



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

JUL 23 2003

This letter is in response to your letter seeking clarification on the “least restrictive environment” and a “typical regular classroom.” In your letter you asked, “Can a program be described as a typical ‘regular class,’ if the percentage of disabled children [is] greater than the natural percentage of disabled children in the general population within the district?” You explained that your school district considers a child with a disability “mainstream[ed] in a more restrictive hybrid classroom” where the percentage of children with disabilities ranges from 20% to 36%. You further state that the percentage of children with disabilities in other regular classrooms within the district is 0% to 10%, and the percentage of children with disabilities in the general population is 9%.

Neither the IDEA statute nor its implementing regulations define the term “regular classes.” The least restrictive environment (LRE) provisions of the Federal regulations implementing Part B of the Individuals with Disabilities Education Act (IDEA), are set forth at 34 CFR §§300.550-300.556. Under these requirements, each public agency must ensure that a continuum of alternative placements, that includes instruction in regular classes, is available to meet the needs of children with disabilities. 34 CFR §300.551. The IDEA requires that the placement decision for each child with a disability be based on the child’s individualized education program (IEP) and be made at least annually 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. 34 CFR §300.552(a)(1) and (b)(1) and (2). Section 300.550(b) requires that States and local educational agencies ensure that:

- (1) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and
- (2) 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.

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In addition, children with disabilities must be placed so that they participate with nondisabled students in nonacademic and extracurricular services and activities to the maximum extent appropriate to the needs of the individual child with a disability. 34 CFR §300.553. Each child's placement must be as close as possible to the child's home, and unless the child's IEP requires some other arrangement, each child with a disability must be educated in the school that he or she would attend if nondisabled. 34 CFR §300.552(b)(3) and (c). Finally, public agencies also must ensure that children with disabilities are not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. 34 CFR §300.552(e).

Thus, the IDEA establishes a presumption that children with disabilities will be educated in classes and settings with their nondisabled peers unless the education of children with disabilities cannot be satisfactorily achieved in those classes and settings with the use of supplementary aids and services. However, the IDEA does not limit the number, or percentage, of students with disabilities that may be placed into a specific regular classroom in order to provide a free appropriate public education in the least restrictive environment, consistent with the requirements above.

I am enclosing a copy of the Part B regulations of the IDEA, referred to in this letter, for your reference. If you have any further questions, please feel free to contact Dr. Wendy Tada at 202-205-9094.

Sincerely,



for Stephanie S. Lee
Director
Office of Special Education Programs

Enclosure

cc: Ms. Barbara Gantwerk
Director
Office of Special Education Programs
New Jersey Department of Education