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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.

As of April 21, 2020, the following guidelines were released from the Illinois State Board of Education regarding remote learning:

Each Remote Learning Day Plan shall address all of the following:

- A) **Accessibility of the remote instruction to all students enrolled in the school or district.**
- B) When applicable, a requirement that the Remote Learning Days activities reflect the State learning standards.
- C) **Means for students to confer with an educator, as necessary.**
- D) **The unique needs of students in special populations, including, but not limited to students eligible for special education,** students who are English learners, students experiencing homelessness, or vulnerable student populations.

23 Illinois Administrative Code § 5.10(c)

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.

Contact your child's teacher, case manager or principal to raise your concerns about the Remote Learning Plan. If the school does not respond to your request, or if the response doesn't fully address your concerns, ask to have a meeting by phone or video conference to develop or enhance the Remote Learning Plan so it addresses what your child needs and the barriers to their ability to benefit from the Plan.

If that isn't successful, make a written **request for an IEP meeting**. *The timeline for the school district to respond to a request for an IEP meeting is 10 calendar days. If you request an IEP meeting, be sure that any changes help to increase your child's ability to benefit from the services, rather than reducing services. If the school wants to reduce services due to school being out, don't agree to any reduction that you disagree with and make sure that your disagreement is documented. Alternatively, if you are okay with a reduction in service while school is closed, but don't agree to the change permanently, make sure that the IEP states that the reduction or other change in service is temporary during the Remote Learning period but that all services previously contained in the IEP will be reinstated once school starts again.*

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 delayed until school reopens. However, the 60 school day timeline is still in force, so if the evaluation was started before schools were closed, those days should count towards the 60 school day timeline when school resumes, so the evaluation is not delayed even more at that time.

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. If your child had **a paraprofessional aide** in his or her IEP, that aide should also continue to support your child 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 assisting the school in determining where your child is at when school starts as well as arguing that your child may be 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 whether compensatory services are needed and if so, what is 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 or want to schedule a consultation with Matt Cohen, please contact Tami Kuipers at Matt Cohen & Associates, (866) 787-9270, or email tami.kuipers@gmail.com so she can set up an appointment or arrange for one of our staff to get back to you about your questions.

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. We wish you and your family the best.

Matt Cohen
and all the staff at Matt Cohen and Associates