



Provision of Special Education Services during COVID-19 School Closures

The current situation related to battling COVID-19 through closures and social distancing is unprecedented. Governor Wolf's decision to close schools was necessarily rapid; consequently, there is little guidance for what must be done to ensure compliance with special education requirements during the COVID-19 response. At this point, we are half-way through the ten day closure that began on March 13, and no one knows exactly what will be next.

Specific to the provision of special education services, the United States Department of Education (USDOE) Office of Special Education Programs (OSEP) published guidance in 2012 to address concerns related to the provision of special education services during severe weather events and also has provided some information related specifically to the COVID-19 outbreak. The 2012 and 2020 guidance can be found on the [USDOE website](#). ***The special education community awaits further guidance from the federal and state level.***

The information in this *In Brief* is current upon publication. PSEA will share updates as new information emerges.

General requirement for the provision of special education services if general education students *are not receiving educational services*. The IDEA, Section 504, and Title II of the ADA do not specifically address the closure of schools for an extended period due to circumstances such as an outbreak. However, USDOE says that if a local education agency (LEA) closes its schools to slow or stop the spread of COVID-19 and does not provide educational services to the general student population then the LEA is not required to provide services to students with disabilities during that same period of time. Once school resumes, the LEA must make every effort to provide special education and related services to students with disabilities in accordance with the IEP or 504 Plan. In addition, an IEP Team and/or personnel responsible for ensuring FAPE to a student with a 504 Plan must make an individualized determination as to whether compensatory services are needed under applicable standards and requirements. Advocacy groups on both sides of this issue are currently making voices heard at the state and federal level.

General requirement for the provision of special education services if general education students *are receiving educational services*. If an LEA continues to provide educational services to the general student population while buildings are closed (for example, by employing Flexible Instructional Days or on-line alternatives), then the LEA must ensure that students with disabilities have equal access to the same learning opportunities, including the provision of FAPE. State education agencies, LEAs, and schools must ensure that, to the greatest extent possible, each student with a disability is provided the special education and related services identified in the student's IEP developed under IDEA or a plan developed under Section 504.

Use of technology to meet statutory and regulatory requirements. School entities may be able to hold IEP or Section 504 Service Agreement meetings through virtual means or conference calls during the period of closure. LEAs may direct employees to conduct or participate in these meetings to adhere to required timelines. This may include meetings related to re-evaluation reports to review current data and IEP meetings.

- If employees are directed to engage in meetings via technology, the employer should provide a means to conduct these meetings. ***PSEA members should seek guidance from their employer concerning appropriate procedures to meet via technology. In addition, PSEA members should ensure that they participate in these meetings in a way that ensures student privacy.***
- If a meeting is postponed, documentation should be created for communication to the parent/guardian that describes the reason for the delay, and this documentation should be filed with the appropriate IEP or Section 504 Service Agreement.

Attendance at in-person meetings. As long as the Governor's announcement on March 19 closing all non-life-sustaining businesses remains in effect, employees should not be directed to report to school to attend in-person meetings. PSEA members who are directed to report to a school building and have concerns about their personal health or safety in doing so should contact their UniServ Representative.

PSEA Advocacy. PSEA is working daily with Pennsylvania legislators, the PA Department of Education, and leaders from other statewide education associations to advocate for appropriate flexibility in the provision of special education services. In addition, PSEA is working with the NEA to advocate for temporary flexibility at the federal level to ensure that all students can access the best education possible under these unprecedented circumstances.

Conclusion. There was little warning to prepare for this unique crisis, and all educators are working hard to ensure every student is safe and engaged in learning. In the short-term, many LEAs have suspended regular instruction and opted for optional student enrichment activities. If school closures extend beyond ten days in Governor Wolf's initial closure declaration, alternate provisions may be put in place by your employer. At that point, IEP teams will need to consider compensatory education as well as extended school year services for students. Additionally, if online instruction is extended to general education students then IEP teams will have to determine what school will look like for students with disabilities. Related services will need to be considered as well. Local districts are responsible for creating a plan to address this situation. ***PSEA members should seek guidance from their employer. PSEA will continue to provide information as it is received.***

Below, please find links of information that may be helpful in informing you as we work together to navigate uncharted waters.

- <https://www.ed.gov/coronavirus>
- <https://sites.ed.gov/idea/idea-files/q-and-a-providing-services-to-children-with-disabilities-during-the-coronavirus-disease-2019-outbreak/>
- <https://sites.ed.gov/idea/departments-releases-covid-19-idea-related-q/>
- [Impact of COVID-19 on Assessments and Accountability under the Elementary and Secondary Education Act](#)
- [FERPA & Coronavirus Disease 2019 \(COVID-19\) & Frequently Asked Questions](#)