



Special Education Information Document Due to the COVID 19 Pandemic and School Closure with FAQ's
April 14, 2020

The information below is from a combination of notes from meetings with the MDE Office of Special Education (OSE) and MDE Guidance. Specific MDE language from Memo's and guidance docs are in italics for each area below in this document that apply.

Continuity of Learning Plans

1. Continuity of Learning Plan: School districts are creating their Continuity of Learning Plans required by each district for servicing students for the remainder of the 19-20 school year now that schools have been closed. These plans will include alternative modes of instruction other than face-to-face instruction including as defined in the Executive Order 2025 - 35 X, issued on 4/2/20:

Modes of pupil instruction, other than in-person instruction, that may include, without limitation, partnerships with other districts or intermediate districts or community colleges or institutions of higher education, use of vendors, use of online learning, telephone communications, email, virtual instruction, videos, slideshows, project-based learning, use of instructional packets, or a hybrid of multiple modes of learning that still promote recommended practices for social distancing to mitigate the spread of COVID-19.

Contingency Plans

2. Is a Contingency Learning Plan the same thing as the districts Continuity of Learning Plan?

No, the Contingency Learning Plan is an individualized plan for students with disabilities and outlines the district's good faith effort in providing a Free and Appropriate Public Education (FAPE) during the school closure. It provides the accommodations and modifications needed to access the general education curriculum (when applicable), any consultative support needed for parents/guardians and/or students, and outlines how Specially Designed Instruction will be delivered through the rest of the 2019-2020 school year. The Continuity Learning Plans outlines what the district is providing for ALL students.

- There will need to be a Contingency Plan for each student whose IEP cannot be fully implemented during the closure. This is for ancillary services as well. Staff should develop this based on the student IEP then work with administration and with the parent so they understand what will be provided.

- There should only be one Contingency Plan per student- RSS should collaborate and coordinate to complete together for each student depending on their IEP programs and services

*MDE Guidance: *For each student with an IEP, the current or most recent IEP is the offer of free appropriate public education (FAPE). The district is encouraged to determine the programs and/or services that it is able to provide given Governor Whitmer's Executive Order 2020-35, through the contingency learning plan. The contingency learning plan will be in effect for the remainder of the 2019-2020 school year.*

- *Staff should consider accessibility, including accommodations and modifications*
- *To the greatest extent possible, keep equity at the center of the work to develop the individual contingency learning plans*
- *Document effort: Focused; Consistent; Detailed; and Demonstrates good faith effort to provide programs and/or services to students with an IEP*

When a district creates a continuity of learning plan, the district is then encouraged to create a contingency learning plan for each student with an IEP, in order to meet the requirements of IDEA and MARSE.

3. Is parental consent needed to develop and implement the Contingency Learning Plan?

No, consent is not needed for the implementation of the plan and distance learning. However, parent input is needed (when possible) and should be identified and utilized for the development of the plan. If you cannot connect with the parent for this purpose, document repeated attempts in Service Capture.

4. Does the Contingency Learning Plan need to mirror the contents of the IEP?

No, the Contingency Learning Plan documents the activities needed to support the student during the school closure and in light of the circumstances. The activities demonstrate the districts good faith effort in trying various things to support the individualized needs of the students. The activities should work towards maintenance of IEP goals and objectives prior to the school closure and moving forward where possible. The Contingency Learning Plan will document the collaboration with the parent to determine the frequency and duration of services needed and in light of the current circumstance. If a student is in a local, regional or center program and the IEP does not have specific academic goals, the caseload provider might work with a general education teacher and/or gather resources to expand learning opportunities beyond the IEP goals and objectives and to keep the student engaged in core curriculum as an activity.

5. Is there a deadline for the Contingency Learning Plan?

The MDE OSE has recommended that Contingency Learning Plans be completed by the same date as the Continuity Learning Plans which is April 28th- however follow LEA guidance as some districts are completing their Continuity Plans sooner.

IEP'S

6. IEP's During the Closure: Districts can hold initial and review IEP meetings ensuring that All IEP team members are present in some way (virtual, phone) during the IEP

- MDE has requested timeline forgiveness during the closure for IEP's - no response yet.
- Right now the guidance from MDE is to do the IEP's whenever possible based off local district decision
- Follow LEA guidance on this as well as platforms being used for consistency including invites, paperwork process, and holding the meeting.
- If parents cannot receive the procedural safeguards, ask the parents if they would like a general overview of them, and then mail them a copy.

7. How do we handle upcoming IEPs with the Contingency Learning Plans?

Hold the annual IEP as if you were in school and then note the school closure and Contingency Learning Plan to be implemented during the school closure on the Notice Page. *Please note that you should only reference the Contingency Learning Plan on the Notice page. Example language could look like the following:

- *Options Considered:* "Full Implementation of IEP during school closure due to Executive Order
- *Reason Not Selected:* "This IEP is written as if an executive order closing all schools
- was not in place. _____ School is committed to offering special education services comparable to services offered to students in general education programs during the time of school closure. At such time that students are allowed to resume regular school hours and activities, this plan will be fully implemented."

8. Should the initial or annual IEP be based on the options available through the continuity of learning plan, or based on what the district would have offered as FAPE if districts were in operation as normal?

According to MDE guidance: *An IEP is an entitlement under IDEA, and therefore must be written to reflect the services, modifications, supports, and placement that support a student's unique education and behavior-related needs and are reasonably calculated to provide a FAPE to the individual student. An IEP must not be written to accommodate a temporary situation, administrative convenience, or lack of time and resources. An IEP team may, but is not required to, create a contingency learning plan for a child with an IEP as a best practice, which will be implemented during school building closures due to COVID-19 pandemic. (OSERS Q&A March 2020) The IEP team would need to complete the initial and/or annual review IEP as the full offer of a FAPE for the ensuing annual timeframe, as if districts were in operation as normal. Districts*

are encouraged to develop a contingency learning plan to detail those programs and/or services the district is able to provide during the school building closure due to COVID-19 pandemic..

9. If an IEP is held during the closure: Ensure to hold the IEPs at this time providing that the full offer of FAPE is provided. Then follow up the IEP by completing the student's Contingency Plan (what you're able to do to complete the 19/20 school year).

10. As IEP teams are meeting during COVID-19 pandemic closures and restrictions, what should the IEP include for the dates of services?

MDE OSE recommends districts use an implementation date which reflects the IEP team meeting date. Subsequently, upon completion of the annual IEP, the district is encouraged to develop a contingency learning plan that will reflect an appropriate FAPE in light of the circumstances of the COVID-19 pandemic.

Student Evaluations

11. How do we complete initial evaluations during the COVID-19 school closure?

If a face to face observation and/or evaluation is required, then delay and prioritize the evaluation upon return to school in the 2020/2021 school year. In this case, the student is considered "not yet eligible" and would need a Contingency Learning Plan as a result. If face to face observation/evaluation is not needed, evaluations can continue with parent consent. If you have a signed REED and cannot get parental consent, document the repeated attempts to gain consent and contact the family again upon return to school to complete the evaluation and eligibility process.

12. Can we complete re-evaluations?

If you can complete the evaluation with the information collected prior to the school closure and/or if additional data is not needed in completing the REED, then the evaluation can be completed during the school closure.

If there is a change of eligibility or if the evaluation requires face to face observations and evaluations then the evaluation will need to be delayed and prioritized for the return to school in the 2020-2021 school year.

13. What do we do if the parent consents to REED for evaluation purposes but we can't get their signature?

Document parent consent via email if possible, otherwise the date that is is verbally provided. Additionally, on the Notice document the following:

Options Considered: “Parent Signature on REED and/or IEP”

Reason Not Selected: “Obtaining a parent signature was not possible due to the Executive Order for school closure due to COVID-19”

Related Services

14. How do we provide related service provision determined in the IEP?

It is recommended that related service providers work with the caseload provider to determine how to best move forward with the related service provision. We do not want to overwhelm families and students with all providers trying to reach out and schedule something- please work with your local district administration on this process.

15. For “hands-on” therapies such as OT or PT, may those services be delivered remotely through online platforms and will that time count toward implementation of the services defined in the IEP?

According to MDE OSE, this will be determined by the Contingency Plan for each student based on what you can do with parent input. Teams need to decide what is the purpose of the therapy and can it be provided in an alternate method- this may require some consultation with parents prior to or virtually to implement if possible.

*The way that the teletherapy would then be provided would need to be documented as an activity in the Contingency Learning Plan. If we cannot provide opportunities in teaching and consultation with parents (document), then we might need to consider compensatory education upon return to school if the student has regressed and cannot recoup the skills in an identified amount of time.

16. Does a district or service provider need to seek or obtain parental consent to use online learning or therapy with a student?

No, the Contingency Learning Plan will provide the activities that will be provided during the school closure and does not require a parent signature or consent for service.

17. Compensatory Education: For the purpose of completing the 19-20 school year, don't worry about comp ed right now. Districts should talk about this when kids return in the fall. Comp ed is usually provided due to negligence or error. This is no one's fault so we need to have that discussion later when we have more data. All questions on compensatory education should be directed to the local district special education directors.

Progress Reports

18. How should a district handle the provision of IEP annual goal progress reports to parents during a school closure due to COVID-19 pandemic?

According to the OSE, Progress reports for students with IEPs must be provided at the same frequency as general education students receive report cards, unless otherwise stated in the IEP.

The regulations implementing the IDEA require each IEP include a description of when progress reports for annual IEP goals will be provided to the parents (34 CFR § 300.320(a)(3)(ii)). When a child's IEP indicates the progress report will be provided concurrently with the issuance of report cards or in the same manner and frequency as general education, the IEP progress report would only need to be issued when general education report cards are also issued. When the IEP indicates the progress report will be provided in a different manner and frequency than general education report cards, districts should make every effort to issue the IEP progress report in the manner required by the IEP.

Information for this document comes from MDE Office of Special Education meetings, MDE Guidance Documents and Memo's, and Kent ISD's Provision of Special Education and FAPE During COVID-19 Closure document.