



SPECIAL EDUCATION DURING COVID-19

Across Mississippi, school districts are determining and implementing varied reopening plans with regard to COVID-19. The majority of schools will be operating on hybrid schedules with virtual learning components. At Disability Rights Mississippi, we understand this is a difficult time with constantly evolving news and information, and that this time may be particularly challenging for parents who are trying to aid school staff with educating their children who are on IEP or 504 Plans, especially through virtual platforms. Below you will find some guidance as it relates to special education during COVID-19.

Is my child still entitled to special education while schools are closed?

Yes. The laws protecting the rights of special education students, the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act (ADA), all still apply during this time. School districts are still required to provide students with a free appropriate public education (FAPE) under these new circumstances. However, if a school district is not providing any distance learning to the general education population, they are not required to do so for students receiving special education services.



Special Education During COVID-19

For more information or assistance, please visit [DRMS.MS/COVID](https://drms.ms/covid).

What type of special education services, related services, and accommodations should my child be receiving during distance learning?

Providing FAPE to students with disabilities must still be individualized to each student and could look different from one student to another. It can include access to written materials, instruction or related services provided online, through video conferencing or by telephone. Many accommodations and modifications can still be provided during distance learning. Here are some examples:

- Students can still have extended time for assignments
- Videos can be provided with either captioning or sign language
- Reading materials can be offered in more accessible formats
- Depending on the individual needs of the student, related services such as counseling and speech therapy can be provided through video conferencing or, for some students, by phone.
- Curriculum can still be modified to meet the needs of an individual student.
- Direct instruction from a special education teacher for a short period each day might be a substitute for students who have resource room on their Individualized Education Plan (IEP).

School districts should still have special education teachers available to assist general education teachers in modifying lessons to meet the needs of individual students.

Some accommodations and modifications will have to be adjusted during distance learning to make sure all students are able to benefit from distance learning. Students that receive behavior supports should have the student's provider or school staff check in with the students' parents, and perhaps provide parent training. However, remember flexibility is permissible, and it may not be feasible to safely provide certain services. Parents and school districts need to work together during this time.

Does the instruction and material have to be accessible?

Yes. If a school district is providing materials, whether written or online, students must have equal access to it, whether it is accessible or there is an alternative method for a student to access it. For example, if a teacher has a student who is blind and cannot make the written materials accessible, they could call the student to provide the information verbally.



What actions can I take to preserve my child's rights?

Keep a log of which services are being provided, and those that are not. This will be useful for later discussion about any compensatory services possibly owed to your child. If you do not already have baseline documentation, be sure to document this so you have data to show any regression that occurs during the closures. This will also be helpful when discussing compensatory services and extended school year (ESY) services.

What if my family does not have access to a computer or laptop?

Contact your local school district. Many school districts are providing loaner laptops. Alternatively, some companies are offering lower cost computers for qualifying households with limited income.

What if my family does not have access to the internet?

Contact your local internet provider. Numerous internet providers are currently offering free WiFi hotspots across Mississippi and the United States, and some companies also offer lower cost internet service for qualifying households with limited income. Additionally, many Mississippi libraries—even if they are closed inside to the public—are offering free WiFi connections in their parking lots. The State of Mississippi is also working on a plan to provide internet access in remote areas.

Are IEP meetings still occurring during distance learning?

Yes. However, school districts and parents should be working together to schedule IEP meetings either through video conferencing or by telephone. If you are unable to access the technology required to video conference, let the school district know. School districts must be holding meetings in a manner that enables parents to meaningfully participate.

Are students still required to take standardized tests?

Yes. Mississippi state testing is still scheduled to take place for the 2020-2021 academic year.

Can my child's IEP be modified while schools are closed or during distance learning?

Yes, IEPs can be modified, but you are still entitled to have an IEP meeting to discuss any proposed changes. Changes cannot be made to a student's IEP without written parental consent. Alternatively, a parent and school district may agree to modify the IEP without a meeting, but again, the school district must have written parental consent before modifying the IEP.



Will my child be entitled to compensatory education for missed instruction or services?

Maybe. This is going to be assessed on an individualized, case-by-case determination. Parents should be keeping track of services received and missed during this time. If distance learning is being provided to students without disabilities, a school district cannot refuse to provide any special education services for students with disabilities. *However, remember: flexibility is permitted where necessary. It may take time for a school district to set up distance learning; parents and districts need to work together.*

What if my child is harmed by not receiving all of the services listed on the IEP?

Your child may be entitled to recovery (make-up) services once school resumes if your child is harmed by not receiving all of the services on the IEP. To help document your child's possible eligibility for recovery, you should keep thorough documentation of your child's performance in each area for which your child has goals and objectives.

What should the IEP committee consider in determining if compensatory education is appropriate or if changes need to be made to the students IEP when classes resume in person?

At a minimum, parents and educators should be looking at the following:

- Did the student receive instruction and related services during the school closure and/or distance learning?
 - Were other students receiving instruction, including general education students?
 - Is there accurate documentation of the services the student received?
 - Did the student regress in skills as a result of the missed instruction?
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What if I have a due process complaint pending against my district during this time?

Due process hearings have not been formally suspended or tolled during this time. Under normal circumstances, it is recommended that hearings take place in person, but with the need for social distancing, many are moving forward using video conferencing or by telephone.



What should I do if schools close down again?

An IEP meeting does not have to take place if you and the school can come to an agreement on what services your child will receive during the time of closure. If you cannot come to an agreement, an IEP meeting should be held. If you make changes to the IEP through an IEP meeting, make sure the prior written notice for the meeting states that you are not waiving your right to challenge the services being offered to your child during the pandemic or your right to request compensatory services. The prior written notice should outline any concerns you have about the services being offered. You should also request the IEP committee to agree to document that the services that were previously on your child's IEP will be provided when school reopens.

What should I do if my child's school prepares a written IEP modification/revision or written continuity of learning plan and asks me to agree?

You should add the following language to the document: *"I understand that I am agreeing to these changes only until schools reopen in person after the COVID-19 pandemic and my child's IEP becomes effective again, that my agreement is voluntary, and that I may revoke my agreement at any time. In agreeing to these changes, I do not waive my right to challenge the appropriateness of the services being offered, and I do not agree that these services constitute a free appropriate public education. I reserve my right to seek compensatory services for my child when school reopens in person."*

What should I do if my child's school prepares a written document and sends it to me without asking for my agreement or if the school offers services without preparing a document?

You should send a message to the principal and IEP committee saying: *"I do not waive my right to challenge the appropriateness of the services being offered to my child, and I do not agree that these services constitute a free appropriate public education. I reserve my right to seek compensatory services for my child when school reopens in person."*

What should I do if I do not agree with the school's plan?

You should tell your child's school that you disagree with the plan and ask for an IEP meeting. **You should make this request in writing to the school's special education department.**



What should I do if I receive an "emergency" prior written notice or letter from my child's school asking me to waive my child's right to all services or waive my child's right to compensatory education services when school resumes?

DRMS does not advise waiving your child's rights. The school district is responsible for ensuring that your child receives a free appropriate public education (FAPE). Please call DRMS, or an attorney of your choice, for more advice specific to your student's situation.

What if my child's disability prohibits them from wearing a mask at school?

Under Executive Order from Gov. Reeves, teachers and students are currently required to wear a face covering/mask at school. However, there are exemptions to this order for those who cannot wear a mask due to a medical or behavioral disorder, as well as for those who seek to communicate with those who are hearing impaired.

WHO SHOULD PARENTS CONTACT WITH QUESTIONS?

Parents should first contact their child's school district for questions specific to their child. This could be their teacher, principal, school psychologist, or special education director. You can also contact the Mississippi State Department of Education (MDE). The MDE Parent Hotline number is: 601-359-3498. Additional contact information can be found on the MDE website at www.mdek12.org/OSE/Staff and you can also go to the MDE website for current information and guidance: www.mdek12.org/COVID19. Your child's school district's website may have additional contact information or instructions specific to your district.

Additionally, depending on the facts of your situation, Disability Rights Mississippi may be able to assist you with your issue. If you think you need our assistance, please call DRMS at toll free: 800-772-4057 or voice: 601-968-0600.

IMPORTANT: This publication is for informational purposes only. It is not intended, nor should be construed, to create an attorney-client relationship between Disability Rights Mississippi and any person. Nothing in this publication should be considered legal advice.

