



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING

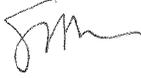
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STATE SUPERINTENDENT

MEMORANDUM

DATE: May 4, 2020

TO: Local and Intermediate School District Superintendents

FROM: Dr. Scott M. Koenigsknecht, Deputy Superintendent
P-20 System and Student Transitions 

SUBJECT: Implementation of *Early On*[®] During Implementation of Continuity of Learning and COVID-19 Response Plan

Executive Order 2020-65 states that in-person K–12 instruction, Great Start Readiness Program (GSRP) program delivery, and early childhood programs are suspended for the remainder of 2019–2020 school year and requires development and implementation of a plan for learning at a distance. The requirement in this executive order to suspend all in-person instruction applies also to *Early On* (Individuals with Disabilities Education Act (IDEA) Part C) for infants and toddlers (both for children eligible for Part C Only and for children eligible for Part C with Michigan Mandatory Special Education (MMSE) services).

The requirement in the executive order to develop and implement a plan for learning at a distance, along with requirements of IDEA, means intermediate school districts (ISDs) must include their plans for providing remote early intervention services for infants and toddlers (both for children eligible for Part C Only and for children eligible for Part C and MMSE) to the extent possible under the current circumstances within their Continuity of Learning and COVID-19 Response plan ("CoL plan").

In addition:

1. The executive order provides guidance regarding the need to incorporate early childhood programs, including *Early On*, in the CoL plan.
2. If you have submitted your CoL plan, similar plans must be created for internal use for all early childhood programs, including *Early On*.
3. If you have not submitted your CoL plan, you should incorporate your early childhood programs, including *Early On*, therein.

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Early On referrals, evaluations, and services are expected to continue in a modified form. The provision of remote early intervention services should be aligned with the beginning date specified in the ISD's CoL plan and needs to begin no later than May 7, 2020. Each ISD will determine whether services across the entire local service area will begin at the time of the earliest start date of the learning at a distance plan of any local education agency (LEA) within their boundaries, or whether the services will begin in each LEA boundary in accordance with the start date of instruction stated in that LEA's CoL plan.

This will typically depend on whether *Early On* services are all provided by the ISD, or whether some *Early On* services are provided by LEAs. Services provided through contracts with individuals or agencies will also need to be addressed in the CoL plan.

The attached guidance document has been developed and posted to the MDE website to clarify information related to implementation of *Early On* during this unprecedented situation. The guidance document will be updated as necessary as the situation evolves.

It is imperative that *Early On* programs keep detailed documentation of actions taken and decisions made during the response to COVID-19.

Documentation of cancellations, delays, and exceptional family circumstances will be critically important. MDE may need to collect additional data related to the COVID-19 response to enable accurate reporting in the federal Fiscal Year 2019 State Performance Plan/Annual Performance Report.

The U. S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS) has recently created a webpage designed to provide information and resources for schools and school personnel regarding COVID-19 at <https://www.ed.gov/coronavirus>. Guidance continues to evolve daily. Please regularly reference the OSERS site for updates.

Many technical assistance resources and online materials are available to assist ISDs in developing and implementing remote early intervention services for families. While ISDs are responsible for developing options, they are encouraged to access the [Early On Training and Technical Assistance](#) site regularly for implementation resources. Further, refer to the [MDE COVID-19 Education Resource](#) tab for further information and guidance. Please check these sites regularly for updates.

As additional situations and questions arise, ISDs are encouraged to contact Noel Kelty, State *Early On* Coordinator at KeltyN@michigan.gov.

Attachment

cc: Michigan Education Alliance

Guidance for Implementation of *Early On*® During COVID-19 Response

The purpose of this guidance document is to provide information on implementation of *Early On*, including Michigan Mandatory Special Education Services (MMSE) for infants and toddlers, during the response to the Coronavirus (COVID-19). This is a rapidly changing situation, and this document will be revised as necessary to provide the most up-to-date information. Each intermediate school district (ISD) *Early On* program will need to make many local decisions based on local capacity, resources, and the extent of the impact of COVID-19 within the entire local service area and the local community.

Waivers of Part C Requirements

Neither Michigan Department of Education (MDE) nor the United States Department of Education have the authority to provide waivers to the Individuals with Disabilities Act (IDEA) Part C requirements. Congress would need to create legislation to create waivers. Although the timelines cannot be waived, there are some allowances included in IDEA Part C regulations regarding exceptional family circumstances. The Office of Special Education Programs (OSEP) has provided guidance indicating that delays in meeting Part C required timelines due to suspensions of Part C services due to COVID-19 can be considered exceptional family circumstances. These must be well documented.

Documentation

Attributing delays to COVID-19 as an exceptional family circumstance must be well documented within the child's record. Be sure to keep detailed documentation of cancellations or delays of service delivery, evaluations/assessments, Individualized Family Services Plan (IFSP) meetings, transition conferences, among other interactions, including who initiated the cancellation/delay, and the reason for cancellation/delay.

MDE may need to collect additional data related to the COVID-19 response to enable accurate reporting in the Federal Fiscal Year 2019 State Performance Plan/Annual Performance Report.

Impact of Executive Order 2020-65 on Implementation of *Early On*

Executive Order 2020-65 states that in-person K-12 instruction, GSRP program delivery, and early childhood programs are suspended for the remainder of 2019-2020 school year and requires development and implementation of a plan for learning at a distance. The requirement in this executive order to suspend all in-person instruction applies also to in-person *Early On* services, including MMSE for infants and toddlers.

The requirement in the executive order to develop and implement a CoL plan for learning at a distance, along with requirements of IDEA, means ISDs should include their plans for providing remote early intervention services for infants and toddlers (both for children eligible for Part C Only and for children eligible for Part C and MMSE) to the extent possible under the current circumstances within their CoL plan.

The provision of remote early intervention services should be aligned with the beginning date specified in the ISDs submitted CoL plan and needs to begin no later than May 7, 2020. Each ISD will determine whether services across the entire local service area will begin at the time of the earliest start date of the learning at a distance plan of any local education agency (LEA) within their boundaries, or whether the services will begin in each LEA boundary in accordance with the start date of instruction stated in that LEA's CoL plan. This will typically depend on whether *Early On* services are all provided by the ISD, or whether some *Early On* services are provided by LEAs. Services provided through contracts with individuals or agencies will also need to be addressed in the CoL plan.

***Early On* Within the ISD CoL Plan**

Executive Order 2020-65 states that K–12 instruction, GSRP program delivery, and early childhood programs are suspended for the remainder of 2019–2020 school year and requires development and implementation of a plan for learning at a distance. *Early On* programs must begin providing learning at a distance opportunities for children and families no later than May 7, 2020. School districts must submit a CoL plan in order to continue to receive state aid for operations. Within the ISD's CoL plan, provision of remote early intervention services for infants and toddlers in *Early On* (including children eligible for Part C Only and for children eligible for Part C and MMSE) and their families to the extent possible under the current circumstances will need to be addressed.

Local service areas will understandably be at varied states of readiness to provide remote early intervention services and supports. Family resources related to accessing remote services will also be important to consider. It is recommended that a variety of methods, including printed materials, phone contact, email, virtual visits, or a combination of those be used to meet individual child and family needs. Be sure to address provision of services through agreements with LEAs or through contracts with individuals or agencies, if applicable to your *Early On* local service area.

As you create a plan to implement *Early On*, consider:

1. Alternate modes of communication/interaction that you anticipate will be used in the implementation of *Early On*, including remote services, evaluations, assessments and Initial IFSPs, periodic reviews, annual IFSPs and transition plans/conferences, in place of in-person visits and meetings to the greatest extent possible.
2. Any anticipated needs to reallocate federal *Early On* and/or state School Aid Section 54d funds to implement remote early intervention services and supports. Changes to the use of either of these fund sources also requires an amendment be completed within the Michigan Electronic Grants System Plus (MEGS+) and approval granted by MDE.
3. Adjustments you need to make to staffing due to COVID-19.

In-Person *Early On* Services

Services cannot be provided by in-person/face-to-face methods for the remainder of the 2019-2020 school year or until Executive Order 2020-65 is lifted and in-person/face-to-face interactions may resume, whichever occurs earlier.

Alternate Modes of Service Delivery

Local service areas are encouraged to be creative and to consider capacity and resources available when planning for delivery of services while in-person services are suspended. Supports and services should be individualized for each child and family, taking into consideration family resources and needs. Possible modes of service delivery include video conferencing, audio conferencing, sharing video recordings, telephone interactions, printed materials, email, text messages, and using postal delivery services.

As you select a mode of service delivery, you will also need to decide together with the family on an appropriate time of day and length of time for the service.

Several of the professional organizations for therapists have developed guidance specific to their profession to guide the provision of services during the suspension of in-person services.

Parent Decision

Parents may ask to suspend services and/or delay meetings due to the impact of COVID-19 on their family. This should be documented as an exceptional family circumstance. Services must begin again and/or delayed meetings or other events must take place as soon as possible after the documented exceptional family circumstance no longer exists or parental consent is obtained. *Early On* providers are encouraged to check in periodically with a family that has elected to suspend services temporarily to ensure that their needs are being met and to determine when they are ready to begin receiving services again.

Adjustments to the Provision of IFSP Services Due to COVID-19

Changes in child and family routines due to COVID-19 may have a significant impact on goals and outcomes, what services are needed, method of service delivery, as well as frequency and length of service. *Early On* must ensure the continuity of services on a case-by-case basis and consistent with protecting the health and safety of the child, the child's family, and those providing services. The service coordinator and providers must determine if the child's needs have changed and determine whether the IFSP team needs to meet to review the child's IFSP to determine whether changes are needed. Parents should be full participants in decision-making regarding adjustments to the implementation of the IFSP.

OSEP guidance states that *Early On* must ensure the continuity of services even when impacts of COVID-19 prevent IFSP services from being provided in-person in a particular location (such as the child's home), by a particular provider, or to a particular child or family member. This may be done by, for example, providing services with an alternate provider or by alternate means. The provider or service coordinator may consult with the parent through a teleconference or other alternate

method (such as email or video conference), consistent with privacy interests, to provide consultative services, guidance, and advice as needed.

Temporary adjustments to the implementation of the IFSP made purely due to limits created by COVID-19 (such as frequency or length of service, service provider, or mode of service delivery) may be documented in the child's record, such as in a service or contact log, as a temporary deviation from the child's IFSP due to COVID-19 without convening an IFSP meeting and changing the IFSP. These temporary changes should be documented as such in the child's record and Prior Written Notice (PWN) should be provided.

Significant changes (such as adding new services), especially when due to changed needs of the child, will warrant convening an IFSP meeting to make changes to the child's IFSP and involve providing all related procedural safeguards.

Responding to Referrals

The 45-day timeline begins on the **earliest date** the referral is received in the local service area, either by the ISD, LEA, or by agencies with which the ISD has a contract or an agreement. The timeline for referrals received during periods of closure due to COVID-19 begins on the day the referral came from the Child Abuse Prevention and Treatment Act (CAPTA) or any other referral source. If the response to the referral and the initial evaluation, initial assessment and/or initial IFSP meeting are delayed due to closure or to the backlog of referrals caused by the impacts of COVID-19, document these delays as exceptional family circumstances, noting the connection to COVID-19.

Parents should be notified of the receipt of a referral and the initial evaluation, initial assessment and initial IFSP meeting should be scheduled as soon as possible. Consider what modes of communication can be used for conducting these evaluations, assessments and IFSP meetings during the suspension of in-person services. If the parent asks to delay the evaluation, assessment and/or IFSP meeting, document this as an exceptional family circumstance.

Eligibility Determinations

Consider all existing evaluation information. Decide if there is enough information to make the eligibility determination or whether additional information is needed. Consider whether there is a way that the needed information can be obtained without meeting in person with the child and family. Remember to include use of established conditions and informed clinical opinion when making determination of eligibility.

Evaluations During Suspension of In-person Services

Just as local service areas need to be creative in thinking about alternate modes of service delivery, they need to also be creative in thinking about alternate modes for completing evaluations and assessments. Possible modes include video conferencing, audio conferencing, sharing video recordings, telephone interactions, printed materials, email, text messages, and using postal delivery services.

Many publishers of evaluation tools are developing guidance on how to use the tools when you cannot meet in-person with the child and family due to the COVID-19 crisis. Check the website for the tool you would like to use and follow guidance provided by the publisher.

Use of Interim IFSPs

If you have determined that a child is eligible, however the additional evaluations and assessments needed to complete an Initial IFSP cannot be completed at this time, you may develop and implement an Interim IFSP. This does not waive the 45-day timeline for completing an Initial IFSP, however you can document that the delay is due to an exceptional family circumstance related to COVID-19.

Consent and Signatures

IDEA requires written consent at several points in the process. IDEA does not specify how written consent must be obtained. Local service areas will need to plan for how they will obtain written consent while not meeting in person with families. A few ways of obtaining written consent include via USPS mail and electronic or digital signatures for consent.

Early On programs that wish to utilize electronic or digital signatures for consent may do so if they choose. Options for electronic or digital signatures could include but are not limited to the use of applications such as HelloSign, DocuSign, Adobe Sign, or even a parent's email reply to a PWN stating that they consent to the proposed action in the PWN and provide their printed name as a signature.

Parents may provide consent with an electronic signature under three conditions:

1. The document identifies a particular person as the source of the electronic consent.
2. The document authenticates a particular person as the source of the consent. To meet condition two, there must also be something to authenticate that the person sending the signature electronically is the person named in the document. That could be accomplished by requiring that a parent respond to the request for consent using their own email address (where the consent form was sent). Or, an *Early On* program could send the request for consent to the parent electronically and protect it with a password known only to the sender and the parent. The fact that the parent is able to open the request for consent and send a response is reliable evidence that it is the named parent who is responding.
3. The document indicates such person's approval of the information contained in the electronic consent (34 C.F.R. § 99.30(d)). To meet condition one, the document must include a statement identifying the person providing the signature. For example, the document could include a statement such as: "I (name of parent) am the parent of (name of child), and I consent to: _____." The third condition would apply to any request for consent, whether hand-written or electronic. The document must describe the action for which consent is being requested and include a statement that the parent's signature means the parent is consenting to that action.

If the extra time needed to obtain written consent due to impacts of COVID-19 causes delays to meeting timelines, document the delay as an exceptional family circumstance related to COVID-19.

In cases when it is impossible to obtain written consent, obtain and document verbal consent. Follow-up with written consent as soon as possible.

FERPA and Use of Video

Note that video recordings maintained by *Early On* that contain information directly relating to the child and/or family are to be considered education records under the Family Educational Rights and Privacy Act (FERPA; 34 C.F.R. § 99.3).

Use of Funds to Support Virtual Services, Virtual Evaluations/Assessments, and Virtual IFSP Meetings

Federal Part C funds and state School Aid Act Section 54d funds may be used to provide technology and other needs to support virtual services, virtual evaluations/assessments, and virtual IFSP meetings.

Both funds may also be used to contract extra staff and/or pay for overtime of current staff to help address backlogs in referrals and catching up with missed services, evaluations, assessments, IFSP meetings (initial and annual), periodic reviews, meetings to develop transition plans, transition conferences, etc.

Additional Resources

The U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS) has recently created a webpage designed to provide information and resources for schools and school personnel regarding COVID-19 at <https://www.ed.gov/coronavirus>. Guidance continues to evolve daily. Please regularly reference the OSERS site for updates.

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