



Advocating for Your Student During the COVID-19 School Closure

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Basic facts to know about the school closure and special education services for your child:

- Every New Mexico school district is required to have a “continuous learning plan” in place by April 15, 2020. This means that your student may receive instruction or therapies via phone, computer, mail, or television until the end of the 2019-2020 school year.
- Individualized Education Plans (IEPs) are still in effect even though your child is now learning from home. This means that your student’s school work should still be adapted to meet his or her needs according to his or her current IEP.
- You still have the right to hold an IEP meeting with your student’s IEP team via phone or video conference. If the school contacts you to hold an IEP meeting, pay attention to any suggestions that the school makes like reducing or stopping services for your child, changing IEP goals, or changing the accommodations or modifications that your student usually receives. (For more information on this, see Q2 below).
- Special education timelines are still in place, including those having to do with evaluation and eligibility determination.

Frequently Asked Questions:

Q1: What should I discuss with my student’s teachers?

If you have not heard from your child’s school by April 15, 2020, you may wish to reach out to your student’s case manager or the school’s Head Special Education Teacher. You should be able to reach them by phone or email. You may consider asking some of these questions:

- How will my student receive instruction?
- How will my student receive therapies?
- How will you monitor and measure my student’s progress towards academic and functional goals?
- Discuss your technology needs and any other concerns. If you need help getting a computer, tablet, or internet service, it is the school’s responsibility to help you.

Q2: What if my student’s IEP team says that they need to reduce or cancel some special education services?

- First, this conversation should only happen in an IEP meeting with the team present via phone or video. The school staff will need to explain to you why services or supports need to be changed, and their explanation for the changes must be written in the Prior Written Notice (PWN). For example, the school may propose that your child’s physical therapy is cancelled for the rest of the school year because it is not safe for a therapist to have in-person contact with your child.
- As an IEP team member, you have the right to note in the PWN whether you accept or decline any IEP changes proposed by the school. You can also make proposals of your own, which the school may accept or reject. So, if the school says that it must stop or reduce service hours, you can note that you accept or reject this proposal depending upon your opinion of your child’s needs.

If the school wants to reduce your child’s service hours, and you disagree, you can state that your child is entitled to “compensatory services.” Compensatory services are “make-up” hours for specific therapies and instruction that your child will receive later when schools reopen. Make your proposals as specific as possible. For example, if the school proposes cancelling physical therapy for your child, you could consider asking the staff to write in the Prior Written Notice (PWN) something like this:

“Parent rejects the school district’s proposal to cancel physical therapy services due to the COVID-19 school closure. Parent states that his/her student is entitled to compensatory services. Parent expects that when schools reopen, student will receive compensatory services for all physical therapy minutes missed during the COVID-19 school closure.”

You may repeat this process during the IEP meeting and request compensatory hours for *every* service that your child receives that the school cannot deliver while schools are closed. This includes therapies and instructional hours.

Q3: What if the school staff refuses to write down my proposal? What do I do if they ignore my request for compensatory services?

Before the IEP team meeting ends, ask the staff to read aloud the Prior Written Notice (PWN) so that you are clear about which proposals were included, and if those proposals were accepted or rejected. If you have access to email, you can also ask the school to email you the PWN during the meeting so that you can read it before the meeting ends.

Sometimes parents are persistent, but the school staff still refuses to write down parent requests in the Prior Written Notice (PWN). If this happens to you, write a letter describing your proposal and how the school refused to include it in the PWN. Send the letter to the school using email, certified mail, or fax so that you have proof they received it. Consider “moving up the chain” to talk with your school district’s special education administrator or contact Disability Rights New Mexico at (505) 256-3100.

Q4: How else can I advocate for my student during the COVID-19 school closure?

Write down everything that seems important regarding your child’s education. You may consider keeping a notebook that lists each date and time that your child receives instruction or therapy. You may also want to keep a log that captures the details of each conversation you have with school staff.

Monitor your student’s progress. Is your child losing skills or falling behind? Are they not reading as many words or easily as before? Have their communication skills changed noticeably? Have their functional skills (like toileting or self-care) decreased? Write down your observations as specifically as possible. This information may be very important later on if you and the school disagree about what services and supports your child needs in the future, including those “make-up” (compensatory) services.

To keep some perspective, it may also be useful to find out what the district is doing for nondisabled students (students who do not have IEPs). Most districts are greatly reducing instruction for all students. The New Mexico Public Education Department has issued these guidelines for daily instruction during the COVID-19 school closure:

- Pre-K: 30 minutes per school day
- Grades K-1: 45 minutes per school day
- Grades 2-3: 60 minutes per school day
- Grades 4-5: 90 minutes per school day
- Grades 6-12: 30 minutes per teacher (3 hours max per school day)

In other words, the service time your student receives during the extended school closure may not be as much as what they need or what they are entitled to receive. Again, this is why it is important to document as specifically as you can service hours that were not provided and any skill loss or regression during the closure.

If you still experience problems advocating for your student, please contact us at Disability Rights New Mexico (DRNM) by calling (505) 256-3100. DRNM is continuing to monitor the delivery of special education services and supports during the COVID-19 school closure. We continue to advocate on behalf of students and their parents.

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