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	<p style="text-align: center;">Least Restrictive Environment-IDEA Definition- 20 U.S.C. 1412(a)(5)(A)</p>
	<p>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 not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>

	<p>Least Restrictive Environment – Definition - § 300.114</p>
	<p>(1) 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 not disabled; and</p> <p>(2) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p> <p>Note: "Regular educational environment" encompasses regular classrooms and other settings in schools such as lunchrooms and playgrounds in which children without disabilities participate. <i>Analysis of Comments and Changes to 2006 IDEA Part B Regulations</i>, 71 Fed. Reg. 46585 (2006).</p>

	<p>UNDER § 300.114, LRE APPLIES TO EXTRACURRICULAR ACTIVITIES AND NONACADEMIC SERVICES</p>
	<p>In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child.</p>

	<h2>Placements – § 300.116</h2>
	<p>In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that —</p> <p>(a) The placement decision--</p> <ul style="list-style-type: none"> (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 requirements <p>(b) The child's placement--</p> <ul style="list-style-type: none"> (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;

	<h2>Placements – § 300.116 (cont'd)</h2>
	<p>(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;</p> <p>(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</p> <p>(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.</p>

	<h2>Continuum of Placements – § 300.115</h2>
	<p>(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.</p> <p>(b) The continuum must --</p> <ol style="list-style-type: none"> (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.

	<p>Least Restrictive</p>
	 <ul style="list-style-type: none"> • Regular education with weekly monitoring from a special education teacher • Regular education with daily consultation from a special education teacher • Regular education with special education services and supports which are aligned with the general curriculum • Regular education with special education services provided for part of the day in a resource room or a special education classroom • Self-contained special education classroom • Special day school (outside the school campus) • Residential treatment facility • Hospital • Detention facility • Homebound <p>Most Restrictive</p>

	<h2>LRE AND PLACEMENT FIRST CONSIDERATION</h2>
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	<p>In <i>Letter to Cohen</i>, 25 IDELR 516 (OSEP 1996), OSEP stated that the law required that "first consideration" must be given to placement in a regular classroom with any necessary supplemental aids and services to make that placement successful before considering more restrictive placement options.</p>
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	<h3>U.S. Department of Education's Office of Special Education Programs (OSEP) Guidance in <i>Letter to Trigg</i></h3>
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	<p>Special classes, separate schooling, or other removal of children with disabilities from the regular education environment should occur only when the nature or severity of the child's disability is such that regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily. <i>Letter to Trigg</i>, 50 IDELR 48 (OSEP 2007)</p>
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	<i>Letter to Trigg (cont'd)</i>
	Placement decisions must not be made solely on factors such as category of disability, severity of disability, availability of special education and related services, configuration of the service delivery system, availability of space, or administrative convenience.

	<i>Letter to Trigg (cont'd)</i>
	A school district may have two or more equally appropriate locations that meet a student's special education and related services needs and school administrators should have flexibility to assign a student to a particular school or classroom, provided that decision is consistent with the IEP team's determination of placement.

	<p>U.S. Department of Education’s Office of Special Education and Rehabilitative Services (OSERS) Guidance in <i>Letter to Autin</i></p>
	<ul style="list-style-type: none"> ■ In <i>Letter to Autin</i>, 58 IDELR 51 (OSERS 2012), OSERS stated in response to the proposed establishment of new segregated schools for students with autism in every [New Jersey] county and a new segregated charter school for students with autism that “placements that are determined based solely on the category of a child's disability are not consistent with the regulations.”

	<p>Notice of Placement – § 300.503(b)</p>
	<p>A district must provide enough information in its placement notice for parents to understand why the placement team has concluded that the proposed placement option is the LRE in which the student can receive FAPE. The explanation must contain, at the least, identification of the setting selected and alternative settings that were considered, as well as an explanation of why the proposed option, as opposed to the alternatives, was selected.</p>

	<p>Limited Disclosure about Placement Decisions</p>
	<p>Because the placement notice is intended only to give parents sufficient information to make an informed decision about whether to challenge the district's decision, the district does not have to provide the same detailed explanation of the reasoning supporting its placement decision as it would be required to provide in a due process hearing. <i>Kroot v. District of Columbia</i>, 19 IDELR 378 (D.D.C. 1992).</p>

	<p>Information about Placement Options on Continuum of Placements</p>
	<p>There is no explicit requirement in § 300.503(b) or otherwise in IDEA that parents be notified of all placement options on the continuum of alternative placements. However, OSEP has taken the position that the notice concerning the initial identification of a student as with a disability must inform parents of the continuum of alternative placements available in the district. <i>Letter to New</i>, 211 IDELR 383 (OSEP 1986).</p>

What Do the Courts and Hearing Officers Consider?

***Daniel R.R. v. State Bd. of Educ.*, 441 IDELR 433, 847 F. 2d 1036 (5th Cir. 1989)**

- Can education in the regular classroom with supplemental aids/services be achieved satisfactorily?
- Has the school district mainstreamed the student to the maximum extent possible?

***Daniel R.R. v. State Bd. of Educ.*, (cont'd)**

In determining the LRE/Placement issue, *Daniel R.R.* analyzes answers to the following questions:

1. Does the child's IEP require regular education instructors to devote all or most of their time to the child or to modify the regular education program beyond recognition so that the child is not required to learn any of the skills normally taught in a regular education classroom;
2. Is the child receiving an educational benefit from being in the regular education classroom and grasping elements of the regular education curriculum;
3. Considering that the child may receive non-academic benefits from being in a regular education classroom such as language or behavior/social modeling, does balancing non-academic benefits to educational deficits tip the balance in favor of mainstreaming even if the child cannot flourish academically;
4. Is the child's presence in the regular education classroom disruptive (or positive); and
5. Has the child has been offered a continuum of services.

	<h2 style="text-align: center;">Other Circuit Courts Adopting the Daniel R.R. Test For LRE</h2>
	<ul style="list-style-type: none"> ■ <i>P. v. Newington Bd. of Educ.</i>, 51 IDELR 2 , 546 F.3d 111 (2d Cir. 2008) ■ <i>Oberti v. Board of Educ.</i>, 19 IDELR 908 , 995 F.2d 1204 (3d Cir. 1993) ■ <i>L.B. and J.B. v. Nebo Sch. Dist.</i>, 41 IDELR 206 , 379 F.3d 966 (10th Cir. 2004) ■ <i>Greer v. Rome City Sch. Dist.</i>, 18 IDELR 412 , 950 F.2d 688 (11th Cir. 1991)

	<h2 style="text-align: center;">6th Circuit Test for LRE</h2>
	<p style="text-align: center;"><i>Roncker v Walter</i>, 554 IDELR 381, 554 LRP 7707(6th Cir. 1982), cert denied, 464 US 864, 554 LRP 7707 (1983)</p> <ul style="list-style-type: none"> ■ Court must identify what makes the segregated placement superior and determine whether those services feasibly can be provided in a non-segregated setting. ■ Determine whether marginal benefits received from mainstreaming are far outweighed by the benefits gained from services in segregated setting, or whether the student is a disruptive force in the non-segregated setting. ■ Financial cost of mainstreaming can be a factor ■ Court test affords the proper respect for the IDEA's strong preference in favor of mainstreaming

	<h2 style="margin: 0;">Other Circuit Courts Adopting the Roncker 6th Cir. Test For LRE</h2>
	<ul style="list-style-type: none"> <li data-bbox="446 506 1214 575">■ <i>DeVries v. Fairfax County Sch. Bd.</i>, 441 IDELR 555 , 882 F.2d 876 (4th Cir. 1989) <li data-bbox="446 632 1214 743">■ <i>A.W. v. Northwest R-1 Sch. Dist.</i>, 558 IDELR 294 , 813 F.2d 158 (8th Cir. 1987), <i>cert. denied</i>, 111 LRP 17929 , 484 U.S. 847 (U.S. 1987) <li data-bbox="446 800 1062 869">■ United States Supreme Court has not yet established an LRE legal test!

	<h2 style="margin: 0;">9th Circuit Test for LRE</h2>
	<p data-bbox="516 1346 1235 1457" style="text-align: center;"><i>Sacramento City Unified Sch. Dist., Bd. of Educ. v. Rachel H.</i>, 20 IDELR 812 (9th Cir. 1994)</p> <ul style="list-style-type: none"> <li data-bbox="483 1493 1224 1562">■ What are the educational benefits of a full-time general education placement? <li data-bbox="483 1562 1138 1631">■ What are the nonacademic benefits of a full-time general education placement? <li data-bbox="483 1631 1203 1701">■ What is the effect that the student has on the teacher and other children in the general education class? <li data-bbox="483 1701 1078 1728">■ What is the financial cost of mainstreaming?

	<p>FACTORS IN SUPPORT OF PLACEMENT IN THE REGULAR CLASSROOM</p>
	<ol style="list-style-type: none"> 1. When meaningful educational benefits are being achieved in a regular class, with appropriate supplementary aids and services. Educational benefits are considered to be both academic and nonacademic (behavior). Educational benefits can include development of social and communication skills, increased sense of self-esteem, and language and role modeling. 2. When the regular education program is not modified beyond recognition (where the child is not required to learn any of the skills normally taught in a regular education classroom) 3. When the student's presence in the regular education classroom is not too disruptive. <p style="text-align: center;"><i>See Oberti v. Board of Educ.</i>, 19 IDELR 908 (3d Cir. 1993).</p>

	<p>FACTORS AGAINST PLACEMENT IN REGULAR CLASSROOM</p>
	<p>A district may not be required to place a student in the regular classroom when the student:</p> <ul style="list-style-type: none"> ■ Will not receive a sufficient educational benefit in a regular classroom, even with the provision of supplementary aids and services. <i>Pachl v. Seagren</i>, 46 IDELR 1 (8th Cir. 2006). ■ Requires so much of the teacher's time and attention that he substantially interferes with the learning of others in the classroom. <i>Greenwood v. Wissahickon Sch. Dist.</i>, 50 IDELR 280 (E.D. Pa. 2008), <i>aff'd</i>, 54 IDELR 113 (3d Cir. 2010).

	<p>FACTORS AGAINST PLACEMENT IN REGULAR CLASSROOM (cont'd)</p>
	<ul style="list-style-type: none"> ■ Threatens the safety of other students or poses a danger to himself. <i>See Clyde K. v. Puyallup Sch. Dist.</i>, 21 IDELR 664 (9th Cir. 1994). ■ Engages in significantly disruptive behavior which interferes with the education of classmates. <i>See Renollett v. Independent Sch. Dist. No. 11, Anoka-Hennepin</i>, 45 IDELR 117 (8th Cir. 2006); <i>DeVries v. Fairfax County Sch. Bd.</i>, 882 F.2d 876 (4th Cir. 1989). ■ Will require so much modification in the curriculum that the regular program would have to be altered beyond recognition. <i>See Cody H. v. Bryan Indep. Sch. Dist.</i>, 44 IDELR 211 (S.D. Tex. 2005).

	<p>STUDENT NEED NOT FAIL IN REGULAR EDUCATION BEFORE DISTRICT CAN CONSIDER PLACEMENT OUTSIDE OF THAT SETTING</p>
	<p>A child with a disability need not fail in the regular education environment before a local educational agency can consider or implement a placement in a more restrictive setting. <i>See OSEP Policy Letter</i>, 25 IDELR 1211 (OSEP 1997).</p>

Illustrative Cases

Hartmann v. Loudon County Bd. of Educ.,
26 IDELR 167, 26 LRP 4297 (4th Cir. 1997)

Issue: Whether from a LRE perspective, a student who is autistic and while in a mainstream class engaged in daily episodes of loud screeching and other disruptive conduct such as hitting, pinching, kicking, biting, and removing his clothing should remain in a regular education classroom as opposed to a self-contained structured class for autistic students that also allowed access to regular education art, music, physical education, library, and recess. Student was making no academic progress in the general education classroom.

Illustrative Cases (cont'd)

Hartmann v. Loudon County Bd. of Educ.,
26 IDELR 167, 26 LRP 4297 (4th Cir. 1997)

Held: For the District. School District partial self-contained placement was appropriate. Court confirmed that mainstreaming is not required where (1) the disabled child would not receive an educational benefit from mainstreaming into a regular class; (2) any marginal benefit from mainstreaming would be significantly outweighed by benefits which could feasibly be obtained only in a separate instructional setting; or, (3) the disabled child is a disruptive force in a regular classroom.

Other Illustrative Cases (cont'd)

Heather S. by Mark and Eileen S. v. Niles Township High Sch. Dist. No. 219, 31 IDELR 137, 31 LRP 5760 (N.D. Ill. 1999)

Issue: Whether District's propose placement and total communication program for a 19-year-old student with mental impairment and secondary disabilities involving her speech and language skills were appropriate and met LRE requirements.

Held: For the District. The District's proposed placement complied with the IDEA's mandate to provide FAPE in the LRE. The IDEA only requires mainstreaming to the "maximum extent appropriate," not the "maximum extent possible."

Other Illustrative Cases (cont'd)

Corey H. v. Board of Educ. of the City of Chicago
27 IDELR 713, 27 LRP 4638 (N.D. Ill. 1998)

Issue: Whether the Chicago Public Schools failed to place children with disabilities in the least restrictive educational setting by among other things, impermissibly determining placements based on disability category

Held: For the Parents. The District's primary method of deciding what placement was appropriate for children with disabilities was the child's disability category. Evidence demonstrated children with disabilities were rarely placed in regular education, and district personnel were inadequately trained to assist students with disabilities who were placed in regular education.

	<h2 style="margin: 0;">Other Illustrative Cases (cont'd)</h2>
	<p style="text-align: center;"><i>A.S. by Mr. and Mrs. S. v. Norwalk Bd. of Educ.</i> 36 IDELR 92, 102 LRP 8270 (D. Conn. 2002)</p> <p>Issue: Whether the District failed to place a neurologically and visually impaired student in the least restrictive educational setting.</p> <p>Held: For the Parents. The District should have considered additional services in the regular classroom before recommending the student return to a segregated setting. District's expert admitted no assessment was made of what possible modifications or support services could have been provided in the regular classroom to assist the student in meeting her IEP goals. There was also insufficient evidence that a regular education placement would have a negative impact on nondisabled students, despite the district's claim that the student had a history of disrupting her class. The record reflected that the student's behavior problems were manageable.</p>

	<h2 style="margin: 0;">Other Illustrative Cases (cont'd)</h2>
	<p>Development of social skills must be considered as one educational benefit when comparing regular education and non-inclusive settings when determining least restrictive environment. <i>Girty v. School Dist. of Valley Grove</i>, 35 IDELR 181, 101 LRP 615 (W.D. Pa. 2001), <i>aff'd</i> 37 IDELR 1 (3d Cir. 2002)</p> <p>Court rejected parents' argument that district was required to place student in general education class with nondisabled children to achieve their socialization objectives. <i>Las Virgenes Unified Sch. Dist. v. S.K.</i>, 54 IDELR 289, 110 LRP 35620 (C.D. Cal. 2010).</p>

	<h2>Other Illustrative Cases (cont'd)</h2>
	<p>The term "educational placement" only encompasses the student's placement on the LRE continuum—not a specific location. "Though the parents are afforded input as to the determination of the general characteristics of an appropriate educational placement, they cannot summarily determine a specific placement," <i>K.L.A. v. Windham Southeast Supervisory Union School</i>, 54 IDELR 112, 110 LRP 19259 (2nd Cir. 2010)</p> <p>Cost is no defense if the school district has failed to use its funds to provide a proper continuum of alternative placements for disabled children. <i>Roncker v Walter</i>, 554 IDELR 381, 554 LRP 7707(6th Cir. 1982), <i>cert denied</i>, 464 US 864 554 LRP 7707 (1983)</p>

	<h2>What about Residential Placement?</h2>
	<p>The LRE placement for the 15-year-old student with multiple disabilities, including ADHD, was not a residential placement-before recommending the residential placement for him, the district was required to try less restrictive placements along the LRE continuum. <i>Student v. Ysleta Independent School District</i>, 104 LRP 57639, Docket No. 176-SE-0104 (Aug. 2004)</p>

What about Residential Placement? (cont'd)

The residential placement must be necessary for educational purposes and not primarily due to medical problems or problems within the student's home that are segregable from the learning process. *Burke County Board of Education v. Denton*, 895 F. 2d 973 (4th Cir. 1990).

What about Residential Placement? (cont'd)

Residential placements at public expense are not appropriate under IDEA when a student is progressing adequately at school even though the student may be exhibiting serious behavioral or emotional problems at home or in the community. *Jeffrey M. v. Fort Bend ISD*, Docket No. 217-SE-0302 (SEA TX 2002); *Brandon H. v. Kennewick Sch. Dist. No. 17*, 34 IDELR 145, 34 LRP 34 (E.D. WA 2001).

What about Residential Placement? (cont'd)

A residential placement is not appropriate when lesser restrictive placements can adequately meet a student's needs. *Teague Independent School District v. Todd L.*, 20 IDELR 259, 20 LRP 2229 (5th Cir. 1993).

Practical Advice regarding Placement/LRE Decisions

Do:

- Begin the placement decision process by first considering placement in a regular classroom with any necessary supplemental aids and services
- Consider placement requests from parents
- On at least an annual basis, make placement decisions based on the student's IEP
- Make placement decisions that are appropriate and based the student's individual needs and evaluation
- Remember that the LRE mandate applies to nonacademic and extracurricular activities

	<h2>Practical Advice regarding Placement/LRE Decisions</h2>
	<p>Don't:</p> <ul style="list-style-type: none">■ Predetermine a placement decision prior to IEP meeting and parental input■ Skip down the continuum of placements without justification and supportive data■ Make placement decisions based on a category of disability■ Make placement decisions based on administrative convenience■ Forget to call your school attorney if you get in trouble

	<h2>Thank you!</h2>
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