

# Evaluation Timelines and COVID-19 Related Changes Impacting IEP Evaluations, IEP Implementation & Related Transition Periods

## Introduction

The information below includes resources for parents of children and students with disabilities assembled by the San Mateo County Commission on Disabilities, Youth and Family Committee. Resources are divided between two age groups; 0-2 years old and 3-22 years old. Inquiries regarding this specific document can be directed to the [Commission on Disabilities](#). Any inquiries regarding the specific resources listed should be directed to their respective agencies.

## **Ages 0-2 US DEPT. OF ED. OFFICE OF SPECIAL EDUCATION PROGRAMS (OSEP) GUIDANCE ON THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) PART C EVALUATIONS:**

### **Exceptional Circumstance Exception to 45-day Eval timeline:**

The [U.S. Department of Education's Office of Special Education Programs \(OSEP\)](#) acknowledged that it may not be possible to complete some or any of the activities required within the 45-day evaluation timeline remotely as in-person meetings may not be feasible or advisable due to COVID-19. Accordingly, it allows that such restrictions can constitute a documented exceptional family circumstance that qualifies for an exception to the 45-day timeline. To apply the documented exception:

1. The local agency and early intervention service provider must document application of the exception in the child's early intervention record, complete the delayed evaluation, assessment, or initial Individualized Family Service Plan ("IFSP") as soon as possible after the exceptional circumstances no longer exist
2. Determination must be made on a case-by-case basis. The 45-day timeline cannot be extended for all children within a state under the assumption that COVID-19 is an exceptional family circumstance for all families.

### **Guidance on Conducting Evaluations during Pandemic:**

To conduct evaluations to determine a child's eligibility for [IDEA](#) part C or conduct the child assessment when staff cannot conduct in-person meetings or conduct home visits due to the pandemic OSEP offered the following guidance:

1. The entities have the options of using medical records when appropriate, to establish eligibility without conducting an evaluation
2. The local agency and early intervention service provider must still conduct an appropriate assessment of the child and a family-directed assessment
3. Local agencies may wish to investigate available assessment instruments and tools to determine if some can be administered or completely remotely during the pandemic, if assessment of the child is based on personal observation
4. Local agencies may also work with the developers of their current assessment instruments to determine if the instruments can be administered or completely remotely without significantly impacting the validity of the results

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## Guidance on the Use of Interim Individual Family Service Plans (IFSP)

Regional Centers and early intervention service providers may use the interim IFSP until a face-to-face evaluation or meeting can be held. An interim IFSP may be helpful when an initial IFSP cannot be developed and the parents and regional center and/or early intervention service providers agree on the IFSP services needed by the eligible child and family.

Any early intervention services that have been determined to be needed by, and that can be available immediately to, the child and the child's family (particularly those that can be provided remotely) with parental consent, may begin before the completion of the evaluation or assessments.

## Ages 3-High School Diploma or 22<sup>nd</sup> birthday as applicable IEP ELIGIBILITY

### Guidance on Conducting Evaluations during Pandemic

State and federal guidelines governing evaluation timelines and Individualized Education Plan (IEP) implementation thereafter remain intact during the Pandemic. Parents must receive an assessment plan within 15 days of so requesting, and schools must evaluate the child within 60 days of the parental or guardian consent to the evaluation. Within 30 days of the eligibility determination, the IEP Team must develop and implement an IEP.

If the District is not conducting in-person evaluations, or such evaluations have been limited, it should work with the developers of its assessment instruments to determine if the instruments can be created remotely without significant impact on reliability and validity.

For California Department of Education's interpretation of this guidance and its own see:

<https://www.cde.ca.gov/ls/he/hn/specialedcovid19guidance.asp>

*IEP Emergency Learning Plan Requirement of Cal Ed Code Section 56345, which defines IEP content requirements in California.*

In the summer of 2020, the State Legislature amended the California Education Code to address IEP requirements considering disruptions to in-person learning caused by school closure emergencies like the COVID-19 pandemic. **Newly added Education Code Section 56345(a)(9)** requires that an IEP include an Emergency Learning Plan (sometimes identified by school districts as a Distance Learning Plan (DLP)) in case of school closures lasting 10 days or more due to an emergency (e.g., flood, fire, pandemic, earthquake, etc.) The law requires that all initial IEPs offered during the 2020/2021 school year include an Emergency Learning Plan. Existing IEPs should address inclusion of the Plan at the regularly scheduled IEP during the 2020/2021 school year. All IEPs in California must include the Plan by June 2021.

Accordingly, the base offer of free and appropriate public education (FAPE) on an IEP should propose special education and related services and minutes as if school were open. The Emergency Learning Plan should include the adjustments based on distance learning protocols. Current and future distance learning circumstances should not define the base offer on an IEP. Further, as with all components of an IEP, parents and guardians have rights to collaborate with the IEP Team regarding the Emergency Learning Plan and provide consent.

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**Note re: SB/AB 86 Approved by the CA State Legislature March 4, 2021. Signed by Hon. Gov. Newsom March 5, 2021**

AB 86 allocated \$2 billion beginning on April 1, 2021 for distribution amongst California schools that have reopened to in-person instruction for students with extra needs or requiring special attention depending on their County's then-current color-coded tier ranking, even if the County was in the purple tier. To be eligible for a share of the funding, schools must offer in-person instruction to "all prioritized groups" and to individuals with exceptional needs by April 1. Students in Special Education were included in the definition of "prioritized pupil group," as are at-risk students, homeless or foster youth, English Learners, students without technology access and those that are generally disengaged.

**For more information and updates concerning any and all Special Education-related topics addressed here, please contact:**

- 1) San Mateo County SELPA: <https://www.smcoe.org/about/san-mateo-county-selpa/>
- 2) San Mateo County School District Director for contact Information: <https://www.smcoe.org/about/districts-and-schools/school-district-information/>