



## Q & A In-Person Instruction and Services Provided by School Staff to Students with Disabilities

November 5, 2020

This question and answer document is developed in response to [Executive Order 20-94](#), which states that school districts and charter schools operating in a distance or hybrid learning model that are providing in-person services in accordance with public health guidelines must prioritize providing in-person instruction and services to students with disabilities whose individualized education program (IEP) or individualized family service plan calls for intensive services that cannot be provided in a distance learning model.

This document was also developed in response to Minnesota Department of Health (MDH), [Guidance for Providing Support to Students in Their Homes](#), that outlines how school district and charter school staff meet individual student needs for in-person, in-home services for students with disabilities who have an IEP or Individual Family Service Plan (IFSP), ages birth to 21 years, while also following school and community public health efforts to stop the spread of COVID-19.

Nothing in this guidance should be construed to encourage or require school staff, students, or families in at-risk categories to act inconsistently with public health recommendations or the advice of their doctors. This guidance applies to students in hybrid and distance learning models, including students whose families have chosen distance learning despite the school district or charter school being in hybrid or full in-person instruction.

**Question 1:** How does a school district and charter school determine the amount and type of in-person instruction and services to provide to a student with a disability?

**Answer:** Before a school district or charter school offers in-home special education services from school staff, the school district or charter school must determine, using county, community, and school public health data, whether it is safe for staff to be providing special education services in student's homes and whether it has the staff capacity to provide special education services in homes. If a school district or charter school determines it is not safe to provide in-home special education services or the school district or charter school does not have the staff capacity to provide in-home services, the school district or charter school should not send staff into students' homes.

If a school district or charter school determines it is able to provide in-home special education services from school staff, the student's IEP or IFSP team, including the parent, are responsible for determining the amount and type of in-person instruction and services the student receives, during the school day, in order to address the student's anticipated needs to ensure the student receives a free appropriate public education (FAPE). See 34 C.F.R. §§ 300.1010 and 300.320(b). The services provided by school district or charter school staff along with the frequency, location and duration of services should be incorporated into the student's IEP or IFSP,

Individualized Distance Learning Program (IDL), or contingency learning plan and aligned with the district or charter school's Safe Learning Plan. See 34 C.F.R. § 300.320(a). The student's IEP or IFSP team should determine if in-person instruction and services at a school site, or in-person instruction and services at the student's home, are appropriate based on the student's individual needs to ensure the provision of FAPE and based on the ability to ensure compliance with public health mandates and the individual student and family health situation.

**Question 2:** How does a school district and charter school ensure the safe provision of in-person instruction and services to students with disabilities in school sites?

**Answer:** When school district and charter school staff provide in-person instruction and services to a student with a disability at the school site, the school district and charter school must follow the guidance outlined in MDH [2020-21 Planning Guide for Schools](#), the [Safe Learning Plan for the 2020-21 School Year](#) and MDH [Guidance for Delivering Direct Student Support Services](#).

**Question 3:** How does a school district and charter school ensure the safe provision of in-person instruction and services to students with disabilities in the student's home?

**Answer:** When school district and charter school staff provide in-person instruction and services to a student with a disability in the student's home, the school district and charter school must follow the guidance outlined in the MDH, [Guidance for Providing Support to Students in Their Homes](#), and have access to needed face masks and other personal protective equipment (PPE). This guidance outlines safety procedures to follow before the visit, during the visit, and after the visit. In the event, that a family member elects not to wear a face covering, and the family member does not have a developmental, medical, or behavioral health condition that makes them unable to tolerate a face covering, district staff would not be required to provide in-home services. If a family member does not have the PPE needed a district could choose to provide this PPE but it is not required.