



## Requirement of the Participation of a Regular Education Teacher in the IEP Team and Determining What Level of Teasing Constitutes a Violation of FAPE

In *M.L. v. Fed. Way Sch. Dist.*, 394 F.3d 634 (9<sup>th</sup> Cir. 2004), there were two important findings by the court:

**When there is a possibility that a student with a disability would be placed in a regular education classroom, participation of at least one regular education teacher in the individualized education program (IEP) team is required. Under the Individuals with Disabilities Education Act (IDEA), the school district significantly violates procedural requirements when it fails to ensure the regular education teacher's participation.** In the Supreme Court case *Bd. Of Educ. V. Rowley*, 458 U.S. 176 (1982), the Court held that in order to comply with congressional intent, school districts must follow procedural requirements by ensuring full participation of all concerned parties in an IEP. Failure to do so would result in what the federal court case

*United States v. Recio* considered a structural defect wherein an error will affect the entire process. If your child has an upcoming IEP, make sure at least one of their regular education teachers is present, otherwise reschedule the IEP until a regular education teacher can attend.

**When a student is teased so severely that they cannot benefit from educational services and if after give a reasonable opportunity to prevent the teasing the school district fails to do so, the school district denies a student a FAPE.** In the Supreme Court case *Davis v. Monroe County Bd. of Educ.*, the Court stated that a FAPE violation arises when a teacher is deliberately indifferent to the teasing of a disabled child and when the teasing is so severe that the student cannot access educational services. If your child is being teased, contact the principal and document all instances that could satisfy FAPE violation requirements.