

## Frequently Asked Questions (FAQ) for Local Education Agencies:

### Special Education Emergency Contingency Plan Form

The following document provides information regarding the documentation of special education and related services while a Local Education Agency (LEA) is physically closed for more than 10 school days but continuing to provide instruction in the event of an emergency. While some or all of the information in this document may come from the student's individualized education program (IEP), this form is not intended to serve as, or to permanently replace, the most recent agreed upon IEP. The Special Education Emergency Contingency Plan form is intended to document temporary services that will be delivered so that there is clarity for both the parents/guardians and educators during school closures. LEAs must coordinate with a student's parents/guardians in the completion of this document, and it must be individualized for each student.

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#### **1. Must an IEP account for providing special education and related services during an emergency?**

Yes. California Senate Bill 98 and EDC §56345 (a)(9)(A) require an IEP to include, *a description of the means by which the individualized education program will be provided under emergency conditions as described in Section 46392 (e.g., fire, floods, and epidemics), in which instruction or services, or both, cannot be provided to the pupil either at the school or in-person for more than 10 school days. The description shall include the following:*

- Special education and related services
- Supplementary aids and services
- Transition services, as defined in EDC §56345.1
- Extended School year services pursuant to Section 300.106 CFR.

#### **2. Must all IEPs be amended by the 20/21 school year to include a Special Education Emergency Contingency Plan?**

**No.** The requirement to include these contents in an IEP applies to initial IEPs or the next regularly scheduled revision of an IEP that has not already met the above described requirements, see EDC §56345 (a)(9)(B). However, LEAs who will remain in extended closure upon the onset of the 20/21 school year should consider whether a special education emergency contingency plan is needed to reflect the services that will be provided based on their reopening plans.

#### **3. Are LEAs required to use the Special Education Emergency Contingency Plan form(s) provided by the EDCOE Charter SELPA?**

**No.** LEAs may choose to use the SELPA's Special Education Emergency Contingency Plan form(s) at their own discretion, or, may choose to develop or adopt alternative form(s) to address contingencies for a student's IEP as mandated by CA SB 98 and EDC §56345 (a)(9)(A).

**4. Under what circumstances may the Special Education Emergency Contingency Plan Form(s) be utilized?**

- The Special Education Emergency Contingency Plan form may be utilized to outline what services will be provided and the means by which those services will be provided in the event that a future school closure occurs in response to an emergency.
- The Special Education Emergency Contingency Plan form for multiple scenarios may be utilized while an LEA is experiencing an extended school closure and the LEA has identified various stages (or “phases”) of distance learning. The IEP team may choose to determine which services are safe and feasible to provide for each corresponding stage/phase.
- At the discretion of the LEA when deemed appropriate by the IEP team.

**5. What if an LEA has multiple scenarios (e.g., phases, stages) for their instructional model during a prolonged school closure?**

If an LEA has multiple scenarios for their instructional model in response to an emergency or school closure, the IEP team may utilize the Special Education Emergency Contingency Plan (Multiple Scenarios) form to outline the provision of special education and related services under each scenario.

**6. Is the Special Education Emergency Contingency Plan meant to serve as multiple Offers of FAPE for the parent to choose between?**

**No.** The Special Education Emergency Contingency Plan is intended to reflect what services will be implemented to the greatest extent practicable and the means by which those services will be provided in light of a student’s circumstances and the school closure. The Special Education Emergency Contingency Plan is not intended to change an LEA’s current offer of FAPE for a traditional school year. Nor does the plan absolve the LEA of their responsibilities under the IDEA. IDEA must be upheld during school closures and LEAs continue to be responsible for convening IEP meetings and ensuring that FAPE is being offered. When a student demonstrates changes in their present levels, IEP teams have an obligation to meet and amend the student’s IEP (and/or make changes to the Special Education Emergency Contingency Plan, as needed) to reflect all the student’s needs.

**7. Is an IEP meeting required to develop the Special Education Emergency Contingency Plan?**

When possible, Special Education Emergency Contingency Plans would be drafted as part of a student’s initial or annual IEP meeting. However, in circumstances when an annual IEP meeting is not required, the Special Education Emergency Contingency Plan may be developed as an amendment to the student’s current annual IEP. The LEA must demonstrate efforts to offer parents the opportunity to participate in an IEP meeting to develop the Special Education Emergency Contingency Plan. However, consistent with 34 CFR § 300.324 (4)(i) a parent and an LEA may agree to a written amendment in lieu of holding an IEP meeting. Under this circumstance, the agreement between the LEA and

the parent to amend the IEP in writing (in lieu of meeting) must be documented in the text of the amendment.

**8. Who is required to participate in the development of the Special Education Emergency Contingency Plan?**

Special Education Emergency Contingency Plans are now required to be a part of every student's annual IEP, therefore the plan would be developed with the entire team. Under circumstances where the Special Education Emergency Contingency Plan is being developed as an amendment to a student's current IEP without a meeting it is suggested that input from relevant IEP team members be considered.

**9. Should the LEA send Prior Written Notice when the LEA intends to implement a Special Education Emergency Contingency Plan?**

Prior Written Notice (PWN) is a document that is required following the proposal and/or refusal related to the initiation or change in the identification, evaluation, educational placement, or offer of FAPE (34 CFR § 500.503). A school closure lasting more than ten (10) days constitutes a change in placement. Parents will be receiving PWN through the Special Education Emergency Contingency Plan form, therefore additional PWN is not required. However, an LEA may choose to send parents/guardians PWN prior to the implementation of the Special Education Emergency Contingency Plan to mitigate any confusion with the provision of special education and related services under emergency conditions.

**10. What if a student's parent/guardian disagrees with the proposed Special Education Emergency Contingency Plan?**

While the temporary special education services should be determined collaboratively with a student's parent/guardian, in the event that agreement cannot be reached, the LEA should exhaust all efforts to address areas of disagreement within the IEP process. If all attempts to resolve areas of disagreement are unsuccessful and an event occurs that will trigger implementation of a contingency plan, the LEA may choose to provide the parent/guardian with a copy of the plan and prior written notice of implementation to reflect what services will be delivered during the school closure. For support to address disagreements with the IEP teams, please contact the LEA's assigned program specialist.

**11. Where should the Special Education Emergency Contingency Plan be kept?**

The Special Education Emergency Contingency Plan is part of the student's official IEP document. A hard copy of the plan should be maintained in the student's special education file. Additionally, the plan should be scanned and attached to the relevant IEP meeting in SEIS.

*If you have any questions regarding Special Education Emergency Contingency Plans or the provision of special education and related services under emergency conditions please contact the LEA's assigned Program Specialist, or, the El Dorado Charter SELPA office at (530) 295-2462.*