

Special Education and COVID-19

Understanding Your Rights



Presenters

Lisa Beaudoin

Executive Director



Karen Rosenberg

Senior Staff Attorney



Bonnie Dunham

*Special Education Law &
Policy Specialist*



Disclaimer



This webinar does not constitute legal advice or legal representation.



The information in this presentation is for general educational purposes only. It is not a substitute for legal advice about you or your child's particular situation.



If you require legal advice, contact DRC-NH, or obtain private legal counsel.

Timeline of Recent Events

- ❑ All NH public K-12 schools are closed through May 4th
- ❑ The rule allowing remote instruction for an extended period makes it very clear that it includes ALL students
- ❑ Caregivers, educators & staff (including service providers) in K-12 schools are considered to be “essential workers”
- ❑ The NH Department of Education (NH DOE) is providing support & resources to school districts on remote instruction and support services to students.

Timeline of Recent Events

- NH DOE Guidance clarified that schools may provide services to small groups in schools
- Special education & related services that require physical or close contact with a student are allowed, when necessary – using personal safety procedures included in the NH DOE’s Guidance
- Districts may use these options; they are not mandates

What does this mean for children with disabilities?

- NH must continue to make a **free appropriate public education (FAPE)**, including special education and related services, available to all eligible children with disabilities in accordance with the child's IEP
- The rights of children with disabilities and their parents remain intact

How will a student with a disability receive their services?

- A variety of options may be used to provide remote support to students with disabilities. NH DOE has identified 3 possible options
- Schools, in collaboration with parents, may identify other options that will meet their children's educational needs in accordance with the child's IEP

The options

- Providing instructional services remotely, generally in the child's home (google classroom, worksheets)
- Providing individual or small group instruction in the school or other location (a community-based setting)
- When services cannot be provided, either in-person or remotely, the child may receive “compensatory services”
- A combination of any of these options

What are compensatory Services?

- ❑ Educational Services to make up for a school district's failure to provide a FAPE in the past
- ❑ Might include additional special education services, tutoring, occupational therapy, speech-language therapy, counseling or other related services



What is remote instruction?

- Student generally stays in their home and learns using online platforms, videos and other media, print materials



What is remote instruction?

- ❑ Schools may provide services in the community if they can be accomplished with social distancing
- ❑ Families will need to do the best they can and communicate with school personnel for ideas and support to assist in this difficult time

What if we do not have a computer, tablet, or internet at home?

- ❑ Schools can allow students to take home a Chrome Book or other technology that is usually only used at school
- ❑ Schools can provide schoolwork through an ongoing exchange of print materials, or provide a flash drive with the student's lessons preloaded
- ❑ You may request an IEP team meeting to discuss alternative options to provide your student with access to instruction

Can the school require me to agree to changes in my child's IEP because of the COVID-19 Crisis?

NO

What kinds of changes might a school district propose?

- Reduction or temporary halt in services
 - Examples: child will receive OT services once, instead of twice, a week. Child will not receive hand-over-hand assistance from a para
- Change in service delivery
 - Example: child will receive one-on-one instruction but it will be via google chat
- **REMEMBER -- Unless the child's needs have changed, the IEP should not be changed**

What are my options if I disagree with the school's proposed changes to the services my child will receive, how they will be provided, and/or the location in which they will be provided?

- ❑ Refuse consent or give partial consent
- ❑ You must respond in writing within 14 days from the date of the Written Prior Notice (WPN)
- ❑ Request an IEP team meeting to discuss:
 - Your concerns/consider other options
 - Develop a temporary learning plan instead of changing IEP
 - Discuss need for compensatory education services

What if remote instruction is not working or my child has very intensive needs?

You may request an IEP Team meeting to:

- ❑ Tell the IEP team about your concerns,
- ❑ As a TEAM, discuss creative solutions,
- ❑ Consider alternative ways the service could be provided;
- ❑ Consider adding frequent parent/teacher check-ins to help the parent support their child's learning.

What if remote instruction is not working or my child has very intensive needs?

- ❑ If staffing is an issue, you might ask if the school could partner with another agency to support your child's/your family's needs
- ❑ Recognize that if some services cannot be provided now, compensatory services may be needed
- ❑ Contact DRC-NH for assistance if necessary

What about students who attend private schools or receive IEP services from private providers?

- ❑ Your child continues to have a right to receive the special education and related services in their IEP
- ❑ The private provider/school should inform you of whether and how it is revising its service delivery (may include remote services) during this time
- ❑ The school district may also try to arrange for substitute service providers to ensure continuity of services or convene an IEP Team meeting to discuss options to provide a FAPE

What if my child attends a chartered public school?

- Your child continues to have a right to receive the special education and related services in their IEP
- The charter school is responsible for providing general education
- The district where you live is responsible for providing special education and related services
- If you request an IEP team meeting, representatives from both the charter school and your district should attend

What if my child is too ill to participate in remote instruction?

- ❑ If for an extended period of time (generally 10 consecutive school days), a child is too ill to participate fully in remote instruction or services, the parent and superintendent shall agree on the number of hours of instruction and services the child will receive
- ❑ The IEP team should meet to determine if the child needs additional or compensatory services when he/she returns to school

How will this all impact my child's eligibility for Extended School Year services (ESY)?

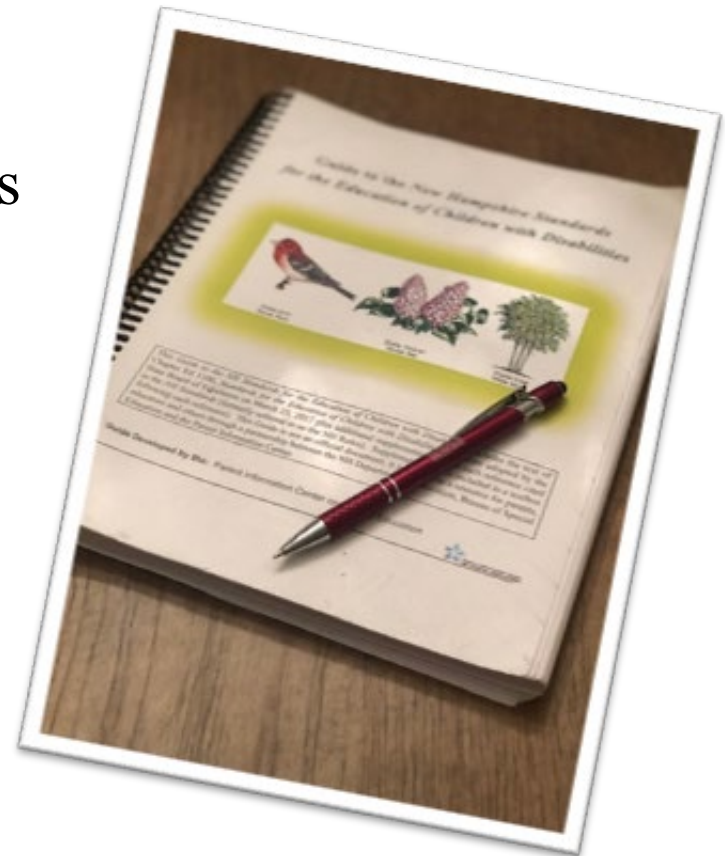
- If your child already has ESY services in their IEP
 - Ask for an IEP team meeting to discuss how those services will be delivered

- If you think your child needs ESY services
 - Ask for an IEP team meeting to discuss ESY services

- ESY services are not the same as compensatory education

How does remote learning impact timelines?

- For now, timelines remain the same
 - Evaluations
 - Requests to schedule meetings
 - Deadlines to respond
 - Others



Questions?

Who should I contact if I have more questions?

□ Legal:

- DRC-NH: mail@drcnh.org, (603) 228-0432

□ General:

- PIC: info@picnh.org (603) 224-7005
- ABLE: info@ablenh.org (603) 878-0459

Who should I contact if I have more questions?

- ❑ Bridget Pare, Education Consultant, Governance Unit
Bridget.Pare@doe.nh.gov (603) 271-3196
- ❑ Rebecca Fredette, State Director of Special Education
Rebecca.Fredette@doe.nh.gov (603) 271-6693
- ❑ Louis (Frank) Edelblut, Commissioner NH
Department of Education Frank.edelblut@doe.nh.us
(603) 271-3144
- ❑ Special Education / Bureau of Student Support
Main #: (603) 271-3741

Additional Resources

- US DOE webpages on COVID-19 & schools
 - <https://www.ed.gov/coronavirus>
 - <https://www2.ed.gov/policy/speced/guid/idea/memosdc1trs/qa-covid-19-03-12-2020.pdf>

- Governor's emergency orders related to COVID-19
 - <https://www.governor.nh.gov/news-media/emergency-orders/https://www.governor.nh.gov/news-media/emergency-orders/>

Additional Resources

- NH DOE COVID-19 Website

- <https://nhlearnsremotely.com>

- NH DOE Guidance documents

- <https://www.education.nh.gov/who-we-are/commissioner/covid-19>

Additional Resources

- Disability Rights Center-NH: COVID-19 and individuals with disabilities
 - <https://drcnh.org/covid-19/>

- Parent Information Center: COVID-19 information and resources
 - <https://picnh.org/resources/covid19>

Thank You



info@ablenh.org (603) 878-0459



mail@drcnh.org, (603) 228-0432



info@picnh.org (603) 224-7005