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Least Restrictive Environment and Inconsistency of Implementation

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 Section 300.114 of the Individuals with Disabilities Education Act (IDEA) states the following:

*“Except as provided in section 300.324(d)(2) (regarding childing with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE (least restrictive environment) requirements of this section and section 300.115 through 300.120. Each agency must ensure that to the maximum extent appropriate children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and in special cases, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular cases with the use of supplementary aids and services cannot be achieved satisfactorily” ("Sec. 300.114 LRE requirements", 2017).*

As it is currently written, the Least Effective Environment (LRE) mandate allows for each school district in every state to interpret in their own way how to implement LRE in their school. Even in cases where families feel the LRE mandate has been violated, courts are inconsistent in their rulings on LRE and the role districts play in implementation (Palley, 2006). Finally, due to vague language and a lack of best practices for implementation, the LRE mandate varies so widely state to state and even within districts that its overall effectiveness is hard, if not impossible to measure.

Current literature on the LRE mandate and how effective it has been centers around four main themes. The first was on the variability of student placement into the least restrictive environment state to state (Brock, 2018; Danielson & Bellamy, 1989; Kurth, Morningstar, & Kozleski, 2014). The second was on inaccurate and inconsistent placement due to socioeconomics, minority status, and school population size (Brock & Schaefer, 2015; Kurth, Mastergeorge, & Paschall, 2016). The third was a lack of enforceable oversight due to vague language and the lack of best practices for accurate placement of students into the least restrictive environment (Kurth, Lyon, & Shogren, 2015; Palley, 2006). The final theme was lack of data allowing for interpretation of the success or lack of success of the mandate due to lack of reporting and variability across the United States (Danielson & Bellamy, 1989; McLeskey, Landers, Hoppey & Willliamson, 2011; Morningstar & Kurth, 2017).

Based upon this existing research, my hypothesis is: the effectiveness of the LRE mandate is highly dependent upon each state and district’s implementation and interpretation of the law. In the following sections, I will review the literature and discuss the support for my hypothesis.

**State to State Variability**

Brock, using data from the Department of Education, Individuals with Disabilities Education Act Data Center, EHA IDEA Annual Reports, and the Education Resource Information Center, researched the numbers of students ages 6-21 with intellectual disabilities that were educated in the least restrictive environment (LRE) over the last 40 years (Brock, 2018, p.307). The author used a longitudinal descriptive study that analyzed placements of students into the LRE over 40 years. The research showed periods of increases in the number of students taught in the least restrictive environment, however, those were usually followed by equal or greater decreases of students taught in the LRE. Brock further observed that when viewed state by state - rather than as a whole - trends were more consistent in one direction than the other. From this research, Brock surmised that placement decisions were being made based on factors that differed state to state, leading to inconsistent outcomes. The main limitation to this study was that criteria for defining disabilities did change over the 40-year period, which could account for some variation in placements.

Brock’s research is complemented by an earlier study by Danielson and Bellamy in 1989. In their research, Danielson and Bellomy collected data from students ages 6 to 17 in order to research how the placement of students within the six nationally mandated placement categories differed state to state. The six mandated categories they described were regular class, resource room, separate class, separate day school, separate residential school, and home/ hospital (Danielson & Bellamy, 1989, p.4). Through their research, they concluded that placement of students into the least restrictive environment is improving each year, however, due to the wide variation among placement into the different categories state to state the overall conclusion may be less reliable than it appears. The authors conclude that variability between states could be caused by inconsistent data collection and reporting expectations in each state.

Kurth, Morningstar, and Kozleski published a study in 2014 that produced findings in agreement with both Brock and Danielson and Bellamy. In their study, Kurth, Morningstar, and Kozleski reviewed extensive state-level data regarding which students are served in the most restrictive environments, what states’ targets were for improving placement into the LRE from 2004-2012, and how those goals predict placement rates a decade later (Kurth, Morningstar, & Kozleski, 2014, p. 229). Using data from the Office of Special Education Programs (OSEP), the authors concluded that across states there is significant variability in how success rates change. Success rates are defined as students being moved from the most restrictive environment to the least restrictive environment.

These three studies collectively provide evidence that there is significant variation in the implementation of LRE from state to state and are consistent in their conclusions regarding discrepancies. Each of these studies noted some limitations, specifically changes in classifications for disabilities and discrepancies in reporting requirements. Taken together and in light of the limitations, these studies provide empirical support for my hypothesis that the success of the LRE mandate is significantly impacted by the plans implemented state to state.

**Inaccurate and Inconsistent Placement**

In a study of school districts in the state of Ohio, Brock and Schaefer looked at general education placement based on data from the Ohio Department of Education of Exceptional Children to explore how urbanicity and total school enrollment effected student placement (Brock & Schaefer, 2015, p. 157). Through mapping and multivariate analysis, they concluded that students in rural districts were educated more often in the general classroom than those in urban school districts. Further, they found that in urban school districts, larger enrollment overall was correlated with less inclusive classrooms for exceptional students. Brock and Schaefer state several reasons for the differences in placement rates. First, they state that areas with large populations do not have the money to accommodate large numbers of students in the least restrictive environment effectively. For those districts it is more effective to group all exceptional students into one segregated classroom. Second, they identify the effect of high levels of poverty and diversity in urban areas. Parents play a very important role as advocates for their children in the writing of Individualized Education Planning (IEPS) (Brock & Schaefer, 2015, p. 161). Families who are culturally diverse or living in poverty are less likely to be able to successfully advocate for their children compared to their wealthier counterparts (Brock & Schaefer, 2015, p. 161). When placement of students is based on factors besides the disability and need of the individual student, the LRE mandate cannot be effective.

Kurth, Mastergeorge, and Paschall published a study in 2016, that like Brock and Schaefer’s research, explored economic and demographic factors impacting students with placement into LRE. The authors compared high school graduation rates of parents, population density, median income, and poverty level of parents of students with Autism Spectrum Disorder (ASD) to understand their effect on student placement. They discovered that lower income children, particularly those from minority backgrounds, were more often placed into environments that were more restrictive. The authors concluded that children from middle to upper-middle class homes in more rural states had higher incidence of being taught in the LRE, compared to those from more urban states and those from minority homes of lower socioeconomic backgrounds.

Both of the studies by Brock and Schaefer and Kurth, Mastergeorge, and Paschall conclude that schools nationwide are using factors not intrinsic to the individual student to determine placement within schools. Specifically, attributes of race, socioeconomic status, and urbanicity often play a large role in the services provided to students with disabilities. These studies were somewhat limited by lack of precise disability categories, as well as a focus on certain geographic regions (e.g., Ohio in Brock & Schaefer, 2015). Despite these limitations, both studies provide empirical evidence that certain variables other than a student’s intrinsic disability can affect their learning experience. As such, they support my hypothesis that there is significant variation in the implementation of LRE.

**Vague Language Causes Issues for Enforceable Oversite and Best Practices**

Kurth, Lyon, and Shogren hypothesized that schools that establish a set of best practices for the inclusion of students in immersive environments would help teachers be more effective. The authors conducted research on students at six Knowledge Development Sites chosen by the National Center on Schoolwide Inclusion School Reform (SWIFT) using single person interviews, focus groups, curriculum materials, and observations of teaching styles to understand what methods of teaching were most effective in immersive class environments (Kurth, Lyon, and Shogren, 2015, p. 6). The Knowledge Development Sites were six schools chosen by SWIFT for their excellence in “implementation of inclusive practices” (Kurth et al, 2015, p. 2). From their research, the authors concluded that the success of immersion programs is bolstered by establishing best practices for teachers and school districts.

Palley (2006) researched the Least Restrictive Environment mandate from a legal prospective by exploring four separate court cases, each ruled on by different circuit courts. Her research revealed that rulings in each situation took into account very different criteria for when and how a student should be placed into the LRE. Palley concluded that the vague language within the mandate allowed for vast differences in the interpretation of the mandate by judges leading to inconsistent enforcement. From her research she concluded that the Supreme Court should address the mandate and its language in order to assist states and school districts with effective implementation strategies (Palley, 2006, p. 232).

Both of these studies emphasized the lack of clear, concise language or actionable steps within the mandate. Though high-achieving schools have implemented clear best practices (Kurth et al., 2015), many do not have consistent plans. Further, vague language and inconsistent interpretations make it harder for districts to implement these best practices nationwide. Thus, these studies provide further support for my hypothesis by highlighting the legal and policy challenges involved with the LRE mandate.

**Lack of Data for Interpretation of Success**

McLeskey, Landers, Hoppey, and Williamson conducted and published a study in 2011 on the national and state trends of the placement of students into the Least Restrictive Environment. Using data from the Department of Education- Office of Special Education and the Data Accountability Center (funded by the Department of education), researchers compared identification rates, placement rates, and placement settings across the United States and within states. While the authors claim that the data shows that accurate and successful placement of students into the LRE has improved between 1990 and 2009, they conclude that the data across states varies in such a way that it is not possible to state conclusively that placement of students in to the LRE has been successful nationwide.

In a study similar to that of McLeskey et al., Morningstar and Kurth (2016) collected data over a 14 year period on students with a range of disabilities including Autism Spectrum Disorder, intellectual disabilities, multiple disabilities, and deaf-blindness. The goal of their research was to examine if student placement into the LRE had increased over the past decade nationwide. From their research, the authors were able to conclude that students with disabilities are still largely educated outside the general classroom for the majority of the day. However, their key conclusion was that the reporting expectations for each state needed to be more stringent to create better data on the least restrictive environment implementation nationwide. Better data collection would allow researchers to assess the success of the LRE mandate more effectively and with greater confidence.

Danielson and Bellamy (1989), in their research discussed previously in the section on State to State variability, stated a limitation to the research being the differences between states in reporting that caused their conclusion to be potentially less reliable than the data available made it appear. The recommendation they made was for a national data collection plan that would create less variability for more comparable and reliable data analysis.

Taken together, these studies highlight an important barrier to consistent implementation of LRE nationwide. Without accurate and timely data across states, it is nearly impossible for researchers or policy makers to determine the effectiveness of the law. Further, it will be difficult for states to implement standard programs when differences are hard to identify in the first place. Accordingly, these studies help support my hypothesis regarding the inconsistent implementation of LRE.

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