

281—41.114(256B,34CFR300) Least restrictive environment (LRE).

41.114(1) General. Except as provided in paragraph 41.324(4)“a” regarding children with disabilities in adult prisons, each public agency in the state shall have policies and procedures in place to meet the LRE requirements of this rule and rules 281—41.115(256B,34CFR300) to 281—41.120(256B,34CFR300).

41.114(2) Public agency assurances. Each public agency must ensure and maintain adequate documentation that:

a. 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

b. Special classes, separate schooling, or other removal of children with disabilities from the general education 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.

41.114(3) State funding mechanism. A state funding mechanism must not result in placements that violate the requirements of this rule; and the state must not use a funding mechanism by which funds are distributed on the basis of the type of setting in which a child is served or which will result in the failure to provide a child with a disability FAPE according to the unique needs of the child, as described in the child’s IEP.

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