Determining the Least Restrictive Environment (LRE) in Preschool

TEA
Texas Education Agency

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The Texas Education Agency has developed this document to provide technical assistance to local education agencies (LEAs). The intention of this document is to provide helpful, general information. It does not constitute legal advice nor is it a substitute for consulting with a licensed attorney. The information should not be relied upon as a comprehensive or definitive response to all specific legal situations. This document may not include a complete rendition of federal or state law.

NOTE: Throughout this guide when the term "parent or parents" is used, the term includes the definition aligned to 34 CFR § 300.30. That definition includes biological or adoptive parent, foster parent, guardian, an individual acting in the place of a biological parent with whom the child lives or is legally responsible for the child's welfare, or a surrogate parent as defined in 34 CFR § 300.519.

Overview and Purpose

The Texas Education Agency (TEA) developed a series of technical assistance guidance documents intended for use by Texas educators to support the implementation of services for students who have or are suspected of having disabilities.

This document, Determining the Least Restrictive Environment (LRE) in Preschool, is intended to provide local educational agencies (LEAs) with information on LRE, continuum of services, and placement determinations to support educators and Admission, Review, and Dismissal (ARD) committee members in understanding early childhood educational environments and making informed decisions for students ages 3 through 5 and not in kindergarten who receive Early Childhood Special Education (ECSE) services. This document may be used to assist ARD committees in considering LRE placement determination for children receiving ECSE services.

Early Childhood Special Education

ECSE is a state and federally mandated program for children with disabilities ages 3 through 5 and not in kindergarten. Under the Individuals with Disabilities Education Act (IDEA) Part B, Section 619, eligible children are entitled to receive a free appropriate public education (FAPE) in the LRE in accordance with their individual needs. Children who meet eligibility criteria may receive ECSE services in a variety of settings. These inclusive environments include a wide array of settings throughout the community. Environments can range from public preschool, Head Start, private preschools, or childcare programs.

Definitions

The following terms will be used throughout this document:

Continuum of Services:
The continuum of services for students receiving ECSE encompasses a variety of educational placements where a student's IEP can be effectively implemented. These placement options include:

- General education classrooms
- Special education classrooms
- Community Based
- Combination of Settings
- Home settings
- Separate special education schools
- Hospital and Residential

Least Restrictive Environment (LRE):
LRE is outlined in the IDEA. IDEA requires students with disabilities, including students in public or private institutions or other care facilities, to be educated with students without disabilities to the maximum extent appropriate.

Regular Early Childhood Program:

In 2017, The Office of Special Education Programs (OSEP) reaffirmed its commitment to preschool inclusion by issuing a second Dear Colleague policy letter promoting inclusion in early childhood settings. In the letter, OSEP provided the following clarifications about what constitutes a regular early childhood program:

- The term "regular class" includes a preschool setting with typically developing peers.
- A regular early childhood program includes a majority (at least 50 percent) of nondisabled children (i.e., children without IEPs). This category may include, but is not limited to:
  - Head Start
  - Preschool classes offered to an eligible pre-kindergarten population by the public school system
  - Private preschools
  - Group child development center or childcare
- More informal settings, such as playgroups or home settings, usually do not have to comply with a state's early learning standards or curricula and are therefore not considered regular early childhood programs.

Source: U.S. Department of Education, Office of Special Education Programs. (2017, January 9). "Updated Dear Colleague Letter on Preschool Least Restrictive Environments."

ECSE SPOTLIGHT

"All young children with disabilities should have access to high-quality inclusive early childhood programs that provide individualized and appropriate support so they can fully participate alongside their peers without disabilities, meet high expectations, and achieve their full potential."

- U.S. Department of Health and Human Services and the U.S. Department of Education

Policy Statement on Inclusion of Children with Disabilities in Early Childhood Programs

Least Restrictive Environment

- LRE is a legal requirement within the IDEA.
- The IDEA requires a full continuum of options for placements to educate young children with disabilities.
- LEAs offer services to preschoolers with disabilities in a variety of settings based on the child's individual needs, always considering services in the LRE first.
- 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 child's disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

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When considering the LRE in preschool settings, it is important to remember that ECSE is a special education service provided to students ages 3 through 5 and not in kindergarten. ECSE programs are not limited to a special education classroom or an elementary or early childhood campus.

ECSE is a SERVICE, not a classroom setting.

Continuum of Services

The Policy Statement on Inclusion of Children with Disabilities in Early Childhood Programs states that children with disabilities and their families continue to face significant barriers to accessing and participating in high-quality, inclusive early childhood programs.

- ◆ Young children should have access to high-quality early childhood services and the opportunity to participate in these programs in order to reach their full potential.
- ◆ The provision of services should occur where the child would be if they did not have a disability.
- ◆ Data from the policy statement indicates that too many preschool children with disabilities are receiving services in separate settings rather than in inclusive settings.

It is important for ARD committees to remember that children can receive their special education services in a variety of settings as the continuum of services for ECSE includes a range of interventions and supports tailored to meet the diverse needs of young children with disabilities.

Research supports the benefits of inclusion for young children with and without disabilities. The following are excerpts from current research that support the importance of inclusion in early childhood. These statements can assist in building a mindset of inclusion when developing and expanding the continuum of services in preschool programs.

"Children with disabilities can be effectively educated in inclusive programs using specialized instruction" (Barton and Smith 2014).

"There is no evidence that children with particular types or severity of disabilities are poor candidates for inclusion" (Strain 2014).

"Typically developing children have shown only positive developmental, educational, and attitudinal outcomes from inclusive experiences" (Strain 2014).

"Children with disabilities do not need to be 'ready' to be included. Programs need to be 'ready' to support all children" (Barton and Smith 2014).

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Placement Determination

The ARD committee determines the frequency, location, and duration of special education and related services and has the option to determine that it is appropriate for the preschool student to receive some services in one educational setting and other services in a different educational setting. However, LRE placement decisions should be made and documented in the IEP after the ARD committee has considered the full range of options based on the student's strengths, needs, impact of disability, and the goals, supports, and services required to make progress in appropriate activities and routines. In addition, the IEP must include an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class. IDEA states a strong preference for educating children with disabilities in regular classes alongside their peers without disabilities to the maximum extent appropriate. This allows them to interact with typically developing peers, learn from their peers, and develop social skills.

The Dear Colleague Letter on Preschool Least Restrictive Environment outlines where preschool aged children might receive IDEA services and defines the "regular class" as a "preschool setting with typically developing peers".

Here are some examples of placement determinations for students served in ECSE:

GENERAL EDUCATION CLASSROOM - Example: A child attends a prekindergarten classroom where all children with and without disabilities participate meaningfully with a standard curriculum while addressing student specific needs.

SPECIAL EDUCATION CLASSROOM - Example: A child attends an ECSE program designed specifically for children with disabilities. This program may be located within a public school or an early childhood center. Services are provided in a structured environment tailored to the child's needs.

COMMUNITY-BASED PROGRAM - Example: A child attends a community preschool or daycare that includes both typically developing children and those with disabilities.

COMBINATION OF SETTINGS - Example: A child splits their time between a regular early childhood program and a special education setting. For instance, they might attend a community preschool in the morning and receive specialized services in the afternoon.

HOME SETTING - Example: A child receives ECSE services at home, where a specialist visits regularly to provide individualized instruction and support to both the child and their caregiver(s).

SEPARATE SPECIAL EDUCATION SCHOOL - Example: A child attends a specialized school where the curriculum is specifically designed to address the educational and developmental needs of students with disabilities. It may include individualized instruction in academic, social, and life skills.

HOSPITAL OR RESIDENTIAL SETTING - Example: For children with significant medical or behavior needs, ECSE services may be provided in a hospital or clinic setting. This ensures that the child's medical and educational needs are both addressed.

These examples illustrate the flexibility and variety of placement options available to meet the diverse needs of children in ECSE programs. This range of service delivery options ensures that each student's unique needs are met in the most appropriate and least restrictive environment.

ECSE SPOTLIGHT
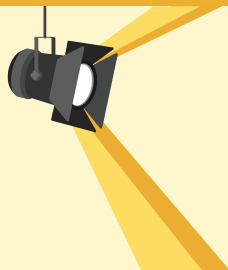
As documented in the U.S. Department of Health and Human Services and the U.S. Department of Education joint policy statement, it is important to remember that children with disabilities, even those with the most significant disabilities and the highest needs, can make significant developmental and learning progress in inclusive settings. However, the regular education inclusive classroom may not be appropriate for some preschool students with disabilities to be successful.

Guiding Questions and Documentation for Placement Determination

The placement options and guiding questions that follow can assist the ARD committee members in discussing the most appropriate placement. Decisions must be individualized to the student and not solely based on a specific disability. The following questions are designed to guide discussion and are not to be used as a required list at every ARD committee meeting. The ARD committee should supplement the discussion with student-specific considerations.

Ask, Consider, and Document

1 ASK:

Where has the child been spending time during the week prior to and during the special education identification process?

CONSIDER:

» If the child is already attending a regular class with typically developing peers

» Whether the early care and education setting where the child has been spending time fits the definition of regular early childhood program

» How the existing program's curricular framework aligns to the Texas Prekindergarten Guidelines

» How other factors may affect opportunities for the family and child to access the educational environment (the spoken language at home is other than English, the family is experiencing economic challenges, etc.)

» Informal settings, including weekly school based or neighborhood playgroups or home settings, are not considered a regular early childhood program for reporting purposes by OSEP because they are generally not required to comply with a state's early learning programs standards or curricula

DOCUMENT:
- » The setting(s) considered and rejected and description of any other factors relevant to the proposed action
- » The reason(s) the setting(s) was/were rejected
- » The setting(s) where the child will be served and any other factors relevant to the proposed actions

2 ASK:

If the child is enrolled in a regular early childhood program, what structures and accountability are in place or could be put in place to ensure the child makes progress in the general curriculum?

CONSIDER:
- » How the child accesses the learning environment, how home language is supported, and how they engage with peers and adults during appropriate activities and routines
- » Whether differentiation of activities occurs regularly for every child
- » Whether or not the child has established connections with peers in the current setting and if the family has made connections with other families in the program

DOCUMENT:
- » The program accommodations, modifications, and other supports
- » The supplementary aids and services

3 ASK:

What, if any, are challenges of the current setting?

CONSIDER:
- » Any barriers to the child's ability to access the appropriate activities and to engage with others, which can include communication needs, physical accessibility, and overall wellbeing
- » Whether the adults in the current setting are skilled in how to meet the child's needs or can be supported to gain the required skills needed
- » Any adjustments to the child's schedule that have been made or if additional adults are needed to support the needs of the child
- » That continuity of care benefits children when there is a need for extended childcare beyond the typical preschool hours
- » Whether there is a need for transportation if the child will be transitioning daily between two separate early childhood programs to address the educational needs identified in the IEP

DOCUMENT:
- » The frequency, location, and duration of the special education and related services
- » The other options that were considered, if any, related to the placement site (school building or school district) including the considered: frequency, location, and duration of the special education and related services, supplementary aids and services, and program accommodations, modifications, and other supports

4 ASK:

If the child is already attending a regular early childhood program, can the IEP be implemented in that setting?

CONSIDER:

» The importance of peer modeling

» The routines within the classroom where specific skills and goals can be addressed

» How specialized instruction and related services would be provided inside the classroom (Address the possible advantages and disadvantages for the majority of the services being provided inside the classroom, or outside of the classroom, and why removal from the regular early childhood program is necessary if services will take place outside the classroom.)

» Whether there is an opportunity to support effective collaboration between general and special educators

DOCUMENT:

» The frequency, location, and duration of the special education and related services

» The program accommodations, modifications, and other supports

» The supplementary aids and services

5 ASK:

How does the ARD committee determine, if services are provided outside of the regular early childhood program, that this is the most appropriate placement?

CONSIDER:

» If individualized and appropriate accommodations and modifications have been provided in the regular early childhood program and after a review of available data, the child has not made satisfactory progress

» Any potential harmful effect on the child or on the quality of services needed by the child as a result of the placement

» The continuum of placements that must be made available to children with disabilities as determined individually by the IEP

» A decision tree and early childhood environment definitions

DOCUMENT:

» The setting(s) considered and rejected and description of any other factors relevant to the proposed action

» The reason(s) the setting(s) was/were rejected

» The setting(s) where the child will be served and any other factors relevant to the proposed actions

» The other options that were considered, if any, related to the placement site (school building or school district) including the considered: frequency, location, and duration of the special education and related services, supplementary aids and services, and program accommodations, modifications, and other supports

» The provision of FAPE (ensure that special education and related services are provided at no cost to the parent)

Note: Special Education and Related Services are Provided at No Cost to the Parent Including:

» Placement in a non-LEA program for the child to receive FAPE in the LRE

» Tuition cost and/or other fees non-LEA programs may charge

» Cost of time required to implement services listed in the IEP

Please review the Early Childhood Technical Assistance (ECTA) guidance: "Making Sound Preschool LRE Decisions" Guiding Questions for Discussing Services in the LRE, for more guiding questions for ARD committees to discuss while making placement decisions.

Conclusion

Determining appropriate LRE in the regular early childhood programs for preschool special education placements can be challenging. Placement options being considered must be made based on the unique needs of the child.

A valuable resource is the US Department of Education and the US Department of Health and Human Services Policy Statement: Inclusion of Children with Disabilities in Early Childhood Programs (Nov. 28, 2023) which states the expectation of inclusion in high-quality early childhood programs; it is imperative that children with disabilities be included at the onset of each of these efforts, and be offered equal opportunities to benefit from these experiences.

All young children with disabilities should have access to high-quality inclusive early childhood programs that provide individualized and appropriate support so they can fully participate alongside their peers without disabilities, meet high expectations, and achieve their full potential.

For additional information on expanding the continuum of services, please visit the following resources:

Resources

• Technical Assistance: Individualized Education Program (IEP) Development

• ECTA Center: Making Sound Preschool LRE Decisions

• ECTA Center: Preschool LRE Reference Points and Discussion Prompts

• IRIS Center Information Brief: Least Restrictive Environment (LRE)

• Policy Statement: Inclusion of Children with Disabilities in Early Childhood Programs