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OFFICE OF SPECIAL EDUCATION

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Coronavirus outbreak, and we will continue to seek further guidance regarding additional flexibility during this pandemic.

With school closures and the inevitable delays in providing services and making decisions regarding these services, all school districts should establish mechanisms for communicating regularly with staff, students, families, and impacted communities in the language or mode of communication they best understand regarding the provision of services to students with disabilities to meet the requirements of the Individuals with Disabilities Education Act (IDEA).

The attached “Questions and Answers” document is NYSED’s most-up-to date guidance regarding the provision of services to students with disabilities, including English Language Learners with disabilities. The Department’s Office of Special Education will continue to provide updated guidance to the field.

School districts should also be informed by the resources provided by the U.S. Department of Education (USDE) Office of Special Education Programs (OSEP) and Office for Civil Rights (OCR) regarding the provision of services to students with disabilities during the Coronavirus outbreak. Following are important resources to be aware of:

- x [Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak](#)
- x [Protecting Student Privacy: FERPA and the Coronavirus](#)
- x [Joint Webinar on COVID-19](#) (March 13, 2020) with OSEP, Council of Administrators of Special Education, Council of Chief State School Officers, National Association of State Directors of Special Education
- x [Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students](#)
- x [OCR Short Webinar on Online Education and Website Accessibility](#)
- x [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#)

**PROVISION OF SERVICES TO STUDENTS WITH DISABILITIES
DURING STATEWIDE SCHOOL CLOSURES DUE TO
NOVEL CORONAVIRUS (COVID-19) OUTBREAK IN NEW YORK STATE**

**Topic Questions and Answers
March 27, 2020**

Implementation of Special Education Services

- 1. Pursuant to [Executive Order 202.4](#), school districts are required to establish a COVID-19 closure plan for alternative instructional options (electronic and non-electronic). Are school districts required to continue to provide a free appropriate public education (FAPE) to students with disabilities?**

Yes. School districts 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 individualized education program (IEP). However, FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students. During this emergency, schools may not be able to provide all services in the same manner they are typically provided. For additional information, please see [Questions And Answers On Providing Services To Children With Disabilities During The Coronavirus Disease 2019 Outbreak - March 2020](#).

In its March 21, 2020 guidance titled [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#), the U.S. Department of Education (USDE

2. What resources are available to help school districts provide continuity of learning to students with disabilities during a pandemic such as the Coronavirus?

Accessible technology may afford students with disabilities an opportunity to have access to high-quality educational instruction during an extended school closure, especially when continuity of learning is provided through distance learning. For those students with IEPs that include the use of assistive technology in school and home, it would be appropriate to continue to utilize assistive technology as part of continuity of learning.

Care should be taken to ensure that school websites are free of barriers that make accessing content and materials difficult for some students with disabilities, including English Language Learners with disabilities. For example, the use of visual depictions should be limited, or accessible captions and labels used, to improve access for students with visual impairments. The [Web Accessibility Initiative website](#) and the [U.S. Department of Justice's ADA website](#) provide additional information regarding website modifications and information technology standards designed to support individuals with disabilities.

To assist in the use of assistive technology for students with disabilities, the following online resources are available:

- x [Center on Online Learning and Students with Disabilities website](#) provides information and resources regarding how online learning can be made more accessible, engaging, and effective for K-12 learners with disabilities by investigating approaches that address learner variability within the range of conditions under which online learning occurs.

The Center on Online Learning and Students with Disabilities has posted a statement on its website indicating that it is working on tips and strategies to support teachers, parents, and the students in a virtual environment in light of the shift to increased K-12 online instruction resulting from the COVID-19 outbreak. The statement also indicates that people may check its website periodically for tips and ideas.

- x [Center on Technology and Disability website](#) provides free, high-quality resources and events on all aspects of assistive technology for families, teachers, providers, and administrators.
- x [Center for Applied Special Technology website](#) works to expand learning opportunities for all individuals through Universal Design for Learning.
- x [National Center on Accessible Educational Materials website](#) provides resources and technical assistance on accessible educational materials.
- x [Quality Indicators for Assistive Technology \(QIAT\)](#) provides Quality Indicators for Assistive Technology Services and supporting documents. QIAT also offers forums for participation and discussion with colleagues in the QIAT community related to assistive technology.

5. During school closures, is a school district of location required to continue to

parent participation and consent through temporary alternate methods, such as email or notes.

Annual Reviews

As indicated above, Committees would not be required to meet in person while schools are closed. When conducting Committee meetings, the parent of a student with a disability and a school district may agree to use alternative means of meeting participation requirements, such as video conferences and conference calls.

Resolution Sessions

During these exceptional circumstances, NYSED asks that parties be accommodating of emergency factors that may interfere with the ability to participate in a resolution session. If a parent is unable to participate in a resolution session due to the Coronavirus pandemic, even with the use of alternate means of participation, in accordance with the March 21, 2020 guidance issued by USDE, the school district and parent are not prohibited from mutually agreeing to an extension of the resolution period.

Due Process Hearings

NYSED recognizes timelines for due process may not be a priority for school district's or parents during this unprecedented health crisis. To the extent possible, due process timelines should continue to be met with the use of hearings by telephone and testimony by affidavit see (8 NYCRR section 200.5 [j][3][xii] of the Commissioner's Regulations). If this is not possible, extensions should be granted in accordance with [8 NYCRR §200.5\(j\)\(5\)\(i\) of the Commissioner's Regulations](#) at the request of either the school district or parent.

8. Can the 60-day time limit for providing a final written decision be extended to 90 days if the parent requests a hearing? (NYCRR §200.5(j)(5)(i) of the Commissioner's Regulations)

Committee meetings, the parent and school district may agree

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20. How will fee for service programs (i.e., SEIS, related services, and multidisciplinary evaluations) be reimbursed if the services cannot be delivered due to program closures or student or provider absences?

Preschool special education programs and services that are paid on a fee for service basis are not currently authorized to bill for services not provided.

21. In the event of the closure of an approved preschool special education program, is the provider required to notify the student's district of residence and municipality in which the preschool student resides?