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Novel Coronavirus (COVID-19) Guidance for Students with Disabilities

The U.S. Department of Education publishes [Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters](#). The following excerpts from Section C of that document may apply to students with disabilities in the event of a COVID-19 outbreak

Is an LEA required to continue to provide FAPE to students with disabilities during a school closure caused by a disaster?

The IDEA, Section 504, and the ADA do not specifically address a situation in which elementary and secondary schools are closed for an extended period of time because of exceptional circumstances, such as a disaster.

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) or, for students entitled to FAPE under Section 504, consistent with a plan developed to meet the requirements of Section 504. The Department understands there may be exceptional circumstances that could affect how a particular service is provided. In addition, an IEP Team and, as appropriate to an individual student with a disability, the personnel responsible for ensuring FAPE to a student for the purposes of Section 504, 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 an LEA continues to provide educational opportunities to the general student population during a school closure, the school must ensure that students with disabilities also have equal access to the same opportunities, including the provision of FAPE. (34 CFR §§ 104.4, 104.33 (Section 504) and 28 CFR § 35.130 (Title II of the ADA)). SEAs, LEAs, 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. (34 CFR §§ 300.101 and 300.201 (IDEA), and 34 CFR § 104.33 (Section 504)).

C-2. In the event of a school closure due to a disaster, how might educational services be provided to students with disabilities?

Schools should consider ways of ensuring that continuing education activities (i.e., services provided during a school closure) are accessible to students with disabilities when they are provided to the general education population. Technology may afford students, including students with disabilities, an opportunity to have access to high-quality educational instruction during an extended school closure, especially when continuing education must be provided through distance learning. If schools are providing educational opportunities to the general student population, SEAs and LEAs are required to provide the services and accommodations needed for students with disabilities to have an equal opportunity to participate in a distance-learning program. (34 CFR § 104.4, 104.33 (Section 504) and 28 CFR § 35.130 (Title II of the ADA)).

C-3. What must a school do if it cannot provide services in accordance with a student's IEP or Section 504 plan?

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 IEP Team determines which services can be provided to appropriately meet the student's needs. The IEP Team may meet by teleconference or other means to determine if some, or all, of the identified services can be provided through alternate or additional methods. Appropriate personnel responsible under Section 504 must take similar actions regarding a student who has a Section 504 plan. Additionally, under IDEA, eligible students enrolled by their parents in private schools who have services plans would need similar consideration and actions. If there has been an extended school closure, once school resumes, a student's IEP Team, or appropriate personnel under Section 504, must determine whether, and to what extent, compensatory services are needed consistent with the respective applicable requirements. (See Q&A C-5). (34 CFR §§ 300.320-300.324 (IDEA) and 34 CFR §§ 104.33-104.35(c) (Section 504)).

C-4. In the event that a school is closed for an extended period of time due to a disaster, would an IEP Team be required to meet? Would an LEA be required to conduct an evaluation of a student with a disability?

IEP Teams are not required to meet in person while schools are closed. IEP Teams may continue to work with parents and students with disabilities during such school closures and offer advice, as needed. If an evaluation of a student with a disability requires a face-to-face meeting or observation, the evaluation would need to be delayed until school reopens. Evaluations and reevaluations that do not require face-to-face assessments or observations may take place while schools are closed, if the parent 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.

C-5. What steps must be taken to serve a student with a disability who may have lost skills as a result of an extended absence from school due to a disaster?

The student's IEP Team (or appropriate personnel under Section 504) must make an individualized determination as to whether, and to what extent, it may be necessary to provide compensatory education. (34 CFR §§ 300.320-300.324 (IDEA), and 34 CFR §§ 104.33-104.35 (Section 504)).

Compensatory services may be necessary when there is a decline in the student's skills that occurred as a result of a student not receiving services during an extended closure due to a disaster.

The student's IEP Team also must review the student's IEP and determine whether any other changes to the IEP are needed as a result of the extended absence from school. (34 CFR § 300.324(b)(1)). An IEP Team may consider using informal assessments to determine whether there have been changes in a student's performance. Similarly, the appropriate personnel under Section 504 must also review the student's plan developed under Section 504 to determine whether any other changes are needed as a result of a prolonged absence from school. (34 CFR§ 104.35(c)).