



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING


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GOVERNOR

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STATE SUPERINTENDENT

**MEMORANDUM**

**DATE:** March 13, 2020

**TO:** Local and Intermediate School District Superintendents  
Public School Academy Directors

**FROM:** Dr. Scott M. Koenigsknecht, Deputy Superintendent  
P-20 System and Student Transitions 

**SUBJECT:** Compliance Requirements of the Individuals with Disabilities Education Act (IDEA) and Michigan Administrative Rules for Special Education (MARSE) during a Public Health Emergency

The Michigan Department of Education (MDE) has received a number of inquiries regarding a mandated closure of schools due to a state or federally declared public health emergency and the potential impact of such a closure on IDEA and MARSE compliance requirements and the delivery of special education programs and services.

The programs and services determined by an Individualized Education Program (IEP) team and written into an IEP are written for one calendar year, per the approved school district calendar. Therefore, in the event of a school closure due to a public health emergency, the following situations may apply:

1. **If school is closed** due to either local education agency (LEA) or gubernatorial action (as declared on March 12, 2020, effective March 16, 2020 [Executive Order](#)), and the LEA does not provide services for its students, then the LEA is not required to provide services for students with IEPs (OSERS March 2020). All students will be expected to resume attendance at the conclusion of the closure. Students with an IEP will resume their regularly scheduled programs and services upon return. There may be circumstances where an IEP team needs to consider, on an individual basis, whether there is a need for compensatory education.
2. **If school is open**, but individual students with an IEP are absent for extended periods of time due to contraction of the coronavirus, compensatory education may need to be provided upon the student's return to school, or when their quarantine period has ended. Effective immediately, MDE is waiving the requirement under R340.1746 for a physician statement during the period of the public health emergency for students who are under quarantine or have

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contracted the coronavirus. This waiver will apply only during this time period and will end at the conclusion of the public health emergency.

For any student with an IEP whose absence due to the coronavirus extends beyond the date that school resumes for all students, or beyond the end of the public health emergency, the waiver will not apply to the additional days of absence.

3. **If school is closed**, but all students are provided an opportunity to **learn from a distance**:

- a) Under the IDEA, every student with an IEP is entitled to receive a free appropriate public education (FAPE), which includes specially designed instruction based on a student's unique needs designed to ensure the student makes progress in the general curriculum and toward meeting IEP goals. *34 C.F.R. §§300.39 and 300.320.*
- b) Districts must consider the technology needs of each student with an IEP in order to provide access to regular and special education services. If additional technology is needed for a student to receive FAPE, it must be provided by the school, at no charge to the student. *34 C.F.R. §300.105.* Schools must be prepared to provide appropriate technology and access to high speed internet on a case-by- case basis.
- c) Upon return to normal school operations, each IEP team for students with an IEP must review the provision of FAPE during the period of distance learning, to determine whether compensatory services are warranted in any service area, including instruction and/or any individual therapies. (OSERS March 2020).
- d) During the same time period, if it is necessary to convene an IEP team meeting, districts may consider a virtual IEP team meeting. However, the determination must be made on a case-by-case basis, must include the parent, and cannot be the only meeting format considered.

4. **Student absences**:

- a) If a parent chooses to keep a student with an IEP home for precautionary measures, the district is not obligated to provide homebound services or to consider the need for compensatory education.
- b) If a district excludes a student with an IEP who is at-risk of health complications, the exclusion may be considered a change of placement. (OSERS March 2020).

5. **Students currently receiving homebound services**:

- a) If all schools are closed for a period, refer to number one above.
- b) If all schools are open and the **parent requests** that the district does not provide services due to health and safety concerns, the student is considered absent and the *district is not required to make up services.*

- c) If all schools are open and the **district determines**, for health and safety reasons, that staff will not provide homebound services during the public health emergency, the district must review the IEP, if applicable, and determine what, if any, services must be made up.

R 340.1721b of the Michigan Administrative Rules for Special Education allow for extension of initial evaluation or re-evaluation timelines, if agreed to in writing by the parent and public agency prior to the evaluation due date.

1. **Annual review IEP** timelines cannot be extended and *will result in untimely data submission*. The MDE will issue Data Alert for annual IEPs not completed in a timely manner due to mandatory school closure as a result of a public health emergency. *Corrective Action will not be issued*.
2. **Initial evaluation timelines** can be extended through an Agreement to Extend Evaluation Timeline, with *no impact on timely data submission*.
3. **Reevaluation timelines** can be extended through an Agreement to Extend Evaluation Timelines.
  - a. Timeline extensions that result in completion of a re-evaluation prior to the 3-year reevaluation due date will not result in an untimely data submission.
  - b. Timeline extensions that extend beyond the 3-year re-evaluation due date will result in untimely data submission. The MDE will issue Data Alerts for annual IEPs 3-year re-evaluations not completed within the 3-year timeline, due to mandatory school closure as a result of a Public Health Emergency. *Corrective Action will not be issued*.

All educational decisions for student with IEPs must be made on an individual basis and consistent with the Individuals with Disabilities Education Act (IDEA) and the Michigan Administrative Rules for Special Education (MARSE).

The Office of Special Education and Rehabilitation Services (OSERS) has recently created a webpage designed to provide information and resources for schools and school personnel regarding COVID-19 <https://www.ed.gov/coronavirus>. One of the resources released aligns with Michigan's guidance above regarding the provision of services for students with disabilities during this public health emergency. The document is titled *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease Outbreak* and can be accessed at <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

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As additional situations and questions arise, districts are encouraged to contact the OSE Information Line at 888-320-8384 or [mde-ose@michigan.gov](mailto:mde-ose@michigan.gov).

cc: Michigan Education Alliance