



How States Interpret the LRE Clause of IDEA

A Policy Analysis

How States Interpret the LRE Clause of IDEA: A Policy Analysis

Julia M. White, Meghan Cosier, and Deborah Taub

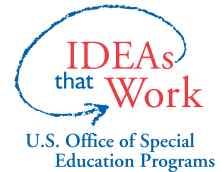
November 2018

All rights reserved. Any or all portions of this document may be reproduced and distributed without prior permission, provided the source is cited as:

White, J. M., Cosier, M., & Taub, D. (2018). *How states interpret the LRE clause of IDEA: A policy analysis*. Minneapolis, MN: University of Minnesota, The TIES Center.



TIES Center is supported through a cooperative agreement between the University of Minnesota (# H326Y170004) and the U.S. Department of Educational Rehabilitative Services (OSERS), Office of Special Education Programs. The Center is affiliated with the National Center on Educational Outcomes (NCEO) which is affiliated with the Institute on Community Integration (ICI) at the College of Education and Human Development, University of Minnesota. The contents of this report were developed under the Cooperative Agreement from the U.S. Department of Education, but does not necessarily represent the policy or opinions of the U.S. Department of Education or Offices within it. Readers should not assume endorsement by the federal government.



Project Officer: Susan Weigert

The National Center on Educational Outcomes (NCEO) leads the TIES Center partnership. There are six additional collaborating partners: Arizona Department of Education, CAST, University of Cincinnati, University of Kentucky, University of North-Carolina–Charlotte, and University of North Carolina–Greensboro.



TIES Center
University of Minnesota
215 Pattee Hall
150 Pillsbury Dr. SE • Minneapolis, MN 55455
Phone 612/626-1530
<http://tiescenter.org>
Email: tiescenter@umn.edu

The University of Minnesota shall provide equal access to and opportunity in its programs, facilities, and employment without regard to race, color, creed, religion, national origin, gender, age, marital status, disability, public assistance status, veteran status, sexual orientation, gender identity, or gender expression.

This document is available in alternative formats upon request.

Executive Summary

The principle of Least Restrictive Environment (LRE) is the cornerstone of the Individuals with Disabilities Education Act (IDEA). The LRE clause of IDEA states that students with disabilities should be included with their nondisabled peers in the general education classroom “to the maximum extent appropriate,” and that they should be removed from the regular education environment only when this education, even with “the use of supplementary aids and services cannot be achieved satisfactorily.” There is wide variability in inclusion rates and placement practices for students with disabilities across the United States. Across states, the percentage of students with disabilities in the general education classroom 80% or more of the time ranged from 37% to 83%. Similarly, for students with disabilities who spend less than 40% of the time in general education, the percentage ranged from 5% to 21% (U.S. Department of Education, 2017).

The purpose of this report is to analyze how states interpret special education regulations associated with the Individuals with Disabilities (IDEA) regulations, specifically around least restrictive environment (LRE), the continuum of alternative placements, and placement for students with disabilities. For each state, a five-step process developed by Ritchie & Spencer (1994) was used to analyze the regulations. This process included: familiarization; thematic development; indexing; charting; and mapping for interpretation. For this analysis it was noted: (a) whether or not states added to IDEA language in their regulations; (b) what language states added to their regulations, if they added to their regulations; and (c) how states organized their regulations. This report highlights any changes in state regulations compared to IDEA regulations, and includes charting of these changes by theme across states.

Findings indicate that there was variation in how states organized the regulations. There was also a range of differences in how states adopted the IDEA regulations: §300.114 (LRE), §300.115 (continuum of alternate placements), and §300.116 (educational placement). Within these broad categories, there were changes from “regular” to “general” education or to the name of the “continuum of alternate placements,” which may have implications in a state’s implementation of the law. Revisions to terminology related to being educated with “children who are nondisabled,” the continuum of alternate placements, and educational placements may provide insight into policy makers’ expectations for students with disabilities. For instance, allowing K-12 placement in nursing homes brings up questions of access to the general education curriculum and opportunities to learn.

This analysis also found wide variation across states in the range of ages that were considered acceptable age spans to be grouped together for educational purposes, which suggests that further study is needed to determine if students in classrooms with wide age spans (which can be six years or more) are truly in the “least restrictive environment” and are able to make progress

in the general education curriculum. The interaction between policy and practice presents an on-going need for reevaluation of intent and praxis that has the potential to spotlight issues that may need to be addressed to improve education and outcomes for students with disabilities. This initial evaluation of differences across states in policies which address LRE and placement provides an important step to examining connections between policy and implementation.

Table of Contents

Executive Summary	iii
Overview	1
Investigating State LRE Regulations	1
Methods.....	3
Results.....	3
Organization of State Regulations Compared to Organization of Federal Regulations	4
Changes in Nomenclature	8
State Revisions to the Federal Language	10
Summary	21
Discussion	22
Recommendations.....	22
References.....	24
Appendix A: Sources of State Policies and Regulations Analyzed in this Report.....	27
Appendix B: Examples of Highlighted Changes by States to Federal (IDEA) LRE Regulations	33
Appendix C: Changes to Federal Regulations by State	41

Overview

The principle of Least Restrictive Environment (LRE) is the cornerstone of the Individuals with Disabilities Education Act (IDEA). The LRE clause in IDEA states that students with disabilities should be included with their nondisabled peers in the general education classroom “to the maximum extent appropriate,” and that they should be removed from the regular education environment only when this education, even with “the use of supplementary aids and services cannot be achieved satisfactorily” (20 U.S.C. 1412 §612(a)(5)(A)). This clause in IDEA creates a presumption of access to general education placements. Nevertheless, it does not create a formal right of access to general education contexts, and in fact, it allows for a continuum of placements outside of general education contexts. States, and subsequently districts and schools, are left on their own to interpret this broad principle of LRE.

Schools, districts, and states across the country vary widely in placement practices for students with disabilities. For all students with disabilities, federal data on placement in general education classrooms is tracked in terms of percentage categories: 80% or more of the time in general education environments, 40-79% of the time in general education environments, and below 40% of the time in general education environments. The most recent data available indicate that percentage of students with disabilities in the general education classroom in 2015 80% or more of the time ranged from 37% in Hawaii to 83% in Alabama (U.S. Department of Education, 2017). Similarly, for less than 40% of the time in general education, the percentage of students with disabilities ranged from 5% in Connecticut to 21% in California.

The 2001 reauthorization of the Elementary and Secondary Education Act (ESEA), known as the No Child Left Behind Act (NCLB), first mandated accountability for the learning of students with disabilities. The reauthorization of IDEA in 2004 confirmed the expectation that all students with disabilities would be included in ESEA accountability. The 2015 reauthorization of ESEA, known as the Every Student Succeeds Act (ESSA), further required access to and involvement and progress in the general education curriculum for students with disabilities, including those with the most significant cognitive disabilities. Although neither ESSA, nor the earlier NCLB, addresses educational environments for students with disabilities, those laws are clearly linked to IDEA and the presumption of placement in general education environments. Yet, these laws and their associated regulations remain open for interpretation by states. A significant lack of uniformity in implementation of the law is apparent.

Investigating State LRE Regulations

Research has shown that placement primarily in a general education setting or primarily in a self-contained setting has implications for students’ academic, social, and post-secondary

outcomes (Blank & Smithson, 2014; Causton, Cosier, Theoharis, & Orsati, 2011; Kurth, Born, & Love, 2016; Ryndak, Morrison, & Sommerstein, 1999; Soukup, Wehmeyer, Bashinski, & Bovaird, 2007; Taub, McCord, & Ryndak, 2017). Yet, there is variation in state regulations that address LRE, likely due to the fact that states are permitted to elaborate on federal language associated with LRE. District administrators and hearing officers use state regulations to justify educational placements and as the basis of hearing decisions on educational placement. Thus, we need to learn more about how states vary in relation to regulation language and placement. The specific research question we sought to answer was:

- How do states interpret special education regulations associated with the federal regulations of IDEA, specifically the regulations for:
 - LRE,
 - continuum of alternative placements, and
 - placement for students with disabilities?

IDEA regulations are organized by subparts. The federal regulations addressed in this report are found in Subpart B, State Eligibility, in the section labeled “Least Restrictive Environment (LRE),” regulations §300.114 through §300.120 (see Table 1), with a focus on three regulations: LRE requirements (§300.114), continuum of alternate placements (§300.115), and placements (§300.116).

Table 1: IDEA Regulations That Address LRE

300.114 LRE requirements.
300.115 Continuum of alternative placements.
300.116 Placements.
300.117 Nonacademic settings.
300.118 Children in public or private institutions.
300.119 Technical assistance and training activities.
300.120 Monitoring activities.

The three regulations of focus here were selected because of a lack of uniformity across states in LRE, differences that may lead to differences in access to the general education curriculum for students with disabilities (Lee, Wehmeyer, Soukup, & Palmer, 2010). Lack of access may, in turn, impact students’ guaranteed right to a Free Appropriate Public Education (FAPE). Recent high-profile cases, such as the U.S. Supreme Court decision in *Endrew F. v. the Douglas County School District*, which emphasized both integration and an education program that is “appropriately ambitious,” point to the need for analyses of state regulations related to LRE and the continuum of alternative placements.

Methods

We conducted several searches to locate state regulations that addressed LRE. The analysis was conducted for all 50 states. These online searches were conducted between January and April of 2018. We first conducted Google searches using the broad search terms “[state] ‘special education regulations’,” “[state] ‘special education rules’,” and “[state] ‘administrative code’ ‘special education’,” with the additional targeted term “least restrictive environment” to identify state regulations, rules, or administrative codes related to special education, specifically to the federal regulations for LRE (34 CFR §300.114), the continuum of alternative placements (34 CFR §300.115), and placement (34 CFR §300.116).

We collated the results and then conducted confirmatory searches of state government and departments of education websites. We also used two websites that collect state special education regulations—the Early Childhood Technical Assistance Center (n.d.) and the Franklin County Law Library (2018)—to ensure that our search was thorough. The source websites and documents that we found are listed in Appendix A.

To analyze state regulations, we followed a 5-step process developed by Ritchie and Spencer (1994). This process includes: familiarization, thematic development, indexing, charting, and mapping for interpretation. Next, we identified and highlighted any changes in state regulations compared to IDEA regulations (see examples of this process in Appendix B), followed by charting these changes by state (see Appendix C). For this analysis it was noted: (a) whether or not states added to IDEA language in their regulations; (b) what language states added to their regulations, if they added to their regulations; and (c) how states organized their regulations. Last, we mapped these changes for interpretation and analysis, identifying themes across states.

Results

The regulations for all 50 states were found to be publicly available on state government websites. One state (Hawaii) published guidelines that must be read in conjunction with its administrative rules, and another state (Texas) published a side-by-side chart that aligns federal regulations, Texas Board of Education Rules, and the Texas Education Code on special education. In addition to collecting state statutes, codes, regulations, and rules, in two states (Idaho and Vermont), we found that they had collected their special education rules into adopted state special education manuals.

All states had adopted both the federal statute of IDEA and the Code of Federal Regulations Part 300. Still, most states had made at least one change to the target regulations. We characterized these changes through the following categories:

- Ways that states organize their regulations in relation to the ways the federal regulations are organized
- Changes in the nomenclature across the three target regulations (§300.114, 300.115, and §300.116)
- State revisions to the federal language
 - Revisions to §300.114, Least Restrictive Environment
 - Revisions to §300.115, Continuum of Alternative Placements
 - Revisions to §300.116, Educational Placement, including placement, student groupings, age spans, and student removals

Organization of State Regulations Compared to Organization of Federal Regulations

Federal regulations are grouped into sections. Regulations §300.114 through §300.120 are grouped under the section heading “Least Restrictive Environment (LRE).” Almost half of the states follow this format when organizing their regulations; more than half do not. State regulations are organized in five ways: (a) wholly adopted federal regulations though sometimes with additional language; (b) aligned with federal regulations, within a section labeled “Least Restrictive Environment” (i.e., used the format in the federal regulations); (c) placed within a section labeled “Placement”; (d) placed within a section labeled with another term; and (e) written as separate articles or sections, that is, not subsumed under a broader section. Table 2 outlines these five organizational approaches.

(a) *Adopted unless otherwise specified.* Four states (Oklahoma, South Carolina, Tennessee, and Wisconsin) constructed their regulations so that IDEA and other federal regulations are adopted unless otherwise specified; therefore, there are not sections within which the target regulations appear. Three of these states (Oklahoma, Tennessee, and Wisconsin) did make specifications beyond wholesale adoption of the regulations. For example, Oklahoma regulations also addressed class size and definitions of placements along the continuum. Wisconsin incorporated a section that in part addressed parental consent for evaluations and placement, while Tennessee addressed homebound placements in depth. Table 3 provides an example of how Wisconsin incorporated language from 34 CFR §300.114 (LRE) and §300.300 (parental consent) into a section on “Educational placements.”

Table 2. Organization of State Regulations Which Address LRE

Organizational Approach	States	Number of States
(a) Wholly adopted federal regulations though sometimes with additional language	Oklahoma South Carolina* Tennessee Wisconsin	4

Table 2. Organization of State Regulations Which Address LRE (continued)

Organizational Approach	States	Number of States
(b) Aligned with federal regulations, within a section labeled “Least Restrictive Environment” (i.e., used the format in the federal regulations)	Alabama Arkansas Arizona Colorado Georgia Hawaii Iowa Louisiana Maine Maryland Mississippi New Mexico North Carolina Pennsylvania Rhode Island South Dakota Vermont Virginia Washington Wyoming	20
(c) Placed within a section labeled “Placement”	Illinois Kentucky Minnesota Nebraska New Hampshire	5
(d) Placed within a section labeled with another term	Florida Indiana Massachusetts Missouri Nevada New Jersey Ohio Utah West Virginia	9
(e) Written as separate articles or sections; that is, not subsumed under a broader section	Alaska California Connecticut Delaware Idaho Kansas Michigan Montana New York North Dakota Oregon Texas	12

* State made no changes to the federal regulations.

Table 3. Adoption of Federal Legislation with Additional Language Example: Wisconsin

<p>Wis. Stats. 115.758 Construction. To the extent possible, this subchapter shall be construed in a manner that is consistent with 20 C 1400 to 1482 and is consistent with the purposes specified in 20 USC 1400 (d).</p> <p>115.79 Educational placements. (1) Each local educational agency shall ensure that all of the following occur:</p> <p>(a) An evaluation is conducted under s. 115.782 before special education and related services are provided to a child with a disability.</p> <p>(b) An educational placement is provided to implement a child's individualized education program. Except as provided in s. 118.51 (12) (b), if a child with a disability is attending a public school in a nonresident school district under s. 118.50, 118.51, or 121.84 (1) (a) or (4), the school board of the school district that the child is attending shall provide an educational placement for the child and shall pay tuition charges instead of the school district in which the child resides if required by the placement.</p> <p>(c) To the maximum extent appropriate, a child with a disability, including a child receiving publicly funded special education in a public or private institution or other care facility, is educated with non-disabled children.</p> <p>(d) Special classes, separate schooling or other removal of a child with a disability from the regular educational environment occurs only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p> <p>(2) A local educational agency shall seek to obtain informed consent from the parent of a child with a disability before providing special education and related services to the child. If the parent of a child with a disability denies consent, the local educational agency shall not provide special education and related services to the child. If the parent of a child with a disability denies consent or does not respond to a request for consent, all of the following apply:</p> <p>(a) The local educational agency is not in violation of the requirement to make available to the child a free appropriate public education.</p> <p>(b) The local educational agency is not required to convene an individualized education program team meeting or to develop an individualized education program for the child for the special education and related services for which the local educational agency sought consent.</p>

(b) Within a section labeled “Least Restrictive Environment.” The regulations of 20 states were written into a section labeled “Least Restrictive Environment.” Some states that followed the exact structure of the LRE section of the federal regulations (§300.114-§300.120) listed their regulations in order, while other states included only some regulations in this section or listed them in a different order. For example, the regulations of Louisiana, Mississippi, North Carolina, Rhode Island, and South Dakota were completely aligned with the structure of the seven federal regulations in LRE sections, while the remaining 15 states in this group incorporated at least a few of the federal LRE regulations in “Least Restrictive Environment” sections.

(c) Within a section labeled “Placement.” The regulations of five states were written into sections with labels related to placement. Illinois regulations were found in a section labeled “Placement,” Kentucky regulations were found in a section labeled “Placement Decisions,” and Minnesota regulations were in “Educational Placement.” Both Nebraska and New Hampshire regulations

were written into sections labeled “Placement of Children with Disabilities.” Table 4 provides an example from the Kentucky Board of Education Administrative Regulations.

Table 4. Placement Section Example: Kentucky

Kentucky Board of Education Administrative Regulations
707 KAR 1:350. Placement decisions.
Section 1. Placement Decisions.
<ul style="list-style-type: none"> (1) An LEA shall ensure that to the maximum extent appropriate, children with disabilities, including children placed by the LEA in public or private institutions or other care facilities, are educated with children who are nondisabled. The LEA shall ensure that special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only if education in the regular education environment with the use of supplementary aids and services cannot be satisfactorily achieved due to the nature or severity of the disability. (2) An LEA shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. (3) The continuum shall include the alternative placements of: <ul style="list-style-type: none"> (a) Instruction in regular classes; (b) Special classes; (c) Special schools; (d) Home instruction; and (e) Instruction in hospitals and institutions. (4) The LEA shall make provision for supplementary services to be provided in conjunction with regular class placement. (5) In determining the educational placement of a child with a disability, the LEA shall ensure that the placement decision is made by the ARC in conformity with the least restrictive environment provisions. (6) A child's placement shall be: <ul style="list-style-type: none"> (a) Determined at least annually; (b) Based on the child's IEP; and (c) As close as possible to the child's home. (7) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he would attend if nondisabled. (8) In selecting the least restrictive environment, consideration shall be given to any potential harmful effects on the child or on the quality of services that he needs. (9) A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. (10) In providing or arranging for the provision of nonacademic and extracurricular services and activities, an LEA shall ensure that a child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of the child.
Section 2. Class Size.

(d) Within a section labeled with another term. Nine states organized their regulations under other terms. Florida and New Jersey's regulations were written into sections that incorporate LRE and placement: “Least restrictive environment and placement determinations” and “Placement in the least restrictive environment,” respectively. Utah and West Virginia wrote their regulations into sections related to the IEP: “IEP Development and Service Delivery” and “IEP

Development,” respectively. Massachusetts and Ohio focused on the services, with sections named “Placement and Service Options” (Massachusetts) and “Delivery of Service” (Ohio). Illinois, Missouri, and Nevada’s regulations were written into sections that broadly captured the section content: “Least restrictive environment and delivery of special education and related services,” “FAPE/IEP/LRE,” and “Restrictions on placement of pupil with disability; continuum of alternative placements; annual determination of placement of pupil,” respectively.

(e) As separate articles. The regulations of 12 states were written as separate articles, not subsumed into a section related to the purpose of the target regulations. For example, Chapter 52 of the Alaska Administrative Code listed “Placement” (§52.150) and “Least restrictive environment” (§52.170) as separate sections. Similarly, the Delaware Administrative Code listed the target regulations as separate articles (see Table 5).

Table 5. Separate Articles Examples: Alaska and Delaware

<p>Alaska Administrative Code</p> <p>4 AAC 52.150. Placement (a) In determining the educational placement of a child with a disability, each district shall ensure that the child’s placement is made in conformance with the requirements of 34 C.F.R. 300.116, as revised as of October 13, 2006, and adopted by reference. (b) If a district determines that the student’s IEP cannot reasonably be implemented within the district, any out-of-district placement shall be determined in the following priority order: (1) first, to the in-state placement option that provides the most practicable access from the district; (2) second, to whatever in-state placement is available; and (3) out-of-state placement only if no in-state placement is available that can provide a FAPE for the child. (c) A district must obtain consent of a child’s parent before a child may be transferred by the district to a school outside of the district in which the child resides.</p> <p>4 AAC 52.170. Least restrictive environment (a) A child with a disability must be placed in the least restrictive environment that can provide a FAPE for the child, in conformance with the requirements of 34 C.F.R. 300.114(a)(2), 300.115, and 300.117, as revised as of October 13, 2006, and adopted by reference. (b) Services and activities provided by a district to a child with a disability in a nonacademic setting must conform to the standards and requirements of C.F.R. 300.305, adopted by reference in 4 AAC 52.120. (c) Each district shall ensure that a hearing aid worn in school by a student with a hearing impairment, including deafness, is functioning properly. (d) Each district shall ensure that the external components of a surgically implanted medical device of a child who is receiving special education and related services is functioning properly, except that a district is not responsible for the post-surgical maintenance, programming, or replacement of the device.</p>
<p>Delaware Administrative Code</p> <p>14 De Admin Code 923.14.0 Least Restrictive Environment (LRE) Requirement</p> <p>14 De Admin Code 923.15.0 Continuum of Alternative Placements</p> <p>14 De Admin Code 923.16.0 Placements</p> <p>14 De Admin Code 925.27.0 Educational Placements in the Least Restrictive Environment</p>

Changes in Nomenclature

Most states made at least one change in adopting the federal regulations related to LRE. However, eight states adopted the federal regulations as is and made no changes in their state regulations

for LRE. The remainder of the states made some changes to their special education regulations related to LRE (34 CFR §300.114), the continuum of alternative placements (34 CFR §300.115), and placement (34 CFR §300.116), these changes are related to nomenclature and elaborations of the three target regulations.

There are two ways that states incorporated name changes into their regulations: (a) renaming educational environment, and (b) revising the name of the continuum of alternative placements.

(a) Change from “regular” education to “general” education. Federal regulations require that students not be removed from the “regular educational environment” or “regular class,” unless a student cannot achieve satisfactorily, even with the use of supplementary aids and services (SAAS). In the federal regulations, “general education” is used primarily to describe the “general education curriculum.” “Regular” education environment” and “regular” class are generally the terms used to indicate the alternatives to special classes or special schools. Seventeen states (Alabama, Georgia, Hawaii, Idaho, Indiana, Iowa, Massachusetts, Mississippi, Missouri, New Jersey, New Mexico, New York, Rhode Island, Vermont, Virginia, Washington, and West Virginia) revised their target regulations so that at least one reference to “regular” education or class is replaced with “general” education. Alabama and Georgia used the term “general education classroom” when referring to service delivery. New Mexico, New York, and Virginia used “general education” environment, classroom, and setting once, and used “regular education” at all other times. Idaho and Hawaii used “regular education” when referring to specific federal regulations, but “general education” when addressing the continuum and placement. The remaining states replaced all references to “regular” with the word “general.”

(b) Change to the name of “continuum of alternative placements.” The regulations of 18 states used a phrase other than “continuum of alternative placements” when referring to 34 CFR §300.115. Most of the changes to these regulations still held to the continuum as a series of places, with eight states keeping “placement” in their revisions. For example, New Jersey referred to the “full continuum of alternative placements.” Two states referred to the continuum as that of services. This does not mean, however, that these two states provided special education and related services only in the general education environment; this refers only to how the states named the continuum. Three states referred to the continuum as both placement and services. Five states used other language in their regulations. For example, California referred to a “continuum of program options,” New Hampshire had a “continuum of alternative learning environments,” and Oregon had “alternative placements and supplementary aids and services.” Table 6 outlines the changes states made to the “continuum of alternative placements.”

Table 6. State Changes to the “Continuum of Alternative Placements”

Continuum: Placement
Delaware: Educational placement options Illinois: Continuum of placement options Indiana: Continuum of placement options Kansas: Continuum of alternative educational placements Louisiana: Continuum of alternative educational placements New Jersey: A full continuum of alternative placements Pennsylvania: Full continuum of placement options West Virginia: Continuum of placement options
Continuum: Services
Arizona: Continuum of services and supports New York: Continuum of services
Continuum: Placement and Services
Iowa: Continuum of alternative services and placements Massachusetts: Placement and service options Rhode Island: Continuum of special education placements and services
Continuum: Other Language
Alabama: LRE continuum New Hampshire: Continuum of alternative learning environments California: Continuum of program options Oregon: Alternative Placements and Supplementary Aids and Services Texas: Instructional arrangements and settings

State Revisions to the Federal Language

This section presents the results of the analysis of language in state regulations compared to IDEA regulations §300.114 to §300.116. The portion of the federal regulations that was compared to the state regulations is presented in a table at the beginning of each section. Changes are grouped by theme and in some cases, specific wording differences are identified by the use of *italics*.

Revisions to Least Restrictive Environment (§300.114)

IDEA regulation language related to LRE is shown in Table 7. Eighteen states (Alaska, Arizona, California, Indiana, Iowa, Montana, Nebraska, New Jersey, New Mexico, Ohio, Pennsylvania, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin) made some change or revision to at least some portion of the federal LRE regulation language.

Table 7. Federal IDEA Regulation: Least Restrictive Environment (34 CFR §300.114)

<p>LRE requirements.</p> <p>(a) General. (1) Except as provided in § 300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§ 300.115 through 300.120.</p> <p>(2) Each public agency must ensure that—</p> <p>(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and (ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p>

The changes made by states are aligned with the parts of the regulation: changes to §300.114(a) (1), general need for policies and procedures; changes to §300.114(2)(i), education with non-disabled children “to the maximum extent appropriate”; changes to §300.114(2)(ii), removal from the regular class; and other revisions to the LRE clause.

Revisions to general need for policies and procedures. Three states articulated that *written* policies and procedures were necessary (Arizona, Indiana, Ohio). Arizona also requires that agencies “*disseminate to its school-based personnel, and make available to parents*” these written policies and procedures. Iowa required that agencies *maintain adequate documentation* to ensure that agencies meet LRE requirements. Nebraska added *approved cooperatives* to the responsible agencies. Two states (New Mexico, Washington) elaborated on “children with disabilities in adult prisons,” with New Mexico noting the exception for “*children with disabilities who are convicted as adults under state law and incarcerated in adult prisons*” and Washington replacing “adult prisons” with “*adult correctional facilities.*”

Revisions to “educated with children who are nondisabled.” Seven states made changes to the portion of the regulation that indicated that students with disabilities should be “educated with children who are nondisabled,” to the maximum extent appropriate. Alaska changed “nondisabled” to “*not children with disabilities,*” and Vermont specified that children with disabilities must be educated with their nondisabled *chronological age* peers *in the school he or she would attend if he or she did not have a disability*. Virginia clarified children with disabilities as “*aged two to 21, inclusive.*” Kansas had one exception to this requirement, “*admission to state institutions.*” Wisconsin clarified that students eligible under this regulation are children “*receiving publicly funded special education*” in public or private institutions or other care facilities. Utah added a parenthetical “(e.g., *nursing homes*)” to “other care facilities.” South Dakota expanded this regulation and added language about requiring coordination between regular and special education programs so that their regulation stated that children with disabilities were educated with children who are nondisabled “*and shall be provided special programs and services to meet their individual needs which are coordinated with the regular educational program.*”

Revisions to special classes and removal of students from regular education. Three states specifically targeted the portion of the regulation that addressed special classes and the removal of students from regular education. New Jersey clarified that removal can only occur due to the nature and severity of the *educational* disability. Pennsylvania clarified the use of *appropriate* supplementary aids and services, and California expanded on SAAS to include “*curriculum modification and behavioral support.*”

Other revisions to LRE regulations. Five states (Montana, New York, Pennsylvania, Utah, and West Virginia) added language to their LRE regulations to either address the appropriateness of an LRE or to elaborate on their LRE regulations. New York took an element from 34 CFR §300.116, “*as close as possible to the student’s home,*” and included this in its LRE rule. Two states (Utah and West Virginia) added language that addressed the appropriateness of particular settings. Utah clarified that a special class or school may be the LRE *in the case of a student who is deaf or hearing impaired* in that it *provides opportunities for direct communication and instruction in the student’s language and communication mode with professional personnel and peers*. Utah also specified that *LRE provisions apply to transition programs and placement*. West Virginia clarified that *an appropriate LRE is one that enables the student to receive IEP services and make reasonable gains toward goals identified in an IEP*. Montana authorized state-operated adult health care facilities to provide special education services to its residents between the ages of 6 and 22. These state-operated adult health care facilities must “*ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child’s special education services, related services, or supplementary aids.*” Pennsylvania added two additional sections that provide restrictions to removing students from the general education classroom. Pennsylvania prohibited removal if the child *cannot achieve at the same level as classmates who do not have disabilities but can, with the full range of supplementary aids and services, make meaningful progress in the goals included in the student’s IEP*. Pennsylvania was the only state that specified a “*full range*” of supplementary aids and services. In addition, in Pennsylvania, a student cannot be removed “*solely because educating the student in the regular education classroom would necessitate additional cost or for administrative convenience.*”

Revisions to Continuum of Alternative Placements (§300.115)

IDEA regulations language related to the continuum of alternative placements is shown in Table 8. Twenty-eight states (Arkansas, California, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Virginia, and West Virginia) made changes or revisions to at least some portion of the federal regulation related to the continuum of alternative placements.

Table 8. Federal IDEA Regulation 34 CFR §300.115, Continuum of alternative placements

(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.
(b) The continuum required in paragraph (a) of this section must—
(1) Include the alternative placements listed in the definition of special education under § 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.

The changes made by states were primarily related to the elaboration of the continuum as found in 34 CFR §300.115(b)(1): regular classes, special classes, special schools, home, and hospitals and institutions. However, some states provided either additional responsible agencies, additional settings to the continuum, additional criteria for appropriate placements, or prohibitions for placements. (See Table 9 for a summary of the revision areas.)

Table 9. States that Made Revisions to Continuum of Alternative Placements Regulation

Ensuring a Continuum (n=3)	Placement Definitions (n = 22 total)			SAAS* (n=2)	Other Considerations (n=6)	Not Permitted (n=2)
	Definition Elaboration (n=7)	Definitions & Class Size/ Caseloads (n=6)	Additions or Elaboration (n=13)			
Nebraska Nevada West Virginia	Delaware Hawaii Indiana Iowa New Hampshire South Dakota West Virginia	Arkansas Kentucky Massachusetts Oklahoma Mississippi New York	California Georgia Illinois Montana Nevada New Hampshire New Jersey New York Rhode Island South Dakota Tennessee Texas Vermont	New Jersey Virginia	Maine Mississippi Missouri Rhode Island South Dakota Virginia	California Oregon

*SAAS = Supplementary Aids and Services.

Ensuring a continuum. Three states’ regulations ensured the continuum of alternative placements. One state, Nebraska, specified that an “*approved cooperative*” is also an agency responsible for ensuring the availability of the continuum of alternative placements. All three states linked the continuum of alternative placements to the IEP. Nebraska required an “*array of placement options*” to implement the IEP. West Virginia required that the “*IEP Team must consider*

an array of services and a continuum of placement options” to meet the individual needs of each student. Similarly, Nevada requires that the placements on its continuum meet the needs of children with disabilities by providing special education and related services “necessary to implement the individualized educational program for each pupil with a disability.”

Placement Definitions. The regulations of 22 states (Arkansas, California, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kentucky, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Rhode Island, South Dakota, Tennessee, Vermont, and West Virginia) elaborated on the definition of the continuum. These changes included additional language describing what is included in each placement along the continuum, adding or elaborating on specific placements along the continuum, as well as addressing class size and case load guidance.

Seven states (Delaware, Hawaii, Indiana, Iowa, New Hampshire, South Dakota, and West Virginia) **elaborated** on the definitions of their continuum of alternative placements, but kept their definitions aligned with the list from the federal regulation. Table 10 provides an example of Indiana’s language about continuum of alternative placements.

Table 10. Indiana’s Continuum of Alternative Placements (511 IAC 7-42-10(b)(4))

<p>(4) Ensure the availability of a continuum of placement options for students in kindergarten through the school year in which students become twenty-two (22) years of age that includes the following:</p> <p>(A) General education classroom with special education and related services provided during the instructional day.</p> <p>(B) Resource room with special education and related services provided outside the general education classroom during the instructional day.</p> <p>(C) Separate classroom in a general education school building with special education and related services provided outside the general education classroom during the instructional day.</p> <p>(D) Separate public or nonpublic nonresidential school or facility with special education and related services provided.</p> <p>(E) Public or nonpublic residential school or facility with special education and related services provided to students living at the school or facility.</p> <p>(F) Homebound or hospital setting with special education and related services provided at the student’s home, a hospital, or other noneducational site selected by the public agency.</p>
--

Six states (Arkansas, Kentucky, Massachusetts, Mississippi, New York, and Oklahoma) delineated both the definitions of the continuum and **caseloads or class size**. For example, New York’s Regulations of the Education Commission Part 200.6 specifies caseloads for various class configurations: no more than twenty for resource teachers ([f][5]); twelve for integrated co-teaching teachers ([g][1]); and between 6 and fifteen students for special class teachers ([h][4]). Mississippi determines teacher unit allocation (essentially class size) by weighting students by placement and required levels of support. Please see Table 11 for the weights a student would receive by their placement and support levels.

Table 11. Mississippi Teacher Unit Allocation Student Weighting Formula (Miss. Dept. of Educ. Title 7, Part 34, Chapter 74, Rule 74.3)

Educational Placement	Levels of Support			
	Minimal <5 hrs/wk	Targeted 5-12.5 hrs/ wk	Sustained >12.5-24 hrs/wk	Intensive 24+ hrs/wk
Regular Education (removed less than 21% of the school day)	1,5	2.9	2.5	3.0
Resourced (removed 21-60% of the school day)		1,5	2.0	
Self-Contained (removed more than 60% of the school day)			2.0	3.0

Thirteen states (California, Georgia, Illinois, Montana, New Hampshire, New Jersey, New York, Nevada, Oklahoma, Rhode Island, Tennessee, Texas, Vermont) **either elaborated** on a particular placement along the continuum **or added** a placement to their continua. Nevada included a *community-based program* in its list of placements along the continuum. Vermont added “*independent schools*” and “*residential facilities*” to its list. South Dakota left the continuum open to “*other settings*” that the “*IEP team shall determine.*” New York added the option of “*integrated co-teaching,*” which was defined as “*the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and nondisabled students,*” not to exceed 12 students with disabilities in a class. New Hampshire, Rhode Island, and Tennessee elaborated extensively on home or hospital instruction. Illinois also elaborated extensively on home and hospital instruction, including instruction “*via telephone or other technological device.*” Similarly, California permitted instruction using *telecommunication*. Georgia and New Jersey added out-of-district or out-of-state placements to their continua. California, Montana, and Texas permitted the use of adult health care facilities and state supported living centers as placements along the continuum. However, although Montana required that adult health care facilities provide special education to its school-aged residents, they were not obligated “*to offer regular educational programs.*”

Supplementary aids and services (SAAS). Two states provided revisions for supplementary aids and services (SAAS). SAAS are supports that should enable students with disabilities to be educated with nondisabled peers in the least restrictive environment to the maximum extent appropriate. New Jersey was the only state that listed supplementary aids and services, which include, but are not limited to: 1. *Curricular or instructional modifications or specialized instructional strategies*; 2. *Assistive technology devices and services as defined in N.J.A.C. 6A:14-1.3*; 3. *Teacher aides*; 4. *Related services*; 5. *Integrated therapies*; 6. *Consultation services*; and 7. *In-class resource programs*. In addition, Virginia amended this portion of the regulation by emphasizing that supplementary aids and services can be provided through the option of

“integrated service delivery, which occurs when some or all goals, including benchmarks and objectives if required, of the student’s IEP are met in the general education setting with age appropriate peers.”

Other considerations. Six states included other, unique considerations in their continuum of alternative placement regulations. Virginia emphasized that *“no single model for the delivery of services to any specific population or category of children with disabilities is acceptable”* and that agencies document all alternatives that were considered and the rationale for the selected placement. South Dakota mandated that along all placements on the continuum, the school day for students *“must be equal in duration to that of a regular public school day unless an adjusted school day is required to meet the individual needs of the child.”* Evoking the language of *Plessy v. Ferguson*, Maine required *“comparable facilities – facilities in which special education services are provided to children with disabilities shall be comparable to those in which regular education is provided to children.”* Mississippi was the only state that mandated access to state- and district-wide assessment programs with appropriate accommodations if necessary. Rhode Island was the only state for which the continuum of services must enable students with disabilities *“to achieve his or her measurable post-secondary goals.”* Finally, Missouri was the only state that indicated that *“a child does not have to fail in the less restrictive options on the continuum before the child is placed in a setting that is appropriate to his or her needs.”*

Not permitted. Oregon prohibited the inclusion of sheltered workshops as an alternative placement on its continuum. California does not permit a contract with a sectarian hospital for instructional services.

Revisions to Educational Placement (§300.116)

Language in IDEA regulations related to placements is shown in Table 12. Twenty-eight states (Alabama, Alaska, California, Delaware, Idaho, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, South Dakota, Texas, Vermont, Virginia, Washington, West Virginia, and Wisconsin) made a number of revisions related to educational placement. As shown in Table 13, the states can be grouped into themes aligned with the federal regulation: determination of placement, school of attendance, harmful effects of placement, removal from the regular classroom, and age appropriateness and student groupings.

Table 12. Federal IDEA Regulation: Placements (34 CFR § 300.116)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—				
(a) The placement decision—				
(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 provisions of this subpart, including §§ 300.114 through 300.118;				
(b) The child's placement—				
(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;				
(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;				
(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				
(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.				

Table 13. States Making Revisions to the Educational Placement Regulation

Criterion				
Determining Placement (n=9)	School of Attendance (n=6)	Harmful Effects (n=4)	Removal from Classroom (n=8)	Age and Groupings (n=11)
Idaho Indiana Iowa Mississippi Missouri New Mexico Virginia Vermont West Virginia	Alaska Louisiana Maryland Massachusetts North Dakota Washington	Iowa Missouri New Jersey Texas	Idaho Indiana Iowa Mississippi Missouri New Mexico Vermont West Virginia	Alabama California Delaware Idaho Iowa Maine Massachusetts New York Pennsylvania Rhode Island West Virginia

Determination of placement. An important aspect of educational placement regulations is the requirement that placement decisions: (a) be made by an IEP team who is knowledgeable about the student; (b) conform to the LRE provisions; (c) are reviewed annually, are based on the child's IEP; and (d) are as close as possible to the child's home. Vermont was the only state that specifically referred to educational placement as the provision of special education and related services, not as a particular site. Six states expanded on this part of the regulation. Kansas included gifted children in its regulation related to educational placement. In addition, Kansas addressed 34 CFR §300.324—parental participation—in its regulation, especially

around notification, arranging for interpreters, and what should happen if a parent does not participate. Nebraska incorporated 34 CFR §300.301—initial evaluations—into its regulation, requiring that a comprehensive evaluation of the child take place before the initial placement of the child. Wisconsin also incorporated parental consent into its placement regulation. Two states specifically addressed the IEP. South Dakota required that provisions are made in placements to implement a child’s IEP and Washington required that the placement “*provides a reasonably high probability of assisting the student to attain his or her annual goals.*” Idaho, Nebraska, Texas, Vermont, and Virginia stressed that the placement is made in conformity with LRE requirements and a child’s unique needs or individual circumstances, and not based on the child’s disability, or in the cases of Idaho and Vermont, on the category of disability.

School of attendance. Six states addressed additional placements to include specific schools or out of state/district placement options. For instance, Louisiana specifically highlighted students with hearing or visual impairments and stated that “*parents shall be informed of all placement options, including the Louisiana School for the Deaf and the Louisiana School for the Visually Impaired that will appropriately meet the students’ unique educational needs.*” Alaska, Massachusetts, and North Dakota included regulations related to placing students outside of a district, and Alaska and North Dakota specifically addressed out-of-state placements. Maryland was the only state that addressed transportation if the student could not be educated in the school he or she would attend if nondisabled. Maryland required that “*the IEP shall document the specialized transportation needs of the student, ... including consideration of the effect transportation may have on the student.*” Maryland also had an extensive section on placement in the home. Maryland and Washington were the only two states that specifically addressed adult correctional facilities. Adopting language from 34 CFR §300.324(d)(2)(i), children in adult prisons, both states allowed for the modification of a student’s IEP “*if there is a demonstrated bona fide security or compelling penological interest that cannot otherwise be accommodated.*”

Harmful effect of placement. Although all states are required to consider any potential harmful effect a placement would have on the child or the quality of services the child needs, three states elaborated on this part of their regulations. New Jersey not only required that consideration be given to the “*potentially beneficial*” or harmful effects but also “*a comparison of the benefits provided in a regular class and the benefits provided in a special education class.*” Three states extended harmful effect protections to both students with and without disabilities. Texas addressed this in the context of placement in a career and technical education classroom and mandated that the IEP team consider that “*enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities.*” Iowa required IEP teams to ask if there is “*a potential detriment to the individual if served in the general classroom and how the individual’s participation in the general classroom will impact the other students.*” Missouri, the only state to specify that a student does not have to fail to move to a more restrictive environment, additionally mandated that placement decisions be made on:

the degree to which the child with a disability will receive educational benefit from regular education (i.e., consideration of the potential positive effects with respect to cognitive, academic, physical, social, or other areas of development); the effect the presence of a child with a disability may have on the regular classroom environment and on the education that the other students are receiving (i.e., description of potential harmful effects for the student with a disability or disruptive effects for students without disabilities); and, the nature and severity of the child's disability (i.e., factors which support a need for alternative instruction which cannot be achieved in the regular class such as extreme distractibility, diverse learning styles, and inability to engage appropriately with other students in academic or social interactions).

Removal from the regular classroom. Nine states specifically addressed the removal of a student with a disability from the regular classroom. Mississippi reiterated the LRE principle in this section of its regulation, and indicated that if the IEP team determined that “full-time” education in the general education classroom cannot be achieved, then the student with disabilities must be included in the general education classroom to the maximum extent appropriate. Both Idaho and West Virginia had requirements beyond the federal regulation by mandating that students with disabilities cannot be removed from the regular classroom solely because of needed *accommodations* and modifications to the general education curriculum. Idaho took this further, listing both *accommodations or adaptations*. Similarly, Vermont required that:

barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs.

Six of these states (Idaho, Indiana, Iowa, Missouri, New Mexico, and Virginia) required written justification as to why the placement team chose the selected placement. Three states (Iowa, Missouri, and New Mexico) had specific procedures that needed to be followed before a student is removed from the regular classroom. Iowa required a series of questions that must be addressed before a child is placed in a special class, such as the reason why the student cannot be in an integrated setting, what supports are needed, and why those supports cannot be provided in an integrated setting. Missouri required that this justification be based on a two-part inquiry:

- A. whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily; if not, then,*
- B. whether the child has been integrated to the maximum extent appropriate.*

Missouri's two-part inquiry also required that teams describe the modifications that were attempted, adopted, or rejected (and why) and observed student results, as well as whether the documented need for significant modifications "*would have an adverse effect on the educational program for other students in the class.*" Finally, New Mexico incorporates 34 CFR §300.503, prior notice by the public agency, into its educational placement regulation, specifically that before a school changes the educational placement of a child, parents must be notified with a description of any other educational placement options that were considered and the reasons those options were rejected. New Mexico was the only state that incorporated requirements from 34 CFR § 300.320(a)(4), that the IEP must "*include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child.*"

Age and student groupings. Eleven states revised the language related to age and student groupings. It is expected that children with disabilities will not be removed from an age-appropriate regular classroom solely because of needed modifications. However, the definition of "age appropriate" varied from state to state. Ten of these states (Alabama, Delaware, Idaho, Iowa, Maine, Massachusetts, New York, Pennsylvania, Rhode Island, and West Virginia) elaborated on or placed limits on placement in "age appropriate regular classrooms." Delaware, Idaho, and West Virginia had separate subsections that reaffirmed that students are placed with similar-age or age-appropriate peers, and Delaware specified that age appropriate means "*chronologically age appropriate.*"

Seven states (Alabama, Iowa, Maine, Massachusetts, New York, Pennsylvania, and Rhode Island) specified age spans. Alabama's regulations were broad, stating that elementary students could be grouped only with other elementary students, and secondary grouped with other secondary students. Massachusetts, New York, Pennsylvania, and Rhode Island required specific age ranges in placements, from three years in New York to four years in the other states. Iowa, Maine, and New York, however, had different age ranges for special classes. Iowa permitted a six-year and Maine a five-year chronological age span in their special classes for students with severe disabilities. New York had "*no chronological age-range limitations*" for students with significant cognitive disabilities.

Three states (California, New York, and Rhode Island) permitted student groupings based on student group characteristics. California permitted special classes that served students with "*similar and more intensive educational needs.*" New York required that students who are placed together for special education "*shall be grouped by similarity of individual needs,*" according to academic, social, physical development, or management needs. Similarly, Rhode Island required that placement "*be based on similarity of student strengths and needs for the purpose of ensuring academic achievement and functional performance.*"

In response to a comment regarding neighborhood schools and 34 CFR §300.116 (Placements), the U.S. Secretary of Education responded that:

In all cases, placement decisions must be individually determined on the basis of each child’s abilities and needs and each child’s IEP, and not 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” (Assistance to States, 2006, p. 46588).

Summary

States have a number of ways of organizing their regulations related to LRE, with 24 states organizing state regulations in the same format as federal regulations, and the remaining 26 states organizing the regulations in ways that did not mirror federal regulations. Only seven states simply adopted the federal regulations “as is,” while the remaining states made some changes to the regulations. The type and magnitude of the change varied by state.

Five states changed some portion of the wording in the regulations indicating students with disabilities should be educated with children without disabilities. These changes, which largely added more specificity, included: (a) changing the phrasing of the word “nondisabled”, (b) adding guidance on who students with disabilities are and who nondisabled peers are, (c) specifying that the peers must be chronological age peers, (d) creating an allowance for the possibility of placement with peers from another age group, and (e) adding language on coordinating placement and services between general and special education.

The regulation related to the “continuum of alternative placements” included much variation, both in how this continuum is referenced and defined. A total of 18 states used a phrase other than “continuum of alternative placements,” with six of those states replacing “placements” with “services.” Furthermore, 28 states elaborated on the definition of continuum of placement by more explicitly describing placement, establishing class size requirements, and in the case of California and Oregon, determining institutions that may not serve as possible placements.

There were also notable changes related directly to removing students from general education environments. For example, six states required written justification for a more restrictive placement, with three of those states requiring specific procedures. Two states (Vermont and West Virginia) prohibited the removal of a student from the general education environment solely because of the need for, not only modifications but also accommodations and adaptations to the curriculum. States must consider the harmful effect on the student in considering the LRE, but three states extend harmful effect protections to both students with and without disabilities.

Discussion

The variability in placement along with the variability in interpretation and the consequent implementation of the LRE principle and associated placement regulations suggest the need to consider the impact of current policies on the placement of students with disabilities. Recently, national policy groups have focused on the consequences of placement, suggesting that placement can have lasting impact on student outcomes. For example, the National Council on Disability (2018) suggested that for students of color, placement can even act as a school-to-prison pipeline.

Since the reauthorization of the Elementary and Secondary Education Act as the No Child Left Behind (NCLB) in 2001, and continuing with the reauthorization of IDEA in 2004, placement has become more important than ever, given the direct impact placement has on access to the general curriculum and on academic outcomes for students with disabilities (Taub, McCord, & Ryndak, 2017). However, little has been done in terms of federal and state policy guidance in relation to preference for placement in general education settings. Nor has there been a systematic investigation into state regulations around placement.

Significant variability in LRE and placement regulations exists. Our analysis showed that states vary in their interpretations of the federal regulations. While some states do not elaborate on federal regulations, others include substantial elaboration or adjustments to federal regulations. Given that policy is to act as a guide for practice, it is no surprise that states vary greatly in terms of placement of students with disabilities along the continuum.

Recommendations

Based on the findings of this analysis, several recommendations are provided about how states might refine the ways in which they address LRE and placement.

- **Provide additional clarity in state regulations regarding the preference for general education associated with LRE.** Courts give deference to “educational experts” and “school authorities” (Gordon, 2006). However, research suggests administrators are often left responsible for interpreting LRE policy, yet they are often uncomfortable with interpreting LRE (O’Laughlin & Lindle, 2015). Thus, decision makers may be unaware of the preference for general education and its implications for post-school outcomes. Additional clarity in regulations may support more well-informed decision making regarding access to general education contexts.
- **Ensure that a high standard is set for justifications to remove from general education settings.** The guidance for removal from a general education setting not only varied across

states, but also lacked clarity even in the instances of elaboration. Given the low access to general education environments for students with intellectual disabilities, autism, multiple disabilities, and emotional/behavioral disabilities (Morningstar, Kurth, & Johnson, 2017), the implementation of a higher standard for removal from the general education environment would provide districts and schools the necessary guidance to make sound decisions.

- **Provide professional development on the use of supplementary aid and services, and ensure that accountability measures are established for proof of implementation.** The term “supplementary aids and services” includes a broad array of options that can support access to general education curriculum and contexts. Research has shown that in testing many students are not receiving individualized accommodations but rather the same small set of options regardless of individualized needs; further, in some cases, the accommodations provided may not actually be effective (Crawford & Ketterlin-Geller, 2013; Rogers, Lazarus, & Thurlow, 2016). There is little research on the efficacy of accommodations during daily instruction. A higher standard for evidence of use and effectiveness of supplementary aids and services may help ensure that schools are making good-faith efforts to include students with disabilities in general education settings. Guidance to districts and schools will support the implementation of good-faith efforts to use and document the use of supplementary aids and services in general education settings prior to considering change of placement.
- **Ensure that policies are implemented as they are intended.** Additional research and information establishing the connection (or disconnect) between the intention of the LRE principle, the interactions of FAPE and LRE, and the actual implementation of policy may help ensure that all students are afforded opportunity to learn (Blank & Smithson, 2014; Chism & Pang, 2014). Although attempts may have been made to clarify LRE and placement, states’ court cases, federal “Dear Colleague” letters, and guidance documents illustrate the multitude of possible implementation questions and associated errors in the implementation of LRE. Considering the variation between and across states in adopting federal regulations, continued unified oversight seems necessary to support equitable opportunity to learn from state to state.

References

- Blank, R.K. (2012). *Closing the opportunity gap for students with disabilities: Analyzing alignment of instruction and standards in English Language Arts and Mathematics* (Kansas EAG State Consortium SEC Special Education Project Report). Retrieved from http://hub.mspnet.org/media/data/2012_Summary_Project_Report_KS_EAG_SEC_Spec_Ed_final_2_20_13.pdf?media_000000008080.pdf.
- Blank, R. K., & Smithson, J. L. (2014). Analysis of opportunity to learn for students with disabilities: Effects of standards-aligned instruction. *Journal of Research in Education*, 24(1), 135-153.
- Causton, J., Cosier, M., Theoharis, G., & Orsati, F. (2011). Does self-contained special education deliver on its promises? A critical inquiry into research and practice. *Journal of Special Education Leadership*, 24(2), 61-78.
- Chism, B., & Pang, V. O. (2014). Transforming education and supporting equity through opportunity to learn standards. *National Forum of Applied Educational Research Journal*, 27(1 & 2), 19-30.
- Crawford, L., & Ketterlin-Geller, L. R. (2013). Middle school teachers' assignment of test accommodations. *The Teacher Educator*, 48(1), 29-45.
- Gordon, S. (2006). Making sense of the inclusion debate under IDEA. *Brigham Young University Education and Law Journal*, 2006, 198-225.
- Kurth, J., Born, K., & Love, H. (2016). Ecobehavioral characteristics of self-contained high school classrooms for students with severe cognitive disability. *Research and Practice for Persons with Severe Disabilities*, 41(4), 227-243.
- Lee, S. H., Wehmeyer, M. L., Soukup, J. H., & Palmer, S. B. (2010). Impact of curriculum modifications on access to the general education curriculum for students with disabilities. *Exceptional Children*, 76, 213-233.
- Morningstar, M, Kurth, J., & Johnson, P. (2017). Examining national trends in educational placements for students with significant disabilities. *Remedial and Special Education*, 38(1), 3-12.
- National Council on Disability. (2018). *IDEA series: The segregation of students with disabilities*. Washington, DC: Author. Retrieved from <https://ncd.gov/policy/education>
- O'Laughlin, L., & Lindle, J. (2015). Principals as political agents in the implementation of IDEA's Least Restrictive Environment mandate. *Educational Policy*, 29(1) 140-161.

Ritchie, J., & Spencer, L. (1994). Qualitative data analysis for applied policy research. In A. Bryman and R. G. Burgess (Eds.), *Analyzing qualitative data* (pp. 173-194). New York: Routledge.

Rogers, C. M., Lazarus, S. S., & Thurlow, M. L. (2016). *A summary of the research on the effects of test accommodations: 2013-2014* (NCEO Report 402). Minneapolis, MN: University of Minnesota, National Center on Educational Outcomes.

Ryndak, D. L., Morrison, A. P., & Sommerstein, L. (1999). Literacy before and after inclusion in general education settings: A case study. *JASH*, 4(1), 5-22.

Soukup, J. H., Wehmeyer, M. L., Bashinski, S. M., & Bovaird, J. A. (2007). Classroom variables and access to the general curriculum for students with disabilities. *Exceptional Children*, 74(1), 101-120.

Taub, D., McCord, J., & Ryndak, D. (2017). Opportunities to Learn for students with extensive support needs: A context of evidence-based practices for all in general education classes. *Journal of Special Education*, 51(3), 127-137.

U.S. Department of Education, Office of Special Education and Rehabilitative Services, Office of Special Education Programs. (2017). *39th annual report to Congress on the implementation of the Individuals with Disabilities Education Act.*, Washington, D.C.: Author.

Appendix A

Sources of State Policies and Regulations Analyzed in this Report

Alabama State Board of Education State Department of Education Rules, Chapter 290-8-9, Special Education Services, Retrieved from <http://www.alsde.edu/sec/ses/Policy/AAC%20290-8-9%2011-4-2013.pdf>

Alaska Admin. Code, Title 4, Chapter 52.150, Placement. Retrieved from <http://www.legis.state.ak.us/basis/aac.asp#4.52.150>

Arizona Admin. Code, Title 7, Chapter 2, Article 4, §R7-2-401H. Retrieved from http://apps.azsos.gov/public_services/Title_07/7-02.pdf

Arkansas Department of Education, Special Education State Rules and Regulations, §§ 13.00, 17.00. Retrieved from <http://www.arkansased.gov/divisions/learning-services/special-education/policy-regulations/state-rules-regulations/sections-1-to-30>

California Education Code, Title 2, Article 4, §§ 56360-56362. Retrieved from https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=56360.&lawCode=EDC

Code of Maine Rules, Maine Unified Special Education Regulation, Title 05-071, Chapter 101, §X.2. Retrieved from <https://www1.maine.gov/doe/specialed/laws/chapter101.pdf>

Code of Maryland Regulations, Title 13A. State Board of Education, Subtitle 05, Chapter 13A.05.01, § 13a.05.01.10. Retrieved from <http://mdrules.elaws.us/comar/13a.05.01.10>

Code of Massachusetts Regulations, Title 603, Chapter 28, §28.06. Retrieved from <http://www.doe.mass.edu/lawsregs/603cmr28.html?section=all>

Department of Education, Colorado State Board of Education, Rules for the Administration of the Exceptional Children's Educational Act 1 CCR 301-8, § 2200-R-5.01(2). Retrieved from <http://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6624&fileName=1%20CCR%20301-8>

Delaware Admin. Code, Title 14, Chapter 925, §§ 14.0-16.0. Retrieved from <http://regulations.delaware.gov/AdminCode/title14/900/923.shtml>

Delaware Admin. Code, Title 14, Chapter 925, § 27.0. Retrieved from <http://regulations.delaware.gov/AdminCode/title14/900/923.pdf>

Early Childhood Technical Assistance Center. (n.d.). *States' Part B regulations and policies*. Retrieved from <http://ectacenter.org/sec619/stateregs.asp>

Florida Admin. Code & Admin. Register, Chapter 6A-6.03028, § (3)(h)(11). Retrieved from <https://www.flrules.org/gateway/RuleNo.asp?title=SPECIAL%20PROGRAMS%20I&ID=6A-6.03028>

Franklin County Law Library. (2018). *Education of children with disabilities: Federal and state laws: 50 state survey of special education laws & regulations*. Retrieved from <http://fclawlib.libguides.com/specialeducation/50statesurvey>

Georgia State Board of Education, State Education Rule 160-4-7-.07, Least Restrictive Environment. Retrieved from <http://www.gadoe.org/External-Affairs-and-Policy/State-Board-of-Education/SBOE%20Rules/160-4-7-.07.pdf>

Hawaii Admin. Rules, Title 8, Subtitle 2, Chapter 60, Subchapter 3, §§ 8-60-15 – 8-60-18. Retrieved from <http://boe.hawaii.gov/policies/AdminRules/Pages/AdminRule60.aspx>

Hawaii Admin. Rules, Chapter 60 Guidelines. Retrieved from <https://www.hawaiipublicschools.org/DOE%20Forms/Special%20Education/Ch60Guidelines.pdf>

Idaho State Board of Education and State Department of Special Education Special Education Manual, Admin. Rules 08, Title 02, Chapter 03, § .004, Chapter 6, Least Restrictive Environment. Retrieved from <http://www.sde.idaho.gov/sped/files/shared/Idaho-Special-Education-Manual-2017-Accessible.pdf>

Illinois Admin. Code, Title 23, Subtitle A, Chapter 1, Subchapter f, Part 226, Subpart D, Placement, §§ 226.300-226.330. Retrieved from <https://www.illinois.gov/hfs/SiteCollectionDocuments/226ark.pdf>

Indiana State Board of Education Admin. Code, Title 511, Article 7, Rule 42, §§ 10-12. Retrieved from <http://www.in.gov/legislative/iac/T05110/A00070.PDF>

Iowa Department of Education, Admin. Rules of Special Education, Title 7, Chapter 41, Division 3, §§ 281—41.114-116. Retrieved from <https://educateiowa.gov/sites/files/ed/documents/Iowa%20Administrative%20Rules%20of%20Special%20Education%202010.pdf>

Kansas Statutes, Article 34, Special Education, Chapter 72, § 3420. Retrieved from http://kslegislature.org/li/b2017_18/statute/072_000_0000_chapter/072_034_0000_article/072_034_0020_section/072_034_0020_k/

Kansas State Department of Education, Admin. Rules, Article 40, § 91-40-21. Retrieved from <http://www.ksde.org/Portals/0/SES/legal/Kansas-Regulations-KAR.pdf>

Kentucky Board of Education Admin. Regs., Title 707, Chapter 1, § 350, Placement Decisions. Retrieved from https://www.fcps.net/cms/lib/KY01807169/Centricity/Domain/2314/KDE_regs.pdf

Louisiana Admin. Code, Title 28, Part 43, Bulletin 1706, Regulations for Implementation of the Children with Exceptionalities Act, Chapter 1, Subchapter C, §§ 114-116. Retrieved from <http://www.doa.la.gov/Pages/osr/lac/LAC-28.aspx>

Michigan Admin. Rules for Special Education, R 340.1722, Rule 22. Retrieved from https://www.michigan.gov/documents/mde/MARSE_Supplemented_with_IDEA_Regs_379598_7.pdf

Minnesota Rules, Chapter 3525 Department of Education, Children with a Disability, § 3525.3010. Retrieved from <https://www.revisor.mn.gov/rules/?id=3525&version=2017-08-21T12:10:39-05:00&format=pdf>

Mississippi Department of Education, Title 7, Part 34, Chapter 74, Rule 74.19, §§ 300.114-116. Retrieved from <http://www.sos.ms.gov/ACCode/00000427c.pdf>

Mississippi Department of Education, Title 7, Part 34, Chapter 74, Rule 74.3, Teacher unit allocation. Retrieved from <http://www.mde.k12.ms.us/sites/default/files/documents/MBE/State%20Board%20Policy/Chapter%2074/Rule%2074.3.pdf>

Missouri Department of Elementary and Secondary Education, State Plan for Special Education, Part B 2017, Regulation 4, § D. Retrieved from <https://dese.mo.gov/sites/default/files/PartBRegIVFAPE-IEP-LREfinal2014.pdf>

Montana Code Annotated 2017, Title 20, Chapter 7, Part 4, § 20-7-411. Retrieved from http://leg.mt.gov/bills/mca/title_0200/chapter_0070/part_0040/section_0110/0200-0070-0040-0110.html

Nebraska Admin. Code, Title 92, Chapter 51, § 008, Placement of Children with Disabilities. Retrieved from http://www.sos.ne.gov/rules-and-regsearch/Rules/Education_Dept_of/Title-92/Chapter-51.pdf

Nevada Admin. Code, Chapter 388, § 388.245. Retrieved from <https://www.leg.state.nv.us/NAC/NAC-388.html#NAC388Sec245>

New Hampshire Standards for the Education of Children with Disabilities, Chapter Ed 1100, Part Ed 1111. Retrieved from http://www.gencourt.state.nh.us/rules/state_agencies/ed1100.html

New Jersey Admin. Code, Chapter 6A:14, Subchapter 4, § 6A:14-4.2. Retrieved from <http://www.nj.gov/education/code/current/title6a/chap14.pdf>

New Mexico Admin. Code 1, Title 6, Chapter 31, § 6.31.2.11.C. Retrieved from <http://164.64.110.239/nmac/parts/title06/06.031.0002.htm>

New York State Education Department, Regulations of the Commissioner of Education, Part 200, § 200.6. Retrieved from <http://www.p12.nysed.gov/specialed/lawsregs/documents/regulations-part-200-oct-2016.pdf>

North Carolina State Board of Education, Policies Governing Services of Children with Disabilities, § NC 1501-3. Retrieved from <http://digital.ncdcr.gov/cdm/ref/collection/p249901coll22/id/257110>

North Dakota Century Code, Chapter 15.1-32, § 15.1-32-14. Retrieved from <http://www.legis.nd.gov/cencode/t15-1c32.html>

Ohio Admin. Code, Chapter 3301-51, § 3301-51-09. Retrieved from <http://codes.ohio.gov/oac/3301-51-09v1>

Oklahoma Admin. Code, Title 210, Chapter 15, Subchapter 13, § 2010:15-13-2, Special education assurances and certifications (Part B). Retrieved from <http://okrules.elaws.us/oac/210:15-13-2>

Oklahoma State Department of Education, Imposed Special Education Policies, § 4, Class Size. Retrieved from <http://sde.ok.gov/sde/sites/ok.gov.sde/files/OSDE%20SES%20Policies.pdf>

Oregon Admin. Rules for Special Education, Chapter 581, Division 15, § 581-015-2245, Retrieved from https://secure.sos.state.or.us/oard/viewSingleRule.action;JSESSIONID_OARD=k7xzrbNSHZAOxQK6wz1bNzNHemViPHqICznkdqfY6ojG5JQDV1Kx!-330355351?ruleVrsnRsn=143389

Pennsylvania Code, Title 22, Part 1, Chapter 14, § 14.144-145 and § 14.144. Retrieved from <http://www.pacode.com/secure/data/022/022toc.html>

Regulations of Connecticut State Agencies, Department of Education, Title 10, §§ 10-76a-1, 10-76d-14. Retrieved from <https://eregulations.ct.gov/eRegsPortal/Browse/getDocument?guid=%7B209BE155-0C00-C417-BB71-399EF3F786BC%7D>

Rhode Island Board of Education Regulations Governing the Education of Children with Disabilities, Subpart B, § 300.114-.116. Retrieved from <http://sos.ri.gov/documents/archives/regdocs/released/pdf/DESE/7377.pdf>

South Carolina State Board of Education Regulation 43-243, Special Education, Education of Students with Disabilities. Retrieved from <https://ed.sc.gov/state-board/state-board-of-education/additional-resources/regulations-table-of-contents/243a16-pdf>

South Dakota Admin. Rules, Article 24:05:28, Least Restrictive Environment. Retrieved from <http://sdlegislature.gov/rules/DisplayRule.aspx?Rule=24:05:28>

Tennessee Rules of the State Board of Education, Chapter 0520-01-09, § 0520-1-9.07. Retrieved from <http://publications.tnsosfiles.com/rules/0520/0520-01/0520-01-09.20171109.pdf>

Texas Admin. Code, State Board of Education Rules, Title 19, Part 2, Chapter 89, Subchapter D, Rule § 89.61-63. Retrieved from [http://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=89&rl=63](http://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=19&pt=2&ch=89&rl=63)

Texas Education Code, Chapter 29, § 29.014. Retrieved from http://framework.esc18.net/Documents/Side_by_Side.pdf

Utah Board of Education Special Education Rules, Chapter III, § III.P. Retrieved from <https://www.schools.utah.gov/file/bff61848-ae42-4265-a654-6dae5f398507>

Vermont State Board of Education Manual of Rules and Practices, Series 2360, Special Education Rules, § 2364, Least Restrictive Environment. Retrieved from <http://education.vermont.gov/sites/aoe/files/documents/edu-state-board-rules-series-2360.pdf>

Virginia Admin. Code, Title 8, Chapter 81, § 20-81-130. Retrieved from <https://law.lis.virginia.gov/admincode/title8/agency20/chapter81/section130/>

Washington Admin. Code, Chapter 392-172A, § 392-172A-02050-02060. Retrieved from <http://apps.leg.wa.gov/wac/default.aspx?cite=392-172A&full=true#392-172A-02050>

West Virginia Code of State Rules, Title 126, Series 16, Policy 2419, Chapter 5, § 2.J. Retrieved from <https://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=49583&Format=PDF>

Wisconsin Statutes, Chapter 115, § 115.79, Educational placements. Retrieved from <http://docs.legis.wisconsin.gov/statutes/statutes/115.pdf>

Wyoming Department of Education Special Education Rules, Chapter 7, § 5(b), Least restrictive environment. Retrieved from https://1ddlxtt2jowkvs672myo6z14-wpengine.netdna-ssl.com/wp-content/uploads/2015/11/chapter_7_rules_march232010.pdf

Appendix B

Examples of Highlighted Changes by States to Federal (IDEA) LRE Regulations

Alabama

290-8-9-.06 Least Restrictive Environment (LRE).

Each public agency must ensure that, to the maximum extent appropriate, children with disabilities *ages 3-21*, including children in public or private institutions or other care facilities, are educated with children who are nondisabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(1) *LRE Determination*. In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must *develop and implement procedures* to ensure that the *child's* placement is:

- (a) Determined at least annually, by a group that includes the parents of the child,
- (b) Based on *his or her* IEP,
- (c) As close as possible to the child's home,
- (d) In the school where he or she would be educated if nondisabled, unless the IEP requires some other arrangement, *[slightly reworded]*
- (e) Selected, giving consideration to any potential harmful effect on the child or the quality of services that he/she needs, *[slightly reworded]*
- (f) In age-appropriate regular classrooms and not removed based solely on needed modifications in the general education curriculum, and
- (g) Is made in conformity with the LRE provisions in this section.

(3) *LRE Continuum*. Public agencies must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. Provisions must be made for supplementary *aids and* services in conjunction with placement in the regular *education* class placement. The continuum of alternative placements must include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

(4) *Service Delivery*. *Students who are provided special education services in settings other than the student's general education classroom (i.e., resource, self-contained) must be provided services as follows:*

- (a) *Elementary students with disabilities may only be served with other elementary school-aged students.*
- (b) *Secondary students with disabilities may only be served with other secondary school-aged students.*

Mississippi

300.114 LRE requirements

(a) *General.*

(1) *Each public agency in Mississippi must have in effect policies and procedures to ensure the LRE requirements as stated below are being met.*

(2) Each public agency must ensure that—

- (i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (ii) Special classes, separate schooling, or other removal of children with disabilities from the *general* educational environment occurs only if the nature or severity of the disability is such that education in *general education* classes with the use of supplementary aids and services cannot be achieved satisfactorily.

300.115 Continuum of alternative placements

(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. (b) *The continuum of alternative placements available to meet the needs of children with disabilities for special education and related services must—*

- (1) Include the alternative placements listed in the definition of special education under §300.39 (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 *general education* class placement.
- (3) *Provide access to general statewide and district-wide assessment programs, with appropriate accommodations, where necessary.*

300.116 Placements

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—

(a) The placement decision—

- (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 provisions of these regulations;

(b) The child's placement—

- (1) Is determined at least annually;
- (2) Is based on the child's IEP; and⁷⁰
- (3) Is as close as possible to the child's home;
- (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;

- (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
- (e) A child with a disability is not removed from education in age-appropriate *general education* classrooms solely because of needed modifications in the general education curriculum. *If the IEP committee determines that “full-time” education in the general education classroom cannot be achieved satisfactorily, the student with disabilities must be included in the general education classroom to the maximum extent appropriate.*

Rule 74.3 Teacher Unit Allocation

2. Educational Placement

The first factor in determining the teacher unit allocation is the educational placement of students with disabilities. These placements represent options along the least restrictive environment continuum. [and describes continuum, class size, etc.]

Nebraska

008 Placement of Children With Disabilities

008.01 Least Restrictive Environment (LRE) Requirements

008.01A *The school district or approved cooperative shall establish policies and procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or nonpublic schools and approved service agencies, are educated with children who are not disabled, and that 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 is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.*

008.01B Before any action is taken with respect to the initial placement of a child with disabilities, the school district or approved cooperative shall be responsible for the provision of a comprehensive individual multidisciplinary evaluation of the child’s development and educational needs.

008.01C In determining the educational placement of a child with a disability, including a preschool child with a disability, *school districts and approved cooperatives* must ensure that:

008.01C1 The placement decision 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

008.01C2 The placement decision is made in conformity with the least restrictive environment requirements in 92 NAC 51-008.01 *and based on the child’s unique needs and not on the child’s disability.*

008.01D Each *school district or approved cooperative* must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

008.01D1 The continuum must:

008.01D1a Include instruction in regular classes, special classes, special schools, home instruction and instruction in hospitals and institutions; and

008.01D1b Make provision for supplementary services (such as resource or itinerant instruction) to be provided in conjunction with regular class placement.

008.01E The *school district or approved cooperative* shall ensure that the educational placement of a child *with a verified disability*:

008.01E1 Is determined at least annually;

008.01E2 Is based on his or her individualized education program (IEP); and

008.01E3 Is as close as possible to the child's home.

008.01F *The various array of placement options included under 92 NAC 51-008.01D must be available to the extent necessary to implement the individualized education program for each child with a verified disability.*

008.01G Unless a child's IEP requires some other arrangement, the child must be educated in the school which he or she would attend if not disabled.

008.01H In selecting the least restrictive environment, consideration must be given to any potential harmful effect on the child or on the quality of services which he or she needs.

008.01I A child with a disability must not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Nevada

NAC 388.245 Restrictions on placement of pupil with disability; continuum of alternative placements; annual determination of placement of pupil. (NRS 385.080, 388.520)

1. *A pupil with a disability may not be placed in a special class or in a school different than the one the pupil would normally attend, or otherwise removed from the regular educational environment, unless:*

(a) *The pupil's individualized educational program otherwise provides; and*

(b) The nature or severity of the disability of the pupil is such that, even with the use of supplementary aids and services, the pupil cannot be educated satisfactorily in the regular educational environment.

➔ A pupil with a disability, including a pupil in a public or private institution or other care facility, must be educated with pupils who are not disabled to the maximum extent appropriate

and may not be removed from an age-appropriate regular classroom solely because the pupil needs modification to the general curriculum.

2. A public agency shall *provide* a continuum of alternative placements to meet the needs of *any pupil* with a disability for special education and related services *necessary to implement the individualized educational program for each pupil with a disability. This continuum must include, as appropriate:*

- (a) *Consultative and supplementary services provided with regular class placement; and*
- (b) *Instructing the pupil in:*
 - (1) *A regular class;*
 - (2) *A special class;*
 - (3) *A special school;*
 - (4) *A community-based program;*
 - (5) *The pupil's home;*
 - (6) *A hospital; or*
 - (7) *An institution.*

3. *In the case of a program of early childhood special education, the continuum of alternative placements required by subsection 2 may include, as appropriate:*

- (a) *An integrated or self-contained center-based program in a regular or special school;*
- (b) *A home-based program;*
- (c) *An itinerant consultant working with a community-based facility; or*
- (d) *Instruction of the pupil in a hospital or institution.*

➔ *As used in this subsection, "center-based program" means a program in which a group of pupils receives services at a central location.*

4. *In developing a pupil's individualized educational program, the committee which develops the program shall provide for the least restrictive environment to the maximum extent appropriate. In making this determination, the committee shall consider any potential harmful effects on the pupil and the quality of services required by the pupil. The committee shall provide for the placement of the pupil in a regular class unless the committee determines that the pupil cannot receive an appropriate education in a regular class, even with supplementary aids and services. The basis for any such determination must be clearly set forth in the individualized educational program of the pupil.*

5 *Unless the needs or performance of the pupil preclude such participation, a pupil with a disability must be allowed to participate with pupils who are not disabled at mealtime, recess, or any other nonacademic or extracurricular activity occurring at school for the maximum extent appropriate and the public agency shall ensure that the pupil receives the supplementary aids and services determined appropriate by the individualized educational program committee for the pupil to participate in those activities. If a pupil with a disability is excluded from such participation because of the pupil's needs or performance, the basis for the exclusion must be clearly set forth in the individualized educational program of the pupil.*

6. The placement of a pupil with a disability must be determined at least annually by a group of persons, including, *without limitation*, the parents of the pupil and other persons who are knowledgeable about the pupil, the meaning of the evaluation data and the placement options. A pupil must be placed in the school that the pupil would normally attend if possible, or in the school closest to the pupil's home which is capable of providing the services required by the pupil's individualized educational program.

(Added to NAC by Bd. of Education, eff. 7-14-88; A 11-23-93; R085-99, 2-16-2000; R058-07, 10-31-2007)

Vermont

2364 Least Restrictive Environment (LRE)

2364.1 General LRE Requirements (34 CFR § 300.114)

(a) Each LEA shall ensure that:

- (1) A student eligible for special education services shall be educated with his or her non-disabled *chronological age* peers, to the maximum extent appropriate *in the school he or she would attend if he or she did not have a disability*; and
- (2) Special classes, separate schooling or other removal of children with disabilities from the general educational environment shall occur only if the nature or severity of the child's disability is such that education in general classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(b) Pursuant to 16 V.S.A § 2959b, *the IEP team may consider the cost of the provision of special education or related services to the child if:*

- (1) *The IEP has been developed with the parents in accordance with Rules 2363;*
- (2) The IEP team has determined that the child's placement contained in the IEP is appropriate for the child,
- (3) *Each of the options under consideration by the IEP team for fulfilling the requirements of the child's IEP would constitute a free appropriate public education in the least restrictive environment for the child, and*
- (4) *The funding mechanism for the special education service was not used to deny a free appropriate public education to the student.*

2364.2 Continuum of Alternative Placements (34 CFR § 300.115)

(a) Each LEA shall ensure that a continuum of alternative placements is available to meet the needs of children who are receiving IEP services.

(b) The continuum shall include:

- (1) Instruction in general education classes, special classes, special schools, *independent schools*, home instruction and instruction in hospitals, *and residential facilities*; and
- (2) Provisions for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with general education class placements.

2364.3 Placements (34 CFR § 300.116)

- (a) The IEP team shall determine the educational placement for the child given the following:
 - (1) *Educational placement refers to the provision of special education and related services rather than a specific site;*
 - (2) *The LEA determines the specific site of the educational placement, such as the specific classroom or specific school.*
- (b) *Placement decisions shall be made on the basis of the student's individual circumstances and not on the basis of the student's disability category.*
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child shall be educated in the school that he or she would attend if nondisabled.
- (d) *Barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs.*
- (e) A child with a disability shall not be removed from education in age-appropriate general classrooms solely because of needed modifications in the general curriculum.
- (f) In selecting the LRE, consideration shall be given to any potential harmful effect on the student or on the quality of services that he or she needs.
- (g) The placement decided upon shall be:
 - (1) Determined at least annually;
 - (2) Consistent with the other provisions of the child's IEP; and
 - (3) As close as possible to the child's home, unless the parent agrees otherwise.

Appendix C

Changes to Federal Regulations by State

Table C-1. Number of Differences Between State Policy and IDEA

State	No change	"General" education instead of "regular"	Change of continuum name	Revisions to LRE	Elaboration of continuum	Determining placement	Student groupings, age span limits	Student removal	Other regulations
No Change									
Colorado	✓								
Connecticut	✓								
Florida	✓								
Michigan	✓								
Minnesota	✓								
North Carolina	✓								
South Carolina	✓								
Wyoming	✓								
One (1) Change									
Arkansas					✓				
Kentucky					✓				
Maryland						✓			
North Dakota						✓			
Ohio				✓					
Oklahoma					✓				
Tennessee					✓				
Utah				✓					
Two (2) Changes									
Arizona			✓	✓					
Georgia		✓			✓				

State	No change	"General" education instead of "regular"	Change of continuum name	Revisions to LRE	Elaboration of continuum	Determining placement	Student groupings, age span limits	Student removal	Other regulations
Hawaii		✓			✓				
Illinois			✓		✓				
Louisiana			✓			✓			
Maine					✓		✓		
Montana				✓	✓				
Nevada					✓				
Oregon			✓		✓				
Wisconsin				✓		✓			✓
Three (3) Changes									
Alabama		✓	✓				✓		
Alaska				✓		✓			✓
Delaware			✓		✓		✓		
Kansas			✓			✓			✓
Mississippi		✓			✓			✓	
New Hampshire			✓		✓				
South Dakota				✓	✓	✓			
Texas			✓		✓	✓			
Washington		✓		✓		✓			
Four (4) Changes									
California			✓	✓	✓		✓		
Idaho		✓				✓	✓	✓	
Missouri		✓			✓	✓		✓	
Nebraska				✓	✓	✓			✓
New Mexico		✓		✓				✓	✓
New York		✓	✓		✓		✓		
Pennsylvania			✓	✓			✓		
Rhode Island		✓	✓		✓		✓		
Five (5) Changes									
Indiana		✓	✓	✓	✓			✓	
Massachusetts		✓	✓		✓	✓	✓		
New Jersey		✓	✓	✓	✓	✓			
Vermont		✓		✓	✓	✓		✓	

State	No change	"General" education instead of "regular"	Change of continuum name	Revisions to LRE	Elaboration of continuum	Determining placement	Student groupings, age span limits	Student removal	Other regulations
Virginia		✓		✓	✓	✓		✓	
Six (6) Changes									
West Virginia		✓	✓	✓	✓		✓	✓	
Seven (7) Changes									
Iowa		✓	✓	✓	✓	✓	✓	✓	
Total	8	17	18	18	28	17	11	9	5

Table C-2. Details and Specifications: Differences Between State Policy and IDEA

State	Details and Specifications
Text Change: General" education instead of "regular" education (300.114 – 300.116)	
Alabama	<i>Students who are provided special education services in settings other than the student's general education classroom</i>
Georgia	<i>General education classroom with age-appropriate non-disabled peers, if required by the IEP</i>
Hawaii	<i>A general education classroom on a public school campus</i>
Idaho	<i>A student with a disability is not removed from age-appropriate general education environments</i>
Indiana	or other removal of students from the <i>general education</i> environment
Iowa	other removal of children with disabilities from the <i>general</i> education environment
Massachusetts	<i>whether such services may be provided in a general education classroom with supplementary aids and/or services</i>
Mississippi	or other removal of children with disabilities from the <i>general / educational</i> environment
Missouri	or other removal of children from the <i>general / educational</i> environment
New Jersey	not removed from the age-appropriate <i>general</i> education classroom
New Mexico	or other removal of children with disabilities from the <i>general / educational</i> environment
New York	<i>the regular class, including, as appropriate, providing related services, resource room programs and special class programs within the general education classroom</i>
Rhode Island	<i>Placement of the child in a general education class with special education consultation</i>

State	Details and Specifications
Vermont	schooling or other removal of children with disabilities from the <i>general</i> educational environment
Virginia	<i>are met in the general education setting with age appropriate peers</i>
Washington	such as instruction in <i>general</i> education classes
West Virginia	<i>An eligible student must be educated with general education students in the general education classroom</i>
Text Change: Change of continuum name (300.115)	
Alabama	<i>LRE Continuum</i>
Arizona	Continuum of <i>services and supports</i>
California	Continuum of <i>program options</i>
Delaware	<i>Educational Placement Options</i>
Illinois	Continuum of <i>Placement Options</i>
Indiana	Continuum of <i>placement options</i>
Iowa	Continuum of alternative <i>services and</i> placements
Kansas	Continuum of alternative <i>educational</i> placements
Louisiana	Continuum of alternative <i>educational</i> placements
Massachusetts	<i>Placement and Service Options</i>
New Hampshire	Continuum of Alternative <i>Learning Environments</i>
New Jersey	A <i>full</i> continuum of alternative placements
New York	Continuum of <i>services</i>
Oregon	<i>Alternative Placements and Supplementary Aids and Services</i>
Pennsylvania	Full continuum of <i>placement options</i>
Rhode Island	Continuum of <i>special education placements and services</i>
Texas	<i>Instructional Arrangements and Settings</i>
West Virginia	Continuum of <i>Placement Options</i>
Text Change: Revisions to LRE (300.114)	
Alaska	Are educated with children who are <i>not children with disabilities</i>
Arizona	Each public <i>education</i> agency shall <i>establish, implement, and make available to its school-based personnel and parents, written procedures to ensure the delivery of special education services in the least restrictive environment</i>
California	supplementary aids and services, <i>including curriculum modification and behavioral support; ensure that each individual with exceptional needs participates in those activities with nondisabled pupils to the maximum extent appropriate to the needs of the individual with exceptional needs</i>
Indiana	each public agency must <i>have in place</i> written policies and procedures
Iowa	must ensure <i>and maintain adequate documentation</i>
Missouri	To the maximum extent appropriate, <i>disabled and severely disabled children</i> shall be educated along with children who <i>do not have disabilities</i> and shall attend regular classes, <i>except that in the case of a disability resulting in violent behavior which causes a substantial likelihood of injury to the student or others, the school district shall initiate procedures consistent with state and federal law to remove the child to a more appropriate placement</i>

State	Details and Specifications
Montana	<i>The trustees of a school district or a state-operated adult health care facility providing special education services to its residents shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education services, related services, or supplementary aids</i>
Nebraska	<i>The school district or approved cooperative shall establish policies and procedures</i>
Nevada	1. <i>A pupil with a disability may not be placed in a special class or in a school different than the one the pupil would normally attend, or otherwise removed from the regular educational environment, unless:</i> (a) <i>The pupil's individualized educational program otherwise provides</i>
New Jersey	<i>occurs only when the nature or severity of the educational disability</i>
Ohio	<i>each school district shall adopt and implement written policies and procedures approved by the Ohio department of education, office for exceptional children</i>
Pennsylvania	<i>(3) A student may not be determined to require separate education because the child cannot achieve at the same level as classmates who do not have disabilities if the child can, with the full range of supplementary aids and services, make meaningful progress in the goals included in the student's IEP</i>
South Dakota	<i>shall be educated with children who are not disabled and shall be provided special programs and services to meet their individual needs which are coordinated with the regular educational program</i>
Vermont	<i>A student eligible for special education services shall be educated with his or her non-disabled chronological age peers, to the maximum extent appropriate in the school he or she would attend if he or she did not have a disability</i>
Virginia	<i>to the maximum extent appropriate, children with disabilities, aged two to 21, inclusive</i>
Washington	<i>school districts shall ensure that the provision of services to each student eligible for special education</i>
West Virginia	<i>An appropriate LRE is one that enables the student to receive IEP services and make reasonable gains toward goals identified in an IEP</i>
Wisconsin	<i>a child with a disability, including a child receiving publicly funded special education in a public or private institution or other care facility</i>
Text Change: Elaboration of the continuum (300.115)	
Arkansas	<i>17.02.2.3 The continuum of alternative placements displayed on chart #1-17 found on page 4 delineates service delivery systems</i>
California	<i>Adds telecommunication to continuum; defines "hospital" as a health care facility</i>
Delaware	<i>elaborates on continuum (aligned with fed reporting), with percentages, kind of instruction, and types of services</i>
Georgia	<i>Describes 6 levels of the continuum, from "general education classroom with age-appropriate non-disabled peers" to "Hospital/homebound instruction program"</i>
Hawaii	<i>Elaborates on the continuum in adopted guidelines</i>
Illinois	<i>Elaborates on home and hospital instruction, including telecommunications; Determines instructional time in hospital or home</i>
Indiana	<i>Briefly defines continuum</i>
Iowa	<i>Elaborates on program models and instructional services</i>

State	Details and Specifications
Kentucky	Sections 2 and 3, class size per disability category for special class and resource and caseloads for resource teachers
Maine	Adds: <i>Comparable facilities – facilities in which special education services are provided to children with disabilities shall be comparable to those in which regular education is provided to children and located in chronologically age appropriate settings</i>
Massachusetts	Focuses on in and out of district placements as part of LRE, class sizes are mandated
Mississippi	3) <i>Provide access to general statewide and district-wide assessment programs, with appropriate accommodations, where necessary</i>
Missouri	<i>A child does not have to fail in the less restrictive options on the continuum before the child is placed in a setting that is appropriate to his or her needs</i>
Montana	Includes state-operated adult health care facility providing special education services
Nebraska	an “ <i>approved cooperative</i> ” is also an agency responsible for ensuring the availability of the continuum of alternative placements
Nevada	Continuum includes community-based program
New Hampshire	Defines continuum
New Jersey	Outlines supplementary aids and services and continuum (Extensive list of continuum, including special services school districts and out of state placements)
New York	Defines continuum, and includes Integrated Co-Teaching. Delineates class sizes
Oklahoma	Defines continuum and class size in state special ed policies only, no change otherwise, except allows for cooperatives
Oregon	The continuum must (3) Not include sheltered workshops
Rhode Island	Outlines continuum; (6) <i>A continuum of services must be available to enable each child ages fourteen (14) to twenty one (21) or earlier if appropriate, or upon graduation with a regular high school diploma, to achieve his or her measurable post-secondary goals as defined in §§ 300.43 and 300.320(b).</i>
South Dakota	<i>Regular educational programs with modification</i> ; and adds “ <i>other settings</i> ” to continuum
Tennessee	Clarifies homebound placements, otherwise adopts continuum
Texas	Elaboration of continuum, including state supported living centers
Vermont	Adds independent schools and residential facilities
Virginia	<i>The continuum includes integrated service delivery, which occurs when some or all goals, including benchmarks and objectives if required, of the student’s IEP are met in the general education setting with age appropriate peers</i>
West Virginia	Continuum definitions from adopted policy manual
Text Change: Determining placement, school of attendance, harmful effects (300.116)	
Alaska	In- and out-of-state placements
Idaho	<i>Regardless of placement, the student shall be given appropriate access to the general education curriculum, as determined by the IEP team. The district shall be able to justify the available continuum of services and placement decisions for individual students</i>

State	Details and Specifications
Iowa	If there is <i>“a potential detriment to the individual if served in the general classroom and how the individual’s participation in the general classroom will impact the other students.”</i>
Kansas	<i>(2) In determining the educational placement of a gifted child, each agency shall ensure that the placement decision is made by a group of persons, including the child’s parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and appropriate placement options for gifted children</i>
Louisiana	Specifically lists LA school for the deaf and school for the visually impaired in determining placements
Maryland	Elaborates on correctional facilities, home instruction; <i>If the IEP team determines a student with a disability cannot be educated in the school or typical early childhood setting the student would attend if not disabled, the IEP shall document the specialized transportation needs of the student</i> (extensive discussion of transportation)
Massachusetts	<i>The Team shall determine if the student shall be served in an in-district placement or an out-of-district placement</i>
Missouri	<i>Harmful effects for the student with a disability or disruptive effects for students without disabilities</i>
Nebraska	The placement decision is made in conformity with the least restrictive environment requirements in 92 NAC 51-008.01 <i>and based on the child’s unique needs and not on the child’s disability</i>
New Jersey	<i>i. A comparison of the benefits provided in a regular class and the benefits provided in a special education class; and</i> <i>iii. The potentially beneficial or harmful effects which a placement may have on the student with disabilities or the other students in the class</i>
North Dakota	Out of district and out of state placements
South Dakota	<i>(2) Provisions are made for appropriate classroom or alternative settings necessary to implement a child’s individual education program;</i> <i>(3) Unless a child’s IEP requires some other arrangement, the child shall be educated in the school which that child would normally attend if not disabled. Other placement shall be as close as possible to the child’s home;</i> <i>(4) Placement in the least restrictive environment will not produce a harmful effect on the child or reduce the quality of services which that child needs</i>
Texas	Career and technical education classroom and mandates that the IEP team consider that <i>“enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities.”</i>
Vermont	<i>(a) Barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs</i>
Virginia	<i>All placement decisions shall be based on the individual needs of each child; discussion of homebound placements</i>
Washington	<i>(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain his or her annual goals</i>
Wisconsin	Incorporates parental consent into its placement regulation

State	Details and Specifications
Text Change: Student groupings, age span limits (300.116)	
Alabama	<i>a) Elementary students with disabilities may only be served with other elementary school-aged students. (b) Secondary students with disabilities may only be served with other secondary school-aged students.</i>
California	<i>a) Special classes that serve pupils with similar and more intensive educational needs shall be available.</i>
Delaware	<i>Each public agency shall ensure a child with a disability is placed in a chronologically age appropriate placement.</i>
Idaho	<i>LRE decisions are made individually for each student. The services and settings needed by each student with a disability must be based on the student's unique needs that result from his or her disability, not on the student's category of disability (NOT on similarity of needs); Students with disabilities shall be educated with age appropriate peers to the maximum extent appropriate</i>
Iowa	<i>The chronological age range of students served in this program shall not exceed six years</i>
Maine	<i>Self-contained classrooms shall be limited to serving children within a five year chronological age span</i>
Massachusetts	<i>f) The ages of the youngest and oldest student in any instructional grouping shall not differ by more than 48 months</i>
New York	<i>Students with disabilities placed together for purposes of special education shall be grouped by similarity of individual needs; social and physical development to be considered; management needs do not detract from opportunities of other students; chronological age limitations to 3 years below age 16, but not limited above 16. However, there shall be no chronological age-range limitations for groups of students placed in special classes as described in subparagraph (4)(iii) of this subdivision. (severe disabilities)</i>
Pennsylvania	<i>(a) The maximum age range in specialized settings shall be 3 years in elementary school (grades K—6) and 4 years in secondary school (grades 7—12).</i>
Rhode Island	<i>Placement must be based on similarity of student strengths and needs for the purpose of ensuring academic achievement and functional performance (300.115, in defining special class); (f) In providing services to children with disabilities in special classes the age range of the children shall not exceed four years. An exception to this requirement can be made only by the IEP team based on the documented needs of the child and with the agreement of the parents of all of the other students in the class where placement is sought</i>
West Virginia	<i>In considering a setting outside the general education environment, the IEP Team must determine placement in environments, including classrooms and schools, with similar-age peers</i>
Text Change: Student removal (300.116)	
Idaho	<i>A student with a disability is not removed from age-appropriate general education environments solely because of needed accommodations and/or adaptations in the general education curriculum</i>
Indiana	<i>Requires written justification: the reasons for that determination are documented in the written notice required by section 6 of this rule</i>

State	Details and Specifications
Iowa	<p><i>281—41.42(256B) Special schools. When an eligible individual's special education is provided in a special school, the individual's IEP shall include specific answers to the following questions:</i></p> <p><i>41.42(1) Reasons. What are the reasons that the eligible individual cannot be provided an educational program in an integrated school setting?</i></p> <p><i>41.42(2) Support needed. What supplementary aids and services are needed to support the eligible individual in the special education program?</i></p> <p><i>41.42(3) Integrated setting. Why can't these aids and services be provided in an integrated setting?</i></p> <p><i>41.42(4) Continuum of services available. What is the continuum of services available for the eligible individual?</i></p>
Mississippi	<i>If the IEP committee determines that "full-time" education in the general education classroom cannot be achieved satisfactorily, the student with disabilities must be included in the general education classroom to the maximum extent appropriate</i>
Missouri	Mandates two part inquiry for placement, re: whether gen ed achieved satisfactorily, integrated max. extent appropriate; and 5 things to consider in 2 pt inquiry; effect on nondisabled students
New Mexico	<i>Ensure that Sec. 300.114 is implemented by each agency and that, if there is evidence that a public agency makes placements that are inconsistent with Sec. 300.114, the department must review the public agency's justification for its actions and assist in planning and implementing any necessary corrective action</i>
Vermont	<i>"barriers to the participation of students with disabilities in the general education environment shall be addressed whenever possible by the provision of accommodations, modifications, and supplementary aids and services rather than by placement in separate programs."</i>
Virginia	<i>4. Local educational agencies shall document all alternatives considered and the rationale for choosing the selected placement</i>
West Virginia	An eligible student is not to be removed from age-appropriate general education classrooms solely because of needed accommodations and modifications to the general education curriculum
Text Change: Other regulations	
Arkansas	<i>c) A district must obtain consent of a child's parent before a child may be transferred by the district to a school outside of the district in which the child resides (§300.300)</i>
Kansas	Targets parental participation, adds Fed Regs 300.322 (parental participation) into placement
New Mexico	<i>(e) The requirements of 34 CFR Sec. 300.320(a)(4) that the IEP for each child with a disability include a statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided for the child to be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities with nondisabled children</i>
Nebraska	<i>300.320 008.01B Before any action is taken with respect to the initial placement of a child with disabilities, the school district or approved cooperative shall be responsible for the provision of a comprehensive individual multidisciplinary evaluation of the child's development and educational needs</i>

State	Details and Specifications
Wisconsin	Adds federal regulation 300.300 (parental consent for eval.) into placement

INSTITUTE *on* COMMUNITY INTEGRATION

UNIVERSITY OF MINNESOTA

Driven to DiscoverSM

The University of Minnesota is an equal opportunity employer and educator.