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August 11, 2020

# Ensuring Equity and Access

**COMPANION GUIDANCE TO  
*READY SCHOOLS, SAFE LEARNERS AND  
COMPREHENSIVE DISTANCE LEARNING***

**ALIGNING FEDERAL AND STATE REQUIREMENTS**



**OREGON  
DEPARTMENT OF  
EDUCATION**

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## Introduction

*Ensuring Equity and Access: Aligning Federal and State Requirements* provides districts with requirements, recommendations, and resources to support learning for students who experience disabilities and students served through Federal Title Grant Programs. This guidance is designed to be used in conjunction with previously released guidance documents, [Ready Schools, Safe Learners Guidance 2020-21](#) (RSSL) and [Comprehensive Distance Learning](#) (CDL), as well as [Planning for COVID-19 Scenarios in Schools](#). It is also issued in accordance with Governor Brown’s [Executive Order 20-29](#).

This companion guidance is not meant to reiterate RSSL and CDL, but rather to clarify how to implement them for specific populations within this new paradigm. Oregon Department of Education (ODE) worked with internal and external partners to address critical aspects of delivering services and recognizes that districts have unique local contexts that will inform how to apply this guidance.



What this document is:	What this document is not:
<ul style="list-style-type: none"> <li>✓ Guidance that will change and grow based on local trends and statewide data</li> <li>✓ Informed by engagement, evidence, and expertise</li> <li>✓ Essential actions designed to spur thinking, planning, and prioritizing</li> <li>✓ Part of a continuum of school decision-making</li> <li>✓ Supplemental to <a href="#">Ready Schools, Safe Learners</a></li> </ul>	<ul style="list-style-type: none"> <li>✗ Legal advice</li> <li>✗ An exhaustive list of actions required to return to school</li> <li>✗ A distance learning playbook or school closure guidance</li> <li>✗ The final word on how schools will manage the next phases of COVID-19</li> </ul>

This document includes three main sections that together consider how to recognize and meet the strengths and challenges experienced by learners who have been historically marginalized by educational systems. Within these groups are emergent bilingual students, students of migrant and farmworker families, students who are LGBTQ2SIA+ (Lesbian, Gay, Bisexual, Transgender, Questioning/Queer, 2 Spirited, Intersex, Asexual, Plus other non-heterosexual

orientations or non-binary genders), students in foster care, students who have an incarcerated loved one, and students experiencing houselessness. If not acknowledged and addressed as part of the planning process, these intersectionalities of race, socioeconomic status, disability, and gender have the potential to further impact opportunities and compound discrimination and oppression.

Equity must live at the heart of every decision and action in service of all learners. This means recognizing and leveraging the strengths of learners and their families, including native language. It means strengthening relationships with tribal nations, community partners, districts, educational association leaders, and business and industry partners. It means heightening attention to learners who bear the burden of an inequitable health and educational system. As we experience a world unfamiliar to us all, we will find innovative ways to support our students and staff.

### **Section 1. Every Student Succeeds Act (ESSA)**

Addresses flexibilities and requirements in the federal Title grant programs, including braiding funding and meeting program requirements across the Hybrid and Comprehensive Distance Learning (CDL) Models.

### **Section 2: Title II of the Americans with Disabilities Act (ADA) and Section 504**

Reaffirms equity and access to school services, programs, and activities for students experiencing disability and offers guidance for Section 504 planning and health services.

### **Section 3. Individuals with Disabilities Education Act (IDEA)**

Focuses on the provision of Free Appropriate Public Education (FAPE) and serving students experiencing disability as schools shift between On-Site, Hybrid, and Comprehensive Distance Learning.

### **Limited In-Person Instruction**

Throughout this document, Limited In-Person Instruction is mentioned as an option for services. Limited In-Person Instruction will only be an option under the following conditions:

- The school is operating and has submitted plans for [Ready Schools, Safe Learners](#) in Section 0-4.
- The school is operating under all guidance outlined in [Comprehensive Distance Learning](#) and utilizing the requirements of [Limited In-Person Instruction](#).

### **Limited In-Home Services**

Throughout this document, In-Home Services are mentioned as an option that schools can select for service delivery. This was an option for districts to provide services prior to Spring 2020 and continues to be an option under the 2020-21 school year. As with Limited In-Person Instruction, In-Home Services will **only** be an option under the following conditions:

- The school is operating and has submitted plans for [Ready Schools, Safe Learners](#) in Section 0-4.
- The school is operating under all guidance outlined in [Comprehensive Distance Learning](#).

### **On-Site or Hybrid Instruction**

Schools and districts can begin to operate and provide services with On-Site or Hybrid instruction under the following conditions:

- The school is operating and has submitted plans for [Ready Schools, Safe Learners](#) in Section 0-4.

## **Section 1. Every Student Succeeds Act (ESSA)**

### **Federal Title Grant Programs**

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The Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA) provides funding for state education agencies, schools, and districts to support all students equitably and build systems that eliminate barriers to student success. This section provides guidance on how to implement [Ready Schools, Safe Learners](#) while also meeting the planning, fiscal, and instructional requirements common to all federal Title grant programs.

Specific requirements and recommendations are organized by Title program. Districts that receive federal funding through various Title grant programs must continue to provide supplemental supports and services to students, regardless of instructional model. If the US Department of Education (USDE) offers waivers under ESSA, the Oregon Department of Education will determine appropriate applications and flexibility. While requirements have not changed for the 2020-21 school year, this guidance highlights flexibilities available to meet them.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act, enacted March 2020, allowed for limited waivers of some federal program requirements. These waivers, including carryover funds extensions, were summarized in the [Funding Source Table](#), published by ODE in spring 2020. Requirements that have not been waived are listed below, with flexibilities available to districts.

#### **1a. Every Student Succeeds Act (ESSA) Requirements**

##### **Required**

- Schools that are identified for Comprehensive Support and Improvement (CSI) or Targeted Support and Improvement (TSI) must continue to adhere to the core tenets of the ESSA plan.
  - Advancing Equity

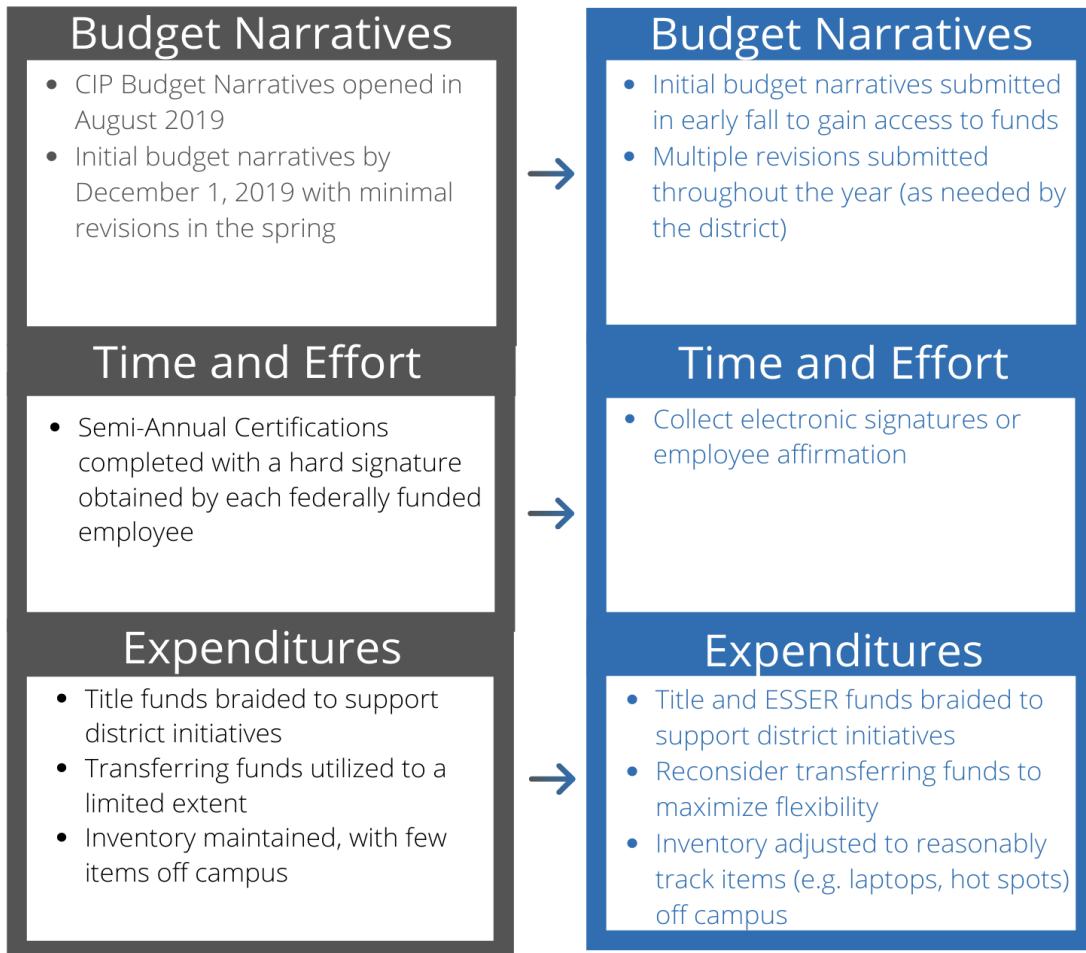
- Promoting a Well-Rounded Education
  - Strengthening District Systems
  - Fostering Ongoing Engagement
- Federal dollars for school improvement must continue to be used in alignment with school’s priority-driven plans that are based on identified needs.

# Putting It Into Practice

## Common Grant Requirements

Meeting Key Requirements Across Models During the 2020-21 School Year

2019-20 School Year → 2020-21 School Year



**Figure 1: Putting It Into Practice: Common Grant Requirements**

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.



## 1b. Limited In-Person Instruction for Title Services

Limited In-Person Instruction can be offered under Comprehensive Distance Learning (CDL) (defined by [RSSL section 0b. Metrics and Exceptions](#)). When considering services on-site, instruction should be focused on skills that are difficult to teach remotely (e.g., primary literacy, math development, language instruction) and with students who are unable to effectively access instruction through distance learning.

Title Services that can be supported through [Limited In-Person Instruction](#) include: Title I-A, Title I-C, Title III, Title IV-A, Title VI, and students who qualify under McKinney-Vento.

### Required

- Meet the requirements from sections 0-3 in [Ready Schools, Safe Learners](#) prior to providing any Limited In-Person Instruction.
- The majority of each student's services under ESSA should be mostly teacher-facilitated and can be synchronous or asynchronous to meet service requirements while in distance learning. When considering asynchronous methods, the instruction must be specific to the student challenges and skills.

## 1c. Consultation with Tribes

Consultation with tribal leaders is a core part of ESSA for all federal Title programs. This includes the identification and removal of any barriers to instructional access during changing circumstances of the 2020-21 school year. For assistance with communicating with the nine federally recognized tribal governments in Oregon, please contact [The Office of Indian Education](#).

### Required

- Consider the impact of COVID-19 on the ability of tribal members to access instruction and programming in local districts in Formal Consultation with the nine federally recognized tribal governments, as required under ESSA.
- Emphasize solving any barriers to instructional access that may exist in Formal Consultation with the nine federally recognized tribal governments in Oregon as applicable in the community.
- Provide ongoing, timely communication regarding changes in school programming status during shifts in instructional model.
- Provide access to all programming, particularly during Comprehensive Distance Learning.

### Recommended

- ⇒ Develop a clear communication plan to relay changes to district programming in a timely manner.
- ⇒ Engage in informal communication with the nine federally recognized tribal governments in Oregon, and native communities and organizations in an effort to close the opportunity gap for American Indian/Alaska Native students.

⇒ Create and incorporate Indigenous community voices and appropriate practices into curriculum to make material accessible and engaging for Native American youth, students, and families.

### 1d. Supplement not Supplant

Federal Supplement not Supplant rules remain the same for the 2020-21 school year. This includes the changes in ESSA for Title I-A that give districts more budget flexibility for Title I schools. These changes are reflected in [Oregon’s Federal Funds Guide](#). As districts use federal funds for activities during the 2020-21 school year, the following guidelines may be helpful:

- Federal funds, including Elementary and Secondary School Emergency Relief (ESSER) funds cannot supplant each other.
- Supplement not Supplant references state and local funds to determine supplanting.
- “State and local funding” does not include emergency relief funding.

### 1e. Leveraging Federal Funds

Braiding Title funds remains an allowable option for districts to leverage. This can be strategically leveraged to support student learning, student well-being, leadership development and/or professional learning.

Districts may also leverage federal funds to support initiatives on social emotional learning, mental health supports, and behavior systems as these initiatives are fundamentally supplemental in nature and responsive to the effects of the pandemic.

## Supporting Student Well Being

Braiding Federal Funds during COVID-19

Activity	Title I-A*	Title I-D	Title II-A	Title IV-A	REAP/RLIS
School counseling staff and activities	✓	✓		✓	✓
Pro-social activities in CDL	✓	✓		✓	✓
Supplies for art, music, and STEM activities at home	✓	✓		✓	✓
Behavioral supports and reinforcements (limited value)	✓	✓		✓	✓

\*Title I-A Funds must be used for students who attended Title I-A funded buildings

**Figure 2: Braiding Funds: Supporting Instruction and Professional Development**

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.

## Supporting Instruction & Professional Development

Braiding Federal Funds during COVID-19

Activity	Title I-A*	Title I-D	Title II-A	Title IV-A	REAP/RLIS
Core instruction material and supplies	✓				✓
Teacher training & support for distance learning	✓	✓	✓	✓	✓
Virtual teacher trainings	✓	✓	✓	✓	✓
Salary and extra duty pay	✓	✓	✓	✓	✓

\*Title I-A Funds must be used for students who attended Title I-A funded buildings

**Figure 3: Braiding Funds: Supporting Student Well Being**

### 1f. Funding Flexibility: Adjusting Plans and Budgets and Transferability

Activities funded by Title programs should adapt to meet local circumstances, while following federal requirements.

#### Required

- Districts are required to implement the strategies as outlined in their approved plans, regardless of the instructional model chosen for the 2020-21 school year.
- Changes must be accounted for in the applicable grant and budget plans, particularly if the change represents over 10% of the budget funds

## Checklist for Adjusting Expenditures Under Title Programs for the 2020–21 School Year



### Is this driven by your current needs assessment?

- Districts and schools should use the appropriate Ready Schools, Safe Learners Operational Blueprint as a representation of current needs.

### How will this activity support students across instructional models?

- Supplemental activities funded by Title funds should be accessible to students to the maximum extent feasible.

### Does it pass the Supplement not Supplant Test?

- Verify the expenditure meets the supplement not supplant test used by the appropriate Title grant.



Figure 4: Checklist for Adjusting Expenditures

As the 2020-21 school year progresses and local circumstances change, the ODE encourages districts to use all allowable flexibilities. Districts should consider the evidence that supports their investment as having a strong likelihood of resulting in equitable learning outcomes. These flexibilities include transferring Title II-A and/or Title IV-A into other Title funds and the braiding of funds. Figure 5 outlines the transferability of funds. For additional information regarding allowable expenses and funding details, please refer to the [Oregon Federal Funds Guide](#).

Districts May Transfer All or Some Funds From:	Districts May Transfer Funds Into:
<ul style="list-style-type: none"> <li>● Title II-A, Supporting Effective Instruction</li> <li>● Title IV-A, Student Support, and Academic Enrichment</li> </ul>	<ul style="list-style-type: none"> <li>● Title I-A, Improving Basic Programs operated by Local Education Agencies</li> <li>● Title I-D, Prevention and Intervention Programs for Children and Youth who are Neglected, Delinquent, or At-Risk</li> <li>● Title II-A, Supporting Effective Instruction</li> <li>● Title III-A, English Language Acquisition, Language Enhancement, and Academic Achievement</li> <li>● Title IV-A, Student Support and Academic Enrichment</li> <li>● Title V-B, Rural Education Initiative</li> </ul>

Figure 5: Transferability

## 1g. Title I-A Improving Basic Programs

Title I, Part A ensures that all students have the opportunity to obtain a high-quality education and reach proficiency on academic content standards and assessments. Title I-A provides supplemental educational opportunities for students who live in high poverty areas and are most in need of intensive support in order to meet state academic achievement standards.

### Required

- Provide Title I-A Supplemental Services through mostly teacher-facilitated instruction; this can be synchronous or asynchronous to meet the requirements of Title services while in distance learning mode. When considering asynchronous methods, the instruction must be specific to the student skill and need. See [CDL instructional day, Section 1D](#).
  - This requirement can be met through a variety of modalities, including but not limited to:
    - Online video or audio conferencing,
    - Offline approaches, such as phone calls or [two-way communication/messaging](#) tools, while using shared points of reference (i.e., the student and teacher are each working with the same learning materials as they engage in discussion around them via the phone), or
    - Collaborating on assignments in a cloud-based office suite while also engaged in simultaneous two-way conversation.
- Hold at least one annual Title I-A meeting with families, reflecting the current school plan. Meetings should be virtual if metrics for in-person are not met.

- ❑ Family engagement must be culturally responsive and ensure accessibility, including but not limited to providing translation services as necessary, providing sign language interpretation, ensuring the format is accessible to augmentative and alternative communication (AAC) and various virtual formats.
- ❑ Build parent capacity to assist their children at home.
- ❑ Create and publish a parent involvement plan, with parent input.
- ❑ Digitally create and collect Parent-Student-Teacher compacts.
- ❑ Staff funded through a Targeted Assistance Program must continue providing services to identified students.
- ❑ Close and Frequent Proximity: Instructional assistants to continue delivering services, with monitoring and feedback loops adjusted for the modality.

**Recommended**

- ⇒ Adjust school-wide and targeted services to reflect each school's *Ready Schools, Safe Learners* Operational Blueprint.
- ⇒ Offer online and virtual formats for meetings, parent trainings, and events to maintain health and safety.
- ⇒ Build parent capacity to use technology, set schedules at home for schoolwork, and handle stress.
- ⇒ Incorporate offline engagement methods for families without internet access.

# Putting It Into Practice

## Title I-A

Meeting Key Requirements Across Models During the 2020-21 School Year  
 2019-20 School Year → 2020-21 School Year

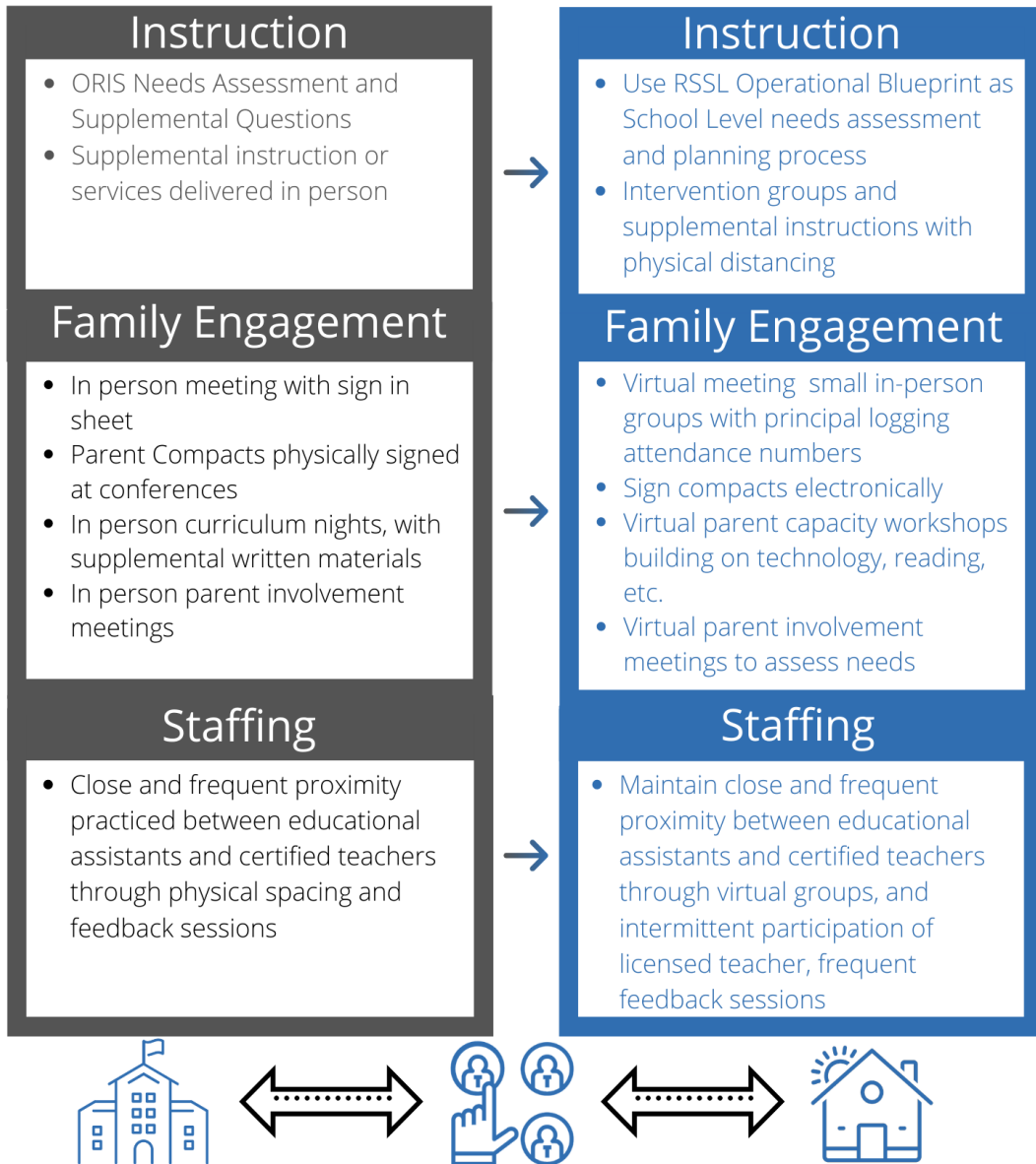


Figure 6: Putting It Into Practice: Title I-A

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.

## 1h. Title I-C Education of Migratory Children

Title I-C assists states in supporting high-quality and comprehensive educational programs and services during the school year and, as applicable, during summer or intersession periods to address the unique educational concerns of migratory children. Districts must consider the unique situations of students who qualify for Migrant Education when planning for curriculum, graduation requirements, and academic content standards. Services during this time should protect the family's privacy and residence status while focusing on supporting children with safeguarding against educational disruption, cultural and language barriers, social isolation, health-related problems, and factors that inhibit their ability to succeed in school.

### Required

- When in distance learning, continue to provide for Priority for Service to migrant students and youth who have made a qualifying move within the previous one year period and are at risk of failing to meet academic content standards or have dropped out of school.
- Instruction should be mostly teacher-facilitated and can be synchronous or asynchronous to meet the requirements of Title services while in distance learning mode. When considering asynchronous methods, the instruction must be specific to the student skill and need. See [CDL instructional day, Section 1D](#).
- Maintain ongoing parent involvement, including consultation with parent advisory councils regarding the planning and operating of the Migrant Education Program as plans adjust across instructional models.

### Recommended

- ⇒ Offer continuous supports after one-on-one contact in home language for every student.
- ⇒ Provide each student with an electronic device that can access the internet or optional communication methods established.
- ⇒ Provide support and connection to community resources so that all families' food, clothing and shelter requirements are met.

## 1i. Title I-D Neglected and Delinquent

Title I-D provides funds to improve educational services for children and youth in local and state institutions for neglected or delinquent children and youth in order to provide students in these institutions with the opportunity to meet the same challenging state academic content standards all children in the state are expected to meet, to provide them with services and to ensure a support system for their continued education and successful transitions.

### Recommended

- ⇒ Teams should plan for mostly synchronous or teacher-facilitated instruction to meet the requirements of Title services while in distance learning. See [CDL instructional day, Section 1D](#). Majority of instruction must be teacher-facilitated and can be synchronous or asynchronous. When considering asynchronous methods, the instruction must be specific to the student skill and concern.



- ⇒ Use technology to maintain instructional consistency when in-person teaching is not possible.
- ⇒ Provide newly enrolled students in the district with clear expectations of participation across instructional models.
- ⇒ Reach out to families via phone or email to specifically welcome these students into the school community.
- ⇒ Work with facility education staff to monitor student progress and collect assessment data.
- ⇒ Include parole or probation officers in communication of school or district changes to instructional model.
- ⇒ Work with facilities to train staff appropriately for secure care conditions.
- ⇒ Communicate regularly with facility providers regarding changes in service delivery model.
- ⇒ Provide social emotional learning supports and access to mental health and counseling supports that are afforded to all other students. Do not rely on the facility as the only option for these services.

## 1j. Title II-A Preparing, Training, and Recruiting High Quality Teachers and Principals

As outlined in USDE guidance, Title II-A services are focused on support to teachers, principals and other school leaders. While this means that there are no required services for students, there are multiple ways in which districts can use Title II-A funds to support every student across instructional models.

### Recommendations

- ⇒ Provide professional learning for staff on [Universal Design for Learning \(UDL\)](#) principles, culturally responsive teaching, trauma-informed practices, social emotional learning and teacher use of digital learning tools.
- ⇒ Provide professional learning for staff on synchronous and teacher-facilitated instruction to meet the requirements of Title services while in distance learning. See [CDL instructional day, Section 1D](#).
- ⇒ Allow for virtual professional development, in lieu of travel to conferences.

## 1k. Title III / Emergent Bilinguals - Language Instruction

Title III is a supplemental support for Emergent Bilinguals and youth who are immigrants. Students identified as Emergent Bilinguals are provided instruction in learning English and on-grade level core content. Districts in CDL should consider the unique instructional concerns of language acquisition when planning grade level content as well as developing language goals and objectives. Assess when on-site and add appropriate screeners to the process. Use the home language survey only.

## Required

- Plan for assessment, screening, and instruction procedures that consider the disproportionate effect of students whose families may not access information in English.
  - The ELPA Screener can be administered in person while schools are in any instructional model. To administer the screener, the school who is operating and has submitted plans for [Ready Schools, Safe Learners](#) in Section 0-4. Refer to [Administration of the ELPA Screener in 2020-21](#) for additional information.
- Maintain continuous teacher-facilitated instructional services for students when schools switch between models.
- Provide Title III Supplemental Services through mostly teacher-facilitated instruction; this can be synchronous or asynchronous to meet the requirements of Title services while in distance learning mode. When considering asynchronous methods, the instruction must be specific to the student skill and need. See [CDL instructional day, Section 1D](#).
- Afford Emergent Bilingual students the opportunity for full and equal participation regardless of instructional model.
  - Students cannot be excluded from participation in (virtual or in-person) classes, clubs, activities, etc. due to their Emergent Bilingual student identification or the services they receive.
- Assign students a code of State of Emergency (code SE) until an identification screener can be given. Provide all services afforded to potential EBs. Use formative assessments and consultation with families to help determine required Title III services until a screener can be administered, including access to content.

## Recommended

- ⇒ Monitor students previously reclassified as fluent in English to evaluate ongoing instructional supports required.
- ⇒ Consider scheduling transportation for families that cannot drive to the school site for required instruction or services.
- ⇒ Focus virtual learning time on language skills or content that students have demonstrated they can practice independently.
- ⇒ Identify consumable materials from the current curriculum that can be sent home for student practice of language skills during virtual learning time.
- ⇒ Consider using student shared experience during school closures to build and foster meaningful and relevant relationships with peers and leverage those relationships to develop language. For some students, the impacts of COVID-19 increase and add to trauma-related experiences. Refugee families in particular may experience re-traumatization as a result of the challenges presented by the virus. Connect families to culturally specific community supports.
- ⇒ Provide regular opportunities for specialists and classroom teachers to collaborate in order to design aligned instruction. See [CDL, Section 1D](#) for recommendations.

## Dual Language/Native Language Instruction

The purpose of Dual Language or Native Language programs are to support the development and acquisition of two languages. This asset-based model of instruction can be continuously supported across all instructional models. Schools and districts are encouraged to continuously provide meaningful language opportunities and interactions for students regardless of the instructional model selected.

### Required

- Align synchronous and asynchronous learning activities to support language acquisition.
- Teams should plan for the majority of instruction to be teacher-facilitated, in support of meeting the goals of Dual Language or Native Language Programs while in distance learning. See [CDL instructional day, section 1D](#). Majority of instruction must be teacher-facilitated and can be synchronous or asynchronous. When considering asynchronous methods, the instruction must be specific to the student skill and strength or need.

### Recommended

- ⇒ Use funds from a variety of sources to support Dual Language or Native Language instruction.
- ⇒ Use [Limited In-Person instruction](#) for students in the target language.

## 1I. Title IV-A Student Support and Academic Enrichment

The purpose of the Title IV, Part A, Student Support and Academic Enrichment (SSAE) grant program is to improve students' academic achievement by increasing the capacity of states, local education agencies (LEAs), schools, and local communities to provide all students with access to a well-rounded education; improve school conditions for student learning; and improve the use of technology in order to improve the academic achievement and digital literacy of all students.

The CARES Act waived requirements for 2019-20 Title IV-A funds to be expended proportionally in specific categories:

- Well-Rounded Education (20%)
- Supporting Safe and Healthy Students (20%)
- Technology (any amount, with a 15% limit on technology infrastructure)

Districts receiving less than \$30,000 were only required to meet one of the above rules. This waiver has not been extended for the 2020-21 school year.

### Required

- Use the *Ready Schools, Safe Learners* Operational Blueprint for the required needs assessment.
- For districts receiving more than \$30,000, fund activities proportionally as prescribed for 2020-21 funds (see bullets above for proportional funding percentages).

## Recommended

- ⇒ Adjust Title IV-A plan to support technological requirements for distance learning.
- ⇒ Use Title IV-A to provide district wide services that support access to distance learning.

## 1m. Title IV-B 21st Century Community Learning Centers

The purpose of the [21st Century Community Learning Centers \(21st CCLC\)](#) grant is to establish community learning centers focused on helping children in low income schools succeed academically through the application of evidence-based practices when school is not in session by:

1. Providing academic enrichment in core academic subjects such as reading, writing, and mathematics.
2. Offering students a broad array of additional services, programs, and activities that foster youth development.
3. Offering families of the students we serve opportunities for active and meaningful engagement in their children’s education, including opportunities for literacy and related educational development.

These competitive grants require a partnership between a school district and at least one Community-Based Organization (CBO). As districts consider options for reopening and redesigning the school day, they should reach out to 21<sup>st</sup> CCLC program directors and partnering CBOs to align services.

All 21st CCLC programs are academic programs and not considered child-care, although many working families depend on 21st CCLC programming in this way. For the purposes of [Ready Schools, Safe Learners](#), this distinction guides program directors to specific requirements. All 21st CCLC programs must submit to ODE a reentry plan for each Center aligned to the school in which the Center resides. All 21st CCLC programs must make their reentry plans available to the community on the program or district website. To the extent practicable, 21st CCLC programs serving students from multiple feeder schools must make every effort to align Operational Blueprints from each feeder school to:

- Maintain stable cohorts of students;
- Provide common health and safety protocols; and
- Provide supplemental services to support school instructional models and schedules.

# Putting It Into Practice

## Title IV-B

Meeting Key Requirements Across Models During the 2020-21 School Year

2019-20 School Year → 2020-21 School Year



Figure 7: Putting It Into Practice: Title IV-B

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.

## 1n. Title V-B Rural Education Achievement Programs (REAP) and Rural and Low Income Schools (RLIS)

Title V, Part B dedicates either additional funding flexibility (REAP) or additional funding (RLIS) to support rural school students. Per ESSA, both rural education programs allow activities authorized by other Federal Title grants. Specific information can be found in the [ODE Federal Funds Guide](#). Districts should use Title V-B funds to increase access to distance learning opportunities including:

- Purchase of technology and internet access;
- Operation of [Limited In-Person Instruction](#) when appropriate; and
- Collaboration with districts and education service districts to coordinate outreach.

## 1o. McKinney-Vento

All rights and provisions under the McKinney-Vento (MV) Act remain unchanged by federal waivers. Students who qualify for services under MV continue to be automatically eligible for Title I-A services, including tutoring. Students who are unaccompanied and houseless require different services than children in houseless families, as most are without any adult support. Identification of newly houseless students and families will be crucial to provide assistance with referrals, system navigation, and essential life supports such as food and shelter. Already at high risk of leaving school, MV students should have counseling readily available (trauma and academic) and have frequent check-ins with MV Liaisons, teachers and counselors.

# Putting it Into Practice

## McKinney Vento

Meeting Key Requirements Across Models During the 2020-21 School Year

2019-20 School Year → 2020-21 School Year

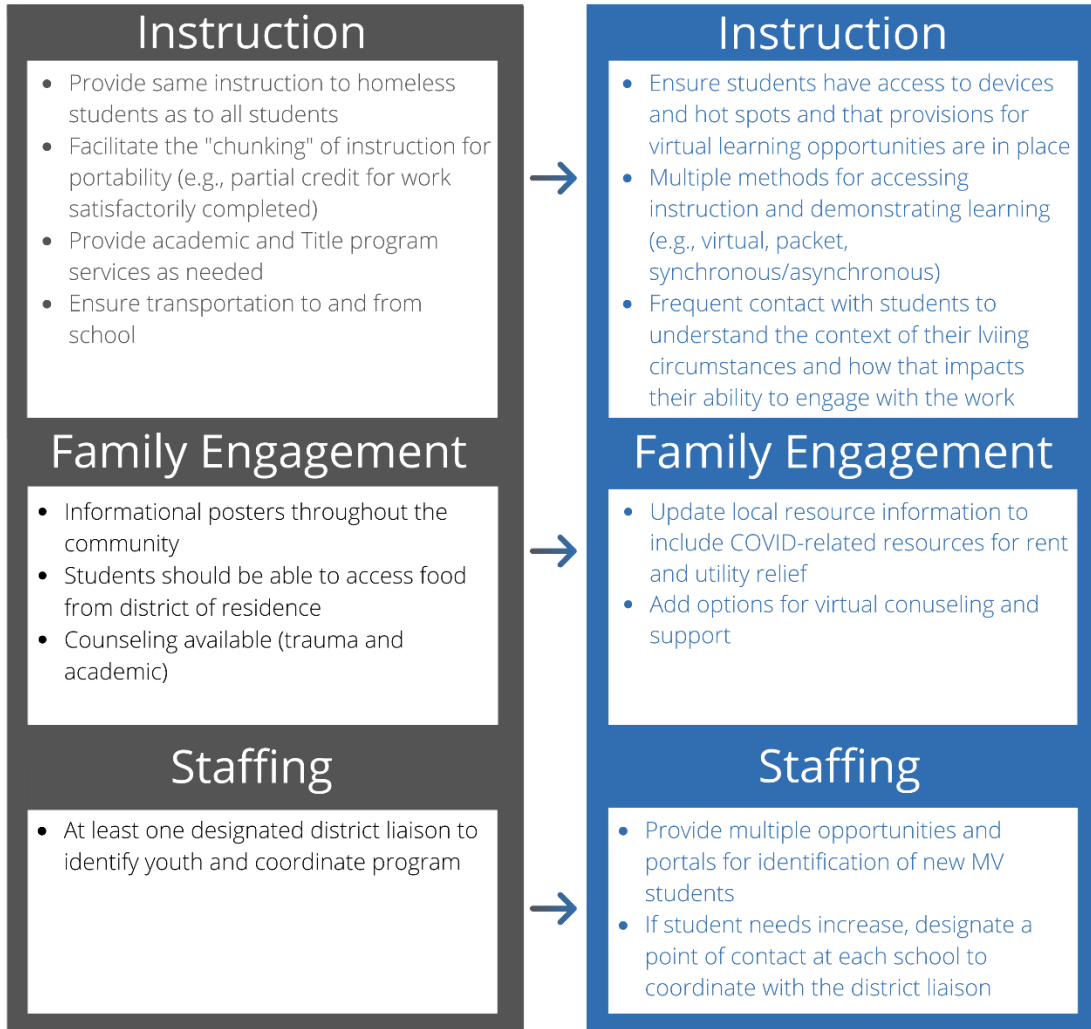


Figure 8: Putting It Into Practice: McKinney-Vento

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.

## 1p. Equitable Services for Private Schools

LEAs that receive federal funds under ESSA are required to consult with and provide equitable services to private schools, regardless of instructional model.

### Required

- Consult with participating private schools as service concerns shift with local health circumstances.
- Communicate shifts in the school instructional model, as appropriate for service delivery.

### Recommended

- ⇒ Collaborate with private schools to assist in the development of their required Operational Blueprints.
- ⇒ Allow for flexibility in private school plans, as local health circumstances change.

## 1q. Foster Care

Districts must maintain educational stability for children in foster care to provide students with the opportunity to achieve at the same high levels as their peers during the 2020-21 school year. This includes limiting educational disruption by keeping children who move while in foster care (due to entering the foster care system or changing placements) in their schools of origin, unless their best interest is to change schools.

### Required

- Send school notification forms directly to the district point of contact.
- Continue school of origin considerations, regardless of instructional model.
- Coordinate and communicate an enrollment plan for immediate enrollment of foster care students, particularly in distance learning.
- Report any health issues/testing with foster care students to the Department of Human Services (DHS) as well as the foster family.

### Recommended

- ⇒ Provide procedure for DHS staff to check out technology and support distance learning for students in temporary lodging placements.
- ⇒ Consider additional supports, including technology training, to address foster care parent concerns.

## Future Updates and Assistance for Federal Programs

As changes and additional flexibilities for the 2020-21 school year become available, the ODE Federal Systems Team will provide updates on the website and through virtual trainings. For specific information regarding Title programs, please contact the assigned education specialist.



## Section 2: Students protected under ADA and Section 504

### Equity and Access to School Services, Programs, and Activities

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Title II of the Americans with Disabilities Act (ADA) and Section 504 prohibit discrimination based on disability and require equity and access for students experiencing a disability to be involved in, participate in, and make progress in the general education curriculum. To provide the accommodations and modifications, Section 504 plans must be designed to transition between in-person, distance, and hybrid learning environments as the context shifts in response to statewide health and safety guidelines.

#### 2a. Design and Review of Section 504 Plans

##### Required

- Make instruction accessible for all learners. All learning platforms must adhere to ADA requirements for visual accessibility. Teams should consider both the needs of the student as well as family/caregiver support for access.
- Provide students with access to assistive technology as appropriate to increase, maintain, or improve functional capabilities; establish protocols detailing availability of assistive technology services to assist a student and parents in the selection, acquisition, or use of an assistive technology device.
- Consult with district Title II (ADA) and Section 504 Coordinator expertise in creating plans for school reopening to provide all students who experience disabilities with FAPE.
- Convene Section 504 teams, virtually if Community Health Metrics have not been met, and make an individualized determination whether and to what extent compensatory services are to be provided once school reopens for students with 504 plans who have experienced a loss of skills due to the extended school closure.

Schools must evaluate accommodations and modifications for all instructional settings. Under different instructional models, accommodations and modifications may need to be added, revised, or removed.

##### Recommended

- ⇒ Consult the [Oregon 504 Manual](#) and/or [U.S. Department of Education 504 Resource Guide](#) when reviewing and revising student Section 504 Plans.
- ⇒ Provide parents and families with contact information for individuals who are available to respond to questions and concerns regarding assistive technology device(s) and/or service(s) for their children.
- ⇒ In Comprehensive Distance Learning models, [In-Home Services](#) may be offered provided the required health metrics are met. Designate staff and determine protocols for In-Home Services when necessary.
- ⇒ Consider flexing staffing roles to address student concerns and maximize staff skills and talents when designing 504 plans.

- ⇒ Dedicate staff collaboration and professional development to instructional and student discipline practices through hybrid and comprehensive distance learning, and respond immediately and proactively to racially disproportionate outcomes for students of color.

For more information on helping to prevent and address potential discrimination associated with COVID-19, please see: [Letter to Leaders Preventing and Addressing Potential Discrimination Associated with COVID-19](#) and [Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students \(March 16, 2020\)](#).

## 2b. Required Health Services

All districts must account for students who have health conditions that require nursing or other health services in each instructional model. Provision of health services to a student may be required per a student’s IEP under IDEA or as an accommodation under Section 504 of the Rehabilitation Act.

### Required

- Determine whether a student is able to benefit from the provision of any service via telehealth. This may require licensed staff to:
  - Conduct additional assessment and evaluation of the student and their learning environment.
  - Update student’s individualized health plan or other provider required plan of care.
- Align services via telehealth with applicable licensing board rules.
  - See [provider specific telehealth guidance on the ODE website](#).
- Provide therapy and other related services (registered nurse, occupational therapist, physical therapist, speech language pathologist) when they are determined to be necessary per student IEP or 504 for the student to access FAPE.
  - Specific services required in order to access FAPE may be different given plans for the 2020-21 school year (i.e., some students may require additional services; for some students, some services may no longer be required).
- Align with FERPA and HIPAA privacy requirements.
  - See: [Student Privacy Considerations and Distance Learning for All](#)

### Recommended

- ⇒ In Comprehensive Distance Learning models, therapy and other health related services may be accommodated through either [Limited In-Person Instruction](#) or provision of [In-Home Services](#) provided that the required health metrics are met.
- ⇒ See [Resource Toolkit for Students with Complex Needs](#) for more information about serving students with complex needs.
- ⇒ Seek Medicaid reimbursement for allowable health services that are provided both in-person or via telehealth.
  - See ODE [School Medicaid Resource](#) page.

## Section 3: Individuals with Disabilities Education Act (IDEA)

### Serving Students Experiencing Disability

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Students protected under IDEA are guaranteed a Free Appropriate Public Education (FAPE). IDEA has two main components: (1) Part C, which covers infants and toddlers with disabilities; and (2) Part B, which covers all learners, age three to 21, with disabilities who are found eligible for educational services. Additional guidance related to EI/ECSE is forthcoming.

During COVID-19, the requirements and protections under IDEA Part B and Part C have not been altered. Schools and districts must still consider the most effective ways to provide Parent Participation opportunities, Identification and Evaluation, FAPE, Least Restrictive Environment (LRE), and Procedural Safeguards for students protected under IDEA.

#### 3a. Limited In-Person Instruction for IDEA Services

[Limited in-Person Instruction](#) can be offered under Comprehensive Distance Learning (CDL) (defined by [RSSL section 0b](#)). When considering services on-site, instruction should be focused on skills that are difficult to teach through distance learning (primary literacy, math development, second language instruction) and with students that are unable to effectively access instruction through distance learning.

Services can include assessment, evaluation, specially designed instruction, and related services.

#### Required

- Meet the requirements from sections 0-3 in [Ready Schools, Safe Learners](#) prior to providing any Limited In-Person Instruction.
- When a school is operating through Comprehensive Distance Learning (CDL), staff must determine the most effective and appropriate way to:
  - Provide all students with access to full core instruction first.
  - Provide targeted supplemental instruction to students.
  - Consider instructional structures and routines that support students accessing CDL.
  - The majority of each student's services under ESSA, 504, or IDEA should be mostly teacher-facilitated and can be synchronous or asynchronous to meet service requirements while in distance learning. See [CDL instructional day, Section 1D](#). When considering asynchronous methods, the instruction must be specific to the student challenges and skills.
    - Where a majority of teacher-facilitated/synchronous service delivery is not appropriate, the relevant team must convene to ensure appropriate services can be provided.
    - Asynchronous learning opportunities may be helpful instructional tools when planned and used appropriately, but cannot be considered provision of special education and related services or Title services in isolation.

- ❑ Consider the specific student circumstances as well as family/caregiver support in the Specially Designed Instruction (SDI) format.
- ❑ IEP teams must plan to provide FAPE through CDL; this may require additional planning time to address any IEP changes required to provide FAPE.
  - Limited In-Person Instruction cannot be the first means through which IEP teams seek to provide FAPE when schools are in CDL; this also cannot be the only offer of FAPE during CDL.
- ❑ When the data indicates that a child may not be receiving FAPE through services provided through CDL, the IEP team must meet to plan how the child will be able to access FAPE. This could include:
  - Providing adaptations and modifications to the services to make them accessible through a CDL framework.
  - Providing Limited In-Person SDI or related services when possible under exceptions for CDL.

### 3b. Cohorting and Least Restrictive Environment

As noted in RSSL, schools may not create cohorts for children based solely on their disability. However, students whose placement establishes a segregated classroom may be placed into cohorts if the students' IEP goals and placement align to a separate instructional space from general education curriculum and peers. Under Comprehensive Distance Learning, when the child's home becomes the primary place of general education, some children will, due to the nature of their disability, require additional support, service, and instruction. The child's home becomes the regular classroom.

#### Recommended

- ⇒ Consider placement in the context of the general education environment with a focus on ensuring access to the Least Restrictive Environment. Changes to the general education context (e.g., shifting to a Comprehensive Distance Learning model from an On-Site model) do not constitute a change in placement under the IDEA.

#### Resources

- [Tips sheets for virtual IEP meetings](#)
- [Office of Special Education Programs \(OSEP\) 6.30.2020 FAQ](#)

### 3c. Evaluations and Eligibility

The extended school closure has impacted all students, meaning that several weeks of high quality instruction may be necessary before a team can assess a student with validity. Teams are encouraged to focus first on best instruction, identifying student strengths, and providing support based on team reviews of data regardless of student identifiers.

While the Office of Teaching, Learning, and Assessment is publishing guidance for Oregon assessments, the following guidance is specific to the challenges associated with evaluations and assessments for students experiencing disabilities as required under IDEA.

### Required

- Conduct evaluations that were delayed or interrupted due to the extended school closure.
- Use the appropriate code if timelines are delayed due to access and closure related to COVID-19 (see the [Child Find Manual](#)).
- Finalize any eligibility for evaluations completed prior to the school closure.
- Conduct eligibility meetings virtually or over the phone. When in-person meetings are an option through [Limited In-Person Instruction](#) under CDL, address the home languages of families who require translation of printed material or an interpreter for spoken meeting, have limited virtual or phone access, or who require additional accommodations to fully participate.
- Note the State of Emergency circumstances under which the evaluation was completed and note adaptations to typical test administration procedures on the evaluation report.
- Inform members of the Eligibility team where reliability of assessment results may be impacted (e.g., due to administration procedures). ([OAR 581-015-2115](#) Evaluation Planning, [OAR 581-015-2100](#) Responsibility for Eligibility)

### Recommended

- ⇒ Consider continuing eligibility for students previously identified with Developmental Delay (DD) through age 9; this will minimize unnecessary evaluations.
- ⇒ Determine if the proposed evaluation can be completed using alternate sources of data, thus minimizing the use of standardized assessments.
- ⇒ Choose a tool that is sensitive to incremental skill growth and use it in conjunction with an intervention plan that is designed to address the student's social, emotional, or behavioral skill deficit when the use of standardized rating scales is necessary. By administering the assessment before and after targeted interventions, the student's rate and degree of skill growth can be analyzed and used to inform the evaluation.
- ⇒ Hold eligibility meetings using audio or video conferencing; be sure to provide interpreters and translated materials as necessary for meaningful parent participation.

### 3d. Child Find and Referral

#### Required

- Review data after the closure through the lens of the student’s ability to adapt to a new learning platform, the conduciveness of the home environment for effective learning and the level of engagement the student has had in the distance learning activities.
- Review student performance after initiation of on-site education and services.
- Review current policies, procedures and protocols regarding pre-referral, referral and evaluation processes for possible revision.
- Involve impacted stakeholders in the policy review and train all staff regarding any new policies, procedures or protocols.
- Focus on instruction and social emotional learning as the school year begins to prevent over identification.
- Evaluate EB students who may experience disabilities eligible for support under the IDEA or Section 504 in a timely and appropriate manner.

Consider the impact of the Extended School Closure and changes in educational environments on student learning and growth. All students likely experienced regression in some manner due to the Extended School Closure. Such regression is not necessarily indicative of a disability that requires special education.

#### Recommended

- ⇒ Focus first on best instruction, identifying student strengths, and providing support based on team reviews of student data.
- ⇒ Develop a plan to initiate and complete evaluations during [Limited In-Person Instruction](#) under CDL or when shifting to on-site instruction. Shifts to Short-Term Distance Learning may present challenges to completing evaluations within required timelines. Proactive planning supports timely decisions.
- ⇒ Focus on instruction and social emotional learning, using virtual/distance learning social emotional learning methods, as the school year begins to prevent over identification.
- ⇒ Consider data collected during regular, consistent instruction more heavily than data collected during a time of uncertainty.
- ⇒ Develop policies and procedures for obtaining parental consent via electronic signature. Electronic signatures are allowed by FERPA provided certain conditions are met. For more information see [34 CFR 99.3\(d\)](#) and [\(34 CFR 300.154\)](#). The statutes do not make reference to the platform to use to obtain consent; that decision is up to district policy and security protocols.

### 3e. Individualized Education Programs (IEP)

By definition, IEPs are individualized and based upon student need; no one-size fits all solution can be applied. However, IEPs can be developed in a manner that makes them resilient to changes in instructional model. The graphic below shows how to look at IEP development and implementation through two different lenses:

- Option A is recommended if a school district/program anticipates being in one model all year long and/or a parent requests year-long comprehensive distance learning.
- Option B is recommended if a school district/program anticipates switching between models. By following Option B during IEP development, districts can minimize the need for IEP meetings due to instructional model changes.

Option B should clearly describe the IEP implementation and plan for all instructional models. This can be done in any of the following sections:

- Present Levels of Information
- Service Summary Page

The goal of Option B is to ensure that parents/guardians clearly understand the services provided across all instructional models.

Districts are expected to review all IEPs for compatibility with the instructional model the school is operating under. Teams should create an IEP that can be implemented across models to the extent possible, using the written agreement process or holding an IEP meeting (either in-person or virtual) to amend the IEP. Even when considering in-person instruction at the school building, instruction in the fall of 2020 will not look the same as it did in the fall of 2019.

# Developing IEPs for 2020-21

## OPTION A

Amend Plans as Instructional Models Change

## OPTION B

Proactively Plan for Changes in Instructional Models

As in any previous year, regardless of option chosen, IEP meetings must address the following elements for IEP development:

- Develop the **Present Levels of Academic and Functional Performance (PLAAFP Statements)** based on age/grade level expectations.
  - Discuss and describe strengths and challenges the student has accessing the general curriculum.
  - Discuss and describe strengths and challenges the student has related to functional performance.
  - Describe how the unique nature of the student's disability impacts their ability to access the general curriculum.
- Develop **Measurable Annual Goals** that enable FAPE based on those strengths and challenges.
  - Prioritize the most critical skill and strategy development for IEP goals.
  - Each barrier to accessing the general curriculum that the team identified in creating PLAAFP statements must be addressed in the IEP, but not necessarily in IEP goals.
  - Include measurable postsecondary goals where appropriate, based on age or student need.
- Determine the **services/supports** needed to provide FAPE.
  - Special Education (Specially Designed Instruction) and Related Services are the core supports that enable a child to achieve annual goals and receive FAPE.
  - Teams should also consider the need for supplementary aids and services, including accommodations/modifications; necessary supports for school personnel; and other services/supports needed to enable appropriate progress.
- Determine the **Least Restrictive Environment (LRE)** in which those services/supports can be provided.
  - The general education setting where all students receive their education must be the first consideration.
  - Each time placement is being considered, IEP teams must first presume placement in the regular classroom.
  - More restrictive placements may be made only as the data indicates that the unique nature of the child's disability precludes them from successfully accessing FAPE in lesser restrictive settings.

**This option is the same as previous years. Districts who select this option will need to address questions in Option B upon any shift in instructional models.**

In addition to the elements addressed in Option A, in order to develop IEPs that are resilient to changes in instructional models, IEP teams must also consider:

- Develop the **Present Levels of Academic and Functional Performance (PLAAFP Statements)** based on age/grade level expectations.
  - How do changes to the general education context (i.e., instructional model selected) impact the strengths and challenges the student has relative to the general curriculum?
  - How does the child's disability impact their ability to function within the selected instructional model(s)?
- Develop **Measurable Annual Goals** that enable FAPE based on those strengths and challenges.
  - Consider whether changes to instructional model(s) impact the most critical skills and strategies the student needs to learn to access FAPE (e.g., technology skills required for Comprehensive Distance Learning).
  - Annual goals are worked on over the course of the IEP year, but not all goals, or short-term objectives/benchmarks are appropriate to work on throughout the entire year. Document any goals that are specific to certain instructional models.
- Determine the **services/supports** needed to provide FAPE.
  - Consider services/support for each possible instructional model the school may enter during the 2020-21 school year.
  - Services and supports must be described with enough specificity that all IEP team members have the same clear understanding of services to be provided, including when, where, and by whom those services will be provided, regardless of shifts in instructional model.
- Determine the **Least Restrictive Environment (LRE)** in which those services/supports can be provided.
  - Changes to the general education setting where all students receive their education does not constitute a change in placement under IDEA.
  - Changes to instructional models alone are not justification for increasing the restrictiveness of any student's placement.

**This option requires additional considerations due to changes in requirements for the 2020-21 school year. Districts who select this option minimize the need to amend IEPs due to shifts in instructional models.**

Regardless of which option a district/program uses to develop plans, FAPE must be provided to each eligible student throughout the entire 2020-21 school year. ODE recommends Option B to proactively minimize the need for multiple IEP amendments throughout the school year.



Figure 8: Developing IEPs for 2020-21

Checkboxes (☐) indicate requirements; arrows (⇒) indicate recommendations. Bullets denote considerations or potential actions.



## Required

- Plan for a year of instruction that provides continuous delivery of services.
- Review all policies, procedures and protocols regarding IEP development and implementation to determine whether and what changes are necessary given the selected instructional model.
- Plan and hold IEP meetings as required for incoming students to the district (Kindergarten, move-in, etc.) regardless of instructional model.
- Review the current IEP for each eligible student to determine:
  - If the IEP is still appropriate for the student’s circumstances and can be implemented in the selected instructional model as written.
  - If progress monitoring tools are appropriate to the goal, valid, and reliable given the school’s current and future instructional models.
- If an IEP cannot be implemented as written during a new instructional model, the IEP team must:
  - Determine the IEP services and supports necessary should the school switch modes of instruction.
  - Plan for continuously monitoring progress should a switch in instructional models be necessary.
  - Select progress monitoring tools individually as based on student concerns. Consider tools that will yield the best available measure of progress given the disproportionate impact of COVID-19.
- Communicate and collaborate with the family to discuss any changes.
- Note the circumstances under which progress monitoring was completed.
- Review and assess whether the student requires [compensatory services](#).

## Recommended

- ⇒ Consider planning the services and supports necessary to provide FAPE across all instructional models when IEPs are developed, regardless of the student’s current instructional model.
- ⇒ Develop a process for reviewing IEPs whenever there is a change in the instructional model being used.
- ⇒ Reference [this tool](#) for questions to consider when reviewing the IEP.
- ⇒ Administer in-person standardized progress monitoring measures, where possible. Use Limited In-Person Instruction, as needed, provided that the required health metrics are met. If in-person assessment is not possible, complete measures in synchronous settings only.
- ⇒ Develop policies and procedures for obtaining parental consent by electronic signature. Electronic signatures are allowed by FERPA provided certain conditions are met. For more information: [34 CFR 99.3\(d\)](#) and ([34 CFR 300.154](#)). The statutes do not reference the platform to be used to obtain consent; that decision is up to district policy and security protocols.

### 3f. Specially Designed Instruction<sup>1</sup>

#### Focus on Instruction

When evaluating the Specially Designed Instruction (SDI) for a student in this context, school teams should focus on the goals of the student, the unique learning situation created by Comprehensive Distance Learning and hybrid instructional models, and the home environment of the student and family. The Service Summary Page, which lists the service, minutes, anticipated location, and provider will be a key place to start. The service type and minutes are critical for review during all models of instruction.

#### Using the Full School Day

Teams must consider and plan for SDI using the full school day. Additional information on instructional time is provided in [Ready Schools, Safe Learners](#). Teacher-facilitated Learning will be bolstered by other learning opportunities (e.g., Learning and Supplemental Activities and Meeting Nutrition and Wellness) throughout the day.

#### Required

- IEP teams must continue to plan for Specially Designed instruction regardless of the instructional model. Teams should plan for mostly teacher-facilitated instruction that can be synchronous or asynchronous. When considering asynchronous methods, the instruction must be specific to the student skill and concerns. See [Learning Day Overview](#) in [Comprehensive Distance Learning](#).
- To write an IEP that does not require an amendment for changes in instructional models as described in **Option B**, IEP teams can note additional context that will be relevant if the instructional model changes. (Consider multiple options similar to transition years with multiple buildings.) These changes can be described in one of either locations on the IEP document:
  - Present levels of academic and functional performance.
  - Service summary page:
    - Services must be consistent with the student’s goals and able to be provided in the applicable instructional model. If a service required to enable FAPE for a child cannot be provided in a selected instructional model, the team will need to determine appropriate alternatives in order to ensure the provision of FAPE.
    - Service frequency/minutes must be based on the unique nature of the student’s disability and cannot be changed solely due to changes in instructional model.
    - Location may have to be adjusted or amended due to the instructional model (see section on IEPs).
    - Service provider may need to be amended based on shifts in the instructional model.

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<sup>1</sup> Content in this section was originally released as a part of Oregon’s Extended School Closure Guidance: Specially Designed Instruction Toolkit.

- SDI cannot be reduced, altered, or modified simply due to a change in instructional models. Plan for access to instruction regardless of the model the school is operating.

#### **Recommended**

- ⇒ Communicate with families/guardians on SDI in each instructional model.
- ⇒ Focus on learning experiences that support student growth towards goals.
- ⇒ Deliver [Limited In-Person Instruction](#) under CDL and hybrid instructional options to students who have limited growth or success under distance learning.

### **3g. Related Services under IDEA**

When evaluating the Specially Designed Instruction (SDI) for a student in this context, school teams must review and update related services. This review must include, if applicable, medically-licensed service staff (registered nurse, occupational, physical, or speech and language therapists) and incorporate the uniqueness of the student’s new learning environment. Related services can be provided in teacher-facilitated or applied learning settings using synchronous and asynchronous methods.

#### **Required**

- Consult with related service provider to determine:
  - Need for a new assessment or evaluation to determine service level.
  - Need to update the student plan of care as required by the applicable licensing board.
  - Alignment with applicable licensing board rules. Each licensed provider should use professional discretion to determine whether a child is eligible for services delivered via telehealth.
- Plan and develop related service provision in coordination with parent/guardian or caregiver and related services providers. Consider:
  - When services may take place.
  - What availability exists of in-home supports (parents, caregivers, family members, Personal Service Workers, etc.).
  - What limitations and updates exist to related services per licensing board constraints and discretion of licensee.
- While in CDL, parents and caregivers are partners for instruction. Some parents/caregivers may need consultation, training, and coaching to provide ongoing instructional support for their child to access FAPE.
- Providing related services during CDL may be provided in multiple platforms. Schools should consider the family/guardian and home context when determining how services will be provided.

#### **Recommended**

- ⇒ Recognize that parents/guardians/caregivers are the primary supports in the home learning environment and may benefit from support to fulfill this role well. If specific supports would enable FAPE, consider these as part of the IEP process.

- ⇒ Consider [Limited In-Person Instruction](#) under CDL and hybrid instructional options to students who have limited growth or success under distance learning provided that the required health metrics are met.

### 3h. Transportation as a Related Service

#### Required

- Align with state and local public health requirements related to the COVID-19 pandemic and transportation as per [RSSL guidance](#).

#### Recommended

- ⇒ Work collaboratively with families to determine their ability to transport their child to and from school. Notify the family in writing of the transportation plan.

#### Additional Transportation Resources

- [National Association for Pupil Transportation](#)
- [Transportation's Part in Recovery Planning](#)

### 3i. Secondary Transition Services

Student self-advocacy and community partnerships are key elements to support the individually planned and tailored services and activities designed to prepare a student to achieve desired post-school outcomes (e.g., college, career, and community).

#### Required

- Identify Secondary Transition Services/Activities that can be implemented as written in the IEP given the school's current 2020-21 instructional mode, and those that cannot.
  - Determine how to appropriately address student transition supports when Secondary Transition Services/Activities cannot be implemented.
  - Coordinate a comprehensive review and amendment to the IEP wherever possible.
- Creatively plan flexible and meaningful transition opportunities that may include, but are not limited to, virtual or online learning, distance learning instruction, and computer-based instruction when in-person learning is not possible.

#### Recommended

- ⇒ Consider the following when developing written Transition Plan amendments:
- Identify what the IEP team staff, parent, and student/adult student want to accomplish. Consider the goals and services/activities, and discuss what can be implemented and how.
  - Consider annual goals, transition services/activities, and the context and implementation of the comprehensive instructional program.
  - Consider how the student's accommodations and modifications impact implementation of transition activities in the learning model.
  - Amend the IEP to address current circumstances and changes for the Transition Plan.

- Identify supports (e.g., material, technology, and information) and barriers to the learning model.
- ⇒ Reach out to local adult agencies to determine if services exist that may be provided in the learning model if the student is already a client.
- ⇒ Identify staff responsible for making sure that students who are exiting are connected with agencies as identified in their Transition Plan.
- ⇒ Review the amended Transition Plan as circumstances change, regarding student progress and educational delivery model changes, especially if community partners provide services.

### 3j. Progress Monitoring

Progress monitoring is a critical component of IEP implementation, FAPE delivery, and monitoring effectiveness of instruction. Teams should plan for ongoing monitoring or student progress related to IEP goals regardless of the delivery model of instruction.

#### Required

- Continue to monitor progress on goals based on services delivered through any instructional model as required under IDEA.
- Provide relevant staff (e.g., general education teachers, ESL teachers, special education teachers, instructional/related services providers, and instructional assistants) with time to collaborate and coordinate methods of delivering SDI, integrating goals and related accommodation into the curriculum, and procedures for collecting data about progress.
- Provide additional training and support to families/guardians on options and supports for gathering feedback regarding progress while in CDL.

#### Recommended

- ⇒ Develop criteria that allows for sharing and collecting data across disciplines.
- ⇒ Use data to inform activities, assignments, and supports for students.
- ⇒ Provide flexibility in how students demonstrate knowledge through use of augmentative and alternative communication (AAC), writing, manipulating objects, or other forms of expression.
- ⇒ Focus on student strengths and highlight areas to expand interest and engagement.
- ⇒ Review and define various tools that can be used during synchronous instruction for all students, for small groups of students, and for 1:1 instruction.
- ⇒ [Review resources](#) for considering data collection during comprehensive distance learning.

### 3k. Compensatory or Recovery Services

The typical conceptualization of compensatory services is that they are intended to redress some wrong or error on the part of the district, and they are typically judicial remedies. In contrast, Compensatory or Recovery Services following the Extended School Closure in spring 2020 and Distance Learning for All are meant to address any possible loss of progress related to the exceptional circumstances due to the pandemic. For the purposes of the 2020-21 school

year, given the reality of COVID-19, this document refers to compensatory or recovery services as a method for districts to proactively keep children where they would have been educationally but for the disruption caused by the pandemic ([Coronavirus and Schools: "Compensatory Services" in a Post-Pandemic World<sup>2</sup>](#)).

Compensatory services are not a contractual remedy. They are designed to educate students within the meaning of the IDEA and "[t]here is no obligation to provide day-for-day compensation for time missed" ([Parents of Student W v. Puyallup Sch. Dist. 3<sup>3</sup>](#)).

### Service Provision Considerations

- Did the child regress from previously-attained skill levels targeted in their goals due to COVID-19 related educational realities?
- Did the child fail to progress enough to meet annual goals?
- Did the child become so disengaged from the learning process that they require additional programming or supports to re-engage?

Answering "yes" to any of the above questions is an indication that compensatory or recovery services should be considered but does not indicate that a district must provide these options. Also, student recovery can also be affected through continued implementation of an appropriate IEP during the 2020-21 school year and should be considered in the development of goals and services. Such a determination is inherently individualized and must be made through a fact-specific analysis by the IEP team.

### Required

- Meet to review the request when a parent/guardian requests a review of compensatory or recovery services.
- Provide a Prior Written Notice (PWN) to inform parent/guardian of decisions. Where available, parent information and concerns must be considered in determining whether or not compensatory or recovery services are necessary, how much service time is required, and how the services will be delivered.
- Include conversations about compensatory or recovery services during routine IEP meeting agendas.
- Consider whether a child's learning pathway can be restored through the typical IEP process, or whether such restoration requires compensatory or recovery services, extended school year services (ESY), or both.

### Recommended

- ⇒ Provide compensatory or recovery services after school, during breaks in the academic calendar, or on weekends.
- ⇒ Provide compensatory or recovery services that do not differ from the services identified in the child's existing IEP.

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<sup>2</sup> ["Coronavirus and Schools: 'Compensatory Services' in a Post-Pandemic World."](#) Sweet, Stevens, Katz, and Williams LLP, 13 Apr. 2020

<sup>3</sup> Poole, Cecil F. Parents of Student W v. Puyallup Sch. Dist. 3. 17 Aug. 1994, <https://www.casemine.com/judgement/us/5914bdd7add7b049347a4c2b.%20Accessed%2028%20July%202020>

- Note that a child who has disengaged from the learning process may require additional services not present on the existing IEP. Teams should continually evaluate services and instructional options to account for the many learning opportunities students require.

### 3l. Social and Emotional Behavior Supports

Providing students and families with social, emotional and behavioral supports will look significantly different throughout the 2020-21 school year. Behavioral plans, positive behavior interventions and supports (PBIS) and related IEP goals and services may be modified to support healthy behavior in the changing environment. [This resource from the Center on PBIS](#) may be a useful resource in planning PBIS for the 2020-21 school year.

Academic learning will be able to occur when students feel physically and psychologically safe within the learning environment. Students experiencing disability are often marginalized and benefit greatly from a strong relationship with caring adults. Emphasis on reteaching versus punishment is especially important. Recognizing that students may regress in their academic, emotional and social behavioral performance, from skills they had been able to demonstrate prior to school closure (ASCA-NASP, 2020) is critical. [Best Practices for Universal Social, Emotional, and Behavioral Screening](#) addresses the consideration of targeted and intensive supports, as referenced by the current performance of positive and healthy social behavior of a universal reference group.

#### Required

- Teams must consider the impact of the Extended School Closure in spring 2020 and the ongoing COVID-19 pandemic when assessing need, altering instructional supports or adding supports to students regarding new or increased challenging behavior.
- Plan and adjust protocols for room clears to maintain health and safety requirements, including for virtual classroom environments. Recommendations for responding to challenging situations related to face coverings and significant behaviors are [available online](#).

#### Recommended

- Use tiered instruction and supports that allow students to attend school and engage in instruction in the least restrictive environment (LRE).

Resources for [crisis and mental health](#) are available through the National Association of School Psychologists and [Mental Health and Social Support during the COVID-19 crisis](#) on the [Oregon.gov page](#).

### 3m. Staffing

#### Alignment with Licensing Boards

#### Recommended

- ⇒ Each licensing board sets requirements related to the provision of services for both in-person and telehealth delivery.

- ⇒ Each licensed provider must use professional discretion to determine whether a child is eligible for service delivered via telehealth (see [the ODE website](#) for more telehealth resources).
- ⇒ Train and support board licensed providers for the provision of services via telehealth.
- ⇒ Train and support teachers and other instructional staff on:
  - How to use the district online e-learning platform;
  - Online instructional best practices; and
  - Online safety, etiquette, and safety.
- ⇒ Consider the role of instructional assistants (IAs) in service delivery. IAs may assist certified teachers in the provision of services in the virtual setting in a similar manner to in-person. For example, an appropriately trained IA may facilitate virtual groups provided they maintain close and frequent proximity with certified teachers, the certified teachers participate intermittently in the sessions and frequent feedback sessions are held between the certified teachers and IAs.
- ⇒ Provide e-learning training and support for parents or caregiver including:
  - Parent or caregiver role in e-learning;
  - How to use the district online e-learning platform and/or other required assistive technology; and
  - Formal process to address concerns and/or address challenges.

### 3n. Children With Disabilities in Private Schools Placed or Referred by Public Agencies

IFSP and IEP teams may place students in approved Private Schools when the private school's program appropriately meets the needs of the student.

**Note:** This guidance does not apply to parentally placed private school students.

#### Required - Private Schools

- Application for approval must contain the private school's Operational Blueprint in addition to all other required documentation.
  - Private Schools providing services on behalf of public schools, districts or ESDs to any combination of children aged 3-21 seeking renewal must provide all documentation outlined in the most recent assurance statement/application document as if the private school was applying for its initial approval.
- All documentation must be in electronic format when submitted.
- Instruction must follow:
  - The county where the school is located meets the requirements in [Ready Schools, Safe Learners](#) in Section 0. Community Health Metrics
  - The school is operating under all guidance outlined in [Comprehensive Distance Learning](#).
- Provide continuous services when moving between instructional models (in-person, hybrid, and comprehensive distance learning)



### Required - Public Schools and Districts

- ☐ Prior to referral for services at a private school for in-person services, schools and districts must confirm the private school's Special Education Approval status with the ODE. Schools and Districts may send an email to the Office of Enhancing Student Opportunities' IDEA Finance Team at [ODE.IDEAFinance@state.or.us](mailto:ODE.IDEAFinance@state.or.us) with the name of the private school and a short message requesting its approval status.
  - This does not apply to referrals into private schools where the services will be provided entirely via CDL.
  - If a private school with a placement wishes to move the child's services to in-person delivery, the private school must follow all requirements outlined in RSSL and this document prior to providing those services in person.
- ☐ For any public school with a referral to a private school (or where the district referred the child), the public school's Operational Blueprint must include information about each private school with a child referral including:
  - The name and location of the private school;
  - A reference to the private school's Operational Blueprint and where it may be found; and
  - The contact information for the person representing the private school on the IFSP/IEP team.

### Future Updates:

This document will continue to be updated based on:

- The continuing impacts of COVID-19 and the state's evolving mitigation efforts as directed by Governor Brown and the Oregon Health Authority.
- Input from educators, students, families and community partners.
- An ongoing review of equity impacts.
- Learnings from efforts being rolled out in other states and countries.

Please see the curated information at the [Federal Programs COVID-19 Resources](#) and [Special Education COVID-19 Resources](#) pages for additional tools, links, and related documents.

## Acronyms and Definitions

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**Americans with Disabilities Act (ADA):** A civil rights law that prohibits discrimination against individuals who experience disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.

**Augmentative and Alternative Communication (AAC):** A term used to describe various methods of communication that can help people who are unable to use verbal speech to communicate. AAC methods vary and may be personalized to meet each individual's situation.

**Centers for Disease Control and Prevention (CDC):** The national public health institute.

**Community Based Organizations (CBOs):** Nonprofit groups working locally to improve life for residents.

**Comprehensive Distance Learning (CDL):** An instructional model in which instruction occurs remotely with very limited exceptions for in-person support.

**Developmental Delay (DD):** 1.5 standard deviations or more below the mean in two or more of the following developmental areas for early special education and school-aged special education (ages 3-9), that adversely affects a child's developmental progress when the child is three to kindergarten and the student's educational performance when the student is kindergarten through age nine: cognitive development; physical development; communication development; social or emotional development; and adaptive development.

**Department of Human Services (DHS):** Oregon's principal agency for helping Oregonians achieve wellbeing and independence.

**Education Service District (ESD):** ESDs provide county districts with an array of educational programs and services, many of which are too costly or limited in demand for a single location.

**Elementary and Secondary Education Act (ESEA):** ESEA, as amended by the Every Student Succeeds Act (ESSA), provides funding for state educational agencies and districts to support all students equitably and build systems that eliminate barriers to student success.

**Elementary and Secondary School Emergency Relief (ESSER):** The Department will award these grants -to State educational agencies (SEAs) for the purpose of providing local education agencies (LEAs) with emergency relief funds to address the impact that COVID-19 has had, and continues to have, on elementary and secondary schools across the Nation.

**English Language Proficiency Assessment (ELPA):** ELPA measures and reports on students' English language proficiency in reading, writing, speaking, listening, and comprehension. Its main purpose is to qualify students for appropriate language services and help guide schools to best support students.

**Emergent Bilingual (EB):** A student who is gaining proficiency in two languages.

**Extended School Year (ESY):** Special education and related services that are provided to a child experiencing disability when determined necessary by an IEP team to maintain skills that were learned during the school year.

**Family Educational Rights and Privacy Act (FERPA):** A federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

**Free Appropriate Public Education (FAPE):** FAPE is an educational program and related services that are individualized to an eligible student who experiences disability and meets the standards established by the state, provided at public expense and without charge.

**Hybrid Learning:** An instructional model that engages student groups through access to in-person instruction using staggered schedules and/or programs, in accordance with public health requirements.

**Individuals with Disabilities Education Act (IDEA):** A law that makes available a free appropriate public education to eligible children with disabilities throughout the nation and ensures special education and related services to those children.

**Instructional Assistant (IA):** A classified school employee who does not require a license to teach, who is employed by a school district or education service district and whose assignment consists of and is limited to assisting a licensed teacher in accordance with rules established by the Teacher Standards and Practices Commission. (ORS 342.120)

**Learning Management System (LMS):** A software program that allows for tracking of educational data and supports digital learning.

**Least Restrictive Environment (LRE):** IDEA says that children who receive special education should learn in the least restrictive environment. This means they should spend as much time as possible with peers who do not receive special education.

**LGBTQ2SIA+:** an acronym for Lesbian, Gay, Bisexual, Transgender, Questioning/Queer, 2 Spirited, Intersex, Asexual, Plus other non-heterosexual orientations or non-binary genders.

**Limited In-Person Instruction:** Instruction provided in a public space, typically a school, when the school is operating under a Comprehensive Distance Learning model. There are required health metrics that must be met prior to providing any limited in-person instruction.

**Local Education Agency (LEA):** Entity with responsibility for local supervision of the public school system.

**McKinney-Vento Act's Education of Homeless Children and Youth Program:** Ensures that homeless children and youth are provided a free, appropriate public education, despite lack of a fixed place of residence or a supervising parent or guardian.

**On-Site Instruction:** An instructional model that engages students and staff in learning through in-person instruction in their traditional classrooms with additional health and safety requirements.

**Oregon Health Authority (OHA):** The state agency responsible for promoting better health and better care at lower costs for all Oregonians.

**Rural Education Achievement Programs (REAP):** REAP initiatives help rural districts that may lack the staff and resources to compete effectively for federal competitive grants and that often receive grant allocations in amounts that are too small to be effective in meeting their intended purposes.

**Section 504:** Section 504 is a federal civil rights law that states “no otherwise qualified individual with disabilities in the United States... shall solely by reason of [their] disability, be excluded from the participation in, be denied the benefits of, or subjected to discrimination under any program or activity receiving federal financial assistance.”

**Short-Term Distance Learning:** A four-week instructional response to an outbreak of COVID-19 that provides the planning window for schools or districts to respond and determine if they must shift to CDL or can return to their prior instructional model.

**Specially Designed Instruction (SDI):** Instruction that is provided at no cost to the parent to meet the challenges of a child who experiences disability.

**State Education Agency (SEA):** Public entity with primary responsibility for the state supervision of the public school system.

**State School Fund (SSF):** The major source of funding for the general operations of districts and Education Service Districts (ESDs) for grades K through 12.

**Title I-A - Improving Basic Programs:** Title I-A provides federal dollars to supplement educational opportunities for students who live in high poverty areas and are most at risk of failing to meet the state’s academic content standards.

**Title I-C - Educator of Migratory Students:** The Migrant Education Program ensures that all migrant students reach academic content standards and graduate with a high school diploma (or General Educational Development test) that prepares them for further learning and productive employment.

**Title I-D - Prevention and Intervention Programs for Children and Youth Who are Neglected, Delinquent or At Risk:** The purpose of Title I-D is to improve educational services for students in local, tribal, and state facilities or institutions for neglected, delinquent, or at-risk youth.

**Title III - English Language Acquisition and Enhancement:** Title III provides supplemental support to Emergent Bilinguals and immigrant youth. District responsibilities under Title III are to teach the English language and to have on-grade level core content accessible to Emergent Bilinguals while they learn English.

**Title IV-A - Student Support and Academic Enrichment (SSAE):** The purpose of Title IV-A is to improve student academic achievement through access to a well-rounded education;

improved school conditions for student learning; and improved use of technology to improve the digital literacy of all students.

**Title IV-B - 21st Century Community Learning Centers:** Community learning centers provide services during non-school hours or when school is not in session (before and after school or during the summer) that reinforce and complement regular academic programs of the schools attended by students served.

**Title IX:** A federal statute that protects people from discrimination based on sex in education programs or activities that receive Federal financial assistance.