



Education Law Center

*Making sure that all of Pennsylvania's children
have access to quality public schools*

DECIDING WHERE YOUR CHILD WILL GET SERVICES: THE PLACEMENT DECISION

IMPORTANT: ELC's publications are intended to give you a general idea of the law. However, each situation is different. If, after reading our publications, you have questions about how the law applies to your particular situation, contact us for a referral, or contact an attorney of your choice.

Once the IEP Team has developed an appropriate program for a child, the Team must then determine the appropriate placement. The placement decision must be based on the child's needs, not on administrative convenience or the concerns of school officials. An important factor in figuring out a child's placement is the "**least restrictive environment**" requirement. The law states that children with disabilities must be educated in regular education classes with other children who do not have disabilities as much as is appropriate. Sometimes this is called the "inclusion" of children with disabilities in the regular education environment.

HOW WILL MY CHILD'S PLACEMENT BE DECIDED?

The family is part of the IEP Team that decides what educational placement will work for the child. The Team must also include a school district staff person knowledgeable about the meaning of the evaluation data and the school or school district's placement options. If the child is or may be in regular education classes, a regular education teacher must also participate with the Team.

The school or school district must give the parent a written invitation to the meeting at which the educational placement decision will be made and must make the same effort to include the parent that applies to any IEP Team meeting (in fact, the Team usually decides the child's placement at the same meeting or series of meetings at which the child's program is developed). The school or school district can make the placement decision at a meeting that does not include the parent, but only if it can document that it made repeated efforts to include the parent, including offering alternate means of participating such as video conferences and conference calls.

The placement decision must be based on the child's individualized needs as described in the child's IEP and evaluations. When an IEP Team meets, the Team must first discuss and write the child's IEP, which outlines the child's strengths and weaknesses, identifies the child's learning goals for the year, and lists the amount and type of special services the child needs in order to make educational progress at school. At the end of the IEP form, the Team must write down how much time the child will spend in a regular classroom, and how much time (if any) she will spend in a pull-out special education classroom. If the child needs a pull-out classroom to make educational progress, the Team must decide *what kind* of separate program the child needs and for *how much* of the school day. (This is explained more below).

Schools must allow parents to have reasonable access to their child's classrooms consistent with the visitation policy of the school. So a parent can visit her child's current classroom to determine whether it is an appropriate placement for the child to receive special education services. Although it is not clear whether parents have a right to visit a classroom that the child does not attend but that the school is proposing for the child's placement, such a visit would be helpful in determining the appropriate placement for the child and the parent should feel free to ask to visit.

WHAT PLACEMENT AND SUPPORT OPTIONS SHOULD BE AVAILABLE IN MY SCHOOL OR SCHOOL DISTRICT?

The law requires all charter schools and school districts to have a *continuum* of regular and special education placements available for their children. The options available should include:

- Regular education classes with itinerant support services;
- Supplemental (part-time) and full-time special education classes in regular schools;
- For children whose needs cannot be met in a public school, private schools that can meet the needs of children with disabilities; and
- Instruction in the home or in a hospital, if medically necessary (for instance, some medically fragile children may be too sick or fragile to attend school and may need to be educated at home for some period).

School districts usually operate some special education classrooms, and many send children to classrooms run by the local Intermediate Unit (IU) or use the IU's resources in other ways. The placement that the Team chooses must provide all of the services that the Team has included in the child's IEP. For example, if the Team writes in the IEP that the child needs an hour each day of special education help in a regular classroom in her neighborhood school, the neighborhood school must make sure that she has that help.

The IEP Team also decides the *type of support* the child needs and includes this information in the IEP. This decision is based on the child's most important learning need. Examples are:

- Learning Support
- Life Skills Support
- Emotional Support
- Deaf and Hearing Impaired Support
- Blind and Visually Impaired Support
- Speech and Language Support
- Physical Support
- Autistic Support
- Multiple Disabilities Support

If the child primarily needs to focus on academic skills, "learning support" might be selected. If the child needs to learn to control behaviors that interfere with her learning, the choice might be "emotional support." Or if a child needs to learn basic life skills such as dressing, feeding, or basic academics, "life skills" might be selected. Depending on the child's disabilities, the Team may decide that more than one type of support is appropriate.

REMEMBER: The type of support a child receives does not necessarily determine her placement. For example, a child who receives learning support may be placed in a regular education classroom for all of the school day, or may be placed in a special education class for learning support children for part or all of the school day.

HOW DOES THE IEP TEAM DECIDE THE "LEAST RESTRICTIVE" PLACEMENT FOR MY CHILD?

Just because a child needs special education does not mean that the child will be taken out of her regular classroom and put in a special education classroom for her entire school day. Children with disabilities have a right to be educated in a regular classroom if they can make reasonable educational progress in that setting (and if their behaviors aren't too disruptive in that setting) *when they are given extra supports*. These supports are called "supplementary aids and services." The question that the IEP Team should ask is not how the child will learn or behave in the regular classroom alone - but how they will learn and behave in that classroom when they are given supplementary aids and services.

Supplementary aids and services are aids, services, and other supports that help a child succeed in regular education classes, other education-related settings, extracurricular activities, and nonacademic settings (like lunch). Examples of supplementary aids and services include:

- A modified desk or a communication device;
- Changes to the curriculum used in the regular education class;
- Changes to the schedule used in the regular education class;
- Support to the child or regular education teacher from a special education teacher;
- Training provided by the school to the child's teachers, therapists and other personnel working with the child; and/or
- A personal aide for the child.

The Pennsylvania Department of Education has a helpful fact sheet - found at <http://www.pattan.k12.pa.us/files/Gaskin/SuplmntryAids-Svcs1008.pdf> - which explains supplementary aids and services and provides guidance to IEP Teams in considering the full range of supplementary aids and services. More information

about what consideration the IEP Team must give to the use of supplementary aids and services can be found in PDE's annotated IEP form at: <http://www.pattan.k12.pa.us/files/Forms/English/IEP-ANN070108.pdf> (see pages 36-37).

The IEP Team should begin the discussion of the child's placement by first considering a regular education classroom with supplementary aids and services. If a child can benefit from education in a regular education classroom with supplementary aids and services, then that should be her placement. Educational benefit is measured by progress toward the child's IEP goals (academic goals or other goals), not by whether the child can do all the work in the regular education classroom. When deciding the least restrictive placement for a child, a school **may not refuse** to place a child in a regular education classroom because:

- the child cannot do the same work at the same level as the other children in the regular education class if the child can make meaningful progress on the goals in his IEP in a regular education class;
- the placement would be more expensive or inconvenient to the school;
- the child has a certain type of disability or because the disability is severe in the school's view (for example, a school cannot have a policy that places all children with autism in an autistic support classroom);
- there is no room in the regular classroom for more children, but there is room in the special education classroom;
- the curriculum used in that classroom has to be modified for the child because of her disability; or
- the child would make more academic progress in a special education classroom.

Even if a child with a disability must be in a "pull-out" program for some of her academic classes (for example, if she needs a part-time class for reading), the child should remain in the regular education setting (with supports if needed) for the rest of her academic classes and for non-academic and extracurricular activities (lunch, recess, music class, etc.) if appropriate for that child.

Children who need a special education classroom should be placed in the same school they would attend if they were not disabled (the "neighborhood school") unless their special education needs require that they be educated elsewhere. The

school chosen for the child should be as close as possible to the child's home.

WHAT SHOULD THE IEP TEAM WRITE IN THE IEP ABOUT MY CHILD'S PLACEMENT?

In making a placement decision for a child, the IEP Team should decide the following and record it in the IEP:

- Type of support the child will receive (learning support, life skills support, etc.);
- Whether the child can be educated in a regular education classroom for all or part of the day;
- Supplementary aids and services that will be provided to help the child be included in a regular education classroom;
- Amount of time the child will spend outside of the regular education classroom, if any ;
- The name of the school district and the specific school building where the child will receive services, and whether it is the school the child would attend if the child did not have an IEP (the child's "neighborhood school").

Because of a lawsuit against the state (called *Gaskin*, which focused on the right of children with disabilities to be in the least restrictive environment), school districts must include lots of detailed information in the child's IEP about the child's placement (called the Penn Data Reporting section of the IEP). For more information on the *Gaskin* lawsuit and settlement, visit:

<http://www.pattan.k12.pa.us/regsforms/CourtOrdersGaskin.aspx>.

TIP: By the end of the placement discussion, you need to understand *exactly* the type of support your child will get (for example, learning support), how much she will get (for example, itinerant support), and where she will receive the support (for example, a regular education classroom in her neighborhood school). Ask questions if you don't understand anything!

WHAT HAPPENS ONCE THE IEP TEAM DECIDES YOUR CHILD'S PLACEMENT?

Once the IEP Team decides the child's placement, then the school must give you a **Notice of Recommended Educational Placement/Prior Written Notice (NOREP/PWN)** that describes what placement has been recommended for your child, why, and what other options were considered. You must then decide whether to approve or disapprove the recommended placement. If you disapprove the proposed placement, and ask for mediation or a special education hearing, your child remains (or "stays put") in her current placement until your disagreement with the school gets resolved. .

ARE THERE RULES THAT LIMIT THE AGE RANGE OF THE CHILDREN IN A SPECIAL EDUCATION CLASS AND SET A MAXIMUM CASELOAD FOR A SPECIAL EDUCATION TEACHER?

Yes. When the child is attending a special education class in a school district or IU-operated program for children in K-12th grade, the other children in her class must be near her age. The maximum age range allowed in classrooms serving children with disabilities is three years for grades K-6, and four years for grades 7-12. The IEP Team can decide that an exception to this rule is appropriate for a particular child, but it must explain in the IEP why it made an exception to the rule for that child.

State law also sets out the maximum number of children that can be on a special education teacher's caseload in the various types of special education support programs:

	Itinerant	Supplemental	Full-Time
Learning Support	50	20	12
Life Skills Support	20	20	12 (grades K-6) 15 (Grades 7-12)
Emotional Support	50	20	12
Deaf/ Hearing Impaired	50	15	8
Blind/ Visually Impaired	50	15	12
Speech and Language	65		8
Physical Support	50	15	12
Autistic Support	12	8	8
Multiple Disabilities Support	12	8	8

For purposes of determining the appropriate caseload, a child is:

- a "full-time" child if she receives supports and services by special education personnel for 80% or more of the school day;
- a "supplemental" child if she receives supports and services by special education personnel between 20% and 80% of the school day;
- an "itinerant" child if she receives supports and services by special education personnel for 20% or less of the school day.

A school district cannot go beyond the numbers in this regulation unless it first gets approval from the Pennsylvania Department of Education after a process that gives parents, teachers, and others a chance to comment on the proposed changes.

ARE THERE ANY REQUIREMENTS FOR SPECIAL EDUCATION CLASSROOM SPACE AND LOCATION?

Schools must provide children with disabilities appropriate classroom space. The room must be a space that was designed to be used as a classroom. The classroom must be close to the ebb and flow of school activities. The noise level in the classroom must be reasonable to allow the children to learn. The classroom must

be accessible to children with disabilities and contain at least 28 square feet of space for each child. For example, if a school uses an old storage closet for a special education classroom, it may be violating the law.

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