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Oregon's Extended School Closure Special Education Guidance

FREQUENTLY ASKED QUESTIONS:
REGARDING SCHOOL SPEECH-LANGUAGE
PATHOLOGY TELEHEALTH



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Introduction

The Oregon Department of Education, in coordination with the Oregon Board of Examiners for Speech-Language Pathology and Audiology, is providing this FAQ in response to questions from school districts related to SLP service provision via telehealth. The scope of practice for Speech-Language Pathologists is defined by the Board of Examiners for Speech-Language Pathology and Audiology. Nothing in this document should be interpreted as guidance that SLPs are permitted to operate outside of their appropriate scope of practice. This document is meant to be a resource in combination with other guidance and resources on ODE's [COVID-19 FAQ and resource page](#).

School Speech Language Pathology Telehealth FAQs

1. Is a district and/or school program required to provide FAPE to students who experience disabilities as part of "Distance Learning for All?"

As of April 13, 2020, all Oregon school districts will begin offering Distance Learning for all students. As such, the school program must ensure that students who experience disabilities have equal access to the same opportunities available to the general student population, including the provision of FAPE. (34 CFR §§ 104.4, 104.33 (Section 504) and 28 CFR § 35.130 (Title II of the ADA)). SEAs, LEAs, schools, and ECSE programs must ensure that, to the greatest extent possible, each student who experiences a disability can be provided the special education and related services identified in the student's Individualized Education Program (IEP)/ Individualized Family Service Plan (IFSP) developed under IDEA, or a plan developed under Section 504. (34 CFR §§ 300.101 and 300.201 (IDEA), and 34 CFR § 104.33 (Section 504))." However, the Department understands there may be exceptional circumstances that could affect how a particular service is provided.

Once districts are providing Distance Learning for All, school districts and/or school programs must make every effort to provide special education and related services to the student in accordance with the student's IEP, IFSP, or, for students entitled to FAPE under Section 504, consistent with a plan developed to meet the requirements of Section 504. While the services in a student's IEP, IFSP, or 504 Plan must be delivered, these plans do not dictate the methodology for delivering the services.

The Department also notes that general education for all students -- including those who experience disability -- has fundamentally changed with the shift to Distance Learning for All. Therefore, IEPs will need to be reviewed in light of the district's Distance Learning for All plan to determine how services can be provided to ensure FAPE for each student. Districts will then need to provide those services to the extent possible; these services will look different in this new context of distance learning. Services will not look the same as they do when students attend school. Teams should consider the definition of specially designed instruction and related services, in the context of the district's Extended School Closure Guidance plan.

“Specially Designed Instruction” (SDI) means adapting as appropriate to the needs of each student, the content, methodology or delivery of instruction for the following purposes:

- (1) To address the unique needs of the student that result from the student’s disability; and
- (2) To ensure access of any student experiencing a disability to the general curriculum in this instance, the district’s Extended School Closure Guidance plan, so that the student can meet the educational standards within the jurisdiction of the agency that apply to all children.

Related services should be considered in the context of what specially designed instruction (special education services) means within the district’s Distance Learning for All Plan. Related services are developmental, corrective and supportive services required to assist a child, who has been identified as a child experiencing a disability, to benefit from special education services.

Supplementary aids and services, program modifications, and supports for school personnel should be considered in the context of “to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate” (in this instance to participate in the district’s Continuous Learning Plan with their nondisabled peers).

If a student’s specially designed instruction looks different due to the shift to Distance Learning for All, logic dictates that the related services that allow a student to benefit from that SDI may also look different. These decisions are inherently individualized. Therefore, once the regular school session resumes, IEP/IFSP Teams and, as appropriate to an individual student who experiences a disability, the personnel responsible for ensuring FAPE to a student for the purposes of Section 504, should plan to make individualized determinations as to whether compensatory services are needed to make up for any skills that may have been lost because of an extended school closure.

For further detail refer to:

- [Frequently Asked Questions Regarding Special Education in Light of the Coronavirus \(COVID-19\) Outbreak](#)
- [Distance Learning For All: Ensuring Care, Connection and Continuity Of Learning For Students Who Experience Disability](#)

2. Can Speech Language Pathologists provide Telehealth (or telepractice) services in a school setting?

Yes. The Oregon Board of Examiners for Speech-Language Pathology and Audiology allows for telepractice delivery of services. The Board defines telepractice as:

“The application of telecommunications technology to delivery of professional services at a distance for assessment, intervention, and/or consultation. “Telepractice” means, but is not limited to, telehealth, telespeech, teleSLP, telehear, telerehab, teletherapy, teleswallow, teleaudiology when used separately or together.” [\(OAR 335-005-0010\)](#)

In addition, Telehealth services provided by a licensed Speech Language Pathologist (SLP), Speech Language Pathologist Assistant (SLPA) or Audiologist must follow requirements outlined in [OAR 335-005-0016](#). They include requirements that:

- Services delivered via telehealth are equivalent to the quality of services delivered face-to-face
- The Telepractitioner assesses the client's candidacy for telepractice.
- Telepractice services must conform to professional standards including, but not limited to, ethical practice, scope of practice, professional policy documents, and other relevant federal, state, and institutional policies and requirements.
- Telepractitioners have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training, and/or experience.
- Audio and video quality shall be sufficient to deliver services that are equivalent to in-person service delivery.
- Prior to the initiation of telehealth services, a Licensee shall obtain the patient/client and if applicable, their parent or guardian's consent to receive the services via telepractice.
- Telepractitioners shall comply with all laws, rules, and regulations governing the maintenance of client records, including but not limited to, HIPAA and FERPA are maintained.
- Telepractice services may not be provided by correspondence only—e.g., mail, e-mail, fax—although these may be used in connection with telepractice.
- When providing services via telepractice, the Licensee shall have procedures in place to address remote medical or clinical emergencies at the patient/client's location

3. Can I use Skype, Zoom, or Google to provide SLP telehealth services?

It depends. There are multiple factors to consider when using telehealth technology. The Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) is responsible for enforcing certain regulations issued under the Health Insurance Portability and Accountability Act (HIPAA). Telehealth services are subject to HIPAA requirements for security, transmission, and confidentiality. Compliance with HIPAA requires that covered entities have appropriate administrative, physical, and technical safeguards in place and that they have reasonably implemented those safeguards. See the [HIPAA Security Series 101](#) for more information.

However, during the COVID-19 national emergency, which also constitutes a nationwide public health emergency, OCR will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. Covered entities seeking to use audio or video communication tech to reach patients where they live can use any non-public facing remote communication product that is available to communicate with patients.

To that end, OCR will temporarily allow providers to use applications such as Apple FaceTime, Facebook Messenger video chat, Google Hangouts video or Skype. The agency also specified that Facebook Live, Twitch, TikTok, and other public-facing video communication **should not** be used in the provision of telehealth.

Despite this temporary relaxation of rules, OCR does note that healthcare providers should notify parents that such third-party apps may pose privacy risk. In addition, providers should enable all available encryption and privacy modes when using such applications.

See [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#) for the complete release. OCR has also published an [FAQ](#) related to this change. This change is expected to be temporary.

4. Can a Speech-Language Pathology Assistant (SLPA) provide services via telepractice?

Yes, as long as the SLP of record for the student/patient/client is the official supervisor of the SLPA, and has determined that the specific student/patient/client is suitable for telepractice services by that SLPA. That professional determination must be documented in the individual's record. All other requirements for SLPA supervision must be met. SLPA Rules can be reviewed on the [ODE website](#).

Please also see Oregon Board of Examiners for Speech-Language Pathology and Audiology [FAQ Dated 3/24/2020](#) for additional information.

5. Can a clinical fellow holding the Oregon Conditional Speech-Language Pathology license provide services via telepractice? In addition, can their supervising SLP provide that supervision via telepractice?

Clinical fellowships must meet standards of the American Speech-Language-Hearing Association (ASHA), which require clinical fellows to provide services on-site. They also require the SLP supervisor to supervise/rate the CF while physically on-site. However, due to COVID-19, ASHA is providing a temporary allowance in some of the standards related to telepractice and telesupervision from March 16 through April 30, 2020. Additional details can be found [on their website](#). Please note that all other Oregon Board rules for supervising clinical fellows still apply. These rules [can be found online](#).

See Oregon Board of Examiners for Speech-Language Pathology and Audiology [FAQ Dated 3/24/2020](#).

6. Can I bill Medicaid for school health services (SLP, OT, RN, PT) provided through telehealth?

Yes. A school district may bill Medicaid for health services provided to a student pursuant to their IEP or IFSP delivered in person or via telehealth when these conditions are met:

- a. A school district must be an enrolled as a School Medical provider

- b. Student must be an actively enrolled Medicaid recipient
- c. Service must be identified on the student's IEP/IFSP
- d. Must obtain informed written consent to access students benefits
- e. Health service delivery must be aligned with Licensing Board requirements, including documentation.
 - i. Documentation must include the fact the service was provided via telehealth.

7. Will the ODE or the Oregon Health Authority (OHA) provide additional guidance related to school telehealth services?

Yes. ODE is working with OHA, Oregon Medical Licensing Boards, and telehealth stakeholder groups to develop comprehensive guidance related school telehealth services. The OHA is also developing telehealth rules specific to School Based Health Services (School Medicaid).

8. What resources are available to support implementation of telehealth in my district?

- [Northwest Regional Telehealth Resource Center](#)
- [Roadmap for Action Advancing the Adoption of Telehealth in Child Care Centers and Schools to Promote Children's Health and Well-Being](#)
- [The National Consortium of Telehealth Resource Centers](#)

9. Additional Resources:

- [Joint Guidance on the Application of the Family Educational Rights and Privacy Act \(FERPA\) and the Health Insurance Portability Act of 1996 \(HIPAA\) To Student Records \(December 2019 Update\)](#)
- [American Speech-Language-Hearing Association \(ASHA\) Resources on Telehealth](#)
- [Chapter 335 of the Oregon Administrative Rules - Board of Examiners for Speech-Language Pathology and Audiology](#)

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