



# Teaching Students with Disabilities

**PSEA**  
PENNSYLVANIA STATE  
EDUCATION ASSOCIATION

*Leadership for Public Education*

*LRE, Educational Placement and  
the Gaskin Settlement*

# Least Restrictive Environment Law for IEP Students

*The federal special education law, Individuals with Disabilities Education Act (IDEA) has remained unchanged since its original passage in 1975.*

Least Restrictive Environment (LRE)  
Section 300.550 General LRE requirements:

(a) Except as provided in Section 300.311(b) and (c), a State shall demonstrate to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets the requirements of Sections 300.550-300.356.

(b) Each public agency shall ensure:

- 1) 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 nondisabled; and
- 2) That special classes, separate schooling or other removal of children with disabilities from the regular education environment occurs only if the nature or severity of the disability is such that education in regular classes, with the use of supplementary aids and services, cannot be achieved satisfactorily.

## What are supplementary aids and services?

“Supplementary aids and services” refer to specially designed instruction, adaptations, modifications and accommodations. Examples of supplementary aids and services include:

- Specialized teaching methodology
- Collaborative teaching
- Adapted learning materials
- Paraeducator assistance

- Adapted curricula
- Specialized equipment
- Sign language interpreters
- Braille
- Modified tests
- Auditory systems for hard of hearing students
- Parallel curricula
- Etc.

## What is a “continuum of alternative placements?”

IDEA requires each public agency to ensure a continuum of alternative placements. The list of these alternative placements includes, but is not limited to, instruction in regular classes, special classes, special schools, instruction in hospitals and institutions, and instruction in the home. As these are listed, each is considered to be more restrictive than the one before it, with education in the regular class being the least restrictive of all.

### At what point in the IEP process is the decision on educational placement made?

In “Decisions in Sequence: How to make placements in the least restrictive environment,” (EDLAW, Inc. Vol. II, Issues 9-10) Attorney Jeff Champagne explains:

1. Make the initial eligibility decision for the student.
2. Define and articulate what educational services the child needs, thus answering the question of what constitutes appropriated education for the child.
3. Ask whether these educational services can be provided in a regular classroom in its current form. If the answer is “yes,” that is the educational placement; if the answer is “no,” go to step 4.
4. Ask whether these services can be achieved in a regular classroom if supplementary aids and services are deliv-

ered in that classroom. If the answer is ‘yes,’ that is the educational placement; if the answer is ‘no,’ go to step 5.

5. Move one step along the continuum of alternative placements each one slightly more restrictive or a more segregated setting, asking the same questions as in 3 and 4 above. Repeat if necessary until an affirmative answer is reached.
6. That placement becomes the educational placement.
7. Ask whether, in the context of the educational placement that has been chosen, there are additional opportunities for integration for some portion of the child’s time at school.

*Note: A student is NOT required to “try out” each level of LRE and “fail” before the student moves to a more segregated setting (OSEP memorandum #95-9)*

# Who makes the decision on educational placement for an IEP student?

According to IDEA '04, Section 614 (e) - Educational Placements

Each local educational agency or State Educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

## What does “location” mean when used on an IEP? Is it the same as educational placement?

Location and educational placement are not the same.

Location refers to where the child will be receiving the supplementary aids and services.

### Example:

Supplementary aids and services	Location	Frequency	Projected Beginning Date	Anticipated Duration
Self monitoring check-list	Regular class	All regular classes	12/04/05	12/03/06
Adapted science materials	Regular class	5 x/week	12/04/05	12/03/06
Direct instruction in reading program	Special class	10 periods/week	12/04/05	12/03/06
Digitized communication devices	All environments	Entire school day	1/04/06	12/03/06

## What does “type of service” mean?

### Where does it appear on the IEP?

Type of service refers to the amount of special education instruction received by the child. Chapter 14, 22 PA Code, Section 14.141, Educational Placement lists four types of service:

- 1. Itinerant** - Regular classroom instruction for most of the school day, with special education services and programs provided by special education personnel for part of the school day (either in or outside the regular classroom)
- 2. Resource** - Regular classroom instruction for most of the school day, with special education services and programs provided by special education personnel in a resource room for part of the school day.
- 3. Part-time** - Special education services and programs outside the regular classroom but in a regular school for most of the school day, with some instruction in the regular classroom for part of the school day.
- 4. Full-time** - Special education classes provided for the entire school day, with opportunities for participation in nonacademic and extracurricular activities to the maximum extent appropriate, which may be located in or outside of a regular school.

*Type of service is indicated in Section VII of the IEP, Educational Placement.*

## What are “types of support”?

### Where do they appear on the IEP?

Children are assigned to types of support according to their learning needs. This support may differ from the disability category used for determination of eligibility. A student can receive more than one type of support. In PA there are nine possible types of support:

1. Autistic
2. Blind or visually impaired
3. Deaf or hard of hearing impaired
4. Emotional
5. Learning
6. Life skills
7. Multiple disabilities
8. Physical
9. Speech and language



# Background Information

## Gaskin v. PDE (Settlement date: September 19, 2005)

Gaskin was a class action lawsuit brought on behalf of Pennsylvania public school students with physical, behavioral and developmental disabilities. The action asserted violations of federal statutes protecting the rights of children with disabilities, principally the IDEA. The plaintiff class representatives were twelve significantly disabled public school students. Other plaintiffs include their parents and eleven national and state organizations that advocate for the rights of disabled persons. The defendants were PDE, various PDE officials, and the members of the PA State Board of Education.

The lawsuit, originally filed in 1994, alleges that students with disabilities have been denied their federal statutory right to a free appropriate public education in regular classrooms with necessary supplemental aids and services. In particular, the plaintiffs alleged that PDE had systematically failed to enforce the provisions in federal law requiring local schools and school districts to offer a full continuum of support services allowing disabled children to be educated in regular classrooms.

## Some of the Gaskin settlement provisions:

1. Establishment of an Advisory Panel on Least Restrictive Environment Practices
2. IEP Format will be revised according to settlement
3. Increased compliance monitoring (*see the following*)
4. All parents' complaints regarding LRE will be investigated thoroughly
5. PDE will provide on-site training, technical assistance, and professional development to schools
6. PDE paid parents and fees for parents' attorneys.

### *LRE Monitoring:*

- Tier 1
  - 20 school districts with the lowest LRE Index score
  - Yearly on-site monitoring
  - Corrective Action/Improvement Plan
- Tier 2
  - 30 school districts with the next lowest LRE Index score (excluding Tier 1)
  - Warning designation
  - Possible Improvement Plan
- Tier 3
  - 200 school districts with the next lowest LRE Index scores (excluding Tier 1 and Tier 2 districts)
  - Alert designation
  - Optional Improvement Plan
  - Remaining 251 school districts will receive either targeted or cyclical monitoring as usual.



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