

COVID 19 and Special Education FAQ

Q1: Do Local Education Agencies (LEAs) have flexibility regarding the provision of a Free and Appropriate Public Education (FAPE) to students receiving special education services in times of emergencies such as the COVID-19 pandemic?

A1: No. Neither state nor federal law provide flexibility to LEAs in times of emergency regarding their obligation to provide FAPE to students receiving special education services. If an LEA closes its schools because the functioning or delivery of educational services is disrupted and does not provide any educational services to the general student population, then an LEA would not be 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 the child in accordance with the child's Individualized Education Program (IEP). In addition, the Annual Review and Dismissal (ARD) committee would be required to make an individualized determination as to whether compensatory services are needed to make up for any skills that may have been lost because of an extended school closure.

If schools are closed, but the LEA continues to provide educational opportunities to the general student population during the closure, the school must ensure that students with disabilities also have equal access to the same opportunities, including the provision of FAPE. The LEA 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.

Q2: What flexibility do LEAs have in the process required to adjust an individual student's existing IEP in times of emergencies such as the COVID 19 pandemic?

A2: LEAs should continue to follow local policies regarding changing or amending an existing IEP. In addition, according to previous guidance from the United States Department of Education, Office of Special Education Programs (OSEP), if a school continues to provide instruction to the general school population during an extended closure due to a disaster, but is not able to provide services to a student with a disability in accordance with the student's IEP, the student's ARD committee determines which services can be provided to appropriately meet the student's needs. The ARD committee may meet by teleconference or other means (if all members are able) to determine if some, or all, of the identified services can be provided through alternate or additional methods. Once the school reopens, the ARD committee must determine whether, and to what extent, compensatory services are needed. As stated in A1, if an LEA is providing educational opportunities to the general student population, the LEA is also required to provide the services and accommodations needed for students with disabilities to have an equal opportunity to participate in the virtual model of delivery.

Q3: Are LEAs still held to timeline requirements regarding Full and Individual Initial Evaluations (FIIIE) in light of potential changes to school calendars and schedules due to the COVID-19 pandemic?

A3: In situations in which school is **closed and not in session (no educational services offered to anyone)**, state evaluation timelines halt as these timelines are based on school days. To be clear, for the purposes of FIEE timelines, the days that **school is not in session** (no educational services offered to anyone) do not count as school days. If the school remains open (either on a virtual basis or face-to-face), the 45 school-day timeline requirements of Texas Education Code sec. 29.004 apply. This is true even if the LEA is experiencing low attendance due to COVID-19 related concerns, and uses the attestation related to educational support to count students absent from campus grounds as present for Average Daily Attendance (ADA) purposes referenced in the March 12th, 2020 To the Administrator Addressed letter regarding COVID 19 [which can be found here](#) .

Q4: Are LEAs still held to the 30 calendar day timeline requirements regarding initial eligibility determination, IEP, and placement decision ARD committee meetings upon completion of an FIEE in times of emergencies such as the COVID 19 pandemic?

A4: Yes. Requirements related to the 30 calendar day timeline for initial eligibility determination, IEP, and placement decision ARD committee meetings still apply. The ARD committee may meet by teleconference or other means (if all members are able) when necessary, to meet this required timeline.

For additional guidance please see [QUESTIONS AND ANSWERS ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING THE CORONAVIRUS DISEASE 2019 OUTBREAK](#) published by the United States Department of Education (ED), Office of Special Education Programs (OSEP) on March 12, 2020.