

Considering LRE in Placement Decisions



Girl student in the middle of the class enthusiastically raises her hand to answer.

Least restrictive environment, or LRE as it is more commonly called, is one of several vital components in the development of a child’s IEP and plays a critical role, influencing **where** a child spends his or her time at school, **how** services are provided, and the relationships the child develops within the school and community. Indeed, LRE is a foundational element in building an appropriate IEP that can improve outcomes for a child—in school and in life.

Summarizing LRE

In basic terms, LRE refers to the setting where a child with a disability can receive an appropriate education designed to meet his or her educational needs, alongside peers without disabilities to the maximum extent appropriate. As the Department explained in the Analysis of Comments and Changes to the final Part B regulations in the *Federal Register*:

The LRE requirements in §§300.114 through 300.117 express a strong preference, not a mandate, for educating children with disabilities in regular classes alongside their peers without disabilities. (71 Fed. Reg. 46585)

LRE has been a part of federal special education law from its inception in 1975. LRE’s basic statutory provision has remained intact for the past 30 years.

The Core of IDEA’s LRE Provisions

IDEA’s LRE provisions are found at §§300.114 through 300.117. We’ll be looking at these throughout this discussion. To begin, though, let’s look at the core of what IDEA requires.

Each public agency must ensure that—

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. [§300.114(a)]

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 follow:

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.

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.

Given the importance of supplementary aids and services in LRE decision making and implementation, let’s take a look at what types of supplementary aids and services children with disabilities are actually receiving. According to the SEELS School Program Survey[1] and as reported in the *26th Annual Report to Congress* on the implementation of IDEA[2], about 85% of elementary or middle-school children with disabilities in regular education language arts classes have some type of support indicated on their IEP or 504 plan. Looking at the specific accommodations and supports they receive, we find that:

- 61.9% are provided extra time to take tests or complete assignments.
- 36.8% are given shorter or different assignments.
- 35.3% have tests read to them
- 33.4% take modified tests.
- 33.3% receive feedback more frequently than other children.
- 30.4% receive slower-paced instruction.
- 22.7% are provided physical adaptations.

Other learning supports provided to these children in language arts classes include the following:

- Progress monitored by special education teacher: 51.9%
- Teacher aides, instructional assistants, or other personal aides: 27.5%
- Learning strategies/study skills: 24.2%
- Peer tutor: 22.9%
- Books on tape: 14.5%
- Use of computer for activities not allowed other children: 11.2%
- Reader or interpreter: 10.3%
- Behavior management program: 9.8%
- Communication aids: 3.2%

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.

Lookin' for a Community of Practice on LRE?

You're in luck. OSEP has spearheaded several CoPs, with two devoted to LRE—one, for Part B LRE, and the other, for preschool LRE. These are "[o]pen to all interested who share common concerns and passion for changing and improving implementation of IDEA." Visit the TA communities of practice Web site and see what resources and expertise they've assembled: <http://www.tacomunities.org/>

[1] The Special Education Elementary Longitudinal Study (SEELS) was a study of school-age children funded by OSEP and was part of the national assessment of the 1997 IDEA. From 2000 to 2006, SEELS collected data at three points in time through school staff, direct assessments, and parent interviews to provide information about the experience of children with disabilities. For more information and to view SEEL results, visit: www.seels.net/

[2] U.S. Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs. (2006, April). *26th annual (2004) report to Congress on the implementation of the Individuals with Disabilities Education Act* (Vol. 1). Washington, DC: Government Printing Office. (Available online at: <http://www2.ed.gov/about/reports/annual/osep/2004/index.html>)