

July 30, 2020

DESE Office of Special Education Compliance COVID-19 Related School Reopening and Distance Learning Question and Answer Guide

The following list of questions and answers related to the reentry to school in light of COVID-19 was assembled from a variety of resources, including guidance documents posted by other states and national organizations as well as questions received from Missouri educators serving special education students and staff. Please know we are all testing these uncharted waters together. Our challenge is to think about the intent and purpose behind the procedural requirements for each step of the special education process and then have teams reflect on how they can fulfill that same purpose and intent in an alternate way in light of our current circumstances. We must do the best we can to stay true to the intent of the Individuals with Disabilities Education Act (IDEA). The companion to this document, the [DESE Special Education Compliance COVID-19 Question and Answer Guide](#), addresses questions prevalent during the spring 2020 school closures.

1. How do we provide distance learning if the needed technology is not available?

Providing distance learning without high-speed internet service or a device to access instruction is challenging. The local education agency (LEA) should consider each situation on an individual basis. Planning ahead for a school closure is the best way to address what the LEA, school, and teacher can provide if a school closure occurs and technology is not available. If technology is being made available for others in the same district, buildings or grade levels, the individualized education program (IEP) team will need to determine if this technology will meet the student's needs or if something similar should be made available to a student with a disability. If a district is not providing devices to all students during times when distance learning is in place due to school closures, each child's IEP team should consider whether or not the student with an IEP needs a device in order to access a free appropriate public education (FAPE). Consider how learning can be addressed through packets, phone calls, hot spots, and in person or distance teacher visits via FaceTime or Skype or other virtual platform. IEP teams will need to determine the best way to provide services to each student based on their unique needs and their unique circumstances. The following resources provide more information about providing distance learning to students with disabilities:

- [Readiness and Emergency Management for Schools Technical Assistance Center: Supporting Continuity of Teaching and Learning During an Emergency](#)
- [Arkansas Division of Elementary and Secondary Education: Supports for Students with Significant Cognitive Disabilities](#)

2. How should we be providing related services in a distance learning format?

Related services should be provided in the way that works best for the student in the circumstances. Virtual instruction (teletherapy and telepractice) may be the option for many students. LEAs may also train parents through phone calls, online learning videos, and instructional packets to perform specific tasks or exercises with students. Such assistance may allow the student to keep making progress or, perhaps, limit regression with skills during times when providing direct therapy or teletherapy may not be an option.

The Office of Special Education Programs' (OSEP's) *IDEAs That Work* has provided a document with numerous ready-to use resources, tools, and practices for related service providers: [OSEP Related Services Resource Document](#).

3. Do we need to do an amendment to the IEP to add Form G?

Yes. Since Form G becomes part of the IEP, you do need to do an amendment to add Form G to the IEP. An amendment is an agreement between the parent and the LEA (agency) regarding a change to the current IEP. A Prior Written Notice is required for an amendment since it impacts the provision of FAPE.

4. Do we have to fill out all sections of Form G?

Since all districts will now need Alternative Methods of Instruction (AMI) and an AMI-X plan in order to receive Average Daily Attendance (ADA) funding in the event of closures due to COVID-19, the information documented in Form G meets the guidelines for what must be included in a distance learning plan for students with disabilities. If your district has Department of Elementary and Secondary Education (DESE) approved AMI/AMI-X plans, then you will need to include this information in whatever distance learning plan you use for the students with disabilities in your district. The majority of districts will utilize Form G to meet this requirement. If your district chooses to craft their own plan, please see the guidance document referenced [here](#) for what needs to be included in that plan.

5. Do we have to use Form G or can we use a form of our own?

Form G was designed to help districts document necessary information for distance learning. For districts with approved distance learning plans, the information that must be included in the IEPs for students with disabilities can be found here:

[Implementation Guidance for Alternative Methods of Instruction \(AMI\) Days for Students With Disabilities](#)

A district can use their own form to address distance learning. Using Form G will ensure LEAs with approved distance learning plans have considered necessary information when developing IEPs.

6. Will the software companies be adding these changes to their platforms?

DESE has communicated with SpedTrack and Tyler SISK12; they both are changing their platforms to include the form change.

7. What does reentering physical school look like for special education? What should we be making plans to address?

Students with disabilities must be offered the same educational opportunities as all students during reentry. Each student's IEP team must consider reviewing and, if necessary, revising the IEP to make sure it includes all needed supports required to address reentry. It will be necessary to determine, through the use of progress monitoring data, where students are in their learning at this point. Plans for how this data will be gathered, when it will be gathered, and by whom, will need to be made. Students may need additional or continued instruction in the safety measures that have been put in place for school attendance.

When, how, and what instruction will be provided for that? Your district may allow for a virtual option for any student at this time. If that is the case, how will special education and related services be provided to a student with an IEP who chooses virtual school? Several resources for thinking about reentry of students with disabilities are provided below:

- [Variety of COVID-19 Social Stories, Classroom Visuals and Mask Treatment Plans](#)
- [OSEP: Transition and Reentry Practices](#)
- [CEC Considerations for Special Educators](#)
- [Children's Mercy: Helping Your Child Wear a Mask](#)

8. Are compensatory services going to be necessary for all special education students? What things should we consider when making those decisions?

IDEA does not include the concept of compensatory education. Rather, this term is a court created-court ordered remedy when FAPE has been denied by the district. Unless a school did not attempt good faith reasonable efforts to provide FAPE to the greatest extent possible during the closure due to COVID or the school does not make reasonable good faith efforts to address educational impact when schools resume normal operations, then compensatory education or compensatory services would not be appropriate. However, schools need to be intentional in their language and their actions when determining how to remedy any educational impact that may have been caused by the COVID closures. Teams should use terminology such as COVID Impact Services and Supports (CISS) rather than compensatory education or compensatory services as the COVID closures had an impact on all students, not just students with disabilities.

This distinction between the concept of compensatory services and CISS is an important context for IEP teams as they consider what services the student needs moving forward. Teams should identify, through the use of progress monitoring data, each student's functional performance in relevant curriculum areas. Then, IEP teams compare the student's current performance to where they would expect it to be had schools not closed. If it is determined that additional services are necessary at this time, IEP teams then write IEPs that include services designed to help the student bridge any gap in performance between where the student is and where the student was expected to be at the beginning of the new school year.

9. What happens if we have a shut down again after school starts?

IEP teams that have documented information about distance learning in the present levels and included a description of their plan to support distance learning on Form G will be prepared to respond to school closures. At this time, we do not have any waivers from the federal government for timelines or the provision of services to special education students, nor are any

waivers expected. Planning ahead for how districts will address brief closures (1 to 14 days) that could impact individuals, classrooms, buses, buildings, or the whole district is recommended.

10. In Missouri, can speech/language, occupational therapy (OT), and physical therapy (PT) be delivered through distance learning? Will the Board of Healing Arts come after our therapists' licenses if they provide teleservices?

Using the teletherapy and telepractice service delivery models can help school personnel manage the number of personal contacts for students attending school and for students engaged in distance learning. Limiting the number of contacts can help limit the scope of closures in the event that someone at the school tests positive for COVID-19. The American Speech-Language-Hearing Association (ASHA) recognizes telepractice as a service delivery model, if the speech language pathologist (SLP) is following any licensure requirements of the state. The Missouri School Boards Association (MSBA) Medicaid consortium created the following document to help districts make decisions about using telepractice:

[Considerations for Missouri School Districts to Make Prior to Entering into a Contract for Telepractice for Speech-Language Services](#)

The following are additional resources for information about teletherapy and telepractice:

- [U.S Department of Health and Human Services: Discretion for Telehealth Remote Communications During COVID 19 Nationwide Public Health Emergency](#)
- [FERPA & COVID-19 FAQs](#)
- [FERPA & Virtual Learning](#)
- [FERPA & Virtual Learning During COVID 19 Video](#)
- [ECTA: Remote Service Delivery and Distance Learning](#)
- [Missouri Board of Healing Arts](#)
- [ASHA- Tracking of State Laws and Regulations for Telepractice and Temporary Practice](#)

11. When do teams need to revise IEPs to include Form G and other required AMI information?

The distance learning plans for students with disabilities (Form G) need to be ready for implementation prior to any school closures or in the event that schools begin the year using alternate methods of instruction. Given the uncertainty of when schools may need to close, either on a short-term or a long-term basis, it is recommended that these changes to IEPs be made prior to the start of school. Changing IEPs to include Form G will include adding information about distance learning to the Present Level of Academic Achievement and Functional Performance, revising the Special Considerations page and completing Form G, and addressing specific accommodations and modifications required by the student to have access to distance learning opportunities. This can be done by holding an IEP meeting or by following the amendment process. Districts should consider the time special education personnel will need to complete this work as they plan for school reopening.

12. If a parent does not want to send their student back to school amid COVID fears, does the school need to put the student on homebound?

Homebound is an IEP team placement made when the team determines that, because of the child's unique circumstances, the student's least restrictive environment is at home. If the district is offering a distance learning option to all students, the IEP team should consider whether the

student can be provided FAPE through distance learning. If so, the IEP team would be sure to include documentation of the accommodations/modifications and other supports the student will need in the Present Levels of Academic and Functional Performance and on Form F. The student's IEP will reflect the services the student will be provided in order to receive FAPE. This would not be a homebound placement. If there are no distance learning options for any students and the student is unable to attend school due to health concerns, then the IEP team must consider providing services in the least restrictive environment for the student, which would include homebound. If homebound is the student's least restrictive environment, then review and revise the IEP to reflect provision of FAPE in a homebound placement. For more information about homebound, refer to the [DESE Homebound Q&A](#).

13. If a student is accessing coursework through the Missouri Course Access and Virtual School Program (MOCAP) or any district approved virtual instruction platform, is that considered homebound placement?

No, see number 10 in the [FAQ for MO-CAP](#).

14. If a student has individual needs (such as being medically fragile) that warrant the student not returning to the school setting due to COVID related concerns, what options do IEP teams have?

Teams should consider whether the student can access any of the distance learning opportunities available to all students in the district. If so, then write an IEP that supports completion of that distance learning program and progress monitor. If the student is not making meaningful progress in light of his/her circumstances, reconvene the team and discuss other options. If participation in distance learning opportunities is not appropriate for the student and the IEP team agrees this student's least restrictive environment at this time is at home, then the team should develop an IEP to provide FAPE through homebound services. If the student is not making meaningful progress in light of his/her circumstances, progress monitor and reconvene the IEP team.

15. Can districts deny or refuse to provide transportation to students who need to access special education services on campus?

Transportation as a related service is an IEP team decision. Even if a district makes a general rule that transportation will not be provided, the IEP team has the responsibility to determine whether or not individual students will require that related service in order to access their special education services. If the team determines it is a needed related service, it must be provided in some way.

16. When providing virtual special education services, do we need to provide a waiver to parents regarding their right to FAPE?

No. In any situation where students will be receiving virtual or distance special education services either documented on the service summary page or through a distance learning plan (Form G), the IEP team needs to determine what is needed to provide FAPE to the student in light of his/her individual and unique circumstance. The conversations about what is necessary and appropriate must be between the parent/guardian and the LEA. There is no avenue for a waiver of a student's rights under IDEA in this circumstance. Refer to [MOCAP Guidance](#).

17. When students decide to go with a virtual school option, do they have to exit from special education?

No. IEP teams will need to have a meeting to discuss what services and supports the student will need and how those services and supports will be delivered to continue to make progress when utilizing the virtual school option in order to receive FAPE.

Refer to [MOCAP-Q&A question 7 & 8](#).

18. In a situation where a parent actually withdraws their child from the district and declares that they are going to homeschool the student, are they automatically revoking their rights to special education services or can we tell them that they have to revoke their rights to those services if they homeschool their child?

If a parent withdraws a child from enrollment, there is no reason they have to revoke consent for special education services, nor is it appropriate for school personnel to suggest that they do so. When parents notify the district they are homeschooling, the parents have the right to special education evaluations and services through a service plan in accordance with the decisions the district made through consultation with private, parochial, and homeschooled administrators/parents.

If the district has at least one private or parochial school within their boundaries or at least one homeschooled student living within those boundaries, they are obligated to consult with those entities regarding the provision of services to those students. See DESE's website for more information about serving parentally placed private school students: <https://dese.mo.gov/special-education/parentally-placed-private-school-children>.

If the IEP team for this student has not met to discuss all the possible educational options for this student, it might be worth convening that team for this discussion. It is in everyone's best interest to support all students living in the district to the greatest extent possible to help them continue to make progress in the curriculum and on their IEP goals because, when widespread school attendance is possible again, these kids will potentially be reenrolling.

19. Our district has reentry plan policies and guidance that state that students who pick a virtual school option are locked into that option for the semester. Does this rule apply to students with disabilities?

No. School districts should not enforce this for students with IEPs because each student's IEP team makes decisions about placement. This means that IEP teams are making decisions about how and in what setting the student accesses special and general education instruction. If a student with an IEP starts a virtual program but is not successful, the IEP team, including the parent, should reconvene to determine why the student is not making progress and consider what additional supports could be provided through the IEP and whether or not these would be enough to help the student make progress and successfully complete the course. If the team determines additional supports and special education instruction would not allow the student to make progress, then they would consider the following options:

- whether the student should attend school in person so that instructional support in general education is provided through a paraprofessional

- whether providing accommodations and modifications that virtual school is unable to provide can be provided and would allow the student to stay in a general education setting
- whether the student needs more instruction in a special education setting

Changing the IEP so that the student can make meaningful progress may result in a change in educational placement through the IEP which would best be served through school attendance. Locking a student with an IEP into one particular educational setting for an arbitrary period of time could result in a failure to provide FAPE in the least restrictive environment when the student is unable to make meaningful progress in light of his/her circumstances. Additionally, parents have the right to request an IEP team meeting at any time to address concerns about placement in the least restrictive environment or the student's performance or any other parental concerns.