

March 27, 2020

Delivery of School Psychological Services in New Hampshire During COVID-19 School Closures

NHASP Ethics Committee Members:
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Dear Colleagues,

As a result of NH Governor Sununu's executive order 2020-04, which mandated school closure on 03/13/2020 due to COVID-19, the landscape of public education has quickly changed overnight. Over the past few weeks, school communities around NH have taken unprecedented steps towards moving to a remote learning model. This shift has undoubtedly created unique challenges for the school psychology profession as we try to serve children and their families in an ethical, responsible manner.

The New Hampshire Association of School Psychologists (NHASP) understands that many of you have questions regarding your responsibilities as it pertains to IDEA and Section 504 mandates. As these are legal/regulatory questions that are subject to both federal and state level mandates, NHASP cannot offer specific guidance on these topics at this time. We are also aware that many professionals may receive directives to engage in virtual service delivery while schools are closed due to COVID-19.

It is our hope that the following guidance may help to relieve a degree of uncertainty or anxiousness when considering engaging in remote service delivery. There are also a number of tips and resources included that you may want to reference on issues of service delivery while schools remain closed. Above all, NHASP appreciates all that you are doing to support students, families, schools, and your local communities. Remember, be mindful of taking care of yourself and your families during this situation. If NHASP can be of any further assistance, please do not hesitate to reach out.

Executive Summary:

- Recognize that there will not be a “one size fits all” solution to the various situations practitioners face.
- From the National Association of School Psychologists (NASP)... “The uniqueness of this situation has triggered a need for flexibility. Focus on delivering the most appropriate reliable and valid services that you can, given the circumstances.”
- For students with IEPs, options include: (a) remote learning; (b) visiting school in “small cohorts” of 1-5 students; and (c) compensatory education once schools reopen. Per Governor Sununu's Executive Order 17, students are no longer permitted to enter school buildings.
- NASP Applicable Principles of Professional Ethics to consider during COVID-19 school closure:
 - Principle I: Respect the dignity and rights of all persons
 - Principle II: Professional Competence & Responsibility
 - Principle II.1. Respect for Law and the Relationship of Law and Ethics

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- Principle II.3. Responsible Assessment & Intervention Practices; Standard II.3.1; Standard II.3.2; Standard II.3.3; Standard II.3.7 (This is applicable to initial evaluations and reevaluations)
 - Principle III: Honesty and integrity in professional relationships
 - Principle IV: Responsibility to schools, families, communities, the profession, and society
- American Psychological Association (APA) Applicable Ethical Principles of Psychologists and Code of Conduct to consider during COVID-19 school closure:
 - Ethical Standard: Boundaries of Competence 2.01
 - Ethical Standard: Providing Services in Emergencies 2.02
 - Ethical Standard: Avoiding Harm Standard 3.04
- If you are feeling pressure to engage in behaviors that are contrary to ethical mandates, consider utilizing the 7-step problem-solving model from Armistead, Williams, and Jacob (2011) included in this document.

Federal Guidance

The following information is relevant to our work in schools and has been gathered from federal documents, distributed from March 16, 2020 through March 23, 2020. For the most up to date information related to COVID-19, go to [U.S. Dept. of Education](https://www.ed.gov/).

“School officials have an obligation to avoid discrimination on the basis of disability under Title II and Section 504, while cooperating with public health authorities to ensure that students with disabilities have access to the school’s education program.”

“If a student who has an individualized education program (IEP) through the Individuals with Disabilities Education Act, or is receiving services under Section 504, is required or advised to stay home by public health authorities or school officials for an extended period of time because of COVID-19, provision should be made to maintain education services.”

“During such absences, if the school is open and serving other students, the school must ensure that the student continues to receive a free appropriate public education (FAPE), consistent with protecting the health and safety of the student and those providing that education to the student. If feasible, the student’s IEP Team, or the personnel responsible for ensuring FAPE to a student for the purposes of Section 504, can be utilized to assist with the effort to determine if some, or all, of the identified services can be provided through alternate or additional methods.”

“Additionally, IEP Teams are not required to meet in person while schools are closed. If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student’s parent or legal guardian consents. These same principles apply to similar activities conducted by appropriate personnel for a student with a disability who has a plan developed under Section 504, or who is being evaluated under Section 504.”

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NHASP Commentary:

As with all evaluations for special education, decisions should be based on a comprehensive evaluation. If relevant assessment data cannot be obtained during school closures, it would be appropriate for the team to defer eligibility decisions until school buildings are reopened and normal operations resume.

New Hampshire State Guidance

As it relates to students receiving face-to-face instruction to meet the needs of their IEP the following guidance was provided by the NH Department of Education - Questions from the Field (03/26/2020).

Remote Instruction – instruction is received either videoconferencing, teleconferencing or in another form determined by your district for students. This also includes low tech options for students if deemed appropriate (packets of work, etc.).

Remote Services – Services provided to small cohorts of students in the school building. With smaller numbers we are decreasing the risk while providing students with their special education and related services.

Compensatory Services – if your team can document that it has made a reasonable effort to provide service with one of the above methods or a combination of the two, once you are physically back in session, the team would review what services were missed on a student by student basis, and what compensatory services each student requires.

However, as of 3/26/20, per Governor Sununu’s stay-at-home order (Executive Order 17), students will not be able to go to school for services or face-to-face evaluations.

Evaluations and Timelines

The following information was distributed on March 26, 2020 from the NH Department of Education – Questions from the Field document.

“At this time, the NHDOE has not received any indication from the USDOE that any of the timelines associated with the special education process may be waived or otherwise relaxed. Districts will still need to follow the special education process with respect to evaluations in accordance with Ed 1107.01. We would suggest utilizing audio or video conferencing to hold meetings and at this time following the Remote Services guidance the Department has shared which allows individual or small group services to be provided at schools to meet the requirements for evaluations as well as services.

As a reminder, the following continues to apply with respect to evaluation timelines:

- For initial evaluations, the evaluation process, as defined in Ed 1102.02(n), shall be completed within 60 days after receipt of parental consent to evaluate.
- For reevaluations, the evaluation process as defined in Ed 1102.02(n) shall be completed within 60 days after the receipt of parental consent to evaluate, or at the conclusion of any extension provided in Ed 1107.01(e).

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- Upon written consent of the parties, the 60 day time limit required by Ed 1107.01(d) may be extended by a specific number of days, not to exceed 30 days.

The following exceptions still apply, in accordance with 34 CFR 300.301 for initial evaluations: (1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or

(2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child’s previous public agency as to whether the child is a child with a disability under §300.8.”

Reevaluations: IEP teams may utilize existing data including record review, and progress monitoring. RTI with available data and data from interventions can be used to make decisions. It is permissible for school psychologists to make recommendations based solely on a review of existing records. However, they should utilize a representative sample of records and explain the basis for, and the limitations of, their recommendations. *Please refer to NASP Standard II.3.7.*

Professional Guidance

The National Association of School Psychologists (NASP) has provided guidance for the delivery of special education services, and for school psychologists in particular, who find themselves working in alternative instruction formats during this period of national emergency. NASP urges school psychologists to examine requests for services “through an ethical lens” (NASP, 2020). [*Virtual Service Delivery in Response to COVID-19 Disruptions*](#)

We must consider our competencies and the best interests of the students (Standard II: Professional Competence and Responsibility). This applies to completing evaluations remotely, using platforms that are specifically designed for that purpose. Often those assessments require specific technology and trained human support. If those standardized procedures cannot be followed, the validity and reliability of the data will be compromised. In addition, evaluating children and youth during a time of anxiety poses further issues related to validity of results (NASP, 2020).

Recommended Practices for Preventing and Resisting Administrative Pressure

If as a practitioner you are feeling pressure to engage in behaviors that are contrary to the ethical mandates of the profession, NHASP encourages utilizing the problem-solving model in Armistead, Williams, and Jacob (2011). It includes seven steps:

1. Describe the problem situation.
2. Define the potential ethical–legal issues involved.
3. Consult available ethical and legal guidelines.
4. Confer with supervisors and colleagues.
5. Evaluate the rights, responsibilities, and welfare of all affected parties.
6. Consider alternative solutions and the likely consequences of each.
7. Elect a course of action and assume responsibility for this decision.

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NASP Top 10 Key Messages for Providing School Psychological Services during COVID-19

1. Let the NASP Practice Model be your guide. Consider how your telehealth work today can support prevention, evaluation, and intervention services for tomorrow.
2. This is an opportunity for you to demonstrate your value beyond what they already know about you.
3. Be thoughtful about your virtual environment.
4. Technology offers ways that you can connect with your colleagues, school administrators, parents and students. Reach out and touch someone!
5. Prioritize student needs; weigh risks and benefits of services; and/or consider compensatory services as needed.
6. Communicate and coordinate regularly with colleagues, teachers, parents and your students.
7. Use a legal and ethical decision-making model to guide your work.
8. Consider your skills and seek out related professional development as needed.
9. Utilize NASP and external resources in supporting the work of your school community.
10. Internship and practicum students should work closely with your graduate educators and site supervisors to stay engaged with students and teachers.

COVID-19 Related Resources

Telehealth Service Delivery Related Webinars:

NASP Ask the Experts Web Series

[Wading through a Sea of Ambiguity: Charting a Course for Special Education Services During a Pandemic](#)

[When One Door Closes and Another Opens: School Psychologists Providing Telehealth Services](#)

[Legal and Ethical Considerations for Remote School Psychological Services](#)

APA Telepsychology Best Practice 101

The Telepsychology Best Practices 101 training series is an introduction to the ins and outs of real-world telepsychology.

[Telepsychology Best Practice 101 Series](#)

PESI

[Digital Seminar - Telehealth for Mental Health Professionals: 2-Day Distance Therapy Training](#)

Use Promo Code: TELEFREE

NASP Resources:

NASP Principles of Professional Ethics (2010) <https://www.nasponline.org/standards-and-certification/professional-ethics>

NASP Health Crisis Resources <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/health-crisis-resources>

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NASP Virtual Service Delivery in Response to COVID-19 Disruptions <https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/health-crisis-resources/virtual-service-delivery-in-response-to-covid-19-disruptions>

NASP Guidance for the Delivery of School Psychological Telehealth Services
[http://www.nasponline.org/assets/documents/Guidance_Telehealth_Virtual_Service_%20Delivery_Final%20\(2\).pdf](http://www.nasponline.org/assets/documents/Guidance_Telehealth_Virtual_Service_%20Delivery_Final%20(2).pdf)

NASP USDOE Guidance for IDEA Service Delivery FAQ for School Psychologists
<https://www.nasponline.org/resources-and-publications/resources-and-podcasts/school-climate-safety-and-crisis/health-crisis-resources/usdoe-guidance-for-idea-service-delivery-faq-for-school-psychologists>

External Resources

American Psychological Association (APA) Ethical Principles of Psychologists and Code of Conduct
<https://www.apa.org/ethics/code/>

Dr. Kirby Wycoff's Library of Psychology, Trauma, Education and Public Health Podcasts / Resources / Materials
https://docs.google.com/spreadsheets/d/1frXQ5z2NfKp3EYFV8JZml8N7_VfU_e4TDqxB6zGPnI0/edit?fbclid=IwAR3xKqBRjABczT3PSEhf52awbr2HBGXf6qYdh7A33o8jHzszhuJ3KrDDdxA#gid=0

NH Department of Education COVID-19 Resources for Schools
<https://www.education.nh.gov/who-we-are/commissioner/covid-19>

Perry Zirkel, Special Supplement: COVID-19 and K-12 Students with Disabilities: Initial Guidance
<https://perryzirkel.com/2020/03/20/special-supplement-covid-19-and-k-12-students-with-disabilities-initial-guidance/>

US Department of Education COVID-19 Information and Resources for Schools and School Personnel.
<https://www.ed.gov/coronavirus>

US Department of Education: FERPA and Virtual Learning
<https://studentprivacy.ed.gov/resources/ferpa-and-virtual-learning>

US Department of Education, Office of Civil Rights: FACT SHEET: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students
<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>

US Department of Health and Human Services: Notice of Enforcement Discretion for Telehealth Remote Communications During COVID-19 Public Health Emergency
<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

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Resources

- Armistead, L., Williams, B. B., & Jacob, S. (2011). *Professional ethics for school psychologists: A problem-solving model casebook* (2nd ed.). National Association of School Psychologists.
- Edelblut, F. (March 13, 2020). *Commissioner Edelblut updates schools on COVID-19 response*. Retrieved from N.H. Department of Education website:
<https://www.education.nh.gov/news/commissioner-edelblut-updates-schools-covid-19-response>
- Jacob, S., Decker, D. M., & Lugg, E. T. (2016). *Ethics and law for school psychologists (7th ed.)*. New Jersey: John Wiley & Sons, Inc.
- National Association of School Psychologists. (March, 2020). *Virtual service delivery in response to COVID-19 disruptions*. [handout]. [Virtual Service Delivery in Response to COVID-19 Disruptions](#)
- U.S. Department of Education. (2020). *Questions and answers on providing services to children with disabilities during the Coronavirus disease 2019 outbreak*.
<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>
- U.S. Department of Education, Office of Civil Rights. (March 16, 2020). *Fact sheet: Addressing the risk of COVID-19 in schools while protecting the civil rights of students*.<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>
- U.S. Department of Education, Office of Civil Rights. (March 21, 2020). *Supplemental fact sheet addressing the risk of COVID-19 in preschool, elementary and secondary schools while serving children with disabilities*.
https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf?utm_content&utm_medium=email&utm_name&utm_source=go_vdelivery&utm_term&fbclid=IwAR3wANwN9w3kQ0ILm55cBhjuS_nc17BJqW0VCDz8jDfbfUos