The Parent Information Center recognizes that many families of children with disabilities are concerned about the impact that the Coronavirus, COVID-19 may have on their children's special education program. Below is some helpful information. We will continue to provide updates as the situation evolves.

What has happened so far?

On March 15, 2020, Governor Sununu issued an executive order, including an emergency order closing all NH public K-12 schools beginning March 16th and continuing through at least April 3, 2020. Schools must develop a system for providing remote instruction and support to begin as soon as they are able, but no later than March 23rd. The NH Department of Education will be providing support and resources to school districts as they prepare and implement remote instruction and support services to students. A link to this order and other resources are included at the end of this page.

On March 12, 2020 the NH State Board of Education passed an emergency rule allowing school districts to provide instruction remotely for an extended period of time (previously there was a 5-day limit). The emergency rule states, “A school district may conduct instruction remotely. The district shall create a plan that shall include procedures for participation by all students [emphasis added]. Academic work shall be equivalent in effort and rigor to typical classroom work. There shall be an assessment of all student work for the day.”

Providing educational services to children with disabilities poses unique challenges for schools and families. Of course, protecting the health and safety of students and staff must be a priority. Below are some of the questions that families and schools may have. This information is based on guidance from the US and NH Departments of Education:

Is a child with a disability entitled to continue his/her special education and related services while schools are closed due to the COVID-19 epidemic?

It depends. If a school district closes its schools and does not provide any educational services to students, students with disabilities would generally not be entitled to receive special education services during that closure. If a school district continues to provide educational services to its students during the school closure, it must continue to provide students with a free appropriate public education, including the special education and related services in the child’s individualized education program (IEP).
How will a student with a disability receive his/her services?

A variety of options may be used to provide remote support to students with disabilities. The NH Department of Education’s Guidance to Schools identifies 3 possible options (although schools, in collaboration with parents, may identify other options that will meet their children’s educational needs in accordance with the child’s IEP):

- Providing services in a remote instructional environment (ex: online learning in the student’s home),
- Providing small group instruction in the school or other location (this could include a community-based setting),
- When services cannot be provided, either in-person or remotely, the child can expect to receive compensatory services (to make up for the special education and/or related services the child missed), or
- A combination of any of these options.

What is “remote instruction”?

What if my family does not have a computer or other device that my child can use to access online instruction?

What if we do not have internet access at home?

While “remote instruction” is not limited to online instruction, and may include instruction provided by way of print materials, videos or other media, the NH Department of Education has stated that it is working with vendors to make curricular and technology resources available across the state. During his presentation to the Senate Education, Health and Human Services, and Finance Committees, the Commissioner of the NH Department of Education noted that for students who lack the technology at home to access remote instruction, a school may utilize creative options, including allowing students to take home a Chrome Book or other technology that is usually only used at school. When a family’s situation requires a more individualized approach, the family may contact the school to discuss alternative options to provide their student with access to instruction. For example, if a student does not have access to the internet, the school may provide schoolwork through an ongoing exchange of print materials, or provide a flash drive with the student’s lessons preloaded.

What if my child receives some of his/her related services through a private provider?

In addition to learning how the school district plans to address this situation, either parents or the school district may want to contact the provider or agency to learn whether and how the private provider is revising its service delivery (which may include remote services) during this time. If a child does not receive services that are included in his/her IEP because of the provider’s unavailability, the child will be eligible for compensatory services at a later time. The school district may also try to arrange for a substitute service provider to ensure continuity of services.

What if my job does not allow me the flexibility I need to supervise my child’s learning or to assist him/her in remote instruction?
This is a significant concern for many families, and one with no easy answer. The NH Department of Education is encouraging school districts to work with local community support organizations, including clubs, community libraries, etc., where small group instruction (which poses a lower risk of infection) may be provided. Parents may want to contact their school district to ask if the district is aware of any resources that may be helpful.

What if my child is infected with COVID-19 and is too ill to participate in remote instruction?

If for an extended period of time (generally 10 consecutive school days), a child is too ill to participate fully in remote instruction or services, the parent and superintendent shall agree on the number of hours of instruction and services the child will receive [Ed 1111.04(f)(1), referencing RSA 193:1(I)(c) and RSA 193:5]. If a child’s instruction is out of school, and not receiving some or all of his/her special education and related services for an extended period of time, the IEP team should meet to determine if the child needs additional or compensatory services when he/she returns to school.

What if my child relies on the free or reduced meals provided at school?

In an effort to ensure continuity for children who rely on school nutrition programs, including free and reduced lunch, the NH Department of Education applied for and was granted a waiver providing schools with increased flexibility in how they prepare and distribute food programs. Parents should contact their school administrator or superintendent to find out how the school district plans to serve children who receive free and reduced meals through the school.

What if my child attends a private day or residential school (either in NH or at an out-of-state program)?

Because each private program is making their own decisions about how to respond to the COVID-19 epidemic, parents should contact their child’s private school to ask how their child’s special education and related services will be provided. If the placement in the private school was made by the IEP Team, the school district remains responsible for providing the child with a free appropriate public education, and may be coordinating with the private school to do so.
Additional resources:

NH Coronavirus: Governor Suspends Evictions, Foreclosures: New emergency orders also include forbidding utility, fuel, Internet, other companies from shutting off service due to lack of payment: [https://bit.ly/2Wlgwzy](https://bit.ly/2Wlgwzy)

Video of the 3/10/2020 Joint Committee Presentation on COVID-19 to the NH Senate committees on Health and Human Services, Finance and Education (content begins at about the 3:08 pm mark): [https://bit.ly/2x7yGde](https://bit.ly/2x7yGde) Presenters included: Dr. Ben Chan, NH’s State Epidemiologist and the Commissioners of the NH Department of Health & Human Services, NH Department of Education and NH Department of and Insurance.

NH Homeland Security and Emergency Management website, with links to many resources, general information, educational resources, and fact sheets, posters and webinars of interest to specific groups, including members of the education community: [https://bit.ly/2WjFBLa](https://bit.ly/2WjFBLa)

The order issued by the Commissioner of the NH Department of Insurance, “In the Matter of Health Insurer Coverage of Health Care Services Related to the Coronavirus”, which includes directions for NH health carriers related to keeping consumers informed, testing and treatment for initial diagnosis, site of services, telemedicine, network adequacy and access to out-of-network systems, utilization review, and prescription refills: [https://bit.ly/33xg8zy](https://bit.ly/33xg8zy)


Governor Sununu’s 3/15/2020 emergency order closing all NH public K-12 schools beginning Monday, March 16th and continuing through at least April 3, 2020, as well as guidance for schools: [https://bit.ly/3a1iwky](https://bit.ly/3a1iwky)

The Parent Information Center is not a legal services agency and cannot provide legal advice or legal representation. The information in this presentation is provided as a public service for general information only and is not a substitute for legal advice about the facts of your or your child’s particular situation. In addition, the law is always changing, through actions of the courts, legislature and public agencies. If you have a problem or issue that requires legal advice, such advice should be obtained from an attorney.

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