

NEW YORK STATE EDUCATION DEPARTMENT
OFFICE OF SPECIAL EDUCATION

SUPPLEMENT #2 - PROVISION OF SERVICES TO STUDENTS WITH DISABILITIES
DURING STATEWIDE SCHOOL CLOSURES DUE TO
NOVEL CORONAVIRUS (COVID-19) OUTBREAK IN NEW YORK STATE

Questions and Answers June , 2020

The following is a continuation and supplement to the questions and answers contained in the [March 27, 2020 guidance \(#1-21\)](#) and [April 27, 2020 guidance \(#22-38\)](#) on the provision of services to students with disabilities during the COVID-19 outbreak in New York State.

Planning for the Provision of Services for the 2020-21 School Year

Following school closures due to COVID-19, Committees on Preschool Special Education and Committees on Special Education (hereinafter referred to as Committee) will need to consider newly identified needs when determining the appropriate special programs and services to be recommended for the 2020-21 school year. Committees may consider some or all of the following questions in their decision-making process (Adapted, from LRP Publications, "Serving a student after a COVID-19-related school closure: questions the individualized education program (IEP) team should ask," March 24, 2020):

- o How long was the student's school closed?
- o Was the student provided instruction or services via an alternative method (e.g. online math instruction, online speech therapy, or instruction provided telephonically) during the closure? To what extent?
- o Were alternative methods of instruction (continuity of learning)

200.16(i)(3)(v) of Commissioner's Regulations whose disabilities require a structured learning environment of up to 12 months duration to prevent substantial regression.

42. Could ESY be provided to students who substantially regressed during school closure due to COVID-19, but did not previously have ESY on their IEP?

Yes, some students who may not have been eligible for ESY services in past years may now meet the eligibility criteria due to the extended school closures. However, ESY services are not a form of compensatory education. Therefore, the Committee's ESY recommendation is not based on the absence of the provision of program(s) or service(s) during school closure due to COVID-19 but rather that such absence caused the student to substantially regress making him or her eligible for ESY services pursuant to Commissioner's Regulation sections 200.6(k) or 200.16(i)(3)(v), even though the student was not previously considered for ESY.

Revising the IEP to Ensure the Continued Provision of FAPE

43. When should a Committee consider revising a student's IEP to ensure the

The student's Committee must review the student's IEP and determine whether any changes in the IEP are needed as a result of changes in a student's educational progress and achievement, including progress toward meeting his or her IEP goals, and ability to participate in the general education curriculum. The Committee should consider all relevant information available pertaining to the student including but not limited to progress monitoring, concerns of the parent, and other documentation maintained during school closure due to COVID-19 to assist the Committee in determining whether the student's IEP needs to be changed for the appropriate

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extent compensatory services are needed to make up for a lack of educational programs and services during school closures due to COVID-19.

47. What compensatory services can a Committee consider for a student with a disability when schools reopen?

The compensatory services offered must be directly linked to the denial of educational progress and achievement, including lack of progress toward the student's IEP goals and ability to participate and progress in the general education curriculum, and must be reasonably calculated to enable the student to make appropriate progress in light of his or her circumstances, including any loss in skills that occurred as a result of a student not receiving education or services due to school closures during COVID-19. If appropriate, compensatory services could be provided in a number of ways, such as extending the school day, providing tutoring before and after school, or providing additional services during regular school hours.

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