



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

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GOVERNOR

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STATE SUPERINTENDENT

MEMORANDUM

DATE: June 23, 2020

TO: Local and Intermediate School District Superintendents

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

SUBJECT: **UPDATED** (6-23-20) Guidance for Implementation of *Early On*® in Response to COVID-19 - MEMO #COVID-19-073

Due to the COVID-19 pandemic, the governor ordered the suspension of all in-person early childhood programs for the remainder of the 2019-2020 school year. This includes *Early On* (Individuals with Disabilities Education Act (IDEA) Part C) for infants and toddlers (both for children eligible for Part C only and for children eligible for Part C with Michigan Mandatory Special Education (MMSE) services). This is an update to [MDE MEMO #COVID-19-049 Implementation of *Early On*® During Implementation of Continuity of Learning and COVID-19 Response Plan](#).

Many technical assistance resources and online materials are available to assist intermediate school districts (ISDs) in developing and implementing remote early intervention services for families. While ISDs are responsible for developing options, districts are encouraged to access the [Early On Training and Technical Assistance](#) site regularly for implementation resources. Please refer to these sites for updates.

The chart below identifies either revised or newly added information in the **Guidance for Implementation of *Early On*® During COVID-19 Response (Version 2.0)** document.

Topic	Update
Waivers to Michigan Administrative Rules for Special Education	New topic
<i>Early On</i> Within the ISD CoL Plan	Updated
Documentation of Temporary Adjustments and Prior Written Notice (PWN)	New topic heading and Updated
Eligibility Determination	Updated
Evaluations During Suspension of In-person Services	Updated
Use of Interim IFSPs	Updated
Consent and Signatures	Updated

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Topic	Update
Use of Funds to Support Virtual Services, Virtual Evaluations/Assessments, and Virtual IFSP Meetings	Updated
Use of Funds to Continue Paying Personnel	New topic
Local Interagency Coordinating Council (LICC) Meetings	New topic
Services After a Child Turns Three	New topic
Planning for the Return to In-person Services	New topic

As additional situations and questions arise, ISDs are encouraged to contact Noel Kelty, state *Early On* coordinator at KeltyN@michigan.gov.

Attachment

cc: Michigan Education Alliance
Confederation of Michigan Tribal Education Directors

**Guidance for Implementation of *Early On*® During COVID-19 Response
(Version 2.0)
Original 5/4/2020, Updated 6/23/2020**

The purpose of this guidance document is to provide information on implementation of *Early On*, including Michigan Mandatory Special Education Services (MMSE) for infants and toddlers, during the response to the coronavirus (COVID-19). This is a rapidly changing situation, and this document will be revised as necessary to provide the most up-to-date information. Each intermediate school district (ISD) *Early On* program will need to make many local decisions based on local capacity, resources, and the extent of the impact of COVID-19 within the entire local service area and the local community.

Waivers of Part C Requirements

Neither Michigan Department of Education (MDE) nor the U.S. Department of Education have the authority to provide waivers to the Individuals with Disabilities Act (IDEA) Part C requirements. Congress would need to pass legislation to create waivers. Although the timelines cannot be waived, there are some allowances included in IDEA Part C regulations regarding exceptional family circumstances. The Office of Special Education Programs (OSEP) has provided guidance indicating that delays in meeting Part C required timelines due to suspensions of Part C services as a result of COVID-19 can be considered exceptional family circumstances. These must be well documented.

New Topic (6/23/20)

Waivers to Michigan Administrative Rules for Special Education

[MDE MEMO #COVID-19-063 Michigan Administrative Rules for Special Education Waivers Due to COVID-19 Pandemic](#) provides a waiver to the 72-hour requirement within R340.1862 for services provided for children eligible for both *Early On* and MMSE. The requirement to provide 72 hours of service during the year commencing on the date the Individualized Family Service Plan (IFSP) is signed is waived for an IFSP that includes dates during which in-person services are suspended due to COVID-19.

Documentation

Attributing delays to COVID-19 as an exceptional family circumstance must be well-documented in the child's record. Be sure to keep detailed documentation of cancellations or delays of service delivery; evaluations/assessments; IFSP meetings; transition conferences; among other interactions, including who initiated the cancellation/delay, and the reason for cancellation/delay.

MDE may need to collect additional data related to the COVID-19 response to enable accurate reporting in the federal Fiscal Year 2019 State Performance Plan/Annual Performance Report.

Impact of Executive Order 2020-65 on Implementation of *Early On*

Executive Order 2020-65 states that in-person K–12 instruction, Great Start Readiness Program (GSRP) program delivery, and early childhood programs are suspended for the remainder of 2019–2020 school year and requires development

and implementation of a plan for learning at a distance. The requirement in this executive order to suspend all in-person instruction applies also to in-person *Early On* services, including MMSE for infants and toddlers.

The requirement in the executive order to develop and implement a continuity of learning and COVID-19 response plan (CoL plan) for learning at a distance, along with requirements of IDEA, means ISDs should include plans for providing remote early intervention services for infants and toddlers (both for children eligible for Part C only, and for children eligible for Part C and MMSE) to the extent possible under the current circumstances within their CoL plan.

The provision of remote early intervention services should be aligned with the beginning date specified in the ISD's submitted CoL plan and needs to have begun no later than May 7, 2020. Each ISD will determine whether services across the entire local service area will begin at the time of the earliest start date of the learning at a distance plan of any local education agency (LEA) within their boundaries, or whether the services will begin in each LEA boundary in accordance with the start date of instruction stated in that LEA's CoL plan. This will typically depend on whether *Early On* services are all provided by the ISD or whether some *Early On* services are provided by LEAs. Services provided through contracts with individuals or agencies will also need to be addressed in the CoL plan.

***Early On* Within the ISD CoL Plan**

Executive Order 2020-65 states that in person K-12 instruction, GSRP program delivery, and early childhood programs are suspended for the remainder of 2019–2020 school year and requires development and implementation of a plan for learning at a distance. *Early On* programs must have begun providing learning at a distance opportunities for children and families no later than May 7, 2020. School districts must submit a CoL plan in order to continue to receive state aid for operations, including state School Aid Act Section 54d funds. Within the ISD's CoL plan, provision of remote early intervention services for infants and toddlers in *Early On* (including children eligible for Part C only and for children eligible for Part C and MMSE) and their families to the extent possible under the current circumstances will need to be addressed.

Local service areas will understandably be at varied states of readiness to provide remote early intervention services and supports. Family resources related to accessing remote services will also be important to consider. It is recommended that a variety of methods, including printed materials, phone contact, email, virtual visits, or a combination of those be used to meet individual child and family needs. Be sure to address provision of services through agreements with LEAs or through contracts with individuals or agencies, if applicable to your *Early On* local service area.

As you create a plan to implement *Early On*, consider:

1. Alternate modes of communication/interaction that you anticipate will be used in the implementation of *Early On*, including remote services, evaluations, assessments and initial IFSPs, periodic reviews, annual IFSPs and transition

plans/conferences, in place of in-person visits and meetings to the greatest extent possible.

2. Any anticipated needs to reallocate federal *Early On* and/or state School Aid Section 54d funds to implement remote early intervention services and supports. Changes to the use of either of these fund sources also requires an amendment be completed within the Michigan Electronic Grants System *Plus* (MEGS+) and approval granted by MDE.
3. Adjustments you need to make to staffing due to COVID-19.

Update (6-23-20)

Plans for implementation of *Early On* should be addressed within sections of the CoL plan as applicable. This may be accomplished by embedding information regarding *Early On* in the original CoL plan, amending the CoL plan, or creating an addendum to the CoL plan. The CoL plan shall include the best estimate of the date of implementation of *Early On*, which must be at least by May 7, 2020. This indicates the day by which implementation would have begun. Services for all eligible children should have resumed as soon as possible after that date. Please refer to MDE MEMO #[COVID-19-071](#) Continuity of Learning Plans for Early Childhood Programs and Services.

In-Person *Early On* and MMSE Services

In-person *Early On* and MMSE services may begin:

- After Executive Order 2020-65 ends; or
- After a new executive order is issued clarifying that in-person services may resume.

MDE will issue guidelines to inform local decisions to restart in-person *Early On* and MMSE services including how to conduct health screenings, socially distance during visits, and maintain hygiene. These guidelines will not require locals to return to in-person services, but will allow families and providers a choice in which service delivery model they prefer.

Alternate Modes of Service Delivery

Once in-person services are permitted, local service areas will be allowed to continue offering virtual or remote services. Local service areas are encouraged to be creative and to consider capacity and resources available when planning for delivery of services while in-person services are suspended. Supports and services should be individualized for each child and family, taking into consideration family resources and needs. Possible modes of service delivery include video conferencing; audio conferencing; sharing video recordings; telephone interactions; printed materials; email; text messages; and using postal delivery services.

As you select a mode of service delivery, you will also need to decide together with the family on an appropriate time of day and length of time for the service.

Several of the professional organizations for therapists have developed guidance specific to their profession to guide the provision of services during the suspension of in-person services.

Parent Decision

Parents may ask to suspend services and/or delay meetings due to the impact of COVID-19 on their family. This should be documented as an exceptional family circumstance. Services must begin again and/or delayed meetings or other events must take place as soon as possible after the documented exceptional family circumstance no longer exists or parental consent is obtained. *Early On* providers are encouraged to check in periodically with a family that has elected to suspend services temporarily to ensure that their needs are being met and to determine when they are ready to begin receiving services again.

Adjustments to the Provision of IFSP Services Due to COVID-19

Changes in child and family routines due to COVID-19 may have a significant impact on goals and outcomes; what services are needed; method of service delivery; as well as frequency and length of service. *Early On* must ensure the continuity of services on a case-by-case basis and consistent with protecting the health and safety of the child, the child's family, and those providing services. The service coordinator and providers must determine if the child's needs have changed and determine whether the IFSP team needs to meet to review the child's IFSP to determine whether changes are needed. Parents should be full participants in decision-making regarding adjustments to the implementation of the IFSP.

OSEP guidance states that *Early On* must ensure the continuity of services even when impacts of COVID-19 prevent IFSP services from being provided in-person in a particular location (such as the child's home), by a particular provider, or to a particular child or family member. For example, this may be done by providing services with an alternate provider or by alternate means. The provider or service coordinator may consult with the parent through a teleconference or other alternate method (such as email or video conference), consistent with privacy interests, to provide consultative services, guidance, and advice as needed.

***New Heading (6-23-20)**

Documentation of Temporary Adjustments and Prior Written Notice (PWN)

Temporary adjustments to the implementation of the IFSP made purely due to limits created by COVID-19 (such as frequency or length of service, service provider, or mode of service delivery) may be documented in the child's record as a temporary deviation from the child's IFSP due to COVID-19 without convening an IFSP meeting and changing the IFSP. These temporary changes should be documented as such in the child's record and prior written notice (PWN) should be provided.

Significant changes (such as adding new services), especially when due to changed needs of the child, will warrant convening an IFSP meeting to make changes to the child's IFSP and involve providing all related procedural safeguards.

Update (6-23-20)

Contingency plans are not required by federal or state rules or regulations for children with IFSPs. They are allowable for children eligible for *Early On* only and/or for children eligible for *Early On* with MMSE services. They may be required locally. Contingency plans are a format that may be used for documenting temporary deviations from a child's IFSP. Contingency plans are a companion to an active IFSP

and not a substitute for an IFSP. This type of plan must be individualized to the child and family. Contingency plans do not need to be submitted to the state and there is not a due date by which such a plan must be in place. If used, they are kept as part of a child's record. Use of contingency plans for children with IFSPs does not eliminate the requirement to provide PWN for temporary changes to the IFSP. It may be possible to develop a combined contingency plan and PWN form.

Honoring the earlier verbal guidance to move forward with best faith efforts until written guidance was available, retroactive PWN for decisions about temporary revisions to how services will be delivered during the suspension of in-person services due to COVID-19 are not required for those decisions made prior to May 18, 2020. It is expected that use of PWN for this type of decision be included in the local process and procedures no later than May 18, 2020.

Prior written notice (PWN) for temporary revisions to the implementation of a child's IFSP may use open-ended language that includes a variety of modes of virtual engagement that allow for adjustments as capacity for and comfort with different modes are developed and as circumstances change. PWN for temporary revisions may also use open-ended language to indicate that the revisions will remain in place until it is possible to return to in-person service provision.

PWN, along with documentation in the child's record, may also be used to communicate adjustments to previously agreed upon plans for temporary revisions, including modes and time periods for the revisions. There is not a requirement for a parent to sign a PWN. It is allowable to provide PWN using electronic means as long as confidentiality is protected. For additional guidance on PWN, including content requirements, refer to the *Early On* Implementation Manual posted on the [Early On Training and Technical Assistance](#) website.

Responding to Referrals

The 45-day timeline begins on the earliest date the referral is received in the local service area, either by the ISD, LEA, or by agencies with which the ISD has a contract or an agreement. The timeline for referrals received during periods of closure due to COVID-19 begins on the day the referral came from the Child Abuse Prevention and Treatment Act (CAPTA) or any other referral source. If the response to the referral and the initial evaluation, initial assessment and/or initial IFSP meeting are delayed due to closure or to the backlog of referrals caused by the impacts of COVID-19, document these delays as exceptional family circumstances, noting the connection to COVID-19.

Parents should be notified of the receipt of a referral. The initial evaluation, initial assessment, and initial IFSP meeting should be scheduled as soon as possible. Consider what modes of communication can be used for conducting these evaluations, assessments and IFSP meetings during the suspension of in-person services. If the parent asks to delay the evaluation, assessment and/or IFSP meeting, document this as an exceptional family circumstance.

Eligibility Determinations

Consider all existing evaluation information. Decide if there is enough information to make the eligibility determination or whether additional information is needed. Consider whether there is a way that the needed information can be obtained without meeting in person with the child and family. Remember to include use of established conditions and informed clinical opinion when making determination of eligibility.

Update (6-23-20)

There may need to be a greater reliance on informed clinical opinion during this time. When it is difficult to obtain written documentation of an established condition due to COVID-19 restrictions, informed clinical opinion may be used to make a child eligible under established condition. In these cases, the written documentation must be obtained when in-person restrictions are loosened. Although not evaluation tools, screeners such as the ages and stages questionnaire (ASQ) may provide valuable information to support informed clinical opinion.

When you have information that can make a child eligible, consider the child eligible and move forward with the IFSP process. You should move forward with eligibility determination regardless of whether you are missing paperwork such as health status reports, or you are unable to complete portions of the evaluation and assessment process. Document attempts to obtain paperwork and to complete processes, then move forward. Be transparent with the parent regarding what can and cannot be completed, and that these pieces of the process will be completed at a later date.

Evaluations During Suspension of In-Person Services

Just as local service areas need to be creative in thinking about alternate modes of service delivery, they need to also be creative in thinking about alternate modes for completing evaluations and assessments. Possible modes include video conferencing; audio conferencing; sharing video recordings; telephone interactions; printed materials; email; text messages; and using postal delivery services.

Many publishers of evaluation tools are developing guidance on how to use the tools when you cannot meet in person with the child and family due to the COVID-19 pandemic. Follow guidance provided by the publisher.

Update (6-23-20)

If necessary, it is possible to use the hearing and vision screening checklists virtually. Also check any medical documentation for evidence of recent hearing or vision screenings.

Evaluations to determine eligibility for MMSE services for children birth to three years old and for determining eligibility for IDEA Part B Early Childhood Special Education for children transitioning from IDEA Part C to IDEA Part B must also continue during the suspension of in-person services. For additional guidance regarding special education evaluations, please see guidance available on the *Early On* Training and Technical Assistance website and [MDE MEMO #COVID-19-057 UPDATED Guidance for Compliance with the Individuals with Disabilities Education Act \(IDEA\) and the Michigan Administrative Rules for Special Education \(MARSE\)](#).

Use of Interim IFSPs

If you have determined that a child is eligible, however the additional evaluations and assessments needed to complete an initial IFSP cannot be completed at this time, you may develop and implement an interim IFSP. This does not waive the 45-day timeline for completing an initial IFSP. However you can document that the delay is due to an exceptional family circumstance related to COVID-19.

Update (6-23-20)

Use of an interim IFSP is a temporary measure to allow the initiation of services prior to development of an initial IFSP. Although there is no time limit on how long services may be provided based on an interim IFSP, it should be completed as soon as possible after the circumstances that prevented its development no longer exist.

An interim IFSP must contain the name of the service coordinator and services that are needed immediately by the child and family. If an interim IFSP form does not exist within a local IFSP system, it will need to be decided locally whether to adapt the existing initial IFSP form to be used as an interim IFSP or to develop an interim IFSP form either inside or outside the system.

Consent and Signatures

IDEA requires written consent at several points in the process. IDEA does not specify how written consent must be obtained. Local service areas will need to plan for how they will obtain written consent while not meeting in person with families. A few ways of obtaining written consent include via U.S. Postal Service mail and electronic or digital signatures.

Early On programs that wish to utilize electronic or digital signatures for consent may do so if they choose. Options for electronic or digital signatures could include, but are not limited to, the use of applications such as HelloSign, DocuSign, Adobe Sign, or even a parent's email reply to a prior written notice (PWN) stating that they consent to the proposed action in the PWN and provide their printed name as a signature.

Parents may provide consent with an electronic signature under three conditions:

1. The document identifies a particular person as the source of the electronic consent.
2. The document authenticates a particular person as the source of the consent. To meet this condition, there must also be something to authenticate that the person sending the signature electronically is the person named in the document. That could be accomplished by requiring that a parent respond to the request for consent using their own email address (where the consent form was sent). Or, an *Early On* program could send the request for consent to the parent electronically and protect it with a password known only to the sender and the parent. The fact that the parent is able to open the request for consent and send a response is reliable evidence that it is the named parent who is responding.

3. The document indicates such person's approval of the information contained in the electronic consent (34 C.F.R. § 99.30(d)). To meet the first condition above, the document must include a statement identifying the person providing the signature. For example, the document could include a statement such as: "I (name of parent) am the parent of (name of child), and I consent to: _____." The third condition would apply to any request for consent, whether hand-written or electronic. The document must describe the action for which consent is being requested and include a statement that the parent's signature means the parent is consenting to that action.

If the extra time needed to obtain written consent due to impacts of COVID-19 causes delays to meeting timelines, document the delay as an exceptional family circumstance related to COVID-19.

In cases when it is impossible to obtain written consent, obtain and document verbal consent. Follow-up with written consent as soon as possible.

Update (6-23-20)

ISDs are encouraged to review [Executive Order 2020-41 Encouraging the Use of Electronic Signatures and Remote Notarization, Witnessing, and Visitation During the COVID-19 Pandemic](#). Some of the principles addressed in this order may provide ideas and strategies that could be applied in obtaining written consent and required signatures.

FERPA and Use of Video

Note that video recordings maintained by *Early On* that contain information directly relating to the child and/or family are to be considered education records protected under the Family Educational Rights and Privacy Act (FERPA; 34 C.F.R. § 99.3).

Use of Funds to Support Virtual Services, Virtual Evaluations/Assessments, and Virtual IFSP Meetings

Federal Part C funds and state School Aid Act Section 54d funds may be used to provide technology and other needs to support virtual services, virtual evaluations/assessments, and virtual IFSP meetings.

Both funds may also be used to contract extra staff and/or pay for overtime of current staff to help address backlogs in referrals and catching up with missed services, evaluations, assessments, IFSP meetings (initial and annual), periodic reviews, meetings to develop transition plans, transition conferences, etc.

Update (6-23-20)

Please review [MDE MEMO #COVID-19-061 Financial Accounting Guidance During the COVID-19 Pandemic](#) for additional guidance from MDE Office of Financial Management on fiscal matters.

New Topic (6-23-20)

Use of Funds to Continue Paying Personnel

It is allowable to continue to charge salaries and benefits for *Early On* personnel teleworking or not working using IDEA Part C funds or Section 54d funds. Please be sure to follow your district's policy of paying salaries from all funding sources, federal and non-federal.

It is important to remember that while certain flexibilities may be provided during the COVID-19 pandemic, the purposes and beneficiaries of the IDEA Part C grant remain the same. Therefore, if *Early On* personnel are re-deployed to other non-*Early On* but necessary duties as a result of the COVID-19 pandemic, other funds must be used to support the non-*Early On* assignment. This requirement also applies to those costs charged to Section 54d funds.

1. Staff who are teleworking will be paid from the same funding sources in a similar manner as prior to the COVID-19 pandemic and supported by time and effort documentation.
2. When charging IDEA Part C funds or Section 54d funds for *Early On* staff who are not working, the district will need to consider how to allocate funds using a prior, representative period. Coding for staff not working but still being paid is the same as if they were working in terms of function and object code.

Districts should consider their policies, procedures, and documentation of personnel expenses to support all charges to either grant.

For additional guidance related to reporting expenses on the SE-4096 Special Education Actual Cost Report for state aid reimbursement, please refer to Guidance for Compliance with the Individuals with Disabilities Education Act and the [Michigan Administrative Rules for Special Education During the COVID-19 Pandemic Version 2.0](#).

New Topic (6-23-20)

Local Interagency Coordinating Council (LICC) Meetings

Districts are encouraged to continue involving stakeholders, including community partners and families, in decision making during this time. LICC meetings are an important way to bring together stakeholders. LICC meetings may be held virtually, either over the phone or via technology. The timing, length, content, and format of LICC meetings may need to be adjusted to fit the current circumstances created by COVID-19. For members who do not have access to join virtual meetings, the agenda could be provided with an opportunity to comment and minutes shared after the meeting. If you anticipate you will be unable to meet the requirement of convening a minimum of four LICC meetings during the program year (https://www.michigan.gov/documents/mde/Michigan_LICC_Handbook_Final_62557_8_7.pdf), please consult with your MDE Consultant.

New Topic (6-23-20)

Services After a Child Turns Three Years Old

All early childhood transition requirements remain in place. IFSP meetings to develop the transition plan and transition conferences may be held virtually. Children must be exited from *Early On* by their third birthday. Part C federal funds and Section 54d funds may not be used to provide services beyond the child's third birthday.

IDEA Part B requirements for developing an Individualized Education Program (IEP) by the child's third birthday also remain in place. Please see [MEMO #COVID-19-057 UPDATED \(05-20-20\) Guidance for Compliance with the Individuals with Disabilities Education Act \(IDEA\) and the Michigan Administrative Rules for Special Education \(MARSE\)](#) guidance from the Michigan Department of Education's Office of Special Education on meeting these requirements.

Additional Resources

The U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS) has recently created a webpage designed to provide information and resources for schools and school personnel regarding COVID-19 at <https://www.ed.gov/coronavirus>. Guidance continues to evolve daily. Please regularly reference the OSERS site for updates.

Many technical assistance resources and online materials are available to assist ISDs in developing and implementing remote early intervention services for families. While ISDs are responsible for developing options, districts are encouraged to access [Early On Training and Technical Assistance](#) site regularly for implementation resources. Further, refer to the [MDE COVID-19 Education and Information Resources](#) page for further information and guidance. Please check these sites regularly for updates.