Date: March 21, 2020  
To: Early Intervention/Early Childhood Special Education Services Contract Providers  
From: Office of Enhancing Student Opportunities  
Re: Early Intervention/Early Childhood Special Education Services and FAPE for Open Sites  

Dear Providers,

Programs, Providers, and Parents are asking questions about the provision of Early Intervention (EI) and Early Childhood Special Education (ECSE) services for infants, toddlers and children with IFSPs due to the statewide school closure announced by the Governor. The purpose of this memo is to provide guidance regarding EI/ECSE services in light of this closure.

It is important to clarify that the Governor has not mandated any closure of childcare and preschool facilities. As such, any closures to this point have been determined necessary by individual providers. There are many sites in Oregon that continue to provide services to the general birth-5 population. If an early learning or childcare program is providing educational opportunities to some children in their program, the EI/ECSE program must ensure that all infants, toddlers, and children with disabilities also have equal access to the same opportunities, including the provision of FAPE (34 CFR §104.4 and 28 CFR §35.130 (Title II of the ADA)).

In programs that continue to serve the general preschool population, the EI/ECSE program must make every effort to provide special education and related services to the child in accordance with the child’s Individualized Family Service Plan (IFSP) developed under IDEA (34 CFR §300.101 and 34 CFR §300.201 (IDEA)). If an early learning or childcare program closes its sites because the functioning or delivery of educational services is disrupted, and does not provide any educational services to any student in the program, then the EI/ECSE program would not be required to provide services to children with disabilities during that same period of time, unless such services are specifically required by the student’s IFSP (e.g., Extended Schoolyear Services). The Department recognizes that there could be extenuating circumstances that impact the ability of EI/ECSE programs to provide services as identified.
in an IFSP. In that case, when possible, the IFSP team will need to meet to determine appropriate compensatory services.

In regard to Early Intervention for infants and toddlers, if the offices of the EI/ECSE provider are closed, Part C services do not need to be provided to infants and toddlers with disabilities and their families for the period during which the EI/ECSE provider is closed. However, if services are not provided for an extended period, even due to office closure, the IFSP team must meet under 34 CFR §303.342(b)(1) to determine if changes are needed to the IFSP and to determine whether compensatory services are needed to address the infant or toddler’s developmental delay.

If an infant, toddler, or child who experiences a disability is home for an extended period of time (generally more than 10 consecutive school days) under a physician’s orders, an Individualized Family Service Plan (IFSP) meeting is necessary to determine whether they are available for instruction and require homebound services given their health needs. In the event that an EI/ECSE provider closes due to all infants, toddlers, and children being home under a physician’s orders, the program would still need to hold IFSP meetings and provide services to ensure FAPE. In so doing, EI/ECSE personnel should follow appropriate health guidelines to assess and address the risk of transmission in the provision of such services.

Sincerely,

Cindy Hunt, Chief of Staff
Candace Pelt, Ed.D Assistant Superintendent
Office of Enhancing Student Opportunities
Oregon Department of Education