

# Child Care Funding and FAPE

**What is happening in other states in relation to paying for child care to ensure FAPE?**



Mary Joslin, Coordinator of Wisconsin's Preschool Options Project

In Wisconsin we are having discussion about what is the Free Appropriate Public Education (FAPE) requirement for a school district when services are provided in the child care setting that the child was attending prior to an IEP. Some believe that the school district is responsible to reduce the cost of child care to the family for the amount of time that the special education services take. Others are saying that the district must pay for the entire half day during which special education services take place.

**Update:** We've added an additional resource from the Pre-K Policy Briefs Series by the Education Law Center: [Including Children with Disabilities in State Pre-K Programs \(February 2010\)](#). This document provides an overview of the Individuals with Disabilities Education Act (IDEA) and recommends policies to help ensure that preschool-aged children with disabilities receive an appropriate public education in the least restrictive environment.

## **Community Question**

What is happening in other states in relation to paying for child care to ensure FAPE?

### Related content

- [Including Children With Disabilities In State Pre-K Programs](#)
- [LRE Graphic: How do you determine LRE for THIS child?](#)

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## **Child Care Funding and Fape**

Hi Mary,

Great question-and of great interest to many people. There is a great deal of variability across states regarding LEAs paying for child care. The National Child Care and Information Center (NCCIC) has some information on Inclusive Child Care and funding at <http://nccic.acf.hhs.gov/ccb/issue21.html#Funding>. They list examples from NV and NC as well as a section on Special Needs Rates and a Q and A by Abby Cohen. I hope some of this information will be helpful to you.

I will look for more resources but hope others have information to share.

Shelley

Reply

## **Child Care Funding and Fape**

I think it depends (as so many things do) on the IEP. If the child requires placement in a general education classroom with typically developing peers to access the general education curriculum and progress towards his or her goals, and the school system doesn't have such a placement to offer (as is often the case with preschool), then the district is responsible for covering the cost of providing that placement (just as when placing an older student in a private setting to receive services). This would include more than just the time that the special educator is directly interacting with the child -- if there are supports and accommodations provided at other times (under the direction of the special educator) or if goals are worked on when the special educator is not there (as they should be), that would still be part of the child's educational program.

On the other hand, if the school system offers an appropriate placement (a general education preschool setting iwth typical peers) and the family prefers to have the child remain in the child care setting, then I think the child would be treated like any child "parentally placed" in a private program, and the LEA wouldn't be responsible for the cost. Likewise, if the student doesn't require a classroom setting to meet the goals, but they are provided at the childcare through mutual agreement (as when the LEA has a speech pathologist visit child cares to provide pull-out services). I know there were some OSEP guidance letters in teh early '90s that said when the childcare served as the placement, the LEA should pay.

I am not sure how they do it now, but 10 years ago Metro Nashville Davidson County (TN) has an extensive program of "community-based" preschool special education. The LEA contracted with a large number of child cares for slots and paid for the "educational portion" (usually the morning) of the day and provided itinerant SpEd and related services, equipment, and sometimes even paraprofessionals. If parents wanted full-day care, they paid the rest. In the case where a child was in a setting prior to identification/eligibility, the system would usually contract with that setting, provided it met the basic requirements (liscensed, etc.).

Marny

Reply

## **Child Care Funding and Fape**

Responding to Marny, we too agree that the heart of the decision is the IEP. The issue for us is really removal from where the child is to another location. Many communities have

opportunities for inclusion in 4K classrooms or in play groups at the school. This could provide an opportunity to address the IEP goals with typically developing peers. But not the child's peers who they are with every day. Many if not most of the functional IEP goals could be addressed in any setting...home, child care, a play group, or a self contained classroom. I think it is more a question of the real life environment that each child learns in and what would cause us to remove a child from that environment so that progress can be made on goals. What is the responsibility of the LEA to pay for what the parents would be paying for even if the child were removed. Many child care settings require families to pay for the day even when the child is not there. They would be paying for the cost of the child care for the time the child went to another location for say speech services. Why is it then that the LEA would have to pay for the amount of time if speech services were delivered in the child care setting but would not have that cost if the child were removed. It seems a disincentive. Of course then the LEA would have the transportation costs. Ultimately we want IEP decisions that support children in their own natural learning environment whenever possible.

Reply

## **Child Care Funding and Fape**

Interesting. I think (and I am certainly NOT a lawyer), that if the school system offers an equivalent opportunity (e.g., a "general education" PreK class) but the family prefers the option of having the child receive services at the child care, then it doesn't seem like the school system should have to reimburse for child care costs. It seems to me that these kids are more like school-age students "parentally placed" in private schools -- the school system offered FAPE but the family chose the private option. It doesn't seem like the school system would be responsible for the costs of the childcare in that case. You are right, if the child were "dual-enrolled" or bused to the school to receive speech, the family would probably still have to pay for full-time care.

Often, though, the school system really doesn't have a "general education" setting for preschoolers (especially three-year-olds). If the only option for the child to receive their special education services in the LRE is a community-based/child-care placement, then IMHO the LEA SHOULD pay the cost, at least for the "educational" portion of the day.

Here in Maryland we are just beginning to offer the "extended IFSP" option, allowing families to stay in Part C until Kindergarten entry. It remains to be seen how many families will elect this option and if it will lead to a decline in the numbers of early childhood special education classrooms and perhaps encourage LEAs to think more broadly about service options for all preschoolers (including those who do transition to Part B or are identified after 3).

Reply

## **Child Care Funding and Fape**

Marny, you are raising the exact question we are struggling with. Ultimately it is what is...how does an IEP team determine LRE I agree that it is not parent choice. The team makes a decision with the parents as equal participants in the team process. But with all the work that we have been doing with some of the best researchers and educators in our field like Robin McWilliams, Pat Wesley, Barbara Hanft and so many more we are really working on an appropriate process

for determining LRE based on where the child is as a first consideration. Supporting the child in the environment where he or she spends the rest of the day multiplies the impact of the intervention and truly serves the purpose of special education. Supporting the child to be successful in the general education environment, for preschool in their regular routines is that purpose. With that, many teams are determining that services to address the functional goals can be best delivered in the environment where the child is. Then we deal with the question of what responsibility do we have for the cost of the time the child spends in that environment...that the parents were paying for. We think we have the method for determining LRE figured out but how do we make it FAPE in a way that is reasonable? Parents pay for child care while they are at work. If we removed the child to a self contained setting for part of the day the parents would probably continue to pay for the child care slot.

Reply

### **Child Care Funding and Fape**

Marny- I would like to know what you think of the graphic we just posted  
How do you determine LRE for this child?  
Thanks

Reply

### **Child Care Funding and Fape**

Thanks so much for that information. I will look at it. Our concern as training and technical assistance support is that for many communities just beginning to look beyond self-contained services this seems like a barrier. For others some level of payment makes sense but to pay for the entire cost of child care would make self contained services much less expensive. We hope that more services delivered where the child spends the rest of his or her day should increase effectiveness and consistency for the child and family without increasing cost for the LEA.

Reply

### **Child Care Funding and Fape**

This is great information. We are looking at this issue in Oregon as well!

-Erin

Reply

### **Child Care Funding and Fape**

I would love to hear more about what Oregon is doing and if you have any suggestions for us in Wisconsin.

Reply

### **Child Care Funding and Fape**

I think that your cost benefit blog is very helpful.

Reply

## **FAPE preschool**

This is a question many school district has had to address. Unfortunately that may mean the regulations written at the federal level are not quite clear so hopefully discussions like these will help make the next reform of IDEIA a little more clear and enforceable.

I personally you begin with these questions—does the school district only offer a segregated program --is the program age appropriate and is the adopted curriculum one designed just for a certain disability and if the disability is not your child's then is their evidence that the model works with your child?

then you move into those who have kids already attending a program and those who are already to begin services at three--I believe the child who is already attending a regular preschool has a better chance of staying than one who is not when the only option in the school district is the segregated model.

Next ask the following questions:

Is the child in a regular neighborhood preschool making minimal progress?

Is the child receiving services using evidence based preschool curriculum?

Did the school district go to the childcare, mother's day out etc program and observe the child in its natural setting?

Does the school district offer age appropriate programs (for some children this maybe an older two's program or a three's program) to non disabled children?

Can the school district show through data that the child must be removed from the natural setting in order to gain minimal benefit after interventions for the child to make gains has been provided?

The list continues because we are following the same guidelines for school aged children as the preschool child. The difference is --if the school developed a segregated or separate program where it is used to educate primarily kids with special needs and you are removing them from their natural environment to receive services the school district must pay for private preschool.

How much school is provided is a team decision—some need half day some need full day. Usually it is based on the school established program models (all three's go half day, depending on school four k--title one school is full day others are half day)

In best cases the school districts have already made arrangements where children with special needs have slots available in local programs and services are brought to them. There are lots of benefits for these type of models. Teacher training and the overall higher quality of instruction for all kids is what I have observed.

The school district can open public daycare preschool for two's and three's but is this really cost effective and if the children with special needs do not reflect natural proportions would it be considered an LRE--could be tough in some areas. It may also be the only choice in rural areas.

For four year olds I find this a little more complicated. Most areas I see state "the at risk for school failure is an LRE for kids with special needs." Also note federal law prohibits holding slots for kids with an IEP—so changes are taking place to allow this in some states. of very creative solutions to make this work such as 12 kids who are at risk and 4 kids with special needs (highly qualified teacher and natural proportions are reflected?? Im not sure)

I will say I disagree. IF my child were not disabled would we find him in the AT Risk four k program? In his neighborhood program where the kids in his two and three year old program would they naturally attend at risk programs, is this the program his siblings attended; is this the program our neighborhood kids attend? (an example would be: a total of 550 students attend the elementary school and only 20 kids total applied for the four k program), does his mom speak English as a second language, is his dad incarcerated, do the parents have a high school diploma, are his parents under the care of dss or family courts? and my number one question is--just because the child is

delayed does this automatically mean he is not working to his potential--possibly working ahead of his peers within the same category of disability--I have a civil right and moral question for states that automatically say  
Your child is at risk for school failure because he is disabled—hello—heard of early intervention prior to 3?

Problem is 1. some states are now adding disabled as the factors for qualifying for at risk four k programs, 2. the states have not adopted 4k evidence based curriculums that they monitor and enforce, 3. states continue to adopt no system to help parents identify high quality preschool programs private or public.  
Therefore the public schools can get away with murder when it comes to using opr not using best practice in preschool programs.

One quote I use I heard at an in-service is  
“ putting a kids with special needs into a poor preschool program is like putting them into a burning house”

For states who allow 4 k programs to use “a little of this and a little of that” can only be seen as unacceptable for any child.  
I say leave the 4k at risk slots for the audience it was developed for--they need the help--as for my kid with a disability--he is perfectly performing in a natural learning environment-lets leave him there and work out the details. WE donto need another label.

One criticism on the 4 k program is that we are discriminatory against the population for at risk. My answer is simply no—My parents and I worked our butts off to provide for our kids—Im just trying to make sure my kid with special needs has the same chance.

Reply

## **FAPE preschool**

Robin,

You have added some great issues. As I read these blog comments I wish we could be in the same room to have conversation. I am a face-to-face person.

Would you please look at the graphic posted yesterday called - How do you determine LRE for this child? We would never ask the question - Does the district have a segregated setting first. We would see that as contrary to the law and have due process hearing findings that support the idea that districts must consider " a continuum of alternate options including options that include non disabled peers" and be able to document on the IEP why a segregated setting is necessary - removal from natural environmen - for the child to make progress on IEP goals. We in Wisconsin have shared Wisconsin Model Early Learning Standards that were developed and apply to child care settings as well as school settings. We have publically funded Four Year Old Kindergarten that is available to all children including children with disabilities. More of our issues occur in making decisions for 3 year olds.

Reply

## **FAPE preschool**

Does the district have a segregated setting first. We would see that as contrary to the law and have due process hearing findings that support the idea that districts must consider " a continuum of alternate options including options that include non disabled peers" and be

able to document on the IEP why a segregated setting is necessary - removal from natural environment - for the child to make progress on IEP goals.

I will look at the graphic later this evening--but a quick response to the question above.

What I have noticed across the country is:

what the districts have to offer gives you a sense of how you will address LRE--especially for three year olds. If they have in place 15 segregated models that house all special need preschoolers--and they bring in reg ed kids--you know what your up against.

Districts are quick to switch around placement options in mediation and IEP meetings--

also--I looked at and researched your programs as model programs--Sue Buckley is a great advocate for you guys too.

Ill also add some legal findings on wins for threes and loss for fours that may help tighten up the regs and legal interpretation in some districts.

Robin

Reply

### **FAPE preschool**

I really appreciate your comments. We do struggle with communities wanting to fill the slots they have...segregated settings. With great leadership by some special education directors we are seeing staff allocations changing from segregated teachers to more itinerant teachers.

Districts are learning how to really look at the needs of children. They review caseloads and IEPs with some tools we have developed. We also had Bill McInerney and Laurie Dinnebeil come to share some of their work in Ohio.

We want to make sure that once a child is placed in a segregated setting it doesn't become a life sentence.

Reply

### **FAPE preschool**

Dear Mary

I looked at the graph and it is very short and easy to follow. That is a GREAT!

Will it be ok to send this to local agencies who provide support to families?

I personally feel that providing FAPE in the LRE for preschool children who are not school aged is a different animal.

I feel school districts who see this form would agree with the flow chart but state this is not always the case for a preschool child with disabilities.

Unfortunately parents are not able to fully protect their child's rights due to the amount of information they must have on special education regulations--most of us do not have it when the child is 90 days prior to their third birthday--

in addition is the emotional energy it takes to protect your child's educational rights. By the child's third birthday many parents are just looking for a break—it's been a long 2 and half years for many of us—health care and scares in addition to lots of therapy and Early intervention appointments in addition to getting to know your fellow families with kids who have disabilities. Don't forget all of the walks and workshops too. Did I forget forms and quarterly assessments?

Unfortunately I see these parents taken advantage of when they enter the initial IEP meeting.

Where are the advocates for the preschool parents? Well first we don't really know they exist until the kids are older, and for those of us who do—the knowledge base for advocates on preschool—younger than five—is small.

These parents who are advocates usually have much older kids and those kids went into the segregated program or parents paid for private preschool. Reeducating advocates needs to be addressed.

When I approached an advocate agency for help they had three comments, why don't you want your child with other kids who are disabled?, how do you expect the school district to pay for private preschool and last, you don't want to start the special education services for your child with a disagreement—you have many many years ahead of you of special ed services.

Just as a side note here—my response was—I expect FAPE in the LRE, I will be a parent in the schools system for a longer period of time than most will stay employed in the district and the purpose of the IEP meeting is to help my son get an education not to make friends. They were very helpful once they saw I needed them.

Other influences is early interventionist letting parents know they will have free child care beginning at age three—this is a big lure for many parents—all of us would like to have free child care. I would like to see EI work with child care facilities who support school districts working with them to continue services--even if this has not been the case--not an understanding that on the third birthday the kids will be gone.

Last would be the great facilities who provide child care up to three and let parents know that their child will soon get school supported care and it's better for the child to be in the segregated program. They can receive all or their therapy and trained professionals. The motivation for the private preschool to become that program—the one with highly trained preschool professionals and the ability to allow therapist into classrooms is not on their radar.

To say, “why don't the parents ask the preschool directors --how can my child stay”—is also hard. Many of us feel as though the preschool has done us a favor by allowing our child to come to their program—The reality is bringing in diversity is the beginning of a great learning curve for everyone involved. A characteristic preschools should embrace as high quality and how we value each other in any environment.

The reason I say this is look at these same parent three to four years later while they are struggling to get full inclusion for the same child. Generally these children's skills were much more like their peers at three than at 6—so what changes the parent's concept of inclusion? I think this is a good research project.

I also believe the longer we allow school districts to create their own creative or alternative



programs the harder it will be to change them.

The form you made is perfect—hopefully someone with the ability to understand preschool will have this and use it as a tool to stay on track during the meetings.

I think the bottom line is if we all had high quality preschools that reflected natural proportions are job would be soo much easier.

Robin

Reply

## **FAPE preschool**

Robin,

Are you going to be in North Carolina in May for the Inclusion Conference? I would love to have lunch or dinner and talk about these issues if you are.

You are welcome to use our LRE Graphic. We also have a variety of resources in our training binder posted at [www.preschoolorptions.org](http://www.preschoolorptions.org).

We are working to support school districts to work closely with child care and community preschool. By working together to serve children where they are we have better carryover of embedded goals, better relationships with the community and improved quality for all children. It had been tough for some districts to think about having fewer self contained classrooms and supporting ECSE teachers to learn the new skills necessary to be effective in working in community environment with all the other adults that interact with the child. In places where communities have worked together through community councils to plan the process of change and where leadership has been involed in supporting system change we have seen some amazing change in options considered. We are also getting feedback from directors that the outcomes for children in the area of engagement, relationship and independance (McWilliam and Casey) are really showing up. Less special education services needed in elementary classrooms.

I so much agree with the issue you raised about advocates. The "more is better" approach to special education has not proven effective in independant living outcomes. The advocates do need to keep up with current best practices. We also have issues with the legal system in the decisions that might undermine best practice. Some judges equate child care with private schools.

It is exciting in our state to see what our community based 4K programs have done to improve relationship between schools and communities and to improve quality options for young children with disabilities. Wisconsin's early childhood website is [www.collaboratingpartners.com](http://www.collaboratingpartners.com)

Reply

## **LRE graphic**

I would like to have others look at this graphic we developed and use in technical assistance discussions in communities to help with the desicion making process at the IEP.

I would like to know if this is consistent with what other states are using.

Reply

## **LRE graphic**

Thanks for sharing this Mary. I am going to share with others here in Oregon and will post our responses.

Reply

## **LRE graphic**

Thanks so much. It will be great to hear what others think.

Reply

## **LRE graphic**

Hi Mary--thanks for the invitation to participate in this conversation! I must say it's a thorny issue and I know (almost positive) that districts in Ohio are not covering tuition costs for children on IEPs who are served in community-based settings. I was just in Fremont, OH this morning with some Head Start and LEA colleagues and the person who's the Director of Special Education was talking about her desire to serve more children in community-based settings. However, since parents have to pay the cost of childcare, most parents opt for the district-sponsored program. Since I'm usually housed in my "ivory tower", I don't know the specifics of the funding issues.

One of the things that's interesting to consider is the notion that there's an "educational part" of a young child's day. This kind of flies in the face of what we recommend in terms of daily routines and activities being critical aspects of the child's day and that we embed learning opportunities throughout the day. Based on the research we know in terms of distributed practice, it doesn't make sense to delimit specialized services to a specific portion of the day. Unfortunately, that doesn't clear things up--just makes the water muddier.

Best,

Laurie

Reply

## **LRE graphic**

Hello,

I am jumping in with a question from Indiana.

I am a special educator working with 3-6 yr. old. I am currently in a self-contained room. We have DD, ASD, MD, IO, CD children. It is a preschool and K classroom. We have our 3-5 year olds going all day 8:30-3:30 M-F. It is a long day for a 3 year old, but they are required to nap at school. The district requires that if a child qualifies for a self-contained room, they go all day everyday. Are there any other states doing this?

What are the arguments for /against?

Thank you,

Lynne

Reply

## **Wisconsin Due Process finding-preschool LRE**

You may find the Madison Metropolitan School District finding at this website interesting.

<http://dpi.wi.gov/sped/due-2008.html>

This finding has significantly changed consideration of LRE and I believe it has added barriers. In most child care centers families pay for a full day or a half day slot and the slot is paid for by parents even if a preschool child goes to a self contained classroom for part of the day. If we provide services in the "natural environment" based on this decision we (public schools) are required to pay the child care costs for the portion of time services are provided in the child care. If we remove the child to self contained, the parent is still usually required to pay for the entire child care costs and the district is not responsible for any of those costs. Many districts forget that they are still paying for the cost of transportation and the staff time and materials in the self contained setting. They see the responsibility of paying a portion of the child care as new additional costs instead of seeing it as a shifting of spending.

In the context of LRE it is hard to get back to the real questions of what is the LRE for the child. Where are the child's typically developing age peers? Where is the child throughout the day when not in "special education" settings. If we really want to provide services that help the child be successful in the "real world" then how is it that removal from the "real world settings" helps the child be successful.

The whole idea of parents opting for the district sponsored session undermines the IEP process which should lead to identifying the LRE for this child...not what parents pick or what districts decide they can offer. It really does go back to a great meaningful functional IEP process that involves the family in evaluation, developing functional goals, and developing services that will support the child to achieve those goals within the timeframe of the IEP. Then the location of delivery should be whenever possible where the child is currently functioning unless the IEP team determines that the nature and severity of the child's disability requires removal from the environment so that the child can make progress.

Colleagues in Wisconsin have developed a great IEP resource for children ages 3-21: <http://dpi.wi.gov/sped/pdf/iepguide.pdf>

Much of what we do in the preschool options project in Wisconsin is based on this great revision of the guide. One of the original authors Arlene Wright has been working with our project to develop training materials: The Link Between Preschool Options and IEPs. We have posted the materials on the preschool options website-Link training binder.

In addition to the challenge of helping district do a great job of the IEP process we have the challenge of helping Early Childhood Special Education professionals develop the skills to be effective in homes and community settings. Our favorite references and sources of materials are: McWilliam and Casey; Buysee, Wesley and Odom; McInerney and Dinnebiel; and Hanft, Rush and Sheldon.

I agree with you that it is crazy for us to try and determine what part of a child's day is education. It all is. We have learned from Robin McWilliam how to work with families and child care providers using a Routines Based Interview to identify what routines are most important to the adults in the child's life. The more we

learn to use this process well the better we will do in both engaging the people in the child's life and in doing what it the most important.

[Reply](#)

## **Itinerant Early Childhood Special Education**

We in Wisconsin are very excited about the hot off the presses book by Bill McInerney and Laurie Dinnebeil. This work and the work of Robin McWilliam are foundational to what we are working on to serve children with disabilities in community settings. What are some of the other resources to support services in child care in other states?

[Reply](#)