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## **IEPs Must Document Emergency Distance Learning Services**

On June 29, 2020, Governor Gavin Newsom signed Senate Bill 98 (SB 98) that adds a new emergency distance learning component to individualized education programs (IEPs). Special education administrators must ensure that initial IEPs include this component and that this component is added to all existing IEPs during the next regularly scheduled IEP team meeting.

Prior to SB 98, the law identified eight parts to an IEP, including present levels of academic achievement and functional performance, goals, and special education and related services. SB 98 amends Education Code section 56345 by adding a ninth required component: an IEP must include a description of the means by which the IEP will be provided under “emergency conditions” “in which instruction or services, or both, cannot be provided at the school or in person for more than 10 school days.” (Educ. Code § 56345(a)(9).) The description must include:

- Special education and related services;
- Supplementary aids and services;
- Transition services; and
- Extended school year services.

Public health orders must be taken into account in determining the means by which the IEP will be provided under emergency conditions. “Emergency conditions” include the following:

- Fire;
- Flood;
- Impassable roads;
- Epidemic;
- Earthquake;
- The imminence of a major safety hazard;
- A strike involving student transportation services provided by a non-school entity; and
- An order issued pursuant to Education Code section 41422.

In light of SB 98, local educational agencies (LEAs) should consider taking the following steps when developing initial IEPs and revising existing IEPs during the next regularly scheduled IEP meeting:

- Train staff that IEP teams must consider options to provide an IEP in emergency conditions at initial and regularly scheduled review IEP team meetings.
- Document the means to provide an IEP in emergency conditions with reference to compliance with the LEA's emergency preparedness procedures and directives from public health officials.
- Describe, generally, the kinds of emergency distance learning possibilities that could apply in any of the potential emergency conditions listed above.
- Engage in an individualized discussion with parents/guardians about effective distance learning options for their child in emergency conditions, generally.
- Prioritize health and safety when developing emergency distance learning options.

If you have any questions about the requirements and implications of SB 98, or other related questions, please contact one of our six offices.

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