

School District Virtual Instruction Program Questions and Answers #2 (ESE and Student Eligibility)

EXCEPTIONAL STUDENT EDUCATION

1. *Can exceptional student education (ESE) students participate in the district virtual instruction program, and, if so, how will they be funded?*

Yes. Section 1000.04(1), F.S., defines the district virtual instruction program as a public K-12 school. In accordance with Section 1003.57, F.S., each school district must provide for an appropriate program of special instruction, facilities, and services for exceptional students enrolled in the district. It is important to note that, although the district must provide a continuum of services to meet students' needs, not every individual school, including the district virtual instruction program, is required to have the resources or capacity to serve all students. For some exceptional students, the individual educational plan (IEP) or educational plan (EP) team may determine the need for additional services beyond those provided in the virtual instruction program. Depending on the nature and extent of those additional services, these exceptional students may be able to participate in the district virtual instruction program and also receive ESE services (e.g., speech therapy, physical therapy) from the district or the provider as stipulated in the contract.

Funding in district virtual instructional programs is limited to Basic Programs 101-103 and 111-113. Services for ESE students may also be funded through Individuals with Disabilities Education Act (IDEA) dollars and other funding sources.

2. *May the school district limit participation in the district virtual instruction program to only those students who do not have specialized educational plans [i.e., individual educational plan (IEP) or Section 504 plan for students with disabilities; educational plan (EP) for gifted students; student ELL plans for students who are English language learners]?*

No. Any student who meets the requirements in s. 1002.45(5), F.S., is eligible to participate.

3. *Is the school district required to implement the IEP, EP, or Section 504 plan for students enrolled in its virtual instruction program?*

It depends on the circumstances. The school district's virtual instruction program is a full time program. However, as with any other public school, the school day for a student with a disability or other special needs may include more than the basic courses provided to all students. Some accommodations and supplemental services can be provided in conjunction with the district's virtual instruction program; however, special instructional methods or modifications to the curriculum are not available.

The following are examples of situations that might occur if a student is enrolled in a district virtual instruction program through parent choice. Each of these scenarios assumes that the student is an otherwise eligible student who would be receiving services through an IEP, EP, or Section 504 plan, as appropriate, if enrolled in another public school program other than the district's virtual instruction program.

- The student has academic, behavioral, or organizational needs for which the naturally occurring flexibility, adaptations to the pace of instruction, and opportunity for repetition inherent in a virtual instruction program are sufficient to address the student's needs. In addition, the student may require services that would be considered instructional accommodations in a traditional school setting, but are integral to the service delivery model provided through the virtual instruction program (e.g., extended time to complete assignments). If so, the student might require the

corresponding allowable accommodations when participating in district- or statewide assessment. These accommodations would be documented on the student's IEP or Section 504 plan.

- The student requires speech or language therapy, counseling, occupational or physical therapy, or some other service that must be provided through face-to-face contact at a traditional school site in addition to the instruction in standard content area courses available through the virtual instruction program. The district would be expected to make those services available through implementation of an IEP, EP, or 504 plan.
- The student requires specialized direct instruction and support in one or more academic areas in order to succeed in the general curriculum; this type or intensity of service is not available through a virtual instruction program. The district may convene an IEP team to discuss the appropriateness of the virtual instruction program. If the parent pursues enrollment in the virtual program against the recommendation of the IEP team, enrollment may be contingent upon the parent revoking consent for services under IDEA.
- Instruction in the state-approved standards is not appropriate for the student, and a modified curriculum based on the access points is required. This type of modification to the curriculum is not available through a virtual instruction program. As in the situation above, if the parent pursues enrollment in the virtual program against the recommendation of the IEP team, enrollment may be contingent upon the parent revoking consent for services under IDEA.

4. *In the examples above, would the district be obligated to provide transportation to and from the student's home for the purpose of receiving services at the school site?*

No. Since the student is participating in the district virtual program as a choice option, there would not be an obligation to provide transportation.

5. *Could an IEP team determine that a district virtual instruction program is the least restrictive environment (LRE) for a student to be provided a free appropriate public education (FAPE)?*

Yes, if an IEP team determined that enrollment in the district virtual instruction program represented FAPE in the LRE and the appropriate support was available in the home setting. In that case, if the student also required some additional services at a school site (e.g., speech therapy, counseling), the district would be required to provide transportation. However, it should be noted that home-based instruction with little or no access to peers is considered a very restrictive setting.

STUDENT ELIGIBILITY

1. *Do students attending a private school the previous year with a McKay scholarship meet the eligibility criteria for the School District Virtual Instruction Program?*

No. If the student is not a military dependent and lived in Florida the previous year, a student must have attended a Florida public school or one of the two state-level virtual academies to be eligible.

2. *Are students who were enrolled in a state-funded PreK program for students with disabilities eligible to enroll as kindergarten students in the School District Virtual Instruction Program, even if they were only enrolled part-time?*

Yes. They are eligible. Students in PreK do not have to meet compulsory attendance requirements yet and do not have to go to school full-time.

3. *Do home education or private school students who enroll part-time in a public school for a class (e.g., speech), qualify for the School District Virtual Instruction Program.*

No. Unlike PreK students, students in grades K-12 attend school full-time and have to meet compulsory attendance requirements if they are between the ages of 6-16. To meet compulsory attendance requirements students are classified in one of three categories—as public, private or home education students. Students who were registered as home education students in their school districts the previous year are classified as home education students, even if they return to the school district to take a class. Likewise, students who attended a private school the previous year are classified as private school students. Students who attended a Florida district public school the previous year are classified as public school students. Only public school students are eligible for this program. In addition to being classified as public school students, these students must have been reported for funding in the previous year's October and February Surveys to be eligible.