

The Least Restrictive Environment (LRE):

Question & Answer Document



A collaborative project of the
Texas Education Agency and the
Statewide Access to the General
Curriculum Network



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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 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 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 local education agency (LEA).

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 the Code of Federal Regulations (CFR) §300.114 requires 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 with or without 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 Individualized Education Programs (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 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 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, if the ARD committee determines the student will not participate in the general education classroom and/or curriculum, an explanation as to why that decision was made. The evidence of discussion of the LRE must be documented clearly through ARD/IEP forms and deliberations/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; and
- (e) a description of the student's disabling condition(s) and educational needs and an explanation of why the disability condition(s) 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 the campus with students without disabilities;
- (b) a description of the student's need for special education and related services which cannot be provided on the campus with students without disabilities;
- (c) a description of previous unsuccessful placement(s) on campus(es) with students without disabilities and the reason(s) the student was unsuccessful in the previous placement(s); and
- (d) if applicable, a description of the behavior management program needed by the student and the reason(s) it cannot be implemented on the home 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 provided 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; and
- (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**:

- determine whether the student’s behavior is so disruptive to the rest of the class that the education of other students is significantly impaired; and/or
- determine whether the student with a disability requires so much of the teacher’s time that the needs of other students may be ignored; and
- consider the use of supplementary aids and services to address both of these issues (i.e. use of a paraprofessional).

Finally,

If the ARD committee determines 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.

Per 34 CFR §300.536, the child has been subjected to a series of removals that constitute a pattern when:

(a) the series of removals total more than 10 school days in a school year;

(b) the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(c) additional factors to be considered are:

1. the length of each removal;
2. the total amount of time the child has been removed; and
3. the proximity of the removals to one another.

(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 an annual 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; and/or

(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”?

The Elementary and Secondary Education Act (ESEA), commonly known as 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 at grade K-12 and the Pre-Kindergarten Guidelines provide the basis for curriculum design for students who are 4-5 years old.

34 CFR §300.320(b) requires that the IEP include a statement of measurable annual goals to:

- (a) meet 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) meet 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 definitions are found on the TEA document, “Descriptors for the Participation Requirements for TAKS-M”:

Accommodations- are intended to reduce or even eliminate the effects of student’s disability but do not reduce learning expectations.

Modifications- practices and procedures that change the nature of the task or target skill.

For example, in a Biology class the assignment might require all students to label a diagram of a pig, naming the various systems and explaining their functions. An **accommodation** for a student with a visual impairment might be using large print handouts to complete this assignment. A **modification** for a student who has ARD-directed modifications in Biology might be to use preprinted labels to identify the head, midsection, and legs of the pig.

(18) Who is responsible for implementing modifications and/or accommodations?

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 modifications or supports for school personnel that will be provided for the child must be listed in the IEP. All professionals, general and special education, working with students who receive special education services need to have a copy of the applicable components of the student's IEPs, including the annual goals, accommodations, present levels of academic achievement and functional performance (PLAAFP) and, if the student has one, the Behavior Improvement Plan (BIP). Additionally 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. Senate Bill 451 (81st Texas Legislature) further mandated that a school district is required to provide training to an educator who primarily works outside of the area of special education if the educator does not have the knowledge and skills necessary to implement the IEP of a student for whom he/she provides instruction. The district has the discretion to decide the time and place in which the training for the educator will occur (Texas Education Code (TEC) §21.451 (e)).

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

- 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, which is required at grades 3-11, includes the following options:

- Texas Assessment of Knowledge and Skills (TAKS) is our general state assessment, which a student may take with or without accommodations.
- TAKS (Accommodated) is our general state assessment with built in formatting accommodations. Also, additional accommodations are allowed on the TAKS (Accommodated) test which are not allowed on the TAKS test. In order to take TAKS (Accommodated), a student must have an ARD-directed accommodation which is not allowable on the TAKS but is allowable on the TAKS (Accommodated) assessment. For further information regarding allowable and non-allowable accommodations on state assessments, see the 2009-2010 Accommodations Manual at: http://ritter.tea.state.tx.us/student.assessment/resources/accommodations/AccommManual_2009_10.pdf.
- TAKS-Modified (TAKS-M) is an alternate state assessment with modified achievement standards. Students must meet the state developed participation requirement in order to take the TAKS-M. The participation requirements for TAKS-M are at: http://ritter.tea.state.tx.us/student.assessment/resources/taksm/participationreq_descriptors.pdf
- TAKS-Alternate (TAKS-Alt) is an alternate state assessment with alternate achievement standards. Students must meet the state developed participation requirement in order to take the TAKS-Alt. The participation requirements for TAKS-Alt are at: http://ritter.tea.state.tx.us/student.assessment/resources/taksalt/training/participation_requirements_descriptors.pdf

All assessments are based on enrolled grade level TEKS. For more information on student assessment, visit the TEA Student Assessment website at <http://www.tea.state.tx.us/index3.aspx?id=3534>.

(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.

Additionally, the 81st Legislature (2009) passed Senate Bill (SB) 2033, which is a bill related to school district grading policies. This bill resulted in amending Texas Education Code (TEC) §28.0216. The bill requires that a district grading policy:

- (1) must require a classroom teacher to assign a grade that reflects the student's relative masters of an assignment;
- (2) may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and
- (3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

For additional information regarding SB 2033, please see TEA Correspondence dated October 16, 2009 at <http://ritter.tea.state.tx.us/taa/comm101609.html>.

(22) 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 Individual Family Service Plan (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 34 CFR §§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.

(23) 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/or
- (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.

(24) 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 called a “coordinated set of activities,” which is 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.

For additional information regarding transition planning, please see the ESC-11 Statewide Leadership for Texas Secondary Transition/Post-School Results Network website at www.transitionintexas.org.

Glossary

Term	Acronym
Admission, review, and dismissal	ARD
Code of Federal Regulations	CFR
Elementary and Secondary Education Act	ESEA
Free and appropriate public education	FAPE
Individuals with Disabilities Education Act	IDEA
Individualized education program	IEP
Least restrictive environment	LRE
Local education agency	LEA
No Child Left Behind	NCLB
Supplementary aids and services	SAS
Texas Administrative Code	TAC
Texas Assessment of Knowledge and Skills	TAKS
Texas Education Code	TEC
Texas Essential Knowledge and Skills	TEKS

Resources

Daniel R.R. v. State Board of Education, 874 F.2d 1036 (5th Cir. 1989).
<http://www.uwyo.edu/wind/edec5250/assignments/Daniel.pdf>

The Legal Framework for the Child Centered Process
<http://framework.esc18.net/>

Standards-Based Individualized Education Program (IEP) Development:
Question & Answer Document

English:

<http://portal.esc20.net/portal/page/portal/doclibraryroot/SpEd%20Stwd%20AGC%20Left%20Nav/SBIEPDev-QA.pdf>

Spanish:

<http://portal.esc20.net/portal/page/portal/doclibraryroot/SpEd%20Stwd%20AGC%20Left%20Nav/SBIEPDev-QASp.pdf>

TEA Special Education

<http://ritter.tea.state.tx.us/special.ed/>

TEA Student Assessment

<http://www.tea.state.tx.us/index3.aspx?id=3534>

Texas Essential Knowledge and Skills

<http://www.tea.state.tx.us/index2.aspx?id=6148>

Texas Pre-K Guidelines

http://ritter.tea.state.tx.us/ed_init/pkguidelines/PKG_Final_100808.pdf

Texas Project FIRST

<http://www.texasprojectfirst.org/>