

Coronavirus Updates and Resources for North Carolina Education Advocates

Legal Aid of North Carolina, April 2020

****The following information is current as of 4/20/20. Because new guidance is regularly being released, please visit <http://www.legalaidnc.org/coronavirus> to find the most updated version of this document****

1. School Closures

On March 14th, Governor Roy Cooper issued an [executive order](#) directing all public schools to close for two weeks beginning Monday, March 16th. On March 23rd, the Governor issued a [second executive order](#) that extended the closing through Friday, May 15th. In his [address to the public](#), Governor Cooper indicated that closure would have the effect of stopping all “in person instruction.”

TIP: *The Governor’s order sets a minimum timeframe for closure. Parents, guardians, and advocates should consult individual school or district websites to find out if closures in your area are scheduled to last longer than the timeframe imposed by the Governor. The Governor may also extend the closing.*

2. Educational Access and Standards for Students while Schools are Closed

There is not a uniform, statewide plan for whether or how students will be able to access instruction during closures. In his [March 23rd address to the public](#), Governor Cooper stressed that it is his goal that schools will afford students “as much remote learning as possible and a real connection to [their] schools even while [the] buildings are closed.” Ultimately, however, how and whether online learning will be provided is being decided by school districts, and potentially by individual schools.

In light of the widespread uncertainty regarding how or whether students will be able to access educational services in the coming weeks and months, the State Board of Education voted to approve numerous changes to assessment and grading policies. On March 23rd, the State Board requested and received a waiver of the federally mandated requirement that students take end-of-grade (EOG) and end-of-course (EOC) exams. On March 27th, the State Board of Education made [significant changes to grading policies](#).

- For high school seniors access to instruction will be primarily focused on helping them attain graduation requirements. Seniors will be graded on work that they completed through 3/13/20. If students were failing graduation requirements as of that date, the school should provide support to help the student pass the unmet requirements.
- For other students, the primary focus of course instruction will be on promoting student engagement and growth. However, schools may assign grades for work completed remotely *if* that remote instruction:
 - is accessible by all students for which the learning is intended and is responsive to diverse learning groups;
 - maintains consistent communication between instructional staff and students;
 - addresses the curricular and instructional needs associated with appropriate standards;
 - includes evidence of student learning; and,
 - considers the whole child as well as the home learning environment.

TIP: *Parents and guardians should look at the information provided by your school district or charter school about whether/in what form educational services will be provided and whether students will receive grades for remote work. Each school district or charter school is making independent decisions about this, so you should only rely on information from your school district or charter school.*

3. Educational Access for Students with Disabilities while Schools are Closed

Beginning in mid-March, the United States Department of Education (US DOE) began releasing a series of [federal guidance letters](#) related to how the Coronavirus crisis impacts schools' responsibilities to, among other things, serve students with disabilities and ensure students do not face discrimination. In the same time period, the North Carolina Department of Public Instruction (NC DPI) has also published a series of [North Carolina-specific guidance letters](#) related North Carolina schools' responsibilities to serve students with disabilities during closures.

The following sections summarize some of the key points from the guidance. Note: a Local Education Agency (LEA) means a school district or charter school.

➤ *When and how must special education services be provided during COVID-19 related school closures?*

NC DPI has taken the stance that special education services were not expected to be provided to students between March 16th and March 27th in light of the Governor's order closing all schools.

Beginning March 30th, NC DPI and US DOE are in agreement with the general principles that:

- If an LEA closes schools and does not provide any educational services to any students during the closure, current federal guidance states that schools are not required to provide educational services to students with disabilities during that time. Any missed services will be provided during regular make-up days scheduled for all students.
- If an LEA provides educational services to the general student population during a school closure, they must make sure students with disabilities have access to the same opportunities. This includes making sure a student has *meaningful* access to the services in their Individualized Education Program (IEP) or 504 Plan to the greatest extent possible, and is afforded a free, appropriate public education (FAPE).

In the event that a school's responsibility to offer FAPE is triggered, schools must make an *individualized* determination of what remote special education services will be needed to enable a student with a disability to meaningfully access FAPE. The US DOE has offered the following guidance to consider in assessing whether the educational services being provided are appropriate.

- "Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students. For example, if a teacher who has a blind student in her class is working from home and cannot distribute a document accessible to that student, she can distribute to the rest of the class an inaccessible document and, if appropriate for the student, read the document over the phone to the blind student or provide the blind student with an audio recording of a reading of the document aloud."
- "The Department encourages parents, educators, and administrators to collaborate creatively to continue to meet the needs of students with disabilities. Consider practices such as distance instruction, teletherapy and tele-intervention, meetings held on digital platforms, online options for data tracking, and documentation. In addition, there are low-tech strategies that can provide for an exchange of curriculum-based resources, instructional packets, projects, and written assignments."

NC DPI has offered the following principles to consider in assessing the appropriateness of remote special education services:

- The distribution of work packets to students without accompanying direct instruction by a special education teacher does not meet the definition of specially-designed instruction.
- What instructional methods are "appropriate" for must be assessed on a case-by-case basis.
- In some cases, teletherapy may be an appropriate option for delivering related services such as speech language therapy to students.
- In general, it is unlikely that students with complex special education needs will be able to be properly served through an instructional format that is purely virtual.

TIPS: *If educational opportunities are provided to the general student population, parents/guardians should contact their child’s EC case manager about how the child’s IEP will be followed while the school is closed.*

- *Many schools and districts across the state are creating “Distance Learning Plans” or “Temporary Learning Plans” to outline what services a student will receive during school closures. Parents should be consulted in creating these plans. These plans may describe: 1) the accommodations and modifications a student will get during this time, 2) the special education and related services that school staff will provide to the student directly, 3) the home-school communication plan, 4) how the student’s progress will be measured, and 5) any other supports the student will receive during the coronavirus closures.*
- *In general, EC services provided may look different than pre-coronavirus. For example, services may be offered virtually or be reduced in hours. **However, what supports a student with a disability is offered must still be determined on an individualized basis and must be reasonably calculated to enable them to continue to make progress on their IEP goals and in the general curriculum.***

➤ When and how must IEP meetings take place during COVID-19 related school closures?

As of now, IDEA requirements and timelines for determining eligibility for special education services, conducting annual reviews of IEPs, and conducting reevaluations remain in place. However, in light of the significant barriers created by social distancing requirements, LEAs are encouraged to work with parents/guardians to hold IEP meetings through video or teleconference and/or to agree to make changes to the IEP without a meeting. Parents and districts are also encouraged to mutually agree on extensions of time as appropriate.

Important IDEA deadlines, expected hurdles, and proposed solutions include the following:

- IEP teams must meet yearly to conduct an **annual review** and update of a student’s IEP. Schools should explore fulfilling this obligation through video conferencing and telephone conferencing.
- When determining **initial eligibility** for an IEP, evaluations must be conducted, eligibility determined, and for an eligible child, the IEP developed, and placement completed within 90 calendar days of receipt of a written referral. Because face-to-face evaluations cannot be conducted while social distancing measures are in place, it is expected that schools will be unable to meet the 90-day timeline. However, schools should continue to conduct **referral meetings** and, to the greatest extent possible, continue to move forward with evaluations that do not require face-to-face contact.
- A student with an IEP must be **reevaluated** at least once every three years, and so IEP Teams should take steps to fulfill this responsibility through video and/or telephone conferences.

The creation and implementation of temporary learning plans or other similar plans outlining what services a student is receiving during closures may not require an IEP Team meeting. However, in the event those plans are insufficient to meet a student’s disability-related needs, parents can request an IEP meeting to review the services the student is receiving and request additional services or supports.

In the event that IEP meetings proceed during school closures, parents must be afforded meaningful access to participate in those meetings. To best ensure that access, schools are advised to provide copies of drafts ahead of time to parents and ensure that meetings are held at mutually agreeable times and dates.

TIPS: *If school staff haven’t yet contacted them yet regarding a necessary IEP Team meeting, parents/guardians should ask their child’s EC case manager in writing to set up an IEP Team meeting to conduct any necessary referral, eligibility, annual review, or reevaluation meetings. Additionally, if significant changes need to be made to their child’s IEP and/or they do not think the services being provided by the school are appropriately addressing the child’s disability-related struggles, parents/guardians can request an IEP Team meeting.*

- *If parents/guardians don't know who their student's EC case manager is, they should direct their request to the school principal.*
- *Before any IEP meeting, parents/guardians should ask the EC case manager to send drafts of all documents that will be reviewed at the meeting at least 48 hours beforehand so they can review them and prepare.*

- What remedies should a student with a disability receive if a school doesn't provide appropriate services?

If a student with a disability does not receive appropriate special education and related services during a school closure, the LEA must consider whether compensatory (make-up) special education services are required to remedy harm caused by the lack of proper services. IEP Teams should look at learning opportunities missed and/or skills lost during the time away from school when they consider how much and what kind of compensatory education will be needed. Parents should be involved in decisions related to compensatory education services.

TIP: Schools should be tracking what services they are providing special education students. Parents and guardians should also keep a log of the special education services (specially designed instruction and related services) their student is getting and is not getting. If the school did not provide any or appropriate special education services, parents/guardians should send a written request for compensatory education to their child's EC case manager and the school principal.

- When and how must Early Intervention Services providers serve students with disabilities during closures?

Early Intervention Services providers (for infants and toddlers with disabilities) are not required to provide services if their offices are closed. If their offices are open, but they are not able to provide services to individual children due to reasons related to the COVID-19 virus (e.g. the provider is not available, or homebound services cannot be provided) the lead agency must find other ways to provide the services.

4. Nutrition Services for Students while Schools are Closed

On March 12th, the North Carolina Department of Public Instruction (NCDPI) [received a Federal waiver](#) that allows local school districts, charter schools, and specific community agencies to continue providing meals to students during periods of school closure. School districts and charter schools are **not required** to provide meals. However, they can seek and will be reimbursed for any meals provided during Coronavirus related closures.

TIPS: Families have numerous options to secure food during school closures:

- Parents/guardians should check their district or charter school's website, Facebook page, and Twitter account to find the most current information about school nutrition services.
- No Hungry Kid NC is also maintaining a [statewide list of school meal distribution information](#).
- Families who need food assistance for their children can also text FOODNC to 877-877 to locate nearby free meal sites. The texting service is also available in Spanish by texting COMIDA to 877-877.
- Families can also call 2-1-1 to speak with an operator who will help them locate meal sites in their community. The 2-1-1 service is available 24 hours a day, 7 days a week. Services are provided in English, Spanish and many other languages.

5. General Federal and State Education Resources

Federal

- Website where the US Department of Education is posting information, updates, and guidance about the response to COVID-19: [COVID-19 \("Coronavirus"\) Information and Resources for Schools and School Personnel](#)
- Press Release (3/12/20): [Secretary DeVos Releases New Resources for Educators, Local Leaders on K-12 Flexibilities, Student Privacy, and Educating Students with Disabilities During Coronavirus Outbreak](#)

North Carolina

- Website where the NC DPI is posting North Carolina-specific updates and resources about the response to COVID-19 - [North Carolina Department of Public Instruction \(NCDPI\) COVID-19 Homepage](#) - .

TIP: In addition to checking federal and state resources, parents, guardians, and students should always consult individual school/district websites for district specific updates related to Coronavirus plans.

6. Miscellaneous Resources for Students and Families

I. Online Educational Resources

- a. [NC DPI Remote Learning Support Site](#): A compiled listing of resources for parents/guardians and teachers
- b. [Amazing Educational Resources](#): A spreadsheet with a constantly updated listing of free online educational resources for students
- c. [Virtual Field Trips](#) to locations including the San Diego Zoo, Yellowstone National Park, and more

II. Internet Resources

- a. In response to the COVID-19 crisis, a number of internet service providers have offered free or reduced-rate internet for families in need. The North Carolina Department of Information Technology has created an [interactive map](#) of free/reduced options for families across North Carolina.

III. Mental Health Resources

- a. [Coping with Stress during Infectious Disease Outbreaks](#)

IV. Additional Legal Resources

- a. [Legal Aid of NC's Coronavirus Resource Page](#)

Advocates for Children's Services of Legal Aid of North Carolina

For more resources: www.legalaidnc.org/acs ~ To apply for legal services: **1-866-219-5262**



You may want to contact a lawyer if your student with an IEP is not receiving special education services during school closures. You may also want to call if your student is struggling, you've asked for extra supports, and the school has refused to provide them.

The information included here is not legal advice and does not cover all rights and remedies, or apply in every situation