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## Technical Assistance Paper

### Least Restrictive Environment Considerations Related to Individual Educational Plans

**Summary:**

This technical assistance paper (TAP) updates previous technical assistance provided to school districts regarding the provision of services for students with disabilities in the least restrictive environment (LRE). Individual educational plan (IEP) teams must adhere to all legal requirements related to placement in the LRE. This TAP will in addition address other considerations that must be addressed when determining the most appropriate placement for a student with a disability. It will also address issues related to service delivery and scheduling methods for students with disabilities.

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**A. Individuals with Disabilities Education Act (IDEA) Requirements for Least Restrictive Environment (LRE)**

**A-1. What does IDEA require related to LRE?**

IDEA has not changed its definition of LRE since its inception in 1975. IDEA states that to the maximum extent appropriate, students with disabilities, including students in public or private institutions or other care facilities, must be educated with students who are not disabled, and special classes, separate schooling or other removal of students with disabilities from the general educational environment may occur only when the nature or severity of the disability of the child is such that education in regular classes cannot be achieved satisfactorily even with the use of supplementary aids and services. [Title 20, United States Code (U.S.C.), section 1412(a)(5)(A)]

**A-2. What are supplementary aids and services?**

The implementing regulations of IDEA identify supplementary aids and services as a separate category of services – including aids, services and other supports – that are provided in general education classes or other education-related settings and in extracurricular and nonacademic settings to enable students with disabilities to be educated with students without disabilities to the maximum extent appropriate in accordance with the LRE decision-making process. Supplementary aids and services are accommodations or supports given to the student that enable participation in the general education program or participation in activities with students without disabilities. Supplementary services may include note takers, sign language interpreters, homework assistance or a proctor for assessments. Additional examples of supplementary aids may include large-print textbooks, recorded materials or assistive technology. [20 U.S.C. §1401(33)], [section 300.42 of Title 34, Code of Federal Regulations (CFR)]

**A-3. What is the definition of LRE?**

The LRE is unique to the needs of individual students. The least restrictive environment is the placement in which an individual student can be taught and make progress in the general education curriculum to the maximum extent possible with students without disabilities.

**A-4. What is the continuum of alternative placements?**

When an individual educational plan (IEP) team makes the decisions about LRE, the team must consider the continuum of alternative placements. This continuum includes the different options where students can receive services. This includes placements such as

- In a general education classroom;

- In a general education classroom, with some services being delivered in a resource room;
- In a self-contained classroom;
- In a special education school;
- At home; and
- In a hospital or other public or private institution.

[34 CFR §300.115(b)(1)]

Each local educational agency must ensure that a continuum of alternative placements is available to meet the needs of students with disabilities for special education and related services. In general, the continuum must include the alternative placements listed in the definition of special education in accordance with 34 CFR §300.39(a)(1)(i) and make provision for supplementary services to be provided in conjunction with regular class placement. The full continuum of services may be provided through a contractual agreement with other districts.

## **B. Scheduling Methods and Service Delivery**

### **B-1. What is inclusion?**

Though IDEA does not define inclusion, section 1003.57(1)(a)2., Florida Statutes (F.S.), defines inclusion as follows:

A school district shall use the term “inclusion” to mean that a student is receiving education in a general education regular class setting, reflecting natural proportions and age-appropriate heterogeneous groups in core academic and elective or special areas within the school community; a student with a disability is a valued member of the classroom and school community; the teachers and administrators support universal education and have knowledge and support available to enable them to effectively teach all children; and a teacher is provided access to technical assistance in best practices, instructional methods, and supports tailored to the student’s needs based on current research.

Inclusion is the practice of educating all students together – students with disabilities and students without disabilities – regardless of their abilities or readiness. It is more than placing students with disabilities in a room with their peers without disabilities. With true inclusion, students with disabilities can access the general education curriculum, classrooms and typical school activities. Rather than having the student go to a segregated setting for specialized instruction and support, the student receives the supports in the general education setting (Florida Inclusion Network, 2011). Many leaders in the field identify the general education classroom as the optimal place where access to the general education curriculum occurs (Wehmeyer & Agran, 2006).

**B-2. What is a Best Practices in Inclusive Education (BPIE) assessment?**

The BPIE is an internal assessment process designed to facilitate the analysis, implementation and improvement of inclusive educational practices. Section 1003.57(1)(f), F.S., requires that once every three years, each school district and school must complete a BPIE assessment. The Florida Inclusion Network is required to assist school districts in this process. The results of this process, including all planned short and long-term improvement efforts, must be included in the school district's exceptional student education (ESE) policies and procedures.

**B-3. How does the class size amendment apply to an inclusive classroom? Can you have too many students with disabilities in an inclusive class?**

Section 1003.01(14)(d), F.S., includes ESE classes within its definition of "core-curricula courses." The term is used exclusively for designating classes that are subject to the maximum class size requirements. Therefore, the class size requirements established in Article IX of the Florida Constitution affect all students, including students with disabilities. Charter schools must also comply with section 1003.03, F.S. However, charter schools may have classes that exceed the limits below, as long as the school average by grade group does not exceed constitutional limits. The maximum number of students allowed in each core class by grade level is as follows:

- 18 students in prekindergarten through grade 3;
- 22 students in grades 4 through 8; and
- 25 students in grades 9 through 12.

Additional staffing decisions regarding class size, student class assignment and the assignment of teachers and teacher assistants are made at the district level. While a ratio for inclusive classrooms has not been defined in rule or law, section 1003.57(1)(a)2., F.S., requires that inclusive classrooms reflect, "natural proportions and age-appropriate heterogeneous groups in core academic and elective or special areas within the school community."

One useful guideline is that an inclusive environment maintains a natural proportion of students with special needs. This means that the ratio of students with special needs in a classroom should match the ratio of students with disabilities within the student population. When looking at programs for students with higher-incidence disabilities, the literature recommends that the ratio of students with and without disabilities reflect the natural proportions in the school (Power-deFur & Orelove, 1997). In other words, if 20 percent of the students at a particular grade level are students with disabilities, then the classrooms at that grade level should have approximately 20 percent students with disabilities and 80 percent students without disabilities (Florida Inclusion Network, n.d.).

When implementing a co-teaching model, especially for students with more severe disabilities, it is recommended that the ratio not exceed one-third students with disabilities to two-thirds students without disabilities. It is important to remember that while co-teaching provides a lower student-teacher ratio, increasing this ratio or reducing the level of support may lessen the benefits of inclusion (Florida Inclusion Network, n.d.).

#### **B-4. What is co-teaching? What is required of teachers who co-teach?**

Co-teaching is a teaching strategy that has been defined in section 1003.03(5)(c)1., F.S., Co-teaching means that two teachers are assigned to the entire group of students, and each teacher is responsible for all of the students during the entire class period. In co-teaching, each teacher must be responsible for planning, delivering and evaluating instruction for all students in the class or subject for the entire class period. This method of scheduling is reported as data code “C” in the automated student information system.

Teachers who co-teach in a general education classroom must be appropriately certified for the course(s) being taught. Additional information regarding certification requirements can be found in the narrative section of the current Course Code Directory (CCD) under the chart entitled **Certification/Highly Qualified Requirements for Different Scheduling Methods Used for Students with Disabilities** (<http://fldoe.org/policy/articulation/ccd/>).

Co-teaching has been found to improve learning opportunities for all students, including students who have disabilities. Murawski (2009) reports the following benefits to students in a co-taught classroom:

- Students develop better attitudes and improved social skills;
- Students have a greater sense of classroom community; and
- Schools report positive student achievement on informal and formal assessments.

Co-teaching offers benefits to teachers as well. Teachers have reported that they are able to use research-proven teaching strategies effectively and enjoy a greater sense of community in the classroom, professional growth, personal support and enhanced motivation (Villa, Thousand, & Nevin, 2004).

Section 1003.03(5)(b), F.S., sets the following requirements for classrooms and teachers who are using a co-teaching model:

1. Reasonable limits shall be placed on the number of students in a classroom so that classrooms are not overcrowded. Teacher-to-student ratios within a curriculum area or grade level must not exceed constitutional limits.
2. At least one member of the team must have at least three years of teaching experience.

3. At least one member of the team must be teaching in-field.
4. The teachers must be trained in team-teaching methods within one year after assignment.

When using the co-teaching model, it is recommended that teachers have common planning time to establish their roles in the classroom, plan instruction and assessment and determine collaborative teaching approaches matched to the needs of students with and without disabilities.

**B-5. What is inclusion teaching?**

Section 1003.03(5)(c)2., F.S., defines “inclusion teaching” as two or more teachers assigned to a group of students, but an ESE-certified teacher is responsible for providing instruction, assessment and support to only one student or a small group of students in the classroom. It is also referred to as “in-class” or “one-on-one” support. In the state student database, this scheduling method is identified as “in class one-on-one” (Data Code 1). The CCD also refers to inclusion teaching as support facilitation.

**B-6. What is required of inclusion teachers?**

Under this service delivery model, an ESE-certified teacher provides instruction, assessment and support in a general education classroom for part of the class period or week. The ESE teacher’s role may include working with small groups, conducting informal or formal assessments or collecting data on certain students. Inclusion teachers and support facilitators work directly with students on their caseload.

Inclusion teachers can support the students in several teachers’ classrooms, providing varying levels of frequency and support throughout the day or week. Inclusion teaching and other collaborative teaching models work best when the general education teacher and ESE teacher have adequate time to pre-plan, focus on the academic and behavioral needs and goals of the students, clarify the roles of both teachers and maintain regularly scheduled, common planning time (Dieker, 2001).

When using the inclusion model, it is recommended that teachers have common planning time to establish their roles in the classroom, plan instruction and assessment, and determine collaborative teaching approaches matched to the needs of students with and without disabilities.

**B-7. What is consultation, and how does it differ from inclusion teaching?**

Consultation requires that the ESE-certified teacher provide support to the general education teacher of record, on a regular basis, regarding students with disabilities. Through the consultation model, an ESE teacher works with a general education

teacher to plan and implement instructional strategies and accommodations needed by students with disabilities (Florida Department of Education, 2012).

**B-8. How can paraprofessionals assist in supporting inclusive schools?**

Paraprofessionals can support inclusive schools by assisting in the delivery of special education. However, paraprofessionals in public schools are not directly responsible for the provision of special education and related services to students with disabilities. They may provide special education and related services to students with disabilities only under the supervision of special education and related services personnel. [34 CFR §300.156(b)(2)(iii)]

**B-9. Can a student work on general education standards within a special class (self-contained) classroom?**

Yes. Schools structure their self-contained classrooms based on the unique needs of their student population. Some self-contained classrooms contain students that work on general education standards, as well as students working on a modified curriculum. In some self-contained classrooms, all students work on a modified curriculum. In other classrooms, students work on grade-level general education standards but receive very intensive behavioral supports. The ESE teacher must be certified in accordance with the CCD for the courses taught.

**B-10. Can students working on a modified curriculum (through access points) participate in general education classrooms?**

Yes. A child with a disability is not removed from education in a general education classroom solely because of modifications to the curriculum. These students can participate in a general education classroom with the support of an ESE teacher. In addition, a general education teacher who is dually certified in both the content area and ESE may support the student directly. For additional information on scheduling methods, please refer to the narrative section of the current CCD under the chart entitled **Certification/Highly Qualified Requirements for Different Scheduling Methods Used for Students with Disabilities** (<http://fldoe.org/policy/articulation/ccd/>). [34 CFR §300.116(e)]

**B-11. When a student is working on access points or another ESE course (7000 series courses) in a general education classroom with support from an ESE-certified support facilitator, which teacher is assigned the ESE course code?**

The general education teacher is considered the “teacher of record” and is not considered out of field for the ESE course (see #5 in the narrative section of the current CCD under the chart entitled **Certification/Highly Qualified Requirements for Different Scheduling Methods Used for Students with Disabilities** (<http://fldoe.org/policy/articulation/ccd/>).

**B-12. Can a student work on access points in a general education classroom when an ESE teacher provides consultation to the general education teacher?**

No. If the general education teacher is not dually certified, at the minimum there must be a regularly scheduled support facilitator providing face-to-face support to the student. Consultation (ESE support to the teacher) is not sufficient.

**B-13. What types of certifications are required for ESE teachers?**

The course being taught and the service delivery model determine the type of certification(s) required for ESE teachers. Further clarification can be found in the current CCD (<http://fldoe.org/policy/articulation/ccd/>).

**B-14. What is “reverse inclusion,” and how does it work?**

Reverse inclusion is most often seen in prekindergarten settings. Students need interaction with peers without disabilities, but sometimes their academic and behavioral needs may preclude them from being successful in a general education environment. In reverse inclusion, a small peer group of students without disabilities can be brought into the self-contained classroom so that all students can interact together in structured or unstructured classroom activities.

**B-15. What are peer support programs?**

A peer support program matches students with disabilities with peers who assist them during instructional and noninstructional activities throughout the day. Students may be paired for cooperative learning, group projects or activities (Florida Inclusion Network, 2005). Peer support programs have benefits for students and teachers. For students, peer support has been found to:

- Increase the academic achievement of students with disabilities (Janney & Snell, 1996) and increase outcomes for all students, including those considered academically at-risk (President’s Commission on Excellence in Special Education, 2002).
- Increase the extent to which students with disabilities are participating in instructional content and learning activities that are closely aligned with those delivered to other students in the general education classroom (Carter & Kennedy, 2006).
- Contribute to higher levels of active engagement for students with and without disabilities (Carter, Cushing, Clark, & Kennedy, 2005).
- Increase interdependence and social interactions among students with and without disabilities (Carter et al., 2013).
- Strengthen social skills and “bolster interactions and create greater reciprocity in emerging relationships” between students with and without disabilities (Carter et al., 2013).

General education teachers who use this model in their classroom report that they spend less time assisting students with routine tasks, such as following directions, staying on task and writing homework assignments. ESE teachers report that peer support programs allow them to use time more effectively to provide targeted interventions or support to individuals or groups of students, while others get support from peers in the general education classroom (Florida Inclusion Network, 2005).

## **C. Making the Placement Decision**

### **C-1. What information must be included in an IEP with regard to LRE?**

The IEP must include an explanation of the extent, if any, to which a student will not participate with students without disabilities in the general education classroom. This explanation provides a justification for any amount of time the student may be removed from participation in the general education classroom or from activities in which peers without disabilities participate. This requirement does not preclude the use of special classes or separate placements but strengthens the emphasis on providing services to students with disabilities in the general curriculum and education program and in the activities of their peers without disabilities.

The requirement to consider how a student's disability affects involvement and progress in the general curriculum and the requirement that annual goals and objectives or benchmarks (if applicable) reflect the student's needs that arise from the disability apply, regardless of the setting in which the services are provided. A student with a disability should not be removed from education in an age-appropriate, general education classroom solely because of needed services or supports in the general curriculum.

If the IEP team recommends the student be removed from the general education environment for a particular class or subject, it should be evident in the IEP why the removal is necessary. If the removal results from an educational need in a particular area, such as specific academic skills or behaviors, this should be addressed in the present-level statement and annual goals and short-term objectives or benchmarks, if applicable. [34 CFR §300.320(a)(5)]

### **C-2. Who is involved in making the placement decision?**

In Florida, the IEP team is responsible for making the placement decision. Parents are a part of the team that decides their child's placement. If the parents are unable to attend the IEP team meeting, the school system must provide parents with prior written notice regarding the placement decision before implementing the decision made by the IEP team. School districts must make meaningful attempts to ensure parental involvement in the placement decision. A meaningful opportunity to participate in the placement decision is achieved when parents actively help to

develop the IEP and are afforded the chance to share their educational preferences with the other members of the IEP team. If parents do not attend an IEP meeting and school districts subsequently provide prior written notice to parents, parents must be informed about the placement options that were considered and the reasons why those options were rejected. [34 CFR §300.503(a)]

**C-3. What are some factors to consider as an IEP team determines placement?**

Placement decisions can only be made after the development of the IEP. Consistent with IDEA, a student’s placement in the general education classroom is the first option for consideration. After considering the questions below, if the group decides that the student’s needs can be met in the general education classroom with appropriate services and supports, then that placement is the LRE for the child. [34 CFR §300.116]

1. Do the measurable annual goals – including benchmarks or short-term objectives, if applicable – appropriately address the student’s academic, social, emotional, behavioral, communication, physical and career needs?
2. What supplementary aids and services, program modifications or supports for school personnel are necessary in order for the student to be involved and make progress in the general curriculum?
3. Will the student satisfactorily achieve the goals and objectives or benchmarks in the IEP if the student is educated in the general education classroom with the support of supplementary aids and services?
4. Are the student’s needs for interaction with peers without disabilities appropriately addressed?
5. How will the student have opportunities to participate in nonacademic and extracurricular activities?

**C-4. What considerations cannot be a factor in determining the LRE?**

When discussing the LRE where a child will receive a free appropriate public education (FAPE), the group must consider the child’s unique needs and determine the LRE for the child based upon those needs. A school system cannot use a “one size fits all” approach to educating students with disabilities. Thus, LRE decisions may not be based on the following:

- The child’s exceptionality
- Limited space in a program
- Administrative convenience
- Configuration of the service delivery system
- Cost or funding issues

While IDEA does not require that every school building in a school district be able to provide a full continuum and all the special education and related services for all types and severities of disabilities, the district has an obligation to make available a

full continuum of alternative placement options that maximize opportunities for its students with disabilities to be educated with peers without disabilities to the extent appropriate. Whatever the placement option that is chosen, it is required that it be located as close as possible to the child's home, but not necessarily at every child's neighborhood school, particularly with respect to students with low-incidence and high or complex needs that may require centralization of services or services that are located regionally. [34 CFR §300.116(b)]

**C-5. Is an IEP team required to “try out” the general education classroom option before deciding on a more restrictive setting?**

No. Consistent with IDEA, a student's placement in the general education classroom is the first option for consideration. However, IDEA does not require that every student with a disability be placed in the general education classroom regardless of individual abilities and needs. This recognition that general education classroom placement may not be appropriate for every student with a disability is reflected in the requirement that school districts make available a range of placement options (the continuum of alternative placements) to meet the unique educational needs of students with disabilities. This requirement for the continuum reinforces the importance of the individualized inquiry, rather than a “one size fits all” approach, in determining which placement is the LRE for each student with a disability. [34 CFR §300.116]

**C-6. Is it permissible under IDEA to consider the impact of a general education classroom placement on the students in the classroom who do not have a disability?**

Yes. IEP teams can consider the degree of disruption to other students that may result in the inability to meet the student's needs. In some cases, a student's educational or behavioral needs may be so significant that they cannot successfully be served in a general education classroom. The district must ensure that consideration is given to the full range of supplementary aids and services needed to support the student in that setting prior to making such a determination.

The majority of students who exhibit challenging behaviors do not exhibit a sudden or significant escalation of the behaviors. It is more likely that the student has a history of exhibiting behaviors that have had little or no response to interventions implemented thus far. For these students, a functional behavioral assessment related to the target behavior should be conducted, and a behavior intervention plan should be developed and implemented prior to changing the student's placement.

In addition, it would be expected that a student being considered for removal from a general education classroom would have been involved with a multi-tiered system of supports utilizing data-based planning and problem solving, matched to student learning needs. Review of interventions enacted, fidelity checks conducted and data

obtained during the use of these supports should also be considered in any potential instructional and placement planning.

**C-7. If a student’s home-zoned or neighborhood school serves all students with disabilities in a general education classroom, but a student needs a self-contained setting or resource room in order to receive educational benefit, what action should be taken?**

If the home-zoned or neighborhood school does not have the setting determined necessary for the student to benefit from his or her educational program, then the district must provide an option at another site if it is not feasible to do so at the home-zoned or neighborhood school. Placement decisions are to be made based on the unique needs of each individual student. A school system cannot use a “one size fits all” approach to educating students who have a disability. IDEA requires the continuum of alternative placements to be in place for students who require more restrictive settings in order to receive FAPE. [34 CFR §300.115]

**C-8. If it is determined that a student with a disability can be educated in general education classes with supplementary aids and services, can a district refuse to implement the IEP because a teacher claims to lack the essential training needed to educate the child properly?**

No. In this instance, the teacher would need to be provided with the necessary training to educate the child. This can be specified in the IEP under the “Supports for School Personnel” section.

**C-9. Is placement the same thing as location?**

Generally, the term “placement” encompasses the student’s placement on the LRE continuum and the collection of services provided to the student, not necessarily the specific location or school site. Location is the physical location where the child receives related services, such as a classroom or building. In general, unless the child’s unique needs dictate otherwise, IDEA does not require a placement team to identify the particular site or specific classroom (location) in which a child’s IEP is to be implemented.

Placement options may include:

- A general education classroom;
- A general education classroom, with some services being delivered in a resource room;
- A special education class;
- A special education school;
- The child’s home; or
- A hospital or other public or private institution.

The assignment of a child to a specific site, classroom or teacher is typically an administrative determination that need not be made by the IEP team, provided that the particular site, classroom or teacher is consistent with the placement decision and can afford FAPE to the student.

**C-10. Do IEP teams have to specify the specific school site where services will be received?**

Generally, the specific school site does not need to be identified by the IEP team and only the general environment where the services will be provided (general education classroom, resource room, etc.) will be specified. Most of the time, students can move to another school site without it constituting a change in placement. However, for some, and based upon their unique needs, when a student moves from one school to another, a change in placement could occur if the change in location substantially alters the student's educational program or their ability to receive FAPE in the new location.

**C-11. How is the percent of time with peers without disabilities calculated?**

To calculate the percent of time with peers without disabilities, use the following formula. This percentage must be entered into the database for every student with a disability.

$$\frac{\text{Time spent with peers without disabilities}}{\text{Total time in school per week}} \times 100 = \text{Percent of time with peers without disabilities}$$

**C-12. How frequently must a student's placement be reviewed?**

A student's placement is reviewed annually as part of the IEP process. However, the student's parent, teacher or other service provider can initiate a request for review of the student's IEP at any point in time.

**C-13. What if the parents disagree with the placement decision?**

In accordance with section 1003.5715, F.S., if the child will be receiving services in an ESE center school (i.e., an ESE center or special day school to which peers without disabilities do not have access), parental consent is required. Without parental consent, the district may only proceed with such placement if (1) the parent fails to respond to a request to provide consent after reasonable efforts, or (2) approval is obtained through a due process hearing.

If a parent disagrees with the placement decision, they have recourse according to IDEA's procedural safeguards – which includes the right to mediation and due process procedures – as a way of resolving the conflict, and they can also file a state complaint.

#### **C-14. What constitutes a change in educational placement?**

For a change in the educational program to qualify as a **change in educational placement**, a fundamental change in or elimination of a basic element of the educational program must be identified. In determining whether a change in educational placement has occurred, the following factors may be examined:

1. Was the educational program or any of its basic elements set out in the child's IEP revised?
2. Will the student be able to be educated and participate in the general curriculum with students without disabilities to the same extent?
3. Does the student have the same opportunities to participate in nonacademic and extracurricular services and activities?
4. Is the new placement option the same option on the continuum of alternative placements?

If this inquiry leads to the conclusion that a substantial or material change in the child's educational program has occurred, the public agency must consider the change to be a change in placement that must be made through the placement team process with the provision of prior written notice [34 CFR §300.503] and notice of procedural safeguards.

## Appendix: References

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