**DRAFT CREATED BY EW**

**581-015-2228 Individualized COVID-19 Recovery Services**

(1) For the purposes of this rule, Individualized COVID-19 Recovery Services are those services determined necessary for children with disabilities based on the unique needs that arise from their disability due to the impact of the COVID-19 Pandemic, which may include but are not limited to:

(a) Special education and related services;

(b) Supplementary aids and services;

(c) Additional or intensified instruction;

(d) Social emotional learning support; and

(e) Peer or adult support.

(2) The IEP team for each eligible child with a disability shall individually consider the need for Individualized COVID-19 Recovery Services at least at each initial IEP meeting and each regularly scheduled annual review meeting through the 2022-23 school year.

(3) When Individualized COVID-19 Recovery Services are recommended, the student’s IEP must be updated to reflect the recommendation.

(4) Notwithstanding section (2) above, decisions regarding Individualized COVID-19 Recovery Services shall be made earlier if requested by the parent or eligible adult student.

(5) Notwithstanding section (2) above, decisions regarding Individualized COVID-19 Recovery Services shall be made earlier when school- or district-based members of the IEP team suspect, or have reason to suspect, the potential need for Individualized COVID-19 Recovery Services for a child with a disability, based on circumstances including but not limited to:

(a) A lack of expected progress toward the annual goals and in the general curriculum, if appropriate;

(b) The results of any reevaluation of a child with a disability;

(c) Information about a child shared by the child or the child’s parent that needs to be addressed; or

(d) A student’s anticipated need for Individualized COVID-19 Recovery Services.

(6) Each school district shall provide notice to and seek input from the parents of each child with a disability regarding:

(a) The opportunity for the IEP team to meet to consider Individualized COVID-19 Recovery Services;

(b)Whether they are interested in their child receiving Individualized COVID-19 Recovery Services; and

(c) Their preferred timing of the IEP meeting to consider the need for these services.

(7) Each school district shall also ensure that each student is able to provide input, if appropriate, as described in section (6) of this rule.

(8) Each determination made by a school district or IEP team related to Individualized COVID-19 Recovery Services for a child with a disability must be disclosed to the parent and eligible adult student through prior written notice using the Individualized COVID-19 Recovery Services Review sample form developed by the Department or a form developed by the school district that contains the following content:

(a) All required content for prior written notice as specified in OAR 581-015-2310(3);

(b) The Individualized COVID-19 Recovery Services being proposed, if any, to include:

(A) A statement of the Individualized COVID-19 Recovery Services being proposed, based on peer-reviewed research to the extent practicable;

(B) The projected dates for initiation and duration of Individualized COVID-19 Recovery Services;

(C) The anticipated frequency, amount, location, and provider of the services described in subsection (8)(b)(A) of this rule;

(c) Whether the prior written notice resulted from a meeting facilitated by a neutral ODE sponsored meeting facilitator;

(d) An opportunity for the parent to indicate their agreement or disagreement with the Individualized COVID-19 Recovery Services decision made by the school district or IEP team;

(A) If a parent disagrees with the Individualized COVID-19 Recovery Services decision made by the school district or IEP team, whether they would like the IEP team to convene with a neutral facilitator to conduct a Facilitated IEP meeting.

(B) If a parent disagrees with the Individualized COVID-19 Recovery Services decision made by the school district or IEP team and would like the IEP team to convene with a neutral facilitator to conduct a Facilitated IEP meeting, a statement informing them that the district will notify ODE to make the request if they agree to a Facilitated IEP meeting.

(e) Whether any recommended Individualized COVID-19 Recovery Services are to be provided outside of the standard instructional day, including but not limited to before school, after school, or during a child’s lunch time or period;

(f) When Individualized COVID-19 Recovery Services are recommended to be provided outside of the standard instructional day, whether the parent/eligible adult student accepts or does not accept services that will be provided outside of the standard instructional day.

(g) An opportunity for the parent/eligible adult student to indicate whether or not they:

(A) Have received their Procedural Safeguards; and

(B) Understand the rights the Procedural Safeguards provide.

(9) If the district and parent hold an IEP meeting to discuss the need for Individualized COVID-19 Recovery Services and do not reach an agreement regarding such services, the school district and parent may request a Facilitated IEP meeting. If the district and the parent choose to participate in a Facilitated IEP meeting, the district shall notify ODE.

(10) Nothing in this rule shall affect or otherwise alter a parent's right to request a due process hearing under OAR 581-015-2345, a complaint under OAR 581-015-2030, or other parental rights under the procedural safeguards.

(11) Nothing in this rule relieves the district of its duty to create an appropriately individualized IEP for every eligible child with a disability, regardless of whether the child requires Individualized COVID-19 Recovery Services.

Statutory/Other Authority: ORS 326.051 & 343.041

Statutes/Other Implemented: ORS 326.051 & 343.041