

Flexibility for Local Educational Agencies under the Individuals with Disabilities Education Act During the COVID-19 Pandemic

Recognizing that Local Educational Agencies across the nation have closed school buildings as part of the effort to slow the spread of illness caused by the novel coronavirus, Congress hereby grants specific flexibility under the Individuals with Disabilities Education Act (IDEA) as follows.

[A State Educational Agency (SEA) must allow...]

An LEA will not be found in violation of this Chapter for the failure to provide any specific instruction or service specified in an Individualized Educational Program (or the failure to provide the specified amount of any services or instruction) during a period of a pandemic illness causing disruption of normal school operations, provided the LEA certifies that:

- It has and continues to act in good faith to provide appropriate special education and related services to the extent feasible to students with disabilities served under this Chapter during the period of disruption of normal school operations;
- Significant hardship (defined below) affects its efforts to continue to provide special education and related services in the amount and/or type required by a student's Individualized Education Program; and
- Upon the resumption of normal school operations, it will resume special education and related services in the amount and type required by a student's Individualized Education Program as required by this Chapter.

The certification must be submitted to the SEA no later than thirty days after the start of the interruption in service, and a copy of the certification must be sent to the Parent of any affected student. The LEA must submit a new certification every 45 calendar days for so long as normal school operation is interrupted.

For purposes of this sub-section, "significant hardship" includes the following, whereas a school district may be impacted by one or more interruptions:

- Shortage of qualified staff caused by health and safety concerns, or guidelines or orders issued by state and local officials;
- Inability of certain services or instruction to be delivered through electronic or other non-contact methods;
- School building closures due to health and safety concerns;
- Lack of internet access or necessary hardware to connect service providers or instructional staff to students; or
- Lack of effective strategies for carrying out any specific instruction or service specified in an Individualized Educational Program or the failure to provide the specified amount of any services or instruction.