



The Individuals with Disabilities Education Act (IDEA)
92 NAC 51 (Rule 51)

Least Restrictive Environment (LRE)

August 2018



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Least Restrictive Environment (LRE)

Key Terms in LRE

The core of IDEA's LRE provisions contains many key terms and phrases that, together, reveal the law's strong preference for where children with disabilities are to be educated: the regular educational environment. Consider the specific wording and phrases in the provision:

- Special classes
- Separate schooling
- Other removal from the regular educational environment
- **Occurs only if...**

Since its earliest days, the law has displayed a strong preference for children with disabilities to be educated alongside their peers without disabilities, to the maximum extent appropriate. It recognizes that, in many cases, supplementary aids and services must be provided to a child with a disability to enable him or her to be educated in the general education classroom. Supplementary aids and services can play a pivotal role in supporting the education of individual children with disabilities in the regular educational environment. Simply put, removal of a child with disabilities from the regular education class may occur **only if** the child cannot be satisfactorily educated in the regular educational environment *with* the use of supplementary aids and services.

Considering the Meaning of “Regular Educational Environment”

The use of the term “regular educational environment” is longstanding in IDEA's regulations. In response to a public comment on the scope of the LRE provision, the Department explained that the term “encompasses regular classrooms and other settings in schools such as lunchrooms and playgrounds in which children without disabilities participate” (71 Fed. Reg. 46585). The settings in a school where children without disabilities participate are many and varied; all are considered part of the “regular educational environment.”

Considering the Meaning of “Satisfactorily Educated”

There isn't a specific standard or level established within IDEA for determining what it means for the education of a child with a disability to be “achieved satisfactorily.” Rather, *each child's IEP* is the measuring tool. The IEP team determines if a child's education is appropriate and if it is being achieved satisfactorily. The IEP may be reviewed and revised, enabling the IEP team to respond to concerns that the child's education in the regular educational environment “cannot be achieved satisfactorily” and to make necessary and appropriate adjustments or modifications, especially regarding the type of supplementary aids and services provided to support the child's education in a regular classroom setting.

Considering “Supplementary Aids and Services”

Providing supplementary aids and services is essential for many children with disabilities to progress and learn. But just what are supplementary aids and services? The term “supplementary aids and services” is defined at §300.42, as follows:

Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.

Supplementary aids and services can be accommodations and modifications to the curriculum under study or the manner in which that content is presented or a child's progress is measured, but that's not all they are or can be. Supplementary aids and services can also include direct services and supports to the child, as well as support and training for staff who work with that child. Determining what constitutes appropriate supplementary aids and services for a particular child is made on an individual basis. If you'd like to know more about these vital supports, please read our separate page, [Supplementary Aids and Services](#). Examples can include:

- providing students with extra time to take tests or complete assignments
- giving shorter or different assignments
- providing feedback more frequently than other children
- providing slower-paced instruction
- providing physical adaptations
- providing a note-taker or another assistant to a student
- equipping the student with a home set of class materials
- allowing breaks
- preferential seating
- digitalized books and class materials
- allowing the use of the computer for certain assignments
- altering instruction (how it's presented, its pace, or its difficulty)

Supplementary aids and services are intended to be provided in regular education classes, other education-related settings, and extracurricular and other nonacademic settings. This pretty much covers the gamut of school settings where children might be engaged in learning, interaction, and development. As we've said, their intent is to help integrate children with disabilities with nondisabled children in all facets of school. Suppose a child needs a specific supplementary aid or service that's typically provided in separate environments, not in the regular education classroom? Does this mean that the needed supplementary aid or service doesn't have to be provided? Or that the child's placement may then be somewhere other than the regular educational environment? **No, to both questions.** As mentioned above, the school system is responsible for providing the supplementary aids and services that the IEP team determines the child needs and lists in the child's IEP in order to enable the child to be educated in regular education settings. As stated in the language of the LRE provision, supplementary aids and services are to enable the child with a disability to be educated in regular classes with nondisabled children to the maximum extent appropriate. The fact that supplementary aids and services often play a decisive role in whether or not the

child can be satisfactorily educated in the regular educational environment makes it all the more important that the school system meet its responsibility to provide them and to educate the child in the LRE to the maximum extent appropriate. If the IEP team has determined that the child can be satisfactorily educated in the regular classroom with the support of a given supplementary aid or service, those aids or services must be specified in the child's IEP and must be provided to the child. Section 300.116 is sufficiently clear that placement decisions must be based on the individual needs of each child with a disability. Therefore, school systems must not make placement decisions based on their needs or available resources, including budgetary considerations and the ability of the school system to hire and recruit qualified staff. (71 Fed Reg. 46588)

What Other Settings Can Be Considered?

As already discussed, the frame within which placement determinations begin is the regular educational environment. If a child can be satisfactorily educated in that setting (with needed supplementary aids and services), then the general education class is that child's LRE. Placing this child in a segregated class or separate program would directly violate the LRE provisions in IDEA. However, the IEP team may determine that the child cannot be educated satisfactorily in the regular education classroom, even when supplementary aids and services are provided. An alternative placement must then be considered. This is why schools have been, and still are, required to ensure that "a **continuum of alternative placements** is available to meet the needs of children with disabilities for special education and related services" [§300.115(a)]. These placement options include:

- instruction in regular classes,
- special classes,
- special schools,
- home instruction, and
- instruction in hospitals and institutions.

Provision must be made for supplementary services, such as resource room or itinerant instruction, in conjunction with regular class placement [§300.115(b)]. Having a continuum of placements available "is intended to ensure that a child with a disability is served in a setting where the child can be educated successfully in the LRE" (71 Fed. Reg. 46587). It also reinforces the importance of the individualized inquiry in determining what placement is the LRE for each child with a disability (Id.). As such, the requirement for a continuum of alternative placements supports the fact that determining LRE must be done on an individualized basis, considering "each child's unique educational needs and circumstances, rather than by the child's category of disability, and be based on the child's IEP" (71 Fed. Reg. 46586).

However, placement is not an "either/or" decision, where children are either placed in a regular education classroom or they're not. The intent is for services to follow, or go with, the child, not for the child to follow services. Schools must make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

Who Decides Placement?

The group that determines the educational placement for a child with a disability must include individuals with specific expertise or knowledge:

- the child's parents;
- personnel who know the variety of placement options available to meet the child's needs, and
- individuals who understand the significance of the data used to develop the child's IEP. [§300.116(a)]

Often, *but not always*, this may be the same group of people comprising the IEP team.

How Does the Group Decide Placement?

A child's placement:

- is determined each and every year;
- is based on the child's IEP;
- is as close as possible to the child's home;
- places the child in the school he or she would normally attend if not disabled (unless the child's IEP requires some other arrangement). [§300.116(a)-(c)]

Notifying Parents

Although the parents of the child are part of the group determining the child's placement and are likely to be well informed as to the placement decision, schools must still provide parents with **prior written notice** about the placement decision a reasonable time before it implements that decision (§300.503).

The notice that the school system provides to parents must be written in language understandable to the general public and in the parents' native language or other mode of communication (unless it's clearly not feasible to do so). The notice must also contain specific information, enumerated at §300.503(b), including (but not limited to):

- the educational placement of the child to be initiated, as proposed by the agency;
- an explanation of why the agency proposes that placement;
- a description of each evaluation procedure, assessment, record, or report the agency used as a basis for the placement decision;
- a description of other options considered and why these options were rejected;
- a statement that the parents have protection under IDEA's procedural safeguards and the means by which a description of those safeguards may be obtained; and
- sources that can help the parents understand IDEA's pertinent provisions.

Should the parents disagree with the placement decision, they have recourse to IDEA's procedural safeguards, which include **mediation** and **due process procedures**, as a way of resolving the conflict. A parent of a child with a disability can also file a **State complaint**.

Considering Preschool Early Childhood Placement Options

Based upon the Dear Colleague Letter released by the United States Department of Education Office of Special Education and Rehabilitative Services in January of 2017, "An LEA may provide special education and related services to a preschool child with a disability in a variety of settings, including a regular kindergarten class, public or private preschool program, community-based child care facility, or in the child's home." It further states, "Additionally, preschool children with disabilities are often identified as children with disabilities while participating in regular public preschool programs, such as Head Start or a regular public pre-kindergarten program. The following requirements apply when determining placement options for a child with a disability who already participates in a regular public preschool program, including a community-based regular public preschool program operated by a public agency other than the LEA. Under 34 CFR §300.116(c), unless the child's IEP requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. In addition, under 34 CFR §300.116(d), the placement team, which includes the child's parent and may include the child's current teacher, must consider any potential harmful effect on the child and on the quality of services that he or she needs before removing the child from the current regular public preschool setting to another more restrictive setting. Consistent with these requirements, IDEA presumes that the first placement option considered for a preschool child with a disability is the regular public preschool program the child would attend if the child did not have a disability. Therefore, in determining the placement for a child with a disability who already participates in a regular public preschool program, the placement team must consider whether the LEA, in collaboration with the regular public preschool program, can ensure that the child receives all of the special education and related services and supplementary aids and services included in the child's IEP in order to meet the needs of the particular child with a disability." Districts should bear in mind that "the Department defines a Regular Early Childhood Program as a program that includes a majority (at least 50 percent) of nondisabled children (i.e., children who do not have IEPs) and that may include, but is not limited to: Head Start; kindergartens; preschool classes offered to an eligible pre-kindergarten population by the public school system; private kindergartens or preschools; and group child development centers or child care."

Birth-to-Three Natural Environments and 3-21 Least Restrictive Environments (LRE)

| <p>Birth-to-Three IDEA Part C – 34 CFR Part 300 and 303 Title 92, NAC, Chapter 52 480 NAC 3</p> | <p>IDEA Continuum</p> | <p>Three-To-School Age IDEA Part B 619 – 34 CFR Part 300 Title 92, NAC, Chapter 51</p> | <p>School Age-to-21 IDEA Part B – 34 CFR Part 300 Title 92, NAC, Chapter 51</p> |
|---|---|--|--|
| <p>Natural Environments:</p> <p>Home and Community-Based Settings Where the Child and Family Spend Their Time</p> <p>Examples Include:</p> <p>Family Home Extended Family/Friend’s Home Childcare Setting Public or Private Early Care or Education Program</p> | <p>Least Restrictive</p> <p>CONTINUUM OF PLACEMENT</p> <p>More Restrictive</p> | <p>Environment Where the Child Spent Time BEFORE Being Identified as a Child with a Disability (Current Community-Based Childcare)</p> <p>Regular Education Setting (Community-Based Childcare, Inclusive District Preschool Program – 50/50 enrollment)</p> <p>Home-based Services</p> <p>Self-Contained Education Setting (More than 50/50 enrollment)</p> <p>Specialized School or Program</p> <p>Institutional Setting (Hospital or Long-Term Care Facility)</p> | <p>General Education Classroom</p> <p>Special Classes (Resource Room or separate class with significant modification to curriculum)</p> <p>Special Schools (Alternative Schools, Disability Specific)</p> <p>Home Instruction</p> <p>Institutional Setting (Hospital or Long- Term Care Facility)</p> |

**Settings listed above do not include all possible setting options or combination of options that may be configured in order to meet the individual needs of children with disabilities.

Checklist: Least Restrictive Environment

| | | |
|---|--|--|
| Section 1. Whether education can be achieved satisfactorily in the regular classroom for a major portion of the school day, with the use of appropriate supplementary aids and services: | | |
| 1A. Steps taken by the school to try to include the child in a regular classroom in conjunction with supplementary aids and services. | Yes | No |
| <ul style="list-style-type: none"> • Has the school considered the whole range of supplementary aids and services, including resource rooms and itinerant instruction? • Has the school made efforts to modify the regular program to accommodate the child? • Do the school's efforts constitute at least serious consideration rather than token gestures? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| 1B. Comparison between the educational benefits in the segregated setting versus those in a regular classroom with supplementary aids and services: | | |
| <ul style="list-style-type: none"> • Does the comparison significantly include social and communication skills as well as academic progress? • With such a broad scope, would education experts favor the segregated placement in terms of relative benefits to the individual child? | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| 1C. Possible negative effects on the education of other children in the regular classroom if the child were integrated with appropriate supplementary aides and services: | | |
| <ul style="list-style-type: none"> • Is there a negative effect so disruptive that the education of the other students is significantly impaired? • Do the child's disabilities demand so much of the teacher's time that the teacher will be required to ignore the other students? | <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> |
| <i>(If most of the answers to questions in Sections 1A through 1C are "yes," a segregated placement may be appropriate. In that case, the proposed segregated placement should be evaluated with the questions in Section 2. If most of the Section 1 answers are "no," a segregated placement probably would not be appropriate and the Section 2 questions would be irrelevant.)</i> | | |
| Section 2. Determining if the proposed placement includes the child in the school programs with nondisabled children to the maximum extent appropriate: | | |
| <ul style="list-style-type: none"> • Is it possible to place the child in regular education for some, even if not a significant portion, academic programs? • Is it possible to place the child in regular non-academic classes? • Is it possible to provide interaction with nondisabled children during lunch and recess? | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> | <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> |
| <i>(The more answers in Section 2 that are yes, the more likely it is that the proposed segregated placement meets the LRE criteria as defined by current policy and case law.)</i> | | |

Adapted from: Perry Zirkel, professor of education, Lehigh University

| LRE IS: | LRE IS NOT: |
|--|---|
| <ul style="list-style-type: none"> • required by Federal and State Law • where students with disabilities have the opportunity to attend their home schools • an individualized determination of the appropriate placement that is made by the IEP team, including the student as appropriate • consideration of the full array of services to meet individual student needs, including supplementary aid and services provided in the general classroom • placement of students with disabilities with peers of the same chronological age • bringing supports and services to students where they need them (e.g., in general education classes or in community vocational settings, etc. • educating students in general education classrooms with appropriate supports and services • providing access to all areas of the general education curriculum • collaboration and shared responsibility among general and special educators, administrators, parents and students with disabilities | <ul style="list-style-type: none"> • an option • educating students with disabilities without considering their home school • considering only one placement option within the array of services • making IEP teams choose between needed services and a preferred appropriate placement • "putting" students in general education classrooms without appropriate supports • providing a separate, unrelated curriculum to the general education curriculum |

Sources:

National Center for Parent Information and Resources (CPIR), 2017. *Considering LRE in Placement Decisions*. Retrieved July 2018 from, <https://www.parentcenterhub.org/placement-lre/>

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