

Recommendations

Educational Opportunities

The Individuals with Disabilities Education Act (IDEA) does not specifically address a situation in which school would be closed for an extended period of time due to exceptional circumstances, such as a pandemic emergency. School districts must continue to provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students, and those individuals providing education, specialized instruction, and related services for students. The current exceptional circumstances may affect how special education and related services are provided. School districts may not be able to provide all services in the same manner that they are typically provided. Federal disability law allows for flexibility in determining how to meet the individualized needs of students receiving special education services.

Given that Rhode Island has mandated statewide school closures, it is essential that school districts focus on providing continued educational opportunities for all students. School districts must ensure that students receiving special education have access to these opportunities. For students with individualized education programs (IEPs), school districts must ensure that each student is provided the special education and related services identified in the student's IEP developed pursuant to the IDEA, to the greatest extent possible. All reasonable efforts must be made to support the students and prevent learning loss.

Communication

During this uncertain and difficult time, it is important to maintain positive relationships between school personnel and families. Consistent and regular communication is vital to ensure that school districts and parents collaborate as a team in supporting a student's learning.

When communicating with parents, RIDE recommends the following:

- Acknowledge in your communications to all parents that your school district has a distance learning plan that provides equitable access and special education and related services to the greatest extent possible during school closure.
- Develop a protocol to communicate proactively with parents and guardians regarding their child's IEP services during a closure taking into consideration the parents' preferred method of communication and preferred language. This should be approached through general communication and on an individual basis where each parent has planned check-ins with school personnel.
- As soon as possible, notify parents or guardians of student's receiving special education services of your individualized plan for that student to access continued educational opportunities. Include the input of parents or guardians and the student, as appropriate, when discussing the plan.

- Discuss with parents the conditions that exist at home for distance learning, the supports that may be available and schedules when learning would best take place. In many ways, parents are now on the front line daily supporting their child's learning. Having clear and regular communication may optimize learning and the benefits of related services during this time.

Engaging parents in communication and providing feedback ensures parents, and student voice in the process. Communication should be ongoing throughout the implementation of the plan so that the educators delivering and/or overseeing the services can make adjustments to the plan when appropriate. School district personnel are encouraged to document communication and student progress through the period of school closure.

Planning and Team Meetings

During school closure, the US Department of Education has indicated that if all students are receiving continued educational opportunities, and therefore the general education population has moved to distance learning, school districts are not *required* to revise an IEP because all students are receiving an alternate mode of instructional delivery of the general education curriculum. This would obviate the need to conduct IEP meetings related to the instructional delivery method in those cases and would not constitute a change in placement. This also allows school staff to focus on the provision of supports and services, rather than engaging in numerous IEP meetings.

If a parent or the school district wishes to discuss the student's continued educational opportunity, the parent and school district have flexibility to use other means of conferring with one another rather than convening an IEP team for a meeting. There may be unique instances, however, when a school district and a parent agree that an IEP meeting is necessary. In such cases, the parties may agree to conduct the meeting via an alternate means of meeting participation, such as video conference or conference call. In determining if an IEP meeting is necessary please consider the following:

- The purpose of the IEP meeting. Given that there is no requirement to revise IEPs to include distance continued educational opportunities;
 - Is having an IEP meeting necessary?
 - Will holding an IEP meeting affect the continued educational opportunities being provided to the student?
- The IEP membership requirements;
 - Will each IEP member be available and able to meaningfully participate in the meeting?
- Confidentiality and privacy concerns;
 - If the meeting is being held telephonically or virtually, will each team member have access to a private space?
 - Is the virtual format being used secure?

- If there is a need to change the IEP during school closures, the parent and the school district may agree not to convene an IEP meeting for the purpose of making those changes and simply amend the IEP.

Communication between school personnel and parents is critical and documentation of these conversations and decisions is strongly advised.

IEP Meetings

The goal of educators during the period of school closure is to mitigate learning loss for all students. Some students receiving special education services through distance learning will be able to maintain progress on their IEP goals and objectives. For some students this may be more difficult to maintain through distance learning. Teachers and local school officials are encouraged to exercise due diligence in meeting a student's IEP to the greatest extent possible during the school closures. Communication with parents is critical and documentation of efforts to maintain services is strongly advised.

Rhode Island Regulations allow IEP meetings to occur through virtual means. Naturally, the agreement with parents is essential. Additionally, IEPs may be amended without a full IEP review. Teams of school personnel and parents are encouraged to discuss the options that best meet the continuing educational needs of the child and choose the method that ensures that the student continues to receive appropriate services through school closure.

In some instances, teams may decide that an amended IEP is necessary during the closure. Again, this is a thoughtful decision to be considered by the parents, teachers and local school administrators.

IEP Annual Review

With the current school closure, school personnel may find it difficult to conduct Annual IEP Reviews. There are no statutory or regulatory provisions that allow extensions of time to conduct these meetings. School officials are encouraged to use virtual means when agreed to by the parent to conduct annual IEP reviews. If annual review dates are not met, school district officials are encouraged to document efforts to meet the annual review timelines and hold the annual review as soon as possible once school resumes. If the effective date of a student's IEP lapses during the school closure, the student's IEP will remain in effect until a new IEP is developed.

Initial Timeline Requirements

This is an unprecedented time where the primary focus is the safety of students, families, and educators and allowing staff the time to provide distance instruction and services to students. Focusing on those priorities may cause challenges with regard to meeting the required timelines.

To date, the US Department of Education has not waived any of the timeline requirements in the IDEA or Regulations. Good faith and reasonable efforts should be made to meet the timelines required by law and regulations. However, the following information may help parents and school personnel make decisions in the best interest of the child.

- Initial Evaluations – if evaluation teams have gathered enough evidence (Response to Intervention data, formal evaluations, etc.) prior to the closing of schools due to the COVID19 crisis to make a determination of eligibility, efforts should be made to proceed with evaluation meetings and determinations. If the team has not concluded the necessary information gathering and this cannot be completed through distance methods, the team should meet and make determinations to meet the timeline requirements. There are legitimate excusals for not completing an evaluation and determination including having access to a child in order to complete the evaluation. Communication with parents is crucial and documentation of efforts to meet the initial evaluation timeline is strongly advised.
- Reevaluations – Reevaluations are a decision of an IEP team and, as such, the IEP team must be involved with the decision to proceed or delay reevaluation due to school closures. Communication with parents is crucial and documentation of efforts is strongly advised.