Education Teacher	Date
Special Education Teacher or Provider	Date
Child Study Team Member	Date

<sup>17</sup> If a required member of the IEP team has been excused from participating in the meeting with parental consent, note the excusal in the required team member's space.

Case Manager (May be the CST member above)	Date
School District Representative (May be the CST member or other appropriate school personnel)	Date
Specialist	Date
Other	Date

**PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND  
FUNCTIONAL PERFORMANCE**

**Consider relevant data.** List the sources of information used to develop the IEP.

**Describe the present levels of academic achievement and functional performance including how the student's disability affects his or her involvement and progress in the general education curriculum.** For preschool children, as appropriate, describe how the disability affects the child's participation in appropriate activities [N.J.A.C. 6A:14-3.7(e)1].

**For preschool students, review the preschool day to determine what accommodations and modifications may be required to allow the child to participate in the general education classroom and activities.** [N.J.A.C. 6A:14-3.7(c)11].

**Include other educational needs that result from the student's disability** [N.J.A.C. 6A:14-3.7(e)3ii].

**In addition, consider each special factor identified in N.J.A.C. 6A: 14-3.7(c) (The Need for consultation; Behavioral needs; Language needs; Communication needs; Auditory needs; Need for assistive technology devices and services; and visual needs.).** If in considering the special factors, the IEP team determines that the student needs a particular device or service (including an intervention, accommodation or other program modification) to receive a free, appropriate public education, the IEP must include a statement to that effect in the appropriate section. If a factor is not applicable, note as such.

STATEMENT OF TRANSITION PLANNING
Beginning with the IEP in place for the school year when the student will turn age 14, or younger, if appropriate, develop the long range educational plan for the student's future. Review annually.
Statement of the student's strengths, interests and preferences.
<b>APPROPRIATE MEASURABLE POSTSECONDARY GOALS</b>
<b>Postsecondary Education:</b> (Including, but not limited to, college, vocational training, and continuing and adult education) <b>Employment/Career:</b>  <b>Community Participation:</b> (Including, but not limited, to recreation and leisure activities, and participation in community organizations)  <b>Independent Living:</b>
<b>COURSES OF STUDY</b>
Considering the student's strengths, interests, preferences, and desired postsecondary goals, list the specific courses of study for the period of time covered by this IEP. Include both general education and special education courses. When appropriate, identify the courses of study projected for future years.
Grade___ Courses of Study (List course names):
Grade___ Projected Courses of Study (List course names):

Grade___ <b>Projected Courses of Study (List course names):</b>
Grade___ <b>Projected Courses of Study (List course names):</b>
<b>RELATED STRATEGIES AND/OR ACTIVITIES</b>
In addition to the courses listed above, list related strategies and/or activities that are consistent with the student's strengths, interests, and preferences, and are intended to assist the student in developing or attaining postsecondary goals related to training, education, employment and, if appropriate, independent living.
<b>STATEMENT OF CONSULTATION</b>
Information/advice is needed from Division of Vocational Rehabilitation Services and/or other agency or agencies.  List the name of any agency from which consultation is needed:
NAME OF SCHOOL STAFF PERSON WHO WILL BE THE LIAISON TO POSTSECONDARY RESOURCES:
STATEMENT OF NEEDED INTERAGENCY LINKAGES AND SCHOOL DISTRICT RESPONSIBILITIES
As appropriate to the anticipated needs of the student, list all agencies to which the student will be referred by the school district liaison to postsecondary resources in the spaces below. List the responsibility of the school district and/or student/parent(s) with respect to contacting each agency listed and providing needed information or documentation to each such agency.
AGENCY:

School district responsibilities:

Student/parent responsibilities:

AGENCY:

School district responsibilities:

Student/parent responsibilities:

AGENCY:

School district responsibilities:

Student/parent responsibilities:

**STATEMENT OF TRANSITION SERVICES: COORDINATED ACTIVITIES/STRATEGIES**

**Beginning with the IEP in place for the school year when the student will turn age 16 or younger, if appropriate, complete the following multi-year plan for promoting movement from school to the student's desired post-school goals. The student's needs, strengths, interests and preferences in each area (instruction, community experiences, etc.) must be considered and responsibilities should be shared among participants (student, parent, school staff, outside agencies, employers, etc.).**

<b>Activities/Strategies Related to Measurable Postsecondary Goals</b>	<b>Expected Date of Implementation</b>	<b>Person or Agency Arranging and/or Providing Services</b>
<b>Instruction – Postsecondary Education/Training</b>		



<b>Related Services</b>		
<b>Community Experiences</b>		

**STATEMENT OF TRANSITION SERVICES NEEDED TO ATTAIN MEASURABLE POSTSECONDARY GOALS:**

**COORDINATED ACTIVITIES/STRATEGIES (Continued)**

<b>Activities/Strategies Related to Measurable Postsecondary Goals</b>	<b>Expected Date of Implementation</b>	<b>Person or Agency Arranging and/or Providing Services</b>
<b>Employment</b>		
<b>Adult Living Objectives</b>		
<b>Daily Living Skills</b>		

<b>Functional Vocational Evaluation</b>		
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**TRANSFER OF RIGHTS AT AGE OF MAJORITY**

**OPTION I:** At least three years before the student reaches age 18, a statement that the student and the parent(s) have been informed of the rights that will transfer to the student on reaching the age of majority, unless the parent(s) obtain guardianship [N.J.A.C. 6A:14-3.7(e)14]. The district may use the following description to document that the student and parent(s) have been informed of the rights that will transfer. The IEP team may include this statement at age 14 when transition planning begins.

**On (Date), (Name of Student) will turn age 18 and become an adult student. The following rights will transfer to (Name of Student):**

- The school district must receive written permission from (Name of Student) before it conducts any assessments as part of an evaluation or reevaluation and before implementing an IEP for the first time.
- The school must send a written notice to (Name of Student) whenever it wishes to change or refuses to change the evaluation, eligibility, individualized education program (IEP), placement, or the provision of a free, appropriate public education (FAPE).
- You, the parent(s), may not have access to (Name of Student)'s educational records without his/her consent, unless he/she continues to be financially dependent on you.
- The district will continue to provide you, the parent(s), with notice of meetings and of any proposed changes to your adult child's program.
- Any time (Name of Student) disagrees with his/her special education program, he/she is the only one who can request mediation or a due process hearing to resolve any disputes arising in those areas.

If (Name of Student) wishes, he/she may write a letter to the school giving you, the parent(s), the right to continue to act on his/her behalf in these matters.

**OPTION II: At least three years before the student reaches age 18, a statement that the student and the parent(s) have been informed of the rights that will transfer to the student on reaching the age of majority unless the parent(s) obtain guardianship [N.J.A.C. 6A:14-3.7(e)14]. The district may inform the student and the parent(s) by letter of the rights that will transfer. If a letter is used, complete the following:**

\_\_\_\_\_ was informed in writing on \_\_\_\_\_ of the rights that will transfer to him/her at age eighteen.  
(Name of Student) (Date)

\_\_\_\_\_ was/were informed in writing on \_\_\_\_\_ of the rights that will transfer at age eighteen.  
(Name of Parent[s]) (Date)

### BEHAVIORAL INTERVENTIONS

N.J.A.C. 6A:14-3.7(c)4 requires consideration of behavioral needs. If behavior impedes the student's learning or the learning of others, the IEP team must consider, when appropriate, strategies, including positive behavioral interventions and supports to address that behavior. When needed, a behavior intervention plan must be included in the IEP. The following are suggested topics:

< Target behavior:

< Documentation of prior interventions and student response:

< **Description of the positive supports/interventions, including the conditions under which the supports/interventions will be implemented:**

< **Procedures for data collection to evaluate the effectiveness of the interventions:**

< **Conditions under which the supports/interventions are changed:**

< **Conditions under which the supports/interventions will be terminated:**

< **Parental involvement:**

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**ACADEMIC AND/OR FUNCTIONAL AREA:**

**ANNUAL MEASURABLE ACADEMIC AND/OR FUNCTIONAL GOAL:** (Academic goals should be related to the Core Curriculum Content Standards through the general education curriculum unless otherwise required according to the student’s educational needs. Preschool academic goals should be related to the Preschool Teaching & Learning Expectations: Standards of Quality)

BENCHMARKS OR SHORT TERM OBJECTIVES:	CRITERIA	EVALUATION PROCEDURES

**MODIFICATIONS AND SUPPLEMENTARY AIDS AND SERVICES IN THE REGULAR EDUCATION CLASSROOM**

State the modifications for the student to be involved and progress in the general education curriculum and be educated with nondisabled students. State the supplementary aids and services that will be provided to the student or on behalf of the student [N.J.A.C. 6A:14-3.7(e)4]. Identify any assistive technology devices and services to be provided. Attach additional pages as necessary.

State the modifications to enable the student to participate in the general education curriculum.	State the supplementary aids and services.

**MODIFICATIONS AND SUPPLEMENTARY AIDS AND SERVICES IN THE SPECIAL EDUCATION CLASSROOM**

**If the student will not be participating in the regular education classroom, state the modifications and supplementary aids and services to enable the student to be involved and progress in the general education curriculum in the special education classroom. Identify any assistive technology devices and services to be provided. Attach additional pages as necessary.**

**State the modifications to enable the student to participate in the general education curriculum.**

**State the supplementary aids and services.**


**SUPPORTS FOR SCHOOL PERSONNEL**

**State the supports for school personnel that will be provided for the student [N.J.A.C. 6A:14-3.7(e)4].**



**PROGRESS REPORTING**

State how the parents will be regularly informed of their student's progress toward the annual goals [N.J.A.C. 6A:14-3.7(e)16].

**METHOD**

**SCHEDULE**

## RATIONALE FOR REMOVAL FROM GENERAL EDUCATION

Decisions regarding placement are based on the individual needs of students and must begin with consideration of the general education setting. The purpose of this page is to document the discussions that have occurred with respect to accommodations, modifications, and supplementary aids and services in each academic or functional area that are necessary to educate the student in the general education setting.

If the student will be included in the general education setting for more than 80% of the time, *no rationale is required*. Items 1 through 3 of this section of the IEP need not be completed or included in the student's IEP.

If a student will not be included in the general education setting for more than 80% of the time, items 1 through 3 below **MUST** be completed for each CONTENT/SUBJECT AREA.

1. Identify the supplementary aids and services that were considered to implement the student's annual goals. [N.J.A.C. 6A:14-4.2(a)8i]. Explain why they are not appropriate to meet the student's needs in the general education class:
2. Document the comparison of the benefits provided in the regular class and the benefits provided in the special education class [N.J.A.C. 6A:14-4.2(a)8ii].

3. Document the potentially beneficial or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class [N.J.A.C. 6A:14-4.2(a)8iii].

**MODIFICATIONS IN EXTRACURRICULAR AND NONACADEMIC ACTIVITIES**

State the modifications that will be provided to enable the student to participate in extracurricular and nonacademic activities [N.J.A.C. 6A:14-3.7(e)4ii]. Explain the extent, if any, to which the student will not participate with nondisabled peers in extracurricular activities and nonacademic activities [N.J.A.C. 6A:14-3.7(e)6]. In addition, for students in an out-of-district placement, delineate how the student will participate with nondisabled peers in extracurricular and nonacademic activities including, if necessary, returning the student to the district in order to facilitate such participation [N.J.A.C. 6A:14-3.7(e)17].

**DOCUMENT THE PLACEMENT DECISION ACCORDING TO THE FOLLOWING CATEGORIES**

**(Check ONLY ONE box):**

\* **NOTE:** In accordance with federal data collection requirements, a student in an out-of-district segregated placement for 50% or more of the school day must be reported as being in that setting for the entire day, regardless of whether the student is in a general education setting for the remainder of the school day.

**STUDENTS WITH DISABILITIES AGES 6 – 21:**

- In the presence of General Education Students for 80% or more of the entire school day
- In the presence of General Education Students between 40% and 80% of the entire school day
- In the presence of General Education Students for less than 40% of the entire school day
- Public Separate School (In buildings with **NO** General Education Students)\*
- Private School for the Disabled (Only day educational costs paid by the district)\*
- Private Residential School for the Disabled (**BOTH** day and residential costs paid by the district)

Home Instruction

Public Residential Facility (For reporting by State Agencies ONLY – Department of Human Services, Department of Children and Families; Department of Corrections; Juvenile Justice Commission)

**STUDENTS WITH DISABILITIES AGES 3 -5:**

Children Attending a General Early Child Program or Kindergarten for more than 80% of the school day

Children Attending a General Early Child Program or Kindergarten between 40% and 80% of the school day

Children Attending a General Early Child Program or Kindergarten less than 40% of the school day

Separate Class

Separate School

Residential Facility

Home

Service Provider Location

**TRANSITION PLANNING FOR STUDENTS IN SEPARATE SETTINGS**

**For students in a separate setting (for all or part of a school day), set forth activities necessary to move the student to a less restrictive placement. A separate setting is defined as a building without general education students.**

**SPECIAL EDUCATION DETERMINATIONS**

Document length of school day, if different from length of regular school day [N.J.A.C. 6A:14-4.1(c)].

Statement of student's transition from elementary to secondary program [N.J.A.C. 6A:14-3.7(e)10].

**Determine whether the student needs an extended school year (ESY) program. An extended school year program is provided in accordance with the student's IEP when an interruption in educational programming causes the student's performance to revert to a lower level of functioning and recoupment cannot be expected in a reasonable length of time. [N.J.A.C. 6A:14-4.3(c)].**

**List relevant factors considered in determining whether the student needs an ESY program.**

**If the student requires an ESY program, describe the ESY program.**

**PARTICIPATION IN DISTRICTWIDE AND STATEWIDE ASSESSMENT PROGRAM**

Assessment	Modifications / Accommodations [N.J.A.C. 6A:14-3.7(e)7]	If the student will not be participating in a subject area or areas of a districtwide or Statewide assessment, explain why that assessment is not appropriate [N.J.A.C. 6A:14-3.7(e)7i].	State how the student will be assessed if the student will not participate in Statewide or districtwide assessment.
<b>District Assessment:</b>			
Grade 3 State Assessment ___ Language Arts Literacy ___ Mathematics			APA ___ Language Arts Literacy ___ Mathematics
Grade 4 State Assessment ___ Language Arts Literacy  ___ Mathematics  ___ Science			APA ___ Language Arts Literacy  ___ Mathematics ___ Science
Grade 5 State Assessment ___ Language Arts Literacy  ___ Mathematics			APA ___ Language Arts Literacy ___ Mathematics



Grade 6 State Assessment ___ Language Arts Literacy ___ Mathematics			APA ___ Language Arts Literacy ___ Mathematics
Grade 7 State Assessment ___ Language Arts Literacy ___ Mathematics			APA ___ Language Arts Literacy ___ Mathematics
Grade 8 Assessment ___ Language Arts Literacy ___ Mathematics ___ Science			APA ___ Language Arts Literacy ___ Mathematics ___ Science
___ HSPA OR ___ SRA ___ Language Arts Literacy ___ Mathematics ___ Science			APA ___ Language Arts Literacy ___ Mathematics ___ Science

**GRADUATION REQUIREMENTS**

**Beginning at age 14, identify the State and local graduation requirements that the student will be expected to meet. The statement must be reviewed annually. If the student is exempted from meeting any of the graduation requirements that all students are expected to meet or if any of the requirements are modified, provide a rationale below and list any alternate proficiencies the student is expected to achieve.**

State the Graduation Requirement	If the student is NOT exempt from the requirement, place a ✓ in this column.	If the student is exempt from meeting the graduation requirement, provide a rationale for the exemption [N.J.A.C. 6A:14-3.7(e)9i].
<b>Attendance:</b>		
<b>Credit Hours:</b>		
<b>HSPA or SRA:</b>		
<b>Other (Local Graduation Requirements):</b>		

**Alternate Requirements(s): Provide a description of any alternate proficiencies to be achieved by the student to qualify for a State endorsed diploma [N.J.A.C. 6A:14-3.7(e)9ii].**

**STATEMENT OF SPECIAL EDUCATION AND RELATED SERVICES**

<p>State the special education services by instructional area. For in-class programs also state amount of time the resource or supplementary instruction teacher is present in the general education class [N.J.A.C. 6A:14-3.7(e)4 and N.J.A.C. 6A:14-3.7(e)8]. For pull-out replacement resource and special class programs, state the amount of instruction in each subject area, which must be equal to the amount of instructional time in general education for each subject area [N.J.A.C. 6A:14-4.1(l)].</p>	<p>Dates the services will begin and end</p>	<p>Frequency</p>	<p>Location</p>	<p>Duration</p>
<p>State the related services [N.J.A.C. 6A:14-3.7(e)4]. Include, as appropriate, a statement of integrated therapy services to be provided. Specify the amount of time the therapist will be in the classroom. If speech-language services are included, specify whether the services will be provided individually or in a group. Specify the group size. [N.J.A.C. 6A:14-3.7(e)5, N.J.A.C. 6A:14-3.7(e)8 and 6A:14-4.4(a)1i].</p>	<p>Dates the services will begin and end</p>	<p>Frequency</p>	<p>Location</p>	<p>Duration</p>

**NOTICE REQUIREMENTS FOR THE IEP AND PLACEMENT**

**This form describes the information required in each of the components of written notice for an IEP meeting. The written notice includes the IEP as a description of the proposed action and a description of the procedures and factors used in determining the proposed action.**

**Describe the proposed action [N.J.A.C. 6A:14-2.3(g)1] and explain why the district has taken such action [N.J.A.C. 6A:14-2.3(g)2].**

The attached IEP describes the proposed program and placement and was developed:

\_\_\_\_\_ as a result of an initial evaluation and determination of eligibility.

\_\_\_\_\_ as a result of an annual review.

\_\_\_\_\_ as a result of a reevaluation.

\_\_\_\_\_ in response to a parental request.

\_\_\_\_\_ to propose a change in placement.

\_\_\_\_\_ to review the behavioral intervention plan.

\_\_\_\_\_ other: \_\_\_\_\_

**Describe any options considered and the reasons those options were rejected [N.J.A.C. 6A:14-2.3(g)3].**

**Describe the procedures, tests, records or reports and factors used in determining the proposed action [N.J.A.C. 6A:14-2.3(g)4].**

**If applicable, describe any other factors that are relevant to the proposed action [N.J.A.C. 6A:14-2.3(g)5].**

**PROCEDURAL SAFEGUARDS STATEMENT**

As the parent of a student who is, or may be determined, eligible for special education services or as an adult student who is, or may be determined, eligible for special education, you have rights regarding identification, evaluation, classification, development of an IEP, placement and the provision of a free, appropriate public education under the New Jersey Administrative Code for Special Education, N.J.A.C. 6A:14. A description of these rights, which are called procedural safeguards, is contained in the document, *Parental Rights in Special Education* (PRISE). This document is published by the New Jersey Department of Education.

A copy of PRISE is provided to you upon referral for an initial evaluation, when a disciplinary action that constitutes a change in placement is imposed by your school district, and the first time a due process hearing or complaint investigation is requested. In addition, a copy will be provided to you at your request.

**To obtain a copy of PRISE, please contact:**

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**School District Office or Personnel**

**Phone Number**

**For help in understanding your rights, you may contact any of the following:**

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**School District Representative**

**Phone  
Number**

**Statewide Parent Advocacy Network (SPAN) at (800) 654 - 7726.**

**Protection and Advocacy, Inc., at (800) 922 - 7233.**

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**County Supervisor of Child Study**

**Phone Number**

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**CONSENT FOR INITIAL IEP IMPLEMENTATION:**

**Your signature is required to give consent before the proposed IEP services can start.**

**I/we have received a copy of the proposed IEP and give consent for the IEP services to start.**

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**Signature**

**Date**

**IEP REVIEW. This form is to be used for all IEPs that are developed after consent for the initial IEP has been provided. Your signature is NOT required for implementation of this IEP after 15 days have expired from the date written notice was provided.**

**You have the right to consider the proposed IEP for up to 15 calendar days. To have the IEP services start before the 15 days expire, you must sign below. If you take no action, the IEP will be implemented after the 15<sup>th</sup> day from the date notice is provided.**

**If you disagree with the IEP and you do not request mediation or a due process hearing from the New Jersey Department of Education, Office of Special Education Programs, the IEP will be implemented without your signature after the 15 days have expired.**

**I/we have received a copy of the proposed IEP and agree to have the IEP services start before the 15 calendar days have expired.**

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**Signature**

**Date**



**Appendix D. Student Booklet for IEP Review**

1. DATE BOOKLET WAS COMPLETED \_\_\_\_\_
2. EVALUATOR \_\_\_\_\_
3. STUDENT'S NAME \_\_\_\_\_
4. STUDENT'S SAMPLE NUMBER \_\_\_\_\_
5. STUDENT'S DATE OF BIRTH \_\_\_\_\_
6. STUDENT'S CURRENT AGE \_\_\_\_\_
7. STUDENT'S GENDER
  - a. \_\_\_\_\_ Female
  - b. \_\_\_\_\_ Male
8. STUDENT'S SPECIAL EDUCATION TEACHER \_\_\_\_\_
9. STUDENT'S GENERAL EDUCATION TEACHER \_\_\_\_\_
10. STUDENT'S CASE MANAGER \_\_\_\_\_
11. STUDENT'S COUNTY OF RESIDENCE \_\_\_\_\_
12. STUDENT'S TOWN - CITY OF RESIDENCE \_\_\_\_\_
13. STUDENT'S HOME SCHOOL DISTRICT \_\_\_\_\_
14. YEAR STUDENT IS LIKELY TO EXIT SCHOOL \_\_\_\_\_
15. STUDENT'S RACE
  - a. \_\_\_\_\_ Native American/ Alaskan
  - b. \_\_\_\_\_ Hispanic/ Latino
  - c. \_\_\_\_\_ Asian/Pacific Islander
  - d. \_\_\_\_\_ Multiracial
  - e. \_\_\_\_\_ White/Caucasian
  - f. \_\_\_\_\_ Black/African American
  - g. \_\_\_\_\_ Other (Specify): \_\_\_\_\_

SOURCES OF INFORMATION

16. THE INFORMATION CONTAINED IN THIS STUDENT BOOKLET WAS OBTAINED FROM THE FOLLOWING SOURCES:

- a. \_\_\_\_ Student's IEPs (Specify dates)
  - i. \_\_\_\_ "Most Recent IEP" \_\_\_\_\_
  - ii. \_\_\_\_ "Prior IEP" \_\_\_\_\_
  - iii. \_\_\_\_ "Third IEP" \_\_\_\_\_
- b. \_\_\_\_ Student's most recent evaluations or re-evaluations (Specify dates and nature of evaluations)  
\_\_\_\_\_
- c. \_\_\_\_ Student's most recent independent evaluations (Specify dates and nature of evaluations)  
\_\_\_\_\_
- d. \_\_\_\_ Transportation cost records (Specify dates)  
\_\_\_\_\_
- e. \_\_\_\_ Transportation cost records (Specify dates)  
\_\_\_\_\_
- f. \_\_\_\_ Other (Specify):  
\_\_\_\_\_

SPECIAL EDUCATION CLASSIFICATION

17. THE STUDENT'S PRIMARY SPECIAL EDUCATION CLASSIFICATION IS:

- a. \_\_\_ traumatic brain injury
- b. \_\_\_ visually impaired including blindness
- c. \_\_\_ auditorily impaired/deaf
- d. \_\_\_ deaf-blindness
- e. \_\_\_ specific learning disability
- f. \_\_\_ preschool child with a disability
- g. \_\_\_ cognitively impaired
- h. \_\_\_ multiply disabled
- i. \_\_\_ orthopedically impaired
- j. \_\_\_ autistic
- k. \_\_\_ emotionally disturbed
- l. \_\_\_ other health impaired
- m. \_\_\_ communication impaired
- n. \_\_\_ social maladjustment
- o. \_\_\_ pre-school child with a disability
- p. \_\_\_ other (specify) \_\_\_\_\_

18. REPORT THE STUDENTS' MOST RECENT STATE-WIDE TEST SCORES.

<u>TEST</u>	<u>SCORE</u>
a. ___ NJSCAT	___
b. ___ AAAA	___
c. ___ BBB	___
d. ___ NJASK	___
e. ___ HESPA	___
f. ___ Other (Specify):	
_____	___
_____	___
_____	___

SCHOOL PLACEMENT

STUDENT'S CURRENT SCHOOL (SCHOOL #1)

19. NAME OF SCHOOL \_\_\_\_\_

20. YEARS STUDENT ATTENDED THIS SCHOOL, IF AVAILABLE:

From \_\_\_\_\_ To \_\_\_\_\_

SCHOOL STUDENT ATTENDED BEFORE THE CURRENT SCHOOL (SCHOOL #2), IF AVAILABLE

21. NAME OF SCHOOL \_\_\_\_\_

22. SCHOOL DISTRICT \_\_\_\_\_

23. CITY/TOWN \_\_\_\_\_

24. YEARS STUDENT ATTENDED THIS SCHOOL

From \_\_\_\_\_ To \_\_\_\_\_

SCHOOL STUDENT ATTENDED BEFORE SCHOOL #2, IF AVAILABLE (SCHOOL # 3)

25. NAME OF SCHOOL \_\_\_\_\_

26. SCHOOL DISTRICT \_\_\_\_\_

27. CITY/TOWN \_\_\_\_\_

28. YEARS STUDENT ATTENDED THIS SCHOOL

From \_\_\_\_\_ To \_\_\_\_\_

SCHOOL STUDENT ATTENDED BEFORE SCHOOL #3, IF AVAILABLE (SCHOOL #4)

29. NAME OF SCHOOL \_\_\_\_\_

30. SCHOOL DISTRICT \_\_\_\_\_

31. CITY/TOWN \_\_\_\_\_

32. YEARS STUDENT ATTENDED THIS SCHOOL

From \_\_\_\_\_ To \_\_\_\_\_

IEP'S – RESPOND FOR EACH IEP REVIEWED

33. DOES THE MOST RECENT IEP STATE THAT THE IEP TEAM CONSIDERED SCHOOL PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

- a. \_\_\_\_ Yes
- b. \_\_\_\_ No
- c. \_\_\_\_ There was no IEP

34. DOES THE PRIOR IEP STATE THAT THE IEP TEAM CONSIDERED SCHOOL

PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

- a.  Yes
- b.  No
- c.  There was no IEP

35. DOES THE THIRD IEP STATE THAT THE IEP TEAM CONSIDERED SCHOOL PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

- a.  Yes
- b.  No
- c.  There was no IEP

36. REPORT THE OTHER SCHOOL PLACEMENT OPTIONS CONSIDERED IN THE MOST RECENT IEP.

- a.  home-neighborhood school (the public school the student would attend if he/she did not have a special education classification)
- b.  a general education school, but not the home-neighborhood school
- c.  a public general education school out of the district in which s/he resides
- d.  a public special education school
- e.  a special services school district school
- f.  an educational services commission school
- g.  a jointure commission school
- h.  a human services school
- i.  a private day school
- j.  a private residential school
- k.  home instruction
- l.  other (specify) \_\_\_\_\_
- m.  I could not determine given available information

37. REPORT THE OTHER SCHOOL PLACEMENT OPTIONS CONSIDERED IN THE PRIOR IEP.

- a.  home-neighborhood school (the public school the student would attend if he/she did not have a special education classification)
- b.  a general education school, but not the home-neighborhood school
- c.  a public general education school out of the district in which s/he resides
- d.  a public special education school
- e.  a special services school district school
- f.  an educational services commission school
- g.  a jointure commission school
- h.  a human services school
- i.  a private day school
- j.  a private residential school
- k.  home instruction
- l.  other (specify) \_\_\_\_\_
- m.  I could not determine given available information

38. REPORT THE OTHER SCHOOL PLACEMENT OPTIONS CONSIDERED IN THE THIRD IEP.
- a.  home-neighborhood school (the public school the student would attend if he/she did not have a special education classification)
  - b.  a general education school, but not the home-neighborhood school
  - c.  a public general education school out of the district in which s/he resides
  - d.  a public special education school
  - e.  a special services school district school
  - f.  an educational services commission school
  - g.  a jointure commission school
  - h.  a human services school
  - i.  a private day school
  - j.  a private residential school
  - k.  home instruction
  - l.  other (specify) \_\_\_\_\_
  - m.  I could not determine given available information

**REPORT WHETHER THE MOST RECENT IEP ADDRESSES THE FOLLOWING PROVISIONS OF THE NEW JERSEY MODEL IEP, AND IF SO, RECORD THE RESPONSES SET FORTH IN THE MOST RECENT IEP.**

39. "IDENTIFY THE SUPPLEMENTARY AIDS AND SERVICES THAT WERE CONSIDERED TO IMPLEMENT THE STUDENT'S ANNUAL GOALS AND EXPLAIN WHY THEY ARE NOT APPROPRIATE TO MEET THE STUDENT'S NEEDS IN THE GENERAL EDUCATION CLASS."
- a.  Yes
  - b.  No
  - c. Report the supplementary aids and services considered in the most recent IEP and the explanation of inappropriateness provided.

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40. "DOCUMENT THE COMPARISON OF THE BENEFITS PROVIDED IN THE GENERAL EDUCATION CLASS AND THE BENEFITS PROVIDED IN THE SPECIAL EDUCATION CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the comparison of benefits provided in the most recent IEP.

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41. "DOCUMENT THE POTENTIALLY BENEFICIAL OR HARMFUL EFFECTS WHICH A PLACEMENT (IN THE GENERAL EDUCATION CLASS) MAY HAVE ON THE STUDENT WITH DISABILITIES OR THE OTHER STUDENTS IN THE CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the potentially beneficial or harmful effects of the placements set forth in the most recent IEP.

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**REPORT WHETHER THE PRIOR IEP ADDRESSES THE FOLLOWING PROVISIONS OF THE NEW JERSEY MODEL IEP, AND IF SO, RECORD THE RESPONSES SET FORTH IN THE PRIOR IEP.**

42. "IDENTIFY THE SUPPLEMENTARY AIDS AND SERVICES THAT WERE CONSIDERED TO IMPLEMENT THE STUDENT'S ANNUAL GOALS AND EXPLAIN WHY THEY ARE NOT APPROPRIATE TO MEET THE STUDENT'S NEEDS IN THE GENERAL EDUCATION CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the supplementary aids and services considered in the most recent IEP and the explanation of inappropriateness provided.

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43. "DOCUMENT THE COMPARISON OF THE BENEFITS PROVIDED IN THE GENERAL EDUCATION CLASS AND THE BENEFITS PROVIDED IN THE SPECIAL EDUCATION CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the comparison of benefits provided in the most recent IEP.

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44. "DOCUMENT THE POTENTIALLY BENEFICIAL OR HARMFUL EFFECTS WHICH A PLACEMENT (IN THE GENERAL EDUCATION CLASS) MAY HAVE ON THE STUDENT WITH DISABILITIES OR THE OTHER STUDENTS IN THE CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the potentially beneficial or harmful effects of the placements set forth in the most recent IEP.

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**REPORT WHETHER THE THIRD IEP ADDRESSES THE FOLLOWING PROVISIONS OF THE NEW JERSEY MODEL IEP, AND IF SO, RECORD THE RESPONSES SET FORTH IN THE THIRD IEP.**

45. "IDENTIFY THE SUPPLEMENTARY AIDS AND SERVICES THAT WERE CONSIDERED TO IMPLEMENT THE STUDENT'S ANNUAL GOALS AND EXPLAIN WHY THEY ARE NOT APPROPRIATE TO MEET THE STUDENT'S NEEDS IN THE GENERAL EDUCATION CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the supplementary aids and services considered in the most recent IEP and the explanation of inappropriateness provided.

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46. "DOCUMENT THE COMPARISON OF THE BENEFITS PROVIDED IN THE GENERAL EDUCATION CLASS AND THE BENEFITS PROVIDED IN THE SPECIAL EDUCATION CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the comparison of benefits provided in the most recent IEP.

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47. "DOCUMENT THE POTENTIALLY BENEFICIAL OR HARMFUL EFFECTS WHICH A PLACEMENT (IN THE GENERAL EDUCATION CLASS) MAY HAVE ON THE STUDENT WITH DISABILITIES OR THE OTHER STUDENTS IN THE CLASS."

a. \_\_\_\_ Yes

b. \_\_\_\_ No

c. Report the potentially beneficial or harmful effects of the placements set forth in the most recent IEP.

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**TRANSPORTATION**

48. REPORT THE COST OF TRANSPORTING THE STUDENT FROM HIS/HER HOME TO SCHOOL AND FROM SCHOOL TO HIS/HER HOME, IF APPLICABLE.

a. \_\_\_\_ Total annual cost \_\_\_\_

b. \_\_\_\_ I cannot determine from the information available

49. REPORT THE TIME THE STUDENT TYPICALLY LEAVES HIS HER HOME FOR SCHOOL:

\_\_\_\_\_ A.M.

50. REPORT THE TIME THE STUDENT TYPICALLY ARRIVES AT SCHOOL FROM HIS/HER HOME:

\_\_\_\_\_ A.M.

51. REPORT THE TYPICAL AMOUNT OF TIME PER DAY SPENT GETTING FROM HIS/HER HOME TO SCHOOL:

\_\_\_\_\_ hours

52. REPORT THE TIME THE STUDENT TYPICALLY LEAVES SCHOOL FOR HIS/HER HOME:

\_\_\_\_\_ P.M.

53. REPORT THE TIME THE STUDENT TYPICALLY ARRIVES HOME FROM SCHOOL:

\_\_\_\_\_ P.M.

54. REPORT THE TYPICAL AMOUNT OF TIME SPENT GETTING FROM SCHOOL TO HOME:

\_\_\_\_\_ hours

**CLASS PLACEMENT**

55. REPORT WHAT THE MOST RECENT IEP STATES IS THE KIND OF CLASS IN WHICH THE STUDENT IS/WAS PLACED.

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56. REPORT WHAT THE PRIOR IEP STATES IS THE KIND OF CLASS IN WHICH THE STUDENT WAS PLACED.

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57. REPORT WHAT THE THIRD IEP STATES IS THE KIND OF CLASS IN WHICH THE STUDENT WAS PLACED.

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58. IF THE STUDENT FUNCTIONS OUTSIDE THE GENERAL EDUCATION CLASS FOR ANY PART OF THE SCHOOL DAY, DOES THE MOST RECENT IEP STATE WHETHER SHE/HE IS INSTRUCTED IN THE GENERAL EDUCATION CURRICULUM OR IN A SEPARATE/SPECIAL EDUCATION CURRICULUM, AND IF SO, REPORT WHICH.

a. \_\_\_ General education curriculum

b. \_\_\_ Separate /special education curriculum

c. \_\_\_ Other (Specify):

\_\_\_\_\_

d. \_\_\_ I cannot determine from the information available

59. IF THE STUDENT FUNCTIONS OUTSIDE THE GENERAL EDUCATION CLASS FOR ANY PART OF THE SCHOOL DAY, DOES THE PRIOR IEP STATE WHETHER HE/SHE IS INSTRUCTED IN THE GENERAL EDUCATION CURRICULUM OR IN A SEPARATE/SPECIAL EDUCATION CURRICULUM, AND IF SO, REPORT WHICH.

a. \_\_\_ General education curriculum

b. \_\_\_ Separate /special education curriculum

c. \_\_\_ Other (Specify):

\_\_\_\_\_

d. \_\_\_ I cannot determine from the information available

60. IF THE STUDENT FUNCTIONS OUTSIDE THE GENERAL EDUCATION CLASS FOR ANY PART OF THE SCHOOL DAY, DOES THE THIRD IEP STATE WHETHER SHE/HE IS INSTRUCTED IN THE GENERAL EDUCATION CURRICULUM OR IN A SEPARATE/SPECIAL EDUCATION CURRICULUM, AND IF SO, REPORT WHICH.
- a.  General education curriculum
  - b.  Separate /special education curriculum
  - c.  Other (Specify):  
\_\_\_\_\_
  - d.  I cannot determine from the information available
61. DOES THE MOST RECENT IEP SHOW THAT THE STUDENT'S CLASS IS TAUGHT AT GRADE LEVEL? [NOTE THIS MAY BE FOUND IN THE SECTION IN THE IEP RELATED TO PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE.]
- a.  Yes
  - b.  No
  - c.  I cannot determine from the information available
62. DOES THE PRIOR IEP SHOW THAT THE STUDENT'S CLASS IS TAUGHT AT GRADE LEVEL [NOTE THIS MAY BE FOUND IN THE SECTION IN THE IEP RELATED TO PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE]?
- a.  Yes
  - b.  No
  - c.  I cannot determine from the information available
63. DOES THE THIRD IEP SHOW THAT THE STUDENT'S CLASS IS TAUGHT AT GRADE LEVEL [NOTE THIS MAY BE FOUND IN THE SECTION IN THE IEP RELATED TO PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE]?
- a.  Yes
  - b.  No
  - c.  I cannot determine from the information available

64. REPORT THE STUDENT'S PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE AS SET FORTH IN THE MOST RECENT IEP.

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65. REPORT THE STUDENT'S PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE AS SET FORTH IN THE PRIOR IEP.

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66. REPORT THE STUDENT'S PRESENT LEVELS OF ACADEMIC ACHIEVEMENT AND FUNCTIONAL PERFORMANCE AS SET FORTH IN THE THIRD IEP.

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67. HAS THE STUDENT EVER BEEN IN, AND THEN REMOVED FROM, A GENERAL EDUCATION CLASS?

\_\_\_\_\_ Yes

\_\_\_\_\_ No

\_\_\_\_\_ I cannot determine from the information available

68. DOES THE MOST RECENT IEP STATE THAT THE IEP TEAM CONSIDERED CLASS PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

a. \_\_\_\_\_ Yes

b. \_\_\_\_\_ No

c. \_\_\_\_\_ There was no IEP

69. DOES THE PRIOR IEP STATE THAT THE IEP TEAM CONSIDERED CLASS PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

a. \_\_\_\_\_ Yes

b. \_\_\_\_\_ No

c. \_\_\_\_\_ There was no IEP

70. DOES THE THIRD IEP STATE THAT THE IEP TEAM CONSIDERED CLASS PLACEMENT OPTIONS OTHER THAN THE ONE THE STUDENT IS IN?

- a.  Yes
- b.  No
- c.  There was no IEP

71. REPORT THE OTHER CLASS PLACEMENT OPTIONS CONSIDERED IN THE MOST RECENT IEP.

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72. REPORT THE OTHER CLASS PLACEMENT OPTIONS CONSIDERED IN THE PRIOR IEP.

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73. REPORT THE OTHER CLASS PLACEMENT OPTIONS CONSIDERED IN THE THIRD IEP.

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**SUPPLEMENTARY AIDS AND SERVICES**

74. REPORT WHAT THE MOST RECENT IEP SETS FORTH AS THE STUDENT'S BEHAVIORAL INTERVENTIONS, IF ANY.

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75. REPORT WHAT THE PRIOR IEP SETS FORTH AS THE STUDENT'S BEHAVIORAL INTERVENTIONS, IF ANY.

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76. REPORT WHAT THE THIRD IEP SETS FORTH AS THE STUDENT'S BEHAVIORAL INTERVENTIONS, IF ANY.

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77. REPORT WHAT THE MOST RECENT IEP SETS FORTH AS THE STUDENT'S SUPPLEMENTARY AIDS AND SERVICES, IF ANY.

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78. REPORT WHAT THE PRIOR IEP SETS FORTH AS THE STUDENT'S SUPPLEMENTARY AIDS AND SERVICES, IF ANY.

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79. REPORT WHAT THE THIRD IEP SETS FORTH AS THE STUDENT'S SUPPLEMENTARY AIDS AND SERVICES, IF ANY.

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80. REPORT WHAT THE MOST RECENT IEP SETS FORTH AS THE STUDENT'S MODIFICATIONS AND ACCOMMODATIONS, IF ANY.

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81. REPORT WHAT THE PRIOR IEP SETS FORTH AS THE STUDENT'S MODIFICATIONS AND ACCOMMODATIONS, IF ANY.

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82. REPORT WHAT THE THIRD IEP SETS FORTH AS THE STUDENT'S MODIFICATIONS AND ACCOMMODATIONS, IF ANY.

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**THE IEP**

83. REPORT THE STAFF MEMBERS PRESENT AT THE IEP MEETING AT WHICH THE MOST RECENT IEP WAS DRAFTED.

- a. \_\_\_\_ Special Education Teacher
- b. \_\_\_\_ Paraprofessional # 1
- c. \_\_\_\_ Paraprofessional # 2
- d. \_\_\_\_ Speech and Language Therapist
- e. \_\_\_\_ Physical Therapist
- f. \_\_\_\_ Occupational Therapist
- g. \_\_\_\_ Behavior Therapist
- h. \_\_\_\_ General Education Teacher
- i. \_\_\_\_ Case Manager
- j. \_\_\_\_ Other (Specify)

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84. REPORT THE STAFF MEMBERS PRESENT AT THE IEP MEETING AT WHICH THE PRIOR IEP WAS DRAFTED.

- a. \_\_\_\_ Special Education Teacher
  - b. \_\_\_\_ Paraprofessional # 1
  - c. \_\_\_\_ Paraprofessional # 2
  - d. \_\_\_\_ Speech and Language Therapist
  - e. \_\_\_\_ Physical Therapist
  - f. \_\_\_\_ Occupational Therapist
  - g. \_\_\_\_ Behavior Therapist
  - h. \_\_\_\_ General Education Teacher
  - i. \_\_\_\_ Case Manager
  - j. \_\_\_\_ Other (Specify)
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85. REPORT THE STAFF MEMBERS PRESENT AT THE IEP MEETING AT WHICH THE THIRD IEP WAS DRAFTED.

- a. \_\_\_\_ Special Education Teacher
  - b. \_\_\_\_ Paraprofessional # 1
  - c. \_\_\_\_ Paraprofessional # 2
  - d. \_\_\_\_ Speech and Language Therapist
  - e. \_\_\_\_ Physical Therapist
  - f. \_\_\_\_ Occupational Therapist
  - g. \_\_\_\_ Behavior Therapist
  - h. \_\_\_\_ General Education Teacher
  - i. \_\_\_\_ Case Manager
  - j. \_\_\_\_ Other (Specify)
- 

86. IN YOUR OPINION, ARE/WERE THE ACADEMIC AND/OR FUNCTIONAL GOALS SET FORTH IN THE MOST RECENT IEP MEASURABLE?

- a. \_\_\_ Yes
- b. \_\_\_ No
- c. \_\_\_ I cannot determine from the information available

87. WHAT IS THE BASIS FOR YOUR OPINION?

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88. IN YOUR OPINION, WERE THE ACADEMIC AND/OR FUNCTIONAL GOALS SET FORTH IN THE PRIOR IEP MEASURABLE?

- a. \_\_\_ Yes
- b. \_\_\_ No
- c. \_\_\_ I cannot determine from the information available

89. WHAT IS THE BASIS FOR YOUR OPINION?

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90. IN YOUR OPINION, WERE THE ACADEMIC AND/OR FUNCTIONAL GOALS SET IN THE THIRD IEP MEASURABLE?

- a. \_\_\_ Yes
- b. \_\_\_ No
- c. \_\_\_ I cannot determine from the information available

91. WHAT IS THE BASIS FOR YOUR OPINION?

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92. ARE EMPIRICAL RECORDS OF THE SPECIFIC SKILLS THE STUDENT HAS LEARNED IN THE PAST ONE MONTH, SIX MONTHS AND ONE YEAR AVAILABLE?

- a. \_\_\_ Yes

b. \_\_\_ No

c. \_\_\_ I cannot determine from the information available

**EXTRACURRICULAR AND NONACADEMIC ACTIVITIES**

93. REPORT THE MODIFICATIONS TO EXTRA-CURRICULAR AND NON-ACADEMIC ACTIVITIES SET FORTH IN THE MOST RECENT IEP.

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94. REPORT THE MODIFICATIONS TO EXTRA-CURRICULAR AND NON-ACADEMIC ACTIVITIES SET FORTH IN THE PRIOR IEP.

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95. REPORT THE MODIFICATIONS TO EXTRA-CURRICULAR AND NON-ACADEMIC ACTIVITIES SET FORTH IN THE THIRD IEP.

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96. REPORT WHAT IS SET FORTH IN THE MOST RECENT IEP REGARDING THE EXTENT TO WHICH THE STUDENT WILL NOT PARTICIPATE WITH NONDISABLED PEERS IN EXTRACURRICULAR AND NONACADEMIC ACTIVITIES.

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97. REPORT WHAT IS SET FORTH IN THE PRIOR IEP REGARDING THE EXTENT TO WHICH THE STUDENT WILL NOT PARTICIPATE WITH NONDISABLED PEERS IN EXTRACURRICULAR AND NONACADEMIC ACTIVITIES.

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98. REPORT WHAT IS SET FORTH IN THE THIRD IEP REGARDING THE EXTENT TO WHICH THE STUDENT WILL NOT PARTICIPATE WITH NONDISABLED PEERS IN EXTRACURRICULAR AND NONACADEMIC ACTIVITIES.

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99. DOES THE MOST RECENT IEP SET FORTH OPPORTUNITIES FOR INVOLVEMENT IN THE COMMUNITY (E.G., COMMUNITY-BASED INSTRUCTION, INTERNSHIPS, ETC.) AS PART OF THE STUDENT'S SCHOOL PROGRAM?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

100. DOES THE PRIOR IEP SET FORTH OPPORTUNITIES FOR INVOLVEMENT IN THE COMMUNITY (E.G., COMMUNITY-BASED INSTRUCTION, INTERNSHIPS, ETC.) AS PART OF THE STUDENT'S SCHOOL PROGRAM?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

101. DOES THE THIRD IEP SET FORTH OPPORTUNITIES FOR INVOLVEMENT IN THE COMMUNITY (E.G., COMMUNITY-BASED INSTRUCTION, INTERNSHIPS, ETC.) AS PART OF THE STUDENT'S SCHOOL PROGRAM?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

102. IF THE STUDENT IS INCLUDED IN THE GENERAL EDUCATION SETTING FOR LESS THAN 80% OF THE DAY, IS THE RATIONALE FOR THE STUDENT'S REMOVAL FROM GENERAL EDUCATION PROVIDED IN THE MOST RECENT IEP?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

103. IF THE STUDENT IS INCLUDED IN THE GENERAL EDUCATION SETTING FOR LESS THAN 80% OF THE DAY, IS THE RATIONALE FOR THE STUDENT'S REMOVAL FROM GENERAL EDUCATION PROVIDED IN THE PRIOR IEP?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

104. IF THE STUDENT IS INCLUDED IN THE GENERAL EDUCATION SETTING FOR LESS THAN 80% OF THE DAY, IS THE RATIONALE FOR THE STUDENT'S REMOVAL FROM GENERAL EDUCATION PROVIDED IN THE THIRD IEP?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

105. DOES THE MOST RECENT IEP STATE THE SUPPORTS THAT WILL BE PROVIDED SCHOOL PERSONNEL?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

106. DOES THE PRIOR IEP STATE THE SUPPORTS THAT WILL BE PROVIDED SCHOOL PERSONNEL?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

107. DOES THE THIRD IEP STATE THE SUPPORTS THAT WILL BE PROVIDED SCHOOL PERSONNEL?

- a.  Yes
- b.  No
- c.  I cannot determine from the information available

108. PROVIDE ANY QUOTES YOU CAME UPON IN THE STUDENT'S FILES THAT RELATE TO THE LEAST RESTRICTIVE ENVIRONMENT.

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## Appendix E. IEP Compliance Assessment (11-Question Checklist)

*Report whether the IEP addresses the following provisions of the New Jersey model IEP, and if so, record the responses set forth in the IEP.*

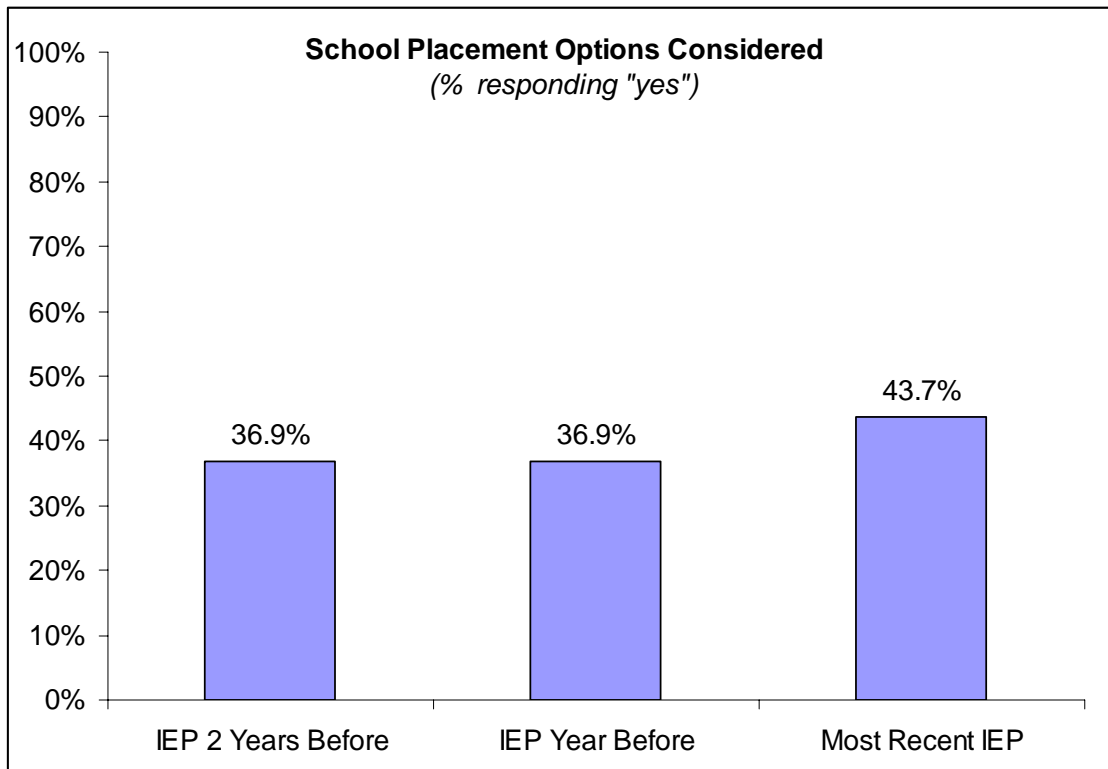
School placement options considered	1. Does the IEP state that the IEP team considered school placement options other than the one the student is in?
Supplementary options considered	2. Does the IEP identify the supplementary aids and services that were considered to implement the student's annual goals and explain why they are not appropriate to meet the student's needs in the general education class?
Inclusion benefits considered	3. Does the IEP document the comparison of the benefits provided in the general education class and the benefits provided in the special education class?
Risk/benefit of inclusive class considered	4. Document the potentially beneficial or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class?
Teaching at grade level	5. Does the IEP show that the student's class is taught at grade level?
Class placement options considered	6. Does the IEP state that the IEP team considered class placement options other than the one the student is in?
Behavioral intervention options	7. Does the IEP set forth student's behavioral interventions, if any?
Student goals measurable	8. In your opinion, are/were the academic and/or functional goals set forth in the IEP measurable?
Community involvement considered	9. Does the IEP set forth opportunities for involvement in the community (e.g., community-based instruction, internships, etc.) As part of the student's school program?
Rationale for segregation	10. If the student is included in the general education setting for less than 80% of the day, is the rationale for the student's removal from general education provided in the IEP?
Supports by school personnel considered	11. Does the IEP state the supports that will be provided by school personnel?



## Appendix F. Summary of 11-Question IEP Compliance Index

### Question 1.

*Does the IEP state that the IEP team considered school placement options other than the one the student is in?*

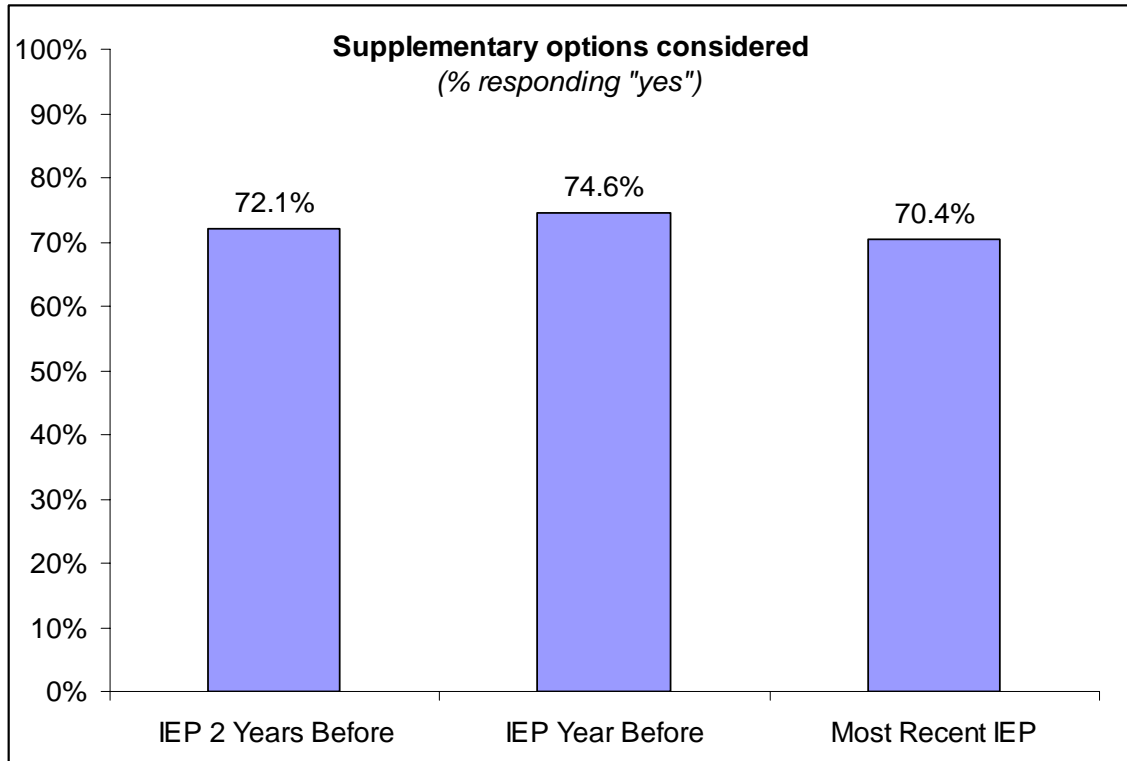


(Based on Student Booklet questions 33, 34, and 35)

## IEP COMPLIANCE INDEX

### Question 2.

*Does the IEP identify the supplementary aids and services that were considered to implement the student's annual goals and explain why they are not appropriate to meet the student's needs in the general education class?*

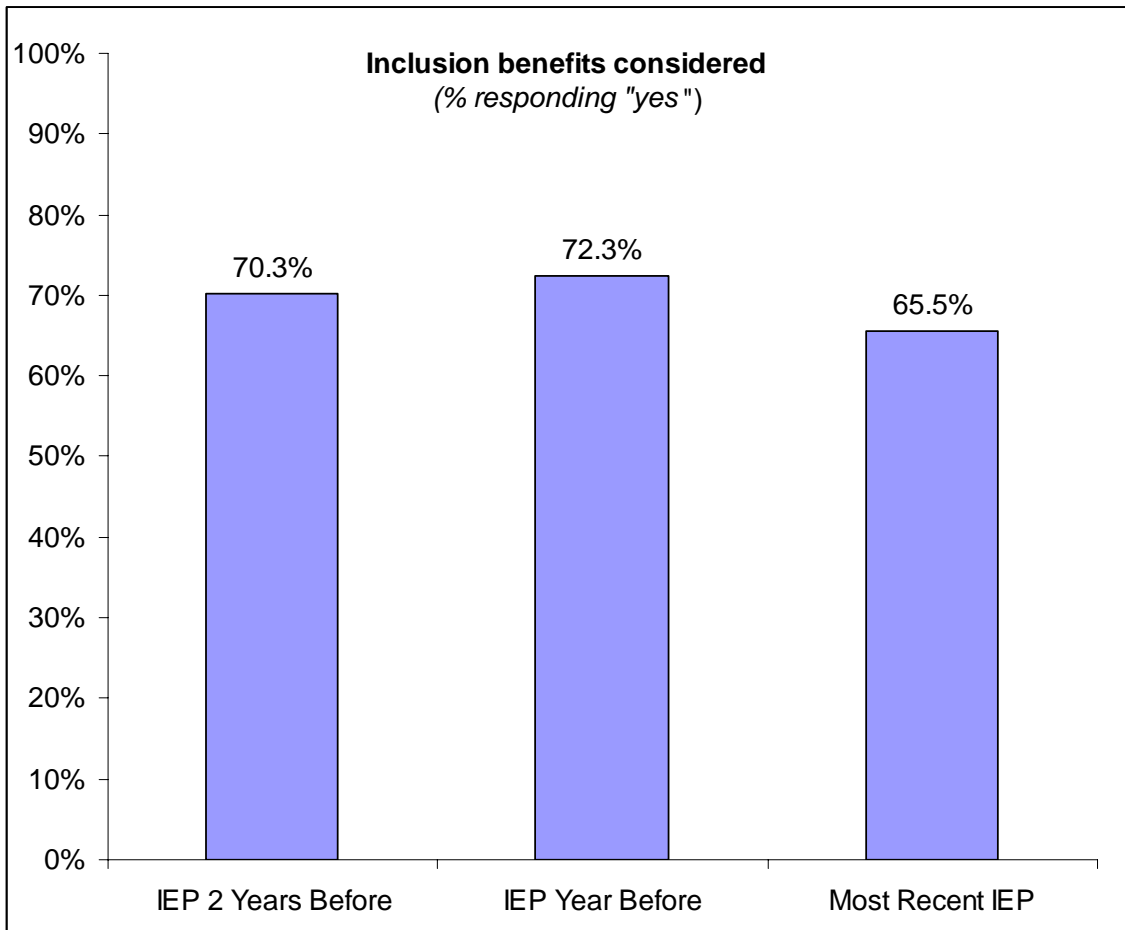


(Based on Student Booklet questions 39, 42, and 45)

## IEP COMPLIANCE INDEX

### Question 3.

Does the IEP document the comparison of the benefits provided in the general education class and the benefits provided in the special education class?

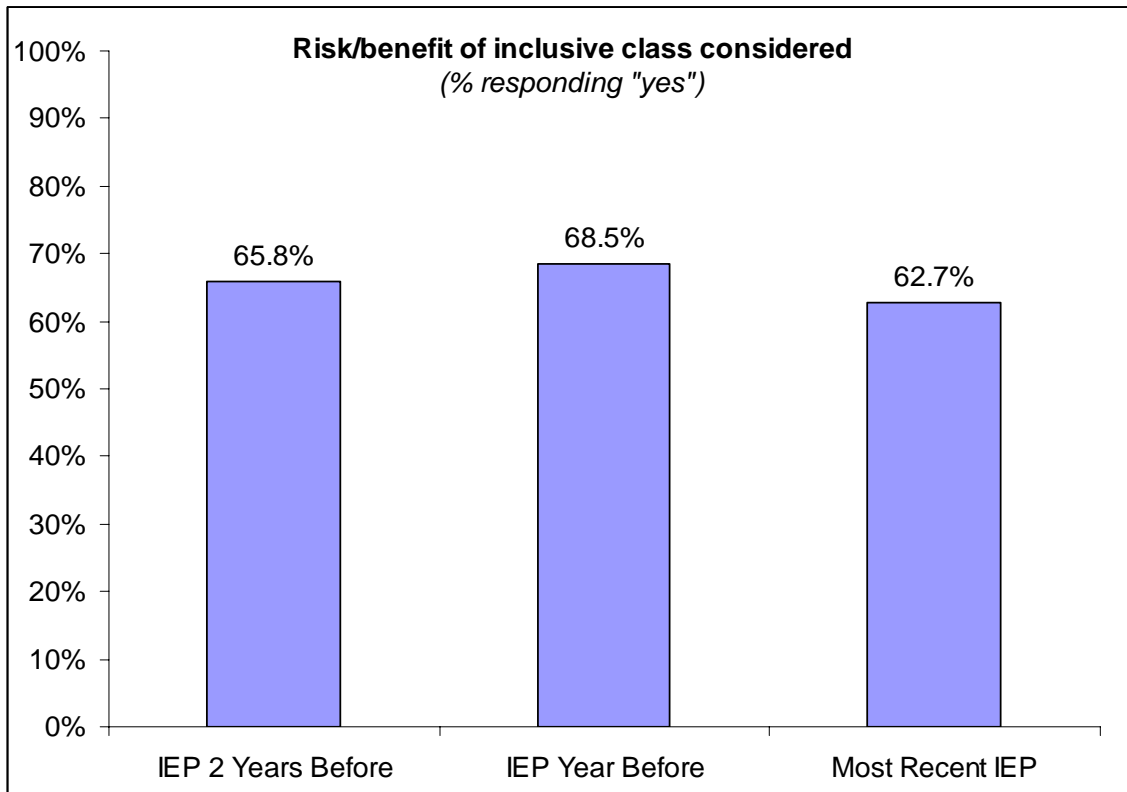


(Based on Student Booklet questions 40, 43, and 46)

## IEP COMPLIANCE INDEX

### Question 4.

Does the IEP document the potentially beneficial or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class?

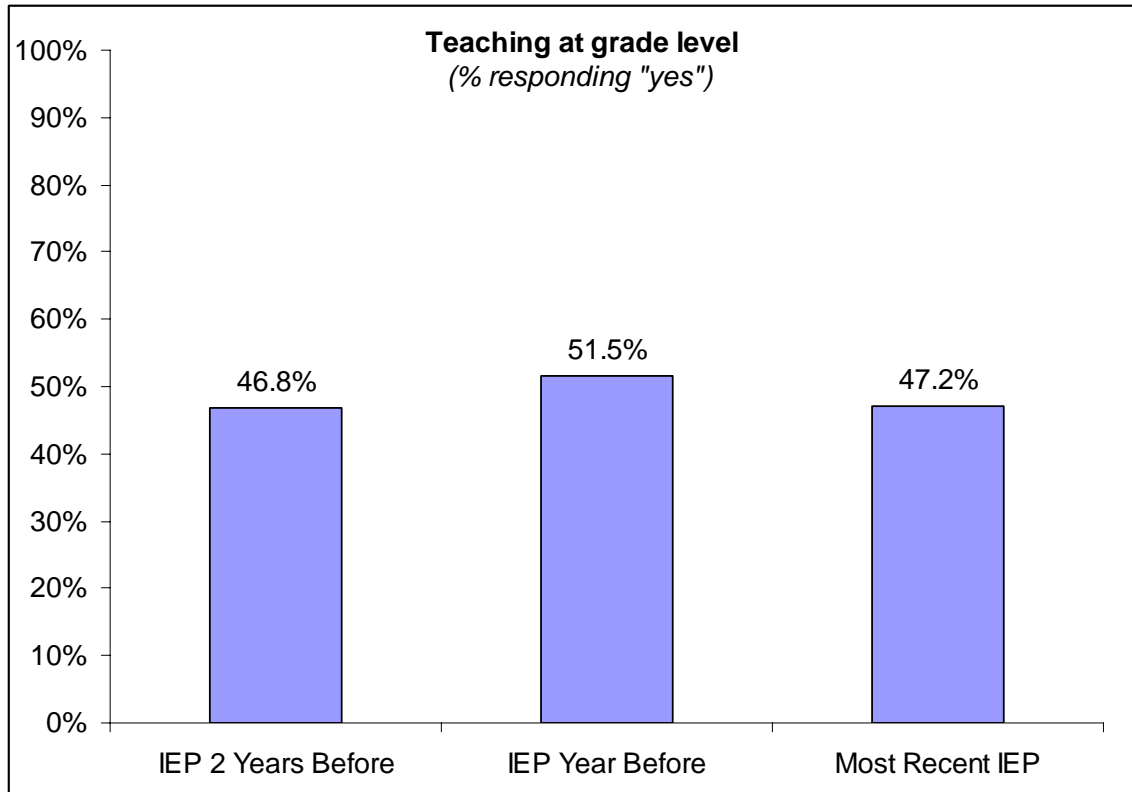


(Based on Student Booklet questions 41, 44, and 47)

## IEP COMPLIANCE INDEX

### Question 5.

*Does the IEP show that the student's class is taught at grade level?*

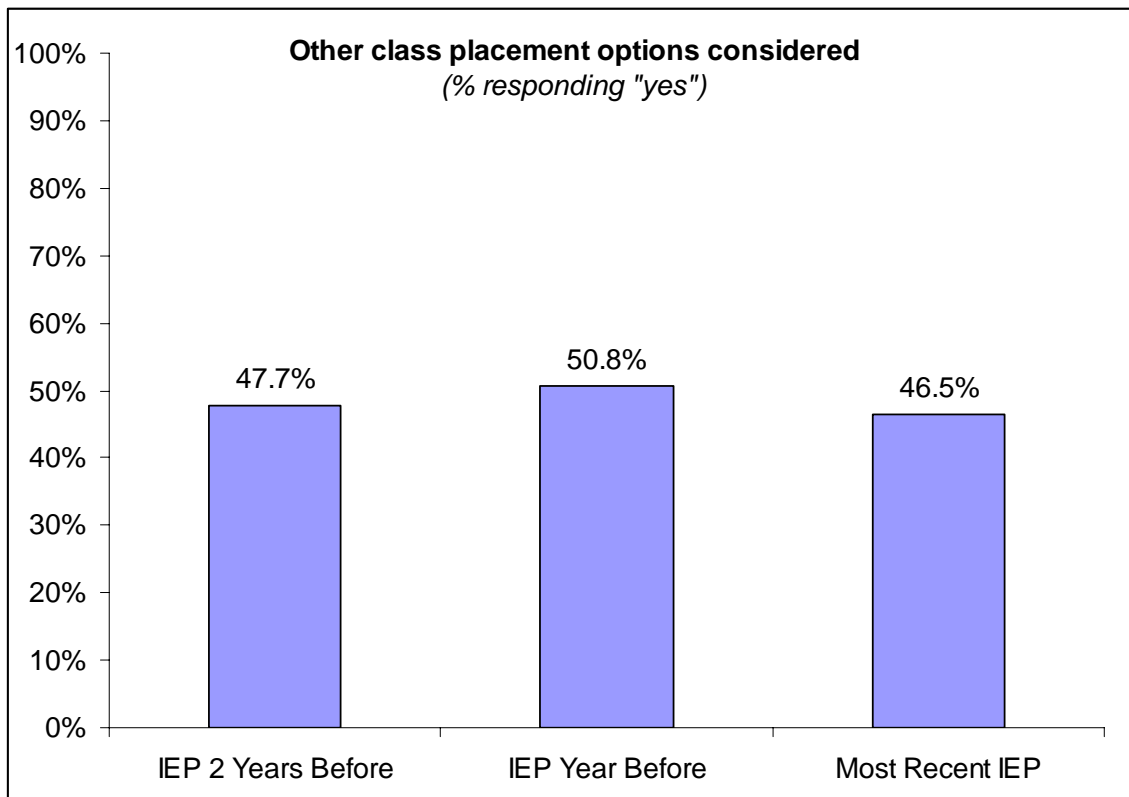


(Based on Student Booklet questions 61, 62, and 63)

## IEP COMPLIANCE INDEX

### Question 6.

*Does the IEP state that the IEP team considered class placement options other than the one the student is in?*

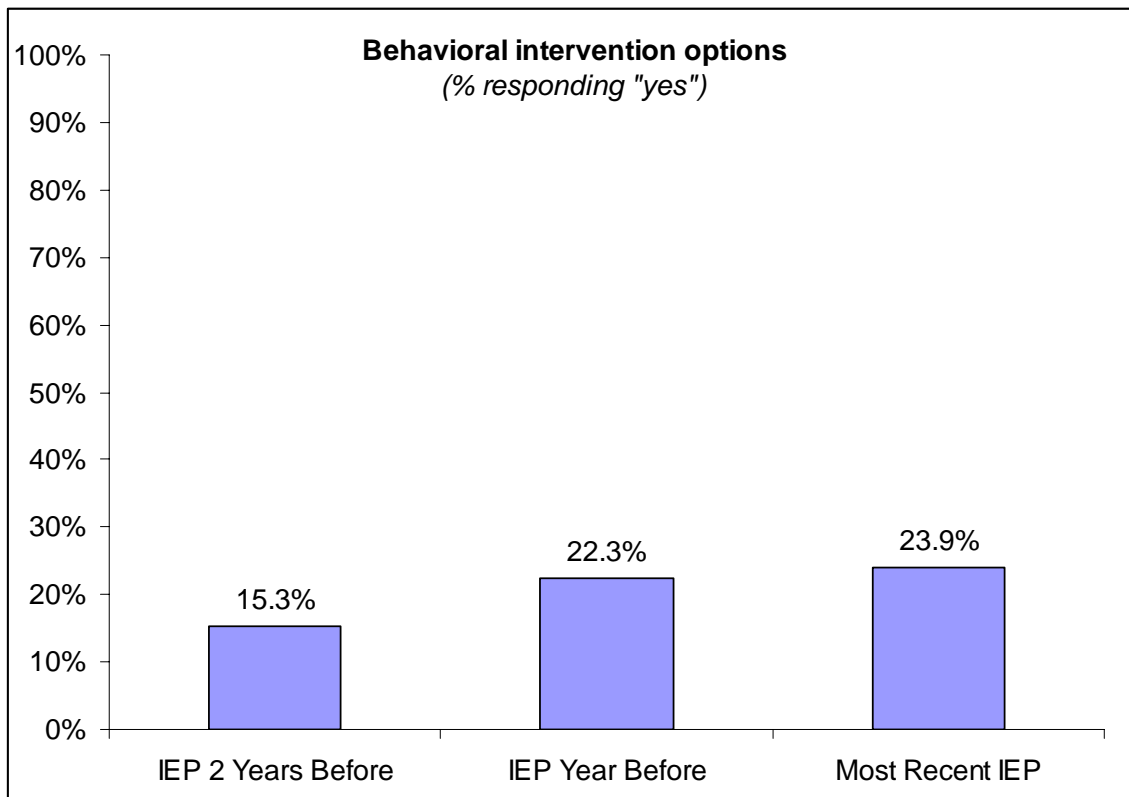


(Based on Student Booklet questions 68, 69, and 70)

## IEP COMPLIANCE INDEX

### Question 7.

*Does the IEP set forth student's behavioral interventions, if any?*

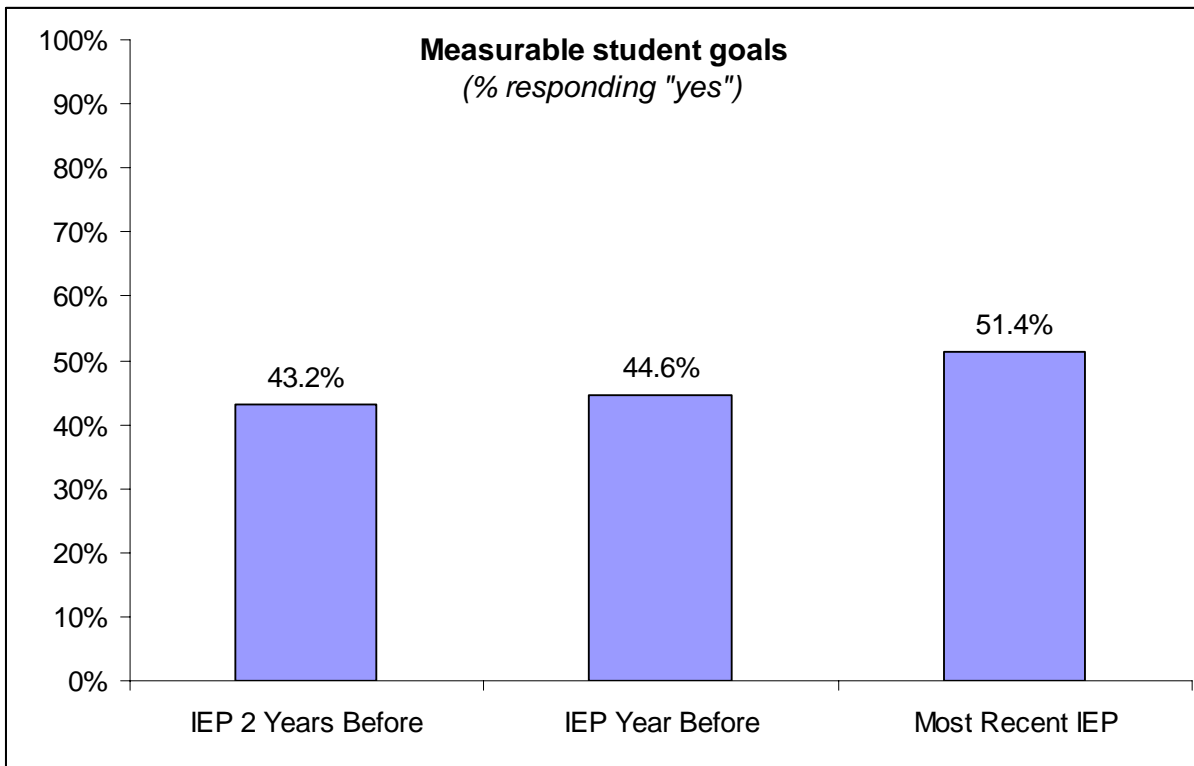


(Based on Student Booklet questions 74, 75, and 76)

## IEP COMPLIANCE INDEX

### Question 8.

*In your opinion, are/were the academic and/or functional goals  
set forth in the IEP measurable?*



(Based on Student Booklet questions 86, 88, and 90)



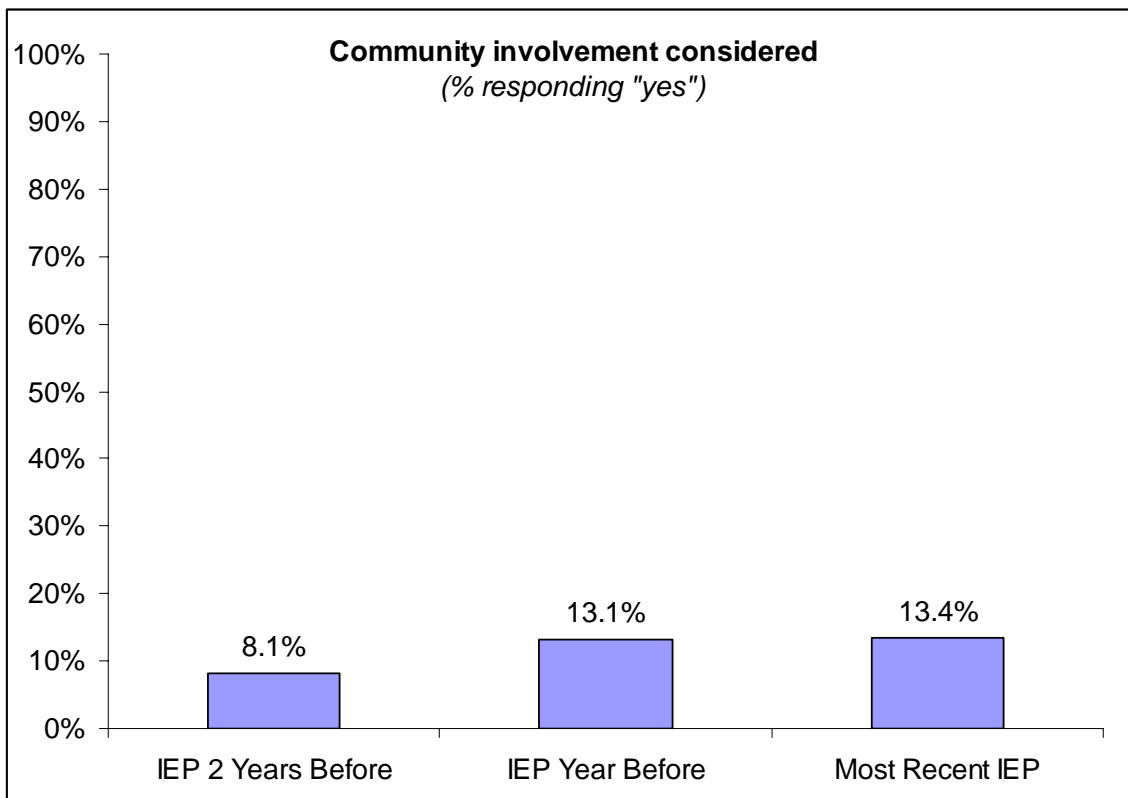
## IEP COMPLIANCE INDEX

### Question 9.

*Does the IEP set forth opportunities for involvement in the community*

*(e.g., community-based instruction, internships, etc.)*

*as part of the student's school program?*

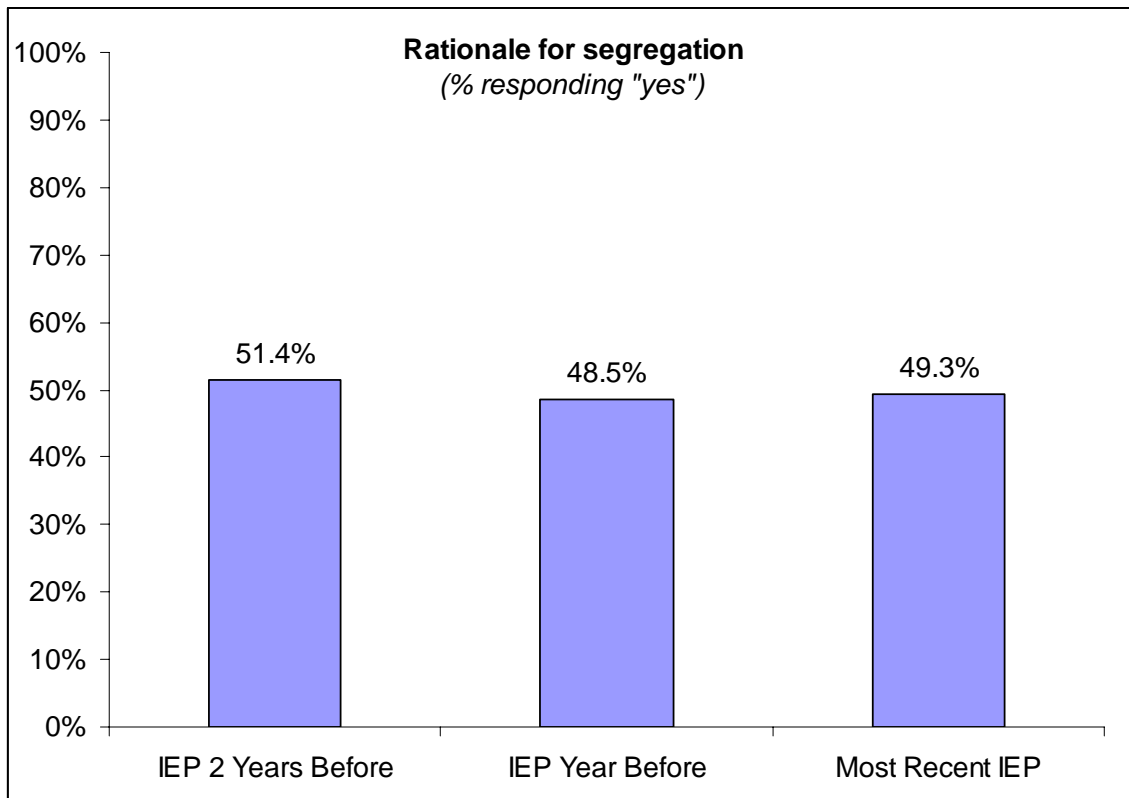


(Based on Student Booklet questions 99, 100, and 101)

## IEP COMPLIANCE INDEX

### Question 10.

If the student is included in the general education setting for less than 80% of the day, is the rationale for the student's removal from general education provided in the IEP?

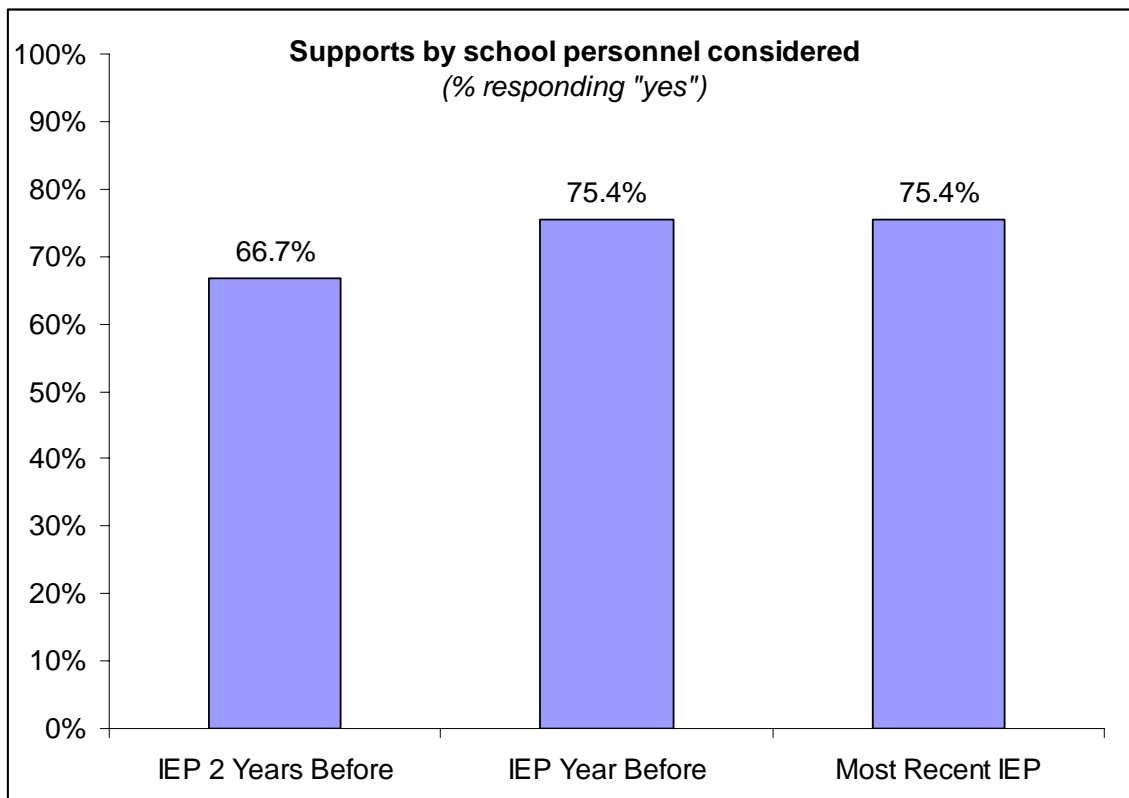


(Based on Student Booklet questions 102, 103, and 104)

**IEP COMPLIANCE INDEX**

**Question 11.**

*Does the IEP state the supports that will be provided by school personnel?*



(Based on Student Booklet questions 105, 106, and 107)

## Appendix G. Student Booklet Questions Related To “Most Recent” IEP

[NOTE: Questions 1-32 are demographic and other background questions. Since they contain identifying information they are not included below. Any other excluded questions refer to previous IEPs]

**REPORT WHETHER THE MOST RECENT IEP ADDRESSES THE FOLLOWING PROVISIONS OF THE NEW JERSEY MODEL IEP, AND IF SO, RECORD THE RESPONSES SET FORTH IN THE MOST RECENT IEP.**

**QUESTION 33.** Does the most recent IEP state that the IEP team considered school placement options other than the one the student is in?

RESPONSE	COUNT
Yes	62
No	80

**QUESTION 36.** Report the other school placement options considered in the most recent IEP.  
(Re: Question 33) (IF “YES” TO QUESTION 33)

RESPONSE	COMMENT	COUNT
<b>QUESTION 33. YES</b>	(no additional information provided)	5
	General education school, but not the home-neighborhood school Special services school district school	1
	Home-neighborhood school-the public school the student would attend if he-she did not have a special education classification	23
	1 Home-neighborhood school-the public school the student would attend if he-she did not have a special education classification; 2 OTHER: general education classroom in home-neighborhood school with supports and specialized instruction for the majority of the s	1
	1 Home-neighborhood school-the public school the student would attend if he-she did not have a special education classification; 2 OTHER: Supported regular education program in the general classroom in the home-neighborhood school	1
	OTHER: Says it’s based on “annual review”; there were no other IEPs to compare information to.	1
	OTHER: “In making this student’s program decision, a number of options were considered, including various combinations of the above mentioned programs were also considered. These program options were rejected based on the student’s academic needs.”	1

	OTHER: "Mainstreaming with special supports was considered and rejected, because it would not adequately meet the academic and emotional needs of the student at this time. Ivana is functioning below grade level. She requires smaller, more structured program	1
	OTHER: full mainstreaming	1
	OTHER: full-time regular education	1
	OTHER: full-time regular education without support	2
	OTHER: General Education with in class assistance and extended time	1
	OTHER: General Education with in class supports	1
	OTHER: General key is presented with different options based upon age but student is not specifically discussed	1

<b>QUESTION 33. YES</b>	OTHER: In-class resource	1
	OTHER: N.J. Training School - Juvenile Justice System	1
	OTHER: No specifics given just checked the revision to IEP and change of placement bow at top of IEP	1
	OTHER: One to one assistance	1
	OTHER: public twilight school	1
	OTHER: regular education classes with in-class support, general education program with modifications, a general education program with a teacher's aide, pull-out resource, pull-out resource program.	1
	OTHER: regular education full-time	1
	OTHER: Resource Room	1
	OTHER: self-contained classroom in public school	1
	OTHER: The IEP considered the continuum of all special education services available, and concluded that the proposed program best meets Jimmy's needs in the least restrictive environment. Consideration was also given to placing Jimmy in a more structured	1
	OTHER: Vocational and Technical HS: half day program	1
	Public general education school out of the district in which s-he resides	2
	1 Public general education school out of the district in which s-he resides 2 OTHER: special education class in a hospital school – 3 full behavioral disabilities program, behavioral disabilities program with in-class assistance, a full in-class assistance program	1
	Could not determine given available information	6
	OTHER: no specific information	1

**QUESTION 39:** *“Identify the supplementary aids and services that were considered to implement the student’s annual goals and explain why they are not appropriate to meet the student’s needs in the general education class.” YES/NO*

RESPONSE	COUNT
Yes	100
No	32
Not Applicable	10

**QUESTION 40.** *Document the comparison of the benefits provided in the general education class and the benefits provided in the special education class- YES/NO*

RESPONSE	COUNT
Yes	93
No	41
Not Applicable	8

**QUESTION 41.** *Document the potentially beneficial or harmful effects which a placement (in the general education class) may have on the student with disabilities or the other students in the class.” YES/NO*

RESPONSE	COUNT
Yes	89
No	44
Not Applicable	9

**QUESTION 55.** *Report what the most recent IEP states is the kind of class in which the student is/was placed.*

RESPONSE	COUNT
80% or more in General Ed.	65
40% thru 80% in General Ed.	28
Less than 40% in General Ed.	49

**QUESTION 58.** *If the student functions outside the general education class for any part of the school day, does the most recent IEP state whether she/he is instructed in the general education curriculum or in a separate/special education curriculum, and if so, report which.*

RESPONSE	COUNT
General Education Curriculum	50
Separate-Special Education Curriculum	39
Other-Specify	12
Cannot Determine	22
N/A	19

**QUESTION 68.** *Does The Most Recent IEP State That The IEP Team Considered Class Placement Options Other Than The One The Student Is In? - YES/NO*

RESPONSE	COUNT
Yes	66
No	72
Not Applicable	4

**QUESTION 74.** *Report what the most recent IEP sets forth as the student's behavioral interventions, if any.*

RESPONSE	COUNT
Yes	34
No	56
Not Applicable	52

**QUESTION 77.** *Report what the most recent IEP sets forth as the student's supplementary aids and services, if any.*

RESPONSE	COUNT
Yes, Aids and Services included	108
None included	25
N/A	9

**QUESTION 80.** Report what the most recent IEP sets forth as the student's modifications and accommodations, if any.

RESPONSE	COUNT
Yes, modifications & accommodations listed	126
None listed	13
N/A	3

**QUESTION 86.** In your opinion, are-were the academic and-or functional goals set forth in the most recent IEP measurable? - --- Yes/No/Cannot determine

RESPONSE	COUNT
Yes	73
No	59
Cannot determine	10

**QUESTION 93.** Report the modifications to extra-curricular and non-academic activities set forth in the most recent IEP.

RESPONSE	COUNT
Yes, modifications listed	41
None listed	62
N/A	39

**QUESTION 96.** Report what is set forth in the most recent IEP regarding the extent to which the student will not participate with nondisabled peers in extracurricular and nonacademic

RESPONSE	COUNT
Yes, information about participation provided	54
No information	61
N/A	27



**QUESTION 99.** Does the most recent IEP set forth opportunities for involvement in the community (e.g., community-based instruction, internships, etc.) as part of the student’s school program?

RESPONSE	COUNT
Yes	19
No	81
Cannot determine	42

**QUESTION 102.** If the student is included in the general education setting for less than 80% of the day, is the rationale for the student’s removal from general education provided in the most recent IEP?

RESPONSE	COUNT
Yes	70
No	43
Cannot determine	10
N/A	19

## Appendix H. Annotated IEP Checklist with Corresponding IDEA Regulations

### *Individualized Education Program*

### Annotated IEP Checklist

ITEM(s)	IDEA '97 REGULATIONS	REGULATION CITATION
<b>Parent/Student — IEP 1</b>		
<input type="checkbox"/> consider input from parents	Parent participation.	20 U.S.C § 614 (d) (1) (B) (i)
<b>Student Strengths and Key Evaluation Summary — IEP 1</b>		
<input type="checkbox"/> consider results of initial evaluation or most recent evaluation	Initial evaluations. Reevaluation. IEP meetings. Development, review, and revision of IEP.	20 U.S.C § 614 (a) (b) and (c) 20 U.S.C § 614 (a) (2) 20 U.S.C § 613 (a) (1); 614 (d) (4) (A) 20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> consider assessment results from MCAS and district-wide assessments	Development, review, and revision of IEP	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> consider input from parent, special educators and general education teachers	IEP meetings. Parent participation. Development, review, and revision of IEP.	20 U.S.C § 613 (a) (1); 614 (d) (4) (A) 20 U.S.C § 614 (d) (1) (B) (i) 20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> review existing annual goals and address any lack of expected progress	IEP meetings.	20 U.S.C § 613 (a) (1); 614 (d) (4) (A)
<input type="checkbox"/> review progress in the general curriculum	IEP meetings.	20 U.S.C § 613 (a) (1); 614 (d) (4) (A)
<b>Vision Statement — IEP 1</b>		
<input type="checkbox"/> beginning at the age 14, the vision statement should be based on the individual student's needs taking into account the student's preferences and interests and include desired outcomes in adult living, post-secondary and working environments	Transition services. Development, review, and revision of IEP.	20 U.S.C § 614 (d) (1) (A) (i) (VIII) 20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<b>General Curriculum — IEP 2</b>		
<input type="checkbox"/> discuss how the student's disability affects the student's involvement and progress in the general curriculum (i.e. the same curriculum as used with nondisabled students)	Content of IEP.	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)

## Annotated IEP Checklist (continued)

ITEM(s)	IDEA '97 REGULATIONS	REGULATION CITATION
<b>Other Educational Need(s) — IEP 3</b>		
<input type="checkbox"/> for the student whose behavior impedes own learning or the learning of others, consider student's behavior including positive behavioral interventions, ability to follow school discipline code, any needed code modifications and the possible need for a functional behavioral assessment	Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for the student with Limited English Proficient (LEP), consider language needs and document whether the special education and related services will be provided in a language other than English	Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for the student who is blind/visually impaired, consider need for instruction in Braille and use of Braille unless the Team considers such instruction in not appropriate for the student	Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for the student who is deaf/hearing impaired, consider language and communication needs, opportunities for direct communication, academic level and full range of needs including direct instruction in a child's language and communication mode	Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for all students, consider the communication needs	Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for all students, consider whether assistive technology is needed	Assistive technology Development, review, and revision of IEP.	20 U.S.C § 614 (d) (3) (B) (v) 20 U.S.C § 614 (d) (3) and (4) (B) and (e)
<input type="checkbox"/> for children ages 3 to 5, consider, as appropriate, how the disability(ies) affects the child's participation in appropriate activities  <i>Note: By the third birthday of a child eligible for services, an IEP or IESP must be developed and being implemented.</i>	Content of the IEP. <i>Individualized family service plan.</i> <i>Free appropriate public education (FAPE).</i> <i>Transition of children from Part C to preschool programs.</i> <i>When IEPs must be in effect.</i>	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii) 20 U.S.C § 636 (d) 20 U.S.C § 612 (a) (1) 20 U.S.C § 612 (a) (9) 20 U.S.C § 614 (d) (2)
<input type="checkbox"/> beginning no later than the first IEP developed when the eligible student with a disability is 15, the Team considers the student's need for transition services and documents their discussion. If appropriate the IEP includes a statement of needed transition services.	Transition Services. Parent participation. Content of the IEP.	20 U.S.C § 614 (d) (1) (A) (i) (VIII) 20 U.S.C § 614 (d) (1) (B) (i) 20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)

## Annotated IEP Checklist (continued)

ITEM(s)	IDEA '97 REGULATIONS	REGULATION CITATION
<b>Other Educational Need(s) — IEP 3</b>		
<input type="checkbox"/> for each student beginning at age 16 (or younger if appropriate) a statement of transitional services for the student	Transition Services. Parent participation. Content of IEP.	20 U.S.C § 614 (d) (1) (A) (i) (VIII) 20 U.S.C § 614 (d) (1) (B) (i) 20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)
<b>Current Performance Levels/Measurable Annual Goals — IEP 4</b>		
<input type="checkbox"/> include a statement of child's present levels of educational performance and a statement of measurable annual goals including benchmarks or short-term objectives	Content of IEP. IEP — accountability.	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii) 20 U.S.C § 614 (d) (1) (A) (i) (I-IV)
<b>Service Delivery — IEP 5</b>		
<input type="checkbox"/> consider the students unique needs and not existing programs and services when determining service delivery	Assistive technology service. Related service. Special education. Supplementary aids and services. Transition services. Content of IEP.	20 U.S.C §614 (d) (3) (B) (v) 20 U.S.C § 602 (26) 20 U.S.C § 602 (29) 20 U.S.C § 602 (33) 20 U.S.C § 614 (d) (1) (A) (i) (VIII) 20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)
<b>Nonparticipation Justification — IEP 6</b>		
<input type="checkbox"/> justify why the student is unable to be educated and participate with other children with and without disabilities in activities	Content of IEP. Nonacademic settings.	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii) 20 U.S.C § 612 (a) (5)
<b>Schedule Modification — IEP 6</b>		
<input type="checkbox"/> discuss and document whether a student needs a longer or shorter school day or year	Extended school year services. Content of IEP.  <i>Contents of the IEP.</i>	20 U.S.C § 612 (a) (1) 20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)  § 603CMR 28.05 (4)(d) (State Regulation)

## Annotated IEP Checklist (continued)

ITEM(s)	IDEA '97 REGULATIONS	REGULATION CITATION
<b>Transportation — IEP 6</b>		
<input type="checkbox"/> discuss and record whether the student needs transportation as a result of the disability(ies)	Related services. Nonacademic services. Location of service; transportation.  <i>Transportation.</i>	20 U.S.C § 602 (26) 20 U.S.C § 612 (a) (5) 20 U.S.C § 612 (a) (10) (A)  § 603CMR 28.05 (5) (State Regulation)
<b>State or District-Wide Assessment — IEP 7</b>		
<input type="checkbox"/> discuss and document how the student with a disability will be included in state and district-wide assessments	Participation in assessments.  Content of IEP.	20 U.S.C § 612 (a) (16)  20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)
<b>Additional Information — IEP 8</b>		
<input type="checkbox"/> beginning no later than the first IEP developed when the eligible student with a disability is 15, the Team considers the student's need for transition services and documents their discussion. If appropriate the IEP includes a statement of needed transition services.	Exception to FAPE for certain ages.  Prior notice by the public agency; content of notice.	20 U.S.C § 612 (a) (1) (B)  20 U.S.C § 614 (b) (1) and 615 (b) (3), (4), and (c)
<input type="checkbox"/> for students 16 (or younger, if determined appropriate by the IEP Team) or older, when appropriate, discuss and <i>document</i> inter-agency responsibilities and any needed linkages	Content of IEP.	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)
<input type="checkbox"/> for a student two years before graduation or reaching age 22 who may require continuing special services, discuss and <i>document</i> the need for a referral to an area human service agency office or the Bureau of Transitional Planning	Required under state law M.G.L. c.71, §12A-§12C (Known as Chapter 688)  <i>Contents of the IEP.</i>	§ 603 CMR 28.05(4)(c) (State Regulation)
<input type="checkbox"/> for students whose IEPs have transition services that a participating agency fails to provide, identify alternative strategies to meet these objectives	Agency responsibilities for transition services.  <i>Reconvene Team as necessary to address this issue.</i>	20 U.S.C § 614 (d) (1) (A) (VII) 20 U.S.C § 614 (d) (6)
<input type="checkbox"/> for students at least one year before age 18, discuss and <i>document</i> the transfer of rights discussion	Content of IEP.	20 U.S.C § 614 (d) (1) (A) and (d) (6) (A) (ii)
<input type="checkbox"/> for a transition-aged student not in attendance, <i>document</i> other steps taken to ensure that the student's preferences and interest were considered	IEP team.	20 U.S.C § 614 (d) (1) (B)

## Annotated IEP Checklist (continued)

ITEM(s)	IDEA '97 REGULATIONS	REGULATION CITATION
<b>Additional Information — IEP 8 (continued)</b>		
<input type="checkbox"/> when parents are not in attendance, the school district should <i>document</i> effort made to ensure parent participation and to insure a mutually agreed upon time and place	Parent participation.	20 U.S.C § 614 (d) (1) (B) (i)
<b>Parent Signature — IEP 8</b>		
<input type="checkbox"/> immediately following the development of the IEP, the district shall provide the parent with a copy of the proposed IEP along with the required notice	<i>Required under state regulation.</i>  <i>Parent response to proposed IEP and proposed placement.</i>	§ 603 CMR 28.05(7) <i>(State Regulation)</i>

**Appendix I. New Jersey Codes for Special Education Placement – An Index of Overall Level of Inclusion with Nondisabled Students**

	<b>For Age 3-5:</b>	
01	<b>80% or more of the school day in the presence of regular education students</b>	<i>Students who attend a regular Early Childhood program or kindergarten that includes at least 50% nondisabled children for at least 80% of their school day. Early Childhood programs include, but are not limited to: Head Start; kindergarten; privately operated general education preschool; preschool classes offered to an eligible pre-kindergarten population by the public school system; and group childcare.</i>
02	<b>Between 40-79% of the school day in the presence of regular education students</b>	<i>Students who attend a regular Early Childhood program or kindergarten that includes at least 50% nondisabled children for between 40%-79% of their school day. This does not include children who are reported as receiving education programs in public or private separate schools or residential facilities</i>
03	<b>Less than 40% of the school day in the presence of regular education students</b>	<i>Students who attend a regular Early Childhood program or kindergarten that includes at least 50% nondisabled children for less than 39% of their school day. This includes students who are in out-of-district placements including public and approved private school programs that are operated in public school buildings with regular education grades. This does not include children who are reported as receiving education programs in public or private separate schools or residential facilities</i>
04	<b>Separate class</b>	<i>Students who attend a special education program in a class with less than 50% nondisabled children. Does not include children who also attend a regular early childhood program</i>
05	<b>Separate school</b>	<i>Students receiving special education and related services for greater than 50% of the school day in public or private separate schools</i>
06	<b>Residential facility</b>	<i>Students who receive education programs and live in public or private residential facilities during the school week. Includes children receiving special education and related services for greater than 50% of the school day in public or private residential facilities</i>
07	<b>Home</b>	<i>Students who receive special education and related services in the principal residence of the child's family or caregivers/babysitters, and who DID NOT attend an early childhood program or a special education program provided in a separate class, separate school, or residential facility. Includes children who receive special education both at home and in a service provider location</i>
08	<b>Service Provider Location</b>	<i>Students who receive all of their special education and related services from a service provider and who DID NOT attend an early childhood program or a</i>

		<i>special education program provided in a separate class, separate school, or residential facility. For example, speech instruction provided in: a private clinician's office, in clinicians; offices located in school buildings, hospital facilities on an outpatient basis, or libraries or other public locations. Do not include children who also receive special education at home. Children who receive special education both in a service provider location and at home should be reported in the home category</i>
	<b>For Age 6-21:</b>	
09	<b>80% or more of the school day in the presence of regular education students</b>	<i>Students included in the regular education setting at least 80% of the school day</i>
10	<b>Between 40-79% of the school day in the presence of regular education students</b>	<i>Students included in the regular education setting from 40% to 79% percent of the school day</i>
11	<b>Less than 40% of the school day in the presence of regular education students</b>	<i>Students who are included in the regular education setting up to 39% of the school day. This includes students who are in out-of-district placements including public and approved private school programs that are operated in public school buildings with regular education grades</i>
12	<b>Public Separate School</b>	<i>Students who receive special education and related services for more than 50% of the school day in a public school building without regular education students. These settings may include the following receiving schools: educational services commission, regional day school, special services school district, jointure commission, public college operated program</i>
13	<b>Private Day School</b>	<i>Students who receive special education and related services at public expense for more than 50% of the school day in a separate private school for the disabled. In addition to reporting students who attend a separate private day program, districts should report students in residential programs for whom the district pays only the educational costs and not the residential costs</i>
14	<b>Private Residential</b>	<i>Students who receive special education and related services in a private residential facility for greater than 50% of the school day and lived in the facility during the school week. The district of residence reports the student in this placement group when the district pays both the educational and residential costs. Districts should not report students in residential programs whose residential costs are paid by the Department of Children and Families as these students are reported by the Department of Children and Families.</i>
15	<b>Public Residential</b>	<i>Students in this placement group that are attending Katzenbach School for the Deaf are reported by the district of residence. Students that are placed by the Department of Children and Families in a state facility are reported by the Department of Children and Families.</i>



16	<b>Home Instruction</b>	<i>Students receiving special education and related services in the home, hospital, or other setting</i>
17	<b>Correctional Facility</b>	<i>Students receiving special education and related services in short term detention facilities (community-based or residential or longer term correctional facilities). Students receiving special education and related services in county detention facilities are reported in this category by the district of residence. Students receiving special education and related services in state facilities operated or contracted by the Juvenile Justice Commission or by the Department of Corrections are reported in this category by those state agencies, respectively.</i>