



# Novel Coronavirus (COVID-19) Outbreak: Protecting the Rights of Students with Disabilities in Public Schools

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The Novel Coronavirus (COVID-19) has impacted the day-to-day activities of all Arizonans. On Monday, March 30, 2020, Arizona Governor Doug Ducey and Arizona Superintendent of Public Instruction Kathy Hoffman [announced Arizona schools will stay closed through the end of the school year](#). This measure will impact all Arizona students, including students with disabilities.

This situation is both unprecedented and rapidly evolving. The information below reflects the perspective of the Arizona Center for Disability Law (ACDL) as of the date of the publication of this guidance. ACDL will endeavor to provide updated resources to the community as we acquire new information.

## 1. Are Arizona students with Individualized Education Programs (IEPs) entitled to receive special education services during an extended school closure?

Yes. There is consensus among officials that if any educational services are being provided during school closures, then students with disabilities must be provided a free appropriate public education (FAPE).

In Arizona, as a result of legislation passed on March 27, 2020, all public schools are required to provide education to students during COVID-19 related school closures. This means that all public schools in Arizona are also required to provide students with disabilities with FAPE during these school closures. Therefore, to the extent possible, schools must provide students with disabilities with the special education and related services outlined in their IEPs.

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## 2. What type of special education, related services, and accommodations should my child be receiving during school closures?

Providing FAPE to students with disabilities must still be individualized to each student and will look different from one student to another. It can include access to written materials, instruction or related services provided online, through video conferencing, or by telephone. Many accommodations and modifications can still be provided during distance learning. Here are some examples:

- Students can still have extended time for assignments
- Videos can be provided with captioning and/or sign language
- Reading materials can be offered in more accessible formats
- Depending on the individual needs of the student, related services such as counseling and speech therapy can be provided through video conferencing or by phone
- Curriculum can still be modified to meet the needs of an individual student

Some accommodations and modifications may have to be adjusted during distance learning to make sure all students are able to benefit from distance learning. Parents and schools need to work together during this time to troubleshoot and develop creative solutions that will benefit students. Remember that although flexibility is permissible, it may not be feasible to safely provide certain services during school closures.

## 3. What if my family does not have access to a computer or access to the internet?

Contact your child's school district or charter to find out if there is equipment being loaned to students. Many schools are arranging ways to drop off loaner laptops or internet hotspots for students to access work that is being provided online. You may also try contacting your local internet provider. The Arizona Commerce Authority created a [comprehensive list of internet service providers](#) and the special offers they are providing at this time to support families. [Arizona Broadband for Education](#) has compiled a list of WiFi providers, drive-up WiFi spots, and more.

If it is not feasible or safe for your child to access online learning during this time, contact your child's school to ask about offline ways your child can engage in distance learning during school closures.

## 4. Will my child's IEP team be able to meet during school closures?

Yes. According to guidance from the [Arizona Department of Education](#) and the [U.S. Department of Education](#), timelines associated with special education generally cannot be extended. This means that if your child's annual IEP meeting is coming due, or if your child was recently evaluated and the team needs to meet to make an eligibility determination or draft an initial IEP, the school will need to proceed with those meetings within the set time limit.

In order to comply with guidance from health officials and the Governor, these meetings may take place through alternative methods, such as over the phone or through a videoconferencing platform.

## 5. Does my child's IEP need to be amended in order for my child to receive distance learning services during school closures?

No. There is no need for a student's IEP to be amended to reflect that the student will be receiving different or reduced services during school closure. Distance learning opportunities can be provided without amending the IEP.

IEPs should reflect what a child needs for FAPE based on his or her individualized needs, not what services are currently available from the school district. Rather than amending a student's IEP, the IEP team should track what services are not being provided during the school closure, and should meet to discuss compensatory education once schools reopen.

Reducing the services in your child's IEP during school closures may impact your ability to seek compensatory education once schools reopen (see questions 6-8 below for more information about compensatory education). If your child's school proposes changing his or her IEP during the COVID-19 school closures, tell the school you do not believe your child's needs have changed and you would like the school to do its best to provide your child with what is in the current IEP and consider the need for compensatory education once schools reopen. If your child's school amends the IEP despite your disagreement, ask for prior written notice of the change and consider filing [an administrative state complaint with the Arizona Department of Education](#).

## 6. If schools are closed for an extended period of time and my child does not receive the special education or related services in his IEP during that period, can my child receive compensatory education upon returning to school?

Yes—all sources agree that it may be necessary for students who qualify for special education and related services under IDEA to be provided compensatory services once schools reopen. The decision about whether a child is entitled to compensatory services and what type/how much compensatory services are needed should be made by parents and schools together.

## 7. Do we need to have an IEP meeting to decide how much compensatory education my child needs?

Decisions about compensatory education do not require an IEP team meeting. Different school districts/charters may have different methods for making these determinations. For example, some schools may schedule meetings between parents and a child's special education case manager; others may want a phone call between the parent and the district's director of special education; others may want to include teachers or service providers in the discussion. In all cases, parents should be involved in decisions about compensatory education, including when and how it will be provided. The Arizona Department of Education is informing all public school districts and charters that they are required to determine if a student with an IEP

must be provided compensatory education following COVID-19 school closures. Hopefully, most school districts will initiate the conversation about compensatory education with parents.

If your child's school does not contact you about compensatory education, you should start the discussion. Reach out to your child's special education case manager, school principal, or the district/charter special education director to ask for a meeting to discuss compensatory education. If you are unsuccessful in getting a meeting scheduled within a reasonable amount of time, you may [file an administrative state complaint with the Arizona Department of Education](#) alleging your child's school is violating the Individuals with Disabilities Education Act by refusing to consider your child's need for compensatory education.

You could also consider requesting an IEP meeting to discuss compensatory education. Although an IEP meeting is not required to discuss compensatory education, there are advantages to using an IEP meeting for this conversation, because there are legal requirements and protections for parents and students associated with how IEP meetings are run. In an IEP meeting, parents must be included and must be treated as equal members of the team, and the team is required to document and carefully consider parents' input. If compensatory education is discussed in an IEP meeting, that means all members of your child's IEP team will need to be invited, including related service providers and teachers who may have more knowledge or expertise on what services your child will need to recoup what was lost during school closures than a school administrator would. Also, there are set timelines associated with IEP meetings—from the time a school receives a parent request for an IEP meeting, the school must schedule and hold the meeting within 45 school days (A.A.C. R7-2-401(G)(7)). Note that "school days" are not considered to include days when schools are closed as a result of COVID-19.

It is ACDL's recommendation that parents request an IEP meeting to discuss compensatory education as soon as possible in order to trigger the 45 school day timeline. However, if the school offers to have an informal meeting to discuss compensatory education, parents may agree to attend, and if the question of compensatory education is resolved to the parents' satisfaction at that informal meeting, parents can then withdraw their request for an IEP meeting. Any offer of compensatory education or plan for its provision should be memorialized in writing, likely in a document called prior written notice, whether the decision is made at an informal meeting or at an official IEP meeting.

## 8. How much compensatory education will my child receive?

The standard for determining how much compensatory education is required is not necessarily a minute-for-minute standard (see ACDL's [blog post on remedies](#) for more information about compensatory education), but tracking how much special education your child has missed during a school closure will still be useful in determining how much compensatory education your child should be provided. Therefore, we recommend keeping a log of what services your child is being provided during a school closure, and comparing that to what services your child should be receiving per school day according to his or her IEP. That way, when you meet with your child's school, you will be able to show how much special education and related services your child was denied during a school closure. This should help inform the discussion of how much compensatory education your child needs.

ACDL also recommends, to the extent appropriate/possible, that parents try to get a baseline measurement for their child's abilities at the start of school closures to help calculate regression. A baseline measurement can be gleaned from recent homework or schoolwork your child has completed, or from their most recent IEP progress report, or from observations or measures you made at home based on your child's grade-level

standards or IEP goals. A similar measure can then be made when your child returns to school. The difference between the two will provide data on how much your child has regressed while out of school, and will help direct the conversation about compensatory education.

If you do not agree with decisions made by your child's school regarding compensatory education services, you may pursue [dispute resolution](#).

### 9. If my child with an IEP is infected with COVID-19 and must stay home from school when school is open, is my child entitled to receive the special education and related services in his/her IEP?

Students with chronic health problems in Arizona are entitled to certain protections and services. A.R.S. § 15-346 defines students with chronic health problems as including students who are not homebound, but who are unable to attend regular classes for intermittent periods of one or more consecutive days because of illness, disease, pregnancy complications or accident as certified by a health professional. For such qualifying students, districts/charters are required to have policies that are designed to provide continuing learning for students with chronic health problems while they are absent from school. You can find out more about your child's school district's/charter's policy on chronic illness by requesting a copy of the policy, or you may be able to find the policy online on the Arizona School Board Association [website](#).

### 10. My child has behavioral struggles and receives behavior support as part of his IEP. How can I support my child's behavior at home during school closures and what can I do to help ease the transition when schools reopen?

If your child has a behavior support plan/behavior intervention plan at school, reach out to the school to make sure you have a copy of the current plan. While your child is at home, parents and caregivers can refer to this plan to help address the child's behavior at home and to ensure continuity of expectations and consequences/rewards for the student during school closures. Parents can also ask school-based behavior support providers to engage in check-ins (telephonic or online), both with students and with families who may need support with managing student behaviors.

As schools prepare to reopen, families should ask for support around transitioning students back to the school environment. This might mean an IEP meeting or a less formal meeting between students, parents, and school staff to talk through the logistics of returning to school, and to address any student anxiety or trauma around the pandemic or the transition back to a classroom setting. These meetings can take place virtually or over-the-phone.

### 11. Will my child have to take state standardized tests this year?

No. As a result of legislation passed on March 27, 2020, statewide assessments for 2019-2020 (AZM2, MSAA, AIMS Science, etc.) are canceled.

More information about testing and assessments can be found on the [Arizona Department of Education website](#).

## 12. Will Arizona schools add instructional days at the end of the school year to make up for the time schools have been closed due to COVID-19?

No. As a result of legislation passed on March 27, 2020, Arizona schools are not required to extend the number of school days or add additional instructional hours after the statewide closure ends.

## 13. My child relies on meals provided by the school. Can we still access this resource during school closures?

Yes. According to the Arizona Department of Education website, the Arizona Department of Education has received approval from the USDA Food and Nutrition Service to waive the congregate meal requirement of the meal service programs. This means that meals can be provided in a way that will allow students to take their food off campus and consume it at home in order to practice social distancing.

Different school districts/charters will be providing meals in different ways. You can find more information about where and when your child can access nutrition by visiting your child's school district/charter website or calling the school administrative office for more information.

Below are some tools from the Arizona Department of Education for finding meals during school closures:

- [AZ Health Zone Mapping Tool](#): Enter your zip code to find school meal locations near you. The same information is also accessed by texting the word FOOD to 877877. NOTE: This map does not reflect the total number of districts, charters, and non-profits that are offering school meals at this time.
- [The School Meal Sites](#) is a continually updated list of districts, charters, and non-profit organizations that have submitted to ADE their Intent to operate a school meals program for individuals under the age of 18 and/or students with disabilities who are enrolled in schools but over 18 and under the age of 21.
- If an adult person with disabilities is not enrolled in school, that person could receive meals if the person is enrolled in an adult daycare facility that is operating the [Child and Adult Care Food Program \(CACFP\)](#).

It is ACDL's recommendation that parents of students with disabilities stay up-to-date on the duration of school closures by following announcements from the [Governor's office](#) and the [Arizona Department of Education](#), as well as by checking in with their child's school district or charter school. Many Arizona districts and charters have information about COVID-19 and school closures on their websites and are sharing information on social media.