

Serving Students With Disabilities During the COVID-19 Crisis: Spotlight on Policy & Practice



Part 1: Providing a Free Appropriate Public Education (FAPE)

The outbreak of COVID-19 launched the United States into a public health crisis, impacting families, schools, and communities in unprecedented ways. During this uncertain time, under entirely new and definitely *not* ideal conditions, we have to address students' many needs, including nutrition, physical and mental health, internet access, and the accessibility of online learning options. To get through this, we'll have to be creative and innovative. We'll need to work together and help each other.

NCLD is committed to addressing these issues and sharing what we learn about serving students with disabilities—even while we're learning it. When states began shutting down schools, one question emerged immediately: How will schools provide individualized services to students with disabilities? It's clear that districts continue to have an obligation to provide a free appropriate public education (FAPE) to students with disabilities. And educators need to ensure that *all* students are learning. There's already a dramatic gap in achievement and outcomes between students with disabilities and those without disabilities. This gap is even wider for students of color with disabilities. If educators wait until the world returns to normal to provide an education to students with disabilities, these students will fall even further behind. And educators will struggle to help them make up for this lost time. Working together, families, schools, and communities must be flexible. They must communicate effectively and continue to educate all students to the best of their ability.

As a start, NCLD has compiled common questions, emerging best practices, and examples of how educators, schools, districts, and states can and should move forward during this challenging time *without* stepping back from IDEA or civil rights. This document is the first in a series that will highlight good ideas, creative thinking, and concrete examples of how families, schools, and communities are continuing to serve students with disabilities. The issues we explore include:

1. Effective communication and collaboration between educators
2. Innovation in instructional practices and provision of related services
3. Planning ahead to provide students with compensatory services
4. Strong school-parent communication and partnership
5. Effective use of funding to support the most vulnerable learners

Part 1:

Providing a Free Appropriate Public Education (FAPE)

A school district's obligation to provide FAPE remains unchanged. Specialized instruction and related services must continue for students with disabilities. However, what that looks like will inevitably change during this crisis. Schools must continue to meet their obligations in the best way they can. Moreover, districts must begin to plan for providing appropriate compensatory services to students with disabilities when schools return to normal.

FAQs

1. What can educators do to manage the impact of COVID-19 on education?

Answer:

With many districts closing their school buildings, some educators are moving to a fully virtual learning experience, while others are trying to effectively reach students through optional enrichment opportunities. No matter which path the district is taking, educators are being thrust into an unfamiliar teaching environment that requires new skills and different approaches to effectively serve students. Most educators teaching in an online setting report having received little or no training in online teaching.¹ Successfully making the shift will require:

- **Proactive planning to serve the full range of learners.** Some students will be fully ready for online learning and will have easy access to the internet and devices at home. Others will struggle with a new daily routine. Some will experience food insecurity. Some will have limited access to the internet or to a device (e.g., a laptop, tablet, or Chromebook). Just as they do in the classroom, educators must tailor their approach to meet the needs of *all* learners. Educators should scaffold their teaching and ensure that their lessons are designed in accordance with the principles of Universal Design for Learning (UDL), offering multiple ways for students to engage. They should consider what built-in supports are available through technology. And they should maintain the same high standards and expectations for all students.

- **Increased collaboration and communication among educators and service providers.** Educators will need to consider and assess the needs of students who are adapting to their new learning environments. Accommodations that worked for a student in the classroom may not be effective at home. Education professionals must meet to evaluate needs and work together to make appropriate adjustments.
- **Increased capacity and skills of educators.** Educators may be required to deliver instruction in new ways—either virtually or over the phone—and will need support to do so effectively. Schools should use existing funding within Title II of the Every Student Succeeds Act to provide training and tools to educators who are serving students with disabilities. In addition, schools must use the funding that districts will receive through the recently passed Coronavirus Aid, Relief, and Economic Security Act (the CARES Act) to address equity and improve educator capacity to provide distance education and virtual learning.



What This Might Look Like in Practice

“Schoolwide internal communications take place daily with Office 365 featured tips and other helpful updates. Our special education coordinator checks in with individual special educators, school psychologists, and administrative assistants, all on videoconferences, to learn about the students we are concerned about, students needing referral for medical or mental health needs, transition plans, and more.”

– Colleen Meaney, Francis W. Parker Charter Essential School, Devens, MA

“I’ve been sending daily emails consolidating tasks students should be working on for the day and which teachers will be online when. As a school team, we’re working to develop a lesson for our students on executive functioning/planning skills and navigating multiple online platforms.”

– Jessi Stein, Envision Academy Middle Grades, Oakland, CA



What This Might Look Like in Policy

Soon after the COVID-19 crisis started, the Oregon Department of Education (ODE) created a short survey to assess each district’s capacity to consider online learning while the staff and students work and learn remotely.² The ODE connected with education partners and philanthropic organizations to support district efforts during these challenging times. Responses from the survey allowed them to collectively determine what is needed and how to provide necessary supports to close gaps in opportunity and access for students and families across the state.

2. How should educators continue to provide instruction and services to students with disabilities?

Answer:

Providing quality and specialized instruction or related services from a distance can be challenging. While technology makes much of it possible (such as small group instruction or 1:1 instruction), some related services can only be provided in person. Districts should strive to provide the same instruction and services to students to the greatest extent possible using technology. This will require:

- **Determining a student's family situation and readiness to learn from home.** Educators should reach out to families to find out what capabilities they have and whether they're ready for virtual learning. Not every family will have access to the internet or to a device that can connect to the internet. For those students, school districts should prioritize getting them connected through the use of Wi-Fi hotspots and devices. If it's not possible to connect the student to the internet at this time, districts should have a plan to continue to provide other educational opportunities through pencil-and-paper activities, workbooks, worksheets, and more, until connectivity is achieved.
- **Innovation in how specialized instruction and related services are provided.** Many services can be provided virtually, including speech-language therapy, certain instructional interventions, and mental health counseling. Schools might use stimulus funds to contract with private providers (such as counselors, speech-language pathologists, occupational therapists, and more) to provide services to students, thus increasing the capacity of the district to meet their students' needs.

There are also innovative options for providing services that must be done in person. First and foremost, schools must comply with local orders relating to group gatherings and CDC guidance. Safety is everyone's first priority. However, when and if small gatherings are allowed once again and safe space is available, districts can consider offering in-home services or 1:1 or small group instruction and services to students most in need, while remaining in compliance with local health department directives.

- **A determination about the compensatory services a student will need and a plan for providing those as soon as possible.** The services a student receives virtually may not be as comprehensive as those they had been receiving. Schools must recognize this and plan for the provision of compensatory services. In other words, schools must do everything in their power to provide FAPE now—as many services as they *can* given the circumstances—with a goal of making the student whole again through compensatory services as soon as they are able. To do this, schools will need to evaluate the student’s current level of need upon returning to school, determine which services are needed, and implement a plan for those services to be provided as soon as feasible. Districts can consider making extended school year services available to students who have been most disadvantaged during this crisis. Or districts might provide more frequent or intensive services when schools resume normal operations.

What This Might Look Like in Practice

“We are using online platforms like Zoom and Google Hangouts to get all teachers from across the network together and working collaboratively. We are working with service providers like speech and counseling to determine which platforms are HIPAA compliant to provide distance services and can be accessed by students. IEPs are running via Zoom.”

– Jessi Stein, Envision Academy Middle Grades, Oakland, CA

Some students are pitching in, and even teacher candidates can get involved:

“I have a group of students that are pitching in to read materials aloud in energetic, clear, human voices [to be used] for other students that may have difficulty reading. Teachers can request these readings to post in their Google Classrooms. ... [S]tudents record videos to help other students who need support in math where they show multiple ways to work through problems. It’s all driven by students who are conscious of problems with access.”

– Kim Eckert, Brusly High School, Baton Rouge, LA

“Most of the programs we use have an online component allowing us to track students’ usage and customize their learning. This is important since students who receive services are required to have individualized plans.”

– Leticia Ingram, Basalt High School, Basalt, CO

There are also many free online learning tools tailored to students with disabilities, such as [Bookshare](#). Bookshare is a free online library that makes reading easier for students with dyslexia, blindness, cerebral palsy, and other reading barriers. Students can access

over 800,000 e-books in formats like audio, audio plus highlighted text, braille, and large font. They can customize their experience to suit their individual learning style. Teachers can create free school accounts and easily and remotely assign books to students to read on their own. Parents can also sign students up for free (students 18 and over can sign themselves up) to access Bookshare independently at home.



What This Might Look Like in Policy

Some states have already addressed this. Here are a few examples:

Example 1:

California urges innovation and safety in the delivery of services.

“If the LEA can continue providing special education and related services as outlined in the IEP, or an agreed upon amendment to the existing IEP, through a distance learning model, they should do so. ... **Further, LEAs are encouraged to work collaboratively with Nonpublic Schools and Agencies (NPS/As) to ensure continuity of services, including moving to virtual platforms for service delivery to the extent feasible and appropriate. These alternative delivery options should seek to comply with federal, state, and local health official’s guidance related to social distancing, with the goal of keeping students, teachers and service providers safe and healthy.** Teachers and specialists should work collaboratively to ensure instruction is accessible for the student based on the student’s individualized needs.”³

Example 2:

Texas prioritizes continued service delivery as well as compensatory services.

“Above all, LEAs should prioritize health and safety of students, staff, and communities. LEAs should identify and acknowledge service delivery limitations, as well as the need for LEAs to make reasonable efforts to fully implement a student’s IEP once school resumes. **This requirement to “make every effort...” does not allow LEAs to decline all services to students with an IEP and only offer compensatory services at a later date.... LEAs should plan for effective communication with families regarding any services that cannot be provided during the COVID 19 pandemic response.**”⁴

Example 3:

Kansas recognizes that FAPE will be individualized for each student and will require virtual services.

“The school must ensure that each student with an exceptionality also has equal access to the same opportunities, including, to the greatest extent possible under these unprecedented circumstances, a free appropriate public education (FAPE). ... In this unique and ever-changing environment, these exceptional circumstances may affect how all educational and related services and supports are provided. **FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, through instructional materials sent home, or telephonically.** The determination of how FAPE is to be provided may need to be different during the time when a school is closed and implementing its Continuous Learning Plan.”⁵

3. Now that students are learning from home, can the IEP be amended to reflect this change?

Answer:

A change in location (where the student learns) does not necessarily constitute a change in placement under IDEA. However, it is likely that as students transition from the classroom setting to virtual learning, their needs will change. It may be necessary to make quick adjustments in an effort to serve students well and adapt during this difficult time. Keep in mind that for any amendments to the IEP, school teams must comply with federal requirements relating to parent participation.⁶ Frequent, clear, and meaningful communication is essential to family-school partnerships during this time.

If a student’s needs change, IEP teams should discuss with parents any needed amendments or changes to the IEP. The IEP may be changed to reflect new services or needed accommodations, but it must not be unilaterally amended by the IEP team. Instead, parents must be made aware of the requested changes and be part of the discussion as to whether those changes are appropriate. IDEA allows for amendments to be made to an IEP without hosting an IEP meeting as long as the parent and district agree to those amendments and a written document is created and attached to the IEP.⁷



What This Might Look Like in Practice

In its calls for parent participation, IDEA requires schools to “take steps to ensure that one or both of the parents of a child with a disability are present at each IEP team meeting or are afforded the opportunity to participate.”⁸ However, IDEA also anticipates that parents may not always be able to participate in person, and allows for parents and public agencies to “agree to use alternative means of meeting participation, such as videoconferences and conference calls.”⁹

Some schools have already begun hosting IEP meetings by phone or video. This would require:

- Outreach to parents to discuss how the change in a student’s educational environment will affect the student
- An IEP meeting—by phone or videoconference—to discuss any needed amendments to the IEP, including the type or delivery of specialized instruction and related services, or the use of accommodations
- An agreement between the members of the IEP team, including parents, to amend the IEP, even temporarily
- An electronic signature from the parents or a verbal agreement that the changes are agreed to



What This Might Look Like in Policy

Example: Texas reaffirms the IEP amendment process and how virtual education will impact student needs.

“Changes in services and accommodations may be made through the IEP amendment process. In many cases, instructional accommodations may be met in an online environment by providing additional supports, such as individualized telephone or video conferencing. LEAs should consider how current accommodations and modifications are provided in a physical classroom setting (i.e. extra time, redirection, small group, among others) and what this would look like in a virtual environment.”¹⁰

4. How should a school or district handle evaluations for students with disabilities? Does it matter if the student’s evaluation has already begun?

Answer:

A district’s Child Find obligation remains intact during this time. IDEA requires districts to identify, locate, and evaluate “all children with disabilities residing in the State ... who are in need of special education and related services.”¹¹ Parent consent is required in order to begin the evaluation process, and the evaluation must be completed within 60 days or within the timeline established by the State.¹²

What This Might Look Like in Practice

IDEA offers a great deal of flexibility within the evaluation process to enable school teams and parents to collaborate:

- Schools can contact parents by phone or videoconference to receive consent to begin the evaluation process.
- To the extent possible, and with the specific goals of the evaluation in mind, steps in the evaluation process should take place remotely. For those evaluations already in process, schools should gather as much information as is available and determine whether an eligibility decision can be made based on that.
- In a situation where schools cannot gather adequate information or complete an in-person assessment, the school should contact the student’s parent and discuss a plan for completing the evaluation as soon as feasible.
- Re-evaluations, though required to be conducted every three years, can be waived by mutual consent of parents and the IEP team.
- If a re-evaluation is necessary, IEP teams can consider existing data, current assessments, classroom observations from teachers in previous weeks, and parent input.



What This Might Look Like in Policy

A few states have tackled this already. Here are some examples:

Example 1:

Texas urges the use of technology in IEP meetings.

“LEAs should also consider ways to use distance technology to the extent possible to provide child find, hold initial and annual ARD¹³ committee meetings, and/or evaluation/eligibility meetings, if the LEA members and parents are available but not able to attend in person. Continuing to complete ARD committee and evaluation/eligibility meetings will help decrease the workload when school resumes. If required members of the committee and/or parents are not available or believe their participation is impacted by the lack of an in-person meeting, LEAs should document the reason and complete the activity in a timely manner following the ending of school closures.”¹⁴

Example 2:

California offers flexibility within compliance monitoring procedures.

“In general, for purposes of determining LEA compliance with special education timelines, the CDE will consider the days of school site closure as days between the pupil’s regular school session, similar to school breaks in excess of five days planned in the instructional calendar (e.g. Thanksgiving break). **For annual or triennial IEP reviews that fall on a day when the LEA is closed due to COVID-19, the CDE will take the exceptional circumstances causing the delay into consideration for purposes of LEA compliance monitoring.**”¹⁵

Example 3:

Ohio will determine all students with evaluations in process to be eligible for special education.

“If the school was scheduled to conduct an evaluation team report review prior to the ordered school-building closure period but was unable to complete it, **then consider the student eligible and provide services to students based on your school or district’s processes and procedures.**”¹⁶

Endnotes

- 1 Rice, M., & Mellard, D. (2016). *Guidance for Preparing Online Teachers to Work with Special Education Students*. Lawrence, KS. Center on Online Learning and Students with Disabilities, University of Kansas. Retrieved from: http://www.centerononlinelearning.res.ku.edu/wp-content/uploads/2017/04/HigherEdGuidance_December2016.pdf
- 2 Available at: <https://content.govdelivery.com/accounts/ORED/bulletins/28371a0>
- 3 Available at: <https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>
- 4 Available at: https://tea.texas.gov/sites/default/files/covid19_special_ed_qa_updated_march_27.pdf
- 5 Available at: <https://www.ksde.org/Portals/0/ECSETS/Announcements/COVID-SpEd-legal-FAQ.pdf>
- 6 34 CFR. § 300.322(a)
- 7 34 CFR. § 300.324(a)(4)
- 8 34 CFR. § 300.322(a)
- 9 34 CFR. § 300.328
- 10 Available at: https://tea.texas.gov/sites/default/files/covid19_special_ed_qa_updated_march_27.pdf
- 11 34 CFR § 300.111(a)(1)
- 12 34 CFR § 300.300; 34 CFR § 300.301
- 13 The acronym ARD means “Admission, Review, and Dismissal.” The ARD meeting is a meeting of a group of people who help to determine whether or not a student is eligible for special education and develop the Individual Education Program (IEP) for eligible students.
- 14 Available at: https://tea.texas.gov/sites/default/files/covid19_special_ed_qa_updated_march_27.pdf
- 15 Available at: <https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>
- 16 Available at: <http://education.ohio.gov/Topics/Student-Supports/Coronavirus/Considerations-for-Students-with-Disabilities-Duri>



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