



Least Restrictive Environment: A Technical Assistance Case Study

Michigan Department of Education

Office of Special Education

November 2022



Table of Contents

Least Restrictive Environment (LRE): A Technical Assistance Case Study	3
Purpose of the LRE Case Study	3
Suggested Use of the LRE Case Study	3
LRE Case Study	4
Academic Year 2020-2021	4
Academic Year 2021-2022	5
Case Study Questions	7
§300.114 LRE Requirements	7
§300.115 Continuum of Alternative Placements	7
§300.116 Placements	8
§300.117 Nonacademic Settings	9
The IEP Team and LRE Requirements	9
34 CFR §300.321 IEP Team	9
34 CFR §300.114 LRE requirements	10
34 CFR §300.115 Continuum of alternative placements	11
34 CFR §300.116 Placements	11
34 CFR §300.117 Nonacademic settings	12
34 CFR §300.119 Technical assistance and training activities	12
34 CFR §300.120 Monitoring activities	12

Least Restrictive Environment (LRE): A Technical Assistance Case Study

Purpose of the LRE Case Study

The *Individuals with Disabilities Education Act* (IDEA) requires state education agencies (SEAs) to carry out activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing the least restrictive environment (LRE) requirements under 34 CFR §300.114; and are provided with technical assistance and training necessary to assist them in ensuring all teachers and administrators are fully informed of their responsibilities for implementing LRE requirements. The LRE requirements include the availability of a continuum of alternative placements, placement determinations, and nonacademic and extracurricular activities.

The Michigan Department of Education Office of Special Education (OSE) has developed this case study as a training and awareness building tool for public agencies to use with general education and special education teachers and administrators.

Suggested Use of the LRE Case Study

34 CFR §300.114 of the IDEA states that each public agency must ensure to the maximum extent appropriate that children with disabilities are educated with children who are nondisabled. Additionally, 300.114 states 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.

When the IDEA uses the term public agency the term includes general education teachers and administrators, special education teachers and administrators, and even the board of education of the public agency. The IDEA presumes general education to be the LRE for students with disabilities and so ensuring general education staff understand to what extent a student with a disability is expected to participate and have access to general education and under what specific circumstances other more restrictive options

can be considered is imperative to ensure a free appropriate public education (FAPE) in the LRE for students with disabilities.

The OSE encourages districts and intermediate school districts to utilize this case study with district teams comprised of general education and special education staff as a professional learning opportunity, as an activity to build awareness of LRE requirements for all staff, to ensure LRE decisions are being made consistent with IDEA, and to ensure each student receives a FAPE in the LRE.

LRE Case Study

Academic Year 2020-2021

Student was a six-year-old general education kindergartener with a behavior plan at the start of the 2020-21 academic year. Student had received 13 referrals, four half-day, and one full day out-of-school suspensions for physical aggression, disrupting, and assault, from September – November 2020. Student was determined eligible for special education and related services as a student with an other health impairment in December 2020.

Student's December 2020 initial individualized education program (IEP) listed need areas of phonological awareness, identifying, and writing letters and numbers, behaviors due to being told no or being denied something, and personal care due to eloping and exhibiting unsafe behaviors toward students and staff. Student had a formal positive behavior support plan (PBSP), which included a check-in/check-out plan, visual schedule, and adult support. Supplementary aids and services included frequent breaks scheduled to prevent behavioral difficulties, cues to complete a task to minimize behaviors when transitioning between activities, tests read aloud, alternative work area daily when needing a quiet area to work, provide frequent feedback daily for encouragement to continue working, break math problems into smaller steps to assist in understanding of expectations and accommodate attention span, adapted assignments, quizzes, and tests when instruction was above Student's independent level, behavioral intervention plan to aid in managing behavior, cooling off area daily to regulate emotions, and adult support daily to aid with behavior redirection. The IEP Team determined the Student required five to 15 hours per week of resource program and 30 minutes, two to four times per month school social work services.

Student received nine referrals, and one full-day out-of-school suspension for physical aggression and disruption in January 2021. A review of existing evaluation data (REED) was completed in Feb 2021 to review and/or modify the functional behavior assessment (FBA) and positive behavior support plan (PBSP). The PBSP was reviewed in February 2021. A February 11, 2021, IEP Amendment placed Student in the resource program full-time to receive general education instruction through the district's online program.

Student had 13 more referrals, five half days, and 2 full days out-of-school suspension in February and March 2021. The PBSP was updated again in May 2021 and the team noted Student had made behavioral gains. The IEP Team agreed, the current FBA continued to be accurate. Student could comply with adult directives and successfully participated in classroom activities with adult support. Student struggled to remain calm, and once escalated, could be difficult to return to a calm state. Student had behaviors of physical or verbal aggression, yelling and screaming, threatening, hiding, running away, avoiding eye contact, and falling asleep. Due to safety concerns, the IEP Team increased time in the resource program to support safety concerns. Student lacked the ability to self-regulate in the general education setting. Student's social-emotional goals had been narrowed to focus on physical aggression. Student's behaviors impacted the ability to function independently in the general education setting. Student's resource program time increased to a range of 15 to 31 hours per week. School social work services were unchanged. Supplementary aids and services were unchanged. Notice indicated the IEP Team considered a lesser range of resource program support to enable Student to attend specials with general education peers. The IEP Team determined, due to Student's behavioral needs, Student would benefit from a full day of resource program services.

Academic Year 2021-2022

Student was retained for the 2021–22 academic year. Within the first two weeks of school, Student received two referrals and was suspended for one half day and one full day for physical aggression toward staff and toward other students, profanity, elopement, and throwing furniture. Parent requested a review of the IEP and PBSP and noted Student's schedule included rest time, which was a trigger and a particular paraprofessional was also a trigger. Parent requested the paraprofessional not work with Student. The parapro had a substitute teacher permit and carried on the general education portion of the schedule in an alternative environment within the resource program. A certified teacher presented all new instruction to Student.

The third week of September, the special education teacher notified Parent that Student would participate in the district general education online program with parapro support, within the resource program all day, and would continue to receive school social work services 30 minutes, two to four times, monthly. If behaviorally regulated, Student would participate in specials classes, recess, and lunch with peers. If unregulated, Student would shift to an alternative schedule and participate in enrichment/movement activities with the parapro.

An IEP Team meeting was held the first week of October. Parent participated for 20 minutes before having to leave. Notice was issued October 19. The IEP included an LRE statement that Student would fully participate with students who were nondisabled in the general education setting except for the time spent in separate special education programs/services provided outside the general education classroom, as specified in the IEP. Rationale for LRE stated that for the safety of Student, other students, and staff, Student would be enrolled in the district's online program and complete work in the resource program with a parapro. Supplementary aids and services included frequent breaks throughout the school day, as needed, when the Student exhibited behavior that indicated a shift was necessary, daily adult support to aid in behavior redirection, adapted assignments, quizzes, and tests when instruction was above independent level, alternative work area when Student demonstrated a need for a quiet area to work, daily cues to complete task involving upcoming transitions, choices provided after three attempts of encouragement to complete an assignment from the online program, repeated directions, frequent feedback when manipulating numbers, and PBSP throughout the school. Student would receive five to 30 hours per week of resource program and 30 minutes, two to four times per month of school social work. Notice included an option considered but not selected of maintaining placement in the general education classroom with resource program and school social work services. However, due to Student's disability, Student presented with difficulty regulating self and demonstrated consistent physical aggression toward students and staff. To keep Student, peers, and staff safe while providing appropriate services, Student was enrolled in the district online program and would complete work with a parapro.

The FBA had been drafted October 5, 2020, and updated October 19, 2020 (both dates prior to eligibility); and reviewed on October 7, 2021, and October 28, 2021. A meeting to update the FBA was scheduled for November 11, 2021, however, the meeting was cancelled by Parent.

The district did not have any other special education programs besides the resource program. The IEP Team determined placing Student online in the resource program was the only option, given the district's lack of resources.

Case Study Questions

§300.114 LRE Requirements

1. Did the district ensure the student was educated with nondisabled peers to the maximum extent appropriate?
 - a. What evidence is available to support the student was educated with nondisabled peers to the maximum extent appropriate prior to the new placement?
 - b. What evidence is available to support the student is being educated with nondisabled peers to the maximum extent appropriate in the new placement?
2. Was the student removed to a special class or separate school due to the nature or severity of the student's disability because education in general education with the use of supplementary aids and services could not be achieved satisfactorily.
 - a. What was the student's original placement?
 - b. What supplementary aids and services did the student receive?
 - c. What was the student's placement changed to?
 - d. Were the supplementary aids and services provided to the student sufficient to support the student's unique needs and to provide the student access to special education?

§300.115 Continuum of Alternative Placements

1. Did the district have available a continuum of alternative placements to meet the student's needs, including instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions?
 - a. What alternative placements did the district consider when changing the student's placement?

2. Did the district make a provision for supplementary services, such as resource or itinerant instruction, to be provided in conjunction with general education placement?

§300.116 Placements

1. Was the student's placement in the resource program for a full day, to engage in virtual instruction, 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?
 - a. List the individuals who made the determination:
2. Was the student's placement for a full day in the resource program to engage in virtual general education instruction determined at least annually?
 - a. What was the date of the most recent IEP, including IEP amendment?
3. Was the student's placement for a full day in the resource program to engage in virtual general education instruction based on the child's IEP?
 - a. What program, including frequency, location, and duration was included in the students most recent IEP?
4. Was the student's placement for a full day in the resource program to engage in virtual general education instruction as close as possible to the child's home?
 - a. What was the program location?
5. Did the student's IEP require some other arrangement so the child could be educated in the school that he would attend if nondisabled? Explain your answer:
6. Did the district consider any potential harmful effect on the child or on the quality of services that he needed?
 - a. How could the district evidence the consideration?
 - b. Are there possible harmful effects?
7. Did the district remove the student from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum?

§300.117 Nonacademic Settings

1. In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, did the district ensure that the student could participate with nondisabled peers to the maximum extent appropriate to the needs of the student?
 - a. What were the needs of the student?
 - b. In what way(s) was the student allowed to participate with nondisabled peers to the maximum extent appropriate?
2. Did the district ensure that the student had the supplementary aids and services, determined by the child's IEP Team, to be appropriate and necessary for the student to participate in nonacademic settings?
 - a. What supplementary aids and services, listed in the most recent IEP, would allow the student to participate in nonacademic settings.
 - b. Are there other supplementary aids and services that would allow the student to participate in nonacademic settings?

The IEP Team and LRE Requirements

34 CFR [§300.321 IEP Team](#)

(a) **General.** The public agency must ensure that the IEP Team for each child with a disability includes -

- (1) The parents of the child;
- (2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
- (3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
- (4) A representative of the public agency who -
 - (i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
 - (ii) Is knowledgeable about the general education curriculum; and
 - (iii) Is knowledgeable about the availability of resources of the public agency.

- (5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;
- (6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- (7) Whenever appropriate, the child with a disability.

34 CFR [§300.114 LRE requirements](#)

(a) *General.*

(1) Except as provided in 34 CFR [§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 34 CFR [§§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.

(b) *Additional requirement - State funding mechanism -*

(1) *General.*

- (i) A State funding mechanism must not result in placements that violate the requirements of paragraph (a) of this section; and
- (ii) A State must not use a funding mechanism by which the State distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child's IEP.

(2) ***Assurance.*** If the State does not have policies and procedures to ensure compliance with paragraph (b)(1) of this section, the State must provide the Secretary an assurance that the State will revise the funding mechanism as soon as

feasible to ensure that the mechanism does not result in placements that violate that paragraph.

34 CFR [§300.115 Continuum of alternative placements](#)

(a) Each public agency must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

(b) The continuum required in paragraph (a) of this section must -

- (1) Include the alternative placements listed in the definition of special education under 34 CFR [§300.39](#) (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
- (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

34 CFR [§300.116 Placements](#)

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

(a) The placement decision -

- (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
- (2) Is made in conformity with the LRE provisions of this subpart, including 34 CFR [§§300.114](#) through [300.118](#);

(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;
- (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;
- (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
- (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.

34 CFR [§300.117 Nonacademic settings](#)

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in 34 CFR [§300.107](#), each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

34 CFR [§300.119 Technical assistance and training activities](#)

Each SEA must carry out activities to ensure that teachers and administrators in all public agencies -

- (a) Are fully informed about their responsibilities for implementing 34 CFR [§300.114](#);
and
- (b) Are provided with technical assistance and training necessary to assist them in this effort.

34 CFR [§300.120 Monitoring activities](#)

- (a) The SEA must carry out activities to ensure that 34 CFR §300.114 is implemented by each public agency.
- (b) If there is evidence that a public agency makes placements that are inconsistent with 34 CFR §300.114, the SEA must
 - (1) Review the public agency's justification for its actions; and
 - (2) Assist in planning and implementing any necessary corrective action.