

COVID-19 and School Closures: Updated FAQ Resource Document on Students and Special Education Matters

Legal Considerations for Responding to a Pandemic

March 30, 2020

Table of Contents

Table of Contents	i
Section 1: Introductory Letter	1
HLERK Contact List – Students/Special Education Practice Group.....	2
Section 2: Students/Special Education FAQ	3
Remote Learning Days.....	3
Q1. What is a Remote Learning Day and a Remote Learning Planning Day? Are both considered student attendance days for school district calendars? (<i>NEW</i>).....	3
Q2. What is the difference between an E-Learning Plan and a Remote Learning Day Plan? Has the Governor “waived” the statutory application requirements to establish E-Learning programs? (<i>Updated March 30, 2020</i>)	3
Q3. How should school districts track student attendance during the mandated school closure? (<i>Updated March 30, 2020</i>).....	4
Provision of Special Education Services	5
Q4. Are school districts required to provide a free appropriate public education (FAPE) to eligible students under IDEA and Section 504 during Remote Learning Days, beginning March 31, 2020? (<i>Updated March 30, 2020</i>).....	5
Q5. How do school districts deliver special education services during Remote Learning Days? How do school districts program for students who may not benefit from technology, e-learning, or similar instructional platforms during the school closure? (<i>Updated March 30, 2020</i>)	5
Q6. If a school district plans to use an online platform to deliver instruction (<i>e.g.</i> , Google Hangouts, Zoom, etc.), are there any confidentiality concerns? Do school districts need to obtain informed parental consent prior to using online platforms to deliver instruction? (<i>NEW</i>).....	6
Q7. Are school districts still required to meet IDEA timelines during Remote Learning Days? (<i>Updated March 30, 2020</i>).....	7
Q8. How should school districts evaluate students during Remote Learning Days? (<i>NEW</i>)	8
Q9. Should school districts amend all IEPs/504s to reflect the delivery of special education and related services during Remote Learning Days? (<i>NEW</i>).....	9
Q10. Are school districts required to provide parents/guardians with progress updates during Remote Learning Days? (<i>NEW</i>)	10
Q11. Are school districts required to remove students placed in residential facilities during the mandated school closure? If school districts decide to remove students from these placements, are school districts responsible for transportation from the facility to the student’s home?.....	10
Q12. Are school districts required to fund ISBE-approved special education private facilities during the mandated school closure? (<i>Updated March 30, 2020</i>).....	10

Miscellaneous Student Issues	11
Q13. Are school districts required to grade student work during Remote Learning Days? (<i>NEW</i>)	11
Q14. Are school districts required to respond to student records requests under the <i>Illinois School Student Records Act</i> during the mandated school closure?.....	11
Q15. Are school districts required to provide meals on during the mandated school closure? (<i>Updated March 30, 2020</i>).....	11
Q16. Can students access school grounds, such as playgrounds, football fields, tracks, and basketball courts, during the mandatory school closure? (<i>NEW</i>)	12
Q17. Should school districts proactively cancel graduation ceremonies? (<i>Updated March 30, 2020</i>).	12
Q18. What should school districts do regarding spring 2020 standardized testing, <i>e.g.</i> MAP testing, ACT, SAT, AP testing, etc.? (<i>Updated March 30, 2020</i>).....	12
Q19. Are there bullying implications to COVID-19?.....	12
Q20: Are there useful resources regarding students and special education matters? (<i>Updated March 30, 2020</i>).....	12

Hodges Loizzi —————
Eisenhammer Rodick & Kohn LLP

Dear Friends and Colleagues:

On March 27, 2020, the Illinois State Board of Education (“ISBE”) issued [Emergency Rules](#) on Remote Learning Days, 23 Ill. Admin. Code § 5.10, regarding the provision of educational services to students during the mandated statewide school closure, as well as [Remote Learning Recommendations](#) and [updated FAQ guidance](#) for school districts. The Emergency Rules and guidance documents provide further clarification on Governor Pritzker’s [March 27, 2020, Executive Order 2020-15](#) regarding the creation of Remote Learning Days and Remote Learning Planning Days during the mandated school closure.

Specifically, starting March 31, 2020, all Illinois school districts must transition from Act of God days (March 17 through March 30), to Remote Learning Days and Remote Learning Planning Days (March 31 and thereafter). During Remote Learning Days and Remote Learning Planning Days, which now constitute pupil attendance days, districts must provide educational instruction to students remotely by implementing an E-Learning Plan or adopting a Remote Learning Day Plan approved by the district’s superintendent.

HLEK issued its initial guidance on special education and student matters during the COVID-19 closure on March 16. The following, updated, FAQ incorporates both federal and state guidance regarding the provision of services to students, including students eligible for special education and related services, during this school closure due to COVID-19. In this updated FAQ, we note the specific FAQs where we either updated our March 16 guidance or added a new FAQ in response to the latest guidance and legal developments.

Following this letter, you will find contact information for the HLEK attorneys who specialize in special education and student matters. If you have questions or are unclear about anything in this FAQ, please call us. You can reach us 24/7.

Sincerely,

HODGES, LOIZZI, EISENHAMMER,
RODICK & KOHN LLP

HLERK Contact List – Students/Special Education Practice Group

Kaitlin	Atlas	katlas@hlerk.com	914-645-1747
Jennifer	Deutch	jdeutch@hlerk.com	773-793-1246
Aimee	LeBlanc	aleblanc@hlerk.com	847-650-6526
Jessica	Nguyen	jnguyen@hlerk.com	832-279-9480
Michelle	Todd	mtodd@hlerk.com	847-989-8581

Section 2: Students/Special Education FAQ

Remote Learning Days

Q1. What is a Remote Learning Day and a Remote Learning Planning Day? Are both considered student attendance days for school district calendars? (NEW)

Beginning March 31, due to the State Superintendent’s declaration requiring school districts to use Remote Learning Days, all school districts must provide instruction to students remotely. Per ISBE’s March 27, 2020, Emergency Rules and FAQ guidance document, during Remote Learning Days, schools may implement either an E-Learning Plan or a Remote Learning Day Plan that provides students with instruction and access to educators through *whatever means possible*. Schools may use up to five Remote Learning Planning Days at any time after March 30 to develop Remote Learning Day Plans in partnership with their collective bargaining units. Remote Learning Planning Days may be used consecutively or intermittently.

Preliminarily, this language provides school districts with *absolute* discretion in developing their E-Learning Plans and Remote Learning Day Plan, including the length of the student instructional day, subject to coordination with their unions. (See HLERK’s updated FAQ on collective bargaining considerations in developing and implementing your E-Learning plans).

ISBE further clarified Remote Learning Days, Remote Learning Planning Days, and Act of God Days count as actual, student attendance days. All of these days count toward the minimum length of the school year; school districts do not need to make up any of these days when school resumes.

Q2. What is the difference between an E-Learning Plan and a Remote Learning Day Plan? Has the Governor “waived” the statutory application requirements to establish E-Learning programs? (Updated March 30, 2020)

Beginning March 31, school districts can: (1) develop a Remote Learning Day Plan subject to the requirements in the March 27 emergency rules; or (2) develop a new or implement an existing E-Learning Plan per the requirements in the *School Code* with approval from its Regional Office of Education (“ROE”) or Intermediate Service Center (“ISC”).

Option 1: Remote Learning Day Plan:

Pursuant to ISBE’s Emergency Rules, the Remote Learning Day Plan must address the following:

- Accessibility of the remote instruction to all students enrolled in the school or district.
- When applicable, a requirement that the Remote Learning Days activities reflect the State learning standards.
- Means for students to confer with an educator, as necessary.
- The unique needs of students in special populations, including, but not limited [to], students eligible for special education under Article 14 for the Code, students who are English learners, as defined by Section 14C-2 of the Code, students experiencing homelessness under the *Education for Homeless Children Act* [105 ILCS 45], or vulnerable student populations.

- Transitions from remote learning to on-sight learning upon the State Superintendent’s declaration that Remote Learning Days are no longer deemed necessary.

The Remote Learning Day Plan does not need to be approved by the Board of Education or the ROE, but rather the school superintendent or chief administrator. Upon adoption, districts must post the Remote Learning Day Plan on their website.

Option 2: E-Learning Plan:

Alternatively, school districts with developed E-Learning Plans pursuant to the requirements in 105 ILCS 5/10-20.56(c) can implement these plans beginning March 31. If your school district does not have an E-Learning Plan, you may still choose to develop and adopt an E-Learning Plan rather than developing a Remote Learning Day Plan. Generally, the statutory requirements for E-Learning Plans are more specific, requiring school districts to “reasonably and practicably” ensure and verify five hours of instruction or school work for each student participating in an E-Learning day and continue to require approval by a district’s ROE/ISC prior to implementation with students. However, the Governor’s Executive Order 2020-5 directs both ROEs and ISCs to apply flexibility and approve school district E-Learning Plans that do not include five hours of instruction or school work *so long as* the ROE/ISC determines the plan provides “substantial learning opportunities.” We note the remaining statutory requirements for E-Learning Plans remain in place with respect to programming. The Board hearing, approval process, and mandate to communicate with teachers, staff, and students 30 days prior to implementation have been suspended.

If your District does not have an ROE/ISC approved E-Learning Plan, we recommend focusing on the Remote Learning Day Plan to formalize remote, student instruction quickly and efficiently.

Q3. How should school districts track student attendance during the mandated school closure? *(Updated March 30, 2020)*

Prior to March 17: For any school closure days that occurred prior to March 17, 2020, districts must count those closures as Emergency Days, so long as the district still had Emergency Days available for use. Any Emergency Days used prior to March 17 constitute instructional days and do not need to be made up prior to the end of the school year.

Act of God Days (March 17 – March 30): School districts were not required to calculate student attendance during the Act of God Days. These days do not need to be made up at the end of the school year, although they will be utilized to calculate the 176 days of actual pupil attendance.

Remote Learning Days (March 31 through the Gubernatorial Disaster Proclamation): All Remote Learning Days and Remote Learning Planning Days constitute instructional days. At this time, districts are not required to revise their school calendar. Districts may take student attendance during Remote Learning Days, but should not penalize students for not participating in scheduled class meetings, instruction, or services.

Provision of Special Education Services

Q4. Are school districts required to provide a free appropriate public education (FAPE) to eligible students under IDEA and Section 504 during Remote Learning Days, beginning March 31, 2020? *(Updated March 30, 2020)*

Yes. **Act of God Days (March 17 – March 30):** If during the Act of God Days, (March 17-March 30), a school district did not provide educational services to its general education students, the district was not required to provide services to its special education students. Moreover, the Act of God days did not constitute student instructional days or “school days” for the purposes of relevant IDEA/special education timelines. However, if a school district provided e-learning services or instructional opportunities for general education students during the school closure days, then the district was required to attempt to provide FAPE to special education students. See [OSEP Guidance](#), [ISBE Guidance](#), and [Department of Education Q & A](#) on providing special education during the Coronavirus outbreak.

Remote Learning Days and Remote Learning Planning Days (March 31 through the Gubernatorial Disaster Proclamation): Beginning March 31, all districts must provide remote instruction to all enrolled students, including students with IEPs and 504 plans. Moreover, Remote Learning Days and Remote Learning Planning Days are now student attendance days for purposes of the school district calendar. Districts retain “full autonomy to provide continuous learning opportunities during the Remote Learning Days through whatever means possible” and exercise discretion in determining the length of the instructional day. Districts are encouraged to use methods that work best for their specific community, including both technology-based and more traditional methods. Districts should modify work provided to general education students for special education students, to the greatest extent appropriate and possible based on each student’s IEP/504 and individual needs. In addition, during this period, districts should document the provision (or attempted provision) of all special education services to eligible students, including special education instruction and related services. Both OSEP and ISBE have provided resources and recommendations to further support districts in designing instruction for students, including special education students, in their [Supplemental Fact Sheet](#) and [Remote Learning Recommendations](#) documents.

For information on the provision of services to students during Remote Learning Days, please see Question 5. For information on amending IEPs to reflect provision of services during Remote Learning Days, please see Question 9.

Q5. How do school districts deliver special education services during Remote Learning Days? How do school districts program for students who may not benefit from technology, e-learning, or similar instructional platforms during the school closure? *(Updated March 30, 2020)*

Do your best. Both OSEP and ISBE are clear on this point – school districts will not receive “waivers” from their procedural and substantive requirements pursuant to IDEA and state regulations during this school closure. Ultimately, the answer depends on each student’s programming and services.

School districts should continue to provide instruction, related services, and accommodations/modifications that can be delivered remotely to students based on their IEPs and 504 plans. For example, if a student receives an accommodation for enlarged print, the district should provide remote assignments with enlarged print. If a student receives speech language minutes, the speech pathologist can deliver speech services to a

student via an electronic platform (*e.g.* Zoom, Google Hangout). See Question 6 regarding notice to parents in using electronic meeting platforms.

For instruction and related services districts *cannot* deliver through remote instruction (*e.g.* students who require functional academic instruction in a structured, classroom setting, or direct occupational and physical therapy services), continue to consider more traditional instructional packets, learning boards, and projects and assignments with manipulatives parents can implement in the home with remote support from staff. For students where technology imposes a barrier to their access to instructional materials, educators can meet their legal obligations by providing eligible students “equally effective alternate access” to the curriculum or services provided to other students. As an example, OSEP discusses audio recording a document for a blind student at the time the document is electronically distributed to a class. OSEP also reminds educators to consider “low-tech” options, including instructional packets, projects, and written assignments.

At this time, we recommend districts do their best to deliver any special education services, related services, and accommodations they can through their E-Learning Program or Remote Learning Days Plan based on students’ IEPs and 504 plans. Where a district has been unable to provide educational services through an E-Learning Program or Remote Learning Days Plan, then on an individual basis, the district will need to consider compensatory education services following the school closure. During the closure period, we recommend districts keep careful records of the services teams are both *offering* and providing to students with disabilities. This documentation will prove useful when teams discuss compensatory education once schools re-open.

Q6. If a school district plans to use an online platform to deliver instruction (*e.g.*, Google Hangouts, Zoom, etc.), are there any confidentiality concerns? Do school districts need to obtain informed parental consent prior to using online platforms to deliver instruction? *(NEW)*

The use of online platforms raises inherent confidentiality concerns in two major areas – 1) the platforms’ level of encryption and terms of service, *e.g.*, how the platform maintains information and what the platform ultimately does with the information; and 2) in group settings, the possible disclosure of student record information to other students and parents. That said, confidentiality concerns must be balanced with the need to provide educational services during the school closures. School districts should familiarize themselves with the online platforms they plan to use. For example, does the online platform record sessions? If so, are those recordings retained? School district technology directors should review contracts with online platforms and have a solid understanding of how student data is maintained by the third party companies prior to using these platforms.

The most conservative approach to avoiding improper disclosure of student record information is to request written consent from parents and guardians prior to initiating instruction via an online platform. However, obtaining written consent from all families will be difficult, if not impossible, during this pandemic, and may delay the provision of instruction. Another less conservative, but more practical, approach is to provide families with notice of the use of the online platform, the associated confidentiality concerns, and an opportunity to contact District administrators with concerns or to “opt-out” of the online platform. We strongly recommend contacting your legal counsel to discuss how to move through the process of notifying and/or obtaining consent from families prior to the initiation of online instruction.

While the federal Department of Education (“DOE”) has not provided specific guidance on which platforms meet FERPA standards, the Department has been clear that Facebook Live, Twitch, and Tik Tok would not meet FERPA privacy standard and, accordingly, should not be used to provide instruction during school closures.

Q7. Are school districts still required to meet IDEA timelines during Remote Learning Days? (*Updated March 30, 2020*)

Yes. Neither the DOE nor ISBE is allowing for the extensions of evaluation or meeting deadlines. In its March 21, 2020, guidance, OSEP confirmed that, to date, there is no current flexibility for school districts' requirement to comply with federal and state special education timelines. OSEP encourages public agencies to work with parents to reach mutually agreeable extensions of time for mandated timelines, as appropriate.

Per ISBE's March 27, 2020 guidance, Remote Learning Days and Remote Learning Planning Days constitute instructional days and, accordingly, should be considered as "school days" for purposes of calculating mandated state/federal mandated timelines under IDEA, including initial case study evaluations and reevaluations. Conservatively, while students are not receiving remote instruction on Remote Learning Planning Days, districts should plan to count any Remote Learning Planning Days in their school day calculations.

- **Annual Review/Triennial Reevaluation IEP Meetings:** School districts must continue to review IEPs annually and complete triennial reevaluations. OSEP recommends districts hold annual review meetings via alternate means, such as through video and telephone conferences. With respect to reevaluations, school teams can complete a reevaluation through "a review of existing data" (a file review) without parental consent.
- **Evaluations/Eligibility Determinations:** Similarly, the 60-school day timeline to complete evaluations and hold student eligibility meetings remain mandated during the Gubernatorial Disaster Proclamation. During the Act of God Days (March 17 through March 30), which did not constitute instructional days, this 60-school day timeline was suspended. **However, as we transition to Remote Learning Days, effective March 31, 2020, the 60-school-day timeline is reinstated.**
- **IEPs/Eligibility Meetings:** The 30-calendar day window to develop an **initial IEP** based on an eligibility determination remains mandated.
- **Referrals for Case Study Evaluations:** Beginning March 31, the 14-school day timeline to respond to a referral for a case study evaluation and holding a domain meeting is now in effect.

To the extent possible, teams should consider telephone and video conference applications to hold scheduled IEP/504 meetings with families to meet mandated deadlines for annual review meetings and triennials. Secure written consent from parents to convene meetings virtually, if possible, and note meetings will convene virtually or telephonically on all conference notices. School districts can also consider asking parents to waive the attendance of certain IEP team members and ask parents to sign excusals. If parents refuse to meet virtually or telephonically during the school closure period, consult with your legal counsel on rescheduling annual reviews, triennials, and eligibility meetings during a school closure if the closure results in an untimely meeting. As noted previously, document all offers and attempts with parents to meet to satisfy mandated timelines.

For all other statutory/regulatory requests and mandated *calendar day* responses (*e.g.* responding to a parent request for an IEP meeting, parent requests for an independent evaluation at public expense, remitting a

parent's revocation of consent for special education services to writing), these calendar day timelines remain in effect during the school closure period. Again, do your best. See [HLERK Timelines Cheat Sheet](#).

Finally, OSEP also discusses timelines for state complaints and due process hearings in their most recent guidance document. If you are working through either a state complaint or due process, contact your legal counsel to discuss the statutory timelines during the school closure period.

Q8. How should school districts evaluate students during Remote Learning Days? *(NEW)*

Timelines for responding to requests for evaluations, completing evaluations, and determining eligibility remain in effect during Remote Learning Days. Districts will be faced with the challenging task of completing evaluations that began prior to the mandatory school closure or attempting to conduct a new case study/triennial reevaluation for a student during the school closure.

Can school districts seek mutually agreeable extensions of the evaluation timeline to evaluate students when school resumes? Should districts amend pending evaluations to meet eligibility timelines?

For all students either currently in the evaluation pipeline OR students who need to be evaluated during the school closure period, districts can request agreement from parents to extend or delay the evaluation and eligibility determination until school resumes. If parents agree to extend the 60-school day timeline to support additional testing once school reopens, districts should document an agreed "extension" and memorialize the parent's agreement. While this mutually agreeable "extension" may provide some protection for the District, state and federal mandates are not waived. Accordingly, the option comes with some risk -- parents could file complaints on the district's failure to meet a student's initial or triennial deadline, even with a documented agreement to extend the evaluation timeline.

Another, more conservative option in navigating evaluations -- for those students teams are currently evaluating: Teams can review the consent and domains form and determine which evaluation components can be completed remotely, such as file reviews, parent/student interviews, rating scales, etc. Assessments that require in-person testing and student observations across a variety of settings, Functional Behavioral Assessments, or standardized assessments may not be practicable. Teams may choose to amend the domain form, with parent agreement, to remove these types of assessments and request new consent to complete the evaluation and convene the student's eligibility/IEP meeting. If the parent agrees to amend the domain to remove in-person assessments and classroom observations, do not restart the evaluation timeline; instead, complete the remaining testing within the original 60 school days. For those students where teams need more evaluative data that requires observations and/or in-person testing, prioritize these evaluations once school resumes. Inform parents the team intends to gather more evaluative data after school reopens, with new consent.

For situations where the parent does not agree to amend the existing domain and provide new consent (either directly or in situations where the parent does not respond to staff communication), finish the evaluation process to the best of the team's ability and reflect in the evaluation summary those assessments that could not be completed due to lack of direct access to the student. Regardless, teams should not delay completing eligibility and developing or reviewing IEPs due to outstanding evaluation components and should move forward with eligibility determinations based on the data available. For some students, it may be necessary to revisit eligibility and complete additional assessment components once school is back in session.

In summary, with either option, for initial evaluations, teams should work to have IEPs in place at the start of the 2020-2021 school year. For triennials/reevaluations, teams can either 1) pursue parent agreement to continue the testing over the summer or until the next school year; or 2) complete the evaluation process now with testing/rating scales/file reviews, have eligibility meetings now to meet triennial deadlines, and explore additional testing next year when school reopens for those students who may need more evaluative data to make programming decisions.

How do school districts evaluate students during key transition points – three-year-old students, students aging out from a Developmental Delay category, etc.?

Additionally, districts should be prepared to complete assessments for students at key transition points. For students turning three during Remote Learning Days, districts should work closely with Early Intervention (EI) to gain access to data necessary and conduct interviews of EI staff to gain insight on the student’s abilities to determine eligibility without direct assessment of the student. For students eligible under the category of Developmental Disability who will reach their 10th birthday during the school closure period, an evaluation and eligibility under a new category is still required. Again, districts will need to do the best that they can with existing data, file reviews, and remote access to determine eligibility. Evaluations and eligibility can be revisited once schools reopen.

How do teams secure informed, written consent during the school closure?

Where possible, parents should be offered copies of domain forms, with the option to sign and return the form electronically. For parents who are unable to complete this task, teams may accept an electronic signature (via an email stating consent) or oral consent, then documented on the form by staff, in lieu of written consent. Any communication regarding evaluation consent should be documented and shared with the parent.

Q9. Should school districts amend all IEPs/504s to reflect the delivery of special education and related services during Remote Learning Days? *(NEW)*

Although districts may amend students’ IEPs to reflect the delivery of special education and related services during Remote Learning Days by convening an IEP meeting or completing an IEP amendment, for most school districts, this is just not feasible or practical due to the size of the district and/or the number of students with IEPs in the district. We recommend districts consult with legal counsel regarding the option of IEP amendments for students (e.g. during student annual reviews or other meetings planned during the remote learning period, specifically for students with significant needs requiring high amounts of instruction and services, or in situations where the district foresees a potential for litigation.) Amendments can be reflected through an IEP amendment document, an additional “Educational Services and Placement” page, or in the Additional Notes section of the IEP, stating that for a limited period of time (March 31 through the Gubernatorial Disaster Proclamation), the student’s IEP services will be amended, with all services returning to the level documented in the last agreed upon IEP following the reopening of school buildings. We do not recommend changing the student’s underlying placement and services during the mandatory school closure; instead, develop an “interim” plan for remote learning to avoid any “stay-put” challenges if a parent files a due process complaint once school resumes.

We do not recommend teams rewrite or amend IEP goals as part of this process. Instead, districts should focus on documenting the services staff will provide and the goals staff will be address during the amendment period.

Q10. Are school districts required to provide parents/guardians with progress updates during Remote Learning Days? (NEW)

Yes. Districts are required to provide parents/guardians with progress updates for students with disabilities during the school closure. For the end of the second semester/third quarter, districts should utilize current student data collected prior to the mandatory closure to draft goal updates and progress monitoring.

Because it is possible that the school closures could last through the end of the 2019-2020 school year, districts should encourage staff to, “think outside the box” on progress monitoring for the remainder of the school year, *e.g.*, developing a progress monitoring tool during remote learning in each domain, collaborating on goal implementation and data collection with students using virtual platforms, etc. That said, even with the provision of remote learning, students may demonstrate skill regression and may not meet their IEP goals. Staff should do their best to provide necessary services and collect data towards student progress.

At this time, it is not reasonable to expect that all students will meet their IEP goals by the end of the 2019-2020 school year. Many districts are focusing on preventing significant regression during this unprecedented time, rather than emphasizing student growth. Staff need to do the best they can in providing for students during this challenging time.

Q11. Are school districts required to remove students placed in residential facilities during the mandated school closure? If school districts decide to remove students from these placements, are school districts responsible for transportation from the facility to the student’s home?

No. Currently, there is no requirement for school districts to remove residentially placed students and transport these students to their homes if the residential facilities remain operational. However, if school districts do choose to bring their residentially placed students home, the school district is responsible for the students’ transportation costs. These transportation costs are reimbursable through ISBE.

Q12. Are school districts required to fund ISBE-approved special education private facilities during the mandated school closure? (Updated March 30, 2020)

Yes. On March 26, 2020, the Illinois State Board of Education (“ISBE”) issued an [emergency amendment](#) to its Special Education Rules. The emergency amendment is effective immediately and applies retroactively from the date of the Gubernatorial Disaster Proclamation, March 17, 2020. Based on this emergency amendment, ISBE-approved private special education facilities will most likely continue to bill districts for student tuition during the state-mandated school closure days. School districts must pay these invoices from the private facilities at the per diem rate and will receive ISBE reimbursement for these expenditures.

For districts with students placed at any ISBE-approved private placements, we recommend communicating with the private placements *as soon as possible* to discuss the private facilities’ provision of instruction and related services during the mandated school closure to students. School districts are required to provide services to students eligible for special education during the school closure and Remote Learning Days, including students placed in separate, out-of-district facilities.

Miscellaneous Student Issues

Q13. Are school districts required to grade student work during Remote Learning Days? *(NEW)*

No. During Remote Learning Days, student work completed may only be graded to improve a student's grades or academic standing. Given that students' access and ability to complete remote learning tasks during this time may be highly variable due to environmental factors outside of school districts' control, such as technology access, learning needs, social-emotional challenges, and physical challenges, students cannot be negatively impacted by work completed (or not completed) during Remote Learning Days.

Q14. Are school districts required to respond to student records requests under the *Illinois School Student Records Act* during the mandated school closure?

Yes. The *Illinois School Student Records Act* provides school districts must respond to requests for student records within ten *business* days of the request, with the opportunity to exercise a five business day extension if certain statutory requirements are met. Identical to the response requirements under FOIA, the business day timeline under ISSRA remains in effect.

We recommend school administrators monitor both their email inboxes and regular mail during the closure period for student records requests and respond accordingly. Of course, this may prove difficult without staff at the district to assist in gathering, copying, and producing records. We recommend reaching out to requestors during the school closure period to request their flexibility in response time if you receive a voluminous records request.

Q15. Are school districts required to provide meals on during the mandated school closure? *(Updated March 30, 2020)*

Remote Learning Days (March 31 through the Gubernatorial Disaster Proclamation): Yes. Beginning March 31, school districts must provide a free lunch to students eligible for free meals during Remote Learning Days. **Please note, this is a new requirement following the March 17-March 30 Act of God Days designation.** While districts are not required to provide meals to all students during Remote Learning Days, ISBE strongly encourages districts to do so. Districts participating in the National School Lunch or Summer Food Service Programs may receive reimbursement for packaged meals that meet the meal pattern requirement and are offered to all children age 18 and below or enrolled in school. Districts should prioritize meals to students who are eligible for free/reduced lunch programs when distributing meals. These meals may be reimbursable as ISBE has received a waiver from USDA. To apply, please complete this [form](#) and submit to ISBE.

Districts that do not participate in the National School Lunch or Summer Food Service Programs must still provide a free lunch to children who qualify for free meals during Remote Learning Days. These meals may be reimbursable at \$.04 per meal so long as they meet the meal pattern requirement. Districts should contact the ISBE Nutrition Department at cnp@isbe.net in order to access this reimbursement.

Q16. Can students access school grounds, such as playgrounds, football fields, tracks, and basketball courts, during the mandatory school closure? *(NEW)*

No. School grounds may only be used for essential purposes during the mandatory school closures. As such, all school grounds should be closed to student use. Districts can post signs to announce closures of their facilities, lock gates, or take other measures to dissuade the use of their outdoor facilities.

Q17. Should school districts proactively cancel graduation ceremonies? *(Updated March 30, 2020)*

There is no need to cancel graduation ceremonies at this time. However, should Governor Pritzker's shelter-in-place order be extended, school districts may be required to reconsider their traditional graduation ceremonies. We encourage school districts to begin reviewing their plans and any related contracts for their graduation ceremonies and considering alternate means if required.

Q18. What should school districts do regarding spring 2020 standardized testing, e.g. MAP testing, ACT, SAT, AP testing, etc.? *(Updated March 30, 2020)*

Executive Order 2020-15 suspended all state assessments for the duration of the Gubernatorial Disaster Proclamation. Accordingly, all state assessment requirements for spring 2020 are suspended, including the Illinois Assessment of Readiness, SAT, DLM-AA, Illinois Science Assessment, and the Constitution exam. For students taking AP testing, the College Board has developed a 45-minute online exam for students for the spring 2020 administration.

Additionally, ISBE has submitted a [statewide waiver](#) to the U.S. Department of Education to waive all federally required assessments, summative designations, and reporting on accountability metrics on the Illinois Report Card for the 2019-2020 school year.

Q19. Are there bullying implications to COVID-19?

Yes, school districts should place a particular awareness on monitoring unlawful bullying and harassment. Per ISBE, "it is of critical importance to stress to staff, students, parents, and community members that COVID-19 infections are not limited to certain geographical locations, nationalities, races, or cultures. Schools must take a firm stance to discourage and prohibit discriminatory practices and viewpoints in Illinois Schools."

Q20: Are there useful resources regarding students and special education matters? *(Updated March 30, 2020)*

[CDC Guidance for Schools and Childcare](#)

[IDPH School Guidance](#)

[ISBE Coronavirus Guidance and Resources for Illinois Schools](#) (will be updated frequently)

[March 27, 2020 Executive Order 2020-15](#)

[March 27, 2020 ISBE Guidance to Schools and Districts](#)

[March 27, 2020 ISBE Remote Learning Recommendations](#)

[March 27, 2020 ISBE Emergency Rules Part 5, Remote Learning Days](#)

[March 25, 2020 ISBE Emergency Amendment to Part 226, Special Education](#)

[March 21, 2020 OSEP Supplemental Fact Sheet](#)

[March 20, 2020 Executive Order 2020-10](#)

[March 15, 2020 Executive Order 2020-06](#)

[March 13, 2020 Executive Order 2020-05](#)

[March 2020 Department of Education Q&A on Providing Services to Children with Disabilities](#)

[USDA Memo on Child Nutrition Program Meal Service during Novel Coronavirus Outbreaks](#)

[HLEK Timelines Cheat Sheet](#)