



## CONSORTIUM FOR CITIZENS WITH DISABILITIES

### Least Restrictive Environment: A Requirement under IDEA

#### *Statement of Principles from the Education Task Force of the Consortium of Citizens with Disabilities*

*The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Education Task Force of CCD monitors federal legislation and regulations that address the educational needs of children and youth with disabilities and their families, including regulatory efforts under federal law such as the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act (ADA). The Education Task Force advocates for high expectations for children with disabilities under these and other laws. This document lays out the Task Force's principles for meeting the Least Restrictive Environment (LRE) requirement within federal education laws and regulations.*

#### **1. Every Child Must Be Educated in the Least Restrictive Environment to the Maximum Extent Appropriate**

The Individuals with Disabilities Education Act (IDEA) makes clear that every child with a disability must receive their education alongside students without disabilities *to the maximum extent appropriate*.<sup>i</sup> This fundamental promise within the law is known as the “least restrictive environment” (LRE) requirement.<sup>ii</sup> The IDEA regulations require that removal from the general education classroom/environment should occur *only* when, due to the nature and severity of a child’s disability, education in a general education classroom with supplementary aids and services cannot be achieved satisfactorily.<sup>iii</sup> Thus, while districts must have a continuum of services and placements available for the small minority of students whose unique needs justify an alternative placement, ***the IDEA and its regulations both presume that the general education classroom will be the placement for every child with a disability unless an education in that setting cannot be satisfactorily achieved even with supplementary aids and services.***<sup>iv</sup>

Over the years, the LRE mandate in law and regulations, along with its interpretation by the courts, has increased the number of students with disabilities learning alongside their nondisabled peers in general education classrooms. ***Any interpretation of LRE that differs or weakens the requirement and increases the inappropriate placement of students with disabilities in more segregated settings contradicts the clear language and intent of the IDEA and established legal precedent.***

## **2. General Education Classrooms Are the Least Restrictive Environment for the Vast Majority of Students**

Students with disabilities are general education students first. Any student receiving specialized services (e.g., students with disabilities, low-income students, English Learners) is first and foremost a student in the general education system.<sup>v</sup>

School districts must ensure that children with disabilities are educated with nondisabled students to the maximum extent appropriate during the school day.<sup>vi</sup> Students with disabilities must be provided with appropriate services and supports in the general education classroom before schools may consider more restrictive, segregated placements. Educators must be provided with the supports they need to be able to include students with disabilities appropriately in their classrooms. Needed adaptations, modifications, and accommodations must be provided to maximize the potential for success in the general education setting, in classrooms and also in extracurricular activities taking place in the school.<sup>vii</sup> LRE acknowledges that it may not always be appropriate for every child to be educated in the general education classroom for the entire day. However, courts have historically held that where a full-time placement in general education cannot be achieved satisfactorily, a school district must still ensure that the child is educated with nondisabled peers to the maximum extent appropriate.<sup>viii</sup> Additionally, even if a student may demonstrate academic progress in a segregated setting, the child is not required to remain there, but instead can be included in the general education classroom and should be provided the supports they need to make progress there.<sup>ix</sup>

## **3. Least Restrictive Environment and Education in the General Education Classroom Offer Benefits for All Students**

When LRE requirements are met, students with disabilities participate to a greater extent in -- and receive the benefits of -- learning in general education classrooms. Research overwhelmingly shows that providing students with disabilities an education in the general education classroom has clear academic, social, and behavioral benefits for students with disabilities and their peers without disabilities.<sup>x</sup> Specifically:

- Research funded through the U.S. Department of Education shows that students who spend most of their time in general education classrooms “are closer to grade level in their reading and math abilities, and have higher test scores in those same areas” than students who spend more time in segregated settings.<sup>xi</sup>
- Students with disabilities who are educated alongside students without disabilities experience fewer disciplinary incidents,<sup>xii</sup> and better outcomes related to graduation,<sup>xiii</sup> employment and postsecondary education.<sup>xiv</sup>
- Students without disabilities also benefit from the inclusion of students with disabilities in their classrooms: they make positive academic gains in math and reading when they are taught in settings with students with disabilities,<sup>xv</sup> are offered enhanced learning opportunities,<sup>xvi</sup> and benefit from social relationships with students with disabilities.<sup>xvii</sup>

Federal law and regulations are clear that children with disabilities have a right to be educated in general education settings alongside their nondisabled peers to the maximum extent appropriate. To overcome the presumption that a child should be in a general education setting requires evidence that the student's education -- even after supplementary aids and services are provided in the general education classroom -- cannot be achieved satisfactorily there. After almost 45 years of families, people with disabilities, and disability advocates working to expand and enhance the inclusion of children with disabilities in general education settings, it is imperative that federal policy continue to reinforce and advance the true purpose of LRE.

### **Statutory and Regulatory Language**

#### **20 U.S. Code § 1412 (5) Least restrictive environment**

*(A) In general -- 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, 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 of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.*

#### **Sec. 300.114 LRE requirements**

*(a) General.*

*(1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.*

*(2) Each public agency must ensure that—*

*(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*

*(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.*

American Association on Intellectual and Developmental Disabilities  
American Civil Liberties Union  
American Dance Therapy Association  
American Foundation for the Blind  
American Music Therapy Association  
American Occupational Therapy Association  
American Physical Therapy Association  
American Psychological Association  
American Speech-Language-Hearing Association  
Assistive Technology Act Programs  
Association of University Centers on Disabilities (AUCD)  
Autism Society of America  
Autistic Self Advocacy Network  
Bazelon Center for Mental Health Law  
Brain Injury Association of America  
Center for Public Representation  
Children and Adults with Attention-Deficit/Hyperactivity Disorder  
Council for Exceptional Children  
Council for Learning Disabilities  
Council of Administrators of Special Education  
Council of Parent Attorneys and Advocates  
Disability Rights Education & Defense Fund (DREDF)  
Division for Early Childhood of the Council for Exceptional Children (DEC)  
Division for Learning Disabilities of the Council for Exceptional Children (DLD)  
Higher Education Consortium for Special Education  
Learning Disabilities Association of America  
National Association of Councils on Developmental Disabilities  
National Association of School Psychologists  
National Association of State Directors of Special Education (NASDSE)  
National Center for Learning Disabilities  
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)  
National Center for Special Education in Charter Schools  
National Disability Rights Network  
National Down Syndrome Congress  
National PTA  
RespectAbility  
School Social Work Association of America  
TASH  
Teacher Education Division of the Council for Exceptional Children (TED)  
The Advocacy Institute  
The Arc of the United States  
Tourette Association of America

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<sup>i</sup> 20 U.S.C. § 1412(a)(5).

<sup>ii</sup> See also the “most integrated setting” mandate within the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Specifically, 28 C.F.R. § 35.130(d) requires public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” According to 28 C.F.R. Pt. 35, App. A (2010) (addressing § 35.130), the most integrated setting is one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible....”

<sup>iii</sup> 34 C.F.R. § 300.114(a)(2)(ii).

<sup>iv</sup> OSEP Policy Letter to Hall, 30 IDELR 142 (12/31/97).

<sup>v</sup> Schifter, L, & Hehir T. (2018), *The Better Question: How Can We Improve Inclusive Education? A response to "Has Inclusion Gone Too Far?"*, EducationNext at: <https://www.educationnext.org/better-question-how-can-we-improve-inclusion-education-response-has-inclusion-gone-too-far/>

<sup>vi</sup> *Daniel R.R. v. State Board of Education*, 874 F. 2d 1036 (5th Cir. 1989).

<sup>vii</sup> 34 CFR 300.117

<sup>viii</sup> Ibid.

<sup>ix</sup> *Oberti v. Clementon*. 995 F.2d 1204 (3rd Cir. 1993).

<sup>x</sup> National Council on Disability (2018). *IDEA Series: The Segregation of Students with Disabilities*. Washington, DC.

<sup>xi</sup> See Mary Wagner & Jose Blackorby, SRI Int'l, (2007). *Overview of Findings from Wave 1 of the Special Education Elementary Longitudinal Study (SEELS)* 24 (June 2004), [http://www.seels.net/designdocs/seels\\_wave1\\_9-23-04.pdf](http://www.seels.net/designdocs/seels_wave1_9-23-04.pdf); see also Jose Blackorby et al., SRI Int'l, *What Makes a Difference? Influences on Outcomes for Students with Disabilities* 7-7, retrieved from: [http://www.seels.net/designdocs/SEELS\\_W1W3\\_FINAL.pdf](http://www.seels.net/designdocs/SEELS_W1W3_FINAL.pdf) (noting, for example, greater reading ability among students who spent more time in general education settings).

<sup>xii</sup> Ibid.

<sup>xiii</sup> Thomas Hehir et al., Thomas Hehir & Assocs., (2014). *Review of Special Education in the Commonwealth of Massachusetts: A Synthesis Report 9-10 & n.14*, Retrieved from: <http://www.doe.mass.edu/sped/hehir/2014-09synthesis.pdf>

<sup>xiv</sup> Mary Wagner et al.

<sup>xv</sup> See, e.g., National Council on Disability (February 2018). *IDEA Series: The Segregation of Students with Disabilities*. Washington, DC.; Waldron, Cole and Majd (2001), *The Academic Progress of Students Across Inclusive and Traditional settings: A Two Year Study Indiana Inclusion Study*. Bloomington, In: Indiana Institute on Disability & Community; Tia M. Hollowood, et al. (1995). “Use of Instructional Time in Serving Students with and without Disabilities,” *Exceptional Children* 61 (1995): 242–253; Gail McGregor and R. Timm Vogelsberg, (1998). *Inclusive Schooling Practices: Pedagogical and Research Foundations: A Synthesis of the Literature that Informs Best Practices about Inclusive Schooling* (Missoula, MT: University of Montana, Rural Institute on Disabilities), 5–6.

<sup>xvi</sup> McGregor, G. and Vogelsberg, R.T. (1998). *Inclusive Schooling practices: pedagogical and Research Foundations. A Synthesis of the Literature that Informs Best Practices About Inclusive Schooling*. University of Montana, Rural Institute on Disabilities

<sup>xvii</sup> Ibid.