

Admission, Review, and Dismissal Committee

LEAST RESTRICTIVE ENVIRONMENT

September 15, 2020

Model operating procedures created by



Student Solutions

and

Thompson
& Horton_{LLP}

ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



Least Restrictive Environment

CONTENTS

LEAST RESTRICTIVE ENVIRONMENT 1

 What is Required 1

 Continuum of Alternative Placements 1

 Placement Decisions 1

 Preschool-Aged Students 2

 Career and Technical Education (“CTE”) Programs 2

 Regional Day School Program for the Deaf 2

 Students Residing in a Residential Facility 2

 Definitions 3

 Additional Procedures 5

 Continuum of Alternative Placements 6

 Placement Decisions 6

 Preschool-Aged Students 8

 Career and Technical Education (“CTE”) Programs 8

 Regional Day School Program for the Deaf 9

 Students Residing in a Residential Facility 9

 Evidence of Implementation 9

 Resources 10

CITATIONS 10

Least Restrictive Environment

LEAST RESTRICTIVE ENVIRONMENT

What is Required

District and Campus Special Educational Personnel must educate a student with a disability in the least restrictive environment (LRE) which means that the student is educated with students who are not disabled to the maximum extent appropriate. Students should only be placed in special classes or separate schooling, or otherwise be removed from regular education classes when the student cannot be appropriately educated in regular education classes with the use of supplementary aids and services. Campus Special Education Personnel must also ensure that students with disabilities are able to participate with nondisabled students in extracurricular or nonacademic activities or services to the maximum extent appropriate to the needs of the student. See [SUPPLEMENTARY AIDS AND SERVICES].

Continuum of Alternative Placements

District and Campus Special Education Personnel must make a continuum of alternative placements for special education and related services available to meet the needs of students with disabilities. The continuum ranges from the least restrictive setting to the most restrictive setting and must include instruction in general education classes, special classes, special schools, home instruction, and instruction in hospitals and institutions along with the provision for supplementary services such as resource room or itinerant instruction provided in conjunction with regular placement. Generally, the farther removed the student is from the general education classroom, the more restrictive the setting.

Placement Decisions

Decisions regarding placement of students with disabilities must be made by the ARD Committee, including the parents, at least annually based on the student's IEP, in conformity with the least restrictive environment, and as close as possible to the student's home. Unless the IEP requires some other arrangement, the student should be educated at the school that the student would attend if nondisabled. The placement or instructional setting for a student with a disability must be specified in the student's IEP. The IEP must also include an explanation of the extent, if any, to which the student will not participate with nondisabled peers in the regular class and in extracurricular and other nonacademic activities. The instructional settings/placements include:

- Mainstream
- Homebound

Least Restrictive Environment

- Hospital class
- Speech therapy
- Resource room or services
- Self-contained (mild, moderate, or severe) regular campus
- Off home campus
- Nonpublic day school
- Vocational adjustment class or program
- Residential care and treatment facility (not school district resident)
 - See [PLACEMENT IN RESIDENTIAL FACILITY]
- State supported living center.

Preschool-Aged Students

The requirement that District and Campus Special Education Personnel provide students with FAPE in the least restrictive environment also applies to preschool-aged students regardless of whether the District provides free preschool programs to all preschool-aged students. See [AGES 0-5].

Career and Technical Education (“CTE”) Programs

Campus Special Education Personnel may provide Career and Technical Education (“CTE”) services to a student with a disability in a separate program specifically designed to address the student’s individual occupational or training needs if a student is unable to receive a FAPE in a regular CTE classroom using supplementary aids and services. When determining placement in a CTE classroom, the ARD Committee will consider the student’s graduation plan, the content of the IEP including transition services, and classroom supports. See [GRADUATION] and [TRANSITION SERVICES].

Regional Day School Program for the Deaf

The District has access to a regional day school programs for the deaf operated by school districts at sites previously established by the State Board of Education. In addition, any student who has a hearing impairment which severely impairs processing linguistic information through hearing, even with recommended amplification, and which adversely affects educational performance will be eligible for consideration for the Regional Day School Program for the Deaf, subject to ARD Committee recommendations.

Students Residing in a Residential Facility

Students residing in a residential facility must also be educated in the least restrictive environment to the greatest extent appropriate. See [RESIDENTIAL FACILITY WITHIN A DISTRICT].

Least Restrictive Environment

Definitions

“General education setting” includes general education classrooms and other settings on a campus, including lunchrooms and playgrounds, in which students without disabilities participate.

“Inclusion” is a personalized special education program delivered to a student with a disability in conjunction with a regular education curriculum where support is provided to the student within the general education classroom.

“Mainstream” is an instructional arrangement/setting for providing special education and related services to a student in the regular classroom in accordance with the student’s IEP. Qualified special education personnel must be involved in the implementation of the student’s IEP through the provision of direct, indirect and/or support services to the student, and/or the student’s regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student’s IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student’s IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student’s progress in regular education classes, staff development, and reduction of ratio of students to instructional staff.

“Homebound” is an instructional arrangement/setting for providing special education and related services to students who are served at home or hospital bedside.

- Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by District policy, also be provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student’s ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations.
- Home instruction may also be used for services to infants and toddlers (birth

Least Restrictive Environment

through age 2) and young students (ages 3-5) when determined appropriate by the student's individualized family services plan (IFSP) committee or ARD committee.

“Hospital class” is an instructional arrangement/setting for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and not considered in a hospital class.

“Speech therapy” is an instructional arrangement/setting for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.

“Resource room or services” is an instructional arrangement/setting for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.

“Self-contained (mild, moderate, or severe) regular campus” is an instructional arrangement/setting for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular day on a regular school campus.

“Off home campus” is an instructional arrangement/setting for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School District and Windham Independent School District:

- A student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
- A student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or
- A student in a self-contained program at a separate campus operated by the



Least Restrictive Environment

school district that provides only special education and related services.

“Nonpublic day school” is an instructional arrangement/setting for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.

“Vocational adjustment class or program” is an instructional arrangement/setting for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student’s IEP. This instructional arrangement/setting shall be used in conjunction with the student’s individual transition goals and only after the school district’s career and technical education classes have been considered and determined inappropriate for the student.

“Residential care and treatment facility (not school district resident)” is an instructional arrangement/setting for providing special education and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.

“State supported living center” is an instructional arrangement/setting for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.

Additional Procedures

The student’s ARD Committee and District and Campus Special Education Personnel will ensure that a student with a disability spends as much time as possible with peers who do not receive special education instruction. District and Campus Special Education Personnel will tailor the environment in which the special education and related services are provided to the student’s individual needs and disabilities.

The student’s ARD Committee will only consider placing the student in special classes or a separate school—or otherwise remove the student from the general education

Least Restrictive Environment

classroom—where the ARD Committee determines that we cannot provide a satisfactory education within the general education classroom with supplementary aids and services.

Continuum of Alternative Placements

District and Special Education Personnel will provide a continuum of alternative placements that includes instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. Where appropriate, District and Special Education Personnel will offer the opportunity for the student to receive supplementary services, including instruction in a resource classroom or inclusion instruction, in conjunction with placement in the general education setting.

Placement Decisions

The ARD Committee, including District and Campus Special Education Personnel, the student's parent or guardian, and other persons knowledgeable about the student, will hold an annual ARD meeting to determine the student's placement. The ARD Committee will first consider whether placement in the general education classroom is possible by asking the following questions:

- Can the student be appropriately educated in the general education classroom?
- What efforts has the Campus made thus far to determine whether the student can be appropriately educated in the general education classroom and were those efforts successful?
- Has the whole range of aids, services, or additional supports necessary to allow the student to receive FAPE in the general education classroom been considered including resource rooms and additional inclusion support? See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].
- Has the Campus made efforts to modify the regular program to accommodate the student and were those efforts successful?
- Has the Campus considered both the education benefits as well as the social and communication benefits of a regular education setting?
- What are the negative effects on the education of other students in the regular classroom if the student with a disability were integrated in the classroom? Does it significantly impair the education of other students or does it require so much of the teacher's time that the teacher will be unable to educate the other students?
- Is the cost of integrated placement, with appropriate supplementary aids and services, so great that it would significantly impact the education of the other

Least Restrictive Environment

students in the District?

- Is it possible to place the student in regular education for some academic programs?
- Is it possible to place the student in regular non-academic classes?
- Is it possible to provide interaction with nondisabled students during lunch and recess?

The ARD Committee will make an individualized placement determination for each student, considering all relevant evaluation data and placement options. This will include balancing the student's overall educational experience in a regular education setting with the benefits the student would receive in a special education setting. For example, a student may greatly benefit from the social aspects of a regular education classroom while absorbing limited educational information in that setting. The ARD Committee will also consider any potentially harmful effects on the student or the quality of services when selecting the placement. The ARD Committee should not place a student outside of the general education classroom solely because of needed modifications to the general education curriculum. However, a student with a disability need not fail in the general education environment before the ARD Committee can consider or implement a placement in a more restrictive setting. Moreover, the ARD Committee can consider the student's past record of performance in a mainstream environment elsewhere in the District or even another school district.

Administrative convenience is never a legitimate consideration in determining LRE. The ARD Committee will not consider lack of personnel or resources as an excuse to relieve the District of the obligation to make FAPE available to students in the LRE.

The ARD Committee will consider whether the student needs to attend a campus or other placement other than the campus that the student would attend if nondisabled. The District may choose to centralize services where it is necessary to serve the needs of the student, utilize personnel effectively, and provide a comprehensive and consistent program. If possible, however, the ARD Committee will place the student in the campus that the student would attend if nondisabled. Additionally, for all students that may require placement in a setting outside of the student's home campus, the Campus Special Education Personnel should consider having knowledgeable staff from the particular centralized site or outside placement attend the ARD Committee.

The ARD Committee will outline the placement decision in the student's IEP and explain the extent, if any, that the student will not participate with nondisabled peers in the general education setting and/or in extracurricular and other nonacademic activities. The ARD Committee should consult with the parent or guardian to ensure that placement is as close

Least Restrictive Environment

as possible to the student's home.

Following the placement decision, Campus Special Education Personnel will provide the student's parent or guardian with Prior Written Notice regarding the placement decision following the ARD meeting and wait the required 5 school days before implementing the student's new placement, unless the parent waives the 5-day notice.

Preschool-Aged Students

District and Campus Personnel will provide special education and related services to any student between the ages of 3 through 5 that qualifies for special education services due to a noncategorical early childhood disability or any student from birth through age 5 that qualifies for special education services due to a visual impairment or who is deaf or hard of hearing in the least restrictive environment. The preschool-aged student's placement will be outlined in the student's Individualized Family Services Plan ("IFSP") (for a student ages 0 through 2) or IEP (for a student ages 3 through 5).

If the District does not provide preschool programs to nondisabled preschool students, District Special Education Administration will consider whether the District will provide FAPE through other preschool programs operated by public agencies or a private school program. The ARD Committee may also determine that the least restrictive environment for a preschool-aged student is home instruction where appropriate.

See [AGES 0-5].

Career and Technical Education ("CTE") Programs

The ARD Committee will include a representative from the CTE program as a member of the student's ARD Committee when determining placement in a CTE program. The ARD Committee will also consider whether current enrollment numbers in the CTE classroom could have a harmful effect on the student's ability to learn.

For a student with disabilities placed in the CTE program, Campus Special Education Personnel will communicate with the CTE teacher and any state rehabilitation agencies (where necessary) regarding planning for the student. Campus Special Education Personnel will monitor the instruction provided to the student in the CTE program to ensure that the instruction is consistent with the student's IEP. Where necessary and appropriate, Campus Special Education Personnel will provide supplementary aids and services, including, but not limited to, modified instruction and instructional aids and devices, in CTE programs. See [SUPPLEMENTARY AIDS AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES].

Least Restrictive Environment

Regional Day School Program for the Deaf

Should the ARD Committee determine that placement in the Regional Day School Program for the Deaf is appropriate for a student with a hearing impairment, the ARD Committee will outline the services that the District cannot appropriately provide on a campus and that a regional day school program can provide in the student's IEP.

For placement of a hearing impaired student in a regional day school program for the deaf operated by school districts at sites previously established by the State Board of Education, the ARD Committee will consider additional factors, such as distance to the nearest regional day school program, before recommending placement at such program.

A member of the ARD Committee and the parent may visit the regional day school program campus to verify that the student will be able to receive FAPE in accordance with their IEP prior to assigning the placement. Campus Special Education Personnel will communicate any potential placement in a regional day school program to District Special Education Administration prior to any final decision regarding the placement.

Students Residing in a Residential Facility

The ARD Committee will make decisions related to placement in a residential facility on an individualized basis considering the student's unique needs, and the District will comply with all requirements related to residential placements. See [PLACEMENT IN RESIDENTIAL FACILITY]. The ARD Committee will consider both educational and non-educational needs, including health and safety, of the student that may impact the student's ability to receive FAPE on a District campus. However, the ARD Committee should not consider convenience to the District or to the residential facility in the determination to place a student in a residential facility.

A member of the ARD Committee will consult with the proposed residential facility to determine whether the facility has space available for the student and whether such space, if available, is appropriate for the provision of FAPE based on the student's individual needs. The ARD Committee will identify additional placement options if the ARD Committee determines that the proposed residential facility is not appropriate. Furthermore, Campus Special Education Personnel will communicate any potential placement in a residential facility to the District Special Education Administration prior to any final decision regarding the placement.

Evidence of Implementation

Least Restrictive Environment

- FIE
- ARD/IEP
- Continuum of Instructional Settings
- Documentation of Communication with Regional Day School for the Deaf
- Documentation of Communication with Residential Facility
- Documentation of Coordination Between Campus Special Education Personnel and CTE teacher

Resources

[The Legal Framework for the Child-Centered Special Education Process: Least Restrictive Environment - Region 18](#)

[Least Restrictive Environment - Region 20](#)

[The Least Restrictive Environment \(LRE\): Question & Answer Document \(Jan. 4, 2016\) - Texas Education Agency and Region 20](#)

[SPEDTEX - Least Restrictive Environment \(TEA\)](#)

[OSERS Letter to Anderson \(Dec. 4, 2012\) – U.S. Department of Education](#)

[OSERS Letter to Anonymous \(Mar. 30, 2009\) – U.S. Department of Education](#)

[OSERS Letter to Wohle \(Feb. 1, 2008\) – U.S. Department of Education](#)

[OSERS Letter to Spitzer-Resnick \(June 22, 2012\) – U.S. Department of Education](#)

[OSERS Dear Colleague Letter on Children with Disabilities Residing in Nursing Homes \(Apr. 26, 2016\) – U.S. Department of Education](#)

CITATIONS

Board Policy EHBA; Board Policy EHBAA; Board Policy EHBAB; Board Policy EHBFB;
Board Policy EHBH; 20 USC 1412(a)(5)(A); 34 CFR 300.101, 300.102(a)(1),



Least Restrictive Environment

300.114(a)(2), 300.115(a)-(b), 300.116, 300.117, 300.320; 19 TAC 75.1023, 89.63, 89.1050(a)(6), 89.1075(e), 89.1080