

# Questions and Answers: Provision of Services to Students with Disabilities During School Facility Closures for COVID-19

This guidance is current as of May 5, 2020. Please refer to OSPI's [COVID-19](#) and [Special Education COVID-19](#) webpages for the most up-to-date information. This Q&A will be updated frequently to reflect current guidance as it is released, including the [March 21, 2020 Supplemental Fact Sheet from the U.S. Department of Education](#) (USDOE). Refer also to pages 4 through 9 of OSPI's [Bulletin 019-20](#) and OSPI's [website](#) for additional information regarding the provision of services to students with disabilities during school facility closures.

If you have questions, please contact Glenna Gallo, Assistant Superintendent of Special Education, at 360-725-6075 or [glenna.gallo@k12.wa.us](mailto:glenna.gallo@k12.wa.us).

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## A. Provision of Services, including Compensatory Services, Extended School Year (ESY), Proportionate Share, and Expectations of Staff

### A-1. How do districts provide instruction and supports to students with disabilities, including those with significant disabilities, during the closures?

As students in the school district are receiving general education instruction and student support services, then districts must provide students with disabilities with the special education services supporting a free appropriate public education (FAPE). [Guidance dated March 21, 2020](#) from the U.S. Department of Education Office for Civil Rights (OCR) and Office for Special Education and Rehabilitative Services (OSERS) indicated “there may be exceptional circumstances that could affect how a particular service is provided.” There is not an expectation that Individualized Education Program (IEP) services would be delivered exactly as the IEP states. This is a national emergency, and districts should be communicating with families and making decisions based on student need and how those services can be provided.

There is no one right way to provide services. As stated in the OCR/OSERS guidance, the provision of FAPE may include, as appropriate, special education and related services provided through instruction that is provided virtually, online, or telephonically. Many disability-related accommodations and modifications may be effectively provided online, such as extensions of time for assignments, videos with captioning or embedded sign language interpreting, accessible reading materials, a speech/language services through video conferencing. OSPI encourages districts to sit down with their leadership teams and brainstorm ways of providing services using unique, alternative methods, and then meeting with parents to discuss on a case-by-case basis. Health and safety considerations should be the priority, including social distancing recommendations.

OSPI’s special education division has curated a [repository of online resources](#) to assist staff in supporting students with disabilities during school facility closures. Please check the [OSPI COVID-19 Special Education webpage](#) for the latest updates.

If the student does not access the educational opportunities made available during the closure, OSPI recommends the district document this (see the optional [Continuous Learning Plan](#) template for one way to document). If the lack of access is ongoing, districts should reach out to parents to discuss further. Documentation of the degree to which services were offered and accessed during the closure will assist the team in determining whether a reevaluation, revised/amended IEP, and/or compensatory services are needed after school facilities re-open.

**A-1A. Is it true that the Governor’s school facility closure order allows school buildings to stay open to provide vital services to students with disabilities?**

The guidance from OSPI is consistent with the Governor’s proclamations, in that districts should identify ways to provide education services, including special education, safely for students, families, and educators. Districts must prioritize staff and student safety, and that means special education and related services must be provided from a distance in most instances.

However, this does not mean school districts are not permitted to provide some in-person services to students with disabilities in a school facility as a last resort. In rare cases where districts determine that the use of school facilities to provide educational services is essential and necessary under a student’s IEP, the district may provide the services in a school building under the following conditions. First, facilities should only be used to provide direct services to individual students when there is no other alternative to the service delivery. Second, the specific services and use of the facility must be necessary and essential. Finally, school facilities are not to be used for providing direct services to groups of students, and any gatherings within school facilities must comply with applicable social distancing directives and health guidelines.

Again, in-person services should be provided under limited, case-by-case circumstances, as it would be contrary to replace in-person education in school buildings with in-person special education services. Guidance from the U.S. Department of Education specifies that special education services may need to be delivered in alternate manners. Districts and families will want to refer to the guidance from the Department of Health on [Childcare Safety during COVID-19](#) for examples of safety considerations and requirements for in person services.

**A-1B. Does this mean we need to complete IEP amendments for every single student?**

As stated in the answer to A-1 above, there is not an expectation that IEP services would be delivered exactly as the IEP states during the COVID-19 school facility closures. IEP amendments are not required if an optional Continuous Learning Plan, or similar document, is used. The IEP team should determine the manner of documenting decisions on a case-by-case basis.

If the annual IEP is being completed during the school facility closure, then the service matrix could document the services that will be provided during the facility closure, as well as the anticipated services that will occur when traditional school resumes (see question A-7 for related information). For students whose annual IEPs will not be completed during the school facility closures, then the IEP team could consider the need for either a temporary IEP amendment or an optional Continuous Learning Plan, particularly if the services to be provided to the student during the closure are significantly different from what the IEP indicates. The current IEP, however, should still reflect decisions made by the IEP team regarding services prior to school facility closures for consideration once normal school operations resume (see question A-7).

Note: this answer will be updated pending any additional guidance from the U.S. Department of Education.

With regard to IEP amendments, remember that the amendment does not have to be a change to the full IEP document. If the district and parent agree to the change, the district needs to provide documentation of the amendment to the parent and those involved in implementing the amended area(s). IEP amendments do not require parent consent (i.e., written parent signature), and the changes need to be incorporated into the full IEP document only if the parent requests. Since teachers and families should be communicating frequently during this time, the conversation could include a discussion of how special education services will be provided during the closures, and if the parent agrees, the amendment could take the form of a prior written notice (PWN) sent to the parent after the conversation is conducted. Or, the changes to the IEP could be documented on a separate form, such as the optional [Continuous Learning Plan](#) (model form 16b), which was designed by OSPI to assist districts in documenting decisions with regard to services, timelines, and other considerations for individual students during school facility closures.

**A-2. How do districts provide services to students with significant behavioral difficulties who require a 1:1 paraeducator and/or a high level of behavioral support for the safety of themselves and others?**

There is no one way to provide services. Districts are encouraged to brainstorm ways to provide services to their students and how to individualize these services based on individual student need. As stated above, these services will look different based on safety needs, student need, parent engagement, staffing configurations, regional need, and district systems. Additionally, there is not an expectation that IEP services would be delivered exactly as the IEP states, and providing supports such as a one to one paraeducator may not be needed at home or may not be feasible based on staffing configurations and safety requirements. Districts should make decisions individually based on student needs, and the focus should be on supporting students and their parents/caregivers in engaging in systems that promote safe behaviors in the home and community.

Schools and systems should leverage the behavioral expertise of their personnel to support interventions that meet the needs of their students and the new learning environment, and prioritize the immediate needs of their most impacted students. Behavioral supports at home will likely look very different than behavioral supports in schools, and parents/caregivers may need support on how to implement interventions and supports. Examples of behavioral supports that could be implemented in the home include parent/caregiver behavioral coaching, or coaching and support around interventions such as: "first, then choice boards," activity schedules, functional communication strategies, implementation of reinforcement contingencies, etc.

**A-3. If the district is providing educational services for students, does that mean the district is also required to provide specially designed instruction (SDI)?**

Yes. Per [Bulletin 024-20](#), school districts in the State of Washington are expected to be providing instruction during school facility closures using such methods as printed learning materials, phone contact, email, technology-based virtual instruction, or a combination to meet student needs. As stated in A-1 above, if students in the school district are receiving general education instruction and student support services, then districts must have a plan for how all students with disabilities will also receive a free appropriate public education (FAPE), including the provision of SDI.

**A-3A. Are districts required to collect attendance data during the school facility closures?**

A district's plan for continuous learning must establish a district- or school-based system of collecting information regarding student engagement daily or weekly to determine if students are responding to district- or school-initiated communication and participating in continuous learning. Districts are not required to collect student attendance information for the purpose of reporting student enrollment pursuant to Chapter 392-121 WAC. OSPI's newly issued emergency rules bar districts from reporting truancy to juvenile courts for student "absences" that occur on or after March 17, 2020. Districts should avoid any practices that collect attendance information solely for the purpose of determining if a student is present. Instead, information should be collected that assists districts in determining which students are engaged in learning and participating in educational opportunities.

**A-3B. In light of OSPI's Student Learning and Grading Guidance, what should districts do if a student's IEP documents modified grading (e.g., pass/fail) as a necessary accommodation?**

[OSPI's Student Learning and Grading Guidance](#) (and related [FAQ](#)) states that grading practices should do no harm to the student, and requires districts to continue using grades to assess student learning for the purpose of high school credit-bearing courses. The rules prohibit a binary pass/no-credit system, and they prohibit failing grades from being issued to students. These grading rules only apply to credit-bearing courses (i.e., they do not apply to preschool, elementary, or middle school (unless the middle school course offers high school credit).

Districts and families may retain the grading practice that was established in the IEP prior to the closure. However, no failing grades are permitted for this term. OSPI's Special Education Continuous Learning Plan ([model form 16b](#)) is a resource for situations in which an existing IEP outlines "Pass/Fail." In light of the recent OSPI guidance and rulemaking on grading, a failing grade should not be used for spring 2020, due to the impact of COVID-19. If it seems that a

student with IEP grading accommodations/modifications may not pass the course, the district should discuss OSPI's grading guidance with the student and family. A similar process should be used for students with 504 plans which include grading accommodations or modifications.

#### **A-4. How do districts provide services, including medical services, in an equitable way, when staff are concerned about entering student's homes?**

Right now, health and safety must be the priority over everything else. Be cautious about putting staff in a position of being exposed. Please refer to [March 17, 2020 Letter to Superintendents and Labor Leaders](#) for staff considerations for safety.

If there are concerns about students accessing medical services (e.g., 1:1 nursing services) because school is closed, OSPI recommends districts examine these concerns on a case-by-case basis to see what needs continue during this period and are able to be addressed. Considerations would include whether it is possible to provide the service, and whether the service must be provided.

Districts should consider a multiple modality approach to ensure students have equitable access. There is no single correct approach, and the actions taken to provide services will vary district by district. Delivery of services could look like a combination of providing printed learning materials (packets) or online learning options and could also include providing some students with laptops and/or mobile Internet hotspots during school facility closure if needed. Consider the needs of each student and family when developing your strategies to support student learning and know that materials and strategies may also need to be differentiated or modified to support some learners and situations.

School districts will determine at a local level the degree to which online or remote services will be made available, taking into consideration the equity needs of students receiving special education. Here are some additional resources:

- Free technical assistance from OCR's web access team is available to support that web platforms selection and development for student learning are compliant with the civil rights laws that OCR enforces. Contact [OCRWebAccessTA@ed.gov](mailto:OCRWebAccessTA@ed.gov) if you are interested in receiving technical assistance.
- [OCR Short Webinar on Online Education and Website Accessibility](#)
- [Fact Sheet on Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students](#)

**A-5. Would the state be willing to authorize related service staff to work remotely without all of the American Speech-Language-Hearing Association (ASHA) requirements being in place?**

OSPI does not have the authority to waive ASHA requirements. Both an ESA Credentialed SLP and a DOH credentialed SLP can deliver services via a telehealth model. There are no Professional Educators Standard Board (PESB) regulations which would prevent any of Washington state educator roles from practicing virtually.

There are existing resources within the state and many districts to meet the [WA Telepractice Requirements](#) for audiologists and speech-language pathologists at the current time, and OSPI recommends that districts strongly consider adapting services in this manner, to meet the needs of their students. Additionally, the U.S. Department of Health and Human Services has released notice of [Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#) which permits flexibility to provide services using widely available communication apps such as FaceTime or Skype when used in good faith to provide telehealth treatment or diagnostic services. The accompanying [FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency](#) provides more guidance on this topic.

**A-6. Should districts record the provision of specially designed instruction via distance technology (such as Zoom) for safety and documentation purposes?**

Districts would need to determine how best to document the provision of services. Recording services would be one method, as long as the district makes sure it follows current state law regarding private communication ([RCW 9.73.030](#)) and/or existing district policy regarding audio and video recordings of students and staff. The U.S. Department of Education Student Privacy Policy Office (SPPO) also recently issued guidance on the Family Educational Rights and Privacy Act ([FERPA](#)) and [Virtual Learning \(March 2020\)](#), which includes FAQs on the extent to which videos recorded and maintained by a district are educational records. See also [OSPI's Continuous Learning Considerations and Policy Issues for Videoconferencing](#).

Other methods of documenting services could be considered, such as contact logs, staff notes, or the use of a tracking form (such as the optional [Continuous Learning Plan](#) template). Districts should consult with their legal counsel if questions persist regarding the applicability of privacy laws to audio and video recordings.

**A-6A. Are there confidentiality issues (e.g., FERPA) if a parent or sibling were to walk by during a Zoom and see the faces of students with IEPs on their child’s computer screen?**

FERPA applies to the information contained within educational records and does not specifically prohibit observing a student within their classroom (see, [Letter to Mamas \(December 2003\)](#)). Recent guidance issued by the SPPO confirmed the applicability of *Letter to Mamas* to virtual classrooms (“[...] the determination of who can observe a virtual classroom, similar to an in-person classroom, is a local school decision as teachers generally do not disclose personally identifiable information from a student’s education record during classroom instruction.” [FERPA and Virtual Learning \(March 2020\)](#)). Districts are also encouraged to consult with legal counsel and information technology staff within their district when reviewing the resources contained within the SPPO’s March 2020 guidance regarding online educational services, the use of virtual learning platforms/tools, and best practices for safeguarding personally identifiable information contained within student educational records under FERPA.

**A-6B. What about confidentiality issues (e.g., FERPA) if teachers and/or related service providers participate in a virtual IEP team meeting or parent/student conference and a spouse or other children were to walk by or overhear the meeting?**

If an IEP team meeting or parent/student conference will potentially involve discussing personally identifiable information contained within the student’s educational records, then the teacher and/or related service provider should take the necessary precautions to ensure that others in their household do not overhear the conversation before participating in a virtual meeting. Reviewing instructional materials and subject matter, on the other hand, generally does not involve disclosing personally identifiable information from a student’s educational records and would not require the same level of precaution. Districts may want to review the need for maintaining the confidentiality of information contained within student educational records with staff and, if necessary, develop procedures for obtaining prior consent in writing (see Question E-7) from the parent or student for the potential disclosure of personally identifiable information from the student’s education records to others within the teacher’s or service provider’s household.

**A-7. When an IEP team conducts an IEP meeting during a school facility closure, should the service matrix show what the plan is for services during the closure?**

This would be a team decision that should be made on a case-by-case basis. The team could choose to amend the IEP to document on the IEP matrix both the services to be provided during the closure and the services that will begin once normal school operations resume. Another option would be to document on the IEP matrix the services to be provided once traditional school resumes, and use the optional [Continuous Learning Plan](#) template to document the temporary services that will be provided during the closure.



There is not an expectation that IEP services would be delivered exactly as the IEP states during this national emergency. OSPI continues to encourage districts to prioritize health and safety, student educational needs, and parent communication, at this time. Districts have flexibility in how they document decisions made in real-time.

#### **A-8. What is the guidance on IEP goal progress reporting during this time?**

As the district is providing special education services, then progress reports should continue to be provided to parents on the schedule indicated in the IEP, to the extent possible. If progress reporting is unable to be provided as indicated in the IEP, this decision should be documented, as well as a plan to complete them when the health concerns are resolved and as schools return to normal operations.

As educational services are provided, districts will want to collect progress data for IEP goals in order to inform parents and IEP teams to assist with compensatory service decisions once normal school operations resume.

#### **A-9. If we complete an IEP during the school facility closures, what is your guidance for developing the present levels section when the team is not able to see the student to gather data?**

This decision should be made by the IEP team on an individual, case-by-case basis. Here are some points to consider:

- How old is the most recent data for each of the identified areas? Could these data still be considered current?
- What alternative data collection strategies could be used, such as having the student take an online performance assessment or sending work or assessments home for the student to complete and return?
- How will input from teachers, on work completed prior to the closure, as well as during the closure, be solicited and included?
- What information are parents able to provide?

#### **A-10. When normal school operations resume, will districts need to review every student who has a 504 plan or IEP to determine if compensatory services are needed?**

Yes, districts will likely need to look at each individual student to determine whether compensatory services are needed. There is no exception to the requirement to provide FAPE to students with disabilities and as the district is providing general education services to students without disabilities, then it must also provide FAPE to students with disabilities. However, due to

the exceptional circumstances of the COVID-19 pandemic and resulting school facility closures, districts will likely need to determine whether and to what extent compensatory services are necessary when normal school operations resume in the event that the district is unable to provide appropriate IEP services during the school facility closure. The extent of a student's compensatory services, if needed, must be an individualized determination made by the IEP team.

**A-11. What is the difference between compensatory services and extended school year (ESY)?**

Compensatory services are to enable the student to make progress, ESY services are for maintaining skills.

Compensatory services are determined after normal school operations resume and are determined on a case-by-case basis. Districts should examine the effect of the closure on the student's progress toward their IEP goals.

[ESY](#) is required if the student needs it as a result of regression and recoupment time, or if they are at a critical stage in learning, based on documented evidence. The need for ESY should be examined on a case-by-case basis for each student, as already required in IDEA. Districts should consider how to address current ESY needs of students whose IEP teams have already been identified the need in their IEPs and prepare to provide needed ESY services after the end of the 2019-20 school year.

**A-12. It may be very difficult for districts to hire staff to provide ESY services. Do you think that the federal government may step in and issue some form of "hold harmless"?**

OSPI understands that staffing issues are a concern. These issues are part of OSPI's long-term planning efforts, which include discussion of requesting potential additional state and federal funds for providing compensatory and ESY services.

All of the federal guidance issued thus far, including the [March 21, 2020 Supplemental Fact Sheet](#), indicates that districts must maintain a free appropriate public education (FAPE) and civil rights for students. Districts should not expect to be "held harmless" with respect to providing FAPE or providing ESY services.

**A-13. What should districts do regarding students placed in out-of-state Non-Public Agencies (NPAs)?**

Districts should contact the families of students in all private placements, both in state and out of state, as well as the NPAs, and create a contingency plan for the student that addresses the potential for a closure, and plans for travel to ensure the student’s safety, if needed. Decisions should be made on a case-by-case basis, depending on the student need, the location of the school, and the desires of the family.

**A-14. What is the guidance for districts who are providing equitable services to parentally-placed private school students through proportionate share?**

Districts remain responsible for providing the equitable services identified through the private school consultation process. Private schools in the state, however, are also closed at this time. OSPI recommends that districts communicate with the private schools in their region to determine whether any equitable services could continue through distance or other alternate methods and to continue providing such services if possible. OSPI also recommends districts communicate with families of students with individual services plans to let them know if services will or will not be provided. Additional guidance will be provided in this area as the situation evolves.

Please refer to additional OSPI guidance found in [Bulletin 024-20](#).

**A-15. How do we ensure that general education teachers have access to student IEPs during the closures in order to provide necessary accommodations and supports?**

OSPI recognizes that school facility closures present challenges for general education teachers, special education teachers, related services providers, and any other service providers seeking to have access to a student’s IEP. It is important, however, that all staff providing educational services to students with disabilities during school facility closures continue to have information related to their responsibilities and the accommodations, modifications, and supports described in the IEPs of the students with whom they are working ([WAC 392-172A-03105\(3\)](#)).

The district may need to consider alternate methods for providing this information to teachers and staff when they are unable to access it from the district’s information system. The alternate methods should follow the confidentiality requirements set forth in [WAC 392-172A-05230](#) and the [Family Educational Rights and Privacy Act](#) (FERPA). Confidential student information is permitted to be shared with authorized school district employees who have a legitimate educational interest ([WAC 392-172A-05195](#)). If alternate methods are used, districts should document how the information was provided to staff. OSPI has developed an optional [Continuous Learning Plan](#) template that could assist teams in tracking this information. Districts

are also encouraged to consult with information technology staff within their district to explore alternative methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

## B. Early Childhood Considerations

### **B-1. What is the guidance on completing evaluations for students transitioning from Part C to Part B? Should districts be bringing those students in for evaluation?**

Health and safety concerns are paramount. If there is no feasible way to continue evaluations safely using distance methods or following social distancing requirements, then districts should consider delaying the evaluation until safety measures can be implemented.

State Lead Agency for the ESIT Program (DCYF): Early Intervention Provider Agencies (EIPAs) are encouraged to communicate with individual families and with their local school districts regarding the feasibility of a virtual transition conference and how best to approach required transition activities. Potential options for transition meetings may include virtual methods to include conference phone calls or videoconferencing during periods of school facility closures. Existing early childhood transition personnel and their respective contact information remains the same during the period of school facility closure. School districts have local protocols in place to respond to emails. After decisions related to early childhood transition options have been jointly determined, written communication with families should be prioritized. For assistance troubleshooting specific circumstances, please contact Val Arnold, ESIT Strategic Innovations Advisor, at [valerie.arnold@dcyf.wa.gov](mailto:valerie.arnold@dcyf.wa.gov) or 360-485-7773.

State Education Agency (OSPI): Resident school district personnel responsible for planning and scheduling initial evaluations for special education preschool services are encouraged to communicate with individual families to determine the feasibility of face-to-face transition conference meetings for 3-year-olds exiting B-3 early intervention. Consideration of social distancing measures and DOH guidance to ensure safe implementation is a priority. If this is not feasible or acceptable to families', alternative virtual options may be explored as a means of meeting transition planning and implementation requirements. After decisions related to early childhood transition options, including the timeline for completing an initial evaluation have been jointly determined, written communication with families should be prioritized. For assistance troubleshooting specific circumstances, please contact Ryan Guzman, Early Childhood Special Education/Section 619 Coordinator at [ryan.guzman@k12.wa.us](mailto:ryan.guzman@k12.wa.us) or (360) 764-9448.

A new allowable exception has been added to the Indicator B-12 (Timely Part C to Part B Transition) report for the 2019–20 school year. The new exception is for school facility closures due to COVID-19 and school staff were unavailable, the parent stated that distance technology

options would impede their participation, or the assessment could not be completed due to safety restrictions. This exception does not relieve the district of its obligation to make reasonable attempts to complete the Part C to B transition in a timely manner. Currently, there is no waiver from Congress with regard to FAPE or timely Part C to B transition. Please see question B-1A below for more information.

See also the [Timelines section \(Part E\)](#) of this Q&A. For more detailed information on completing evaluations during the COVID-19 closure, refer to the [April 2020 guidance](#) from the Washington State Association of School Psychologists (WSASP).

**B-1A. If an initial Part B evaluation is unable to be conducted because the assessments require face-to-face interaction, how can the district ensure there is no gap in services since Part C services would end at the child’s third birthday?**

Districts are encouraged to move forward with initial Part B evaluations to the maximum extent possible (see also questions E-4 and E-4A of this Q&A). The initial evaluation process should begin with a review of existing data, including the most recent Part C evaluation report, and communication with the parent in order to determine whether additional assessments are needed. If the team determines that the existing data are sufficient to establish Part B eligibility, and the parent agrees that no additional testing is needed, the evaluation team can move forward using the existing data when completing their Part B evaluation report.

If additional assessments are determined to be needed, the district should consider alternate ways of gathering the necessary data, including the use of assessment tools that do not require in-person implementation. Another possibility would be to have an evaluation team member could conduct an observation of the child through Zoom, in conjunction with the parent. Or a checklist could be sent home for the parent to complete and send back. OSPI reminds districts that if a specific assessment tool is being considered, the team should follow the testing guidelines for that tool. However, the team may consider checking the website of the test publisher to see if any additional guidance has been provided in light of the nationwide school facility closures. Professional judgment is also an option, as long as the evaluation team has sufficient data to support their decisions.

OSPI recommends that districts make an effort to complete as comprehensive of an initial evaluation as possible in a timely manner, with the understanding that once traditional school resumes, the team could consider whether additional assessment may be needed. The optional [Continuous Learning Plan](#) template can assist the district in documenting decisions that are made for individual students. For more detailed information on completing evaluations during the COVID-19 closure, refer to the [April 2020 guidance](#) from WSASP.

**B-1B. If a district is unable to complete a full evaluation during the school facility closures, is it permissible to not complete the C to B transition process until fall?**

No. There is currently no waiver from Congress that would relieve the district of its responsibility to provide FAPE or to transition students to Part B by their third birthday. Children who are turning three are at a critical state of development, and waiting up to six months to provide services could do significant harm.

As referenced in B-1A above, districts should make a reasonable effort to complete as comprehensive of an initial evaluation as possible in a timely manner, with the understanding that once traditional school resumes, the team could consider whether additional assessment may be needed.

If the district has made reasonable attempts to complete the initial Part B evaluation and the parent does not respond, the district will document these attempts. OSPI also recommends that districts continue to make attempts on a regular basis throughout the duration of the school closure, rather than simply waiting until school re-opens to re-start the process.

The optional [Continuous Learning Plan](#) template can assist the district in documenting decisions that are made for individual students. For more detailed information on completing evaluations during the COVID-19 closure, refer to the [April 2020 guidance](#) from WSASP.

**B-2. If districts continue to provide services to children ages birth-two with disabilities, does that mean the district needs to provide services for all students in preschool through 12th grade?**

Per [Bulletin 024-20](#), school districts in the State of Washington are expected to be providing instruction during school facility closures, using such methods as printed learning materials, phone contact, email, technology-based virtual instruction, or a combination to meet student needs. As stated in A-1 and A-3 above, districts must have a plan for how all students, including students with disabilities, will be provided with continuous learning opportunities.

**B-3. If Early Childhood Educational Assistance Programs (ECEAP) are still in session, then does the district also have to continue the developmental preschool programs?**

Per [Bulletin 024-20](#), school districts in the State of Washington are expected to be providing instruction during school facility closures, using such methods as printed learning materials, phone contact, email, technology-based virtual instruction, or a combination to meet student needs. As stated in A-1, A-3, and B-2 above, districts must have a plan for how all students,

including students with disabilities (ages 3-21), will be provided with continuous learning opportunities.

**B-4. What is the guidance for districts who are providing early intervention services to children ages birth to three?**

In collaboration with DCYF, school districts who are providing early intervention services for children ages 0–3 under IDEA Part C directly, and not contracting for those services with a community-based organization, should extend the 3–21 guidance provided in this Q&A to include Part C service delivery, where applicable. For assistance troubleshooting child/family-specific circumstances, please contact Valerie Arnold, ESIT Strategic Innovations Advisor, at [valerie.arnold@dcyf.wa.gov](mailto:valerie.arnold@dcyf.wa.gov) or 360-485-7773.

**B-5. What is the guidance for staff who are completing the 2019-20 Child Outcome Summary (COS) form for Indicator B-7?**

IEP teams are expected to use assessments, observations, and referral information to give a student a COS entrance rating. If it is not feasible to give a child an anchor assessment at entrance, document what materials were used to determine the COS rating, and document within the appropriate reporting platform (e.g., Teaching Strategies GOLD, IEP online, Excel federal reporting forms).

When completing the COS exit rating, the IEP team is expected to use *reasonable efforts* to meet and use available data that is reflective of the student’s present level of performance. Sufficient data might include student work, observations, and assessments completed prior to the school facility closure, as well as parent or caregiver interviews, and/or formative assessments performed virtually. School districts should document measures taken to determine the exit rating within the appropriate reporting platform.

The timeline for submitting the Child Outcome Summary Report has been extended to August 14, 2020.

For more information on how to complete Indicator B-7, Early Childhood Outcomes, during the COVID-19 school facility closure, visit the Early Childhood Technical Assistance ([ECTA](#)) Center.

## C. Child Care

**C-1. If a district is providing basic child care for children of first responders and health care providers in grades preschool through 5th grade, what is the district's obligation to students with disabilities outside of those grade bands?**

This question was addressed by response number 5 of [Bulletin 019-20](#). Additional [guidance](#) from the Washington Department of Health (DOH) was released March 18, 2020. See also [Bulletin 025-20](#) which was released by OSPI March 23, 2020.

**C-2. If the district is providing child care to a student with a disability whose IEP indicates the need for a 1:1 paraeducator, does the district need to provide that same level of support in the child care setting?**

This would need to be determined on a case-by-case basis. The district should consider what services/supports are needed in the child care setting (as opposed to continuing to provide IEP services in a child care setting).

## D. Communication with Families

**D-1. Would it be advisable to send out a "mass" prior written notice (PWN) to all families noting the stoppage of services?**

OSPI strongly encourages districts to communicate frequently with families about what is happening. OSPI does not advise districts to send a "mass" PWN to everyone. However, it is advisable to provide information to families on an ongoing basis, and due to the nature of this emergency situation, frequent communication is recommended and should be prioritized.

Districts should address health and safety of staff and students as the first priority, determine how to provide special education services and communicate with families in an ongoing manner as the plan develops, and then consider the need to provide PWN in a timely manner.

**D-2. If districts provide online resources for parents to access, should specific resources for students with disabilities be included?**

Yes, OSPI recommends that if the district is providing online resources for students and/or families, these resources should be provided in an equitable manner for parents of students with



disabilities. This includes using inclusive language, providing a range of activities accessible in a variety of modalities and skill levels, and allowing parents and students flexibility in selection.

## E. Timelines

### **E-1. Are we obligated to continue to hold to IEP and evaluation timelines? Can IEP timelines be extended?**

If personnel are available and parents are agreeable to completing the meetings via distance options (e.g., phone, Zoom, etc.), OSPI recommends continuing to conduct these meetings to the extent possible. If a meeting is not possible, then the district should document that a meeting is not possible and set the IEP/evaluation aside for when normal school operations resume.

Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation. The agreement must be documented but does not require signed parent consent. The documentation of the agreement should include the reason for the extension. See model form 5c ([Agreement to Extend Evaluation Timeline](#)).

There is currently no provision in the law for extending an IEP. OSPI recommends the district document if the IEP (or evaluation) timeline was exceeded and why. OSPI has developed an optional [Continuous Learning Plan](#) template that could assist with this effort. OSPI does not support district decisions to delay all meetings.

### **E-2. Can we create a textbox on our IEPs that are late that states “IEP is late due to COVID-19 outbreak”?**

Yes, there is nothing that would prohibit districts from doing this. OSPI does not plan to identify issues of noncompliance through monitoring based on timelines that were missed as a result of the COVID-19 outbreak. Districts, however, should still be mindful of how to meet timelines as best they can to support students. Dispute resolution options remain available. If districts have staff available and parents are agreeable, OSPI encourages districts to continue to schedule and hold meetings via distance technology. If not, put those evaluations/IEPs aside, and document why. Remember that the first priority is health and safety; the second priority is services.

**E-3. Is there an issue with equity if the district completes some IEPs but not others depending on staff availability?**

OSPI recommends districts document why a meeting was not conducted (e.g., parent may not be comfortable with a phone/Zoom meeting or staff required are not available). It is acceptable for some meetings to be conducted based on staff availability and parent agreement, and for others not to be conducted due to unique circumstances.

**E-4. What is the best practice for reevaluations during this time? Would it be appropriate to complete file reviews or an agreement that a reevaluation is unnecessary to maintain timelines when we cannot assess?**

If staff are available, OSPI recommends the team moves forward with a review of existing data and communicate with parents in order to get input on whether additional assessments are determined to be needed. If the team believes the existing data supports continuing eligibility, the team can move forward and complete the reevaluation using the existing data.

There is a new allowable exception on the Indicator B-11 (Timely Initial Evaluations) report for the 2019–20 school year. The new exception is for school facility closures due to COVID-19 and school staff were unavailable, the parent stated that distance technology options would impede their participation, or the assessment could not be completed due to safety restrictions. For more detailed information on completing evaluations during the COVID-19 closure, refer to the [April 2020 guidance](#) from WSASP.

**E-4A. How should staff handle initial referrals and initial evaluations during the closures?**

Districts should ensure that there continues to be a process by which staff and parents can initiate a referral for a special education evaluation during school facility closures if they have concerns about a student (i.e., child find). This referral process should be communicated to staff and parents, particularly if it differs from the referral process followed when traditional school was in session.

If a referral is made, the district should provide families with the [Notice of Special Education Procedural Safeguards for Students and Their Families](#) and make every effort to follow the established timelines, including: (a) 25 school days from the date of referral to review existing data including information provided by the parent and determine whether to move forward with an evaluation; (b) 35 school days from the date the district receives consent (refer to question E-7) to complete the evaluation and determine eligibility\*; (c) 30 calendar days to develop the IEP; and (d) beginning services as soon as possible after the IEP is developed.

\*Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation. The agreement must be documented but does not require signed parent consent. The documentation of the agreement should include the reason for the extension. See model form 5c ([Agreement to Extend Evaluation Timeline](#)).

Depending on what continuous learning opportunities the student is receiving from the district at the time the initial evaluation is conducted, the evaluation group may need to rely more heavily on existing data, particularly if health and safety precautions prohibit the district from conducting in-person standardized assessments. Professional judgment is also an option, as long as the evaluation team has sufficient data to support their decisions.

For more detailed information on completing evaluations during the COVID-19 closure, refer to the [April 2020 guidance](#) from WSASP. See also additional [guidance](#) on psychological tele-assessment during COVID-19 from the American Psychological Association.

#### **E-5. If the district is providing continuous learning opportunities for all students, are these considered “school days” when counting timelines under Chapter 392-172A WAC?**

For the timelines identified in Chapter 392-172A WAC, the term “school day” is defined in RCW [28A.150.203](#)(10) as “each day of the school year on which pupils enrolled in the common schools of a school district are engaged in *academic and career and technical instruction planned by and under the direction of the school.*” In analyzing what “instruction” means in the context of the school day definition, the Attorney General’s Office [has looked to](#) RCW [28A.150.205](#), the definition of “instructional hours”: “[T]hose hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and teacher/parent-guardian conferences that are planned and scheduled by the district for the purpose of discussing students’ educational needs or progress, and exclusive of time actually spent for meals.”

Particularly during COVID-19 school facility closures, the key is whether the district is providing a student an *opportunity* to engage in educational activity planned by a teacher. This could look very different across districts in their continuous learning plans. The best evidence of this would be a bell schedule or similar established schedule of expected student learning.

The clearest answer would come from the school district itself. What does the district’s plan for continuous learning say with regard to when teacher-directed educational activity will begin for all students?

With regard to evaluation and IEP meetings, if personnel are available and parents are agreeable to completing meetings via distance options (e.g., phone, Zoom, etc.), OSPI recommends continuing to conduct these meetings to the extent possible. If a meeting is not possible, then

the district should document that a meeting is not possible and set the meeting aside for when school resumes. Remember that the first priority is the health and safety of all involved.

Although OSPI does not plan to identify issues of noncompliance through monitoring based on timelines that were missed as a result of the COVID-19 outbreak, districts still need to be prepared for the possibility of other dispute resolution options being utilized.

**E-5A. If a student was suspended from school just before the school facility closure, does a manifestation determination review meeting need to be held via teleconference or wait until school is back in session? What about if a student is suspended while participating in an online or continuous learning opportunity?**

Yes, as stated above in question E-5, if the district is providing instruction and student support to all students during the closure, including the provision of special education and related services as part of a comprehensive plan, then districts should treat such days as “school days” for the purposes of meeting special education timelines, including a manifestation determination review meeting. If personnel are available and parents are agreeable to completing meetings via distance options (e.g., phone, Zoom, etc.), OSPI recommends continuing to conduct these meetings to the extent possible. If a meeting is not possible, then the district should document that a meeting is not possible and set the meeting aside for when school resumes.

Districts should also continue to follow both general education and special education discipline procedures and conduct meetings via distance options (e.g., phone, Zoom, etc.) for any student subjected to discipline while participating in online or continuous learning opportunities. This means that when considering exclusionary responses to behavioral violations, districts should be aware that they may not suspend the provision of educational services to a student in response to behavioral violations. See RCW [28A.600.015\(8\)](#) and WAC [392-400-115](#).

In accordance with RCW [28A.600.020\(6\)](#) and WAC [392-400-430\(5\)](#), school districts must make reasonable efforts to return a student to their regular educational setting prior to the end date of suspension or expulsion. Mandatory statewide school closures in response to COVID-19 present an opportunity for school districts to shorten the length of exclusionary discipline actions and provide student support services.

**E-6. Does the timeline for districts to respond to requests for an Independent Education Evaluation (IEE) at public expense still apply?**

Yes, the requirement for districts to provide a response to a parent’s request for an IEE at public expense within the 15 calendar day timeline stated in [WAC 392-172A-05005](#) cannot be waived or extended. Districts, however, are encouraged to do the best that they can, given the

availability of staff to answer a request within the 15 calendar day timeline. If a response exceeds the timeline, then be sure to document the reasons for the delay in the response to the parent. Note that if the district agrees to an IEE at public expense, there is no deadline or timeline under [WAC 392-172A-05005](#) by which this IEE must be completed. Please also be sure to provide the parents with a list of providers and the criteria for obtaining an evaluation. If the district does not agree to the request for an IEE at public expense, then it must still initiate a due process hearing.

### **E-7. What constitutes written parent consent during school facility closures?**

For decisions that require written consent from a parent, districts could attempt to document consent during school facility closures using alternative means such as an email, a digital or e-signature, a digital photograph or scan of a parent signature on an applicable document, or district staff noting temporarily that consent was given verbally. Consent provided via email or using other alternative methods is considered to be written consent as long as the parent is informed of and understands all information relevant to the activity for which consent is sought. The district should prepare to have a method for tracking parent consent through alternative means and, if necessary, make an attempt to obtain proper written consent as soon as possible (e.g., temporary verbal consent and then mail the parent something to sign and have them mail it back). Districts are also encouraged to consult with information technology staff within their district to explore alternative electronic methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

Some decisions, such as amending an IEP, excusing an IEP team member whose area is not being discussed, and extending a 35-day evaluation timeline, require the parent's agreement, rather than written, signed consent. Documenting agreement does not require written or signed consent, but could take the form of a documented verbal agreement or other documentation.

### **E-8. What about the end of year reports that are due in July (i.e., Initial Evaluation Timelines (Indicator B-11), Part C to B Transition (Indicator B-12), and Child Outcomes Summary (Indicator B-7)) and August (Behavior and Weapons (Indicator B-4))?**

As of this time, OSPI has not received any waivers for end of year special education reporting requirements from OSEP. However, due to the school facility closures, OSPI is extending the deadlines for these reports by one month for districts who need additional time. The Initial Timelines, Part C to B Transition, and Child Outcomes reports are due as soon as possible, but no later than **August 14, 2020**. The Behavior and Weapons application in EDS is due as soon as possible, but no later than **September 1, 2020**. If you have any questions, please email [specialeddata@k12.wa.us](mailto:specialeddata@k12.wa.us).

## F. Fiscal Considerations

**Please note:** OSPI has not yet received official fiscal accountability guidance from OSEP, but has submitted questions to federal liaisons. The guidance provided below is based on the Office of Management and Budget (OMB) regulations. OSPI will provide updates as they become available.

### **F-1. Will districts receive special education apportionment funding during the school facility closures if the student's IEP or evaluation has lapsed?**

For the remaining months of the 2019-20 standard school year, districts should not submit a P-223 or P-223H enrollment report. Instead, district funding will be based on the Projected Enrollment found [here](#).

With regard to children ages birth-three, in partnership with DCYF, OSPI is committed to providing ongoing state apportionment payments to school districts to support continuity of early intervention services to the extent possible, for children ages 0-3 in accordance with [published DCYF guidance](#), during school facility closures as a result of the COVID-19 state of emergency.

### **F-2. Will there be any additional funding available for districts to provide compensatory services?**

This was addressed in [Letter to Superintendents and Labor Leaders](#), in section 5(e).

### **F-3. What is the guidance for paying contracted support personnel (e.g., speech language pathologists, occupational therapists, physical therapists, etc.) during the closure?**

Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders (2 CFR 200.318(b)).

OSPI recommends that districts review their contracts and develop a plan on how best to provide services using alternative means. Generally speaking, if services continue to be provided by contractors, although in a different format or manner, districts should continue to pay those contractors.

### **F-3A. Can federally funded employees continue to be charged to the assigned federal funding sources?**

Per the OMB guidance (2 CFR 200.403; 200.404; 200.405), employee salaries and benefits may continue to be charged to the current active Federal award consistent with the recipients' policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources (Federal and non-Federal).

Appropriate records and cost documentation must be maintained (2 CFR 200.302; 200.333) to substantiate costs.

### **F-3B. Can federally funded employees be paid for "telework" or "work from home?"**

Costs for compensation are allowable (per 2 CFR 200.430(a)) if they:

1. Are reasonable for services rendered **and conform to established written policy consistently applied to both federal and nonfederal activities;**
2. Follow an appointment in accordance with state/local laws, policies and meet requirements of federal statute; and
3. Are supported by time and effort documentation.

### **F-4. Will Safety Net continue to reimburse for non-public agency (NPA) contracts during the closures? What if the NPA is providing "distance learning" that is not directly tied to the student's IEP?**

At this time, it is believed that reimbursement for NPA services under Safety Net will continue. OSPI is not currently planning to reduce Safety Net awards based on COVID-19 closures and will continue to review applications on a case-by-case basis. Districts should review contracts with NPAs. For those NPA contracts that include language allowing the NPA to invoice for students who are absent, districts should consult with the NPAs and develop a plan about how to deliver alternate forms of SDI during closure.

If an NPA is providing distance learning opportunities that meet the requirements of the governor's proclamation for health and safety considerations, then districts are encouraged to allow students placed at an NPA to take advantage of these opportunities. If an NPA has transitioned to distance learning due to the school facility closures, then the district should communicate with the NPA to understand what opportunities are being offered and document the decisions made for individual students. The NPA and school district can also begin making plans to address the effect that transition to distance learning may have on an individual student's needs for ongoing services.

**F-5. Given the possibility of adding ESY, will the date remain the same for the May 2020 Safety Net submission?**

OSPI is unable to extend the May Safety Net final submission date due to timelines directed by the Legislature. Applications are subject to a two-prong review that consists of both fiscal and program reviews. These reviews must be completed for the Safety Net Committee to evaluate and determine initial awards in June. Per the 2020 Supplemental Operating Budget ([Senate Bill 6168](#)), final Safety Net award determinations must be made in August of each school year.

**F-6. What is the guidance regarding Medicaid reimbursement for school-based services that are being provided remotely (such as speech/language pathology)?**

School-Based Health Services (SBHS) contracted school districts can bill for IEP or Individualized Family Service Plan (IFSP) services through telemedicine during COVID-19 related school facility closures. Please refer to the [SBHS COVID-19 Frequently Asked Questions](#) from the Health Care Authority (HCA) for more information. To ensure you are receiving the most up-to-date SBHS information, consider [signing up](#) to receive SBHS GovDelivery notifications.

**F-7. Will Maintenance of Effort (MOE) requirements be waived?**

At this time, MOE requirements have not been waived. Districts may not reduce the amount of local or state funds that it spent for the education of children with disabilities below the amount it spent for the preceding fiscal year.

**F-8. Can cancellation fees be charged to federal grant programs?**

Recipients are permitted to charge the full costs related to the cancellation of events, travel, or other activities necessary and reasonable for the performance of the award, or the pausing and restarting of grant-funded activities, due to the public health emergency (2 CFR 200.403; 200.404; 200.405).

This does not mean additional funds may be available in the future to eventually carry over the event or travel. Recipients must maintain appropriate cost documentation (2 CFR 200.302; 200.333).



## **F-9. What technology purchases can be charged to IDEA funds?**

Technology may be purchased that will meet IEP goals and allow students with disabilities access to instruction and services. When purchasing the technology consider the following:

1. Must the devices be inventoried (2 CFR 200.313; 302(b)(4))?
2. Will the district have the capacity to implement the technology?
3. Is the technology accessible and/or assistive?

## **G. Additional Resources**

### **G-1. Resources for providing continuous learning for students with disabilities.**

- [Supporting Inclusionary Practices during School Facility Closure](#)
- [Special Education Continuous Learning Implementation Guide](#) (model form 16a)
- [Special Education Continuous Learning Plan](#) (model form 16b)
- [Repository of Online Resources for Supporting Students with Disabilities through School facility closures](#)
- [OSPI's Special Education COVID webpage](#)
- [WSASP Guidance for Special Education Evaluations during the COVID-19 Closure](#)
- [Bulletin 019-20](#)
- [Frequently Asked Questions on School-Based Health Care during COVID-19 Closures](#)
- [Federal COVID-19 Guidance](#)
- [List of Online Professional Development Opportunities for Supporting Students with Disabilities](#)

### **G-2. Additional resources for providing continuous learning for all students.**

- [Continuous Learning 2020: Resources and Planning Tools](#)
- [OSPI's Continuous Learning Considerations & Policy Issues for Videoconferencing](#)
- [Repository of Continuous Learning Resources by Content Area and Grade Level](#)
- [Washington State OER Commons Hub – Resources to Support Remote Learning \(scroll to bottom of page\)](#)
- [OSPI's COVID webpage](#)

## H. What's New and Edited in Each Q&A Update

**H-1. What questions were added or edited in the April 13, 2020 update of this Q&A document?**

Questions that were <b>added</b> :	A-1A	E-4A	F-6
	A-1B	E-5A	F-7
	A-6A	F-3A	F-8
	A-6B	F-3B	F-9
	B-1A		
Questions with <b>content edits</b> :	A-5	B-2	
	A-7	F-1	

**H-2. What questions were added or edited in the May 5, 2020 version of this Q&A document?**

Questions that were <b>added</b> :	A-3A	B-1B	E-8
	A-3B	B-5	
Questions with <b>content edits</b> :	A-1	B-1	E-4A
	A-1A	B-2	E-5
	A-1B	B-3	F-1
	A-3		