

Guidance for Families on Special Education Services During COVID-19

Prepared for Seattle Special Education PTSA
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Washington Office of Superintendent of
PUBLIC INSTRUCTION

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Vision

All students prepared for post-secondary pathways, careers, and civic engagement.

Mission

Transform K–12 education to a system that is centered on closing opportunity gaps and is characterized by high expectations for all students and educators. We achieve this by developing equity-based policies and supports that empower educators, families, and communities.

Values

- Ensuring Equity
- Collaboration and Service
- Achieving Excellence through Continuous Improvement
- Focus on the Whole Child



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Equity Statement

Each student, family, and community possesses strengths and cultural knowledge that benefits their peers, educators, and schools.

Ensuring educational equity:

- Goes beyond equality; it requires education leaders to examine the ways current policies and practices result in disparate outcomes for our students of color, students living in poverty, students receiving special education and English Learner services, students who identify as LGBTQ+, and highly mobile student populations.
- Requires education leaders to develop an understanding of historical contexts; engage students, families, and community representatives as partners in decision-making; and actively dismantle systemic barriers, replacing them with policies and practices that ensure all students have access to the instruction and support they need to succeed in our schools.



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Today's Topics

- Big Picture with Current Guidance/Resources from OSPI
- Implementing IEPs Using Remote or Hybrid Instruction
- Compensatory Education and Recovery Services
- IEP and Evaluation Timelines
- Procedural Safeguards and Dispute Resolution
- Any Final Questions





Big Picture with Current Guidance/Resources from OSPI

District Template for Reopening (Basic Education)

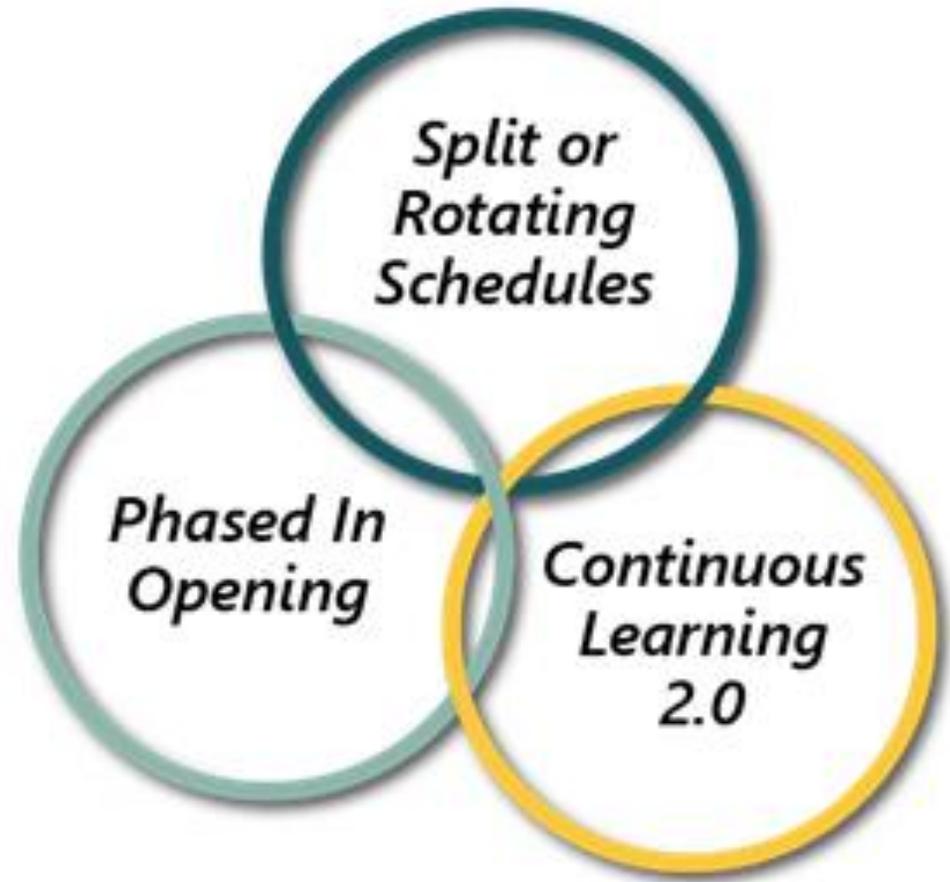
- The 2020 Reopening Plan template was developed by OSPI in consultation with the State Board of Education; [list of school district plans](#) (maintained by School's Out WA and League of Education Voters)
- Each school district, charter school, and state-tribal compact school is required to fill out the template
- The template is due within two weeks of the district Fall 2020 start date and must be approved by the district governing body and posted to the district public website prior to the opening of school
- OSPI has strongly urged districts to continue work engaging parents, families, students, employees, and community partners while developing the reopening plan
- OSPI believes districts should continue to monitor their reopening plan over the course of the school year and to make adjustments as conditions change





**Reopening Washington
Schools 2020:**
Special Education Planning
Guide

A priority for reopening schools is to serve students with as much face-to-face time with their educators and peers in schools as possible, consistent with health and safety guidelines



Additional OSPI Guidance

- [Summary for Families: Reopening WA Schools 2020 Special Education Guidance](#)
- [Online \(and Offline\) Resources to Support Continuous Learning for Students with Disabilities](#)
- [Provision of Services to Children with Disabilities in Early Childhood Programs during School Facility Closure](#)
- [Q&A Provision of Services to Students with Disabilities](#)
- [OSPI Special Education COVID-19 Guidance Page](#)



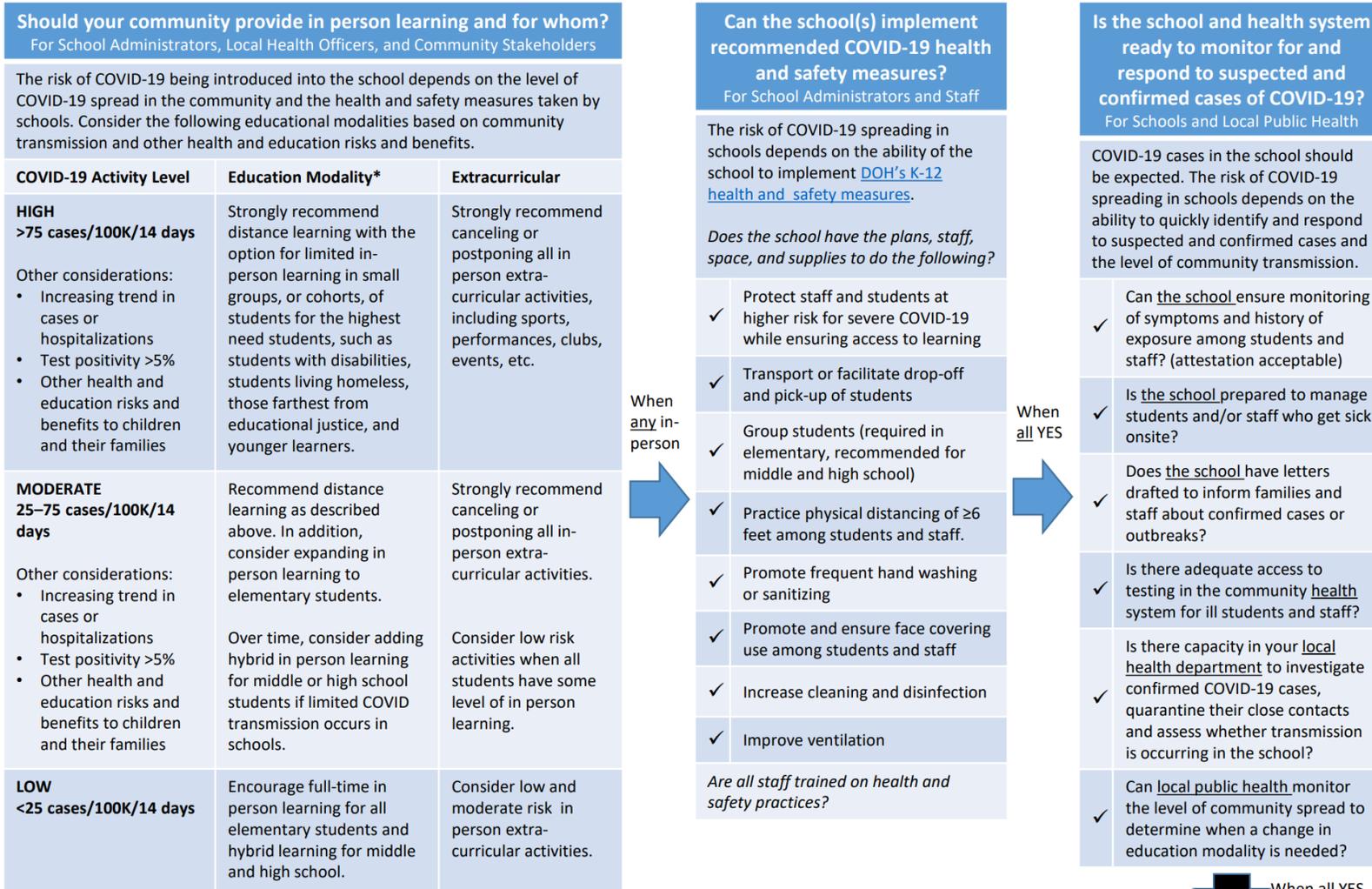
WA State Department of Health Guidance

[K-12 Schools Fall 2020-21 Guidance](#) (released July 22, 2020)

- Guidance is specific to K-12 public or private schools regardless of what phase or county school is located; counties in Phase 1 or modified Phase 1 may need to implement additional precautions
- Local health departments determine, in consultation with the state health department, if or how schools in Phase 1 or modified Phase 1 counties should operate
- All students, staff, volunteers, and guests must wear cloth face coverings in K-12 settings
- Keep elementary school students in groups with dedicated staff and maintain consistency from day to day among groups where possible
- Multiple groups of students may use the same facility as long as they are in limited contact with each other or other groups



Decision Tree for Provision of in Person Learning among Public and Private K-12 Students during COVID-19



WA State Department of Health

Decision Tree for Provision of In-Person Learning

<https://www.doh.wa.gov/Portals/1/Documents/1600/coronavirus/DecisionTree-K12schools.pdf>





Implementing IEPs Using Remote or Hybrid Instruction

Big Ideas At-a-Glance

- Moving away from individual Continuous Learning Plans (CLPs) back to IEP implementation
- In-person instruction at school or in the home is not required (due to health and safety requirements)
- Proactive, frequent, and transparent communication with families is expected
- Emphasis on training and support (for school staff and families) using assistive technology, concepts of Universal Design for Learning, and inclusionary practices

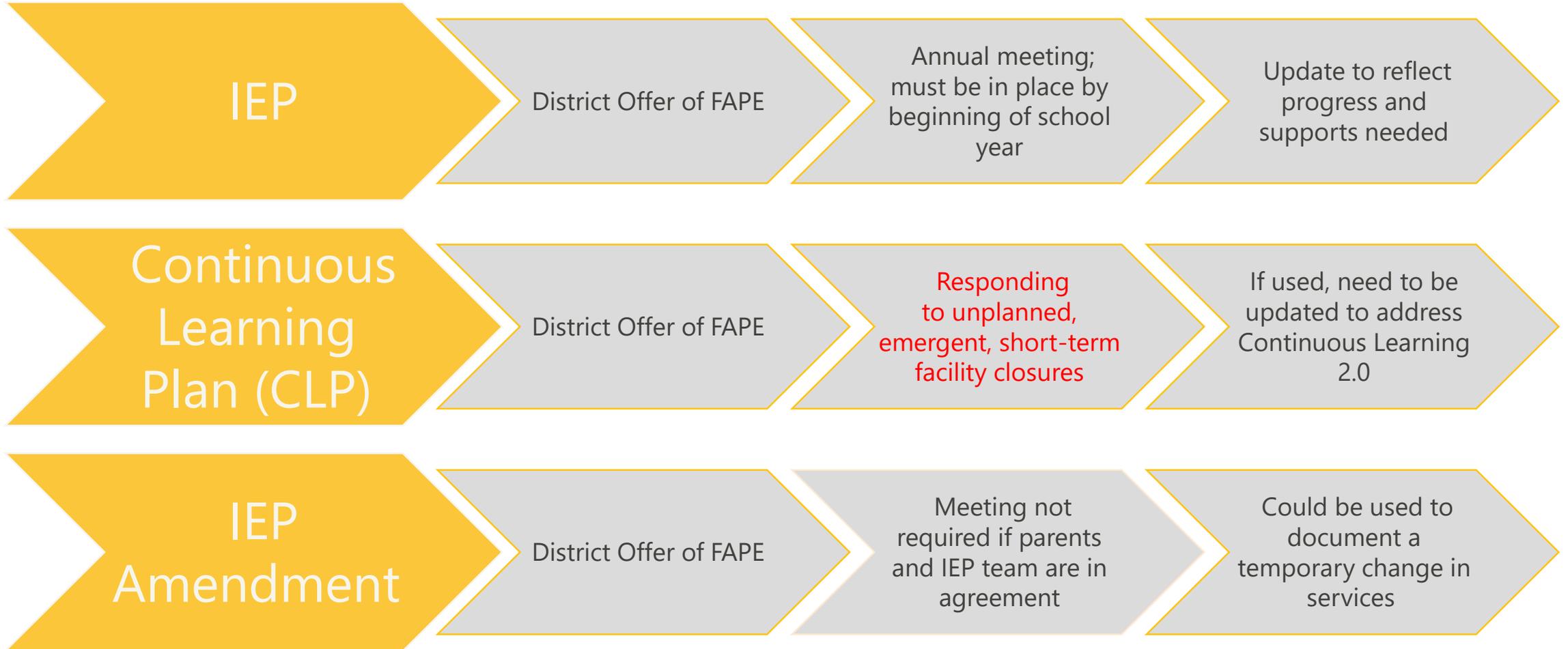


Big Ideas At-a-Glance

- Students with IEPs must continue to have an opportunity to access general education curriculum and instruction (with accommodations as needed)
- The home setting in a remote learning model will generally be considered (default to) a general education setting
- Indirect or asynchronous learning (e.g., pre-recorded videos, modified online programs, or work packets) can take place either when participating in general education or within a special education setting
- Focus on monitoring and documenting services, progress, and resolving concerns



What to Expect Going Into Fall 2020



Implementing an IEP Using Remote Learning

- Both direct instruction (synchronous) and indirect (asynchronous) minutes can count as specially designed instruction (SDI) or as a related service with proper design, supervision, and progress monitoring
- Example of how an IEP might be implemented using remote learning:
 - Pre-closure IEP indicated 30-minutes/week of speech therapy with SLP in a special education setting
 - For Fall 2020, SLP provides one 30-minute virtual speech session (via Zoom) each week
 - Services are for the same amount of time and same setting (special education), therefore the IEP team may determine an amendment is not needed, since the IEP can be implemented as written



Implementing an IEP Using Hybrid Learning

- Services and setting should be documented; synchronous vs. asynchronous is a methodology generally not required within an IEP
- Examples of how IEPs might be implemented using hybrid learning:
 - Pre-closure IEP indicated 30-min/day of SDI for math in a general education setting
 - For Fall 2020, school offers in-person math SDI from the general education teacher (supported by a paraeducator) for 30-minutes, 2 days/week
 - And school offers online, synchronous, small group math session with the general education teacher for 30-minutes the other three days of the week
 - Services are for the same amount of time and the same setting (general education), so an amendment may not be necessary



IEP Amendments

- IEPs should be implemented to the maximum extent possible as written
- IEP amendments can be used to reflect adjustments to services based on the instructional model adopted by the district (due to health and safety guidelines)
- IEP amendments can be temporary but should last no longer than the annual IEP due date
- Reevaluations are not always needed if only the methodology changes
 - IEP teams determine when a reevaluation is needed such as – (1) when significantly more or less services are needed than what is in the current IEP; or (2) when more current information is needed in order to develop a new IEP



Question: IEP Amendments

"Can the district just send me a PWN with proposed changes for services in the fall? Or do we need to have an IEP meeting first?"

Response: It depends

- Changes to an IEP can be made without a meeting if the IEP team and parents are in agreement about the changes
- Parents who disagree with changes can request an IEP team meeting prior to changes taking effect
- IEP amendments may not be needed if only methodology changes, thus Prior Written Notice (PWN) may be used as a form of communication and not be an IEP amendment



Question: Fading-out CLPs

“How should my school be using information from CLP last spring to help guide my student’s team with instruction this year? Are teams supposed to consider data the parents collected as part of progress reporting?”

Response: Yes

- CLPs are the district’s method of documenting what was offered and any decisions made during Spring/Summer 2020
- IEP team should use CLPs to inform decisions regarding Fall 2020
- Progress data from parents during Spring/Summer 2020 are important for IEP teams to consider when determining services for Fall 2020 and/or any other additional recovery services



Question: 1:1 Paraeducators

“How are school districts to implement IEPs that call for a 1:1 aide? [...] Is it possible to get the District to provide a 1:1 support for in-person services even if it is in the student's home? [...] If I was to hire a provider myself, what is the mechanism to request reimbursement for these services from the District?”

Response: It depends; the IEP team will determine what supplemental aids and supports are needed and how they will be provided

- In-person services may be possible but are not required (subject to local health and safety guidelines)
- Districts are not required to reimburse for private providers



Question: Progress Reports

“Last spring, my team did not share any progress monitoring on my student’s goals. When and how should teams be performing progress monitoring? When should I receive updated information?”

Response: Information can be provided upon request and in accordance with the IEP

- Progress reporting requirements have not changed or waived
- Progress reports should continue to be provided in accordance with the schedule indicated in the IEP
- IEP teams are advised to consider a variety of methods for collecting progress data based on the instructional model being used





Compensatory Education and Recovery Services

Compensatory Education and Recovery Services

Compensatory Education

- Remedy developed by courts
- Not specifically defined within law
- May be ordered as part of a complaint investigation or due process hearing when student denied Free Appropriate Public Education (FAPE)
- Districts can offer comp ed if aware of student being denied FAPE
- Purpose typically to put student in same place they would have been without being denied FAPE
- Must be provided outside of school day

Recovery Services

- Term developed and defined by OSPI
- Used in place of "compensatory education" in response to impact of COVID-19 all students
- Reflects universal need of all learners to recover any educational gaps in learning or loss of skills caused by unexpected school facility closures
- Allows flexibility and more equitable approach to meeting individual student needs
- IEP teams determine on an individual basis if recovery services are needed
- Generally provided outside of school day unless IEP team determines otherwise



Recovery Services

- IEP teams determine on an individual basis what type of, how much, and when recovery services, if any, are needed
- Recovery services are not generally expected to be in the same amount that was missed (i.e., minute for minute, hour for hour) and depends more upon on student progress and supporting equitable outcomes
- Recovery services are generally provided outside of the district's school day (documented separately or within the IEP) or they can be reflected as increased or supplemental services in the student's current IEP
- Scheduling recovery services during the student's school day should not lead to a more restrictive placement for the student or contribute to additional general education instruction being missed



Question: Timeline for Recovery Services

"By when will school districts be required to provide recovery services and or compensatory education? The longer we wait to more regression is going to happen for my student."

Response: There is currently no deadline or requirement from OSPI to provide recovery services

- Each district IEP team will determine any need for recovery services
- Districts are allowed, but not required, to provide recovery services through remote and/or hybrid learning models in Fall 2020
- Some or all recovery services can be provided in Fall 2020 and some or all can be provided when in-person school operations resume



Question: Lack of Progress & Recovery

"If my student has not made progress or regressed, are school teams required to contact me about recovery services? Are they going to conduct a new evaluation? Is there a timeline teams need to have this completed?"

Response: No, recovery services are not required, but IEP teams do need to assess the impact of school building closures on student progress

- IEP teams can decide that a reevaluation is needed to gather updated information on student needs and determine need for additional services
- Timelines for reevaluations should be followed to the maximum extent possible given health and safety guidelines





IEP and Evaluation Timelines

IEP and Evaluation Timelines

- IEPs are required to be in effect to start the 2020-2021 school year
- Annual IEP meeting timelines should be followed to the maximum extent possible; conducting meetings at distance if necessary
- Delayed IEPs and evaluations in Spring 2020 due to COVID-19 should be prioritized for timely completion during Fall 2020
- Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation; agreements must be documented but does not require signed parent consent
- There is no provision in the state rules for extending an annual IEP



Question: IEP Timelines

"Last spring, remote learning was a huge struggle for my student. Are the same timelines in place if I request a meeting? I was told that schools have 30 additional days to get IEPs in place or make changes from last spring. Is that correct?"

Response: IEPs and evaluations need to be updated as soon as possible

- Districts should prioritize updating IEPs and completing evaluations that were delayed in Spring 2020
- 30-school day IEP and evaluation requirement comes from [March 18, 2020 OSPI Letter on Monthly SPED Count](#); continuing for Fall 2020
- No regulatory requirement for responding to meeting requests



Initial Evaluations and Reevaluations

- Districts must complete as comprehensive of an evaluation as possible in a timely manner following all applicable health and safety guidelines
 - Revised [August 2020 guidance](#) from the Washington State Association of School Psychologists contains information about completing evaluations during the COVID-19 pandemic
- Districts must continue to have a process for initiating a referral for an initial special education evaluation
- Districts should make every effort to follow established timelines
 - 25 school days to respond to a referral
 - 35 school days to complete an evaluation (unless agreement to extend)



Initial Evaluations and Reevaluations

- For initial evaluations – if the district evaluation team has sufficient information to support a decision regarding the student’s eligibility:
 - OSPI recommends that districts go forward and complete the evaluation; and
 - Document an understanding that once in-person assessment becomes possible, the evaluation team could consider whether additional assessments may be needed
- Reevaluations may need to rely more heavily on existing data due to health and safety guidelines and determine, with parental input, if additional assessment are needed to support continued eligibility



Question: Evaluation Timelines

“We requested special education evaluation before the pandemic and yet the District has not yet conducted evaluation. My child could not and can not access the curriculum without SDI. How and when will my child be compensated for services and classes they missed once an IEP is in place?”

Response: Outstanding evaluations need to be prioritized for completion

- Once the evaluation team has sufficient information to support a decision regarding eligibility then the evaluation should be completed
- IEP teams will determine what recovery services are needed; no deadline/requirement to provide such services
- Districts must continue to have a process for Section 504 referrals





Procedural Safeguards and Dispute Resolution

Procedural Safeguards and Dispute Resolution

Parents/families still retain all procedural safeguards and formal dispute resolution options

- Prior Written Notice
- Language Access
- Consent
- Independent Educational Evaluation (IEE)
- Access to Educational Records
- Disciplinary Protections for Students Eligible for Special Education Services
- Mediation
- IEP Facilitation
- Special Education Community Complaint (formerly "citizen complaint")
- Due Process Hearing



Key Takeaways from Recent Complaint Decisions

- No violations found for failing to implement IEPs as written during school facility closures in Spring 2020
- No violations found for districts who maintained documentation of individualized special education services provided (in some form of CLP) and progress reports
- Findings against districts for a delay in making any special education services available following school facility closures and the expectation to begin continuous learning as of March 30, 2020
- Findings against districts for failing to monitor and document progress during school facility closures
- Finding against districts for failing to provide and support access to the general education setting (class meetings, teacher office hours, peer connections) when general education setting was the student's least restrictive environment



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