

Q & A with Laurie VanderPloeg, Director of the Office of Special Education Programs (OSEP)

Office of Special Education and Rehabilitative Services (OSERS), U.S. Department of Education

| Category | Question | Answer | Keywords |
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| Compensatory Services | If a student is out along with their general education peers for more than 10 days due to all school closure, do we need to reconvene an IEP upon school resuming to review if the current programs and services continue to meet the needs or if compensatory services or as ESY needed? | It's not really dependent on the length of the closure, it's dependent on the individual needs of the students. So, there does need to be an opportunity for review of the information and the data that was collected during the time of the closure to make that individual determination as to whether or not they meet the criteria for compensatory education. I do want to just add a little caveat to this piece of it because some of the questions that have come in are kind of interchanging compensatory education with extended school year services. And you will see in our document we made reference to compensatory education. Criteria for extended school year services is very different and so we need to keep our focus on compensatory education during this COVID-19 situation. | Compensatory Education Extended School Year IEP Team Decision |
| Compensatory Services | Must the determination for the need for compensatory education be made by the IEP team. In other words, are we contemplating reconvening IEP teams for all students to determine the need, and if so, how should such determinations be documented on the IEP or through an IEP amendment? | I would recommend that the LEA administrators give guidance to their staff in relationship to what processes and procedures they would like to see take place. | LEA Decision |
| Compensatory Services | [I] can see legal battles ensuing when parents realize that their child was not given compensatory services, but another child was. While we can rely on the IEP, parents may not agree with what is a subjective call. This could be time consuming and create legal battles. Will there be a standard that we can rely on? | There would not be a standard [...]. It's going to have to be based on the individual IEP team's determination and looking at the data and whether or not there was a lost skill that would need to be taught. So that would have to be based on an individual determination and I think it's going to be important that the LEAs as well as the staff are very clear with their messaging to parents in regards to multiple situations under the current crisis. | Compensatory Services IEP Team Decision |

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| Compensatory Services | Is OSEP planning to provide guidance on having compensatory service discussions during IEP meetings when school resumes, specifically some guiding questions to help teams have comprehensive conversations? | OSEP will not be providing that. I think that's something that I would recommend maybe NASDE, CASE, and CCSSO take into consideration. | Compensatory Services |
| Compensatory Services | If a district closes for a few weeks, do they need to reconvene on every student to determine if compensatory services are required? That could be a capacity issue. | I think you're [going to] have to take a look at what the data is stating, and the IEP team doing a review, even if it's an informal review, but I think there needs to be an individual determination made as a result of the closures. | Compensatory Services IEP Team Decision School/District Closure |
| Compensatory Services | If a student in the general [education] setting does not attend the provided platform with the resources provided, then are the LEAs responsible for considering [compensatory] time? | I think they would have to look at the circumstances in which the student was not accessing the support, but if it was a choice to not access that and the [district] had offered it, the district would need to look at are other alternative ways to meet that child's needs and if not their accountability has been met. | Compensatory Time Distance/Virtual Learning |
| Distance/Virtual Learning | Many of our educational vendors are providing free access to online educational content. Could OSEP consider a national outreach to large publishers and vendors to offer this to the nation's schools? | That would [...] not be an OSEP outreach. I would highly recommend that SEAs and LEAs take into consideration any of those external resources that would be available to them that could provide them some alternative means of meeting the needs of the individual students and certainly take advantage of accessing those supports. So I think it's a great option-not something at the federal level that we would direct. | Distance/Virtual Learning LEA Decision SEA Decision |
| Distance/Virtual Learning | If there is no hardware for the students to access the work independently, what do you suggest? | Yes, this is something that we're giving advisement to the states around and particularly when they're looking at consideration of online or virtual learning opportunities for all of their students is to ensure that they have all of the right equipment and technology tools necessary for their students to be able to access that. If individual students do not have that, then the district would have to take into | Distance/Virtual Learning Technology Access |

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| | | consideration what would be alternative ways of providing that instructional support without the use of the technology. | |
| Distance/Virtual Learning | Can you elaborate on the definition of instructional telephone call? | Instructional telephone call may mean that the student does not have access to Internet or virtual learning opportunities or that might not be an appropriate option for the students and that there could be instruction that's provided through a telephone conversation with the individual student or telephone conversation with the parent for more of the consultative support. | Distance/Virtual Learning Phone Instruction/Consultation |
| Distance/Virtual Learning | Does that phone instruction or consultative support need to be equal in frequency and duration to what is specified in the IEP? | In situations similar to this we're not looking at the requirement of meeting all of the required time that's in it. It was going to be looking at what is going to be most appropriate for that student to receive in order for them to continue to make progress, not only with the curriculum, but toward their progress on their goals and objectives. | Distance/Virtual Learning Phone Instruction/Consultation |
| Distance/Virtual Learning | For the future, will there be forms developed for the IEP team to address distance learning for extended school closings? | Again, that would be a local or an SEA decision. | Distance/Virtual Learning LEA Decision SEA Decision |
| Distance/Virtual Learning | If we're considering moving services to virtual online learning will, IEPs needs to be amended to reflect this? Is meeting with the parent and providing an outline in writing [about] how services will be provided sufficient? | If the move to online or virtual is part of the school closure recommendation, we are not requiring you to go back into the IEP to address it. This is going to be considered an alternate mode of instructional delivery. If you're looking at virtual or online learning as part of the student's daily instruction once they return to school, then the IEP team would have to take into consideration how they construct that within the IEP. | Alternate Services/Location Distance/Virtual Learning IEP Team Decision |
| Distance/Virtual Learning | If an elementary school is closed with e-learning, are we obligated to provide preschool services that are in the pre-K IEP.? | I think you have to take a look at what your state is really requiring. Compensatory is really looking at your school aged. If you have a practice of providing the instructional support to your preschool children upon closures, then that would be an LEA recommendation or an LEA decision. You're not required to; you may need to look at the related service piece of it. But again, that's going to be an individual decision. | Distance/Virtual Learning LEA Decision Preschool |

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| Educational Services | If districts are sending work home as a precautionary measure so the students will have continued learning opportunities. Is this considered providing educational services? | That again would have to be looked at on the individual needs of the child and what is required within their IEP for appropriate supports and services from an instructional perspective. So, [...] if that's information or instruction that's provided for all students, then individually, you would need to take a look at whether the student would be able to access that information or whether the student would require some additional supports in order for them to be able to complete that work. So that would be based on an individual determination. | Educational Services FAPE IEP Team Decision |
| Educational Services | Can you define educational services? | Educational services would be instructional services or related services that would be necessary to meet the individual and unique needs of each students with disabilities. So it would be looking at it both from an instructional perspective, the academic piece of it, as well as the related service provision piece. | Educational Services Instructional Services Related Services |
| Educational Services | One paragraph of the Q&A indicates educational services and the next one discusses educational opportunities. Is there a distinction between the two? | Well, educational services would be what we would be considering is the IEP services that would be provided. Educational opportunity is making sure that they have equal access as what will be provided to the general education population. | Educational Services |
| Educator Choice | One state says they have very strong union language, indicating that teachers are not required to work at home. Do you have any suggestions? | I would go back to what the district's response to that would be. But I think that there's a different interpretation or intent of the interpretation of working from home that would be meaning extra work versus providing instruction because there happened to be a health crisis, similar to the COVID-19, so that would have to go back to the LEA for determination. | LEA Decision Union |
| FAPE | Does a packet of homework being sent home count as minutes and do they need to provide interaction of some sort? | Again, that's going to be based on the individual needs of the student. If the homework is sent home as part of the general education curriculum, that would need to be looked at under that lens. [...] If additional support is required in order for the student to be able to complete the packet, then the IEP team would have to identify what additional supports would be required. | FAPE IEP Team Decision |

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| FAPE | <p>If the state waives school days, are IEP teams still required to ensure FAPE is equal to the normal operations?</p> | <p>The LEAs need to take a look at how the state is constituting them-so we would be looking at some of these days if they are not providing services similar to when they would have a snow day and then there would not be the accountability of providing the services to the students, unless the team determined that [an] individual student required those.</p> | <p>Alternative Locations/Services Compensatory Services Documentation FAPE</p> |
| FAPE | <p>If we do opt to use telehealth and/or virtual services during the break period, will that count toward offers of FAPE?</p> <p>Follow-up Question:</p> <p>So if that meets the letter of the law, what documentation would be required to show the delivery of those services?</p> | <p>Again, that would be based on the individual needs of the child. But what we were asking the IEP teams to do is look at the alternative ways of meeting the instructional needs of the student and as long as the alternative ways are meeting the intent of the IEP, they would be meeting the letter of the law.</p> <p>Follow-up Question-Response:</p> <p>We would be recommending that their staff retain documentation of what services and alternative services or alternative locations were provided to the students and what services within the IEP were not able to be met in an alternative way so that [...] data then can be used in the determination of the need for compensatory services or alternative supports.</p> | <p>Alternative Location/Services Distance/Virtual Learning FAPE IEP Team Decision Telehealth</p> |
| FAPE | <p>Do we need to provide FAPE to special education students if the school is sending home packets to all students for practice and not expecting completed documents returned?</p> | <p>Again, the IEP is the offer of FAPE and the team needs to take into consideration all supports and services that would be identified in the IEP and be accountable for the delivery of those.</p> | <p>FAPE IEP Team Decision</p> |
| FAPE | <p>If our preschool teachers are all licensed Early Childhood Intervention specialists and they are providing all the materials for</p> | <p>Again, you'd have to go back and take a look at the IEP and what the student is requiring as part of that FAPE offer. It may or may not meet the criteria.</p> | <p>FAPE IEP Team Decision</p> |

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| | their students, does that cover [specially designed instruction (SDI)]? | | |
| Federal Funds | It's likely that progress monitoring during the closure will show regression for many students. Will additional funds be available to help districts extend services, whether it's ESY or something else, to a larger number of students? | At this point in time, no additional funds have been allocated. | Extended School Year Federal Funds Progress Monitoring |
| Homebound | If a child is on homebound, is there still an obligation to send a teacher into the home? | That's going to be an individual determination made based on the health consideration that warranted the homebound. I think our document made reference to if the student happens to have COVID-19, then for health and safety purposes, going into the home would not be permissible. So it would have to be based on the individual and health related needs of the student. | Homebound IEP Team Decision |
| Homebound | If the homebound student is sick and the homebound teachers are not able to provide that service time, would the LEA owe compensatory education for that time? | Again, that would have to be an individual IEP decision as to whether or not there was a lost skill. | Compensatory Education Homebound IEP Team Decision |
| Homebound | What options are suggested for students already in the hospital when the hospital has limited access to students from anyone outside of the family? | That would have to be an IEP decision based on the [...] homebound hospitalized rule. You'd have to again look at what is feasible and conducive for meeting that individual's need and whether or not their needs can be met in that particular setting. And if not, you may have to go back and look at the option of compensatory services. | Compensatory Education Homebound IEP Team Decision |
| IDEA Compliance | How do we meet every compliance standard of IDEA given that some of our schools may be closed for months? | Schools are typically closed for a few weeks over Christmas break, and sometimes over spring break, [...] and there is [...] no accountability of services during that time. So I think we have to look at [...] what would be the amount of time that we would need to provide either instructional support or related service support to students so that | District/Virtual Instruction IDEA Compliance |

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| | | <p>they can continue to make that progress. So it's going to be a difficult question to answer. I understand the complexity behind it. If the schools are closed for a few weeks and then spring break happens to fit in there, it's certainly not going to be quite as problematic because typically you've got a two-week break at the Christmas level where there's the lapse of service and instruction. So I think you're going to have to gauge that based on the amount of time that [---] the schools are actually going to be closed, whether or not they're [...]closed with no service or they're closed with [...] some level of service and support. Those that are continuing to provide some type of virtual online or alternative modes of support probably will have less issue with looking at the compensatory education than those that would not be providing any support at all. So again, it's a very difficult question to answer because there's so many variables to it.</p> | |
| IEP Team Decision | <p>If a student receives speech services only, is the provider required to send home activities related to these services during the closure?</p> | <p>Again, that would be an individual IEP decision.</p> | <p>IEP Team Decision Speech Language Services</p> |
| LEA Decision | <p>If parents arrange for services with a private provider at an alternate location, can the district reimburse the parent and count that as service under the IEP?</p> | <p>Again, that would be an LEA decision.</p> | <p>Alternate Services/Location LEA Decision Private Provider</p> |
| Out-of-District | <p>An out-of-district school has asked if they can be paid full tuition daily rate, even when they're providing a very modified and limited program. Usually the state sets the daily rate. Who decides that?</p> | <p>That's going to be as a state decision.</p> | <p>Out-of-District School SEA Decision</p> |
| Parent Choice | <p>What if a parent chooses to keep their child with a disability out of school?</p> | <p>Again, I think we would be looking at that, that's a parent choice. That is not something that has been required by the local school district. And so the district did as [they would with] any other child [...]. My</p> | <p>Parent Choice</p> |

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| | | response would be that that child would be treated as any other child that the parent had made a choice to keep home that would be marked as absent. And so, however the district's respond to children that are home on a parental choice, that would be how we would be asking them to take a look at it. | |
| Privacy Law | Are there any HIPAA laws regarding types of virtual instruction provided? | Not a question that I'm able to answer, but there was the policy or the FERPA guidance that did come out from the Student Privacy and Policy Office. I think that was attached to some of the email invitations and maybe referenced a little later on. I would recommend that you go to the FERPA guidance document that was released yesterday by the Secretary also for clarification on that question. | Distance/Virtual Learning HIPAA |
| School/District Closed | Can you explain the LEA responsibility to private schools that are in session when the LEA is closed? | If an LEA is closed and the service providers are not available, then they have no obligation to provide to the private schools. | School/District Closed |
| School/District Closed | If the district is extending spring break and not sending any work home with students, is it required that students with special needs receive services listed on their IEP? | If the school is closed and services are not provided to the general education population. This was answered in the very first question of our document, then there would not be an accountability for services for students with disabilities. | School/District Closed |
| School/District Closed | If the local district is closed but an out of district placement remains open, can the district still allow the out of district student to attend? | That would be an individual decision based on the local school district, particularly if transportation is required. | LEA Decision Out-of-District Placement School/District Closure |
| School/District Closed | If there are school closures and the school is providing some type of virtual learning opportunity, what are the responsibilities for speech therapy, occupational therapy and physical therapy? Are these people expected to provide services in the home? | There is no obligation to provide the services within the home. There is an obligation to look at alternative ways of meeting that need. So it could be an alternative mode of delivery or it could be an alternative location. | Alternative Location Alternative Services School/District Closure Speech Language Services |

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| School/District Closed | Is there a plan to address student work hours or job training for [occupational course of study (OCS)] students if the LEA is closed? | Again, that's going to be a local school district decision as to how they're going to be addressing those particular student needs. | LEA Decision School/District Closure |
| School/District Closed | We're doing a lot of [...] talking about canceling school and closing school and moving to online but It would be helpful if we also all thought about a re- entry strategy. What does the world look like when we move back into school? How will we know when the crises [are] averted? How do we re-engage our students in normal activities, thinking specifically about kids that have transition issues, even as little as over a Christmas break. And [...] how to deal with that on the back end, when we kind of come through this? | And again, that would be support that would be provided, either through the SEA or the LEAs. | LEA Decision School/District Closure SEA Decision |
| IDEA Timeline | Can you address reevaluation and annual deadlines? | Yes, that's something that OSEP is going to continue to have internal conversations around and that would be looking at anything relative to the timelines, and anything relative to some of the funding implications and what type of flexibility we would be able to provide at that time, and particularly with reporting. And so what we're doing is [...] we're taking a look at what all of the issues are that could have potential unintended consequences as a result of the school closures that we would need to provide some flexibility around and we will put that information together and share that at a later time. | Timeline |
| IDEA Timeline | How should districts address initial evaluation team reports that are required to be completed within 60 days or when the 60 days is going to | Yes, those are the timeline type questions that we will need to provide guidance around. | Timeline Initial Evaluations |

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| | expire within the timespan when there is no school? | | |
| IDEA Timeline | Does a pandemic qualify as an exceptional circumstance which allows extension of the 60-day timeline? | Again, the timeline questions will be responded to at a later time. | Timeline |
| IDEA Timeline | A number of questions on if you have any handle on when the guidelines for timelines will be completed. | We're in the process of collecting the questions so that we have the right responses to those questions. So as a result of this, if you could forward those questions to us ASAP, we could be as timely in our response as possible. | Timeline |