

# Determining Least Restrictive Environment (LRE) Placements for Preschool Children with Disabilities: Reference Points and Discussion Prompts

October 27, 2014



The Early Childhood Technical Assistance Center

The purpose of this document is to support states and local programs in understanding the Least Restrictive Environments (LRE) provisions of the Individuals with Disabilities Education Act (IDEA), making appropriate placements within the required continuum, and providing services and supports to preschool aged children with disabilities.

The following table provides reference points from the legal requirements of IDEA, comments from the regulations, subsequent clarification provided by the federal Office of Special Education Programs (OSEP), and resources published by OSEP-funded projects.

The reference points are organized by topic, with their source and discussion prompts to consider. You may use the Discussion Prompts to gauge the status of your state and local guidance and resources, and to encourage discussion of attitudes regarding LRE. They are intended to be solution focused, promoting ideas and potential strategies to further support and/or facilitate IEP team decisions regarding LRE and placement options for individual children.

## Reference Point Topics

The Importance of Inclusion .....	2
Regular Early Childhood Program (RECP) .....	3
Least Restrictive Environments (LRE) .....	3
Supplementary Aids and Services .....	4
Placements .....	5
Free Appropriate Public Education (FAPE) .....	8
Equitable Services and FAPE .....	9
Transportation .....	10

The contents of this document were developed under cooperative agreement number #H326P120002 from the Office of Special Education Programs, U.S. Department of Education. Opinions expressed herein do not necessarily represent the policy of the US Department of Education, and you should not assume endorsement by the Federal Government.

Project Officer: Julia Martin Eile



TA&D  
NETWORK



Office of Special Education Programs  
U.S. Department of Education

	Reference Point	Source	Discussion Prompt
	<b>The Importance of Inclusion</b>		
1	<p>“Inclusion is the principle that supports the education of children with disabilities alongside their non-disabled peers rather than separately. Both the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Sec. 504) require schools and agencies to provide equal educational opportunities for children with disabilities.</p> <p>IDEA not only supports equal educational opportunities, it specifically requires schools to support inclusion of children with disabilities through the least restrictive and natural environment mandates. For preschool and school age children (ages 3-21), IDEA requires children with disabilities to be educated in the “least restrictive environment” (§1412(a)(5) and §1413(a)(1)</p> <p>Section §1400(5) of IDEA states: “Almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by . . . ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible.” In addition to the academic benefits of inclusion, courts have long recognized that there are non-educational benefits to inclusion that are important to the quality of life of children with disabilities—such as the opportunity to make friends and increase acceptance among their peers (Daniel R.R. v. State Bd. of Educ., 1989; Sacramento City Sch. Dist. v. Rachel H., 1994). Federal law thus recognizes and supports inclusion because of the developmental, educational, and social benefits that inclusion provides to children with disabilities.</p> <p>Inclusion is not specifically defined in the law, but is supported through the equal opportunity, least restrictive and natural environment mandates. Together these requirements support inclusion in three areas: placement of the child with children who do not have disabilities, the child’s participation in the standard educational or developmental curriculum, and participation in typical non-academic activities.”</p>	<p>CONNECT: The Center to Mobilize Early Childhood Knowledge. (2009). <i>Policy advisory: The law on inclusive education</i>. Chapel Hill: The University of North Carolina, FPG Child Development Institute.</p> <p>Acknowledgment: This document was developed with Matthew Stowe, J.D., Beach Center on Disability, University of Kansas.</p> <p><a href="http://community.fpg.unc.edu/sites/community.fpg.unc.edu/files/resources/Handout/CONNECT-Handout%201-4.pdf">http://community.fpg.unc.edu/sites/community.fpg.unc.edu/files/resources/Handout/CONNECT-Handout%201-4.pdf</a></p>	<ul style="list-style-type: none"> <li>• How does your state and/or LEA communicate the LRE requirement?</li> <li>• How does your state communicate the value of inclusion (via monitoring, professional development, web resources, public awareness materials etc.)?</li> <li>• What policies, guidance documents, and/or resources does your state and LEA provide?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Regular Early Childhood Program (RECP)</b>		
2	<p><b>“Note:</b> A Regular Early Childhood Program (RECP) for the purpose of OSEP required data collection is defined as a program that includes a majority (at least 50 percent) of nondisabled children (i.e., children not on IEPs). This may include, but is not limited to the following:</p> <ul style="list-style-type: none"> <li>• Head Start</li> <li>• Kindergarten</li> <li>• Preschool classes offered to an eligible pre-kindergarten population by the public school system</li> <li>• Private kindergartens or preschools</li> <li>• Group child development center or child care”</li> </ul>	<p>Children with Disabilities (IDEA) Early Childhood, EdFacts File C089 <a href="http://www2.ed.gov/about/inits/ed/edfacts/sy-14-15-nonxml.html">http://www2.ed.gov/about/inits/ed/edfacts/sy-14-15-nonxml.html</a></p>	<ul style="list-style-type: none"> <li>• How is data about Educational Environments shared with LEAs?</li> <li>• Do LEAs use educational environments data to guide program planning?</li> <li>• What strategies are used in your state and/or LEA to make connections and build relationships with regular early childhood program providers?</li> </ul>
	<b>Least Restrictive Environments (LRE)</b>		
3	<p>“Each public agency must ensure that--</p> <p>(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</p> <p>(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. “ (34 CFR §§300.114)</p>	<p>Ed.Gov, Building the Legacy <a href="http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CB%2C300%252E114%2Ca%2C2%2C">http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C300%2CB%2C300%252E114%2Ca%2C2%2C</a></p>	<p>How does your state monitor:</p> <ul style="list-style-type: none"> <li>• That a continuum of placement options exists?</li> <li>• That placements are made on an individual basis?</li> <li>• That families are full participants in IEP team decisions?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Regular Early Childhood Program (RECP)</b>		
4	<p>“The <b>LRE requirements</b> in §§ 300.114 through 300.118 apply to all children with disabilities, including preschool children who are entitled to FAPE. Public agencies that do not operate programs for preschool children without disabilities are not required to initiate those programs solely to satisfy the LRE requirements of the Act. Public agencies that do not have an inclusive public preschool that can provide all the appropriate services and supports must explore alternative methods to ensure that the LRE requirements are met. Examples of such alternative methods might include placement options in private preschool programs or other community-based settings. Paying for the placement of qualified preschool children with disabilities in a private preschool with children without disabilities is one, but not the only, option available to public agencies to meet the LRE requirements. We believe the regulations should allow public agencies to choose an appropriate option to meet the LRE requirements. However, if a public agency determines that placement in a private preschool program is necessary as a means of providing special education and related services to a child with a disability, the program must be at no cost to the parent of the child.”</p>	<p>Comment in the discussion section of the <b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations, page 46589</p> <p><a href="http://idea.ed.gov/download/final_regulations.pdf">http://idea.ed.gov/download/final_regulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• What inclusive opportunities exist in your LEA and community?</li> <li>• What can your LEA do to ensure inclusive opportunities are available for all children in your LEA and community?</li> </ul>
	<b>Supplementary Aids and Services</b>		
5	<p><b>§ 300.42 Supplementary aids and services</b></p> <p>“Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with Sec. Sec. 300.114 through 300.116.” (Authority: 20 U.S.C. 1401(33) )</p>	<p><b>Federal Register</b> / Vol. 71, No. 156 / Monday, August 14, 2006 / Rules and Regulations, page 46762</p> <p><a href="http://idea.ed.gov/download/final_regulations.pdf">http://idea.ed.gov/download/final_regulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• What guidance does your state and/or LEA provide about determining supplemental aids and services for preschool children?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Placements</b>		
<b>6</b>	<p><b>§ 300.116 Placements.</b></p> <p>“In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—</p> <p>(a) The placement decision—</p> <p>(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</p> <p>(2) Is made in conformity with the LRE provisions of this subpart, including §§ 300.114 through 300.118</p> <p>(b) The child’s placement—</p> <p>(1) Is determined at least annually;</p> <p>(2) Is based on the child’s IEP; and</p> <p>(3) Is as close as possible to the child’s home;</p> <p>(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;</p> <p>(d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and</p> <p>(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.”</p> <p>(Authority: 20 U.S.C. 1412(a)(5))</p>	<p><b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations, page 46765</p> <p><a href="http://idea.ed.gov/download/final_regulations.pdf">http://idea.ed.gov/download/final_regulations.pdf</a></p>	<p>What are your state and/or LEA policies for providing IDEA services to children in community programs:</p> <ul style="list-style-type: none"> <li>• In programs located outside the LEA boundary?</li> <li>• Regarding LEA liability and responsibility?</li> <li>• Quality/Qualifications of personnel in community programs?</li> </ul>

	Reference Point	Source	Discussion Prompt
7	<p>“Even though the Act does not mandate that a child with a disability be educated in the school he or she would normally attend if not disabled, section 612(a)(5)(A) of the Act presumes that the first <b>placement</b> option considered for each child with a disability is the regular classroom in the school that the child would attend if not disabled, with appropriate supplementary aids and services to facilitate such placement. Thus, before a child with a disability can be placed outside of the regular educational environment, the full range of supplementary aids and services that could be provided to facilitate the child’s placement in the regular classroom setting must be considered.”</p>	<p>Comment in the discussion section of the <b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations, page 46588</p> <p><a href="http://idea.ed.gov/download/final_regulations.pdf">http://idea.ed.gov/download/final_regulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• How does your State and/or LEA provide guidance that the first placement option considered for preschool children is where the child would be if he or she did not have a disability?</li> </ul>
8	<p>“When discussing <b>placement</b>, the group should consider your child’s unique needs and determine what the least restrictive placement for your child is, based upon those needs. A placement that is least restrictive for one child may not be least restrictive for another. <i>What is least restrictive for each child is based on that child’s unique needs.</i> This means that the school system may not use a “one size fits all” approach to educating children who have a disability. Decisions must be based <i>on individual needs as stated in the IEP</i>, <b>not</b> on—</p> <ul style="list-style-type: none"> <li>• the child’s disabling condition or label (such as placement in a special class for students with intellectual disabilities just because a child has a cognitive impairment);</li> <li>• disability program categories (placement in an particular program for students with learning disabilities (LD) just because a child needs LD services);</li> <li>• the location of staff;</li> <li>• the funds that are available; or</li> <li>• the convenience of the school district.”</li> </ul>	<p>Developing Your Child’s IEP, A Parent’s Guide, April, 2009. National Dissemination Center for Children with Disabilities (NICHCY)</p> <p><a href="http://www.parentcenterhub.org/repository/pa12/">http://www.parentcenterhub.org/repository/pa12/</a></p>	<ul style="list-style-type: none"> <li>• How does your LEA and/or program ensure that a child’s disability or eligibility category does not drive placement decisions (e.g., specialized programs or classrooms)?</li> </ul>

	Reference Point	Source	Discussion Prompt
9	<p>“Once the IEP team has decided <i>what</i> services your child needs, decisions must be made about <i>where</i> services will be provided. Where your child’s IEP is carried out is called <b>placement</b>. As the parent, you have the right to be part of the group that decides your child’s placement. In deciding your child’s placement, the group must make sure that your child has the maximum opportunity appropriate to learn with children who do not have disabilities—in academic, nonacademic, and extracurricular activities. This part of the law is called <b>Least Restrictive Environment</b> or LRE.”</p>	<p>Developing Your Child’s IEP, A Parent’s Guide, April 2009.</p> <p>National Dissemination Center for Children with Disabilities (NICHCY)</p> <p><a href="http://www.parentcenterhub.org/repository/pa12/">http://www.parentcenterhub.org/repository/pa12/</a></p>	<ul style="list-style-type: none"> <li>• How does your LEA and/or program involve parents in making IEP team decisions regarding placement?</li> <li>• Does your LEA provide written guidance for parents?</li> </ul>
10	<p>“The terms “<b>educational placement</b>” and “<b>placement</b>” are used throughout the Act, and we have followed the language of the Act whenever possible. We do not believe it is necessary to define “educational placement.” Section 300.116, consistent with section 612(a)(5) of the Act, states that the determination of the educational placement of a child with a disability must be based on a child’s IEP. The Department’s longstanding position is that placement refers to the provision of special education and related services rather than a specific place, such as a specific classroom or specific school.”</p>	<p>Comment in the discussion section of the <b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations, page 46589</p> <p><a href="http://idea.ed.gov/download/finalregulations.pdf">http://idea.ed.gov/download/finalregulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• How are “educational placement” and the specific location of services determined in your LEA?</li> </ul>
11	<p>“Historically, we have referred to “placement” as points along the continuum of placement options available for a child with a disability, and “location” as the physical surrounding, such as the classroom, in which a child with a disability receives special education and related services. Public agencies are strongly encouraged to place a child with a disability in the school and classroom the child would attend if the child did not have a disability.”</p>	<p>omment in the discussion section of the <b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations, page, 46588</p> <p><a href="http://idea.ed.gov/download/finalregulations.pdf">http://idea.ed.gov/download/finalregulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• Does your LEA routinely consider services in community programs where preschool children might already be enrolled before determining placement and location of services? If not, what opportunities/strategies might help address this?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Free Appropriate Public Education (FAPE)</b>		
12	<p><b>“§ 300.17 Free appropriate public education.</b>  <i>Free appropriate public education</i> or <i>FAPE</i> means special education and related services that—</p> <p>(a) Are provided at public expense, under public supervision and direction, and without charge;</p> <p>(b) Meet the standards of the SEA, including the requirements of this part;</p> <p>(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and</p> <p>(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.</p> <p>(Authority: 20 U.S.C. 1401(9))”</p>	<p><b>Federal Register</b> /Vol. 71, No. 156 /Monday, August 14, 2006 /Rules and Regulations</p> <p><a href="http://idea.ed.gov/download/final_regulations.pdf">http://idea.ed.gov/download/final_regulations.pdf</a></p>	<ul style="list-style-type: none"> <li>• How does your State and/or LEA provide guidance for determining fee structures, tuition, resource and/or cost sharing for children who attend early care and education programs and receive their IDEA educational and related service in those regular early childhood programs?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Equitable Services and FAPE</b>		
13	<p>“An LEA’s obligation to serve children aged three through five under the equitable services provisions depends on whether a child is enrolled in a private school or facility that meets the definition of “elementary school” in the IDEA and the final regulations. “Elementary school” is defined in 34 CFR §300.13 as a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law. Accordingly, three- through five-year-old children with disabilities who are enrolled by their parents in a private school or facility that meets the State’s definition of “elementary school” would be considered parentally placed and the equitable participation provisions would apply.</p> <p>A child aged three through five enrolled by his or her parents in a private school or facility that does not meet the State’s definition of “elementary school” would not be eligible to be considered for equitable services. However, the State’s obligation to make FAPE available to such a child remains. Section 612(a)(1) of the IDEA requires that States make FAPE available to eligible children with disabilities aged three through 21 in the State’s mandated age range (34 CFR §300.101). Because many LEAs do not offer public preschool programs, particularly for three- and four-year-olds, LEAs often make FAPE available to eligible preschool children with disabilities in private schools or facilities in accordance with 34 CFR §§300.145 through 300.147. In these circumstances, there is no requirement that the private school or facility be an “elementary school” under State law.</p> <p>In some instances, an LEA may make FAPE available in the private preschool program that the parent has selected. If there is a public preschool program available, the LEA of residence may choose to make FAPE available to a preschool child in that program. If the group of persons making the placement decision, as specified in 34 CFR §300.116(a)(1), places the child in a public or private preschool program and the parents decline the public agency’s offer of FAPE because they want their child to remain in the private preschool program they have selected, the public agency is not required to provide FAPE to that child. The parent may challenge the public agency’s determination of what constitutes FAPE for their child using the State complaint and due process procedures available under IDEA.”</p>	<p>Ed. Gov: Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools</p> <p><a href="http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C1%2C">http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C1%2C</a></p>	<ul style="list-style-type: none"> <li>• How does your state define elementary school? Is preschool specifically included in the definition?</li> <li>• What guidance does your state and/or LEA provide if a parent declines an LEA offer of FAPE because it is not offered in the family’s preferred location?</li> </ul>

	Reference Point	Source	Discussion Prompt
	<b>Transportation</b>		
14	<p><b>“Authority:</b> Transportation is included as a related service under the regulations in 34 C.F.R. §300.34(a) and (c)(16).</p> <p><b>Question F-1:</b> When is an LEA obligated to provide transportation for a preschool child with a disability between private day care and the child’s preschool?</p> <p><b>Answer:</b> If the IEP Team determines that transportation is required to assist the preschool child to benefit from special education, and includes transportation as a related service on the child’s IEP, the LEA would be responsible for providing the transportation to and from the setting where the special education and related services are provided.”</p>	<p>OSEP Q &amp; A, <i>Serving Children with Disabilities Eligible for Transportation</i>, released November 2009.</p> <p><a href="http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C12%2C">http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C12%2C</a></p>	<ul style="list-style-type: none"> <li>• How does your state and/or LEA provide guidance on determining transportation needs as a related service?</li> </ul>

**End Note:** For more information see IDEA (Regulations, Data, and Overview) at <http://ectacenter.org/topics/inclusion/legis/fedlegisl.asp#idea> and the OSEP Letter on Preschool LRE (February 29, 2012) at <http://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/preschoollre22912.pdf> that reiterates the Least Restrictive Environment requirements (LRE) of IDEA Section 612(a)(5) apply to the placement of preschool children with disabilities.