

CORONAVIRUS/COVID-19 FREQUENTLY ASKED QUESTIONS FOR SCHOOLS AND DISTRICTS REGARDING SPECIAL EDUCATION

March 17, 2020

Given the increasing number of cases of COVID-19 in Massachusetts, and out of an abundance of caution for the health and safety of children and school staff, Governor Baker has ordered a three-week suspension of school operations for educational purposes at all public and private elementary and secondary (K-12) schools in the commonwealth, beginning Tuesday, March 17. Schools shall not re-open for normal operations before Monday, April 6. Please note that this mandated closure does not apply to residential and day schools for students with disabilities.

The suspension of educational programming will not necessarily affect the availability of school buildings for the provision of food or other essential non-educational services. The Department encourages schools and districts to provide alternative remote enrichment activities for students during the period of school closure. Superintendents must consult with school committees, teaching staff, and other stakeholders about how to provide students with access to alternative learning opportunities based on considerations of equity and the availability of resources.

The Department provides the following guidance specific to implementation of special education services during this period of school closure. These responses are based on guidance recently issued by the U.S. Department of Education, available at: <https://www2.ed.gov/policy/special-ed/guid/idea/memosdcltrs/ga-covid-19-03-12-2020.pdf>, and additional information being made available by the Massachusetts Department of Elementary and Secondary Education. We will update this memorandum frequently as new information is available.

Special Education Services and Learning Opportunities

Q: During the period of time a district is closed related to COVID-19, must the district provide special education services to students with disabilities?

When a school district is closed during this ongoing public health emergency and does not provide any educational services to the general student population during the period of closure, the school district is not required to provide services to students with disabilities during that same period of time. Districts should be communicating with parents and guardians during and after a school closure regarding their child's IEP services. This ongoing communication will help educators, administrators, and parents/guardians understand any impact of the closure on students' access to a free

appropriate public education. After an extended closure, districts should review how the closure impacted the delivery of special education and related services to students and convene individual IEP team meetings, as necessary, in order to make an individualized determination as to whether additional services are needed for individual students.

Q: What are the district's obligations to provide FAPE to students with disabilities during extended school closures related to this health emergency?

A district is not required to provide services to students with disabilities during extended school closures if the district does not provide any educational services to students during this period of time. Once school resumes, the district should review how the closure impacted the delivery of special education and related services to individual students and convene IEP team meetings as necessary in order to make an individualized determination as to whether a student needs additional services.

Educational Resources

Q: How can I provide students with disabilities with educational resources during the period of school closure?

Although schools are suspending in-person educational operations, staff should be planning for how best to equitably provide alternative access to educational resources during this period of school closure. All students can benefit from the structure of learning activities when school is closed. Educational resources could include reading lists, Internet-based lessons, work packets, or other available learning approaches. These resources will assist in maintaining continuity of learning experiences for students and a connection to classmates and teachers during the period of closure. In preparing these resources, districts should consider accommodations and modifications that students need to ensure equal opportunity of access.

The Department encourages educators and administrators to reach out to students and families by phone, email, and other means of communication during a period of extended closure. For example, counselors, special educators, related services providers, and general educators may provide needed support to students remotely during periods of extended closure.

The Department will post information about available educational resources on its website. We will update this resource list as new resources are identified.

Q: How do the school closures impact special education students who receive services in community-based settings and students who participate in inclusive concurrent enrollment programs at institutions of higher education?

A district is not required to provide services to students with disabilities during extended school closures if the district does not provide any educational services to students

during this time. This includes services that are provided in community-based settings and participation in inclusive concurrent enrollment programs at institutions of higher education. Once school resumes, the district should review how the closure impacted the delivery of special education and related services to individual students and convene individual IEP team meetings as necessary to make an individualized determination about whether a student needs additional services.

Q: Are all students eligible for compensatory services following these extended school closures?

Whether a student with disabilities is entitled to receive additional services because of the school's closure is an individualized determination to be made by the IEP team. Teams should consider factors such as the student's academic progress to date towards their IEP goals, the nature of the service(s) missed, the frequency of the service(s) missed, reports from providers, previous educational history, history and concerns of substantial regression. Team decisions must be documented in accordance with IEP procedures, e.g., N1.

Q: After schools reopen, does a student need to submit a doctor's note if they need to be out longer for personal health reasons?

Given the current health crisis, the Department does not recommend requiring a physician's note for attendance-related purposes for students who may need to be out for a longer time period. If the student's parents, however, are seeking home or hospital services educational services during the additional time, the regular home/hospital process must be followed, including the completion of the Physician's Affirmation of Need for Temporary Home or Hospital Education for Medically Necessary Reasons, which requires a physician's signature.

Out-of-District Placements and Approved Special Education Schools and Programs

Q: Must public and private approved day or residential programs comply with the Governor's closure order?

We recognize that day and residential programs serve some of the most vulnerable students in the Commonwealth and are confident that you and your staff are making appropriate decisions to ensure the health and safety of the students for whom you educate. COVID-19 is a fluid situation and decisions are evolving. While public and private residential and day special education schools were not included in the Governor's March 15, 2020 Order, these schools should refer to the four scenarios described in Commissioner Riley's Guidance to Elementary and Secondary Schools

Regarding COVID-19 on Friday, March 13, 2020 (available at <https://www.mass.gov/doc/guidance-to-elementary-and-secondary-schools-regarding-covid-19>) to determine whether a student or staff should be in isolation, quarantined, or to determine whether a school should close.

If a public or private residential or day special education school decides to close, Administrators must contact:

- Local Board of Health
- Department of Public Health at 617-983-6800
- EEC licenser in writing
- DESE, Associate Commissioner, Helene Bettencourt, at Helene.H.Bettencourt@mass.gov or 781-338-3120 and copy Nina Marchese at Nina.M.Marchese@mass.gov
- DCF, if appropriate

The school must document all factors leading to the decision to close and maintain onsite at the school available for review the following information:

- The specific circumstances leading to the decision
- Who was involved in making the decision?
- When was the decision made?
- When was closure implemented?
- How and when were parents notified?

Q: My student's out-of-district day program is staying open. Do school districts need to provide transportation for students in approved private special education schools out-of-district that remain open?

The Department encourages school districts to continue to provide transportation for students who attend out-of-district special education schools or programs that remain open.

Q: Do school districts need to provide transportation for special education students placed at unapproved special education schools or programs?

The Department encourages school districts to continue to provide transportation for students who attend out-of-district special education schools or programs that remain open.

Q: Is "circuit breaker" reimbursement available to cover costs incurred during a student's temporary absence related to school closures?

Generally, "circuit breaker" provisions authorize reimbursement for IEP program costs during the period of a student's temporary absence, provided the absence does not exceed 20 consecutive school days. See [603 CMR 10.07\(5\)-\(11\)](#). In an effort to provide continuity for students and support to approved private or public day or residential special education schools during this time, the Department will consider and process requests for "circuit breaker" reimbursement from school districts for placements at residential and day special education schools for up to 20 days, even if the special education school is closed during that time. The Department is continuing to assess our guidance on this topic as the situation evolves.

State and Federal Timelines and Related Activities

Q: What is the status of DESE onsite monitoring and assistance activities during school closures?

The Department is suspending all monitoring and onsite assistance visits, except in a few special circumstances related to health and safety. We want you to focus on what matters most, which is keeping your students and staff safe. If you want our assistance, we will be happy to provide it virtually.

Q: How can the district meet special education evaluation timelines if schools are closed?

The Department recognizes that school closures may impact the ability of school districts to meet the 30-day timeline for conduct evaluations in addition to the 45 school working day timeline to develop an IEP after receipt of a parent's written consent to evaluation or reevaluation. (603 CMR 28.04(2) and 603 CMR 28.05(1).) More specific information will be forthcoming.

Q: Can parties get an extension on due process hearing timelines?

While the IDEA provides that a final decision on a due process complaint must be issued not later than 45 days after the expiration of the 30-day resolution period, a hearing officer can grant an extension of time beyond the required timelines at the request of either party.

Please note that effective March 15, 2020, the Bureau of Special Education Appeals will not hold any proceedings in person until further notice. The BSEA will provide opportunities for remote participation, as feasible.

Q: Will mediations that are scheduled with the BSEA occur during the period of school closures?

Effective March 15, 2020, the Bureau of Special Education Appeals will not hold mediations in person until further notice. Opportunities for remote participation will be offered, as feasible. The BSEA will contact parties as the date of the scheduled proceeding approaches to make necessary arrangements.

Q: Will the MCAS testing windows and the deadline for the MCAS-Alt submissions be extended?

The Department has not made any changes to the MCAS testing schedule or the deadlines for MCAS-Alt submissions at this time but is evaluating appropriate extensions or changes of the assessment windows, or additional action that may be needed. More guidance will be forthcoming.

Q: Will data submission timelines be enforced for Tiered Focused Monitoring activities and State Performance Plan/Annual Performance Report indicators?

Self-assessments for the 2020-2021 Public School Tiered Focused Monitoring Reviews were originally due on May 1, 2020. At this time, and based on the current information, the Office of Public School Monitoring is extending the due date for the submission of the self-assessments to June 8, 2020. The Department will revisit this timeline as needed. As the due date approaches, please contact Tim Gallagher at 781-338-3717 to discuss the individual circumstances of your school or district.

For those schools and districts engaged in a self-assessment for a Group A Tiered Focused Monitoring Review, this includes data submission for Indicators 11, 12 and 13. Please note that the due date for submission of the Indicator 11, 12 and 13 data is also extended to June 8, 2020.

The deadline for indicator 7 submission is June 30, 2020. As this date approaches, if you have concerns about the submission, please contact Martha Daigle at Martha.S.Daigle@mass.gov to discuss individual circumstances.

At this time, deadlines for Indicator 14 data submission are not anticipated to change. For Indicator 14, districts in [Cohort 2](#) will use an online survey to learn about the further education and employment outcomes of their former students with IEPs. Data collection is anticipated to begin in June, with a submission date of September 30, 2020. In May, the Department will issue more detailed instructions for this year's Indicator 14 data collection, including any possible updates. For additional information, please contact Amanda Green at 781-338-3368 or Amanda.C.Green@mass.gov.

Q: When will Web Based Monitoring System (WBMS) trainings be held for collaboratives and approved special education day and residential programs?

WBMS trainings began on March 3, 2020 and scheduled on various dates through April 6, 2020. The trainings this week had to be canceled and it is unclear when the next training will take place. In the next few days, the Department will be contacting the assigned groups and providing alternative training dates and times. All trainings will be held virtually using the ZOOM platform. If you are registered to attend and don't receive the correspondence or link please contact Liza Ahern, at Elizabeth.Y.Ahern@mass.gov.

Q: Will data submission timelines be enforced for program and mid-cycle reviews for collaboratives and approved special education day and residential programs in WBMS?

Self-assessments for the 2020-2021 WBMS data submissions for collaboratives and approved special education day and residential programs are scheduled to be due between June 17-24, 2020. At this time, and based on the current information, the Office of Approved Special Education Schools will be extending the due date for the submission of the self-assessments which will be determined in the next couple of weeks. If you have participated in one of the trainings already, we encourage you to work on your self-assessment as best as you are able. Once the due date is finalized and as it approaches, please contact Nina Marchese at Nina.M.Marchese@mass.gov to review the individual circumstances and needs of your agency.

Q: Will the deadlines be extended for submission of the IDEA Part B supplemental grant or grant amendments?

The Department is working to develop next steps for grant submission timelines that provide relief to districts. The Department's Federal Grants office will be providing more information when available.

Q: Will the "circuit breaker" extraordinary relief deadline be extended?

The Department will work to extend circuit breaker relief claims. Please contact Craig Delmonte at Craig.Delmonte2@mass.gov, should your school district require an extension.

IEP Meetings

Q: A student's IEP expires during the school closure period. Will it still be in effect?

Yes. The current IEP will remain in effect until a new IEP is developed, irrespective of the expired date reflected in the IEP forms.

Q: How can the district hold an IEP Team meeting if school is closed or Team members can't meet face-to-face?

We recognize that under the Governor's Order, public school districts are not currently operating. While IEP teams are not required to meet in person while schools are closed, the district may elect to conduct some business virtually. If possible, school districts could convene IEP Team meetings virtually using technologies such as Zoom or phone conferences. Districts must consider whether all IEP team members have access to necessary technology and accommodations to allow remote participation during periods of school closure.

Other special education topics DESE will address in future guidance:

- School days for approved day programs
- MCAS testing schedule
- MCAS-Alt deadlines
- Paying hourly staff/service providers
- Parent information
- Canceling April vacation
- Vocational schools