Kent ISD
Special Education

The Provision of Special Education and FAPE During COVID-19

Questions and Answers

Contingency Learning Plans

1. **Is a Contingency Learning Plan the same thing as the districts Continuity of Learning Plan?**
   No, the Contingency Learning Plan is an individualized plan for students with disabilities and outlines the district's good faith effort in providing a Free Appropriate Public Education (FAPE) during the school closure. It provides the accommodations and modifications needed to access the general education curriculum (when applicable), any consultative support needed for parents/guardians and/or students, and outlines how Specially Designed Instruction will be delivered though the rest of the 2019-2020 school year. The Continuity Learning Plans outline what the district is providing for ALL students.
2. **Is parental consent needed to develop and implement the Contingency Learning Plan?**
   No, consent is not needed for the implementation of the plan and distance learning. However, parent input is needed (where possible) and should be identified and utilized for the development of the plan. If you cannot connect with the parent for this purpose, document repeated attempts in Service Capture.
3. **Do we need to amend the IEP to put the Contingency Learning Plan in place?**
   No, amendments are not required. The Contingency Learning Plan is based on the special education and related services the district is able to provide in light of the circumstances.
4. **Does the Contingency Learning Plan need to mirror the contents of the IEP?**
   No, the Contingency Learning Plan documents the activities needed to support the student during the school closure and in light of the circumstances. The activities demonstrate the districts good faith effort in trying various things to support the individualized needs of the students. The activities should work towards maintenance of IEP goals and objectives prior to the school closure and moving forward where possible. The Contingency Learning Plan will document the collaboration with the parent to determine the frequency and duration of services needed and in light of the current circumstance. If a student is in a local, regional or center program and the IEP does not have specific academic goals, the caseload provider might work with a general education teacher and/or gather resources to expand learning opportunities beyond the IEP goals and objectives and to keep the student engaged in core curriculum as an activity.
5. **Do we need to complete a Contingency Learning Plan?**
   The Contingency Learning Plan is encouraged and acts as the offer of FAPE in light of the circumstances during the school closure. If a Contingency Learning Plan is not developed, the IEP must be implemented as written or amendments would need to occur that support the district's offer of FAPE during the school closure.

6. **How do we document repeated attempts to contact students/parents without success to develop the Contingency Learning Plan?**
   Document the methods and outcome of the repeated attempts to contact the family (at least 3 recommended initially) to develop the Contingency Learning Plan in Service Capture. Additionally, attempt to connect thereafter throughout the remaining months of the school closure as a good faith best effort in supporting the student/family during the school closure. Contingency Learning Plans, with activities included, would be created without parent input and provided to parents through the same method of contact as general education.
7. **During the process of developing a Contingency Learning Plan, the parent indicates they do not want to focus on activities and/or IEP goals and objectives and only want to focus on the work coming from the general education teacher(s), what should we do with the Contingency Learning Plan and monitoring IEP goals and objectives?**
   Document the exchange in Service Capture and identify consultation with the general education teacher to support the student with the content as an activity in the Contingency Learning Plan. Caseload providers may consider sending home optional activities for continued engagement with needs identified in the IEP. Additionally, attempt to connect thereafter throughout the remaining months of the school closure as a good faith best effort in supporting the student/family during the school closure.
8. **Is there a deadline for the Contingency Learning Plan?**
   The MDE OSE has recommended that Contingency Learning Plans be completed by the same date as the Continuity Learning Plans which is no later than April 28th.
9. **Do we need to finalize the Contingency Learning Plan in MiSPE?**
   Yes, in finalizing and amending the document, the Contingency Learning Plan will act as a fluid document in providing a record of previous and newly added activities during the school closure.
10. **Should the Contingency Learning Plan be sent home to families?**
    The Contingency Learning Plan is an individualized plan for students with disabilities and outlines the district's good faith effort in providing a Free Appropriate Public Education (FAPE) during the school closure. As a result of their hopeful engagement with the plan, it is our guidance that this document be sent home though the method that communication has been established.
11. **Where can we find the Contingency Learning Plan?**
    The plans are located in MiPSE and can be found in the student documents drop down.

Individualized Education Program (IEP)

12. **Do we need to hold Spring IEPs?**
    If you can develop a meaningful IEP with the parent and IEP team then it is advised to hold your IEP's virtually or by phone. Work with the parent on scheduling the IEP on a mutually agreed upon date and time and email/mail the procedural safeguards home. If parents cannot receive the procedural safeguards, ask the parents if they would like a general overview of them, and then send them home upon return to school. Document approvals and plans in Service Capture.
13. **What if the parent does not agree to holding the IEP virtually or by phone?**
    Document your efforts and plan to prioritize and hold the IEP upon return to school. Your district data may be impacted, yet corrective action will not be required. For initial IEPs, timelines can be extended.

14. **How do we handle upcoming IEPs with the Contingency Learning Plans?**
    Develop the annual IEP as if you were in school and then note the school closure and Contingency Learning Plan to be implemented during the school closure on the Notice Page. *Please note that you should only reference the Contingency Learning Plan on the Notice page. Example language could look like the following:
    Options Considered: Implementation of the IEP as written
    Reason Not Selected: Due to COVID-19 and the Executive Order for school closure, the Contingency Learning Plan will be implemented through the end of the school closure and 2019/2020 school year.
15. **How should we proceed with special education and related services when districts resume normal operations next school year?**
    Districts will need to review individual student IEPs to determine if 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 and make appropriate revisions through the amendment process as needed.
16. **How do we document progress on IEP goals and objectives during the school closure?**
    Document growth and progress related to the Contingency Learning Plan activities and work on IEP goals and objectives in Service Capture. If the district sends out report cards at the end of the year, IEP progress reports must also be disseminated. It is recommended to document what has been provided in support of IEP goals and objectives and the measurement methods utilized (even if they don't align to the IEP) in determining growth and progress during the school closure. Upon return to school, caseload providers should be completing informal assessments to determine where the student is relative to IEP goals and objectives and amend IEPs as needed. If parents did not engage with the development of a Contingency Learning Plan and subsequent learning opportunities, document in Service Capture and select "not applicable" in the status on the IEP Progress Report and note the following in the comment section: Repeated attempts were made to provide instruction per the Contingency Learning Plan during the COVID-19 school closure; however, the student did not participate. As a result, progress cannot be determined at this time.
17. **What do we do for students who are graduating or aging out?**
    When the district determines the end of the year for seniors or those that are aging out, a Summary of Performance should be completed to assist in the process of transitioning to post school activities.

18. **When do we complete entry and exit preschool special education outcomes during the school closure?**
    Guidance from the state has been that we follow the same "rules" even during this period of remote instruction. Therefore, a provider can use the eligibility assessment to complete the entry and if the exit assessment can't be completed providers are asked to use informed clinical opinion.

Evaluations

19. **How do we complete initial evaluations during the COVID-19 school closure?**
    If a face to face observation and/or evaluation is required, then delay and prioritize the evaluation upon return to school in the 2020/2021 school year. In this case, the student is considered "not yet eligible" and would need a Contingency Learning Plan as a result. Additionally, if the team needs more time for the evaluation for this purpose, the district should ask the parent to agree to an extension. If face to face observation/evaluation is not needed, evaluations can continue with parent consent. If you have a signed

REED and cannot get parental consent, document the repeated attempts to gain consent and contact the family again upon return to school to complete the evaluation and eligibility process.

20. **If parents are in agreement to an extension for an initial evaluation or a re-evaluation that was started out of the three year evaluation cycle, how many days should be included in the proposed initial extension timeline and what should be documented in the Agreement to Extend Evaluation Timeline document?**
    On the document and under the primary reason, select the other box and note that *this initial evaluation requires face to face observation and/or evaluation that cannot be completed due to the COVID-19 school closure*. *The evaluation will be prioritized and continue upon return to school during the 2020-21 school year.* It is recommended that the evaluation team complete what they can virtually in preparation to expedite the completion of the evaluation upon return to school. The timeline for the extension will be individualized and based on the date that the district implements their Continuity of Learning Plan with students/families. For most extensions, you will need to take into account the 35-40 days in April, May, and June (if applicable) and then add additional days to complete the face to face observation and evaluation portion upon return to school. Seeing that this evaluation will be prioritized, Kent ISD guidance would be to add up to an additional 15 school days upon return to school.
21. **Can we complete re-evaluations?**
    If you can complete the evaluation with the information collected prior to the school closure and/or if additional data is not needed in completing the REED, then the evaluation can be completed during the school closure. The 30 school day timeline remains for the completion of the re-evaluation and IEP, however the days counted should align to the date the district implements the Continuity of Learning Plan which outlines the instruction through distance learning. The 4 weeks of school closure prior should not be counted. If there is a change of eligibility or if the evaluation requires face to face observations and evaluations then the evaluation will need to be delayed and prioritized for the return to school in the 2020-2021 school year.
22. **What do we do if the parent consents to REED for evaluation purposes but we can't get their signature?**
    Document parent consent via email if possible, otherwise the date that it is verbally provided. Additionally, on the Notice document the following:
    Options Considered: Parent Signature on REED and/or IEP
    Reason Not Selected: Obtaining a parent signature was not possible due to the Executive Order for school closure due to COVID-19, however verbal/email consent was provided.

Related Service Provision

23. **How do we provide related service provision determined in the IEP?**
    It is recommended that related service providers work with the caseload provider to determine how to best move forward with the related service provision. We do not want to overwhelm families and students with all providers trying to reach out and schedule something. Therefore, we would recommend that you use a Primary Service Provider Model whereby one person is working with the family/student and bringing in others per the activities provided through the development of the Contingency Learning Plan. For those providing related services, consider what frequency and duration would be appropriate under the circumstances and in working with the students and families.

24. **For more "hands-on" therapies such as OT, PT, VITC, may those services be delivered remotely through on-line platforms and will that time count toward implementation of the services defined on the IEP?**
The way that the teletherapy would be provided would need to be documented as an activity in the Contingency Learning Plan. If we cannot provide opportunities in teaching and consultation with parents (document), then we might need to consider compensatory education upon return to school if the student has regressed and cannot recoup the skills in an identified amount of time.
25. **Does a district or service provider need to seek or obtain parental consent to use online learning or therapy with a student?**
No, the Contingency Learning Plan will provide the activities that will be provided during the school closure and does not require a parent signature or consent for service.

Navigating Behavior

26. **How do we navigate the completion of Functional Behavior Assessments during the school closure?**
If an FBA was initiated before the COVID-19 school closure and you can continue to complete the FBA virtually then proceed. If you cannot continue the FBA due to the need for face to face interaction and/or observation, then communicate with the family and proceed upon return to school. If needs arise and/or a parent requests an FBA during the school closure, then a REED with parent consent is needed to complete the FBA and to determine what can be done virtually and what cannot be. Work with parents to create the assessment.
27. **How do we develop and/or implement Positive Behavior Support Plans during the school closure?**
If the behavior(s) identified in the FBA and PBSP is not impeding instruction from a distance, then leave as is and assess the need and possible revisions and updates upon return to school. If a new behavior(s) is emerging during distance learning, work with parents to develop a new PBSP to support learning at a distance.
28. **Can a student be removed or suspended during distance learning?**
Yes, any time a student is removed or not allowed to participate in distance learning due to violating the student code of conduct, it would be considered a removal. Also, a district's student code of conduct might need to be revised/amended to include distance learning.
29. **What constitutes FAPE for students that are suspended or expelled during school closure?**
Activities to access the general education curriculum and IEP goals and objectives should be identified in a Contingency Learning Plan for those that are suspended or expelled to ensure support and services needed.
30. **Are we obligated to complete Manifestation Determination Reviews for a change of placement during Distance Learning?**
Yes, all IDEA and MARSE regulations remain, therefore if the disciplinary action constitutes a change of placement (in this case away from the distance learning provided for other students), then an MDR and FAPE would be required.
31. **Can a student participate with other students in a Distance Learning Format if they are in an Interim Alternative Education Setting?**
No, if a student was placed in an IAES prior to the school closure, then the student needs to remain in the IAES setting with a Contingency Learning Plan and until factors have been considered in returning them to the general education and distance learning setting.

Other

32. How do we count school days for evaluations, IEPs, and Related Paperwork?

When counting school days, the last attended school day was March 12th. Counting should begin again on the date the district implements the Continuity of Learning Plan which outlines the instruction through distance learning. The weeks of school closure prior to this date should not be counted.

33. What services are billable/non-billable with distance learning?

Telehealth services have new codes for direct instruction for speech and language and social work. There are new non-billable (for now) codes for OTs, PTs, and O&Ms for virtual therapy. There are tips sheets within MiPSE for more information. Also, stay tuned as it looks as if new codes will be available for tele-therapy in most areas next week.