

Contractor Bulletin No. 01-2023

Use of Exceptional Family Circumstances for a Federal, State, or Local Emergency or Natural Disaster

Date: March 21, 2023

To: All ESIT Contracted Provider Agencies and County Lead Agencies

From: Tammy McCauley, Accountability and Quality Improvement Manager

Subject: How to Apply Exceptional Family Circumstances for a Federal, State, or Local Emergency or Natural Disaster Related Delay in Services and/or Timelines

Purpose and Background: The federal Office of Special Education Programs (OSEP) allows State Lead Agencies (SLA) to use Exceptional Family Circumstances (EFC) in times of states of emergencies and natural disasters when circumstances are outside the SLA or Early Support Service (ESS) Provider's control. This bulletin clarifies the SLA's interpretation of the OSEP guidance memo, defines how to apply "Late EFC" criteria, and how to record "Late EFC" data entry in the DMS.

Exceptional Family Circumstances can be used for family or service provider related delays directly attributable to a Federal, State, or Local emergency declaration or natural disaster.

While the OSEP memo, linked below, does contain a footnote that [typical] staffing shortages cannot be counted as "Late EFC", the SLA has interpreted the footnote to not exclude temporary (not to exceed 90 days) for staff absences or vacancies related to a Federal, State, or Local emergency or natural disaster.

In addition, the following limited circumstances are considered to be a direct result of the COVID-19 endemic and temporary related delays can be documented as "Late EFC":

1. Employee tests positive for COVID-19 and is placed on leave;
2. Employee or a family member(s) is required to isolate or quarantine in compliance with Centers for Disease Control and Prevention (CDC) guidelines and the employee is placed on leave;



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3. Staff vacancies were the result of an employee’s inability to comply with the State’s vaccine mandate and the provider agency was temporarily unable to fill the vacant position(s).

Family Resources Coordinators **must** document all temporary related delays for both families and ESS providers in the Data Management System for Indicators 1, 7, and 8C in the following manner:

1. Use “Late EFC”
2. Use the term “Federal Emergency, State Emergency, Local Emergency, or Natural Disaster” at the beginning of the reason
3. Include sufficient information to document the emergency or natural disaster
4. Do not use staff, child, or family member names

It is the responsibility of the Provider Agency to maintain documentation that supports “Late EFC” temporary delays and provide that documentation to ESIT upon request.

For further information and assistance, please contact:

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Reference Contractor Bulletin No. 01-2023: Use of Exceptional Family Circumstances for a Federal, State, or Local Emergency or Natural Disaster

OSEP Guidance:

<https://sites.ed.gov/idea/idea-files/part-c-provision-services-covid-19-environment-qa-document-oct-21-2020/#Q2>