

A PARENT'S GUIDE TO LEAST RESTRICTIVE ENVIRONMENT

(6/04)

PARTICIPATING ORGANIZATIONS: Advocates for Children of New York Inc., Association for the Help of Retarded Children, Bronx Legal Services, Citizens' Committee for Children of New York Inc., The Cooke Center for Learning and Development, The Learning Disabilities Association of New York City, The Legal Aid Society Juvenile Rights Division, Legal Services for Children, MFY Legal Services Special Education Law Project, New Alternatives for Children Inc., New York Lawyers for the Public Interest, New York Legal Assistance Group, Partnership for the Homeless, Queens Legal Services Corp., Resources for Children with Special Needs Inc., Sinergia Inc., South Brooklyn Legal Services.

Least Restrictive Environment Coalition

151 West 30th Street, 5th Floor
New York, New York 10001
Phone: (212) 947-9779
Fax: (212) 947-9790

www.lrecoalition.org

NOTES

Q. What are the rights of parents concerning LRE?

A. The amount of parental involvement required by law increased under the 1997 Amendments to IDEA. Parents now have an absolute right to participate in both eligibility and placement decisions for their child, and be participants at CSE meetings and in the creation of the IEP. However, this is a right, not a requirement. If a parent chooses not to participate, the child will not be prevented from receiving services.

Parents may consent to or reject the placement recommendations, and they may visit the school and class before deciding whether to accept or reject the placement. Schools are required to give periodic reports to parents of children with disabilities concerning achievement of IEP goals and objectives. Parents of children receiving special education services must receive these reports at least as often as parents of children without disabilities receive progress reports.

Q. What is "Least Restrictive Environment"?

A. The Least Restrictive Environment (LRE) is defined as the educational setting where a child with disabilities can receive a free appropriate public education (FAPE) designed to meet his or her education needs while being educated with peers without disabilities in the regular educational environment to the maximum extent appropriate.

The definition of LRE in the Individuals with Disabilities Education Act (IDEA) is: "To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are [1] educated with children who are not disabled, and [2] 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."

It is important to remember that special education is not a "place," but rather a set of services. Similarly, the LRE provision of the IDEA emphasizes services rather than the placement.

Learning in less restrictive environments benefits students with and without disabilities in so much as all children are more likely to improve their academic performance, and increase their communication and socialization skills.

Q. What is the Individuals with Disabilities Education Act (IDEA) and how does it relate to LRE?

A. The IDEA is the federal law governing the education of children with disabilities. The IDEA and its regulations define LRE and require that all states demonstrate they have policies and procedures in place to guarantee they meet the federal LRE requirements.

Q. What is Section 504 and how does it relate to LRE?

A. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against students with physical and mental disabilities who attend public school. The section protects students whose physical or mental disabilities substantially limit one or more "major life activities," such as caring for themselves, seeing, breathing, walking and learning. This statute protects both children with physical and mental disabilities who are not, and should not be, receiving special education services, and children receiving special education services. Section 504 applies only to federal government programs and programs that receive federal funds. Since the New York City Board of Education receives federal funds it is covered by Section 504. Section 504 can require administration of medication, monitoring students' physical well-being, provision of accessible facilities, use of equipment like tape recorders and calculators, counseling, and test modifications or accommodations. Section 504 is one way of assuring that children with special needs, who do not require special education services, continue to be educated in the LRE.

Q. What is inclusion and how does it relate to LRE?

A. The term "inclusion" is not used in IDEA and the Department of Education has not defined the term. However, inclusion is generally accepted to mean that primary instruction and provision of services for a child with a disability is provided in an age-appropriate general education class in the school the child would have attended if not disabled with appropriate additional supports for the student and the teacher. This does not mean that a child with a disability cannot move to other settings for support services, such as speech or physical therapy or that a child must be fully included. It's possible for a child to remain in the segregated setting for some parts of the day and enter into general education settings for other specific time periods. Least Restrictive Environment is the legal basis for inclusion programs as it strengthens and reinforces the objective of educating all students in a general education classroom to the maximum extent possible.

Q. What is mainstreaming and how does it relate to LRE?

A. While mainstreaming and inclusion are related, they are in fact quite different. In mainstreaming, as in partial inclusion discussed above, a child with a disability's "home classroom" is a special education classroom but she spends her day learning side by side with her general education peers. In mainstreaming the child is usually expected to keep up with the rest of the class without significant supplementary aids and services.

performance, which should indicate to what extent the student's disability affects involvement and progress in the general curriculum. Also the IEP must include a description of all other programs considered and rejected for the child. Law requires that the regular education classroom with supports and services be the first setting considered. If rejected, the team must move up the continuum from least to more restrictive settings. Each time an educational setting is rejected, an explanation of why it was rejected must be included in the IEP.

Q. When should a child be removed from a general education class to a special class or separate school?

A. Under the IDEA, a child may *only* be removed from general education when "the nature and severity of the disability" does not allow the child to be satisfactorily educated in general education classes, even with the use of supplementary aids and services. "Satisfactorily educated" is a standard based on the goals and objectives of the child's IEP.

According to the United States Department of Education, a child whose behavior is so disruptive in a general education classroom that the education of other students is significantly impaired may also be removed from that setting. Removal can occur only after consideration has been given to the use of supplementary aids and services, including the development and implementation of a functional behavior assessment designed to identify and meet daily behavioral challenges presented by the child in the general education setting.

Q. Will a child with a disability automatically be sent to a separate class or school?

A. The IDEA requires that in seeking the LRE for each individual child the first consideration *must always* be the general education classroom with the provision of supplementary aids and services in the school the child would attend if the child did not have a disability. Special classes or a segregated setting may be considered *only* when education in the regular classes with the use of aids and services cannot possibly be achieved. Federal and state regulations also require that a child with a disability be educated in a school as close as possible to the student's home.

Q. How will a child with disabilities be accommodated in a general education classroom?

A. The 1997 Amendments to IDEA require that a student with a disability be provided with "supplementary aids and services" as needed to enable him or her to succeed in the LRE. These supplementary aids and services can be provided in general education classes to enable children with disabilities to be educated with children without disabilities. These aids and services may include, but are not limited to, resource rooms, modifications of lessons, assistance of a consultant teacher with special education training, computer-assisted devices, the use of note-takers, additional time for tests, and/or preferential seating.

Q. Will general education teachers be trained to address the needs of children with disabilities?

A. General and special education teachers, paraprofessionals, administrators, and CSE members responsible for providing services must receive from the New York City Board of Education the appropriate training, resources, and supports necessary to help the students achieve their academic goals. This must include comprehensive and on-going training in working with children with special needs.

Q. What placements are available for children with disabilities?

A. The law requires that each school district ensure that there is a "continuum of alternative placements" available to meet the needs of students with disabilities. Emphasis should be placed on the provision of services, and not the specific placements themselves. This "continuum" must include general education classes, special education classes, special schools, home instruction, and instruction in hospitals or institutions. This continuum of alternative services is designed to ensure that there is an appropriate setting for each child based on the child's specific needs. Factors that may be considered in determining placements include the educational benefits to the child with a disability, the non-academic and social benefits to the child, and the degree of disruption that the child will cause in the classroom. Factors *that may not be considered* in determining placements include the disabled child's category of disability, the severity of the disability, and the availability of placements or related services.

In June 2000, in response to federal law, the New York City Board of Education adopted a new Continuum of Services requiring that all students with disabilities be given an appropriate education in their least restrictive environment. The Continuum lays out a spectrum of options for delivery of services, from the provision of targeted support to children in the general education classroom, to special self-contained classes for children who require more individualized and structured settings to learn.

Q. When should the placement decision be made?

A. Placement is generally the last in a series of decisions, and occurs only after a child's evaluation and the meetings of the Committee on Special Education (CSE). Any decision about a child's placement must be made *after* the goals and objectives on the Individual Education Program (IEP) are developed and written. Placement must be based on the IEP goals and objectives; goals and objectives shouldn't be written to "fit" the placement.

Q. What must be included on a student's IEP with regard to LRE?

A. The 1997 Amendments to IDEA require that a student's IEP address the issue of least restrictive environment. In a situation where a child will not participate fully with peers without disabilities, the IEP must include an explanation of why and to what extent the child will not be included. The New York State Education Department requires that the IEP include a statement of the child's present level of educational