Presents

KY-SPIN's Tuesday Tips Special Education Tips & Strategies for Back to School during COVID, Guidance & other Updates Webinar
8-18-20

KY-SPIN
(Special Parent Involvement Network)
Parent Training & Information (PTI) Center

Funded by the U.S. Dept. of Education under IDEA since 1988 when Kentucky first received a PTI. KY-SPIN Parent Center provides training, information and support for children and youth with all types of disabilities (birth through 26 years old), their parents, families, and professionals.

We do NOT:
Act as Attorneys

We DO:

♥ Empower Families to Effectively Advocate for their Children

♥ Provide peer support to help families access needed information and resources

♥ Lend a listening ear

Together we can accomplish great things for our children!

None of us have all the answers, we are all working through this pandemic and adjusting as we go.
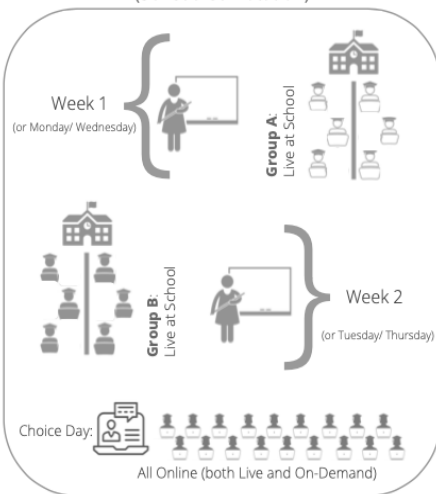
Federal Laws: Individuals with Disabilities Education Act (IDEA), Section 504 and Title II of the ADA & State Law Kentucky Administrative Regulations (KAR) laws/regulations, which includes timelines they set in place, have not changed, **but**……….
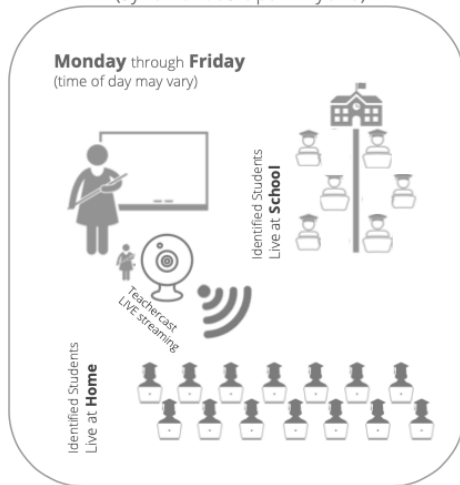the laws did not address what to do in a pandemic.

KDE Releases Guidance on Alternative Learning Strategies for Reopening Schools

Considerations for Alternative Learning Experiences:
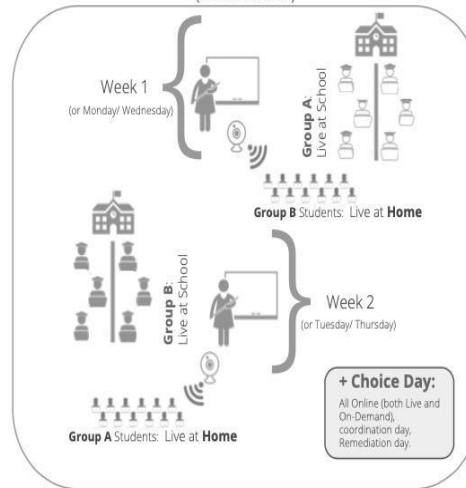

KY Dept of Education: KDE releases guidance on alternative learning strategies for reopening schools Press Release 6/8/20 Document: COVID-19 Considerations for Reopening Schools: Alternative Learning Design Strategies 6/8/20

…Continued

Least Restrictive Environment

Local school districts are planning for a variety of instructional delivery models for the 2020- 2021 school year, including traditional in-person instruction, periods of complete virtual learning through non-traditional instruction (NTI) and days of blended in-person and remote delivery. Regardless of the district's chosen delivery model, schools should be cognizant of the effects social distancing may have on a student's Least Restrictive Environment (LRE). In a small number of cases, long-term remote instruction may have caused a need for the student's LRE to be reviewed by the ARC. Some students may need a more restrictive environment upon their return. Other students may have done well during remote instruction and will need a less restrictive environment upon their return.

Practices such as placing all students with disabilities in the same classroom in response to the pandemic may result in a denial of a FAPE. According to 707 KAR 1:350, Section 1, which outlines the requirements for placement decisions, the district shall ensure that to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled. A child with a disability shall not be removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum. Placement decisions must be made by the ARC and based on the individual needs of students.

It is important to note, an ARC may not be required to determine a change in placement if the district is practicing non-traditional instruction. Because the instructional setting of the regular classroom becomes remote, the extent to which a student participates in the regular education environment does not change. Therefore, it would be considered a change of location, not a change of placement.

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…Continued

**Special Education Questions and Answers**

Question 1
Must students with sensory issues, behavior issues or health concerns wear masks?
If not, is a doctor's directive required or is it an ARC decision?

Answer 1
If a student with a disability presents with a doctor's note referencing the need for a <u>waiver of the face mask requirement</u>, an ARC meeting is not necessary. The school should immediately grant the waiver and begin implementation. <u>Doctor's notes can be written by anyone on the student's medical team who is qualified to make that determination. For example, notes from a physician's assistant or nurse practitioner should be accepted.</u> Schools and ARCs already may have substantial information about the medical issues of children that may cause mask wearing to be problematic. In these cases, an ARC meeting should occur to discuss the information and determine the appropriateness of a face mask. <u>If a waiver is approved by the ARC, it should be documented in the student's IEP and implemented immediately.</u>
In both cases, the student's teachers should be notified of the waiver. There may be additional staff in the building who should also be notified about the waiver to prevent staff from requiring the student to wear a mask. Schools should consider ways to help students identify themselves as having an approved waiver. An example of how to do this includes giving a student a card he or she can carry and produce to staff members when asked to don a mask they are not required to wear.

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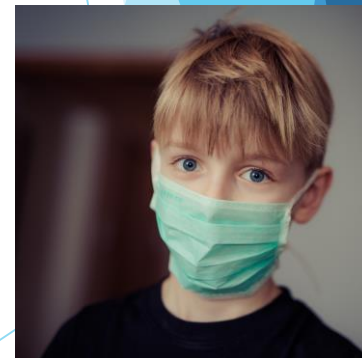
Gov. Beshear Provides Update on COVID-19 8/10/20

School Opening Guidance

Gov. Beshear and administration officials, in consultation with Kentucky teachers and school administrators, on Monday announced new guidance for schools that are planning for the fall semester.

"Our recommendation today is that schools wait to begin in-person classes until Sept. 28," the Governor said. "Yes, that's six weeks from now, but it's also six weeks from what I hope is the peak of this virus, six weeks from the last three weeks where we have been at an all-time high week in and week out, six weeks from a time when we just had a 6% positivity rate. Let's face it, we're trying really hard and we've taken good steps. Masks are working. But we do not have control over this virus. And to send tens of thousands of our kids back into in-person classes when we don't have control of this virus, it's not the right thing to do for these kids, it's not the right thing to do for their faculty and it's not the right thing to do as Governor."

He said the decision was driven by four factors: Kentucky's cases being near a peak, an increase in infection rates among children across the U.S., the experience of school districts in other states and families continuing to travel to hotspots for vacations against the advice of health officials.

"I think what all of the health care specialists said when we talked about reopening, is we need to be looking at a decline. In other words, we need to get our positive rate down," the Governor said. "On top of that, what we're seeing are more outbreaks and more infections in kids. The two hardest things I do every day is read the deaths and the number of kids infected under 5. And it's not just kids under 5. We're having record numbers of children that are infected, and it shows this infection spreads to them when we still don't know the long-term impact. What we do know is children have a harder time social distancing. And we can't put a whole bunch of them in a classroom with a teacher right now. Other states that have tried to open this new school year are now having to close. We don't want to start and stop. That may be more difficult on our children."

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Tip # 1 Communication is the Key to Success

1. Contact your child's school

2. Find out what is the plan for your districts reopening for all students
   - Are there options you can choose?
   - Do you have to complete a form/etc. with your choice?
   - Who will be your child's teachers and how do you get in touch with them?
   - What resources will you need for your child? (such as wifi, access to computer, paper copies of work, etc.)
   - How and when will school provide the resources and access for your child to do the work?

3. Make sure you have a copy of your child's Individualized Education Program (IEP), if you don't request one asap

4. How and when will they be evaluating all children to see where they are educationally at right now?

Tip # 2 Review IEP

1. Create a list of services and supports that are in your child's IEP

2. Communicate with your child's teachers/team to find out how, when and by who these services and supports will be provided based on how your child will be attending school

3. Also as yourself does the Present Levels of Performance in your child's current IEP still give an accurate picture of where they are now?

4. May need to request an IEP/ARC team meeting to develop plan and/or update it

KDE Reopening Considerations for Exceptional Learners and Preschool Students 7-20-20

Question 8
Should ARCs develop a contingency plan?

Answer 8
During this unprecedented time, it may be impossible to predict when and if schools may need to close again to in-person instruction due to a COVID-19 outbreak. ARCs may choose to develop contingency plans to address students' needs during NTI. According to the U.S. Department of Education's "Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak," ARCs may include distance learning plans in a student's IEP that could be implemented during a closure due to COVID-19. In this case the contingency plan may include information regarding the provision of special education and related services through an alternate location or through alternate means.
Developing a contingency plan provides an opportunity for staff and parents to clearly communicate the expectations for NTI and to document how special education and related services will be provided during these unique circumstances. Establishing a contingency plan early minimizes questions that may arise regarding how to implement a student's IEP if changes occur and schools quickly transition to NTI.

Tip # 3 Contingency Plan

Request an ARC/IEP team meeting to develop contingency plan:

Who, What, When, Where and How?

Make sure the plan is detailed, everyone knows/understands plan and everyone involved (including the child) has adequate resources to follow the plan

Tip # 4 Present Levels of Performance in current IEP

1. Does your child's IEP Present Levels of Performance give an accurate picture of their current Academic and Functional Performance?

2. If they don't the IEP/ARC team needs to update them

3. Make a list of what you see is their current Present Levels of Performance

4. Also include in that list ideas to share to assist with those

5. Bring your list to the meeting to share

Free Appropriate Public Education (FAPE)

During Remote Instruction Regardless of the instructional delivery model, local school districts remain responsible for providing a Free Appropriate Public Education (FAPE) to students with disabilities. As a result of a quick transition to remote instruction coupled with the uncertainty of how to safely reopen schools for the 2020-2021 school year, local districts have been, and continue to be, faced with finding creative ways to ensure students with disabilities are being provided a FAPE while also ensuring that the health and safety of all students and staff are top priorities.

As a result of the inability to provide face-to-face instruction, there may be certain special education and related services that are difficult, or even impossible, to provide during times of remote instruction.

When special education and related services are not provided in accordance with the Individual Education Program (IEP), regardless of the reason why, it may result in a denial of FAPE. The remedy for failing to provide FAPE is compensatory education services. <u>The goal of compensatory education services is to place the student in the position he or she would have otherwise been in had there not been a denial of FAPE</u>.

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…Continued [KDE COVID Guidance Compensatory Education and Extended School Year Services 7-20-20](#)

Compensatory Education

Compensatory Education Compensatory education is not defined in the Individuals with Disabilities Education Act (IDEA) or [Kentucky Administrative Regulations on Special Education Programs](#) (August 2008). Compensatory education has been shaped by case law as well as nonregulatory guidance from the United States Department of Education's (USED) Office of Special Education Programs (OSEP).

Compensatory education may be awarded to a student as a result of an IDEA dispute or by the student's Admissions and Release Committee (ARC) as a voluntary remedy for failing to provide a FAPE. When designing compensatory education services owed to a student, the student's ARC, which includes the student's parents and guardians, must make specific decisions regarding the type, location and amount of services to be provided.

Team Meetings

Tip # 5 Compensatory Education

1. Look at your current IEP: The services and supports list you created

2. List what services and supports where not able to be provided last year and into this year due to COVID?

3. Meet with IEP/ARC team to discuss and develop a plan for any compensatory education that will be needed

4. In the meeting decide is this something that can be provided now, when children are back in-person to some extent or when they are back in person 100% of the time

5. Remember compensatory education does not happen, get provided during normal school time they are receiving their current education

[KDE COVID Guidance Compensatory Education and Extended School Year Services 7-20-20](#)

The Sixth Circuit stated that the following would need to be considered in terms of establishing the district's requirement to provide ESY services to the student to attain a FAPE: "tendency to regress, prior regression, ability to recoup lost skills, and progress toward educational goals". In other words, does the student need ESY to receive a FAPE?

Nearly all students regress after summer or extended breaks. Students who qualify for ESY have a likelihood of significant regression and slow recoupment. They take a longer period than usual to recoup skills they have learned. For a student to receive ESY services, the ARC must document evidence the student regressed in his or her progress over a break in instruction and was unable to recoup those skills in a reasonable period when school was in session.

Not all students with disabilities qualify for ESY services. Students who qualify for ESY typically have severe disabilities and have a difficult time learning and retaining IEP skills

Each local school district must ensure that ESY services are available to students with disabilities as necessary to provide a FAPE. As with compensatory education, the ARC is responsible for planning the type, location and amount of services to be provided to each student. Decisions made by the ARC must be made on an individual, case-by-case determination. Local school districts may not limit the provision of ESY services to specific categories of disability or unilaterally limit the type, amount or duration of those services.

The table on the next page illustrates the similarities and differences between compensatory education and ESY.

KDE Reopening Considerations for Exceptional Learners and Preschool Students 7-20-20

Least Restrictive Environment

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Tip # 6 Extended School Year (ESY) Services

1. Has your child lost skills they had?

2. If so list them to discuss in IEP/ARC team meeting to see if ESY services maybe what your child needs

3. Remember Extended School Year Services do not happen during normal school time they are receiving their current education

Tip # 7 Record Keeping

Documentation is Key so that everyone has a clear picture and understanding of Who, What, When, Where and How

Make sure you keep copies of IEP's, even if you update your child's IEP to reflect where they currently are at.

The previous IEP will be important in determining compensatory education for the time it covered during COVID

Create and IEP Binder
KY-SPIN Creating your own IEP Binder Video

KY-SPIN Record Keeping Info Sheet

[KDE releases COVID-19 guidance on tracking participation and small groups for in-person targeted services and orientation 8/17/20 Press Release](#)

COVID-19 Considerations for Reopening Schools Guidance:

- [Welcoming Students for Orientation and Targeted Services 8/17/20](#)
- [Participation Tracking in Infinite Campus 8/17/20](#)
- [Daily Participation and Non-Traditional Instruction (NTI) 7/20/20](#)

[Welcoming Students for Orientation and Targeted Services 8/17/20](#):

Considerations for Special Populations

Depending on your situation, it may be necessary to meet with families of students with special learning needs including English learners and students identified for Gifted and Talented or Special Education services. During your orientation, you should follow the guidance outlined in the [COVID-19 Considerations for Reopening Schools – Exceptional Learners and Preschool Students document](#).

Throughout orientation events, schools should consider ways to demark social distancing requirements including visual reminders, gestures to prompt when social distancing is necessary, and verbal or auditory cues for students with visual impairments. Schools also may consider the use of clear face masks, or face shields in lieu of cloth face coverings, when communicating with students who are Deaf or Hard of Hearing.

Students and families who require additional assistance preparing for the new year may be given opportunities to visit the school for private orientation meetings on a separate schedule from other students.

Welcoming Students for Orientation and Targeted Services 8/17/20

Schools may need to conduct assessments for eligibility and identification of students with suspected disabilities. Assessments should be conducted virtually when possible. However, in some cases, assessments may need to be conducted in person. When in-person assessments are required, schools should schedule a time to meet with the student at the school and must follow the expectations found in the Guidance on Safety Expectations and Best Practices for Kentucky Schools (K-12). In addition, consider the following strategies when conducting in-person assessments with students:
• Test booklets should sit out for at least 24 hours between uses. If possible, lay them out individually rather than in a stack.
• Sanitize any hard surfaces students will touch such as tables, chairs and pencils. This must be done between testing sessions.
• If using keyboards, wipe down keyboards before and after using. Be careful with screens because some sanitizing agents can ruin screens and monitors.
• Students and staff should wash hands before and after testing.

Considerations for Transportation Services
In communities without public transportation, districts may consider running regular routes to help families access in-person activities and receive necessary materials to participate in virtual instruction. Districts are encouraged to follow the established guidance found in the COVID-19 Considerations for Reopening Schools – Pupil Transportation document.

Resources

- Kentucky Department of Education (KDE) [Non-Regulatory Guidance Regarding the Implementation of the Non-Traditional Instruction Program (NTI) for Students with Individual Education Programs (IEPs) During Novel Coronavirus Pandemic](#) {Please review additional non-regulatory guidance previously provided by US ED's Office of Special Education Programs. [ED Non-Regulatory Guidance issued in 2018](#) & [Additional information](#)} (March 11, 2020)

- U.S. Department of Education: [Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak](#) (March 12, 2020)

- U.S. Department of Education: [Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students](#) (March 16, 2020)

- U.S. Department of Education: [OCR Short Webinar on Online Education and Website Accessibility Webinar (Length: 00:07:08)](#) (March 16, 2020)

- Kentucky Department of Education: [KDE's OSEEL Letter to Parents of Students with IEPs During COVID-19](#) (Reference in the letter: [OSEP Letter to Pergament, December 2013](#)) (March 17, 2020)

- US Department of Education: [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#) (March 21, 2020)

- KDE [COVID-19 Governors Emergency Education Relief Fund Guidance for LEAs *May 11, 2020*](#)

- KDE [COVID-19 Considerations for Reopening Schools (KDE) 5-15-20](#)

- [KDE COVID-19 Elementary and Secondary School Emergency Relief Fund Guidance for LEAs 5-18-20](#)

- KDE "[COVID-19 Considerations for Reopening Schools Supporting Student and Staff Wellness](#)" – addresses planning considerations for the social and emotional well-being of students and staff during the transition when schools reopen.

- [KDE COVID-19 Considerations for Reopening Schools Evaluating Students' Academic Readiness 6-1-20](#)

- [KDE COVID-19 Considerations for Reopening Schools Academic Re-entry, Stage One: Drafting an Adjusted Curriculum 6-1-20](#)

- KY Dept of Education: [KDE releases guidance on alternative learning strategies for reopening schools](#) Press Release 6/8/20 Document: [Considerations for Reopening Schools: Alternative Learning Design Strategies 6/8/20](#)

- KY Dept of Education: [KDE issues guidance on how to facilitate conversations about race-based stress and trauma](#) Press Release 6/3/20 Document [KDE Guidance on How Districts Can Facilitate Conversations About Race-based Stress and Trauma 6/3/20](#)

- [KDE's Commissioner's Parent Advisory Committee provides insight on reopening schools](#) Press Release 6/12/20

…..Continued Resources

- **KY Dept of Education**: [KDE releases COVID-19 guidance on class size, libraries](#) Press Release 8/10/20 Guidance Document [KDE: COVID-19 Considerations for Reopening Schools: Class Sizes in Virtual Programs and Courses](#) 8/10/20

- **KY Dept of Education**: [KDE releases COVID-19 reopening guidance on assigning staff in instructional settings](#) 7/28/20 Press Release - Guidance Document: [KDE COVID-19 Considerations for Reopening Schools Flexibility for Assigning Staff in the COVID-19 Instructional Setting 7-24-20](#)

- **KY Dept of Education**: [KDE virtual town hall answers Kentucky teachers' questions about reopening](#) 7/23/20 Press Release - Teachers and staff submitted more than 250 questions in advance, and panelists answered as many as they could that concerned state-level decisions and policy. Questions they ran out of time for (and that are related to state-level decisions and policy) will be answered online on KDE's [COVID-19 FAQ Spreadsheet](#)

- **KY Dept of Education**: [KDE releases new COVID-19 reopening guidance documents on exceptional learners, compensatory education, daily participation for NTI](#) 7/20/20 Press Release
  Guidance Documents:

  - [KDE Reopening Considerations for Exceptional Learners and Preschool Students 7-20-20](#)

  - [KDE Participation Guidance: Daily Participation and Non-Traditional Instruction 7-20-20](#)

  - [KDE 7-20-20 COVID Guidance Compensatory Education and Extended School Year Services](#)

- **KY Dept of Education**: [KDE releases guidance on gauging COVID-19 learning gaps](#) 7/13/20 Press Release

  Guidance Document [KDE Academic Re-entry, Stage Two Meeting Learners' Academic Needs 7-13-20](#)

- **OSEP** COVID-19 Questions & Answers: *Implementation of IDEA Part B and Part C Procedural Safeguards* 6/30/20 OSEP Press Release **Guidance Documents**: [IDEA Part B Procedural Safeguards June 30, 2020](#) & [IDEA Part C Procedural Safeguards June 30, 2020](#)

- **OSEP** COVID-19 Questions & Answers: Implementation of IDEA Parts B and C Dispute Resolution Procedures 6/22/20 (Part B is 3-21 & Part C is Birth-3 years old): [OSEP COVID-19 Questions & Answers: Implementation of IDEA **Parts B** Dispute Resolution Procedures 6-22-20](#) & [OSEP COVID-19 Questions & Answers: Implementation of IDEA **Parts C** Dispute Resolution Procedures 6-22-20](#)

Free WIFI & Phone Services

► [WellCare Safelink Phone Program](): Eligible WellCare members can get a free smartphone, with free text messages, data and minutes each month.

► McDonald's has free wifi that can be accessed from their parking lot for families that do not have internet access.

► Charter Communications (the parent company of Spectrum News) will open its more than half a million wifi hotspots across the country for public use. To enroll in the free broadband and wifi program, call 1-844-488-8395.

"KY-SPIN's Tuesday Tips" webinars
will be every Tuesday at 11:00 am. (EST)
They will include latest information and guidance.
Topics will vary…

Join us every Thursday for additional webinars on a variety of topics!

For most up-to-date information/resources for individuals with disabilities, their families and professionals during COVID-19,
please visit our webpage

We also will have our KY-SPIN eNews that goes out on a regular basis to our listserv.

SIGN UP

Questions??

Questions are the path to learning

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Please complete our evaluation at the end of the webinar.

Thank you!