

COVID-19 School Closures: Addressing Education Issues of Students with Disabilities

MAY 2020

Federal and state education laws have not changed since the COVID-19 outbreak. Because they were not meant to be implemented during a pandemic, schools and parents are facing barriers in implementing IEPs and 504 plans with remote learning at home. More than ever students will need strong advocates to express concerns and collaborate with school staff.

NEW JERSEY DOE CORONAVIRUS-RELATED SCHOOL GUIDANCE AND LEGISLATION

- Schools must do their best to implement IEPs/504 plans with remote learning, teletherapies and remote evaluations, if possible. Flexibility in IEP/504 procedures and implementation is permitted but students retain their special education/504 rights, including evaluations.
- **A Cautionary Note:** Districts have discretion in complying with guidelines due to school closures. Currently, there is no consensus about how to address evaluations, related services, remote learning and compensatory education.
- On April 14 Governor Murphy signed bill A3904 into law, approving remote learning and therapy.
- If education services weren't provided or if a student didn't progress or regressed, IEP/504 teams must discuss whether compensatory education is required when schools re-open, but teams should start this review now to plan for next year.
- New Jersey state curriculum must be taught and a student must be promoted or graduate if appropriate.
- New Jersey Department of Education (NJDOE) prohibits school districts from making parents sign waivers in order for their children to receive remote instruction or teletherapies.
- A New Jersey Senate Education Recovery Task Force was established and held its first meeting May 1. It will come up with recommendations to address the present needs of students, including those in special education and plan for their transition back to school.

Visit <https://www.nj.gov/education/covid19/news/> for the latest NJDOE guidance.

COMMUNICATING WITH SCHOOL STAFF

- School staff must regularly contact students to ensure class participation, school work is getting done, to help with school work and to assess a student's social/emotional needs.
- School staff should provide notices in the parent's language and reasonable translation services.
- School district websites may have information about student resources, expectations about remote learning and how and when to contact school staff (including telephone contacts).
- Special education/504 rights require written requests and notices. If unable to email the child study team (CST), contact the school and include the director of special education to discuss how written notices and requests will be made.
- If the only option is to call the school teacher/CST/504 team, document the date, name of the school staff spoken to, any questions or concerns expressed and what was agreed to.
- Keep a record and inform the school, preferably in writing, of any day the student is not able to be part of a class, or can't get or complete school work due to no computer, no or poor internet, school's failure to send education packets or insufficient support from school.

ADVICE FOR PARENTS GIVEN CURRENT STATE GUIDANCE

STUDENTS WITH AN IEP OR 504 PLAN

- Review the modifications, supports, goals and related services in the current IEP.
- Schedule a remote meeting with teachers and the CST/504 team to discuss how instruction, modifications, supports and therapies are being implemented at home.
- The current IEP/504 plan should not be modified. Instead, parents and the IEP/504 team should agree in writing about how the current IEP/504 plan will be temporarily implemented at home.
- Consider inviting the child's private therapists/physicians to discuss their relevant knowledge about the child during the IEP/504 meetings with prior written notice to school staff.
- Ask for permission from the CST/504 team to watch remote sessions for parent training.
- The CST and/or teachers can help parents support students at home through video demonstrations, video conferencing, written instructions and/or phone calls.
- If a parent has been asked to sign waivers as a condition of their child's remote instruction or therapies, contact the county education offices or the NJDOE Special Education Ombudsman at 609-376-9060 as this is against NJDOE guidance.
- If evaluations are needed, the CST/504 team and parent should sign a written evaluation plan listing which evaluations can be done remotely and which must wait until school opens. A new IEP/504 plan can be based on evaluations currently available or that can be completed now. The plan can be amended once school re-opens.
- Talk to the CST/ 504 team about the need for extra schooling or retention due to gaps in education/transition services.
- If a 12th grade student should remain in school, sign an agreed upon 2020-21 IEP before the 2020 graduate date.
- If the CST insists the student must graduate and the parent disagrees, s/he must file for due process and emergent relief before the June 2020 graduation date.
- Extended school year (ESY) for 2020 may be provided remotely and/or in person if schools open.
- Students who did not get the education services they are entitled to and don't have ESY in their IEP may be entitled to ESY (summer programs) to help meet their 2019-2020 IEP goals.
- Mediations, due process hearings and emergent relief hearing are being conducted remotely.

STUDENTS WITHOUT AN IEP OR 504 PLAN BUT WHO MAY BE ELIGIBLE FOR SERVICES

- Parents must write to the director of special education to request evaluations at a CST meeting.
- Schools can't delay transition from early intervention to preschool even if all evaluations can't be completed by the 3rd birthday; schools can also provide needed services without evaluations.

DOCUMENT HOW A STUDENT IS DOING IN WRITING

Regularly Document and Share the Following with School Staff.

- If Teletherapies are not possible or effective;
- There is no access to a computer/school didn't provide computer after request/ having internet issues;
- If not receiving education packets, upon request;
- Inability to complete school work without an aide, and no effective alternatives are provided;
- No translation services for bilingual special education/504 students;
- If student's behaviors affect school work at home and behavioral supports aren't provided;
- If school staff does not provide necessary and reasonable parent training to help students;
- If school staff is not regularly contacting students through remote learning and/or phone calls, and/or emails, and/or not providing mental health or behavioral supports needed for learning;
- Weekly notes on what is specifically working well with the student.

For assistance, contact Nina Peckman, Staff Attorney at npeckman@acnj.org or (973) 643-3876 x226.