

The Least Restrictive Environment (LRE):

Question & Answer Document

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Introduction

The least restrictive environment (LRE) requirements of Part B of the Individuals with Disabilities Education Act (IDEA 2004) have been included in the law since 1975. These requirements continue to generate complex and interesting questions from the district and campus staff. IDEA 2004 gives every child with disabilities the right to a free and appropriate public education (FAPE). States and local education agencies are to provide this education in the LRE, so that students with disabilities are taught with their nondisabled peers to the maximum extent appropriate.

This question and answer document was designed to provide current information about LRE to ensure that the applicable requirements of IDEA 2004 that govern the education of students with disabilities are accurately understood and properly implemented. This question and answer document consolidates federal (IDEA 2004 and federal regulations) and state (State Board of Education and Commissioner's Rules and Texas Education Code) requirements regarding LRE. We encourage you to disseminate this document to a wide range of educators and parents throughout your district.

Questions and Answers

(1) What are the least restrictive environment (LRE) requirements of Part B of IDEA 2004?

The LRE provision of the IDEA 2004 according to Code of Federal Regulations (CFR) §300.114 means that each local education agency (LEA) shall ensure 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 not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(2) What does “maximum extent appropriate” mean?

The admission, review, and dismissal (ARD) committee is responsible for identifying the student's needs and the appropriate placement in which these needs can be met. Placement decisions **should begin** with the least restrictive environment, i.e., the general education classroom without, or if necessary, with supplementary aids and services. All possible placement alternatives should be considered to ensure that services are delivered in the LRE.

(3) What are supplementary aids and services (SAS)?

CFR §300.42 defines supplementary aids and services as: Aids, services, and other supports that are provided in regular education classes, other education-



related settings, and in extracurricular and non academic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§ 306.114 – 300.116.

This support for teachers and students includes, **but is not limited to**, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, consultation, staff development, monitoring a student's progress in regular education classes, reduction of ratio of students to instructional staff, or other direct or indirect services needed to implement the IEPs of students receiving special education services in this instructional arrangement. This support shall be designed to enrich education in order to enable success of all students.

(4) What does the term continuum of alternative placements mean?

According to federal law 34 CFR §300.115, each LEA must ensure that a continuum of alternative placements is available to meet the needs of students with disabilities for special education and related services. The continuum required in subsection (a) of section 300.115 **must** 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 make provisions for supplementary aids and services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

Pursuant to Texas Administrative Code (TAC) §89.63, available instructional arrangements/settings must include:

- Mainstream*
- Homebound*
- Hospital Class*
- Speech Therapy*
- Resource room/services*
- Self-contained, mild, moderate or severe, regular campus*
- Off home campus*
- Nonpublic day school*
- Vocational adjustment class/program*
- Residential care and treatment facility*
- State school for persons with mental retardation*

(5) Are children with disabilities enrolled by their parents in private/charter schools entitled to the benefit of LRE requirements?

The requirements to educate individuals with disabilities with nondisabled peers also applies to individuals in public and private institutions, charter



schools, or other care facilities. Since the requirement specifies that each LEA and charter school shall locate, identify, and evaluate all private school children with disabilities (34 CFR §300.131), placement decisions must be made on an individual basis ensuring LRE.

(6) How does the ARD committee ensure that primary consideration for LRE is given to the general education environment before a more restrictive placement is considered?

Under IDEA 2004, the student's IEP provides the basis for the student's placement decision. The placement decision is made after the IEP is established. There is a requirement to incorporate in the student's IEP a statement of measurable annual goals, including benchmarks or short-term objectives, the student's present level of educational performance, and an explanation if the student will not participate in the general education classroom and/or curriculum. The evidence of discussion of the LRE must be documented clearly through ARD/IEP forms and minutes.

(7) What if the ARD committee decides the appropriate placement is outside the general education classroom?

According to 34 CFR §300.114, removal of students with disabilities from the general education environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

If students are receiving special education services outside the general education classroom, the ARD committee must document the following:

- (a) a description of previous efforts to educate the student in a general education classroom with supplementary aids and services and the reason(s) those efforts were not successful;
- (b) a description of the ARD committee's consideration of educating the student in a general education environment with supplementary aids and services and the reason(s) these options were rejected;
- (c) if applicable, a description of the behavior management program needed by the student and the reason(s) it cannot be implemented in a general education classroom;
- (d) a description of the instructional methods or the curriculum which the student needs and the reason(s) it cannot be implemented in a general education classroom;
- (e) a description of the student's disability conditions and educational needs and an explanation of why those disability conditions and educational needs require placement other than in the general education classroom.

ARD committees should consider the length of time allowed for a general education placement to be tried. Six weeks may not be long enough for the student to adjust.

(8) What requirements must the ARD committee address in deciding that the appropriate placement for a student is not the student's home campus?

ARD committees are required to **justify any placement**, and must ensure that students with disabilities are **educated with their nondisabled peers to the maximum extent appropriate**.

If students are receiving special education services in any placement other than the student's home campus, the ARD committee must document the following:

- (a) a description of the nature and severity of the disability and the reason(s) the condition(s) could not be accommodated on campuses with students without disabilities;
- (a) a description of the student's need for special education and related services which cannot be provided on campus with students without disabilities;
- (b) a description of previous unsuccessful placement(s) on campuses with students without disabilities and the reason(s) the student was unsuccessful in the previous placement;
- (c) if applicable, a description of the behavior management program needed by the student and the reason(s) it cannot be implemented on a regular campus.

(9) How does severity of disability impact the right to placement on the student's home campus?

If placement other than on the home campus is recommended, the ARD committee documents the specific supplementary aids and services considered or tried to support the student on the home campus and why they were rejected. Therefore, unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he/she would attend if nondisabled.

(10) What considerations should the ARD committee give to "harmful effects"?

Consideration should be given to any potential harmful effects on the student or quality of services that he/she needs when placement is determined (34 CFR §300.116). Consideration should be given to both of the following criteria:

- (a) any potential harmful effects on the student with disabilities if the student is removed from general education classes;
- (b) any potential harmful effects on the quality of services provided to the student with disabilities if the student is removed from general education classes.

Consideration of potential harmful effects could be documented in a variety of ways, including documentation of potential harmful effects included in a checklist, narrative, or other evidence that describes one of the situations above. **A statement that “the ARD committee reviewed potential harmful effects” is not sufficient documentation unless the ARD committee has described the specific potential harmful effects that were discussed.**

(11) To what extent should ARD committees consider harmful effects on those students in the classroom who do not have a disability?

If the child’s behavior in the general education classroom, even with the provision of appropriate behavioral supports, strategies or interventions, would significantly impair the learning of others, that placement would not be appropriate for that child.

According to Daniel R.R. v. State Board of Education, 874 F.2d 1036 (5th Cir. 1989) the ARD committee **must**:

- (a) determine whether the student’s behavior is so disruptive to the rest of the class that the education of other students is significantly impaired;
- (b) determine whether the student with a disability requires so much of the teacher’s time that the needs of other students may be ignored;
- (c) consider the use of supplementary aids and services to address both of these issues (i.e. use of a paraprofessional);
- (d) determine that the student’s behavior is so disruptive or the student will monopolize the teacher’s time to the detriment of other students, and the district has considered or implemented supplementary aids and services, then the district may determine that the general education classroom is not the appropriate setting for the student with a disability.

(12) For purposes of disciplinary removals, what constitutes a change of placement for a child with a disability?

A change of placement occurs if:

- (a) the removal is for more than 10 consecutive school days;
- or**
- (b) the child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. (34 CFR §§300.536).

(13) How often is LRE a consideration for student placement?

Placement is reviewed each year at a **minimum**. General education should be the first consideration on a yearly basis (34 CFR §300.116).



(14) What factors may not be considered when determining the placement of a student?

ARD committees may **not** make placements based **solely** on the following factors:

- (a) Category of disability
- (b) Severity of disability
- (c) Configuration of delivery system
- (d) Availability of educational or related services
- (e) Availability of space
- (f) Administrative convenience

(15) Can a student be removed from the general education setting based solely on difficulty in providing modifications?

A child with a disability must not be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general education curriculum (34 CFR §300.116(e)).

(16) What is “access to the general education curriculum”?

No Child Left Behind (NCLB) and IDEA regulations require that all students have access to and instruction in enrolled grade-level content. In Texas, the Texas Essential Knowledge and Skills (TEKS) are the curriculum standards that provide the basis for curriculum design.

For those students who take alternate assessments aligned with alternate achievement standards (which in Texas is the TAKS-Alternate (TAKS-Alt) test), the Individualized Education Program (IEP) must contain a description of benchmarks or short-term objectives as part of the student’s annual goals. If the student does not meet the expectations set by the ARD committee on the statewide assessment, the IEP must include a statement regarding how the student will participate in an accelerated instruction program.

For a student who takes an alternate assessment aligned to a modified academic achievement standard, the ARD committee may choose to include benchmarks or short-term objectives as part of the annual goals in order to assist in monitoring the student’s progress.

34 CFR §300.320(b) requires that the IEP include a statement of measurable annual goals, including academic and functional goals designed to:

- (a) meeting the child’s needs that result from the child’s disability to enable the child to be involved in and progress in the general curriculum

and



- (b) meeting each of the child's other educational needs that result from the child's disability.

Accordingly, IDEA '04 requires the ARD committee to determine and provide the accommodations, modifications, supports, and supplementary aids and services needed by each child with a disability to successfully be involved in, and progress in the general curriculum while achieving the goals of the IEP, regardless of which assessment the student is taking.

(17) What is the difference between a modification and accommodation?

Although there are no legal definitions of the terms modification and accommodation, the following best practice definitions are widely accepted:

Accommodations- the provisions made in the delivery of instruction in order for a student to access and/or demonstrate learning in a content area.

Accommodations:

- do not substantially change the instructional level or content;
- provide students with equal access to learning;
- provide students with equal opportunities to demonstrate what is known;
- are based on individual strengths and needs; and
- may vary in intensity and degree.

Modifications- change in what the student is expected to learn and demonstrate in the content areas. Modifications can change:

- the instructional level;
- the benchmark or time required to learn a skill or concept;
- the number of key skills or concepts to be mastered within a time period, benchmark, or unit of study; and/or
- content.

In order for students to obtain accommodations on TAKS or accommodation/modifications on the TAKS Alternative Assessment, those accommodations/modifications must be stated in the student's IEP and used regularly in classroom instruction.

(18) Who is responsible for implementing modifications?

Any accommodations / modifications that are indicated on the IEP are the individual responsibility of the educator delivering instruction. According to 34 CFR §300.320(a)(4), a statement of the program modification or supports for school personnel that will be provided for the child must be listed in the IEP. Each child's IEP must be accessible to the child's teachers and service providers, and each teacher and service provider must be informed of specific responsibilities related to implementing the IEP and of needed accommodations, modifications, and supports for the child.



(19) How does a general education teacher document modifications?

- Teachers in general education maintain documentation that they are modifying educational programs of students receiving special education services as specified in their IEPs;
- Teachers should know what modifications they are implementing and should be able to document their efforts (e.g., lesson plans, modification sheets, samples of modified tests, or other performance evaluation measures).

(20) How is the state assessment decision made for students with disabilities?

The state assessment includes the following options:

- Texas Assessment of Knowledge and Skills (TAKS) which a student may take with or without accommodations
- TAKS-Modified (TAKS-M) with modified achievement standards student must meet the state developed participation requirement in order to take the TAKS-M, visit <http://www.tea.state.tx.us/student.assessment/resources/taksm/index.html>
- TAKS-Alternate (TAKS-Alt) with alternate achievement standards student must meet the state developed participation requirement in order to take the TAKS-Alt, visit <http://www.tea.state.tx.us/student.assessment/resources/taksalt/>
- All assessments are based on enrolled grade level TEKS. For more information, visit <http://www.tea.state.tx.us>

(21) Who determines how the student with disabilities will be graded in the general education classroom?

The ARD committee determines who will be responsible for providing grades. This information is determined during the ARD meeting. A teacher may make minor instructional accommodations without an ARD committee meeting, if such accommodations are helpful and consistent with the ARD committee's established goals and objectives. However, the teacher may not amend the curriculum or grading criteria without concurrence of the ARD committee.

(21) How are LRE requirements met for preschool students?

The requirements of 34 CFR §300.116 and 34 CFR §300.320-300.324, apply to all preschool children with disabilities ages 3-4 who are entitled to receive FAPE. The placement decision must be -

- (a) made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of evaluation data, and the placement options;
- (b) determined at least annually;
- (c) based on the child's IEP or IFSP; and
- (d) as close as possible to the child's home.

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. Public agencies that do not operate programs for nondisabled preschool children are not required to initiate such programs solely to satisfy the requirements regarding placement in the LRE embodied in 300.320-300.324. For these public agencies, some alternative methods for meeting the requirements include:

- (a) providing opportunities for the participation (even part-time) of preschool children with disabilities in other preschool programs operated by public agencies (such as Head Start);
- (b) placing children with disabilities in private school programs for nondisabled preschool children or private school preschool programs that integrate children with disabilities and nondisabled children; and
- (c) locating classes for preschool children with disabilities in regular elementary schools.

(22) What are the LRE considerations for students moving from one grade level to the next?

According to 34 CFR §300.115, each public agency shall ensure that a continuum of alternative placements is available for students as they move from one grade level to another and/or one campus to another. A child with a disability **must not** be removed from education in age-appropriate general education classrooms solely because of needed modifications in the general education curriculum.

Placement decisions should not be based on:

- (a) administrative convenience;
- (b) previous year's placement decision;
- (c) existing instructional settings and/or programs;
- (d) lack of support staff and/or resources or space; and
- (e) lack of staff development and/or training.

Placement decisions must be determined at least annually and available to the extent necessary to implement the IEP for each child with a disability.

(23) What are the LRE issues for students moving from school to career?

The ultimate goal for all students is to live, learn, work, and participate in their community. According to 34 CFR §300.43, LRE and the transition process provide a framework of a coordinated set of activities designed to facilitate movement from school to post-school activities. These activities are based on the individual student's needs, taking into account his/her strengths, interests and preferences. Transition services encompass instruction, related services, community experiences, the development of employment and other post-school



adult living objectives, and, if appropriate, acquisition of daily living skills and a functional vocational evaluation.

Beginning no later than the first IEP to be in effect when the child turns 16, 34 CFR §300.320 requires that the IEP contain appropriate measureable postsecondary goals based on age-appropriate transition assessments related to education, training employment and if appropriate, independent living skills. Additionally, the IEP must include the transition services (including course of study) needed to assist the child in reaching those goals. These goals and transition services must be updated at least annually.

