

Defending Inclusion



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The Big Ten

1. Programming: Schedule Co-taught Classes with Support Classes and Tutorials
2. Small group/individualized phonics support
3. Strong Co-teaching Models
4. Documented Co-planning Time
5. Executive Functioning Systems and Supports



The Big Ten

6. Study Skills Across Content Areas

7. Organizational Systems/Structures
Across Content Areas

8. Progress Monitoring and Strong
Documentation (CBMs)

9. Trained Paraprofessionals in Inclusion
Setting

10 “Consultation time”... **document all
consultation time and tasks**



Programming

1. Inclusion classroom with small group instruction in specific areas of need
2. Maintain “specialized” small group instruction in reading/spelling and written language instruction
3. Be **flexible (Northampton)** to “changing needs” with small group classes in addition “to inclusion”
4. Accommodations should include previewing !!
4. Summer services for ...

Support in All Classes

1. Co-teachers or “trained” paras should be in social studies and science in addition to the traditional ELA and math co-taught model
2. ***Common Planning*** time must be provided with ***a log documenting use of time***



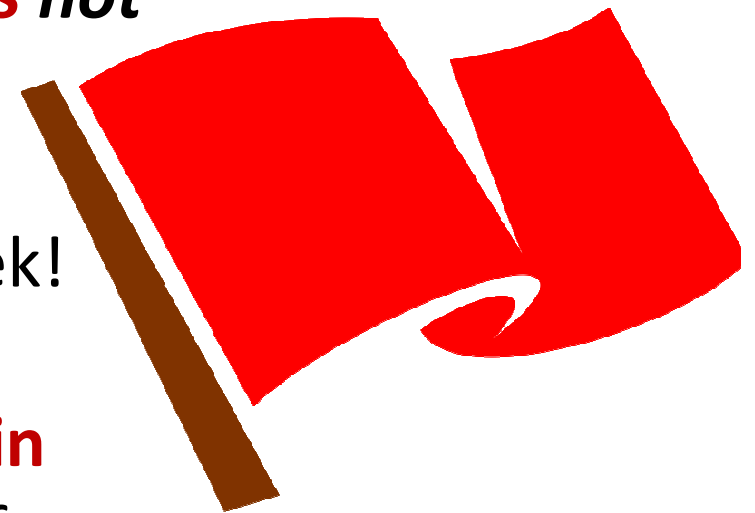
Executive Functioning

1. Address student's understandings and organizational skills at the ***end of class not the end of the day !!!***

2. Worse yet...never at the end of week!

3. Long range assignments: **complete in school**slowly transition when and if students gain skills

3. Consistently inform parents of progress in this area...**big point of pain!**



Study Skills

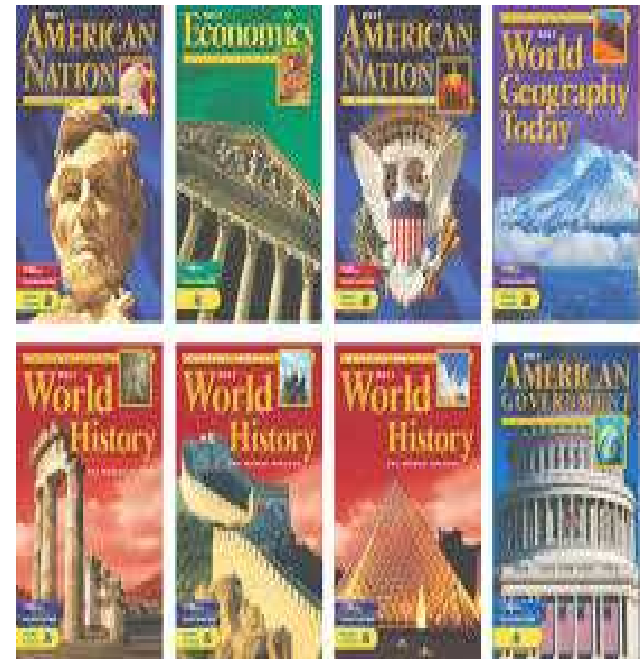
Be specific regarding study skills that are being taught in the inclusion classroom

Demonstrate consistency across all content classrooms

Support classes should be reinforcing the study skills taught in the inclusion setting

Teach parents the strategies so they can reinforce at home and see how all teachers are using these strategies

Save work samples !!!



Paraprofessionals

1. “Trained” paras should be in social studies and science in addition to the traditional ELA and math co-taught model
2. Special Educator Liaisons should keep a log documenting consultation time used to direct para activity
3. Paras can support needs in the area of executive functioning/organization at end of day or class period



Consultation Cautions!!!

1. Specify the goals of the consultation
2. Keep a log
3. List the outcome/action plan
4. Don't use consultation in place of services



“Sufficiency” of the IEP

1. IEP must be developed that will allow students to receive educational benefit
2. Teachers and service providers were able to ***document student progress*** towards IEP goals
3. **Progress** was supported by data obtained through **assessment, testing and routine documentation**

Progress “was supported by
***data**” obtained through:*
assessment
testing and
routine documentation

Documenting Academic Progress

Standardized Tests provide **percentiles** and **standard scores** based upon completion of a **few test items**

These tests do not always align with content and skills covered



Assessment: Mandated Documentation

Norm Referenced

Purpose: To rank students with respect to achievement of others on broad areas of knowledge and skills with the purpose of identifying high and low achievers

Measures broad skills: each skill tested by less than 4 items

Percentiles Standard Scores G.E. Scores

Assessment: “Routine Documentation”

****Criterion Referenced****

Purpose: To determine whether each student has achieved specific skills or concepts... planning instruction...documenting progress

Measures *specific skills* tested by at least 4 items

Interpretation: scores based upon *mastery of skills(percentage)*

CBM s: Reading Assessment

1. Progress Monitoring
2. “Dibels Dilemma”
3. Supplement Standardized Tests
with Curriculum-Based Assessments
in Reading
Math
Written Language



Reading Assessments



Phonics and Sight Vocabulary
(Phonogram Lists/Dolch Lists)

Fluency (Caution for Aud Proc and Proc Speed Deficits)

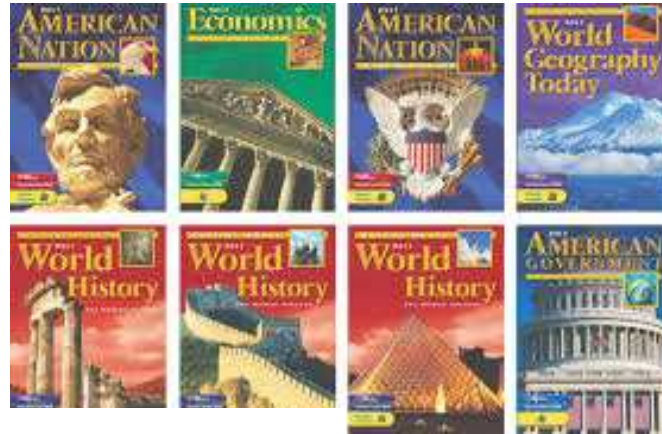
Text Comprehension

CBMs
Content Area Reading
Inventory



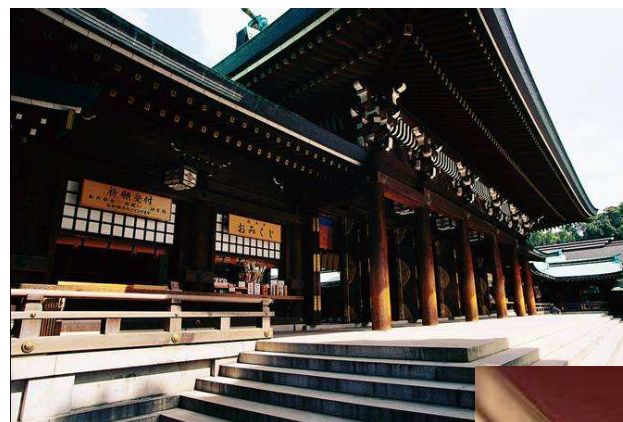
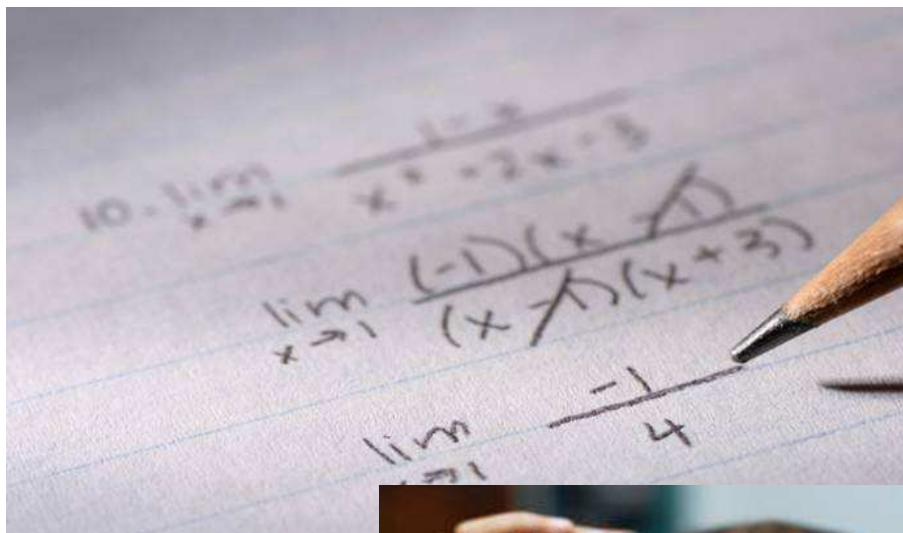
 -ash 9 [-æʃ] ash cash mash crash	 -ack 10 [-æk] back sack lack black pack crack
 -ank 11 [-æŋk] bank clank sank blank tank drank	 a 12 [æ] ant rabbit apple carrot camel parrot lamp panda

Assessing Comprehension

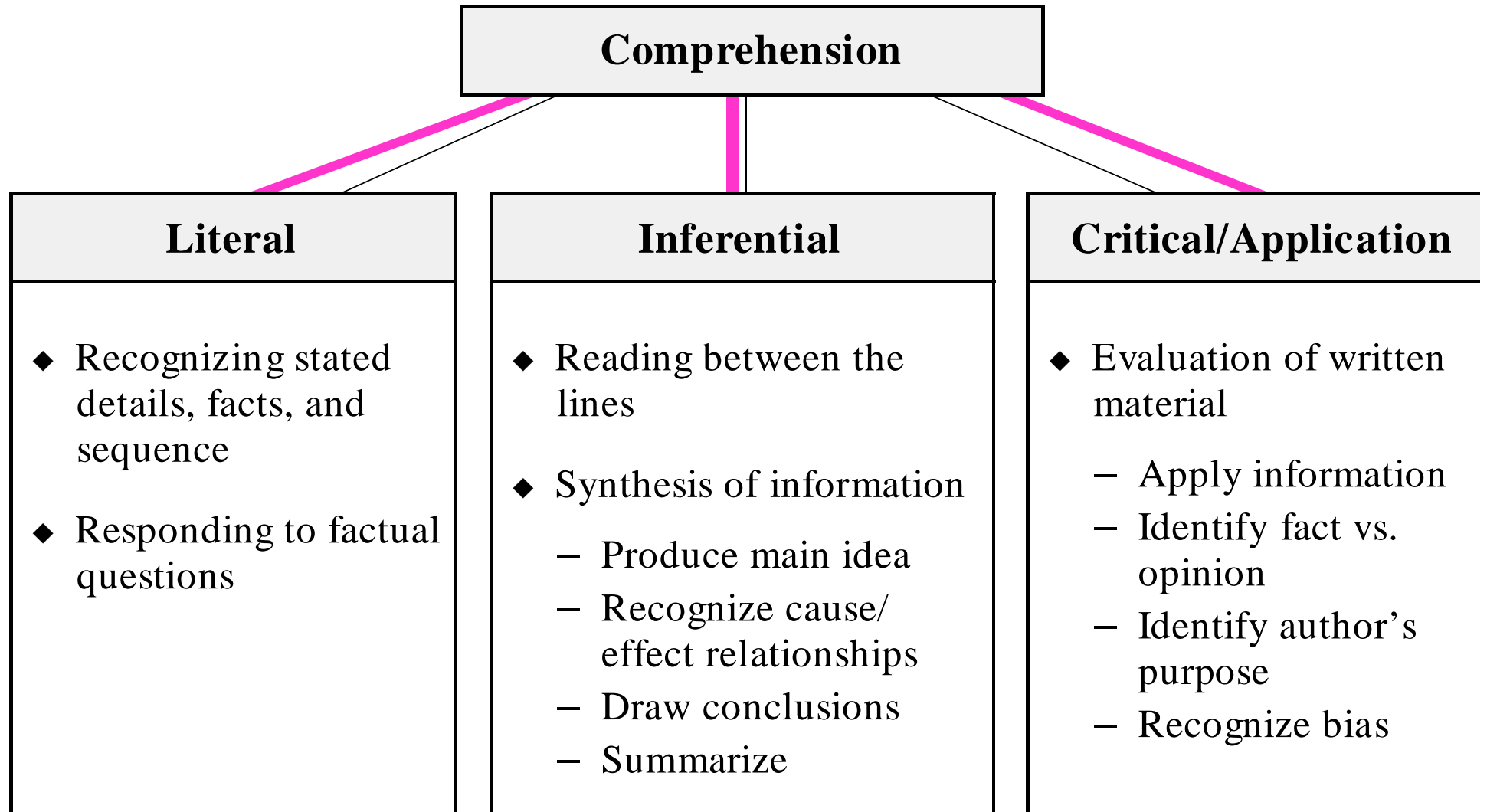


Content Area Reading Inventory

Classroom Materials



Content Area Reading Inventory



Analyzing the CARI

Estimated Reading Level	Comprehension	Descriptors
Independent	90%	Students can read text independently.
Instructional	75%	Students need consistent support through guided-reading and post-reading activities.
Frustration	50%	Students can read material with many structures as support. Teachers may want to summarize chapters orally and focus students on specific sections of chapters.

CARI

**Student
Profile
Chart**

Student Name: _____
Grade: _____
Teacher: _____
Subject: _____
Title of Textbook: _____
Publishing Company: _____

Scoring

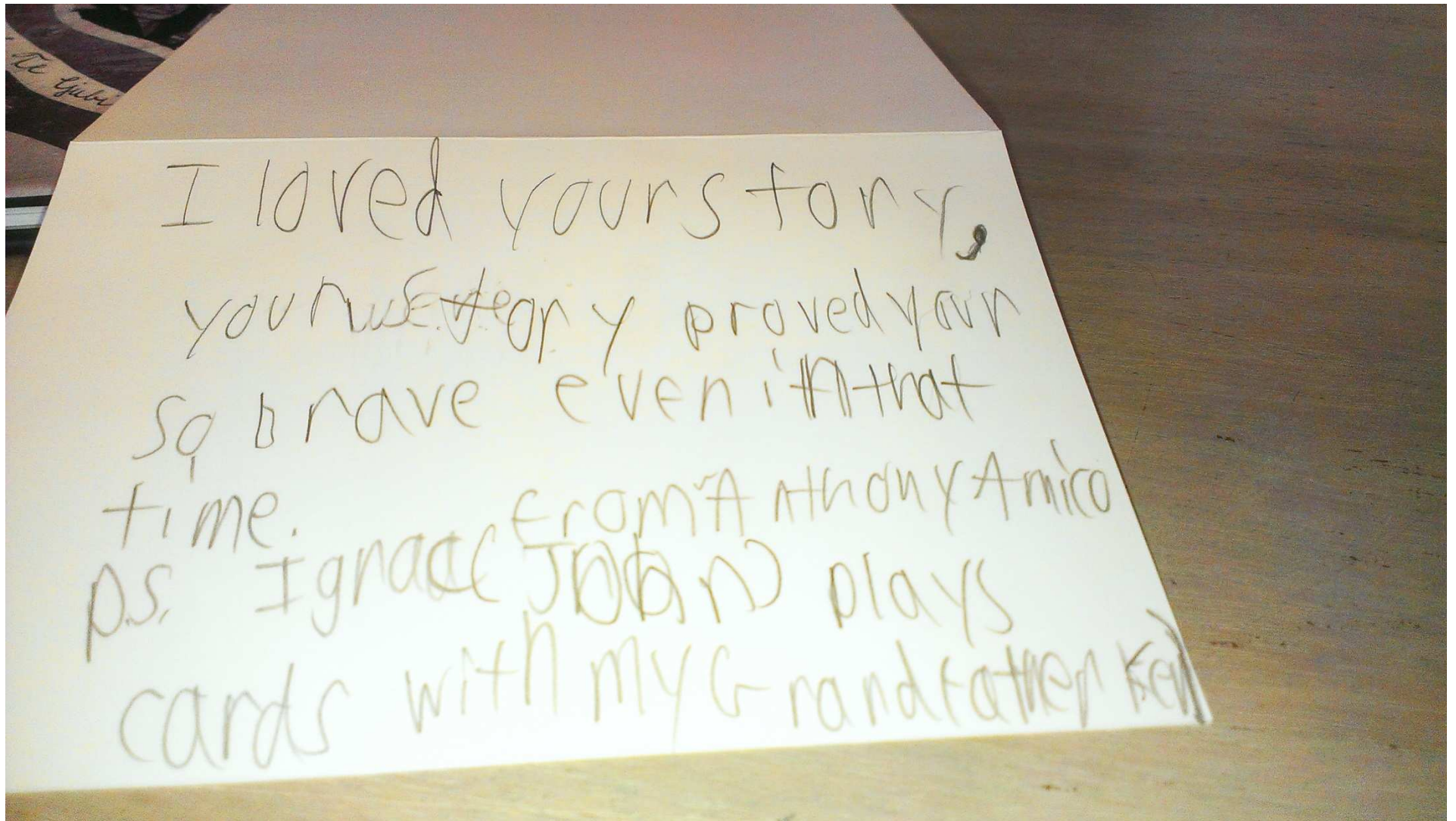
Code Sample
Literal 4/4 (4 of 4 correct)
Inferential 1/3 (1 of 4 correct)
Critical 0/3 (0 of 3 correct)

TOTAL

	Dates of Assessment				
Comprehension Level					
Literal Comprehension					
Inferential Comprehension					
Critical Comprehension					
Total Comprehension					

	Dates of Assessment				
Estimated reading level in this text					
Independent Level 90%					
Instructional Level 75%					
Frustration Level 50%					

Documenting Written Language Progress



Technology with Work Samples and Rubrics

Prewriting Organizer

Topic Sentence

Details to Support Topic

Use of Transitional

Words

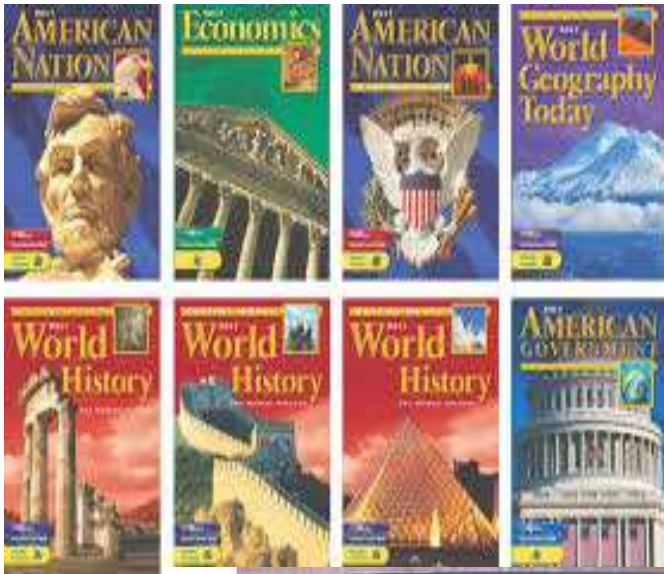
Clincher Sentences

NO RECOPYING!!!

Save/File Work Samples

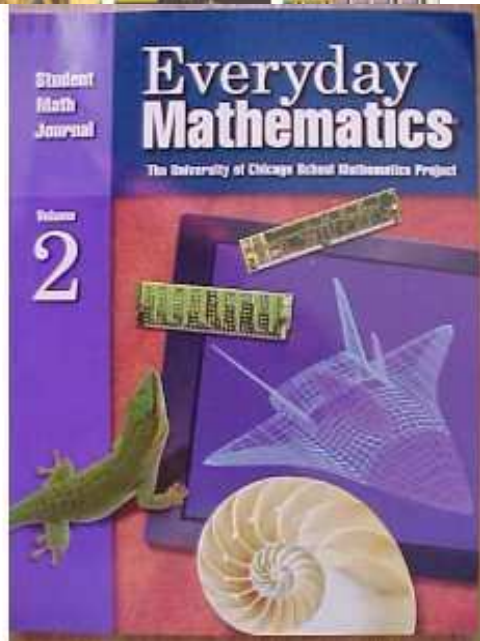


Don't Forget Math !



Highly compressed language system

Single symbol represents several words



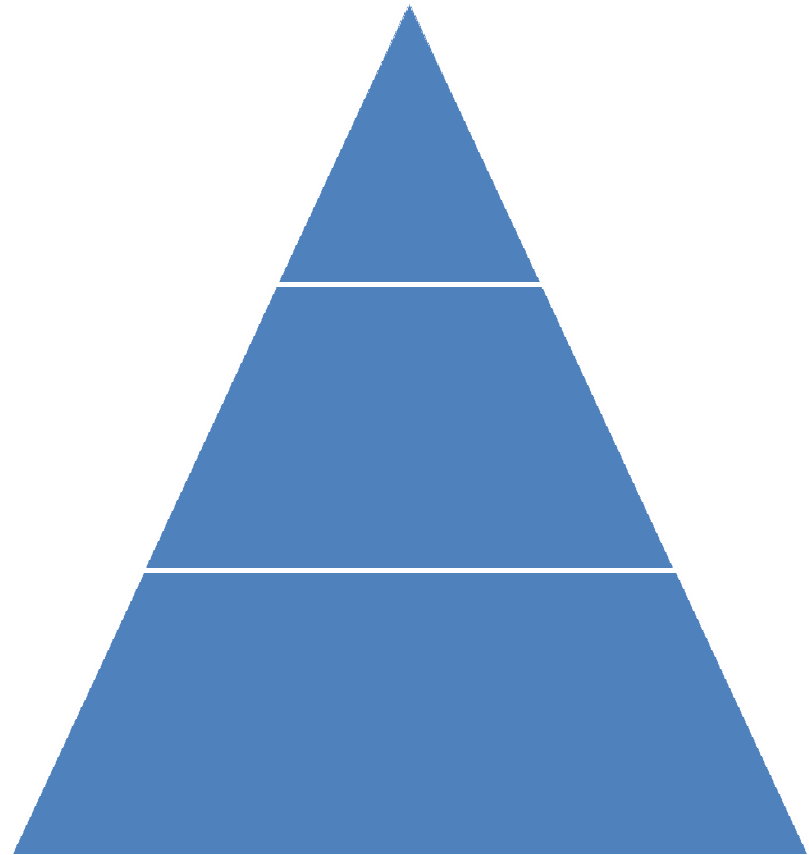
Writing in math contains more ideas in each line than any other content

Words and Symbols are Mixed New Programs: *ALL* Language Based

Analyze error patterns
on standardized tests

Document Progress

Use CBMs to
demonstrate specific
areas of need and
then progress monitor





**Chart the
Data**

Save Work Samples

DEFENDING INCLUSION



**SURVEY OF RECENT CASES FROM THE MASSACHUSETTS
BUREAU OF SPECIAL EDUCATION APPEALS**

**PAIGE L. TOBIN, ESQ.
MURPHY, LAMERE & MURPHY, PC**

SAMPLE OF RECENT CASE LAW

2

DECISIONS IN FAVOR OF THE SCHOOL DISTRICT

In Re: Chicopee Public Schools

BSEA 1300380 (January 2013 – Crane)

3

General Background

- 13 year-old female with diagnosis of language learning disability and executive functioning deficits and average cognitive abilities.
- Current IEP calls for placement within an inclusion program, in which all academic classes are co-taught.
- Parents desire placement at White Oak School while District asserts evidence of substantial progress (using GORT scores over time)

In re: Chicopee Public Schools

Continued...

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The Proposed IEP

- **A Grid:** Consultation services - regular or special education teacher to address Student's goals in executive functioning for 1 x 15
- **B Grid:** Special education services within the inclusion classroom from a regular or special education teacher to address Student's written language, ELA and math goals – 45 min/5 times per day.
- Special education services within the inclusion classroom from a regular or special education teacher to address Student's goals in executive functioning – 10 minutes per day.
- **C Grid:** Executive functioning services from a guidance counselor – 1 x 30

In re: Chicopee Public Schools

Continued...

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Discussion with regard to the sufficiency of the IEP

- The HO notes that the IEP contained most of the services and methodologies recommended by the “expert”
- The HO criticized the “expert” for not observing the district’s program or talking to the teachers
- The HO upholds proposed IEP with the additional requirement that a teacher or aide check in with Student at the end of every class (as opposed to the end of every school day) to make sure Student has everything she needs to complete her homework assignments.

Ned v. Northampton Public Schools

BSEA 12-0250 (February 2012 – Oliver)

6

General Background

- 11 year-old male student with average cognition, learning challenges, the sequelae of motor and verbal apraxia and associated adjustment related emotional issues.
- District proposed continued placement in District's lbold program.
- Parent's seek placement at Curtis Blake Day School

Ned v. Northampton Public Schools

Continued...

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The Proposed IEP and Amendment

- Program is substantially separate; IEP includes:
 - Reading, writing and ELA in LD classroom (taught by dually-certified SLP and special ed teacher)
 - Special education math in resource room
 - Speech/language therapy
 - Occupational therapy
 - Counseling with SAC
 - Inclusion social studies and science (with para support)
 - All non-academic classes received in general education classroom
 - ESY : 5 weeks; reading and math tutoring – 2 hours per day/3 days per week; speech and language therapy – 30 min/1 time per week.

Ned v. Northampton Public Schools

Continued...

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- HO finds in favor of District program, discounting Parent's expert because he:
 1. Did not observe in-district program
 2. Did not talk to teachers
 3. Based opinion solely on testing and general idea that middle school would be "challenging"

Ned v. Northampton Public Schools

Continued...

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Discussion with regard to the sufficiency of the IEP

- District's proposed IEP provides intensive remediation Student requires.
- District has been **flexible** in altering the IEP to address changing needs and outside recommendations.
- Specifically:
 - Provision of 2 hours daily of small group language based instruction in the LD classroom.
 - As Student's math problems became more apparent in the 3rd grade, Student's math was changed from regular education to 1 hour per day in the resource room.
 - Student always received speech and language therapy 3 times per week to address his speech and language disabilities and social skills group counseling weekly to address his social/interpersonal needs.
 - Summer services were added via amendment to address independent evaluator's recommendation for year round services.

In Re: Medford Public Schools

BSEA 10-6403 (August 2010 – Scannell)

10

General Background

- 13 year-old male Student entering 8th with diagnosis of Tourette's Syndrome and language-based learning disability. Student experiencing "meltdowns"
- Parents alleged that the IEP proposed by the District for the period was not reasonably calculated to provide Student with a FAPE in the LRE.
- Parents sought placement at Landmark

In Re: Medford Public Schools

Continued...

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The Proposed IEP

PUSH IN:

- Special Education Support during ELA, math, science and social studies
- Regular education reading comprehension – 2 times per week

● PULL OUT:

- Direct speech and language - 45 min; 1 time per week
- Direct Wilson Reading sessions – 45 min ; 3 times per week
- Direct assisted study sessions – 45 min; 2 times per week
- Direct reading services – 60 min; 1 time per month
- Direct counseling – 1 time per week
- Participation in “lunch bunch”
- **ESY: 12 hours or reading tutoring in July**

In Re: Medford Public Schools

Continued...

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The Parent's Experts

Parent's expert's testing showed progress in some areas and decline in others – this expert did not testify

Interesting discussion of use of GORT

Other expert who did testify did not do her own testing and did not observe program or talk to teachers

In Re: Medford Public Schools

Continued...

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Discussion with regard the sufficiency of the IEP

- HO notes that while no one disputes Student is having difficulty in his areas of special need, “*an IEP must be developed that will allow a student to receive some educational benefit, not an IEP that maximizes a student’s potential.*”
- Student’s teachers and service providers were able to document Student’s progress towards his IEP goals.
- This progress was supported by data obtained through assessment, testing and routine documentation.

SAMPLE OF RECENT CASE LAW

14

DECISIONS IN FAVOR OF THE PARENTS FOR OUT-OF-DISTRICT PLACEMENT

In Re: Student v. Arlington Public Schools

BSEA 10-1957 (March 2010 – Figueroa)

15

General Background

- Student is 14 year-old female in the 9th grade; diagnosed with a language based learning disability and ADHD.
- Parents contesting the IEPs proposed by District
- Parents requesting reimbursement for unilateral placement of Student at Landmark for the 2009-2010 school year and prospective placement of student at Landmark through the first semester of the 2010-2011 school year.

In Re: Student v. Arlington Public Schools

Continued...

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Proposed IEP (8th/9th grades)

- Goals: writing, reading, math and offered Student participation a counseling/girls' group.
- District offered partial inclusion program including the following:
 - Reading, math, academic support (pull out)
 - Additional academic support (push-in)
 - Co-taught English class
 - Consultation SLP and Academic Support

In Re: Student v. Arlington Public Schools

Continued...

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Amendment to Proposed IEP (9th Grade)

- In June the Team convened; proposed placement at Arlington High School the following year.
- Ninth grade IEP:
 - Inclusion ELA (double block), science and social studies
 - Math class with a math laboratory
 - Daily direct instruction 1 period per day
 - Academic support 3 times per week
 - Reading tutoring – 56 minutes/3 times per week
- Parents rejected the IEP and unilaterally placed Student at Landmark.

In Re: Student v. Arlington Public Schools

Continued...

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Discussion with regard to the sufficiency of the IEP

- Record showed a pattern of decline against grade level expectations in the areas of reading, spelling, academic achievement and written expression.
- Student's grades declined in 7th and 8th grades when moved from substantially separate language-based program to more participation in inclusion settings.
- Student had difficulty completing homework; began to refuse to attend school.
- Progress reports failed to provide specific information to gauge Student's progress.

In Re: Student v. Arlington Public Schools

Continued...

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Discussion with regard to the sufficiency of the IEP cont.

- Evidence did not support continuation of partial inclusion when student not making progress.
- District offered 3 blocks of reading instruction with a reading specialist, but writing skills addressed through *regular education* with support.
- Student would participate in a double-block ELA class with a *regular* education teacher.
- IEP states Student requires instruction in small group setting, but *only* reading and academic support were provided in small group setting.
- The proposed IEP REDUCED the amount of special education services to Student.

In Re: Student v. Arlington Public Schools
Continued...

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The Proposed IEP for next IEP period

With input from Landmark, Team determined Student required more intensive special education.

- District proposed the following IEP:
 - ELA instruction in a small, language-based setting
 - Direct special education instruction in reading – 56 minutes/6 times per week
 - Consultative services by the special education and regular education teachers – 15 minutes per week
 - Consultative services with speech and language therapist – 15 minutes per month
- Parents rejected the proposed program as insufficient and continued to seek placement at Landmark.

In Re: Student v. Arlington Public Schools

Continued...

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Discussion with regard to the sufficiency of the IEP

- Proposed program was an improvement over the prior IEP, but was still insufficient to meet Student's needs.
- Proposed ELA instruction in a small, language-based classroom had an appropriate number of students, but students did not share a similar profile with Student.
- Academic support offered would require Student to indicate areas of need and recall concerns from other classes, which experts testified she cannot do.
- IEP contained inconsistencies with regard to days per cycle and goals lining up with services.

In Re: Student v. Arlington Public Schools

Continued...

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Ultimate findings

- Student requires a fully-integrated language based program.
- The District did not have an appropriate language-based program at the High School.
- Parents entitled to reimbursement for unilateral placement for the 2009-2010 school year.
- Team must reconvene in June 2010 to re-assess Student's progress and propose program and placement for the 2010-2011 school year.

**In re: Student v. Pittsfield Public Schools & Central Berkshire Regional
School District**

BSEA 08-4603 (2008 – Figueroa)

23

General Background

- Student is in 6th grade and was diagnosed with a language-based learning disability and anxiety.
- Parents unilaterally placed Student at White Oak School.
- Parents contest the appropriateness of the IEP drafted by the District

In re: Student v. Pittsfield Public Schools

Continued...

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The Proposed IEP

Full inclusion with Pull Out for Reading and Math

- Goals in Mathematics and ELA
- Service Delivery Grid:
 - Tutorial services at a rate of 120 minutes twice weekly as direct services in the general education classroom
 - Resource reading – 45 min/4 times per week
 - Resource math – 45 min/4 times per week

In re: Student v. Pittsfield Public Schools

Continued...

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Amendment to IEP

- Team convened to review outside evaluation from McLean, which revealed student was approx. 2 years behind peers and was experiencing significant emotional stress as a result of school demands.
- District proposed additional tutorial services (60 min/3 times per week) to address Student's difficulty keeping up, frustration and stress.
- Parents rejected Amended IEP and unilaterally placed student at White Oak School.

In re: Student v. Pittsfield Public Schools

Continued...

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Discussion with regard to sufficiency of the IEP

- Based on information provided and recommendations made by the McLean evaluation reports, District's program was not reasonably calculated to provide Student with FAPE.
- District failed to school avoidance/anxiety
- Parents entitled to reimbursement for unilateral placement.

TIPS for IEP development

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- Include consultation on the A grid between providers
- Consider consultation between SLP and teacher
- Include supports for science and social studies
- Address student's anxiety, stress, frustration related to learning difficulties
- Make sure that the goals are achievable
- Include recommendations from your own service providers
- Avoid having direct specialized instruction by regular ed teacher or para
- Carefully consider peer groupings