

Back to School RI: Educational Services (FAPE) for Differently Abled Students

SY20-21



RIDE Rhode Island
Department
of Education

As we prepare to begin the 2020-21 school year, we must pay particular attention to the unique and individual needs of differently-abled students. Each LEA must ensure, as public health and safety mandates allow, that special education and related services are being provided to differently-abled students on the first day of school. The mode of instruction may vary, but access to appropriate services must be provided when the school year begins.

Since the onset of the COVID pandemic, the US Department of Education, Office of Special Education and Rehabilitative Services has not extended temporary flexibility or waiver from the requirements of the Individuals with Disabilities Education Act (IDEA). Local Education Agencies (LEAs) are required to offer a free appropriate public education (FAPE) to every student determined eligible under IDEA or Section 504 of the Rehabilitation Act and for whom the parent/guardian has provided written consent for the provision of special education and related services or educational modifications and accommodations.

Since FAPE is determined individually, it will look different for each student. Methods to meet FAPE requirements, which include an education in the least restrictive environment (LRE), may vary depending on the instructional delivery model (in person, hybrid, or distance learning). LEAs are granted flexibility in determining how IEP services will be provided, but this must be discussed with parents. As stated in federal guidance issued on [March 21, 2020](#), "The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency." Creative solutions and adjustments to instructional delivery and/or the environment where services are provided need to be considered along with current health and safety protocols. The health and safety of students and school staff are top priority while affording differently-abled students equitable access to educational services.

Now more than ever, engaging families and developing meaningful partnerships with them is essential to meet the requirements of IDEA.

Frequent communication with families will assist in finding creative solutions and adjustments to difficulties encountered in providing proper instruction in the appropriate educational environment. Keep in mind that because educational services to differently-abled students are individualized, LEAs must address the specific circumstances of each particular student. The mechanical application of general rules and practices will stifle meaningful communication and hinder creative problem solving, and blanket refusals to provide certain categories of services and/or services in certain settings regardless of the child's needs are unlikely to meet IDEA requirements in every child's circumstances. What worked best before COVID-19 may not be what will work best for a successful 2020-21 school year. All options to support a child's learning should be put on the table and discussed.



Now is the time to reach out to families and explain how the LEA plans to provide FAPE to their children when school begins on September 14th. The plans should anticipate and provide for contingencies, such as COVID-19 remissions or outbreaks. Families should be given the opportunity to ask questions and express concerns about the LEA's plans. This should initiate a dialogue about any difficulties faced in providing proper instruction in the appropriate educational environment. Upon reaching agreement, the FAPE delivery and contingency plan should be documented and attached to the IEP as an addendum. This plan is the type of written document which may be attached to the IEP without convening an IEP team meeting.

Parents may have concerns for their child's safety and those fears need to be recognized and acknowledged. In the reopening of schools in our state, parents have a choice for their child to participate through distance learning and that decision needs to be supported by school officials. In working with parents through this difficult decision, teachers and school administrators should consider the following:

- Provide parents with the opportunity to see what the school has done to put appropriate safety precautions in place. Share the specific classroom plans with parents, including the numbers of adults and students in the classroom and/or pod. Explain how the school will handle staff and student movement, cleaning protocols and protective equipment.
- Invite the parents to see the classroom through an in-person visit or through a virtual walk-through. Consider face-timing parents into the classroom if they cannot visit in person so they can see the preparations in place.
- Ask teachers and related service personnel to review safety plans for providing services for the student with parents.
- Acknowledge that there are various factors to consider regarding individual student characteristics. Just as not every student can safely return to school in person, not every student is a good candidate for distance learning. Discussing the challenges of distance learning should be considered. Careful consideration should be given to the complexity of the student's needs, the context and environment in which the student interacts with distance learning, how comfortable the student is with using technology, and the level of supports available in the home.

If after the sharing of safety plans the parent continues to prefer distance learning, LEAs should consider the following:

- In consultation with parents, teachers and administrators, discuss the possibility for a partial schedule of in-person services for the student. In some instances, families may be more comfortable with a part-time schedule for in-person instruction or only receiving in-person related services in addition to distance learning. In some instances, it may be possible to deliver some in-person services at a location that is neither the school building nor the family's home, e.g. the offices of a subcontracted service provider or even, weather permitting, a public outdoor location, (i.e., secondary transition services).



- Discuss with parents learning conditions in the home and supports available for the student to access instruction and related services in distance learning.
- Consider how to make supports available in the home in order for the district to fulfill its obligation to provide FAPE for the child while in distance learning. This may require creative and collaborative solutions of identifying school or non-school personnel (e.g., local nonprofit or other subcontractors) to assist in the home while teachers and related service personnel provide virtual instruction and related services.
- Consider creative alternatives for funding the supports for students in distance learning in the home such as using existing in-home service providers and partner agencies which may already have personnel in the home who may support a student's instructional participation. The IDEA allows school districts to deputize non-school personnel where appropriate, to assist in meeting FAPE requirements.
- Even if a parent chooses distance learning, discuss the opportunity to restart in-person learning later in the school year.
- It is important to remember that special education regulations neither require nor preclude schools from providing services in a student's home. These exceptional times will require creative and collaborative solutions between parents and school district leaders.
- Listen carefully to what families are requesting for support in distance learning. If the student requires services as described in the IEP, school administrators should be working toward creative ways to support the students learning in the home.
- On any given day, students may be participating in distance learning for a variety of reasons. Some districts are not offering in-person access to all students on all days. Some students will be required by RIDOH rules to stay out of the classroom for a brief period. Other families are choosing distance learning voluntarily. While the reason that a student is not attending school in person may be a relevant factor in determining whether a district has offered FAPE, it cannot be the only factor considered. For example, a family cannot be denied access to in-home services merely because they voluntarily chose distance learning, without any individualized consideration of that student's needs and circumstances.

Strategies and considerations for teachers and administrators working with families of differently abled students in planning for the 2020-21 school year regardless of instructional delivery:

- Parental communication is essential. Foster positive relationships and ensure that continuous input is gained from parents through reopening and into this school year. Be available and open to conversations including ideas that may push current practices or existing school district policies – flexibility is the key.



- Review what was and was not working for students during distance learning. Discuss what services can safely be provided through in-person learning.
- Review the LEA's reopening plan and address questions and concerns with parents. Communicate what can be expected when returning to school.
- Make attempts to increase comfort levels. Listen to questions and concerns. Host informational sessions to support parents as schools reopen.
- Provide parents with information from public health officials about health and safety measures to ease anxiety.
- Have plans in place for the possibility of a differently-abled student needing to quarantine and requiring a quick shift to distance learning.
- LEAs have an obligation to afford parents' meaningful participation in the education of their children and creating a safe place for honest discussions will be important.
- Frequent communication and collaborative problem-solving will help everyone.

Discussing the changes in programming as a result of the COVID crisis and its effect on Least Restrictive Environment (LRE).

Few will argue that the current condition of the COVID crisis may effect a student's participation in the least restrictive environment. The typical school environment may not be available for many students this year and this will affect the plans for inclusive education for differently abled students. It is important to be candid with parents about the effect this will have on their child's school program and school personnel should attempt to reach an understanding with parents of how programing decisions have been made in order to safely provide for in person learning. We know these are exceptional times and the arrangements Rhode Island school districts have made in their reopening plans to prioritize serving vulnerable student populations have required substantial changes in how school districts provide learning in the least restrictive environment. Discussing these decisions honestly with parents will help with understanding and keeping the focus on the students learning.

It is recognized that the COVID crisis may be the greatest challenge many parents and educators will face in serving our differently-abled students. In spite of this challenge we all continue to advocate for high expectations for our differently abled students. Our students are counting on all of us to work together to provide equitable access to learning, to communicate openly and regularly and approach the challenge with shared commitment.



Resources

- RIDE Special Education Call Center – 401-222-8999, RIDECallCenter@ride.ri.gov
- [Rhode Island Special Education Regulations](#)
- [Rhode Island Dispute Resolution Options](#)
- [Rhode Island Parent Information Network](#)
- [OSEP Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool Elementary and Secondary Schools While Serving Children with Disabilities](#) issued on March 21, 2020
- U.S. Department of Education - [Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak](#) issued March 2020

