

Recent Legal Interpretations of “Appropriate Education” for Young Children with Disabilities

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Appropriate Education: Recent Interpretations

Our Purpose

To examine the different interpretations that have been given to the term *appropriate* as it is applied to *placement* setting for young children with disabilities.

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... specifically to focus upon the different interpretations that have been given to the term Least Restrictive Environment and the notion that it is possible to have more than one least restrictive environment

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Our Method

Search case law, published research, federal project reports and texts for definitions using key terms LRE, Inclusion, Mainstreaming and/or Integration

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Dictionary definition of *least* ...

CORE MEANING: the smallest or lowest quantity or degree

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Statutory definition of *LRE*

(Sect. 300.114 through 300.119 of 34 CFR 300 of P.L. 108-446)

300.114 LRE requirements

(2)(i) 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

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(2)(ii) That 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 supplemental aids and services cannot be achieved satisfactorily.**

(emphasis added)

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300.115 Continuum of alternative Placements

(b)(1) Include the alternative placements listed in the definition of special education under 300.338 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions)

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300.116 Placements

In determining the educational placement of a child with a disability, including a preschool child with a disability, the public agency must ensure that –

(a) The placement decision

(1) Is made by a group of persons, including parents . .

(b) The child's placement-

(1) Is determined at least annually;

(2) Is based on the child's IEP; and

(3) Is as close as possible to the child's home:

Search Results....

7491 published case summaries, research articles, conference papers, review articles, texts and books, final reports from 1896 to 2008 sampled and included in data base

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- **77** primary source federal court cases from 11 districts (1896-2006)
- **4239** journal articles (1977-2008)
- **3091** project reports & conference presentations (1968-2008)
- **71** books/texts (1966-2008)
- **13** others

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- **From the 77 federal court cases:**
 1. **There is little confusion that the regular classroom IS the least restrictive setting for children with disabilities**
 2. **However, the regular classroom setting is NOT the appropriate setting for all children with disabilities**

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- 3. Children with disabilities do NOT have to be first placed in the regular classroom BEFORE being placed in a more restrictive setting but the full range of supplementary aids and services that could be provided to facilitate successful placement in the regular education classroom MUST be considered.**

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4. Questions that must be addressed in deciding the appropriate setting include:

- a. How likely is it that the IEP goals and objectives can be met in the regular setting with *additional program supports and modifications*?
- b. Are there additional nonacademic benefits of placement in the regular education setting?

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- c. Is the behavior of the child such that his/her participation in the regular class will cause a severe negative effect upon the teacher and other children in the classroom?
- d. Is the cost prohibitive?

Note: Major Cases

Roncker v. Walter (1983) – 6th Cir.

A.W. v. Northwest R-1 SD (1987) – 8th Cir.

Daniel R. R. v. Texas SB (1989) – 5th Cir.

Sacramento v Holland (1992) – 9th Cir.

Oberti v. Clementon SD (1993) – 3rd Cir.

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5. If a child with a disability is placed in a setting other than the regular classroom there is an obligation to continue to provide opportunities for interaction with age mate peers without disabilities.
6. Courts are more likely to determine that a placement that is more restrictive than the regular classroom IS appropriate if the behavior of the child is aggressive and/or disruptive.

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- From the **4239** journal articles we reviewed the term *least restrictive environment* is used to mean **several different things**:
 1. Wherever the child's needs can *best* be met.
 2. Whatever the IEP team determines it to be (i.e., wherever the child's needs can be met).
 3. The regular education classroom.

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- Concluding Thoughts
 1. According to IDEA (300.114), the LRE is the regular education environment.
 2. It is presumed that all children with disabilities will be placed in the regular education class.
 3. Removal from the regular education class must be explained (justified) in the IEP process.

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4. Justification NOT required to move from a more restrictive placement to the regular education environment.
5. Natural Environments and LRE.
6. District Responsibility for ensuring compliance with LRE requirements for preschool children.
7. Failure to provide preschool services to children without disabilities does NOT relieve district of LRE responsibility.