

Special Education Fact Sheet # 4

LEAST RESTRICTIVE ENVIRONMENT

Q: What is the “Least Restrictive Environment” requirement?

A: Under federal and state law, children with disabilities must be educated in the “Least Restrictive Environment” (“LRE”). The Least Restrictive Environment requirement means that to the maximum extent appropriate for each child, children with disabilities must be educated with children who do not have disabilities, and children with disabilities must be educated in regular education classrooms unless the nature or severity of the disability prevents them from receiving an appropriate education in that setting, even with the use of supplementary aids and services. The requirement also includes a strong preference, though not an absolute mandate, that students with disabilities should be able to attend the schools they would have attended if they were not disabled.

Q: What does LRE mean for my child?

A: What all this means is that legally, under the Least Restrictive Environment requirement, a child with a disability should be allowed to attend a general education class, in his or her zoned school, and receive the services needed to make such a placement work, unless there is proof that he or she cannot receive educational benefits in that setting. If he or she cannot receive educational benefits in that setting, he or she should be educated in a context that provides access to general education students and general education curriculum to the maximum extent appropriate to the student’s individual needs.

The Least Restrictive Environment is related to, but different from, the concepts of “inclusion,” “integration,” and “mainstreaming.” “Inclusion” means that primary instruction and provision of appropriate special education services are provided in (i) an age-appropriate general education class (ii) in the student’s home school (iii) with appropriate additional supports for the student and the student’s teacher.¹ Importantly, inclusion does not require a child with a disability to perform at the same level as his or her general education peers. By contrast, “mainstreaming” means that a child with a disability is educated in a general education classroom for those areas of instruction in which the child can be expected to perform at the level of nondisabled peers without needing supplementary aids and services. “Integration” means that children with disabilities and children without disabilities are educated together, though not necessarily in general education classrooms.

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The special education statutes do not mention “inclusion,” “mainstreaming” or “integration,” but they do require that children with disabilities be educated in the Least Restrictive Environment. “Inclusion,” “mainstreaming,” and “integration” may be the Least Restrictive Environment for some children but not for others.

Q: I would like my child to be included in a general education classroom, but she will need a lot of support to make it work. What services can I get the Department of Education to provide?

A: The services that you can get the Department of Education to provide will depend on your child's needs. Under state and federal law, school-based support teams and regional Committees on Special Education ("CSEs") must conduct an individualized inquiry into the unique educational needs of each student with a disability to determine what supplementary aids and services are needed to enable the student to participate in the regular education environment. Some examples of supplementary aids and services that the Department of Education can be required to provide include: (1) one-on-one paraprofessionals; (2) special education teacher support services ("SETSS") teachers to work with the students individually or in small groups or to help the general education teachers modify the curriculum and work with the students appropriately; and (3) assistive technology, including, for example, specially-equipped computers.

It should be noted that nothing in the state or federal statutes allows the Department to deny your child needed services because they cost too much. For the usual supplementary aids and services that parents request to make inclusion work, such as a one-on-one paraprofessional or SETSS teachers, cost is not an acceptable excuse for denying services to your child.

Q: I would like my child to be educated in a less restrictive environment. What should I do?

A: The first step is contacting your child's school-based support team or your regional CSE to request a meeting to consider a less restrictive placement. It is recommended that this request be made by letter, which may then be followed by a phone call, if necessary. Be persistent, and keep good records. If you do not get a meeting date in what you believe is a reasonable period of time, write or call again.

The next step is attending the meeting. At that meeting, the first program option considered must be the regular education classroom your child would attend if not disabled. One of the first questions to be asked should be whether your child's needs – not just academic needs, but also social and developmental needs – can be met in a general education program in your child's home school, if needed supplementary aids and services are provided. If the answer is no, the next question must be what is the least restrictive environment where your child's needs can be met.

At the hearing, you should be prepared to present evidence showing that your child could benefit from a less restrictive placement. This evidence could include your own testimony, testimony by your child's teachers or service providers, or evaluations by experts in education.

Be aware that the following are unacceptable excuses for denying your request for a less restrictive placement:

- * categorical statements based only on your child's diagnosed disability – for example, “students with Down's Syndrome don't get paraprofessionals,” or “students with autism won't learn in a general education environment.” The Department of Education and the CSE must look at each child's individual needs.
- * “your child will not be able to keep up with the general education classes.” There are decisions by courts and administrative officers in New York that make clear that the issue is not whether a child can achieve at the same level as the other children in her class, but rather, whether the child can meet the goals on his or her IEP in the general education setting.
- * “your child would need supplementary aids and services that are too expensive.” As discussed above, cost is not a ground for denying your child a less restrictive placement or needed services.

If you seek a less restrictive placement for your child, you often have to be assertive during the preparation of your child's IEP. If the IEP team agrees to a less restrictive placement but attempts to give your child a very standard IEP, not tailored to the needs of your child, request that they do some thinking about what specifically will be needed to make your child's program effective. For example, if your child will be participating in general education, issues to think about include: (1) are there physical barriers to your child's full participation in general education that will require the school to make accommodations; (2) is the general education teacher experienced in educating students with disabilities, or will he or she need additional training; (3) will your child need a special education teacher support services (“SETSS”) teacher to help the general education teacher adapt the curriculum or teaching style; (4) will the SETSS teacher need specialized training; and (5) how will your child's progress be evaluated?

Once you are happy with your child's IEP, whether it will work in practice seems to depend in part on factors outside your control: a supportive principal and/or flexible and creative teachers. You should attempt early on to develop a constructive relationship with these educators, and make yourself available to communicate with them regarding your child's education and any issues that may arise. However, if you are unable to resolve issues through the school, you should turn to the Regional Administrator for Special Education (the “RASE”) or the CSE. If the RASE and the CSE are unable to resolve any issues, or do not resolve them in a way that is satisfactory to you, then you may want to consider the option of mediation or the Impartial Hearing referred to above.