

Protecting Special Education Rights of Students During the COVID-19 Outbreak

April 1, 2020

Partners Resource Network Statewide Webinar

Today's Webinar

This webinar discusses the special education rights of students with disabilities during the Coronavirus COVID-19 outbreak, special education law, and what is important for parents to know during this unsettling time.

Agenda

- Recap on School Closures and Instructional Continuity
- Recap of State and Federal Policy Guidance
- Key Special Education Requirements to Remember
- Tips for Parents
- Questions & Answers

School Closures and Instructional Continuity

The current statewide closure of public schools is unprecedented. On March 19, 2020, Governor Abbott issued an executive order that closed all schools through Friday, April 3, 2020.

Unless the Governor issues a new executive order, school closures are a **local** decision – school district, mayor, and county judge. Our state department of education, the Texas Education Agency (TEA), **does not** have the authority to close schools.

TEA is playing a vital role during this period. TEA is holding regular conference calls with school districts across the state, providing information, advice, and guidance.

School Closures and Instructional Continuity

TEA has a dedicated page on its website for information on Coronavirus/COVID-19.

- <https://tea.texas.gov/texas-schools/health-safety-discipline/coronavirus-covid-19-support-and-guidance>

TEA is assisting school districts with planning to continue to educate students while campuses are closed. TEA and schools are using the term “**instructional continuity**.” Instructional continuity applies to all students so they can successfully pursue their studies at home.

What instructional continuity looks like in your district is a **local** decision. When instructional continuity begins is a **local** decision.

State Policy Guidance

The TEA website has a page for special education guidance during the Coronavirus/COVID-19 outbreak.

<https://tea.texas.gov/texas-schools/health-safety-discipline/special-education-and-special-populations>

On Thursday, March 26, 2020, TEA released a revised version of its COVID-19 policy guidance document on special education for school districts.

[https://tea.texas.gov/sites/default/files/COVID19%20Special%20Ed%20Q%26A Updated%20March%2026 Revised.pdf](https://tea.texas.gov/sites/default/files/COVID19%20Special%20Ed%20Q%26A%20Updated%20March%2026%20Revised.pdf)

State Policy Guidance

A banner with a white background and a black border. On the left is the TEA logo (Texas Education Agency) in blue and red. To the right of the logo, the text "COVID19 and Special Education in Texas" is written in blue, with "Updated March 26, 2020" below it. At the bottom, there is a dark blue bar on the left containing the phone number "(512) 463-9000" and the email address "disasterinfo@tea.texas.gov". On the right, a red bar contains the website address "tea.texas.gov/coronavirus" in white text.

TEA
Texas Education Agency

COVID19 and Special Education in Texas
Updated March 26, 2020

(512) 463-9000 disasterinfo@tea.texas.gov tea.texas.gov/coronavirus

TEA plans on regular updates to its guidance to school districts so **always check for the most current version.**

Federal Policy Guidance

The U.S. Department of Education website has a home page for information on Coronavirus/COVID-19.

- <https://www.ed.gov/coronavirus>

There is federal guidance on Section 504 of the Rehabilitation Act and the Individuals with Disabilities Education Act (IDEA).

- <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>
- <https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>
- <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>

Key Special Education Requirements

Communication, goodwill, and cooperation with your school district are essential to improving your child's experience during this time of uncertainty. Parents of students with disabilities whose special education services are affected should know that their children still have rights and protections despite the disruptions caused by the Coronavirus outbreak.

Highlighted here are some key special education requirements that may assist you in ensuring that a student with a disability continues to receive a free and appropriate public education during school closures.

Special education is based on the individual needs of each child. Your unique circumstances might be affected by other provisions of the law not addressed in this summary.

Key Special Education Requirements

Prior Written Notice

- Prior written notice (PWN) is a document that the school must give to the parents of a student with a disability anytime the school wants to change something in the student's Individualized Education Program (IEP), such as where the student is educated or the amount of special education services currently provided.
- In Texas, the school must give the prior written notice to the parents **at least five school days** before the school proposes a change, unless the parent agrees to a shorter timeframe.

Key Special Education Requirements

Admission, Review, and Dismissal Committee Meetings

- The Admission, Review, and Dismissal (ARD) Committee is the group that discusses and decides where the student is educated and the type and amount of special education and related services provided.
- The school may hold a virtual ARD Committee meeting allowing remote participation to practice social distancing during the outbreak.
- The district may request that a usual school member of the ARD Committee be excused because she or he will not have a role in the meeting. Parents can excuse the attendance, especially if it will help to get the meeting scheduled.
- Parents retain the right to disagree at the conclusion of the meeting.

Key Special Education Requirements

Review and Revision of IEPs

- The school district and parents must review and update the IEP at least once a year.
- If a change is needed or approved sooner, such as during the same school year, the school and parents must revise the IEP.
- IEP amendments might address changes such as revision to the schedule of services.
- The school and parents may mutually agree to an IEP amendment without a meeting.
- Parents must request a revised copy of the IEP with the amendments incorporated.

Key Special Education Requirements

Online Instruction

- Online instruction and services must be accessible. Online instruction must also afford the student an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others.
- Accessibility and equal opportunity issues might range from the need for captioning of a live lecture or adoption of differentiated instruction to adaptation of methods for the student to demonstrate content knowledge.
- Every school district must have a Section 504 Coordinator who should help address any accessibility and equal opportunity issues.

Key Special Education Requirements

Reevaluations

- The school district must reevaluate a student at least once every three years. The school should also reevaluate a student anytime it determines that the educational or related service needs of the student warrant a reevaluation. Parents may also request a reevaluation.
- For school closures that last for an extended period, the district should seek parental permission to reevaluate the student upon returning to school for regression of skills.
- If parents disagree with the reevaluation, they may request an independent educational evaluation at school expense.

Key Special Education Requirements

Compensatory Services and Extended School Year Services

- Compensatory services are extra services provided by the school to return a student with a disability to a level of educational progress which the student should have attained but could not because of a failure by the school. Schools should provide compensatory services so students may catch up and reach IEP goals.
- Extended school year services are special education services provided beyond the normal school year. The school should offer extended school year services if the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time.

Tips for Parents

- Safeguarding the Health, Safety, and Welfare of Your Family
- Practicing Patience with Yourself, Your Children, and the School
- Communicating Both Directions with Your School and Teacher
- Reviewing Your Child's Current IEP
 - Present Level of Academic Achievement and Functional Performance
 - Measurable Annual Goals
 - Statement of Special Education and Related Services
- Requesting Instructional Coaching Session

Tips for Parents

- Documenting Special Education and Related Services Suspended During School Closure
- Documenting Your Child's Educational Performance During School Closure
- Documenting Your Child's Noneducational Performance During School Closure
 - Behavioral
 - Social
 - Mental Health
 - Transition

Tips for Parents

- Obtaining Private Independent Educational Evaluation for Your Child
- Requesting Reevaluation of Your Child
- Requesting Summer Instruction, Summer School, Extended School Year Program for Your Child
- Requesting Compensatory Educational Services for Your Child

Tips for Parents

- Maintaining Your Child's Enrollment in School
- Signing Documents Only After You Have Reviewed and Understand
 - Consent
 - Releases
 - Waivers
 - IEP Amendments
- Ensuring Services for Your Child Even If Your Family Enters a Period of Homelessness
- Using Procedural Safeguards When Needed Such As State Complaint

Special Education Resources for Parents

- Disability Rights Texas
 - <https://www.disabilityrightstx.org/en/home/>
 - <https://www.disabilityrightstx.org/en/category/education/>
- Partners Resource Network
 - <https://prntexas.org/>
- Texas Special Education Information Center
 - <https://www.spedtex.org/>

General Resources for Parents

- Disability Rights Texas
 - <https://www.disabilityrightstx.org/en/home/>
 - <https://www.disabilityrightstx.org/en/category/covid19/>
- Texas Council for Developmental Disabilities
 - <https://tcdd.texas.gov/resources/covid-19-information/>
- Coalition of Texans with Disabilities
 - <http://www.txdisabilities.org/news-events/coronavirus-information-resources>

Questions

Question and Answer Session as Time Permits

This presentation is for informational purposes and not intended to provide legal advice. If you believe that you are directly affected by violations of law or have questions about your specific rights, we encourage you to seek legal counsel as soon as possible.

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