



Guidance for Iowa AEAs and School Districts for IDEA During COVID-19 Outbreak

Overview

The following guidance is provided based on information from the Office of Special Education Programs (OSEP) and current state administrative rules and regulations. This guidance may be updated as additional information is available.

This guidance is informed by the following five guiding principles:

- A. Health and safety is the first consideration.
- B. Children with disabilities are entitled to an equal opportunity for participation in any service provided by a district, including modifications and supplementary aids and supports as necessary.
- C. To the extent practicable, strive to maintain a sense of normalcy for children with disabilities during this public health emergency.
- D. To the extent that health and safety comes into tension with an administrative or procedural requirement, default in favor of health and safety and consider responding to the administrative or procedural requirements once this public health emergency has resolved.
- E. Parents must be involved in any decision about an individual child's placement or services under the Individuals with Disabilities Education Act (IDEA), Early ACCESS, or Section 504.

Provision of FAPE When the District is Closed

Schools Closed and No Services Provided. If a school district 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 it would not be required to provide services to students with disabilities during that same period of time.

If a nonpublic school student with a disability receives services from the public school district under Iowa Code section 256.12 and the public school is closed, the public school does not need to provide services to that student.

If schools are closed and no services are provided, there is no automatic entitlement for services to be "made up" once services resume. Each child's team, however, must consider the extent to which additional services are required to receive a FAPE.

Schools Closed and Services Provided. If a district continues to provide educational opportunities to the general student population during a school closure, the district must ensure that students with disabilities also have equal access to the same opportunities, including the provision of FAPE under Section 504 and Title II of the Americans with Disabilities Act.

If services are provided to all students, the Iowa Department of Education, school districts, and schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special

education and related services identified in the student's IEP developed under IDEA, or a plan developed under Section 504.

For example, if packets are being sent home, can the eligible individual access the information in the packet and complete assignments? IEP teams may need to consider whether the individual can receive FAPE through online learning if the school is providing online learning to all students. The IDE is developing tools and supports for IEP teams to consider when making this determination.

IEP teams may consider using alternative ways of meeting the instructional needs of the student. If alternative ways of providing services are used, it is recommended that the IEP Team document in the IEP the alternative services that were provided, the effect of those services, and which services were not able to be met. This information will be useful when there is a full return to school and the team must reconsider the child's needs (see below for more information on returning to school).

Meeting Evaluation Timelines When the District is Closed

The OSEP will provide further guidance around timelines. The Iowa Department of Education will review any forthcoming guidance and revise the following as necessary.

- If the team is able to complete the evaluation with existing data, complete the evaluation.
- If the team is unable to complete the evaluation with existing data, but the team can agree on alternate ways to measure the area of concern, complete the evaluation using those agreed-upon alternate means.
- If the team determines that the child is eligible for an interim IEP, draft an interim IEP while the evaluation is completed. [Iowa Admin. Code r. 281-41.324\(5\)](#).
- If the team is unable to complete the evaluation in the time allotted, the public agencies propose a reasonable plan to prevent and correct.

Completing Annual Reviews When the District is Closed

The OSEP will provide further guidance around timelines, the Iowa Department of Education will review any forthcoming guidance and revise as necessary.

- The statute requires that IEPs be annually reviewed, not annually rewritten.
- The team could review the IEP by alternate means of meeting participation.
- The team could agree to continue the current IEP or make changes. Continuing the current IEP could be time-limited for the duration of school closures and completed by an amendment with or without a meeting.
- If, after the review, the parent disagrees with the decision to either continue the current IEP or make changes, the parent is entitled to a prior written notice.
- If, for any reason, the team is unable to meet this requirement, the public agencies propose a plan to prevent and correct.

Participation in Alternate Assessment When the District is Closed

As noted in the Department's March 16 guidance, the U.S. Department of Education is considering a variety of approaches to the assessment requirements for those schools impacted by extraordinary circumstances due to COVID-19. This could include districts that are unable to complete data gathering as part of an Alternate Assessment aligned to alternate academic achievement standards. The Department will pursue all appropriate means necessary to assist Iowa schools.

Mediation When the District is Closed

The Iowa Department of Education will continue, consistent with health and safety, to support mediation and other dispute prevention and resolution options. However, there may be changes.

- There may be changes in the mediator.
- There may be changes in the mediation date or location.
- If no mediator is available on a currently scheduled date, mediation will be rescheduled by the Department.
- There may be restrictions on in-person mediation, including if the mediation conference will be attended by a larger number of participants, if the public agency is closed or restricting their staff's participation, or if a participant is at risk of COVID-19. These restrictions could also include requiring a sufficiently large room to maintain social distance, requiring a room with multiple entrances, limiting close contact between participants, eliminating the exchange of paper documents through the increased use of technology, and eliminating wet signatures on agreements to mediate and legally binding agreements and using electronic signatures instead.
- The parties may always, for any reason, agree to reschedule the mediation conference.
- The Department will support the use, if requested by the parties, of virtual mediation conferences. This could include but is not limited to mediation via conference call, mediation via videoconferencing platforms, or asynchronous virtual mediation (such as by collaboration software).

Provision of FAPE When the District is Open and an Individual is Absent for Extended Period of Time

If a child with a disability is absent for an extended period of time because of a COVID-19 infection and the school remains open, then the IEP Team must determine whether the child is available for instruction and could benefit from homebound services such as online or virtual instruction, instructional telephone calls, and other curriculum-based instructional activities, to the extent available.

Provision of Early ACCESS Services When Agencies are Closed

If the offices of the Iowa Department of Education, the AEA or Child Health Specialty Clinics (CHSC) are closed, then Part C/Early ACCESS services would not need to be provided to infants and toddlers with disabilities and their families during that period of time.

If Iowa Department of Education offices are open but the offices of the AEA or CHSC in a specific geographical area are closed due to public health and safety concerns as a result of a COVID-19 outbreak in that area, the AEA or CHSC would not be required to provide services during the closure.

Provision of Early ACCESS Services When Agencies are Open but Services Cannot be Provided as Specified

If the offices remain open, but Part C/Early ACCESS services cannot be provided in a particular location (such as in the child's home), by a particular provider, or to a particular child who is infected with COVID-19, then IDE and AEA must ensure the continuity of services by, for example, providing services in an alternate location, by using a different provider, or through alternate means, such as consultative services to the parent. This could include connecting with families via phone, teleconferencing and email communication. If teleconference is used, providers should ensure privacy and protection of information meets all requirements of all relevant legislation. If alternative ways of providing services are used, it is recommended that the IFSP

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document which alternative services were provided, the effect of those services and which services were not able to be met. This information will be useful when there is a full return to learning and the team must reconsider the child's needs.

Meeting Early ACCESS Timelines When Agencies are Closed

OSEP will provide further guidance around timelines, the Iowa Department of Education will review any forthcoming guidance and revise the following as necessary.

- If the team is able to complete the assessment and evaluation with existing data, complete the evaluation.
- If the team is unable to complete the assessment and evaluation with existing data, but the team can agree on alternate ways to measure the developmental delay, complete the evaluation using those agreed-upon alternate means.
- If the team is unable to complete the assessment and evaluation in the time allotted, the public agencies propose a reasonable plan to prevent and correct.
- If a particular infant or toddler is unavailable for an evaluation, an assessment, or the initial IFSP meeting, this constitutes an exceptional circumstance that would excuse compliance with the forty-five day timeline, if documented in Early ACCESS records.
- Consider holding Early ACCESS meetings remotely, if a remote meeting is a “setting” that is convenient to the family.
- For transition from Early ACCESS to special education, consider alternate ways of holding transition meetings. For an initial evaluation for special education, use the analysis above, including the use of an interim IEP.

Considerations for When Schools and Agencies Re-Open

If schools are closed and no services are provided, there is no automatic entitlement for services to be “made up” once services resume. Each child's team, however, must consider the extent to which additional services are required to receive a FAPE. More detailed information will be provided by the Iowa Department of Education.

Questions

If you have questions, please contact [Barb Guy](#) regarding students ages 6-21 or [Kimberly Villotti](#) regarding children ages 0-5.