

## COVID-19 and Special Education

Included are two articles

- Disability Right California: <https://www.disabilityrightsca.org/post/coronavirus-k-12-education>
- California Department of Education: <https://www.cde.ca.gov/ls/he/hn/distancelearning.asp>

## Coronavirus (COVID-19) Education/Special Education K-12

### Special Education Services: How are they impacted by this outbreak?

<https://www.disabilityrightsca.org/post/coronavirus-k-12-education>

Many California schools are impacted by the 2019 coronavirus (COVID-19). If your child is eligible for an Individualized Education Program (IEP) or a 504 accommodation plan, your child is eligible to a free appropriate public education (FAPE). The U.S. Department of Education and the California Department of Education have issued guidance explaining how COVID-19 impacts your child's right to a FAPE.

On March 12, 2020, the Department of Education issued guidelines on when and how students with disabilities will receive special education services during this time.

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/ga-covid-19-03-12-2020.pdf>.

On March 20, 2020, the Department issued new guidance on your child's right to a FAPE during the COVID-19 crisis:

<https://www2.ed.gov/about/offices/list/ocr/frontpage/fag/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>. The guidance warned schools against declining to offer distance learning to avoid its responsibilities under special education law. It emphasized that students with disabilities are still entitled to a FAPE, but that the delivery of services must be consistent with the need to protect the health and safety of students with disabilities and school staff.

This means that your child's IEP might not be implemented the way it would be if school was in session. The school may choose to use disability-related modifications and services provided online, including extensions of time for assignments, videos with accurate captioning or embedded sign language interpreting, accessible reading materials, and many speech or language services through video conferencing. Where there are delays in services, the IEP or 504 team must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations.

Below is information provided by the [U.S. Department of Education](#) and the [California Department of Education](#) regarding coronavirus and school closures.

### **Can my child get special education services if my school is closed because of Coronavirus?**

If your school is providing education services or resources (i.e. work packets, access to e-books or audio books, or online, telephone, or distance learning) the school must make sure that students with disabilities have equal access to those services or resources.

Equal access may include accommodations and modifications, such as making sure materials are available in an accessible format, providing school-purchased devices and assistive technology, assigning reduced assignments, or modifying the curriculum. Equal access may also include individualized special education instruction and related services, including speech, occupational therapy and behavior supports.

How services are provided must consider the individual and unique needs of your child. For some students, telephone or online/video conferencing instruction or services may work for them. Services may be provided at a school site or in the home, depending on the needs of your child, and health of other students and staff.

You can request an emergency Individualized Education Plan (IEP) meeting to discuss an interim IEP to discuss what accommodations, modifications, or services could be put in place during the closure. You can ask that this IEP be held on the telephone or by online videoconference.

**My child's school is completely shut down and/or is refusing to provide any special education services. What can I do?**

If your school is not providing special education services and during a school closure, your child may be entitled to compensatory education services to make up for missed school services. Keep a journal of the special education or 504 plan services your child has missed as a result of the school closure and request an IEP or 504 plan meeting to discuss compensatory services.

**Can my child receive special education services if I need to keep them out of school because they are sick or are at high risk of serious illness?**

You may decide to keep your child out of school for an extended period of time because they are sick or are in a high-risk group. In this situation, your child may be entitled to home and hospital instruction—services provided to the child at home, in a hospital or other healthcare setting. If your child is hospitalized, the school district where the hospital is located, is responsible for providing home and hospital instructions.

To get home and hospital services, you should notify the school right away that your child will be absent for an extended period of time. The school district will have five days to decide whether they will provide individualized instruction. You may wish to provide a doctor's note that supports your child's need for home and hospital instruction.

School districts can provide as little as five hours per week of home and hospital instruction. If you do not feel this will be enough, you should call an IEP meeting as soon as possible to discuss any additional special education instruction and services your child needs.

**What if I disagree with the school district because they are not providing my child with services, or not providing enough services and support during a school closure?**

You have the right to file a complaint or request a due process hearing if you do not agree with the school district regarding educational supports for your child. See [Chapter 6 of the Special Education Rights and Responsibilities](#) manual for more details on how to file a complaint.

## **Special Education Timelines: Do they still apply during this outbreak?**

Schools are still required to comply with the timelines in the federal Individuals with Disabilities Education Act (IDEA). The U.S. Department of Education and California Department of Education though have provided guidance that gives schools some flexibility with the timelines. Further, on March 17, 2020, the California Legislature passed SB 117, a law that waives several state special education timelines (a full overview of SB 117 is below).

### **U.S. Department of Education Guidance on Timelines:**

- Schools must still convene IEP meetings within 30 days of a parent's request and review IEPs at least annually. However, parents and an IEP Team may agree to conduct IEP meetings through alternate means, including videoconferencing or conference telephone calls.
- The parent of a child with a disability and the public agency may agree to not convene an IEP Team meeting for the purposes of making changes to the IEP, and instead develop a written document to amend or modify the child's current IEP.
- An initial evaluation must be conducted within 60 days of receiving parental consent under IDEA.
- A reevaluation of each child with a disability must still be conducted at least every three years.

### **California Department of Education Guidance on Timelines:**

- The California Department of Education is continuing to accept IDEA compliance complaints, but is extending the 60-day investigation period by the length of any school site closure during the stated emergency.
- California's system for due process hearings and mediation through the Office of Administrative Hearings (OAH) remains operational. Updated information on the impact of COVID-19 on special education due process hearings can be accessed on the OAH's website: <https://www.dgs.ca.gov/OAH/Case-Types/Special-Education/Resources/SE-Coronavirus-Update/#@ViewBag.JumpTo>.

### **New Bill (SB 117)- Impacting the Rights of Students with Disabilities**

On Tuesday, March 17, 2020, Governor Newsom signed SB 117, an education finance bill that addresses school closures due to the coronavirus (COVID-19) crisis. The law took effect immediately.

**SB 117 impacts California students with disabilities' special education rights. It waives – or pauses – many special education timelines while public schools are closed due to COVID-19.**

### **Special Education Timelines that SB 117 Waives:**

- The right to receive an assessment plan within fifteen (15) days after your child is referred for a special education assessment.
- The right to receive copies of your child's school records within five (5) business days after a request, before any IEP meeting, or before any due process hearing or resolution session.
- When your child enrolls in a new school district, the right to have your former school district send your child's records to the new one within five (5) business days.

- SB 117 also extends timelines under the Uniform Complaint Procedures (UCP) by the length of time a school is closed due to COVID-19.

These timelines will start again once schools reopen and the regular school session starts again. SB 117 considers your school “closed” even if it offers independent study, distance learning, or both.

The special education timelines that SB 117 waives are state law requirements. SB 117 does not waive any federal requirements imposed under the federal Individual with Disabilities Education Act (IDEA). Information on the impact of COVID-19 on the federal timelines is discussed above.

For more information regarding your child’s special education rights, please view our revised: [Special Education Rights and Responsibilities \(SERR\) Manual](#), or call our intake line at 1-800-776-5746, available 9:00 am - 4:00 pm, Monday through Friday or For TTY call: 1-800-719-5798.

### **Considerations for Students with Disabilities**

<https://www.cde.ca.gov/ls/he/hn/distancelearning.asp>

Students with disabilities are particularly vulnerable, and continuing support from the state’s educators is critical during these uncertain times. LEAs that physically close schools should focus their planning efforts on how to continue serving these students, by tailoring distance learning to provide educational benefits to students with disabilities, to the greatest extent practicable under the circumstances.

At this time, the federal government has not waived the federal requirements under the Individuals with Disabilities Education Act (IDEA). Accordingly, IDEA’s requirements, including federally mandated timelines, continue to apply. The United States Department of Education (US ED) Office of Special Education Programs (OSEP) issued guidance explaining how these obligations operate in the context of school closures in response to COVID-19, which can be found at:

<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>.

The OSEP guidance recognizes that, given the unprecedented situation created by the threat of COVID-19, exceptional circumstances may affect how a particular service is provided under a student’s individualized education program (IEP). While distance learning can provide educational benefit to many students with disabilities, it is important to consider the unique learning needs, accommodations and supports noted in each student’s IEP.

CDE will convene a workgroup of practitioners and experts in special education to assess various models for effectively serving students with disabilities in a distance learning environment, including promising practices and specific strategies that LEAs are implementing in California and around the country. Additional guidance will be forthcoming shortly.

In the meantime, below are some considerations and suggestions for continuing to support students with disabilities as LEAs implement distance learning strategies.

- **Individualized Instruction in Distance Learning Settings.**  
As an LEA considers options for distance learning, the LEA should generally assess the extent to which its students with disabilities will be able to attain educational benefit under each option.

Depending on a student's particular needs and the distance learning options available to the LEA, LEAs may also need to develop plans to provide additional services to some students with disabilities when onsite instruction and regular school operations resume.

- **Related Services.**

To the greatest extent possible, LEAs should continue providing related services consistent with the student's IEP. This may involve providing services on one or more schoolsite, consistent with social distancing guidelines and accounting for the health needs of students and staff.

- **Assistive Technology.**

LEAs should also be flexible in providing access to school-purchased assistive technology devices when necessary, consistent with law, to ensure children have access to devices they typically use at school.

- **Nonpublic Schools and Agencies (NPS/A).**

Because NPS/A provide critical programs and related services to students with disabilities, CDE encourages continued payment to NPS/As. LEAs should work with NPS/As to take advantage of services that can be offered by NPS/As that elect to continue to provide services during school closures. In addition, LEAs and NPS/As should work collaboratively to ensure continuity of services for students currently served by NPS/As, pursuant to the IEP, including exploring options related to distance learning. In light of continued funding provided to LEAs under Executive Order N-26-20 to offer educational opportunities to all students during school closures, LEAs are encouraged to review master contracts with NPS/As and explore options for payment given the likelihood of student absences and the fiscal impact on NPS/As.

The resource guide offered in Appendix 1 includes links to on-line learning resources and strategies for students with disabilities. The Center on Online Learning and Students with Disabilities (<http://www.centeronlinelearning.res.ku.edu/>), from OSEP, provides guidance for parents and teachers, and Common Sense Media's Best Special Education Apps and Websites (<https://www.commonsense.org/education/top-picks/best-special-education-apps-and-websites>) offers information on an array of tools. The guidance for on-line instruction from Riverside County Office of Education in Appendix 2 also includes suggestions for supporting students with disabilities.