



Updated 5/20/20

## COVID-19 Special Education Q & A

**This document is based on current guidance from federal and state agencies. For public education agency (PEA)-specific questions, please consult your entity’s legal counsel for advice.**

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**Approved Special Education Programs in Private Day Schools**

**Q: Will funding continue, for private day schools during the mandatory closure of all schools? (Posted 3/26/20)**

**A:** Funding for all publicly enrolled students flows between the state and the district/charter. Assurance of continued funding for private day school services would depend on the contractual agreements between each district and charter that is placing students at the private day school.

**Q: Does the mandatory school closure apply to private day schools? (Updated 3/26/20 to provide clarity regarding approved private school options and funding.)**

**A: Maybe.** The Arizona Department of Education (ADE) does not have authority over payments to private providers for students with disabilities who have an IEP through an LEA. LEAs are responsible for their students' IEPs and for providing FAPE to the students for whom they are responsible. However, ADE recognizes the need for continuity of services to students during the COVID-19 school closure, as well as the need for appropriate accommodations and modifications for SWD to access educational opportunities. School closure is not a complete shutdown of school operations and LEAs should plan for continuity in education and critical services during this time. Approved private day schools may also play a role in provision of services to SWD if they choose to continue school operations (e.g., online, distance learning). Service provision and funding for private day school services depends on the terms of contractual or business agreements between each LEA that is placing students at an approved private day school.

**Q: If an approved private day runs a year-round program, can it provide services once the Governor's order requiring closure is lifted? (Posted 4/14/20)**

**A:** Per the Governor's Executive Order, public schools are to remain closed until the end of the year and private schools are required to remain closed through at least April 30, 2020, in alignment with federal guidance. While private schools can continue to operate, publicly placed students and their respective placements remain under the local-control purview of districts and charters. As such, private schools will need to coordinate with the individual PEA as to whether students will physically return to campus. At this time, PEAs are tasked with providing general education opportunities to all students and with the provision of a free and appropriate education to students with IEPs until the end of the school year.





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### **Arizona Online Instruction (AOI)**

**Q: AOI entities have been directed to stay open. If they are going to expand to full capacity but are not be able to serve all students in the PEA to go online for new instruction, does this put the AOI in jeopardy for not providing FAPE to all students with disabilities? (Posted 3/24/20)**

**A:** PEAs must ensure open enrollment practices/expansion of programs are not violating any state or federal regulations regarding discriminatory practices.

**Q: If a PEA has a credit recovery program that is available to all students online and they plan to continue this program, is there a risk of not providing FAPE? (Posted 3/24/20)**

**A:** PEAs must ensure open enrollment practices/expansion of programs are not violating any state or federal regulations regarding discriminatory practices. PEAs must ensure that students with disabilities who are enrolled are provided a FAPE.

### **Child Find**

**Q: Do we still need to complete/conduct 45-day screenings for any new students? (Posted 3/24/20)**

**A:** Timelines cannot be changed. If school is occurring, virtually or otherwise, these will need to be completed in accordance with the required timeline, including any necessary follow up.

**Q: If we begin distance learning/online learning, will those days count as school days for the 15-school day parent request timeline for an initial evaluation? (Posted 3/24/20)**

**A:** Schools are currently closed, per [the Governor's order](#), therefore school day timelines do not resume until school resumes.

**Q: For an initial evaluation, if assessments are needed, how do we conduct these? (Posted 3/24/20)**

**A:** ADE/ESS cannot indicate what is medically safe for a family or for specific students. If a school decides to provide assessments, they should be provided in accordance with the most [up-to-date CDC guidance](#). Additionally, assessment administration guides should be consulted for participation types allowing for valid results.

**Q: If a parent contacts the school/PEA with a concern regarding a possible developmental delay or other concern(s) they have regarding their child do I have to conduct a 45- day screening during the school closure? (including preschool aged and home school children) (Posted 3/26/20)**

**A:** The PEA is obligated to complete a 45-day screening to address the parent's concern(s) in accordance with Arizona Administrative Code included below. Alternative means of completing screenings may be used where appropriate.

A.A.C. R7-2-401.D.5 and 6





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*5. Identification (screening for possible disabilities) shall be completed within 45 calendar days after:*

*a. Entry of each preschool or kindergarten student and any student enrolling without appropriate records of screening, evaluation, and progress in school; or*

*b. Notification to the public education agency by parents of concerns regarding developmental or educational progress by their child aged 3 years through 21 years.*

*6. Screening procedures shall include vision and hearing status and consideration of the following areas: cognitive or academic, communication, motor, social or behavioral, and adaptive development. Screening does not include detailed individualized comprehensive evaluation procedures.*

**Q: Does HB2910, which allows for deviations from statutory regulations for special education programs, allows PEAs any flexibility on the 45-day screening process for newly enrolled students who don't have one completed already? (Posted 4/14/20)**

**A:** The IDEA requires each state to have in place a mechanism to identify children who are suspected of having a disability and who may be in need of specially designed instruction. The 45-day screening process is Arizona's statutory mechanism for child find required by IDEA. Because there has been no change or waiver to the child find requirement, the 45-day screening requirement remains in place.

### **Compensatory Educational Services**

**Q: If a public education agency (PEA) provided some services during the school closure, or only enrichment opportunities, must it assess the needs of individual students for compensatory education? (Posted 4/30/20)**

**A:** Yes. During the period of school closure related to COVID-19, emergency remote learning is being provided to all students as outlined in HB2910 and the Governor's executive orders. Per state and federal guidance and implementing regulations, PEAs are required to provide equitable access to general education opportunities **and** continue to provide a free and appropriate education (FAPE) to students with disabilities to the maximum extent possible. It is acknowledged, that despite best intentions, efforts and creative solutions, there are some students who will not receive a FAPE over the course of the school closure. Therefore, PEAs will need to make individual determinations, for each student, as to whether compensatory educational services will be owed due to the PEAs failure or inability to provide a FAPE.

**Q: Why must compensatory educational services be considered if the PEA provided some educational opportunities to students with disabilities? (Posted 4/30/20)**

**A:** Compensatory educational services are not expressly defined in the IDEA; however, courts [under the authority granted them in 20 U.S.C. § 1415(i)(2)(C)(iii) and 34 C.F.R. § 300.516(c)(3)] have long awarded compensatory educational services as an appropriate remedy under the



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IDEA when a student has been denied a FAPE. In the present circumstances, the purpose of compensatory services is to remedy the PEA's failure or inability to provide a child with a disability with appropriate services during the time that the child is (or was) entitled to a free appropriate public education.

**Q: Does a PEA have to provide the same amount (minute for minute) of service time missed from the IEP as compensatory educational services? (Posted 4/30/20)**

**A:** No. Compensatory educational services are not a contractual remedy, but an **equitable** remedy. It is designed to ensure that the student is appropriately educated within the meaning of the IDEA and as such "[t]here is no obligation to provide day-for-day or minute for minute compensation for time missed." [See \*Parents of Student W. v. Puyallup Sch. Dist.\*, 31 F.3d 1489, 1496-97 \(9<sup>th</sup> Cir.1994\)](#). Compensatory educational services should be determined by looking at the totality of the circumstances for each student and determining the amount of service needed to remedy the educational deficits resulting from a failure to provide a FAPE.

**Q: How should a PEA determine whether a student with a disability should receive compensatory education services? (Posted 4/30/20)**

**A:** Compensatory educational services should be determined by looking at the totality of the circumstances for each student, including parental input, and determining the amount of service, if any, needed to remedy the educational deficits resulting from a failure or inability to provide a FAPE. A formal IEP meeting is **not** required to make a determination of the need for, the amount or delivery of compensatory educational services. However, in looking at the totality of the circumstances, parental input should be solicited and considered. It is then incumbent upon the PEA to make an offer of compensatory educational services when the determination has been made that an individual student was not provided with, or the PEA was unable to provide services during the period of school closure that would constitute a FAPE for that student.

In determining whether a FAPE was provided during the time of school closure, the best source of data may be 4<sup>th</sup> quarter progress reports as this data is most likely to capture student performance during the closure itself. If 4<sup>th</sup> quarter progress reporting is not available, nothing in this guidance would prohibit a PEA from collecting data to assess the need for compensatory educational services during the summer break if it was safe and feasible to do so. In any event, it is recommended that PEAs collect data and solicit parental input no later than 30 school days of students returning to the school campus, to determine the need for compensatory services.

In making an individualized determination as to whether a student is owed compensatory educational services, schools should consider a variety of factors, including **but not limited to**; services provided during the period of school closure, ability of the student to access any services provided during the period of school closure, regression in skills, progress or lack of progress made on IEP goals, and parental input.

**Q: How should a PEA determine the amount of compensatory educational service time that is needed? (Posted 4/30/20)**



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**A:** In making an individualized determination as to whether a student is owed compensatory educational services, schools should consider a variety of factors, including **but not limited to**; services provided during the period of school closure, ability of the student to access any services provided during the period of school closure, regression in skills, progress or lack of progress made on IEP goals, and parental input.

Compensatory educational services should be offered that will allow the student to continue to make progress in the general education setting, or to progress at an appropriate pace in light of the child's circumstances, once students may safely return to the school campus.

**Q: Must parents be involved in the determination of compensatory educational service provision? (Posted 4/30/20)**

**A:** Yes. PEAs should solicit and consider parental input to determine whether compensatory educational services are needed and if necessary, how those services will be delivered.

**Q: Can a PEA offer all students summer school as compensatory educational services? (Posted 4/30/20)**

**A:** No. PEAs must ensure that **individualized** determinations are made related to the extent to which a student may require compensatory services. Schools should not create blanket rules offering a set amount of compensatory services to all students, or to subsets of students with disabilities, when they return to school campuses. In order to provide a FAPE, schools have an obligation to consider compensatory education for each student with a disability without the need for parents or guardians to file a state administrative complaint or a due process request for hearing.

**Q: Must all students with disabilities be provided with compensatory educational services? (Posted 4/30/20)**

**A:** No. PEAs must ensure that **individualized** determinations are made related to the extent to which a student may require compensatory educational services. In the present circumstances the purpose of compensatory educational services is to remedy the PEA's failure or inability to provide a student with a disability a FAPE during the time that the child is (or was) entitled to a FAPE.

**Q: If a parent refused the IEP services provided by the PEA in an alternative format during the period of school closure, must the PEA determine whether the student should receive compensatory educational services when the student did not participate or attend the services available? (Posted 4/30/20)**

**A:** PEAs are advised to document all efforts to provide a FAPE to students during the period of school closure as well as document parent and student contact and communication. Please consult your legal counsel for the best way to proceed in this specific circumstance.

**Q: Can parents refuse compensatory services? (Posted 4/30/20)**



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**A:** Yes, parents can refuse an offer of compensatory educational services. It is recommended that PEAs document parental input in the determination of the need for compensatory educational services and the proposed plan to provide the services, as well as the parent's refusal of the services offered. Prior written notice may be sent to document an offer of compensatory educational services and the parent's refusal. If a parent refuses the offer, the PEA has met its obligation by making the compensatory educational services available.

**Q: If a parent refuses an offer of compensatory educational services, does the PEA have any further obligation? (Posted 4/30/20)**

**A:** Once the PEA has made the offer of individualized compensatory educational services, the parent should make the student available to receive the services offered. If a parent refuses the offer, the PEA has met its obligation by making the compensatory educational services available. It is recommended that PEAs document parental input in the determination of the need for compensatory educational services and the proposed plan to provide the services as well as the parent's refusal. This may be done through a prior written notice.

**Q: Can the service minutes provided in the current IEP be reduced, if compensatory educational services are offered, to account for additional service time provided as compensatory educational services? (Posted 4/30/20)**

**A:** No. Compensatory educational services cannot interfere with the services the student is to receive under a current IEP. Compensatory services must be provided **in addition** to the services implemented in a current IEP. The delivery of the compensatory educational services cannot change the student's least restrictive environment.

**Q: Must an IEP meeting be held once school resumes if a student's needs have changed as the result of the school closure? (Posted 4/30/20)**

**A:** If a student's educational, social/emotional or behavioral needs have changed to the degree that the student's ongoing services or supports are no longer sufficient to provide a FAPE, the student's IEP team should meet to determine if the current IEP requires revision to reflect the student's current needs. (i.e. a student who did not have behaviors that impeded learning when school closed has now developed behaviors that impede his progress or a child has become markedly more anxious or depressed or has lost core academic skills previously learned). This is not the same as, or a substitute for, compensatory educational services nor will it be necessary in all cases.

**Q: When can compensatory educational services be provided? (Posted 4/30/20)**

**A:** Compensatory educational services may be provided during the regular school day, over school breaks, in intensive targeted, individualized programs, or by outside service providers. If compensatory educational services are to be provided during the school day, the student's least restrictive environment cannot be altered due to the provision of the compensatory educational services. Because the provision of compensatory educational services is an equitable remedy, PEAs are encouraged to be creative in designing a plan to deliver compensatory educational



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services that meets the needs of the individual student in remedying the failure or inability of the PEA to provide a FAPE.

**Q: Must an IEP meeting be held to determine the need for compensatory educational services? (Posted 4/30/20)**

**A:** No. IEP teams do not have to meet to determine if a student requires compensatory services, however parental input should be solicited and considered when determining the need for compensatory educational services and how the compensatory educational services will be provided.

**Q: Can a PEA provide ESY to all students instead of offering compensatory educational services? (Posted 4/30/20)**

**A:** No. Compensatory services should not be confused with extended school year services (ESY). ESY is designed to maintain skills over school breaks and prevent degradation of skills that will not be recouped within a reasonable time once school has resumed. The determination of the need for ESY services is a separate determination made in a student's IEP meeting.

Compensatory educational services are delivered when the PEA has failed or was unable to provide a FAPE to a student. In the current circumstance the failure or inability to provide a FAPE was due to school closure related to the COVID-19 pandemic.

**Q: What happens if a PEA does not have the time, forgets, or fails for any reason, to make individualized determinations of the need for compensatory educational services to the students it serves? (Posted 4/30/20)**

**A:** Parents retain their procedural safeguards and may file a state administrative complaint or file for a request for a due process hearing if their child is denied a free and appropriate public education, including the failure or inability of the PEA to provide a FAPE to the student during the time of an extended closure. However, it is not advised that PEAs wait until a parent submits a state administrative complaint or files a request for a due process hearing as this may further delay the provision of a FAPE and result in the need for additional compensatory educational services.

**Q: What happens if a parent disagrees with the PEA's offer of compensatory educational services? (Posted 4/30/20)**

**A:** Parents retain their procedural safeguards in the event their child has been denied a FAPE. Parental rights under the IDEA have not been waived. Additionally, it is recommended that an alternative dispute resolution process such as mediation be used to resolve disagreements related to the need for compensatory educational services or the amount of compensatory educational services offered.

**Q: What obligation does a PEA have to a student who was enrolled during school closure but has since withdrawn from school? (Posted 4/30/20)**





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**A:** The provision of compensatory educational services is an equitable remedy that is appropriate when a PEA either failed or was unable to provide an enrolled student with a disability a FAPE. It would fall to the PEA in which the student was enrolled at the time of the failure or inability to provide a FAPE to make a determination as to whether or not compensatory educational services need to be provided to the student and to deliver those services as appropriate.

**Q: What obligation does the PEA have to a student with a disability who was enrolled at the time of the school closure but graduated or “aged out” before students return to campus for the 2020/2021 school year. (Posted 4/30/20)**

**A:** The provision of compensatory educational services is an equitable remedy that is appropriate when a PEA either failed or was unable to provide an enrolled student with a disability a FAPE. It would fall to the PEA in which the student was enrolled at the time of the failure or inability to provide a FAPE to make a determination as to whether or not compensatory educational services need to be provided to the student and to deliver those services as appropriate. School districts have flexibility and can be creative in fashioning compensatory educational services offers and the unique needs of the student should be considered. However, please consult with your legal counsel for advice related to specific factual circumstances.

**Q: If a parent refused services that were provided during the period of school closure, must the PEA make a determination as to the need for compensatory educational services or make an offer of compensatory educational services? (Posted 4/30/20)**

**A:** It is strongly recommended that PEAs document attempts to provide services that were accessible to the students, through alternative or virtual formats, and to record contact and communications with parents and students. Because the compensatory educational services framework is founded on the failure or inability of the PEA to provide a FAPE, a parent’s refusal of services may excuse the PEA of its obligation to consider compensatory educational services. However, please consult with your legal counsel for advice related to specific factual circumstances.

**Q: Who determines if an 8th grade student moving on to a high school district should receive an offer of compensatory educational services? (Posted 5/5/20)**

**A:** The provision of compensatory educational services is an equitable remedy that is appropriate when a PEA either failed or was unable to provide an enrolled student with a disability a FAPE. It would fall to the PEA in which the student was enrolled at the time of the failure or inability to provide a FAPE to make a determination as to whether or not compensatory educational services must be provided to the student and to deliver those services as appropriate.

**Q: A student received the same educational opportunities as all other students in the school. Data shows that s/he did not regress more than any other student. Does s/he need to be offered compensatory education? (Posted 5/5/20)**





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**A:** In making an **individualized** determination as to whether a student is owed compensatory educational services, schools should consider a variety of factors, including, **but not limited to:** services provided during the period of school closure, ability of the student to access any services provided during the period of school closure, regression in skills, progress or lack of progress made on IEP goals, and parental input. It would be inappropriate to determine compensatory education based solely upon a comparative analysis of regression between individual students who may or may not be similarly situated.

**Q: If the PEA individualized the special education student's instruction toward his/her goals and offered related services, is the PEA responsible to offer compensatory services? (Posted 5/5/20)**

**A:** Not all students will need to be provided with compensatory educational services. However, it is acknowledged that despite best intentions, efforts, and creative solutions, there are some students who will not receive a FAPE over the course of the school closure. Therefore, PEAs will need to make individual determinations as to whether compensatory educational services will be owed due to the PEA's failure or inability to provide a FAPE.

**Q: Can a PEA offer compensatory educational services beginning this summer? (Posted 5/5/20)**

**A:** Yes, if it is allowable and safe to do so based upon executive order and federal, state, and local health and safety guidelines and protocols.

**Q: Can a PEA provide compensatory educational services after the normal school day? (Posted 5/5/20)**

**A:** Yes. Compensatory educational services may be provided during the regular school day; over school breaks; in intensive, targeted, individualized programs; or by outside service providers. If compensatory educational services are to be provided during the school day, the student's least restrictive environment cannot be altered due to the provision of the compensatory educational services. Because the provision of compensatory educational services is an equitable remedy, PEAs are encouraged to be creative in designing a plan to deliver compensatory educational services that meets the needs of the individual student in remedying the failure or inability of the PEA to provide a FAPE.

**Q: Is a PEA responsible to consider the provision of compensatory educational services if a student is newly enrolled (start of next year) and was not in the district during the time of closure? (Posted 5/5/20)**

**A:** No. The provision of compensatory educational services is an equitable remedy that is appropriate when a PEA either failed or was unable to provide an enrolled student with a disability a FAPE. Compensatory services provision falls to the PEA in which the student was enrolled at the time of the failure or inability to provide a FAPE to make a determination as to



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whether or not compensatory educational services need to be provided to the student and to deliver those services as appropriate.

**Q: Can a PEA provide compensatory education throughout the school day during times a student is not already receiving special education services? (Posted 5/5/20)**

**A:** Compensatory educational services may be provided during the regular school day; over school breaks; in intensive, targeted, individualized programs; or by outside service providers. **If compensatory educational services are to be provided during the school day, the student's least restrictive environment, as documented in the IEP, cannot be altered due to the provision of the compensatory educational services.** Because the provision of compensatory educational services is an equitable remedy, PEAs are encouraged to be creative in designing a plan to deliver compensatory educational services that meets the needs of the individual student in remedying the failure or inability of the PEA to provide a FAPE.

**Q: If a PEA made special education services available, but the parent chose not to have his or her child participate, what is the PEA's obligation for compensatory services? (Posted 5/5/20)**

**A:** Determination of the need for compensatory educational services is made on an individual student basis. PEAs are advised to document all efforts to provide a FAPE to students during the period of school closure as well as document parent and student contact and communication. Please consult your legal counsel for the best way to proceed in this specific circumstance.

**Q: How is the PEA required to document the provision of compensatory services? (Posted 5/5/20)**

**A:** PEAs may develop documentation policies regarding the provision of compensatory educational services and at this time, ADE/ESS does not have any suggested format. Determinations of the need for compensatory educational services are not an item that is included in a file review/monitoring and is not utilized for any federal reporting requirements. Prior written notices may also be used to document an offer of compensatory educational services or the determination that compensatory educational services are not required.

**Q: If parents have requested the full IEP team to be part of a compensatory education determination, should the PEA use an IEP meeting as the vehicle to make this determination? (Posted 5/5/20)**

**A:** Nothing in the IDEA prevents an IEP team from making a determination of the need for compensatory educational services.

**Q: Is there a timeline of when compensatory services must be completed? (Posted 5/5/20)**

**A:** At this time, there is not a timeline established by which compensatory educational services must be completed. The compensatory educational services delivery should be individualized



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and meet the unique needs of the student. If compensatory educational services are needed, parental input should be sought when developing the compensatory educational services plan.

**Q: When looking at the student's compensatory needs, can the school differentiate between needs resulting from the school's inability to provide the IEP services and needs the student may have developed because of the pandemic? (Posted 5/5/20)**

**A:** If a student's educational, social-emotional, or behavioral needs have changed to the degree that the student's ongoing services or supports are no longer sufficient to provide a FAPE, the student's IEP team should meet to determine if the current IEP requires revision to reflect the student's current needs (i.e., a student who did not have behaviors that impeded learning when school closed has now developed behaviors that impede his progress or a child has become markedly more anxious or depressed or has lost core academic skills previously learned). This is not the same as, or a substitute for, compensatory educational services nor will it be necessary in all cases.

**Q: Who should be part of the decision-making regarding compensatory services besides the parent? (Posted 5/5/20)**

**A:** PEAs will need to decide who is responsible for determining the need for compensatory educational services. Nothing in the IDEA requires a specific individual to make or be involved in the determination.

**Q: Do compensatory services have to be provided by a special education teacher? (Posted 5/5/20)**

**A:** No. Compensatory educational services are not a contractual remedy but an equitable remedy. Compensatory educational services should be determined by looking at the totality of the circumstances for each student and determining the amount and type of service needed to remedy the educational deficits resulting from a failure to provide a FAPE. Schools have flexibility and can be creative in fashioning compensatory education offers.

## **Early Childhood**

**Q: Is there any exception to the in-by-3 timeline? (Updated 4/29/20)**

**A:** Per OSEP guidance, there are no exceptions to timelines at this time. There is currently a waiver under consideration by congress that may be forthcoming and may adjust or remove this timeline. You can [view the Secretary of Education's request](#).

**Q: During mandatory school closures, would we be able to state "parent unavailable" as a reasonable exception to the in-by 3 timeline? (Posted 3/24/20)**

**A:** It depends. The PEA has to make efforts to meet the in-by 3 requirements. If the PEA has made efforts and the parent is refusing to participate, then that would meet the "parent unavailable" criterion.



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**Q: Is the continued collection of Teaching Strategies Gold (TSG) data required for preschool children with disabilities? (Posted 4/8/20)**

**A:** Ongoing periodic assessment, for the purpose of progress monitoring for preschool children with disabilities, is not required during school closure. Preschool outcome data, for state and federal reporting purposes, should use the last data set collected prior to the closure as the student exit data set. [Additional information is located here from ADE /Early Childhood Special Education.](#) [Additional process information regarding how to exit a student from TSG can be found here.](#)

Ongoing periodic assessment for preschool data collection is not the same as progress monitoring for IEP goals. Progress reports must be completed to the best of one's ability given closure scenarios. PEA's are encouraged to implement IEP's by providing services to the extent safe and feasible through alternative means, which includes tracking progress on IEP goals.

**Q: Are preschool children with disabilities entitled to FAPE during the school closure? (Posted 4/8/20)**

**A:** Preschool children fall under mandated IDEA requirements for students ages 3-21. The method by which FAPE is afforded may look different, and the use of alternative delivery instruction or methodology is encouraged. If it is not safe or feasible to implement an IEP for a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Enrollment**

**Q: Can a PEA enroll and or withdraw students during the mandated public-school closure? (Posted 4/14/20)**

**A:** Yes, students should be enrolled or withdrawn following [COVID 19 ADE School Finance guidelines.](#)

**Evaluations**

**Q: If we have had the parents' permission to evaluate and the 60-day timeline was started before the mandatory school closure, what is our obligation? What are we to do? (Posted 3/24/20)**

**A:** Timelines are still in place. Arizona allows for a 30 -day extension, so this is an available option. Meetings can be held via alternative methods. [See OSEP guidance.](#)

**Q: What about students in the middle of timelines? (Posted 3/24/20)**



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**A:** Timelines cannot be extended, per OSEP. Meetings can be held via alternative means in order to ensure timelines can be met as best as possible. [See OSEP guidance.](#)

**Q: If school does not resume, what happens to evaluations in progress? (Posted 3/24/20)**

**A:** Timelines cannot be extended, per OSEP. Meetings can be held via alternative means in order to ensure timelines can be met as best as possible. [See OSEP guidance.](#)

**Q: If assessments are needed, how do we conduct these? (Posted 3/24/20)**

**A:** ADE is not in any position to indicate what is medically safe for a family or for specific students. If a school decides to provide assessments, they should be provided in accordance with the most [up-to-date CDC guidance](#). Additionally, assessment administration guides should be consulted for participation types allowing for valid results.

**Q: How do I obtain parent signatures, when needed, during closure if we are not holding in-person meetings? (Posted 3/24/20)**

**A:** Parent signatures are only required in very specific cases under IDEA. Outside of these specific cases, if the PEA uses signatures to evidence parent participation, the PEA will need to determine how they plan to document parent participation during the closure.

**Q: Is the 30-day extension for an evaluation calendar days or school days? (Posted 4/8/20)**

**A:** The extension of the evaluation timeline, allowable under the Arizona Administrative Code, is 30 calendar days.

**Q: Can a PEA have multiple 30-day extension? (Posted 4/8/20)**

**A:** Arizona Administrative Code states an additional 30-day extension can be agreed upon by the PEA and parents if it is in the best interest of the child. Only one 30-day extension is allowable by board rule.

**Q: If a student is currently labeled DD or PSD and is aging out of these categories, what does the PEA do? (Posted 4/14/20)**

**A:** Evaluation timelines have not been extended or modified. The MET should meet to determine if existing data is sufficient to appropriately determine a new eligibility category. If the MET decides to collect data, it should proceed in accordance with the most [up-to-date CDC guidance](#). Additionally, assessment administration guides should be consulted so that the administration of the specific assessments allow for valid data collection and interpretations.

**Q: May a district/charter delay obtaining consent to evaluate a student until school resumes even though the MET convened and determined the need for additional assessment? (Posted 4/14/20)**



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**A:** The IDEA does not specify the time period between the MET determination that additional data is needed and a parent or guardian signing the consent form, however the time period must be reasonable. The signing of the consent form triggers the 60-day period by which a PEA must meet to determine eligibility. Delaying consent to avoid beginning the assessment timeline is not endorsed by ADE. Please consult your PEA's legal counsel, as delaying obtaining consent to collect additional data may result in a denial of FAPE, in the event the child is found eligible, and the student may be owed compensatory education for the delay.

## **Fiscal**

**Q: How will Maintenance of Effort be impacted? What allowances can/will be made? (Posted 3/31/20)**

**A:** Inquiries regarding flexibility or exceptions to Maintenance of Effort has already been forwarded to the Office of Special Education Programs (OSEP). ADE has no authority to waive the IDEA Maintenance of Effort testing requirements or grant waivers related to them. The only allowable exceptions that exist for Maintenance of Effort do not address situations such as the closure we are suddenly in. The federal government did issue guidance regarding ESEA Maintenance of Effort but has not provided clarity nor insight on IDEA Maintenance of Effort.

**Q: Will there be additional funds to address costs during closure? (Posted 3/31/20)**

**A:** There are no additional funds that have been established for extra services during the closure. State funding has been maintained and the federal funding under the IDEA Entitlement grant has some increased flexibility during the time of the closure. For example, the federal grant can pay for cancellations for events due to closure of venues during this time. Additionally, staff can continue to be paid even though school is closed because of the closure that has been mandated.

**Q: Can we pay out staff who are listed on the IDEA Entitlement grant during the mandatory closure? (Posted 4/14/20)**

**A:** The Office of Management and Budget (OMB) issued a memorandum (M-20-17) that provides administrative, financial management, and audit reporting relief for recipients and applicants of federal financial assistance directly impacted by COVID-19. Recipients may continue to charge salaries and benefits to currently active federal awards consistent with the recipients' policy of paying salaries (under unexpected or extraordinary circumstances) from all funding sources. Recipients are required to maintain records and documentation to substantiate the cost, including reference to the recipients' salary policy.

**Q: Will LEAs be receiving any additional funds to help cover compensatory services? (Posted 5/5/20)**

**A:** Extra funding will be made available for many public school needs through the CARES Act, but currently there is only general guidance. The two funding sources are:





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- Governor's Emergency Education Relief Fund
- Elementary and Secondary School Emergency Relief Fund

More information will be disseminated about these funds from ADE, including when and how they will be available and the allowable expenses.

### **House Bill 2910 (HB2910)**

**Q: Provision 7 of this bill includes the following language: ...public schools may deviate from statutory requirements related to special education programs. What does this mean? (Posted 3/31/20)**

**A:** Per IDEA and OSEP guidance, students with disabilities are still entitled to a free and appropriate public education. Any deviation from state statutory provisions related to special education must align with federal law set forth in IDEA at this time. Congress has not suspended IDEA and the federal mandates contained therein.

### **Individualized Education Programs (IEPs)**

**Q: Are we able to have students come to schools 2 times/week to receive services? If so, will we need to provide transportation to students that have transportation as part of their IEP? (Posted 3/24/20)**

**A:** ADE/ESS cannot indicate what is medically safe for a family or for specific students. Any services provided at school should be provided in accordance with the most [up-to-date CDC guidelines](#), as well as any additional [restrictions provided by the Governor](#). Transportation should be provided, again in accordance with CDC guidelines, if necessary, for the student to receive FAPE. Alternate means of service provision should be considered for students.

**Q: Can we determine to meet student needs in ESY, rather than provide services during the closure? (Posted 3/24/20)**

**A:** Extended School Year (ESY) is a separate requirement that has to be considered for all students with disabilities. Extended school year services are not a substitute for compensatory services. If services are not provided due to safety concerns, a consideration of compensatory services would need to be completed and a plan outlined if needed. It may be appropriate to provide compensatory services over the summer, but this is a separate consideration from ESY.

**Q: Can we do IEP meetings over the phone? (Posted 3/24/20)**

**A:** Yes, alternative participation for meetings is an option and is encouraged.

**Q: How do we provide progress reports? (Posted 3/24/20)**



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**A:** Progress reports will need to be completed to the best of one's ability given closure scenarios. PEAs are encouraged to work on goals as best they can using alternative means, during the closure, and measuring progress based on this. PEAs are encouraged to implement IEPs to the extent possible and to utilize alternative means to measure progress on goals during the period of school closure.

**Q: What are service minutes going to look like for specialized instruction? (Posted 3/24/20)**

**A:** SDI (specially designed instruction) should be provided in accordance with IEPs, as is possible and feasible, utilizing alternative means. The method by which services are delivered may look different and the use of alternative delivery instruction or methodology is encouraged. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Are we allowed to use alternate methods of instruction to provide specially designed instruction (SDI)? (Posted 3/24/20)**

**A:** Alternate methods of instruction can and should be made available. The IDEA does not require that the IEP contain methodology or method of instruction unless necessary to provide a FAPE. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: If we provide packets for delivery of SDI, do we customize each student's packet to be focused on his or her IEP goals and would virtual delivery need to accompany the packet? (Posted 3/24/20)**

**A:** In order to be considered specially designed instruction (SDI), a packet would have to be individualized to meet the needs of the student as outlined in the student's IEP. However, the use of alternative means of instruction is encouraged and supported. Whole class packets must be accessible to students with disabilities and could provide enrichment or additional practice but would not be considered SDI.

**Q: Will a student's special education and related services change due to closure? (Posted 3/24/20)**

**A:** To the extent possible students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: A school has a family that has refused service. What does the school need to do? (Posted 3/24/20)**

**A:** The school can document their attempts to provide services and continue to be ready willing and able to provide services.



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**Q: A PEA is providing services through virtual instruction. The student continually refuses to participate in the virtual instruction. What obligation does the PEA have to the student to provide additional support? (Posted 3/24/20)**

**A:** To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. The PEA should remain ready willing and able to provide services.

**Q: If it is written in the IEP that a student has support from a paraprofessional, how would that be implemented? (Posted 3/24/20)**

**A:** Assistance from a paraprofessional is not SDI. Teams should determine whether the use of a paraprofessional or other adult support is necessary for the student to access the general education curriculum being provided by the school. If the student does not require additional adult support to access the general education curriculum being provided, then it would not be necessary to provide paraprofessional support in the student's home. If paraprofessional support is necessary in order for the student to access either the SDI or the general education curriculum, then compensatory educational services should be considered once school resumes.

**Q: When considering students with significant disabilities and providing services in-home, aren't we putting students and families at risk for infection? (Posted 3/24/20)**

**A:** ADE/ESS cannot indicate what is medically safe for a family or for specific students. If a school decides to provide services in the home, services should be provided in accordance with the most [up-to-date CDC guidance](#).

**Q: If we decide to provide distance learning opportunities does the IEP need to be addended? (Posted 3/24/20)**

**A:** Addenda to the IEP are not required until/unless there is a change in placement after school resumes. To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: When going virtual for instruction, are we required to provide internet and/or computers to all students, if they do not have access? (Updated 3/26/20 to provide additional clarity)**

**A:** All students should have access to any virtual learning opportunities provided by the PEA. ADE/ESS does not dictate how a PEA implements its virtual learning platform and PEAs should seek advice from legal counsel on issues related to access and equity in specific instances.

**Q: Are compensatory services necessary for all students? (Posted 3/24/20)**

**A:** A general compensatory service plan for all students with disabilities is inappropriate. Compensatory education is dependent upon the individual needs of the student and cannot be



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one size fits all. If comp education is needed, it must be determined on an individual basis once school resumes.

**Q: Can a general education teacher or other certificated personnel provide SDI during the school closure? (Posted 3/26/20)**

**A:** The student's IEP that was in effect at the time of the closure remains in effect. If the IEP states that certificated staff, other than the special education teacher can provide the SDI then the same applies during any period of alternative instruction due to closure. If the IEP specifies that services must be provided by a special education teacher, then a special education teacher must provide the SDI.

**Q: Does sending a draft IEP to a parent via email and soliciting input constitute alternative means of team participation? (Posted 3/26/20)**

**A:** IEP team participation with required team members is essential in IDEA. IDEA highlights parent participation in the IEP process as critical. If alternate means of participation through phone, video or otherwise are unavailable the PEA should consult their legal counsel on how best to proceed.

**Q: Can we do IEP meetings over the phone? (Posted 3/24/20)**

**A:** Yes, alternative participation for meetings is encouraged and is an option. PEAs need to ensure that all required meeting participants are included.

**Q: If a student is found eligible for services during the closure, when do services need to begin? (All students aged 3-21) (Posted 4/8/20)**

**A:** If a child has been found eligible to receive services under the IDEA, the IEP team must meet and develop an initial IEP within 30 days of a determination that the child needs special education and related services. [Consult 34 C.F.R. § 300.323\(c\)\(1\)](#). This timeline has not been extended at this time, per OSERS and OSEP.

The method by which FAPE is afforded may look different, and the use of alternative delivery instruction or methodology is encouraged. If it is not safe or feasible to implement an IEP for a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Should IEP services be determined based on school schedule, staff availability, or other administrative concerns? (Posted 4/8/20)**

**A:** The services included in the IEP should address the needs of the individual student and be reasonably calculated to allow the child to make meaningful educational progress in light of the child's circumstances. Similar to when a school closure is not in effect, staffing and school schedules do not dictate the services the child requires. During the mandated school closure, the method by which FAPE is afforded may look different and the use of alternative delivery



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instruction or methodology is encouraged. If it is not safe or feasible to implement an IEP for a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Does the PEA need to provide a student with AT (high and/or low tech) in their home for virtual educational opportunities? (Posted 4/8/20)**

**A:** Teams should determine whether the use of the student's AT is necessary for the student to access the general education curriculum being provided by the school. Teams should also consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and the full range of needs, including opportunities for direct instruction in the child's language and communication mode.

If the student does not require AT for communication or to access the general curriculum, then it would not be necessary to provide AT in the student's home. If AT is necessary in order for the student to access either the SDI or the general education curriculum, and it is not provided in the home, then compensatory educational services should be considered once school resumes.

**Q: If a PEA is only providing enrichment activities, no new learning, what is the requirement for special education services? (Posted 4/8/20)**

**A:** Services should be provided in accordance with IEPs, as is possible and feasible, utilizing alternative means. The method by which services are delivered may look different and the use of alternative delivery instruction or methodology is encouraged. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: If a PEA decides to provide only related services virtually, would the PEA then be required to provide all services in the student's IEP? (Posted 4/8/20)**

**A:** Services should be provided in accordance with IEPs, as is possible and feasible, utilizing alternative means. The method by which services are delivered may look different and the use of alternative delivery instruction or methodology is encouraged. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Can the IEP team meet to review the IEP, without revising, to ensure timelines are intact? (Posted 4/14/20)**

**A:** Yes, in some instances. IDEA requires that each student's IEP be reviewed at least annually and revised as appropriate. In some instances, it would be appropriate for the team to determine that the existing IEP provides a FAPE. However, all IEPs should be reasonably calculated to allow the student to make meaningful educational progress in light of the child's



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circumstances. The priority should be to provide a FAPE to the student and not merely to comply with procedural timelines.

**Q: If a PEA has results from an IEE or an FBA, how does the PEA proceed due to the closure? (Posted 4/14/20)**

**A:** The PEA should proceed as they would in any other circumstance, per its PEA policies. If alternate means of participation through phone, video, or otherwise are unavailable, the PEA should consult its legal counsel on how best to proceed.

**Q: Can an IEP team meet to reduce a student's service time due to the closure? (Posted 4/14/20)**

**A:** No. IDEA requires that each student's IEP be reviewed at least annually and revised as appropriate. To the greatest extent possible, students should be provided with the special education services outlined in their current IEPs. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. Reducing service minutes to fit a school specific need is not appropriate.

**Q: Are PEAs able to provide in-person ESY? (Posted 4/29/20)**

**A:** There has been no waiver of the provision of FAPE. Students who require ESY services as a condition of FAPE should be provided with those services to the extent safe and feasible. It is unknown at this time if students will be able to return to a school campus after the end of the regular school year calendar. The health and safety of students and staff is paramount in any consideration as to whether in-person ESY services can be provided. Please consult the CDC guidelines, Arizona Department of Health Services guidelines, or any Governor's executive orders for information on what restrictions are in place may be in place at the time ESY is to be provided.

**Q: Do progress reports require signatures? (Posted 5/5/20)**

**A:** The IDEA does not require that progress reports be signed. If the PEA has a policy that requires signatures on progress reports, please consult your school's legal counsel or administration for further guidance.

**Q: If schools are mandated by executive order to be closed over the summer, does a PEA still have to provide ESY? (Posted 5/5/20)**

**A:** Yes. FAPE must continue to be offered to students with disabilities. If a student's IEP team determined that ESY is needed as part of the provision of FAPE to the student, then ESY must be provided to the extent that it is safe and feasible to do so.

**Q: Can ESY be provided virtually, even if in-person services are considered safe? (Posted 5/20/20)**





Updated 5/20/20

**A:** Yes, possibly. Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance. To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. The PEA should remain ready, willing, and able to provide services.

**Q: Can ESY be provided in multiple formats (virtual and in-person) over the entire summer (June and July)? (Posted 5/20/20)**

**A:** Yes. Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance. To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. The PEA should remain ready, willing, and able to provide services.

**Q: If a family has decided not to participate in virtual activities during the school closure, can a PEA still offer ESY in a virtual format? (Posted 5/20/20)**

**A:** Yes. Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance. To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. The PEA should remain ready, willing, and able to provide services.

**Q: If a student's IEP team has determined the student is eligible for ESY, and if ESY is required to be provided through virtual learning, what is the obligation of the PEA to consider compensatory education services if the child does not participate in the virtual ESY? (Posted 5/20/20)**



Updated 5/20/20

**A:** Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance. To the extent possible, students should be provided with the special education services outlined in the IEP. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes. The PEA should remain ready, willing, and able to provide services. PEAs may want to consult their legal counsel on student specific situations.

**Q: If a parent refuses to send his/her child to ESY, for safety concerns not supported by medical documentation, what obligation does the PEA have to provide alternative means of participation? (Posted 5/20/20)**

**A:** Parents retain their procedural safeguards rights for ESY the same as they do for other IEP team decisions. Per IDEA regulations: While parents do not have veto power over IEP team decisions, they may challenge an IEP team decision that they disagree with by requesting mediation or filing a due process complaint against the school. The IDEA provides these procedural safeguards as a means for resolving disputes between parents and schools concerning the identification, evaluation, placement, or the provision of a free appropriate public education (FAPE). If the disagreement results in the filing of due process complaint, then the student would remain in his or her current educational placement, as defined in IDEA” This is generally understood to mean the last agreed upon placement (and not the placement that is being challenged in due process).

**Q: Can a student be found eligible for ESY due to their regression in light of the mandated school closure? (Posted 5/20/20)**

**A:** Decisions about ESY services must be made according to the individual needs of a student and focused on skills that impact educational benefit. The team considers academic, social, functional, or behavioral skills related to any IEP goal that impacts the student's overall functioning. Loss, or potential loss, of a specific skill without recoupment of the skill within a reasonable amount of time may qualify a student for ESY if such loss negatively impacts the student's ability to make meaningful progress in light of the child's individual circumstance.

**Q: Does the PEA need to complete 4th quarter progress reports for students on IEPs? (Posted 5/20/20)**

**A:** It depends. A child's IEP is required to include when progress will be communicated to parents. PEAs will need to review the individual child's IEP to determine when progress reports are required to be sent to families. Progress reports should be completed in accordance with what is included in the child's IEP.



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**Q: If a child participated minimally, or not at all, in virtual activities provided during the closure, how can a progress report be completed, if required per the child's IEP? (Posted 5/20/20)**

**A:** Progress reports will need to be completed to the best of one's ability given closure scenarios. PEAs are encouraged to work on goals as best they can using alternative means, during the closure, and measuring progress based on this. PEAs are encouraged to implement IEPs to the extent possible and to utilize alternative means to measure progress on goals during the period of school closure.

### **Prior Written Notice (PWN)**

**Q: Are PWNs required during the closure? (Posted 3/31/20)**

**A:** Per IDEA 300.503, a PWN must be provided in the following circumstances: [\(1\)](#) proposals to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or [\(2\)](#) refusals to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The provision of online or other distance learning opportunities is not considered a change in placement, and neither an IEP nor a PWN would be required. Students are still entitled to FAPE as defined by the IEP in effect when the school closure occurred. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education, on an individual basis, once school resumes.

### **Proportionate Share**

**Q: Do districts have to continue to offer proportionate share services during the closure? (Posted 3/31/20)**

**A:** It would not be feasible, nor is it required, for districts to continue proportionate share services during the closure. Proportionate share services vary between districts but generally rely on teaching staff within a district to provide services off-site. During this time of closure, this would go against the intent of closure for public and private schools. Additionally, districts are ultimately responsible for the scope of services offered and the time range for the school year. If the districts do not meet the spending obligation of proportionate share over the life cycle of federal funds for any given grant year, those funds may potentially be reverted to the federal government.

### **Students Enrolled at Residential Treatment Centers on an Educational Voucher**

**Q: Are PEAs required to submit documentation for students on an educational voucher? (Posted 4/8/20)**

**A:** Yes, [A.R.S.15-1183\(C\)](#) states "If an extension is denied or a home district fails to complete the requirements for a continuing residential education voucher, the home school district is



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responsible for payment of educational costs until the requirements of subsection B of this section have been met” (regarding screening, identification procedures, and review of placement). With specific voucher questions, PEAs should [email the ESS Vouchers Unit](#).

## **Telehealth**

### **Q: Are we allowed to ask students to come to the school, so speech services can be provided via teletherapy? (Updated 4/29/20)**

**A:** Alternate means of service provision should be considered for students. [Consult CDC guidelines](#). By [executive order](#), Governor Ducey has authorized the use of Teletherapy services. Please consult your practice, licensing or credentialing association if you have specific legal questions related to the use of teletherapy. [Follow this link for more information regarding Medicaid billing](#).

### **Q: We would like to complete speech teletherapy but are told that Medicaid will not reimburse. Is there a way to have Medicaid reimburse? (Updated 4/29/20)**

**A:** Alternate means of service provision should be considered for students. [Consult CDC guidelines](#). By [executive order](#), Governor Ducey has authorized the use of Teletherapy services. Please consult your practice, licensing or credentialing association if you have specific legal questions related to the use of teletherapy. [Follow this link for more information regarding Medicaid billing](#).

### **Q: Is there a confidentiality issue when providing teletherapy online to a group of students, rather than one-on-one? (Posted 3/26/20)**

**A:** FERPA does not apply as therapy is not an educational record. Teletherapists should follow any ethical guidelines associated with their therapist organizations. [See the additional FERPA information from OSEP](#). Please consult with legal counsel for an interpretation of the statutes and how they apply to your specific practice area.

### **Q: Are all PEAs required to provide teletherapy during school closures? (Posted 3/26/20)**

**A:** What services are provided by a PEA during the school closure is not mandated by ADE. PEAs must make reasonable efforts to provide a FAPE to students with disabilities, which may include the provision of teletherapy services as accessible and appropriate for an individual student. Please consult your practice, licensing or credentialing association if you have specific legal questions related to the use of teletherapy.

### **Q: Can a PEA choose to provide all therapies via teletherapy? (Posted 3/26/20)**

**A:** ADE does not mandate how a district provides a FAPE to students. Teletherapies can be utilized if it is feasible to do so and meets the needs of the individual student. PEAs must make reasonable efforts to provide a FAPE to students with disabilities, and teletherapies may be appropriate, if it is feasible to do so. Teletherapists should follow any ethical guidelines associated with their therapist organizations. If it is not safe or feasible to deliver instruction to



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a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Do therapy services provided via telepractice count as IEP service minutes? (Posted 3/26/20)**

**A:** Teletherapy may be utilized to provide a FAPE to students. However, a student may still be owed compensatory education, which is determined on an individual basis, if teletherapy is not an effective method of service delivery for the student. Whether teletherapy is equivalent to in-school service delivery is dependent on the individual needs of the student. Teletherapists should follow any ethical guidelines associated with their therapist organizations. If it is not safe or feasible to deliver instruction to a student and provide a FAPE, then the team should consider compensatory education on an individual basis once school resumes.

**Q: Are SLPAs and COTAs allowed to provide teletherapy? (Posted 4/14/20)**

**A:** Please consult your PEA's legal counsel and the practitioner's licensing organization. Many PEAs are already providing services by SLPs via teletherapy.

**Miscellaneous**

**Q: Should PEAs continue efforts to complete the parent satisfaction survey during the closure? (Posted 3/26/20)**

**A:** Yes, this is a general supervision requirement and therefore the timelines cannot be adjusted. PEAs should make all efforts possible to assist parents in completing the parent survey through alternative means as necessary and feasible.

**Q: If discussions about retention were already in process prior to the closure, and the student has not yet been evaluated due to the closure, should the child be promoted or retained? (Posted 5/5/20)**

**A:** Decisions as to the retention or promotion to the next grade of individual students is determined by the policies of the PEA and does not fall within the IDEA.

**Q: How is "educational opportunity" defined in Arizona? (Posted 5/5/20)**

**A:** Pursuant to HB2910, all students, including students with disabilities, are to be provided with educational opportunities, which are "determined by the public school for the duration of the statewide closure." Additionally, pursuant to the IDEA, and in alignment with OSERS, OCR, and OSEP guidance, students with disabilities are to continue to be provided with a FAPE, as outlined in their IEPs, to the maximum extent safe and feasible during school closure. Educational opportunities are extended to all students; FAPE is above and beyond educational opportunities.

**Q: If a PEA has determined the child has met his/her graduation requirements, and the family is now stating they disagree, what is the PEA's obligation? (Posted 5/5/20)**



Updated 5/20/20

**A:** Graduation and the receipt of a regular high school diploma is a PEA decision and is based on graduation requirements outlined by the State Board of Education. FAPE, as articulated in a student's IEP, is not a graduation requirement. A student can obtain the requirements in order to graduate, and if they did not receive a FAPE during the period of school closure, still be provided with the equitable remedy of compensatory education. The student does not need to be re-enrolled in high school or have graduation delayed to be provided with compensatory educational services. Please consult your school's legal counsel for specific factual scenarios.

**Q: Is there guidance regarding providing services for medically fragile students, who may be at greater risk for COVID-19, when school resumes? (Posted 5/20/20)**

**A:** ADE/ESS cannot indicate what is medically safe for a family or for specific students. Any services provided at school should be provided in accordance with the most [up-to-date CDC guidelines](#), as well as any additional [restrictions provided by the Governor](#). Transportation should be provided, again in accordance with CDC guidelines, if necessary, for the student to receive FAPE.