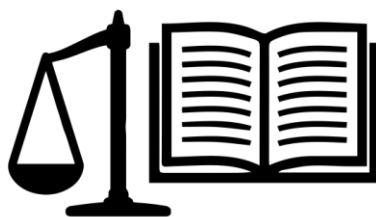


Questions and Answers for Parents of Children with Disabilities:



Created by Musavvir Ahmed
from Noun Project

Special Education Services during Coronavirus (COVID-19) School Closures

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Questions and Answers for Parents of Children with Disabilities: Special Education Services during Coronavirus (COVID-19) School Closures

A. Introduction

Governor Inslee has ordered all Washington schools closed for the rest of the 2019-2020 school year due to the pandemic. The Governor has also issued a State of Emergency proclamation ordering everyone to stay at home, at least through May 4.

Schools are physically closed. Instruction and education must continue in a different form. All schools were supposed to start providing educational services by March 30, 2020.

Before the pandemic, parents, schools, school districts, state agencies, and federal agencies did not think about or plan for long-term physical closure of schools and families having to stay at home for health and safety reasons. Children with disabilities have a right to adjustments to general education services and special education services to equalize their access to education. There are not clear answers yet about how that will happen in this situation.

Here, we explain your rights and the issues for which there are not yet clear answers. Contact one of the organizations in the [list](#) at the end of this guide if you still have questions.

1. What educational services are prioritized while schools are closed?

The Washington Office of Superintendent of Public Instruction (OSPI) is the primary agency charged with overseeing public K-12 education in the state. OSPI has [prioritized](#) these educational services:

- continuing to provide school meals to children in need

- providing child care to families who must work and have no other child care options
- supporting graduating high school seniors
- offering learning opportunities for students, including providing guidance to districts and families on distance learning and remote instruction
- keeping teachers and other staff on the payroll

2. How will I know what my school is doing?

Your school district and/or child's teacher should be in touch about how the school will provide services during school closures. Most school districts have posted information on their websites.

If you have questions, contact your child's school district, child's teacher, school principal, and/or a member of the 504/IEP team, if applicable. Keep records (written notes of calls, do not delete emails) of all your communication to and from school and district staff. Communication can be hard right now. Make follow-up calls or emails if you have not heard back within a few days.

If you are concerned that your child's special education needs are not being met, see [question 17](#). If you need legal advice, see [questions 20 and 21](#).

3. What is distance learning?

Due to school closures and social distancing, school districts are offering distance (not in-person) learning. This means delivery of instruction remotely, by email, online, mail, or phone. How it is provided may vary by district.

4. I am concerned about my child with disabilities getting an education through distance learning. What does the government require?

According to federal and state guidance, schools must still provide equitable access to educational services to students with disabilities. [Questions 7-10](#) have recommendations about specific issues.

Federal guidance comes from the U.S. Department of Education's (DOE) [Office of Civil Rights \(OCR\)](#) and [Office of Special Education and Rehabilitative Services \(OSERS\)](#). Both agencies have stated that while closing schools is needed to protect public health and safety, schools still must provide educational programs. Schools should not avoid distance instruction due to concerns over their ability to provide services to students with disabilities.

State guidance comes through OSPI. Schools [should](#) identify how to meet students' special needs and communicate with parents on a case-by-case basis during the closure. Schools must make sure that parents have real-time opportunities to get responses to their questions and concerns, and that children's needs are addressed.

OSPI encourages school districts to assess their ability to deliver remote instruction. Districts must keep in mind that not all families have access to devices and high-speed Internet, and that some students' unique needs may require more flexibility than online instruction.

[OSPI has resources](#), including online resources and services offered through the [Special Education Technology Center](#), for districts and schools to use in meeting the needs of students with disabilities. Parents can review these resources for ideas about how their school can better meet students' needs.

B. Education for Students with Disabilities: Special Education, Reasonable Accommodations and/or Modifications, and Equal Educational Opportunities

“Special education” describes the educational services provided to students with disabilities to uphold their educational rights. Here, a disability is a mental, physical, or emotional impairment that interferes with a child’s ability to learn. The federal Individuals with Disabilities Education Improvement Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and Americans with Disabilities Act (ADA) all protect students with disabilities.

Under the IDEA and Section 504, school districts must provide students with disabilities a free appropriate public education (FAPE). Districts must provide a range of services to meet the individual needs of students who have trouble succeeding in school because of a disability.

The ADA prohibits schools from discriminating against students based on their disabilities. It requires schools and school districts to make reasonable modifications (changes) to their programs, services, and activities so students with disabilities can take part in school along with students without disabilities.

The ADA and Section 504 cover more students than does the IDEA. A student eligible for IDEA is also eligible for the protections of Section 504 and the ADA. But not all students entitled to Section 504 and ADA protections are eligible for special education under the IDEA.

5. What does the Individuals with Disabilities Education Act (IDEA) provide?

It provides students “special education.” This means specially designed instruction to meet the unique needs of a child with a disability. The content, methodology, or delivery of instruction is adapted to address the student’s needs.

6. What do Section 504 and the Americans with Disabilities Act (ADA) provide?

They require a student with disabilities be provided with a general education with reasonable accommodations or modifications appropriate for the student's disability. The student is generally doing the same assignments as their peers. There is a change in the timing, formatting, setting, scheduling, response, and/or method of measuring success or completion. Some examples:

- a student taking a test alone in a quiet room
- a student having instructions read aloud to them rather than written for them
- a blind student taking a Braille version of a test
- a student who has an Applied Behavioral Analysis (ABA) therapist help them go to school and accompany them while in school

Unlike the IDEA and Section 504, the ADA does not require FAPE. However, a school district providing a student with FAPE does not mean that it is not discriminating against the student based on their disability.

Example: A school schedules lengthy online classes. A student with a genitourinary system disability needs many restroom breaks. The school refuses to allow those breaks. The school may be discriminating against the student in violation of the ADA even if it is providing them with all of their services on their IEP.

C. Special Education during School Closure

7. Will schools provide special education during school closures?

It depends on what the school district is doing.

- If the schools are completely closed and no education is being provided, special education does not have to be provided to most students. See [question 8](#).
- If students are getting general education services and student support services, the district must also provide special education. See [question 9](#).
- If only students in certain grades are getting general education, special education must be provided to students in those grades. See [question 10](#).
- If a school district is providing non-instructional resources or activities online for students, but not requiring students to take part, ask your district which services are available for your student with disabilities.

Read the general OSPI guidance for special education during COVID-19 [here](#).

If you are concerned that your child's special education needs are not being met, see [question 17](#).

8. The school is closed down. It is not providing any education to any students. What special education can my child get?

If a district is not providing educational services to students during the closure, no special education services must be provided during that time.

However, districts should tell parents that they plan to meet with Individual Education Program (IEP) and 504 teams when school starts again to address student needs resulting from the closure. This might include talking about [compensatory education services](#) and extended school year (ESY) services made on a base-by-case basis.

Even a district not providing educational services during the closure must still follow required timelines. It must still timely hold yearly IEP and 504 meetings, finish drafting IEP and 504 plans, and conduct evaluations for IEPs or 504 plans. Districts can ask parents to waive (agree to forgive) timeframes. Parents can agree to do this. You do not have to.

9. All students are receiving general education and student support services. What special education can my child get under the IDEA and Section 504?

If students in a school district are getting general education instruction and student support services, the district must have a plan for how all students with disabilities will also get a free appropriate public education (FAPE). The district must make sure students with disabilities are treated equitably under state and federal anti-discrimination laws. Following the U.S. Department of Education's federal [guidance](#), OSPI [acknowledged](#) that IEP services might not be provided exactly as the IEP states due to the pandemic. OCR and OSERS have also stated that FAPE for distance learning needs to be flexible. Things may look different during this pandemic.

Schools [should](#) identify how to meet students' special needs and communicate with parents on a case-by-case basis during the closure. [Question 4](#) has more information.

Parents should contact their 504 and/or IEP team leader and ask to discuss options for the student's services during the school closure, if the school has not already contacted you. A student's IEP or Section 504 team should meet. With input from school personnel **and** parents, the team should develop a distance-learning plan for the student's specialized education.

Districts should communicate the expectation and plan to meet with 504 and IEP teams, including parents, when school re-opens to address student-specific needs resulting from the closure. This might include discussing [compensatory education](#) and extended school year (ESY) services on a base-by-case basis.

Any need for compensatory services related to inability to fully implement a student's IEP will be addressed after school re-opens. Districts should collect progress data for IEP goals to inform parents and IEP teams and help with compensatory decisions later. A district may not decline (stop) all services to students with an IEP or 504 plan because of the pandemic and only offer compensatory services later.

IDEA dispute resolution options and timelines still apply, including for state Citizen Complaints and Due Process Hearings. There are still ways to enforce your child’s special education rights. Read [How to File a Special Education Citizen Complaint](#), available at WashingtonLawHelp.org. You should also read chapter 3 of the [Education Advocacy manual](#) on Team Child’s website.

School districts may temporarily offer distance learning to students during this pandemic. Districts should **not** treat this temporary arrangement as a “change of placement” for students with disabilities who are enrolled in special education. If your school or district asks you to sign a revised (changed) IEP changing your child’s placement to accommodate distance learning during this pandemic school closure, **talk with a lawyer before agreeing to sign**. Contact one of the [organizations](#) listed at the end of this guide.

10. Only students in certain grades are getting education. What special education can my child get?

Special education services should also be provided to students in those grades. This would avoid illegal discrimination against students with disabilities.

[Question 9](#), above, has more on what those services should look like. Read question 17 if you are concerned that your child’s special education needs are not being met.

D. Specialized Services and School Closure

11. My child has 1:1 support at school. My school district is providing remote instruction. Will my child get 1:1 support with remote instruction?

OSPI states that districts should consider student needs on an individual basis. OSPI acknowledges that schools may not have the staffing for 1:1 support while students are learning from a distance. [OSPI directs](#) districts to focus on providing support for students and their parents or caregivers in promoting safe behaviors at home and in the community, and to prioritize their most impacted students.

If you have questions about your child's services, contact the child's teacher and/or IEP team. Make sure you keep a record of all communication with the school, district, and/or IEP team.

If your student and/or you need more support for your student than the district is currently providing, make a list of the safety concerns you have for your student at home and in the community currently. List your thoughts about services the district can provide to help with those safety concerns. Include examples or reasons why your student will be affected by the lack of these services right now.

Example: your student was receiving certain therapies and social emotional curriculum to receive stimulation to help combat a sleep disorder and to practice social skills to address self-harming and aggressive behaviors. You should log your student's sleep and self-harming and aggressive behaviors, to show the district how the lack of support is causing safety concerns for your student. You can note that the consequences of these concerns are not ones that can be made up for later, with [compensatory education](#) three months from now. You need these services now.

12. What if my child has special health care needs?

If your child has special health care needs addressed by the school, whether through an IEP or 504 plan or not, the school district should be working with you to address those needs. OSPI has [guidance](#) for Home/Hospital instruction for students temporarily unable to attend school for a period of four weeks or more due to a physical and/or mental disability or illness. A special health care need can include physical, intellectual, and developmental disabilities, and long-standing medical conditions, such as asthma, diabetes, or muscular dystrophy. IEP and/or 504 teams should address the educational needs of students with special health care needs on a case-by-case basis.

A child with a disability might need homebound instruction because of a medical issue, as ordered by a physician, and be home for more than 10 days in a row. In this case, an IEP or 504 team meeting can be held to change the child's placement and IEP and/or 504 plan to reflect the new homebound situation.

If the school is open and the child is homebound because of COVID-19 infection, the IEP and/or 504 team must meet to determine if the child is available for instruction and could benefit from homebound services, like online learning.

In either of these cases, be careful about agreeing to change an IEP or 504 plan to reflect a home placement. Such a change could affect the student's ability to get their education in an integrated setting in the future. If your school or district asks you to sign a revised IEP or 504 plan changing your child's placement to accommodate alternative learning arrangements during the pandemic, **talk with a lawyer before agreeing to sign**. Contact one of the [organizations](#) listed at the end of this guide.

A child with a disability at high risk of severe medical complications may be excluded from school during a COVID-19 outbreak as a temporary measure (generally less than 10 school days in a row) while the school stays open. In this case, the school providing the child services such as online or virtual instruction, instructional phone calls, and other curriculum-based instructional activities is not considered a change in placement. A parent or other IEP or 504 team member can ask for an IEP or 504 meeting to discuss the potential need for services if the exclusion will probably last longer than ten school days.

For long-term exclusions, the IEP team should meet and the school district must consider placement decisions under the IDEA or Section 504, regarding the continuum of alternative placements and the determination of placements. The school district must give you a written notice proposing the change in placement before the change happens. A parent who disagrees with this written notice has the protections guaranteed in IDEA and Section 504. These decisions must be made on a case-by-case basis based on the student's needs and not on perceptions, stereotypes, or generalizations based on the student's disability.

13. Are there other resources that may help meet my child's special care or other needs during school closure?

Yes. Your child who needs special health, behavioral health care, or other related services may be eligible for other services.

Your child may be eligible for services through Washington's Medicaid program, called **Apple Health**. All Medicaid eligible children between the ages of 0 and their 21st birthday must receive all medically necessary services through the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program. If, for example, your child has nursing care needs, your child may be able to get those services through the EPSDT program. This is true for many medical care needs.

A child who has mental health treatment needs can get those services through Apple Health. If your child has such needs and is not receiving them because the schools are closed, your child may be able to get intensive in-home wraparound mental health services including case management, in-home therapy, behavioral support, and similar services through Washington's WISE program. Read more about the [WISE program](#).

Learn more about what you can do if you have issues with your Apple Health plan. Read [Apple Health Grievances and Appeals: If You Disagree with your Apple Health Managed Care Plan or Have a Complaint](#), available at www.washingtonlawhelp.org.

Washington State's Health Care Authority and the Managed Care Organizations must provide Applied Behavioral Analysis (ABA) to all Medicaid-eligible children and youth for whom ABA has been deemed medically necessary. Learn more about ABA services through [Washington's Medicaid Program](#).

If your child has an intellectual and/or other developmental disability (I/DD), your child may be able to get certain healthcare and other services through one of Washington State's Medicaid Home and Community-Based waivers through the Developmental Disabilities Administration (DDA). Learn what waiver services are available and how to [apply for a waiver](#).

If you have private insurance, you may be able to get coverage for these services through your health insurance plan. Read your most current policy to learn what services are covered. If you cannot find your plan or are uncertain how to find that information, call your insurance company.

If you are denied services to which you believe you are entitled under your private health insurance plan, read your plan, or ask your insurance company how you can appeal the denial. All insurance plans and policies are different. Carefully follow specific appeal procedures and any deadlines to file appeals.

If you have an insurance plan issued within the state of Washington and are having problems getting medical services your child needs, you can file a complaint with the Washington State Insurance Commissioner. Learn more about the [complaint process](#).

E. Child Care and School Closure

14. How can I find child care?

[Currently](#), school facilities can still be used for food service preparation, child care, and, in a very few cases, to provide other social services not provided off-site. School districts [should](#) work to provide free last-resort child care services for the children of first responders who are in grades K-6. First responders include firefighters, law enforcement officers, emergency medical personnel, and healthcare workers.

Child care [should](#) be provided throughout the entire school closure period, including previously scheduled spring breaks or release days. It is up to the individual district to decide if and/or how to provide child care and preschool services.

Parents needing child care outside of school hours should contact Child Care Aware of Washington Family Center through its [website](#) or call 1-800-446-1114.

Contact your student's IEP and/or 504 team for help with child care if you cannot find it elsewhere. If you need more help, see the [list](#) at the end of this guide.

15. Can my child get Early Intervention Services (EIS) during school closure due to COVID-19 outbreak?

“Early Intervention Services” (EIS) is a term that comes from the IDEA. EIS are designed to enable children from birth to three years of age with developmental

delays or disabilities to be active and successful during the early childhood years and in the future in settings such as their homes, in child care, in school programs, and in their communities. EIS may include, but are not limited to, specialized instruction, speech therapy, occupational therapy, and/or physical therapy.

The lead state agency for EIS in Washington is the Department of Children, Youth & Families (DCYF). If the DCYF offices are closed, they do not have to provide EIS services. If DCYF's offices are open, but the EIS provider or program is closed due to the pandemic, the EIS provider or program does not have to provide EIS services.

Once offices re-open, the service coordinator and EIS providers for each child must determine if the child's service needs have changed and if the individualized family service plan (IFSP) team needs to review the child's IFSP for any needed changes. If offices are closed for an extended period and services are not provided for an extended period, the IFSP team must determine if changes are needed to the IFSP and if [compensatory services](#) are needed to address the infant or toddler's developmental delay.

If the offices are open, but services cannot be provided in a location (such as in the child's home) by a particular EIS provider, or to a child who is infected with COVID-19, DCYF must still make sure the child gets services somehow. DCYF must provide services in an alternate location, by using a different EIS provider, or through alternate means, such as providing consultative services to the parent.

F. Addressing Problems

16. How will my child's IEP or IFSP meeting happen during school closure?

OSPI is encouraging school districts to finish evaluations and catch up on planning as best they can during this time. OSPI does not see the physical closure as a reason to stop all work. OSPI is trying to support use of distance technology for IEP and 504 meetings. They are advising schools to not cancel all meetings.

Districts should be using distance technology to provide child find (finding children who are eligible for services), hold initial and annual IEP and 504 meetings, and/or hold evaluation and eligibility meetings. If the staff or parents are not available or believe not having the meeting in-person would affect their participation, the district should document the reason and complete the meeting in a timely manner once schools reopen. You should keep records of any notices from the school, when decisions are made, why timelines were not followed, and any participation in meetings, consent, and so on, through email or in writing.

The same timelines for EIS and special education evaluations and development of plans exist even during this pandemic.

Read more about the initial evaluation process under the [IDEA and its deadlines](#).

If your child has been found eligible to get services under IDEA, the IEP team must come up with an initial IEP within 30 days of that determination. The pandemic has not changed this deadline.

In terms of EIS, the initial evaluation and assessments of child and family, and the initial IFSP meeting, must be completed within 45 days of the lead agency getting the referral. The 45-day timeline does not apply if the family is unavailable due to “exceptional family circumstances that are documented” in the child’s early intervention (EI) records. The pandemic could be an “exceptional family circumstance.”

IEPs must be reviewed every year. The IFSP is required to be reviewed every six months and rewritten every year. Parents and the IEP, 504, or IFSP team may agree to conduct meetings through alternate means, like videoconferencing and phone calls. If you are uncomfortable meeting electronically and your school accepts your decision, it should document that as a reason for delaying a meeting.

Reevaluations of IEPs must take place every 3 years, unless the IEP team says it is not needed. A reevaluation may be conducted through review of existing evaluation data. It might not require a meeting or parental consent, unless it is determined more assessments are needed.

17. What if my child's special education needs are not being met?

School districts should be making every effort to fully implement a student's IEP or 504 plan, even if they are delivering instruction remotely. Meet with your student's IEP and/or 504 team to develop a specialized distance-learning plan for your student. Come to the meeting with a list of safety and educational concerns you have about how educational services are being delivered and/or the isolation your student is experiencing.

Once schools physically re-open, your school should provide your student [compensatory education](#) and extended school year services if it could not fully carry out your student's IEP and/or 504 plan due to the school closure. Compensatory services are meant to make up for skills lost due to a student not getting educational services for an extended period. As educational services are provided, schools will need to track progress data so the IEP and/or 504 teams can evaluate if compensatory services are needed later. The school and IEP and/or 504 team should be discussing now if your student will need compensatory services, and if so, making a plan for how the school will implement those school re-opens.

Even in the wake of this pandemic, **school districts cannot simply decline all services for students with IEPs and 504 plans and defer to offer compensatory services later.** If you have questions about your child's services, contact your child's teacher and/or 504 or IEP team. Make sure you keep records of all communication with the school, district, IEP, and/or 504 team.

Even after contacting the school, you might still feel your child is not getting services to which they are entitled. You can file a citizen's complaint with OSPI, ask for an administrative due process hearing, file a complaint with the United States Department of Education's Office of Civil Rights (OCR), or file a complaint with the United States Department of Justice (DOJ). The pandemic does not have to keep you from filing a complaint about your child's school program or following the IDEA's dispute resolution timelines. Learn more about how to file these complaints:

- [Citizen Complaint](#)
- [Due Process Complaint](#)
- [OCR Complaint](#)
- [DOJ Complaint](#)

18. What is compensatory education? Can my child get it if instruction is missed due to COVID-19?

Also sometimes referred to as comp-ed, these are services intended to help the student catch up when the school district has not been providing a free appropriate public education (FAPE) for a long time. They are additional, free services the district provides to the student's family.

19. Does school closure affect IDEA dispute resolution options, activities, and timelines?

IDEA dispute resolution options and timelines, including Citizen Complaints and Due Process Hearings, must still move forward in a timely manner. If a school district determines that circumstances demand a change in activities or timelines, it must put that decision in writing and share it with the IEP team and involved parties.

[OCR/OSERS guidance](#) indicates they are considering that the pandemic could be deemed an exceptional circumstance. This would let the state extend the 60-day timeline for complaint resolution if many staff are unavailable or absent for an extended time. The same applies for children receiving Early Intervention Services (EIS), but with EIS complaints, parents and the school district can agree to extend the time for engaging in mediation. **Nothing prohibits the parties from moving forward in the process virtually or by phone.**

G. Resources and Research

20. Who can help me if the school (or district) does not respond to me?

Northwest Justice Project (NJP) is available to provide legal help to students and their families facing challenges with their schools or districts. While NJP's physical offices are currently closed, learn more about how to can connect with [NJP's services](#). NJP also has self-help information on the pandemic as it relates to many legal topics at WashingtonLawHelp.org.

[Disability Rights Washington](#) provides education advocacy. They are available to help families with children receiving special education services during the pandemic.

[TeamChild](#) provides legal help to low-income youth (generally 12-18 years old) involved, or at risk of being involved, in the juvenile justice system to help them secure the education, health care, housing and other supports they need to achieve positive outcomes in their lives.

The [Arc of Washington](#) is a non-profit that advocates for the rights of people with intellectual and developmental disabilities and their families.

21. Where is the best place to look for more information?

Washington State resources

- [OSPI COVID-19 Special Education Guidance webpage](#)
- [OSPI Q&A: Provision of Services to Students with Disabilities During School Closures for COVID-19](#)
- [OSPI COVID-19 Resources by Content Area](#)
- [OSPI COVID-19 information on school meals](#)
- [General supports for students with disabilities](#)

- [General IDEA Parent Rights relating to Early Intervention Services](#)

U.S. Department of Education resources

- [DOE COVID-19 resource page](#)
- [Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak \(March 2020\)](#)
- [Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students](#)
- [Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities](#)
- [The IDEA, its implementing regulations, and other important documents related to the IDEA](#)
- [Information on Section 504 and Title II, and their implementing regulations](#)

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