

SCHOOL YEAR 2021-2022

Revised July 8, 2021

FREQUENTLY ASKED QUESTIONS FOR SCHOOLS AND DISTRICTS REGARDING SPECIAL EDUCATION

The Department of Elementary and Secondary Education (hereafter “Department”) is providing this Frequently Asked Questions document (FAQ) to address new questions regarding the provision of special education and related services during the upcoming 2021-2022 school year and to remind districts and schools about relevant deadlines and practices.

For all prior information specific to Special Education and the COVID-19 pandemic, please see the Department’s [COVID-19 Information and Resources for Special Educators](#) webpage.

Provision of Special Education and Related Services

Q: Will schools continue to use “COVID-19 Special Education Learning Plans” during school year 2021-2022?

No. Schools are expected to provide full-time, in-person learning for students for school year 2021-2022. IEP teams must document all services in IEPs.

Q: How should districts and schools provide services to students with disabilities who cannot return to school in-person during the 2021-2022 school year due to a medical condition?

Some students with disabilities might have health or medical conditions that will prevent them from returning to in-person learning during the upcoming school year. The Department’s special education regulations provide that if, in the opinion of a student’s physician, “an eligible student is likely to remain at home, in a hospital, or in a pediatric nursing home for medical reasons and for more than 60 school days in any school year, the Administrator of Special Education shall, without undue delay, convene a Team to consider evaluation needs and, if appropriate, to amend the existing IEP or develop a new IEP suited to the student’s unique circumstances” ([603 CMR 28.04\(4\)](#)). The Department has prepared a [new physician’s affirmation form](#) that may be used by districts and schools to share with families of children with disabilities to whom this might apply to obtain the necessary information from the student’s physician. This new physician’s affirmation form is available here: <https://www.doe.mass.edu/prs/sa-nr/603cmr28.04-4-form/>.

For additional information, please see Question and Answer Guide on the Implementation of Educational Services in the Home or Hospital, available at <https://www.doe.mass.edu/prs/ta/hhep-ga.html>.

Q: How should districts or schools provide services to students with disabilities who cannot return to school in-person due to a medical condition and must remain at home or in a hospital for a period of more than fourteen days but less than sixty days during the 2021-2022 school year?

The Department's regulations provide that, upon receipt of a physician's written order verifying that any student enrolled in a public school or placed by the public school in a private setting must remain at home or in a hospital on a day or overnight basis, or any combination of both, for medical reasons and for a period of not less than fourteen school days in any school year, the principal shall arrange for provision of educational services in the home or hospital. The principal shall coordinate such services with the Administrator of Special Education for eligible students ([603 CMR 28.03\(3\)\(c\)](#)). The Department's "[Physician Affirmation of Need for Temporary Home or Hospital Education for Medically Necessary Reasons](#)" form may be used by districts and schools to share with families to obtain the necessary information from the student's physician. This physician affirmation of need for temporary home or hospital education for medically necessary reasons form is available here: <https://www.doe.mass.edu/prs/sa-nr/603cmr28.03-3c-form/>.

For additional information about this regulation and providing these services, please see Question and Answer Guide on the Implementation of Educational Services in the Home or Hospital, available at <https://www.doe.mass.edu/prs/ta/hhep-qa.html>.

Q: Can districts continue to hold virtual IEPs meetings?

Yes. As students return to full-time, in-person learning, it is more important than ever to build strong relationships with families and continue meaningful family engagement initiatives that may facilitate family participation.

The Individuals with Disabilities Education Act (IDEA) contemplates that IEP meetings may be held via telephone and/or video conference. Districts can continue to hold IEP Team meetings using these alternative means of meeting participation if the parent or guardian agrees to participate using these alternative means.

The school or district should contact the parent or guardian to ask if the parent or guardian agrees to participate in a Team meeting virtually or telephonically. If the parent agrees, the school or district should issue the Team Meeting Invitation ([N3](#)) and Attendance Sheet ([N3A](#)) by mail, email, or other electronic means (i.e., the parent's preferred method of communication) with the telephone or virtual platform's dial-in information and proceed to plan to conduct the annual review Team meeting remotely. The school or district must provide interpreters for limited English proficient parents or guardians for these IEP Team meetings and translate documents that will be discussed, as appropriate. The attendance sheet should reflect that participation was virtual.

In circumstances where the meeting will occur in-person, but a specific team member will attend virtually or telephonically, the IEP Team chair should notify the parent or guardian prior to the meeting that the specific team member will be attending virtually or telephonically.

Q: What if one of the required IEP Team members is unable to attend the IEP Team meeting?

If [required members of the IEP Team](#) are unable to attend, IDEA regulations provide that Team members can be excused with agreement from the family, if:

1. The district and the family agree, in writing, that the attendance of the Team member is not necessary because the member's area of the curriculum or related services is not being modified or discussed; or
2. The district and the family agree, in writing, to excuse a required Team member's participation and the excused member provides written input into the development of the IEP to the family and the IEP Team prior to the meeting.

Q: Can an electronic or digital signature be accepted to indicate parental consent for an initial evaluation, reevaluation, or the provision of special education and related services?

Yes, electronic or digital signatures may be accepted as long as the school district ensures that there are appropriate safeguards in place to protect the integrity of the process. An electronic or digital signature can be used as long as the parent has been fully informed and the parent has received written notice of the activity for which the consent is being requested. Additionally, written notice must be in the parent's primary language and in language that is understandable to the general public. The parent must agree in writing to the activity and the signature must authenticate a particular person as the source of the consent. For further explanation, see Q.1 of the United States Department of Education, Q&A on IDEA Part B, Procedural Safeguards (June 30, 2020) available at <https://www2.ed.gov/policy/special-ed/guid/idea/memosdcitrs/qa-procedural-safeguards-idea-part-b-06-30-2020.pdf>.

IEP Meetings, Timelines, and Other Related Topics

Q: Are evaluation timelines still in effect if a student or staff are required to quarantine?

Yes, evaluation timelines remain in effect. Schools and districts are encouraged to communicate openly with families if they foresee a need to extend those timelines. Parents may agree, in writing, to extend evaluation timelines. A copy of this written agreement must be maintained in the student's special education file.

State and Federal Monitoring and Assistance

Q: Are Tiered Focused Monitoring Reviews being conducted for the 2021-2022 school year?

Yes, Tiered Focused Monitoring Reviews will be conducted during the 2021-2022 school year. The Public School Tiered Focused Monitoring Reviews focusing on special education, civil

rights, and English learner education will begin in November 2021. Please contact Liza Ahern at 781-338-3729 or Elizabeth.Y.Ahern@mass.gov with questions relating to the special education and civil rights Tiered Focused Monitoring Reviews. Please contact Sibel Hughes at Sibel.Hughes@mass.gov or 781-338-3569 with questions relating to the English learner education Tiered Focused Monitoring Reviews.

Q: Will data submission timelines be enforced for State Performance Plan/Annual Performance Report indicators?

Indicator 7

See section on Early Childhood Special Education Services section for more information.

Indicator 14

Indicator 14 data will be **due by September 30, 2021**. Schools and districts in [Cohort 4](#) will use an online survey available in six languages to learn about the further education and employment outcomes of their former students with IEPs. In June 2021, the Department will email all Cohort 4 special education administrators with detailed instructions for this year's Indicator 14 data collection. For additional information, please contact Amanda Green at 781-338-3368 or Amanda.C.Green@mass.gov.

Compensatory Services

Q: What are the factors that might lead to consideration of compensatory services for students as a result of unforeseen circumstances or inability to fully implement an IEP during the 2020-21 school year? (Revised Answer)

USED and DESE have stated that all students were entitled to receive FAPE during the 2020-2021 school year regardless of the instructional model used (remote, hybrid, or modified in-person). DESE's [COVID-19 Compensatory Services Guidance](#) was intended to address any disruption or delay in instruction or service delivery during the spring and summer of 2020. However, if a student's IEP was not fully implemented or if other extenuating circumstances arose during the 2020-2021 school year that impacted the student's ability to access FAPE, the Team should seek to address any need for compensatory services as necessary and appropriate. In particular, IEP Teams should discuss the individual need for compensatory services for the following groups of students who are potentially more likely to need those services:

- Students with disabilities in districts that were fully remote for three or more months during the 2020-21 school year;
- All students with disabilities who were chronically absent during the 2020-21 school year; and
- All students with disabilities who had significant difficulty accessing remote learning offered by the school district due to the nature or severity of the child's disability, technology barriers, language access barriers, or barriers resulting from the pandemic.

A discussion about compensatory services related to issues stemming from the 2020-2021 school year can occur during the annual Team meeting, during a meeting that has been scheduled to discuss COVID-19 Compensatory Services stemming from the 2019-2020 school year or during any other Team meeting. In the event that the IEP Team has not yet convened to address a student's individual need for compensatory services consistent with DESE's guidance, the district should convene the IEP Team meeting as soon as possible during the 2021-2022 school year to make individualized determinations of need. Parents and guardians also have the procedural rights to request an IEP Team meeting, pursue a due process hearing at the Bureau of Special Education Appeals or file a complaint with the Department's Problem Resolution System Office.

Q: Will compensatory services provided to students after the age of 22 be reimbursable under Circuit Breaker?

Because state law reserves Circuit Breaker funds for "eligible" students and students' eligibility is not extended past their 22nd birthday, these funds may not be used for COVID-19 Compensatory services.

Early Childhood Special Education (ECSE)

Q: Is there any specific guidance for submission of Child Outcome Summary (COS)/Indicator 7 data?

Data collection schedules and school or district cohort assignments are unchanged for Indicator 7/Early Childhood COS. Data for the COS will continue to be collected using the [data collection schedule](#) and [cohort assignments](#). Schools and districts responsible for submitting COS data received a letter in the spring of 2021 with information regarding data collection, timelines, and resources.

ECSE programs should continue to report on each child's outcomes for the COS. Meetings with team members to discuss progress and outcomes should be included in the planning process.

Additional resources for ECSE:

- [ECSE Strategic Areas](#)
- [Families of young children with disabilities](#)

If you have questions about the submission, please contact Juin Liu at Yi-Juin.Liu@mass.gov.

Q. How can school districts apply for a compliance waiver for preschool inclusionary ratios?

Due to the return to full-time, in-person learning, districts will no longer be able to apply for a compliance waiver for preschool inclusionary ratios. Districts will be expected to follow the required preschool inclusionary ratios, as outlined in [603 CMR 28.06\(7\)\(e\)\(2\)](#), in preschool inclusionary programs for children with disabilities, aged 3-5. Public preschool inclusionary class size shall not exceed 20 students with one teacher and one aide, and no more than 5 students

with disabilities. If the number of children with disabilities is six or seven, then the class size may not exceed 15 with one teacher and one aide.

Contact Information

For questions pertaining to special education, please visit the Department's [Special Education webpage](#) or contact the Department at SpecialEducation@doe.mass.edu.