



Michigan Department of Education  
Office of Special Education

April 10, 2020

## Guidance for Compliance With the Individuals With Disabilities Education Act and the Michigan Administrative Rules for Special Education During the COVID-19 Pandemic

The Michigan Department of Education (MDE) Office of Special Education (OSE) through the *Individuals with Disabilities Education Act* (IDEA) and the Michigan Administrative Rules for Special Education (MARSE) require districts to provide special education and related services to students with individualized education programs (IEPs) regardless of the challenges of the COVID-19 pandemic and public health emergency. MDE has created this document to compile questions we are receiving and provide answers in a uniform and consistent manner. The MDE has worked to ensure this guidance is aligned and consistent with information provided by the federal Office of Special Education Programs (OSEP). This is a rapidly changing situation. This document will be continually revised to provide the most up to date information. Districts will be notified of any updates.

This document is not intended to provide legal advice. For legal advice, please consult with the attorney representing your district. MDE staff are not permitted to provide legal advice.

When adhering to the requirements of IDEA and MARSE, districts are encouraged to consider whether an activity can occur via telephone or virtually. Many requirements can continue to be met in this manner. Special education timelines and requirements are set forth in statute, which was written and enacted by the United States Congress and the Michigan Legislature. MDE does not have the authority to alter or waive these statutory requirements and timelines. However, MDE is committed to a reasonable approach and will exert flexibility whenever possible within the parameters of the IDEA requirements.

For the purpose of establishing common language and understanding, as districts demonstrate good faith effort in meeting the needs of all students, including students with IEPs, the following terms are provided for context and clarification:

Continuity of Learning Plan: A district plan to detail the way in which the district will provide and support educational instruction to all enrolled students. This plan should include additional strategies to target children who may be English Language Learners, those eligible under the McKinney-Vento Homeless Assistance Act, socio-economically disadvantaged, and those eligible under Section 504 and the IDEA and MARSE.

Contingency Learning Plan for Students with IEPs: For each student with an IEP, the current or most recent IEP is the offer of free appropriate public education (FAPE). The district is encouraged to determine the programs and/or services that it is able to provide given Governor Whitmer’s Executive Order 2020-35, through the contingency learning plan. The contingency learning plan will be in effect for the remainder of the 2019-2020 school year.

- Staff should consider accessibility, including accommodations and modifications
- To the greatest extent possible, keep equity at the center of the work to develop the individual contingency learning plans
- Document effort:
  - Focused;
  - Consistent;
  - Detailed; and
  - Demonstrates good faith effort to provide programs and/or services to students with an IEP

When a district creates a continuity of learning plan, the district is then encouraged to create a contingency learning plan for each student with an IEP, in order to meet the requirements of IDEA and MARSE.

## **A. SPECIAL EDUCATION REGULATORY QUESTIONS**

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### **1. What special education and related services must be provided when a district is closed due to COVID-19 pandemic, and is not yet providing any services to the general student population?**

When a district is closed due to a COVID-19 pandemic and is not providing any services to the general student population, the district is not required to provide a Free Appropriate Public Education (FAPE) or any IEP services to children with IEPs.

### **2. What special education and related services must be provided to students with IEPs when school buildings are closed due to COVID-19 pandemic, and instruction is being provided through a continuity of learning plan?**

When school buildings are closed as a result of the COVID-19 pandemic, districts are to implement a continuity of learning plan. Districts must also ensure each student with an IEP has equal access to the same opportunities, including and to the greatest extent possible, a FAPE.

The services and supports in a child’s current or most recent IEP, prior to the implementation of the district’s continuity of learning plan, reflect the traditional educational environment.

All services and supports are intended to support the child both in accessing the general education curriculum with their nondisabled peers to the maximum extent appropriate. The district's continuity of learning plan should be considered the general education curriculum in place under these circumstances.

The child's IEP team is encouraged to develop an individualized contingency learning plan to enable the child to:

- 1) advance appropriately toward attaining the child's annual IEP goals.
- 2) be involved in and make progress in the general education curriculum (in this instance, the district's continuity of learning plan), or appropriate activities for children ages 3–5.
- 3) participate in extracurricular and other nonacademic activities; and
- 4) be educated and participate with their nondisabled peers to the maximum extent appropriate in all of these activities, or in this instance, participate in the continuity of learning plan along with their nondisabled peers.

The child's IEP team is encouraged to consider the definition of specially designed instruction in the context of the district's continuity of learning plan. "Specially designed instruction" means adapting, as appropriate to the needs of each exceptional child, the content, methodology or delivery of instruction for the following purposes:

- 1) to address the unique needs of the child that result from the child's exceptionality; and
- 2) to ensure access of the child with a disability to the general curriculum (in this instance, the district's continuity of learning plan), so the child can meet the educational standards.

The child's IEP team is encouraged to consider related services in the context of what specially designed instruction (special education services) means within the district's continuity of learning plan. Related services are developmental, corrective, and supportive services required to assist a child who has been identified as a child with an IEP to benefit from special education services.

Lastly, the child's IEP team is encouraged to consider supplementary aids and services, program modifications, and supports for school personnel "to enable children with disabilities to be educated with children without disabilities to the maximum extent appropriate," or in this instance, to participate in the district's continuity of learning plan with their nondisabled peers.

Districts must provide a FAPE consistent with the need to protect the health and safety of students with IEPs and those individuals providing the education, specialized instruction, and related services to these students. In this unique and ever-changing environment, these exceptional circumstances may affect how all

educational and related services and supports are provided. A FAPE may include, as appropriate, special education, and related services provided through a continuum of instruction opportunities that may be provided virtually, through instructional materials sent home, or telephonically, etc. ([OCR and OSERS Supplemental Fact Sheet, March 2020](#)).

**3. Does an intermediate school district (ISD) or district operated center-based program need to develop a continuity of learning plan even though all associated districts have completed individual district continuity of learning plans?**

Yes. The purpose of a continuity of learning plan is to detail the way in which the district will provide and support educational instruction to all enrolled students, including students who are placed in a center-based program. Therefore, ISD or district operated center-based programs are to complete a continuity of learning plan to describe their plan for supporting educational instruction for all students served in the center-based programs.

In addition, ISDs and district operated center-based programs are encouraged to develop a contingency learning plan for each student with an IEP placed in a center-based program in order to define how the ISD or district is able to provide FAPE, due to school building closures as a result of the COVID-19 pandemic.

**4. How should districts proceed with special education and related services when districts resume normal operations next school year?**

When districts resume normal operations, IEP teams will need to review individual student IEPs to determine whether changes are needed as a result of the extended absence from school. An IEP team may consider using informal assessments or screenings to determine whether there have been changes in a student's performance and educational need.

Where, due to the COVID-19 pandemic and resulting closures of school buildings, there has been an interruption in providing IEP services, IEP teams must make an individualized determination whether and to what extent compensatory education may be needed when districts resume normal operations in consultations with parents.

Information needed to make this determination will likely not be known until after the interruption in services has ended. *Thus, the most appropriate time for the IEP team to determine the need for compensatory education or the need for the review and revision of a student's IEP will be when districts return to normal operation.*

The Michigan Department of Education will provide further guidance regarding compensatory education at a later date.

**5. Should all student IEPs be amended in response to special education and related services not being provided in accordance with a student’s IEP during an extended school closure caused by the COVID-19 pandemic?**

No. In the context of the district’s continuity of learning plan, the district must look at each student’s IEP and address how it can provide special education and related services for the student. Districts are encouraged to utilize a [contingency learning plan](#), which is based on the special education and related services the district is able to provide in light of the circumstances.

**6. What confidentiality concerns should providers have, if any, related to setting up an online “classroom” with students on their caseload? What should a district consider when parents can see the other “classmates”?**

In its document titled [FERPA and Virtual Learning Related Resources March 2020](#), the Department of Education Student Privacy Policy Office (SPPO) reiterates FERPA is the federal law that protects the privacy of personally identifiable information (PII) in students’ education records. The SPPO references the 2003 Letter to Mamas, which established that observation is not part of an educational record and therefore not a violation of FERPA or confidentiality so long as the provider is not sharing information from a student’s educational record. A provider talking about a student’s behavior plan could be violating FERPA, whereas a provider who implements interventions that are part of a student’s behavior plan would not be violating FERPA.

Best practice strategies may include having intentional conversations with families regarding student privacy while developing the [contingency learning plan](#). Identify what parents are and are not comfortable with and explain they may become aware of things they didn’t know about other students. Parents should be informed of small groups, individual instruction, or whole group work, and whether there will be parents and families listening and in attendance. *Districts should determine and share whether classes will be recorded, as recordings are part of the educational record and would be subjected to FERPA.*

Districts are reminded school personnel are mandatory reporters in the event they suspect possible abuse or neglect of a student. As teachers enter a virtual learning environment, it is important they are aware of and fully understand the obligation of this requirement.

**7. Is it permissible to provide services to a child with an IEP through video conferencing with only one student and one staff member present?**

Yes. Nothing in the IDEA or MARSE prohibits one-on-one (1:1) video conferencing between a staff member and a student. Special education administrators should make local decisions about how services will be provided. Districts are encouraged

to utilize each student's contingency learning plan to document these decisions, which may include 1:1 service, as appropriate. Administrators are encouraged to consider precautions, such as asking a parent to join the child or be in the same space with the child when the child is receiving 1:1 service.

Many video conferencing systems permit recording; therefore, administrators should make providers aware of any video recordings maintained by the district that contain information directly relating to the student and could be considered education records under the *Family Educational Rights and Privacy Act* (FERPA; 34 CFR § 99.3).

**8. What should a district do when it cannot meet the 30-school-day timeline for initial special education evaluations due to school building closure or student illness/absence because of the COVID-19 pandemic?**

MARSE requires a district to complete an initial evaluation within 30 school days of the date the district receives written parental consent for evaluation of the child. Exceptions to this requirement are specified in 34 CFR §300.301(d)-(e):

(1) The parent of a child repeatedly fails or refuses to produce the child for the evaluation; or (2) A child enrolls in a school of another public agency after the relevant timeframe in paragraph (c)(1) of this section has begun, and prior to a determination by the child's previous public agency as to whether the child is a child with a disability under § 300.8. The exception in paragraph (d)(2) of this section applies only when the subsequent public agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent public agency agree to a specific time when the evaluation will be completed.

- 1) With this in mind, the department interprets the 30-day timeline requirement in light of the COVID-19 pandemic as follows: For the period beginning March 16, 2020, the days districts were closed due to the COVID-19 pandemic and were not providing any services to the general student population are not counted in the 30-school-day timeline.
- 2) For the days when school buildings are closed but instruction has resumed through continuity of learning plans, those days will be counted as school days.

When the district believes it will not be able to meet the 30-school-day timeline for an individual student, the district should ask the parent to agree to an extension of time (R 340.1721b). This request for agreement to extend the evaluation timeline must be obtained on an individualized basis. Requests for timeline extensions must not become a standard practice nor may standard language regarding the COVID-19 pandemic or school building closures be inserted into every prior written notice

when seeking consent to evaluate. The agreement must be in writing and include a specific extension of time measured in school days.

Working within the parameters of the IDEA requirements, in lieu of ordering corrective action for untimely IEPs due to the COVID-19 pandemic, the MDE will issue data alerts. Districts will be required to verify the untimely IEP was due to the public health emergency.

**9. What is the district's obligation to a child not yet eligible where there is a delay in the ability to complete assessments as part of an initial evaluation?**

When initial eligibility cannot be determined due to the need for face-to-face assessment and observations, the district is encouraged to develop a contingency learning plan for the child who is not yet eligible. The contingency learning plan should be based on the suspected disability and the needs that resulted in the request for an evaluation. Through the contingency learning plan, the district should describe the special education and related services the district is able to provide during school building closures as a result of the COVID-19 pandemic until districts resume normal operations and the necessary evaluations can be completed.

**10. What is a districts obligation to have an IEP in effect for a child transitioning from Part C to Part B no later than the child's third birthday?**

34 CFR §§ 300.101(b) and 300.124(b) require an IEP to be developed and implemented by the third birthday of a child participating in Part C programs and who will participate in Part B preschool programs. There is no exception to this requirement. An IEP must be developed and implemented by the child's third birthday. To accomplish this, teams may conduct meetings virtually via telephone or videoconference, but are reminded of the IDEA requirement to establish a mutually agreeable time and place. Therefore, when a parent is not able or is unwilling to participate virtually, the IEP team may need to delay the meeting.

Working within the parameters of the IDEA requirements, in lieu of ordering corrective action for untimely IEPs due to the COVID-19 pandemic, MDE will issue data alerts. Districts will be required to verify the untimely IEP was due to the public health emergency.

**11. How does a mandated school closure due to COVID-19 pandemic affect the district's obligation to provide IEP services to students who transfer within the state and from out-of-state?**

Students with IEPs who transfer to a new district within Michigan or from out-of-state and enroll in a new district within the same school year must be provided with a FAPE, including services comparable to those described in the child's IEP from the

previous district, until the new district either adopts the child's IEP from the previous district or develops a new IEP within 30 school days, or (in the case of an out-of-state student) conducts an evaluation (34 CFR § 300.323(e)-(f)).

Districts should be careful not to create unreasonable logistical barriers to enrollment, keeping in mind their obligation to provide FAPE to a student with an IEP who has transferred into the district.

- 1) For the period beginning March 16, 2020, districts were closed due to COVID-19 pandemic and were not providing any educational services to the general student population. Districts would not be required to provide services to students with IEPs during the same period, including transfer students with IEPs.
- 2) When school buildings remain closed, but instruction has resumed through implementation of a district's continuity of learning plan, the district must provide special education and related services as defined in the district's contingency learning plan.

**12. What should a district do when it cannot meet the requirement to review and revise each IEP at least annually due to school closure or student illness/absence because of COVID-19 pandemic?**

34 CFR § 300.324(b)(1)(i) requires each district to ensure the IEP team reviews the child's IEP not less than annually to determine whether the annual goals for the child are being achieved and to revise the IEP as appropriate to address any lack of expected progress toward the IEP goals and in the general education curriculum. There is no exception to this annual requirement.

To accomplish this, teams may conduct meetings virtually via telephone or videoconference. Any required IEP team members who are unable to attend may be excused by written consent of the parent or written agreement between the parent and the district pursuant to the procedures outlined in 34 CFR § 300.321(e). However, districts are reminded of the IDEA requirement to establish a mutually agreeable time and place. Therefore, when a parent is not able or is unwilling to participate virtually, the IEP team may need to delay the meeting.

Working within the parameters of the IDEA requirements, in lieu of ordering corrective action for untimely IEPs due to the COVID-19 pandemic, MDE will issue data alerts. Districts will be required to verify the untimely IEP review was due to the public health emergency.

**13. As IEP teams are meeting during COVID-19 pandemic closures and restrictions, what should the IEP include for the dates of services?**

MDE OSE recommends districts use an implementation date which reflects the IEP team meeting date. Subsequently, upon completion of the annual IEP, the district is



encouraged to develop a contingency learning plan that will reflect an appropriate FAPE in light of the circumstances of the COVID-19 pandemic.

**14. Should the initial or annual IEP be based on the options available through the continuity of learning plan, or based on what the district would have offered as FAPE if districts were in operation as normal?**

An IEP is an entitlement under IDEA, and therefore must be written to reflect the services, modifications, supports, and placement that support a student's unique education and behavior-related needs and are reasonably calculated to provide a FAPE to the individual student. An IEP must not be written to accommodate a temporary situation, administrative convenience, or lack of time and resources. An IEP team may, but is not required to, create a contingency learning plan for a child with an IEP as a best practice, which will be implemented during school building closures due to COVID-19 pandemic. ([OSERS Q&A March 2020](#))

The IEP team would need to complete the initial and/or annual review IEP as the full offer of a FAPE for the ensuing annual timeframe, as if districts were in operation as normal. Districts are encouraged to develop a contingency learning plan to detail those programs and/or services the district is able to provide during the school building closure due to COVID-19 pandemic.

**15. If an IEP team creates a contingency learning plan, is prior written notice (PWN) needed? Must parent consent be obtained?**

No. PWN has broad application. A PWN must be given to parents whenever a district proposes any change to any matter related to identification, evaluation, placement, or the provision of a FAPE, or when a district refuses a parent's proposal regarding any of these matters (34 CFR § 300.503).

The United States Supreme Court has interpreted FAPE to mean an IEP reasonably calculated to enable the child to make progress appropriate in light of the child's circumstances (*Endrew F. ex rel. Joseph F. v. Douglas Cty. School Dist. RE-1*, 137 S. Ct. 988, 994 (2017)). In short, any change by a district to the education program for a child with a disability requires a PWN.

Due to the COVID-19 pandemic, which has resulted in the governor's Executive Order 2020-35 closing all school building for the remainder of the 2019-2020 school year, all children are to be supported through a continuity of learning plan. Through this guidance being issued, MDE recommends all children with an IEP are additionally supported through a contingency learning plan. In this situation, the district must comply with the Executive Order 2020-35. This was not a district or IEP team decision. Therefore, any contingency learning plan developed for a student does not constitute a material change in services or a substantial change in placement and would not require prior written notice or parent consent.

**16. When a district opts to write a contingency learning plan would the district need to conduct an IEP team meeting or amend the IEP?**

No. When the district opts to follow the State’s guidance and complete an individual contingency learning plan for students with IEPs, the district is not required to conduct an IEP team meeting, complete a revision amendment, or issue prior written notice. The district is not changing the offer of a FAPE. A contingency learning plan is intended to document districts good faith effort to provide students with a FAPE which is appropriate in light of the circumstances of the COVID-19 pandemic. A contingency learning plan is developed on an individualized basis and does not require parent agreement or consent. However, the schedule for the implementation of the contingency learning plan should be developed in collaboration with the parent.

Unless a district is able to fully implement the current or most recent IEP, districts may complete a revision amendment, issue prior written notice, or complete a contingency learning plan.

**17. May a district obtain parent consent through the use of electronic signatures and send all copies of prior written notice electronically?**

Yes. There is nothing in the MARSE or IDEA that would prohibit the use of electronic signatures. Therefore, schools wishing to utilize electronic or digital signatures for consent may do so, if they choose.

**18. What should a district do when it cannot meet the requirement to reevaluate each child with a disability at least once every 3 years due to school closure or student illness/absence because of COVID-19 pandemic?**

A reevaluation of each child with a disability must be conducted at least every three years, unless the parents and district agree that a reevaluation is unnecessary (34 CFR § 300.303(b)). When appropriate, a reevaluation may be conducted through a review of existing evaluation data (REED), which includes any evaluation and additional information provided by the student’s parents. This review may occur without a meeting and without obtaining parental consent, unless it is determined additional evaluations are needed(34 CFR §300.305(a))

- 1) When the IEP team, through the REED, determines the need for additional evaluation and identifies an evaluation plan will not require face-to-face assessments or observations, the reevaluation can be completed during the period of learning at a distance so long as a student’s parent or legal guardian consents.
- 2) When the IEP team, through the REED, determines the need for additional evaluation and identifies an evaluation plan requiring face-to-face assessment or observation that cannot occur during the period of learning at

a distance, the reevaluation would need to be delayed (Office of Civil Rights, Fact Sheet March 16, 2020).

Where a change in eligibility cannot be determined due to the need for face-to-face assessment and observations, the district should continue to support the student's unique education needs until districts resume normal operations and the necessary evaluations can be completed. This may include, but is not limited to, a child who is eligible under MARSE R 340.1711 early childhood developmental delay and who has turned eight years old during the mandated school closure.

**19. Must reevaluations be completed within 30 school days?**

Yes. MARSE R 340.1721b states within 10-school days of receipt of a written request for any evaluation, the public agency shall provide the parent with written notice consistent with 34 CFR §300.503 and shall request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility shall not be more than 30 school days. This timeline begins upon receipt of the signed parental consent by the public agency requesting the consent.

**20. How should a district handle the provision of IEP annual goal progress reports to parents during a school closure due to COVID-19 pandemic?**

The regulations implementing the IDEA require each IEP include a description of when progress reports for annual IEP goals will be provided to the parents (34 CFR § 300.320(a)(3)(ii)). When a child's IEP indicates the progress report will be provided concurrent with the issuance of report cards or in the same manner and frequency as general education, the IEP progress report would only need to be issued when general education report cards are also issued. When the IEP indicates the progress report will be provided in a different manner and frequency than general education report cards, districts should make every effort to issue the IEP progress report in the manner required by the IEP.

## **B. DISPUTE RESOLUTION QUESTIONS**

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### **1. Can parents and districts request special education mediation, during the required school building closure under Executive Order 2020-35?**

Yes. Parents and districts can mutually agree to special education mediation and request a mediator at any time from the [Special Education Mediation Services](#).

### **2. Can individuals and organizations continue to send special education state complaint requests to MDE during the required school building closure under Executive Order 2020-35?**

Yes. Individuals and organizations can send special education state complaint requests to MDE at any time. State complaints are officially filed when they are received by MDE staff in the Office of Special Education. Investigations begin on the day the complaints are filed. The mandatory school closures as a result of the COVID-19 pandemic have not disrupted the ability of MDE to receive and/or investigate state complaints.

### **3. What happens with pending special education state complaint investigations that were started before the required school building closure under Executive Order 2020-35 but are not yet completed?**

Current ongoing state complaint investigations will continue, and investigators will issue state complaint final decisions as usual. Complaint investigators are in communication with special education directors involved in open investigations in order to gather information about their district's closure, their level of access to documentation, and whether staff are available for interviews. With information, MDE will determine whether there is a need to permit an extension of the regulatory time limit for completing the complaint investigation due to exceptional circumstances with respect to each particular complaint pursuant to 34 CFR § 300.152(b)(1)(i). When an extension of time is permitted to complete the investigation, both the district and complainant will be notified.

### **4. Given the mandated school closure and the additional requirement to close school buildings for the remainder of the 2019-2020 school year, is the district still required to complete existing corrective action within the established timeframe identified in the final decision?**

Yes. Each complaint final decision that identifies a violation of special education law includes required corrective action within a specified timeline. Complaint investigators will be mindful of the current COVID-19 pandemic restrictions when establishing new timelines. MDE will monitor the completion of corrective action activities. When any corrective action cannot be completed within the established

timeline, and the district requests an extension, MDE will work with the district and consider the need for a reasonable timeline extension.

**5. Can parents continue to file due process complaints requesting a hearing during the mandated school closure under Executive Order 2020-05 or during the required school building closure under Executive Order 2020-35?**

Yes. A parent's due process complaint requesting a hearing against a district is filed when the district receives notice (34 CFR §§ 300.508(a)(1), (e), (f); 300.510(a)-(b)). MDE sends email notifications of due process complaints to the district through Catamaran on the date they are received. Timelines for holding a resolution session and appointing a hearing officer begin when district staff receive the Catamaran notification through email.

**6. When a district receives notification a parent has filed a due process complaint request for a hearing during the mandated school closure under Executive Order 2020-05 or during the required school building closure under Executive Order 2020-35, how will timelines for holding a resolution session and appointing a hearing officer be affected?**

When a parent files a due process complaint request for a hearing, the district must convene a resolution meeting within 15 days of receiving notification of the parent's complaint request unless the parties agree in writing to waive the meeting or to use mediation (34 CFR § 300.510(a)). While the IDEA specifically mentions circumstances in which the resolution period can be adjusted in 34 CFR § 300.510(c), it does not prevent the parties from mutually agreeing to extend the timeline because of unavoidable delays caused by the COVID-19 pandemic.

**7. What is the impact of school building closures on special education monitoring timelines and processes?**

At this time, the federal government has not waived the federal requirements under the IDEA. MDE is working with USED to determine whether there are any flexibilities or waivers that may be issued in light of the COVID-19 pandemic. Until and unless USED provides flexibilities under federal law, districts should make a good faith effort to adhere to IDEA requirements, including federally-mandated timelines, to the maximum extent possible.

Districts are encouraged to consider ways to use technology to meet these obligations. However, MDE acknowledges the complex, unprecedented challenges districts are experiencing as a result of COVID-19 pandemic. MDE is committed to a reasonable approach to compliance monitoring within the parameters of IDEA requirements.

## **C. SPECIAL EDUCATION FISCAL QUESTIONS**

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### **1. Is it allowable to charge salaries and benefits to IDEA Part B funds for staff who are teleworking and staff who are not working though they may now be temporarily performing non-special education but necessary duties as a result of the COVID- 19 pandemic?**

Yes. It is allowable to continue to charge salaries and benefits for special education staff teleworking and staff not working using IDEA Part B funds following the district's policy of paying salaries from all funding sources, federal and non-federal.

- 1) Staff who are teleworking will be paid from the same funding sources in a similar manner as prior to the COVID-19 pandemic and supported by time and effort documentation.
- 2) When charging IDEA Part B funds for special education staff who are not working, the district will need to consider how to allocate funds using a prior, representative period. Districts should consider their policies, procedures and documentation to support all charges to the grant.

### **2. Is it allowable to purchase technology to support the district's continuity of learning plan for students with IEPs?**

Yes. When a district buys certain technology for all students, purchases for students with IEPs should be included. IDEA Part B funds are to be used for the excess costs of special education. Additional technology to address a child's disability-related needs is allowable. Any equipment \$5,000 or greater is considered a capital outlay and must receive prior approval from MDE OSE.

### **3. Is it allowable to use IDEA Part B funds to support professional development of special education staff for online learning and instruction?**

Yes. The type of professional development needed during the COVID-19 pandemic may be new but continues to meet allowability within the IDEA Part B grant for approved special education personnel.

### **4. Will there be any relief provided for the IDEA Part B requirements related to LEA Maintenance of Effort, Excess Cost, Comprehensive Coordinated Early Intervening Services, and Proportionate Share?**

All the IDEA Part B requirements included in this question have been a concern that the MDE OSE has and continues to convey to the federal Office of Special Education Programs (OSEP). MDE OSE is currently awaiting a policy response from OSEP.

Any equipment purchased with federal grant funds must be documented and tracked to safeguard assets.