

Monroe County ISD Guidance: Procedures for LRE Determinations



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Introduction

The Individuals with Disabilities Education Improvement Act of 2004 (IDEA) defines special education as “**specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability...**IDEA defines **specially designed instruction as “adapting, as appropriate to the needs of an eligible child under this part, the content, methodology or delivery of instruction (i) to address the unique needs of the child that result from the child’s disability; and (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards** within the jurisdiction of the public agency that apply to all children.” (Section 300.39(b)(3) of Title 34, Code of Federal Regulations [CFR])

The legal requirement to provide special education services in the least restrictive educational environment comes directly from the 2006 implementing regulations of IDEA 2004 which contain a strong presumption that students with disabilities will be educated in general education classes with appropriate aids and services, as needed, and that they will only be removed from general education 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 satisfactorily achieved.

The state targets the percent of students with an IEP inside the regular class: (A) ≥80% of the day; (B) <40% of the day; and (C) in separate facilities.

- Percent of children with IEPs aged 6 through 21 served inside the regular class 80 percent or more of the day.
- Percent of children with IEPs aged 6 through 21 served inside the regular class less than 40 percent of the day.
- Percent of children with IEPs aged 6 through 21 served in separate schools, residential facilities, or homebound/hospital placements. (20 U.S.C. 1416(a)(3)(A))

Least Restrictive Environment (LRE) Sec. 300.114 LRE requirements.

(a) General. (1) Except as provided in Sec. 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 Sec. Sec. 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.

Sec. 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 Sec. 300.38 (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. (Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 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 Sec. Sec. 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. (Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 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 Sec. 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in 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. (Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 300.118 Children in public or private institutions.

Except as provided in Sec. 300.149(d) (regarding agency responsibility for general supervision for some individuals in adult prisons), an SEA must ensure that Sec. 300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures). (Approved by the Office of Management and Budget under control number 1820-0030) (Authority: 20 U.S.C. 1412(a)(5))

Sec. 300.320 Definition of individualized education program.

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with Sec. Sec. 300.320 through 300.324, and that must include—

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child--

(i) To advance appropriately toward attaining the annual goals;

(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and

(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;

(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and district-wide assessments consistent with section 612(a)(16) of the Act; and

(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or district-wide assessment of student achievement, a statement of why-

(A) The child cannot participate in the regular assessment; and

(B) The particular alternate assessment selected is appropriate for the child; and

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications. (Authority: 20 U.S.C. 1414(d)(1)(A) and (d)(6))

There are instances when a student may require a more restrictive educational setting. The intention of these guidelines is to address the consideration process when making a team decision about LRE. Teams should first consider alternative supports. Alternative supports may include but are not limited to: changes to the student's learning environments, the use of assistive technology, positive behavior support plans, peer supports, and changes to the curriculum. Identifying natural supports that are available to assist the student is an effective use of resources.

If it is determined that a more restrictive setting is needed, the IEP team should clearly identify through the Individualized Education Plan (IEP) Notice of a Free Appropriate Public Education (FAPE).

For further information, see the following article:

[Guiding IEP Teams on Meeting the Least Restrictive Environment Mandate](#)

Areas That May Necessitate a More Restrictive Setting

There are students who may require additional support and specially designed programming and support in order to be successful in the educational setting, whether it is short term or for a more extended period of time. Criteria associated with these decisions may include:

1. Health/Personal Care - Health issues that require procedures by specially trained employees include:

- a. Eating/Feeding
- b. Toileting/Personal Hygiene
- c. Mobility/Transferring/Positioning
- d. Health Condition

2. Behavior - Students who demonstrate persistent and significant behaviors that impact access to the educational environment and may require the programming of a more restrictive setting. All students who receive support for behavior purposes must first have an established formal functional behavioral assessment (FBA) and positive behavior support plan (PBSP/BIP) which has been implemented with fidelity.

3. Academic - Students who demonstrate significant gaps in achievement which adversely impact access to the general education curriculum may require a more restrictive educational setting.

Alternatives to a More Restrictive Educational Setting

If a more restrictive educational setting is discussed or requested, team members should first consider alternative supports within the current educational environment. Supplementary aids and services “are the tools or help that is needed to enable students with disabilities to gain benefit from their environment within the general education curriculum” (Lipsky & Gartner, 2008). There are a full range of supports that should be considered by the student’s IEP team. These supports may include changes in the educational environment, adaptations or modifications of the curriculum, assistive technology, behavior support plans, self-monitoring tools, and the utilization of supplementary personnel to assist the student. Teams should identify what goals they hope to accomplish by moving to a more restrictive setting, then determine if these goals can be met in another fashion.

A combination of alternative options may provide the necessary supports students need to be successful. Teams should identify when and where supports are needed, and then consider how those supports will be provided. Possible alternatives include:

- Assistive technology
- Teacher training
- Instructional delivery (e.g. differentiating instruction, co-teaching)
- Use of existing school-wide supports
- Peer supports
- Positive behavior supports
- Implementation of self-monitoring tool(s)

To help guide the decision-making process, the student’s special education teacher, in collaboration with the teacher consultant assigned to the building and any other identified team members, should begin the process outlined in the remainder of this document. This process considers alternative supports (e.g., environmental, natural, accommodations/modifications to curriculum, positive behavior support plan, staff training needs) prior to changing placement.

Use of Supports and Programming to Consider

The level of support and programming (LRE) continuum should be considered at **every** IEP meeting. All team members, including the student, parent/guardian, and school staff should have input into the creation of an IEP.

It is critical to continue an ongoing re-evaluation of the LRE. A student should make considerable progress academically and emotionally over the course of a school year. Natural development will promote maturity in areas of self-control, attention and concentration, social skills, and common-sense judgement. At a minimum, chronological age, development, and transition to the next level of education are reasons to reconsider the need(s) for a less restrictive educational setting.

[LRE Checklist for IEP Teams](#)

[LRE Questions to Ask](#)

[LRE Matrix – Team Tool](#)

The long-term goal for this support should always be to guide the student to the highest level of independence that he or she can obtain, in the least restrictive environment possible. The student's IEP team should identify the criteria required for a less restrictive educational setting. By identifying the skills to be taught and the "exit criteria" early on, everyone will have a common understanding of the targets that demonstrate student independence.

Utilize <https://www.pbisworld.com/> for an in-depth view of specific behavior matched to intervention and data collection.

Process for Considering a More Restrictive Educational Setting

Step One

Step one is meant to be a reflective process for the general education teacher. In this step, the general education teacher can access and utilize evidence-based supports and strategies from resources outside of this guidance document. The MCISD teacher consultant assigned to the building is available to assist the team through this process by providing guidance with brainstorming, implementation variables, and progress monitoring.

Student Assistance Team (SAT) or IEP team meets to identify skill deficit(s) upon receipt of [LRE Determination Team Process – Working Document](#)

- The team reviews contents of CA60:
 - Initial evaluation for special education
 - Most recent reevaluation IEP
 - Attendance history
 - Discipline history
 - Behavior intervention plans and student support plans
 - Health care plans
 - Performance on district and statewide assessments
 - Benchmark assessment data

Answer the following questions (Use the universal [Tier 1 Intervention Guide](#) and [Checklist for Evidence Based Practices](#) for guidance):

- What classroom Tier 1 academic &/or behavioral interventions are included in baseline data?
- How are you differentiating within Tier 1 for this student?
- What strategies have you used while collecting data to CHANGE the behavior?

- Define problem in observable measurable terms using [Consultation Protocol](#)

- Develop an [Intervention Plan](#)
 - Determine if a [Training Plan](#) needs to be put in place to support staff and student with implementing the Intervention Plan

- Team assigns personnel to conduct observations using a data collection procedure

- Use an objective data collection tool. (ex. Tally Sheet)
 - Consider Google forms or spreadsheet for team data collection entry
 - The team should determine what data should be collected
 - The team should determine which data collection tool will be used to collect the data ([Data Collection Resources](#))

- Collect data for a minimum of 4-6 weeks (consider including references in guidance document to support 4-6-week timelines)

- Schedule a follow-up meeting to analyze data collection results

Step Two

Step 2 begins when the team has worked through the “Step One” checklist and has agreed that ALL Tier 1 supports have been implemented with fidelity and exhausted. The MCISD teacher consultant assigned to the building is available to support the team through this step of the process. Regional Director of Special Education is notified and invited as a team member beginning in Step 2.

Please note:

Any of the data collection forms from Step 1 may be utilized to determine effectiveness of interventions.

It is important that Step 2 observational data is collected by someone trained in diagnostic observations and/or is familiar in using tools such as the Behavioral Observations of Students in Schools ([BOSS](#)), when the BOSS is being used to look at academic engagement. When team members who do not regularly work with the student or provide service to the student (such as a school psychologist) will conduct formal observations if needed, it is recommended that the parent/guardian provide written consent to informal observations used in a tiered system of support. All forms needed for this step are included in this section as well as the Resources section.

- Team meets to review data analysis and any other additional information that is necessary
 - Update the [LRE Determination Team Process – Working Document](#)
- If Step 1 was successful and the area of concern is no longer in question, the team will discontinue meeting
- If needed, the team revises [Intervention Plan](#) using Tier 2 interventions and creates a timeline for implementation (minimum 4-6 weeks)
 - See [Tier 2 Intervention Guide](#) for behavior & academics in resources section
- Team may assign additional personnel to conduct additional observations using a data collection procedure
 - May utilize the [BOSS](#) or other observation tool with signed consent from parent and the observation is conducted by trained personnel
 - [Parent Notification and Consent for Trial Intervention](#) (for change to Intervention Plan and addition of Tier 2 supports)
 - Parent is an invited team member for the remainder of the process
- Team schedules a follow-up meeting within 4 to 6 weeks of implementation to analyze data collection results
- Determine if a [Training Plan](#) needs to be put in place to support staff and student

Step Three

Step 3 should be completed after formal observations by MCISD and local district staff have been completed and documented. To determine that all universal supports have been exhausted and implemented with fidelity, the team will need to come together to review and analyze data. Step 3 is the final step before all paperwork is submitted to the Regional Director of Special Education for approval and an IEP team meets to review LRE.

Update [LRE Determination Team Process – Working Document](#).

Option A:

- Team determines whether all supports, strategies, and classroom interventions have been exhausted
- Coordinate a staffing to include building social worker, school psychologist, teacher consultant, speech, and/or occupational therapy and other relevant team members
- Review and revise [Intervention Plan](#) as needed
- If the team determines that more individualized supports should be implemented, the team will schedule a follow up meeting after another 4-6 weeks of implementation

Option B:

- If the team feels they have exhausted all options, the team completes the [LRE Determination Team Process – Working Document](#) and submits to the Regional Director of Special Education
- Using data/observations collected in previous steps, team might complete the [Level of Student Need for Support Matrix](#) for additional documentation of student need

Final Steps:

The Regional Director of Special Education will review the request and contact appropriate personnel to arrange for consultation, an observation or to schedule a team meeting as appropriate based upon the nature of the request. All data will need to be reviewed by the IEP team prior to making any Change in Placement.

- ❑ In some cases, the team may decide to conduct an Educational Benefit Review to determine if the previous IEPs were reasonably calculated to result in educational benefit
 - ❑ [Educational Benefit Review Script](#)
 - ❑ [Educational Benefit Questions](#)
 - ❑ [Educational Benefit Review Chart](#)
 - ❑ [Evaluation Data for Educational Benefit Review](#)
 - ❑ [Evaluation Data Sample](#)

All educational settings on the continuum should be considered and the IEP team will decide on the best educational setting together.

[LRE Checklist for IEP Teams](#)

[LRE Questions to Ask](#)

[LRE Matrix – Team Tool](#)

- ❑ The team will hold an IEP or Amendment to an IEP to address LRE
- ❑ The team will revisit data collection and LRE at least annually
- ❑ Determine if a [Training Plan](#) needs to be put in place to support staff and student

The number of consultations and/or observations and subsequent meetings will vary from case to case.

Annual Steps:

Sec. 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...

(b) The child's placement--

(1) Is determined at least annually...

❑ The team will consider LRE annually at the IEP team meeting

❑ [LRE Checklist for IEP Teams](#)

❑ [LRE Questions to Ask](#)

❑ [LRE Matrix – Team Tool](#)

❑ The team will revisit data collection and LRE at least annually and begin to plan for inclusion in general education using the [Student Support Tool](#).

Special Education Terms

ABC Chart/Log – A direct observation tool that can be used to collect information about the events that are occurring within a student's environment. "A" refers to the antecedent, or the event that immediately precedes a problem behavior. The "B" refers to observed behavior; "C" refers to the consequence, or the event that immediately follows a response.

Accommodation – A support to the instruction, assignment or assessment which does NOT substantially alter the basic construct of the course or test. (i.e. Extended time, reduced number of problems, individual/small group, "chunk" assignment/task, allow for breaks)

B.O.S.S. - Behavioral Observation of Students in Schools. A systematic data collection method for observing a student in the classroom.

Behavior Intervention Plan (BIP) – A plan that is developed after conducting a Functional Behavior Assessment (FBA) to help a person learn to change his or her behavior.

Case Manager – The special education staff person responsible for monitoring implementation for all portions of the IEP, reporting on progress toward goals, and contact person for parent/guardian.

Co-Teaching – Method of instruction by two equally-qualified teachers, who may or may not have the same area of expertise, jointly delivered to a group of students. Often this is seen with a general education and special education teacher. There are specific requirements (components) to be met for Co-Teaching scenarios.

Data - Facts and statistics collected for reference or analysis.

Educational Benefit Review (EBR) – The process of reviewing student information to analyze the relationships between student needs, services and programs, and progress to improve student outcomes. The EBR team determines if an IEP is reasonably calculated for educational benefit.

Eloping – A situation when a person/student leaves a designated area without permission, running away.

Functional Behavior Assessment (FBA) – The process of gathering and analyzing information about a student's behavior and accompanying circumstances in order to determine the purpose of the given behavior.

Fading – systematically reducing the level of support a student needs in order to increase student independence.

FAPE – Free Appropriate Public Education

IEP – Individualized Education Program – The document which outlines a student's special education program.

IEP Team or "The Team" - This includes all members supporting and participating in a student's education. This includes, but is not limited to *parent/guardian, student, gen. ed.*

teacher, spec. ed teacher, aide/inclusion aide, principal, special education director, speech therapist, occupational therapist, social worker, outside case workers.

Inclusion – Including disabled students with non-disabled students in every aspect of education, from the same classrooms to the same social activities and support groups.

Local-Based Special Education Classroom - A special education classroom with a fewer number of students that provides required additional support to students with special needs, specific difficulties, or unique struggles.

Mainstreaming – The process of placing special education students in general education for one or more classes.

Modification – A change to the course or test which substantially alters the basic construct of the course or test.

PBSP – Positive Behavior Support Plan – A plan which addresses the underlying causes of non-desired behaviors and teaches students appropriate strategies for addressing them.

Scatterplot - A graph in which the values of two variables are plotted along two axes; this type of data helps to show trends.

Student Support Tool - A tool intended to be used by the IEP or behavior planning team to assist in goal development and necessary strategies and supports. A fading plan is included within this tool.

Tier 1 Supports – Universal supports & strategies (academic or behavior) provided to all students within the school.

Tier 2 Supports – Additional programs and strategies (academic or behavior) provided to students who require supports in addition to universal supports, to reduce the risk of academic or behavior problems.

Tier 3 Supports – Intensive programs and strategies (academic or behavior) for students who require individualized supports, in addition to Tier 1 and Tier 2 supports, in order to reduce the severity of academic and behavior problems.

Resources

The following resources are included in this packet and can be used as needed for planning, information and guidance:

- [Referral and Observation Checklist](#)
- [Weekly Scatterplot \(Observations\)](#)
- [ABC Checklist \(Observations\)](#)
- [How Many Times Chart \(Observations\)](#)
- [Data Collection Resources from PBIS](#)
- [Checklist for Evidence Based Practices](#)
- [Intervention Plan](#)
- [Training Plan](#)
- [Tier 1 & 2 Intervention Guide](#)
- [Checklist for Evidence Based Practices](#)
- [BOSS](#)
- [MCISD Request for LRE Change Form](#)
- [Level of Student Need for Support Matrix](#)
- [Educational Benefit Review Script](#)
- [Educational Benefit Questions](#)
- [Educational Benefit Review Chart](#)
- [Evaluation Data for Educational Benefit Review](#)
- [Evaluation Data Sample](#)
- [LRE Checklist for IEP Teams](#)
- [LRE Questions to Ask](#)
- [LRE Matrix – Team Tool](#)
- [Student Support Tool - SST](#)
- [Early Childhood Tier 1 and Tier 2 Intervention](#)

References

The Individuals with Disabilities Education Improvement Act (IDEA), Least Restrictive Environment (LRE) Sec. 300.114 LRE requirements through Sec. 300.320 Definition of individualized education program. 2004.

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Statewide Autism Research & Training (START) Web & Conference Shared Materials