

## LEAST RESTRICTIVE ENVIRONMENT – SPECIAL EDUCATION

### **Least Restrictive Environment (LRE) is the legal mandate of IDEA**

Least restrictive environment (LRE) is the core legal mandate of the Individuals with Disabilities Education Act (IDEA). It requires that students with disabilities receive their education in the regular classroom environment to the maximum extent appropriate or, to the extent such placement is not appropriate, in an environment with the least possible amount of segregation from the student's nondisabled peers and community.

The mandate is set forth in the IDEA regulations at 34 CFR 300.114 through 34 CFR 300.120. The "LRE mandate" at [34 CFR 300.114\(a\)](#) requires each public agency to ensure that:

- 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
- 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 is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

The term "regular educational environment" is defined as encompassing "regular classrooms and other settings in schools such as lunchrooms and playgrounds in which children without disabilities participate." [71 FED. REG. 46585 \(2006\)](#).

The United States Supreme Court in the landmark education case *Honig v. Doe*, 484 U.S. 305, 309 (1988), interpreted the Education of the Handicapped Act (EHA)—the predecessor statute to the IDEA—to include this legal mandate:

"(State) plans must assure that, 'to the maximum extent appropriate,' states will 'mainstream' disabled children, i.e., that they will educate them with children who are not disabled, and they will segregate or otherwise remove such children from the regular classroom setting 'only when the nature or severity of the handicap is such that education in regular classes ... cannot be achieved satisfactorily.'" (Citing 20 U.S.C. § 1412(5)).

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### North Dakota—a 25-year philosophy of inclusion

Full inclusion of students with disabilities in all instances is not mandated by the IDEA. In other words, there may be instances where a student cannot receive an appropriate education in a regular classroom environment even with supplemental aids and services. However, districts must always consider inclusion during the IEP development process.

The LRE requirement at [34 CFR 300.116](#) expresses a strong presumption, not a mandate, for educating children with disabilities in the general education setting alongside their peers without disabilities. The IDEA does provide for continuum of alternative placements at [34 CFR 300.115](#). Under this provision, the continuum must:

- include the alternative placements listed in the definition of special education under §300.39, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions, and
- make provisions for supplementary services such as resource room or itinerant instruction to be provided in conjunction with regular class placement.

Special education placement is not a place, but rather a set of services and the type of environment/location where these services are provided that will allow the student to progress in the general education curriculum. Many factors go into this decision, such as:

- Skills needed to learn
- IEP requirements
- Individually designed instruction needed and amount of instruction
- Setting most likely to help the student achieve goals
- School facilities needed to support learning
- Anything else unique to the student

North Dakota follows the core IDEA philosophy of inclusion and integration in educating students with disabilities with their nondisabled peers to the maximum extent possible, avoiding the establishment of separate schools altogether. The decision not to select an inclusive setting for a student with a disability must be made on an individual basis. Categorical decisions regarding placement clearly violate the IDEA’s requirement for individualized educational planning.

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Even if a student with a significant disability has limited potential for academic achievement in the regular classroom, they may benefit in nonacademic areas, such as social development and self-care. Courts have held that districts must consider an inclusive setting for all students to determine if an appropriate general education program with supplementary aids and services can be designed for the student. If so, the district should try that placement first before considering more restrictive placements.

There are eight educational environment settings:

- Inside regular class 80% or more of the day
- Inside regular class no more than 79% of the day and no less than 40% of the day
- Inside regular class less than 40% of the day
- Separate school (public or private separate day school facilities for 50%+ of the day)
- Residential facility (students who receive education programs and live in a public or private residential facility during the school week)
- Homebound/Hospital
- Correctional facilities
- Parentally-placement in private schools

Each year North Dakota reports how many students are in each educational environment to the Office of Special Education Programs. The state has performance goals for special education, including ensuring most students are educated in the regular classroom more than 80% of the school day.

For more information, please visit:

<https://insights.nd.gov/Education/State/SPED/LeastRestrictiveEnvironment>

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