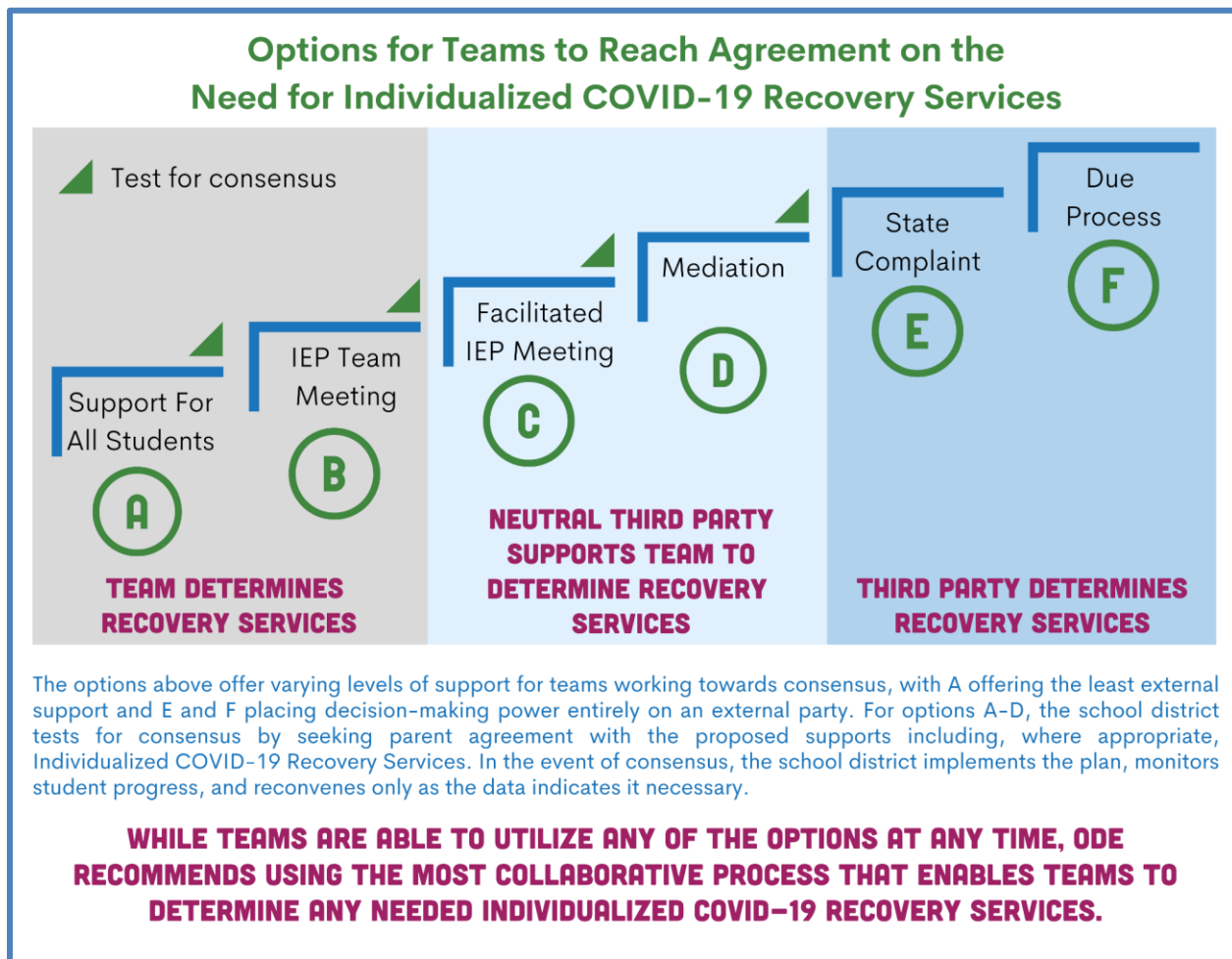


Reaching Agreement on the Need for Individualized COVID-19 Recovery Services



The options below are intended to describe how the decision-making process for Individualized COVID-19 Recovery Services might work at a local level up to and including state-level assistance. Although school districts, parents (and adult children, as applicable), and IEP teams may use one or more of the following methods for reaching agreement about Individualized COVID-19 Recovery Services, ODE encourages school districts and parents to work collaboratively to identify services with the team positioned closest to the student, seeking additional support if those processes are not successful. These options are provided for illustrative purposes only. School districts and parents should consult their own legal counsel regarding compliance with applicable state and federal laws.

Option A: Support For All Students

Every student has unfinished learning from the 2020-21 school year. All students must be supported as they return for the 2021-22 school year. While the need for Individualized COVID-19 Recovery Services may not be able to be fully measured until in-person school operations resume, school districts are not prohibited from providing Individualized COVID-19 Recovery Services through remote and/or hybrid learning opportunities and/or summer programming. That being said, school districts will need a plan to provide the needed support for all students' [unfinished learning](#). Students experiencing disability must be afforded access to benefit from those same plans, and for some students experiencing disability,

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these plans may provide appropriate support. However, some students experiencing disability may need additional support.

School District Responsibilities for Option A:

- The school district determines the student's needs are met with the services and supports provided to enable every student's successful return to instruction.
 - When the determination is made here that general education supports and the current special education supports included in the IEP **are** sufficient to meet the needs of a student experiencing disability, school districts must provide parents with prior written notice of that decision using the [sample Individualized COVID-19 Recovery Services Review form](#) or a form developed by the school district that contains the same content as required in OAR 581-015-2228(6).
 - When the determination is made here that general education supports and the current special education supports included in the IEP **are not** sufficient to meet the needs of a student experiencing disability, school districts should convene the IEP team. The time frame for required IEP meetings held for this purpose must be made in collaboration with parents in light of the child's circumstances. The IEP meeting notice must be provided early enough to ensure the parent has the opportunity to attend.
- If the parent disagrees with the school district's determination made at this step, the school district should address parent concerns through the IEP process.

Parent/Student Rights and Responsibilities for Option A:

- Parents and adult students have the right to disagree and request the IEP team convene to discuss the need for Individualized COVID-19 Recovery Services.
- Parents and adult students have the right to utilize any of their procedural safeguard dispute resolution mechanisms (e.g., mediation, state complaint, due process).

Option B: IEP Team Meeting

The IEP team must address situations in which they suspect, or have reason to suspect, that an individual student's recovery cannot be achieved through general education and the special education supports included in their current IEP, or where the student is not making expected progress. Teams should convene, review data about the student's progress, make appropriate decisions about any additional services and supports the child needs to restore their educational pathway and enable FAPE, and update the IEP as applicable.

School District Responsibilities for Option B:

- Address the potential need for Individualized COVID-19 Recovery Services through the IEP process. IEPs can be updated without a meeting per a written agreement (34 CFR § 300.324(4) and [OAR 581-015-2225\(2\)\(a\)](#)), but it is not recommended for this process. When IEP meetings are held to address the potential need for Individualized COVID-19 Recovery Services, the time frame should be determined in collaboration with parents in light of the child's circumstances.
- The IEP meeting notice must be provided early enough to ensure the parent has the opportunity to attend.
- Gather relevant data and documentation prior to any IEP meetings to inform the IEP team's decision making.

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- Ensure parents or, as applicable, adult students are afforded the opportunity to meaningfully participate in this process.
- As part of the IEP meeting process, the school district will:
 - Fully reflect the IEP team’s decisions in the IEP document.
 - Appropriately notify the parent or, as applicable, the adult student of the team’s decision and provide them with the opportunity to review and agree or disagree with the IEP team’s decision using the sample [Individualized COVID-19 Recovery Services Review form](#) or a form developed by the school district that contains the same content as required in OAR 581-015-2228(6).
 - If the parent is in agreement with the determination, the school district must implement the IEP as developed, monitor the student’s progress, and reconvene the IEP team if/as appropriate depending on student progress. The IEP team will need to review the need for Individualized COVID-19 Recovery Services minimally at each annual review meeting through the 2022-23 school year.
 - If the parent is not in agreement with the determination, the IEP team can reconvene with the support of a neutral facilitator.

Parent/Family Rights and Responsibilities for Option B:

- Parents have the right to meaningfully participate in the IEP process and team decision making in a language they understand.
- Parents and adult students have the right to disagree with IEP team determinations and seek a Facilitated IEP or utilize any of the dispute resolution mechanisms available through the Procedural Safeguards.

Option C: Facilitated IEP Meeting

When a situation is challenging or there is a significant likelihood of disagreement among members of the IEP team, the parent or the school district may ask ODE to provide a neutral facilitator to attend the IEP meeting. IEP Facilitators are neutral process guides who support teams in reaching consensus during an IEP meeting. They are not decision makers, members of the IEP team, or content experts. They do not have a vested interest in the meeting outcome, other than ensuring that the child’s rights are protected; all IEP team members have meaningful voice, input, and participation; and a legitimate decision-making process is followed. Parents and districts retain their rights to seek formal dispute resolution (i.e., mediation, due process, state complaints) as appropriate regardless of whether they previously sought a Facilitated IEP to discuss Individualized COVID-19 Recovery Services.

School District Responsibilities for Option C:

- The school district is responsible for completing any needed paperwork with the Oregon Department of Education (ODE) to initiate the Facilitated IEP process.
- The school district will collaborate with the parent and facilitator to schedule the Facilitated IEP meeting at a mutually agreeable date and time.
- As part of the Facilitated IEP meeting process, the school district will:
 - Fully reflect the IEP team’s decisions in the IEP document.
 - Appropriately document the team’s decision using the sample [Individualized COVID-19 Recovery Services Review form](#) or a form developed by the school district that contains the same content as required in OAR 581-015-2228(6).

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- If the Facilitated IEP meeting leads to consensus among team members about the need for Individualized COVID-19 Recovery Services, the school district must implement the IEP as developed, monitor the student's progress, and reconvene the IEP team if/as appropriate depending on student progress. The IEP team will need to review the need for Individualized COVID-19 Recovery Services minimally at each annual review meeting through the 2022-23 school year.
- If consensus is not reached through the Facilitated IEP process, the district should inform parents of their procedural safeguard rights.

Parent/Family Rights and Responsibilities for Option C:

- Parents have the right to meaningfully participate in the IEP process and team decision-making in a language they understand.
- Parents and adult students have the right to disagree with IEP team determinations and may utilize any of the dispute resolution mechanisms available through the Procedural Safeguards.

Option D: Mediation

Mediation is one of the IDEA required dispute resolution options designed to support families and educators in building agreement. Mediators are neutral participants who are trained in techniques that support creative and collaborative problem solving. Participation in mediation is free, voluntary, confidential, and can be requested by either the family or the school district. Historically, participants in mediation achieve a high rate of agreement and find the process to be beneficial to ongoing collaboration. Because mediation agreements are crafted by the participants and not a third-party decision maker, they tend to be more satisfactory and durable.

School District Responsibilities for Option D:

- The parent or the school district may initiate the request for mediation by contacting ODE or submitting the [Request for Mediation](#) form.
- Mediation is a voluntary process; therefore, school districts may decide to decline or to participate in a parent-initiated mediation request.
- The school district will collaborate with ODE (and/or the mediator) and the parent to schedule the mediation session at a mutually agreeable date and time.
- After the mediation session, the school district will:
 - Fully reflect the decisions made in regard to Individualized COVID-19 Recovery Services in the IEP document and, if appropriate, provide prior written notice.
 - Appropriately document the team's decision using the sample [Individualized COVID-19 Recovery Services Review form](#) or a form developed by the school district that contains the same content as required in OAR 581-015-2228(6).
 - Maintain confidentiality of mediation discussions.

Parent/Family Rights and Responsibilities for Option D:

- Parents or adult students may initiate the request for mediation by contacting ODE or submitting the [Request for Mediation](#) form.
- Because mediation is a voluntary process, parents or adult students may decline or may participate in mediation sessions initiated by the district.

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- Parents and adult students have the right to utilize any of their procedural safeguard dispute resolution mechanisms (e.g., mediation, state complaint, due process) at any point in the process.

Option E: State Complaint

Building consensus between IEP team members may not always be possible, even with the support of a neutral third party like a facilitator or mediator. For teams unable to reach agreement about the need for Individualized COVID-19 Recovery Services, the written state complaint process may offer a pathway to resolution. The complaint process follows a strict 60-day timeline to complete the investigation, and takes the decision-making power away from the IEP team. During a complaint investigation, ODE reviews the records, data, and information provided by both the family and the district before rendering a final decision.

School District Responsibilities for Option E:

- Respond to requests for records, interviews, and other information from ODE in a timely manner.
- Comply with any corrective action order deemed necessary to remedy findings of non-compliance, including any order for compensatory education.

Parent/Family Rights and Responsibilities for Option E:

- Parents and adult students have the right to utilize any of their procedural safeguard dispute resolution mechanisms (e.g., mediation, state complaint, due process) at any point in the process.
- A parent or adult student may initiate a state complaint investigation by sending a signed, dated [complaint](#) to the ODE and the district stating, or alleging, a violation of federal special education law within the previous year.
- Parents and adult students have the right to attempt to resolve the written state complaint using mediation.

Option F: Due Process Hearing

Due process complaints represent the most formal, legalistic, and complex dispute resolution option within the IDEA. In a due process hearing, parties have the opportunity to present evidence, call and cross-examine witnesses, and testify before an administrative law judge. After careful review of the evidence, the judge will issue a final order. Parents may access due process without legal representation; however, most families will utilize the services of an attorney or qualified representative. While a due process hearing may be the appropriate method to resolve some challenging disputes, it can come at a high financial, relational, and emotional cost to participants.

School District Responsibilities for Option F:

- Continue to implement the services and supports indicated on the student's last agreed upon IEP.
- Unless both parties agree to waive the requirement, the district must participate in a resolution session to attempt to resolve the dispute prior to moving forward with the hearing.
- Appropriately document the determination of need for Individualized COVID-19 Recovery Services, and any Individualized COVID-19 Recovery Services offered to the parent or adult student, using the sample [Individualized COVID-19 Recovery Services Review form](#) or a form

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developed by the school district that contains the same content as required in OAR 581-015-2228(6).

Parent/Family Rights and Responsibilities for Option F:

- Parents or adult students may use, but are not required to use, the [ODE Hearing Request](#) form to initiate a due process complaint.
- Unless both parties agree to waive the requirement, parents must participate in the resolution session and attempt to resolve the dispute prior to moving forward with the hearing.