

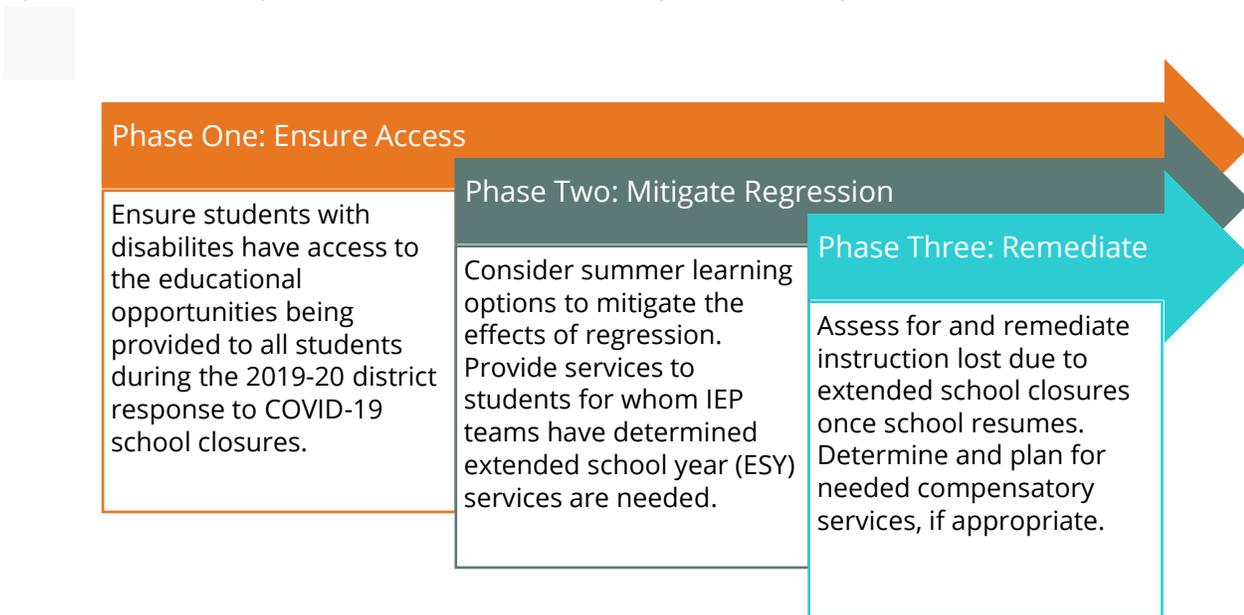
## COVID-19 School Closures and Special Education: The Path Forward

### Overview

On April 27, 2020, Secretary DeVos issued a [report](#) to Congress in which the United States Department of Education (USDOE) did not request additional authority to waive any aspect of the Part B provisions of the Individuals with Disabilities Act (IDEA) as a result of COVID-19. In particular, the report reiterates that schools can, and must, provide education to all students, including children with disabilities during periods of school closure.

The impact that school closures will have on student learning is difficult to predict. Even as schools work to provide instruction to students through distance learning, student learning will most likely have been at a different rate than would occur within traditional school settings. Additionally, school closures occurred near the extended summer break. This combination will likely result in some degree of regression for most students—general education students, English learners, and students with disabilities alike. Proactively mitigating this regression can help reduce the students’ needs for additional services, supports, and/or compensatory services in the future.

Special education supervisors should consider three phases on the path forward:



School closures have impacted all of our students, families, and schools. Recoupment of skills and learning will take time, potentially beyond the next school year. This guide can support LEAs in planning for each phase of work as we prepare students to return to school once it is safe to do so. Every effort to continue to

engage and connect with students and families is valuable and necessary as we work to ensure all students are successful. Guidance and resources for each of these phases are outlined below.

## Phase One: Ensure Access

In phase one, districts should focus on providing instructional opportunities for students during periods of school closure. Districts should also plan for phases two and three during this time.

### Instructional Implications

The department recognizes there are many options available to districts as they seek to provide instructional opportunities for students during school closures. These options include providing homework packets, virtual or distance learning, etc. While the USDOE and TDOE will offer flexibility where possible, the USDOE has emphasized that many disability-related modifications and services may be effectively provided remotely.

During this period of school closure, districts should make every effort to use creative strategies to provide special education instruction and services to the extent feasible. Moreover, any educational opportunities offered to the general student population, including enrichment activities and resources, must be made accessible to students with disabilities. This could include the provision of accommodations, modifications, direct, and/or related services depending on the needs of individual students.

Instructional resources for students with disabilities during periods of school closure can be found in the [special populations closure toolkit](#). Additional resources to facilitate the delivery of teleservices are forthcoming [here](#).

### Procedural Implications

#### *Annual IEP Meetings*

LEAs should make every attempt to conduct annual IEP team meetings virtually during periods of school closure. This ensures necessary changes are made to the student's IEP and such changes can be implemented in a timely fashion once normal school operations resume. It is not necessary to change IEPs to reflect the supports required for remote learning. IEPs were written to ensure FAPE in a traditional school setting. Although FAPE will look different during periods of school closure, high quality IEPs should remain intact.

Rather, IEP teams should consider the individual needs of students and document the efforts made to support remote learning in order to ensure access to the opportunities available to the general population. The [special populations school closure toolkit](#) has several templates to assist districts with these documentation efforts. Additional resources and considerations for holding virtual IEP meetings can be found in the [special education related FAQ document](#) and the "Guidelines and Sample Procedures" section of the [special populations school closure toolkit](#).

### *ESY Determination Meetings*

For some students, IEP team meetings will be necessary to determine the need for extended school year (ESY) services. If IEP teams have yet to make this determination for the 2019-20 school year, a meeting should be held as soon as possible to review student data and determine whether ESY services are needed. Information on making the determination for ESY can be found in the [Special Education Framework](#).

### *Initial Evaluation Timelines*

Due to the current states of emergency at the federal and state levels, the Tennessee State Board of Education (SBE) passed [emergency rules](#) on April 9, 2020 regarding Chapter 0520-01-09-.24 Special Education Program and Services to allow extensions of the initial evaluation timeline. The rule allows an extension beyond the 60 calendar days by the number of days equal to the duration of an order, declaration, or recommendation to stay at home, self-quarantine, or implement social distancing issued by the LEA's or public charter school's local, state, or federal government. An additional 30 calendar days can be requested due to extenuating circumstances.

The rule was written to ensure the safety of students and staff during the COVID-19 pandemic. As a reminder, if an evaluation of a student with a disability requires a face-to-face assessment or observation, it should be delayed until it is safe to complete. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place virtually while school buildings are closed, so long as a student's parent or legal guardian consents. These same principles apply to similar activities conducted by appropriate personnel for a student with a disability who has a plan developed under Section 504, or who is being evaluated under Section 504.

Additional guidance related to the SBE emergency rules can be found [here](#) and a tool for calculating evaluation due dates can be found [here](#).

## Phase Two: Mitigate Regression

During phase two, districts should continue providing learning opportunities to mitigate the effects of regression over the summer and provide ESY services to those students for whom the IEP team determined there was a need. ESY must be provided if it has been identified as a need by the IEP team; however, the LEA will need to determine how the services will be provided based on the social distancing requirements of COVID-19. LEAs will also resume initial and re-evaluations once it is safe to engage in face to face assessments. Finally, LEAs should continue planning for phase three.

### Instructional Implications

LEAs may provide learning options to mitigate regression and help prepare students for the return to school. Options LEAs may consider include:

- Suggested activities for families to do at home
- Continued distance learning periodically during the summer
- Summer enrichment activities at the school
- A parent guide for free learning resources
- A packet of activities for practice

LEAs may choose to offer summer enrichment opportunities for learning in an effort to mitigate regression; however, enrichment cannot replace the ESY services identified by the IEP team. The IEP team considers each goal and service individually and determines which, if any, require ESY. When planning ESY, it should be designed to support the identified goals and/or services.

LEAs will make local decisions regarding the opening of school buildings to ensure the safety of students and staff. IEP teams should consider how ESY services will be delivered in light of these local decisions. When it is safe to do so, ESY services may be provided in a classroom setting. If local decisions prevent face to face instruction, LEAs should consider how these services can be provided virtually. LEAs should provide direct and related services through teletherapy to the extent it is feasible and applicable.

Resources for the provision of ESY services during periods of school closure and additional resources to facilitate the delivery of teleservices are forthcoming [here](#).

### Procedural Implications

#### *ESY Communication and Documentation*

Based upon the order, declaration, or recommendation the LEA is following to ensure the health and safety of students and staff, plans must be made regarding the delivery of required ESY services. LEAs should communicate and collaborate with parents to determine the best way to provide services and provide documentation of services delivered. The [special populations school closure toolkit](#) provides sample templates that can assist with documentation.

#### *Initial Evaluation Timelines*

Once the order, declaration, or recommendation the LEA is following is lifted, the timeline resumes for initial evaluations. If this occurs during the summer months, then the district will need to begin calculating due dates. Additional guidance related to the SBE emergency rules can be found [here](#) and a tool for calculating evaluation due dates can be found [here](#).

## Phase Three: Remediate Lost Instruction

During phase three, LEAs should assess the performance of all students, determine a school wide strategy to address gaps in learning due to extended school closures, and provide any needed remediation specific to student IEPs.

### Instructional Implications

#### *Remediation*

Once normal school operations resume, it will be important to assess the impact extended school closures had on the learning of *all* students. Regression is the decline in knowledge or skills due to an interruption in education; recoupment is the time it takes to regain skills to the prior level of functioning. Many students will likely experience some loss of skills during school closure and must relearn previously taught information and skills once school resumes. LEAs should plan a school-wide approach to address this regression and the amount of recoupment that will likely be needed. For students with disabilities, the IEP team should consider the need for additional special education services in order to provide remediation for any regression not accounted for in the school-wide strategy to address gaps in learning. The loss of instruction and subsequent need for remediation is not due to a school's failure to provide FAPE; rather the unavoidable result of school closures due to COVID-19.

#### *Compensatory Education*

Compensatory services are services that should be provided to a student when needed to elevate the student to the position they would have otherwise occupied had the services not been delayed or postponed. It is an appropriate equitable remedy designed to deliver services that a student **should have received in order to be provided a free appropriate public education (FAPE)**. Once student

performance has been assessed and a plan has been established to provide remediation, the IEP team should determine whether the LEA failed to provide needed services to ensure FAPE during periods of school closure. This determination is different from that used to determine the amount of remediation needed due to instruction lost as a result of COVID-19.

More information related to decision making for remediation and compensatory services can be found in the forthcoming special populations reopening toolkit [here](#).

### **Procedural Implications**

Remediation of regression is complex and requires time and resources. Some students will demonstrate regression similar in level to their peers and recoup quickly, while other students may demonstrate significant regression and recoup skills more slowly and over an extended period of time. LEA planning should balance the need for remediation with continued access and participation in new instruction.

#### *Annual IEP Meetings*

Annual IEP meetings due during school closure but not held virtually should be scheduled as soon as possible upon return. An instructionally appropriate IEP is the foundation for the provision of FAPE and will need to be considered as decisions are made regarding remediation and compensatory services. The [special populations closure and reopening toolkits](#) have information and templates to assist with scheduling these meetings.

#### *Evaluations*

Likewise, reevaluations and subsequent meetings not be completed virtually during periods of school closure will need to be completed as soon as possible upon return. The assessment information from the reevaluation will be important in the development of the IEP and the planning for remediation and any compensatory services.

Initial evaluations and eligibility meetings may also be due at the start of the school year. LEAs should be prepared to complete the evaluations and schedule eligibility meetings within the required timeline. The [special populations closure and reopening toolkits](#) have information and templates to assist with tracking the completion of the evaluations and scheduling meetings.

#### *Service Provision*

Once the impact on students' learning has been assessed, LEAs will need to develop a plan for the provision of remediation and/or compensatory services needed. Alternative or modified scheduling may be needed to provide services, and additional staffing may be necessary.

## Conclusion

As LEAs navigate this unprecedented situation, the focus of each phase can help provide the direction needed to ensure instructional, procedural, and fiscal implications are considered. Proactive thinking and planning are key to mitigating the effects of school closures and keeping students with disabilities on the path moving forward.