

Preschool Special Needs Questions and COVID-19

April 10, 2020

The Question and Answer information is not a legally binding document. The information is intended to provide guidance and offer suggestions to county boards of education during COVID-19 pandemic.

Question: What should a local board of education do if it is closed due to COVID-19 and cannot meet the obligation to have an Individual Education Program (IEP) in effect for a child transitioning from Part C to Part B no later than the child's third birthday?

Response: West Virginia Board Policy 2419: *Regulations for the Education of Students with Exceptionalities* requires that an IEP be developed and implemented by the third birthday of a child participating in Part C- WV Birth to Three program, and who will participate in Part B preschool special education 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.

Question: How are WV Birth to Three initial evaluation timelines to be met during a state-wide school closure due to the COVID-19 pandemic?

Response: Health and safety concerns are paramount. If there is no feasible way to conduct evaluations safely following social distancing requirements or virtual methods of evaluation, then counties should consider delaying the evaluation until safety measures can be implemented.

County boards of education are encouraged to communicate with individual families and determine if an evaluation can be conducted in an alternate way. The county board of education should document the decision of the family and develop a plan to follow-up once the stay at home order is lifted.

Policy 2419 grants flexibility to the 80-day timeline when a state of emergency has been declared by the governor of the State of West Virginia.

The county must document on the **Child Notification Form** any reason that the evaluation might not be completed such as:

- Family declines an evaluation;
- Family refuses services and or refuses or fails to produce the child;
- There are school closures due to COVID-19;
- School staff is unavailable due to COVID-19;
- Family states that distance technology options impede their participation;
- The assessment could not be completed due to safety restrictions of the COVID-19 pandemic.

Counties may explore alternative options as a means of meeting transition planning and implementation requirements for children referred by WV Birth to Three through virtual means that follow HIPAA and FERPA requirements. It is critical to ensure transparency with the family, gain their informed, verbal consent and provide written notices per the Individuals with Disabilities Education Act (IDEA) if possible.

The results of any family contacts, including verbal consents, must be clearly documented in the child's record and on the form for which consent is being obtained. A family may choose not to participate in alternative evaluation or assessment, therefore declining the evaluation until it can be conducted in person.

When determining methods of conducting alternative evaluations it is important to consider the effectiveness of gathering information in a virtual format. Each evaluation conducted during this national and state emergency should include collection and review of a body of evidence. Consider a combination of the following:

- Interview with caregivers;
- Review any medical information;
- Review parent provided information;
- Review of existing developmental information and or evaluations conducted by WV BTT, including videos of the child, if available;
- Virtual observation of a play session and or another routine;
- Guiding parents/family member in simple activities that can be reviewed together;
- Direct assessments that are able to be conducted in an interview format.

The county board of education does have the option to consider and accept the evaluations completed by WV BTT to establish eligibility for special education. Parents should be provided a Prior Written Notice (PWN) that indicates what further evaluations will be completed as soon as the stay at home provisions are lifted and buildings are again open.

Question: How does a local board of education handle the reevaluation of students identified with a developmental delay turning age 6 during a school closure due to COVID-19?

Response: West Virginia Board Policy 2419: *Regulations for the Education of Students with Exceptionalities* requires when a student reaches age six and he or she no longer meets the eligibility criteria for developmental delay, the Individual Education Program (IEP) Team must follow the procedures for reevaluation and reconvene the eligibility committee prior to the student's 6th birthday to determine eligibility under another exceptionality. However, child find requirements remain. Therefore, if prior to the child's 6th birthday, there is reason to suspect that the child has another exceptionality under any other category, a reevaluation must be completed prior to the child's 6th birthday to make that determination. Many of these reevaluations may be conducted based on a review of existing data, without the need for additional assessments. If these evaluations are conducted based on a review of existing data, that review must be done by the IEP Team and must include input from the child's parents. The IEP Team may conduct this review without a meeting and without obtaining parental consent. If it is determined that no additional data are needed to determine continued eligibility, parents must be notified of that determination, the reason for that determination, and the right of the parent to request an assessment to determine whether the child remains eligible under another category.

Currently, there is no federal guidance regarding an exception for reevaluations. Policy 2419: *Regulations for the Education of Students with Exceptionalities* ties the process for children aging out of preschool special needs to the reevaluation process. Therefore, special attention should be given to

exiting students during this unprecedented time. It is recommended that students not be exited unless the exit can be determined based on the review process of existing data; otherwise, it is suggested that districts wait until evaluations are completed. A (PWN) should be provided to explain the delay due to the need for a face-to-face evaluation and or if a decision can be based on a review of existing data. The family can still request that an assessment regarding eligibility under another area of exceptionality be conducted.

Question: What impact will there be on the next Annual Desk Audit (ADA) if the Early Learning Reporting System (ELRS) and the Child Outcomes Summary (COS) form is not completed for the final window?

Response: Policy currently requires Pre-K and kindergarten teachers to report on all children during the upcoming ELRS reporting window, set to open May 1.

The United States Education Department (USED) has not granted any exceptions to completing the progress data for the Child Outcomes Summary. The offices of Early and Elementary Learning the Office of Special Education and Student Supports will continue to review guidance concerning the ELRS and COS process.

Question: Is WV Birth to Three considered essential services?

Response: WV Birth to Three is being considered essential services at the Regional Administrative Unit (RAU) level.