

What does 'Effective Progress' really mean?

One of the most common obstacles parents face when trying to secure, or retain, special education services for a child is being told the student is making effective progress despite their disability, and therefore does not qualify for an IEP or a Section 504 Accommodation Plan. But what does 'effective progress' really mean?

Massachusetts' special education regulations define 'effective progress' as follows:

"Progress effectively in the general education program shall mean to make documented growth in the acquisition of knowledge and skills, including social/emotional development, within the general education program, with or without accommodations, according to the chronological age and developmental expectations, the individual educational potential of the child, and the learning standards set forth in the Massachusetts Curriculum Frameworks and the curriculum of the district. The general education program includes preschool and early childhood programs offered by the district, academic and non-academic offerings of the district, and vocational programs and activities." 603 CMR 28.02(18)

Carefully examine this definition and you'll see that 'effective progress' means so much more than just passing grades. First, the progress must be commensurate with the student's individual potential. If a student with a superior cognitive ability is earning C- and D+ grades, that student is probably not making effective progress.

The U.S. Department of Education (USDE) emphasized this concept by including the following language in the regulations implementing federal special education law:

"Each State must ensure that FAPE [a free appropriate public education] is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade." 34 CFR 300.101(c)

USDE also issued this official guidance:

"... underachievement is measured against the student's own ability, and not against a normative performance standard. Thus, each child's educational needs are determined on a case-by-case basis ..."
Letter to Lillie/Felton U.S. Department of Education Office of Special Education and Rehabilitative Services. April 5, 1995.

In its publication Is Special Education the Right Service? (March 2001) the Massachusetts Department of Elementary and Secondary Education has this to say:

"Making an assertion of effective progress is not arrived at through a simple review of the student's grades. The law requires that the Team use both academic information and non-academic information about the student to determine if the student's participation in the life of the school represents effective progress. The Team would not be able to ... assert that the student is making progress solely because he/she is making passing grades."

Guidance from the Center for Law and Education leaves no doubt that effective progress means the student is progressing in all areas of life, not simply academic achievement:

"The concept of education under IDEA is broad, encompassing [among other things] a child's unique social and emotional needs as well as his or her academic ones." Eileen L. Ordovery, Esq. Center for Law and Education. Inclusion of Students with Disabilities Who Are Labeled Disruptive: Issue Papers for Legal Advocates, #3 The Duty To Address Behavior. November, 1997.

Copyright © 2008 Ellen M. Chambers. All rights reserved. SPEDWatch is not engaged in rendering legal, educational, medical, therapeutic, or other professional advice.