

IDEA Principles in the Online Environment: Free Appropriate Public Education, Least Restrictive Environment, and Due Process Issues

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Online learning currently reaches millions of K-12 learners and its annual growth has been exponential. Industry has projected that this growth will likely continue and has the potential to lead to dramatic changes in the educational landscape. While online learning appears to hold great promise, civil rights legislation, related policies, and their application in online learning as they pertain to students with disabilities has received much less research attention than is necessary for policy planning and decision making. Researchers urgently need to develop shared understandings about how online learning affects students with disabilities as they participate in online learning environments, move through their coursework, and transition back to the brick-and-mortar classrooms (or out of school settings in general). Research that claims to focus on students with disabilities in online learning environments should be designed and carried out with particular attention to educational and social outcomes. The Center on Online Learning and Students with Disabilities (COLSD) conducts research in alignment with these goals.

COLSD, a cooperative agreement among the University of Kansas, the Center for Applied Special Technologies (CAST), and the National Association of State Directors of Special Education (NASDSE), is focused on four main goals:

1. To identify and verify trends and issues related to the participation of students with disabilities in K-12 online learning in a range of forms and contexts, such as full or part time, fully online schools; blended or hybrid instruction consisting of both traditional and online instruction, and single online courses;
2. To identify and describe major potential positive outcomes and barriers to participation in online learning for students with disabilities;
3. To identify and develop promising approaches for increasing the accessibility and positive learning outcomes of online learning for students with disabilities; and
4. To test the feasibility, usability, and potential effectiveness of as many of these approaches as would be practical.

To meet the first two goals, COLSD has conducted a number of activities designed to develop understandings about the general status of students with disabilities in online learning. Exploratory research activities included case studies of two fully online schools; several national surveys of purposefully sampled parents, students, teachers, and district and state administrators; interviews with members of individualized education program (IEP) teams working with students with disabilities who were completing online coursework; and a systematic review of one state's student participation, retention, and completion data. COLSD is making an additional effort to describe the landscape of online learning for students with disabilities through a series of forums with different stakeholder groups. The first forum was held with state directors of special education (or a designee) to obtain an in-depth view of the issues and concerns with students with disabilities in online learning from the state policy perspective. The second forum was conducted with virtual school district superintendents and other top-level district administrators. The responses obtained from these administrators are the topic of this paper.

Participants and forum topics

In the summer of 2014, COLSD staff began planning a series of forums to shed light on the state of online learning and students with disabilities from the perspective of various practitioners and stakeholders. This second forum was held with virtual school superintendents and other virtual school administrators in a face-to-face gathering March 31 and April 1, 2015. Due to their configuration as online schools, some of these institutions enroll students across the country. These administrators were selected for participation on the basis of three factors: (1) Status as a top-level official of a large blended learning program. (2) Status as a supervisor in states that have high levels of participation in online learning, even though school enrollments vary in size. (3) Responsibility for schools that represented demographic diversity. Although the experiences and information from the participants do not represent all administrators of virtual schools in this country, they do provide an informed sample.

The five forum participants represented two public school districts (Mooresville, NC and Detroit, MI), two national charter schools (Carpe Diem Learning Systems and Rocketship Education Network) and one state level programs (North Carolina Virtual Public School). The two charter school administrators represented programs in multiple states: Arizona, California, District of Columbia, Indiana, Ohio, Tennessee, Texas, and Wisconsin. Collectively their schools enrolled students from kindergarten through 12th grade and included eight to 40 percent of the enrollees as students with disabilities. A list of participants is also included in this report (Appendix A).

At the time of her participation, the first administrator was the special education director for a school district of 6,100 in North Carolina. Her district had been involved in online/blended instruction since 2008. In the fall of 2015, that district was expected to be a full 1-to-1 with laptops or tablets in every grade (K-12). Roughly 12 percent of the student body in her district had been identified as having at least one disability. Currently she is a special

education director for a different school district in North Carolina with 20,000 students that is also 1-to-1 with laptops and tablets in grades 3-12.

The second administrator is the vice president of achievement for the National Education Board of National Charter Schools. Currently, he is in charge of achievement for 6,000 students attending grades K-5 in California, Wisconsin, and Tennessee. His schools have used various blended models since they opened in 2007. Approximately 11 percent of students in his network are identified as having at least one disability.

The third administrator was included because of her recent history of employment with the Education Achievement Authority in Detroit, Michigan, which is a statewide reform charter district. As of 2015, six high schools and one K-8 school were in her district. She is currently working with Operation Breakthrough in Kansas City, Missouri, one of the largest early learning centers in the region. Percentages of students with disabilities in the schools she works with range from eight to 40 percent.

The fourth participant is an administrator at the North Carolina Virtual Public School, the nation's second largest fully online supplemental program. Her program has 35,000 students, approximately 10 percent of which are identified with at least one disability. In addition, her program operates a unique occupational course of study program aimed at transitioning students from school to work and post-high school training, especially directed toward meeting the needs of students with disabilities. This program has 7,400 students and 14 percent are students with disabilities.

The fifth administrator represented Carpe Diem Schools—a multistate charter school network for grades six through 12. Schools in his network employ various learning models but most are some type of blended learning. Percentages of students with disabilities in his schools range from 12 to 25 percent of the approximately 2,500 total students in the network.

COLSD staff reviewed previous literature, revisited findings from previous research activities (e.g., case studies, surveys, and interviews), and considered responses from the first forum of state directors of special education to determine the topics for this second forum. As in the previous forum, the population under consideration consisted of students with disabilities. Therefore, the responses reported are always in the context of meeting the needs of students with disabilities in online learning environments. The 10 topics covered at this forum included:

1. Enrollment, persistence, progress, and achievement
2. Parents' preparation and involvement in their child's online experience and IDEA notifications
3. IDEA principles in the online environment (e.g., free appropriate public education, least restrictive environment, due process protections)
4. IDEA principles in the online environment (e.g., eligibility assessment, IEP development)
5. Access and coordination of related services for students with disabilities

6. Effective and efficient access, sharing, integration, and instructional usage of student response data among the parties involved in online instruction (e.g., instructor, administrator, provider, and vendor), along with privacy issues
7. Effectiveness of teacher preparation in the online learning environment, and promising (or negative) practices that facilitate (or negate) professional development
8. Instructional practices: Integration of optimal evidence-based practices; availability of skill/strategy instruction in online environments; use of the unique properties afforded in online environments
9. Differential access to online learning within and across your schools (e.g., computer or tablet access, connection speed, district restrictions on material access and assistive technologies)
10. Local supervision for online learning in general education and, in particular, for supervision in special education

Participants received a packet of materials prior to the meeting, including the agenda (see Appendix B), and a list of the topics and questions to be considered. The forum began with introductions and a comprehensive discussion of the importance of online learning for students with disabilities from each participant's perspective. Next, each administrator responded to a set of questions about the selected ten topics. The participants determined the order in which they wanted to use to describe their organization's current status, needs, values, and other perspectives pertaining to the topic. The format of the meeting was framed as a conversation in which participants were encouraged to elaborate, explain, and engage in uptake with one another's comments. A representative from COLSD moderated the talk to provide all participants with comparable opportunities to share insights about each topic. For each of the 10 topics, participants responded to five questions:

1. How is your organization currently addressing this topic?
2. Of the (10) topics in our discussion list, how important is this topic?
3. What is working well for you on this topic?
4. What are the top challenges you face and the direction you see your organization taking on this topic?
5. What research question could have a significant impact on your policy or practice?

IDEA principles in the online environment (e.g., free appropriate public education, least restrictive environment, and due process protections)

This document, the third in this series of forum proceeding papers, presents participants' responses to the five issue related questions on the topic of IDEA principles in the online environment. This topic was identified from researchers at COLSD as well as other published and anecdotal information. For example, initial research activities at COLSD found that some aspects of IDEA principles are difficult to conceptualize in online learning environments. A common experience in the online environment, for example, students encounter a greater variety of reading support programs and texts to read, but they are also likely to encounter textual materials that are too difficult for them to comprehend

independently (Deshler, Smith, & Greer, 2014; Greer, Rice, & Deshler, 2014; Rice & Deshler, 2015; Rice & Greer, 2014; Rice, 2014). Other research also suggests that in some programs students with disabilities are participating and satisfied with their experiences (Burdette & Greer, 2014), while others are counseled out of online classes or programs (Greer, Rice, & Carter, 2015; Carter & Rice, in press). Finally, evidence indicates that while teachers feel deep commitments to students with disabilities and are willing to spend considerable amounts of time communicating with them and monitoring their progress, (Carter & Rice, 2015), students with disabilities are still at greater risk for not completing courses and failure (Rice & Deshler, 2014; Rice & Mellard, 2015). Administrators participating in this forum were all aware of these issues and they made it clear through their comments that the IDEA principles were very important when providing services to students with disabilities in the virtual environment.

Given the complexity of IDEA and related regulations, this topic was actually treated in the discussion as two topics resulting in two documents. In this topical paper the discussion focused on free appropriate public education, least restrictive environment, and due process issues. In the fourth proceedings paper, issues related to the development and implementation of students' IEPs and eligibility assessments are addressed.

How is this topic addressed in your organization?

Administrators expressed a general interest in providing students with appropriate learning tools when they need them. Therefore, a tension exists between the need to constantly assess students' learning and achievement and the need to step back and consider what those assessment results mean for instructional and curricular decisions (e.g., Is the intervention working as intended? Is the student progressing at an acceptable rate? Should the student's placement be continued or changed?). These decisions about assessment data have implications for ensuring free appropriate public education and least restrictive environment in schools because students must have access to the general curriculum and their peers to the greatest extent possible.

The administrators report mainly positive experiences as they have tried to attend to free appropriate public education issues by leveraging the speed with which they are able to generate data and assess students. They generally saw free appropriate public education as making sure that the students were receiving instructional attention using the most sophisticated materials possible. That is, taking advantage of improvements in technologies that support the instruction and monitoring of students through their own responses. This focus with the definition of free appropriate public education elicited several common responses from the administrators. Specifically, the administrators said that students are strategically provided educational materials using multiple sources of data that their organization has vetted and are administered using teacher judgment. This practice means that while the administrators had staff to select the tools, devices, and programs for students, teachers were able to determine with some latitude, when and how to use the instructional materials to best meet the students' learning needs.

The administrators also reported that their schools engage in timely progress monitoring. As an illustration, the administrator of a blended elementary school reported whole school participation in progress monitoring assessments during a day in which all of the students' work on highly targeted instruction. Thus, the instructional focus and the progress monitoring provide a clearer representation of the students' mastery of the skills and their learning rate in comparison to appropriate groups (e.g., grade or age level groupings). This close monitoring means that they are able to track the students' progress and responses for the purpose of informing teacher judgment about what tasks to assign and instructional approaches to implement.

What's working well for you on this topic?

The administrators were very pleased with staff members at their schools who were making efforts to consider the "smart" use of technology in order to achieve free appropriate public education. They were also hopeful about their staff's ability to use the large amounts of student data (e.g., progress monitoring results, participation data, response time, and achievement results) to inform and discuss with parents and other stakeholders regarding the most appropriate placement and instructional decisions. In order to maintain their students' current successes, they highlighted the need for content individualization. The administrators felt especially strong about this individualized content approach for high school level students who are concerned with obtaining appropriate credits and meeting graduation requirements.

While technology afforded much of the access and personalization within their organizations, much of this success was assigned to teacher-student relationships. Whether the organization was a blended or fully online school, administrators believed that teachers had to be mobilized and empowered as educational advocates for students. Only through efforts to have well-informed teachers who cared about children could free appropriate public education be truly realized. This belief had significant implications in their teacher recruitment, selection, and professional development strategies and practices.

What's the top challenge you face and the direction you see your organization taking on this topic?

The mindset, mission, and vision of many virtual schools are important to thinking about the entire online learning experience. While the administrators were generally positive about their schools' attention to free appropriate public education, they did mention concerns about making sure that technology was being used in order to enable students' inclusion rather than exclusion in their schools. One example of how technology could be used as an exclusionary tool included giving a student a tablet device to use independently while the teacher worked with other students in small groups. In this case the technology removes the opportunity for the social interactions associated with collaborative learning and skill development. Another example might also include sending students with disabilities into virtual schools in order to remove them and the responsibilities for the resources they need from the original school.

Instead of engendering these negative practices, the administrators focused on the need to ensure that the devices and programs on these devices facilitate or support the students working within the general classroom curriculum. However, the participants also discussed how the students' prior experiences with technology before entering the virtual school played a role in the viability of inclusion. Administrators expressed great concern that traditional schools were using technology to entertain or occupy students with various disabilities, especially behavioral ones. In these activities, instructional activities were secondary to having the students engaged so they would not be disruptive. As a consequence, the administrators believed that when students who had been using technology in unsophisticated ways enroll in online learning, they are unprepared for the complex curricular tasks, instructional demands on individual effort, and general rigor of the experiences with technology that virtual schools work to achieve.

In terms of least restrictive environment, the major concern expressed by administrators was one of timing. The ability to use time well is an ongoing concern because the place of learning is not always within the educators' control. For all students, online learning is used as a way to "break the time barrier" for students. In traditional schools, a definite ending date for terms and semesters are specified but in online learning, time is viewed differently. Students can work at a faster pace to complete courses or have more time available for a slower paced approach. The timing of the presentation of learning materials and instruction then enables an environment to become more or less restrictive. For example, students with behavioral issues may need to be removed from a general education classroom setting from time to time in a blended school. If they are sent away to work, they can take their device with them and technically still participate in the curriculum. However, ensuring that the student retains access to peers, which is also part of maintaining a least restrictive environment, is difficult. The participants noted that technological devices and programs surely are capable of keeping students connected, but doing so in order to maintain a least restrictive environment has been a more difficult goal to accomplish.

What are the various stakeholder concerns?

Stakeholder concerns varied greatly; however, as indicated earlier one of the main concerns is that staff in traditional settings may be counseling students into virtual schools as an easy solution for educating students who may be difficult-to-serve in traditional settings. The participants indicated that such placement suggestions are often made due to a student's emotional or behavioral difficulties, not because an online learning environment is best for student learning. These concerns were framed as a series of practical questions about how transition might be made smoother (e.g., How can we ensure that students have annual measurable objectives monitored across schools? Is enrolling students who are not meeting specific annual measurable objectives in a virtual school a way to cheat the system? Who can and should provide parents with information about accessibility for their children with disabilities?).

The questions that forum participants suggested pertained to when and how the online learning environment accommodated individual learner needs as opposed to merely changing delivery method or curricular content. While the environment may be appropriate for some students, the critical test is whether students' rights, needs, and best interests are served to the fullest capacity. In their view the reverse situation in which virtual school or even the traditional school staffs discourage students with disabilities from enrolling in online coursework occurs infrequently.

Finally, although parents are discussed in more depth in our Forum paper topic #2, the participants suggested that helping parents understand more about placement and related services would be vital to sharing responsibility for free appropriate public education and least restrictive environment in virtual schools. One administrator said that some parents wanted freedom to dictate how online disability educational services should be provided without considering what is appropriate for the child or the intent of the related laws. For example, a parent might want to stipulate a particular program application or they might seek extensive tutoring services. Negotiating free appropriate public education can become contentious under these circumstances. Even though schools are supposed to provide the *least* restrictive environment, parents often ask for the *most* restrictive learning situations for their children, such as one-on-one tutoring for all classes and every lesson. These demands miss the intentions of disability laws, and virtual schools (and indeed all schools) do not and cannot feasibly provide this intensity of services.

What research questions could have a significant impact?

The participants suggested research imperatives and priorities that include the need to learn more about the elements of choice and pace elements of curriculum that have a bearing on free appropriate public education, especially in terms of how those elements operate differently in virtual schools. The administrators also want to know more about the ways in which their caches of "fast data" can be used responsibly and effectively in online settings to maximize free appropriate public education for students.

In addition, the group suggested several other areas of interest in future research. For example, several participants were interested in learning more about the dynamics of the co-teaching relationship (in which one general education teacher and one special education teacher work together to teach a class of students with and without disabilities) to meet the needs of students with disabilities. The administrators want to know more about this dynamic because they think it will help them decide how to make these pairings to maximize inclusion. In addition, they want to look at the possibility of using not just special education teachers, but other disability professionals such as speech therapists in arrangements that look similar to co-teaching.

The administrators also were interested in research about the socialization of students with disabilities that also helped them learn to use digital tools to learn content. In their view the socialization component is what will sustain and support students with disabilities in

inclusive settings. On the other hand, attending to social and behavioral issues takes away from time available for direct instruction in content. Further, particular student behaviors with regard to technology and device use must be supported and cultivated. The behaviors form part of the disposition for maximal benefit in online learning environments.

To work with parents more effectively, one administrator recommended qualitative work in virtual schools to describe the formation and enactment of parental expectations about online learning and the negotiation of services for students. The administrators are eager to consider the desires of parents, but they want to know more about the discourse patterns of productive meetings and the individual negotiation of identity and agency as beliefs are enacted during meetings in which student accommodations and services are debated and decided.

Finally these participants were interested in taking a critical look at policies related to who should be forming the IEP, what IEP development and implementation policies should be for different learning environments, and which stakeholders pass responsibility back and forth in different ways when students come into online learning environments.

Below is a summary of the research questions that emerged around this topic:

1. How are individualization of choice and instructional pace used as levers for ensuring free appropriate public education in virtual school settings?
2. How can technology be used more efficiently to track IEP progress?
3. How can co-teaching relationships be better utilized to meet the IDEA principles in online/blended environments?
4. What are best practices for students with disabilities with socialization using Internet tools and resources?
5. How can schools and families work through tensions more effectively to achieve the least restrictive environment and free appropriate public education?
6. What do teachers need to know in addressing free appropriate public education and least restrictive environment issues in the online and blended school environments?
7. What are the expectation issues at stake in working with parents?

Implications

The discussion that emerged around this topic of IDEA principles (e.g. free appropriate public education, least restrictive environment) has several implications. First, school district and organization administrators are highly interested in policy discussions that place the work that they do in a fuller context of IDEA principles. That is, they want to know how IDEA principles apply in the blended and online environments, especially as the students make the transition from traditional school settings. More substantial policy discussions will be important for considering the nuances of principles and the procedures required to carry them out in a virtual school.

Another interesting issue is that the administrators spoke of personalization as the remedy or answer to most issues inherent in free appropriate public education and least restrictive environment. While “personalization” was not clearly defined through the discussion, the intent seemed to involve using the right instructional approach or program at the right time. To be successful, the persons in instructional roles must closely monitor the students’ engagement and responses. They realize that while personalization is important to making sure student needs are met they suspect that having personalized programs and individual devices is just the tip of the iceberg in terms of meeting the ideals of free appropriate public education and least restrictive environment principles. The forum topic revealed possibilities for considering the differences between *individualized* instruction and *personalized* instruction as these terms apply to students with disabilities in virtual schools.

No real discussion about due process as an IDEA principle emerged during the time that was committed to this topic. Future research and policy development conversations might consider what issues of due process are shared with traditional schools and unique to virtual schools as they craft studies and make directives for improving the educational outcomes of students with disabilities in virtual schools. We also wonder what a careful analysis of free appropriate public education and least restrictive environment would reveal about how these principles apply to individual cases in virtual schools outside of a traditional brick and mortar K-12 setting.

Finally, the enrollment patterns of students with disabilities—the push and pull factors into and out of online learning as they relate to these principles is likely worth investigating. Currently, some entities are charging that students with disabilities are counseled out of online learning or never offered such coursework. The administrators insisted that students with disabilities are sent to online learning as a convenience or cost saving measure on the part of the schools. When parents are surveyed, they say that they are making the decisions based on a number of factors. A large-scale comprehensive generalizable study looking at how, when, and why students with disabilities enroll in virtual schools that considers more than self-report data would shed some additional light on this controversy.

Based on the discussion, additional attention is recommended for topics such as:

1. How do IDEA constructs of free appropriate public education and least restrictive environment get represented in the online environment?
2. What’s the best approach for ensuring that students’ progress monitoring data are incorporated into curricular, instructional, and placement decisions in their IEP?
3. What distinctions are relevant between personalization and individualization of instruction and curriculum?
4. What are the school-based and family-based factors that lead to the enrollment of students with disabilities in a virtual school?

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Appendix A
Forum Participants

OSEP AND COLSD FORUM

Practices and Challenges in Online Instruction for Students with Disabilities

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Appendix B
Forum Agenda

OSEP and COLSD Forum
**Practices and Challenges in Online Instruction for
Students with Disabilities**

MARCH 31 – APRIL 1, 2015

AGENDA

NASDSE Conference Room
225 Reinekers Lane, Suite 420
Alexandria, VA 22314
703-519-3576

Tuesday, March 31, 2015

- | | |
|---------------|---|
| 12:00 - 12:45 | Working Lunch <ul style="list-style-type: none">• Welcome: <i>OSEP staff and Bill East</i>• Participant introductions: <i>Your district experiences with online instruction</i>• Overview: <i>Explanation of how we hope this discussion proceeds</i> |
| 12:45 - 1:45 | Discussion <i>Topic #1: Enrollment, persistence, progress and achievement for students with disabilities</i> |
| 1:45 - 2:00 | Break |
| 2:00 - 2:45 | Discussion <i>Topic #2: Parent preparation and involvement in their child's online experience and IDEA notifications</i> |
| 2:45 - 3:30 | Discussion <i>Topic #3: IDEA principles in the online environment (e.g., free appropriate public education, least restrictive environment, due process protections)</i> |
| 3:30 - 4:15 | Discussion <i>Topic #4: IDEA principles in the online environment (e.g., eligibility assessment, IEP development)</i> |
| 4:15 - 4:30 | Break |
| 4:30 - 5:15 | Discussion <i>Topic #5: Access and coordination of related services for students with disabilities</i> |
| 5:15 - 5:30 | <i>Wrap-up, suggestions for improving our process and preview for day two. Dinner plans?</i> |

Wednesday, April 1, 2015

8:15 - 8:30	Review	<i>Review of yesterday and today's preview</i>
8:30 - 9:15	Discussion	<i>Topic #6: Effective and efficient access, sharing, integration, and instructional usage of student response data among the parties involved in online instruction (e.g., instructors, administrator, provider, and vendor) and addressing privacy concerns</i>
9:15-10:30	Discussion	<i>Topic #7: Effectiveness of teacher preparation in the online learning environment; and promising (or negative) practices that facilitate (or negate) professional development</i>
11:15-11:30	Break	
10:30-11:15	Discussion	<i>Topic #8: Instructional practices: Integration of optimal evidence-based practices; availability of skill/strategy instruction in online environments; use of the unique properties afforded in online environments</i>
11:30 - 12:15	Discussion	<i>Topic #9: Differential access to online learning within and across your schools (e.g., computer or tablet access, connection speed, district restrictions to material access & assistive technologies)</i>
12:15 - 1:00	Working Lunch - Discussion	<i>Topic 10: Local supervision for online learning in general education and in particular for supervision in special education</i>
1:00 - 1:15	Discussion	<i>of your views on the Center's future activities</i>
1:30 - 1:45	Wrap up:	<i>Our next steps with this information: draft a summary; share the summary with you for accuracy and completeness; draft a report on the topics and share with you for edits regarding accuracy and completeness; and complete revisions and disseminate. Your closing comments Reimbursement issues and our closing comments Thank you and safe travels</i>