

Disability *Rights*

South Dakota

COVID-19 & Educational Rights of Children with Disabilities

My student with disabilities usually receives services at school through an IEP or 504 Plan. What are some steps I can take to preserve their rights while school is closed due to the COVID-19 pandemic?

We know this is a difficult time for everyone with children being out of school because of the COVID-19 pandemic and that it may be particularly challenging for parents who are trying to aid school staff with educating their children who are on IEPs or 504 Plans. Students with disabilities are entitled to a Free Appropriate Public Education (“FAPE”), even during the current school closures.

Parents can help preserve their student’s rights with these steps:

- 1) Keep a log of which services are still being provided per the student’s IEP/504 Plan, and those that are not but were provided before the school closure. Note any modifications, alterations, or substitutions from the current plan.
- 2) Keep a journal on your child regarding progress towards their IEP/504 goals before the closure and any regression you notice that has occurred during the closure. Include specific examples when possible.
- 3) You can request a virtual IEP/504 meeting to discuss services during the school closure. Remember that there may be a lot of students who will need to have these meetings, and school staff availability may be limited. Be reasonable, but keep track of any services listed in the current IEP/504 Plan the student misses in the interim.

DISCLAIMER: This is not intended as legal advice, but rather for informational purposes only.
Always consult a lawyer if you have questions about your legal rights.

- 4) If a new IEP/504 Plan is suggested by the IEP team for the interim placement, and you decide this is your student's best option, pay attention to the offer. If the plan is to be temporary due to the school closures during the COVID-19 pandemic, make sure the plan is clear before agreeing to the plan. Pay attention to the wording of any change of placement, including home placement. In order to consider compensatory services once school resumes, be sure that you are not waiving the right of your student's future claims. If you disagree with any parts of the interim plan, you should include your concerns in the IEP/504 document.
- 5) Once there is a known return to school date, request an IEP/504 meeting to discuss the student's services when the child goes back to school.
- 6) Upon return to the regular school schedule, you can request an educational evaluation to determine the student's current needs and then discuss any compensatory services necessary to address identified gaps in services and regression relative to the student's goals.
- 7) If your child was suspended or expelled at the time of the school closure, make sure the end of suspension/expulsion date is accurate in the records and not listed as the date children return to school following the closure.

It is important to note that each student's situation is unique. This information sheet is intended to give basic information and not individual legal advice. This is not a substitute for legal advice. DRSD is not responsible for consequences of any actions taken based on the information provided in this sheet. Contact us if you have question about any information contained in this flyer.

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Contact us:

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www.drSDLaw.org

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