

6-23-20

## Position Statement

It is the position of the Minnesota Speech-Language-Hearing Association (MNSHA) that decisions on whether missed speech/language sessions are required to be made up are driven by a determination that the student has been denied FAPE. Determination of whether FAPE has been provided must be made on an individual basis.

An individual Speech-Language Pathologist can make up missed sessions based on their professional and ethical judgment, but it is not legally required in most cases.

Missed session practices may not be discriminatory against students based on membership in a [protected class](#).

\*\*This document represents a position statement by the Minnesota Speech-Language-Hearing Association (MNSHA); and is not endorsed by the American Speech-Language Hearing Association (ASHA), Minnesota Department of Education (MDE), Minnesota Department of Health (MDH), or the Minnesota Department of Human Services (DHS). Supportive documentation from some of those agencies is provided in the informative links for the individual items addressed.

### Directly related resources:

[ASHA's Missed Sessions Page](#)

[2007 Letter from ASHA](#)

[ASHA Guidance Letter](#)

[IDEA Part B Issue Brief: Missed Sessions](#)

[OSEP Reaffirms Guidance on Missed Services Sessions](#)

[ASHA LEADER: Missed Sessions...What's Really Missing?](#)

The United States Department of Education encourages "public agencies to consider the impact of a provider's absence or a child's absence on the child's progress and performance, and to determine how to ensure the continued provision of FAPE (Free Appropriate Public Education) in order for the child to continue to progress and meet the annual goals of his or her IEP. Whether an interruption of services constitutes a denial of FAPE is an individual determination that must be made on a case-by-case basis."

<https://www.asha.org/uploadedFiles/advocacy/federal/idea/OSERPResponseLetterGuidance.pdf>

## **MNSHA FAQ: Missed Speech-Language Sessions (11-9-19, revised 6-23-20)**

### **A. Can my district require me to make up missed sessions?**

“Schools should not have blanket policies about whether missed speech-language sessions must be made up, according to a recent communication from the Department of Education’s Office of Special Education Programs (OSEP).”

<https://leader.pubs.asha.org/doi/10.1044/leader.NIB3.21032016.8>

“Whether an interruption in services constitutes a denial of FAPE is an individual determination that must be made on a case by case basis.”

<https://www.asha.org/uploadedFiles/advocacy/federal/idea/OSEPResponseLetterGuidance.pdf>

(“Case by case” implies specific student situation to specific student situation consideration.)

### **B. Taking into consideration our responsibility to provide access to FAPE, do I need to make up a missed session if:**

1. I was gone for a training.  
No.
2. The student was absent.  
No.
3. A special event was taking place in the classroom.  
No.
4. I was attending a meeting.  
No.
5. There was a school closure (e.g. snow day).  
No.
6. There was an e-learning day.  
No.
7. I was needed to support another student.  
No.
8. I took a sick day.
  - a. Extended leave (i.e. what your individual district says is the length of time gone which requires you to request a short term leave) would be a situation where sessions could be covered with another SLP. If the substitute is not an SLP, then the IEP requirements are not being met.
  - b. Sick days in general do not need to be made up.
9. The student was suspended.

There is specific Federal IDEA statute regarding provision of special education services when students are suspended:

<https://sites.ed.gov/idea/statute-chapter-33/subchapter-ii/1415/k>
10. State Testing

Generally, a special education or related service missed due to participation in required scheduled assessments would not constitute a denial of FAPE and the LEA (Local Educational Agency) would not be required to make up the missed service. For a child who is absent from school on testing days due

to a parent/caregiver's choice, the LEA would not be obligated to make other arrangements to make up the missed services.

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/letter-to-letter-to-ka-ne-4-18-18.pdf>

**C. Should there be a statement on the IEP regarding missed sessions?**

**Where would a statement regarding missed sessions go in an IEP? (if needed)**

1. It is not a required part of the IEP, but is up to the individual SLP or district to decide whether to make a statement about missed sessions. The statement can be located anywhere on the IEP. The LRE or service page are common places for this statement.
2. There should not be a blanket statement in an IEP that sessions WILL be made up.

**D. Missed sessions as related to Third Party Billing in Education**

1. **Do I need to record missed sessions when completing 3rd party billing logs?**  
Individual school districts determine the procedure for logging missed sessions.
2. **Can my district or I determine whether to make up missed sessions based on whether the student is third-party billable?**

This would be a discriminatory practice and therefore illegal.

"Discrimination based on public assistance status is illegal in Minnesota. Under the Minnesota Human Rights Act, public assistance status is a "protected class."

<https://mn.gov/mdhr/yourrights/who-is-protected/public-assistance-status.jsp>