

Presented by

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What is the Least Restrictive Environment?

- 20 U.S.C. §1412(a)(5)(A)
- The educational setting within which the child can receive FAPE and have maximum exposure to nondisabled peers
- Also, the educational setting within which the child's IEP can be implemented that allows for maximum exposure to nondisabled peers
- Removal from regular classes not to take place unless FAPE there not possible with sp ed services

The Key LRE Requirements of the IDEA Regulations

- Sp. ed. students must be educated with nondisabled students to the maximum extent appropriate (34 CFR 300.114(a)(2)(i))
- A change of placement from regular class to a more restrictive setting can take place only after properly determining that a FAPE cannot be provided in the regular class, even with legitimate efforts at providing supplementary aids, services, and modifications (34 CFR 300.114(a)(2)(ii))

- School districts must maintain a continuum of placements for IDEA-eligible students (34 CFR 300.115)
- IEP teams must make placement decisions, and must do so at least annually (34 CFR 300.116(a)(1), (b)(1))
- IEP team placement decisions must be based on each student's IEP (34 CFR 300.116(b)(2))
- Unless the IEP requires some other arrangement, children should be placed in the school where they would attend if they were not disabled (34 CFR 300.116(c))

- The placement must be as close as possible to the student's home (34 CFR 300.116(b)(3))
- In making placement decisions, the IEP team must consider any potential harmful effect on the child or on the quality of required services (34 CFR 300.116(d))
- IDEA students must not be removed from regular classrooms solely because of the

The LRE Analyses of the Circuit Courts

 Roncker formulation (6th Circuit—KY, MI, OH, TN)

Can student benefit from mainstreaming?

Would benefits of mainstreaming be outweighed by benefits gained in more restrictive setting?

Could services be feasibly make FAPE possible in a mainstream setting? (Cost is a valid consideration).

Is student a disruptive factor in regular class?

- Daniel R.R. Analysis (5th Circuit—LA, MS, TX, adopted by 3rd (DE, NJ, PA) and 11th (AL, FL, GA)) (and 10th Circuit)
 - Can student be educated satisfactorily in regular classes with supplementary aids and services? Six sub-factors help answer the question

Has school attempted placement in regular classes?

Were those efforts sufficient, and not mere token attempts?

Daniel R.R. Analysis

Will most of the teacher's time be devoted to the student or to modifying the curriculum?

Can student receive educational benefit in the regular classroom?

What has been the child's overall experience in regular classes?

What is the child's effect on the classroom and other students' education?

- Daniel R.R. Analysis
 - 2. If the child cannot be educated in regular class, has the child been mainstreamed to the maximum extent appropriate?

Analysis envisions a gradual movement up the "ladder" of restrictiveness, if the child cannot be educated full-time in regular classes

• Rachel H. Formulation (9th Circuit— AK, AZ, CA, HI, ID, MT, NV, OR, WA)

What are the educational benefits available to the student in regular class, with aids and services, as compared with a special ed class?

What are the non-academic benefits of interaction with children who are not disabled?

What is the effect of the student's presence on the teacher and other students in the regular classroom?

• Rachel H. Formulation (9th Circuit— AK, AZ, CA, HI, ID, MT, NV, OR, WA)

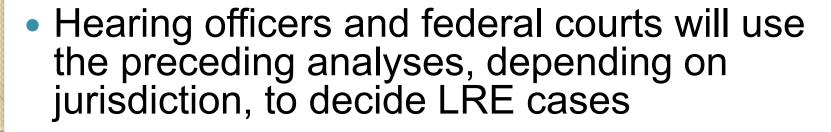
What is the cost of mainstreaming the student into a regular classroom?

• What about the 7th Circuit?

Circuit has cited to both *Daniel R.R.* and *Roncker* cases

But it has declined to adopt a multi-factor LRE analysis (See, e.g., *BOE of Township Sch. Dist. No. 211 v. Ross*, 47 IDELR 241 (7th Cir. 2007)

Main Inquiry—Was education in mainstream environment satisfactory, or would reasonable measures have made it so?



The analyses are variations on either a balancing test or a multi-factor test

The various questions in the legal analyses can help IEP team members in making placement decisions that comply with LRE

In fact, the analyses of the circuit courts can form decision-making rubrics for I RF-compliant IDFA placements

Challenging LRE Areas

Should or should not LRE apply equally in all areas?

In practice LRE is not always treated in the same way, depending on the context

At times, the LRE requirement is applied strictly, exposing schools to continuous legal risk but at others, it seems a malleable mandate

In some areas, traditional LRE is simply a poor fit for new and innovative placement

- The LRE difficulty in the preschool context is that an LEA may not have a regular pre-K program to provide for mainstreaming for 3-4-year IDEA-eligible students
- In such schools, there will be tendency toward offering services in PPCD settings, which may be appropriate for some, but not all students in that age range
- Is there any flexibility in the LRE requirement for preschool programs?

34 CFR 300.116 expressly applies LRE to preschool settings (see commentary at 71 Fed. Reg. 46589 (2006))

Letter to Neveldine, 24 IDELR 1042 (OSEP 1996)—LRE applies equally in preschool settings, even to preschool students eligible only for speech services

Dear Colleague Letter, 58 IDELR 290 (OSEP 2012)—LRE applies even if the district has no pre-K; schools can explore Head Start, paying for private preschool, other public schools, or

Even older cases follow this line—Bd. of Educ. of Lagrange Sch. Dist. No. 105 v. Illinois State Bd. of Educ., 30 IDELR 891 (7th Cir. 1999)(ordering reimbursement for \$75/mo private preschool, since student could be mainstreamed but LEA offered no regular pre-K)

Letter to Anonymous, 53 IDELR 127 (OSEP 2009)—LRE and continuum of placements requirement applies equally to charter schools

How about the courts?...

• *E.G. v. Fair Lawn Bd. of Educ.*, 59 IDELR 65 (3rd Cir. 2012)

School proposed an ASD classroom with 1:1 ABA for young girl with ASD

Modeling benefit was minimized because she neither noticed nor interacted with peers, and wandered aimlessly in regular pre-K

Student needed lots of 1:1 instruction, had made progress in ASD classroom, and had opportunities for interaction with typical peers through the school's "reverse inclusion" program

E.G. v. Fair Lawn Bd. of Educ., 59 IDELR 65 (3rd Cir. 2012)

But, despite its finding on the facts, court agrees that LRE applies with "equal force" in pre-school context

N.B. v. Tuxedo Union FSD, 60 IDELR 2 (2nd Cir. 2012)

Parent challenged proposal to place PDD preschooler in a special ed class, wanted her in private regular pre-K

Student made good progress by modeling typical peers, and with 1:1 aide, in regular pre-K

School had no evidence that FAPE was not feasible in regular pre-K

Court held proposal was not LRE, awarded tuition reimbursement

• R.H. v. Plano Ind. SD, 54 IDELR 211 (5th Cir. 2010)

School proposed an inclusive pre-K program for 4-year-old with ASD and speech impairments

Parents wanted payment for private regular pre-K (teacher had no degree, was not certified)

School not sure IEP could be implemented in private pre-K without its "direct supervision"

School had no regular pre-K

• *R.H. v. Plano Ind. SD*, 54 IDELR 211 (5th Cir. 2010)

Court stated that "IDEA...makes removal to a private school placement the exception, not the default. The statute was designed primarily to bring disabled students into the public educational system...."

Court held its LRE analysis "does not consider or speak to the circumstances at issue here, where the public preschool curriculum does not include a purely mainstream class."

R.H. v. Plano Ind. SD, 54 IDELR 211 (5th Cir. 2010)

Thus, 5th Circuit does not read LRE mandate to require paying for regular private school when LEA has no pre-K

It sees private placement as an exceptional and limited circumstance, given IDEA's purpose to serve students in *public* schools

A definite conflict among circuits, owing to the realities of scarcity in regular pre-K programs—Does LRE require creation of regular placements or access to private options to satisfy IDEA?

Practical Realities

Districts without Pre-K programs risk LRE claims from parents of preschool IDEA students that should receive some mainstreaming, although inclusion options may be limited or not really good options

But, districts are unlikely to self-fund Pre-K programs in States that do not support them with funding

Thus, the existing application of LRE to preschool programs exposes these schools to a continuous legal risk of LRE claims and limited options to avoid it

Practical Ideas

Schools should *plan* to address the need for mainstreaming for certain preschool IDEA-eligible students, rather than hoping parents won't object to overly restrictive placements

Explore any and all alternatives available locally for mainstreaming (e.g., Head Start programs, other public schools, private options (if feasible))

Best option may be push-in or reverse inclusion programs, with guided interaction with nondisabled neers

Practical Ideas

Reverse inclusion could use selected K students (could be made into a program akin to Partners in PE)

For 4-year-olds, mainstreaming with K class can be considered more plausibly

Extended School Year Services

- The LRE difficulty in the ESY context is that an LEA may have only sp ed settings to provide ESY services
- And, it is more likely that more severely impaired students will need ESY, and the specialized services of a sp ed setting, to prevent regression
- Thus, it makes sense for schools to focus funding on special ESY programs
- Is there any flexibility in the LRE requirement for FSY programs?

• *T.M. v. Cornwall CSD*, 63 IDELR 31 (2nd Cir. 2014)

AU child is normally mainstreamed with supports during school year, but was offered sp ed class for ESY

Court held LRE applies equally to ESY terms, even if the district does not offer regular summer programs

Court stated that districts do not have to create regular summer programs for this purpose; they can contract with other public or private schools



"For ESY programs as for academic year programs, a child's LRE is primarily defined by the nature of the child's disabilities rather than by the placements that the school district chooses to offer."

Question—Does a school have to offer the continuum of placements it normally offers during year?...Would that be cost-effective? Is that question irrelevant?



Case has problematic implications—Is contracting with a neighboring public school for regular Summer school mainstreaming really a feasible option?

Are private summer school options available in rural areas?

Schools that have regular summer school will have to consider integrating IDEA students for ESY whose IEPs call for mainstreaming during school year

Online or Virtual Educational

ProgramsA program increasingly used by students with disabilities

> Good option for students confined to home, or who have immune system conditions

Affords flexible hours and pacing

Can be attractive to parents of students that have had problems in brick and martara ashasla

Online or Virtual Educational

Programs
• Dear Colleague Letter, 68 IDELR 108 (OSERS/OSEP 2016)

> "The educational rights and protections afforded to children with disabilities and their parents under IDEA must not be diminished or compromised when children with disabilities attend virtual schools that are constituted as LEAs or are public schools of an LEA."

Child-find applies in VPs, although it presents "unique challenges" in VP context

Tacoma Sch. Dist., 116 LRP 50574 (SEA WA 2016)

District expelled high-schooler with ADHD and ODD, due to risk of violence

After emergency expulsion term, school moved student to its VP (no IEP meeting)

But, student produced little work and was mostly off-task

HO—VP inappropriate for student's

HO—VP inappropriate for student's unique needs, and provided no social interaction



Court grants injunction removing large, aggressive student from school, and placing him in a VP

Note—Court does not comment on how the VP would be appropriate for a highly non-compliant student...

 S.P. v. Fairview Sch. Dist., 64 IDELR 99 (W.D.Pa. 2014)

Student with severe migraines alleged VP was inappropriate, denied him FAPE

School had made numerous attempts to accommodate his condition, absences, tardies

He had previously been provided a hybrid VP with some school attendance, but he neither attended school, nor worked well on the VP

School finally fashioned a fully VP, fashioned on the VP parents preferred, but parents lost faith in the program offer student did not

S.P. v. Fairview Sch. Dist., 64 IDELR 99 (W.D.Pa. 2014)

Note that court sees a VP as "the most restrictive" placement, since it provides no exposure to nondisabled (or disabled) students

In fact, no live exposure to teachers either...



12-year-old with ED and hearing impairments was moved to increasingly isolated settings due to behavior outbursts

After he was moved to a classroom alone with a teacher and aide, the aggressive behavior persisted, and the school placed him on a Skype program

Student did no work thru Skype, as he would turn off the computer and run around the room—staff could not redirect him remotely

 Does traditional LRE analysis really apply in the virtual context?

Does it matter that most programs are choice-based programs? Does the parent waive LRE if they choose the VP? Is that legally possible?...

Or, must IEP teams limit admissions to VPs only to students who require the most restrictive environment in light of their needs?... This "traditional" application would minimize the VP option for students with disabilities (as much as the residential facility

Does traditional LRE analysis really apply in VP context?

Are VPs causing widespread LRE violations? Or, does the virtual environment allow for *virtual* interaction with peers? Virtual LRE?

A continuum of virtual placements exists, where some VPs allow for interaction with peers, others have some, others have none

Is the law saying that virtual interaction is not the same, or as valuable as, physical interaction? It really has not addressed the issue

• Ideas on VP placements?

Establish nondiscriminatory admission policies, since inherent nature of VP program will make it inappropriate for some students, too restrictive for others

Discuss harmful effects of VP placement in IEP meetings

VP will not be appropriate for students whose needs include social skills development

Robots can enable some remote social interaction from the home—Where would that placement fit in the LRE continuum? Is it as restrictive as a traditional homebound program since there is no interaction in person? As restrictive as a virtual program? What about participation at home by Skype/Camera?

Courts have not yet ruled on these emerging techassisted placements, but treatment of VPs would tell us that Courts are likely to also view these placements as highly restrictive, in a traditional LRE sense

But, if technology allows for full participation in instruction, and some alternative means for social interaction (i.e., robot), then placement seems less restrictive than either homebound or VP programs

Warren Hills Reg'l High BOE, 70 IDELR 57 (SEA NJ 2017)

Provision of home instruction to 14-year-old with Marfan Syndrome was not LRE, as robot could have allowed for real-time interaction with teachers and peers

Warren Hills Reg'l High BOE, 70 IDELR 57 (SEA NJ 2017)

School's failure to investigate robot option before dismissing it was a violation of LRE

ALJ sees robot interaction as a form of pro-LRE opportunity for interaction with nondisabled peers

"In many areas of society, technological advances move at a pace that is often faster than the law can recognize and incorporate...."

In re: Student with a Disability, 117 IDELR 47550 (SEA NY 2013)

High-schooler with health and psychiatric issues claimed she could not breathe at school

School offered a clean air room at school and a robot by which student could get instruction

The student, however, did not attend, so the school moved the technology to her home, so she could attend by robot from home

In re: Student with a Disability, 117 IDELR 47550 (SEA NY 2013)

She claimed the robot was not working properly, but staff worked through all the issues

Parents nixed the robot option to attempt home instruction, but they did not like the instructors

ALJ found that District had attempted to meet the student's needs and did not violate the IDFA

Southern York Cnty. SD, 55 IDELR 242 (SEA NJ 2017)

Parents requested that a student with a genetic disorder receive educational services in the home by means of a webcam installed in his classroom

District rejected the request, then finally offered the use of a private webcam room at school, from which he could watch his classroom

Southern York Cnty. SD, 55 IDELR 242 (SEA NJ 2017)

ALJ finds that offer violated LRE, holds that the placement at school was more restrictive (?) than the home program the parents requested

District program fails to take into account that student is unable to attend school many days

Homebound instruction was not working, as the student had too much work to

Southern York Cnty. SD, 55 IDELR 242 (SEA NJ 2017)

"There is certainly an intersection here of the tides of LRE as a physical location with a technological decoupling of place due to the virtualization of teaching and learning through technology."



Practical Ideas—Schools should explore use of webcam-based classroom participation from the home as an alternative, or in conjunction with, homebound instruction

Technology can allow for full participation in instruction without great expense

Given the availability of technology, it is likely that parents of students struggling with traditional homebound services will request cam-based participation more often



Practical Ideas—Schools should explore use of webcam-based classroom participation from the home as an alternative, or in conjunction with, homebound instruction

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 Geneviva v. Hampton Twp. SD, 72 IDELR 57 (W.D.Pa. 2018)

High-functioning 21-year-old with Down's Syndrome was placed in a life skills transition-oriented placement (60% mainstreaming)

Parents wanted a postsecondary transition program on a university campus

District argued LRE did not require mainstreaming during transition ages

 Geneviva v. Hampton Twp. SD, 72 IDELR 57 (SEA PA 2018)

"Given the emphasis on transition services, as opposed to traditional academics, this Court finds no error in the HO's determination that this level of inclusion satisfies the LRE requirement."

Question—Why is a restrictive environment needed for transition-oriented learning to a greater degree than for academic learning? This is what the school argued...

 Geneviva v. Hampton Twp. SD, 72 IDELR 57 (W.D.Pa. 2018)

Question—Since the student will have to interact primarily with nondisabled persons in post-school environments, does it make sense to educate her with other disabled students?

What is the rationale for the difference in LRE application for ages 3-4 and 18-21? Hopefully, the need for the student to work on transition skills not part of regular curriculum...

 Geneviva v. Hampton Twp. SD, 72 IDELR 57 (W.D.Pa. 2018)

Practical Point—The issue is likely one of properly balancing need for instruction on transition skills with need for interaction with nondisabled peers (although with some difference in ages)

In this age range, schools should still look to maximizing time spent with nondisabled peers in the school portion of the program (e.g., electives, PE)

Geneviva v. Hampton Twp. SD, 72
 IDELR 57 (W.D.Pa. 2018)

Note—With the advent of postsecondary programs for students with disabilities, we are likely to see more of this type of case

More Restrictive Environment (MRE) Cases

- Despite the LRE mandate, at times, parents take legal action to seek highly restrictive placements
- E.g., ABA cases, private placement cases, therapeutic placements
- Or, to seek optimal progress (e.g., *Moradnejad v. District of Columbia*, 67 IDELR 261 (D.D.C. 2016))
 - Question—Is the LRE analysis treated

• S.M. v. Arlotto, 73 IDELR 74 (D.Md. 2018)

Parents claim elementary student with ADHD and SLDs needs full-time sp ed setting, seek private SLD placement

Court focuses only on student's performance (grade-level) and that he is easily redirected

But, court engages in no LRE analysis to deny private placement

• T.M. v. Quackertown CSD, 69 IDELR 276 (E.D.Pa. 2017)

Parents seek 1:1 ABA services for 11-yearold with ASD/ID

They assert that he cannot benefit from interaction with nondisabled student

Court disagrees, notes that student's social skills have improved with mainstreaming

• T.M. v. Quackertown CSD, 69 IDELR 276 (E.D.Pa. 2017)

Again, court does not focus on LRE analysis, noting only in passing, that "one goal of mainstreaming is to provide the child with opportunities to develop social and communication skills."

Question—Why not apply LRE analysis and simply hold that the parents' request violates the LRE mandate?

• T.M. v. Quackertown CSD, 69 IDELR 276 (E.D.Pa. 2017)

Note—See also, J.G. v. State of Hawaii DOE, 72 IDELR 219 (D.Hawaii 2018) for a case where parent argued that being exposed to neurotypical peers was actually harmful to their child

• *A.R. v. Santa Monica Malibu SD*, 66 IDELR 269 (9th Cir. 2016)

School proposed preschool collaborative placement for 4-year-old with ASD

When parents complained of the focus on play-based learning, school proposed another pre-K class focusing on pre-academics and more typical peer models

• *A.R. v. Santa Monica Malibu SD*, 66 IDELR 269 (9th Cir. 2016)

Parents sued for private specialized program for students with disabilities, while asserting that the public school program violated LRE

Court denied relief on LRE grounds (without noting the contradictory nature of the parents' claim)

• *A.R. v. Santa Monica Malibu SD*, 66 IDELR 269 (9th Cir. 2016)

Not a one-off case, see M.M. v. Seattle SD, 68 IDELR 165 (W.D. Wa. 2016)(parents sued for full-time regular placement for child with ASD on LRE grounds, but sought placement in private program for ASD children)

- K.K.R. v. Missoula Cty. Pub. Schs., 68 IDELR 68 (D.Mt. 2016), aff'd 71 IDELR 181 (9th Cir. 2017)
 - Parents of a 9th grader with Asperger and ED sought continuation of private therapeutic placement
 - Parents declined all options other than private placement
 - "Nothing in the IDEA or corresponding regulations require a school to start the process with the most restrictive placement if it can adequately serve the student in a less

 K.K.R. v. Missoula Cty. Pub. Schs., 68 IDELR 68 (D.Mt. 2016), aff'd 71 IDELR 181 (9th Cir. 2017)

Note—An analysis more observant of the LRE mandate

(See, similarly, *B.M. v. Encinitas USD*, 60 IDELR 188 (S.D.Cal. 2013)(using *Rachel H.* analysis to hold that parents' preferred 1:1 ABA home program was not the LRE for the student, and

Nathan M.. v. Harrison SD No. 2, 73 IDELR 148 (D.Co. 2018)

School proposed transitioning student from a private ABA program to public school

Challenge to school program failed because "the prime difference between Alpine and Otero. There are no nondisabled children among the 27 or so children at Alpine."

Thus, "there is no opportunity for him to interact with children making normal progress."



Moreover, private school focused only on behavior, but it had no certified teachers, and student made little academic progress

Note—Why no discussion of lack of access to regular curriculum in the private school? Is there not a "curricular LRE" component to IDEA that emphasizes participation in regular curriculum standards?

 Contrast with Analysis in Traditional Placement Challenges

C.D. v. Natick Pub. SD, 70 IDELR 120, 72 IDELR 148 (D.Mass. 2018)

LRE analysis front and center when parents challenged school proposal for placement in sp ed classes for 10-year-old with ASD/ID

Court held student could be mainstreamed "especially with a para-

Contrast with Analysis in Traditional Placement Challenges

It's difficult not to conclude that the focus on LRE compliance decreases when parents are not seeking to enforce the mandate (i.e., LRE less effective "defense" than "offense")

Is placement in LRE a student right? If so, can it be waived? Is it, rather, a fundamental independent IDEA standard that cannot be waived?...

Practical Point—If parents seek a specialized placement, school should document precisely how the student could receive a FAPE in a less restrictive environment.

Cases

- In its 1985 Burlington opinion, Supreme Court held that parents could place their child unilaterally in a private school setting and get reimbursement from their public school if they showed that:
 - 1. Public school program was inappropriate, and
 - 2. Private school is appropriate

See Burlington Sch. Committee v. Massachusetts DOE, 556 IDELR 389 (1985)

• In its follow-up *Florence* opinion, Supreme Court held that the parents' chosen private placement need not be approved by SEA or meet all normallyapplied FAPE requirements in order for reimbursement to be possible

See Florence Cty. Sch. Dist. 4 v. Carter, 20 IDELR 532 (1993)

• In its follow-up *Florence* opinion, Supreme Court held that the parents' chosen private placement need not be approved by SEA or meet all normallyapplied FAPE requirements in order for reimbursement to be possible

See Florence Cty. Sch. Dist. 4 v. Carter, 20 IDELR 532 (1993)

 And, circuit courts have interpreted Florence as not requiring full LRE compliance in private placement reimbursement cases, holding LRE is only a "factor" in determining appropriateness of the private program

See, e.g., *M.S. v. BOE of the City Sch. Dist. of Yonkers,* 33 IDELR 183 (2nd Cir. 2000); *Warren G. v. Cumberland Cnty. Sch. Dist.*, 31 IDELR 27 (3rd Cir. 1999); *Cleveland-Heights-University Heights CSD*

 Indeed, some courts plainly state that LRE is a prohibitionary mandate intended to prevent schools from improperly segregating students, but not equally applicable to parental private placement

See, e.g., Carter v. Florence Cnty. Sch. Dist., 18 IDELR 350 (4th Cir. 1991)("the Act's preference for mainstreaming was aimed at preventing schools from segregating handicapped students from the general student body" and not to restrict parental options in unilateral placement situations)

Cases
• C.L. v. Scarsdale Union Free SD, 63 IDELR 1
(2nd Cir. 2014)

Parents unilaterally placed a 4th grader with ADHD and SLDs in a private special school for students with disabilities and sought reimbursement from the District

Since parents' options may be limited to special schools, "inflexibly requiring that the parents secure a private school that is nonrestrictive, or at least as nonrestrictive as the FAPE-denying public school, would undermine the right of unilateral withdrawal the Supreme Court recognized in *Burlington*."

Cases
• C.L. v. Scarsdale Union Free SD, 63 IDELR
1 (2nd Cir. 2014)

Thus, the high restrictiveness of a private school is not dispositive of whether the placement is appropriate for *Burlington* reimbursement, but it is a "factor" to consider

But, the Court overrules the lower court's finding that the private program was way too restrictive for the student's needs, without further consideration of the LRE issue, and despite the student's prior progress in regular classes

Cases
• C.L. v. Scarsdale Union Free SD, 63 IDELR
1 (2nd Cir. 2014)

Questions—To what degree does LRE remain a factor in examining the appropriateness of the private school? Are the student's needs irrelevant to the inquiry?

Would prospective funding of the private school be appropriate, or would LRE require courts to order the appropriate services be provided to the student in the public school setting?

Cases
• C.L. v. Scarsdale Union Free SD, 63 IDELR 1
(2nd Cir. 2014)

Note—Definitely a context where the importance of the LRE mandate is diluted and does not apply with "equal force"... More like a "waivable" right to LRE

And, is LRE really only a prohibition on schools? Some courts view LRE as a student right; a right to socially interact and associate with nondisabled children...

(See, e.g., *A.K. v. Gwinnett Cnty. SD*, 62 IDELR 253 (11th Cir. 2014); *Teague Ind. SD v. Todd L.*, 20 IDELR 259 (5th Cir. 1993))