



# Special Education and COVID-19: What Has Changed and What Has Stayed the Same

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# Topics that will be covered

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- ❖ Updates from TEA
- ❖ In-Person, Virtual, or Hybrid Education
- ❖ Evaluations
- ❖ ARD Meetings and IEP Development
  - ❖ How services will be provided
- ❖ Transition Planning

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# TEA Guidance

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# What TEA has said...

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- ❖ TEA does not have the authority to close schools and it is left to each district to make its own closure decision.
  - ❖ Recall that originally TEA threatened to reduce funding for districts that didn't open as rapidly as TEA desired. Many districts did return to in-person school but others remained virtual by requesting extensions from the TEA based on local considerations such as the COVID-19 infection rate, hospitalization number, and advice from the local health departments
- ❖ While TEA requires school districts to provide in-person education for families that chose that option there IS NOT a requirement that virtual be offered and we can see that some districts have done away with virtual learning all together

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# TEA Guidance

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- SY 20-21 Public Health Guidance
  - <https://tea.texas.gov/sites/default/files/covid/SY-20-21-Public-Health-Guidance.pdf>
- Educational Rights and Responsibilities During COVID-19
  - [https://tea.texas.gov/sites/default/files/covid/education rights responsibilities covid.pdf](https://tea.texas.gov/sites/default/files/covid/education%20rights%20responsibilities%20covid.pdf)
- SY 20-21 Attendance and Enrollment FAQs
  - <https://tea.texas.gov/sites/default/files/covid/SY-2020-21-Attendance-and-Enrollment.pdf>
- SY 20-21 Special Education FAQ
  - <https://tea.texas.gov/sites/default/files/covid/SY-20-21-SPED-FAQ.pdf>

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# In-Person, Virtual, or Hybrid Education

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# Virtual Learning vs. In-Person Learning

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- ❖ Any parent may request that their student be offered virtual instruction from any school system that offers such instruction.
  - ❖ Switching from virtual to in-person can be limited to end of grading period
  - ❖ If school not offering virtual parent can enroll child in other schools that are
- ❖ School systems must offer on-campus instruction for those families that wish their students to attend on campus
- ❖ School systems are not required to offer remote instruction to the general student population; however, that **remote instruction may be required** for individual students, if a particular student's individualized education program (IEP) or Americans with Disabilities Act accommodation requires remote instruction

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# Virtual Learning vs. In-Person Learning

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- ❖ If an LEA decides to discontinue providing remote instruction, **they must give a 14-day notice to parents** and notify parents of the option to transfer to another district for remote instruction. Those school systems that have discontinued remote instruction prior to the date of this clarification, even if remote instruction were discontinued without adequate advance notice, must still ensure parents are aware of their options to continue remote instruction by transferring to another school system.
- ❖ A district has the option to provide virtual or remote to some students:
  - Only students who are sick or quarantining
  - Only for specific grade bands
  - On a case-by-case basis for IEP and 504 plans

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# Required to be In-Person

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- ❖ Can my LEA require students that are currently receiving remote instruction to come on campus periodically for some academic purpose?
  - ❖ LEAs can require students to come on campus to complete a required assignment, project, or exam for an elective course if the course requires assignments or exams that cannot be reasonable completed remotely
  - ❖ LEAs can require students to come on campus to complete a required assessment that plays a significant role in determining class rank or is required for graduation/grade level promotion and cannot be reasonably or equitably administered remotely

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# Required to be In-Person

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- ❖ When students are struggling academically in the remote setting, teachers and principals should talk to families about their options before making any remote instruction setting change.
- ❖ An LEA can identify students to be discontinued for remote instruction if one or both of the following are true in any class:
  - ❖ Student has a class average of 70 or below (or the equivalent)
  - ❖ Student has 3 or more unexcused absences in a grading period LEAs can decide on criteria that include one or both of the above, and may make the thresholds more lenient (e.g., only identify students who have a class average of 65 or below, or only those who have 4 or more unexcused absences).
  - ❖ However, the LEA must apply the criteria consistently for all students in a particular grade
- ❖ Parent has a right to Appeal Decision of change from remote to in-person

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# Required to be In-Person

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- ❖ If a district chooses not to offer remote instruction to its students generally, it does not have to do so for an individual student, such as a special education student, unless:
  - ❖ After a request by the parent/guardian or another member of the special education student's admission, review and dismissal (ARD) committee, the committee determines as part of the student's individualized education program (IEP) that remote instruction is required to receive a free and appropriate public education (FAPE).
  - ❖ After a request by the parent/guardian or another member of the 504 Committee determines as part of the student's 504 plan that remote instruction is required.
- ❖ Remote vs Homebound vs. Home School

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# December STAAR Administration Guidance

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- ❖ <https://tea.texas.gov/sites/default/files/covid/FAQs-for-STAAR.pdf>
- ❖ To ensure equity for all students, a student must be present at a monitored testing session and must be supervised by a trained test administrator to participate in the Texas assessment program
  - ❖ The December 2020 administration has been extended to a two-week online testing window (December 8–18) to give districts more flexibility in scheduling assessments and more opportunity to test all eligible students
  - ❖ For any eligible student (receiving remote or in-person instruction) who is required to quarantine during the testing window before he or she has an opportunity to participate in the December 2020 STAAR administration, the district should indicate “A” for absent in the SCORE CODE field. For these cases, the district has an opportunity to submit a medical exclusion for each student at the end of the testing window.

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# Evaluations

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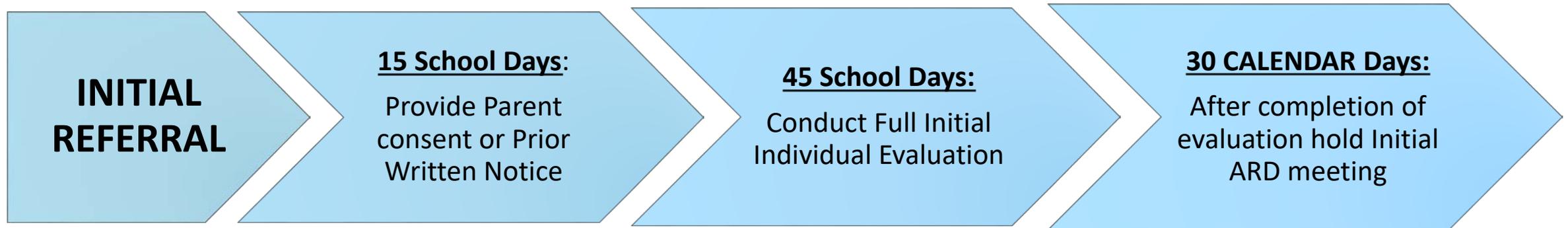
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# Evaluations: Timelines have NOT changed

❖ [https://tea.texas.gov/sites/default/files/covid/covid-19\\_evaluation\\_guidance\\_april\\_2.pdf](https://tea.texas.gov/sites/default/files/covid/covid-19_evaluation_guidance_april_2.pdf)



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# Evaluations: How evaluations are done MAY have changed

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- ❖ Many considerations go into how evaluations and assessments are completed but TEA has been very clear that a school district SHOULD NOT delay evaluations and SHOULD complete what is possible virtually/remotely
- ❖ In-Person Evaluations can still be completed even if a district is still doing virtual learning
- ❖ Some parts of an assessment may be done remotely or via video conference
- ❖ In-person evaluations may look different:
  - ❖ One on one
  - ❖ Masks/social distancing
  - ❖ No other students

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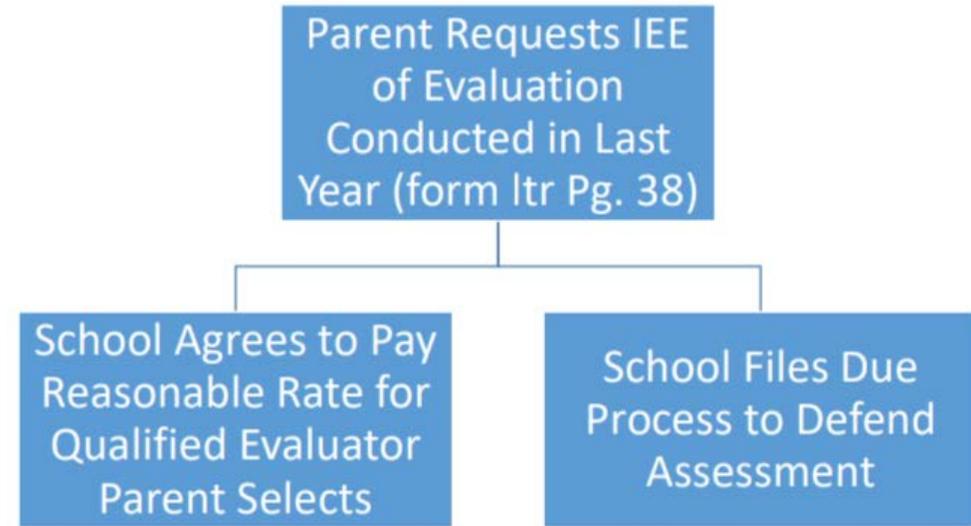
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# Evaluations: Reevaluations and IEEs

- ❖ Evaluations should be completed every three years and there is no “pandemic” exception; however, be aware that completing a REED could satisfy the re-evaluation requirement
- ❖ The process for IEE’s remains the same regardless of if the district is offering in-person, virtual, or hybrid.
  - ❖ If already approved for evaluation, inquire whether IEE provider is conducting evaluations. Some evaluators are conducting in person 1:1 assessments with social distancing and/or masks.



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# ARD Meetings and IEP Development

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# ARD MEETINGS:

Requirements for properly constituted ARD committee meetings apply, regardless of if school is on-campus or remote.

## ❖ In-Person, Virtual, or Hybrid

### ❖ Same:

- ❖ Committee members include parent, student if appropriate, diagnostician, district representative, regular education teacher, special education and **anyone else who can provide information relevant to the development of a student's IEP**
- ❖ Completed annually at a minimum
- ❖ 5+ days notice requirement

### ❖ Different:

- ❖ Some participants may be in-person while others are appearing virtually or telephonically
- ❖ Meetings may be longer due to the need to discuss accommodations and services provided virtually vs. in-person.



Annually or as often as needed,  
(agreed amendments possible)



5+ Notice Required



Work with parent's schedule

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# Prior Written Notice: Parents/guardians must be given 5-day prior written notice of ARD committee meetings unless they waive the requirement

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- ❖ Prior written notice (PWN) is a document school must give parent anytime the school wants to change something in the student's Individualized Education Program (IEP), such as where the student is educated or the amount of special education services currently provided.
- ❖ In Texas, at least five school days before the school proposes a change, unless the parent agrees to a shorter timeframe.
  - ❖ Five day requirement still applies during pandemic, but school closure or preparation days don't count. Days of virtual instruction count. **Note: when there are unexpected extensions of breaks or closures a school may ask for a parent to waive the five day requirement.**

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# Placement

Least Restrictive

Most Restrictive



Regular Class

Self-Contained Class

Separate Campus

Residential

Students with disabilities should be educated with students that do not have disabilities in the least restrictive environment possible according to the student's IEP.

Virtual learning in the least restrictive environment STILL applies and should be discussed as part of the IEP

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# Contingency Plan

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- ❖ Documents temporary special education services that are feasible and safe to provide to an individual student while a local education agency (LEA) is closed but continuing to provide instruction during the COVID-19 pandemic.
- ❖ Not intended to serve as, or to replace, the most recent IEP.
- ❖ Without documented parent/guardian agreement under 34 CFR §300.324 to amend the student's IEP, this document should not be considered a fulfillment of an IDEA requirement.
- ❖ It may be used for documenting services that will be provided so that there is clarity for both parents/guardians and educators during this unique situation and to assist the ARD committee in determining what, if any, compensatory services will be provided to the student once school reopens.
- ❖ LEAs must coordinate with a student's parents/guardians in the completion of this document.
- ❖ Must be individualized for each student.
- ❖ [https://tea.texas.gov/sites/default/files/covid/Covid-19\\_SPED\\_Emergency\\_Contingency\\_Form.pdf](https://tea.texas.gov/sites/default/files/covid/Covid-19_SPED_Emergency_Contingency_Form.pdf)

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# How will services be provided?

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- ❖ Counseling, occupational therapy, speech therapy, etc. may be provided either in-person or virtually → the IEP should identify how the service will be provided during times of remote instruction and in-person instruction; number of minutes, frequency, etc.
- ❖ Parents and Schools should keep a log of when and how services are being provided so that the ARD committee can review for consideration of compensatory services and/or ESY.
- ❖ This is where the contingency plan will come in
- ❖ Supplemental Special Education Services: To ensure additional educational progress, families can use the online accounts to obtain goods and services up to the dollar value in the account which will supplement and bolster services a child is already receiving in school.
  - ❖ <https://tea.texas.gov/sites/default/files/SSES-FAQ.pdf>

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# Accommodations and Modifications

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- ❖ An IEP should include accommodations and modifications that will be provided for in-person instruction and virtual learning
- ❖ If an IEP indicates that a “visual schedule” is to be utilized by the student then a visual schedule should be provided to parent to use at home.
- ❖ Sensory items are another accommodation that should be addressed in the IEP for in-person and virtual learning
- ❖ Discuss what can be provided in virtual instruction and what cannot be provided– alternatives should be discussed

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# Examples of Changes ARD Could Make During Pandemic

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- ❖ Provide In Home Parent Coach on virtual learning
- ❖ Providing more or different direct instruction or related services
- ❖ Alter schedule for synchronous instruction
- ❖ Provide manipulatives for home use
- ❖ Provide additional technology for home use

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# Compensatory Education

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- ❖ Compensatory education is an award of education services that are offered to compensate for a previously inadequate program that denies FAPE during past year.
- ❖ Parents should document services that aren't provided and any information about progress or lack of progress, especially while in at home instruction
- ❖ Request compensatory services in ARD Meeting to Start
- ❖ TEA COVID-19 policy guidance document on compensatory services  
<https://tea.texas.gov/sites/default/files/covid/covid19-compensatory-servicesand-extended-school-year-guidance.pdf>
- ❖ TEA informational flyer on compensatory services for parents:  
<https://tea.texas.gov/sites/default/files/covid/covid19-comp-services-two-pages.pdf>

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# Transition Planning

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# Transition and Graduation

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- ❖ Year student turns 14, IEP must include:
  - ❖ Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and independent living skills, where appropriate
  - ❖ Transition services needed to assist the child in reaching those goals, including courses of study; and
  - ❖ Notice of transfer of rights at age of 18.
  - ❖ Ability to remain in school through year student turns 22.

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# Transition During COVID-19

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- ❖ [https://tea.texas.gov/sites/default/files/covid/covid19\\_continuity\\_of\\_learning\\_for\\_secondary\\_transition\\_during\\_covid-19.pdf](https://tea.texas.gov/sites/default/files/covid/covid19_continuity_of_learning_for_secondary_transition_during_covid-19.pdf)
- ❖ All secondary transition services/activities (34 CFR §300.43) must continue to be monitored through progress reports aligned to a student's IEP goals. During COVID-19-related school interruptions, local education agencies (LEAs) should make reasonable efforts to provide individualized transition support for students with disabilities beginning at age 14 through age 21 in an at-home learning environment
- ❖ Both student self-advocacy and community partnerships may need to be reinforced during this unprecedented time through flexible and meaningful opportunities that may include virtual or online learning, remote instruction, and computer-based instruction.

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# Transition During COVID-19

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Examples of possible alternatives:

- ❖ An in-person college tour could be replaced by a virtual campus tour. It is essential to be flexible and make reasonable efforts to employ a variety of delivery options to provide secondary transition services and activities
- ❖ During this unprecedented time, transition activities continue to be monitored by a designated staff member and progress reported in alignment with IEP goal progress reporting
- ❖ Work-Based learning (WBL) and other community experiences are intended to allow students to link what they have learned in the classroom to real-world experiences. To accomplish this during extended school closures will require creativity.

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[www.DRTx.org](https://www.DRTx.org)

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# Resources

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❖ Disability Rights Texas

- ❖ <https://www.disabilityrightstx.org/en/home/>
- ❖ <https://www.disabilityrightstx.org/en/category/covid19/>

❖ Texas Law Help

- ❖ <https://texaslawhelp.org/article/coronavirus-covid-19>

❖ Texas Council for Developmental Disabilities

- ❖ <https://tcdd.texas.gov/resources/covid-19-information/>

❖ TEA

- ❖ <https://tea.texas.gov/texas-schools/health-safety-discipline/covid/covid-19-supportspecial-education-0>
- ❖ [https://tea.texas.gov/sites/default/files/covid/covid19\\_special\\_ed\\_qa\\_updated\\_may\\_7.pdf](https://tea.texas.gov/sites/default/files/covid/covid19_special_ed_qa_updated_may_7.pdf)

❖ Department of Education

- ❖ <https://www2.ed.gov/about/offices/list/osers/index.html#spotligh>

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# Questions

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For more information visit our website at: [www.disabilityrightstx.org](http://www.disabilityrightstx.org)

Angel Crawford, Attorney at Law

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