Chapter Two

State and Territory Policy Scan for Online Learning and Students with Disabilities

Federal and state education policies have the potential to influence students' educational experiences. In fact, policies embrace this potential by addressing many crucial aspects of the educational process, including desired achievement outcomes, curricular materials,

instructional practices, assessments, funding, instructor qualifications, students' attendance, and related services for students with disabilities. Any time that policies are created, they have the potential to impact students who have difficulties learning and achieving in educational settings—as well as general education students. Therefore, policies for *any* elementary and secondary educational setting should attend to important elements of the IDEA such as identifying students with disabilities, providing due process protections, ensuring parent participation, and ensuring that students with disabilities have access to a free, appropriate public education in the least restrictive environment. Such education policies continue to evolve in traditional school settings and are also evolving in digital settings.

Researchers at the Center for Online Learning and Students with Disabilities (the Center) continue to investigate and track policy issues that affect students with disabilities in the digital learning environment. In September of 2012, Center staff conducted a search of all 50 U.S. State Departments of Education websites for publicly discoverable policy and guidance documents specifically addressing online learning for students with disabilities. Since this initial scan in 2012, both the field of online education and the Center have acquired additional information and undergone a number of changes. Given the evolutionary nature of online education, continued policy scans are important for identifying states' policy changes.

Different from the original scan, the 2015 state and territorial policy scan provides the field with more specific information on online learning for students with disabilities, their families, and associated service providers. Through this updated scan, Center research attempts to provide a deeper understanding of how states and territories are progressing in online education policy and in their guidance efforts to ensure equity, quality, equality, efficiency, inclusion, and opportunity for students with disabilities in the online learning environment. The intent of this scan is to provide stakeholders (including State Departments of Education staff, school district administrators, teachers, parents, and students) with answers to policy questions more directly linked to IDEA legislation, and highlight steps the states and territories are taking to

Reference Terms

Various terms in the field of special education require clarity and transparency for understanding. Throughout this publication, the following terms are used as defined below.

Accommodations

Accommodations, modifications, and other services for students with disabilities are legally protected when included in a highly structured Individualized Education Program (IEP) or a more flexible plan created under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act. An IEP is developed and implemented as a requirement of special education, and a 504 plan is developed and implemented by the educational institution to address civil rights mandates. [1]

Accessibility

In the context of technology, accessibility refers to providing access for all students to digital environments and tools, including students with disabilities. Designing digital materials and delivery systems to support the use of audio-only screen readers, text browsers, and other adaptive technologies; offering contrasting colors for readability; and providing alternative text tags for graphics are examples of accessibility. The Office of Civil Rights, United States Department of Education has issued a "significant guidance document" detailing the responsibility of elementary and secondary schools to meet accessibility requirements under both civil rights and special education law. [2]

Child Find

Child Find is the IDEA legal requirement that schools identify children with disabilities who may be entitled to special education services. This requirement covers children from birth through age 21. This screening and identification process mandate schools' staff to identify, locate, and evaluate students with disabilities. [3]

Children's Online Privacy Protection Act (COPPA)

"COPPA imposes certain requirements on operators of websites or online services directed to children under 13 years of age, and on operators of other websites or online services that have actual knowledge that they are collecting personal information online from a child under 13 years of age." [4]

Due Process/Procedural Safeguards

Compliance with the procedural requirements of the IDEA to ensure processes for parents regarding timelines for actions, receiving notice of changes, expressing disagreements with program recommendations, and resolving disputes through mediation or a fair hearing.

Family Educational Rights and Privacy Act (FERPA)

"The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records." [5]

Free Appropriate Public Education (FAPE)

A term used to describe the educational rights of students with disabilities. It refers to an educational program designed to provide individualized supports and services needed for students with disabilities to access the general education curriculum that align with state education standards in the public school system. This educational program is provided at no cost to the parents of the student with a disability. [6]

Individual Education Program (IEP)

According to the federal Individuals with Disabilities in Education Act (1997), an IEP is a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and meet each of the child's other educational needs that result from the child's disabilities. [7]

Individuals with Disabilities Education Act (IDEA)

"The Individuals with Disabilities Education Act (IDEA) Amendments of 1997 (P.L. 105-17) established parameters for services provided in an educational setting. Part B of the document indicated that eligibility for services required that the impairment "adversely impacts educational performance." [8]

Least Restrictive Environment (LRE)

Education of students with disabilities with their nondisabled peers to the maximum extent appropriate. [9]

Parent Participation

Collaboration with parents in children's individualized educational program development and implementation. [10]

Protection in Evaluation for Services

Installment of assessment processes to determine if a student has a disability protected under IDEA and if he/she needs special education services. [11]

Section 504

"Section 504 of the Rehabilitation Act of 1973 protects the rights of persons with handicaps in programs and activities that receive Federal financial assistance. Section 504 protects the rights not only of individuals with visible disabilities but also those with disabilities that may not be apparent." [12]

Zero Reject

Responsibility of school officials to locate, identify, and provide special education services to all eligible students with disabilities. [13]

ensure that the rights of students with disabilities are protected through policy and procedural safeguards.

Center staff completed a scan of the 50 states and five territories in order to identify the most pressing needs in the area of policy development for students with disabilities and digital learning. The scan's results will have potential uses for multiple stakeholders and applications. Results will provide a platform for framing further discussions about policy, inform state and territory education agencies of available policies in other jurisdictions, identify potential areas of technical assistance, and identify topics for further research.

Organization of Chapter

Chapter organization features four sections: Literature Review, Methodology, Findings (summary of findings for nine scan items), and Summary and Recommendations.

I. The Literature Review provides an overview of relevant existing research on online learning and K-12 students with disabilities. Researchers determined that there is little existing literature directly related to policies on online learning for students with disabilities. The literature that was included in this review focused on state directors of special education and their perspectives on online education for students with disabilities, specific challenges in serving students with disabilities in online environments, and instances of under- and over-representations of students with disabilities in online learning enrollments.

II. The Methodology component explains how the scan questions were generated, reviewed, and, finally, selected for inclusion. Three methods were used to retrieve existing state and territory policy and guidance information from online sources. Findings were compiled and sent to state and territory special education directors for their review and comments. The findings were used to create an overview of current U.S. policies on online education for students with disabilities.

III. The Findings from the policy and guidance scan are presented in three approaches throughout this publication.
    A. Presented in this chapter is a global summary of five critical domains associated with online learning for students with disabilities. These domains account for nine constructs on the scan associated with special education as defined by IDEA.
    B. Three topics were singled out for specific reference. Each of these topics were identified based on the importance of the topic relative to student learning, its prominence in industry, society, news media, as well as the comments or questions received from SEAs during the review process. Topics included: 1) Access to Online Education, 2) Data and Privacy, and 3) Graduation. Discussion of these three topics is presented in Chapter 5.
    C. Abbreviated Individual State and Territorial Scans (presented in Appendix B) that provide a quick glance of the findings from each state and territory. Individual and full state and territory scans are available. http://centerononlinelearning.org/publications/annual-publication-2015/

IV. A summary is provided at the end of this chapter that includes four key recommendations for stakeholders' consideration.

Literature Review

When Greer, Rice, & Dykman (2014) reviewed the published literature on online learning and students with disabilities in K-12 settings, they found very little work directly related to policy. Further, policy implications of available studies were either missing or superficial. For example, many studies included ambiguous statements such as, "policy makers should take into account students with disabilities in their program regulations." A survey conducted by Burdette, Greer, & Woods (2013), with more than 60 respondents from 46 states (and other entities), asked state-level directors of special education for their perspectives on online education for students with disabilities. The survey results indicated two findings. Most states were not directly addressing disability issues in their planning for online learning. Additionally, states had a wide range of strategies for addressing this gap, based on such contextual factors as

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state educational funding priorities, geographical configurations, and the number of students with identified disabilities.

In their literature review, Greer, Rice, & Dykman (2014) did not include books, conference papers, doctoral dissertations, or industry reports. However, several sources of this type are referenced in other research about states' policy for online learning and students with disabilities. Müller's (2009) report attempted to map the participation of students with disabilities in online learning in various states. Most states provided information that was then represented in the findings. At that time, 11 states provided direct information about their online school programs with reference to students with disabilities (Alabama, Hawaii, Idaho, Kentucky, Louisiana, Missouri, Nevada, Oregon, Pennsylvania, South Carolina, Virginia). These states articulated the following challenges in serving students with disabilities in online education:

- Virtual schools were opening before they had adequately prepared to serve students with disabilities;

- Established standards were lacking for implementing special education services;
- A need was recognized to revise curriculum for student accessibility;
- Issues of the suitability for enrolling students with disabilities were identified;
- Online education was serving an increasing number of students with more severe needs;
- Miscommunication existed about persons' roles and responsibilities of IEP development and implementation;
- Online programs were facing a challenge of accessing sufficient numbers of related service personnel; and
- Both general and specialized technology to meet students' needs was lacking.

In addition, several reports have emerged based on data from single states. Wang and Decker (2014) looked at data on the participation in online learning for students with disabilities and found that while nationally this population tended to be underrepresented, in Ohio, a significant overrepresentation was noted. When the authors examined enrollment trends, they were able to

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demonstrate that an Ohio law promising a computer to families who enrolled in online schools coincided with the increase in enrollment of students with disabilities and economically disadvantaged children. Wang and Decker's findings underscore the ways in which policy can function as a fairly fast-acting facilitator for online learning enrollment.

This quick review continues to highlight the limited published information on online learning and students with disabilities. The field is encouraged to expand the types of research being conducted and published in online learning for students with disabilities. To develop a better understanding across stakeholders, published research in various formats is necessary. To reach the varied stakeholders, those formats should include open publications (such as this one), academic-refereed journals, and both practice as well as trade publications.

In an effort to further the knowledge base of online learning and students with disabilities, Center researchers identified nine critical content domains that will provide a more complete picture of how the online learning environment is supporting students with disabilities in the area of policy and guidance documentation. These nine critical content domains provided the foundation for the 2015 Center on Online Learning for Students with Disabilities State and Territory Scan.

Content Domains

- Access to Online Education
- Teacher Preparedness
- Appropriateness of Learning Environment
- Identification of Learners with Disabilities
- Provision of Disability Support Services
- Accessibility Issues
- Data and Data Privacy
- Parental Involvement
- Graduation

Scan Methodology

Information from the 50 State Departments of Education and their counterparts in five U.S. territories (American Samoa, District of Columbia, Guam, Northern Mariana Islands, U.S. Virgin Islands) were reviewed for this policy study. The purpose of this scan was to review and summarize publicly available state and territorial level policy and guidance documents for topics regarding online education for students with disabilities.

After reviewing the Center's 2012 scan, the Center stakeholder forums, relevant academic and industry-based literature, and information from other Center research projects, a panel of Center staff developed a pool of state and territory policy domains and questions pertaining to students with disabilities in the online learning environment. Over the course of several meetings, Center staff reviewed these policy domains and developed specific questions until a consensus was met regarding the items to include in this state and territory scan. The items were organized into the nine domains listed in the previous table. A blank copy of the scan used in data collection is located in Appendix C.

Scan Process

Between April and August 2015, Center staff focused on answering each of these state and territorial scan items from the perspective of a parent, student, educator, or service provider residing in each of the respective geographic regions. Thus, Center researchers were trained to locate and categorize only information from publicly available websites and documents. The research protocol was designed to be representative of what a person searching for answers to questions might do in a "real life" situation.

Center researchers followed a three-step process to conduct the document scan, summarization, and categorization. First, researchers would familiarize themselves with the location (i.e., state or territory) as it appeared in two widely known reports. Specifically, researchers reviewed information for each location from the Keeping Pace (http://www.kpk12.com/) and the Digital Learning Now (http://digitallearningnow.com/report-card/) websites for each state and territory. Second, researchers located each state and territory's Department of Education related websites and then keywords were used to search each of the scan items. Third, if incon-

sistencies were noted in the known information or information presented within the Department's website, researchers used the same keyword—in combination with the state's and territory's name—and used Google to locate answers. Only documentation from official state and territorial domains and/or known online service providers were used to document answers. All answers were recorded in Qualtrics.

Rating for Each Item

For each policy question, findings were entered into the notes section of the Qualtrics data gathering tool. These findings were categorized into four possible responses: 1) **Yes with Evidence** indicated that policy or guidance information was located that directly addressed the scan item, 2) **No with Evidence** indicated that the appropriate sources were located but the policy or guidance that directly addressed the scan item was not located. This code was interpreted as indicating that the state or territory guidance and policy documents did not address the particular question, 3) **Unclear** indicated the found guidance or policy was generally associated with an item (by keyword or included terminology), however, the existing information was not clear if—or how—the scan item was addressed. This option provided an opportunity to indicate that the state or territory policy did broach the topic but the Center staff could not clearly determine how that information addressed the scan item, 4) **Nothing Found** indicated that Center staff could not locate the necessary guidance or policy documents pertaining to the scan item.

Reliability Checks

During August and September 2015, scan findings for each state and territory were compiled into a document and sent to the special education director (or territory head) for each state and territory, along with an external Qualtrics data gathering tool for their use in verifying Center findings. If the state's or territory's staff discovered omissions or misinterpretations, they were asked to provide corrected information. Agency representatives were provided a deadline and informed that findings would be published in this report. At least two email reminders were sent to each representative and representatives were prompted to review the results and submit any revisions before the deadline. Responses were obtained from 36 (65%) of the 55 state and territorial agency representatives.

As reviews from states and territories were received, Center researchers reviewed each suggested change and the supporting evidence. If changes were supported by evidence and met the criteria of being publicly available, Center researchers evaluated (in a consensus meeting) whether a change in the categorization was warranted. During a consensus meeting, Center researchers had two choices: 1) change the rating or 2) do not change the rating and identify the item as providing dissent with the state or territory. Consensus was reached on each respondent's suggested change.

Findings

This section contains a summary of the findings across the five critical domains. These domains account for five of the nine constructs that most closely align with the practice of special education as defined by IDEA. The five domains that are highlighted in this section include: Appropriateness of Learning Environment, Identification of Learners with Disabilities, Provision of Disability Support Services, Accessibility Issues, and Parental Involvement. As previously discussed, three other special topics (Access to Online Education, Data and Privacy, and Graduation) are located in Chapter 5. Finally, all state and territory scans are located in Appendix B.

Appropriateness of Learning Environment

The policy and guidance scan included three items addressing this domain. The items address several important elements of ensuring that students with disabilities are receiving a free appropriate public education (FAPE) in online environments as prescribed in IDEA. In practice, FAPE is operationalized with each student's individualized education program (IEP). Thus, the scan items reviewed policy and guidance for whether IEPs are considered prior to enrollment in a program, whether a state or territory provides guidance for IEP teams, or if they provide examples for ensuring that the students receive appropriate accommodations. These items are particularly important in that students can experience online instruction in such varied contexts (e.g., as a supplement to their general education or special education classroom instruction, or as a fully online program). Each of these items provides understanding for how states and territories ensure that students are

placed in online learning environments with appropriate instruction and supports.

Policy Question 1: Does the state have documentation that provides a review of the IEP needs for students with disabilities prior to enrollment in a fully online, blended, or digital learning experience?

To provide some context, IEP team members make placement decisions for students with disabilities during IEP meetings. Placement decisions are made in alignment with IDEA's free appropriate public education (FAPE) requirements including least restrictive environment.[14] Part of these requirements mandate that students with disabilities are educated with other students that do not have disabilities.[15] IEP team members must take into account what learning environment is most appropriate for the student.[16] Center reviewers searched state and territory policy or guidance documents to determine states or territory requirements for IEP meetings prior to a student with a disability being placed in a fully online, blended, or digital learning environment.

Table 2.1: IEP Review Prior to Online Environment

Response	Total	Percent
Yes with Evidence	7	13%
Unclear	16	29%
No with Evidence	31	56%
Nothing Found	1	2%

States or Territories with "Yes" Rating
Alabama
Florida
Missouri
North Carolina
South Carolina
South Dakota
Vermont

Seven states have publicly available documentation that requires a review of the IEP needs for students with disabilities prior to enrollment in fully online, blended, or digital learning experiences.

The North Carolina Virtual Public School enrollment policy requires that a student's IEP team consider how the change in instructional delivery and learning environment will align with that student's special needs. The policy also discusses the need for the IEP team members to determine what accommodations and modifications are necessary for the student to be successful in the online learning environment. See the associated text for example language.

"NCVPS course enrollment for students who have an IEP or 504 should be reviewed by the IEP or 504 face-to-face school team prior to the student's being placed in the NCVPS course. The IEP or 504 team should discuss if placement in an online course is appropriate for the student and then determine appropriate modifications and accommodations necessary for the student to be successful in the online course. These accommodations and modifications should be documented on the IEP or 504 beside the appropriate NCVPS course the student will be enrolled." [17]

— North Carolina Virtual Public School

South Carolina's state-sponsored school, Virtual South Carolina, has documentation requiring that a student's IEP team review the potential virtual school placement through the parameters of FAPE. The documentation notes that considerations for how the accommodations will be met in the digital learning environment must be determined before placement. See the associated text for example language.

"Prior to enrollment of a student with a disability into one or more VirtualSC course, the student's IEP team must consider whether or not an online instructional delivery method is appropriate for the student to receive a FAPE. The student's IEP team should also determine whether or not the student's accommodations can be provided through virtual learning. For example: preferential seating close to the instructor is not applicable to online learning." [18]

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States or territories that emerged with an Unclear rating revealed three previously unconsidered issues. State online provider approval/enrollment guidelines leave considerable discretion to vendors. This process often requires providers to have enrollment procedures that include consideration of students with disabilities. However, Center reviewers were unable to determine if these states or territories included a requirement to review the IEP during the pre-enrollment and/or enrollment process. This lack of clarity stems from broad guidelines on applications regarding enrollment processes. Secondly, some virtual schools require outreach to students during pre-enrollment including welcome calls, counselor meetings, or discussions with academic advisors to assess placement options in online classes, but the focus and content of these outreach meetings is unclear. The Center reviewer could not determine what type of intake assessment occurred during these points of contact. Finally, in some cases parents and students were asked to disclose on an enrollment form if the student had a disability, but the documentation did not clearly articulate what would be done with the information from the disclosure.

States and territories that received a No with Evidence response from reviewers often included a statement regarding how the virtual school or program will meet the needs of students with IEPs but nothing or little was said with regards to IEP prior to placement. The member check with state agency repesentatives elicited disagreement with Center findings on whether online schools are schools of choice and that parents have the responsibility to decide whether or not to enroll in an online school. Some state and territory department representatives indicated that online schools are merely one point on the continuum of special education placements but they are unable to offer a full continuum of services, and that IDEA does not require them to do so. The Center considers this interpretation of policy as a concern.

Policy Question 2: Does the state's IEP guidance or related documentation include discussion of online learning for students with disabilities?

The IEP document must contain written statements that include descriptions including the student's present level of performance, annual educational goals, needed related services and supplementary aides, ac-

commodations, and short term objectives for students who take alternate assessments.[19] When a student with a disability is placed in an online learning environment, the IEP team faces additional considerations that pertain to the student receiving services in a digital learning environment. These considerations may include: ensuring access to appropriate technologies, needed accommodations and supportive services, how communication will occur between all parties responsible for implementation of the IEP, and any other special issues that arise from changes in the student's learning environment. While these considerations are made in every IEP meeting, research in online learning (see other chapters in this publication) indicate that in online environments the available supports are distinctly different than traditional brick-and-mortar environments. Center reviewers scanned IEP guidance or related documentation for evidence of discussion of online learning for students with disabilities.

Table 2.2: Special Education Guidance

Response	Total	Percent
Yes with Evidence	9	16%
Unclear	3	5%
No with Evidence	42	76%
Nothing Found	1	2%

States or Territories with "Yes" Rating
Alabama
Florida
Georgia
Missouri
North Carolina
South Carolina
South Dakota
Vermont
Washington

Center reviewers found that some states and territories addressed online learning for students with disabilities through a Frequently Asked Questions webpage, or the state's virtual school developed its own IEP and related services policies. For example, Washington Superintendent of Public Instruction Digital Learning Department provides discussion regarding special education issues. See the associated text for example language.

"The following guidelines are intended to provide an overview of school district responsibilities related to ensuring that students with disabilities have an equal opportunity to participate in ALE programs and that those students enrolled in ALE programs continue to receive a free appropriate public education (FAPE), as required under Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans with Disabilities Act (Title II), the Individuals with Disabilities Education Act (IDEA), and chapters 28A.642 RCW and 392-190 WAC." [20]

— **Washington Superintendent of Public Instruction Digital Learning Department**

In addition to the preceding statement, the following topics are addressed: recruitment, admission, communication with parents, eligibility criteria, nonresident choice transfer procedures, appeals, inter-district agreements, FAPE, IEP, related services, staff training qualifications, and procedural safeguards. [21]

However, in the majority of states and territories, no discussion was included in the IEP guidance or related documentation regarding online learning for students with disabilities. In some states that have an approval process for vendors, requirements mandate that vendors provide students and parents with information about the nature of online learning, but the vendor application was unclear how that mandate would be carried out from district to district and how it applied to students with disabilities.

One state disagreed with Center findings based on the premise that the legal expectations for the IEP are constant across all settings and the law does not require a separate discussion for digital learning settings.

Policy Question 3: Does the state provide examples of appropriate accommodations in an online learning environment for students with disabilities?

Part of the IDEA requirement regarding FAPE is ensuring that students have appropriate accommodations embedded into their educational experiences. The student's IEP team drafts a plan with educational goals that are appropriate for that particular learner. In order to meet IEP goals, accommodations may be needed to ensure that the students are afforded the same opportunities as students without disabilities to complete assessments and coursework.[22] Typical accommodations have included additional time to complete tests or assignments, adjustments in seating (including working in a small group), and text read aloud to the learner. Center reviewers searched state and territory guidance and policy documents for examples of appropriate accommodations in the online learning environment for students with disabilities.

Table 2.3: Accommodations

Response	Total	Percent
Yes with Evidence	5	9%
Unclear	5	9%
No with Evidence	42	76%
Nothing Found	3	5%

States or Territories with "Yes" Rating
Colorado
South Carolina
South Dakota
Vermont
West Virginia

Five states gave specific examples of accommodations that might be appropriate to the online learning environment. Virtual South Carolina offers a list of accommodations that can be provided and notes that extended time must be indicated in the IEP in order to be provided. The document also includes a notation that not all accommodations may be available in all courses. See the associated text for example language.

"Identifying and providing those accommodations that are possible in virtual learning as specified on the student's IEP. Examples of accommodations that may be provided by VSC include clarifying/

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repeating directions; allowing the use of a dictionary/glossary; extended time (which must be outlined on the IEP relative to online learning and pacing guides); use of graphic organizers; masking/templates; notes, outlines, and instructions; and visual organizers. [2] VSC instructors will maintain documentation (through logs, e-mails, or other media as selected by the VSC staff and faculty) relative to the provision of the accommodations the instructors are able to provide in the virtual learning setting. Please note that this is not an exhaustive list of potential accommodations that a student may need for access to an online course. Also, please note that these examples may not be possible in every VSC course." [23]

— **Virtual South Carolina**

The Center's state and territory scan findings show that the majority of the states and territories do not provide examples of appropriate accommodations in an online learning environment for students with disabilities. However, five states did have a disclaimer that accommodations will be provided by the virtual school or online, but the information was unclear about what types of accommodations the state would support or approve.

One state disagreed with Center findings by stating that interagency agreements are in place to ensure accommodations are in compliance with IDEA Part B, but no additional supporting evidence was provided.

Identification of Learners with Disabilities

As families increasingly choose to enroll their children in fully online schools, students may not experience the screening or progress monitoring assessments that are required for addressing academic or behavioral difficulties or disabilities related to sensory, motor, or intellectual challenges. While some online educators may argue that the online program, because of the multiple data points collected, might more easily identify learners who are not making satisfactory progress,

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those data may not always be examined or interpreted as an indicator of a disability. The state or territory must have policies and procedures in place that ensure that all children with disabilities are located, identified, and evaluated. The intent of this scan question was to determine how IDEA's Child Find provisions (Section 300.111)[24] for determining possible disabilities were represented in state and territory policies and guidance in the context of online instruction.

Policy Question 4: Does the state have suggested procedures or guidance for identifying online learners that may qualify for disability services (including special education or Section 504 accommodations)?

The Child Find federal mandate requires that all schools "locate, identify and evaluate" all children who may need special education services.[25] Center reviewers scanned State Child Find policy to determine if the states and territories had a suggested procedure for identifying the online learners who may qualify for disability services.

Table 2.4: Child Find

Response	Total	Percent
Yes with Evidence	3	5%
Unclear	6	11%
No with Evidence	45	82%
Nothing Found	1	2%

States or Territories with "Yes" Rating
Colorado
Florida
South Carolina

Center reviewers found three states that have suggested procedures or guidance for identifying online learners that may qualify for disability services. The Florida Virtual School Full Time (FLVS FT) discusses in their FAQ what processes are in place in order to meet the Child Find mandate. FLVS FT aligns policy to be consistent with other schools in the state by reviewing data such as response to instruction (RtI), interventions, and assessments. See the associated text for example language.

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"107. Who has the responsibility to evaluate FLVS FT students if it is suspected that a student may be a student with a disability?

"The FLVS FT school has the responsibility to implement procedures and processes to identify and evaluate students if the FLVS FT school has reason to suspect that an enrolled student may be a student with a disability in need of special education and related services. Consistent with the evaluation process for any student suspected of having a disability, FLVS must review all existing data for the student which would include data regarding the student's response to instruction and interventions provided by FLVS and information from any assessments administered by FLVS. If it is determined that additional formal assessment data are needed to determine the student's eligibility as a student with a disability, obtaining such an assessment(s) is the responsibility of the FLVS FT program."

— Florida Virtual School Full Time

While Center reviewers uncovered some general statements about Child Find in online learning policies, Unclear findings were reported for two main reasons. The first reason applies to states and territories that primarily authorize charter schools to deliver online programs. In some such cases, the policy did require Child Find to be implemented, but either online programs were not specifically mentioned in the policy or procedures or guidance were not included. In the second instance, online schools had an intervention checklist to identify students that are at risk of low achievement or behavioral problems in an online learning environment, but Center reviewers could not find evidence if a

referral process was in place to further evaluate learners suspected of having a disability. States and territories that received a No with Evidence response did have Child Find policies but no guidance or mention of online learning environments within that policy.

One state responded through the state agency representative check process that their virtual charter schools do comply with Child Find requirements, but no supporting documentation was provided. In addition, the state also mentioned that the virtual school was drafting exceptional children procedures manuals but that the manuals were not yet published. Another state disagreed with Center findings by saying that Child Find is a universal requirement and no reason existed to single out online schools in policy documents.

Provision of Disability Support Services

Online educational opportunities are expanding both in individual states and territories and in the school districts within states and territories. With this trend toward expanded online offerings, some stakeholders are concerned that students with disabilities are not accessing these opportunities or receiving appropriate services, and that significant variation exists among the states and territories. The three questions in this domain addressed specific aspects of these concerns. The questions were focused on the policy or guidance regarding the regulations on serving students with disabilities, the shared responsibilities of providing disability support services, and the monitoring of online schools to ensure alignment with IDEA and state regulations. Stakeholders might use this information to better understand how the various partners of education (e.g., school district staffs, state department of education staffs, vendors, and parents) can develop a shared understanding that will support integrated, effective efforts for learners with disabilities.

Policy Question 5: Does the state application or policy for a potential online provider of services reference regulations for serving students with disabilities?

This scan question specifically addressed the role of online providers. The concern was whether or not states or territories request (or require) an online provider to adhere to specific regulations and/or statutes regarding students with disabilities in order to offer a fully online

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school or program or to offer courses. One might expect that the application and approval process, where applicable, would require that the provider documents that its products and services adhere to specific federal and state regulations addressing students with disabilities. The documentation, for example, could indicate how providers address the special considerations and accommodations for students with disabilities. Such information could be important as a condition for the state or territory department of education's accreditation or recognition. Importantly, every state and territory scanned by the Center had some form of online learning activity within their geographic boundary. Some states were found not to acknowledge that this activity is taking place.

Table 2.5: Application for Providers

Response	Tally	Percent
Yes with Evidence	18	33%
Unclear	0	0%
No with Evidence	12	22%
Nothing Found	25	45%

States or Territories with "Yes" Rating

Arizona
Colorado
Florida
Idaho
Iowa
Louisiana
Maine
Maryland
Massachusetts
Minnesota
Pennsylvania
South Dakota
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming

Eighteen states did reference the need for provisions for students with disabilities in their online provider application process. States and territories that reviewers rated a Yes with Evidence required potential online providers to articulate—in a narrative—how the requirements

of IDEA are met. The application for Arizona Online Instruction Schools and Programs (AOI) requires that applicants describe how the requirements of IDEA will be addressed. In addition, a description is required as to what extent electronic content can be modified as well as how students will receive support in the digital learning environment. See the associated text for example language.

> *"Describe the services offered to developmentally disabled populations. Evaluation Criteria: The extent to which:*
> *· The AOI School/Program will identify special education students and meet the requirements of IDEA.*
> *· The content and the content delivery system can be modified to meet the accommodation and modification requirements for Special Needs Students.*
> *· Special Needs Students will receive onsite support when the need is identified."* [26]

— **Arizona Online Instruction Schools and Programs**

States and territories that received a No with Evidence rating did have applications for online providers publicly available, but Center reviewers did not identify provisions for students with disabilities embedded in the application. States and territories that received a Nothing Found rating either did not have state online provider applications publicly available, or none exists.

Policy Question 6: Does the state have policy or guidance that articulates what entity bears the responsibility of providing for disability services (e.g., IDEA, 504) for students with disabilities enrolled in online courses?

Section 300.34 of IDEA identifies disability services that may need to be provided to students with disabilities in order for the student to benefit from special education.[27]

Disability services: *"includes speech-language pathology*

and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training."[28]

The question of interest was who was responsible for determining and providing students with the appropriate disability services. Center reviewers scanned state and territory education policy or guidance documents in order to determine whether a responsible party is identified for providing disability services for students with disabilities enrolled in online courses. The responsibility of providing FAPE for students with disabilities in fully online settings is a noted issue because a student can live in one location and receive online services in another location (Umpstead, Andersen, & Umpstead, 2015).

Table 2.6: Disability Services

Response	Total	Percent
Yes with Evidence	14	25%
Unclear	10	18%
No with Evidence	30	55%
Nothing Found	1	2%

States or Territories with "Yes" Rating

Alabama
Florida
Georgia
Idaho
Kansas
Massachusetts
Minnesota
Missouri
North Carolina
Oklahoma
Pennsylvania
South Carolina
South Dakota
Washington

Fourteen states included statements in policy or guidance documents that identified what entity is ultimately responsible for the provision of disability services in online learning. States that received a Yes with Evidence response clearly identified which entity was responsible for the provision of related services, but statements varied in how related services would be handled. For example, Alabama's ACCESS Distance Learning program includes a statement that indicates that the local school is responsible for providing any supplementary aides and services required by the student's IEP that are not supported by the web-based environment. See the associated text for example language.

"If a distance learning course is determined to be appropriate for the student based on the IEP or 504 Plan, and the student takes such a course through ACCESS during the implementation period of the IEP or 504 Plan, <u>the local school</u> will be responsible for providing any supplementary aids and services as required in the IEP or 504 Plan that are not supported within the Web-based environment and for maintaining communication with the ACCESS teacher." [29]

— ACCESS Distance Learning program

Four scenarios emerged in the Yes with Evidence category. One type of scenario notes that the local school district will be responsible for any supplementary aide or related service that is not conducive to the web based environment as referenced in the ACCESS policy above. Another type of statement indicates that the school district is responsible for the implementation of the IEP, but the district and virtual provider may establish specific roles and responsibilities for the virtual provider while the student with the IEP is enrolled. A third type of scenario points to the virtual school for compliance with the IEP, but the home district must provide needed resources, but these resources are not defined. Finally, one policy stated that any related service requiring in-person contact will not be provided by the virtual school.

States and territories that received an Unclear response did have policy or guidance that addressed the responsibility of meeting the needs of a student with a disability while in the online learning environment, but the information was unclear about which entity is ultimately responsible for providing these services. In other states and territories, collaborative efforts are mentioned between the local school district and virtual school, but the specific nature of collaborative efforts on the behalf of the student with a disability was unclear. Center reviewers gave states and territories a No with Evidence response when guidance and policy documents did not include statements about who bears the responsibility for the provision of disability services in the online learning environment.

Question 7: Does the state have monitoring procedures in order to ensure that online schools and programs are in alignment with IDEA?

One of the ways in which the IDEA legislation is designed to improve the educational experience for students with disabilities is by monitoring the state and territory special education activities through the use of performance indicators.[30] The online learning environment affords new challenges to the monitoring process. Center reviewers scanned state and territory monitoring documentation to identify if the information referenced online schools in special education monitoring tools or other guidance.

Table 2.7: Monitoring Schools/Programs

Response	Total	Percent
Yes with Evidence	1	2%
Unclear	6	11%
No with Evidence	33	60%
Nothing Found	15	27%

<u>States or Territories with "Yes" Rating</u>
Florida

A scan of state and territory special education monitoring tools and other documentation showed that Florida was the only virtual program that was included in special education monitoring documentation. The Florida Department of Education Bureau of Exceptional Education and Student Services includes Florida Virtual

School in the monitoring cycle.

States and territories received an Unclear response because Center reviewers were able to find either self study or legislative checklists for virtual schools, but the information was unclear how these tools were linked to IDEA. States and territories that received a No with Evidence response did have special education monitoring tools publicly available, but online schools and programs were not included in the documentation. Center reviewers gave states and territories a Nothing Found response if the special education monitoring materials were unable to be located.

The state agency representative check revealed that some states and territories disagreed with Center findings because broad terms such as "local school district" were believed to cover all schools and programs. States and territories commented that online programs should not have to be addressed separately in the monitoring materials. In one case, the state noted that a general supervision document was being drafted that would include students with disabilities and online schools and programs, but that document was not yet available.

Accessibility Issues

For many students with disabilities, learning and achievement is enhanced by the advantages afforded through online education. On the other hand, some practices are not advantageous to students with disabilities—just as they may be disadvantaged through traditional classroom curricular approaches and instructional activities. This domain focused on both the accessibility of the online offerings and the opportunities to participate in those offerings. That is, do the states or territories provide guidance or regulatory language that emphasizes the importance of ensuring access and enrollment for students with disabilities?

Question 8: Does the state have guidance, documentation, regulation, or statutes that ensure online courses are accessible and open to enrollment by students with disabilities?

As more students use technology as a primary tool for learning, educators will need to ensure that provisions are made for students who may not be able to access technological applications because of their disability.

Both IDEA and civil rights laws require the availability of methods and materials appropriate for use by students with disabilities in all learning environments. Digital learning environments should provide flexible options for colors and contrast, keyboard access, semantics and page structure, video captioning, and other supports, and these should be addressed when acquiring and implementing electronic curriculum materials.[31] Center reviewers scanned state and territory guidance, documentation, regulation, or statutes that ensure online courses are accessible to and open to enrollment by students with disabilities.

Table 2.8: Accessibility

Response	Total	Percent
Yes with Evidence	20	36%
Unclear	20	36%
No with Evidence	5	9%
Nothing Found	10	18%

States or Territories with "Yes" Rating
Alabama
Arizona
Arkansas
Colorado
District of Columbia
Georgia
Kansas
Kentucky
Maine
Maryland
Massachusetts
Michigan
Missouri
North Carolina
Oklahoma
Pennsylvania
South Dakota
Texas
Washington
West Virginia

Center reviewers found 20 states with guidance, documentation, regulation, or statutes that ensure that online course are accessible to and open to enrollment by students with disabilities. For example, the Colorado Department of Education Office of Blended and Online Learning describes technology tools with support structures that reduce barriers to learning for all students. See the associated text for example language.

"3.02.3 The Online School has, or has a plan and timeline in place to accomplish, the technological infrastructure capable of meeting the needs of students and staff, and of supporting teaching and learning. The Online School uses a variety of technology tools and has a user-friendly interface. The Online School meets industry accepted accessibility standards for interoperability and appropriate access for learners with special needs. Technological support structures and programs are in place to reduce barriers to learning for all students.

The Authorizer has reviewed the Online School for compliance with the policies of the Authorizer, including compliance with the Americans with Disabilities Act (ADA) guidelines for web-site accessibility and policies relating to internet safety and acceptable use." [32]

— **Colorado Department of Education: Office of Blended and Online Learning**

Center reviewers gave an Unclear response to this item for three reasons. First, the state or territory may have a policy that included technology accessibility guidelines, but the information was unclear whether the policy pertained to education for students with disabilities. For example, a state may require that state agencies only adopt and use technologies that conform to accessibility standards, but do not offer clear guidance that this applies to elementary and secondary schools. Second, an accessibility policy was located, but the information was unclear whether the policy applied to online schools and programs beyond technology offerings that might be provided in a "traditional" school setting. Finally, a policy statement was found regarding Section 508 compliance by the virtual school, but specific provisions—extent of conformance to

508 standards; exceptions, etc.—could not be located.

States or territories that received a No with Evidence response had documentation available in the area of enrollment and accessibility, but did not ensure online courses are accessible and open to enrollment by students with disabilities. Center reviewers gave states or territories a Nothing Found response when no guidance, documentation, regulation, or statutes could be located that ensured online course were accessible to and open to enrollment by students with disabilities.

Parental Involvement

Parents' involvement in the education of students with disabilities was significantly altered with the passage of IDEA. Parents have increasing roles in the assessment, identification, placement, and goals for their children with disabilities. They also have specific avenues for challenging—through due process and hearings—decisions or dissent with service options. This scan item focused on the extent of guidance or other provisions regarding parents' involvement in their child's education and related services, and how they might have a collaborative role in the decisions. For example, parents might feel that online education is a potentially viable alternative to traditional educational experiences. However, parents might not understand that adopting or participating in online learning options changes the interactions, roles, and responsibilities of the partners in a child's educational experience (see Chapter 4 of this publication). Thus, to be an effective collaborator, parents may require clearer guidance and thoughtful reflection on the various implications of online learning for their child with a disability.

Question 9: Does the state have guidance, documentation, or provisions for parents of students with disabilities in online courses to collaborate in the education of their children beyond participating in their child's IEP meetings?

When students take online courses at home or in a non-traditional setting, often the students' parents become the primary adult that provides instructional support and monitors academic progress.[33] Parents of a student with a disability may need additional support for the duration of their child's online course or program. This item looked for evidence that states and territories support informing, training, and engaging par-

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ents during the duration of their child's online course. Examples may include access to a parent-teacher coach, a chat box that connects to a learning specialist, a handbook or guide for parents that includes troubleshooting, training in instructional strategies specific to the online learning environment, or structures that include regular correspondence with local school district staff and virtual provider among other supports.

Table 2.9: Parent Support

Response	Total	Percent
Yes with Evidence	0	0%
Unclear	6	11%
No with Evidence	47	85%
Nothing Found	2	4%

No state or territory received a Yes with Evidence for this item. However, six states were given an Unclear response from Center reviewers. Unclear responses were assigned when states offered general (nonspecific) statements about parent communication with the online school on behalf of the student. Since none of the statements included specific supports for parents of students with disabilities, the information was considered to be indicating that additional supports for communication and collaboration could exist, but the clarity was lacking based on the available policy or guidance document. COLSD reviewers gave states and territories a No with Evidence response when communication and ongoing collaboration statements were not present in policy or guidance documentation. States and territories that received a Nothing Found response did not have IEP documentation available.

Summary and Recommendations

The online environment is rapidly expanding and becoming a larger component of learners' educational experiences. In the process, this digital learning environment is affording many students new opportunities for completing their formal educational experiences and altering many instructional and contextual features in comparison to the traditional school setting. An important consideration is whether students with disabilities are also benefiting from these opportunities. Are they provided with equitable, quality, and efficient ex-

periences, especially as compared to their peers without disabilities? One approach to answering this question is to review states' and territories' existing policies and guidance. The Center staff reviewed the existing regulations and guidance documents for the 50 states and five territories regarding specific features of IDEA policy and regulations as they are implemented for digital learning environments.

The policy review examined nine IDEA domains. Across these nine domains the results were quite variable. In general, Center reviewers had minimal difficulty locating those policies. However, only a few states or territories addressed online, blended, or digital learning in those special education policy or guidance documents. In other domains, the policies were nascent and loosely described as in the procedural applications for online providers, for example. Finally, some states and territories only provided statutes with no additional guidance for the stakeholder.

In three specific topical areas, the responses were quite varied and not so easily categorized. These three topics a) states and territories provision of fully online schools, b) data use and privacy, and c) graduation requirements are treated as special topics, warranting further elaboration and discussion of the existing policies. The special topics will be addressed in Chapter 5 of this publication. The findings suggest that State and Territory Departments of Education, vendors, online providers, and other stakeholders should prioritize the following areas for further development and clarification.

State and Territory department policy coherence. The findings suggest that the policies are not integrated or consistent. For example, 41 (73%) of the 55 states and territories scanned do not have clearly articulated guidance for what entity bears responsibility for ensuring special education services (or FAPE) are provided in online settings. Further examples involve conflicting policies found within a state's or territory's documentation because different agencies or departments within the state department had shared responsibilities for a procedure or documentation. Thus, stakeholders could be perplexed as to which agencies or procedures take priority.

IDEA legislation covers all learning environments. Each of the nine domains in this study touch on a crit-

ical element of IDEA. The online, blended, and digital learning environments require stakeholders to view FAPE through a lens that has a very limited research base. The Center's state and territory scan found that great variation existed on how states and territories are working to ensure how those critical pieces are being addressed in online learning policy. The scan also shows that limited policy across the country deals specifically with these critical issues.

A noteworthy finding is that at least 75% of all states and territories scanned were found to have Unclear, No with Evidence, or Nothing Found in six of the nine items most closely aligned with IDEA:

- **Reviewing IEP prior to online enrollment (48 states/territories Unclear, No With Evidence, or Nothing Found),**
- **Guidance to consider online learning variable when developing an IEP for online settings (46 states/territories Unclear, No with Evidence, or Nothing Found),**
- **Examples of appropriate accommodations in online settings (50 states/territories Unclear, No with Evidence, or Nothing Found),**
- **Clear statement of child find and identification considerations (52 states/territories Unclear, No with Evidence, or Nothing Found),**
- **Monitoring procedures for ensuring online schools are in compliance with IDEA (54 states/territories Unclear, No with Evidence, or Nothing Found),**
- **Guidance for considering parent involvement (55 states/territories Unclear, No with Evidence, or Nothing Found).**

One disconcerting finding is that at least 50% of all states and territories scanned were found to have Unclear, No with Evidence, or Nothing Found on the remaining three items:

- Required regulations for supporting students with disabilities in online settings (37 states/territories Unclear, No with Evidence, or Nothing Found)
- Clear understanding for entity bearing responsibility for FAPE/services in online settings (41 states/territories Unclear, No with Evidence, or Nothing Found).

- Ensuring accessibility for students with disabilities in online settings (35 states/territories Unclear, No with Evidence, or Nothing Found).

These findings can assist state agencies and other entities (e.g., local school districts) as they reevaluate their current education policies and determine how to ensure that the rights of students with disabilities are supported and protected in all learning environments.

Parents need guidance/support. Parental involvement has always been an important element of the IDEA legislation. IDEA mandates that parental involvement is a major piece of the student's rights and protections.[34] As the online environment continues to expand, clear and specific guidance and policy is critical to helping parents advocate for their child. The Center's state and territory scan was limited to publicly available documents that could, theoretically, be available to parents seeking guidance or policy information. Overall, Center reviewers found barriers such as broken web links, outdated documents, conflicting information, and lack of resources to be a potentially tremendous setback for parents and students.

Limited research base. The online, blended, and digital learning environments require stakeholders to view provisions for a free appropriate public education through a lens that has a very limited research base. As indicated in much of this publication, the available research provides limited evidence of effective procedures, practices, and policies. This limited research base makes developing effective, equitable, and efficient procedures, practices, policies, and support systems difficult. States and territories that have developed guidance have done so based on early lessons learned in online settings or have simply modified guidance from traditional brick-and-mortar settings.

An important consideration is that the scan reviewed existing policy and guidance documents: states and territories are continuing to update these documents. Overall, the scan was not designed to evaluate at what stage or level of implementation the policy was, to examine unintended consequences, or to determine whether policies were working as intended. Whether the outcomes of students with disabilities are improving remains a separate research and evaluation question.

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