

On April 23, 2020, the NC State Board of Education (SBE), finalized its end of year grading and student promotion policy. The next day, April 24, 2020, Governor Cooper extended the school building closures and announced that “North Carolina K-12 public school will continue remote learning through the end of the 2019-2020 school year”.¹

The determination of what is appropriate and possible educationally for all students will be influenced by these health and safety considerations, as well as what is possible and appropriate under the current circumstances. It is understood that the provision of educational services may vary widely from one district to another, and that not all students will have the same level of access to services, despite the best efforts of school districts.

Therefore, this document is being issued as a result of these events and now replaces the EC Division guidance document titled “EC Processes: Points for Consideration” issued on March 27, 2020.

Please note: The EC Division expects to offer additional guidance for the provision of special education and related services in light of the closure of schools as a result of COVID-19 at such time additional information is provided from the Governor’s office, the Superintendent of Public Instruction, the NC SBE, the Office of Special Education Programs (OSEP) and/or the US Department of Education (USDOE).

Remote Learning

All NC local education agencies (LEAs) and charter schools continue to engage students through remote learning opportunities to support continued student growth and well-being during this public health crisis.

In NC K-12 public schools, remote learning is defined as learning that takes place outside of the traditional school setting using various media and formats, such as but not limited to video conference, telephone conference, print material, online material, or learning management systems.²

In this time of crisis, the manner in which ALL instruction is provided is likely to look very different.

Special Education and Related Services

Schools must provide 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”. [OSEP Supplemental Fact Sheet-March 21, 2020³] “However, federal disability law provides flexibility in determining how to meet the needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency”. [OSEP Supplemental Fact Sheet, March 21, 2020] The

¹ Press Release: Governor Cooper, State Education Leaders: Remote Learning to Continue Through End of 2019-2020 School Year. <https://governor.nc.gov/news/governor-cooper-state-education-leaders-remote-learning-continue-through-end-2019-2020-school>

² Memo to NC SBE from Dr. Stegall, Sneha Shah-Coltrane, and NCDPI Grading Workgroup, April 23, 2020.

³ US Department of Education Supplemental Fact Sheet: Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities, March 21, 2020. <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

provision of FAPE may “include, as appropriate, special education and related services provided through distance instruction provided virtually, online or telephonically”.

Students with disabilities (SWD) are general education students first. SWD must be provided equal access to the same educational opportunities provided to non-disabled peers. (OSEP Q and A, Q A-1, March 12, 2020) Additionally, SWD should have access to their specially designed instruction and related services outlined in their IEP “to the greatest extent possible”. [OSEP FAQ, March 12, 2020⁴]

Carefully consider the following:

- It will be important that EC teachers collaborate with General Education teachers to provide accessibility to grade-level remote learning opportunities and provide accommodations/modifications as appropriate based on the student’s unique needs and circumstances.
- The EC teacher/service provider is expected to make every reasonable effort to communicate and collaborate with the parents regarding the student’s accommodations/modifications and the provision of special education and related services.
- The ECD strongly recommends a log of remote learning provided or offered be kept by all EC service providers.
 - The date, time (beginning and end), mode of instruction (video conference, telephone conference, print material, online material, or learning management systems, etc.), IEP goals addressed, and progress monitoring data are important elements to include in the log.

It is understood that even when districts act in good faith to provide all students with meaningful access, the very nature of the student’s disability or other circumstances may impede their ability to meaningfully access their specially designed instruction during times of remote learning.

- If the LEA believes that it may not be possible to provide the IEP and related services as stated in the IEP, communication and collaboration with the parent is critical and should be documented.

ESY and Compensatory Education

Some students may require Extended school year (ESY) services and/or compensatory education – remember they are not the same.

ESY services should be determined on a case by case basis. The reasonableness and appropriateness of ESY services for the summer of 2020 may be especially difficult to determine. The format is likely to continue to be remote learning and there may be gaps in data that are needed to guide the team’s decision.

ESY discussions, prompted specifically as a result of COVID-19, are likely to be more appropriate when schools resume normal operations.

“Whether and to what extent compensatory services may be needed when the school resumes normal operations” will be determined on an individual basis by the student’s IEP Team. [OSEP

⁴ US Department of Education Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak, March 12, 2020.

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

Supplemental Fact Sheet, March 21, 2020]

OSEP intends to issue additional guidance on the provision of compensatory education. This will be provided and clarified when received by NCDPI and the EC Division.