

# **Joint Statement on Maintaining the Least Restrictive Environment Requirements of the Individuals with Disabilities Education Act**

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**(Washington, DC)** – Today, a diverse coalition of professional, legal and advocacy organizations met with Department of Education Chief of Staff Nate Bailey, Acting General Counsel Reed Rubenstein and OSERS Assistant Secretary Johnny Collett to discuss what we considered to be an imminent threat of a policy reinterpretation of the Least Restrictive Environment (LRE) provisions, which is a cornerstone of the Individuals with Disabilities Education Act (IDEA). Our concern was generated by credible information that the Department of Education was planning to alter or reinterpret the law’s presumption -- that all children with disabilities will be educated in the general education classroom; except in the rare circumstance that the student cannot get a satisfactory education in that environment even with supplementary aids and services. Any reinterpretation of LRE would alter or weaken IDEA’s clear requirement that general education must be the first consideration for placement for every student.

At today’s meeting, we were assured by Mr. Bailey that there would be no such reinterpretation of LRE in the immediate future, and that the Department of Education (Department) would uphold the law. However, they noted that nothing was off the table as part of the Department’s Rethink Framework. They provided assurances to us that they would collaborate with stakeholder groups and experts in the field, though we made it clear to them that we would oppose any and all reinterpretations of LRE – a basic tenet of IDEA - that could infringe upon the civil rights of children with disabilities.

The following is a statement that reflects the position of a broader coalition of stakeholders.

“Our coalition, which represents the diverse community of individuals and organizations that care about, educate and protect the rights of children with disabilities, will vehemently oppose any effort put forward by the Department of Education that alters or re-interprets the law’s presumption. We are shocked that the Department even considered pursuing this course. However, with millions of children, families, teachers and school leaders behind us, we will work together to vigorously protect current law and fight any interpretation of LRE that alters or weakens IDEA’s clear requirement that schools and districts must consider general education first, for every child. We must protect IDEA’s presumption of general education because without it, we can expect to see increases in the inappropriate placement of children with disabilities in more segregated settings which contradicts the clear language, intent, and established legal precedent of the IDEA.”

## **Association of University Centers on Disabilities**

**Autism Society of America**

**Center for Public Representation**

**Council for Exceptional Children**

**Council of Administrators of Special Education**

**Council of Parent Attorneys and Advocates**

**National Association of State Directors of Special Education**

**National Center for Learning Disabilities**

**National Center for Special Education in Charter Schools**

**National Disability Rights Network**

**National Down Syndrome Congress**

**Dr. Thomas Hehir**, former director, Office of Special Education, Bill Clinton Administration

**Judith Heumann**, former assistant secretary, Office of Special Education and Rehabilitative Services, Bill Clinton Administration

**Stephanie Smith Lee**, former director, Office of Special Education, George W. Bush Administration

**Melody Musgrove**, former director, Office of Special Education, Barack Obama Administration

**Robert Pasternak**, former assistant secretary, Office of Special Education and Rehabilitative Services, George W. Bush Administration

**Alexa Posny**, former assistant secretary, Office of Special Education and Rehabilitative Services, Barack Obama Administration and former director, Office of Special Education, George W. Bush Administration

**Sue Swenson**, former deputy assistant secretary, Office of Special Education and Rehabilitative Services, Barack Obama Administration

**Madeleine Will**, former assistant secretary, Office of Special Education and Rehabilitative Services, Ronald Reagan Administration

**Michael Yudin**, former assistant secretary, Office of Special Education and Rehabilitative Services, Barack Obama Administration

#### **Facts About Least Restrictive Environment:**

- The Individuals with Disabilities Education Act (IDEA) makes clear that every child with a disability must receive their education alongside students without disabilities *to the maximum extent appropriate*.<sup>1</sup> This fundamental promise within the law is known as the “least restrictive environment” (LRE) requirement.<sup>2</sup>
- The IDEA regulations require that removal from the general education classroom should occur *only* when, due to the nature and severity of a child’s disability, education in a general education classroom with supplementary aids and services cannot be achieved satisfactorily.<sup>3</sup>
- While districts must have a continuum of services and placements available for the small minority of students whose unique needs justify an alternative placement, the IDEA and its regulations both presume that the general education classroom will be the placement for every child with a disability unless an education in that setting cannot be satisfactorily achieved, even with supplementary aids and services.<sup>4</sup>
- Over the years, the LRE mandate in law and regulations, along with its interpretation by the courts, has increased the number of students with disabilities learning alongside their nondisabled peers in general education classrooms.<sup>5</sup>

Read a [statement of principles on LRE](#) from the Consortium for Citizens with Disabilities Education Task Force

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<sup>1</sup> 20 U.S.C. § 1412(a)(5).

<sup>2</sup> See also the “most integrated setting” mandate within the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. Specifically, 28 C.F.R. § 35.130(d) requires public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.” According to 28 C.F.R. Pt. 35, App. A (2010) (addressing § 35.130), the most integrated setting is one that “enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible....”

<sup>3</sup> 34 C.F.R. § 300.114(a)(2)(ii).

<sup>4</sup> *OSEP Policy Letter to Hall*, 30 IDELR 142 (12/31/97).

<sup>5</sup> *Daniel R.R. v. State Board of Education*, 874 F. 2d 1036 (5th Cir. 1989). See also. *Oberti v. Clementon*. 995 F.2d 1204 (3rd Cir. 1993).