

Janna Osman, M.Ed.  
Vice President for Advanced Learning  
Stern Center for Language and Learning  
[Josman1@sterncenter.org](mailto:Josman1@sterncenter.org)

My name is Janna Osman and I currently serve as the Vice President for Advanced Learning at the Stern Center for Language and Learning. I have been at the Stern Center for 10 years. Prior to that, I was the Learning Disabilities Consultant for, what was then, the Vermont Department of Education. I was the special educator at the Rumney School for 18 years and worked as a practicum coordinator at Saint Michael's College with graduate students getting their master's degree in Special Education.

I began working at the DOE In 2000, when Vermont was in the process of operationalizing the Adverse Effect condition, one of the 3 criteria for determining eligibility. The Evaluation and Planning Team was charged with identifying whether a student did or did not meet the disability condition based on the identifying features within the suspected **disability condition**, whether or not the student met the criterion for **adverse effect** (based on performance that was 1SD from the mean, or equivalent, on 3 out of 5 different types of measures within a given skill area) and whether the student **needed** specialized instruction that could not be provided within the standard instructional conditions provided within the school). I was asked to address the Adverse Effect condition in state-wide trainings and wrote the guidance provided to educators throughout the state. Prior to Vermont's operationalizing Adverse Effect, we complied with the IDEA by simply stating that the student's disability had an adverse effect on learning, which seemed obvious, unless the student's failure to learn was based on poor instruction. In trying to quantify adverse effect, I thought we were drilling down, building a case study, a student profile, necessary to develop accommodations and supports for acquiring basic skills. It became clear, early on, that there were students identified with a disability, who did not meet adverse effect, but needed specialized instruction. The system was flawed and prevented students from accessing their learning because of not meeting adverse effect. The student identified with an emotional disturbance because of its impact on the basic skill area of writing, did not meet the adverse effect condition because of strong performance on a standardized measure. The student did not hand in work, was unable to write in order to meet class expectations. I would retort, "no

evidence is evidence of adverse effect”. There were many stories like this. The case could not be any stronger for this student to access his learning based on need, in a skill area, as well as functional performance.

In 2004, the IDEA was reauthorized with a focus on present levels of achievement and functional performance on IEPs. **The evaluation procedures used to measure a child’s functional skills must meet the same procedures described** in (The federal register IDEA §300.304(c)(1). (Fed. Reg. at 46661).

There should be a parallel balance between what we must do in the IEP and what information we need in the evaluation to reflect in the IEP. There needs to be a crosswalk between the two or it becomes an issue of equity if a student is denied the protections of special education as a result of functional issues that are not addressed in the evaluation or given consideration as a factor impeding learning and the possibility of opportunity for workforce development or higher education.

What do we want for our students who struggle with both academic and functional performance? It is time to retool. Retooling will make our special education rules equitable and have a positive impact for Vermont students to realize their hopes and dreams.

When we are deciding who is eligible for special education and who is eligible for an IEP we must consider functional performance and not just academic performance. The eligibility rules should be changed to accomplish that,