



Coronavirus Disease 2019 (COVID-19) Federal Guidance for Students with Disabilities

Services for Students with Individualized Education Programs (IEPs)

With schools and school district closures due to COVID-19, questions arise regarding instructional and related services for students who have IEPs. The IDEA, Section 504, and Title II of the ADA do not specifically address a situation in which elementary and secondary schools are closed for an extended period of time (generally more than 10 consecutive days) because of exceptional circumstances, such as an outbreak of a particular disease. The Department understands there may be exceptional circumstances that could affect how a particular service is provided. Frequently asked questions, and a brief answer are provided below. For a more complete answer please refer to the U. S. Department of Education's document about providing services to students with disabilities during COVID-19, available at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

- **Is an LEA required to continue to provide a free appropriate public education (FAPE) to students with disabilities during a school closure caused by a COVID-19 outbreak?**
 - If an LEA closes its schools to slow or stop the spread of COVID-19 and does not provide any educational services to the general student population, then an LEA would not be required to provide services to students with disabilities during that same period of time. Once school resumes, the LEA must make every effort to provide services in accordance with the child's individualized education program (IEP) or consistent with a plan developed to meet requirements of Section 504. If an LEA continues to provide educational opportunities to the general student population during a school closure, the school must ensure that students with disabilities also have equal access to the same opportunities as outlined in FAPE and ADA, and IDEA
- **What services must an LEA provide if a public school for children with disabilities is selectively closed due to the possibility of severe complications from a COVID-19 outbreak?**
 - If a public school for children with disabilities is closed solely because the children are at high risk of severe illness and death, the LEA must determine whether each dismissed child could benefit from online or virtual instruction, instructional telephone calls, and other curriculum-based instructional activities,

to the extent available. In so doing, school personnel should follow appropriate health guidelines in the provision of such services.

- If a child does not receive services during a closure, a child's IEP team (or appropriate personnel under Section 504) must make an individualized determination whether and to what extent compensatory services may be needed, consistent with applicable requirements, including to make up for any skills that may have been lost.
- **May an IEP Team consider a distance learning plan in a child's IEP as a contingency plan in the event of a COVID-19 outbreak that requires the school's closure?**
 - Yes. IEP teams may, but are not required to, include distance learning plans in a child's IEP. Such contingent provisions may include special education and related services at an alternate location, at home, or virtual instruction (telephone, computer, or other curriculum-based instructional activities)
- **What activities other than special education and related services may and may not be provided with IDEA Part B funds both prior to and during a COVID-19 outbreak?**
 - IDEA Part B funds may be used for activities directly related to providing, and ensuring the continuity of, special education and related services to children with disabilities. LEAs, however, may not use IDEA Part B funds to develop or distribute general COVID-19 guidance or to carry out activities that are not specific to children with disabilities (e.g., general COVID-19 activities for all children and staff). Additionally, LEAs may not use IDEA Part B funds to administer future COVID-19 vaccinations to any children, including children with disabilities.

A webinar jointly hosted by the National Association of State Directors of Special Education, Council of Administrators of Special Education, and Council of Chief State School Officers on COVID-19 guidance for students with disabilities was recorded and can be accessed at https://zoom.us/rec/play/uslvJbr-pm03TNGXsQSDAaB4W469L_6s03VK-PIEyhuyUXMLMFekZ7NDNOZ0KplYrwl9W5AsPdOeqZSC?startTime=1584110179000

The U.S. Department of Education published a supplemental fact sheet with additional guidance for school districts. The fact sheet notes that providing a free and appropriate public education (FAPE) is consistent with the need to protect the health and safety of students with disabilities, as well as individuals who provide education, specialized instruction, and related services to students with disabilities. Access the fact sheet at <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>



Topics from the fact sheet include:

- **What is included in the provision of FAPE** - "... ensuring compliance with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act should not prevent any school from offering educational programs through distance instruction."
- **IDEA timelines** - "As a general principle, during this unprecedented national emergency, public agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate."

Resources

Council of Administrators of Special Education - <https://www.casecec.org/>

Council for Exceptional Children - <https://www.cec.sped.org/Tools-and-Resources/Resources-for-Teaching-Remotely/Webinars/TeachingSpedOnline>

FERPA and COVID-19

The U.S. Department of Education issued a document for school officials related to privacy questions arising from COVID-19. The document is available at

https://studentprivacy.ed.gov/sites/default/files/resource_document/file/ferpa%20and%20coronavirus%20frequently%20asked%20questions.pdf

National Association of State Directors of Special Education - <https://www.nasdse.org/>