

# New Guidance for Limited In-Person Instruction During Comprehensive Distance Learning

Schools operating in the [Comprehensive Distance Learning \(CDL\)](#) instructional model are able to bring a limited number of students for limited hours and with specific conditions on-site. This supplemental guidance describes those conditions - both requirements and recommendations.

If a school operating in CDL will be bringing students on-site for any reason, they are required to complete Section 1-3 of the [Operational Blueprint](#) and submit to their local board, LPHA, and ODE.

This revised supplemental guidance clarifies how Limited In-Person Instruction (LIPI) works under advisory metrics and the relationship between instructional time and Specially Designed Instruction (SDI) as required for a Free Appropriate Public Education (FAPE) during the 2020-21 school year under the RSSL.

Within the requirements noted below, schools may bring students on-site for limited in-person instruction. Keep these considerations in mind in making any determinations about who or how they might prioritize providing this option.

**Schools may offer** the opportunity for limited in-person instruction based on need, including to:

- Address connectivity issues, including a focus on students with limited or no internet access
- Provide academic support
- Access assessment
- Provide social, emotional, or mental health support
- Build educator-to-student relationships
- Support live peer-to-peer interaction
- Support ongoing engagement and attendance
- Build school community and culture
- Ensure culturally relevant and sustaining pedagogy
- Prepare for a return to in-person instruction
- Provide voluntary supplemental supports

**Schools should not offer** or suggest limited in-person instruction based solely on disability, race, gender, religion, or sexual orientation. Student participation in limited in-person instruction must be voluntary and cannot be a required element for any course or grade.

**Note:** Nothing in this guidance is intended to provide legal advice. ODE encourages districts to consult with their own legal counsel and to consider other state and federal guidance and laws when implementing any recommendations of the Ready Schools, Safe Learners guidance.

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## Required:

- Cohort groups are limited to no more than 20 students at a given time in a cohort. Students cannot be part of more than two cohorts in any given week.
- The time a single student or student cohort of any size can spend in a school building on a given day is limited to two consecutive hours and cannot be intermittent.
- Limited in-person instruction cannot replace the requirements of CDL for any learner. Districts under CDL must adhere to the requirements of CDL while bringing students onsite under exceptions.
- For students who experience disability, offers of FAPE cannot require students to come on-site during limited in-person instruction to satisfy requirements of SDI or related services. Students must continue to have full provisions of FAPE under CDL.
- For students who require language instruction, schools cannot require students to come on-site during limited in-person instruction as the sole means of providing instructional services under Title III.
- Schools cannot require students to participate in LIPI. Students who choose not to participate in LIPI remain entitled to a full educational experience, including provision of FAPE, as applicable, through CDL.

## Recommended:

- ⇒ Any one staff member (even in multiple roles) cannot interact with more than three cohorts in a given day and five in a week.
- ⇒ [Ready Schools, Safe Learners](#) defines a stable cohort as “a group of students that are consistently in contact with each other or in multiple cohort groups.” One student working with a teacher, by definition, does not constitute a cohort. If teachers are involved in individual 1 to 1 interactions and not cohorts of multiple students, they should limit interactions to no more than 60 total students a day.
- ⇒ If an educator is administering special education assessments or evaluations (e.g., school psychologist, speech language pathologists, etc.) and is working only with individual students, not cohorts, each assessment can be thought of more as total contacts. The upper limit for any staff would be 30 individual students or three cohorts (of 10 or fewer students) in a week. They should account for that while keeping distance and facial coverings. Family never needs to be closer than 6 feet for any evaluation except ages 0-3.

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## Limited In-Person Instruction, Specially Designed Instruction, and FAPE<sup>1</sup>

Under certain conditions (established in Section 0d(1) of RSSL), schools operating in Comprehensive Distance Learning (CDL) are able to supplement the CDL experience with Limited In-Person Instruction (LIPI) for specific groups of students. LIPI must be based on identified needs and is subject to specific limitations (e.g., time, cohort size, number of cohorts). **It is important to note that LIPI is intended to supplement not supplant instruction provided through CDL.**

## Questions and Answers

### **Can LIPI be mandatory?**

No. Students cannot be compelled to attend LIPI. Every student must be offered an appropriate education, including FAPE where applicable, through Comprehensive Distance Learning.

### **Can LIPI constitute instructional time?**

The LIPI exception was not designed to serve as instructional time. However, LIPI could be considered instructional time if the activity or activities being completed during LIPI fully meet the definition of instructional time (as established in Division 22 and RSSL section 5). Schools will need to carefully plan for access to full instructional time requirements for each student whether or not they participate in LIPI.

### **Can LIPI be used to provide SDI/FAPE?**

LIPI may be used to provide SDI and support the provision of FAPE, but such opportunities should be carefully considered by the IEP team. Students are not required to attend LIPI in order to receive SDI/FAPE. Accordingly, providing LIPI does not eliminate the obligation to provide a full educational experience through CDL. There may be cases (e.g., where transportation is required and takes a significant period of time) where CDL could be made more difficult or less beneficial if LIPI is provided. Where schools and IEP teams decide to utilize LIPI, we suggest that they carefully consider and schedule LIPI to ensure that it does not take away from a child's CDL experience.

### **Does LIPI used to provide SDI/FAPE constitute instructional time?**

Yes, if it meets the definition of instructional time (as established in Division 22 and RSSL section 5).

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<sup>1</sup> *This entire section is new but is left in black, non-italicized text for easier reading.*

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## Does LIPI need to pause at any point based on elevated metrics, even if advisory?

Formally no, LIPI is allowed as a support in these conditions. Still, ODE defers to Local Public Health Authorities and encourages district and school leaders to factor actual metrics in determining if LIPI might need to be paused based on general community spread. LIPI may need to pause at any time in direct relationship to an outbreak or need to quarantine.

## Definitions

For purposes of this guidance:

**Instructional time** is defined in [OAR 581-022-0102](#) as time during which students are engaged in regularly scheduled instruction, learning activities, or learning assessments that are designed to meet Common Curriculum Goals and academic content standards required by [OAR 581-022-2030](#), and are working under the direction and supervision of a licensed or registered teacher, licensed CTE instructor, licensed practitioner, or Educational Assistant who is assigned instructionally related activities and is working under the supervision of a licensed or registered teacher as required by [OAR 581-037-0015](#).

**Specially Designed Instruction**, per OAR 581-015-2000, means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction:

- (a) To address the unique needs of the child that result from the child's disability; and
- (b) To ensure access of the child to the general curriculum, so that he or she can meet the educational standards within the jurisdiction of the public agency that apply to all children.

**Free Appropriate Public Education (FAPE)**, Per 34 CFR §300.17, means special education and related services that—

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the SEA, including the requirements of this part;
- (c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and
- (d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of [34 CFR] §§300.320 through 300.324.

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## Hybrid Models Compared to Comprehensive Distance Learning With Limited Onsite Interaction

Although many schools may choose an On-Site or Hybrid Instructional Model, circumstances may be such that a school chooses to operate under the Comprehensive Distance Learning Instructional Model. In this case, there may be opportunities to have limited in-person interaction. There are a few key differences between Hybrid instruction and Comprehensive Distance Learning with Limited In-Person Instruction:

<b>Comprehensive Distance Learning With Limited In-Person Instruction</b>	<b>Hybrid</b>
Limited In-Person Instruction with the sole purpose of facilitating learning, assessment, or other support services that are not easily replicated on-line, or for the optional opportunity to meet the needs of students with limited internet, or who are struggling academically, or who may benefit from targeted engagement.	Regular schedule of on-site teacher-facilitated learning that is <i>universally</i> designed for students.
Cohorts are limited to 20 students; students are limited to two cohorts.	Stable cohorts are no larger than can be accommodated by the space available to provide 35 square feet per person, including staff. Students are limited to 100 people of interaction in a given week.
Time on-site is limited to 2 consecutive hours.	Time on-site can occur for a full school day.
Sections 1-3, in addition to CDL <a href="#">Operational Blueprint</a> must be completed, submitted, and posted, some components may be indicated as “Not Applicable (N/A).”	Complete <a href="#">Operational Blueprint</a> (all sections) must be completed, submitted, and posted.