



'HOW I ADVISE MY CLIENTS': How should a district respond if parents refuse to let their child return to in-person learning?

Districts must promote meaningful parental participation in the IEP development process, as parents are mandatory members of the IEP team. [34 CFR 300.321](#) (a)(1).

But what if parents show reluctance for their child with a disability to return to the school building during a surge in COVID-19 cases, despite schools being open? Should a district explore the parents' concerns? Should a district revisit the child's IEP?

Special Ed Connection® asked these and other questions to two experts in the field. Consider their responses, edited for length and clarity:

□ **Pete Maher, school attorney, Shipman & Goodwin LLP, Hartford, Conn.:**

Some parents may express concern about returning their child with disabilities back to in-person learning. A school district's response may be dictated in part by state or local laws and guidance on the subject, but it should always take a collaborative approach, when possible, with parents. While each case is different, school district leaders may wish to consider the following:

✓ **Stay current.** Always review up-to-date state and local laws and guidance regarding whether remote learning is an option for students and in what circumstances. Different states and localities have taken different approaches. For example, during SY 2020-21, Connecticut permitted all parents to voluntarily opt into remote learning for their children regardless of whether a school district was open for in-person learning. In contrast, for SY 2021-22, Connecticut currently permits, but does not require, school districts to develop procedures for offering remote learning in limited, enumerated circumstances.

✓ **Discuss safety protocols.** Educate parents about the mitigation strategies that are in effect at their child's school. Parents may be nervous about returning their child to school, and it may be helpful to assist them in understanding the steps schools are taking.

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✓ **Consider medical need.** If parents claim that their child cannot return to in-person learning because of a medical reason, consider whether certain procedures are applicable. For example, medical documentation may be required to substantiate a need for homebound instruction. It is also often necessary to seek parental consent to speak with the child's treating physician to discuss what existing or additional individualized mitigation strategies may be appropriate to allow the student to safely return to school.

✓ **Convene an IEP team meeting.** If parents believe exemption from in-person learning is required for their child with a disability to receive FAPE, it may be necessary to convene an IEP team meeting to determine whether FAPE can be provided in school with certain modifications or accommodations or other revisions to the child's IEP. The meeting offers another opportunity to discuss with parents steps the school can take to help the child learn safely in person. These could include, for example, behavioral instruction in tolerating mask-wearing, increased mask breaks, and increased physical distancing. In cases where the IEP team refuses a parent's request for remote learning or in-home services through the IEP process, the district must provide the parents with prior written notice.

☐ **Wayne Stewart, school attorney, Hammonds, Sills, Adkins, Guice, Noah & Perkins LLP, Baton Rouge, La.:**

A multitude of reasons exist for why parents of a student with a disability may be hesitant or resistant to send their child back to school after (another) pandemic-related reopening of schools to in-person learning. Below are some issues to consider before trying to change their mind:

• **Be sensitive to more than educational matters.** It is beyond doubt that the pandemic has affected all families and individuals in multiple ways. The impacts may go further than educational. The loss of life, physical connections, and economic opportunities are only a few. What may go unspoken is, "I don't want to lose any more by sending my child to school." Share with parents what mental health resources the district can offer. Genuine empathy could go a long way.

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- **Address confusion regarding what's mandated and what's optional.** Parents are frequently hit with information from public and private sources that may be unclear, apparently contradictory, and downright confusing. Directives from governmental sources swing from restrictive to lenient to restrictive again as virus variants appear and take hold. Some parents may want to keep their kids home until things "settle." Ensure they have updated information to cut through the confusion.
- **Acknowledge consistency of virtual versus in-person learning.** Some parents may opt out of FAPE via in-person learning in favor of the consistency of full-time virtual instruction. In other words, some parents may prefer fewer services, such as those that cannot realistically be provided virtually, over their experience of alternating between in-person and virtual instruction and the uncertainty about closures and quarantines. Ensure they understand what they are giving up.
- **Share information on what's happening in school.** It may increase the likelihood of parents sending their kids to in-person learning if schools are transparent about what is going on, whether it's positive or suggests caution. Many businesses advertise: "We're open for business!" Schools can tell parents, "We're here and this is what we're doing for students in school." Strategic -- but truthful -- public relations may be a key to quelling parents' fears.

Editor's note: This feature is not intended as instructional material or to replace legal advice.

[Cara Nissman](#) covers autism, school psychology, and IEP team issues for LRP Publications.

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