

COVID-19 Superintendent Call – Special Populations

March 30, 2020

The following are questions asked by directors of schools during this call, along with the point-in-time answers provided by the Department. This document summarizes the response specific to questions related to Special Populations and IDEA compliance. During the call, Katie Houghtlin, Chief of Whole Child Supports, and Theresa Nicholls, Assistant Commissioner for Special Populations, provided a presentation on supporting special populations. That resource and others on this topic can be found in the document titled [School Closures and Special Education: Guidance on Services to Students with Disabilities](#) as well as [School Closure Toolkit: Special Populations \(PDF\)](#) on the Department's website.

For additional guidance and up-to-the-minute supports, please check the TDOE website for more information: <https://www.tn.gov/education/health-and-safety/update-on-coronavirus.html>.

Special Populations

- May districts conduct an annual review during upcoming IEP meetings, or must they create a new IEP?
 - **RESPONSE: Districts should make every attempt to conduct annual IEP team meetings that are due during periods of school closure.** There is some flexibility in this provision. For example, in making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the LEA may agree not to convene an IEP Team meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the child's current IEP. In addition, when conducting IEP Team meetings and placement meetings, the parent of a child with a disability and an LEA may agree to use alternative means of meeting participation requirements, such as video conferences and conference calls.

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 that limit access to important student records.

These decisions must include the child's parent or guardian and meaningfully work towards ensuring that each child receives an IEP review commensurate with the intent of the law, and in the best interest of the child.

- Where can districts find all of the Department's guidance related to IEPs?

- **RESPONSE:** Guidance and resources regarding IEP meetings can be found on the department's [COVID-19 webpage](#) in the document titled [School Closures and Special Education: Guidance on Services to Students with Disabilities](#) as well as [School Closure Toolkit: Special Populations \(PDF\)](#).
- Should districts provide prior written notice (PWN) to each individual or as a letter from the district level?
 - **RESPONSE:** If the information is regarding a proposal regarding the identification, evaluation, or educational placement of a child or the provision of a free appropriate public education (FAPE) to a child, a PWN must be sent. Information for parents that is not regarding such items may be communicated to parents without a PWN.
- Please provide more information about the CARES Act and the potential for stimulus funds or other funding to be provided directly to districts for compensatory services.
 - **RESPONSE:** More information will be forthcoming regarding the use of related relief funds available via the CARES Act.
- How should districts enroll a new student with an IEP?
 - **RESPONSE:** The student would be enrolled in the district's student information system (SIS) with a state id number, school and grade level. Once the enrollment record is complete in the SIS, then the student's enrollment record will import into EasyIEP. Districts will follow the same process as they normally would follow for any calendar day of the school year.
- What should the evaluation process and implementation of IEPs be prior to a child's third birthday?
 - **RESPONSE:** Districts should make all reasonable efforts to continue to complete transition activities to the extent possible in a manner that does not compromise the health and safety of families or district personnel. When possible and appropriate, such as for transition planning conferences, district staff should utilize alternative means such as phone or teleconferencing to complete these responsibilities. When this is not possible, district staff should maintain thorough documentation regarding the reasons certain activities are not able to be completed timely.
- Where can district leaders locate guidance for Special Education regarding RTI2 and Progress Monitoring?
 - **RESPONSE:** Guidance regarding the provision of special education interventions and services can be found on the Department's [COVID-19 webpage](#) in the document titled [School Closures and Special Education: Guidance on Services to Students with Disabilities](#) as well as [School Closure Toolkit: Special Populations \(PDF\)](#). We are continuing to build out guidance

related to the provision of general education interventions and progress monitoring through RTI².

- Please provide more information on each district's obligation to provide a free appropriate public education (FAPE) to students with disabilities through distance learning due to COVID-19.
 - **RESPONSE:** How a district provides FAPE will look different during this unprecedented period of national and state emergency. While ensuring the health and safety of students and educators is a priority, it may not be feasible during the current period of school closures to provide, for example, hands-on physical therapy, occupational therapy, or tactile sign language services.

However, many specialized instructional opportunities and related services may be modified to be effectively provided by sending resources and supports to students directly, online or telephonically. Such forms of specialized instruction may include, for instance, accessible reading materials, speech and language services through video conferencing, and videos with accurate captioning. Moreover, districts may continue to implement many of the accommodations on a student's IEP, such as extensions of time for assignments, large print, and use of speech-to-text and other assistive technology. IDEA funds provided to districts may support the expenses related to equipment or materials necessary for related accommodations. Once school resumes, the district must review how the closure impacted the delivery of special education and related services to individual students and convene IEP Team meetings as necessary in order to make an individualized determination as to what compensatory services may be necessary, and to ensure the student receives FAPE prospectively.

If an LEA closes its schools and does not provide *any* educational services to the general student population, then an LEA would not be required to provide FAPE to students with disabilities during that same period of time. Remember, the guidance provided by the USDOE stated, **“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.”** As 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, including the provision of FAPE. If a district chooses to provide students with enrichment materials or activities that are optional for the students to

complete, it must ensure that students with disabilities also have equal access to the same educational opportunities, taking into consideration the individual needs of students. The district should review the student's IEP to determine any accommodations or modifications needed to ensure access to the instructional activities, given the mode in which the activities are being delivered. Some students may be able to access the activity with accommodations while others may need additional modifications to ensure equitable access to the content.

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