

National Disability Rights Network 2020-21 School Reopening Principles

School closures due to COVID-19 in the spring of 2020 affected 124,000 public schools, 55.1 million students and their families, and 7.1 million students served under the Individuals with Disabilities Education Act (IDEA). The wave of nationwide school closures saw states, districts and schools quickly pivot to new systems of remote learning and strive to meet the needs of all students with disabilities. The National Disability Rights Network (NDRN) called for collaboration and communication from all stakeholders¹ and celebrated success when appropriate.² Nevertheless, we know that students with disabilities were significantly impacted during school closures as schools struggled to provide appropriate education remotely, and often were unable to replicate, or in some cases even to provide related services.

As we look towards the fall of 2020, the nation as a whole is still affected by COVID-19 with some regions experiencing record numbers of new cases and parents, teachers and students anxiously wondering what the next school year will look like.

The one certainty during this uncertain time is that there can be no one size fits all approach to public education for the 2020-21 school year. Nonetheless, education that meets legal requirements can and must occur -- whether in person, virtually or a hybrid of the two models.

Below are principles, identified by NDRN and offered to the field, which we feel should apply to students educated under IDEA and/or Section 504 of the Rehabilitation Act (Section 504) for the 2020-21 school year.

1. IDEA, Section 504, and Title II of the American with Disabilities Act (ADA) are in full effect.

It is critical that states, districts, and schools know that the responsibility to follow these laws has not diminished during COVID-19.³ The U.S. Department of Education (ED) has been clear that schools must provide students served under IDEA and Section 504 with a free appropriate public education (FAPE) in the least restrictive environment (LRE) as defined by IDEA and Section 504.⁴ NDRN recognizes, consistent with guidance from ED, that the provision of FAPE may look different during COVID-19. However, this does not diminish the ultimate responsibility for implementation of the law by schools, districts, and states.

¹ <https://www.ndrn.org/wp-content/uploads/2020/03/COPAA-NASDSE-NDRN-National-Place-Statement-on-Students-with-Disabilities-During-COVID-19-Final.pdf>

² <https://www.ndrn.org/resource/chief-education-officers-and-protection-and-advocacy-agencies-discuss-successes-in-educating-students-with-disabilities-during-covid-19/>

³ <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>
<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

⁴ <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

2. Planning for Students Placed in Alternative Settings Must be Transparent.

Students housed in juvenile detention facilities, public and private special education schools, psychiatric hospitals, alternative programs, residential treatment facilities, and immigration detention (among others) have the same rights to receive a public education as their peers. School districts have an obligation to meaningfully include these students in back to school planning.

Even if the planning began now, it will take time to complete, as it has for other students. How will the state/district ensure that all children are engaged in school on Day One of the 2020-21 school year? If planning is occurring, but it is not public, it is not subject to transparency and discussion in the same manner as other students. School re-opening plans that do not include planning for all students are incomplete, and plans should not be approved until they include every child. "Everyone on Day One."

3. Clear and consistent communication with parents/guardians is essential.

Under the IDEA and Section 504 parents are rightfully viewed as essential members of a child's Individualized Education Program (IEP) and Section 504 Plan. As states, districts, and schools plan for the 2020-21 school year, parents of students served under IDEA and Section 504 must continue to be considered such. Therefore, districts and schools must:

- A. Provide clear and consistent guidance to parents/guardians about school re-opening options.
- B. Provide clear and consistent guidance about how IDEA/Section 504 services will be provided for the different options, including any proposed changes to the type, location, and frequency of education and related services, or the manner in which they are provided, so that parents may address any concerns before school starts.
- C. Provide clear and consistent guidance about safety precautions provided by schools for in person learning of all types.

4. Schools must be ready to appropriately address the behavioral and emotional needs of students.

All students faced disruptions to their regular routines and many experienced resulting trauma during the spring of 2020. This necessarily impacted both students' educational as well as their emotional lives. As students return to learning in the fall of 2020, students, particularly students with behavioral challenges who resume in person learning, may experience increased service needs to adapt to a changed school environment.

Schools must be prepared to meet any increased behavioral needs and support students in an appropriate, strength based manner grounded in equity. NDRN recommends:

- A. Schools must ensure that any efforts to address behavioral needs use evidence based practices. Schools should not implement policies that lead to criminalization of children,

particularly children of color, through the increased use of school resource officers and other law enforcement entities.

- B. School leaders reject rhetoric that perpetuates stereotypes about returning students that could result in over reaction to behavior, leading to unnecessary restraint, arrest and school removal. IDEA and Section 504 eligible students retain the right to education in the LRE with the provision of appropriate supplementary services and supports, including supports that permit them to meet COVID-19 safety requirements. Students should not be peremptorily placed in more restrictive environments based on a fear that they will not be able to meet the safety requirements.
- C. All school staff should be trained in positive behavior interventions and supports and trauma informed practices, with a particular focus on work with students returning to school after a crisis.⁵
- D. States, districts, and schools must ensure there are ample school counselors, social workers and psychologists available in schools to address any behavioral or emotional needs.
- E. Schools should distribute surveys to parents/guardians to better assess student needs prior to the 2020-21 school year.
- F. Students need to have the skills necessary to return to in person learning when that occurs, and may need supports as well to be successful in a virtual environment. For students who utilize some form of virtual learning, schools must ensure they support parents/guardians of students with behavioral needs, including the provision of respite as necessary. Additionally, schools should provide supports so that children can continue to work on behavioral goals and objectives while outside of the classroom.

5. Schools must follow safety precautions and guidance from the federal Centers for Disease Control and Prevention and their state public health agencies as they consider models for learning for the 2020-21 school year.⁶

NDRN firmly believes that political gamesmanship regarding schools reopening at the federal and state level is completely inappropriate. States, districts and schools must have the safety of all students and staff as the lens through which any school reopening plan is considered, and all decisions must be based on science.

⁵ https://assets-global.website-files.com/5d3725188825e071f1670246/5eece8935e4d8010fea193d9_Returning%20to%20School%20During%20a%20After%20Crisis.pdf

https://www.nctsn.org/sites/default/files/resources/fact-sheet/trauma_informed_school_strategies_during_covid-19.pdf

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/School-Admin-K12-readiness-and-planning-tool.pdf>

6. Schools must take steps to ensure all students, including students with disabilities, are given the opportunity to make up work missed during the 2019-20 school year.

In addition to making sure that students do not fall further behind during the 2020-21 school year, schools must take steps to ensure that students are able to make up the work missed during the 2019-20 school year due to school disruptions caused by COVID-19. Ideally, schools should use a multi-tiered system of supports (MTSS). A general plan must be developed and implemented for all students. It is likely it could take all of the 2020-21 school year to accomplish, but will need to begin as soon as possible after the start of the 2020-21 school year. For students needing additional supports, whether or not due to a disability, those supports must be provided. Finally, for students with disabilities an additional, individualized assessment must be undertaken to determine what, if any, additional services they may need. The need for such services must be discussed at an IEP team meeting and included in the IEP.