02 How to ensure access to the right to education for children and adolescents during the COVID-19 pandemic?
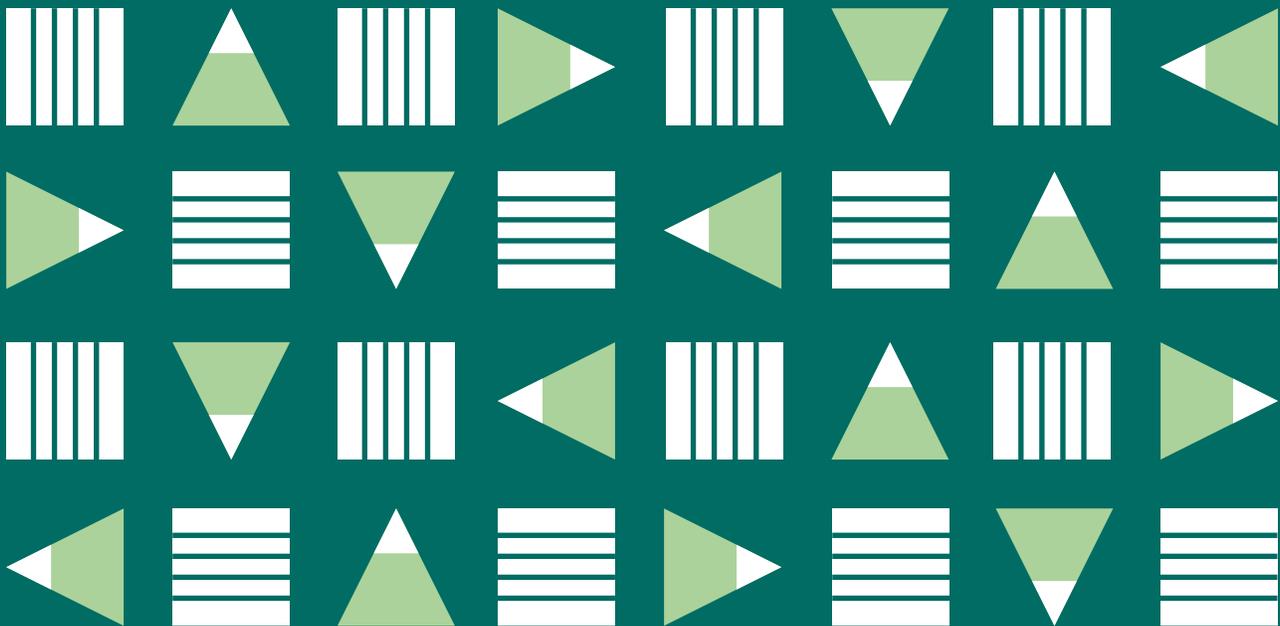
The Inter-American Commission on Human Rights (IACHR), in collaboration with its special rapporteurships, introduces a series of practical guides addressing topics linked to human rights in the context of the COVID-19 pandemic. Drawing on Inter-American human rights standards, it has developed public policy recommendations to guide practices and decisions adopted by States in relation to the pandemic. This is a commitment of the Rapid Integrated Response Coordination Unit to dealing with the COVID-19 crisis (RIRCU COVID-19).

SACROI-COVID19
— Rapid and Integrated —
Response Coordination Unit

(((RFOE)))
Office of the Special Rapporteur for
Freedom of Expression

REDESCA
Special Rapporteur for Economic,
Social, Cultural and Environmental Rights

1 SUMMARY OF CONTEXT

Since the outbreak of the COVID-19 pandemic, approximately 123 States throughout the world made the decision to close down schools as a measure to contain infection and moved to online and distance learning. Thus, globally, nearly **1.05 billion students** of all ages and grade levels have been impacted by school closures, including **258 million children and adolescents** whose educational opportunities have been limited or modified during the lock down.

In the Americas, **great majority of countries entirely closed down educational institutions** for the end of the 2019-2020 school year, though in many instances education continued through alternative mechanisms other than in-person learning.

STATUS OF SCHOOL OPENINGS   ■ Open   ■ Partially closed   ■ Closed

MAY 2020

| 1 | 4 | 30 | | |

OCTOBER 2020

| 3 | 18 | 15 | | |

Source: produced by IACHR, with input from UNESCO, available at: https://es.unesco.org/covid19/educationresponse

Six months after the World Health Organization (WHO) declared a pandemic, educational activities are adapting to new challenges posed by this new reality. Thus, for the 2020-2021 school year **some countries in the region** have opted for a gradual reopening schedule, as the health situation permits, with the health and lives of children and adolescents who attend school at education facilities being given the highest priority. It is of note that in early September 2020, one State in the region formally suspended the 2020 school year, because it claimed to be unable to provide for the safety of students in light of a variety of structural issues. Out of the remaining countries of the hemisphere, **the vast majority has maintained the physical closure of school facilities** and, in some instances, schools have been reopened at the local level and on a partial basis. Among the countries with a federal government system, each local government is making the decision of whether or not to allow students to go back to classes at school facilities.

CHILDREN IN SCHOOL VIS-À-VIS COVID-19 (AUGUST 2020)

95%
Around **154 million** children are temporarily not going to school

5%
Only **5%** are attending classes

Source: produced by the IACHR, with data from UNICEF

Nonetheless, it should be noted that, in this context, several countries of the region are still working out how to deliver their national education programs and provide effective access to all children and adolescents. To this end, many countries in the hemisphere have created online resources, established methodological guidelines, and have also entered into agreements with mass media outlets in order to find ways to ensure school materials and access to education with the widest possible coverage.

Over the past years, inequality gaps associated with socioeconomic status, ethnicity and geographic location of residence had been narrowed; however, they continue to be **notable**. In the current context of the pandemic, several factors can significantly increase these inequalities and leave a considerable number of children and adolescents without access to education, thus making them more vulnerable. These factors include the absence of, or difficulties in accessing, learning materials and technological tools, as well as adult caregivers' lack of familiarity with technology, and difficulties in ensuring food security and other aspects of their physical and mental health.

In addition, the region faces challenges in terms of providing basic hygienic fixtures and supplies. According to **UNICEF and WHO figures**, in 2019, 28% of schools had limited access to sanitary services and 12% did not have any of these services at all. Therefore, promoting consistent basic hygienic practices, such as hand washing, or instituting protocols for the use of masks, reducing the number of students per classroom or maintaining social distancing and adequate ventilation, can prove to be difficult or impossible for schools in low income and vulnerable areas, thus further widening the inequality gap. Additionally, education facilities have been identified where the janitorial staff is insufficient to be able to meet sanitation requirements. Lastly, it is also important to mention that even though children and adolescents **usually present mild symptoms**, the risk of transmission from the youth to adult population **is still not clear**.

Psychosocial factors that increased vulnerability

Schools and education facilities support human and social development, by helping, among other things, to strengthen children's and adolescents' socioemotional skills, as well as the ability to forge close social ties at a defined time and in a common physical space. Some **recent publications**, provide accounts of high rates of depression and, **sleeping and eating disorders among children and adolescents**, as a consequence of physical school closings and, therefore, shrinking opportunities for socialization. These problems can be exacerbated by an increase in online bullying or violence. For many children, social distancing means that they are forced to use online platforms to learn and that the only contact they have with their peers will

be virtual. In some states, **preliminary research** shows an increase of up to 70% in online bullying among children and adolescents during school closures.
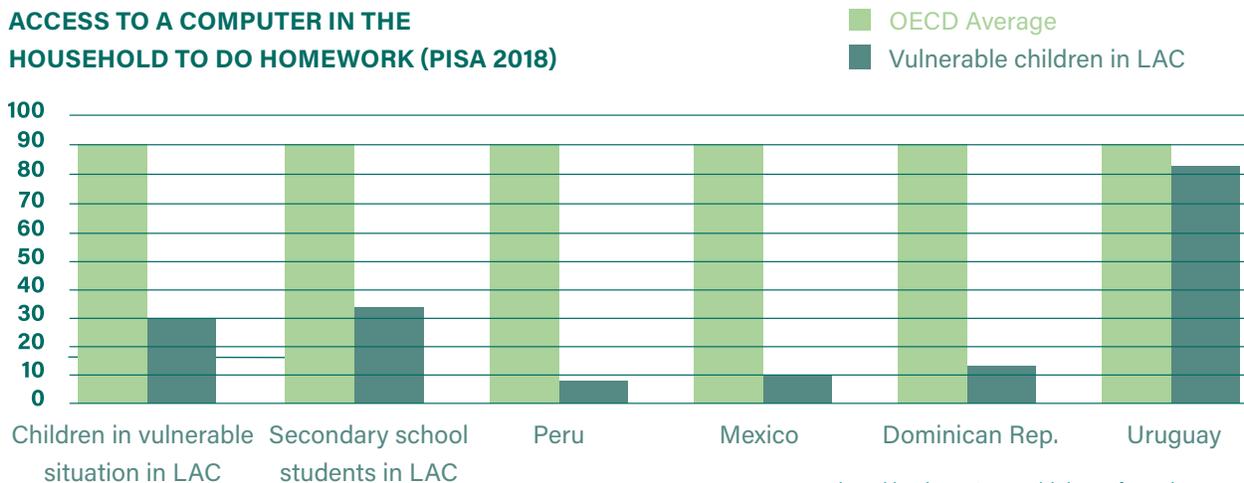
Additionally, children and adolescents may be more vulnerable to abuse and intrafamily violence during the school closure period. The pandemic has laid bare that closing education institutions poses **a major threat to women and girls**, because they are exposed to multiple situations of abuse, such as intrafamily violence, sexual violence — and possible forced pregnancies — ,transactional sex and early forced and early unions with children and adolescents. Public and private elementary and secondary schools are usually spaces of containment and referrals as a result of reports of violence and abuse. The lack of trusted lines of communication between institutions and children and adolescents, which are usually opened at education facilities, curtails opportunities to detect cases of violence, abuse and neglect endured by children and adolescents.

Additionally, it should be noted that some aspects of sex education for children and adolescents, in particular access to information regarding menstrual health, occur in schools. Consequently, with the closure of educational establishments, children and adolescents face greater obstacles to access such information on this subject. Apart from the lack of availability of information on sexual and reproductive education, there are also limitations for students to visit or access health centers that offer sexual and reproductive health care, as well as broader social supports.

Internet and digital divide

According to the **latest figures** released by the International Telecommunications Union (ITU) in late 2019, almost 23% of the population of the Americas did not have access to internet and, in some countries, these figures were higher than 70%. While the use of technology is one strategy to address school closings, the digital divide exposes the limits of that approach. Not all students nor teaching staff have access to IT hardware or to an efficient internet, radio or TV connection, or the skills and appropriate working conditions to be able to use and take advantage of available digital platforms.

**ACCESS TO A COMPUTER IN THE
HOUSEHOLD TO DO HOMEWORK (PISA 2018)**

■ OECD Average
■ Vulnerable children in LAC

Children in vulnerable situation in LAC · Secondary school students in LAC · Peru · Mexico · Dominican Rep. · Uruguay
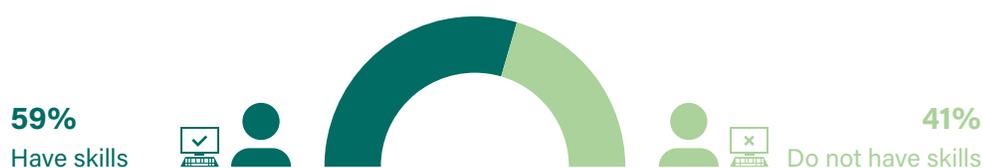
Source: produced by the IACHR, with input from the IDB

Moreover, the ability to download documents or participate in video calls is often subject to limitations even when there is a connection. Even though the statistics show that there are a little over **54 wide band mobile subscriptions for every 100 inhabitants**, that ratio is not enough to meet connectivity needs. In addition to connectivity, there is also a shortage of suitable devices. Additionally, a number of other challenges have been encountered. In the first place are the limitations derived from the cost of technology and access to digital devices. Often, families are made up of several children and adolescents who all need to connect to the internet at the same time for school, as do the adults in the household, who are teleworking. Consequently, not enough devices are available to meet the needs of the household. Lastly, adults in a household often lack the know-how to use these technologies or because of their own workload cannot provide the necessary support to children and adolescents in this regard.

In addition to digital divide challenges, in some regions, access to electricity is limited. Even though the overall **rate of electrification in Latin American and the Caribbean is 97%**, 7 million of the 38 million people inhabiting the Caribbean region live without access to electricity, well below the overall regional average. Similar inequalities are found in rural populations, that are removed or isolated from urban hubs, and in **indigenous communities, where only 82% of the population has access to electricity**.

Further complicating the matter, most professional teachers have faced major methodological challenges in developing classes, distributing course content, correcting homework and communicating with students and families. Teaching staff has had to transition to the virtual world almost overnight and, thus, has not had enough time for the pedagogical and methodological training they require.

SECONDARY SCHOOL TEACHERS WITH TECHNICAL AND PEDAGOGICAL SKILLS TO USE DIGITAL DEVICES (2018)

59%
Have skills

41%
Do not have skills

Source: produced by the IACHR, with input from the IDB

Lastly, the **indigenous population in the region makes up 8% of the population and also accounts for 14% of persons living in poverty and 17% of persons living in extreme poverty**. **Monetary poverty** affects **43% of indigenous households; and, extreme poverty is 2.7 times higher among these households than among households of other populations**. This situation limits access to education services for indigenous and rural community children and adolescents. Difficulties in accessing education and health services, language and cultural barriers, and the epidemiological sensitivity presented by these communities, place them at greater risk of exposure to infection and the effects of COVID-19.

Family and caregiver participation in education

Even when distance learning options are available and accessible, several factors can negatively impact the learning process of child and adolescent students living in a vulnerable situation, because these students require greater support from their families and caregiver adults. The pandemic has shed light on the importance of ties between students, teachers and families. Particularly, the need for the families or caregivers to be present in children's and adolescents' learning process. In this context, several challenges can be underscored:

» Caregiver's ability to acquire technology use and management skills. Often, caregivers have little or no experience with technology.

» Caregiver's availability to be present to support the education process and, at the same time, care for the child or adolescent. Often, work responsibilities limit this availability.

» Caregiver's emotional availability to be there for the child. Often, this can be limited because the adult has the disease, fears being infected with COVID-19, as well as because of stress and other mental health ailments.

Staying at home requires adults to strike a balance between work duties, in order to support the household, and being there to support the education of children and adolescents.

Food security and other services

For many children and adolescents, particularly, those living in poverty, eating a meal is heavily contingent upon school lunch programs, which is often the only meal they eat in the day. Despite efforts to guarantee food security, several factors further aggravate the situation. In many States, food is still distributed at education facilities. Additionally, income in the households of children and adolescents has been steadily dropping at a considerable rate because of reduced hours of work or unemployment. It can be assumed, therefore, that school-based food programs for students become the staple of the diet of the entire family nucleus. Even though food distribution has continued in some states or localities there are also instances where there has been no food distribution.

Moreover, the impact of school closings is worrying because, **according to data gathered by the WHO and UNICEF**, quarantine measures have hampered immunization, leading to an alarming drop in the number of children who receive essential vaccinations. In fact, vaccination drives are conducted at schools and provide an opportunity to raise awareness among the school population about this aspect of public health.

Lastly, the most vulnerable students are at higher risk of dropping out of school or **resorting to child labor** as a result of school closings.

Comprehensive health

Social and emotional learning is important for the wellbeing and development of children and adolescents. In the context of the pandemic, students may need personalized support and individual monitoring in the virtual learning setting. In other instances, they may need supplemental classes to be able to keep up with their grade level and make progress in learning. Additionally, children and adolescents need emotional support, including stress and anxiety management strategies. These needs are further complicated by the virtual learning context, which makes it difficult to individually assess each

**AVAILABILITY OF A NOMINAL REGISTER IN THE SYSTEM TO
MONITOR INDIVIDUAL PERFORMANCE OF STUDENTS IN LAC (2018)**

70%
Can individually
identify their students

30%
Cannot individually
identify their students

Source: produced by the IACHR, with input from the IDB

student's overall performance in the different modalities of distance education.

This sheds light on another major challenge: using information and communication technologies to come up with strategies to prevent psychosocial or psychoemotional problems. This involves creating virtual spaces to teach families and caregivers of children and adolescents about early detection of risk factors, as well as basic skills for supporting children and adolescents in specific situations, or about how to find specialized professionals.

2   POTENTIALLY INFRINGED RIGHTS

The right of children and adolescents to education and recreation is internationally recognized. In the context of the pandemic, these rights can be infringed in conjunction with related rights, such as the right to food, health, physical integrity or to a life free from all forms of violence.

Legal basis:
» The rights to education and recreation are protected under Articles 12 and 15 of the American Declaration of the Rights and Duties of Man, Article 26 of the American Convention on Human Rights and Article 13 of the Protocol of San Salvador.
» The right to special protection and care of children and adolescents is established in Article 7 of the American Declaration and Article 19 of the American Convention.
» Article 15 of the American Declaration on the Rights of Indigenous Peoples asserts that children are entitled to all levels of education, without discrimination and in keeping with the principle of equal opportunity. This instrument recognizes active participation of indigenous peoples in decision making on the subject and requires States to also ensure access to education in their own languages and cultures for children and adolescents living outside of their community.
» The Inter-American Court underscored that the principle of the best interests of the child should prevail and should be understood as the need to satisfy all rights of children and adolescents.
» The IACHR established that the education and health care of children involve a variety of measures of protection and are the essential pillars to ensure the enjoyment of a decent life.

» The IACHR held that free development of the personality along with the right to education make it more likely to have a decent life as well as to become emancipated and aware of the rights to protection against abuses and/or violations of rights.

» The IACHR and its Special Rapporteurship on ESCERs underscore that States cannot be relieved of their obligations with regard to the right to education by engaging non-state actors or private companies to provide education services.

» **Resolution 1/2020** "Pandemic and Human Rights in the Americas," with respect to the right to education establishes that "States should make available mechanisms that will allow children and adolescents to continue to have access to education with age-specific stimuli."

» **Resolution 4/2020** "Human Rights of Persons with COVID-19," notes that persons living with COVID-19 may experience negative impacts and limitations on the right to education. Therefore, for the "full enjoyment of the right to education of persons with COVID-19, when they or members of their families have the disease, States must make arrangements at the various levels of their educational system for measures to be taken that mitigate a possible interruption of studies and focus on reducing drop-outs, and lessen other direct impacts of the pandemic, bearing in mind, in particular, the part played by schools in vulnerable settings as providers of hygiene, health care or food."

» Article 12 of the Convention on the Rights of the Child directs States to assure children and adolescents the right to freely express their views in all matters affecting them, giving due weight to their views in accordance with the age and maturity of the child.

» The United Nations Committee on Economic, Social and Cultural Rights establishes in its General Comment 13 that the right to education must include educational institutions that are available in sufficient quantity, accessible to all persons without discrimination and affordable; and they must be culturally appropriate, relevant and acceptable to students, mothers and fathers, as well as adaptable to different contexts of the students.

» The Committee on the Rights of the Child enshrines in its General Comment 17 that play and recreation contribute to all aspects of learning; they are a form of participation in everyday life and are of intrinsic value to children, in terms of the enjoyment and pleasure they afford and are essential to health and wellbeing.

3   CURRENT PRACTICES IN STATES WORLDWIDE

In the region of the Americas, where controlling the epidemic is still a challenge, reopening processes are taking place in specific areas, at the discretion of each particular State. Listed below are examples of notable practices from different countries of the world to facilitate access to education in times of the pandemic.

Internet and digital divide

» **Some countries** have implemented strategies to distribute education materials and technological resources, facilitating accessibility for students.

» Strategies followed by countries include communal mobilization to build bridges between school premises and students' homes in order to pass on resources crafted by teachers for continuity in the learning process.

» State institutions have made coordinated efforts to ensure access to technological resources and connectivity through public investment projects.

» Increased cooperation with the private sector to meet the specific needs of children and adolescents to access Information and Communication Technologies (ICTs).

Safe reopening

» Schools have implemented different methodologies to contain and prevent the spread of the COVID-19 virus, such as:

   » Temperature checks and screening for signs of fever in order to enter school premises.

   » Disinfecting hands and shoe soles with alcohol prior to entering the building.

   » Making it mandatory to wear a face mask and providing regular reminders about handwashing.

   » Placing folding dividers in classrooms and common spaces to maintain the appropriate distance from other persons.

   » Closing down the school for 14 days, when a person is identified as being affected by COVID-19.

» In some schools, individual tables are arranged six-feet apart from each other.

» In some countries of the region, in-person education services in rural areas have been authorized on an exceptional basis at public elementary and secondary schools, where access to media and connectivity is limited, and no infections are reported.

» In some countries, school teachers and administration are trained to apply preventive protocols, which makes it safer for the gradual return to in-person classes.

4   ## RECOMMENDATIONS TO THE STATES

The principle of non-discrimination and the best interests of children and adolescents is at the core of the recommendations listed below and therefore must be at the center of the consideration and the focus of the public administration and its institutions during the pandemic.

The COVID-19 pandemic is a health crisis with effects that reach into education inasmuch as school closings further exacerbate inequalities in education and disproportionately impact children and adolescents living in vulnerable situations. This is particularly important in light of high rates of illiteracy in the region.

The current challenge is for countries to strike a balance between ensuring public health and the right to education.

The key is for States to focus on structurally transforming education systems into inclusive and resilient systems. In this context, school re-opening is a paramount objective that must be considered in the context of conditions of the overall health of the region and the best interests of children and adolescents.

Therefore, to the extent possible, each State should take appropriate measures to ensure access to the right to education from a holistic point of view. On this score, in terms of implementation of school closures during the pandemic, this measure should not further exacerbate education inequality for reasons of gender, poverty, disability, ethnic origin, religion, geographic location, among others. For its part, the decision to reopen schools should ensure that potential health risks are averted for the people in those settings, providing for safe education opportunities for children and adolescents, as well as their families.

General

01 Create mechanisms to allow access to education for children with the age-appropriate stimuli and methodologies.

02 Ensure that the education system has sufficient budget to protect the wellbeing and physical, mental and psychosocial health of children and adolescents in the school setting.

03 Ensure mechanisms for the regulation, oversight and accountability of the education system as a whole, including public and private education institutions.

04 Establish efficient coverage and accessibility strategies under the principle of equal opportunity without discrimination, for members of indigenous, peasant and Afro-descendant communities, those living in rural areas, informal settlements and/or in a situation of poverty and extreme poverty.   In order to guarantee public policies of accessibility for indigenous, Afro-descendent, tribal and/or rural peasant children, the principles of interculturality, acceptability and availability, as well as curricular contextualization, appropriateness and relevance, must be respected;

05 Arrange and facilitate culturally appropriate activities and information and content in indigenous languages;

06 Implement special measures and special education plans for children and adolescents living in a situation of vulnerability and a context of discrimination, including children and adolescents with disability, as well as migrant children and adolescents, whose situation of vulnerability has been further exacerbated by the health crisis;

07 Involve young people in the dissemination of information on the COVID-19 situation, as well as the measures taken to address and contain it within communities, both in principal languages and in local indigenous languages.

08 Adopt relevant digital connectivity measures in order to allow for sexual and reproductive education to continue through remote learning.

Internet and digital divide

09 Ensure that children and adolescents gain access to online education without exclusion, through support systems, communication strategies and accessible content. Specific measures should be taken for persons with disabilities, indigenous, Afrodescendant children, those living in a situation of poverty, among other vulnerable groups.

10 Establish programs and earmark the required and available resources to provide children and adolescents living in poverty with the necessary electronic devices so they are able to participate in distance learning programs.

11 In situations of protracted social isolation, it is recommended to:
» Make the relevant investments in digital infrastructure and connectivity, based on territorial diagnostic assessments of the digital divide;
» Use digital or online, synchronous and asynchronous learning strategies;
» Assign homework or exercises, taking into account differences in digital access;
» Include fun educational content, using video games in teaching/learning;
» Use television and radio programing or podcasts with academic and fun educational content;
» Develop and facilitate pedagogical and methodological tools so teachers are able to periodically monitor students' activities at their homes;
» Create technology financing or subsidy programs to facilitate access for indigenous, Afrodescendant and peasant communities to Internet connections, as well as access to and training on information and communication technology tools that are necessary to guarantee connectivity;

12 Establish public policies to make the necessary adjustments to the curricula to facilitate the transition and adaptation of children and adolescents to new virtual learning methodologies, to ensure a comprehensive approach to the education process during the pandemic.

Support from families and caregivers in children's education

13 Provide family members, and/or caregivers with tools to be able to support the education process of children and adolescents during the pandemic, while encouraging bonding on an emotional level;

14 Design activities for families and caregivers to promote prevention and detect risk factors for violence and abuse of children and adolescents, as well as activate early warning mechanisms for the competent entities to provide the appropriate comprehensive care;

15 Conduct information dissemination campaigns on the prevention of violence and abuse of children and adolescents.

Safe reopening

16 Prepare for the reopening of school facilities and buildings, by planning infection prevention measures and following the decisions of the health authorities, based on rules and scientific evidence;

17 Assess the conditions of the transportation system to make travel to schools safe, availability of basic services, and periodically monitor the spread of COVID-19;

18 Ensure conditions of hygiene and disinfection, as well as availability of first aid, and waste water treatment systems;

19 Ensure potable water service at school facilities;

20 Provide training and instruction for the entire school community on hygienic protocols, as well as circulation inside school premises;

21 Outfit the physical space and consider the number of students in each classroom or school in keeping with scientific evidence-based directives from the health authorities;

22 Schedule in-person attendance by shifts, taking into account the flow of people's movements, identifying entries/exits, as well as providing for ways to avoid crowding, particularly at the time of students' entry and exit;

23 Develop and communicate measures and policies to encourage social distancing, while ensuring an atmosphere of tolerance and community integration;

24 Recommend the opening of schools located in rural areas, where access to media and connectivity are limited, and where no cases of COVID-19 have been reported in accordance with current statistics from the health authorities;

25 Make the necessary teaching staff and education support services available to ensure adequate care for children and adolescents at school facilities.

Food security

26 Implement programs, as availability of resources permits, to ensure the distribution of food, taking into consideration the food intake and nutritional needs of the students, especially those living in a situation of vulnerability, when designing any response to COVID-19;

27 Implement subsidy programs, such as fund transfers, food stamps or other ones, through integration with existing structures of food safety nets.