

SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES

Chapter 7

Information on Least Restrictive Environment

TABLE OF CONTENTS

Question	Page
1. What does least restrictive environment (LRE) mean?.....	1
2. What do the terms “mainstreaming,” “integration,” “full inclusion” and “reverse mainstreaming” mean?	1
3. What are the major legislative and judicial provisions of law underlying the least restrictive environment requirement?.....	3
4. What factors may be important in determining whether my child is being educated to the maximum extent appropriate with her non-disabled peers?.....	7
5. Does the district have to provide aids and services to assist my child’s integration? What if the district says that providing those aids and services is too expensive?	8
6. The district told me that my child may not be integrated because she cannot benefit academically from regular class instruction. Is this true?	9
7. Must the district consider using supplementary aids and services in a regular education classroom to address my child’s disruptive behavior before placing her in a more restrictive setting?	10

Information on Least Restrictive Environment

8. What sorts of things may I ask for in the way of supplementary aids and services to assist my child in the regular classroom?11

9. If my child is not placed in a regular classroom, does the district have any LRE obligations with regard to my child’s education?.....12

10. Are there any factors the district may not consider in determining the LRE for my child?13

11. If my child cannot benefit from the regular academic program, can she participate in other school programs?.....13

12. When I develop my child’s IEP, how can I include services and placement in the least restrictive environment? How can the IEP team write this specifically?.14

13. What can be written in the IEP to ensure both an inclusive regular class placement and an appropriate program for my child?17

14. How can I extend integration activities into the community?.....19

15. What if the only educational placement the school district offers my child is a special center for students with disabilities operated by the county?20

16. Could nondisabled students also benefit from services provided to a student with disabilities in a general education classroom?.....21

17. Can the nature or severity of my child’s disability be used to justify a segregated educational setting?.....21

18. Does “LRE” apply to students in public institutions, residential or nonpublic school placements?22

19. What are the obligations of the regular education staff in providing students with integration, full inclusion and mainstreaming opportunities?22

20. What if there is no regular education teacher willing or available to teach my child?24

Information on Least Restrictive Environment

21. If I think my child’s right to an education in the least restrictive environment is being denied, what can I do?.....24

22. How can I ensure that my district has an effective model of integrated services for all students with disabilities?.....25

23. What if my school district tells me that my child can only get related services if she attends school on a segregated site?.....26

24. Is it possible for my child to be in a “resource class” for most of the day and still participate in regular classes?26

25. Do the LRE requirements apply to a preschool-age child? If my district does not offer any preschool for children without disabilities, will my child be able to integrate with any nondisabled children?26

26. My child is transitioning out of high school special education and into more adult programming opportunities. Do the LRE requirements also apply to transition-age students?.....27

27. My child is integrated into the regular classroom during the regular academic year. Should that integrated programming be available during the “extended school year”?.....27

28. What role do parents play in determining the educational placement of their child?.....27

SPECIAL EDUCATION RIGHTS AND RESPONSIBILITIES

Chapter 7

Information on Least Restrictive Environment

1. What does least restrictive environment (LRE) mean?

Least Restrictive Environment (LRE) is the requirement in federal law that students with disabilities receive their education, to the maximum extent appropriate, with nondisabled peers and that special education students are not removed from regular classes unless, even with supplemental aids and services, education in regular classes cannot be achieved satisfactorily. [20 United States Code (U.S.C.) Sec. 1412(a)(5)(A); 34 Code of Federal Regulations (C.F.R.) Sec. 300.114.]

2. What do the terms “mainstreaming,” “integration,” “full inclusion” and “reverse mainstreaming” mean?

None of these terms appears or is defined in federal or state statutes. They are terms that have been developed by educators to describe various ways of meeting the LRE requirements of special education law. As a result, different educational agencies—school districts, county offices or Special Education Local Planning Areas (SELPA)s—may have somewhat different definitions of these terms. The definitions below are the most commonly used. However, when discussing these terms with educators, make sure that you and the educator agree on the meaning of the term.

Mainstreaming refers to placement of a student with disabilities into ongoing activities of regular classrooms so that the child receives education with nondisabled peers — even if special education staff must provide supplementary resource services.

Integration includes mainstreaming into regular classes and access to, inclusion, and participation in the activities of the total school environment. Integration combines placement in public schools with ongoing structured and non-structured opportunities to interact with nondisabled, age-appropriate peers. A student with severe disabilities should be able to participate in many general school activities — such as lunch, assemblies, clubs, dances or recess. The student should also be able to participate in selected activities in regular classes — such as art, music, or computers. The student should also be able to participate in regular academic subjects in regular classes if appropriate curriculum modifications are made and adequate support is provided. The student should be able to use the same facilities as nondisabled students— including hallways, restrooms, libraries, cafeterias and gymnasiums.

Integration can refer to integration of a special education student into a regular education classroom in the same sense as in “mainstreaming.” However, “integration” also refers to placement of students in special education classes located on integrated school sites (that is, sites that have both special and regular education classes). An “integrated” placement includes systematic efforts to maximize interaction between the student with disabilities and nondisabled peers.

Full inclusion refers to the total integration of a student with disabilities into the regular education program — with special support. In full inclusion, the student’s primary placement is in the regular education class. The student has no additional assignment to any special class for students with disabilities. Thus, the student with disabilities is actually a member of the regular education class. She is not being integrated or mainstreamed into the regular education class from a special day class. The student need not be in the class 100% of the time, but can leave the class to receive supplementary services such as speech or physical therapy. For a proposed list of characteristics of a “Full Inclusion” approach to integrated special

education programming, see *Indicators of Fully Inclusive Programs for Students with Disabilities*, Appendices Section, Appendix O.

Reverse mainstreaming refers to the practice of giving opportunities to interact with nondisabled peers to a student who is placed in a self-contained or segregated classroom (or school) or who lives and attends school at a state hospital. It brings nondisabled students to a segregated site or to state hospital classrooms for periods of time to work with or tutor students with disabilities. School districts should not attempt to fulfill the LRE mandate by using reverse mainstreaming exclusively. They should make systematic efforts to get students with disabilities out of special classrooms and into the school's integrated environments. Reverse mainstreaming alone is an artificial means of integration. The Individual Education Program (IEP) team should consider placements that encourage more natural interaction with nondisabled peers.

Special and regular educators must make innovative and systematic efforts to promote positive interactions between students with disabilities (both severely disabled and learning disabled) and their nondisabled peers.

3. What are the major legislative and judicial provisions of law underlying the least restrictive environment requirement?

Federal law provides that each local school district must ensure that:

. . . 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.

[20 U.S.C. Sec. 1412(a)(5)(A); 34 Code of Federal Regulations (C.F.R.) Sec. 300.114(a)(2); Cal. Ed. Code Sec. 56342(b).]

Information on Least Restrictive Environment

In addition, Congress has recognized that a state's method of funding special education services can sometimes encourage districts to place students in specialized settings because of the potential to receive more money. Because of this danger, Congress requires states to develop policies and procedures to assure that their funding systems, if based on type of setting, do not violate the requirements of education in the least restrictive environment. [20 U.S.C. Sec. 1412(a)(5)(B).]

Congress has specifically recognized the importance of education of special education students in regular classes and environments. [20 U.S.C. Secs. 1400(c)(5)(A) & (D).] Congress requires that IEPs include a statement describing how the child's disability affects her involvement and progress in the general curriculum and a statement of annual goals, including benchmarks or short-term objectives that are related to enabling the student to be involved and progress in the general curriculum. [20 U.S.C. Sec. 1414(d)(1)(A)(i); 34 C.F.R. Secs. 300.320(a)(1) & (2).] The statement of services in the IEP must also include statements of:

- (1) The supplemental aids and services to be provided for the student; and
- (2) The program modifications and supports for school personnel to be provided for her to be involved, progress in the general curriculum, and participate in extracurricular and nonacademic activities. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV); 34 C.F.R. Sec. 300.320(a)(4).]

State law provides that:

Students with disabilities shall be offered "special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both." [Cal. Ed. Code Sec. 56001(g).]

Special classes that serve students with similar and more intensive educational needs shall be available. The special classes may enroll the students only when the nature or severity of the disability... is such that education in the regular classes with the use of supplementary aids and services, including curriculum modification and behavioral support, cannot be achieved satisfactorily. These requirements also

Information on Least Restrictive Environment

apply to separate schooling, or other removal of students with special needs from the regular educational environment.

. . . In providing or arranging for the provision of activities, each public agency shall ensure that each [student] participates in those activities with nondisabled students to the maximum extent appropriate to the needs of the [student with a disability], including nonacademic and extracurricular services and activities. . . [Cal. Ed. Code. Sec. 56364.2.]

For students not yet receiving special education, but for whom special education eligibility is being considered, state law provides that:

A student shall be referred for special educational instruction and services only after the resources of the regular education program have been considered and, where appropriate, utilized. [Cal. Ed. Code Sec. 56303.]

Federal regulations provide:

Unless the IEP [individualized education program] of a child with a disability requires some other arrangement, the child is educated in the school that she would attend if non disabled; [and] [i]n selecting the LRE [least restrictive environment], consideration is given to any potential harmful effect on the child or on the quality of services that she needs. [34 C.F.R. Secs. 300.116(c) & (d).]

Numerous federal courts have issued decisions on the issue of special education in the least restrictive environment. For the most part, these decisions have encouraged integrated education and have established a solid trend in this direction. For example,

There is “a presumption that, among the alternative programs of education and training required by statute to be available, placement in a regular public school class is preferable to placement in a special public school class.” [*P.A.R.C. v. Pennsylvania*, 334 F.Supp. 1257 (E.D. PA 1972).]

The court adopted “a presumption that among the alternative programs of education, placement in a regular public school class with appropriate ancillary

Information on Least Restrictive Environment

services is preferable to placement in a special school class. [*Mills v. Board of Education of District of Columbia*, 348 F.Supp. 866 (D. DC 1972).]

The U.S. Supreme Court has stated: “The Act requires participating states to educate handicapped children with non-handicapped children whenever possible. [*Board of Education v. Rowley*, (1982) 458 U.S. 176.]

In California, the federal appeals court has stated that the “congressional preference for educating handicapped children in classrooms with their peers is made unmistakably clear [*Dept. of Educ., State of Hawai'i v. Katherine D.*, 727 F.2d 809 (9th Cir. 1983).]

Another federal court of appeals found that denying access to a regular public school classroom without a compelling education justification constitutes discrimination. [*Tokarcik v. Forest Hills School District*, 655 F.2d 443 (3rd Cir. 1981).]

Furthermore, federal special education law “requires school systems to supplement and realign their resources to move beyond those systems, structures and practices which tend to result in unnecessary segregation of children with disabilities.” [*Oberti v. Board of Education of the Borough of Clementon School District*, 789 F. Supp. 1322 (D.N.J. 1992).]

The courts, including the federal courts in California, have established that the burden is on the school district to prove that a student cannot be educated successfully in the regular classroom. See rulings set forth below:

[T]he District has not justified, to the satisfaction of this reviewing court, its decision to exclude [the student] from a regular classroom. [*Mavis v. Sobol*, 839 F.Supp. 968 (N.D.N.Y. 1994).]

[T]he Act’s strong presumption in favor of mainstreaming...would be turned on its head if parents had to prove that their child was worthy of being included, rather than the school district having to justify a decision to exclude the child from the regular classroom. [*Oberti v. Board of Education*, 995 F.2d 1204 (3rd Cir. 1993).]

The statutory presumption in favor of mainstreaming has been construed as imposing a burden on the school district to prove that a child cannot be mainstreamed. [*Sacramento City Unified School District v. Rachel Holland*, 786 F.Supp. 874 (E.D. Cal. 1992).]

4. What factors may be important in determining whether my child is being educated to the maximum extent appropriate with her non-disabled peers?

In the case of *Sacramento City Unified School District v. Rachel Holland*, the court identified several factors which are critical in analyzing whether a school district's placement recommendation complies with the least restrictive environment mandate. These factors are:

- (1) Educational benefits available to the student with a disability in a regular classroom, supplemented with appropriate aids and services, as compared with educational benefits of a special education classroom;
- (2) Nonacademic benefits of interaction with children who are not disabled;
- (3) Effect on the teacher and the other students in the classroom of the presence of the student with disabilities in terms of disruptive behavior and/or undue consumption of the teacher's time;
- (4) Cost of mainstreaming a student with disabilities in a regular education classroom as compared to the cost of placement of the student in a special education classroom.

No one single factor will determine whether the district has met the LRE mandate. For example, even if a student might make more progress on academic IEP goals in a special class, the IEP team should still consider the second factor regarding nonacademic benefit before determining placement. As long as the progress made is satisfactory, the educational benefit factor of *Holland* is met, even if the progress is not the most that the student could make in another setting.

However, it is clear from court decisions issued since *Holland* that if a student would not benefit from placement in a regular class or environment — that is, she

would not progress toward meeting her IEP goals — placement in a regular classroom is unlikely. [See *Hartmann by Hartmann v. Loudoun County Bd. of Educ.*, 118 F.3d 996 (4th Cir. 1997); *Poolaw v. Bishop*, 67 F.3d 830 (9th Cir. 1995); *County of San Diego v. California Special Education Hearing Office*, 93 F.3d 1458 (9th Cir. 1996).] Some educational benefit must occur. However, in California, the benefit that must occur in order for an IEP and placement to be appropriate is not substantial. The Court in *Holland* stated: “The [IDEA’s] presumption in favor of mainstreaming requires that a [disabled] student be educated in a regular classroom if the student can receive a satisfactory education there, even if it is not the best academic setting for the child.” [786 F. Supp. at 879.] Moreover, the determination of whether a student will make progress toward IEP goals must be made in the context of whether she will make progress if supplementary aids and services are offered to support the student in the regular environment. [20 U.S.C. Sec. 1412(a)(5)(A); 34 C.F.R. Sec. 300.320(a)(4); Cal. Ed. Code Sec. 56345(a)(4).]

5. Does the district have to provide aids and services to assist my child’s integration? What if the district says that providing those aids and services is too expensive?

The district must provide supplementary aids and services to accommodate the special educational needs of students with disabilities in integrated environments. The court in *Oberti v. Bd. of Educ.* stated that a district must take meaningful steps to include students with disabilities in regular classrooms with supplementary aids and services. [789 F.Supp. at 1322.]

In another federal appellate court opinion, *Daniel R.R. v. El Paso Independent School District*, the court said:

The [law] does not permit states to make mere token gestures to accommodate handicapped students; its requirement for modifying and supplementing regular education is broad. [874 F.2d at 1036 (5th Cir. 1989).]

Another federal court opinion, *Roncker v. Walter*, contained the following statements on the LRE issue:

In a case where [a] segregated facility is considered [academically] superior, the court should determine whether the services which make the placement superior could be feasibly provided in a non-segregated setting. If they can, the placement in the segregated school would be inappropriate under the [law]. [700 F.2d at 1058 (6th Cir. 1983).]

The *Roncker* court also noted that:

Cost is a proper factor to consider since excessive spending on one handicapped child deprives other handicapped children. Cost is no defense, however, if the school district has failed to use its funds to provide a proper continuum of alternative placements for handicapped children. The provision of such alternative placements benefits all handicapped children. *Id.*

While the court in *Holland* decided that cost was a consideration in determining the appropriate placement for a child, it found that providing a part-time instructional aide and making academic curriculum modifications would not cost more than a special education placement. [*Holland*, 14 F.3d at 1402.]

Insufficient funds is not a legally sufficient reason for refusing to provide needed services, except, perhaps, when the costs would significantly impact the education of other students in the district.

6. The district told me that my child may not be integrated because she cannot benefit academically from regular class instruction. Is this true?

No. The court in *Holland* noted that mainstreaming requires educating a student with disabilities in a regular classroom if she can receive a satisfactory education there. The court looked at whether the student's IEP goals and objectives could be met in the classroom with some curriculum modification, or by providing supplementary aids and services. The district in *Holland* contended that a student

should be found inappropriate for regular class placement if such placement would require significant modification of the regular curriculum. The court rejected this and found that special education students may require, and be entitled to, substantial curriculum modifications in order to facilitate their benefit from regular class placement. The court stated that “modification of the curriculum for a handicapped child, even dramatic modification, has no significance in and of itself. The IDEA, in its provision for the IEP process, contemplates that the academic curriculum may be modified to accommodate the individual needs of handicapped children.” [*Holland*, 786 F. Supp. at 879-880.]

Another federal appellate court decision contained the following comment on “academic benefit”:

[IDEA] does not require states to offer the same educational experience to a child with disabilities as is generally provided for nondisabled children... To the contrary, states must address the unique needs of a disabled child, recognizing that child may benefit differently from education in the regular classroom than other students... In short, the fact that a child with disabilities will learn differently from her education within a regular classroom does not justify exclusion from that environment. [*Oberti v. Board of Education*, 995 F.2d 1204 (3rd Cir. 1993).]

7. Must the district consider using supplementary aids and services in a regular education classroom to address my child’s disruptive behavior before placing her in a more restrictive setting?

Yes. Before determining that a special education student would be so disruptive that she would significantly impair the education of the other students, the district must consider the full range of supplementary aids and services that could be provided to the student in the regular education environment to accommodate her unique needs. The court in *Sacramento City Unified School District v. Holland* stated that:

“when evaluating the burden that would be created by placing a handicapped child in a regular education class, the school district must consider all reasonable means

to minimize the demands on the teacher: A handicapped child who merely requires more teacher attention than most other children is not likely to be so disruptive as to significantly impair the education of other children. In weighing this factor, the school district must keep in mind its obligation to consider supplemental aids and services that could accommodate a handicapped child's need for additional attention. This factor weighs against placing a handicapped child in regular education only if, after taking all reasonable steps to reduce the burden to the teacher, the other children in the class will still be deprived of their share of the teacher's attention." [786 F. Supp. 874 (E.D. Cal. 1992).]

Federal law requires that an IEP team consider behavior intervention strategies for any student with a disability whose behavior impedes her learning or that of others. [20 U.S.C. Sec. 1414(d)(3)(B)(i); 34 C.F.R. Sec. 300.324(a)(2)(i).]

8. What sorts of things may I ask for in the way of supplementary aids and services to assist my child in the regular classroom?

The federal law defines supplementary aids and services very broadly as: "aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate..." [20 U.S.C. Sec. 1401(33); 34 C.F.R. Secs. 300.42 & 300.114.] Examples of supplemental aids and services that might be used to assist special education students in regular classes include, but are not limited to: a structured learning environment, repeating and simplifying instructions about in-class and homework assignments, supplementing verbal instructions with visual instructions, using behavioral management techniques, adjusting class schedules, modifying test delivery, using tape recorders, computer-aided instruction and other audio-visual equipment, modified textbooks or workbooks, tailoring homework assignments, reducing class size, use of one-on-one tutorials, classroom aides and note takers, involvement of a "services coordinator" to oversee implementation of special programs and services, modification of nonacademic times (such as lunchroom, recess and physical

education). [U.S. Department of Education, Office of Special Education and Rehabilitative Services, Policy Memorandum, September 16, 1993.]

Other examples are: modifications to the regular class curriculum, assistance of an itinerant special education teacher, special education training for the regular teacher, use of computer-assisted devices, and the use of a resource room.

[*Questions and Answers on the Least Restrictive Environment Requirements of the IDEA*, U.S. Department of Education, Office of Special Education and Rehabilitative Services, OSEP-95-9, 11/23/94, Questions and Answers Nos. 3 and 4.]

One federal appellate court described the provision regarding supplemental aids and services as follows: “[The IDEA] does not permit states to make mere token gestures to accommodate handicapped students; its requirement for modifying and supplementing regular education is broad.” [*Daniel R.R. v. El Paso Independent School District*, 874 F.2d 1036 (5th Cir, 1989).]

If your child needs supplementary aids and services, accommodations, or modifications in the regular classroom, you should discuss these supports with the IEP team just like any other educational service or placement. With team agreement, add these educational supports to your child’s IEP.

9. If my child is not placed in a regular classroom, does the district have any LRE obligations with regard to my child’s education?

Even though a student may not be placed in a regular class, the district must still take steps to maximize opportunities for her to interact with nondisabled peers to the extent appropriate to her needs. When the district proposes a placement other than a regular classroom, it must provide written notice to the parents explaining the placement options that were considered and the reasons for rejecting those options. [34 C.F.R. Sec.300.503.] The IEP team must document its rationale for placement in a setting other than the student’s school and classroom, which she would otherwise attend if she did not have a disability. The documentation shall

further indicate why the student's disability prevents her needs from being met in a less restrictive environment even with the use of supplementary aids and services. [5 C.C.R. Sec. 3042(b).]

10. Are there any factors the district may not consider in determining the LRE for my child?

The district may not make placement decisions based **solely** on factors such as the following: category of disability; severity of disability; configuration of delivery systems; availability of educational or related services; availability of space; or administrative convenience. [71 Fed. Reg. 46540, 46588 (Aug. 14, 2006).]

11. If my child cannot benefit from the regular academic program, can she participate in other school programs?

Yes. The law is clear that students with disabilities have the right to participate in nonacademic and extracurricular services and activities to the maximum extent appropriate to their needs. Further, districts must provide these activities in a way that gives students with disabilities an equal opportunity to participate. Such services and activities include meals, recess, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs, and employment opportunities. [34 C.F.R. Secs. 300.117 & 300.107.] Every IEP must include a statement of the special education and related services that will be provided for the student to be involved and participate in extracurricular and other nonacademic activities. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV); 34 C.F.R. Sec. 300.320(a)(4)(ii).]

12. When I develop my child's IEP, how can I include services and placement in the least restrictive environment? How can the IEP team write this specifically?

Academics are not the only measure of educational benefit. [Holland, 786 F. Supp. at 878.] A student with disabilities will have a stronger case for an integrated environment, or regular classroom placement, if her IEP includes goals and benchmarks/objectives that relate to curriculum used in the desired placement.

Federal law requires that special education students have access to, and benefit from, the general education curriculum. All the major components of the IEP should be focused on including special education students in the general curriculum, extra- and co-curricular activities, and achievement testing:

- (1) The statement of a student's present levels of educational performance in the IEP must contain a description of how her disability affects her involvement and progress in the general curriculum (that is, the same curriculum as for nondisabled children) and her ability to participate in extracurricular and other nonacademic activities. [34 C.F.R. Sec. 300.320(a)(1).]
- (2) The statement of goals and benchmarks/objectives (goals) in the IEP must relate to meeting the student's needs that result from her disability and to enable her to be involved and progress in the general curriculum. [34 C.F.R. Sec. 300.320(a)(2)(i)(A).]
- (3) The special education and related services and supplementary aids and services listed in the IEP must be provided to enable the student to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities. [34 C.F.R. Sec. 300.320(a)(4)(ii).]
- (4) The IEP must also contain a statement of any individual modifications used in administering state or district-wide assessments of student achievement. [34 C.F.R. Sec. 300.320(a)(6)(i).]

Goals that are based on the general curriculum need not call for mastery of the subject matter or even for completion of every task or activity. A goal might call for learning only a portion or the first few steps of a skill that nondisabled students

Information on Least Restrictive Environment

might go on to complete. The important factor in analyzing the appropriateness of a placement may be the degree of participation in the activities of the surrounding classroom. In addition, goals that require integrated activities are another means of ensuring integration. A goal might read: “Sandra will participate in a team sport with nondisabled peers three times per week for 45 minutes per activity.” These goals assure your child of regular contact with nondisabled children.

Holland also stressed the importance of nonacademic benefits derived from a regular education classroom placement for students with disabilities. Because of the importance the court in *Holland* gave to nonacademic benefits, the IEP should also include information and goals and benchmarks/objectives related to the nonacademic benefits of an integrated placement. Such benefits for a student with a disability may include language and behavioral models, improved self-esteem and increased motivation for learning, or improved social skills.

If possible, you should meet with your child’s teacher before the IEP meeting or annual review. At the meeting, you and the teacher can identify your priorities for goals, discuss options for integration and/or mainstreaming, and reach a consensus regarding educational priorities. This may help you state your priorities at the IEP meeting itself and is a positive way of developing goals.

Federal law requires that a regular education teacher attend every IEP meeting for any child who is **or may be** participating in the regular education environment. [34 C.F.R. Sec. 300.321(a)(2).] You should meet with this teacher as well as any special education teacher your child might have to give you ideas and information on what goals you might request at the IEP meeting. In addition, you should ask for information about any special or related services, such as supplementary services, behavioral services, and staff support your child may need. This meeting is also an opportunity to suggest to the teachers that they begin to consider program modifications for your child or supports they will need to appropriately educate your child. [34 C.F.R. Sec. 300.320(a)(4).]

State law specifically requires that “[the IEP team] shall document its rationale for placement in other than the student’s school and classroom in which the student would otherwise attend if the student were not handicapped. The documentation

Information on Least Restrictive Environment

shall indicate why the student’s handicap prevents her or her needs from being met in a less restrictive environment even with the use of supplementary aids and services.” [5 C.C.R. Sec. 3042(b).]

In addition, federal and state law requires that the IEP include a statement of the extent to which the student will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(V); 34 C.F.R. 300.320(a)(5).]

You can document your child’s participation with their nondisabled peers by listing specific classes (such as social studies, language arts, music, visual arts or computer science) or specific activities (such as assembly, lunch, recess, and circle time with nondisabled peers) in the IEP. It may also be appropriate for your child to participate in a “buddy” system. A buddy is a nondisabled peer, who assists your child **in or outside** the classroom for certain activities. The goal of the buddy system is to foster interaction and friendship. You should also document this support in the IEP.

In terms of **integration**, you may wish to include contact with general education peers as part of specific goals. This would be a component of the conditions or setting described in the goal. For example:

- (1) Ricardo will use the sign for “hello” to greet nondisabled peers at lunch and on the playground each day;
- (2) Denise will engage in structured games with a nondisabled peer tutor from another class three times per week during leisure periods after lunch; or
- (3) Ying-Lee will begin a self-feeding program by scooping her food at lunch, in the presence of a nondisabled peer.

Integration can, and should be, built into goals across areas of **skill** (communication, mobility, social) and **domain** (vocational, leisure, domestic, community). Contact with nondisabled and less severely disabled students in school may occur during periods such as community skill instruction, food preparation and lunch periods, vocational skill training, etc.

In terms of **mainstreaming or full inclusion**, students who can participate in regular programming or regular classes may require accommodations, modifications, supplementary aids or services within that class in order to learn. these **must** be specifically written into your child's IEP. [34 C.F.R. Sec. 300.320(a)(4).]

The IEP should **specifically describe placement** in the LRE. This can be written in the placement section, in the notes section or in an addendum attached to the IEP. Some examples of placement statements are:

- (1) Placement in a special day class (SDC) on an age-appropriate regular school site with daily opportunities for integration and mainstreaming;
- (2) Placement in fully mainstreamed model kindergarten program that is team taught by special and regular education teachers;
- (3) Placement in a resource specialist program (RSP) for 30% of the school day. Mainstreamed for social studies, math, computers and all nonacademic classes with front row seating and oral testing in all classes;
- (4) Placement at Rosa Parks Elementary School SDC with mainstreaming aide for music, art, homeroom and lunch;
- (5) Placement in SDC at César Chávez High School with integrated and community-based programming as set out in the IEP; or
- (6) Full inclusion placement in a regular education first grade classroom with a full-time instructional aide.

See Appendices Section, Appendix O, *Indicators of Fully Inclusive Programs for Students with Disabilities*, for additional guidance.

13. What can be written in the IEP to ensure both an inclusive regular class placement and an appropriate program for my child?

A well-written and effective IEP for a student who is fully included is one that incorporates three basic principles. First, IEP goals and benchmarks/objectives (goals) must address your child's educational needs. These must be the needs identified in the present levels of educational performance section of the IEP,

which inhibit your child from being involved and progressing in the general education curriculum. Second, if necessary, the educational activities and curriculum used to achieve these goals must be modified so that they are accessible to your child. Third, if educational activities and curriculum are modified, they must still remain related to and based on the activities and curriculum of the general education classroom. In short, your child's IEP should be integrated into the instruction, activities and schedule of the classroom in which she is placed. This is not only what the law requires, but it is necessary for the student to be an included member of the class and not isolated by her materials or activities.

For example, your child may not be skilled at **writing activities** and has IEP goals to address this need. If the rest of the class is keeping a daily journal as part of their learning activities, your child could participate by tracing words or using cut-out letters. If the activity is writing longer narratives, your child might complete the assignment by dictating her answer to another student to write down or by using a tape-recorder. Your child might also use a computer keyboard to assist with identifying and sequencing letters. In this way, IEP goals for written and **spoken language and fine motor skills** could be addressed in the same classroom activity.

For **math**, your child could use manipulatives for counting and adding activities rather than numbers on paper. Math lessons could be limited to fewer problems of the same difficulty, or all the problems of less difficulty. If the rest of the class is completing a sheet of 20 long-division problems, your child's math goal may be to count to 20. Students with disabilities should use the same or very similar materials as those used by the rest of the class, in order to feel like a full member of the class.

This kind of programming requires teachers with skill, creativity, and knowledge of both curriculum and students with disabilities. The collaboration of regular and special education staff is essential in training and supporting the classroom teacher. A successful program may also require the support of an inclusion specialist.

14. How can I extend integration activities into the community?

An important aspect of education for a student with disabilities is how to function appropriately in the community. IEP goals should address integration in the real world environments in which they will function as adults. These include recreation, community, and vocational environments. Skills that will facilitate your child's acceptance (such as social or communication skills) should be incorporated into her educational goals. If this type of programming begins during the school years, successful integration as an adult is much easier to achieve.

You, together with your child's teachers need to first investigate possible community activities in which your child can participate: For example, Boys/Girls Clubs, local gyms, local aerobics classes, local parks, playgrounds, parks and recreation programs, local libraries, movie theaters, restaurants, shopping centers.

From these ideas, you can identify the skills your child needs to learn to participate in the community and build these skills into the IEP. For example:

- (1) Suzanne will learn to independently shop for groceries from a picture list, select items from the shelves, give money and receive change as measured by teacher observation three times per week;
- (2) Given a community work site, Stephen will clear and wipe tables and sweep floors up to competitive standards as measured by teacher and employer observation, for one hour two times per week;
- (3) When at a restaurant, Joseph will order food and appropriately thank server 80% of the time as measured by teacher observation.

Peer tutors or buddies who attend your child's school can also help promote integration in the community. They may be encouraged to:

- (1) Visit your home;
- (2) Invite your child to visit their home; or
- (3) Participate with your child in community-based activities or organizations.

15. What if the only educational placement the school district offers my child is a special center for students with disabilities operated by the county?

Districts must provide a **full continuum of alternative placements** to ensure that students receive services in the least restrictive environment. This includes the following:

- (1) Regular class placement;
- (2) Regular class with resource or itinerant instructional services;
- (3) Regular class with special education related services;
- (4) Special classes or special schools (either of which often also involve the provision of related services);
- (5) Nonpublic schools;
- (6) State schools for students with “low incidence” disabilities; and
- (7) Instruction in settings other than classrooms (such as in homes or hospitals).

[34 C.F.R. Secs. 300.115 & 300.39; Cal. Ed. Code Sec. 56361.]

Longstanding federal and state policy have specifically forbidden placing a student in a segregated setting over a general education setting, if the placement decision is based on administrative factors and not on student needs. A district cannot use lack of appropriate placements as an excuse for denying students their right to an education in the least restrictive environment. [34 C.F.R. Sec. 300.39; Federal Policy Letter on LRE, *Education for the Handicapped Law Reporter (EHLR)* page 211:384, March 21, 1986; CDE, Office of Special Education, Policy Statement on Least Restrictive Environment (October 10, 1986).]

16. Could nondisabled students also benefit from services provided to a student with disabilities in a general education classroom?

Yes. IDEA specifically allows federal special education funds provided to school districts to be used “for the costs of special education and related services and supplementary aids and services provided in a regular class or other education-related setting to a child with a disability in accordance with the IEP of the child, even if one or more nondisabled children benefit from such services.” [20 U.S.C. Sec. 1413(a)(4); 34 C.F.R. Sec. 300.208(a)(1).] This means that a district cannot refuse to provide an instructional or behavioral aide or equipment on the grounds that the aide or device may also benefit, or be utilized by, nondisabled students.

17. Can the nature or severity of my child’s disability be used to justify a segregated educational setting?

All students with disabilities have the right to an education in the LRE based on their individual educational needs rather than the label describing their disabling condition. Just because your child is labeled “severely retarded” or “emotionally disturbed” does not mean that contact with nondisabled students would be inappropriate.

According to the *Holland* case, a district must take all reasonable steps (**including provision of supplemental aids and services**) to reduce the burden to the regular education teacher and the other children in the class before removing a student with a disability from the regular education classroom. Federal law now requires that each IEP contain a statement of the program modifications or supports that school personnel will need so a student can be involved and progress in the general curriculum, can participate in extracurricular and nonacademic activities and be educated with nondisabled students. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV); 34 C.F.R. Sec. 300.320(a)(4).] The court in *Holland* said that merely requiring more attention than most children is not likely to impair the other children’s education. [*Holland*, 786 F. Supp. at 879.]

The law does recognize that the nature or severity of a student's disability may justify removal of a student from the regular class, particularly when the student disrupts other students. However, **total** removal from the regular education environment may not be warranted. The district should still provide opportunities for interaction with nondisabled peers in extra-curricular or nonacademic settings when appropriate. [34 C.F.R. Sec. 300.117.]

18. Does “LRE” apply to students in public institutions, residential or nonpublic school placements?

Yes. Even if your child needs to receive services at a state developmental center or hospital, a residential facility or a nonpublic school placement, appropriate opportunities for participation in regular education programs and activities must be made. Again, this determination is based on the student's individual needs as written in her IEP. [34 C.F.R. Sec. 300.118.] Public Charter Schools are required to serve students with disabilities who are attending those schools in the same manner as these students would be served in other public schools. [20 U.S.C. Sec. 1413(a)(5); 34 C.F.R. Sec. 300.209.]

19. What are the obligations of the regular education staff in providing students with integration, full inclusion and mainstreaming opportunities?

Special education law requires that the IEP specify the supplementary aids and services necessary to ensure a student's participation in the regular education program. [20 U.S.C. Sec. 1414(d)(1)(A)(i)(IV).]

Such arrangements apply to any class or extracurricular activity in which the student might participate. [34 C.F.R. Secs. 300.117 & 300.320(a)(4)(ii).] For example, science, geography, physical education, art, music and vocational education all qualify for such arrangements. **The IEP is binding on the school district. Therefore, both special and regular education personnel must follow its provisions.**

Information on Least Restrictive Environment

In addition, the IEP team must include at least one regular education teacher of the student, if the student is, or may be participating, in general education. [20 U.S.C. Sec. 1414(d)(1)(B)(ii); 34 C.F.R. Sec. 300.321(a)(2).] The regular education teacher must, to the extent appropriate, participate in the development of the IEP, including determination of appropriate positive behavior interventions and strategies, supplementary aids and services, program modifications, and support for school personnel in providing these aids, services and modifications. [20 U.S.C. Sec. 1414(d)(3)(C); 34 C.F.R. Sec. 300.324(a)(3).] The regular education teacher must also participate in the review and any revision of the IEP. [20 U.S.C. Sec. 1414(d)(4)(B).] Also, the district must be represented at every IEP meeting by a school official who is knowledgeable about the general curriculum and about the availability of resources of the district. [20 U.S.C. Sec. 1414(d)(1)(B)(iv); 34 C.F.R. Sec. 300.321(a)(4).]

To ensure cooperation between the regular and special education programs, adequate training and support must be made available to the regular education staff regarding the needs of your child. You can urge your child's regular education teacher to help draft the IEP by voicing her needs for modifications and support services. In addition, technical assistance and training in implementation of the LRE requirement, as well as ongoing monitoring, must be available from the State Department of Education to your local school district. [34 C.F.R. Secs. 300.119 & 300.120.] Lastly, each student's IEP must be made available to all of her teachers and other staff responsible for its implementation and each of them must be informed of their specific responsibilities related to implementing the IEP and the specific supports that must be provided for the student. [34 C.F.R. Sec. 300.323(d)(2).]

The CDE and local school districts have general responsibility to ensure that both regular and special education personnel are adequately prepared to provide instruction to special education students. In fact, the law requires that the IEP contain a statement of the "supports for school personnel" to enable them to educate students in the least restrictive environment. [34 C.F.R. Sec. 300.320(a)(4)(iii); Cal. Ed. Code Sec. 56345(a)(4)]. These "supports" can include in-service training to regular and special education teachers who serve special

education students. This program should include information on the latest educational practices as well as joint training of school personnel and parents. [Cal. Ed. Code Secs. 56001(o), 56240, 56241 & 56243.]

20. What if there is no regular education teacher willing or available to teach my child?

The lack of adequate personnel or resources does not relieve school districts of their obligation to educate a child in the regular classroom in accordance with a decision by her IEP team or a hearing officer. Placement of a student in a particular regular class based on the competencies of the teacher is permitted. The district has an affirmative responsibility to ensure sufficient numbers of regular education teachers who are qualified (with needed aids and supports) to provide services to students with disabilities in regular educational environments. A district “must not make placement decisions based on [its] needs or available resources, including budgetary considerations and the ability of the public agency to hire and recruit qualified staff.” [71 Fed. Reg. 46540, 46587 (Aug. 14, 2006).]

21. If I think my child’s right to an education in the least restrictive environment is being denied, what can I do?

If your child’s IEP calls for a specific integrated placement (or specific amounts of integration activities) and the district is not following the IEP, you can file a compliance complaint with the CDE. If the school refuses to put integrated services or activities that you believe are appropriate into the IEP, you can ask for a due process hearing. See Chapter 6, *Information on Due Process/Compliance Procedures*.

22. How can I ensure that my district has an effective model of integrated services for all students with disabilities?

You can take several actions. For example, you can contact your **Community Advisory Committee (CAC)**. These state-mandated committees, composed of parents, community members, district staff and public agency personnel, are present in every SELPA. [Cal. Ed. Code Secs. 56190 - 56194.] Ask your CAC how the local special education plan addresses integration, what options are currently available, how the CAC plans to participate in and/or monitor integration planning, etc. The CAC may want to arrange for informational presentations from neighboring districts, parent, or university groups that are involved with parallel integration programs. They might also want to schedule a session with their own administration regarding the development of the local plan.

Some school districts and SELPAs have integration task forces (composed of parents, CAC members, teachers, related service personnel, regular and special education administrators, interested disabled and nondisabled community members, regional center, advocacy group representatives, etc.) who have developed cooperative planning efforts with the goal of effective integration. Parents and teachers also help their district evaluate potential school sites for future integration. Finally, some districts/counties have developed board of education policies on integration, full inclusion and mainstreaming at the request of their CAC and/or school administration. A board policy can be highly effective in developing an integration process.

Integration requires careful planning and structure—not a “dump and pray” approach. A cooperative planning group or task force representing all constituencies is essential. If your district will not cooperate in developing integration services, or refuses to write integration language into your child’s IEP, you may use the compliance complaint or due process procedures set up through state and federal law. See Chapter 6, *Information on Due Process /Compliance Procedures*.

23. What if my school district tells me that my child can only get related services if she attends school on a segregated site?

The district cannot use location or availability of related services to justify placement on a segregated site. The district is responsible for providing necessary related services appropriate for the individual student in the least restrictive environment. [34 C.F.R. Sec. 300.116.]

24. Is it possible for my child to be in a “resource class” for most of the day and still participate in regular classes?

Yes. With the approval of the IEP team, a student can be enrolled in the Resource Specialist Program (RSP) for a majority of the school day. If you believe your child could benefit from the regular class environment (or should have the services of a resource teacher more than half of the school day) you should discuss this option with the IEP team just like any other educational service or placement. [Cal. Ed. Code Sec. 56362(e).]

25. Do the LRE requirements apply to a preschool-age child? If my district does not offer any preschool for children without disabilities, will my child be able to integrate with any nondisabled children?

Yes. All of the provisions of federal and state special education law apply to students starting at age three, which includes preschool age special education students. Preschoolers also qualify for “a continuum of alternative placements... to meet the needs of children with disabilities...” [34 C.F.R. Secs. 300.115(b) & 300.116.] Preschoolers, therefore, may receive instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. [34 C.F.R. Sec. 300.115(b).] The LRE requirement for preschoolers may include placement in a Head Start program or private preschool placement.

If a school district operates general education preschool programs, then the requirements for having a general education teacher at every IEP meeting if the child is or may be participating in the general education program apply. [34 C.F.R. Secs. 300.321, 300.324(a)(3) & (b)(3).] See Chapter 13, *Information on Preschool Education Services*.

26. My child is transitioning out of high school special education and into more adult programming opportunities. Do the LRE requirements also apply to transition-age students?

Yes. Federal and state law require that placement be provided in the least restrictive environment. [34 C.F.R. Sec. 300.116(a)(2); Cal. Ed. Code Sec. 56342(b)]. For example, “[t]he goal of transition services is planned movement from secondary education to adult life that provides opportunities which maximize economic and social independence in the least restrictive environment . . .” [Cal. Ed. Code Sec. 56460(e).]

27. My child is integrated into the regular classroom during the regular academic year. Should that integrated programming be available during the “extended school year”?

If “extended school year” (ESY) services are available to regular education students in your school district, and if your child’s IEP includes integration in the regular classroom during the regular academic year, those integrated services must be provided during the extended school year. [5 C.C.R. Sec. 3043(h).]

28. What role do parents play in determining the educational placement of their child?

No. The parent must be part of any group who make a special education placement decision. [20 U.S.C. Sec. 1414(e); 34 C.F.R. sec. 300.327.] In addition, the team — including the parent — that makes placement decisions must be guided

Information on Least Restrictive Environment

by the requirement that special classes, separate schooling or other removals of children with disabilities from general classes only occurs if the nature or severity of the disability is such that education (with supplementary aids and services) cannot be achieved satisfactorily in a general education environment. [34 C.F.R. Sec. 300.114(a)(2)(ii); Cal. Ed. Code Sec. 56342(b).]