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**STRONGER TOGETHER SUPPORTING ALL STUDENTS**

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## **Special Education Services During COVID-19**

### **FAQ**

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*As recommendations and guidance is updated, information and the answers to questions may change. Take care with generalizing to situations with specific details that may vary. Please contact the Mid-State office if additional guidance is needed.*

- 1. How do we determine if a student or group of students should attend school more frequently than the general population?** These decisions should be made individually and be based on the student's access to FAPE and progress toward IEP goals and objectives. Start by thinking about students whose IEP Educational Environments (EE) are 03 and 04. ISBE guidance recommends considerations for certain populations (IEP, 504, ELL, homeless).
- 2. If a parent chooses remote learning how should related services be provided?** Related services in the IEP or RLP must be provided. Services can be provided remotely or the parent can bring the child into the school for those services with district approval. Legal counsel and IDPH do not support sending staff into a student's home to provide services. If the decision is made to bring the student into the school for related services the district, in the majority of cases, is not responsible for providing transportation.
- 3. Can a student who has selected remote learning be brought into the school setting for therapies or specific instruction?** Yes, as long as we are in Phase 3 or 4 and in-person instruction is permitted. However, alternative methods utilizing remote or tele-therapy may be necessary as the parent may not allow school access or the district may choose to provide all services remotely for those who choose remote learning. This may be a viable option for a specific therapy or instruction in order to monitor progress and/or provide educational benefit.
- 4. If parents agree and appropriate social distance/ safety protocols are followed, could we provide direct 1:1 service at the student's home during remote learning days?** This is not recommended. In order to maintain the health and safety of everyone, IDPH and legal counsel recommend that we utilize remote methods or ask that the child be brought into a safe location at the school building for therapy and keeping them away from other students.
- 5. If a student is medically fragile, what steps need to be taken prior to the start of school?** Collaborate with the parent to determine if the student can/should be in a school setting or if remote learning is necessary for their own safety. Get a release signed and ask for input from the student's physician. Hold an IEP meeting to discuss what additional accommodations or safety protocols might be put in place to allow the student to safely attend school and clearly document the discussion and decisions made. **NEW 8/21** Mask training can be considered part of the general curriculum and only

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needs to be added to the IEP if we anticipate the student will struggle with this life skill for an extended period of time.

6. **When working with a student with multiple impairments, how long do you try to teach mask wearing before going remote?** I think the piece here that is missing for full context is the student's ability to maintain strict social distance from peers and staff. If the student is able to maintain social distancing, I'd be willing to give it more time to try and increase the length of mask wearing and see if it can work. If we are already discovering that it is not possible to maintain distance and keep others safe, then I would accelerate the meeting date to discuss remote learning. **NEW 9/6**
7. **If a student regularly takes their mask off and spits at peers and adults during meltdowns, can we send this student home?** Yes, The spitting here is the key and the bigger risk. The spitting accelerates the timeline for having the remote discussion. If not for the spitting, I'd say keep working on the mask wearing. **NEW 9/6**
8. **What should be done if a student with no medical contraindications refuses to wear a mask because they want to be sent home?** Consider the feasibility of isolating the student with distance rather than sending them home. If this is not possible, sending the student home may be the only option. **NEW 9/6**
9. **Should we look into changing the amount of service time provided to students if they continue remotely learning?** The guidance from ISBE and legal counsel states that the instruction that is provided to remote students must to "equitable" to that of in-person students, and it must provide FAPE (be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances). We will be held to a higher standard compared to last spring which means remote learning plans need to be more individualized, provide more face-to-face instruction, rely less on packets, and meet all or most of the IEP minutes. The activities related to instruction (i.e. viewing a recorded lesson, reading or listening in preparation for instruction, completing practice or homework) count toward the provision of the service and should be documented. If a district has shortened the school day for all students, it makes sense to reduce the number of service minutes in the RLP proportionally. Revise plans to allow for fluid service delivery depending on the fact that the learning environment may vary throughout the school year for most all students.
10. **If IEP minutes are written quarterly, can teachers/therapists bank minutes early in the quarter to prepare for possible school closure in the future?** Yes. However, we also need to consider if the break in services may cause any regression that will need to be addressed later. Most related services are written quarterly which is helpful in delivery of services. Some schools are also moving to writing instruction and support services quarterly or X minutes given X school days of attendance (i.e. X service minutes in 20 school days which takes the calendar month, emergency closures, and student absence out of the equation).
11. **What is the process for adding/updating remote learning plans?** The current IEP should be kept in place for implementation whenever the student returns to or is in-person for the traditional school week. Hold an IEP meeting or complete an IEP amendment to add or modify an RLP. RLPs will be held to a higher standard which means more face-to-face instruction will be expected with less reliance on paper packets. Work with your program coordinator to make necessary changes.

12. **What should RLPs look like now compared to last spring?** RLPs in the spring often looked different than the full IEP. Current RLPs should reflect the full IEP (goals and minutes) and list the services being provided remotely along with the platform being used. If a student is fully remote and it is not possible to implement the full IEP an IEP meeting should be held to discuss and document what can be offered. **NEW 10/26**
13. **Given the shortened school days, should the bell to bell minutes be changed on IEPs? When completing an annual review, should the IEP reflect the “regular” school day or the shortened day?** No, keep the existing IEP and document what the shortened day looks like in the RLP or additional meeting notes. When completing an annual review and writing a new IEP, the IEP should continue to reflect the “regular” school day (because the presumption is the regular day will resume at some point). The RLP should continue to reflect the changes during a shortened day, hybrid, and remote learning. **NEW 8/21**
14. **If remote learning continues for a student, how do we collect quantitative data towards their objectives in order to write appropriate new objectives?** Remote Learning Plans and IEPs need to be reviewed to ensure they continue to effectively address a student’s identified deficit areas. Goals and objectives need to be written so they can be implemented and measured in alternative settings.
15. **How do we collect data to measure student progress when students are not consistently present?** Think outside the box and do the best you can to collect data to support goals and objectives when students are present either in-person or virtually. Measure student progress through electronic means (pallet, chats, google forms, active student response cards, universal screeners, instructional platforms, jam board), and use familiar data collection tools (IEP progress charts, rubrics, learning activities, parent surveys, self-monitoring, interactive activities, oral assessments). Deliberately set up systems that allow you to measure and note progress over time. Schedule checkpoints, use targeted instruction for specific skills, and address regression as it is identified. **NEW 10/16**
16. **Do we have a sample of a goal/objective written specifically with distance learning in place where traditional data collection is not feasible?** Experts encourage educators to work with parents to develop goals that can be targeted at home with the understanding that they can be revisited when necessary. Consult with your program coordinator or assistant director if you need assistance writing new goals.
17. **What do we do if a student’s disability or medical condition prevents him or her from wearing a mask?** This could apply to a student with or without an IEP; however, it will be extremely rare. Follow the provisions of Section 504 and/or IDEA to consider the request, obtain information from the child’s physician regarding the medical condition and recommendations including when, under what conditions, and/or the length of time the child may wear a mask as well as other mitigating safeguards for others. The district IEP or 504 team will meet to discuss possible accommodations and/or other adjustments that may be made while determining any necessary and allowable accommodation(s). Accommodations may be possible while maintaining the health and safety of the student and others, or remote learning may be a consideration. Other accommodations might include taking frequent breaks outside, being outside while increasing mask wearing, isolating the student from peers, and providing extra PPE to staff working with the student. Don’t sell the student or a group of students short. Assume that kids can learn to wear a mask and teach them as this is a new life skill. Work closely with the family and provide them with resources on how to train a child to gradually tolerate mask wearing (see the MSSE website for a Mask Wearing program and social

stories) if there is not a medical contraindication. **NEW 8/14** If a student cannot learn to wear a mask, we can exclude the special education student from in-person learning for not wearing a mask on the same basis as non-disabled peers, as long as we have considered accommodations that would be appropriate, to maximize the health and safety of everyone.

18. **What happens if we are not able to follow the current EE placement due to how students have been grouped for instruction or issues related mask wearing?** All state regulations established by ISBE and IDPH supersede special education services. Our primary goal is to keep everyone safe and healthy. If IEP services, minutes and/or the EE code are different than that listed on the most recent IEP or RLP, an IEP meeting or IEP amendment that includes parent input needs to be completed to document these changes.
19. **What are the rules for evaluating/re-evaluating a student if distance learning is in place?** There is still no flexibility provided legislatively or in federal rules or regulations adjustments when it comes to meeting IDEA timelines. Federal, state, and legal groups are encouraging educators to take advantage of the time students are in school and to work ahead. With district and parent agreement some evaluations may be able to be done prior to the start of school. It is important that we focus on getting all initial evaluations completed.
20. **Has there been any guidance from ISBE about testing if we go back to phase 3? Can we test in a one-on-one setting if parents agree? Have any of the publishing companies given options to test virtually?** Although we have not been provided any flexibility on IEP related due dates from the federal government, collaboration and agreement with the parent given the specific situation remains important and allowable. Legal counsel recommends that we complete all initials, and then re-evaluations, from the 19-20 school year as quickly as possible. ISBE recommends that we use as much RtI and school performance data as possible when making eligibility decisions. As long as we are in phase 3 or 4, in-person testing is permitted but the decision is left up to the local district as to when and if students are brought into the school. Tests such as the WISC-V can be given through Q-global but it requires an onsite facilitator which might be problematic. Legal counsel recommends that we clearly document the current environment/situation (COVID, special testing environment, distractions, wearing masks, etc.) when documenting the results of any assessment given. It is better to obtain the minimal data to determine eligibility and revisit at a later time with additional evaluation as opposed to not completing the evaluation or determining the child is not eligible based upon a lack of data.
21. **How do we handle parental requests for an evaluation?** Follow our normal procedures and schedule a TCT/Domains meeting. Review data collected before the state mandated school closure. Discuss the impact the pandemic has had on all students. Discuss interventions and supports that can be put in place to support the child and consider meeting again to review progress and discuss concerns.
22. **What do we do if a parent has chosen remote learning for their child, consent has been signed for an initial evaluation, and the parent refuses to bring them in for testing?** Work with the parent to get written agreement to extend the timeline or complete the evaluation based on the data we currently have. If the student does not meet criteria for eligibility document the result, close out the evaluation, and discuss the possibility of evaluating them at a later date when they can be present for an in-person assessment.

23. **Is there any guidance on conducting remote assessments?** If schools go fully remote and a student cannot be brought into the building for an assessment, evaluations can be completed remotely as long as the unique circumstances are noted. Remote assessments are best if there are instructions from the publisher and procedures are carefully noted in the evaluation report. The goal is to get as accurate information as possible when completing a remote evaluation knowing that we may not be able to follow the standard protocol for the assessment. Don't assume remote assessments cannot be done. **NEW 10/16**
24. **If gen ed teachers need specific cleaning supplies (alcohol wipes) for their student's FM system, who is responsible for purchasing these items?** The district is responsible for providing materials/supplies for students; however, if you have a situation where a teacher only needs a few items and you have been provided those items by MSSE you can share what you have.
25. **What changes have been made to the service log requirements?** Service logs must still be available upon request of the parent but they are no longer required to be provided at every IEP meeting. Service logs must be kept for the following related services: speech and language, occupational therapy, physical therapy, social work, school counseling, school psychology, and school nursing services. Notice must be provided to the parent annually within the first 20 days of the school year or upon the establishment of an IEP that they may request service logs.
26. **Can we require a doctor's note saying it is safe for a child who is medically fragile to return to school?** Yes, and we should **NEW 8/14**
27. **What steps need to be taken if a parent of a student with an IEP chooses to home school them? Do we need to offer special education and related services in the school setting if the parent is willing to bring the child in?** Send home a "stands ready to serve" letter to let the parent know we are ready to provide special education and related services when/if the child enrolls in school at a later date. If a school district has proportionate share funds, and if the family elects to home-school, then the district should offer some services via ISP. Services should be offered remote only at this point. While you CAN allow the family to bring a student in for speech, etc., remote ISP services are best due to safety concerns at this time. **NEW 8/14**
28. **What are the current recommendations for serving homebound students?** Existing ISBE regulations already permitted homebound to be provided through phone or virtual means, so long as it includes direct instruction. This should be a case-by-case decision, but at this time homebound should continue to be remote. **NEW 8/14**
29. **Do staff who move between buildings during the day need to self-certify each time they enter a new building?** This is up to the local district. You should check with local administration and follow procedures they have developed. **NEW 8/21**
30. **Should face shields be used in addition to clear masks when providing artic therapy to speech students? Who is responsible for housing and cleaning student masks?** Clear masks, plexiglass, and face shields can be considered when providing speech therapy or any direct service. Artic therapy can also be provided virtually. If a student is wearing a face shield and no face mask social distancing of 6 feet or more should be implemented and sessions should be less 15 minutes in length. Discuss cleaning protocols for clear masks with your school nurse and/or local health department. **NEW 8/21**

31. **Does the use of a clear mask during speech therapy need to be listed in the IEP?** No NEW 8/21
32. **When delivering remote speech/language services may students be put into small groups similar to what is done in a typical school setting?** Yes, HIPPA does not apply to school districts even if medical related services are being provided at school. FERPA compliance is required for schools. Educational platforms that are purchased through the district or cooperative should be used to deliver services and conduct meetings. Facebook, free gmail or personal accounts should not be used to provide service, communicate with families, or conduct meetings. Parents observing a virtual group session does not violate FERPA. Parents have the right to observe in the classroom and this is no different. NEW 8/21
33. **Is special consent required before providing speech therapy remotely?** No, special consent is not required for remote speech/language therapy. Additional consent may be needed for counseling, social work, or mental health assessments. NEW 8/21
34. **During remote learning and when providing social work services, when must a consent form be signed by the parent?** When the discussion is going to include mental health assessment or treatment a special consent should be signed by the parent (this consent form will be emailed to SWs and uploaded under District Documents in Embrace). NEW 8/21
35. **If our schools go fully remote, who is responsible for providing transportation to and from an in-person evaluation?** If the student already receives special transportation through their IEP then the district would need to provide that same transportation to and from the in-person evaluation. If the student takes the regular school bus to school the district still needs to consider providing transportation for the in-person evaluation. NEW 8/21
36. **Must regular check-ins be done with pre-schoolers who are learning remotely?** Yes, the classroom teacher should do daily check-ins and related service providers should check-in with the student/family as frequently as services are typically provided based on the current IEP. NEW 8/21
37. **What should we do if there are concerns about the validity and reliability of conducting remote assessments?** A remote assessment can still be appropriate even if it is not administered perfectly according to the protocol. Document the challenges or unusual circumstances of the assessment (wearing masks, remote location, etc) in the evaluation report. Administering an assessment remotely does not automatically undermine the appropriateness of the assessment. Consider all sources of data that are available to evaluate a student. NEW 8/21
38. **How should annual reviews and re-evaluations be handled for home-schooled students who have not revoked services?** If the student has recently started home-schooling, send the procedural safeguards and a letter to the parent explaining the AR and/or Re-eval process and tell them who to contact to schedule a meeting date. If the student has been home-schooled for several years, schedule the meeting, send home the procedural safeguards and NOC and document these contacts. We must show that we are offering to meet/evaluate. NEW 8/21
39. **How do we complete student observations during remote learning?** Observe during a live virtual class, rely on observation from the classroom teacher, or (in rare cases) if the student does not have the capability to access remote learning include a statement in the evaluation report stating that due to

remote learning we were unable to complete this component of the evaluation. This may include those students who are completing paper packets. **NEW 8/21**

40. **What needs to be considered regarding temporary records during remote learning?** Any record (email, text, message, recording, written doc.,etc.) that includes identifying information becomes part of the student's temporary record. Always maintain confidentiality (electronically, at school, at home, between districts, etc.). Be sure to file all documents that belong in a student's temporary file promptly and do not carry them around or keep them in your car or home. **NEW 8/21**
41. **How should discipline be handled during remote learning?** SB 100 remains applicable during remote learning. Schools should continue to provide and document behavioral supports being provided. Students may be subject to discipline. Make sure teaching staff implement antecedent measures to prevent misconduct during virtual lessons (remove sharing privileges, managing student access, etc.). Before deciding on disciplinary steps ask the following questions: **NEW 10/16**
- a. Have the appropriate behavior interventions been implemented?
  - b. Does the student's presence disrupt other student's learning opportunities, pose a threat, or impede the operation of the school?
  - c. What is the practical and restorative impact of the proposed discipline?
42. **Should specific statements including the provisions districts are taking to align their safety procedures with the CDC guidance be written in a 504 plan or IEP for student's with diabetes?** It certainly can't hurt, but I'm not sure that it is necessary. Generally, the 504 Plan or IEP are for those things that both go above and beyond what the general population would receive and without them the student would not receive a FAPE. Based on that, I don't think it is necessary in most of these cases to specifically list the precautions the district is taking for all students, only those that are specific to this student or that without them, the student could not attend. **NEW 2/1/21**
43. **Does the immediate notification of parent if another student or staff member contract COVID need to be documented in the 504 plan or IEP?** Again, I don't think so unless there is a unique, individualized basis to do so beyond what any other student would receive. If an individual student would have a reason why that would be necessary, then I would document that needed accommodation, but I would need medical documentation to tell me what that was necessary for the student in question. **NEW 2/1/21**
44. **What needs to be considered when a district or IEP team is considering retention of an IEP student during the pandemic?** Students with disabilities may be retained. However, careful consideration in the development, implementation, and revision of the student's IEP should prevent student failure in most cases. Research indicates that neither grade retention nor social promotion is likely to enhance a child's learning. Research and common sense both indicate that simply having a child repeat a grade is unlikely to address the problems a child is experiencing. In most situations, retention can be evidence of a denial of FAPE.

If a student with an IEP is recommended for retention, I would suggest that the IEP team meet to thoroughly consider the impact of the disability on the student's ability to access general curriculum and ensure that the student has been provided appropriate services, accommodations and/or modifications with fidelity. While IDEA does not specifically address standards for retention or promotion of students with disabilities, there is mixed case law about whether the decision to retain is

not considered an IEP placement decision. That said, the decision to retain a student with an IEP should always be carefully and cautiously considered.

Among the considerations the IEP team should document in the IEP/IEP meeting notes:

- Does the current IEP address the student's needs appropriately?
- Are accommodations and modifications in the IEP appropriate?
- Were all the services required by the student to make progress in the general education curriculum appropriately identified in the student's IEP?
- Did the student receive all the services identified in the IEP?
- Does the IEP team have other concerns about implementation of the IEP?

I realize that some of those factors are likely pandemic related, and I would be cautious about using the pandemic to excuse what really is a failure to implement. But – if the district and IEP team really did do everything it could to deliver and the parent/student simply did not step up to the plate during remote learning, then I think retention can be defensible, but always an uphill battle to defend retaining an IEP student. **NEW 2/1/21**

45. **If a district offers a voluntary summer school program (not ESY) do they need to open it up to students with special needs?** Yes, students with disabilities must have the same opportunity to participate in any such program. **NEW 3/8/21**
46. **If a student with an IEP elects to attend summer school does the district have to provide special transportation?** These types of programs are in the category of nonacademic services and extracurricular activities, and districts are required to take the steps necessary to afford students with disabilities an equal opportunity for participation in these activities. That can include transportation if necessary in order for the student to participate. **NEW 3/8/21**
47. **Does a district have to open up their summer school program to those students from outside districts who currently attend a shared ED or Life Skills class in the district?** No, districts do not need to open summer school programs up to students from outside districts unless they are allowing other students from neighboring districts to attend. Some students may qualify for Extended School year (ESY) services that would be individualized and different from the summer school programming. **NEW 3/8/21**
48. **What considerations are important if a parent requests services post age 22 related to the disruption or different services provided due to COVID?** Under the 7<sup>th</sup> Circuit (our court of appeals in IL), when a child turns 22 IDEA services end even if a due process is filed. If we voluntarily agree to continue a student, it could create a new stay-put upon the request for mediation or due process (a stay-put could continue for years through the appeals process). It is important to consult legal counsel in these situations as at a minimum a specific written agreement would be needed. **NEW 3/8/21**
49. **What is the current status of homebound services?** Although more requests to send staff into homes are starting to be received, in-home services are not yet recommended. ISBE regulations have long-permitted the use of remote/virtual instruction for homebound services. Of the minimum five hours per week required, two hours must be direct synchronous instruction/services. The other three hours may be asynchronous instruction/services. **NEW 3/8/21**

50. **As more districts utilize e-learning on emergency days, how does this impact IEP services?** We need to plan for and be prepared for IEP implementation during e-learning/remote days. Service providers should document that IEP minutes were provided on this day(s) or that they were provided at a different time as per the IEP. **NEW 3/8/21**
51. **What should occur when a student returns to in-person instruction from remote or homebound instruction?** It is imperative to determine current functioning of the child by completing progress updates related to all goals/objectives and maintain the documentation as related to FAPE. **NEW 3/8/21**
52. **As more parents seek continued remote participation in meetings, what are important factors to consider?** Receipt to the parent at least 3 days in advance of the draft IEP and other information to be considered is now legally required and very important. Prioritize parent engagement during the remote meeting (or any meeting) to encourage parental participation to ensure that the parent is not just a spectator. Provide the parent a copy of the IEP immediately following the meeting. (ISBE just found fault with a district in a recent ISBE complaint when the parent did not receive a copy of the IEP until a few days later.) **NEW 3/8/21**
53. **Is it anticipated that we will see more requests for remote services and what is the role of the IEP team?** Yes. There are SOME students who perform better in a virtual setting. Thirty-three states have full-time virtual public schools and parents will move children with IEPs to IL from states where this is the current placement. Virtual programming could assist some with personnel shortages, and it is anticipated that either public or private schools/providers will fill that need. There were some related pre-COVID court rulings. At this time the IEP team, including the parent, is the final decision maker regarding placement of the child. If the parent disagrees, they may file for mediation or a due process. **NEW 3/8/21**