



**STATE OF SOUTH CAROLINA**  
**DEPARTMENT OF EDUCATION**

**MOLLY M. SPEARMAN**  
*STATE SUPERINTENDENT OF EDUCATION*

**MEMORANDUM**

**TO:** District Special Education Directors  
District Early Childhood Education Coordinators

**FROM:** Rebecca Davis, Director, Office of Special Education Services

**DATE:** September 4, 2019

**RE:** Least Restrictive Environment in Preschool and Continuum of Placements

This memorandum serves as guidance on adhering to the least restrictive environment (LRE) requirement with respect to preschool placements for young students with disabilities. As you are aware, regulations to local educational agencies (LEAs) in Part B of the Individuals with Disabilities Education Act (IDEA) (34 C.F.R. Part 300), that provide LRE requirements apply to the placement of preschool children with disabilities. The statutory requirements for LRE do not distinguish between school-aged and preschool-aged children, and must be applied equally.

These requirements state IDEA's expectation that children with disabilities are educated in regular classes with supplementary aids and supports. Section 1412 (a)(5) of Title 20 of the United States code states that "to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, must be educated with children who are not disabled. Further, special classes, separate schooling, or other removal of children with disabilities from the regular educational environment may occur only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily." Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with 34 C.F.R. § 300.114 through 300.116.

In accordance with 34 C.F.R. § 300.115 through 300.116 a preschool continuum of alternative placements must be provided by each public agency to meet the needs of children with disabilities for special education and related services. The preschool continuum must: (1)

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include 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 a resource room or itinerant instruction to be provided in conjunction with regular class placement.

South Carolina Department of Education (SCDE) staff have worked with Head Start, First Steps, Office of the Child Care Administrator and other state level partners to develop guidance that supports LEAs to build a preschool continuum of alternative placements for young students with disabilities. Examples and non-examples of a preschool continuum of placements, supplementary supports and resources to facilitate braided or blended funding at the district-level are provided in the attachment to this memorandum. LEAs and individual education plan (IEP) teams should carefully review this guidance and the attached resources to ensure LRE is provided for preschool students.

After reviewing the guidance, LEAs may determine, based on IEP team decisions, that there is the need to modify the existing placement options for preschool students with disabilities. For example, offering only a self-contained special education class for three year olds is not a continuum and LEAs may determine the need for itinerant special education services to serve children in local early childhood education programs. If your LEA needs to obtain additional training on preschool LRE and how to build a preschool continuum of placements for young students with disabilities, please contact Jenny May, [jmay@ed.sc.gov](mailto:jmay@ed.sc.gov).

We appreciate your leadership and your team's hard work in providing a preschool continuum of alternative placements to ensure our students with disabilities have access to LRE.

Attachments

## Attachment A

### **Examples and Non-exemplars of Least Restrictive Environment in the preschool continuum of alternative placements**

South Carolina Department of Education (SCDE) staff have worked with Head Start, First Steps, Office of the Child Care Administrator and other state level partners to develop guidance that supports local education agencies (LEAs) to build a preschool continuum of alternative placements for young students with disabilities, as required under the Individuals with Disabilities Education Act (IDEA). Examples and non-examples of a preschool continuum of placements, supplementary supports, and resources to facilitate braided or blended funding at the district-level are provided in the attachment to this memorandum. LEAs and individualized education program (IEP) teams should carefully review this guidance for ensuring the least restrictive environment (LRE) is provided for preschool students.

A student who is ineligible for a program due to age at time of enrollment or other program requirements such as financial eligibility is not automatically eligible for service in this program using solely IEP as criterion. The student must be served in the LRE where the IEP team determines the student's needs will be met and he/she will have access to the SC Early Learning Standards, general education curricula, and typically developing, age-appropriate peers. A good way to identify the LRE for a preschool-aged child is answering the question "Where would this child be served if he/she did not have a disability" and then using the IEP to determine appropriate supports and accommodations for the child to be successful in that setting.

As with Kindergarten through 12<sup>th</sup> grade, whichever source funds the general education program for young students who are the same age and eligibility, that source also funds the general early childhood education cost for the preschool student with disabilities. Excess costs for specialized materials, instruction or accommodations are paid for using IDEA funds, either those designated for preschool (619) or other IDEA funding sources.

#### Preschool Continuum of Alternative Placements

##### **Examples**

An LEA offers special education services to children ages three, four, and five (not yet Kindergarten eligible) in a variety of settings to meet the diverse needs of young children with disabilities. Preschool children with disabilities can access high quality early childhood educational activities in regular preschool classes, special education classes, special schools, home instruction, and instruction in hospitals. Young children with disabilities have access to needed supplementary services such as a specially designed instruction or speech services provided during part of the day in the CERDEP program through a pull-out or inclusion model. This may include direct and indirect services provided to the child as well as consultation provided to the classroom teacher and staff.

A child who is not financially eligible for a Head Start program, *may* be able to be served in this setting if the Head Start program successfully waives the financial eligibility requirement to meet its federally required program enrollment of 10% of students having an IEP. This will be considered by

the Head Start program on a case by case basis for children who are not financially eligible.

## **Non-Exemplars**

**The following scenarios place the district in a legally vulnerable situation and are NOT considered a continuum.**

An LEA offers a self-contained class for three-year-old students with disabilities. If parents do not want to enroll their child in this class, there are no other special education services provided for three-year-olds.

An LEA offers a half-day program for three, four and five (not yet Kindergarten eligible) students with IEPs and children without an IEP are served in a full day preschool program.

A CERDEP 4K class has a requirement that children are four years old by September 1 of the school year. This would not be an appropriate LRE for child who turns 4 in December, even if they would not begin in the CERDEP class until January. This child could be served in community-based childcare, or other age-appropriate setting until he or she is age eligible for the CERDEP class by September 1 of that school year.

## **Trouble Shooting Tips**

Scenario: A community based childcare setting refuses to allow the speech therapist into the setting to serve a child in their center.

Tips: The special education director or designee can call the childcare director and explain that the speech therapist has passed all requisite district security checks, and is under the general supervision of the district and parents have consented that this person work with their child to provide services. Use the Authorization for Intervention, Therapy and Extracurricular Activities (DSS Form 2930) from the Office of the Childcare Administrator to formalize the procedure:

[https://dss.sc.gov/resource-library/forms\\_brochures/files/2930.pdf](https://dss.sc.gov/resource-library/forms_brochures/files/2930.pdf)

Scenario: A parent would like special education services to be provided in a private childcare center and the district pay the tuition to satisfy the federal requirement of a free appropriate public education and special education services be provided there. This is a childcare center chosen by the parents.

Tips: The district special education funds cannot support payment of the general preschool education/tuition cost as special education funds only cover the excess cost of specialized services or instruction. The district also cannot assume liability for a center that is not under its general supervision when it is a parent-selected site. Parents do have the right to place preschool students at the center or program of their preference, however similarly to K through 12<sup>th</sup> grade funding structures, the general education cost of preschool is paid for by the funding stream that would pay for it if the student did not have a disability, and IDEA funds (619 or 611) would pay for the excess cost of specialized instruction, services, or accommodations. A student can be served in an age-appropriate public setting such as CERDEP or a Title 1 preschool setting, or the team may consider a First Steps or Head Start program. Parents can be advised to research if they are eligible for a

childcare voucher to offset the tuition cost of community-based child care programs. To gain information on SC Vouchers click here: <http://www.scchildcare.org/departments/sc-voucher.aspx>

## Resources

### Legal Guidance

[http://ectacenter.org/~pdfs/topics/inclusion/research/IDEA Provisions Supporting Preschool Inclusion.pdf](http://ectacenter.org/~pdfs/topics/inclusion/research/IDEA_Provisions_Supporting_Preschool_Inclusion.pdf)

<http://ectacenter.org/~pdfs/topics/inclusion/determining-lre-placements.pdf>

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/preschool-lre-dcl-1-10-17.pdf>

<https://www2.ed.gov/policy/speced/guid/earlylearning/joint-statement-full-text.pdf>

### Research and Best Practice:

[https://npdci.fpg.unc.edu/sites/npdci.fpg.unc.edu/files/resources/NPDCI-ResearchSynthesisPointsInclusivePractices-2011\\_0.pdf](https://npdci.fpg.unc.edu/sites/npdci.fpg.unc.edu/files/resources/NPDCI-ResearchSynthesisPointsInclusivePractices-2011_0.pdf)

[https://npdci.fpg.unc.edu/sites/npdci.fpg.unc.edu/files/resources/NPDCI-ResearchSynthesisPoints-10-2009\\_0.pdf](https://npdci.fpg.unc.edu/sites/npdci.fpg.unc.edu/files/resources/NPDCI-ResearchSynthesisPoints-10-2009_0.pdf)

[http://ectacenter.org/~pdfs/topics/inclusion/research/STRAIN\\_what\\_we\\_know.pdf](http://ectacenter.org/~pdfs/topics/inclusion/research/STRAIN_what_we_know.pdf)

<http://ectacenter.org/topics/inclusion/research/research.asp>

<http://ectacenter.org/~pdfs/topics/inclusion/local-inclusion-self-assessment.pdf>

<http://ectacenter.org/~pdfs/topics/inclusion/team-decisions-guiding-questions.pdf>

<https://elc.grads360.org/services/PDCService.svc/GetPDCDocumentFile?fileId=9652>

### Funding

[http://ectacenter.org/~pdfs/topics/inclusion/preschool\\_inclusion\\_finance\\_toolkit\\_2017-07-07.pdf](http://ectacenter.org/~pdfs/topics/inclusion/preschool_inclusion_finance_toolkit_2017-07-07.pdf)

<http://ectacenter.org/topics/inclusion/funding/funding.asp>

