



SPECIAL EDUCATION UPDATE: EXECUTIVE ORDER 64

New Hampshire Department of
Education
Bureau of Student Support
Office of Special Education
August 20, 2020



DISCUSSION TOPICS

- Executive Order 64

EXECUTIVE ORDER 64:

WHEREAS, in a report to Congress dated April 27, 2020, the US Department of Education indicated that it would not request waiver authority for any of the core tenets of the IDEA or Section 504 of the Rehabilitation Act of 1973, most notably a free appropriate public education (FAPE) in the least restrictive environment (LRE);

As we have discussed, OSEP has not provided any waivers in regards to FAPE or LRE, in light of that the Governor felt he needed to address these areas as we head into a new school year still in the midst of a pandemic

EXECUTIVE ORDER 64:

School districts are required adhere to all state and federal special education law requirements, including without limitation the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, in the delivery of instruction and support services pursuant to any offered instructional model, including without limitation, traditional instruction, distance learning, and hybrid models, consistent with US Department of Education Guidance. **In fulfilling their obligations pursuant to Ed 1100, et seq., school districts who have selected a remote instructional model for their general education population shall not exclude in-person services from consideration for students with disabilities. In-person services should be provided if such services are necessitated by the student's individualized needs and consistent with the health and safety needs of the child, child's teachers, and child's family.**

EXECUTIVE ORDER 64: FIRST PART

In fulfilling their obligations pursuant to Ed 1100, et seq., school districts who have selected a remote instructional model for their general education population shall not exclude in-person services from consideration for students with disabilities.

If your school district has chosen a remote instruction model or hybrid model that includes remote instruction, you cannot unilaterally determine that special education students will not receive in person services.

Each students needs **must** be considered individually.

EXECUTIVE ORDER 64: SECOND PART

In-person services should be provided if such services are necessitated by the student's individualized needs and consistent with the health and safety needs of the child, child's teachers, and child's family.

Determinations for remote or in person instruction need to be made on an individualized basis as determined by the student's IEP and their team. When looking at each student's needs the district will also need to consider any health and safety needs related to the child, the teachers they work with and their family members at home.

KEY TAKEAWAYS:

- Focus on individualized needs
- Consider health and safety factors
- Consider all options in determining how services will be provided
 - What can be provided for the student in each of the models: remote, in-person and hybrid that best meets their needs
 - Do not limit decisions around options for students
- Compensatory education is a last resort option, if you are unable to provide FAPE. It **cannot** serve as a substitute for providing services to students
- Service delivery for the new school year **cannot** be as it was in the spring, it needs to be planned and thoughtful with a focus on individualized needs



QUESTIONS:

What questions do you have?

Are We Doing
What is BEST
for STUDENTS?



I {heart} Recess