

Emerging State Policy in Online Special Education

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- **Online education is being adopted at an ever-increasing rate and its prevalence has various implications for the field of special education.**
- **The purpose of this article is to present and discuss the results of a state and territorial policy scan that investigated special education online learning policies across the United States.**
- **This policy scan found that more policy and guidance is needed to support parents and professionals serving students with disabilities in online settings.**
- **The article discusses implications and provides some suggestions for state and local education leaders as they consider the implementation of online learning.**

Introduction

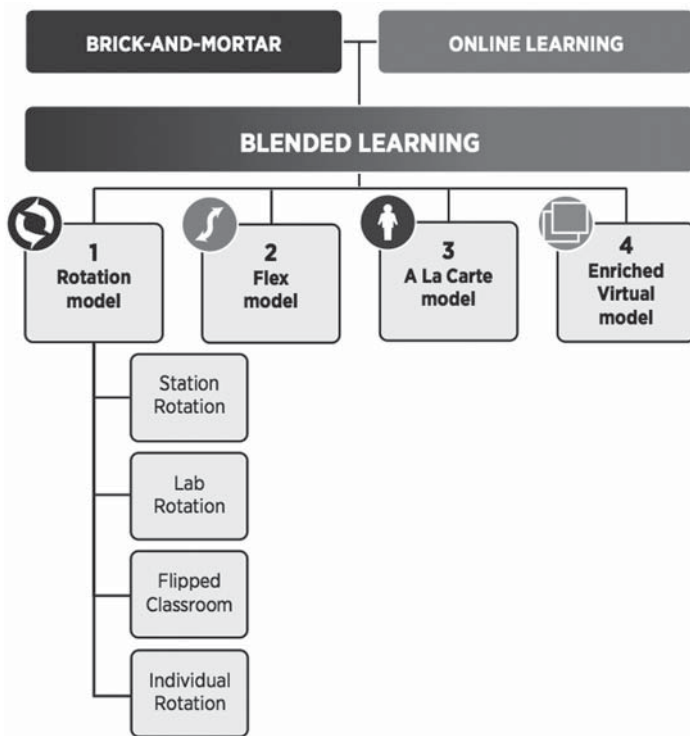
There has been a dramatic increase and acceptance of online learning in the last decade. In its various forms, online learning has begun to disrupt the status quo of K–12 education and, in turn, special education. The growing prevalence of K–12 online learning provides a grounded opportunity to reflect on traditions and redesign policies, systems, and practices. The Department of Education Office of Special Education recognized this need and in 2011 funded the Center on Online Learning and Students with Disabilities (COLSD), a partnership between the University of Kansas, CAST, and the National Association of State Directors of Special Education (NASDSE). The mission of COLSD was to identify trends, promising practices, and challenges in online learning for students with disabilities. To this end, COLSD has conducted numerous research projects and informational gathering activities. As has been documented in the COLSD publication, *Equity Matters: Digital and Online Learning for Students with Disabilities* (Basham, Stahl, Ortiz, Rice, & Smith, 2015), online learning has impacted nearly every aspect of special education service delivery. Specifically, online learning opens possibilities for new and innovative thinking about all aspects of the learning experience, including learning environment design, identification

of disability, instruction, socialization, collaboration, and parent engagement. In addition, researchers from COLSD have found that by design, online learning environments produce substantially more data and have a great potential to support continued progress monitoring for students with disabilities. Regrettably, however, these data are often inaccessible within these digital systems, in an unusable form, or overlooked by underprepared instructional staff (Basham et al., 2015).

The most recent report by the Evergreen Education Group (2015), the annual status report for online learning in the United States, found that online learning exists in some form across every district in the country. Yet, even with the tremendous increase in online learning, it is impossible to identify how many students, including students with disabilities, are participating in some form of online learning. This lack of understanding, alongside the involved nature associated with the various forms of online learning, provides complexities in researching as well as evaluating the impact of online learning in practice. The concern is that districts across the United States may be adopting various forms of online learning without considering the complexities that online learning introduces to the teaching practice and how these changes may be impacting students.

The purpose of this article is to provide education leaders and educators with a basic understanding of

Figure 1. Christensen Institute's continuum of online education and blended education.



online learning policies in the United States. To do this, COLSD researchers conducted a formal, empirical, comprehensive policy review of state and territorial policies and practices, which is called the State Scan. The intent of the State Scan was to inform decision-makers about policies and practice as well as to illustrate some of the complexities introduced by online learning for students with disabilities.

Understanding Online Learning

The practice of online learning varies in look, feel, and outcome by district, building (if one), teacher, and online system. From fully online (also called virtual) to blended learning, Christensen, Horn, and Staker (2013) identified a continuum of online learning environments (see Figure 1). Many online learning experiences (especially full-time online and supplemental online learning) are *asynchronous*, which means students receive instruction through the Internet/web-based software. It is this asynchronous quality that allows students to control many aspects of their learning, but this format also limits real-time interactions with human instructors. Within these environments, *synchronous*, or simultaneous

communication with real-time connections made in virtual setting, may be used to supplement instruction.

At COLSD, we define online learning as educational environments in which instruction, content, and learning are mediated primarily by networking technologies such as the Internet (Basham et al., 2015). Minimally, online learning includes the following forms and configurations:

- Full-time online learning: Students take all academic classes in the online environment (i.e., over the Internet). Full-time online learning generally takes place in what are called *fully online* or *virtual* schools.
- Blended learning: Students learn at least in part through online learning, but are allowed to control time, place, path, and/or pace to varying degrees. The rest of the learning takes place in a supervised brick-and-mortar location away from home (Christensen et al., 2013).
- Supplemental online learning: Students enroll in an online course to supplement another primary learning environment, usually because the traditional school does not offer the course.
- Digital learning: Students use an array of digital technologies to support learning. An intentionally broad term, digital learning includes technologies, environments, pedagogies, instructional designs, and the learner interactions within these environments. Digital learning encompasses the other types of learning (fully online, blended, supplemental, and personalized learning) and can occur in traditional schools when these elements are integrated to support learning.
- Personalized learning: Students participate in an instructional approach where outcomes, content, activities, pace, tools, and supports are customized for their needs. Personalized learning takes advantage of real-time progress monitoring capacity built in to many digital delivery systems in order to provide timely (e.g., daily, weekly), action-promoting updates about student learning and/or achievement through a course of study. Because of these capabilities, many personalized learning settings also follow a competency or proficiency/competency-based instructional design.

When K–12 students are enrolled in a fully online class (or classes), learning often requires the use of industry-designed prepackaged instructional modules

that rely to varying degrees on teachers or other adults to support individualized learner variability (e.g., cognitive abilities, background knowledge, and contextualization; Smith & Basham, 2014). In fact, recent research conducted by COLSD found that many online learning systems lacked a basic level of physical or sensory accessibility compliance, and none of the systems reviewed aligned with the Universal Design for Learning (UDL) framework (Meyer, Rose, & Gordon, 2014). The inattention to UDL is unfortunate, as this framework must now be incorporated into reading and writing across content areas in the Every Student Succeeds Act (ESSA) of 2015 (SEC. 2221(b)(1), 2015).

Current Policy and Online Learning

The rapid uptake of online learning has created challenges for the practice of special education (Basham et al., 2015). Historically, the six federally mandated pillars of special education, Zero Reject, Protection in Evaluation, Free and Appropriate Public Education (FAPE), Least Restrictive Environment (LRE), Procedural Due Process, and Parent Participation, provided a basis for student-focused decision-making. In online learning, these foundational pillars of practice are less steady. In our research, asking even simple questions about the elements has brought uncertain responses. For example, how does online learning fall within the LRE continuum of placement when students are online rather than face-to-face? How does online learning differ from a homebound placement? Is enrolling in an online school a change of placement that requires a new Individualized Education Program (IEP)? What considerations should an IEP team make as it defines FAPE for individual students in a blended setting that is personalized? As a parent, can I enroll my child with a disability in an online school the same way I would enroll them in my local school? Finally, who is responsible for ensuring FAPE when students live in local districts but are enrolled in a virtual school located out-of-district, potentially in another state?

As these questions about online learning and students with disabilities have emerged, little research, professional publication, or dialogue has been given to them. As previously noted, the Evergreen Group annual publication, commonly known as *Keeping Pace*, serves as the flagship publication of the field and industry of K–12 online learning. While not a peer-

reviewed publication, this annual industry publication has provided the field a snapshot of the emerging practices and policies associated with online learning since 2004 (Watson, Winograd, & Kalmon, 2004). Historically, this publication has looked at policy areas such as student choice, online graduation requirements, funding, and post-secondary acceptance of online learning. While this publication is a guidepost regarding the trends within K–12 online learning, the topic of students with disabilities and special education has not been a primary focus for the Evergreen team.

As noted in Basham, Smith, Greer, and Marino (2013), there have been few refereed publications providing empirically derived information about online learning and even fewer that have focused on students with disabilities, especially related to policy. Moreover, in a review of academic published literature in online learning and special education, Greer, Rice, and Dykman (2014) found only trace mentions of policy; in fact, references were only made to “policy makers” rather than policy itself. That is, many publications discuss the need for policy makers to consider findings or needs of the field, but provide little direct reference to policy. Additionally, in an earlier policy scan conducted by other COLSD researchers, Burdette, Greer, and Woods (2013) found that most states did not consider students with disabilities as they initially adopted and implemented online learning.

Given all of the confusion and questions associated with online learning for students with disabilities, COLSD took up the task of gathering policy information for all 50 states and five territories (American Samoa, District of Columbia, Guam, Northern Mariana Islands, and U.S. Virgin Islands). The State Scan gathered data to support understandings of policy focused on online learning and special education, as well as identify potential areas of improvement, and to highlight emerging areas of leadership in online special education policy across these states and territories.

The Current State Policy Scan

Considering the limited policy information available about online learning and students with disabilities, the high rate of online learning adoption, and the associated questions that have a direct bearing on state policy, we at COLSD established the state and

territorial policy scan protocol and implemented it in order to ascertain answers to the following questions:

- What is the availability of online learning across the states and territories?
- To what extent are common brick-and-mortar special education or disability policies identified and addressed in state education policies for online learning?

Methods

The COLSD policy scan focused on ascertaining information about state and territorial policies for online special education. With the practical understanding that IEP teams, including parents, are making decisions about online placement and necessary services for students with disabilities in online environments, COLSD specifically sought to understand what information was publicly available from the perspective of an IEP team member or parent. Specifically, COLSD researchers attempted to put themselves in the role of a parent or a school IEP team member who may be looking on the Internet for information to answer questions regarding placement and transition to online learning. Thus, all information scanned and analyzed was required to be both online and publicly available.

Scan Protocol Design

In order to design the most comprehensive yet succinct protocol possible, COLSD researchers reviewed the literature regarding online special education policy and revisited questions that had been received from parents and educators by COLSD. The findings from research and the technical support inquiries were then compared to the emergent issues from the earlier policy scan done by COLSD researchers (Burdette et al., 2013). From there, we developed a list of 20 items. These items were then thematically grouped and integrated into 11 content domains: (1) access to and within online learning, (2) FAPE procedures, (3) teacher preparedness for students with disabilities in online settings, (4) features of online learning environments, (5) IEP development in online settings, (6) educator support and provision of accommodations in online coursework, (7) procedures for identification/child find, (8) provision of related disability support services, (9) data use and

data privacy protection as it intersects with information about disability, (10) parental involvement in decision-making and instruction in online learning settings, and (11) progress and persistence IDEA monitoring procedures. A copy of the complete state scan and findings are available for download (see *Appendix C*; Basham et al., 2015) at the COLSD website: <http://centeronlinelearning.org/>.

State Scan Rating Scale

Items on the scan were rated according to a scale focused on availability and evidence.

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 meant that a policy related to an item that was found online but not mentioned, or that an online item was mentioned but clearly not dealt with in the policy.
3. *Unclear* indicated the located guidance or policy was generally associated with an item (by keyword or included terminology); however, the information did not indicate whether—or how—the scan item was addressed. This rating was used to indicate that the state or territory policy did discuss the topic, but that COLSD researchers could not clearly determine how that information addressed the scan item.
4. *Nothing Found* indicated that COLSD researchers could not locate the necessary guidance or policy documents pertaining to the scan item.

State Scan Procedures

The State Scan was conducted between April and August of 2015. As previously mentioned, COLSD researchers scanned only websites and other publicly available documents as though they were taking on the role of an information-seeking parent or a field-based professional, such as a special education teacher, seeking information in preparation for an IEP meeting wherein online learning was being discussed as a potential placement option.

The researchers followed a three-step process for conducting the State Scan. First, when assigned a state

or territory to scan, researchers familiarized themselves with what was already published about a given location in the Keeping Pace (<http://www.kpk12.com/>) and the Digital Learning Now (<http://digitalllearningnow.com/report-card/>) documents. Second, researchers located state or territory Department of Education website(s) and other key websites, such as those maintained by state virtual school providers, and then searched for keywords from the item list. Third, if inconsistencies were found, researchers initiated Google searches in an effort to locate answers. In these searches, only documentation from official state and territorial domains and/or known online service providers were used to document answers. Answers to all scan items were recorded in Qualtrics survey software.

Reliability Checks

Upon completing the State Scans, each individual state and territorial scan finding was sent to the respective state or territorial special education director for review. Directors or their designated staff members responded to scan information with affirmation or with additional information. If the state's or territory's director found omissions or misinterpretations in the scan data, they were asked to provide corrected information within two weeks. During this two-week period, at least two email reminders were sent to directors prompting them to review the results and submit any revisions before the deadline. Responses to State Scan data were obtained from 36 (65%) of the 55 state and territorial agency representatives.

Individual state or territorial scan data are freely available in *Equity Matters: Digital and Online Learning for Students with Disabilities* (Basham et al., 2015) at <http://centeronlinelearning.org/>.

Consensus Meetings

For changes suggested by directors of states or territories, meetings were held to review the disputed findings. After considering the disputed information, we either (1) changed the rating or (2) maintained the initial rating and noted the dissent of the state or territory's director in the State Scan. Regular meetings to establish consensus ended when 100% agreement was reached for every item in every state or territory.

Table 1: Documentation of access for students with disabilities (With rounding, percentages equal 99%.)

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

Findings

Individual state or territorial scan data are freely available in *Equity Matters: Digital and Online Learning for Students with Disabilities* (Basham et al., 2015) at <http://centeronlinelearning.org/>.

The first research question asked whether state and territories had fully online K–12 learning environments. Scan results found that 100% of the states and territories scanned had publicly available, fully online schools. Technically, parents could enroll their children in an online school in every state or territory scanned. However, nine states disagreed with this finding, claiming that if online schools were not fully accredited, they were not obligated to recognize them.

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The second research question asked whether online school policy in state and territories attended to common policy elements in special education in brick-and-mortar schools. The State Scan revealed that only 36% of the states and territories had documentation that guaranteed that their online schools were accessible and open to students with disabilities (see *Table 1*).

The second item of the scan also sought to identify whether state documentation clearly identified the entity that bears the responsibility for providing FAPE in online education settings. Note that, in online settings, the student may live in one part of a state but attend school (via online) in another part of the state or even another state altogether. In online education, the responsibility of FAPE varies but may include the local education agency (LEA) where the student lives or the

Table 2: Documentation of what entity bears responsibility of FAPE

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

LEA where the student attends school. Unfortunately, we found that only 25% of the states and territories clearly identified which entity bears the responsibility of FAPE (Table 2).

Along with the responsibility for providing FAPE, we sought to identify whether state/territory policy or guidance recommended an IEP review prior to enrolling a student with a disability in an online setting. We found that only 13% of the states or territories had clear guidance recommending an IEP review prior to a student moving to an online setting. In fact, only one state (Colorado) actually designated the change from a brick-and-mortar setting to an online setting as a placement change. We also found that only 16% of states/territories provided guidance to IEP teams in developing IEPs for online settings. Further, 9% of the states/territories provided

Table 3: Online policy and the IEP

Response	Total	Percent
IEP review prior to online enrollment		
Yes with Evidence	7	13%
Unclear	16	29%
No with Evidence	31	56%
Nothing Found	1	2%
IEP guidance provided for online environment (With rounding, percentages equal 99%.)		
Yes with Evidence	9	16%
Unclear	3	5%
No with Evidence	42	76%
Nothing Found	1	2%
Are there recommended/suggested accommodations for online settings? (With rounding, percentages equal 99%.)		
Yes with Evidence	5	9%
Unclear	5	9%
No with Evidence	42	76%
Nothing Found	3	5%

Table 4: Documentation for monitoring procedures and identifying students with disabilities

Response	Total	Percent
Monitoring procedures for alignment to IDEA		
Yes with Evidence	1	2%
Unclear	6	11%
No with Evidence	33	60%
Nothing Found	15	27%
Guidance for identifying students online		
Yes with Evidence	3	5%
Unclear	6	11%
No with Evidence	45	82%
Nothing Found	1	2%

examples of appropriate accommodations in online placements (Table 3).

We wanted to identify whether states and territories had procedures for ensuring services under IDEA were monitored for students with disabilities in online environments. We found that only 2% of the states and territories had clearly articulated monitoring procedures for students in online environments. Moreover, in a related finding, only 5% of the states and territories had clearly identified guidance for how to identify students with disabilities in online settings (Table 4).

Finally, given parent's legally endowed role on the IEP team and the growing need for parental engagement in online learning, we investigated whether states offered guidance or documentation for parental involvement in the online learning process for students with disabilities. Specifically, researchers sought any information or suggested best practices established by state education agencies in supporting parent involvement or collaboration online. None of the states and territories scanned offered any guidance for parent involvement (Table 5).

Table 5: Guidance for parental involvement

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

Discussion

In the interest of learning about state policies regarding online learning in the United States and its territories, we at COLSD conducted the State Scan. Taking on the role of a parent of a student with a disability or a member of an IEP team, we used publicly available Internet resources to search for information related to the identification of students, the provision of services, and role of parents in online settings. We found that while it seemed relatively easy for parents to enroll students with disabilities in online courses, there was little policy guidance aimed at clarifying special education placement and services in these online environments. Further, what guidance was offered did not reflect the nuances of the various types of online environments nor the tools and supports individual students and families might need to be successful in online learning environments. To us, it is not enough that students with disabilities can enroll—they need technological, curricular, and instructional support that attends to the principles and intentions of IDEA to make access more than nominal. Historically, access to schools for students with disabilities did not come through the goodwill of institutions; instead, it was carried out by strategic actions of determined families and professionals that led to policy. It is hard to imagine that access to high-quality online education will come by means other than similar strategic, intentional policy pathways.

Therefore, these findings clearly suggest a need for further research, technical assistance, and policies that are focused on online learning and students with disabilities. Specific policy should clarify the responsibilities for brick-and-mortar schools and online learning environments in serving students with disabilities. It is probably not as important which entity bears what responsibility as it is that some person or group is named in each setting to facilitate and carry out the various tasks, such as IEP creation and review, implementation, progress monitoring, supporting parents, and storing data. Across education, there is a need to continually advance our understandings of online learning, monitor its progress, and support continued development for these practices with a focus on all learners.

At the federal level, guidance for states might be offered around the nuanced legalities of online learning as they interface with IDEA. Further, revisions of IDEA might be undertaken that consider online

learning. These revisions may be especially worth considering in the areas of FAPE, LRE, and parent involvement since these are often-contested parts of IDEA, and because the asynchronous nature of most online learning, the change in venue of learning, and the increased demands on parent participation are the most different from traditional school.

At the state level, departments of education may consider developing publicly available documents that explain the difference between accredited and unaccredited online programs, and accredited programs could be given a small badge for their website. Moreover, as suggested in Basham et al. (2015), there is need for a federal database of K–12 online schools that could help parents determine whether a school is accredited and the types of services offered, especially for students with disabilities, prior to enrollment. As it currently stands, parents may enroll their children in online schools that are not accredited and therefore lack the protections and support that accreditation provides.

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Even though majority of states and territories do recognize the phenomenon of online learning, the State Scan uncovered little information relative to notifying stakeholders in the IEP placement process about online learning environments and the way in which entering them complicates service delivery. States should not be expected to resolve all of these dilemmas. There is strong need for more federal guidance, research, and technical assistance in the area of online learning. States might partner with online school teams, universities, and families of students with disabilities to conduct ongoing research that supports continuous knowledge growth as well as technical assistance. These teams could focus on how to overcome challenges and support active decision-making as tricky situations arise. Moreover, these teams could also collect more accurate data about enrollment, persistence, and progress of students with disabilities in these environments. This type of partnership would seemingly align with ESSA (2015) relative to establishing new types of assessment

systems that consider various means to measure progress.

None of the states and territories scanned offered any guidance for parent involvement in online learning.

While policies are developed that address these issues, there are strategies that parents and educational leaders can use to assist students with disabilities in making a more successful transition to online environments. School special education leaders should become familiar with the policies available in their respective states (and territories) and they should present this information to parents as placement decisions are made. Parents can also seek information and ask questions, but educators in both online and brick-and-mortar schools should be particularly diligent in helping parents understand what questions they should be asking and exploring what the answers might be to these questions. Some of these questions include: Is the online school accredited? Will the IEP be revised or changed once the enrollment process is complete? Will the student have access to peers with and without disabilities? In what context will this access to peers occur? What will the brick-and-mortar and online school do to make the transition to online learning smoother? What do parents need to know in order to build an online learning schedule that meets the individual needs of the student and the family, yet is flexible enough not to be overwhelming? What supports are available from the brick-and-mortar school and the online school to maximize the chances of a successful experience? And what happens when students leave online learning, either because they finish the course or because they cannot continue for some reason?

Conclusion

Online learning provides an exceptional opportunity for the field of special education to reassess old ideas and question current practices. As the current adoption rates for online learning continue, state and district leaders should be aware of the nuanced models as well as individual practices that might impact student learning. All systems and models in online learning are not equal. Thus, it is critical to ask questions on behalf of students

with disabilities. Through collaborative partnerships, data can be gathered to support relevant research, technical assistance, and overcome challenges and barriers to success. Finally, there is an urgent need to consider policy and guidance to support parents and professionals serving students with disabilities across the various online environments.

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The content of this article was developed under a grant from the U.S. Department of Education #H327U110011. However, that content does not necessarily represent the policy of the U.S. Department of Education, and you should not assume endorsement by the Federal Government. Project Officer, Celia Rosenquist.