

# MEMORANDUM

TO: Superintendents, Special Education Directors  
FROM: Agency of Education  
SUBJECT: IDEA Requirements for Educational Placement and Amendments to IEPs  
in the Context of COVID-19  
DATE: March 27, 2020

---

## Background

The Agency of Education's Special Education Team has been asked to address the issue of amendments to Individualized Education Programs (IEPs) generally and in particular, regarding changes to educational placement and provide guidance which is urgently requested by the field.

Local Education Agencies (LEAs) are responding to Governor Scott's executive orders to Stay Home, Stay Safe and the impact of those orders on the delivery of education to students. At this time, with the exception of students in residential facilities, the educational environment for all Vermont students is at home.

Many LEAs are providing educational opportunities using various remote learning strategies; however, many LEAs are concerned about the delivery of special education and related services to students with disabilities in a remote learning context and with complying with IDEA's procedural requirements in the present educational environment where all students are at home.

This memorandum provides guidance on complying with IDEA in a transition to remote learning.

## Amendments to IEPs

In accordance with 34 C.F.R. §300.324(a)(4), the LEA and the parent may agree **not to hold** an IEP Team meeting for the purpose of making changes, and may instead develop a **written document** to amend or modify the child's current IEP. Further, 34 C.F.R. §300.324(a)(6) provides changes to an IEP may be made by **amending the IEP rather than by redrafting the entire IEP**.

AOE interprets these two regulatory provisions to mean that the LEA, with parental agreement, may amend an IEP by creating a separate written document outlining the changes to the IEP, including but not limited to educational placement, mode of delivery of services, frequency, duration and service provider. The LEA is not required to redraft the entire IEP. However, **upon the request of a parent**, the LEA will be required to incorporate the amendments into a revised IEP.

AOE anticipates the majority of parents will be agreeable to amending IEPs in this manner. Parental agreement may be documented in writing by any means which may be documented: email, text message, e-signature if available, a photograph of their signature on a page/printout of the proposed changes; paper copies sent and returned by U.S. mail, etc. As long as the LEA representative or case manager can document the parents' agreement with the IEP amendment, no particular form, format or template is required as long as the changes to the existing IEP's service page are clearly delineated in the document.

If a parent is not in agreement with the LEA's proposed amendment to the IEP as outlined above, LEAs must convene a meeting (virtually or by telephone) to discuss the LEA's proposal and provide a revised IEP using normal amendment procedures by providing prior written notice to the parents.

For those parents who are not reachable by telephone or other electronic means, the LEA must document attempts to reach the parents and may then provide notification of proposed IEP amendments by regular U.S. mail (including a stamped return envelope if possible, depending on central office procedures for staff mailings.)

### **Changes to Education Placement**

"Educational placement" refers to the provision of special education and related services rather than a specific site. See SBE Rule 2364.3(a)(1). Normally, educational placement for purposes of LRE is described in terms of a percentage of access to general education (80%, 40-79%, less than 40%, alternative program, alternative school, therapeutic day school, etc.) And, for early childhood special education (ages 3-5), educational placement for the purposes of LRE is described in terms of access to general education ( at least 50% of their special education services in the regular early childhood program, or at least 50% of their special education services in some other location such as the child's home)

A change of educational placement occurs when there is a change to the special education and related services provided to a student and is unrelated to the *specific site or location* of the educational placement. The educational placement refers to **what kinds of** special education and related services an LEA is providing to a student as opposed to **where** the LEA is providing those services.

As all Vermont students are receiving educational services remotely, only the specific site or location of services has changed. Accordingly, AOE recommends special educators and case managers determine what changes have been made or will need to be made to a student's special education and related services as a result of the move to remote learning and amend the IEP, using the procedures outlined above, hopefully in agreement with the parents. (For example, no in-person para or BI supports, no in-person related services, changes in mode, duration, frequency, etc.) In addition, special educators and case managers must include accommodations, modifications, assistive technology, etc., to enable students with disabilities to access the remote (general education) offerings of the district.