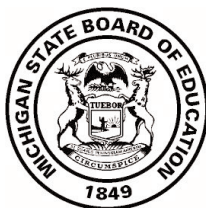


**Procedures for Determining the
Least Restrictive Environment in Accordance with the
*Individuals with Disabilities Education Act (IDEA)***

August 10, 2004



State Board of Education

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Compliance with Title IX

What Title IX is: Title IX of the Education Amendments of 1972 is the landmark federal law that bans sex discrimination in schools, whether it is in curricular, extra-curricular or athletic activities.

Title IX states: “No person in the U.S. shall, on the basis of sex be excluded from participation in, or denied the benefits of, or be subject to discrimination under any educational program or activity receiving federal aid.”

The Michigan Department of Education (MDE) is in compliance with Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq. (Title IX), and its implementing regulation, at 34 C.F.R. Part 106, which prohibits discrimination based on sex. The MDE, as a recipient of federal financial assistance from the United States Department of Education (USDOE), is subject to the provisions of Title IX. MDE does not discriminate based on gender in employment or in any educational program or activity that it operates.

The designated individual at the Michigan Department of Education for inquiries and complaints regarding Title IX is:

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STATEMENT OF COMPLIANCE WITH FEDERAL LAW

The Michigan Department of Education complies with all Federal laws and regulations prohibiting discrimination and with all requirements and regulations of the U.S. Department of Education.

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This paper sets forth the position of the Michigan State Board of Education regarding the placement of students with disabilities in general education programs within general education facilities. This encompasses the concept in the delivery of programs and services to students with disabilities known as inclusive education. Inclusive education should be integral to efforts in P.A. 25, school improvement, school restructuring, and core curriculum to enhance education for all students.

This paper serves as a statement of commitment to increasing opportunities for students with disabilities in general education classrooms within these facilities and to the integral involvement of parents in this process. It is the belief of the State Board of Education that special education and related services created in general education classrooms will not only maximize the potential of students with disabilities, and students who are not disabled for integrated community living.

For purposes of this paper, inclusive education is defined as follows:

The provision of educational services for students with disabilities, in schools where peers without disabilities attend, in age-appropriate general education programs under the direct supervision of general education teachers, with special education support and assistance as determined appropriate through the individualized education planning team (IEPT).

This definition is congruent with the Michigan Department of Education's belief that all children should have the opportunity to be educated together, regardless of disability, in the school he or she would attend if not disabled unless otherwise determined appropriate through the IEPT process.

The federal regulations at 34 CFR §300.347 and §§300.550 to 300.556 delineate the rights of students with disabilities to a placement in the least restrictive environment. (Attached)

These regulations state (in part) the following:

That 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

That 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.

Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.

The continuum... must — Include the alternative placements listed in the definition of special education under §300.26 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and

Must make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

It is the policy of the State Board of Education, pursuant to state and federal requirements, that students with disabilities must be educated with their nondisabled peers to the maximum extent appropriate to meet their individual educational needs and potential. So that this may be realized, it is essential that options be available in general education programs within our general education facilities. Further, a process (see LRE placement considerations) must be followed by the individualized educational planning team which include an explanation of the extent to which the student will not participate with nondisabled students in the general education program, in extracurricular and other nonacademic activities. Education assignments are not to be based on the label describing the student's disability or the availability of programs.

It is believed that adherence to the contents of this paper by Michigan's public schools will assure an educational environment that is appropriate for serving the individual needs of each of Michigan's students with disabilities, as well as foster the preparation of all youth for a lifetime of integrated community living.

Least Restrictive Environment (LRE) Placement Considerations

The State Board of Education is in agreement with the following statement taken from S.Rep. No. 105-107, p.20; H.R. Rep. No 105-95, p.99 (1997):

The Committee wishes to emphasize that once a child has been identified as being eligible for special education, the connection between special education and related services and the child's opportunity to experience and benefit from the general education curriculum should be strengthened. The majority of children identified as eligible for special education and related services are capable of participating in the general education curriculum to varying degrees with some adaptations and modifications. This provision is intended to ensure that children's special education and related services are in addition to and are affected by the general education curriculum, not separate from it.

The State Board of Education supports the use of the following 10 step process in determining the educational placement of all students with disabilities.

1. The student's eligibility for special education is determined by the individual educational program team (IEPT).
2. The student's specific educational needs (cognitive, affective, and psychomotor) are identified and discussed by the IEPT.
3. The specific special education and related services necessary to address the student's needs identified in step 2 are determined by the IEPT. These programs and services must be identified by rule number and provider title.
4. The IEPT should give first consideration to the appropriateness of placement in the general education environment with modifications and supports. The full continuum of services will be considered without regard to current availability.
5. The extent to which the student will not participate in general education programs is determined by the IEPT.
6. In selecting the LRE, consideration is given to any potential harmful effects on the student or on the quality of services that he/she needs (300.552d).
7. A determination of where the programs and services may most appropriately be provided, including consideration of placement as close as possible to the child's home, may be made by the IEPT.

8. If the IEPT does not make a specific facility determination, documentation of the placement considerations will be forwarded to the Superintendent. The Superintendent will review the placement considerations and make a determination of where and when the programs and services will begin.
9. In either case, the Superintendent is then required to inform the parent of the public agency's intent to implement the individualized education program, to identify where those programs and services will be provided, and when they will begin (R 340.1772a).
10. Upon receiving written notice, the parent then has a reasonable time to 1) accept the Superintendent's decision as appropriate, 2) request mediation and/or a hearing related to eligibility, the individualized education program, or the placement decision, or 3) request another IEP.