
ACCESSING SPECIAL EDUCATION DURING COVID-19

IS MY CHILD STILL ENTITLED TO SPECIAL EDUCATION WHILE SCHOOLS ARE CLOSED?

Yes. The laws protecting the rights of special education students, the Individuals with Disabilities Act (“IDEA”), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (“ADA”), all still apply during this time. School districts are still required to provide students with a free appropriate public education (“FAPE”) under these new circumstances. However, if a school district is not providing any distance learning to the general education population, they are not required to do so for students receiving special education.

WHAT TYPE OF SPECIAL EDUCATION, RELATED SERVICES, AND ACCOMMODATIONS SHOULD MY CHILD BE RECEIVING DURING SCHOOL CLOSURES?

Providing FAPE to students with disabilities must still be individualized to each student and could look different from one student to another. It can include access to written materials, instruction or related services provided online, through video conferencing or by telephone. Many accommodations and modifications can still be provided during distance learning. Here are some examples:

- Students can still have extended time for assignments
- Videos can be provided with either captioning or sign language
- Reading materials can be offered in more accessible formats
- Depending on the individual needs of the student, related services such as counseling and speech therapy can be provided through video conferencing or, for some students, by phone.
- Curriculum can still be modified to meet the needs of an individual student.
- Direct instruction from a special education teacher for a short period each day might be a substitute for students who have resource room on their IEPs.

School districts should still have special education teachers available to assist general education teachers in modifying lessons to meet the needs of individual students. Some accommodations and modifications will have to be adjusted during distance learning to make sure all students are able to benefit from distance learning. Students that receive behavior

CONTACT US

Voice: 518-432-7861

TTY: 518-512-3448

Toll Free: 1-800-993-8982

**ALBANY**725 Broadway, Suite 450
Albany, NY 12207-5001**BROOKLYN**25 Chapel St, Suite 1005
Brooklyn, NY 11201**ROCHESTER**44 Exchange Blvd, Suite 110
Rochester, NY 14614

DISCLAIMER: This information sheet is intended to give basic information and not individual legal advice. DISABILITY RIGHTS NEW YORK accepts no liability for the content of this document, or for the consequences of any actions taken on the basis of the informations provided.

supports should have the student's provider or school staff responsible check in with the students' parents, and perhaps provide parent training. However, remember flexibility is permissible, and it may not be feasible to safely provide certain services. Parents and school districts need to work together during this time.

DOES THE INSTRUCTION AND MATERIAL HAVE TO BE ACCESSIBLE?

Yes. If a school district is providing materials, whether written or online, students must have equal access to it, whether it is accessible or there is an alternative method for a student to access it. For example, if a teacher has a student who is blind and cannot make the written materials accessible, they could call the student to provide the information verbally.

WHAT IF MY FAMILY DOES NOT HAVE ACCESS TO A COMPUTER OR LAPTOP?

Contact your local school district. Most school districts are arranging ways to drop off loaner laptops for students to access work that is being provided online.

WHAT IF MY FAMILY DOES NOT HAVE ACCESS TO INTERNET?

Contact your local internet provider. Several providers are offering free services for school-aged children during school closures and distance learning.

ARE COMMITTEE ON SPECIAL EDUCATION ("CSE") MEETINGS STILL OCCURRING DURING SCHOOL CLOSURES?

Yes. However, school districts and parents should be working together to schedule CSE meetings either through video conferencing or by telephone. If you are unable to access the technology required to video conference, let the school district know. School districts must be holding meetings in a manner that enables parents to meaningfully participate.

CAN MY CHILD'S IEP BE MODIFIED WHILE SCHOOLS ARE CLOSED?

Yes, IEPs can be modified, but you are still entitled to have a CSE meeting to discuss any proposed changes. Changes cannot be made to a student's IEP without written parental consent. Alternatively, a parent and school district may agree to modify the IEP without a meeting, but again, the school district must have written parental consent **before** modifying the IEP.

CONTACT US

Voice: 518-432-7861

TTY: 518-512-3448

Toll Free: 1-800-993-8982



ALBANY

725 Broadway, Suite 450
Albany, NY 12207-5001

BROOKLYN

25 Chapel St, Suite 1005
Brooklyn, NY 11201

ROCHESTER

44 Exchange Blvd, Suite 110
Rochester, NY 14614

DISCLAIMER: This information sheet is intended to give basic information and not individual legal advice. DISABILITY RIGHTS NEW YORK accepts no liability for the content of this document, or for the consequences of any actions taken on the basis of the informations provided.

ARE STUDENTS STILL REQUIRED TO TAKE STATE STANDARDIZED TESTS?

No. The following state exams have been suspended: grades 3 through 8 for ELA and Math, grades 4 and 8 for Science, grades K through 12 for the English as a Second Language Achievement test, and the New York State Alternate Assessment for grades 3-12. Additionally, the June 2020 Regents Exams have been cancelled. For more information on cancellation of exams and modification of graduation requirements please go to the New York State Education Department website: <http://www.nysed.gov/news/2020/state-education-department-issues-guidance-graduation-and-course-requirement-changes-due>. At this time, there has not been a decision about the August 2020 Regent Exams.

WHAT IF ENGLISH IS NOT OUR FAMILY'S NATIVE LANGUAGE?

Parents have the right to receive information and communicate with staff in their native language. If your child's native language is other than English, you should contact your child's school while distance learning is being provided. If you are attending a CSE meeting during this time, you are entitled to an interpreter at no charge. You should still request any updated IEP be translated into your native language. If you are not receiving notices, updates, and any other relevant materials in your native language you should contact your child's school.

WILL MY CHILD BE ENTITLED TO COMPENSATORY EDUCATION FOR MISSED INSTRUCTION AND SERVICES?

Maybe. This is going to be assessed on an individualized, case by case determination. Parents should be keeping track of services received and missed during this time. However, a school district cannot refuse to provide any special education and simply offer compensatory education in the future, if distance learning is being provided to students without disabilities. Remember, flexibility is permitted where necessary. It may take time for a school district to set up distance learning; parents and districts need to work together.

WHAT SHOULD THE IEP TEAM CONSIDER IN DETERMINING IF COMPENSATORY EDUCATION IS APPROPRIATE OR IF CHANGES NEED TO BE MADE TO THE STUDENTS IEP WHEN CLASSES RESUME?

At a minimum, parents and educators should be looking at the following:

- Did the student receive instruction and related services during the school closure?
- Were other students receiving instruction, including general education students?
- Is there accurate documentation of the services the student received?
- Did the student regress in skills as a result of the missed instruction?

CONTACT US

Voice: 518-432-7861

TTY: 518-512-3448

Toll Free: 1-800-993-8982



ALBANY

725 Broadway, Suite 450
Albany, NY 12207-5001

BROOKLYN

25 Chapel St, Suite 1005
Brooklyn, NY 11201

ROCHESTER

44 Exchange Blvd, Suite 110
Rochester, NY 14614

WHAT IF I HAVE A DUE PROCESS COMPLAINT PENDING AGAINST MY DISTRICT DURING THIS TIME?

Due process hearings have not been formally suspended or tolled during this time. Under normal circumstances, it is recommended that hearings take place in person, but with the need for social distancing, many are moving forward using video conferencing or by telephone. Additionally, state regulations already allow for testimony by affidavit (written statement), subject to availability for cross examination. However, parties can mutually agree to extend timelines given the current circumstances.

WHO SHOULD PARENTS CONTACT WITH QUESTIONS?

Parents should first contact their child's school district for questions specific to their child. This could be their teacher, principal, school psychologist, or special education director. You can also contact the New York State Education Department. General questions can be sent to covid19@nysed.gov and special education questions can be sent to speced@nysed.gov, and you can also go to the NYSED website for current information and guidance: <http://www.nysed.gov/coronavirus>. Your child's school district's website may have additional contact information or instructions specific to your district.

Additionally, depending on the facts of your situation, Disability Rights New York may be able to assist you with your issue. Please call Toll free: 1-800-993-8982, Voice: 518-432-7861, or TTY: 518-512-3448 if you think you need our assistance.

CONTACT US

Voice: 518-432-7861

TTY: 518-512-3448

Toll Free: 1-800-993-8982



ALBANY

725 Broadway, Suite 450
Albany, NY 12207-5001

BROOKLYN

25 Chapel St, Suite 1005
Brooklyn, NY 11201

ROCHESTER

44 Exchange Blvd, Suite 110
Rochester, NY 14614

DISCLAIMER: This information sheet is intended to give basic information and not individual legal advice. DISABILITY RIGHTS NEW YORK accepts no liability for the content of this document, or for the consequences of any actions taken on the basis of the informations provided.