



John Overheim, Director Special Education

joverhei@gmcs.org

Coordinator

Bill Nichols
Carol Sanches
Diana White
Cindy Arsenault
Natalie Lovato

August 4, 2020

Dear Parent or Guardian:

We write to provide you updated information and prior written notice of differences that you and your child may encounter as a result of the COVID-19 Pandemic regarding the provision of special education and related services. First and foremost, please know the health and well-being of your family is of the utmost importance to us.

Because no one can predict how the Pandemic may impact access to public education as a whole, your child may experience changes in the delivery of instruction during this time period as frequently as weekly (or possibly even daily). For example, when the District is in the “red phase” of remote learning only, no students in any program may be present on school campuses. This approach is undertaken in order to protect staff and students as well as to achieve equity and access to instruction for all students. Although instruction and services through technology, tele-therapy, distance learning and hybrid models may “look” different from the norm during these extraordinary times and may have to change without much notice, please rest assured that our education teams continue to work hard for your child.

Under federal and state law, Gallup-McKinley County Schools (“GMCS” or the “District”) is required to provide to you prior written notice of actions that will occur where such actions may change the provision of Free Appropriate Public Education (“FAPE”) to your child. This letter constitutes such a notice and enclosed with this letter is a copy of your and your child’s procedural safeguards under the Individuals with Disabilities Education Act (“IDEA”) and state law.

Please also understand that our federal and state governments may continue to modify guidelines for delivering special education and related services during this abnormal time of the COVID-19 pandemic, and GMCS will work to meet federal and state guidelines to the most appropriate extent possible for each child with an IEP.

I. During the COVID-19 Pandemic, GMCS Will Deliver Special Education and Related Services Under Various Models.

The atypical delivery of educational services during the period of the COVID-19 Pandemic is necessary due to health and safety concerns. As you likely know, social distancing and other measures are necessary to reduce the spread of the coronavirus during this ongoing international crisis, and various instructional models are some of the primary methods to avoid mass gatherings that spread the coronavirus at a rate too rapid for our healthcare system to support. Along with other state governmental agencies and community leaders, GMCS is

committed to protecting the health and safety of our students and staff to the greatest extent possible during the Pandemic.

Recognizing the role for various instructional models to help keep our communities safe, the U.S. Department of Education (“USDOE”) and the New Mexico Public Education Department (“NMPED”) have given school districts across the country the flexibility to serve students during this time of emergency. Specifically, the USDOE’s Office of Special Education and Rehabilitative Services (“OSERS”) has emphasized that “federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency” and “FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students.” Please be assured that GMCS is working to follow federal and state guidance to the most appropriate extent possible for each child with an IEP.

To comport with federal and state guidelines, and to continue to deliver public education, the District has developed the GMCS Reentry Plan to deliver educational services during the COVID-19 school closure. For full details, visit the website at www.gmcs.org. The Reentry Plan as well as special education and related services for your child are subject to change depending on the spread of the coronavirus and revised public health orders.

Currently, the Reentry Plan applies to all GMCS students including students who are eligible for special education and related services. Many options were considered by GMCS to deliver regular and special education services and the Reentry Plan incorporates the use of non-traditional methodologies such as videoconferencing, tele-therapy, distance learning, hybrid instructional models and other strategies. Great thought, energy and care has been put into our approaches for providing special education and related services at this time. While the Reentry Plan platform is the same for regular and special education students, the provision of special education and related services during the COVID-19 Pandemic continues to be individualized for your child. Again, the services may “look” different from the norm but they will still be individualized as appropriate and they will still be driven by your child’s Individualized Educational Program.

II. During the COVID-19 Pandemic, Your Child will Receive IEP Services through Technology, Videoconferencing, Tele-Therapy, Distance Learning, Hybrid Models or Otherwise in Accord with Your Child’s IEP.

As stated above, the Individualized Education Program (“IEP”) remains the governing document for provision of special education and related services during these extraordinary times, and to the most appropriate extent possible, your child’s education team will continue to deliver services pursuant to his/her IEP. It is important to know there may be periods of time during the Pandemic in which schools may not be permitted to provide in-person educational and other services to students pursuant to federal or state guidance. Therefore, GMCS will work with flexibility to provide your child’s IEP services through technology, videoconferencing,

tele-therapy, distance instruction, hybrid instructional models or other appropriate means to serve your child as appropriate in light of his or her circumstances and IEP.

While tele-therapy and video therapy services must typically conform with the Health Insurance Portability and Accountability Act as amended ("HIPAA"), the Office of Civil Rights for the U.S. Department of Health and Human Services has announced that it will not impose penalties on those who engage in good faith efforts to provide tele-therapy and video therapy during the COVID-19 health emergency.

III. If Your Child Cannot Receive IEP Services Through Technology, Videoconferencing, Tele-Therapy, Distance Learning, Hybrid Instructional Models or Otherwise in Accord with Your Child's IEP, GMCS will Work with You to Try and Develop Alternatives and/or an IEP Amendment to Address Changes in Services or Accommodations.

If your child's education team is not able to provide some of your child's IEP services in accordance with your child's IEP through technology, videoconferencing, tele-therapy, distance learning, hybrid instructional models or other appropriate means, GMCS will work with you to try and develop reasonable alternatives or a potential IEP Amendment. Through the IEP Amendment process, an IEP Team meeting might not be convened to make changes but, instead, you and your education team would develop a written document to amend or modify your child's IEP. Your child's education team will inform the IEP Team about the IEP Amendment and the IEP Amendment will become a part of your child's educational records.

Through this IEP Amendment process, you and others on the IEP Team would also be able to determine if it is appropriate for your child that her/his education team focus on specific IEP goals during the period of the COVID-19 Pandemic.

If IEP amendments or modifications cannot be accomplished through the IEP Amendment process permitted under the IDEA, an IEP Team meeting will be convened.

IV. If GMCS Cannot Deliver All of Your Child's IEP Services During the COVID-19 Pandemic, the IEP Team Will, at an Annual IEP, Consider Whether Compensatory Education and/or Recovery Services are Necessary for Your Child to Make Appropriate Progress in Light of His or Her Circumstances.

Your child's educational team is undertaking great effort to provide appropriate services to your child during the Pandemic but, for a variety of reasons, it is possible that some of your child's IEP services may not be implemented. At an Annual IEP, or earlier if the IEP Team reconvenes before then, the IEP Team will review the progress your child has made and will consider whether your child may need compensatory education or recovery services to address regression, a decline in skills, or to support your child making progress in accord with your child's IEP. If this is the case, the IEP Team will determine if, and how, to adjust your child's IEP to account for compensatory education or recovery services. The IEP Team will, at an Annual IEP or earlier if necessary, also determine if any *other* modifications or changes to your child's IEP are appropriate *at that time* because of the impact of the COVID-19 Pandemic on your child in light of your child's circumstances.

V. Your Child Will Need your Participation and Input in Implementing Her or His IEP.

Your child's education team is working hard to serve your child but, due to the atypical delivery of services during the COVID-19 Pandemic, your child may need your participation and input to implement the IEP and to explore ways for your child to access home instruction and continue to make progress. This is definitely a joint venture for all of us but, together, we can do it! An example of how you may need to support your child involves technology in which you may have to assist your child in using computer/device hardware or software at home so your child may access the same (i.e., by turning on equipment and/or troubleshooting if the internet connection is obstructed or experiencing problems, etc.). As another example, if your child is provided materials or equipment necessary to access instruction or services, you may have to help your child manipulate the same in order to perform the lesson or therapy.

Your child's education team appreciates you for your involvement and input in supporting delivery of instruction and services to your child during this difficult time. Since you are a critical member of the IEP Team, the education team and IEP Team also need you to share information about the successes and challenges you and your child are experiencing in implementing your child's IEP during the Pandemic. The Reentry Plan will succeed for your child *only with your help*, so please communicate with your education team members early and often about what is and is not working, and about anything else of concern.

VI. You and Your Child Have Protection under the Procedural Safeguards of the IDEA and New Mexico State Law, and You are Receiving a Statement of those Procedural Safeguards with this Letter.

Under governing law, GMCS is required to inform you that you and your child, who is receiving special education and related services from GMCS, have protection under the procedural safeguards of the IDEA and New Mexico State Law. A statement of those protections is enclosed with this letter.

If you have any questions or concerns about this prior written notice or implementation of your child's IEP during the COVID-19 Pandemic, you may contact The GMCS Services for Exceptional Students Department at 505-721-1800. GMCS is here to support you and your child, and we will do what we can to appropriately implement your child's IEP in light of your child's circumstances.

Thank you for your patience, understanding and involvement during this challenging time. We can and will get through this together!



John L. Overheim, II
Director of Services for Exceptional Students
Gallup McKinley County Schools