

Extended School Closure due to COVID-19
Special Education Question and Answer Document
(Revised 3/25/2020)

The department has developed this document to respond to questions that we have received regarding special education requirements during this unprecedented time. We will continue to provide updates as we receive more information. We would also like to encourage districts to provide learning opportunities to students if possible so students can make educational progress despite the significant disruption of school closures. This includes providing students with disabilities access to these opportunities to the greatest extent possible during this public health emergency. If some services cannot be provided or minutes are reduced, the LEA must consider, whether and to what extent, compensatory services are required once the school reopens. These determinations must be made on an individual student basis.

1. When a school is closed under a public health order and no hours of instruction are being provided to students, must special education services be provided?

No. If a school is closed for an extended period of time under a public health order (generally more than ten consecutive school days) and hours of instruction are not being provided to students in regular education, then the local educational agency (LEA) is not required to provide services to students with disabilities during the closure. Once school resumes, LEAs must make every effort to implement Individualized Education Plans (IEPs) and must consider, on an individualized basis, whether and to what extent, compensatory services are required due to the closure.

2. When a school is closed under a public health order and educational services are not being provided to students in a district, can districts consider providing some special education services to some students? How should districts determine what services can or should be provided?

Yes. While an LEA is not required to provide services to students with disabilities during closures when it is not providing instruction to students, schools can determine, on an individualized basis, whether to provide some services to minimize the long-term impact a disruption in educational services will have on some students with disabilities. When an LEA is aware that due to a student's unique, disability-related needs, the student will likely experience significant regression due to the absence of the student's educational program, providing some level of services can mitigate some of the student's losses and reduce the need for expending excessive

time and effort re-teaching the student when school resumes. School closures may prohibit the provision of services on a face-to-face basis, but LEAs should consider whether providing some services using an alternative format would be appropriate. To determine the services to be provided during the school closure LEAs may hold virtual IEP team meetings, or with parent agreement, use the Notice of Changes to IEP Without An IEP Meeting (DPI Model Form I-10) form to make revisions to an IEP.

3. When a school is closed under a public health order and no hours of instruction are provided, but some learning opportunities such as packets are made available, must students with disabilities also have access?

Yes. LEAs should ensure that students with disabilities have equal access to these opportunities to the greatest extent possible. In doing so, LEAs should consider whether IEPs need to be revised to allow for access.

4. When a school is closed under a public health order and hours of instruction are being provided through online learning, are special education services required?

Yes. If a school provides hours of instruction through on-line learning, the LEA must ensure that the special education and related services are provided to the greatest extent possible. The LEA must also determine if the student needs additional supports to access online learning. If some services cannot be provided or minutes are reduced, the LEA must consider, whether and to what extent, compensatory services are required once the school reopens. These determinations must be made on an individual student basis.

5. What if the hours of instruction for all students are not the length of a typical school day? (e.g. Students are receiving three hours of on-line instruction each day)
If the hours of instruction for all students are reduced, then the LEA should consider whether the amount of special education and related services should be adjusted in response to the revised length of the school day.

6. When a school is closed, may IEP team meetings be conducted virtually or through conference calls?

Yes, in order to minimize contact with others, an IEP team meeting may be conducted through virtual technology or through a conference call. All required IEP team members should participate unless appropriately excused.

7. May LEAs use the *Notice of Changes to IEP Without An IEP Meeting* (DPI Model Form I-10) form to make revisions to an IEP, including changes in placement?

Yes, necessary changes to IEPs, including changes in placement, stemming from school closures ordered by the state or recommended by local health departments

may be made without an IEP team meeting using the *Notice of Changes to IEP Without An IEP Meeting* form (DPI Model Form I-10) if the parent agrees and if it is during the duration of the closure.

8. Does the requirement that initial and reevaluations must be completed within 60 days of receiving parent consent still apply?

If a student is not available because the school is closed, the timeline may be extended. LEAs should maintain documentation as to why the timeline was extended, and communicate to the parent as to why the evaluation cannot be completed within the 60 days. If the IEP team determines that there is sufficient data to determine eligibility, then the IEP team should proceed to determine eligibility, and it would be appropriate to conduct the meeting through virtual technology or a teleconference.

9. How do we document that a student is not available for evaluation?

There is no form to document an exception to the 60-day timeline. LEAs should be sure to communicate the situation to the parent, make a memo in the student's file, and conduct the evaluation as quickly as possible once school resumes.

10. What about other timelines such as "15 business days to review existing data" and the annual review of the IEP?

LEAs should make every attempt to comply with the required timelines, including conducting annual IEP team meetings. The review of existing data can take place with the required IEP team members outside of an IEP team meeting, and input gathered via email or phone call.

Annual IEP team meetings should be conducted through alternative means such as conference calls or virtual technology. However, during a school closure due to a public health order, IEP team meeting timelines may be extended only if:

- The LEA has reasonably determined the use of virtual technology is not a suitable method of conducting the required meeting; or
- Information necessary for the IEP team's deliberation is not attainable due to recommendations of the state or local health departments.

11. What should an LEA do if the IEP team cannot meet in person due to a public health order, and a parent does not want to conduct an IEP meeting virtually or via telephone and would rather postpone the IEP team meeting. How should this be documented? (*added 3-20-2020*)

When IEP teams are unable to meet in person, LEAs must continue to take steps to ensure parents have the opportunity to meaningfully participate in IEP team

meetings through participation via alternative means. However, some parents may not be comfortable meeting virtually or participating by phone. A parent may choose to allow the LEA to proceed with the meeting without them. In that circumstance, LEAs should document the parent's wishes on the participation section on the cover page of the IEP and proceed with the meeting. However, if the parent makes clear their desire to participate in the meeting but prefers to wait until the meeting can occur in person, it is acceptable to wait to hold the meeting in person once school reopens. The department understands postponing an IEP team meeting may mean not meeting annual IEP timelines. When schools reopen and IEP teams are able to meet in person, the team should consider whether, as a result of the delay, compensatory services should be provided to the student

12. Is it considered a change of placement when an LEA provides on-line learning to students when the school building is closed to students during a public health emergency? *(added 3-20-2020)*

No. LEA's currently offering educational services to all students through alternative means have changed their "mode of instruction." Current OSEP guidance holds that a change in mode of instruction is not a change in placement requiring IEP team action. Therefore, LEAs do not need to use an I-10 or conduct an IEP team meeting if the LEA is providing on-line instruction to students. At this time DPI recommends districts notify parents of students with IEPs how special education and related services will be delivered in light of changes to the LEA's selected mode of instruction. Changes to IEP's, with or without a meeting, are only required to address a student specific need as it relates to the instruction being provided to the LEA. For example, if a student needs additional supports to access the instruction.

13. Does the 15-business day timeline for notifying the parent regarding the need for additional testing continue in effect during the school closure order? *(added 3/25/2020)*

LEAs should make reasonable efforts to complete the review of existing data within 15 business days. The timeline may be extended if:

- The LEA has reasonably determined the use of virtual technology is not a suitable method for conducting the review of existing data; or
- Information necessary to the analysis is not obtainable due to recommendations of the state or local health departments.
- If an LEA is unable to meet the 15 business day timeline, the LEA should notify the parents of the reason for the delay.

14. Will the Birth to 3 Program continue to make referrals to the LEA during the school closure order? *(added 3/25/2020)*

Yes. The Birth to 3 Program requirement that the referral for a child who has been determined potentially eligible for special education services be sent not fewer than

90 days before the child's third birthday remains in effect. (34 CFR §303.209(b))

15. Will the Birth to 3 Program continue to schedule transition planning conferences (TPCs) during the school closure order? *(added 3/25/2020)*

Yes. The Birth to 3 Program requirement that a transition planning conference (TPC) be held for a child who has been determined potentially eligible for special education services remains in effect. The TPC must be held not fewer than 90 days, and not more than 9 months before the child's third birthday. (34 CFR §303.209(c))

The Birth to 3 Program has the option to conduct the TPC using virtual technology.

The parent has the option to decline the TPC. The Birth to 3 Program, however, will refer the child as the child has been determined potentially eligible for special education services.

16. Does the evaluation need to be completed by a child's third birthday during the school closure order if testing has not been started or completed? *(added 3/25/2020)*

The LEA may extend the timeline for determining eligibility due to the child not being available for evaluation. When communicating with parents, the LEA should explain and document that the evaluation will be delayed due to the school closure order. Once the school closure order is lifted, the LEA should complete the evaluation as soon as possible.

When completing the Indicator 12 Reporting, the reason provided for exceeding the third birthday for determining eligibility would be 'Other' with the description "School closure due to COVID-19."

17. What should be the projected IEP implementation date if a child referred from a Birth to 3 Program is found eligible for special education? *(added 3/25/2020)*

For a child for whom the evaluation has been completed and the district is holding the IEP Team meeting at this time, the projected IEP implementation date would continue to be the child's third birthday with the understanding that services would not begin until the school closure order is lifted.

18. How can districts involve parents in IEP team decisions who do not have electronic access? *(added 3/25/2020)*

The LEA must document at least three reasonable attempts using multiple methods to involve the parent. Examples of documentation include detailed records of telephone calls and the results of those calls, and copies of correspondence sent to the parent and any response received. Attempts to contact the parent may be made via email. If a parent does not have access to email, the LEA should attempt to

contact the parent by telephone and certified mail. If the LEA is not successful in contacting the parent, the LEA should document the attempts and proceed as intended. The LEA should then notify the parent in writing of any IEP team decisions and offer to reconvene the IEP team when the parent is available to participate.

19. How should we be writing annual IEPs that we are conducting right now? Should they be written as if it is a normal school schedule? *(added 3/25/2020)*

Yes, annual IEPs developed during the period a school is closed by a public health order should be written to address the student's disability-related needs when school resumes. If the IEP team determines there are additional supports or services the student needs to participate in the alternate mode of instruction offered during the period the school is closed by a public health order, those should be included in the IEP. Use the "duration" section in the program summary to indicate the conditions under which these services and supports will be provided. For example, an appropriate duration may be "for the period of time the school is closed for the public health order."

We understand that information about the COVID-19 continues to change, and updated information will be posted on the [DPI COVID-19 web page](#). The department will continue to update this document to address new questions, as well as when we receive additional information.

Revisions:

3/20/2020 – Added questions 11 and 12.

3/25/2020 – Added questions 13-19.