



COVID-19 EDITION
**COVID-19 SCHOOL CLOSURES AND
SPECIAL EDUCATION IN NEW YORK**
NASSAU AND SUFFOLK COUNTIES

Last updated April 2, 2021. The situation is changing rapidly.
Please [check our website](#) for the latest updates.

For more information about special education issues, please call the Education and Disability Rights Project at (516) 292-8100 and ask for extension 3118 or 3170.

QUESTIONS FOR ALL FAMILIES



My child qualifies for free or reduced-cost meals at school. Will they be available if schools are not offering in-person instruction during the 2020-2021 school year?

Yes. School districts are **required** to provide free meals for eligible children, even if that school is not meeting in person. Many districts are providing free breakfast and lunch to all students through June 2021. Contact your school district directly for more information.

In addition, all children eligible for free or reduced-cost meals at school are now eligible for special pandemic food benefits **even if they are not eligible for SNAP or other public benefits**. [Check here for more information.](#)



What if my family doesn't have access to the technology we need for remote learning?

School districts must determine home access to an appropriate device and reliable high-speed internet. They should work with families to provide devices and internet access as needed and provide students with multiple ways to participate in learning.



Is school attendance still mandatory?

Yes – School attendance is still mandatory, and schools are responsible for collecting attendance and addressing chronic absences.



Have the Regents and other Examinations changed?

The Board of Regents passed a series of emergency regulations to allow exemptions to diploma requirements associated with the June 2021 and August 2021 Regents Examination administrations and Grade 3-8 tests.

Some of these changes require approval by the U.S. Department of Education. If the U.S. Department of Education approves these changes, all elementary and intermediate level assessments and all June and August 2021 Regents exams will be canceled.

If the U.S. Department of Education DOES NOT approve the request, the following changes will take place:

- The June and August 2021 Regents Exams will be canceled.
- Only four of the June 2021 Regents Exams will be administered (Algebra, English, Living Environment and Earth Science).
- Only Session 1 of the Grades 3-8 English Language Arts (E.L.A.) and Math Tests will be required.

We make every effort to keep referral information, legal educational materials, and related forms up to date. However, the situation is rapidly evolving, and we do not maintain materials on external sites. We cannot guarantee the accuracy of this information, nor are we responsible for any legal advice, information or assistance that you may obtain from external sources. They are provided for general information only.

- Only the one-session Written Test component of the Grades 4 and 8 Science Tests will be administered.
- Parents can continue to opt-out of the Grade 3-8 assessments. Students who opted for remote-only instruction will be excused from coming to school for state testing.

[For more detailed information visit the N.Y.S. Education Department's website.](#)



Have graduation requirements changed because of the COVID-19 school closures?

Yes. There were several significant changes to graduation requirements:

a. Regents Examination Exemption

Students enrolled in courses culminating in a Regents Exam are exempt from passing the Regents Examination if they meet one of the following requirements:

- Be enrolled in a course that would ordinarily culminate in a Regents Examination and earn credit for the course by the end of the 2020-21 school year or the 2021 summer session; or
- Previously successfully completed a course culminating in a Regents Exam and was intending to take the test in June or August 2021. Be a seventh or eighth-grade student enrolled in a Regents course and met the standards assessed through coursework.

b. Earning Course Credit

If a student was unable to complete the necessary study units due to COVID-19 related school closure, the student may receive diploma credit if the student "met the standards assessed in the provided coursework."

c. Career Development and Occupational Studies ("CDOS") Certificate

Many students with a disability pursue a CDOS Certificate. For example, if a student with a disability seeks a Local diploma through a "Superintendent's Determination," that student must obtain a CDOS (among other requirements). The CDOS requires many hours of coursework and/or work-based learning. A student with a disability may also use the CDOS towards the "+1 Pathway" to earn a Regents or Local Diploma.

Due to school closures, students with disabilities who were otherwise eligible to exit from high school in the 2019-2020 school year may get the CDOS without meeting all the requirements if the student "has otherwise demonstrated knowledge and skills in the commencement level CDOS learning standards." In 2020-21, CDOS students unable to complete 54 hours of work-based learning due to the school's inability to provide those experiences may be awarded CDOS if the student meets other requirements. *See 8 N.Y.C.R.R. §100.6(b)(3)(iv).*

d. High School Equivalency Diplomas

Normally, High School Equivalency (H.E.S.) candidates are exempt from the Test Assessing Secondary Completion (TASC) sub-tests matching any Regents exams they passed. *See 8 N.Y.C.R.R. §100.7(2)(a).* Students exempt from a Regents exam due to COVID-19 will also be exempt from that section (sub-test) of the TASC if they apply for an equivalency degree in the future.

Parents of children scheduled to graduate in 2021 who have been exempted from a graduation assessment will be given thirty days to decline the exemption.



What help is available for students who are behind?

Students in grades 3-8 at risk of not achieving English Language Arts, Mathematics, Social Studies, and/or Science standards are entitled to **Academic Intervention Services (A.I.S.)**. In 2020-21 school districts are not required to conduct the usual two-step identification process to determine A.I.S. eligibility. See 8 N.Y.C.R.R. §100.2(ee)(2)(ii)(f). Read on for information about compensatory services for students with disabilities who fell behind because of the school closures during the 2019-2020 school year. Families concerned that their students have not been appropriately evaluated for intervention services should contact Nassau Suffolk Law Services for additional guidance.

QUESTIONS FOR STUDENTS WITH EXISTING IEPS OR SECTION 504 PLANS



Is my child still entitled to the special services or accommodations required in their Individual Education Plan or Section 504 Plan during COVID-19?

Whether school is in-person or online, schools are still required to provide students with disabilities a Free Appropriate Public Education (FAPE), consistent with the need to protect the health and safety of students with disabilities and the providers of special education services. School districts must provide each student with a Free and Appropriate Public Education ("FAPE") by providing the special education and related services in the student's individualized education program ("I.E.P.") to the greatest extent possible. If a student has a 504 Plan, school districts must provide the services in the 504 Plan to the greatest extent possible.

The New York State Department of Education instructed districts to prioritize in-person services for high-need students with disabilities. Still, districts should also have a plan to continue to offer services during any period of remote learning.

This means that wherever education takes place, the District should ensure access to:

- Accommodations (for example, fewer math problems per page, extra time to complete assignments);
- Modifications (for example, reduced number of assignments, alternate grading system);
- Supplementary aids and services (for example, note taker, one-to-one aide, study guide); and
- Technology (for example, pencil grip, voice-activated computer, software that assists with reading/writing).

In doing so, the District must:

- Ensure meaningful parental engagement regarding the provision of services to that family's child;
- Ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student's I.E.P.; and
- Ensure access to the necessary accommodations, modifications, supplementary aids and services, and technology (including assistive technology) to meet students' unique disability-related needs.

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What are the options for special education students who cannot learn well in a virtual environment?

N.Y.S. Department of Education instructed districts to prioritize in-person services for high-needs students with disabilities whenever possible.

Districts must also determine how special education programs and services will be delivered to meet the needs of students with disabilities in both remote learning and in-person instructional models.



Is my child entitled to receive Compensatory Education?

Possibly. The District's Committee on Special Education ("C.S.E.") should make individual decisions about compensatory or extended school year services, including services to make up for any skills the student lost. The N.Y.S. Department of Education instructed Districts to ensure that compensatory services continue if schools are required to close again during the current school year.

If you think that your child needs compensatory services, document the services your child was receiving before the closure, services offered during the closure, and your child's access to materials and education. Also, document any regression your child experienced. Keep records of the dates and times when services were provided and the dates when they were not provided.



Will Committee on Special Education ("C.S.E.") meetings be held if schools are not open for in-person instruction?

Yes. The C.S.E. must meet at least once each school year to conduct an "Annual Review" of each student's I.E.P. 34 C.F.R. §300.324(b)(1). A CSE does not have to meet in person while schools are closed. Parents/guardians and the C.S.E. may agree to conduct C.S.E. meetings through other means, including videoconferencing or phone calls. 34 C.F.R. §300.328.

Parents/guardians should say that they do not waive any rights to challenge services offered during the school closure or virtual instruction. Parents/guardians should tell the other C.S.E. members that they want their concerns included in the Prior Written Notice ("PWN") that the school district will send out after the C.S.E. meeting. If the concern is not in the PWN, parents/guardians should write a letter to the school explaining their concerns and objections.

Suppose the parent/guardian and District agree to change a child's I.E.P. after the Annual C.S.E. meeting. In that case, they may amend or modify the child's current I.E.P. in writing without meeting again—34 C.F.R. §300.324(a)(4)(i).



I disagree with the I.E.P. Is there anything I can do?

Yes. Parents/guardians can still make a Due Process Complaint (D.P.C.) or a State Education Complaint challenge their child's I.E.P. as a denial of FAPE. A State Education Complaint and a Due Process Complaint (D.P.C.) may not be brought at the same time. Generally, parents/guardians have two years from when they knew or should have known, of a violation of the IDEA to request a due process hearing [20 U.S.C. §1415(f)(3)(C)] and a State Education Complaint must allege a violation within the past year.

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Do the COVID-19 school closures impact any special education deadlines?

Yes. "[P]ublic agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate." The New York State Education Department ("NYSED") announced that several deadlines will not include days schools are closed because of COVID-19:

- **60 Day Deadline to Provide Special Education Program and Services Doesn't Include Closure Days**
New York State Commissioner's Regulation §200.4(d) normally requires a Board of Education to provide appropriate programs and services within 60 school days of receipt of a consent to evaluate or referral for review. The 60-day deadline will not include any days the school is closed due to COVID-19.
- **30 Day Deadline for Private Placement Doesn't Include Closure Days**
New York State Commissioner's Regulation §200.4(e)(1) normally requires a Board of Education to arrange for placement at an approved private school within 30 school days of the C.S.E.'s recommendation. The 30-day time period will not include any days the school is closed due to COVID-19.
- **Impartial Hearings**
An Impartial Hearing Officer (I.H.O.) may receive testimony by video. I.H.O.s may conduct special education due process hearings by video conference. Commissioner's Regulation §200.5(j)(3)(xii)(h).

I.H.O.s may extend cases up to 60 days while schools are closed due to COVID-19. Extensions must still be made at the request of the school district or the parent. I.H.O.s may not grant extensions on their own behalf or grant extensions unilaterally. Commissioner's Regulation §200.5(j)(5)(i). Learn more from N.Y. State Department of Education by click [here](#) and [here](#).