



STATE OF NEW JERSEY

DEPARTMENT OF EDUCATION

A Memo from the New Jersey Department of Education

Date: April 3, 2020

To: Chief School Administrators, Charter School and Renaissance School Project Leads, Administrators of Approved Private Schools for Students with Disabilities

Route To: Directors of Special Services

From: Peggy McDonald, Ed.D., Assistant Commissioner
Division of Student Services

Providing Special Education and Related Services to Students with Disabilities During Extended School Closures as a Result of COVID-19

The purpose of this correspondence is to notify schools, local educational agencies, parents of students with disabilities, and the general public of a change to the regulations concerning the provision of special education and related services to students with disabilities during the public-health related extended school closures resulting from COVID-19.

At its April 1, 2020 meeting, the State Board of Education adopted temporary rule modifications to Chapter 14 of New Jersey Administrative Code, which governs the delivery of special education and related services to students with disabilities. The State Board, acting pursuant to Executive Order No. 103 (Murphy, 2020), adopted temporary regulations that allow school districts and educational agencies to deliver special education and related services to students with disabilities through the use of telehealth, telemedicine, electronic communications, remote, virtual, or other online platforms.

Prior to the Board's actions, the regulations did not permit school districts and educational agencies to deliver related services to students with disabilities through the use of telehealth, telemedicine, electronic, online or virtual platforms. By modifying the rules to allow for special education and related services to be provided through these means, school districts and educational agencies will be better able to ensure that students with disabilities receive the services that they are entitled to under each student's individualized education program (IEP). Further, these rule modifications enhance the ability school districts and educational agencies to satisfy their legal obligations to provide a free and appropriate public education (FAPE) to students with disabilities during a period of extended school closures resulting from COVID-19.

It is important to note that these rule modifications alone do not ensure that school districts and educational agencies will meet their legal obligation to provide FAPE. These rule modifications are intended to provide IEP Teams with the flexibility necessary to implement services during unprecedented school closures. However, the modifications do not relieve school districts and educational agencies of the responsibility to ensure that the services implemented are properly individualized and those most appropriate for a student with disabilities.

The New Jersey Department of Education (NJDOE) encourages school district officials, educators, and parents to keep lines of communication open during the COVID-19 emergency. Specific questions about a student's IEP and its implementation should be addressed by the student's IEP team, which includes the student's parent(s)/guardian(s). Information about the impact of COVID-19 on students with disabilities is available on the [NJDOE COVID-19 website](http://www.nj.gov/education/covid19/) at: www.nj.gov/education/covid19/. Additionally, staff from the NJDOE Office of Special Education and the Office of Special Education Policy and Dispute Resolution are available as resources to support districts, educators, and families. More information about the NJDOE [Offices of Special Education](#) is available at: www.nj.gov/education/specialed/.

An overview of the modified regulations adopted by the State Board of Education is listed below. The modified provisions of the regulations are marked as “new” and are in red.

Temporary Modifications to Special Education Regulations, N.J.A.C. 6A:14

Adopted by the State Board of Education, April 1, 2020

6A:14-1.1 General requirements

(d) Each district board of education is responsible for providing a system of free, appropriate special education and related services to students with disabilities age three through 21 which shall:

1. Be provided at public expense, under public supervision and with no charge to
2. the parent;
3. Be administered, supervised and provided by appropriately certified and qualified
4. professional staff members;
5. Be located in facilities that are accessible to the disabled; and
6. Meet all requirements of this chapter; and
7. [New] Be provided through electronic communications, virtual, or other online platforms as appropriate and as required by a student’s individualized education program (IEP), during an extended public-health related school closure.

6A:14-3.9 Related services

(a) Related services including, but not limited to, counseling, occupational therapy, physical therapy, school nurse services, recreation, social work services, medical services and speech-language services shall be provided to a student with a disability when required for the student to benefit from the educational program. [New] During an extended public-health related school closure, related services may be provided through telemedicine and telehealth, or through electronic communications, which include virtual, remote, or other online platforms, as appropriate and as required by the student’s IEP to the greatest extent possible.

6A:14-5.2 Approval procedures for clinics or agencies

(f) [New] During an extended public-health related school closure, an approved clinic or agency may provide related services to students with disabilities through the use of electronic communications, virtual, remote, or other online platforms, as appropriate, and as required by the student’s IEP to the greatest extent possible.

c: Members, State Board of Education
Lamont O. Repollet, Ed.D., Commissioner
NJDOE Staff
Statewide Parent Advocacy Network
Garden State Coalition of Schools
NJ LEE Group