

Office of Special Education and Early Learning (OSEEL) Non-Regulatory Guidance Regarding Key Actions to Take After a Disaster to Ensure the Provision of Special Education and Related Services

A Publication of the Office of Special Education and Early Learning

When schools close unexpectedly or experience ongoing disruptions due to a natural (or human-made) disasters, local school district leaders should take steps to protect and support students with disabilities. While the provision of special education and related services may be disrupted in the immediate aftermath of a disaster, these steps can help to limit the impact of the disruption and ensure students with disabilities receive the special education and related services they need as soon as possible.

ACTION 1: LOCATE TEACHERS AND STUDENTS

When school is closed for everyone, local school districts are not obligated to provide special education and related services to students with disabilities.¹ When school resumes for everyone, special education and related services for students with disabilities must resume as well. While school is closed, it is important to maintain updated student information so local school districts can effectively plan for school facility reopening and/or quickly transfer special education records in Infinite Campus (IC) if students enroll in other jurisdictions.

- Keep an updated roster with student locations. If families enroll a student with a disability in another local school system, send all special education documents (e.g. individual education program (IEP), conference summary, evaluations, etc.) to the receiving school system as soon as possible. Maintain and document communication with families to understand the impact of the school closure on the roster of students with disabilities.
- Reach out to special education teachers and related services providers to assess whether they will be able to return immediately when school facilities reopen. (See action 4 for more information.)

¹ [Non-Regulatory Guidance on Flexibility and Waivers for Grantees and Program Participants Impacted by Federally Declared Disasters](#). USDOE. September 2017.

ACTION 2: PROVIDE SPECIAL EDUCATION SERVICES AS SOON AS SCHOOL RESUMES

As soon as school resumes, schools must ensure equal access to educational opportunities for students with disabilities and must provide the special education and related services outlined in students' IEPs or Section 504 plans.²

- Begin to provide special education and related services immediately upon reopening school, even if the district cannot provide every service. It is better to provide some services immediately than to wait until the district can provide all services. Keep thorough documentation.
- Consider virtual opportunities available under [Kentucky's Non-Traditional Instruction \(NTI\) Program](#) for special education and related services if the delivery of traditional services is not possible. The Admissions and Release Committee (ARC) may need to meet to determine how services will be rendered in the extenuating circumstance if a contingency plan or other specific service delivery documentation was not in place prior to the event.
- Convene ARC meetings if students have new and/or different needs that impact the provision of special education and related services. These decisions cannot be made unilaterally by a school or district. For example, if a student experienced significant trauma during or after the event, they may need additional counseling services, an updated behavior intervention plan (BIP), or adjustments to accommodations.

ACTION 3: SUPPORT THE UNIQUE SOCIAL-EMOTIONAL NEEDS OF STUDENTS WITH DISABILITIES

Students will have different ways of processing events during and after disasters. This can be especially difficult during instances of trauma.

- Review the CDC's [tips for helping students with disabilities cope](#) with disaster and traumatic events.
- Create a mental health response team that can support new or emerging social/emotional support needs. If appropriate, convene the ARC team to develop a plan of support.
- Review and revise BIPs, as appropriate, to ensure students are supported in new or changing environments.

² Ibid.

ACTION 4: PREPARE TO PROVIDE COMPENSATORY SERVICES TO ADDRESS MISSED SPECIAL EDUCATION AND RELATED SERVICES

When a student with a disability experiences disruption in educational services, local school districts must evaluate and provide compensatory services, if the disruption denied the student “educational benefit.”³ In the wake of a disaster, local school districts may have to manage a more complex compensatory services scenario.

1. Local school districts will have to resume compensatory services that may still be in process due to the ongoing COVID-19 pandemic and disrupted as a result of a subsequent disaster, while also considering any new compensatory education needs as a result of the disaster. To limit impact, local districts should resume compensatory services as soon as possible, and ARCs must consider whether these services should be adjusted (e.g., intensity, frequency, duration).
2. Local school districts, through the ARC process, must consider [compensatory services](#) if any special education and related services are not provided immediately when school resumes. For example, if the speech-language therapist was displaced by the disaster, and these services do not resume for a period of time after school reopens for all students, the ARC team will need to consider additional compensatory education services to address the missed services.

To manage this process effectively, school district leaders should:

- Develop and follow a written process for ARC teams to use to evaluate all students with disabilities for additional compensatory services as a result of natural disasters. Keep the procedure manual and outcomes for each student on file consistent with the Public School District Records Retention Schedule.
- Keep careful documentation of all special education and related services provided (e.g. service logs) when school reopens, and any COVID-19 pandemic-related and/or disaster-related compensatory services over the next few months. ([Example Log](#) on page 13).
- Consider developing contingency plans as part of the IEP process. Over the last couple of years, local school districts across the country have responded to numerous natural disasters, the COVID-19 pandemic, and cybersecurity attacks. Contingency plans are an emerging best practice for ARCs to proactively plan continuous support during these events.

³ [Letter to Pergament](#). USDOE. December 2013. (“[T]he IEP Team must determine whether the child was denied educational benefit because of the disruption in educational services and whether compensatory education is needed to ‘make up’ for the denial including addressing any skills that may have been lost.”)

ACTION 5: MAKE EVERY EFFORT TO COMPLY WITH FEDERAL AND STATE STANDARDS AND DOCUMENT WHEN YOU CANNOT

Local school district leaders are often surprised to learn that there will be little flexibility for most special education requirements in the aftermath of a natural disaster. The Individuals with Disabilities Education Act (IDEA) defines the majority of special education and related services requirements. The IDEA provides very limited flexibility regarding compliance requirements and civil rights protections in the event of natural disaster and in most instances, flexibilities under the IDEA require actions from the U.S. Congress. While managing the implementation of IDEA during the aftermath of a disaster can be overwhelming, school leaders can focus on the key actions within their locus of control and take immediate steps to provide services to students and mitigate compliance concerns.

- Develop a process to manage the roster of special education compliance requirements including initial and annual IEPs, initial evaluations, reevaluations, and Part B to C transition. This will help local school districts quickly respond to monitoring and legal inquiries.
 - Communicate with families and document the communication, especially when timelines may be impacted.
 - Document why timelines are impacted (e.g. families could not be contacted, families temporarily relocated, school facility impacts).
- Consider virtual IEP team meetings to offer more flexibility, foster stronger collaboration with families and community partners, and maintain timelines to the extent possible.

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