

# Considerations for Students with Disabilities During Ohio's Ordered School-Building Closure

One of Ohio's top priorities during the ordered school-building closure period, which seeks to diminish the spread of the coronavirus (COVID-19), is to ensure students with disabilities receive educational services closest to the manners prescribed within their Individualized Education Programs (IEPs). We recognize this might pose some challenges, but we are heartened by how the education community has stepped up to provide educational services during this unexpected and unprecedented time.

This document is designed to help school districts provide special education services to students with disabilities (ages 3-21). The document addresses specific requirements of the Individuals with Disabilities Education Act and speaks to the most frequently asked questions that have emerged during the state's ordered school-building closure.

The document encourages school district leaders to consider the following three questions as they think through how best to provide special education services to students with disabilities:

1. Is the activity essential?
2. Can the activity be done virtually?
3. If there is no other choice, then can the activity be done safely? This means individuals are separated by distance, not congregating in close proximity and the health of participants (students, educators and others) is protected. Consulting the local health department is advisable and encouraged.

## School Buildings Completely Closed to Students; Education Services Not Provided

During this ordered school-building closure period, some schools may be completely closed and **not** providing educational services; for instance, during the school's planned spring break or during a voluntary complete shutdown based on a local decision. When a district or school is **not** in session **and** educational services are **not** provided to **any** student, specially designed instruction and related services are **not** required to be provided to students with disabilities.

## Ohio's Ordered School-Building Closure

During the ordered school-building closure, school buildings are closed to students, but many schools are making a good-faith effort to provide educational services to students. Therefore, efforts must be made to provide specialized services to students with disabilities during this time. Schools will need to consider the exact nature and duration of the services provided during this period on a case-by-case basis depending on the needs of individual students.

## Evaluation Team Report (ETR) Considerations

To the extent practicable, initial evaluation team reports must be completed within the 60-day mandated timeline as prescribed in the Individuals with Disabilities Education Act (IDEA) and Ohio Administrative Code 3301-51-06<sup>1</sup>.

*Reviews of the evaluation team report* can be completed using a **virtual format or via telephone**. Participation and required signatures can be documented **via email attachment, standard mail, scanned signature, photograph of the signature or any other electronic means**.

If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation will need to be delayed until the ordered school-building closure ends. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place during the ordered school-building closure, so long as a student's parent or legal guardian consents. These same principles 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.

<sup>1</sup> 34 C.F.R. 300.301 [Initial evaluations]

As is the case with a typical re-evaluation, a district may choose to conduct a records review. This allows the district to update the evaluation without needing to conduct face-to-face assessments and observations. The method of conducting an evaluation team report review and signature collection should be documented in a *prior written notice* (PR01) consistent with the requirements listed in Ohio Administrative Code 3301-51-05(H).

If the school was scheduled to conduct an evaluation team report review prior to the ordered school-building closure period but was unable to complete it, then consider the student eligible and provide services to students based on your school or district's processes and procedures.

### **Individualized Education Program (IEP)**

School or district personnel should review each IEP to determine the type and frequency of services each student will require during the ordered school building-closure period.

If adjustments to specialized services are needed, school personnel should convene the IEP team to review and determine specific services that will be provided during the ordered school-building closure period and revise the IEP accordingly. The IEP team meeting can be conducted virtually or by phone and should include decisions about location of service or placement of the individual child.

IEP teams can use data collected prior to or after the ordered school-building closure period to determine if compensatory time or extended school-year services (see below) will be required due to an interruption of services.

IEP *annual reviews* can be completed using a **virtual format or via telephone**. Participation and required signatures can be documented via **email attachment, standard mail, scanned document, photograph of the signature or any other electronic means**, and the method of IEP team review and signature collection should be documented in a prior written notice form (PR01).

### **Determining Compensatory Services Required After the Ordered School-Building Closure Ends**

The determination to provide compensatory educational services as a result of the ordered school-building closure needs to be made on an individual or case-by-case basis after the ordered school-building closure ends.

IEP teams should review student data to determine if critical skills will be or have been lost during the period in which the district has been closed.

### **Determining the Need for Extended School-Year Services**

The need for extended school-year services should be made on an individual or case-by-case basis. This should be evaluated after the ordered school-building closure ends.

### **On-site Monitoring During Ordered School-Building Closure:**

All previously planned or in-process Ohio Department of Education on-site monitoring has been changed to a **desk review process for the remainder of this school year**, including virtual participation (if necessary). The Office for Exceptional Children at the Ohio Department of Education will assess the situation at the conclusion of Ohio's ordered school-building closure to determine how the Department's reviews will continue beyond the ordered school building-closure period. If the office is unable to continue with the monitoring process, the monitoring of the school district will be postponed until the 2020-2021 school year, and the team lead from the office will work with your district to reschedule.

## Dispute Resolution Processes

If a complaint is in the process of being investigated during the ordered school-building closure period, the complaint investigator will determine if the investigation can continue based on the information the district or parent provided prior to the mandatory closure. If an extension to the 60-day timeline is needed, parties will be notified by the dispute resolution investigator.

If a district is involved in a facilitation, mediation or due process hearing and the facilitation, mediation or hearing is scheduled during the period of school or district closure, contact the Department's Dispute Resolution staff for information as to the scheduled date and time of the meeting at 1-877-644-6338.

## Special Education Profiles

Special Education Profiles were scheduled to be released on March 25. The Ohio Department of Education will delay release until further notice. The Department will provide updates on a new timeline when possible.

## Allocation of Special Education Funding

The Ohio Department of Education does not anticipate any process delays with budget amendments for the current school year nor do we anticipate any delays in the allocation funding for next school year.

## Services to Students When Schools or Districts Provide Alternative Means of Education

If a school district chooses to educate students through online or distance learning in place of in-person instruction, the school or district should make a good faith effort within available capabilities to meet Free Appropriate Public Education (FAPE) requirements and do the following with regard to students with disabilities:

- Ensure all special education students have access to computers and internet or other acceptable connectivity (such as cell phone service).
- Ensure **all** students in the school or district have equal access to the learning and required materials, including technology.
- Ensure the online learning system can effectively support the district's deployment of FAPE, including the ability to provide differentiated instruction and one-on-one support for students who need it. Regardless of where the learning is happening, supports and services identified within a student's IEP must be provided to the extent practicable and without putting the health and safety of students or educators at risk as long as the school district is operating.
- Provide training to staff, students, parents and guardians enabling them to use the online system and understand the district's expectations for use of the system. All training can be accomplished virtually.
- Track and document services provided pursuant to the IEP.
- Provide related services such as occupational therapy, physical therapy and speech language therapy in an online format to the extent practicable.
- Address how aide services or assistive technology will be provided.

If a student is medically fragile, the school may want to consider reconvening the IEP team and discussing a temporary change of placement for the child during the ordered school-building closure period.

If, after considering the above, the district cannot meet the needs of students with disabilities, the district must determine how compensatory services will be provided after the ordered school-building closure period has ended.

## Additional Resources

- The Council for Administrators of Special Education (CASE) has compiled a [list of questions for districts to consider regarding COVID-19](#).
- U.S. Department of Education's [Information for Schools and School Personnel](#).
- Office for Civil Rights (OCR) [fact sheet regarding coronavirus](#).