

My Child Needs His Own Paraprofessional to be Successful: What exactly do “Supplementary Aids and Services” Entail?



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*How do we determine whether a child does need a
1:1?*

*Or whether a child needs **any** supplementary aid
or service?*

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Supplementary Aids and Services (SAS)

- ❑ Term of Art
- ❑ Legal Definition:

“Aids, services, and other supports that are provided in regular education classes, other educational-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.” 34 CFR 300.114-116.

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Supplementary Aids and Services (SAS)

- ❑ May include:
 - Modifications to curriculum
 - Teacher with special training (ex: AI, VI, dyslexia)
 - Special education training for general ed teacher
 - Assistive technology
 - Notetakers
 - Use of resource room

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Supplementary Aids and Services (SAS)

- May also include:
 - Consultation with behavior specialist
 - Access to counselors
 - Behavior Intervention Plan
 - Strategies supported by peer-reviewed research
 - 1:1 aides

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Supplementary Aids and Services (SAS)

- Must be addressed in the IEP
 - How do we know which aids and services a child requires?
 - How do aids and services impact placement?
- Must be addressed at least annually

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Supplementary Aids and Services (SAS)

- Lack of resources is never an acceptable excuse to provide aids and services

- If the kid needs it, school must provide it!

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What does the student need?

- Individualized Data / Information
 - Formal
 - Full Individual Evaluation
 - Standardized measures
 - Informal
 - Teacher observations
 - Student work samples
 - Trialing different accommodations / assistive technology
 - Grades
 - Input from student

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What does the student need?

- Data is collected and discussed with members of the IEP committee
- IEP team determines what is appropriate
- Can SAS provide what is needed in the current setting?

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Least Restrictive Environment (LRE)

- IDEA →

strong preference for educating students with disabilities in regular classes with **appropriate** aids and supports

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Questions to Ask...

- Individual determination...
 - How can we keep the kid in gen ed?
 - What range of services are required to achieve that end?

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Questions to Ask...

- If kid needs special ed setting...
 - Consider continuum of alternative placements
 - Maximize opportunities for the student to interact with nondisabled peers to the extent appropriate

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Factors for SAS and LRE

- Individually determined
- Comparison of benefits in gen ed v. sped
- Non-academic benefits of interaction with non-disabled peers
- Degree of disruption to other students that results in inability to meet student's needs

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How disruptive is too disruptive?

- Education of other students is
significantly impaired

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Least Restrictive Environment (LRE)

- ❑ Placements can't be based on
 - Disability category
 - Severity of disability
 - Configuration of delivery system
 - Availability of space or resources
 - Administrative convenience



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What if there is not consensus?

- ❑ If IEP team does not agree to SAS (or the LRE):
 - Consider additional data collection (including reevaluation)
 - Consider a trial period
 - Decide and move forward with disagreement procedures

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What if parent requests a 1:1?

Is it required?

- Has it proved effective in the past?
- Are there safety concerns?
- Is another option more appropriate?

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What if parent requests a 1:1?

Consider WHY the parent is making the request

- *Lack of progress?*
- *Increase in behaviors?*
- *Lack of interaction to non-disabled peers?*
- *Safety?*

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What if parent requests a 1:1?

- Consider alternatives
 - *What other options are available?*
 - *It's not necessarily an all or nothing proposition*
 - *Delve into areas of the schedule / specific environments where a need is demonstrated*

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Analyzing the Request for SAS

- Define the ask
- Review the data
- Make an individual determination
- Seek additional information, if needed
- Consider alternatives
- Would be nice v. what is needed / appropriate
- Consider LRE

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H.W. v. Comal ISD, 5th Cir. (2022)

- ❑ School proposed a more restrictive environment
- ❑ Parents opposed; citing progress on IEP goals
- ❑ Court focused on:
 - *How is progress measured?*
 - *IEP goals or overall academic record?*

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H.W. v. Comal ISD, 5th Cir. (2022)

- ❑ Court concluded:
 - Analysis should be “fact-intensive, individualized, and holistic”
 - Consider “test scores, percentile rankings, IEP progress reports, testimony from qualified professionals, and the like”

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H.W. v. Comal ISD, 5th Cir. (2022)

- While IEP progress was shown, the IEP team still met several times to help her meet her goals
- More assistance was offered
- Mastery criteria was lowered, with IEP team agreement
- Student continued to struggle

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H.W. v. Comal ISD, 5th Cir. (2022)

- Court highlighted the District's efforts to keep student in a less restrictive setting:

“the story of the student’s education so far is one of a student continually struggling to make adequate progress and a district continually responding by increasing her special education supports and lowering her goals”

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H.W. v. Comal ISD, 5th Cir. (2022)

- Once services and supports were more than what could be feasibly accomplished in a less restrictive setting, the school proposed the change of placement

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H.W. v. Comal ISD, 5th Cir. (2022)

- District showed the current situation was not working
- Good faith effort to make it work
- Move would be beneficial for the student

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L.H. v. Hamilton Co. DOE, 6th Cir. (2018)

- Student with Down syndrome was in general education 2nd grade class
- Student had difficulty and was not performing at grade level
- Student had “pull-out time” in special education; “push in” support in general education, OT, and speech services
- Student had a 1:1 full time aide

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L.H. v. Hamilton Co. DOE, 6th Cir. (2018)

- District proposed a special education placement that would allow for a special education setting for about ½ of the school day
- Parents disagreed and enrolled student in a private Montessori school

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L.H. v. Hamilton Co. DOE, 6th Cir. (2018)

- Teachers testified student was not benefitting from placement because he couldn't master grade-level curriculum

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L.H. v. Hamilton Co. DOE, 6th Cir. (2018)

- District failed to place the student in the LRE
- Court held mainstreaming can be appropriate even if student cannot master grade level curriculum

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L.H. v. Hamilton Co. DOE, 6th Cir. (2018)

“A child need not master the general education curriculum for mainstreaming to remain a viable option. Rather the appropriate yardstick is whether the child, with appropriate supplemental aids and services, can make progress toward the IEP’s goals in the regular education setting.”

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A.B. v. Clear Creek (S.D. Tex. 2018)

- Student had autism and an intellectual disability
- Served in general education
- District proposed a special education placement
- However, student was:
 - Making good progress on his annual IEP goals
 - Behavior had improved in general education

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A.B. v. Clear Creek (S.D. Tex. 2018)

“No overwhelming evidence establishing that A.B. is so limited in function, or so demanding as a student, as to entirely absorb a teacher’s time and create an undue burden, especially with a paraprofessional providing in-class and resource room support”

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A.B. v. Clear Creek (S.D. Tex. 2018)

Court found that although student was performing below grade level, with instruction at a slower pace with more repetition, the program was working in the general education setting

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A.B. v. Clear Creek (S.D. Tex. 2018)

- Student benefitted from modeling of non-disabled peers
- Followed directions
- Made better than expected progress on annual IEP goals
- Showed initiative in completing tasks

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I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017)

- Elementary student with Down syndrome
- Student had significant behaviors in general education classroom
- Teachers were not able to manage her behavior even with lots of supports in general education

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***I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017);
aff'd 6th Cir.***

- ❑ Types of behavior:
 - Called out inappropriate names to teachers and staff
 - Would grope, hit, and spit on classmates
 - Behavior was so extreme, several parents removed their child from the school
 - Threw scissors

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***I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017);
aff'd 6th Cir.***

- ❑ SAS tried
 - Rearranged seating charts
 - Modified curriculum
 - 1:1 paraprofessional
 - Special tools for her work
 - FBA
 - BIP

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***I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017);
aff'd 6th Cir.***

- District argued she had too many goals to work on and needed more than 20 minutes per day in special education
- District proposed 4 hours per day in special education
- Parent argued less restrictive options existed

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***I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017);
aff'd 6th Cir.***

- Court held:

"The regulations do not require that a child has to fail in the less restrictive options on the continuum before that child can be placed in a setting that is appropriate to his or her needs."

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***I.L. v. Knox Co. Bd. of Educ. (E.D. Tenn. 2017);
aff'd 6th Cir.***

- Court cited "countless" supplemental aids and services
- Testimony supported 4 hours of special education in order to meet her IEP goals

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Norristown Area Sch. Dist. v. F.C. (3rd Cir. 2016)

- Student was doing well and district proposed more mainstream classes
- However, school failed to provide the necessary support required for the student to be successful
- Court found student needed 1:1 support in general education

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S.M. v. Gwinnet Co. Sch. Dist. (11th Cir. 2016)

- School moved a child into special education for reading, writing, and math

- Evidence demonstrated many SAS were provided, considered, and some were not feasible

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S.M. v. Gwinnet Co. Sch. Dist. (11th Cir. 2016)

- Court found that the student required

“direct, explicit, small group instruction with drill and repetition, with instruction that is significantly different from that of the general education classroom”

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S.M. v. Gwinnet Co. Sch. Dist. (11th Cir. 2016)

- Court found that the student required

“direct, explicit, small group instruction with drill and repetition, with instruction that is significantly different from that of the general education classroom”

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What can we learn from these cases?

- SAS should be thoughtfully chosen
- If SAS are not working, student may need a different setting
- If student is making progress on IEP in current setting, it may be difficult to justify a change in placement

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How does this relate to the 1:1 example?

- 1:1 aide may be a necessary SAS
- 1:1 aide won't always be the answer
- IEP team doesn't have to exhaust every possible SAS before recommending a change of placement
- Explain the need, consider the progress, and whether an SAS may allow success in the current setting

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What if parent demands a 1:1?

- Explore request during an IEP team meeting
- What need are we trying to meet?
- What service would a 1:1 provide?
 - Consider whether another SAS might work
- If a student needs a certain SAS (like a 1:1), the school must provide it.

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Supplementary Aids and Services

- Wide variety of supports
- Must be individualized
- Should be chosen based on current levels of functioning
- Goal is to keep students in LRE
- Sometimes student cannot be successful in the current environment, even with the addition of a SAS

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