

Questions and Answers: Provision of Services to Students with Disabilities During School Closures for COVID-19

This guidance is current as of March 24, 2020. Please refer to OSPI's [COVID-19](#) and [Special Education COVID-19](#) webpages for the most up-to-date information. This Q&A will be updated frequently to reflect current guidance as it is released, including the [March 21, 2020 Supplemental Fact Sheet from the U.S. Department of Education](#) (USDOE). Refer also to pages 4 through 9 of OSPI's [Bulletin 019-20](#) and OSPI's [website](#) for additional information regarding the provision of services to students with disabilities during school closures.

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Table of Contents

A. Provision of Services, including Compensatory Services, Extended School Year (ESY), Proportionate Share, and Expectations of Staff.....	2
B. Early Childhood Considerations	8
C. Child Care.....	10
D. Communication with Families.....	10
E. Timelines	11
F. Fiscal Considerations	14
G. Additional Resources.....	15



A. Provision of Services, including Compensatory Services, Extended School Year (ESY), Proportionate Share, and Expectations of Staff

A-1. How do districts provide instruction and supports to students with disabilities, including those with significant disabilities, during the closures?

If students in the school district are receiving general education instruction and student support services, then districts must have a plan for how all students with disabilities will also receive a free appropriate public education (FAPE). [Guidance dated March 21, 2020](#) from the U.S. Department of Education Office for Civil Rights (OCR) and Office for Special Education and Rehabilitative Services (OSERS) indicated that “there may be exceptional circumstances that could affect how a particular service is provided.” There is not an expectation that IEP services would be delivered exactly as the IEP states. This is a national emergency, and districts should be communicating with families and making decisions based on student need and how those services can be provided.

There is no one right way to provide services. As stated in the OCR/OSERS guidance, the provision of FAPE may include, as appropriate, special education and related services provided through distance instruction that is provided virtually, online, or telephonically. Many disability-related modifications may be effectively provided online, such as extensions of time for assignments, videos with captioning or embedded sign language interpreting, accessible reading materials, a speech/language services through video conferencing. OSPI encourages districts to sit down with their leadership teams and brainstorm ways of providing services using unique, alternative methods. Health and safety considerations should be the priority, including social distancing recommendations.

OSPI’s special education division has curated a [repository of online resources](#) to assist staff in supporting students with disabilities during school closures. Please check the [OSPI COVID-19 Special Education webpage](#) for the latest updates.

If the student does not access the educational opportunities made available during the closure, OSPI recommends the district document this (see the optional [tracking template](#) for one way to document). If the lack of access is ongoing, districts should reach out to parents to discuss further.

A-2. How do districts provide services to students with significant behavioral difficulties who require a 1:1 paraeducator and/or a high level of behavioral support for the safety of themselves and others?

There is no one way to provide services. Districts are encouraged to brainstorm ways to provide services to their students and how to individualize these services based on individual student need. As stated above, these services will look different based on safety needs, student need, parent engagement, staffing configurations, regional need, and district systems. Additionally, there is not an expectation that IEP services would be delivered exactly as the IEP states, and providing supports such as a one to one paraeducator may not be needed at home or may not be feasible based on staffing configurations. Districts should make decisions individually based on student needs, and the focus should be on supporting students and their parents/caregivers in engaging in systems that promote safe behaviors in the home and community.

Schools and systems should leverage the behavioral expertise of their personnel to support interventions that meet the needs of their students and the new learning environment, and prioritize the immediate needs of their most impacted students. Behavioral supports at home will likely look very different than behavioral supports in schools, and parents/caregivers may need support on how to implement interventions and supports. Examples of behavioral supports that could be implemented in the home include parent/caregiver behavioral coaching, or coaching and support around interventions such as: "first, then choice boards," activity schedules, functional communication strategies, implementation of reinforcement contingencies, etc.

A-3. If the district is offering non-instructional resources or activities online for students, does that mean the district is not required to provide specially designed instruction (SDI)?

Yes, so long as the district does not require students to use the resources or participate in the activities. As described in the [recent guidance from the U.S. Department of Education](#), if the district is not providing educational services to students without disabilities, then they are generally not required to provide educational services to students with disabilities.

A-4. How do districts provide services, including medical services, in an equitable way, when staff are concerned about entering student's homes?

More guidance related to this will be forthcoming. Right now, health and safety must be the priority over everything else. Be cautious about putting staff in a position of being exposed. Please refer to [March 17, 2020 Letter to Superintendents and Labor Leaders](#) for staff considerations for safety.

If there are concerns about students accessing medical services (e.g., 1:1 nursing services) because school is closed, OSPI recommends districts examine these concerns on a case-by-case basis to see what needs continue during this period and are able to be addressed. Considerations would include whether it is possible to provide the service, and whether the service must be provided.

Districts should consider a multiple modality approach to ensure students have equitable access. There is no single correct approach, and the actions taken to provide services will vary district by district. Delivery of services could look like a combination of providing packets or online learning options and could also include providing some students with laptops and/or mobile Internet hotspots during school closure if needed. Consider the needs of each student and family when developing your strategies to support student learning and know that materials and strategies may also need to be differentiated or modified to support some learners and situations.

School districts will determine at a local level if online or remote services will be made available, taking into consideration the equity needs of students receiving special education. Here are some additional resources:

- Free technical assistance from OCR's web access team is available to support that web platforms selection and development for student learning are compliant with the civil rights laws that OCR enforces. Contact OCRWebAccessTA@ed.gov if you are interested in receiving technical assistance.
- [OCR Short Webinar on Online Education and Website Accessibility](#)
- [Fact Sheet on Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students](#)

A-5. Would the state be willing to authorize related service staff to work remotely without all of the American Speech-Language-Hearing Association (ASHA) requirements being in place?

OSPI does not have this authority.

There are existing resources within the state and many districts to meet the [WA Telepractice Requirements](#) for audiologists and speech-language pathologists at the current time, and OSPI recommends that districts strongly consider adapting services in this manner, to meet the needs of their students. Additionally, the U.S. Department of Health and Human Services has released notice of [Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#) which permits flexibility to provide services in good faith.

A-6. Should districts record the provision of specially designed instruction via distance technology (such as Zoom) for safety and documentation purposes?

Districts would need to determine how best to document the provision of services. Recording services would be one method, as long as the district makes sure it follows current state law regarding private communication ([RCW 9.73.030](#)) and/or existing district policy regarding audio and video recordings of students and staff. The district could consider other methods of documenting services, such as contact logs, staff notes, or the use of a tracking form (such as the new model state [form 16](#)). Districts should consult with their legal counsel if questions persist regarding the applicability of privacy laws to audio and video recordings.

A-7. When an IEP team conducts an IEP meeting during a school closure, should the service matrix show what the plan is for services during the closure?

This would be a team decision that should be made on a case-by-case basis. The team could choose to document both the services to be provided during the closure and the services that will begin once normal school operations resume. There is not an expectation that IEP services would be delivered exactly as the IEP states during this national emergency. OSPI continues to encourage districts to prioritize health and safety, student educational needs, and parent communication, at this time. Districts have flexibility in how they document decisions made in real-time.

A-8. What is the guidance on IEP goal progress reporting during this time?

If the district is providing FAPE, then progress reports could continue to be provided to parents on the schedule indicated in the IEP, to the extent possible. If progress reporting is unable to be provided as indicated in the IEP, this decision should be documented, as well as a plan to complete them when the health concerns are resolved and as schools return to normal operations.

As educational services are provided, districts will want to collect progress data for IEP goals in order to inform parents and IEP teams to assist with compensatory service decisions once normal school operations resume.

A-9. If we complete an IEP during the school closures, what is your guidance for developing the present levels section when the team is not able to see the student to gather data?

This decision should be made by the IEP team on an individual, case-by-case basis. Here are some points to consider:

- How old is the most recent data for each of the identified areas? Could these data still be considered current?
- What alternative data collection strategies could be used, such as having the student take an online performance assessment or sending work or assessments home for the student to complete and return?
- How will input from teachers, on work completed prior to the closure, as well as during the closure, be solicited and included?
- What information are parents able to provide?

A-10. When normal school operations resume, will districts need to assess every student who has a 504 plan or IEP to determine if compensatory services are needed?

Yes, districts will likely need to look at each individual student to determine whether compensatory services are needed. There is no exception to the requirement to provide FAPE to students with disabilities and if the district is providing general education services to students without disabilities, then it must also provide FAPE to students with disabilities. However, due to the exceptional circumstances of the COVID-19 pandemic and resulting school closures, districts will likely need to determine whether and to what extent compensatory services are necessary when normal school operations resume in the event that the district is unable to provide appropriate IEP services during the school closure. The extent of a student's compensatory services, if needed, must be an individualized determination made by the IEP team.

A-11. What is the difference between compensatory services and extended school year (ESY)?

Compensatory services are to enable the student to make progress, ESY services are for maintaining skills.

Compensatory services are determined after normal school operations resume and are determined on a case-by-case basis. Districts should examine the effect of the closure on the student's progress toward their IEP goals.

ESY is required if the student needs it as a result of regression and recoupment time, or if they are at a critical stage in learning, based on documented evidence. Once normal school operations resume, the need for ESY should be examined on a case-by-case basis for each student, as already required in IDEA. Districts should consider how to address current ESY needs of students whose IEP teams have already been identified the need in their IEPs.

A-12. It may be very difficult for districts to hire staff to provide ESY services. Do you think that the federal government may step in and issue some form of “hold harmless”?

OSPI understands that staffing issues are a concern. These issues are part of OSPI’s long-term planning efforts, which include discussion of requesting potential additional state and federal funds for providing compensatory and ESY services.

All of the federal guidance issued thus far, including the [March 21, 2020 Supplemental Fact Sheet](#), indicates that districts must maintain a free appropriate public education (FAPE) and civil rights for students. Districts should not expect to be “held harmless” with respect to providing FAPE.

A-13. What should districts do regarding students placed in out-of-state Non-Public Agencies (NPAs)?

Districts should contact the families of students in all private placements, both in state and out of state, as well as the NPAs, and create a contingency plan for the student that addresses the potential for a closure, and plans for travel to ensure the student’s safety, if needed. Decisions should be made on a case-by-case basis, depending on the student need, the location of the school, and the desires of the family.

A-14. What is the guidance for districts who are providing equitable services to parentally-placed private school students through proportionate share?

Districts remain responsible for providing the equitable services identified through the private school consultation process. Private schools in the state, however, are also closed at this time. OSPI recommends that districts communicate with the private schools in their region to determine whether any equitable services could continue through distance or other alternate methods and to continue providing such services if possible. OSPI also recommends districts communicate with families of students with individual services plans to let them know if services will or will not be provided. Additional guidance will be provided in this area as the situation evolves.

Please refer to additional OSPI guidance found in [Bulletin 024-20](#).

A-15. How do we ensure that general education teachers have access to student IEPs during the closures in order to provide necessary accommodations and supports?

OSPI recognizes that school closures present challenges for general education teachers, special education teachers, related services providers, and any other service providers seeking to have

access to a student's IEP. It is important, however, that all staff providing educational services to students with disabilities during school closures continue to have information related to their responsibilities and the accommodations, modifications, and supports described in the IEPs of the students with whom they are working ([WAC 392-172A-03105\(3\)](#)).

The district may need to consider alternate methods for providing this information to teachers and staff when they are unable to access it from the district's information system. The alternate methods should follow the confidentiality requirements set forth in [WAC 392-172A-05230](#) and the [Family Educational Rights and Privacy Act](#) (FERPA). Confidential student information is permitted to be shared with authorized school district employees who have a legitimate educational interest ([WAC 392-172A-05195](#)). If alternate methods are used, districts should document how the information was provided to staff. OSPI has developed a [model tracking template](#) that could assist teams in tracking this information. Districts are also encouraged to consult with information technology staff within their district to explore alternative methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

B. Early Childhood Considerations

B-1. What is the guidance on completing evaluations for students transitioning from Part C to Part B? Should districts be bringing those students in for evaluation?

Health and safety concerns are paramount. If there is no feasible way to continue evaluations safely using distance methods or following social distancing requirements, then districts should consider delaying the evaluation until safety measures can be implemented.

State Lead Agency for the ESIT Program (DCYF): Early Intervention Provider Agencies (EIPAs) are encouraged to communicate with individual families and with their local school districts regarding the feasibility of a virtual transition conference and how best to approach required transition activities. Potential options for transition meetings may include virtual methods to include conference phone calls or videoconferencing during periods of school closures. Existing early childhood transition personnel and their respective contact information remains the same during the period of school closure. School districts have local protocols in place to respond to emails. After decisions related to early childhood transition options have been jointly determined, written communication with families should be prioritized. For assistance troubleshooting specific circumstances, please contact Val Arnold, ESIT Strategic Innovations Advisor, at valerie.arnold@dcyf.wa.gov or 360-485-7773.

State Education Agency (OSPI): Resident school district personnel responsible for planning and scheduling initial evaluations for special education preschool services are encouraged to communicate with individual families to determine the feasibility of face-to-face transition

conference meetings for 3-year-olds exiting B-3 early intervention. Consideration of social distancing measures and DOH guidance to ensure safe implementation is a priority. If this is not feasible or acceptable to families', alternative virtual options may be explored as a means of meeting transition planning and implementation requirements. After decisions related to early childhood transition options, including the timeline for completing an initial evaluation have been jointly determined, written communication with families should be prioritized. For assistance troubleshooting specific circumstances, please contact Ryan Guzman, Early Childhood Special Education/Section 619 Coordinator at ryan.guzman@k12.wa.us or (360) 764-9448.

A new allowable exception has been added to the Indicator B-12 (Timely Part C to Part B Transition) report for the 2019–20 school year. The new exception is for school closures due to COVID-19 and school staff were unavailable, the parent stated that distance technology options would impede their participation, or the assessment could not be completed due to safety restrictions.

See also the [Timelines section \(Part E\)](#) of this Q&A.

B-2. If districts continue to provide services to children ages birth-two with disabilities, does that mean the district needs to provide services for all students in preschool through 12th grade?

No, unless the district is providing educational services to all students in preschool through 12th grade. If the district is only going to be providing services to students in specific grades or ages, then special education services should also be provided to students with disabilities in those same identified grades/ages.

B-3. If Early Childhood Educational Assistance Programs (ECEAP) are still in session, then does the district also have to continue the developmental preschool programs?

One consideration is whether the ECEAP program is a district program or Department of Children, Youth, and Families (DCYF) program. At this time, OSPI recommends that districts examine what they have capacity for, including whether the program can be conducted in a way that meets the governor's proclamation of social distancing – which would be difficult. OSPI anticipates that additional guidance related to this will be forthcoming.

B-4. What is the guidance for districts who are providing early intervention services to children ages birth to three?

In collaboration with DCYF, school districts who are providing early intervention services for children ages 0–3 under IDEA Part C directly, and not contracting for those services with a

community-based organization, should extend the 3–21 guidance provided in this Q&A to include Part C service delivery, where applicable. For assistance troubleshooting child/family-specific circumstances, please contact Valerie Arnold, ESIT Strategic Innovations Advisor, at valerie.arnold@dcyf.wa.gov or 360-485-7773.

C. Child Care

C-1. If a district is providing basic child care for children of first responders and health care providers in grades preschool through 5th grade, what is the district’s obligation to students with disabilities outside of those grade bands?

This question was addressed by response number 5 of [Bulletin 019-20](#). Additional [guidance](#) from the Washington Department of Health (DOH) was released March 18, 2020.

C-2. If the district is providing child care to a student with a disability whose IEP indicates the need for a 1:1 paraeducator, does the district need to provide that same level of support in the child care setting?

This would need to be determined on a case-by-case basis. The district should consider what services/supports are needed in the child care setting (as opposed to continuing to provide IEP services in a child care setting).

D. Communication with Families

D-1. Would it be advisable to send out a “mass” prior written notice (PWN) to all families noting the stoppage of services?

OSPI strongly encourages districts to communicate frequently with families about what is happening. OSPI does not advise districts to send a “mass” PWN to everyone. However, it is advisable to provide information to families on an ongoing basis, and due to the nature of this emergency situation, frequent communication is recommended and should be prioritized.

Districts should address health and safety of staff and students as the first priority, determine how to provide special education services and communicate with families in an ongoing manner as the plan develops, and then consider the need to provide PWN in a timely manner.

D-2. If districts provide online resources for parents to access, should specific resources for students with disabilities be included?

Yes, OSPI recommends that if the district is providing online resources for students and/or families, these resources should be provided in an equitable manner for parents of students with disabilities. This includes using inclusive language, providing a range of activities accessible in a variety of modalities and skill levels, and allowing parents and students flexibility in selection.

E. Timelines

E-1. Are we obligated to continue to hold to IEP and evaluation timelines? Can IEP timelines be extended?

If personnel are available and parents are agreeable to completing the meetings via distance options (e.g., phone, Zoom, etc.), OSPI recommends continuing to conduct these meetings to the extent possible. If a meeting is not possible, then the district should document that a meeting is not possible and set the IEP/evaluation aside for when normal school operations resumes.

Districts and parents can also agree to extend the 35-school day timeline to complete the evaluation. The agreement must be documented but does not require signed parent consent. The documentation of the agreement should include the reason for the extension. See model form 5c ([Agreement to Extend Evaluation Timeline](#)).

There is currently no provision in the law for extending an IEP. OSPI recommends the district document if the IEP (or evaluation) timeline was exceeded and why. OSPI has developed an optional tracking [template](#) that could assist with this effort.

E-2. Can we create a textbox on our IEPs that are late that states “IEP is late due to COVID-19 outbreak”?

Yes, there is nothing that would prohibit districts from doing this. OSPI does not plan to identify issues of noncompliance through monitoring based on timelines that were missed as a result of the COVID-19 outbreak. Districts, however, should still be mindful of how to meet timelines as best they can in the event that other dispute resolution options are used. If districts have staff available and parents are agreeable, OSPI encourages districts to continue to schedule and hold meetings via distance technology. If not, put those evaluations/IEPs aside, and document why. Remember that the first priority is health and safety; the second priority is services.

E-3. Is there an issue with equity if the district completes some IEPs but not others depending on staff availability?

OSPI recommends districts document why a meeting was not conducted (e.g., parent may not be comfortable with a phone/Zoom meeting or staff required are not available). It is acceptable for some meetings to be conducted based on staff availability and parent agreement, and for others not to be conducted due to unique circumstances.

E-4. What is the best practice for reevaluations during this time? Would it be appropriate to complete file reviews or an agreement that a reevaluation is unnecessary to maintain timelines when we cannot assess?

If staff are available, OSPI recommends the team moves forward with a review of existing data and communicate with parents in order to get input on whether additional assessments are determined to be needed. If the team believes the existing data supports continuing eligibility, the team can move forward and complete the reevaluation using the existing data.

There is a new allowable exception on the Indicator B-11 (Timely Initial Evaluations) report for the 2019–20 school year. The new exception is for school closures due to COVID-19 and school staff were unavailable, the parent stated that distance technology options would impede their participation, or the assessment could not be completed due to safety restrictions.

E-5. If the district is providing continuous learning opportunities for all students, are these considered “school days” when counting timelines and determining whether the district met its annual school day requirement?

If the district is providing instruction and student support to all students during the closure, including the provision of special education and related services as part of a comprehensive plan, then districts should treat such days as “school days” for the purposes of meeting special education timelines. Although OSPI does not plan to identify issues of noncompliance through monitoring based on timelines that were missed as a result of the COVID-19 outbreak, districts still need to be prepared for the possibility of other dispute resolution options being utilized.

If personnel are available and parents are agreeable to completing meetings via distance options (e.g., phone, Zoom, etc.), OSPI recommends continuing to conduct these meetings to the extent possible. If a meeting is not possible, then the district should document that a meeting is not possible and set the meeting aside for when school resumes. Remember that the first priority is the health and safety of all involved.

As the current situation progresses, OSPI will re-visit and reconsider what constitutes a “school day” for the purposes of the district meeting the annual school day requirement. OSPI anticipates that additional guidance related to meeting this requirement will be provided.

E-6. Does the timeline for districts to respond to requests for an Independent Education Evaluation (IEE) at public expense still apply?

Yes, the requirement for districts to provide a response to a parent’s request for an IEE at public expense within the 15 calendar day timeline stated in [WAC 392-172A-05005](#) cannot be waived or extended. Districts, however, are encouraged to do the best that they can, given the availability of staff to answer a request within the 15 calendar day timeline. If a response exceeds the timeline, then be sure to document the reasons for the delay in the response to the parent. Note that if the district agrees to an IEE at public expense, there is no deadline or timeline under [WAC 392-172A-05005](#) by which this IEE must be completed. Please also be sure to provide the parents with a list of providers and the criteria for obtaining an evaluation. If the district does not agree to the request for an IEE at public expense, then it must still initiate a due process hearing.

E-7. What constitutes written parent consent during school closures?

For decisions that require written consent from a parent, time districts could attempt to document consent during school closures using alternative means such as an email, a digital or e-signature, a digital photograph or scan of a parent signature on an applicable document, or district staff noting temporarily that consent was given verbally. Consent provided via email is considered to be written consent. The district should have a method for tracking parent consent through alternative means and, if necessary, make an attempt to obtain proper written consent as soon as possible (e.g., temporary verbal consent and then mail the parent something to sign and have them mail it back). Districts are also encouraged to consult with information technology staff within their district to explore alternative methods and to ensure that proper technological safeguards are in place to the extent possible under the current circumstances.

Some decisions, such as amending an IEP, excusing an IEP team member whose area is not being discussed, and extending a 35-day evaluation timeline, require the parent’s agreement, rather than written, signed consent. Documenting agreement does not require written or signed consent, but could take the form of a documented verbal agreement or other documentation.

F. Fiscal Considerations

F-1. Will districts receive special education apportionment funding during the school closures if the student's IEP or evaluation has lapsed?

Please refer to [Bulletin 019-20](#) for more information on special education apportionment during the school closures.

In addition, in partnership with DCYF, OSPI is committed to providing ongoing state apportionment payments to school districts to support continuity of early intervention services to the extent possible, for children ages 0-3 in accordance with [published DCYF guidance](#), during school closures as a result of the COVID-19 state of emergency.

F-2. Will there be any additional funding available for districts to provide compensatory services?

This was addressed in [Letter to Superintendents and Labor Leaders](#), in section 5(e).

F-3. What is the guidance for paying contracted support personnel (e.g., speech language pathologists, occupational therapists, physical therapists, etc.) during the closure?

OSPI recommends that districts review their contracts and develop a plan on how best to provide services using alternative means. Generally speaking, if services continue to be provided by contractors, although in a different format or manner, districts should continue to pay those contractors.

F-4. Will Safety Net continue to reimburse for non-public agency (NPA) contracts during the closures? What if the NPA is providing "distance learning" that is not directly tied to the student's IEP?

At this time, it is believed that reimbursement for NPA services under Safety Net will continue. OSPI is not currently planning to reduce Safety Net awards based on COVID-19 closures and will continue to review applications on a case-by-case basis. Districts should review contracts with NPAs. For those NPA contracts that include language allowing the NPA to invoice for students who are absent, districts should consult with the NPAs and develop a plan about how to deliver alternate forms of SDI during closure.

If an NPA is providing distance learning opportunities that meet the requirements of the governor's proclamation for health and safety considerations, then districts are encouraged to

allow students placed at an NPA to take advantage of these opportunities. If an NPA has transitioned to distance learning due to the school closures, then the district should communicate with the NPA to understand what opportunities are being offered and document the decisions made for individual students. The NPA and school district can also begin making plans to address the effect that transition to distance learning may have on an individual student's needs for ongoing services.

F-5. Given the possibility of adding ESY, will the date remain the same for the May 2020 Safety Net submission?

OSPI is unable to extend the May Safety Net final submission date due to timelines directed by the Legislature. Applications are subject to a two-prong review that consists of both fiscal and program reviews. These reviews must be completed for the Safety Net Committee to evaluate and determine initial awards in June. Per the 2020 Supplemental Operating Budget ([Senate Bill 6168](#)), final Safety Net award determinations must be made in August of each school year.

G. Additional Resources

- [Repository of Online Resources for Supporting Students with Disabilities through School Closures](#)
- [Repository of Distance Learning Resources by Content Area and Grade Level](#)
- [OSPI's Special Education COVID webpage](#)
- [Bulletin 019-20](#)
- [Model Form for Tracking Decisions for Individual Students](#)
- [Federal COVID-19 Guidance](#)
- [List of Online Professional Development Opportunities for Supporting Students with Disabilities](#)
- [Washington State OER Commons Hub – Resources to Support Remote Learning \(scroll to bottom of page\)](#)