



PSEA Education Services Division

...IN BRIEF

Special Education FAQ during COVID-19 Closures

April 8, 2020

The closures of the nation's schools during the spring of 2020 have created unprecedented circumstances for educators across the country. Federal regulations regarding the provision of a Free and Appropriate Public Education (FAPE) for students with disabilities remains in place as districts provide a continuity of education. School districts throughout the state have designed plans to make a "good faith effort" to meet the needs of students. Below, you will find questions that have been generated by members throughout the state, along with answers that have been created through the collaboration of Education Services, Field, and Legal. The situation surrounding COVID-19 is fluid. When questions arise, utilize the support of your UniServ for guidance.

Confidentiality *Biggest Concern*:

Many educators are raising concerns about confidentiality in transitioning to a remote learning environment. FERPA protections for platforms should be vetted by the district as they explore resources and make determinations as to the platforms and educational tools that will be utilized. DO NOT select your own platforms, etc. unless they have been cleared by the district. If you are working synchronously, do not record classes or sessions with students unless directed by the district. Always use first names, and do not offer confidential or personal information about students when conversing with the class. Regarding paperwork, please use district computers and email for all correspondence and/or follow your district's directives. Protect student privacy in your home, just as you would if you were working in the school building. For further information on FERPA, please visit the webinar presented by USDOE:

<https://studentprivacy.ed.gov/training/ferpa-and-virtual-learning-during-covid-19-webinar-recording>

Q: If behaviors arise, how are they to be addressed?

A: On many platforms such as Zoom, you can quickly mute audio as well as video, if needed, in the short term. If a student has a PBIP, utilize the techniques, when applicable, document behaviors of concern and reconvene an IEP meeting, if necessary. Your district should provide training and direction as to the use of Zoom or other video conferencing platforms and should determine what privacy settings and accounts should be used.

Q: How do we act/respond if we see things in the homes of students that are of concern?

A: There have been no changes in responsibility with regard to Mandated Reporting. Mandated reporters must immediately report suspected child abuse by calling Childline or filing an online report and must immediately notify school administration that a report has been filed.

Q: What do we do with students who have no access to technology or no skills and training in working with technology?

A: When providing special education, you must think of instruction by high tech, low tech and no tech. Additionally, you must consider the capacity of the family to support the student. Additional training to families (remotely) may be required. Ultimately, educating all students in the district is the district's responsibility. Please seek guidance from your administrative team if you have any questions about the provision of FAPE.

Q: For students with complex needs/multiple disabilities, what will FAPE look like from a distance?

A: Every situation is different. Your district is obliged to design programs that make a "good faith effort" to educate students.

Q: How will full IEP teams convene with LEAs who are administrators, in order to revise IEPs for distance learning? How will paperwork be sent to the parent?

A: IEPs should be convened virtually, just as they would under normal circumstances. The district should design a protocol to convene meetings and share required paperwork with families.

Q: How will we collaborate with colleagues on the team?

A: Utilize platforms provided by the district. Remember that emails may become documents that parents can request as a piece of a student's record under FERPA.

Q: What are suggestions to engage para-educators in this process?

A: Work with your district to get direction as to how para-educators can best be utilized at this time.

Q: How will we coordinate related service?

A: IEP teams will need to discuss what can be done during this time, to provide related services. Realistically, some students may need compensatory education when they return. That will be an IEP team decision based on regression and recoupment conversation.

Q: What should be done for students who are graduating or aging out?

A: PDE recommends that this group become a priority for districts. Districts must convene IEP meetings to determine what instruction will look like for these students. All paperwork, such as exit NOREPs will still need to be completed by the school district.

Q: Goals v. instruction in the general curriculum? How will this be provided?

A: Again, IEP teams and districts will need to determine how instruction will be delivered and progress monitored if new learning is taking place under continuity of education.

Q: Since invitations are not being mailed, should we document three attempts with a combination of email and telephone calls and then update the IEP, even if parents do not respond or do not participate?

A: The law requires reasonable attempts. Your district should define what that currently looks like. Once that threshold has been met, IEP teams should move forward.

Q: Can/should districts create talking points for telephone conversations with parents (provide parameters) to avoid missteps and have one message?

A: It is advisable that all district employees are on the same page and knowledgeable about what is being offered by the district. While we cannot require districts to provide talking points, it would be in the best interest of the district to do so. All members should always maintain professional communication and seek guidance when an answer is unknown.

Q: Can/should districts create universal statements for IEPs and NOREPs that address this time (closures due to COVID-19)?

A: It is advisable that districts create universal statements to address closure, however, we cannot require this.

Q: How are related services such as Adaptive P.E., P.T., O.T. being addressed?

A: This is an IEP team decision specific to the needs of the child. Some goals will be able to be addressed from a distance, and others will not. Every district has a different approach and will have to review the IEP when school commences in a brick and mortar setting.

Q: Should we anticipate that ESY and Comp. Ed. will increase when this crisis ends?

A: Depending upon how long this continues, there is a good possibility that this will be the case.

Q: Concerns around "school hours" are abundant with synchronous learning. Many families are sharing devices and there remain working parents who cannot support their children until the evening. Flexibility is necessary.

A: We concur that flexibility is necessary as each family has unique circumstances under which they are working.

Q: Are health-related service providers continuing to do ACCESS billing at this time?

A: If the health-related service continues, billing may be required by the district. Follow district guidelines.

Q: Some districts are encouraging face-to-face (Zoom) instruction while others are prohibiting it. Many are told never to have 1:1 conversation. Some members are told to record everything on Zoom for protection, and others told never to record. Depending upon the district solicitor, advice varies. Does PSEA legal have advice?

A: PSEA advises members who are directed to engage in Zoom or other types of synchronous video conferencing with students not to record sessions unless directed by the district. Members who are directed to record sessions should not record sessions unless the district has received approval from the parents or guardians of the students being recorded. At the outset of every session that the district requires recording, state the fact that the session is being recorded. Members should contact their UniServ Representative if they have concerns about a District's directive related to recording of synchronous instruction or student meetings.

Q: Many teachers are caregivers. Many day care and adult day care facilities are closed. How are we to conduct seven hours of uninterrupted school under these circumstances?

A: Members who are not able to complete the work as directed by the district due to childcare obligations should consult with their UniServ Representative to discuss any leave options available to them, including under the federal Families First Coronavirus Response Act.

Q: How do we progress monitor when we have not had the ability to conduct Curriculum Based Measures? What should we state on the IEP?

A: Work with your district to determine what progress monitoring should look like at this time and what tools are available to conduct CBMs. If you are unable due to closures, your district may recommend that you state that when you report progress and measure the goal when you return to typical school days.

Q: My district is having a "committee" create grades for students. Is this OK?

A: Procedures for grading are a district decision.

Q: How is attendance being recorded for school teaching moving to teaching and new learning?

A: Each school district is different. Follow the guidance provided within your district.

Q: What are districts doing about timelines when new testing is needed for RRs or the timeline is ticking for ERs?

A: It has been recognized that this is an area in which there must be adjustments, as school psychologists are unable to conduct virtual evaluations. School districts should work with parents to amicably address this issue and schedule evaluations at the conclusion of the closures when face-to-face meetings can take place for students to complete assessments in the presence of the school psychologist.

Conclusion

It is the responsibility of the school district to provide FAPE for students. Our members need to fulfill their roles as educators and case managers, however, the district should be creating the plan and leading the effort to meet the needs of students with disabilities. If teachers have any questions regarding IEPs, the provision of FAPE, instruction or assessment, they should check with administrators to clarify what should be done to serve students at this extraordinary time. When questions arise that require clarity by members, please work through your association leadership to collaborate with your UniServ and region attorney. This document will be updated as needed.

Be well!