



STATE OF NEW MEXICO
DEPARTMENT OF EDUCATION — EDUCATION BUILDING
SANTA FE, NEW MEXICO 87501-2786

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SUPERINTENDENT OF PUBLIC INSTRUCTION

January 22, 2003

MEMORANDUM

TO: Special Education Directors

FROM: Sam Howarth
State Director of Special Education

RE: Frequently Asked Questions About Least Restrictive
Environment (LRE), Placement, and Inclusion under the IDEA.

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The purpose of this memo is to provide you and your staff with guidance around the concepts of least restrictive environment (LRE), placement, and inclusion under the IDEA. We are also providing you with this information to assist you as you work to create an improvement plan that will be accepted by the State Department of Education (SDE).

1. ***What is least restrictive environment (LRE)?*** Generally, the LRE is the most appropriate placement for a child with a disability that most closely approximates where the child, if not disabled, would be educated. The least restrictive possible placement includes fulltime participation in regular classes and full participation in school activities with nondisabled students. Other placements are considered more restrictive to the degree that a student is removed from regular classes and full participation in noncurricular and extracurricular activities with students who are not disabled.
2. ***What is the LRE mandate in the IDEA?*** The IDEA mandates that the placement for each student with a disability be only as restrictive as the student's individual needs require. The basic regulatory requirement is that students should only be segregated from the regular education classroom if they cannot be educated satisfactorily in

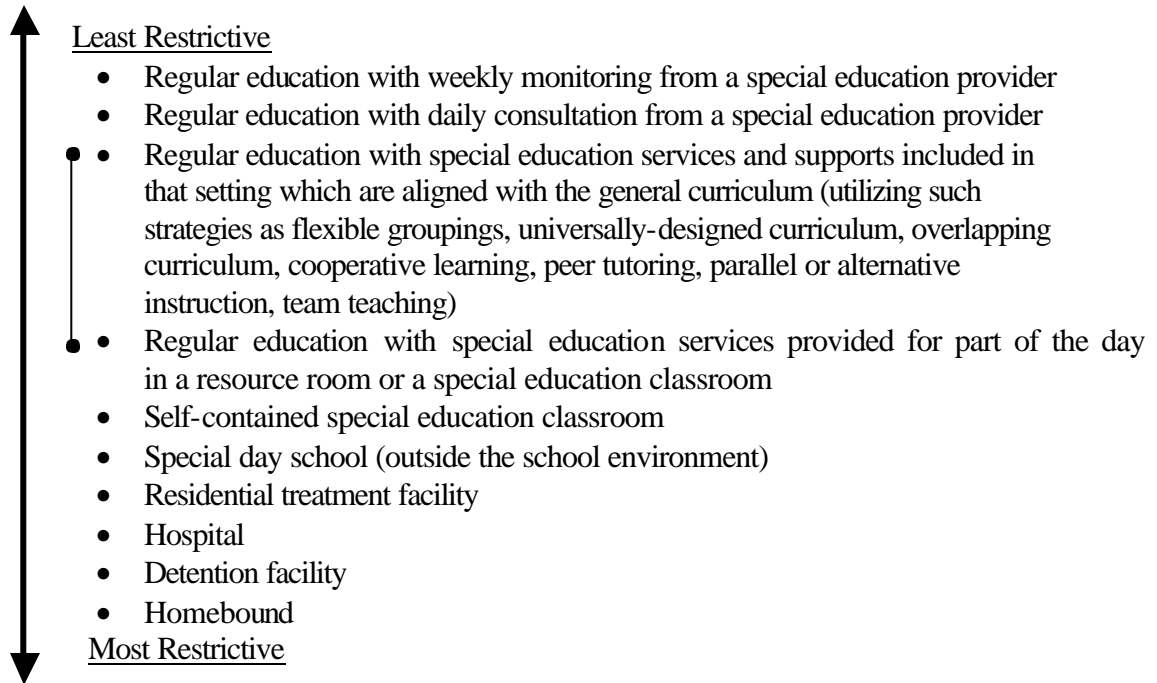
regular classes with the use of supplementary aids and services. This requirement is set out in the IDEA regulations at 34 CFR Sec. 300.550. The regulations are driven by the IDEA's strong preference that to the maximum extent appropriate students are to be educated with their age-appropriate, nondisabled peers, but they also provide that the regular education setting is not appropriate 100% of the time or in 100% of the cases. The IDEA provides that the extent to which an individual student with disabilities participates in the regular education setting with the use of supplementary aids and services must be determined on a case-by-case basis by the individualized education program (IEP) team.

This requires an **individualized inquiry** into the unique educational needs of each eligible student in determining the possible range of aids and supports that that might allow the student to be educated satisfactorily in the regular educational environment before a more restrictive placement is considered. Closely aligned with the requirement to educate a student in a regular education environment is the IDEA's recognition that regular class placement may not be appropriate for every student. Thus, the regulations also mandate that the public agency offer a wide range of **placement** options, known as the **continuum of alternative placements**, to insure that each student is educated in what is determined to be the least restrictive environment that is *appropriate* for that individual.

3. *With respect to the IDEA, how is the term "placement" defined?* Neither federal nor state regulations provide a regulatory definition for this term, but the federal Office of Special Education Programs (OSEP) has provided some clarity regarding what constitutes *placement*. It has stated that placement involves the substance of the student's IEP, the services, the supports, or any other aspect of a free appropriate public education (FAPE)—that is, the program itself; not just the physical location or setting.¹ In determining the educational placement for a student, **the first line of inquiry** is whether his or her IEP can be implemented satisfactorily in the regular educational environment with the provision of supplementary aids and services.
4. *Then what is the "continuum of alternative placements?"* It is the spectrum of **placement options** that the IEP team needs to consider in determining the LRE in which a student with a disability may receive some or all of his or her IEP services. The continuum ranges from less restrictive (from all regular education with no supports or services) to more restrictive (homebound and/or outside of the school environment), as well as placements between those two points as shown on the following page.

¹ See *Letter to Fisher*, 21 IDELR 992, (OSEP, 1994).

Example of a Continuum of Alternative Placements



The IDEA regulations at 34 CFR Sec. 300.551 require public agencies make the continuum of alternative placements available as needed in order to meet the needs of the individual student with disabilities.

5. ***Must an IEP meeting occur in order to change a student's placement?*** Yes, if the change involves a material change in the substance of the program itself—nature, frequency, or duration of special education and related services. Therefore any proposal that would move the student in either direction along the continuum as shown in the example above constitutes a proposed change in placement that triggers the district's obligation to 1) convene a properly-composed IEP team meeting pursuant to 34 CFR Secs. 300.343 through 300.345 to make this decision; and 2) provide prior written notification to the parents regarding this change before it is implemented pursuant 34 CFR 300.503 (Prior notice by the public agency).

On the other hand, as long as a schedule change (ex: services on Tuesday as opposed to Thursday) or a location change (ex: services in room 34 as opposed to room 47 with no change in the service delivery configuration) does not involve a

substantial or material alteration in the student's IEP supports and services or conflict with any other provision of FAPE² as detailed in the student's IEP, a schedule or location change would not require an IEP meeting, prior written notification, or necessitate parental consent. **Again, we emphasize that these kinds of decisions must determined on a case-by-case basis by the IEP team and not by any blanket or system-wide effort to move the district forward to meet the LRE mandate.**

6. *What is "full inclusion" or "inclusion?"* These terms are not included in the IDEA, but are understood in the field of special education to mean a policy or philosophy that supports the creation of a system where all children with disabilities attend their home school with their age and grade peers while also holding that for some students a regular education setting may not be the best education option. Inclusive education programs are typically thought of to "include" students rather than merely "mainstreaming" them—a term used in the years before the regulations emphasized the creation of a system that strives to produce better outcomes for all students.
7. *Is "LRE" the same thing as "inclusion?"* **No.** The U.S. Department of Education's Office of Special Educations Programs (OSEP) has stated that *inclusion* is not the same thing as the IDEA's mandate for educating students in the LRE. All placement decisions (that is, the spot on the continuum of alternative placements that describes of level of services and supports a student needs) must be determined on a case-by-case basis according to the individual needs of the student.³ LRE determinations require **an individualized inquiry** into the unique educational needs of each eligible student in determining the possible range of aids and supports that are needed to facilitate the student's placement in the regular educational environment before a more restrictive placement is considered.

I encourage you to share this information freely with staff so that each IEP team has the understanding and knowledge that will allow them to develop IEPs and serve students with disabilities in more integrated settings and in compliance with the state and federal regulations. I send my best wishes for your efforts to improve outcomes for New Mexico's students.

² That is, whether the child will be able to be educated with nondisabled children to the same extent; whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and whether the new location is the same option on the continuum of alternative placements.

³ See *Letter to Trahan*, 30 IDELR 403, (OSEP, 1998).