

## Overview

Regardless of the reopening plan and learning scenario of the 2020-2021 school year, school systems must ensure students with disabilities receive a free and appropriate public education (FAPE). In July 2020, Louisiana’s Board of Elementary and Secondary Education (BESE) adopted [Minimum Requirements for Reopening and Operating School Facilities](#), stating that students with disabilities must continue to receive special education and related services in their least restrictive environment. School systems must continue to provide FAPE in accordance with a student’s IEP and BESE policy. This Timelines, Services and Documentation guidance will help school systems understand key actions system leaders should take when planning and providing services across learning environments.<sup>1</sup> These actions will help school systems maintain IDEA compliance and provide continuity of services to students with disabilities.

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## IDEA Timelines

Federal and state regulations define specific timelines for the provision of special education and related services for students with disabilities. School systems must have plans in place to meet all IDEA and Section 504 timeline requirements, to the greatest extent possible, using any existing flexibility in federal law and state regulations.

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<sup>1</sup> 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.

## Evaluations

School systems must continue to meet standard timelines and prioritize conducting initial evaluations and reevaluations in the event there are intermittent or limited opportunities for in-person contact with students during the school year. School systems must also have a plan in place to complete outstanding evaluations that were due during the 2019-2020 school year extended school facility closure.<sup>2</sup>

### Child Find and Initial Evaluations

School systems have an ongoing child find obligation to locate, identify, and evaluate students suspected of having a disability.<sup>3</sup> In light of various school operating and reopening scenarios, screenings and evaluation components may occur through alternate means, as appropriate, so that school systems can continue to ensure students with disabilities receive necessary services and support as soon as possible. If an evaluation is warranted, school systems should work closely with families to determine how evaluation components and information can be collected safely. During the evaluation process, school systems should continue to prioritize the [health and safety of students and staff](#), as well as the best interests of the child in determining exceptionalities so as to not delay service provision.

BESE waivers extended initial evaluation timelines for initial evaluations due during school facility closure at the end of the 2019-2020 school year. However, all initial evaluations opened after the end of the 2019-2020 SY follow the regular timeline requirements and must be conducted within 60 business days of receiving parental consent under IDEA. The SER calendar with updated deadlines has been posted in SER. It reflects BESE extensions evaluations due during school facility closures and the return to the 60-day timeline for initial evaluations. Section 504 plan evaluations should continue in accordance with school system policy.

### Reevaluations

Reevaluations are due by the triennial due date. This may require school systems to implement procedures for completing any outstanding reevaluation requirements that were due during the 2019-2020 SY extended school facility closure. School systems should plan for methods of remote record reviews and sharing of progress monitoring data, and use available in-person time to collect any necessary additional components. Section 504 plan reevaluations should continue in accordance with school system policy.

### Developmental Delay

Students who qualified under the exceptionality of Developmental Delay must have a [reevaluation](#) completed prior to the student's ninth birthday. If the student's ninth birthday occurred during the school facility closure period, reevaluations are due 30 calendar days after school reopens. In SER, school systems should use the "evaluation is out of

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<sup>2</sup> U.S. Department of Education Supplemental Fact Sheet, pp. 4-5, dated March 21, 2020; U.S. Department of Education [Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters](#), p. 14, September 2017.

<sup>3</sup> [34 CFR §300.111](#)

timeline due to school building closures” check box, when appropriate. Pupil appraisal and evaluation team members should work closely with families to meet these deadlines.

## 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.<sup>4</sup> Parents must provide written consent for school systems to provide services contained in the initial IEP. In the event parents are not permitted inside school buildings, school systems may continue to 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 parental consent signatures via email as long as parents have consented to use email and documents are sent securely.<sup>5</sup> School systems should develop appropriate safeguards for using electronic or digital signatures.<sup>6</sup>

## Annual Review Meetings

All school systems must continue to annually review IEPs and 504 plans while adhering to mandated public safety guidelines. School systems should continue to follow federal guidelines for notifying parents of meetings and ensuring they have access to draft-marked copies of the IEP and related decision-making data before the meeting. The IDEA and state regulations permit parents and school team members to use alternative means to participate in IEP Team Meetings. Signatures can be collected electronically if parents have provided consent.

## Transition to Preschool and Other Programs

Federal regulations govern the transition activity timelines for children with disabilities transitioning from IDEA Part C to Part B or 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.<sup>7</sup> The Office of Special Education Programs (OSEP) released [guidance](#) on Part C evaluation and assessment timelines.

## Documenting Services

IEP files must continue to reflect current special education and related services to students with disabilities, though modified school operations may affect how such services are documented and provided. If there are concerns providing services as written in the existing IEP, the team, including parents, should collaborate to determine, revise and document services based on the student's current needs. All services must be documented and included in the IEP file.

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<sup>4</sup> [34 CFR § 300.323\(c\)\(1\)](#).

<sup>5</sup> [34 CFR § 300.505](#); U.S. Department of Education, [Letter to Breton](#), March 21, 2014.

<sup>6</sup> [IDEA Part B Procedural Safeguards Q&A](#), June 30, 2020.

<sup>7</sup> [34 CFR §303.209\(c\)](#)

## IEP Amendments

Parents and school system IEP Team members can work collectively to amend an IEP to modify services to adapt to student needs. The school system must notify the parent or guardian (e.g. call or email to discuss) of the modification and obtain agreement.

- 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.<sup>8</sup> This document should be retained by the school system as part of a student's IEP and included in the IEP folder.
- 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 may be conducted virtually or by phone.

## Contingency Plans

During the COVID-19 pandemic, school systems may need to modify operations and instruction for all students, including students with disabilities. Parents and school system IEP teams may amend or revise a student's existing IEP to include a [Contingency Learning Plan](#) (CLP) to document any temporary special education services. The CLP must be individualized and is not intended to replace the student's current IEP. Without documented parent/guardian agreement under [34 CFR §300.324](#) to amend the student's IEP, the contingency plan should not be considered a fulfillment of an IDEA requirement. Services documented on the contingency plan should be determined and adapted, as needed, in collaboration with the parents or guardians based on the student's ongoing needs. The IEP team should identify which events trigger and terminate the implementation of the contingency plan. It is important to remember that a student's learning goals do not change because the learning environment changes.<sup>9</sup>

## Compensatory Services

As the 2020-2021 school year begins, many school systems have already completed individual student data reviews to determine the need for [Strong Start Compensatory Services](#) for every student with a disability. School systems also have plans in place to begin providing *Strong Start Compensatory Services* to eligible students within the first month of school. Schools must continue to provide special education and related services across all learning environments and during times of modified operations. If there is a delay in services or even making decisions about how to provide services, IEP teams must make subsequent individualized determinations regarding compensatory services and/or compensatory education needs of students to make up for any skills that may have been lost because the student did not receive educational benefit.<sup>10</sup>

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<sup>8</sup> [34 CFR § 300.324\(a\)\(4\)](#).

<sup>9</sup> The TIES Center, [Building Engagement with Distance Learning | DL #17: Planning for Instruction both at School and Distance Learning: The 5C Process](#)

<sup>10</sup> U.S. Department of Education, [Questions and Answers on Providing Services to Children with Disabilities During an H1N1 Outbreak](#), December 2009.

## Other Considerations

### April Dunn Act (formerly Act 833)

BESE approved a [policy change](#) to Bulletin 118 - Statewide Assessment Standard and Practices to remove the assessment graduation requirement, for initial testers, for a high school assessment-eligible course. A student who earned a high school assessment-eligible course credit in the spring semester of 2020 and has never taken the corresponding LEAP 2025 test for the course will not be required to take or pass the LEAP 2025 subject test for that course in order to meet assessment graduation requirements. The policy change does not apply to a student who needs to retake the assessment to meet assessment graduation requirements of the course.

Additionally, currently enrolled graduating seniors, on an alternate graduation pathway, 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/BESE assessment waiver” indicating that the assessment requirement to graduate has been waived for graduating seniors in the 2019-2020 school year.

### Privacy

For the most current guidance regarding student privacy during virtual learning please refer to the Department’s [Privacy and Security for Distance Learning](#) guidance document. The Department has also updated the [Virtual Small Group Instruction for Students with Disabilities: Privacy Guidance](#) for virtual delivery of special education and related services. School systems should notify parents of the potential for inadvertent disclosures of [personally identifiable information](#) during virtual learning, and obtain parental consent prior to student participation in virtual small group instruction.

## Additional Resources

- Louisiana Department of Education: [Strong Start School Operations Guidance 2020-2021](#)
- 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 COVID-19](#)
- Council of Administrators of Special Education: [Considerations for Special Education Administrators](#)