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DEPARTMENT OF EDUCATION  
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October 5, 2009

MEMORANDUM

TO: Intermediate School District Directors of Special Education

FROM: Jacquelyn J. Thompson, Ph.D., Director  
Office of Special Education and Early Intervention Services

SUBJECT: Extended School Closures Due to H1N1 Virus Outbreak and Students with Disabilities

**DISSEMINATE TO LEAs AND PSAs**

The U.S. Department of Education has issued guidance to help prepare educational agencies in the event of an outbreak of the H1N1 influenza virus during the 2009-2010 school year. The complete "Guidance on Flexibility and Waivers for SEAs, LEAs, Postsecondary Institutions, and Other Grantee and Program Participants in Responding to Pandemic Influenza (H1N1 Virus)" can be found at <http://www.ed.gov/admins/lead/safety/emergencyplan/pandemic/index.html>

Schools need to be prepared if an outbreak of H1N1 disrupts the functioning or delivery of educational services. The U.S. Department of Education has stressed the importance of ensuring the continuity of learning for all students in the event of student or school dismissals, and has provided detailed recommendations in, "Preparing for the Flu, Department of Education Recommendations to Ensure the Continuity of Learning for Schools (K-12) During Extended Student Absence or School Dismissal," at <http://www.flu.gov/professional/school/index.html>

With respect to students with disabilities, a proactive approach will ensure that you continue to be in compliance with the Individuals with Disabilities Education Act (IDEA) as local educational agencies (LEA) must provide students with equal access and a free appropriate public education.

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If a LEA closes because of an outbreak of H1N1, and does not provide any educational services to the general student population, then a LEA would not be required to provide services to students with disabilities during that same period of time. However, once school resumes, an individualized determination is required to decide whether a student with a disability requires compensatory education, either to make up for skills that may have been lost or because the student did not receive an educational benefit.

If a school district provides educational services to general education pupils during a school closure, students with disabilities must be granted equal access and receive, to the greatest extent possible, the special education and related services identified in students' individualized education programs (IEPs). Rather than waiting for educational loss, a proactive approach can determine which services will be provided to students with disabilities who are out of school, regardless of whether educational services are provided to students without disabilities. Services can be delivered through alternate or additional methods, such as tutoring by telephone or the Internet. It is suggested that schools communicate with parents to determine access to technology in or out of the home and what programming or services can be delivered to a student in an alternative environment. The IEP does not have to be rewritten, but it is always best practice to document any programs and/or services that would be provided during an extended absence due to an H1N1 outbreak.

In summary, school districts need to be prepared and understand their obligations to students with disabilities. Upfront discussions and planning will allow teachers to prepare materials and activities in advance, and allow parents to plan for a possible interruption of the regular school schedule.

Additional reference materials related to the H1N1 virus may be found at <http://www.flu.gov/> , <http://www.cdc.gov/H1N1FLU/> , and [http://www.michigan.gov/mde/0,1607,7-140-37818\\_53456---,00.html](http://www.michigan.gov/mde/0,1607,7-140-37818_53456---,00.html)