Overview

As school facilities across the state are closed to prevent the spread of COVID-19, the well-being of students, teachers, and staff remain top priority. When school facilities close, the work of educators does not stop. School systems\(^1\) must continue to provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students.\(^2\)

This document is intended to help school systems understand key actions special education leaders should take during the extended school closure and when school resumes.\(^3\) These actions will help school systems continue to provide special education and related services in a continuous learning/distance learning environment, and maintain special education compliance and timelines.

In general, school systems should develop a plan to support maintaining IDEA timelines and, if a delay occurs, clearly document the details, the extent of the delay, and any plan to move as quickly as possible to prevent any further delay. School systems should consult their legal counsel for advice on specific or unique circumstances.

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\(^1\) School systems include districts and other public agencies that serve students with disabilities, including charter schools.


\(^3\) This information is a summary based on current guidance from government agencies. It does not intend to state new law or supplant any existing law. This information is subject to change in the event of additional guidance from other government agencies or more extended school closures.
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IDEA Timelines

Federal statutes, Louisiana law, and state regulations define specific timelines for the provision of special education and related services for students with disabilities.

Federal regulations govern most special education compliance timelines including, but not limited, to Part C to B transition, initial IEP development, and reevaluation timelines. The U.S. Department of Education (ED) has issued guidance on available flexibilities for IDEA Part B timelines.

A very small number of IDEA compliance timelines are defined by state regulations. The Board of Elementary and Secondary Education (BESE) approved initial waivers for a number of educational policies, including initial evaluations for students with disabilities.

Based on the most recent guidance from ED, the following sections discuss actions school systems should take to maintain compliance with IDEA’s special education timelines.

Timelines: Students with Disabilities with a Current IEP

Annual Review IEP Meetings

During the school closure, all school systems should continue to annually review IEPs to the extent possible. IEP team meetings can be conducted through alternate means including video conference or telephone conference calls.4

IEP Amendment Process

School systems should continue to provide special education and related services to students with disabilities to the extent possible, though extended school closure may affect how such services are provided. If a school system needs to modify the special education and related services in an IEP to adapt to student needs during continuous learning/distance learning, the school system should:

1. Notify the parent or guardian (e.g. call or email to discuss) of the modification and obtain agreement.
   a. If the parent or guardian agrees to the modification without convening the IEP team, document the modification through an IEP amendment or an individualized log.5 This document should be retained by the school system as part of a student’s IEP and included in the IEP folder.
   b. If the parent or guardian does not agree to the modification or requests an IEP team meeting, an IEP team meeting would need to be held. As noted above, IEP team meetings can be conducted virtually or by phone.

5 34 CFR § 300.324(a)(4).
Reevaluations

IDEA requires school systems to reevaluate each child with a disability at least every three years, unless the parent or guardian and the public agency agree that a reevaluation is unnecessary. School systems should conduct reevaluations to the extent possible during school closures.

School systems:

- Should conduct reevaluations that can be completed remotely or that do not require in-person assessment. School systems should continue to meet standard timelines.
- May delay reevaluations that require in-person interaction, assessment, or observation until school reopens. School systems should develop a plan to complete these evaluations and reevaluations as soon as possible once school reopens and notify parents.\(^6\)

School systems should carefully document all

- reevaluation activities carried out remotely during extended school closure,
- all postponed in-person activities or reevaluation components, and
- a plan for completing outstanding reevaluation requirements after school closure ends.

School systems must act in good faith in conducting and attempting to complete reevaluations during school closure.

Timelines: Students Suspected of Having a Disability

Initial Evaluations

In general, an initial evaluation must be conducted within 60 days of receiving parental consent under IDEA. During school closure, BESE provided an initial waiver that extends initial evaluation timelines from 60 to 90 days of receiving parental consent.

School systems should conduct initial evaluations to the extent possible during school closures. School systems:

- Should secure written consent to evaluate from the student’s parent or legal guardian.
- Should conduct components of initial evaluations that do not require in-person interactions, assessments, or observations.
- May delay components of an initial evaluation requiring face-to-face assessment and observations until school reopens. School systems should develop a plan to complete these evaluations as soon as possible once school reopens.\(^7\)

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A SER calendar with updated deadlines based on school closure delays and waivers is forthcoming.

Initial IEPs

After a school system completes an evaluation that determines a student is eligible for special education and related services, it has a maximum of 30 calendar days to complete the initial IEP placement document.\(^8\) Parents must provide written consent for school systems to provide services contained in the initial IEP. During extended school closure, the school system may mail parents a copy of the initial IEP to review, sign, and mail the signature page back to the school system. Alternatively, school systems may obtain parent consent signatures via email as long as parents have consented to use email and the document is sent securely.\(^9\)

Transition to Preschool and Other Programs

Federal regulations govern the transition activity timelines for toddlers with disabilities transitioning from part C to preschool and other programs. Consistent with these regulations, transition conferences must be held no fewer than 90 days, and at the discretion of all parties, not more than 9 months before the toddler's third birthday.\(^{10}\) There have been no changes to these federal regulations and teams should continue to adhere to these timelines to the extent possible.

Documenting Services Provided During School Closure

Delivery of IEP Services

During extended school closure, school systems may use personnel to provide support to students with disabilities in novel ways and adjust the instructional delivery method of special education and related services.

From ED:

Although federal law requires distance instruction to be accessible to students with disabilities, it does not mandate specific methodologies. Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services.

\(^8\) [34 CFR § 300.323(c)(1)]
\(^9\) [34 CFR § 300.505; U.S. Department of Education, Letter to Breton, March 21, 2014.]
\(^{10}\) [34 CFR §303.209(c)]
provided to other students. For example, if a teacher who has a blind student in her
class is working from home and cannot distribute a document accessible to that student,
she can distribute to the rest of the class an inaccessible document and, if appropriate
for the student, read the document over the phone to the blind student or provide the
blind student with an audio recording of a reading of the document aloud.

The Department understands that, during this national emergency, schools may not be
able to provide all services in the same manner they are typically provided. While some
schools might choose to safely, and in accordance with state law, provide certain IEP
services to some students in-person, it may be unfeasible or unsafe for some
institutions, during current emergency school closures, to provide hands-on physical
therapy, occupational therapy, or tactile sign language educational services. Many
disability-related modifications and services may be effectively provided online. These
may include, for instance, extensions of time for assignments, videos with accurate
captioning or embedded sign language interpreting, accessible reading materials, and
many speech or language services through video conferencing.  

Documenting Implementation of Services

School systems should document modifications, delays, inability of service, and other changes
to special education and related services provided to students with disabilities during extended
school closure. At minimum, this documentation should include the following:

- Date(s) provided
- Education/related service minutes (both offered and delivered)
- Service provided to student (both current and modified)
- Staff who provided the service
- Accommodation/modification provided to student, based on updated IEP
- Student response to services and accommodations
- Notes

School systems should record both the education and services offered and the actual services
delivered to students with disabilities. This documentation will help school systems navigate
reporting requirements and determine appropriate compensatory education when school
resumes.

IEP Progress Reports

IDEA requires IEP teams to include, in a student's IEP, a description of how student progress
toward meeting annual goals will be measured. Federal and state law also require school
systems to provide periodic reports on the progress the student is making towards meeting the

annual goals using reporting methods like report cards and weekly, quarterly, or other periodic progress reports.\textsuperscript{12}

School systems must continue to complete and share IEP progress reports with students and parents during extended school closures. School systems should continue to use the IEP progress report form in the Special Education Reporting (SER) system to document student progress toward annual IEP goals. If any annual goal(s) are not currently being addressed through distance learning, IEP teams may decide to choose \textit{not addressed} in the \textit{progress towards goals} dropdown menu. Teams should detail and describe why the student made no or limited progress toward meeting IEP goal(s) during the extended closure or distance learning in the \textit{comments} text field on the progress report page in SER.

Extended School Year (ESY) Services

IDEA and state regulations require school systems to offer eligible students ESY services as necessary to provide FAPE.\textsuperscript{13} There is no waiver from providing ESY services to students with disabilities. School systems must continue to offer ESY services as an extension of the 2019-2020 school year to eligible students.

The Board of Elementary and Secondary Education (BESE) recently approved waivers of state policy intended to provide Individualized Education Program (IEP) teams with additional flexibility in making ESY \textit{eligibility} decisions. The waivers include:

\begin{itemize}
  \item Bulletin 1530, Louisiana’s IEP Handbook, §705
  \item Bulletin 1530, Louisiana’s IEP Handbook, §709 (A)(1)-(4)
  \item Bulletin 1530, Louisiana’s IEP Handbook, §709 (D)(1)(b)
  \item Bulletin 1706, Regulations for Implementation of the Children with Exceptionalities Act, §106 (A)(4)
\end{itemize}

Under these waivers, school systems have greater flexibility to use all available information and existing student data to determine eligibility for ESY services. The BESE waivers for 2019-2020 ESY student eligibility determinations give school systems pliability beyond the specific eligibility criteria (regression-recoupment, CP1, CP2, and special circumstances) outlined in Bulletin 1530. These ESY waivers shall expire September 1, 2020 unless terminated sooner by the Superintendent.

These waivers apply to BESE rules. BESE’s waivers do not change the school system’s responsibility under IDEA to provide ESY to eligible students. It remains the school system’s responsibility to have a process for determining ESY eligibility and providing ESY services to those students found eligible. Once school systems determine eligibility for ESY services, the school system is obligated to provide a program and complete all SER documentation.

\textsuperscript{12}34 CFR § 300.320.
\textsuperscript{13}34 CFR § 300.106(a)(1).
Act 833

Currently enrolled graduating seniors who will graduate by August 31, 2020 are no longer required to take the LEAP 2025 high school assessment to be eligible to graduate. In SER, IEP teams should update the goal summary page for these students, when the course is completed. IEP teams should update each course on the goal summary page by selecting N/A and “Federal/BSESE assessment waiver” indicating that the assessment requirement to graduate has been waived for graduating seniors in the 2019-2020 school year.

The Department will recommend to BESE a policy change to remove the assessment graduation requirement for a high school assessment-eligible course earned by a student in 2019-2020 if the student would have been an initial tester. The policy change would not apply to any student who needs to retake the assessment to meet graduation requirements.

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Section 504 prohibits disability discrimination by schools receiving federal financial assistance. The same principles that apply to activities outlined in this guidance for students with an IEP apply to similar activities conducted by appropriate personnel for a student with a disability who has a plan developed under Section 504, or who is being evaluated under Section 504.14

Compensatory Services

After an extended closure, school systems are responsible for reviewing how the closure impacted the delivery of special education and related services to students with disabilities.15 A data review should be conducted on all students with disabilities, including those students who exceed the age of eligibility or have graduated in the 2019-2020 school year. If the student lost progress, IEP teams (or appropriate personnel under Section 504) will need to reassess services and determine whether the student requires compensatory services.

School system closed, not providing continuous learning/distance learning. Even if a school system closes schools and does not provide any educational services to the general student population, the school system must consider compensatory services.16 A full school closure does not exempt a school system from obligations to provide compensatory services for lost learning.

School system closed, providing continuous learning/distance learning. The school system should document all activities, programs, and related services it offered to provide an eligible

student FAPE. Special education and related services during the school closure can provide educational benefit to the student and reduce or eliminate compensatory services when school resumes.

School systems should make their compensatory services offer decisions on a case-by-case basis. When determining whether an individual student is entitled to compensatory services, IEP teams (or appropriate personnel under Section 504) should use a systematic approach and individual student data in their decision-making. Some illustrative, non-exclusive elements school systems should consider include:

- If special education and related services could not be modified to a continuous learning/distance learning environment
- If some special education and related services were modified but did not fully meet the student’s education needs
- The student’s IEPs: pre-extended closure, amended, and revised
- The duration and circumstances of the school closure (e.g. full closure or continuous learning/distance learning).

**Communicating with Parents and Parental Consent**

The IDEA’s parental consent requirements still apply during an extended school closure. Given the unique circumstances of the COVID-19 outbreak, much of the communication school systems have with parents will understandably be done via phone calls and video chats. While communication can be done this way, school systems should take steps to document their activities as follows.

**Written Notifications to Parents**

Federal rules require school systems to provide written notification to parents:

- A reasonable time before the public agency proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child\(^\text{17}\)
- Of procedural safeguards on initial referral or parent request for evaluation, receipt of the first state complaint and receipt of the first due process complaint in a school year, in accordance discipline procedures, and request by a parent\(^\text{18}\)
- Regarding due process complaints\(^\text{19}\)

These notifications can be provided via email if parents agree to email communication.\(^\text{20}\)

\(^{17}\) 34 CFR § 300.503.
\(^{18}\) 34 CFR § 300.504.
\(^{19}\) 34 CFR § 300.508.
\(^{20}\) 34 CFR § 300.505.
Parental Consent

Federal rules require parental consent for:

- Initial evaluations
- Delivery of special education and related services
- Reevaluations\(^{21}\)

Under federal rules, consent means:

- The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or through another mode of communication
- The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time\(^{22}\)

According to ED, school systems may use electronic or digital signatures for consent, provided they take the necessary steps to ensure that there are appropriate safeguards to protect the integrity of the process.\(^{23}\) School systems should consult their existing digital document policy to determine procedures and integrity for digital document exchange and signatures.

Other Parent Communications

Schools systems must discuss many other issues with parents including:

- Delivering services using non-public video conferencing platforms (consent)
- The content of an IEP and/or modifications to an existing IEP

School systems should document these communications in writing (which may include emails or other correspondence with parents) to the extent possible.

For telephone/virtual IEP meetings, it is recommended that school systems send parents a draft-marked copy of the IEP and related decision-making data before the meeting. After the team makes all the IEP revisions and additions during the IEP team meeting, the school system should send the parents a completed copy of the IEP to review, then sign and return the consent page of the IEP to the school. Exchange of the IEP and signed-signature page should be conducted by email or mail during extended school closures.

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\(^{21}\) 34 CFR § 300.300.
\(^{22}\) 34 CFR § 300.9.
Privacy

For the most current guidance regarding student privacy during school closures and continuous learning please refer to the Louisiana Department of Education’s Privacy and Security for Distance Learning guidance document.

The Department has also released Virtual Small Group Instruction for Students with Disabilities: Privacy Guidance for delivery of special education and related services during continuous learning. School systems should notify parents of the potential for inadvertent disclosures of personally identifiable information during virtual continuous learning, and obtain parental consent prior to student participation in virtual small group instruction.

Additional Resources

- LDOE: COVID-19 FAQ
- U.S. Department of Education: COVID-19 ("Coronavirus") Information and Resources for Schools and School Personnel
- Early Childhood Technical Assistance Center (IDEA Part C): ECTA Coronavirus Resources
- National Center for Systemic Improvement (IDEA Part B): NCSI Resources on Distance Instruction
- Council of Administrators of Special Education: Considerations for Special Education Administrators