

New information is highlighted.

Introduction

School systems must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities, including early childhood special education services (ECSE), in their least restrictive environment. This may, at times, require school systems to provide special education and related services remotely. Virtual small group classrooms are a promising service delivery model that allows service providers to continue direct services remotely. School systems and service providers should take certain considerations into account.

Delivery of special education and related services through a virtual small group classroom does not allow educators to control who is viewing a lesson. Similar to having parents visit a classroom in a school building, parents observing instruction in a virtual classroom are not, generally, accessing confidential information. To best ensure service providers continue to protect student information during small group instruction, educators must understand important confidentiality requirements of the [Individuals with Disabilities Education Act \(IDEA\)](#), the [Family Educational Rights and Privacy Act \(FERPA\)](#) and the Department's [Student Privacy](#) guidance.

Step 1: Understand Privacy and Confidentiality Laws Applicable to Virtual Small Group Instruction for Students with Disabilities

Direct service providers must continue to protect student privacy in the context of providing virtual small group instruction as they consider the disclosure of personally identifiable information (PII) from student education records to individuals who may not already have access to that information.¹

The confidentiality regulations under both Part B and Part C of the IDEA incorporate FERPA requirements,² but also include several provisions that are specifically related to students with disabilities receiving services under the IDEA and provide protections beyond the FERPA requirements.³

The IDEA Data Center (IDC) designed the following checklists to help educators identify actions, policies, and procedures needed to meet confidentiality requirements outlined in implementing regulations for Part B and Part C of the IDEA:

- [IDEA Part B Confidentiality Checklist](#)

¹ From U.S. Department of Education [FERPA & Coronavirus Disease 2019 \(COVID-19\)](#) (FAQ) dated March 2020

² From U.S. Department of Education [IDEA and FERPA Confidentiality Provisions](#) dated June 2014

³ From U.S. Department of Education [Confidentiality Requirements Applicable to IDEA \(FAQ\)](#) dated October 2016.

- [IDEA Part C Confidentiality Checklist](#)

School systems should notify parents of the potential for inadvertent disclosures of PII during virtual learning, and obtain [parental consent](#) for their children to participate. The FERPA regulations require documentation of:

- Signed and dated written consent
- Instances of personally identifiable information disclosure

If the IEP team does not have parental consent to provide virtual small group instruction then alternate service delivery options must be considered. Alternative options may include individual virtual instruction, individual home-based instruction, phone-based instruction, or print materials.

Step 2: Understand Virtual Learning Platform Security Features

Service providers should review their virtual platform and understand security features that protect student privacy and security. There is no single standard that defines how software programs meet all student privacy and security requirements. Choose a video conferencing platform with security features that allow educators to [secure a virtual classroom](#). The effectiveness of the program's privacy and security depends on whether educators understand *how* and *when* to enable security features and implement virtual small group lessons (e.g. control screen share, lockdown chat rooms, require meeting IDs and passwords). Some virtual platform software providers have also created a host of [webinars](#) to illustrate security features.

Step 3: Implement Best Practices Recommendations

Professional organizations for service providers have developed best practice recommendations for delivering virtual small group instruction to students with disabilities. These recommendations include actions to assist educators in planning and delivering secure virtual instruction. Direct service providers should:

- Use platform security features that meet privacy and security requirements
- Control appearance of students' names (use only first name or a nickname)
- Manage group size
- Use a room free from background noise, other family members and pets, if possible
- Consider including a statement/disclaimer at the start of each lesson
- Develop guidelines (no recording the lesson, no photographs, no screenshots, use only first names, control the chat box, manage student conversation, etc.)
- Develop a system for storage, security, and maintenance of recorded instructional video sessions where students were present
- Use a headset with a mic, when possible
- Mute the audio and video of students, as instructional objectives allow
- Refrain from discussing educational services listed in an IEP
- Identify people in the room at both sites
- Ensure that information for joining the session is shared securely
- Avoid publicly posting links or login information for your virtual sessions
- Remove private files from your desktop to reduce risk of accidental screen sharing

Other Privacy Considerations for Related Service Providers

Related service professionals should consult their respective professional organizations and licensing boards for additional information regarding ethical and effective virtual service delivery. Direct service providers may also review the following additional resources for relevant information:

- [Louisiana Department of Health Health Plan Advisory 20-8 June 18, 2020](#)
- [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#)
- [Telemedicine/Telehealth Facilitation of Mental Health Rehabilitation Services During the COVID-19 Declared Emergency](#)
- [Health Insurance Portability and Accountability Act of 1996 \(HIPAA\)](#)
- [Joint Guidance on the Application of the Family Educational Rights and Privacy Act \(FERPA\) And the Health Insurance Portability and Accountability Act of 1996 \(HIPAA\) To Student Health Records](#)
- [Health Information Technology for Economic and Clinical Health Act of 2009 \(HITECH\)](#)
- [Louisiana Department of Health \(LDH\) Memorandum on Mental Health Rehabilitation \(MHR\) services](#)