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OSPI's [Best Practices for Improving Attendance](#) highlights numerous strategies that districts can consider when responding to student absenteeism; strategies such as: peer mentors, nudge letters, assigning an individual to monitor the student's attendance activity, developing an attendance action plan, parent outreach, and providing small-group therapy. Only after attempting and documenting multiple efforts of support or the student and family become non-responsive, should a district consider dis-enrolling the student or filing a petition with the Community Engagement Board.

#### Enrollment Reporting

OSPI Attendance and Enrollment [Bulletin 076-21](#) outlines that a student who is eligible for special education services but has not received special education services in the month prior to the count day cannot be claimed on Form P-223H for special education funding. However, a district is not automatically relieved of its special education and Section 504 obligations if a student is not claimed for funding, and is still enrolled. School districts still have an obligation to offer FAPE to eligible students that reside within their district regardless of the student's current enrollment status.

#### **A-3B. What if the parent requests a 1:1 paraeducator or nurse in the home to assist the child with remote learning?**

Here are some points for the IEP team to consider when determining whether services from a 1:1 paraeducator or nurse in the student's home are needed and feasible:

- Is this a necessary service in order to provide FAPE?
- What would the paraeducator or nurse actually be doing for the student?
- Did the district offer in-person services that the parent has declined? If so, why were in-person services declined?
- Would the child have a 1:1 paraeducator or nurse if services were being provided in a traditional setting (i.e., is it on the student's IEP)?
- Are there health/safety considerations for sending a paraeducator/nurse into the home at this time (for both the student/family and staff) that make this an unavailable option?

Decisions about whether services in the home are necessary should be made by the student's IEP team, based on individualized student need and the function of the 1:1 support documented in the IEP.

### **A-3C. What are the parent’s options for special education services when the student is home-schooled or enrolled in a private school?**

Refer to the [tip in OSPI’s October 2020 Special Education Monthly Update](#) for more detailed information. Below is a summary of the most important points:

- Eligible students with disabilities who are attending a private school or are homeschooled have the right to part-time enroll in the resident district for any or all of the IEP services for which the student is eligible ([WAC 392-134](#)).
- If the parent of an eligible private school or homeschool student chooses not to access some or any of the services for which the student is eligible, OSPI recommends the district document their offer of FAPE in a prior written notice, including the offer to provide services if the parent changes their mind.
- Eligible students with disabilities who are attending an approved, **non-profit** private school may be able to receive a service plan from the district in which the private school is located (which may be different than the resident district). Whether the student receives a service plan would depend on the outcome of the district’s private school consultation and the amount of proportionate share funds that are available.
- Through Choice ([RCW 28A.225.225](#)), a parent can pursue enrollment in a non-resident school district, including online programs or other alternative learning experiences run by the nonresident district. If accepted, the new (i.e., non-resident) district would be responsible for providing FAPE to the student as the new district is considered the “district of residence” for the purposes of IDEA.

### **A-4. Is there any additional OSPI guidance on providing services to students during a pandemic or to students who are medically fragile?**

Additional relevant information is available from the 2009 U.S. Department of Education Office of Special Education Programs (OSEP): [Q and A on Providing Services to Children with Disabilities during an H1N1 Outbreak](#) and [Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act](#). Decisions must be made on a case-by-case basis. Regardless of service setting, the district remains responsible for a free appropriate public education (FAPE).

Districts follow existing state and local requirements, procedures, and practices when providing educational services, including special education and related services to students who are medically fragile. Districts with school nurses will want to include them in these discussions for planning. Families are also an important partner and should be engaged in planning and problem solving.

For students who are medically fragile, IEP teams, including the parents and the school staff responsible for providing/supporting medical care and other related services (e.g., school nurse, 1:1 nurse, paraeducator), must consider the continuum of alternative placements available, including the Least Restrictive Environment (LRE) of the student. If not already available, districts

may want to request permission from parents to maintain two-way communication with a student's treating physician to discuss student-specific needs and safety considerations in the school context. During the meeting, the team will review the student needs, the district's plan to address COVID-19, and document the student's individual plan for school attendance, potential safety adaptations due to illness of the student or others, and the need for any additional supports. This may include screening protocols for those coming in contact with the student (both staff and other students), how the IEP will be implemented when the student is in the school classroom, at home, or a combination of both, and how parents will be involved and notified of potential contact or illness. It is likely the student may need to change the location of educational services during the school year, based on exposure and illness.

If a student eligible for special education services is quarantined due to COVID illness or exposure, districts are expected to continue providing special education services to the maximum extent possible. If the district is unable to provide services, the district should document that decision and consider the lost instructional time when determining if recovery services might be needed.

**A-4A. Can a district provide remote learning opportunities to a resident student who is temporarily outside the state of Washington?**

Districts can provide remote learning opportunities to student who are living outside the state of Washington. However, for state funding, students must physically live in the state to be claimed on both the P223 and P223H forms which includes meeting the definition of an enrolled student pursuant to WAC 392-121-106 and the definition of a student residence pursuant to WAC 392-137-115.

With regard to students accessing remote services for speech, occupational therapy, motor therapy, or other related services, please refer to question I-3 of this document.

**A-4B. Is there any additional OSPI guidance on providing services to students who cannot wear a mask/cloth face covering, who are medically fragile, or otherwise struggle to wear a face covering?**

Students who are unable to consistently wear Personal Protective Equipment (PPE) or maintain physical distance due to sensory, behavioral, or other disabilities must not be disciplined or denied access to educational services as a result. Positive behavior interventions, explicit instruction in safety compliance, and consultation with families are among the tools available for meeting service obligations during COVID-19. Clear face coverings, which cover the entire face without hiding the mouth, may make it easier for staff members and students to communicate and be understood, as can clear physical barriers or shortened periods of close contact.

In the rare instances that a student is unable to wear a mask or shield, the protection of other students and staff must be considered. Districts should consider a layered mitigation system as there is no one-size-fits-all approach. The ability to implement or reinforce other mitigation

measures will vary and layers of mitigation may be considered together to provide protection overall. The Department of Labor & Industries (L&I) provides guidance on PPE for staff in proximity to a student with a mask exemption (see [Which Mask for Which Task](#)).

For other students who may be in a cohort or classroom with a student with a mask exemption, additional considerations for mitigation measures include the Department of Health (DOH) key principles for reducing potential exposures in schools, which include but are not limited to:

- Promoting vaccination
- Consistent and correct use of face coverings
- Physical distancing - ensure more than six feet of physical distance between people
- Improving indoor ventilation and filtration systems
- Hand hygiene and respiratory etiquette
- Staying home when sick
- Testing and contact tracing with isolation and quarantine
- Cleaning and disinfection<sup>9</sup>

Consider COVID-19 testing of students with mask exemptions and/or who require significant, ongoing, hands-on, close contact, and do not have documentation of vaccination per district/school protocol when a testing program is in place.

Portable HEPA air cleaners can provide increased filtration in rooms with poorer ventilation or in isolation areas. Choose HEPA air cleaners certified by the California Air Resources Board to not emit dangerous levels of ozone. Do not use ozone generators, electrostatic precipitators and ionizers, negative ion air purifiers, etc. because they can produce harmful by-products. Do not use personal air purifiers.

The definition of close contacts in classrooms applies to students wearing masks. Students unable to wear a mask are more likely to be identified as a close contact requiring quarantine if an exposure to a COVID-19 case occurs within their cohort or classroom.

This answer was largely adapted from: [Supplemental Considerations to Mitigate COVID-19 Transmission in K-12 Schools \(wa.gov\)](#)

#### **A.5 What is the difference between “remote learning”, “homebound” services, “home/hospital”, and “homeschooling”?**

The National Association of State Directors of Special Education (NASDSE) has developed [guidance](#) to assist in clarifying the differences between these approaches to student learning.

Remote learning is an instructional model implemented by a public school district for students who are enrolled in the district. Students participate in synchronous and/or asynchronous

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<sup>9</sup> Refer to pp. 19–20 of [Supplemental Considerations to Mitigate COVID-19 Transmission in K-12 Schools \(wa.gov\)](#)







## B. Recovery Services<sup>10</sup>

### **B-0. What are recovery services?**

“Recovery services” is a term is used by OSPI to describe the special education and related services and supports provided to students with disabilities to address the ongoing impact of the COVID-19 pandemic and spring 2020 school facility closures.

Recovery services, which may include compensatory services, provide additional special education and related services to students with disabilities and are designed to address lack of appropriate progress on IEP goals, due to missed or limited special education and related services or for other reasons as a result of the pandemic. Importantly, recovery services decisions are not the result of a dispute, but rather should be a collaborative response by the IEP team.

### **B-1. Do districts need to review every student who has an IEP to determine if recovery services are needed?**

Yes. OSPI’s expectation, consistent with the need to provide a free appropriate public education (FAPE), is that IEP teams consider the individual need for recovery services for every student with an IEP from preschool to age 21. Recovery service decisions should be based on progress monitoring data and prioritized based on student need. Decisions may need to take place prior to the start of the school year, prior to the annual IEP review date, or could happen at the upcoming annual review date if the district and parent agree. Families should not have to make a special request for this process to occur. IEP teams should review the need for recovery services as part of the IEP process and prioritize individual decisions based on student need.

To be clear, OSPI is not requiring districts to immediately schedule and hold IEP meetings for every student with an IEP. These decisions may need to take place prior to the start of the school year, prior to the annual IEP review date, or could happen at the upcoming annual review date if the district and parent agree.

IEP teams are also not required to meet during the summer. However, there may be individual circumstances under which an IEP team may determine the need to convene a meeting during the summer.

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<sup>10</sup> As previously described, the term “recovery services”, as used in this document, may depict a variety of scenarios. It may describe services needed to remedy a denial of FAPE by a district (typically referred to during dispute resolution as “compensatory services”), and also to describe additional, supplemental services needed to address gaps in service delivery due to COVID-19 health/safely limitations, over which districts had no control.





## **B-2. How can parents learn more about recovery services?**

Many families are concerned over the educational impact of school facility closures in spring 2020 as well as any non-traditional instructional models implemented during the school year on their students, whether or not they have a disability. As noted in B-1, IEP teams should consider the need of every student for recovery services as part of the IEP process for 2021–22 and 2022-23. Families should not have to make a special request for this process to occur. However, if parents have concerns about the special education and related services provided to their student and the resulting impact on progress on IEP goals that have not already been considered and addressed by the IEP team, they are encouraged to contact their IEP team or the district special education director for further discussion.

Parents have the right to decline the district's offer of recovery services.

Additionally, all [dispute resolution options](#) remain available, including facilitation, mediation, state complaint, and due process. See also question G-3 of this document.

## **B-3. What are transition recovery services?**

Transition recovery services are additional transition services for students with IEPs. These extra services can address lack of reasonable progress on IEP goals or the transition plan because of missed or limited special education and related services, or for other reasons due to the COVID-19 pandemic. The intent of transition recovery services is to make up services from the pre-COVID IEP that were missed during the COVID time period, not to create new opportunities or add new pathways.

Transition recovery services can also support a student to return to expected levels of progress towards their post-secondary goals, as indicated in the IEP Transition Plan and High School and Beyond Plan. For example, job training sites and community activities may not have been available due to safety concerns or may have changed due to physical distancing or health protocols to the point where the student does not have the opportunity to develop the skills originally intended by the IEP team and on the transition plan. If a student is unable to access their transition services as a result of health or safety concerns, the IEP team should meet to identify alternate options, such as the examples described in question G-1.

Districts are encouraged to work with families and students to determine the need for transition recovery services on a case-by-case basis. IEP teams should consider transition recovery service needs for all students with IEPs of transition age who are continuing in school. For students who may be exiting school, IEP teams should determine the need for transition recovery services prior to the student exiting.

### **B-3A. What about transition recovery services for students who are turning, or have turned, 21?**

Students who turned 21 during the 2019–20 or 2020–21 school year, and who have not yet received their diploma may receive transition recovery services if determined as needed by the IEP team. The intent of transition recovery services is to make up services from the pre-COVID IEP that were missed during the COVID time period, not to create new opportunities or add new pathways. Districts are encouraged to work with families and students to individually determine transition recovery service needs.

Additional funding has been allocated to provide transition recovery services to students who have turned 21 but have not yet received their diploma. Refer to question B-3C of this document for more information.

### **B-3B. What about transition recovery services for students who have already received their high school diploma?**

Earning a high school diploma ends a student's eligibility and right to FAPE. Students who have earned a diploma would not be included in the transition recovery services process. However, there is precedent in special education dispute resolution processes for compensatory education services to be provided to students, on a case-by-case basis, who have received their diploma, in the event that they were denied a FAPE. If a parent or adult student feels a student who earned a diploma was denied FAPE, they can pursue [dispute resolution options](#).

### **B-3C. If the student has met all graduation requirements, but the IEP team determines transition recovery services are needed, should awarding the student's diploma be postponed?**

Per WAC [392-172A-02000](#), earning a diploma ends a student's eligibility for special education and right to FAPE. Students are eligible to receive a diploma when they have met all graduation requirements. The [State Board of Education](#) (SBE) sets graduation requirements for our state, and, for students with IEPs, the IEP team determines when the student has met graduation requirements. It is important to note that a student can continue to receive transition services beyond the fourth year of high school, if determined appropriate by an IEP team, even if the student otherwise meets the graduation requirements.

If the IEP team has decided that the student needs to continue to receive transition recovery services, the team should decide whether it is appropriate to award the diploma at this time. Kevin's Law ([RCW 28A.155.170](#)) allows students who will continue to receive special education services between the ages of 18 and 21 to participate in the graduation ceremony and activities with their peers after four years of high school attendance, and receive a certificate of attendance. The students would receive their diploma when they complete their graduation requirements and the IEP team has determined that no additional special education services,

including transition recovery services, are needed. The receipt of the diploma would end the student's eligibility for special education services and FAPE.

Refer to questions B-3E, L-2, and L-2a of this document for additional information about available funds for the provision of recovery services.

**B-3D. For students receiving transition recovery services after age 21, do districts need to continue developing IEPs, conducting reevaluations, and sending progress reports?**

Students over the age of 21 are no longer eligible for FAPE through an IEP. Therefore, districts do not need to continue developing IEPs or conducting reevaluations for students over 21 who are receiving transition recovery services but are not precluded from doing so. The IEP team would need to meet to determine whether recovery services should be continued, but an IEP is not required to be developed. Decisions regarding whether recovery services continue to be needed should be documented in a prior written notice.

Formal progress reporting would also not be required. However, teams should continue to gather progress data during recovery services to assist the IEP team in determining whether additional recovery services are needed.

**B-3E. What funds are available for transition recovery services, including for students over age 21?**

For transition recovery services for students continuing in school, districts may use available federal IDEA funds, state special education funds, basic education funds, district-allocated Elementary and Secondary School Relief (ESSER) funds and/or a combination to support the provision of transition recovery services.

As part of the 2021–2023 biennial operating budget, the Washington State Legislature also allocated state and federal funds to support transition recovery services for students with disabilities who turned age 21 during the 2019–20 or 2020–21 school year, have not yet received a diploma, and who are in need of transition recovery services as determined by their IEP team. Districts may also use ESSER funds to provide transition recovery services to these students. In addition, even though these students may no longer be counted by districts for state and federal special education funding (since they are over the age of 21), districts may use state or federal special education funds, or state basic education funds, to provide transition recovery services.

Students over age 21 who have received a diploma are no longer eligible for services, and there is currently no funding mechanism for providing transition recovery services. However, refer to question B-3B of this document for considerations for students who have received their diploma.

Refer to questions L-2 and L-2a of this document for additional information about available funds for the provision of recovery services.

#### **B-4. Can recovery services be provided as part of extended school year (ESY)?**

No. Recovery services cannot be provided as part of the extended school year (ESY) support an IEP team determines a student needs. However, recovery services can be provided during the summer or other school breaks as supplemental learning supports and, if appropriate, in addition to any required ESY.

The process for determining need for ESY services is separate and apart from any determination about recovery services that were initiated due to the pandemic. This is because IEP team determinations regarding ESY are prospective, and ESY is not intended to make up for a past denial of FAPE.

As described in question B-0, the function of recovery services provides additional special education and related services to students with disabilities in order to address lack of appropriate progress on IEP goals due to missed or limited special education and related services or for other reasons as a result of the pandemic. Recovery services may be provided during the school year, through extended learning programs (such as extended day), or during scheduled school breaks (i.e., summer, winter, spring)

ESY is required if the student needs it in order to maintain IEP skills. The need for ESY is typically determined based on data that show regression or lack of recoupment of progress on IEP goals within a reasonable amount of time after a break from school. However, the determination of the need for ESY could also be made based on the consideration of other factors, including the nature and severity of the student's disability, rate of progress, and emerging skills, with evidence to support the need. The need for ESY should be examined on a case-by-case basis for each student on an annual basis, as already required in IDEA.

ESY services are not limited to the summer breaks. While this is generally the longest break from the normal school year, ESY services may be needed during shorter breaks of one or two weeks in length (such as winter and spring holiday breaks). ESY services can even be an extension of the student's normal school day.

#### **B-5. How and where should recovery services be documented?**

Generally, recovery services will be provided outside of the school day and could be documented in the IEP or in a separate document, such as a prior written notice (PWN). If the team decides to document services outside of the school day on the IEP service matrix, the district may need to revise its IEP system to ensure that the services are not automatically calculated into the student's total amount of time spent in special education versus general education (which would impact the calculation of an accurate LRE code for the student). Services



provided outside the school day should not be factored into the calculation of the LRE code for the student. See question D-7 for more information on calculating LRE.

If the recovery services will be in the form of additional services and supports provided during the school day (see question E-2 for more information on what constitutes a “school day”), then the services should be identified in the student’s IEP, including the frequency, location, and duration of those services.

### **B-5A. What information should a PWN for recovery services contain?**

When using a PWN to document the district’s decision regarding recovery services for an individual student, consider the following:

- **Proposed Action:** Describe the district’s proposed action to offer recovery services or the decision that recovery services are not needed. If recovery services are needed, describe those services, including timelines (start and end dates), schedules (frequency, duration, location), areas of service (including specific goals or transition services), progress monitoring, and LRE.
- **Explanation:** Describe current performance on IEP goals and current participation in recovery services. Explain why recovery services are necessary (or unnecessary) for FAPE in light of the pandemic. Identify the rationale behind offering or declining to offer recovery services.
- **Data/Information Considered:** Describe what information sources were used to make the decision as to whether recovery services were needed or not needed, such as progress reporting, student participation in remote instruction, benchmark assessments, teacher observations, evaluations, grades, IEP goals, work completion, formative assessments, unit assessments, informal reading and math inventories, parent and student input, participation in transition services, etc.
- **Other Options Considered:** If recovery services are to be provided, other options considered could be not providing recovery services. Provide a rationale for why this option was rejected—for example, student data supported a need for recovery services.
- **Other Factors:** Ideally, include a timeline regarding when the request for recovery services was made and the district’s actions taken upon request.

## **C. Planning**

### **C-1. It may be very difficult for districts to hire staff to provide ESY and/or recovery services.**

OSPI understands that staffing shortages are a concern for districts. Districts may consider strategies to address staffing needs, including working with their local labor association, considering staggered work schedules for educators, Education Staff Associates (ESAs), and classified staff, as well as the need for contracted staff, in some cases where district staff are unavailable. Districts may also use ESSER funds to address staffing needs.

Districts may not enter into Collective Bargaining Agreements (CBAs) which serve to limit special education services or Procedural Safeguards for students with disabilities and their families. Please see [Bulletin 047-18](#) for additional information.

## **C-2. What considerations should districts keep in mind?**

OSPI convened a number of stakeholder workgroups during the spring and summer of 2020 to develop guidance to assist districts in decision-making for the reopening of school facilities, including considerations such as social emotional learning (SEL), physical, mental, and behavioral health, family engagement, student supports, schedules, finance, transportation, and health and safety. The workgroups identified various models for reopening, including a continuum of options based on the status of COVID-19 and related state and local health and safety guidelines. The guidance includes leadership needs, educator professional development, and the consideration of potential barriers to instruction and commits to the following priority:

### Support Students Furthest from Educational Justice:

The impacts of fear, hatred, and systemic and structural racism within institutions cannot be ignored, and they yield tragic outcomes. Washington's public education system must engage in anti-racist capacity building, leadership, and resource allocation. Dismantling systemically racist structures will make progress on inclusivity and will better serve students of color, students with disabilities, students who are English learners, students who are migratory, students experiencing homelessness, students in foster care, students experiencing intergenerational poverty, and students who identify as LGBTQ+.

The work of Washington public schools is to prepare students for postsecondary pathways, careers, and civic engagement. Washington must create the conditions for each student to be educated in racially literate, culturally sustaining, positive, and predictable environments that intentionally prioritize the instruction and development of social-emotional skills and mental health in addition to our primary focus on academic content.

OSPI released [Reopening Washington Schools 2020 District Planning Guide](#) on June 11, 2020. The [Special Education Planning for Reopening Washington Schools 2020](#), a companion resource to the OSPI reopening guidance, includes best practices, resources, and unique considerations for supporting students with disabilities, their families, and all educators through the school reopening process.

OSPI encouraged districts to prioritize and prepare for full implementation of IEPs (and returning to pre-COVID IEP services) to the maximum extent possible in the 2020–21 school year, as well as complete any delayed evaluations, reevaluations, and annual IEPs, and begin identifying ways to address service gaps through additional services in a student's IEP or recovery services, if needed. During 2021–22, districts must implement IEPs and conduct evaluations and IEP meetings as required under WAC 392-172A.

Districts should also prepare with school personnel and families, for moving to and from the various instructional models, including transition activities, timelines, and opportunities for practice, particularly for students who struggle with changes in schedules and routines.

### **C-3. Are in-person special education and related services expected to be provided in the 2021–22 school year?**

During the 2021–2022 school year, K–12 public schools are expected to make available full-time in-person learning to all students, in accordance with health and safety guidelines. Districts may offer other more flexible, learning models: continuous learning 2.0+ (CL2.0+) and alternative learning experiences (ALE) (per [OSPI's Options for Instructional Funding Models in 2021–22](#)). As DOH health and safety guidelines are updated in communities during the 2021–22 school year, additional safety precautions may need to be implemented by districts to allow students with disabilities to receive needed in-person special education and related services. Districts should prioritize equitable access to services and plan on offering face-to-face services for students with disabilities to the maximum extent appropriate for each student based on local health conditions. Health and safety precautions should be in place. Districts will need to consider IEP-defined student placements when scheduling staff and grouping of students, to ensure that placement decisions and LRE are not changed outside of the IEP process.

School staff will need to discuss considerations for those students needing closer, prolonged physical contact, to minimize exposure. These considerations could include strategies such as clear physical barriers, short periods of contact with follow-up handwashing by student and staff and changing of facemasks, providing services in a well-ventilated area, and limiting personnel who make contact, as per [DOH guidance](#). Districts should follow state and local guidelines for student and staff safety.

It is important to note that any decisions for removal from in-person educational services (due to the effect a disability has on their need for prolonged and sustained physical contact without the use of PPE) must be made by the IEP team, with consideration to the impact to the least restrictive environment (LRE) and special education and related services that provide FAPE.

If a student eligible for special education services is quarantined due to COVID illness or exposure, districts are expected to continue providing special education services to the maximum extent possible. If the district is unable to provide services, the district should document that decision and consider the lost instructional time when determining if recovery services might be needed.

The [Special Education Technology Center](#), a State Needs Project, has provided technical assistance. District staff and staff from other impacted agencies and facilities should be included in planning efforts, since they bring expertise regarding services to students with disabilities, which can be embedded through the district plan. Please see the [WA DOH Recommendations and Resources Webpage](#) for additional up-to-date information.

Districts may use available federal IDEA funds, state special education funds, state basic education funds, district-allocated ESSER funds, and/or a combination to support the provision of specialized or alternate PPE and other physical distancing equipment, to address the individual needs of the student.

## D. IEP Implementation (including IEP amendments, progress reporting, accommodations, and LRE)

### D-1. Do districts need to complete IEP amendments for every single student when the instructional model changes from in-person to remote and vice versa?

As previously stated, OSPI's expectation is that special education services will be implemented and/or adjusted (with the IEP team) to provide services, accommodations, and/or modifications that may be needed in order to address the lack of access and gaps in student progress. Districts are not required to complete new IEPs or IEP amendments for all students. The decision to complete a new IEP or IEP amendment is made by the student's IEP team.

If the student will be participating in a remote or hybrid instructional model, and the services will be provided as indicated on the current IEP service matrix (including the amount of time and location (special education or general education setting)), then the team may be able to implement the IEP without a need to amend.

Here are a few examples:

- A student's IEP indicates 30 minutes per week of in-person speech therapy in the SLP's office (i.e., special education setting). During the period of remote instruction, the SLP will be providing one 30-minute speech session via Zoom each week. The 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.
- A student's IEP indicates 30 minutes per day of specially designed instruction (SDI) for math in a general education setting. The school will be implementing a hybrid model in which the student receives in-person math SDI from the general education teacher (supported by a paraeducator) for 30 minutes, two days per week, and will participate in an online, synchronous, small group math session with the general education teacher for 30 minutes the other three days of the week. Again, the services are for the same amount of time and the same setting (general education), so an amendment may not be necessary.

For more information on what constitutes a "general education setting" and a "special education setting" in remote and hybrid learning models, see question D-7 of this document. OSPI's [LRE case studies guidance](#) provides additional information to assist teams in determining when IEP amendments may be considered.

## **D-2. How should the IEP team document changes in special education and related services during COVID? Should teams use an IEP, an IEP amendment, and/or an individual student Continuous Learning Plan?**

An IEP is a document updated annually that describes a district's offer of FAPE to an individual student. While the information recorded in an individual student continuous learning plan (or other similar document) may come from a student's IEP, such documentation is not intended to serve as, or to replace, the most recent IEP. Students should not arbitrarily have reductions in IEP services (e.g., specially designed instruction, related services, supplementary aids, and services) on annual IEPs following the school facility closures in spring 2020, or have permanent reductions in services based upon a temporary IEP amendment or continuous learning plan implemented during spring 2020 in response to school facility closures.

Without documented parent and district agreement under [WAC 392-172A-03110](#) to amend a student's IEP, individual student continuous learning plans or other similar forms should not be considered an IEP amendment (see question D-1 of this document for specific guidance on IEP amendments). Districts, however, must still have had a method for documenting decisions made for individual students during the spring 2020 school facility closures and any temporary, emergency school closures during the 2020–21 or 2021–22 school year, including what services were offered to students and what services the students were able to access.

An individual student [Continuous Learning Plan](#) (or similar document) or contingency plan<sup>11</sup> is a temporary plan that outlines the extent to which IEP services and accommodations must be delivered differently or suspended due to emergency health and safety guidelines. It is OSPI's expectation that individual student continuous learning plans (or other similar documents) will no longer be necessary in the 2021–22 school year, except in the case of an unplanned, emergency school closure or student-level quarantine).

Unless there is an emergency school closure or student quarantine, individual student continuous learning plans (or other similar documents) should only be needed in the 2020–21 or 2021–22 school year as a point of reference when IEP teams consider adjusting IEPs and/or plan for any recovery services and should be maintained in the student's special education record.

If (as described in Questions C-2 and C-3) the IEP team determines that temporary reductions or adjustments to services are necessary due to an unplanned, temporary, emergency school closure or student quarantine, districts may wish to consider the options described above, including the use of a new or revised individual student continuous learning plan (or similar document), as it is unlikely that a continuous learning plan developed in the spring 2020 would remain appropriate. To be clear, the use of a continuous learning plan in the 2020–21 or

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<sup>11</sup> See question A-3 of the OSERS Q&A: [Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act](#)

2021-22 school year is only an option for use during a temporary, unplanned, emergency school facility closure or student quarantine.

It is important for districts to keep in mind that using IEP amendments to document reduced services during COVID-19 even on a temporary basis may be interpreted by parents as an attempt to reduce services and/or alter the placement for their student on a long-term basis. No temporary IEP amendment due to COVID-19, however, should last longer than the annual IEP. Districts may also not request or require that families “waive” aspects of IDEA during COVID-19. As stated above, the expectation is that IEPs will be implemented. Students should not have arbitrary reductions in IEP services (e.g., specially designed instruction, related services, supplementary aids and services) on annual IEPs following the school facility closures. Students should not have reductions in IEP services on annual IEPs, except in limited cases (e.g., following an evaluation demonstrating services are no longer needed, the IEP team determines that shorter, more intensive (such as 1:1) instruction will be provided). IEP teams should document the basis for decisions to modify services on the IEP, such as in the present levels section or in a prior written notice.

Any revised services that parents choose not to access, however, should be documented in a prior written notice (PWN). The parents’ choice to access some, but not all, services for which the student is eligible should not be confused with the parent revoking consent for services. All of the services for which the student is eligible would still be available through the service delivery model options offered by the district.

OSPI continues to support districts and families to work together, with and/or on behalf of the students with disabilities, to improve post-secondary education, employment and independent living, as intended by the IDEA and expects that everyone involved in a student’s special education program participate in good-faith.

### **D-3. What is your guidance for developing the present levels section if the team is not able to observe the student in person to gather data?**

The collection of student data following instruction is expected and is used to adjust instruction, as needed. This expectation continues regardless of whether a district is providing remote or hybrid services. For purposes of an IEP, this decision should be made by the IEP team on an individual, case-by-case basis. Here are some points to consider:

- How old is the most recent data for each of the identified areas? Could these data still be considered current?
- What alternative data collection strategies could be used, such as having the student take an online performance assessment or sending work or assessments home for the student to complete and return?
- How might an observation take place, in-person or through distance technology?
- How will input from teachers on work completed prior to the facility closure, as well as during the facility closure, be solicited and included?
- What information are parents able to provide?

#### **D-4. What is the guidance on IEP goal progress reporting in remote and hybrid instructional models?**

There is no waiver of IDEA progress reporting requirements. Progress reports should continue to be provided to parents on the schedule indicated in the IEP. As districts move to planned instructional models during the 2020–21 school year, teams should consider methods for collecting student progress data in those models.

In the case of remote or hybrid educational models, IEP teams should consider a variety of synchronous and asynchronous methods for collecting progress data, including observations of the student via remote methods, training and working with the parent to complete a data collection sheet, curriculum-based assessments, data collected prior to the school facility closures, etc. See question D-3 for additional suggestions.

Progress data will also be an important consideration when IEP teams are determining what recovery services, if any, might be needed.

*D-5. (Question removed.)*

#### **D-6. How do we ensure that general education teachers have access to student IEPs during remote learning and hybrid models in order to provide necessary services, accommodations, and supports?**

It is important that all staff providing educational services to students with disabilities during school facility closures and other educational models used by districts during COVID-19 continue to have information related to their responsibilities and the accommodations, modifications, and supports described in the IEPs of the students with whom they are working ([WAC 392-172A-03105\(3\)](#)).

The district may need to consider alternate methods for providing this information to teachers and staff if they are unable to access it from the district's information system. The alternate methods should follow the confidentiality requirements set forth in [WAC 392-172A-05230](#) and the [Family Educational Rights and Privacy Act](#) (FERPA). Confidential student information is permitted to be shared with authorized school district employees who have a legitimate educational interest ([WAC 392-172A-05195](#)). Districts are encouraged to consult with information technology staff within their district to explore alternative methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

It is recognized that students with disabilities are general education students first and are entitled to ongoing access to general education classrooms, instruction on grade level standards and meaningful interactions with nondisabled peers. Ongoing collaboration between general education and special education teachers/service providers during all types of instructional

models will be especially important, and will facilitate general education teachers' access to IEPs and BIPs, including awareness of students' IEP goals.

### **D-7. How should districts calculate LRE codes for students across different instructional models? What is considered a "general education setting" in a remote learning model?**

Special education services can be provided in a general education setting or a special education setting, through synchronous or asynchronous delivery. LRE codes are calculated using the percentage of the instructional day/week the student spends in a general education setting. The calculation of LRE is not dependent upon the content of the instruction or who is teaching it, rather it is based on the setting in which the learning occurs. Just because the instruction is considered to be specially designed (SDI) and is designed by a special education teacher, does not automatically mean that the instruction is occurring in a special education setting.

In situations where all students in a school or district are participating in a remote learning model, or in situations in which the student is participating in an approved ALE or CL2.0+ program, the student's home may be the setting from which all students in the school/program are accessing their instruction. Therefore, generally, **the student's home would be considered the general education setting for calculating LRE in these circumstances.**<sup>12</sup>

Similarly, when all students in a school or district are participating in a remote learning model or in situations in which the student is participating in an approved ALE program, **asynchronous services**<sup>13</sup> **would typically be considered a general education setting.** However, there may be situations in which the remote learning would be considered a **special education setting.** For example:

- A student with an IEP participates in a synchronous, virtual lesson with a paraeducator individually or in a group consisting primarily (51% or more) of students with IEPs.
- A student with an IEP participates asynchronously by watching a pre-recorded lesson prepared by the special education teacher that is intended for follow-up discussion only with the special education teacher or other students with IEPs.

While other remote learning activities, such as asynchronous completion of assignments or participating in a modified online program, may be considered specially designed instruction if it meets the definition in [WAC 392-172A-01175](#), it may be determined to be happening in a general education setting during remote learning models.

For the denominator of the LRE calculation, districts should use the total instructional minutes per week (MPW) in the school's adopted schedule(s) for the 2020–21 school year and available to the public. For LRE reporting purposes, OSPI recommends that districts use the following

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<sup>12</sup> Adapted from guidance from the IDEA Data Center, an OSEP-funded technical assistance center.

<sup>13</sup> If a student is participating in almost all asynchronous instruction, then this would need to be an approved Alternative Learning Experience (ALE). Page 2 of [Bulletin No. 034-21 Student Engagement and Support](#) includes definitions for ALE. If you have any questions about whether a school/program is an approved ALE or ALE requirements and best practices, contact the OSPI ALE team at [ALDInfo@k12.wa.us](mailto:ALDInfo@k12.wa.us).



calculation to determine the percentage of time the student spends in a general education setting:

% in Gen Ed setting = (Total instructional MPW in school's adopted 2020–21 student schedule MINUS total instructional MPW student spends in a special education) setting divided by the total instructional MPW in the student schedule times 100. Here is an example:

Formula:  $(\text{Total MPW} - \text{MPW in sped setting}) \div \text{Total MPW} \times 100 = \% \text{ in gen ed setting}$

Example:  $(1800 \text{ total MPW in student schedule} - 100 \text{ MPW in sped setting}) \div 1800 \times 100 = 94.44\% \text{ in gen ed setting}$

OSPI's [LRE case studies guidance](#) provides additional LRE considerations across the different types of instructional models. The National Association of State Directors of Special Education (NASDSE) has also issued additional [guidance](#) on LRE during COVID-19, including case examples.

**D-8. Is changing from a special education setting (e.g., services provided in-person in a special education classroom) to a general education setting (e.g., asynchronous services in a remote setting) considered to be a significant change of placement that would require a reevaluation?**

If the only reason that the placement is changing is because of a change in learning models as a result of health and safety requirements, a reevaluation may not be needed. The team should consider if a reevaluation is warranted for individual students whose needs may have changed as a result of the student's disability, creating a potential need for significantly more or less services. Or, the team may determine that a reevaluation is needed in order to gather current information to help develop the IEP. Ultimately, it would be a team decision whether a reevaluation was needed – it would not just be a blanket requirement for all students transitioning from remote to hybrid or in-person services.

If the team determines that a reevaluation is necessary, then it could be completed through a review of existing data or additional testing (which may be able to be completed remotely). See [additional information](#) on testing during COVID from WSASP.

## E. Completing Evaluations and IEPs (including timelines, student attendance, parent consent, child find, and Part C to Part B transition)

### E-1. Are we obligated to continue to hold to IEP and evaluation timelines? Can IEP timelines be extended?

Districts must continue to hold to IEP and evaluation timelines to the maximum extent possible. Districts should have a plan for conducting meetings via distance options (e.g., phone, Zoom) if in-person meetings are not possible. See also questions C-2 and E-7 of this document.

Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation. The agreement must be documented but does not require signed parent consent. The documentation of the agreement should include the reason for the extension. See model form 5c ([Agreement to Extend Evaluation Timeline](#)). It is important to note that while the 35-school day timeline to complete an evaluation upon receipt of parent consent can be extended, the three-year timeline for completing a reevaluation and the one-year timeline for completing an IEP cannot be extended.

There is no provision in the law for extending an IEP. OSPI recommends the district document if the IEP (or evaluation) timeline was exceeded and why. OSPI does not support unilateral district decisions to delay all meetings during COVID-19. IEPs and evaluations that were delayed due to COVID-19 should be prioritized for timely completion during the 2020–21 school year.

Districts may use available federal IDEA funds, state special education funds, state basic education funds, district-allocated ESSER funds and/or a combination to support the completion of overdue IEPs and evaluations.

### E-2. What is considered a “school day” in remote or hybrid instructional models?

For the timelines identified in Chapter 392-172A WAC, the term “school day” is defined in RCW [28A.150.203](#)(10) as “each day of the school year on which pupils enrolled in the common schools of a school district are engaged in *academic and career and technical instruction planned by and under the direction of the school.*” In analyzing what “instruction” means in the context of the school day definition, the Attorney General’s Office [has looked to](#) RCW [28A.150.205](#), the definition of “instructional hours”: “[T]hose hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students’ educational needs or progress, and exclusive of time actually spent for meals.”

### **E-3. What constitutes written parent consent during school facility closures?**

At any time, regardless of the pandemic, districts can document a parent's written consent using alternative methods such as an email, a digital or e-signature, a digital photograph, or scan of a parent signature on an applicable document. Consent provided via email or using these other alternative methods is considered to be written consent as long as the parent is informed of and understands all information relevant to the activity for which consent is sought. Districts must communicate with families in their native language or other mode of communication, unless it is clearly not feasible to do so.

During the COVID school facility closures, OSPI guidance for obtaining parent consent also included district staff noting temporarily that consent was given by the parent verbally. However, with school facilities now open, temporarily documenting verbal consent would no longer be an option, and districts should be obtaining written consent through parent signature or one of the alternative methods described above.

Districts are encouraged to consult with information technology staff within their district to explore alternative electronic methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

Some decisions, such as amending an IEP, excusing an IEP team member whose area is not being discussed, and extending a 35-day evaluation timeline, require the parent's agreement, rather than written, signed consent. Documenting agreement does not require written or signed consent, but could take the form of a documented verbal agreement or other documentation.

With regard to parent consent for Medicaid billing, districts only need to obtain a one-time consent from parents to bill Medicaid. Therefore, if the district already has consent on file, they do not need to obtain new consent each year. The district may want to check with their billing agent to see which students for whom they have already received consent.

### **E-4. What is the best practice for reevaluations during this time? Would it be appropriate to complete file reviews or an agreement that a reevaluation is unnecessary to maintain timelines when we cannot assess?**

OSPI recommends the team move forward with a review of existing data and communicate with parents in order to get input on whether additional assessments are determined to be needed. If the team, including the parent, believes the existing data is sufficient to support the team in making a decision regarding whether the student continues to be eligible for special education or is no longer in need of special education services, the team can move forward and complete the reevaluation using the existing data.

The parent and district could agree that a reevaluation is not needed, which is different than determining that no additional assessments are necessary because there is sufficient existing data to complete the reevaluation. The agreement that a reevaluation is unnecessary is a

decision that should be made on an individual student basis, and should not be based on staffing limitations, the inability to gather complete data (such as not being able to implement in-person assessments as a result of COVID), or maintaining compliance with a deadline. An agreement might be considered in cases where a student's levels of performance have not changed, and the special education and related service needs of the student do not require any revisions or modifications. An agreement that a reevaluation is unnecessary should be the exception, not the rule – it should not be something that is done on a routine basis.

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [August 2020 guidance](#) from WSASP.

### **E-5. How should staff handle initial referrals and initial evaluations?**

Districts should ensure that there continues to be a process by which staff and parents can initiate a referral for a special education evaluation during school facility closures and/or remote or hybrid services if they have concerns about a student (i.e., child find). This referral process should be communicated to staff and parents, particularly if it differs from the referral process followed when in-person school is in session.

If a referral is made, the district should provide families with the [Notice of Special Education Procedural Safeguards for Students and Their Families](#) and make every effort to follow the established timelines, including: (a) 25 school days from the date of referral to review existing data including information provided by the parent and determine whether to move forward with an evaluation; (b) 35 school days from the date the district receives consent (refer to question E-3) to complete the evaluation and determine eligibility<sup>14</sup>; (c) 30 calendar days to develop the IEP; and (d) beginning services as soon as possible after the IEP is developed.

If the student is participating in remote learning at the time the initial evaluation is conducted, the evaluation group may need to rely more heavily on existing data, particularly if health and safety precautions limit the district from conducting in-person standardized assessments. Professional judgment is also an option, as long as the evaluation team has sufficient data to support their decisions.

OSPI recommends that districts complete as comprehensive of an initial evaluation as possible in a timely manner. If the team has sufficient information to support a decision regarding the student's eligibility, it is recommended the district move forward and complete the evaluation, with the understanding that once in-person assessment becomes feasible, the team could consider whether additional assessment may be needed. If the team does not have sufficient

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<sup>14</sup> Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation. The agreement must be documented but does not require signed parent consent. The documentation of the agreement should include the reason for the extension. See model form 5c ([Agreement to Extend Evaluation Timeline](#)). It is important to note that while the 35-school day timeline to complete an evaluation upon receipt of parent consent can be extended, the three-year timeline for completing a reevaluation and the one-year timeline for completing an IEP cannot be extended.

information to support an eligibility decision and the necessary information is unable to be obtained due to health and safety guidelines, the district and the parent could consider agreeing to extend the evaluation timeline until sufficient documentation is able to be collected. Caution should be applied, however, to ensure that the timelines are not unduly extended, as the delay of potentially necessary services could have an adverse effect on the student. In the interim, if the team suspects that the student would meet eligibility requirements under Section 504 of the Rehabilitation Act of 1973, the student should be considered for a 504 plan to minimize potential adverse impacts on the student. If the student already has a 504 plan, the district should ensure that it is updated to reflect all of the student's current disability related needs. Completing the evaluation for special education services should be prioritized and resume as soon as safety conditions permit.

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [August 2020 guidance](#) from the Washington State Association of School Psychologists (WSASP). See also additional [guidance](#) on psychological tele-assessment during COVID-19 from the American Psychological Association.

#### **E-6. What is the guidance on completing evaluations for students transitioning from Part C to Part B? Should districts be bringing those students in for evaluation?**

The guidance for meeting timelines for children transitioning from Part C, IDEA, has not changed. Districts must prioritize and complete Part C to Part B evaluations and IEPs by the child's third birthday. Collaboration with the early intervention provider agency (EIPA) will be essential to ensure local school district staff are available to (1) engage in transition planning conferences, (2) receive student contact information, (3) communicate with parents, and (4) review existing progress monitoring and evaluation data that would support a district's intent to evaluate a student for IDEA, Part B.

EIPAs will contact the district according to local agreements. Providing notification to OSPI and appropriate LEAs of toddlers who are potentially eligible for Part B serves as an initial referral to the LEA for Part B eligibility determination. This requires the LEA to provide a prior written notice to inform the parent of the receipt and status (plan of action) of the initial referral, notice of procedural safeguards and information on Part B to the toddler's parents.

*State Lead Agency for the Early Support for Infants and Toddlers (ESIT) Program (DCYF):* Early Intervention Provider Agencies (EIPAs) are encouraged to communicate with individual families and with their local school districts regarding the feasibility of a virtual transition conference and how best to approach required transition activities. Potential options for transition meetings may include virtual methods to include conference phone calls or videoconferencing during periods of school facility closures. Existing early childhood transition personnel and their respective contact information remains the same during the period of school facility closure. School districts have local protocols in place to respond to emails. After decisions related to early childhood transition options have been jointly determined, written

communication with families should be prioritized. For assistance troubleshooting specific circumstances, please contact Val Arnold, ESIT Strategic Innovations Advisor, at [email Valerie Arnold, DCYF](mailto:Valerie.Arnold@dcyf.wa.gov) or 360-485-7773.

*State Education Agency (OSPI):*

Consideration of physical distancing measures and DOH guidance to ensure safe implementation is a priority. Alternative virtual options, including videoconferencing or conference telephone calls, may be explored as a means of meeting transition planning and implementation requirements. OSPI encourages school teams and parents to work collaboratively and creatively to meet evaluation and IEP timeline requirements. For assistance troubleshooting specific circumstances, please contact Ryan Guzman, Early Childhood Special Education/Section 619 Coordinator at [email Ryan Guzman, OSPI](mailto:Ryan.Guzman@ospi.wa.gov) or 360-764-9448.

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [August 2020 guidance](#) from the Washington State Association of School Psychologists (WSASP), [OSPI's guidance](#) for providing services to students with disabilities in early childhood programs, and guidance from the [U.S. Department of Education](#).

**E-7. If an initial Part B evaluation is unable to be conducted because the assessments require face-to-face interaction, how can the district ensure there is no gap in services since Part C services would end at the child's third birthday?**

Although there are many advantages to in-person meetings, remote evaluation and assessment can be accomplished successfully with careful planning. Districts are encouraged to move forward with initial Part B evaluations to the maximum extent possible (see also questions E-4 and E-5 of this document). The initial evaluation process should begin with a review of existing data, including the most recent Part C evaluation report, progress monitoring data, and communication with the parent in order to determine whether additional assessments are needed. If the team determines that the existing data are sufficient to establish Part B eligibility, and the parent agrees that no additional testing is needed, the evaluation team can move forward using the existing data when completing their Part B evaluation report.

If additional assessments are determined to be needed and in-person assessments are not feasible due to health and safety guidelines, the district should consider alternate ways of gathering the necessary data, including the use of assessment tools that do not require in-person implementation. Visit the [ECTA website](#) for the resources, including guidance documents and tables of tools for [conducting remote screening evaluation and assessment](#).

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [August 2020 guidance](#) from WSASP and [OSPI's guidance](#) for providing services to students with disabilities in early childhood programs.

**E-8. If a district is unable to complete a full evaluation due to health and safety guidelines, is it permissible to not complete the C to B transition process until in-person assessment becomes feasible?**

No. There is no waiver that would relieve the district of its responsibility to provide FAPE or to transition students to Part B by their third birthday. Children who are turning three are at a critical state of development and waiting months to provide services could do significant harm.

As referenced in E-7 above, districts should make a reasonable effort to complete as comprehensive of an initial evaluation as possible in a timely manner, with the understanding that once in-person or virtual assessment becomes feasible, the team could consider whether additional assessment may be needed. The Center for IDEA Early Childhood Data Systems (DaSy) and the Early Childhood Technical Assistance Center (ECTA) have developed [a list](#) of norm-referenced assessment tools for children birth to age five with potential for remote administration for eligibility determination.

If the district has made reasonable attempts to complete the initial Part B evaluation and the parent does not respond, the district should document these attempts. OSPI also recommends that districts collaborate with the individualized family service plan (IFSP) Team and local EIPA to determine potential barriers that might be impacting the family's ability to fully engage in the transition process rather than simply waiting until in-person school resumes to re-start the process.

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [August 2020 guidance](#) from WSASP and [OSPI's guidance](#) for providing services to students with disabilities in early childhood programs. See also question E-5.

## **F. Early Childhood Considerations (including services, outcome data reporting, birth–three programs)**

**F-1. What is the guidance for preschool programs if the district is implementing a remote or hybrid learning model?**

As stated in question A-1 of this document, districts must have a plan for how all students, including students with disabilities (ages 3–21), will be provided with continuous learning opportunities. As required in IDEA and WAC 392-172A, districts must have a range of preschool placements to provide students with the least restrictive environment (LRE), including placements with general education peers (e.g., ECEAP, Head Start, or general education preschool classroom). Districts, even if concerned over potential budget decreases and identifying space availability for physical distancing, must maintain a continuum of placement options.

The following guidance documents may also be helpful:

- [OSPI Reopening Washington Schools 2020: Early Learning Planning Guide](#)
- [Recommendations for Re-Opening Face-to-Face Sessions for Inclusionary Preschools and Early Care Centers](#) (from the Early Childhood Technical Assistance Center (ECTA))
- [ECTA Center: Provider and Educator Use of Technology](#)
- [ECTA Center: State Guidance and Resources on Remote Service Delivery and Distance Learning](#)
- [Restart & Recovery: Addressing Unfinished Learning for the Youngest Learners | \(ccsso.org\)](#) (from the Council of Chief State School Officers (CCSSO))

## **F-2. What is the guidance for staff who are completing the Child Outcome Summary (COS) form for Indicator B-7?**

IEP teams are expected to use assessments, observations, and referral information to give a student a COS entrance rating. If it is not feasible to give a child an anchor assessment at entrance, document what materials were used to determine the COS rating, and document within the appropriate reporting platform (e.g., Teaching Strategies GOLD, IEP online, Excel federal reporting forms).

When completing the COS exit rating, the IEP team is expected to use *reasonable efforts* to meet and use available data that is reflective of the student's present level of performance. Sufficient data might include student work, observations, and assessments completed in person, or parent or caregiver interviews, observations, and/or formative assessments performed virtually. School districts should document measures taken to determine the exit rating within the appropriate reporting platform, including who participated in the rating process.

For more information on how to complete Indicator B-7, Early Childhood Outcomes, in remote learning models, visit the Early Childhood Technical Assistance ([ECTA](#)) Center. See also [OSPI's guidance](#) for providing services to students with disabilities in early childhood programs.

## **F-3. What is the guidance for districts who are providing early intervention services to children ages birth to three?**

Effective September 1, 2020, school districts acting as Early Intervention Provider Agencies (EIPAs) will work in collaboration with DCYF ESIT, the Part C Lead Agency, in accordance with [Substitute House Bill \(SHB\) 2787](#). For assistance troubleshooting child/family-specific circumstances, please contact Valerie Arnold, ESIT Strategic Innovations Advisor, at [email Valerie Arnold, DCYF](#) or 360-485-7773.

The following guidance documents may be helpful:

- [Return to School Roadmap: Q&A on Child Find Under Part B of the Individuals with Disabilities Education Act \(PDF\)](#)
- [Return to School Roadmap: Children with Disabilities under IDEA \(PDF\)](#)



## G. Secondary Transition Considerations

### G-1. How will districts provide school-to-post-school transition services?

IEP teams work together to plan and implement academic and non-academic courses and programs of study that help all youth achieve successful post-school outcomes such as postsecondary education and training, employment, and community engagement. These services are developed and implemented in alignment with a High School and Beyond Plan (HSBP) and often involve coordination with community businesses and state agencies which, like school facilities, may have been closed or limited due to COVID-19 impacts.

Districts should exercise caution when placing students in community work sites or work-based learning opportunities outside the school setting due to COVID. On August 18, 2021, Governor Inslee announced a directive ([Proclamation 21-14.1](#)) requiring all employees working for public and private K–12 schools to be fully vaccinated against COVID-19 or obtain a religious or medical exemption by October 18, 2021. For more information, see [OSPI's COVID-19 Vaccination Requirement for K–12 School Employees: Frequently Asked Questions](#).

If a student is unable to access their transition services as a result of health or safety concerns, the IEP team should meet to identify alternate options, such as the examples described below. Secondary transition is more than providing pathways for the individual's movement from high school to employment; it is a comprehensive approach to educational programs, focused on aligning student goals with educational experiences and services. Examples of transition services that could be provided through the continuum of learning models include:

- Use the units and lessons in the [T-folio](#), starting with the introductory lesson, then working through the assessment lessons to help students identify their strengths, preferences, interests, and needs. The educator provides instruction on the purpose and importance of assessment in the areas of interest inventories, needs assessments, preferences, career clusters, self-determination, etc. The student is then guided to chosen websites to complete the assessment, print results to a PDF, and send to the instructor.
- For students who are developing and practicing work and/or independent living skills and can no longer do this on a job/community site due to COVID-19, consider working with the family to set up comparable activities in the home or similar setting. Examples could include assisting with household chores such as laundry, cooking, cleaning; assisting with the family budget; or caring for pets and/or younger siblings.
- Assist the student in accessing the district's career and technical education (CTE) opportunities for job skill development to help build skills when students are not able to be in the community.
- Identify alternate job placement sites.

Additional examples of transition services that can be provided across the reopening models can be found beginning on page 49 of [Reopening Washington Schools 2020: Special Education Guidance](#).

## **G-2. What considerations need to be addressed for students who were unable to access transition services or make sufficient progress during 2020–21 school year due to COVID-19 impacts?**

Additional safety precautions may be necessary to support students with disabilities receiving transition services in community settings and/or off-campus sites. Some of these considerations include safe travel in the community, including access to public transportation or paratransit, and PPE needed to participate in other settings or job functions. As safety guidelines are updated and local health conditions allow for in-person services, districts must prioritize transition services for students nearing graduation or turning 21 (aging out of special education services), to support the student and family with finalizing the transition portfolio including a completed High School and Beyond Plan (HSBP), summary of performance, evidence of agency linkages and the most recent evaluation and IEP, so that the student is supported through a seamless transition from school to post school life.

Refer to questions B-3 through B-3E of this Q&A for more information on transition recovery services.

## **G-3. What are the considerations for those students who graduated or turned 21 (aged out of special education services) in 2020–21 school year?**

Questions B-3 through B-3E address the provision of transition recovery services, including services to students who have graduated or turned 21 during 2019–20 or 2020–21. For information on available funding for the provision of transition recovery services, see questions B-3E, L-2, and L-2A.

## **H. Family Communication and Involvement (including prior written notice, collaboration, providing resources)**

### **H-1. When should districts use prior written notice (PWN) during COVID-19 impacted decisions?**

Districts should use PWN whenever there is a decision made proposing or refusing to change the identification, evaluation, educational placement, or the provision of FAPE to the student. This includes any such decisions made during remote learning and hybrid models. PWNs must be provided in the native language or other mode of communication of the parent, unless it is clearly not feasible to do so.

OSPI strongly encourages districts to communicate frequently with families about what is happening. It is advisable to provide information to families on an ongoing basis, and due to the nature of the COVID-19 situation, frequent and coordinated communication is recommended and should be prioritized.

OSPI emphasizes the need for engaging in meaningful discussions with families when completing IEPs and to follow decisions made proposing or refusing to change evaluation, assessment, eligibility, placement, and/or FAPE for a student with a prior written notice.

## **H-2. If districts provide online resources for parents to access, should specific resources for students with disabilities be included?**

Yes, districts providing online resources for students and/or families, should also provide resources in an accessible and equitable manner for parents of students with disabilities. This includes using inclusive language, providing a range of activities accessible in a variety of modalities and skill levels, in the parent's language, and allowing parents and students flexibility in selection. However, making online resources available for students and families should not be considered a substitute for plans of active delivery of instruction.

## **I. Staffing Considerations (including teleservices, staff qualifications)**

### **I-1. Do school-based speech and language pathologists (SLPs) providing telehealth services also need a DOH SLP license?**

An ESA certification (or other appropriate educator certification) is required in order to provide specially designed instruction, as per an individualized education program (IEP). Individuals are not required to have a license from the DOH in order to obtain the SLP ESA certificate, although many SLP ESAs also hold the DOH license. Some school districts set a local requirement of holding both an ESA certificate and a DOH license, often to allow billing for school-based health care.

School district SLPs and audiologists providing services through telepractice are subject to the same ESA certification and licensure regulations as those providing in-person services, and there are no Professional Educators Standard Board (PESB) regulations which would prevent any of the Washington state educator roles from practicing virtually.

To learn more please visit the [PESB educational staff associate webpage](#).

### **I-2. Would the state be willing to authorize related service staff to work remotely without all of the American Speech-Language-Hearing Association (ASHA) requirements being in place?**

OSPI does not have the authority to waive ASHA requirements. Both an Educational Staff Associate (ESA) Credentialed SLP and a DOH credentialed SLP can deliver services via a telehealth model. There are no Professional Educator Standards Board (PESB) regulations that would prevent any of Washington state educator roles from practicing virtually.

There are existing resources within the state and many districts to meet the [Washington Telepractice Requirements for Audiologists and Speech-Language Pathologists](#) at the current time, and OSPI recommends that districts strongly consider adapting services in this manner, to meet the needs of their students. Additionally, the U.S. Department of Health and Human Services has released notice of [Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#) which permits flexibility to provide services using widely available communication apps such as FaceTime or Skype when used in good faith to provide telehealth treatment or diagnostic services. The accompanying [FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency](#) provides more guidance on this topic.

**I-3. Can an SLP, OT, or PT who is licensed in the state of Washington provide teletherapy services to a student who is a resident of Washington but is temporarily traveling to a different state?**

Please see question A-4A of this document for information regarding students accessing the district's remote instruction program while temporarily outside the state of Washington. With regard to services provided by staff with an Educational Staff Associate (ESA) certificate (such as speech therapy, occupational therapy, physical therapy, etc.), there are no PESB or OSPI regulations which would prevent any of the ESA roles from practicing virtually (including providing services while a student is temporarily traveling to another state).

However, if the provider also holds a DOH license, the relevant DOH regulations would apply. Some states have policies that individuals providing telepractice services have appropriate certification for both the state they are providing services from and the state they are providing services to, thus providers have the responsibility to inquire with relevant states before providing services. Likewise, each provider will also need to uphold the requirements from their accreditation body, if applicable (ASHA, Behavior Analyst Certification Board (BACB), etc.). OSPI and PESB cannot provide guidance on the policies of DOH and accreditation bodies, each provider will need to ensure that they are aware of and can meet these requirements that apply to them. To learn more about the eight different ESA roles and whether a DOH license is required for each, please visit the [PESB ESA webpage](#).

Districts should be aware of their FAPE obligation and should work in collaboration with families to identify when students may be traveling out of the state and to determine how to best serve the student. When students are temporarily traveling out-of-state for extended periods of time, districts could consider:

- Providing more services prior to a student departing on out of state travel (i.e., "front loading").
- Preparing a variety of asynchronous activities to support students during potential gaps in services (note: parents may need some coaching to support asynchronous activities).
- Supporting providers to pursue additional certification in bordering states (e.g., Oregon and Idaho) to prepare for situations where students may be traveling for extended periods of time.

- Exploring options to partner with therapy and staffing companies who may be able to provide some flexible staffing solutions to meet the needs of families who may be temporarily traveling to other states due to the COVID-19 pandemic.

Districts can bill Medicaid for services provided to a Washington student who is temporarily out of the state (see question 18 of the updated [School Based Health Care Services COVID-19 Billing FAQ](#)).

## J. Confidentiality and FERPA Considerations

### **J-1. Are there confidentiality issues (e.g., FERPA) if a parent or sibling were to walk by during a Zoom and see the faces of students with IEPs on their child’s computer screen?**

FERPA applies to the information contained within educational records and does not specifically prohibit observing a student within their classroom (see, [Letter to Mamas \(December 2003\)](#)). [Recent guidance](#) issued by the U.S. Department of Education Student Privacy Policy Office (SPPO) in March 2020 confirmed the applicability of *Letter to Mamas* to virtual classrooms (“[...] the determination of who can observe a virtual classroom, similar to an in-person classroom, is a local school decision as teachers generally do not disclose personally identifiable information from a student’s education record during classroom instruction.” Districts are also encouraged to consult with legal counsel and information technology staff within their district when reviewing the resources contained within the SPPO’s March 2020 guidance regarding online educational services, the use of virtual learning platforms/tools, and best practices for safeguarding personally identifiable information contained within student educational records under FERPA.

### **J-2. What about confidentiality issues (e.g., FERPA) if teachers and/or related service providers participate in a virtual IEP team meeting or parent/student conference and a spouse or other children were to walk by or overhear the meeting?**

If an IEP team meeting or parent/student conference will potentially involve discussing personally identifiable information contained within the student’s educational records, then the teacher and/or related service provider should take the necessary precautions to ensure that others in their household do not overhear the conversation before participating in a virtual meeting. Reviewing instructional materials and subject matter, on the other hand, generally does not involve disclosing personally identifiable information from a student’s educational records and would not require the same level of precaution. Districts may want to review the need for maintaining the confidentiality of information contained within student educational records with staff and, if necessary, develop procedures for obtaining prior consent in writing (see question E-3) from the parent or student for the potential disclosure of personally identifiable information from the student’s education records to others within the teacher’s or service provider’s household.

### **J-3. Should districts record the provision of specially designed instruction via distance technology (such as Zoom) for safety and documentation purposes?**

Districts would need to determine how best to document the provision of services. Recording services would be one method, as long as the district makes sure it follows current state law regarding private communication ([RCW 9.73.030](#)) and/or existing district policy regarding audio and video recordings of students and staff. The SPPO issued guidance in March 2020 on FERPA and Virtual Learning, which includes frequently asked questions on the extent to which videos recorded and maintained by a district are educational records. See also [OSPI's Continuous Learning Considerations and Policy Issues for Videoconferencing](#).

Other methods of documenting services could be considered, such as contact logs, staff notes, tracking forms, etc. Districts should consult with their legal counsel if questions persist regarding the applicability of privacy laws to audio and video recordings.

## **K. Students Attending Non-Public Agencies (NPAs) and Private Schools**

### **K-1. What should districts do regarding students placed with either in-state or out-of-state Non-Public Agencies (NPAs)?**

NPAs may continue to provide either in-person services or remote learning, in alignment with local health requirements in their state. If an NPA is offering an instructional model that is different from the model being used by the school district (e.g., the NPA offers in-person learning while the school district offers remote/hybrid learning), then the district and NPA may need to discuss how to ensure the student still has access to FAPE within the context of the current contract for services and if any changes are needed. Districts should continue to work with NPAs and families to ensure student IEPs are implemented to the maximum extent possible given current health and safety requirements; and to consider the need for IEP meetings to address amendments/adjustments to services (see question D-1), and any potential need for recovery services (see questions B-1 and B-5). The school district ultimately remains responsible for ensuring FAPE is provided.

Governor Inslee announced on August 18, 2021, a directive ([Proclamation 21-14.1](#)) requiring all employees working for public and private K–12 schools to be fully vaccinated against COVID-19 or obtain a religious or medical exemption by October 18, 2021. The order applies directly to private schools and health facilities providing educational services with NPA status in the state of Washington who contract with public school districts. The Governor's order, however, does not directly apply to out-of-state NPAs. OSPI, at this time, is also not requiring school districts to ensure that out-of-state NPAs have fully vaccinated staff as a condition of contracts for placement with an NPA. OSPI, on the other hand, does interpret the Governor's proclamation as giving school districts the option of asking for and/or requiring proof of vaccination from the out-of-state NPA as a "contractor" providing services to a student placed there as a condition of

their contract. If the NPA is unable to comply, then the school district can consult with legal counsel about next steps and consider terminating the contract.

### **K-2. Will Safety Net continue to reimburse for non-public agency (NPA) contracts if the NPA is implementing a remote or hybrid model?**

Reimbursement for NPA services under Safety Net will continue, pending approval by the committee. OSPI will continue to review applications on a case-by-case basis. Services submitted for Safety Net consideration must have been provided to the student.

Districts should review contracts with NPAs. For those NPA contracts that include language allowing the NPA to invoice for students who are absent, districts should consult with the NPAs and develop a plan for implementing an instructional model that ensures student IEPs are implemented to the maximum extent possible given the current health and safety requirements where the NPA is located.

### **K-3. What is the guidance for districts who are providing equitable services to parentally-placed private school students through proportionate share?**

Districts remain responsible for providing the equitable services identified through the private school consultation process. Private schools in the state may also be implementing a remote or hybrid model. OSPI recommends that districts communicate with the private schools in their region to determine how equitable services will continue through in-person, remote, or other alternate methods and to continue providing such services to the maximum extent possible. OSPI continues to recommend ongoing communication and consultation with private schools on equitable service delivery.

## **L. Fiscal Considerations (including use of funds, Maintenance of Effort (MOE), Medicaid)**

*L-1. (Question removed.)*

### **L-2. How will CARES Act funds be allocated and used?**

OSPI received funds provided to Washington under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and allocations were provided using the Title I funding formula.

The CARES Act funds for Elementary and Secondary School Relief (ESSER) were released in three (3) phases. Current guidance related to the use of ESSER funds can be found under "State and Federal Funding" on [OSPI's COVID webpage](#).

OSPI encourages special education directors to work with their superintendent and business manager to discuss the use of CARES Act funds to meet the needs of students with disabilities impacted by the school facility closures. Suggestions for use of funds include:

- Development, selection, and implementation of culturally, linguistically, and disability-accessible robust remote learning platforms that include professional development and ongoing technical assistance for both district personnel and families.
- Purchase of assistive technology to bridge technology gaps for students with disabilities and families with limited or no access, or who need accommodations and modifications to access.
- Adoption of curriculum and assessment tools that align with pre-kindergarten and kindergarten partners, such as the use of Teaching Strategies GOLD portfolios, Creative Curriculum, Ready Rosie, and/or Conscious Discipline; support for district personnel, families, and community-based organizations to meet and collaborate on supports for students with disabilities (for additional recommendations on the use of Cares Act funds for preschool students with disabilities, see this May 2021 [guidance document](#) from the Division for Early Childhood).
- Professional development for district and school leadership on effective strategies, such as use of inclusionary practices, a multi-tiered system of supports (MTSS), early childhood MTSS using the Pyramid Model, Universal Design for Learning (UDL), trauma-informed and social-emotional learning support, Wraparound with Intensive Services (WISE), positive behavior interventions and supports (PBIS), other mental health and behavioral supports for students with disabilities impacted by COVID-19, along with curriculum and assessment training that supports the implementation of developmentally appropriate practices in early childhood.
- Professional development for evaluators specific to considering if lack of instruction resulted in referrals to special education and impacted results of evaluations following COVID-19 school facility closures.
- Support for districts to provide additional special education and related services (i.e., recovery services) to address gaps in student learning and progress on IEP goals (including for those graduating or reaching maximum age during or shortly after school facility closures).
- Transition activities to prepare students with disabilities for returning to school buildings and adapting to the requirements of DOH.
- Additional supports needed for physical distancing and PPE for students with disabilities who are deaf, have sensory needs that make wearing a mask difficult, and other safety measures that accommodate for student needs related to their disability.
- Additional staff time or contracted staff to complete IEP meetings, evaluations and reevaluations, functional behavior assessments and behavior intervention plans, and/or transition from Part C to Part B and review plans and progress of individual students.

For additional guidance on how ESSER funding, including American Rescue Plan (ARP) funding, may be used, refer to the [recent guidance](#) from the U.S. Department of Education. See also [The Rising Tide That Lifts All Boats: Investing Stimulus Dollars with an Equity Focus](#) (The Center for Learner Equity). For more information about the CARES Act funds in Washington state, contact [Michelle.Matakas@k12.wa.us](mailto:Michelle.Matakas@k12.wa.us).



## **L-2A. Are there any additional funding sources available for providing recovery services?**

In addition to the ESSER funds described in question L-2, districts can use federal IDEA funds, state special education funds, and/or state basic education funds to provide recovery services to students with disabilities. Districts can also consider braiding federal and state funds to provide services (see OSPI's [Unlocking Federal and State Program Funds to Support Student Success](#) for additional guidance on braiding funds).

An additional \$17 million in state funds and \$7 million in federal ESSER III funds have been allocated for the purpose of providing transition recovery services to students with disabilities who turned age 21 during the 2019–20 or 2020–21 school years, did not graduate with a regular diploma, and require transition recovery services on or after July 1, 2021 as determined by the student's IEP team. The funds are available for two years, beginning summer 2021 through the 2022–23 school year. For additional information, see the [Questions and Answers for Transition Recovery Services](#) and [Transition Recovery Services Enrollment Reporting](#).

## **L-3. Can cancellation fees be charged to federal grant programs?**

Recipients are permitted to charge the full costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant-funded activities, due to the public health emergency (2 CFR 200.403; 200.404; 200.405). However, documentation must be kept on file that all efforts to obtain a refund and/or credit were exhausted, and the vendor refused to issue the refund and/or credit.

This does not mean additional funds may be available in the future to eventually carry over the event or travel. Recipients must maintain appropriate cost documentation (2 CFR 200.302; 200.333).

## **L-4. What technology purchases can be charged to IDEA funds?**

Technology may be purchased that will meet IEP goals and allow students with disabilities access to instruction and services. When purchasing the technology consider the following:

1. Must the devices be inventoried (2 CFR 200.313; 302(b)(4))?
2. Will the district have the capacity to implement the technology?
3. Is the technology accessible and/or assistive?
4. Is the technology available to **all** students?
5. Are costs reasonable, allowable, and allocable?

## **L-5. Can federally-funded employees continue to be charged to the assigned federal funding sources?**

Per the OMB guidance (2 CFR 200.403; 200.404; 200.405), employee salaries and benefits may continue to be charged to the current active federal award **consistent with the recipients'**

**policy** of paying salaries (**under unexpected or extraordinary circumstances**) from all funding sources (federal and non-federal).

Appropriate records and cost documentation must be maintained (2 CFR 200.302; 200.333) to substantiate costs. If there is a need to use a substitute time and effort system, a request must be submitted to OSPI and prior approval must be obtained before the substitute time and effort system is implemented.

#### **L-6. Can federally funded employees be paid for “telework” or “work from home?”**

Costs for compensation are allowable (per 2 CFR 200.430(a)) if they:

1. Are reasonable for services rendered **and conform to established written policy consistently applied to both federal and nonfederal activities;**
2. Follow an appointment in accordance with state/local laws, policies and meet requirements of federal statute; and
3. Are supported by time and effort documentation.

#### **L-7. What is the guidance for paying contracted support personnel (e.g., speech language pathologists, occupational therapists, physical therapists)?**

Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders (2 CFR 200.318(b)).

OSPI recommends that districts review their contracts and develop a plan on how best to provide services using alternative means. Generally speaking, if services continue to be provided by contractors, although in a different format or manner, districts should continue to pay those contractors and document the services provided.

#### **L-8. Will Maintenance of Effort (MOE) requirements be waived?**

MOE requirements have not been waived. A district may not reduce the amount of local or state funds that it spent for the education of children with disabilities below the amount it spent for the preceding fiscal year. If you have any questions about MOE, please contact [OSPI Special Education Fiscal](#).

American Rescue Plan (ARP) funds are considered supplemental funds. Therefore, LEAs may use the 50% reduction rule:

An LEA may reduce its MOE obligation by up to 50 percent of the amount of the increase in its **Part B Section 611** allocation if it meets certain conditions.

*For example, in 2017–18 IDEA allocation is \$10,000. In 2018–19 IDEA allocation is \$20,000. A reduction to MOE of \$5,000 **may** be allowable.  $((20,000-10,000) \times .5)$*

To take the 50% reduction, the LEA must meet the following requirements (per [34 CFR §300.205\(c\)](#)):

1. Not identified as significantly disproportionate, and
2. No outstanding reports due to OSPI.

If the LEA decides to take the 50% reduction, freed up funds must be used to carry out ESSA activities:

**[34 CFR §300.205 \(b\) Adjustment to local fiscal efforts in certain fiscal years.](#)** *Use of amounts to carry out activities under Every Student Succeeds Act (ESSA) (formerly Elementary and Secondary Education Act (ESEA)).* Describes the requirements for use of funds freed up by using the adjustment to MOE so that the SEA can determine how to provide TA to LEAs considering taking the adjustment under 34 CFR §300.205.

### **L-9. What is the guidance regarding Medicaid reimbursement for school-based services that are being provided remotely (such as speech/language pathology)?**

School-Based Health Care Services (SBHS) contracted school districts can bill for IEP services through telemedicine during COVID-19 related school facility closures. Please refer to the [SBHS COVID-19 Frequently Asked Questions](#) (updated November 23, 2020) from the Health Care Authority (HCA) for more information. To ensure you are receiving the most up-to-date SBHS information, consider [signing up](#) to receive SBHS GovDelivery notifications.

## **M. Other Considerations (including manifestation determinations, independent educational evaluations, dispute resolution, federal report timelines)**

### **M-1. What if a student is suspended while participating in an online/virtual or hybrid learning opportunity?**

In addition to implementing IEPs, including Behavior Intervention Plans (BIPs), districts should continue to follow both general education and special education discipline procedures and conduct meetings via distance options (e.g., phone, Zoom, etc.) for any student subjected to discipline while participating in in-person, virtual, or hybrid learning opportunities. Disciplinary exclusions in a remote learning environment would include exclusions from online learning opportunities (such as moving the student to a breakout room in Zoom as a result of their behavior). This means that when considering exclusionary responses to behavioral violations, districts should be aware that they may not suspend the provision of educational services to a student in response to behavioral violations. See RCW [28A.600.015\(8\)](#) and WAC [392-400-115](#).

## **M-2. Does the timeline for districts to respond to requests for an Independent Education Evaluation (IEE) at public expense still apply?**

Yes, the requirement for districts to provide a response to a parent's request for an IEE at public expense within the 15 calendar day timeline stated in [WAC 392-172A-05005](#) cannot be waived or extended. Note that if the district agrees to an IEE at public expense, there is no deadline or timeline under [WAC 392-172A-05005](#) by which the IEE must be completed. Please also be sure to provide the parents with a list of providers and the criteria for obtaining an evaluation. If the district does not agree to the request for an IEE at public expense, then it must still initiate a due process hearing.

## **M-3. How will OSPI address Special Education Citizen Complaints (SECCs) during the 2021–22 school year?**

OSPI will review, open, and investigate complaints according to the usual process and procedure. While OSPI has a federally-mandated 60-day timeline to complete the complaint investigation, on a case-by-case basis there may be flexibility with the complaint process timelines based on the impact of COVID-19.

OSPI can investigate alleged violations from the past year of Part B of IDEA, including the state and federal implementing regulations, or allegations that the district is not implementing a mediation or resolution agreement. When investigating an alleged violation, OSPI must identify the legal standard the district is required to follow and determine whether the district met that legal standard. OSPI reviews the documentation received from a complainant and district to determine whether there was sufficient evidence to support a violation. If there was a violation, there will be corrective action to correct the violation and maintain compliance. The basic complaint process is outlined in WAC 392-172A-05030 and on [OSPI's website](#).

When investigating a complaint, OSPI asks districts for a specific response to the issue(s) and certain documentation depending on the issue(s), for example, but not limited to: Evaluations (including FBAs), IEPs (including BIPs), meeting invitations, prior written notice, progress reporting, correspondence/communications, and documentation supporting IEP implementation of specially designed instruction and related services. OSPI encourages districts to document the impacts of the pandemic through the individualized decisions made and why regarding special education services; communication and collaboration with parents; and the services provided to students. This documentation could include a student's IEP, amended IEP, prior written notice, progress reporting, or other forms of documentation.

In responding to a complaint, if a district believes it has made an error or violated IDEA, districts are encouraged to propose corrective actions in their response to the complaint. Districts are also encouraged to share attempts already made to resolve the dispute. For example, the IEP team could meet now to discuss whether additional or different services are needed to mitigate the impact of the spring 2020 school closures on a student. OSPI takes into consideration the complainant's proposed solution and corrective action proposals made by the district.

Depending on the issues in the complaint, common corrective actions ordered by OSPI include IEP meetings, recovery and compensatory services, reevaluations, written guidance, policy and procedure review and amendment, and training.

If you have questions or concerns about potential complaints or future liability, OSPI encourages you to reach out to your legal counsel.

#### **M-4. How will Sound Options Group address requests for mediation during the 2021–22 school year?**

Sound Options Group remains available to provide mediation and facilitated IEP meetings.

In addition, Sound Options Group knows that as the challenges of delivering services to students on IEPs increases, districts will, in some cases, be facing some challenging conversations. Sound Options Group remains available to support in this context. Call Sound Options Group for support and coaching for your specific situation. They are ready to respond to requests for this support. In addition, they are prepared to provide professional development focused on skills and strategies for engaging these challenges.

Phone: 206-842-2298; 800-692-2540

Email: Greg Abell: [email Greg Abell](#); Rebecca Larsen: [email Rebecca Larsen](#); Mindy Hyde: [email Mindy Hyde](#)

Website: [Sound Options Group website](#).

## **N. Additional Resources**

### **N-1. Resources for providing special education and related services for students with disabilities during COVID-19.**

- \*NEW\* U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) Q&A: [Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act](#)
- \*NEW\* [Early Childhood Technical Assistance \(ECTA\) Center: Provider and Educator Use of Technology](#)
- \*NEW\* [ECTA Center: State Guidance and Resources on Remote Service Delivery and Distance Learning](#)
- \*NEW\* [Restart & Recovery: Addressing Unfinished Learning for the Youngest Learners | \(ccsso.org\)](#) (from the Council of Chief State School Officers (CCSSO))
- [Questions and Answers for Transition Recovery Services](#) and [Transition Recovery Services Enrollment Reporting](#)
- [Washington's Roadmap for Special Education Recovery Services: 2021 & Beyond](#)

- [Frequently Asked Questions: ESSER Programs, Governor’s Emergency Education Relief Programs](#) (U.S. Department of Education, May 26, 2021)
- [The Rising Tide That Lifts All Boats: Investing Stimulus Dollars with an Equity Focus](#) (The Center for Learner Equity)
- [Recommendations for Stakeholders on the Use of IDEA ARP Funds \(May 2021\)](#) (Division for Early Childhood)
- [School Based Health Care Services COVID-19 Billing FAQ](#)
- [OSPI’s Special Education Guidance for COVID-19 Webpage](#)
- [Federal COVID-19 Guidance](#)

**N-2. Additional resources for providing continuous learning for all students.**

- \*NEW\* [OSPI’s Options for Instructional Funding Models in 2021–22](#)
- \*NEW\* [OSPI’s COVID-19 Vaccination Requirement for K–12 School Employees: Frequently Asked Questions](#)
- \*NEW\* [Which Mask for Which Task](#) (Department of Labor & Industries)
- [OSPI’s COVID webpage](#)

## O. What Is New and Revised in This Q&A Update

**O-1. What questions from the July 12, 2021 update of this Q&A document were added, edited, or deleted in this October 4, 2021 update?**

Questions that were <b>added</b> :	A-3A(1)	A-3A(5)	
	A-3A(2)	A-4B	
	A-3A(3)	A-7	
	A-3A(4)		
Questions with <b>content edits</b> :	A-1	D-2	L-2
	A-2	D-7	L-8
	A-3	E-2	M-1
	A-3B	E-5	M-2
	A-4	E-6	M-3
	A-4A	F-1	N-1
	A-5	F-3	N-2
	C-2	G-1	
C-3	K-1		
Questions that were <b>deleted</b> :	A-1A	E-2A	
	A-3D	L-1	