

LEAST RESTRICTIVE ENVIRONMENT (LRE)

Definition

A legal mandate that demands that students be educated in general classroom settings to the maximum extent appropriate.

Legal Requirements

Basic Requirement

Each public agency must ensure that:

1. To the maximum extent appropriate, student with disabilities, including student in public or private institutions or other care facilities, are educated with student who are nondisabled; and
2. Special classes, separate schooling or other removal of student with disabilities from the General Education environment occurs only if the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Determination of Placement

Each public agency must ensure that a continuum of alternative placements is available to meet the needs of student with disabilities for special education and related services.

The continuum must:

1. Include instruction in general classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and
2. Make provision for supplementary services such as resource room or itinerant instruction to be provided in conjunction with the general education classroom placement.

In determining the educational placement of a student with a disability, including a preschool student with a disability, each public agency must ensure that:

1. Unless the IEP of a student with a disability requires some other arrangement, the student is educated in the school that he or she would attend if nondisabled.
2. In selecting the LRE, consideration is given to any potential harmful effect on the student or on the quality of services that he/she needs.
3. A student with a disability is not removed from education in age-appropriate general education classrooms solely because of needed modifications in the general education curriculum.
4. Students with a disability shall be grouped for instructional purposes according to their instructional needs.

Non-Academic Settings

In providing or arranging for the provision of nonacademic services and activities, including meals, recess periods and the services and activities set forth in 300.107 (counseling, athletics, transportation, special interest groups or clubs, referrals to agencies that provide assistance to students with disability needs, employment, etc.), each public agency must ensure that each student with a disability participates with a student without a disability in the extracurricular services and activities to the maximum extent appropriate to the needs of that student. The public agency must ensure that each student with a disability has the supplementary aids and services determined by the student's IEP team to be appropriate and necessary for the student to participate in nonacademic settings. Necessary aids and

services outside of the general school day are covered in a student's Section 504 plan, not the student's IEP. Students with disabilities cannot be excluded from field trips solely because of their disability.

Legal References

EC 56301, 34 CFR 300.114-117

Local Procedures

When determining placement and services for students, IEP teams must keep the previous requirements in mind, primarily the following key principles:

1. To the maximum extent possible, the student with a disability must be educated with students without a disability. The term "educated" is not limited to academic instruction. It includes academic and nonacademic activities occurring during the school day and before or after the school day.
2. Removing a student from the general education classroom should only occur if the nature or severity of the disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily. The term "satisfactorily" is not defined and seems to allow the IEP team some flexibility in making its final determination. The 9th Circuit Court of Appeals, in the case of *Rachel H. vs. Sacramento Unified School District*, established the following four-part test to assist IEP teams in making decisions about LRE:
 - a. The educational benefits available to the student in a general classroom, supplemented with appropriate aids and services, as compared with the educational benefits of a special education classroom;
 - b. The non-academic benefits of interaction with students who are not disabled;
 - c. The effect of the student's presence on the teacher and other students in the classroom; and
 - d. The cost of mainstreaming the student in a general (general) educational classroom.
3. If the IEP team determines that the LRE for a student is not the general education classroom, it must then consider mainstreaming to ensure the student is integrated with his/her peers to the maximum extent practicable that allows the student to continue to make progress on his/her IEP goals.

Placement and Services

IEP teams must discuss LRE openly with parents during the IEP meeting. Parents must be made aware of their rights relative to LRE and the various program options available. When determining placement and services, IEP teams should proceed from the least to the most restrictive environments as follows:

1. Full time placement in the General Education Classroom at the student's neighborhood school with special education and related services.
2. Placement in the General Education Classroom at the student's neighborhood school for part of a school day and placement in special education classroom
3. Placement in a special education classroom at the student's neighborhood school for the majority or entire school day.
4. Placement from the student's neighborhood school to another school within the district.
5. Placement from the student's neighborhood school to a public school in another district.
6. Placement from the student's neighborhood school to a NPS/RTC.
7. Other placement options as appropriate, including instruction in the home.

It is not necessary to go through the entire progression of LRE options at every meeting. It is important that IEP teams consider all less restrictive placements than the one ultimately determined to be the most appropriate placement and services for a particular student. The only way to ensure that a student is placed in the LRE is to openly discuss the pros and cons of the various options leading up to the final selection for LRE. The discussion regarding LRE needs to occur not only at the initial IEP but at each annual review.

Before determining a placement to be the LRE, the IEP team must also consider any potential harmful effect the placement might have on the student or on the quality of services that he or she needs.

Non-Academic Considerations

It is important to remember that nonacademic activities are not limited to recess and lunch. Students with a disability have the right to participate in every type of school sponsored activity that a school has to offer such as clubs, after school programs, sports, dances, etc. IEP teams are not required to discuss and review every extra-curricular activity available at a school, but they should at least open discussion on the topic and entertain suggestions from the parents and other team members. If an activity requires some type of prerequisite skill or capability in order to participate, the IEP team must determine reasonable accommodations that the student is entitled to, pursuant to obligations under Section 504 of the Rehabilitation Act.

Supplementary Aids and Services

In making the determination regarding least restrictive environment, the IEP team must consider the extent to which supplementary aids and services would enable a student to participate in the general education program. When appropriate, supplementary aids and/or services must be specified in the IEP.

FAQs

Can a student receiving special education services play on the school football team?

Yes, provided that he/she qualifies for the team (with or without reasonable accommodations) like the other students. A Section 504 plan should be drafted to address the student's needs during extracurricular activities.

Does a school have to start a new classroom for one student?

No, if for example, a student requires a special class placement and the district's special class is located at a school other than the student's neighborhood school, the district has the right to send the student where the class is located and provide transportation or in lieu payment. If no appropriate class exists, the district would be required to create an appropriate placement in the LRE.

Is placing a full time instructional assistant with a student in a general education classroom considered least restrictive environment (LRE)?

Most educators would not consider it LRE if the only way a student could be in a General Education Classroom was to have a full time assistant. Having a full time assistant often has the reverse effect on a student in that the student, instead of becoming more integrated and independent in the classroom actually becomes less integrated and more dependent on the assistant. If a student requires a full-time assistant initially, the assistant should be gradually withdrawn to promote and maintain student independence. OAH has consistently found that a special day class is less restrictive than a full-time placement in general education with a 1:1 aide.

Refer to SELPA Special Circumstances Instructional Aide (“SCIA”) Policy for more information.
APPENDIX G

REMINDERS

- Students with a disability have the right to be educated with their nondisabled peers.
- Students with a disability should be removed from the general education classroom only if the nature or severity of their disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- The 9th Circuit Court of Appeals has established a four-part test for districts to use when determining LRE.
- Students with a disability have the right to participate in school sponsored clubs, sports, dances, etc.
- If necessary, supplementary aids and services must be provided to enable students receiving special education services to participate in school activities.