



# Illinois State Board of Education

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## **Mandatory Statewide School Closure Per Executive Order 2020-05 Special Education Guidance for Illinois Schools and Local Education Agencies (LEAs)**

**Last updated: March 18, 2020**

Districts, special education cooperatives, and private special education schools should reference the [U.S. Department of Education Q&A and Office for Civil Rights Fact Sheet](#) to find additional information from a federal perspective on the provision of education and related services for students with disabilities.

### **TIMELINES AND INDIVIDUAL EDUCATION PROGRAM (IEP) TEAMS**

#### **1. How are IEP meetings impacted by the statewide school closure?**

On March 16, 2020, the U.S. Department of Education's Office for Civil Rights (OCR) released its [guidance](#) for protecting the rights of students during periods of school interruption due to COVID-19. In summary, OCR stated that all Local Educational Agencies (LEA) must ensure that each special education student receives equal access to educational opportunities that are provided to general education students. Despite the guidance from the OCR, there continues to be no flexibility from complying with federal and state laws; schools should continue to observe all relevant federal and state timelines during the statewide school closure.

In calculating timelines, a school day is any day that students are *in attendance* for instructional purposes (34 C.F.R. 300.311). Per [Executive Order 2020-05](#), students are not to be in attendance for educational purposes during the current statewide school closure. The statewide school closure days cannot be considered "school days" for special education purposes.

Because statewide school closure days are considered to be Act of God days, many special education timelines are tolled (frozen) during the pendency of [Executive Order 2020-05](#). For example, any school district that receives a referral from a parent for an evaluation (23 Il. Admin. Code 226.110(c)) should recognize that the 14-school-day timeline to decide whether or not to conduct that evaluation is tolled and does not begin until school resumes.

On the other hand, schools are bound to comply with timeline requirements in federal and state law that apply to calendar or business days. For example, any school district that

receives a request for an Individualized Education Program (IEP) meeting from a parent or teacher must comply with the requirement to decide whether or not to convene a meeting and provide written notice to a parent within 10 calendar days (23 Il. Admin. Code 226.220(b)) – even during the statewide school closure. School districts should consult their attorneys and closely review federal and state laws and regulations connected to special education obligations with timelines connected to business days and calendar days, which continue to apply during the statewide school closure caused by [Executive Order 2020-05](#).

ISBE will work with school districts as much as possible to provide any flexibility regarding potential indicator findings connected to compliance with timelines.

**2. Will school districts be permitted to amend and/or extend dates of IEP meetings or evaluations? Can teams convene via alternate means?**

There is no federal guidance providing any flexibility on the requirement to convene IEP meetings “not less than annually” (34 C.F.R. 300.324). Until flexibility is provided, LEAs should continue to make all reasonable efforts to comply with the annual meeting requirement; however, IEP teams will not be required to convene in person during the statewide school closure. Schools can comply with timeline requirements by availing themselves of the opportunity to convene meetings via alternate means, including telephone or videoconference, which are allowable under the Individuals with Disabilities Education Act (34 C.F.R. 300.322). To the extent a LEA convenes a meeting via alternate means, the student’s parent or guardian must consent.

Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed so long as the student’s parent or legal guardian agrees. Any evaluations that require face-to-face assessments or situations in which the parent or guardian does not agree to videoconferencing or other telecommunication must be postponed until schools reopen.

**3. How are due process, complaint investigations, and mediation timelines impacted by COVID-19 closures?**

There is currently no flexibility for the requirement to comply with federal and state special education timelines connected to due process, complaint investigations, and mediation timelines. ISBE complaint investigators will continue to take all reasonable steps to resolve State Complaints in the timelines required by federal and state law.

All parties to due process hearings and mediations should take direction on timeline compliance from their hearing officer or mediator. The mere existence of the COVID-19 closures does not excuse the handling of the hearing process or the adherence to timelines. A hearing officer may conduct a hearing entirely via telephone or videoconferencing. The hearing officer, however, should consult the parties and/or their representatives before deciding to proceed in this manner.

**4. How are timelines for early intervention to early childhood transition impacted?**

There is currently no flexibility from the federal and state requirement to ensure that a child transitioning from an early intervention program has either an IEP or continued Individualized Family Service Plan (IFSP) in effect on the child's third birthday (23 Ill. Admin. Code 226.260). Schools should take all reasonable efforts to comply with the requirement to develop the student's plan and may avail themselves of the opportunity to ensure participation at meetings via alternate means, including telephone or videoconference. A 3-year-old student must have an IEP or continued IFSP in place by their third birthday, but LEAs must remember that the March 17, 2020, through March 30, 2020, days are Act of God days; per [Executive Order 2020-05](#), there is no requirement that the students receive educational services unless general education students are receiving services during Act of God days.

There is currently no flexibility for compliance with timely child find. However, ISBE expects districts will make appropriate local determinations on safely conduct early childhood screenings during the statewide school closure. In order to comply with evaluation timelines, early childhood evaluation teams may want to consider assessment procedures, such as parent interviews, child care provider interviews, parent rating scales, and review of early intervention reports, in lieu of direct student contact for evaluations.

**NON-DISCRIMINATION**

**5. What are a LEA's obligations regarding continuity of education options?**

A LEA may not discriminate against students with disabilities by failing to provide continuity of education options that are accessible to them. LEAs providing continuity of education must do so equitably, through whatever means possible. Special education personnel are encouraged to provide opportunities for students, including any necessary accommodations, whenever possible. Educators should keep detailed documentation of all educational opportunities provided to students during the statewide school closure. ISBE has compiled a library of resources at [www.isbe.net/keeplearning](http://www.isbe.net/keeplearning).

**FREE APPROPRIATE PUBLIC EDUCATION**

**6. Are students required to receive a Free Appropriate Public Education during the statewide school closure?**

The OCR guidance provides that a LEA that is not providing any educational opportunities to its general education students would not be required to provide services to students with disabilities during that same period of time.

## COMPENSATORY SERVICES

### **7. Are IEP teams required to address compensatory education for students for a break in education during the statewide school closure?**

Pursuant to the guidance from OCR, if a student does not receive services after an extended period of time, the student's IEP team (or appropriate personnel under Section 504) must make an individualized determination whether and to what extent compensatory services are needed consistent with the respective applicable requirements, including to make up for any skills that may have been lost.

## RELATED SERVICES

### **8. Can LEAs utilize teletherapy or video therapy during the statewide school closure?**

Yes, schools may consider using teletherapy or video therapy during the statewide school closure as an aspect of continuity of education afforded to students. It is unclear whether schools may submit claims for reimbursement for these therapies during the statewide school closure. Questions regarding Medicaid billing should be directed to the Illinois Department of Healthcare and Family Services.

### **9. May schools provide at-home continuity of education services to special education students during the statewide school closure?**

LEAs have local discretion for how, and to what extent, they will provide continuity of education services to all students, which may include at-home services. Schools must make decisions regarding staffing in conjunction and partnership with any collective bargaining entities, employment contracts, employee handbooks, guidance from the Occupational Safety and Health Administration and the U.S. Department of Labor, and health information from the Illinois Department of Public Health and local health departments.

### **10. What must LEAs do for students who have home or hospital placement as their IEP placement?**

As stated above, if a LEA is not providing any educational opportunities to its general education students, then it would not be required to provide services to students with disabilities during that same period of time. ISBE continues to recommend that all students be afforded continuity of education opportunities as outlined above, including for students who have home or hospital placements.

### **11. Can we send learning packets home for students with disabilities?**

ISBE strongly recommends that LEAs provide continuity of education opportunities, including but not limited to sending work packets home. ISBE has a library of resources

available for students at [www.isbe.net/keeplearning](http://www.isbe.net/keeplearning), which includes special education resources.

## PRIVATE SPECIAL EDUCATION SCHOOLS

### **12. Are Illinois residential treatment facilities and residential schools approved under Section 5/14-7.02 allowed to remain open during the statewide school closure?**

Illinois residential treatment facilities may stay open so long as a facility continues to maintain appropriate licensure with its licensing entity and remains in compliance with Illinois Department of Public Health and local health department regulations; however, educational components of residential facilities must close pursuant to [Executive Order 2020-05](#).

### **13. Are state-run residential facilities overseen by the Illinois Department of Juvenile Justice, ISBE, or the Illinois Department of Human Services permitted to continue to operate for educational purposes?**

Yes. [Executive Order 2020-06](#) allows that schools operated by the Illinois Department of Juvenile Justice, the Philip J. Rock Center and School operated by the Illinois State Board of Education, and schools operated by the Illinois Department of Human Services schools (e.g., Illinois Center for Rehabilitation and Education – Roosevelt, Illinois School for the Visually Impaired, and Illinois School for the Deaf) may remain open for educational purposes provided that the schools exercise the necessary precautions to protect the safety and health of the students and staff.

### **14. Are out-of-state residential treatment facilities approved under Section 5/14-7.02 allowed to remain open during the statewide school closure?**

Yes. The mandate in [Executive Order 2020-05](#) closed all public and private schools for educational purposes only for schools located “in Illinois.” Out-of-state residential treatment facilities may continue to provide educational and residential services to students in accordance with that state’s authorities and information from the Centers for Disease Control and Prevention.

Districts that have placed students out of state remain responsible for placement and travel for those students if those out-of-state facilities close. Districts should coordinate and oversee any necessary transportation to ensure safety; the transportation expenses will be reimbursable under current ISBE transportation guidance.

### **15. Will a resident district pay the room-and-board per diem rate established by the Illinois Purchased Care Review Board (IPCRB) during the statewide school closure and receive reimbursement?**

There is currently no definitive information regarding payment of room-and-board per diem rates and reimbursement. ISBE is seeking flexibility to allow private special

education schools to bill and receive the tuition per diem rate that is set by the Illinois Purchased Care Review Board during the course of the statewide school closure.