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## LEGAL ALERT

### U.S Department of Education Issues Guidance on Special Education Service Obligations During School Closures

The U.S. Department of Education has issued guidelines regarding the continuing obligation to serve disabled students under their IEPs or 504 plans. The guidance notably provides:

- If a school district closes its schools due to COVID-19 risks, and does not provide continued education to the general student population, the school district is not required to provide services to disabled students during that period.
- If a school district does provide continued education to the general student population during such a closure, the school district is required to provide services to disabled students during that period. To “the greatest extent possible” districts are to ensure that disabled students are provided the special education and related services in their IEP or 504 plan (services under a 504 plan would generally be relatively limited).
- The IEP/504 team (according to the Department) will be required to make an individualized determination as to whether compensatory services are needed under applicable standards and requirements for students who do not receive any services during a closure.
- If a private special education placement closes, the school district is to determine whether any of the disabled students may benefit from online or virtual instruction, instructional telephone calls, and/or other curriculum-based instructional activities, to the extent available.
- The Department takes the position that school districts are responsible for homebound services for a disabled student who must remain at home with COVID-19, but recognizes in person services are likely not possible, as follows:

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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“If a child with a disability is absent for an extended period of time because of a COVID-19 infection and the school remains open, then the IEP Team must determine whether the child is available for instruction and could benefit from homebound services such as online or virtual instruction, instructional telephone calls, and other curriculum-based instructional activities, to the extent available. In so doing, school personnel should follow appropriate health guidelines to assess and address the risk of transmission in the provision of such services. The Department understands there may be exceptional circumstances that could affect how a particular service is provided.”

- Any student, including a disabled student can be excluded from school as a temporary emergency measure (as permitted under Department of Health guidance) and the provision of services provided online or virtual instruction, instructional telephone calls, and other curriculum-based instructional activities, to the extent available and such temporary exclusion is not considered a change in placement.
- An IEP team can consider a distance learning plan in a child’s IEP as a contingency plan in the event of a COVID-19 outbreak that requires the school’s closure.

The full Q & A Guidance from the U.S. Department of Education is available at:

<https://sites.ed.gov/idea/files/qa-covid-19-03-12-2020.pdf>

The most recent coronavirus guidance issued by the Illinois State Board of Education, which touches on special education service obligations, is available at:

<https://www.isbe.net/Documents/ISBE-Guidance-to-School-Coronavirus.pdf#search=coronavirus>