

Least Restrictive Environment (LRE) and Educational Placement for Students with Individualized Education Programs

22 PA Code § 14.102 (a)(2)

22 PA Code § 14.144

22 PA Code § 14.145

22 PA Code § 14.146

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PURPOSE

The purpose of this Basic Educational Circular (BEC) is to provide guidance regarding the least restrictive environment requirements for determining the placement of school-age students with disabilities as outlined in the Individuals with Disabilities Education Act (IDEA) and Title 22 Pennsylvania Code, Chapter 14 Special Education Services and Programs. In addition, this BEC describes the required technical assistance, training, and monitoring activities the state educational agency (SEA) will provide to local educational agencies (LEAs) to assist them in meeting state established least restrictive environment targets.

REQUIREMENTS FOR LRE

IDEA outlines the requirements for least restrictive environment according to 34 CFR § 300.114(a) as:

(a) General.

- (1) Except as provided in Sec. 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.
- (2) 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.

The LEA is responsible for making sure that students with disabilities are educated alongside students without disabilities to the extent appropriate for the student. Generally “appropriate” means that the education meets the student’s special needs and allows the student to make educational progress. The regular education classroom is the first placement choice the Individualized Education Program (IEP)

team must consider. When an IEP team, which always includes the parents, considers where a student will be educated, it must ask what can be provided in the regular education classroom or activity and what “supplementary aids and services” will provide extra supports in a regular classroom environment. Examples might include assistive technology, special behavior strategies, use of a resource room, or accommodations or modifications in the curriculum or assignments.

CONTINUUM OF PLACEMENT

The recognition that regular class placement may not be appropriate for every student with a disability is reflected in the requirement that LEAs make available a range of placement options, known as a continuum of alternative placements, to meet the unique educational needs of students with disabilities. IDEA regulations at 34 CFR § 300.115 specify “that:

- (a) Each public agency is to ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
- (b) The continuum required in paragraph (a) of this section must—
 - (1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
 - (2) Make provisions for supplementary services (such as a resource room or itinerant instruction) to be provided in conjunction with regular class placement.”

The law and the Pennsylvania Department of Education (PDE) policy favor education with nondisabled peers; however, inclusion or education with nondisabled peers is not a foregone conclusion. Such a decision remains exclusively with the IEP team as they consider a free appropriate public education (FAPE). For some children, the IEP team may conclude that a more restrictive setting is necessary for the delivery of FAPE. For example, the IEP team for a child who is deaf may decide that the least restrictive environment and appropriate placement for that child is a “school for the deaf” or an IEP team for a child with autism may decide that an autistic support classroom where specific interventions may be provided is the least restrictive environment and is necessary to implement the IEP. An IEP team may choose a more specialized setting if:

1. The student's IEP cannot be implemented satisfactorily in the regular class in the school the student would attend if not disabled even with the provision of supplementary aids and services.
2. The student will receive greater benefit from education in a specialized setting than in a regular class after consideration is given to the student’s educational, physical, social/ emotional and behavioral needs with the provision of supplementary aids and services.

EDUCATIONAL PLACEMENT

The IEP team that determines the educational placement for a student with a disability must include individuals with specific expertise or knowledge. Although the parents of the student are part of the IEP team determining the student's placement and are likely to be well informed as to the placement decision, LEAs must still provide parents with prior written notice about the placement decision a reasonable time before it implements that decision as outlined in 34 CFR § 300.503.

Placement decisions for students with disabilities as defined in 34 CFR § 300.116 states:

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

- (a) The placement decision—
 - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
 - (2) Is made in conformity with the LRE provisions of this subpart, including §§300.114 through 300.118;
- (b) The child’s placement—
 - (1) Is determined at least annually;
 - (2) Is based on the child’s IEP; and
 - (3) Is as close as possible to the child’s home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.”

LEAs may not refuse to place a student in a regular education classroom because:

- the student cannot do the same work at the same level as the other students in the regular education class if the student can make meaningful progress on the goals in their IEP in a regular education class;
- the placement would be more expensive or inconvenient to the school;
- the student has a certain type of disability or because the disability is severe in the school’s view (for example, a school cannot have a policy that places all students with autism in an autistic support classroom);
- there is no room in the regular classroom for more students, but there is room in the special education classroom; and/or
- the curriculum used in that classroom has to be modified for the student because of their disability.

EXTRACURRICULAR SERVICES

In providing or arranging for the provision of nonacademic and extracurricular services and activities—including meals, recess periods, and the services and activities set forth in 34 CFR § 300.107—each public agency must ensure that each student with a disability participates with nondisabled students 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 according to 34 CFR § 300.117 (related to Nonacademic Settings).

PUBLIC OR PRIVATE INSTITUTIONS

For students in public or private institutions as stated in 34 CFR § 300.118 (except as provided in 34 CFR § 300.149(d) regarding agency responsibility for general supervision of some individuals in adult prisons), a SEA must ensure that 34 CFR § 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

SPACE AND LOCATION

LEAs must provide students with disabilities appropriate classroom space. The room must be a space that was designed to be used as a classroom. The classroom must be close to the ebb and flow of school activities. The noise level in the classroom must be reasonable to allow the students to learn. The classroom must be accessible to students with disabilities and contain at least 28 square feet of space for each student (22 PA Code § 14.144(3) (v)). For example, using an old storage closet for a special education classroom may be a violation of the law.

AGE RANGE

When the student is attending a special education class in a LEA or IU-operated program for students in K-12, the other students in their class must be near their age. The maximum age range allowed in classrooms serving students with disabilities is three years for grades K-6, and four years for grades 7-12 (22 PA Code § 14.146). The IEP team can decide that an exception to this rule is appropriate for a particular student, but it must explain in the IEP why it made an exception to the rule for that student.

ASSISTANCE FOR SCHOOL PERSONNEL

The Bureau of Special Education (BSE) provides technical assistance, training, and monitoring activities to assist the LEA with implementing the least restrictive environment requirements. According to 34 CFR § 300.119, “each SEA must carry out activities to ensure that teachers and administrators in all public agencies—

- (a) Are fully informed about their responsibilities for implementing § 300.114; and
- (b) Are provided with technical assistance and training necessary to assist them in this effort.”

Also, in 34 CFR § 300.120,

- “(a) The SEA must carry out activities to ensure that § 300.114 is implemented by each public agency.
- (b) If there is evidence that a public agency makes placements that are inconsistent with § 300.114, the SEA must—
 - (1) Review the public agency's justification for its actions; and
 - (2) Assist in planning and implementing any necessary corrective action.”

Under IDEA 2004, each SEA must establish least restrictive environment targets that are both rigorous and measurable and report such progress toward these targets annually to U.S. Department of Education and to the public. PDE gathers data from each LEA to measure progress toward the targets. These targets are established in three categories of educational placement:

- Students Inside the regular class 80 percent or more of the day;
- Students Inside the regular class less than 40 percent of the day; and
- Students In separate schools, residential facilities, or homebound/hospital placements.

Contact with nondisabled peers can have positive social effects both on students with disabilities and their nondisabled classmates. Additionally, education with nondisabled peers can increase learning for students with IEPs. For many, the result is that students with disabilities learn more in inclusive environments than in segregated or more restrictive settings.

Terminology surrounding education in the least restrictive environment has evolved over time. Terms such as mainstreaming, integration, and inclusion have been used. The term inclusion implies more than

physical proximity to nondisabled peers; it encompasses full participation and equity within a group, leading to a sense of belonging within the community at large.

PDE will continue to conduct a series of activities regarding least restrictive environment requirements of IDEA 2004. These activities will include (1) monitoring LRE requirements, (2) professional development for school personnel, (3) clarification on the use of supplementary aids and services in the regular classroom, and (4) building the capacity of all public schools to provide such aids and services.

REFERENCES

State Board of Education Regulations

[22 PA Code § 14.102 \(a\)\(1\)\(iii\)](#)

[22 PA Code § 14.144](#)

[22 PA Code § 14.145](#)

[22 PA Code § 14.146](#)

Federal Statutes

[Individuals with Disabilities Act of 2004, 20 U.S.C. § 1412\(a\)\(5\)](#)

Code of Federal Regulations

[34 CFR § 300.34](#)

[34 CFR § 300.114 through 300.118](#)

[34 CFR § 300.119 through 300.120](#)

[34 CFR § 300.503](#)

Other

[Federal Office of Special Education Program's Policy Letter Dated December 4, 2012 to David Anderson](#)

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