



Services During Shutdown; Addressing Student Needs During the Coronavirus Outbreak

MARCH OF 2020

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Governor's Order

- All Public and Private Schools to suspend “normal, in-school instruction” until May 4, 2020 (extended on March 25th).
- “All public and private elementary and secondary schools in the Commonwealth, excluding residential schools for special needs students, shall not reopen for normal operations before Monday, May 4, 2020.”
- “As provided in the March 23 Order....public schools are directed to continue collaborative efforts to provide student access to alternative learning opportunities.”
- Directed the Commissioner of DESE to issue guidance to implement the terms of the Order, available at: <http://www.doe.mass.edu/sfs/emergencyplan/covid19.html>

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DESE March 13, 2020 Guidance

- “All days lost to health, weather, or safety emergencies between **March 16 and June 1** must be made up to ensure a 180-day school year or until the district has reached **its previously-scheduled 185th day**, whichever comes first. If all five snow days have been used prior to this point, the district is not required to schedule additional school days.”
- DESE also provided a link for Educational Resources for Students and Families: <http://www.doe.mass.edu/covid19/ed-resources.html>



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Scenario 1: School is Closed and District does **NOT** Provide **any** Educational Services to the General Student Population



- “LEA would not be required to provide services to students with disabilities during that same time period.” *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 12, 2020), A-1.*
- “If a school district closes its schools and does not provide any educational services to the general student population, then a school would not be required to provide services to students with disabilities during that same period of time.” *Fact Sheet, U.S. Dept. of Ed, Office for Civil Rights, March 16, 2020.*
- “When a school district is closed during the ongoing public health emergency and does not provide any educational services to the general student population during the period of closure, the school district is not required to provide services to students with disabilities during that time.” *Massachusetts DESE, March 17, 2020 (n.b., this language was removed on March 26, 2020).*

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Scenario 1: No Gen Ed Services What about the March 21st US DOE Guidance?

- “School district 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.”

“We remind schools that they should not opt to close or decline to provide distance instruction, at the expense of students, to address matters pertaining to services for students with disabilities.... To be clear, ensuring compliance with the [IDEA, Section 504 and the ADA] should not prevent any school from offering educational programs through distance learning.” *Supplemental Fact Sheet, U.S. Dept. of Education, Office for Civil Rights and OSERS, March 21, 2020.*

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Scenario 2: District Provides General Education



- “If an LEA 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.”
- “SEA’s, LEA’s and schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student’s IEP developed under the IDEA, or a plan developed under Section 504.”
- *Questions and Answers of Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 2020), A-1.*

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What is FAPE?

March 21st US DOE Guidance



- ❑ “OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer **flexibility** where possible. However, school districts must remember that the provision of FAPE may include, as appropriate, special education and related services provided through distance learning.” *Id.*
- ❑ Acknowledges that schools “may not” be able to provide all services in the same manner that they are typically provided.
- ❑ Many disability-related modifications and services may be effectively provided online.
- ❑ Schools will be required to convene teams, once school resumes, to determine “whether and to what extent” compensatory services are needed.

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What is FAPE?

Massachusetts DESE Frequently Asked Questions (FAQ)



- ❑ Mirrors US DOE March 21st Guidance.
- ❑ Districts “must” provide FAPE during this national emergency.
- ❑ “Schools may not be able to provide all services in the manner they are typically provided pursuant to students’ IEP. The provision of FAPE may include, as appropriate, special education and related services provided remotely through resources and supports, such as
 - ❑ (Strategies, projects and packets provided to students matched with regular and ongoing communication from special education team members) and
 - ❑ Services and instruction, such as
 - ❑ (Virtual, online, or telephonic instruction)”
 - ❑ “Every effort to use creative strategies”... to provide special education and services “to the extent feasible.”

DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.

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So what is FAPE?



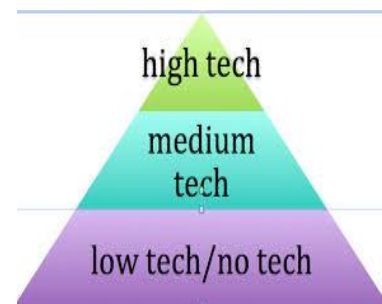
- ❑ Federal law “does not mandate specific methodologies.”
- ❑ “Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible form, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students. For example, if a teacher who has a blind student...” *DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.*
- ❑ I thought I had read that somewhere before.....?
- ❑ “Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible form, 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. For example, if a teacher who has a blind student...” *Supplemental Fact Sheet, U.S. Dept. of Education, Office for Civil Rights and OSERS, March 21, 2020.*

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Distance Learning March 21st US DOE Guidance

- Examples of alternative learning:
 - Distance learning
 - Teletherapy
 - Tele-intervention
 - Meetings on digital platforms
 - Online options for data tracking and documentation
 - Low-tech options:
 - Curriculum-based resources
 - Instructional packets
 - Projects
 - Written assignments



Supplemental Fact Sheet, U.S. Dept. of Education, Office for Civil Rights and OSERS, March 21, 2020.

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Do **NOT** Need to Convene the Team to Provide Distance Learning

- “Do I need to make changes to the student’s IEP to provide these services?”

It is not necessary for a district to convene an IEP Team to provide learning opportunities and services to students with disabilities during this period of extended school closures because of the COVID-19 pandemic.”

DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.

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Distance Learning Opportunities

“Teams may, but are not required to, include a distance learning plan in a child’s IEP that could be triggered and implemented during a selective closure due to a COVID-19 outbreak. Such contingency 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 within the child’s home.” *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 12, 2020), A-5.*



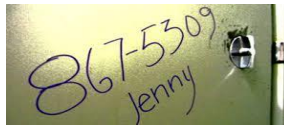
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Communication with Parents and Guardians

- ❑ “How often should districts communicate with parents and guardians during this period of closure?”
- ❑ “School districts should ensure that an IEP Team member (e.g., classroom teacher, special ed teacher or other service provider) communicates regularly with parents and guardians during the period of closure.”
- ❑ “The frequency and type of communication will vary depending on the child’s individual needs, the availability of the team member, and the mode of communication utilized.”

DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.



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Responsibility for Compensatory Services

- Once school resumes, the school district “would be required to make an individualized determination as to whether compensatory services are needed under applicable standards and requirements.” *U.S. DOE, Question and Answers, March 12, 2020.*
- “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.” *U.S. DOE, Supplemental Fact Sheet, March 21, 2020.*



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Will all Students be Eligible for Compensatory Services?

- [I]ndividualized determination made by the IEP Team”
- “Doing everything possible *now* to provide special education and related services will be the most effective way for school districts to mitigate the need to provide compensatory services in the future.”
- “DESE anticipates further guidance” from US DOE “before schools re-open.”

DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.



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Timelines

DESE Guidance: “The Department recognizes that school closures may impact the ability of school districts to meet the 30-day timeline for conduct [of] evaluations in addition to the 45 school working day timeline to develop an IEP after receipt of a parent’s written consent to evaluation or reevaluation. We encourage school teams and parents to work collaboratively and creatively to meet IEP timeline requirements.” *DESE Frequently Asked Questions, March 17, 2020 as updated on March 26, 2020.*

- *Notably the March 26, 2020 update removed the language:* “More specific information will be forthcoming.”

Federal Guidance (under Section 504): “Additionally, IEP Teams are not required to meet in person while schools are closed. If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools 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.” *March 16, 2020 Fact Sheet, US DOE, Office for Civil Rights.*

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Timelines

U.S. Dep't. of Education: Supplemental Fact Sheet, March 21, 2020

Did not waive any timelines.

- Repeatedly encourages districts to “work with parents to reach mutually agreeable timelines.”
- State Complaints (e.g., PRS) – state may be able to extend timelines (60 day) by agreement of the parties.
- Due Process Complaints (e.g., BSEA) – no waiver of timelines. Nothing “prevents parties from mutually agreeing to extend the timeline” because of the COVID-19 pandemic.
 - N.B., “Please note effective March 15, 2020, the [BSEA] will not hold any proceedings in person until further notice. The BSEA will provide opportunities for remote participation, as feasible.”



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Timelines

U.S. Dep't. of Education: Supplemental Fact Sheet, March 21, 2020



- IEPs
 - Annual reviews- “parents and an IEP Team may agree to conduct IEP meetings through alternate means, including videoconferencing or conference telephone calls.”
 - [T]he parent of a child with a disability and the public agency may agree to not convene an IEP Team meeting for the purposes of making those changes, and instead develop a written document to amend or modify the child’s current IEP.”
- Initial Eligibility
 - “[M]ust be conducted within 60 days of receiving parental consent under the IDEA or within the state-established timeline within which the evaluation must be conducted.”
 - Massachusetts regulations require districts to convene the Team to develop IEP within 45 school working days from date of initial consent.
 - IDEA regulations require the IEP to be must be developed within 30 days of determining eligibility..

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Timelines

U.S. Dep't of Education: Supplemental Fact Sheet, March 21, 2020

- **Reevaluation**
 - Must be conducted at least every 3 years, unless the parents and the district agree that it is unnecessary.
 - “When appropriate, any reevaluation may be conducted through a review of existing evaluation data, and this review may occur without a meeting and without obtaining parental consent, unless it is determined that additional assessments are needed.”
- **Current State Law:**
 - “(3) **Annual reviews and three-year reevaluations.** The school district shall review the IEPs and the progress of each eligible student at least annually. Additionally, every three years, or sooner if necessary, the school district shall, with parental consent, conduct a full three-year reevaluation consistent with the requirements of federal law.” 603 CMR 28.04(3)

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Timelines

Letter to Geary and DeLorenzo (OSERS)

November 20, 2012



- DESE Massachusetts, on the state special education website, posted a letter from OSERS, *Letter to Geary, November 20, 2012.*
- Interestingly, *Letter to Geary*, written in response to the New York State Department of Education’s request to waive timelines in the wake of Hurricane Sandy, provided as follows:
- Because the special education timeframes are mandated by IDEA, “the [US DOE] does not have the authority to waive” or “extend timelines for the IDEA.”
- Evaluations – “[T]he IDEA permits States to establish their own timeframes for completion of evaluations.... Therefore, New York may address this issue by a State-established timeframe that would be the same throughout the State.”
- IEPs – after development of an IEP, services must be implemented “as soon as possible.”
 - “This language provides some flexibility to LEA’s that were affected by Hurricane Sandy – “as soon as possible” recognizes that... an LEA may need to delay the start of special education and related services to a particular child.

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Out-of-District Schools

“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 curriculum-based instructional activities, to the extent available. In so doing, school personnel should follow appropriate health guidelines to assess and address the risk of transmission in the provision of such services. The Department understands that there may be exceptional circumstances that could affect how a particular service is provided.”

“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.”

- *Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 2020), A-3.*

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Circuit Breaker/Vendor Contracts



- Letter from the Commissioner, Jeffrey C. Riley, March 27, 2020
- Expectation is that the District continue to pay day and residential education programs...
 - “The tuition payments will be eligible for reimbursement under the circuit breaker program if they exceed the statutory threshold and are otherwise eligible.”
- Vendors that provide special education and related services:
 - “Given the need to continue to provide some services, I recommend that districts work with providers to review and potentially amend the providers’ scopes of service to ensure vendor contracts reflect the necessary requirements to get these services up and running. For instance, districts could incorporate distance learning services as well as professional learning to prepare contract staff for distance learning or other available means of providing services. The need for this ongoing work to serve students (and to prepare contracted staff to do so effectively) should enable providers to continue to bill districts for services rendered.

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Online Learning and Confidentiality **CONFIDENTIAL**

“Under FERPA, the determination of who can observe a virtual classroom, similar to an in-person classroom, is a local school decision as teachers generally do not disclose personally identifiable information from a student’s education record during classroom instruction.”
FERPA and Virtual Learning Related Resources, US DOE, Student Privacy and Policy Office, March 2020.

The guidance specifically references its own reasoning in *Letter to Mamas (December 8, 2003)*, which, in the context of an in-person classroom observation by a parents’ expert, determined:

“...FERPA does not specifically prohibit a parent or professional working with the parent from observing the parent’s child in the classroom. This is because FERPA would generally prohibit a teacher from disclosing information from a child’s education records to other students in the classroom, as well as prohibit a teacher from disclosing information from a child’s education records to the parents of another child who might be observing in the classroom.”

“Further, FERPA does not protect the confidentiality of information in general; rather FERPA applies to the disclosure of tangible records and of information derived from tangible records.”

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Online Learning and Confidentiality

Generally, videos and photos of student are not educational records, unless they are:

- (1) directly related to a student; and
- (2) maintained by an educational agency or institution or by a party acting for the agency or institution. *20 U.S.C. 1232g(a)(4)(A); 34 CFR § 99.3.*



FERPA

**Family Educational Rights and
Privacy Act**

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Online Learning and Confidentiality “Directly Related to the Student”



- A video or photo is directly related to the student when the photo or video contains a depiction of an activity:
 - that resulted in an educational agency or institution’s use of the photo or video for disciplinary action (or other official purposes) involving a student (or, if disciplinary action is pending or has not yet been taken, that would reasonably result in use of the photo or video for disciplinary action involving a student);
 - that shows a student in violation of local, state, or federal law;
 - that shows a student getting injured, attacked, victimized, ill, or having a health emergency;
- The person or entity taking the photo or video intends to make a specific student the focus of the photo or video (e.g., ID photos, or a recording of a student presentation); or
- The audio or visual content of the photo or video otherwise contains personally identifiable information contained in a student’s education record. *US DOE, FAQs on Photos and Videos under FERPA.*

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Online Learning and Confidentiality “Directly Related to the Student”

“A photo or video should not be considered directly related to a student in the absence of these factors [see previous slide]

- and if the student’s image is incidental or captured only as part of the background, or
- if a student is shown participating in school activities that are open to the public and without a specific focus on any individual.”



US DOE, FAQs on Photos and Videos under FERPA

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Online Learning and Confidentiality “Maintained by an Educational Agency...”

- To be considered an education record under FERPA (and thus subject to confidentiality), an educational agency or institution, or a party acting for the agency or institution, also must maintain the record.
- If online classes are not being recorded, the District is not maintaining it, and it is not subject to confidentiality requirements of FERPA.
- Even if the classroom were being recorded, a student’s participation in class would likely not be considered “directly related to” the student. His or her incidental participation in class would not cause the video to become a student record.
- See Owasso v. Falvo, 534 U.S. 426 (2002).



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Homework, Written Classwork, Classroom Tests or Quizzes are **NOT** Part of the Student Record

The Massachusetts Supreme Judicial Court, determined that the definition of “student record” and “temporary record” did not include (and therefore were not subject to confidentiality requirements):

- homework,
- written classwork,
- classroom tests, or
- quizzes.



“We do not believe that the department intended to interfere with the normal process of returning corrected and graded work to students or to cripple that process with burdensome paperwork requirements. If the department wishes to protect these items, it may of course do so by appropriate regulation, but the regulations in their current version show no such intent on the part of the department.” Commonwealth v. Buccella, 439 Mass 473, 482-483 (2001).

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FERPA – Health or Safety Emergency

- Generally, medical records, including immunization and other health records, are considered “educational records.”
- FERPA prohibits school district from disclosing personally identifiable information (PII) from student’s educational records, without prior written consent from the parent or eligible student (in Massachusetts that means a 9th grader or student who has turned 14).
- There is a “health or safety emergency” exception to the consent rule, which allows school to disclose certain information without prior written consent “when the public health agency’s knowledge of the information is necessary to protect the health or safety of students or other individuals.” 20 U.S.C. § 1232g(b)(1)I).
- This does not provide a “blanket” exception; rather, it is on a case-by-case basis.
- Typically, only allows for disclosure based on a specific, articulable, significant threat to a student and/or others.
- School must record the articulable and significant threat in the educational record.

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FERPA – Health or Safety Emergency



- Does not allow for release without consent to just anyone/entity. Would allow for release, depending on the circumstances, to law enforcement officials, public health officials, trained medical personnel, etc.
 - Does not allow for release of PII to the media or to the general public.
 - If the school believes that the virus poses a serious health risk to the safety of an individual student, then the school can release that information to the public health department under this exception.
 - If the school decides to share the information regarding an infected or potentially infected student with other parents or the community, it would have to do that in a way that the individual student is not personally identifiable.
- ***Districts should refrain from identifying specific students by name. It should be enough to disclose there is a student at a particular school and/or grade level, without disclosing the student’s PII.

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FERPA – Health or Safety Emergency

- In cases other than the health or safety emergency exception, the U.S. DOE is recommending that if the public health department is seeking general information regarding student absences/health, then the school should get consent from the parent and/or eligible student prior to releasing that information.
- For more information, please see *FERPA and Coronavirus Disease 2019 (COVID-19), Frequently Asked Questions, Student Privacy Policy Office, March 2020*, available at: https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronavirus%20Frequently%20Asked%20Questions.pdf



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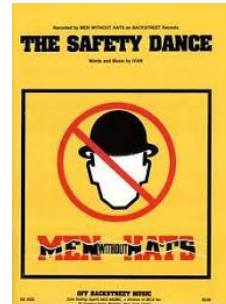
Tips for the Times

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Tip 1: Prioritize Health and Safety

- ❑ Health and safety of staff and students remains the number 1 priority during this crisis.
- ❑ While we are obligated to provide FAPE, that obligation can only be delivered “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.” *Supplemental Fact Sheet, U.S. Dept. of Education, Office for Civil Rights and OSERS, March 21, 2020.*
- ❑ Do **not** take any steps that would compromise necessary steps to protect the safety of children or our staff.



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Tip 2: Assess Your Needs



- ❑ Start sooner rather than later.
 - ❑ The more we provide now, the more we can impact the child's effective progress during the closure.
 - ❑ This will also lessen the need for compensatory services following the closure.
 - ❑ The more meetings we are able to conduct now, the more we can address students' needs with accurate data and reduce our backlog when school resumes.
- ❑ Conduct community/employee surveys to assess materials and technology available in homes.
- ❑ Either seek to provide resources to fill those technology gaps (e.g., laptops, devices, Wi-Fi “puck”, Hotspot); or
 - ❑ Consider Low Tech Options to provide services and to replace technology gaps (e.g., packets, phone calls, teleconference).

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Tip 3 : Preparation Checklist

- ✓ Ensure all students (including English Language Learners and students with disabilities) will have equal access to the learning and required materials, including technology.
- ✓ Ensure the online materials can effectively support different learning styles.
 - ✓ Good faith efforts should be made to implement the IEP/504 accommodations.
 - ✓ If that is not possible, then we should consider supplemental services (group chats, teleconferences, etc.) to mitigate any losses due to inability to deliver the accommodations in this context.
- ✓ Provide training to staff, students, parents and guardians on the available technology and provide resources to troubleshoot.
- ✓ Ensure the systems are secure (to the degree possible).



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Tip 4: Pace/Scaffold Your Rollout of Online Services

- ❑ Roll out the alternative services in stages.
- ❑ This will allow you to methodically increase the capacity of staff, students and parents/guardians.
- ❑ Consider starting with no-tech options (sending home printed assignment) or low-tech options (telephone).
- ❑ Consider instructional videos and audio-files (pre-recorded) and/or the idea of a “flipped classroom” model.
- ❑ Consolidate resources – E.g., work to create one 4th grade lesson district-wide per subject (rather than every school/teacher creating their own).
- ❑ Focus on transparency and communication throughout this process.



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Tip 5: Hold Virtual Team Meetings

- ❑ The sooner, the better. Reduce backlog; increase transparency; and continue communication with students and parents.
- ❑ Make sure criteria for prioritizing meetings is non-discriminatory (e.g., alphabetical, or by level, high school and middle school).
- ❑ Plan for translation, as needed.
- ❑ Consider having parents sign off that they are agreeing to participate in the “virtual” meeting and that they agree that all documents will be sent electronically.
- ❑ Review confidentiality and privacy concerns before selecting the platform for the meetings.
- ❑ Consider teleconferences over video conferencing to ensure privacy and protect from surreptitious recording.



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Tip 5: Hold Virtual Team Meetings

- ❑ Plan for the distribution of all required paperwork after the meeting (meeting notes, attendance, etc.)
- ❑ Use the Notice of Proposed School District Action (N1) to document the circumstances of the meeting and to note that some of the proposed services will not be implemented until schools open.
- ❑ Consider capacity for student to participate in online learning and note the Team’s consideration in the N1.
- ❑ Meetings to discuss compensatory services or “additional services” that may be needed as a result of the shut-down should not occur until after schools are back in session.



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Tip 6: Collaboration and Cooperation

- ❑ Work with parents/guardians to extend timelines for meetings/deadlines when appropriate.
- ❑ The BSEA will likely be very forgiving in circumstances in which we have a documented agreement (email should suffice) with the parent/legal guardian to delay meetings/evaluations.
- ❑ Work with other districts to share teaching tools/resources, particularly in serving small group classes with comparable profiles.
- ❑ Make sure all agreements are memorialized in writing and become part of the students record.



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Tip 7: Confidentiality



- ❑ Utilize disclaimers:
 - ❑ E.g., “In participating/allowing my child to participate in the school district’s online/remote learning activities, I understand and agree that my child’s image and voice will be transmitted over the internet, into the homes of other students and staff, and that the school district, while taking measures to ensure secure transmission, cannot guarantee or warrant complete confidentiality of my/my child’s voice or image while participating in online learning.”
- ❑ See Sample FERPA Consent Form on page 9 of the *FERPA and Coronavirus Disease 2019, Frequently Asked Questions, March 2020*
- ❑ Available at:
 - https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronavirus%20Frequently%20Asked%20Questions_0.pdf

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Tip 7: Confidentiality



- ❑ Establish rules that prevent recording:
 - ❑ E.g., “We (parent and student) also understand and agree that recording and/or dissemination of a child’s or staff member’s voice and/or image is a serious school rule violation that may subject my child to loss of online privileges and/or other student disciplinary action, as appropriate. In the case of unauthorized recording of another student or staff member’s voice without consent, we, as parent and student, also understand that such recording and/or dissemination of such unauthorized audio recording, could result in a report to law enforcement and the potential issuance of criminal charges. *See M.G.L.c. 272, § 99.* We, the parent and student agree, that by participating in these online activities, we or an individual present in my household will not, without express written authorization from school personnel, audio/video record or transmit other student or staff voices, images, or work product.”
- ❑ Exceptions should be made if there is a documented disability-based need for the student to record the video/audio consistent with the needs identified in the student’s IEP/504 plan.

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Tip 8: IEP Meeting Considerations When School Resumes

- ❑ Once school resumes, we are required to consider “whether and to what extent” compensatory services may be needed. We will be awaiting more guidance from state and federal agencies, however, here is what such considerations may look like:
 - ❑ How long was the school closed?
 - ❑ What instruction, including specially designed instruction and/or related services, was provided via an alternative method during the closure?
 - ❑ What other services/accommodations did we provide to offset any loss of service to the student during this period of time?
 - ❑ Were the alternative methods, in light of the student’s IEP goals/benchmarks, as beneficial to the student as the methods normally used to serve the student?
 - ❑ Was the student engaged and able to access the instruction?



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Tip 8: IEP Meeting Considerations When School Resumes

- ❑ Is there clear documentation of the amount of instruction and services the student was provided during the closure (dates, time, duration)? If so, what percentage of the student's IEP services, did the student receive?
- ❑ Any evidence of regression or loss of skills?
- ❑ Ultimately, in light of the answers to the above questions and the student's unique circumstances, does the student need any additional services to compensate him or her relative to delivery of special education services during the period of school closure?
- ❑ If so, what amount of services are owed and how will they be delivered?
- ❑ Document these determinations in the meeting notes and N1.



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Tip 9: Document! Document! Document!



- ❑ Create one system (e.g., google form, excel document) for documenting all communication with parents and students.
- ❑ Create one system for documentation of all service delivery (date, time, duration, goal/benchmarks worked on).
- ❑ Create a point person for consolidating this information for each student.
- ❑ Email is your friend. Use it to document consent, extension of timelines and other communications. Blind copy yourself on each correspondence and save to an individual student folder.
- ❑ Remember: If a communication, service or agreement is not documented, then we will not be able to prove that it happened.
- ❑ Make sure there is a system in place for these documents to become part of the official student record.

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Resources

- ❑ [Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak](#), U.S. Department of Education (March 12, 2020).
- ❑ [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#), U.S. Department of Education, Office for Civil Rights and Office of Special Education and Rehabilitative Services (March 21, 2020).
- ❑ [Coronavirus/COVID-19 Frequently Asked Questions for Schools and Districts Regarding Special Education \(Revised March 26, 2020 based on United States Department of Education Supplemental Fact Sheet Released March 21, 2020\)](#), Massachusetts Department of Elementary and Secondary Education (March 26, 2020).
- ❑ [FERPA & Coronavirus Disease 2019 \(COVID-19\) Frequently Asked Questions](#), U.S. Department of Education, Student Privacy and Policy Office (March 2020)
- ❑ [FERPA and Virtual Learning Related Resources](#), U.S. Department of Education, Student Privacy and Policy Office (March 2020).
- ❑ [Remote Learning Recommendations During COVID-19 School Closures](#), Massachusetts Department of Elementary and Secondary Education (March 26, 2020).
- ❑ U.S. Department of Education and Other Federal Guidance: <https://www.ed.gov/coronavirus>

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Questions?

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Final Thoughts

- Stay safe.
- Stay home.
- Stay healthy.



- Let us know if there is anything we can do to help.
- Wishing safety and health to you and yours,
 - Tom, Matt, Michael, Leigh, Kelsey, Craig and Carolyn.

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