

IEP Components Series

Placement in the Least Restrictive Environment

By Jay Gottlieb, Ph.D., Mark Alter, Ph.D., and Marc A. Gottlieb, Esq.

This issue of **NASET's IEP Component series** was written by Jay Gottlieb, Ph.D., Mark Alter, Ph.D., and Marc A. Gottlieb, Esq. Why, forty years after passage of the original Education for All Handicapped Act of 1975 (the predecessor legislation to IDEA), is there still no agreed-upon operational heuristic for defining the least restrictive environment? As with so many aspects of public education, the answer is complex. Schools are ultimately responsible for identifying the LRE, but they are buffeted by many external and internal influences that affect the quality and quantity of education IEP students receive. Even in the absence of internal or external influences, substantial variability in LRE implementation is to be anticipated; in fact, it is desirable. The underlying rationale of the federal special education law is that each student is unique and requires a tailored program. The potential wealth of services and placements recommended on an IEP define an appropriate education, and they should be different for each person.

Placement in the Least Restrictive Environment

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As early as 1932, as far as we are aware, educators have studied the comparative benefits of educating children with disabilities in general education or self-contained classes. In 1964, Samuel Kirk wrote a definitive review of the literature to that date and concluded that the research methodology used to make the comparisons was flawed and that the only sound study found no significant long-term differences in academic outcomes. In more recent years, other authorities have voiced similar concerns with regard to both methodological adequacy and relative efficacy. Despite the lack of consistency regarding the benefits of general education placement, students with disabilities are primarily enrolled in that setting because the federal Individuals with Disabilities Education Act (IDEA) mandates placement in the least restrictive environment (LRE).

The wording in the Act is as follows:

- (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.

There is broad recognition that IDEA did not assume full-time placement in general education to be appropriate for everyone. IDEA provides for a continuum of placements, ranked by restrictiveness. Yet, so strong is the legislative preference for placement in a general education class and access to the general education curriculum that Section 300.320 (a) (5) of IDEA obligates school personnel to provide a written explanation in the student's Individualized Education Program (IEP) of the extent, if any, to which the child will not participate with nondisabled children in regular classes. Because of the legislative preference for participation in general education, there has been a substantial increase in the percentage of students with disabilities ages 6-21 who are enrolled more than 80% of the day in the regular education classroom. Between 1990 and 2011, nationally, the percentage almost doubled, from about 33% to 61.1%, as reported in 2014 by the National Center for Educational Statistics. Our thesis is that, despite the seemingly straightforward definition of the least restrictive environment and the incremental annual increases in the percentage of IEP students being mainstreamed, the academic literature will continue to be unable to provide definitive conclusions regarding the comparative benefits of educating students with disabilities in general education settings because there is a lack of standardization in conceptualizing and implementing LRE programming. Many parties have a legitimate voice in implementation, but those voices have not been consistent.

Why, forty years after passage of the original Education for All Handicapped Act of 1975 (the predecessor legislation to IDEA), is there still no agreed-upon operational heuristic for defining the least restrictive environment? As with so many aspects of public education, the answer is complex. Schools are ultimately responsible for identifying the LRE, but they are buffeted by many external and internal influences that affect the quality and quantity of education IEP students receive.

Even in the absence of internal or external influences, substantial variability in LRE implementation is to be anticipated; in fact, it is desirable. The underlying rationale of the federal special education law is that each student is unique and requires a tailored program. The potential wealth of services and placements recommended on an IEP define an appropriate education, and they should be different for each person.

Other systemic forces introduce variables into LRE programming that are independent of the needs of an individual special needs student. These include differences in educational philosophies among states, divergent parental preferences, and lack of agreement among federal circuit courts.

To begin with, state education departments tailor their regulations to their politics, budgets, and values, each of which will affect implementation of the LRE requirement. The 35th Annual Report to Congress on the Implementation of The Individuals with Disabilities Act, 2013 is instructive: in 2011, Alabama placed 83.5% of its IEP students ages 6 to 21 in regular education classes for more than 80% of the school day. In that same year, Arkansas placed just 53.3% of IEP students in similar settings. During the 2011-2012 school year 63.6% of students with IEPs ages 14 to 21 graduated from high school with a regular diploma in Alabama; in Arkansas that increased to 82.8%. Alabama educated 30% more special needs students in general education classes but graduated almost 20% fewer students.

Was placement in the general education class responsible for the lower graduation rate? Probably not, but the reason why is unclear. Did overall ability levels of students in the LRE differ substantially? Did students receive different curriculum, instructional approaches, or varying intensity of related service support? Was class size different?

It is also hard to compare outcomes because criteria for placement in general education classes by disability category differ substantially across states. In Alabama, about 70% of students classified as emotionally disturbed (ED) are educated in general education classes. The corresponding percentage for New York is 27%; for California, 25%. As another example, fifteen states place fewer than 10% of intellectually disabled students in general education classes, while five states place more than 40% in that environment. States' practices of educating children of different disability classification in general education classes, and the corresponding differences in cognitive and social abilities associated with those classifications, confound placement with disability classification.

Parents also influence schools' processes of identifying the LRE. Parents' views about the desirability of general education classes diverge significantly. Some parents prefer general education classes; others may prefer self-contained placements, or even private school placements. In the authors' experiences, schools are often willing to accommodate parents' wishes with respect to placement in local schools. Accommodating parents' preferences for private school placements, and paying the tuition, is another matter, however. According to a manuscript prepared by Gilbert McMahon, Esq., between 2002 and 2009, in New York State alone more than 40,000 requests for a due process hearing were registered with the State Education Department, almost half of which concerned parents' desires for tuition reimbursement for private school placements. Most parents who filed suit were dissatisfied with the appropriateness of education their children received in local public schools. Evidently, from parents' perspectives, appropriateness—quality-- of special education is more important than placement, a view shared by the current authors.

In many respects, federal courts are the final arbiters of the appropriateness of education in least restrictive environments. Courts have the power to define whether a particular placement is appropriate for any given special needs student. Yet, legal scholars such as Susan C. Bon note how the federal courts, particularly the critically important circuit courts, have not presented a standardized portrait of the least restrictive environment which could guide district courts. As one example, in some federal circuits, schools can consider costs in their decision-making; in others, they cannot. Fiscal resources may influence the number of students identified as being eligible for special education and the extent to which a school district provides related services, which are designed to enable students to benefit from their special education. Fiscal resources impact class size, quality and experience of special education hires, amount and quality of in-house professional development, and availability of assistive educational technology. All these factors, individually or in combination, can impact educational outcomes.

Internal pressures, varying across school districts, also affect schools' LRE placement decisions. In some schools and/or districts, administrators view "full inclusion" as the primary way to comply with the LRE mandate; other districts place greater emphasis on offering a continuum of services. If a school district has a limited continuum, some IEP students enrolled in general education classes may be misplaced and not make appropriate progress.

In sum, despite being a nuclear programming component in the IEPs of students with special needs, the LRE is neither conceptualized nor implemented consistently across the country. This lack of consistency impacts educational outcomes in any number of ways. No reliable conclusions can be drawn regarding the relative efficacy of the general education classroom and more restrictive placements until (a) the continuum of services and working definitions of the LRE are standardized and (b) the research does a better job accounting for circumstantial influences (e.g., teacher effectiveness, classroom peer composition). Is placement in the LRE educationally justifiable? We still do not know.

Further Readings

Bon, S.C. (2009) Confronting the special education inclusion debate: A proposal to adopt new state-wide LRE guidelines. West's Education Law Reporter 249 (1) 1-18.

Goldstein, H., Moss, J. & Jordan, L. (1965). The efficacy of special class training on the development of mentally retarded children. U.S. Office of Education Cooperative Research Program Project no. 619. Urbana: University of Illinois Institute for Research on Exceptional Children. Retrieved from ERIC database (ED002907).

Gottlieb, J., Alter, M. & Gottlieb, B..W. (1994). Special education in Urban America: It's not justifiable for many. The Journal of Special Education, 27, 453-465.

McMahon, G.K., Esq. (Undated). NYS Special Education Impartial Hearing Outcomes. New York: The McMahon Advocacy Group, unpublished manuscript. (available on-line)

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Marc Gottlieb received his Bachelor of Arts in Judaic Studies from Vassar College. While at Vassar, Mr. Gottlieb worked with the Center for Educational Research and wrote his senior thesis on the subject of political discourse in American religious education. He then attended the Benjamin N. Cardozo School of Law, where he earned a concentration in constitutional law. For the past seven years, Mr. Gottlieb has represented parents in tuition reimbursement claims under the Individuals with Disabilities Education Act.