

Special Education Considerations in the Virtual Education Setting

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In light of the recent extension of school closures through the end of this school year, this article will review additional guidance from the Department of Public Instruction (DPI) regarding the issue of Free Appropriate Public Education (FAPE) for special education students during virtual learning:

School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. In this unique and ever-changing environment, OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer flexibility where possible.

In practice, the agencies have shown the ability to be flexible during this time period and have urged teamwork and extra communication between IEP team members, students and staff. School Districts should continue to work to measure and document progress toward annual goals. This documentation will be helpful when school resumes.

Modifications to student IEPs. In general, student IEPs do not currently require complete overhaul and mandatory modifications in light of coronavirus-related closures and other issues. IEP teams, rather, must make a determination on a case-by-case basis. Student IEPs might require modifications if a student requires specific changes to his/her goals or specialized services. If the team determines a student's IEP must be modified, then the team must either host a meeting virtually, using some type of online format or teleconference, or receive written consent to modify the IEP without a meeting. It is not necessary to undertake modifying every student's IEP to address virtual learning, as school is closed for all students, who all have moved to virtual learning. The DPI has set forth specific guidance to this addressing the placement change:

Is it considered a change of placement when an LEA provides on-line learning to students when the school building is closed to students during a public health emergency?

No. LEAs currently offering educational services to all students through alternative means have changed their “mode of instruction.” Current OSEP guidance holds that a change in mode of instruction is not a change in placement requiring IEP team action. Therefore, LEAs do not need to use an I-10 or conduct an IEP team meeting if the LEA is providing on-line instruction to students. At this time, DPI recommends districts notify parents of students with IEPs how special education and related services will be delivered in light of changes to the LEA’s selected mode of instruction. Changes to IEPs, with or without a meeting, are only required to address a student specific need as it relates to the instruction being provided to the LEA. For example, if a student needs additional supports to access the instruction.

Practical Advice:

The guidance referenced above does not provide the “magic” answer to providing special education and related services during the COVID-19 pandemic. But not every special education student is alike – each student requires a unique IEP with specialized goals, education and services. Therefore, services during this online and virtual education environment require creativity and innovative ideas. The Department of Education and DPI do not mandate specific methodologies; instead, both recommend collaboration and consideration of practices such as distance instruction, tele-therapy and tele-intervention, meetings held on digital platforms, and online options for data tracking and documentation. School districts should also consider non-virtual or online based instruction options, too, including instructional packets, projects and written assignments.

Schools can utilize the alternative options for IEP meetings and modify and update IEPs if current services cannot be provided at this time. Schools should review student goals and services and communicate with parents on what services are, and are not, being provided at this time. Not all IEPs will require changes, but communication is critical during this time, and schools should continue documenting any and all changes and updating parents as necessary. Documenting these communications and services provided during the virtual school period will help schools determine whether compensatory services are needed when in-school education resumes. Schools should make every effort to comply with the timelines stated in the law, but know that both the state and federal governments are understanding the practical challenges facing districts during this time.

The essence of schools is teamwork and collaboration. That has been evident over the last few weeks and will continue as we all work toward the same goal, keeping kids first and remembering that we are in this together.

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