



## Guidance on Serving Students with Disabilities During COVID-19-Related School Closures

As special education directors and other school leaders are struggling to wrap their arms around the implications of pandemic-related school closures for students with disabilities, two overarching questions have bubbled to the top of pile: (1) How, and to what extent, are schools obligated to provide services to students with disabilities during the closures; and (2) How should schools address mandated IDEA timelines during the closures.

In the **attached client alert**, Osborn Maledon provides guidance on these key issues, based on information available to date, including recommendations on issues such as:

### Providing Services:

- When are schools required to provide FAPE, including special education and related services?
- What FAPE standard would apply to distance-based learning models?
- When providing services, must they mirror what is in the student's IEP?
- Are schools required to hold IEP meetings and amend IEPs to change the student's placement during a closure?
- Must schools provide related services such as speech, OT, and PT in the student's home?
- What resources are available to assist schools in brainstorming options for distance-based learning to students with disabilities?

### Timeline Issues:

- Are any timelines tolled during the closure period?
- How should schools handle evaluations that are already in progress?



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- What should schools do if an annual IEP review or triennial reevaluation is due during the closure?
- What timeline applies if a parent requests an evaluation during, or just before, a school closure?
- What if parents request an IEP review during the closure?
- Must schools conduct manifestation determination reviews during the closure period?

## Resources:

- A compilation of special-education-specific guidance/resources issued by the U.S. Department of Education, Arizona Department of Education, CDC, and others is included—with links.

This remains an evolving situation. As the U.S. Department of Education has generally acknowledged, IDEA, Section 504, and the ADA “do not specifically address a situation in which elementary and secondary schools are closed for an extended period of time ... because of exceptional circumstances, such as an outbreak of a particular disease.” Accordingly, additional updates are anticipated.

Yesterday (March 19), the Arizona legislature passed HB2910, which includes the following provision: “During the 2019-2020 school year, public schools may deviate from the statutory requirements relating to special education programs.” If signed by the Governor, we anticipate further guidance to be issued by the Arizona Department of Education. OSEP has also indicated that it will be issuing further guidance on timeline-related issues.

The materials provided here are for informational purposes only and not for the purpose of providing legal advice regarding any particular circumstance.

Osborn Maledon stands ready to assist you in addressing particular issues relating to students with disabilities in connection with the COVID-19 outbreak or otherwise. David Garner at Osborn Maledon, P.A. may be contacted at: (602) 640-9358 or at [dgarner@omlaw.com](mailto:dgarner@omlaw.com).

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