



# Supplemental Fact Sheet on Addressing the Risk of COVID-19 in Preschool, Elementary, and Secondary Schools While Serving Children with Disabilities

**March 2020**

TNSTEP, Tennessee's Parent Training and Information Center, is grateful to Florida's Family Network on Disabilities (FND) for sharing these excellent infographics.

This link provides direct access to the online infographics created by Family Network on Disabilities.

<https://fndusa.org/esedownload/providing-services-children-disabilities-covid19/>

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The following graphics have been created based on the document, QUESTIONS AND ANSWERS ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING A COVID-19 OUTBREAK, released on March 13, 2020, by Secretary of Education Betsy DeVos responding to the COVID-19 OUTBREAK. (Also available in Spanish)

Please visit <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf> to download the original publication.

Tennessee families can contact TNSTEP for assistance with navigating special education services by calling 423.639.0125 or 1.800.280.7837 or emailing [gethelp@tnstep.info](mailto:gethelp@tnstep.info).

# ADDRESSING THE RISK OF COVID-19 IN PRESCHOOL, ELEMENTARY AND SECONDARY SCHOOLS WHILE SERVING CHILDREN WITH DISABILITIES

SUPPLEMENTAL FACT SHEET - MARCH 21, 2020

**MANY DISABILITY-RELATED MODIFICATIONS & SERVICES MAY BE EFFECTIVELY PROVIDED ONLINE. THESE MAY INCLUDE, FOR INSTANCE,**



**EXTENSIONS  
OF TIME FOR  
ASSIGNMENTS**



**VIDEOS WITH  
ACCURATE CAPTIONING  
OR EMBEDDED  
SIGN LANGUAGE  
INTERPRETING**



**ACCESSIBLE  
READING  
MATERIALS**



**SPEECH OR  
LANGUAGE SERVICES  
THROUGH VIDEO  
CONFERENCING**

**Where, due to the global pandemic and resulting closures of schools, there has been an inevitable delay in providing services – or even making decisions about how to provide services - IEP teams (as noted in the March 12, 2020 guidance) must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations.**



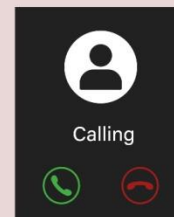
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**ALTHOUGH FEDERAL LAW REQUIRES DISTANCE INSTRUCTION TO BE ACCESSIBLE TO STUDENTS WITH DISABILITIES, IT DOES NOT MANDATE SPECIFIC METHODOLOGIES.**

**FOR EXAMPLE, IF A TEACHER WHO HAS A BLIND STUDENT IN HER CLASS IS WORKING FROM HOME AND CANNOT DISTRIBUTE A DOCUMENT ACCESSIBLE TO THAT STUDENT, SHE CAN DISTRIBUTE TO THE REST OF THE CLASS AN IN ACCESSIBLE DOCUMENT AND, IF APPROPRIATE FOR THE STUDENT:**

read the document over the phone to the blind student



provide the blind student with an audio recording of a reading of the document aloud

**Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students**

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THE DEPARTMENT ENCOURAGES PARENTS, EDUCATORS, AND ADMINISTRATORS TO **COLLABORATE CREATIVELY TO CONTINUE TO MEET THE NEEDS OF STUDENTS WITH DISABILITIES.**  
**CONSIDER PRACTICES SUCH AS:**



**DISTANCE INSTRUCTION**



**TELE THERAPY & TELE-INTERVENTION**



**MEETINGS HELD ON DIGITAL PLATFORMS**



**ONLINE OPTIONS FOR DATA TRACKING**



**DOCUMENTATION ONLINE**

**IN ADDITION, THERE ARE LOWTECH STRATEGIES THAT CAN PROVIDE FOR AN EXCHANGE OF CURRICULUM-BASED RESOURCES, INSTRUCTIONAL PACKETS, PROJECTS, AND WRITTEN ASSIGNMENTS.**

OSERS' technical assistance centers are ready to address your questions regarding the IDEA and best practices and alternate models for providing special education and related services, including through distance instruction. For questions pertaining to **Part C of IDEA**, states should contact the **Early Childhood Technical Assistance Center (ECTA)** at [ectacenter.org](http://ectacenter.org). For **Part B of IDEA**, states should contact the **National Center for Systemic Improvement (NCSI)** at [ncsi.wested.org](http://ncsi.wested.org).



# ADDRESSING THE RISK OF COVID-19 IN PRESCHOOL, ELEMENTARY AND SECONDARY SCHOOLS WHILE SERVING CHILDREN WITH DISABILITIES

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THE PROVISION OF **FAPE**, FREE APPROPRIATE PUBLIC EDUCATION, MAY INCLUDE, AS APPROPRIATE, **SPECIAL EDUCATION AND RELATED SERVICES PROVIDED THROUGH DISTANCE INSTRUCTION PROVIDED:**



School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students.



# ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING THE CORONAVIRUS DISEASE 2019 OUTBREAK

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

**IS A LOCAL EDUCATIONAL AGENCY REQUIRED TO CONTINUE TO PROVIDE A FREE APPROPRIATE PUBLIC EDUCATION (FAPE) TO STUDENTS WITH DISABILITIES DURING A SCHOOL CLOSURE CAUSED BY A COVID-19 OUTBREAK?**

**YES**

**IF IT CONTINUES TO PROVIDE EDUCATIONAL OPPORTUNITIES TO THE GENERAL STUDENT POPULATION DURING A SCHOOL CLOSURE, THE SCHOOL MUST ENSURE THAT STUDENTS WITH DISABILITIES ALSO HAVE EQUAL ACCESS TO THE SAME OPPORTUNITIES, INCLUDING THE PROVISION OF FAPE. (34 CFR §§ 104.4, 104.33 (SECTION 504) AND 28 CFR § 35.130 (TITLE II OF THE ADA)).**

**NO**

**IF IT CLOSES ITS SCHOOLS TO SLOW OR STOP THE SPREAD OF COVID-19, AND DOES NOT PROVIDE ANY EDUCATIONAL SERVICES TO THE GENERAL STUDENT POPULATION, THEN IT WOULD NOT BE REQUIRED TO PROVIDE SERVICES TO STUDENTS WITH DISABILITIES DURING THAT SAME PERIOD OF TIME.**

**MUST AN LEA PROVIDE SPECIAL EDUCATION & RELATED SERVICES TO A CHILD WITH A DISABILITY WHO IS ABSENT FOR AN EXTENDED PERIOD OF TIME BECAUSE THE CHILD IS INFECTED WITH COVID-19, WHILE THE SCHOOLS REMAIN OPEN?**

**YES**

**IF A CHILD WITH A DISABILITY IS ABSENT FOR AN EXTENDED PERIOD OF TIME BECAUSE OF A COVID-19 INFECTION AND THE SCHOOL REMAINS OPEN, THEN THE IEP TEAM MUST DETERMINE WHETHER THE CHILD IS AVAILABLE FOR INSTRUCTION AND COULD BENEFIT FROM HOMEBOUND SERVICES SUCH AS ONLINE OR VIRTUAL INSTRUCTION, INSTRUCTIONAL TELEPHONE CALLS, AND OTHER CURRICULUM-BASED INSTRUCTIONAL ACTIVITIES, TO THE EXTENT AVAILABLE.**

**THE IDEA, SECTION 504, AND TITLE II OF THE ADA DO NOT SPECIFICALLY ADDRESS A SITUATION IN WHICH ELEMENTARY AND SECONDARY SCHOOLS ARE CLOSED FOR AN EXTENDED PERIOD OF TIME (GENERALLY MORE THAN 10 CONSECUTIVE DAYS) BECAUSE OF EXCEPTIONAL CIRCUMSTANCES, SUCH AS AN OUTBREAK OF A PARTICULAR DISEASE**

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# ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING THE CORONAVIRUS DISEASE 2019 OUTBREAK

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## WHAT SERVICES MUST AN LEA PROVIDE IF A **PUBLIC SCHOOL FOR CHILDREN WITH DISABILITIES** IS SELECTIVELY CLOSED DUE TO THE POSSIBILITY OF SEVERE COMPLICATIONS FROM A COVID-19 OUTBREAK?

IF A PUBLIC SCHOOL FOR CHILDREN WITH DISABILITIES IS CLOSED SOLELY BECAUSE THE CHILDREN ARE AT HIGH RISK OF SEVERE ILLNESS AND DEATH, THE LEA MUST DETERMINE WHETHER EACH DISMISSED CHILD COULD BENEFIT FROM ONLINE OR VIRTUAL INSTRUCTION, INSTRUCTIONAL TELEPHONE CALLS, AND OTHER CURRICULUMBASED INSTRUCTIONAL ACTIVITIES, TO THE EXTENT AVAILABLE.

IF A CHILD DOES NOT RECEIVE SERVICES DURING A CLOSURE, A CHILD'S IEP TEAM (OR APPROPRIATE PERSONNEL UNDER SECTION 504) MUST MAKE AN INDIVIDUALIZED DETERMINATION WHETHER AND TO WHAT EXTENT COMPENSATORY SERVICES MAY BE NEEDED, CONSISTENT WITH APPLICABLE REQUIREMENTS, INCLUDING TO MAKE UP FOR ANY SKILLS THAT MAY HAVE BEEN LOST.

ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING A COVID-19 OUTBREAK 4 SCHOOL PERSONNEL SHOULD FOLLOW APPROPRIATE HEALTH GUIDELINES TO ASSESS AND ADDRESS THE RISK OF TRANSMISSION IN THE PROVISION OF SUCH SERVICES. THE DEPARTMENT UNDERSTANDS THERE MAY BE EXCEPTIONAL CIRCUMSTANCES THAT COULD AFFECT HOW A PARTICULAR SERVICE IS PROVIDED

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# ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING THE CORONAVIRUS DISEASE 2019 OUTBREAK

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**IF A CHILD WITH A DISABILITY AT HIGH RISK OF SEVERE MEDICAL COMPLICATIONS IS EXCLUDED FROM SCHOOL DURING AN OUTBREAK OF COVID-19 AND THE CHILD'S SCHOOL REMAINS OPEN, IS THE EXCLUSION CONSIDERED A CHANGE IN EDUCATIONAL PLACEMENT SUBJECT TO THE PROTECTIONS OF 34 CFR §§ 300.115 AND 300.116 AND 34 CFR §§ 104.35 AND 104.36?**



**IF THE EXCLUSION IS A TEMPORARY EMERGENCY MEASURE (GENERALLY 10 CONSECUTIVE SCHOOL DAYS OR LESS), THE PROVISION OF SERVICES SUCH AS ONLINE OR VIRTUAL INSTRUCTION, INSTRUCTIONAL TELEPHONE CALLS, AND OTHER CURRICULUM-BASED INSTRUCTIONAL ACTIVITIES, TO THE EXTENT AVAILABLE, IS NOT CONSIDERED A CHANGE IN PLACEMENT.**

## CONSIDERATIONS FOR A CHANGE IN PLACEMENT

**UNDER 34 CFR § 300.116, A CHANGE IN PLACEMENT DECISION MUST BE MADE BY A GROUP OF PERSONS, INCLUDING THE PARENTS AND OTHER PERSONS KNOWLEDGEABLE ABOUT THE CHILD AND THE PLACEMENT OPTIONS.**

**IF THE PLACEMENT GROUP DETERMINES THAT THE CHILD MEETS ESTABLISHED HIGH-RISK CRITERIA AND, DUE TO SAFETY & HEALTH CONCERNS, THE CHILD'S NEEDS COULD BE MET THROUGH HOMEBOUND INSTRUCTION, THEN UNDER 34 CFR §300.503(A)(1), THE PUBLIC AGENCY MUST ISSUE A PRIOR WRITTEN NOTICE PROPOSING THE CHANGE IN PLACEMENT. A PARENT WHO DISAGREES WITH THIS PRIOR WRITTEN NOTICE RETAINS ALL OF THE DUE PROCESS RIGHTS INCLUDED IN 34 CFR §§ 300.500-300.520.**

**FOR CHILDREN WITH DISABILITIES PROTECTED BY SECTION 504 WHO ARE DISMISSED FROM SCHOOL DURING AN OUTBREAK OF COVID-19 BECAUSE THEY ARE AT HIGH RISK FOR HEALTH COMPLICATIONS, COMPLIANCE WITH THE PROCEDURES DESCRIBED ABOVE AND COMPLETION OF ANY NECESSARY EVALUATIONS OF THE CHILD SATISFY THE EVALUATION, PLACEMENT AND PROCEDURAL REQUIREMENTS OF 34 CFR §§ 104.35 AND 104.36.**

**THE DECISION TO DISMISS A CHILD BASED ON HIS OR HER HIGH RISK FOR MEDICAL COMPLICATIONS MUST BE BASED ON THE INDIVIDUAL NEEDS OF THE CHILD AND NOT ON PERCEPTIONS OF THE CHILD'S NEEDS BASED MERELY ON STEREOTYPES OR GENERALIZATIONS REGARDING HIS OR HER DISABILITY.**



# ON PROVIDING SERVICES TO CHILDREN WITH DISABILITIES DURING THE CORONAVIRUS DISEASE 2019 OUTBREAK

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**MAY AN IEP TEAM CONSIDER A DISTANCE LEARNING PLAN IN A CHILD'S IEP AS A CONTINGENCY PLAN IN THE EVENT OF A COVID-19 OUTBREAK THAT REQUIRES THE SCHOOL'S CLOSURE?**

**YES. IEP TEAMS MAY, BUT ARE NOT REQUIRED TO, INCLUDE DISTANCE LEARNING PLANS IN A CHILD'S IEP THAT COULD BE TRIGGERED AND IMPLEMENTED DURING A SELECTIVE CLOSURE DUE TO A COVID-19 OUTBREAK.**

**SUCH CONTINGENT PROVISIONS MAY INCLUDE THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES AT AN ALTERNATE LOCATION OR THE PROVISION OF ONLINE OR VIRTUAL INSTRUCTION, INSTRUCTIONAL TELEPHONE CALLS, AND OTHER CURRICULUM-BASED INSTRUCTIONAL ACTIVITIES, AND MAY IDENTIFY WHICH SPECIAL EDUCATION AND RELATED SERVICES, IF ANY, COULD BE PROVIDED AT THE CHILD'S HOME.**

**CREATING A CONTINGENCY PLAN BEFORE A COVID-19 OUTBREAK OCCURS GIVES THE CHILD'S SERVICE PROVIDERS AND THE CHILD'S PARENTS AN OPPORTUNITY TO REACH AGREEMENT AS TO WHAT CIRCUMSTANCES WOULD TRIGGER THE USE OF THE CHILD'S DISTANCE LEARNING PLAN AND THE SERVICES THAT WOULD BE PROVIDED DURING THE DISMISSAL.**

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## WHAT ACTIVITIES OTHER THAN SPECIAL EDUCATION AND RELATED SERVICES MAY AND MAY NOT BE PROVIDED WITH IDEA PART B FUNDS BOTH PRIOR TO AND DURING A COVID-19 OUTBREAK?

**IDEA PART B FUNDS MAY BE USED FOR ACTIVITIES THAT DIRECTLY RELATE TO PROVIDING, AND ENSURING THE CONTINUITY OF, SPECIAL EDUCATION AND RELATED SERVICES TO CHILDREN WITH DISABILITIES.**

**For example, an LEA may use IDEA Part B funds to disseminate health and COVID-19 information that is specifically related to children with disabilities:**

- to develop emergency plans for children with disabilities, or
- to provide other information (e.g., guidance on coordination of the provision of services in alternate locations or parties who may need such information, including:
  - school staff responsible for implementing IEPs,
  - parents of eligible children, and
  - staff in alternate locations where special education and related services may be provided.

**LEAS, HOWEVER, MAY NOT USE IDEA PART B FUNDS TO DEVELOP OR DISTRIBUTE GENERAL COVID-19 GUIDANCE OR TO CARRY OUT ACTIVITIES THAT ARE NOT SPECIFIC TO CHILDREN WITH DISABILITIES (E.G., GENERAL COVID-19 ACTIVITIES FOR ALL CHILDREN AND STAFF).**

**ADDITIONALLY, LEAS MAY NOT USE IDEA PART B FUNDS TO ADMINISTER FUTURE COVID-19 VACCINATIONS TO ANY CHILDREN, INCLUDING CHILDREN WITH DISABILITIES.**

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