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Disclaimer	All materials have been prepared for general information purposes only. The information presented is not legal advice, is not to be acted on as such, may not be current and is subject to change without notice.
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Disclaimer	Most of the material this course covers is federal law. However, there are times California law will be introduced. While I will attempt to point out when it is state law, I cannot guarantee I will always remember. Check your own state laws.
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3

41

What is placement?

After the IEP team has decided **what** special education and services a child needs, a decision must be made about **where** those services will be provided.

Placement is the setting where the IEP can be appropriately put into action and is part of the IEP.

4

42

Least Restrictive Environment

Present Levels → Annual Goals → Services

5 C.C.R. Sec. 3040(c)

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41

Least Restrictive Environment

The IEP team must ensure that the child has the maximum opportunity appropriate to learn alongside non-disabled children. This is a vital component in the development of a child's IEP. It influences

- **where** a child spends his or her time at school,
- **how** services are provided, and
- the relationships the child develops within the school & community.

Placement

The IEP Team, INCLUDING PARENTS, determines the student's placement.

6

INCLUDING PARENTS

The team should begin by discussing regular class placement.

A student can be placed in a more restrictive environment only when the IEP team determines that the

The IEP team should begin with the presumption that General Education Classroom is the LRE

- Placement: classroom(s)
- Least Restrictive Environment with nondiscriminatory to the maximum extent appropriate

appropriate

restorative setting cannot be achieved satisfactorily.

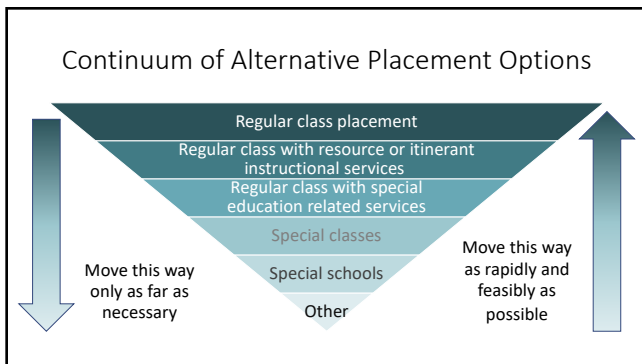
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42

The Law Highly Favors the Regular Education Environment

The U.S. Supreme Court	"The Act requires participating states to educate handicapped children with non-handicapped children <u>whenever possible</u> ." <i>Board of Education v. Rowley</i> , (1982) 458 U.S. 176
9th Circuit Federal Court of Appeals	"[The] congressional preference for educating handicapped children in classrooms with their peers is made unmistakably clear" <i>Dept. of Educ., State of Hawai'i v. Katherine D.</i> , 727 F.2d 809 (9th Cir. 1983)
3rd Circuit Federal Court of Appeals	Denying access to a regular public school classroom without a <u>compelling education justification</u> constitutes discrimination. <i>Tokarcik v. Forest Hills School District</i> , 655 F.2d 443 (3rd Cir. 1981)

8



9

PRESNO UNIFIED SCHOOL DISTRICT
Offer of FAPE - SERVICE

Page ____ of ____

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2016

The service options that were considered by the IEP team (List all): Options considered: GenEd with support, SDC MM, MS, ALPS, SLP, APE, Consent ALPS

In selecting LRE, describe the consideration given to any potential harmful effect on the child or on the quality of services that he or she needs: Team discussed and considered potential harmful effects of missing general education curriculum which includes grade level standards. The team determined the benefits of a placement in a regional program or an intensive early intervention program, etc... and individual/small group instruction and the need for individual/small group instruction in assisting student in meeting goals outweigh the potential harm.

10

43

The Determination of Proper Placement

The team should begin by discussing regular class placement.

A student can be placed in a more restrictive environment only when the IEP team concludes that the

- even with appropriate supplementary aides and services
- education in the less restrictive setting cannot be achieved satisfactorily.

11

43

Placement determination must

1

Be made based on individual education needs

2

Be made considering supplementary aids and services that may help

3

Provide opportunities for interaction with nondisabled peers when appropriate

12

43

Placement determination must

1

Be made based on individual education needs

The determination cannot be made based solely on:

- A child's label or disability.
- Administrative convenience or existing programs.
- The previous year's placement decision.

13

43

Placement determination must

1

Be made based on individual education needs

The determination cannot be made based solely on:

- A child's label or disability.
- Administrative convenience or existing programs.
- The previous year's placement decision.

IDEA requires school systems to supplement and realign their resources to move beyond those systems, structures and practices which tend to result in unnecessary segregation of children with disabilities.
Oberti v. Board of Education of the Borough of Clementon School District, 788 F. Supp. 1322 (D.N.J. 1992).

14

44

Placement determination must

2

Be made considering supplementary aids and services that may help

This requires that the team take the time to talk about and really consider creative and individualized means of supplementing and modifying regular education.

15

44

Placement determination must

2

This requires that the team take the time to talk about and really consider creative and individualized means of supplementing and modifying regular education.

Individually Adapting:

- Content
- Methodology
- Delivery

Modification: changes *what* is being taught or expected

Accommodation: changes *how* the student works to overcome or work around the disability

16

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Expanding Horizons, Creating Change
cru.org.au

Exclusion

Segregation

17

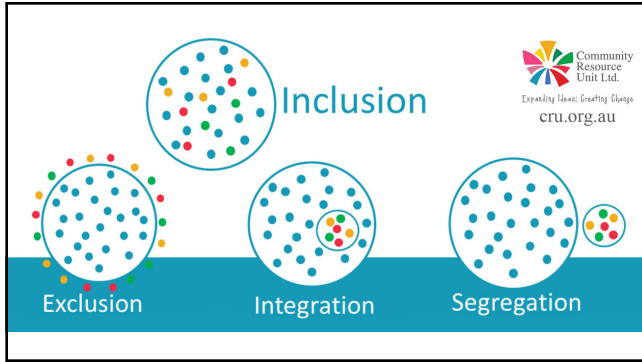
Community Resource Unit Ltd.
Expanding Horizons, Creating Change
cru.org.au

Exclusion

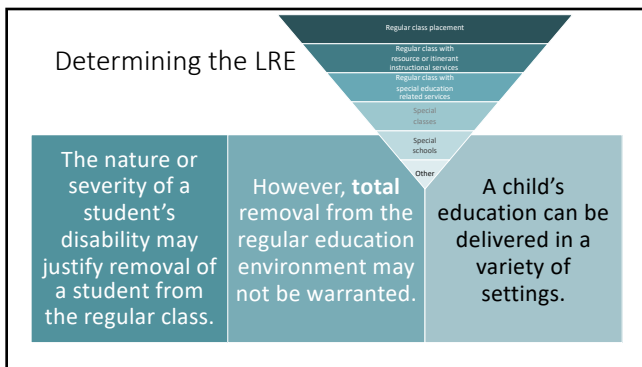
Integration

Segregation

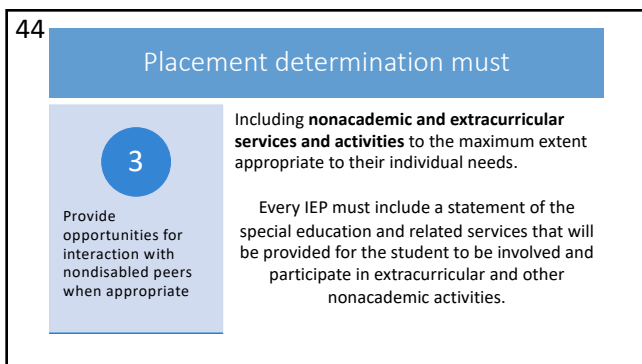
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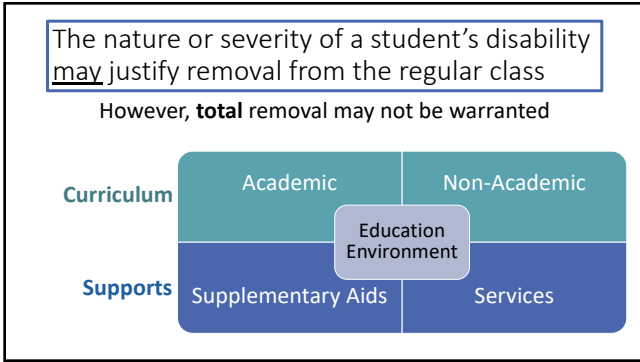
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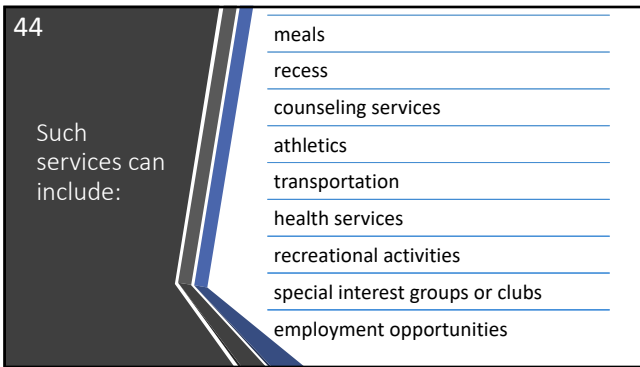
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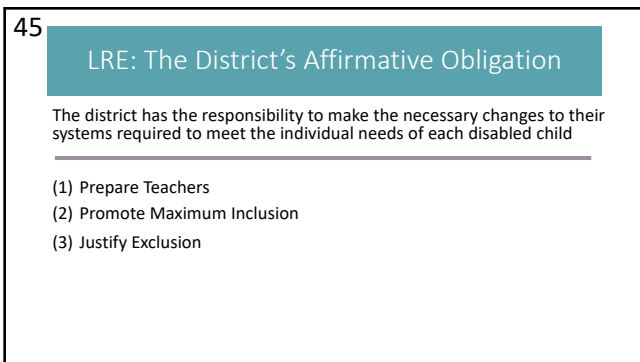
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24

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LRE: The District's Affirmative Obligation

The district has the responsibility to make the necessary changes to their systems required to meet the individual needs of each disabled child

(1) Prepare
(2) Promote
(3) Justify

One federal appellate court described the "express mandate to supplement and modify the regular education" as broad, explaining that IDEA "does not permit [districts] to make mere token gestures to accommodate handicapped students."
Daniel R.R. v. State Bd. Of Educ., 874 F.2d 1036, 1048-49 (5th Cir. 1989)

25

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(1) Prepare Teachers

Who	What
<ul style="list-style-type: none">• General Education Teachers• Special Education Teachers	<ul style="list-style-type: none">• Adequately prepared• To provide instruction to special education students

26

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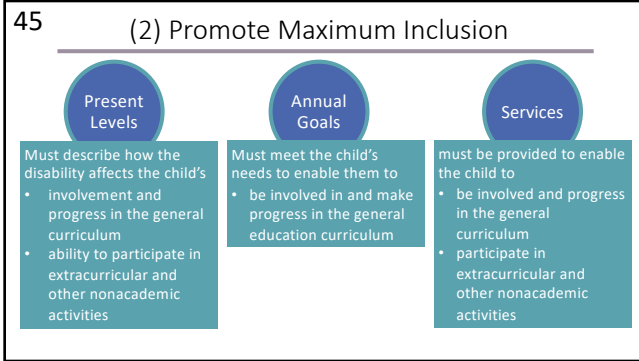
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graph LR; A((Present Levels)) --> B((Annual Goals)); B --> C((Services));
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The law requires that the IEP contain a statement of the "supports for school personnel" to enable them to educate students in the least restrictive environment.

27

28

SUPPLEMENTARY AIDS & SERVICES (SAS) AND OTHER SUPPORTS FOR SCHOOL PERSONNEL, OR FOR STUDENT, OR ON BEHALF OF THE STUDENT						
<input type="checkbox"/>	The IEP team discussed and determined program accommodations are not needed in general education classes or other educational settings.					
<input type="checkbox"/>	The IEP team discussed and determined the following program accommodations are needed in general education classes or other educational settings:					
<input type="checkbox"/>	Program accommodations	Start Date	End Date	Priority	Location	
	Provide interpreter	12/10/2018	01/11/2019		Educational environment	
	Obtain status updates before speaking	12/10/2018	01/11/2019		Educational environment	
	Provide directions to major crosswalks	12/10/2018	01/11/2019		Educational environment	
	Flexible seating to meet auditory and visual needs	12/10/2018	01/11/2019		Educational environment	
	Flexibility provided on all time, will reported by class in a quiet voice, tone, and pace	12/10/2018	01/11/2019		Educational environment	
	Visual Cues	12/10/2018	01/11/2019		Educational environment	
	Signs	12/10/2018	01/11/2019		Educational environment	
	Use of manipulatives and images requires for students	12/10/2018	01/11/2019		Educational environment	
	Alternate Response Options (Reading, Writing, Learning)	12/10/2018	01/11/2019		Educational environment	
	Reduce distractions to the student	12/10/2018	01/11/2019		Educational environment	
	Extended time	12/10/2018	01/11/2019		Educational environment	
	Check for understanding	12/10/2018	01/11/2019		Educational environment	
<input type="checkbox"/>	The IEP team discussed and determined program modifications are not needed in general education classes or other educational settings.					
<input type="checkbox"/>	The IEP team discussed and determined the following program modifications are needed in general education classes or other educational settings:					
<input type="checkbox"/>	Program modifications	Start Date	End Date	Priority	Duration	Location
	Student progress to move on	12/10/2018	01/11/2019	Daily	9 hours	Classroom environment
	Master of the concepts	12/10/2018	01/11/2019	Daily	9 hours	Classroom environment
	Flexibility learning	12/10/2018	01/11/2019	Daily	9 hours	Classroom environment
<input type="checkbox"/>	The IEP team discussed and determined other supports for school personnel, or for student, or on behalf of the student are not needed.					
<input type="checkbox"/>	The IEP team discussed and determined the following other supports for school personnel, or for student, or on behalf of the student are needed:					
<input type="checkbox"/>	Other Supports for School Personnel	Start Date	End Date	Frequency	Duration	Location
	Additional Support for Student Personnel	08/20/2018	08/20/2019	Daily	Throughout the day	Schoolwide
	Each additional support supports a student's individual educational goals					



46

(3) Justify Exclusion

When the student is placed in a setting other than the general education classroom, the district must explain why a student cannot be educated successfully in a lesser restrictive environment.

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

Page ____ of ____

FRESNO UNIFIED SCHOOL DISTRICT
OFFER OF FAPE **EDUCATIONAL SETTING**

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2018

Physical Education: General Specially Designed Other

District of Service: Fresno Unified School of Attendance: [REDACTED] Elementary School School Type: Public day school

All special education services provided at student's school of residence? Yes No (rationale) Appropriate program not available at home school

(Note: Program Setting and Percentage of Time are required for students that will be age 6 and older within the duration of this IEP)
Program Setting: Regular Classroom Public Day School (Ages 6-22)
65 % of time student is outside the regular class & extracurricular & non academic activities
15 % of time student is in the regular class & extracurricular & non academic activities

Preschool Program Setting (Ages 3-5):
(Note: Answer two items below for students ages 3-5 only if the Preschool Program Setting is in 201-Regular Early Childhood Program or Kindergarten Setting)
The location where the student receives the majority of their special education services:
 Same as above Different from above
Is the Regular Early Childhood Program or Kindergarten Program ten hours per week or greater? Yes No

Student will not participate in the regular class and/or extracurricular and/or non academic activities all his academic day because student is not currently able to access a GE classroom curriculum

31

46

When the district proposes placement other than regular class:

District must provide written notice to the parents explaining the placement options that were considered and the reasons for rejecting those options.

32

Page ____ of ____

FRESNO UNIFIED SCHOOL DISTRICT
Offer of FAPE - SERVICE

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2018

The service options that were considered by the IEP team (List all): Options considered: GenEd with support, SDC MM, MS, ALPS, SLP, APE Chosen: ALPS

In selecting LRE, describe the consideration given to any potential harmful effect on the child or on the quality of services that he or she needs: Team discussed and considered potential harmful effects of missing general education curriculum which includes grade level standards. The team determined the benefit of a placement in a regional program or an intensive early intervention program, etc., and individual/small group instruction and the need for individual/small group instruction in assisting student in meeting goals outweigh the potential harm.

33

46

When the district proposes placement other than regular class:

District must provide written notice to the parents explaining the placement options that were considered and the reasons for rejecting those options.

And the IEP must

include a statement of the extent to which the student will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities.

Horizontal lines for writing.

34

FRESNO UNIFIED SCHOOL DISTRICT
OFFER OF FAPE (EDUCATIONAL SETTING)

Page ____ of ____

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2018

Physical Education: General Specialty Designed Other

District of Service: Fresno Unified School of Attendance: [REDACTED] Elementary School Type: Public day school

All special education services provided at student's school of residence? Yes No (rationale) Appropriate program not available at home school

(Note: Program Setting and Percentage of Time are required for students that will be age 6 and older within the duration of this IEP)
 Program Setting: Regular Classroom/ Public Day School (Ages 6-21)
 85 % of time student is in the regular class & extracurricular & non academic activities
 15 % of time student is in regular class & extracurricular & non academic activities

Preschool Program Setting (Ages 3-6):
 (Note: Answer two items below for students ages 3-5 only if the Preschool Program Setting is in 2014-Regular Early Childhood Program or Kindergarten Setting)
 The location where the student receives the majority of their special education services:
 Same as above Different from above
 Is the Regular Early Childhood Program or Kindergarten Program ten hours per week or greater? Yes No

Student will not participate in the regular class and/or extracurricular and/or non academic activities: all his academic day because student is not currently able to access a GE classroom curriculum

35

Horizontal lines for writing.

46

When the district proposes placement other than regular class:

District must provide written notice to the parents explaining the placement options that were considered and the reasons for rejecting those options.

And the IEP must

include a statement of the extent to which the student will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities.

document its rationale for placement in a setting other than the student's school and classroom, which they would otherwise attend if they did not have a disability.

Horizontal lines for writing.

36

FRESNO UNIFIED SCHOOL DISTRICT
OFFER OF FAPE (EDUCATIONAL SETTING)

Page ____ of ____

Student Name: [Redacted] Birthdate: [Redacted] IEP Date: 12/11/2018

Physical Education: General Specially Designed Other

District of Service: Fresno Unified School of Attendance: [Redacted] Elementary School School Type: Public day school

All special education services provided at student's school of residence? Yes No (rationale) Appropriate program not available at home school

(Note: Program Setting and Percentage of Time are required for students that will be age 6 and older within the duration of this IEP)
Program Setting: Regular Classroom/Public Day School (Ages 6-22)
85 % of time student is outside the regular class & extracurricular & non academic activities
15 % of time student is in the regular class & extracurricular & non academic activities

Preschool Program Setting (Ages 3-5):
(Note: Answer two items below for students ages 3-5 only if the Preschool Program Setting is in 201-Regular Early Childhood Program or Kindergarten Setting)
The location where the student receives the majority of their special education services:
 Same as above Different from above
Is the Regular Early Childhood Program or Kindergarten Program ten hours per week or greater? Yes No

Student will not participate in the regular class and/or extracurricular and/or non academic activities: all his academic day because student is not currently able to access a GE classroom curriculum

37

PRIMARY RESIDENCE: [Redacted]

Parent/Guardian: [Redacted] Home Phone: [Redacted]
Home Address: [Redacted] Work Phone: [Redacted]
City: Fresno Cell Phone: [Redacted]
State/Zip: CA 93722-4128 Email: [Redacted]

Parent/Guardian: [Redacted] Home Phone: [Redacted]
Home Address: [Redacted] Work Phone: [Redacted]
City: Fresno Cell Phone: [Redacted]
State/Zip: CA 93722-4128 Email: [Redacted]

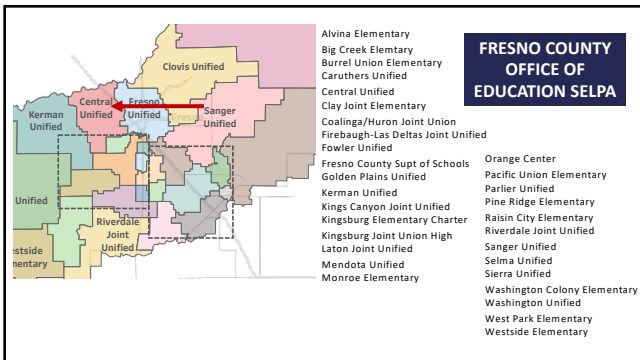
District of Special Education Accountability: Fresno Unified
Residence School: [Redacted]

Ethnicity: 500 Hispanic 501 Non Hispanic 900 Intentionally Blank

Race: (Enter Code; must select one or more, regardless of Ethnicity): 1. 200 White 2. 3.

SELPA Info <https://www.cde.ca.gov/sp/se/as/caselpas.asp>

38



39

46

When the district proposes placement other than regular class:

District must provide written notice to the parents explaining the placement options that were considered and the reasons for rejecting those options.

And the IEP must

include a statement of the extent to which the student will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities.	document its rationale for placement in a setting other than the student's school and classroom, which they would otherwise attend if they did not have a disability.	indicate why the student's disability prevents their needs from being met in a less restrictive environment even with the use of supplementary aids and services.
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40

FRESNO UNIFIED SCHOOL DISTRICT
Offer of FAPE - SERVICE

Page ____ of ____

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2018

The service options that were considered by the IEP team (List all): Options considered: GenEd with support, SDC MM, MS, ALPS, SLP, APE Chosen: ALPS

In selecting LRE, describe the consideration given to any potential harmful effect on the child or on the quality of services that he or she needs: Team discussed and considered potential harmful effects of missing general education curriculum which includes grade level standards. The team determined the benefits of placement in a regional program or an intensive early intervention program, etc... and individual/small group instruction and the need for individual/small group instruction in assisting student in meeting goals outweigh the potential harm.

41

FRESNO UNIFIED SCHOOL DISTRICT
OFFER OF FAPE - EDUCATIONAL SETTING

Page ____ of ____

Student Name: [REDACTED] Birthdate: [REDACTED] IEP Date: 12/11/2018

Physical Education: General Specially Designed Other

District of Service: Fresno Unified School of Attendance: [REDACTED] Elementary School School Type: Public day school

All special education services provided at student's school of residence? Yes No (rationale) Appropriate program not available at home school

(Note: Program Setting and Percentage of Time are required for students that will be age 6 and older within the duration of this IEP)

Program Setting: Regular classroom/public day school (ages 6-20)
85% of time student is 60% in the regular class & extracurricular & non academic activities
15% of time student is 0% in the regular class & extracurricular & non academic activities

Preschool Program Setting (Ages 3-6):
(Note: Answer two items below for students ages 3-5 only if the Preschool Program Setting is in 201-Regular Early Childhood Program or Kindergarten Setting)
The location where the student receives the majority of their special education services:
 Same as above Different from above
Is the Regular Early Childhood Program or Kindergarten Program ten hours per week or greater? Yes No

Student will not participate in the regular class and/or extracurricular and/or non academic activities; all his academic day because student is not currently able to access a GE classroom curriculum.

42

46

The district is not allowed to predetermine a child's placement

Predetermination means that the school makes unilateral placement decisions prior to an IEP.

Placement determinations should be made annually and only *after* the IEP is developed.

43

46

How the California Court's Determine LRE

1	2	3	4
<p>Educational benefits available</p> <ul style="list-style-type: none"> In a regular classroom vs In a special education classroom 	<p>Nonacademic benefits available</p> <ul style="list-style-type: none"> Of interaction with children who are not disabled 	<p>Effects on</p> <ul style="list-style-type: none"> The teacher and The other students in the classroom 	<p>The cost of</p> <ul style="list-style-type: none"> Mainstreaming vs Placement in a special education classroom

44

47

How the California Court's Determine LRE

1	2	<p>The benefit only needs to be appropriate and with supplementary aids and services</p>
<p>Educational benefits available</p>	<p>Nonacademic benefits available</p>	
<p>To benefit, the student must be able to make progress toward meeting IEP goals in that setting.</p>		

45

47

How the California Court's Determine LRE

1

Educational benefits available

2

Nonacademic benefits available

The **benefit** only needs to be appropriate and with supplementary aids and services

Individually Adapting:

- Content
- Methodology
- Delivery

Modification: changes *what* is being taught or expected

Accommodation: changes *how* the student works to overcome or work around the disability

46

47

Even substantial curriculum modifications may be necessary

"[M]odification of the curriculum for a handicapped child, even dramatic modification, has no significance in and of itself. The IDEA, in its provision for the IEP process, contemplates that the academic curriculum may be modified to accommodate the individual needs of handicapped children."

Holland, 786 F. Supp. at 879-880

47

47

How the California Court's Determine LRE

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Effects on

- The teacher and
- The other students in the classroom

IDEA requires that the IEP team consider behavior intervention strategies for any student with a disability whose behavior impedes their learning or that of others.

"This factor weighs against placing a handicapped child in regular education only if, after taking all reasonable steps to reduce the burden to the teacher, the other children in the class will still be deprived of their share of the teacher's attention."

Holland, 786 F. Supp. at 879

48

47

How the California Court's Determine LRE

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The cost of

- Mainstreaming vs
- Placement in a special education classroom

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

49