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Guidance for Parents on Education Rights During School Closure

Although these are uncertain times, your child's right to a free appropriate public education (FAPE) has **not** been put on hold. The United States Department of Education has made clear that if a school district continues to provide educational opportunities to all students, it must provide equal access to students with disabilities. The State of Illinois has ordered that as of March 31, 2020, all schools statewide must implement remote and/or e-learning plans to ensure that all students receive instruction and can communicate with their teachers.

Some patience may be required as your school district develops and implements plans to provide services to all students. However, you are well within your rights to attempt to work with the school district to ensure that your child's needs are met – whether that is by implementing an existing IEP or 504 plan or incorporating new services and supports to allow your child to access and benefit from the remote instruction that is being provided.

If your school district asks you to sign a waiver of any kind, you should be sure you are aware what you are agreeing to before you sign. For example, while it may be ok to waive confidentiality in order for group lessons to take place by video conference, you should **NOT** waive your right to educational services, supports, or accommodations. If you are unclear what a waiver is saying or what the effects of signing it would be, you should consult with an advocate or attorney to provide clarification.

Be proactive. Communicate by email or request a call to discuss how your child's individual needs will be met. Be specific about the services and supports that are needed and explain why they are necessary, connecting them to your child's diagnosed disabilities.

Submit a written **[request for an IEP meeting](#)**, to take place by phone or video conference, to develop a "remote learning plan" that describes the services and supports your child will

receive and how the school district will provide them remotely. *The timeline for the school district to respond to a request for an IEP meeting is 10 calendar days.*

The Illinois State Superintendent of Education has declared that Remote Learning Days count as actual student attendance days. For the purpose of special education, this means that any timelines that are measured in school days (as opposed to business days or calendar days) are ongoing, and school districts can still be held accountable to those timelines. For example, when a school receives a request for evaluation from a parent, they have 14 school days to respond.

You can still [request an evaluation](#) at this time by submitting a written, signed and dated letter to your school district. Evaluations that don't require face-to-face assessments or observations can and should take place while schools are closed, and you should provide clear written consent for the school district to do so. Evaluations that require face-to-face assessment or observation may be possible by video conference with your consent, but they may also reasonably be delayed until school reopens.

While some **related services**, like Occupational Therapy or Physical Therapy, may be difficult to provide remotely, there is nothing preventing school districts from providing any of the related services that are necessary for a student with a disability (including Occupational Therapy, Physical Therapy, Social Work services, Speech-Language Therapy, etc.). You should work with your school district to explore options for provision of related services remotely, either online, by video, or by phone. **Paraprofessionals and 1-1 aides** should also continue to be involved via phone or video, to the greatest extent possible. If your child received **assistive technology** in school, the same services and devices should be made available to be used at home.

During this period of remote education, you should also **keep detailed written logs** about key elements of your child's functioning and what the school is and is not providing, including:

- 1) Your child's current level of functioning (baseline) in relation to their academic, social, behavioral and other skills, by keeping track of how they are functioning, both now and as the period of remote learning continues;
- 2) The services your child is actually getting from the school, how those services are delivered and for how many minutes;
- 3) Any services and supports your child should be receiving that are not being provided, including instruction, related services and therapies, 1-1 support, assistive technology, etc. (For example, make a note that for the week of March 30, your child did not receive the 300 minutes of resource instruction in Reading or 45 minutes of Social Work services that are included in his or her IEP);
- 4) How much time your child is spending on any school-related work, including periods of live or direct instruction, and time spent on individual work without teacher involvement;

- 5) Any progress or regression that you are noticing in any area (academics, language, behavior, etc.). This will be helpful later in arguing that you are entitled to **compensatory education** to make up for the services that were not provided during this period. As the U.S. Department of Education has instructed, if a child does not receive services during a school closure, his or her IEP or 504 team **must** make an individualized determination about what compensatory services are needed to make up for what was missed.

If you have any questions or concerns regarding the impact of school closures on your child's education, please contact Tami Kuipers at Matt Cohen & Associates, (866) 787-9270, or email tami.kuipers@gmail.com.

We can assist you in ensuring that your child receives all of the instruction, services, and supports that he or she is entitled to via remote learning. We can also advise you further on how to prepare now in order to hit the ground running to advocate for your child to receive the services and supports, including compensatory education, that he or she needs as soon as possible once school resumes.

We are here to help you navigate this challenging and uncertain time.