

Scenario: LRE

Alleged Issue:

The parents filed a due process complaint on behalf of their 14 year-old son, Bob. Bob has Down Syndrome. Eligibility is not in question; he is classified as intellectually disabled. The parents claim that their son's proposed IEP is inappropriate because he is placed all day in a segregated, self-contained classroom for the intellectually disabled in the school district's middle school. Last year, he was in general education classes 60% of the school day, which the parents contend continues to be appropriate.

The school district in its response to the complaint said that the proposed placement is appropriate because the school district can no longer meet all of Bob's needs as he grows older if he spends a part of the school day in general education classes.

At the prehearing conference (PHC):

The PHC is held over the phone. Counsel represents both parties.

At the start of the PHC, the IHO notes that the primary issue to be decided is, "Whether the proposed IEP meets IDEA's least restrictive environment (LRE) requirements."

Counsel for the parents is a newcomer to this field of law, but with significant litigation experience. During the discussion about the issue, you are not entirely convinced that neither the parents' attorney nor the school district's attorney fully understand the factors to apply to decide an LRE claim.

Q1: Would you say anything? If so, what? If not, why not?

At the hearing:

The Parents' private expert(s) and/or the district's staff expert(s) takes the stand and testifies at some length, addressing approximately half of the *Newington* factors. Opposing counsel cross-examines and addresses one additional factor, but does not address several other *Newington* factors.

Q2: Would you address with the attorneys your understanding of the applicable standard and the lack of evidence in addressing all of the factors?