

ODE Guidelines for Service Providers

1. Should schools provide related services that are written in the IEPs of students with disabilities if the schools are offering some form of instruction to all students during this ordered closure period?

Yes. During this time of ordered school-building closure, schools are making a good faith effort to provide educational services to students. Therefore, similar efforts must be made to provide specialized services to students with disabilities during this time as well. Schools will need to consult with parents and caregivers to determine the needs of each individual student and identify the most appropriate means for meeting those needs during the closure period while continuing to maintain the health and safety of the student and service provider.

2. Are schools required to provide related services via telehealth during ordered school building closures?

No. Schools that are providing education during school building closures are required to make a good faith effort to provide the IEP-required related services to the extent possible through [remote learning opportunities](#), which may include, but are not limited to, delivering related services via telehealth. Telehealth may include phone calls, two-way video communications, the exchange of written electronic messages and other forms of virtual communication. The decision as to whether to provide related services via telehealth is an IEP team decision. The IEP team may determine the telehealth service delivery model is not appropriate for some students or some students may not have access to the internet.

3. If the IEP team determines service delivery by telehealth is appropriate, must the IEP be amended to reflect this?

No. The IEP document does not need to be amended for a change of placement because all students are receiving education through remote learning. This is considered an alternate mode of learning, not a change of placement. However, if the IEP team changes the services, then an IEP team meeting must be convened, which may be done by telephone. Any proposed or determined changes to the services, not mode of delivery, must be documented in a Prior Written Notice (PR-01) and sent to the family along with the amended IEP.

telehealth?

In considering telehealth options, it is important to review important resources that explain the Health Insurance and Portability and Accountability Act (HIPAA) and Family Educational Rights and Privacy Act (FERPA) laws and how they may apply to telehealth services, as well as the COVID-19 compliance updates to ensure student and family privacy is protected.

HIPAA may apply to children who receive services from health care providers (including related service providers with professional board licenses). For more information, see [HIPAA Compliance and COVID-19 Coronavirus](#) and [HIPAA Telehealth](#).

FERPA protects the privacy of a student's education records and applies to all public and private educational institutions who receive federal funds for programs, including the IDEA. For more information, see [Protecting Student Privacy – FERPA and the Coronavirus 2019 \(COVID-19\)](#).

5. Do telehealth services require additional parental consent?

No. There are no federal or state requirements for additional consent to provide services via

telehealth. For more information, providers may wish to check with the schools or districts they work with, along with their professional licensure boards.

6. Do IEP related services delivered via telehealth count as IEP minutes delivered?

Yes. Service providers must keep accurate records of attendance or participation of students and continue to document and analyze data as they would do at school. This should include the dates of services, number of minutes of services delivered and a brief description of the services delivered. Progress reporting will be required just as it is when services are delivered in person.

7. What if we cannot provide all the minutes of service required by the IEP using telehealth?

IEP teams will need to determine if a student qualifies for compensatory services.

8. Must HIPAA-compliant platforms be used to deliver telehealth related services?

Not at this time. To help expand the use of telehealth during the national emergency, the Office of Civil Rights temporarily will allow the use of “non-public facing’ remote communication products” to deliver services. Non-public facing remote communication products include, for example, platforms such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, Whatsapp video chat or Skype. Such products also include commonly used texting applications, such as Signal, Jabber, Facebook Messenger, Google Hangouts, Whatsapp or iMessage. The Ohio Department of Education does not endorse any one platform. For more information,

9. Does providing IEP related services via telehealth to a group of students in the same session violate FERPA confidentiality requirements since the transmission is going into homes?

No. FERPA protects the privacy of a student’s personally identifiable information in their education records and applies to all public and private educational institutions that receive federal funds for programs, including the Individuals with Disabilities Education Act (IDEA).

Because FERPA applies to educational records, service providers must take care not to discuss a student’s educational records or allow such records to be visible in a way that other students, parents or other persons could view them. However, providing services to students in groups via telehealth would not be a violation of FERPA unless a student’s education records were discussed or viewed.

Service providers must take care to provide services from a secure location that will not be interrupted by others walking into the room and maintain confidentiality using secure remote access to electronic documentation and records.

10. Can occupational therapy assistants, school psychologist interns, etc. provide services via telehealth?

Yes, subject to the allowances and requirements of the respective professional licensure boards. The Ohio Department of Education requires related service personnel and mental and behavioral health providers to follow the requirements of their respective professional licensure boards. The same requirements apply to services delivered via telehealth that would apply to services delivered in person. For specific questions regarding up-to-date telehealth rules, providers should reach out to their respective professional licensure boards directly.