

Overview

The COVID-19 national crisis has required unprecedented change within many of our institutional structures. The educational system in this country is being adjusted to rely heavily on distance learning methodologies and other alternative means, to ensure student, educator, and education support professional safety. This raises a number of questions and issues regarding the implementation of the Individuals with Disabilities Education Act (IDEA), including the flexibility needed to deliver students with disabilities a free, appropriate public education and related services — while still ensuring the safety of students, educators, and the community. With that challenge in mind, the following policy principles are presented as a framework to reinforce the development of policy objectives to address the accommodations needed to continue supporting students with disabilities:

Policy Principles related to IDEA and COVID-19

1. NEA supports IDEA as a civil rights entitlement to free, appropriate public education (FAPE) and the procedural safeguards that protect and provide accountability related to that individual entitlement to a student. NEA remains committed to these principles during the current COVID-19 crisis, but acknowledges that the challenges posed by the crisis require temporary flexibility that may not be provided for under current law.
2. NEA supports collaboration between parents, students, and the educational system in addressing these issues of needed flexibility, particularly around the use of distance learning as a mechanism to assist in IEP implementation and evaluation. Parent involvement and agreement is critical to maintaining program integrity and the educational progress of the student.
3. NEA supports the IDEA concerns of educators during the COVID-19 crisis, and intends to work towards collaborative resolution, while protecting the quantitative and qualitative accountability measures that ensure program outcomes.
4. NEA supports the IDEA concerns of students during the COVID-19 crisis. Specialized instructional support needs must continue to be met using innovative and adaptive practices to ensure students with disabilities are receiving the education they are entitled to under IDEA.

Policy Objectives

- Any flexibility afforded to IDEA should: (1) be time-limited to the current pandemic and should revert to the pre-COVID-19 IEP requirements following the national emergency and, (2) have the agreement of parents.
- Congress should grant targeted, specific, time-limited flexibility to address issues related to IDEA to support the continued education of children with disabilities during the crisis — while still ensuring the safety of students, educators, and the community. This is

especially relevant for the provision of related services during stay-at-home and shelter-in-place measures.

- Congress should grant the authority to make emergency amendments to an IEP, with parental agreement, around distance learning during this qualifying national emergency.
- Congress should allow flexibility in timelines for evaluations and assessment during this national emergency so that the IEP developed is able to be successfully executed. Currently, many educators and parents do not have access to the records and information they need to complete the evaluation/assessment of the student within the statutory timeframe.
- Congress should allow flexibility in carrying over unspent maintenance of effort (MOE) dollars to 2020-2021. These funds will be an important support to schools as they attempt to remediate the impact of lost instructional time.
- Congress should reinforce collaborative teamwork between SEA's and LEA's, including parents, educators, medical professionals, and other relevant stakeholders to explore ideas about how to resolve conflicts in a manner that preserves due process rights of students under IDEA and preserves the rights of educators.
- The IEP teams should review (consistent with all civil rights requirements of due process) the IEP requirements under the circumstances of the current pandemic, including
 - That a request to review the IEP by any party: 1) does not create a presumption that any party seeks to undermine any existing rights and protections in the IEP and corresponding law; and 2) that any educator who requests a review of an IEP under these circumstances cannot be terminated or otherwise disciplined for such a request.
 - That the review should prioritize the health, safety and well-being of the students and educators who serve them
 - That the review should explore whether meeting the requirements of an existing IEP would require violating a state's stay at home order or otherwise jeopardize the health and safety of a student or educator.