

**YOUR CHILD'S RIGHT TO
SPECIAL EDUCATION
IN THE TIME OF COVID-19**

**Leah Snyder Batchis, Esq.
Jessica Limbacher, Esq.
Batchis Nestle & Reimann LLC
Bala Cynwyd, PA
215-550-1760
www.SpecialEdLawGroup.com**

Leah Snyder Batchis, Esq., Partner
BATCHIS NESTLE & REIMANN LLC:
THE SPECIAL EDUCATION LAW GROUP



215-550-1760
www.SpecialEdLawGroup.com

TODAY'S TOPICS

Federal Guidelines for Special Education Services During School Closure

State Guidelines: Examples from PA & NJ

Challenges & Strategies: Remote Learning for Students with Disabilities



CAUTION

Law is changing quickly

Each state is different

Seek legal assistance from an
experienced special education
lawyer in your state

GUIDANCE

U.S. DEPT. OF EDUCATION

- March 12, 2020 Questions And Answers On Providing Services To Children With Disabilities During The Coronavirus Disease 2019 Outbreak.
- March 16, 2020 Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students.
- March 21, 2020 Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities.
- <https://www.ed.gov/coronavirus>

INITIAL CONFUSION LEADS TO NEW STANDARD

“School districts must provide FAPE consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction and related services to these students.”





“[S]chool districts must remember that the provision of FAPE may include special education and related services provided through distance instruction provided virtually, online and telephonically”

DISABILITY RELATED MODIFICATIONS

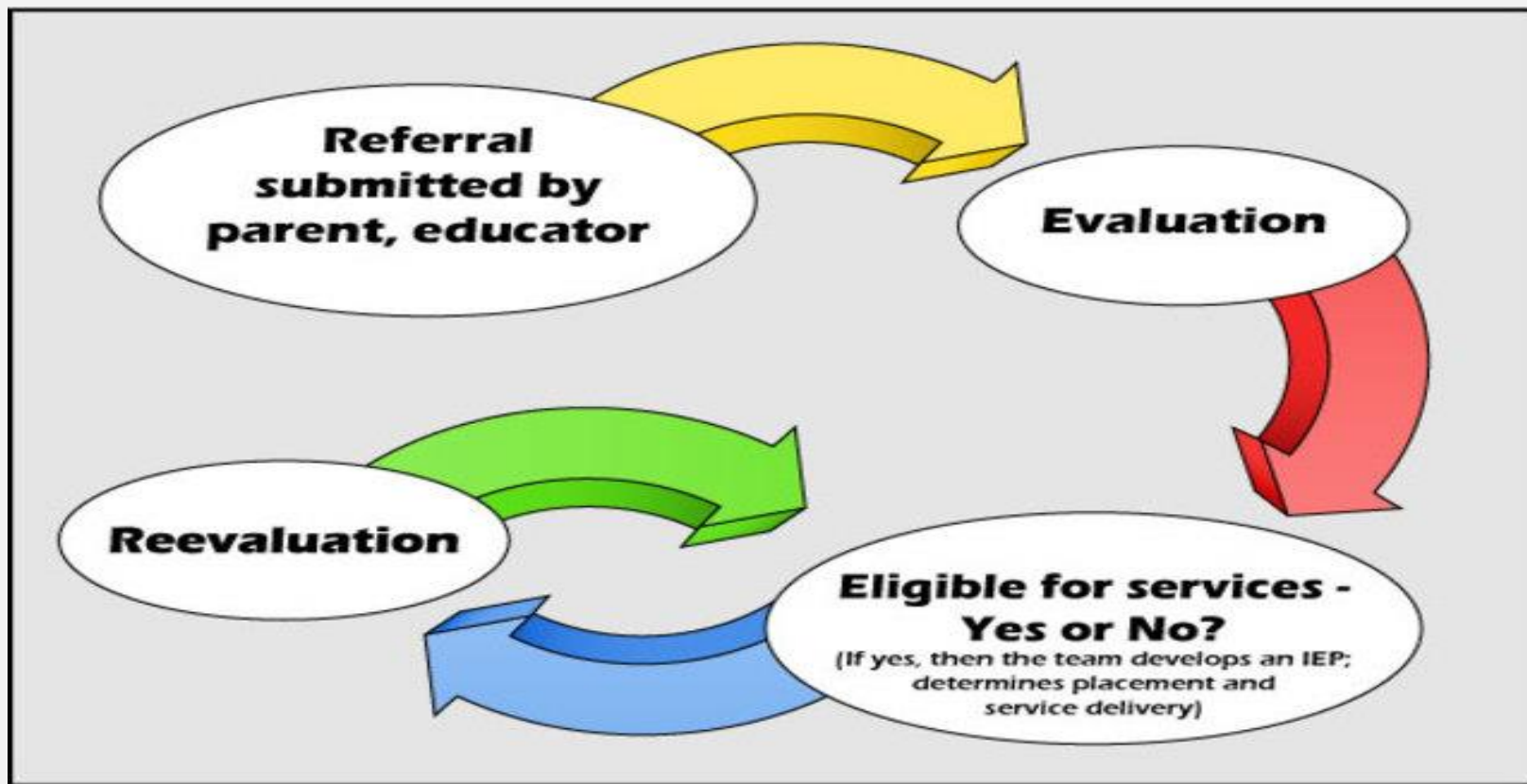
- Extensions of time on assignments
- Videos with accurate captioning or embedded sign language interpreting
- Accessible reading materials
- Speech and language services through video conferencing
- Read written materials to students with visual impairments
- Teletherapy and tele-intervention
- Online options for data tracking
- Digital distribution of educational materials

SERVICES TO CHILDREN AGES 0-3



- Services not required to continue
- Child's team must meet to determine if the child's needs have changed due to an interruption in services and provide additional services as needed
- Compensatory education services may be due

TIMELINES



EVALUATIONS

- Evaluations requiring face-to-face assessment or observation delayed until schools re-open
- Evaluations that do not require face-to face or observations may continue with parent consent



RETURN TO SCHOOL

- The IEP must be followed upon return to school
- IEP may need revision based on regression or needs developed during the closure
- Compensatory services may be required
- **Tip:** Tell your school that the more services it can deliver while schools are closed, the better prepared your child will be to return to school

CARE ACT: SAY “NO!” TO IDEA WAIVERS

CONTACT CONGRESS

Email your Senator

Find your Senator here:
https://www.senate.gov/general/contact_information/senators_cfm.cfm.

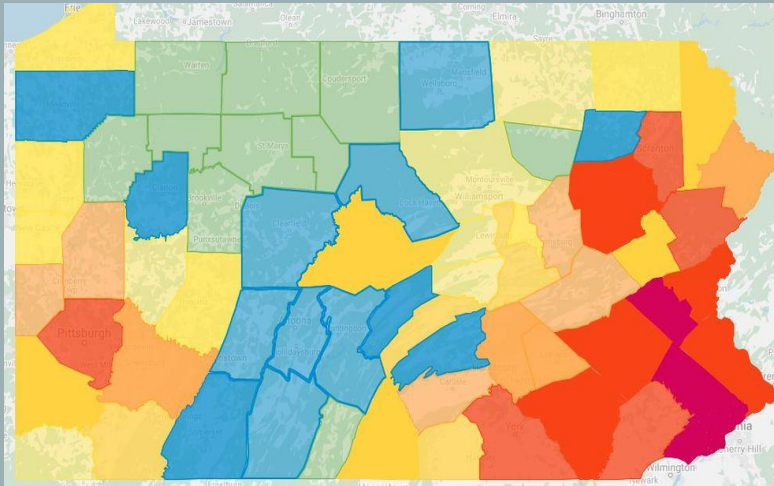
Email your Representative

Find your Representative here:
<https://www.house.gov/representatives/find-your-representative>

Call

U.S. Capitol Switchboard
202-224-3121

STATE GUIDANCE: PA & NJ

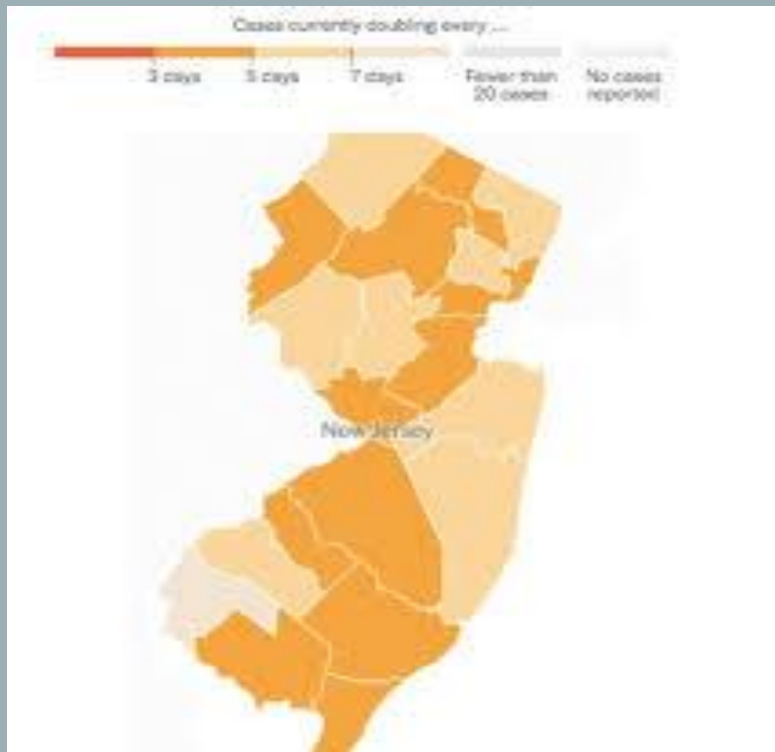


PENNSYLVANIA

- Schools “need to ensure consideration for the provision of FAPE for students with disabilities ...that are reasonable and appropriate based on student need and current circumstances.”
- Continue to provide services in current IEP to the greatest extent possible
- Prior Written Notice/Notice of Recommended Educational Placement (NOREP) required

PA EARLY INTERVENTION FOR 3-5

- Pennsylvania initially suspended early intervention services.
- Many intermediate units have now implemented services via online platforms



NEW JERSEY

- Services provided during the school closures “shall be consistent with the student’s ... IEP to the most appropriate extent possible”
- Emergency regulation authorized related services “through electronic communications, virtual, remote, or other online platforms”
- Compensatory services & IEP adjustments when students return to school. Determined on case-by-case basis.
- Caution: Waiver requests

APPROVED PRIVATE SCHOOLS

Pennsylvania

Will receive no more or no less tuition if they develop remote learning programs

New Jersey

Students in out-of-district placements should be provided with instruction during school closures consistent with the student's IEP to the greatest extent possible.

GRADUATION & SERVICES TO AGE 21

- Many states have mandated that students should graduate on time in Spring 2020
- Develop individualized plans for students to complete local requirements during school closures.
- Continue special education after graduation



CHALLENGES & STRATEGIES FOR DISTANCE LEARNING

ONLINE &
VIRTUAL
EDUCATION

Can it work for my
special needs child?





SPECIAL EDUCATION & RELATED SERVICES

- Direct instruction vs. Consult
- Parent training & education
- Speech
- OT
- PT
- BCBA
- Counseling & therapy



CHALLENGES FOR INSTRUCTION

- Attention & engagement
- Auditory versus Visual Learning
- Use of manipulatives, sensory tools and assistive technology

STRATEGIES FOR INSTRUCTION

- Consultation: Request virtual IEP meeting
- Live vs pre-recorded sessions
- I:I Instruction or Tutoring
- Case management/EF support
- Assistive technology, visual aids & manipulatives
- Grade policies



DISTANCE LEARNING RESOURCES

- Council for Exceptional Children. <https://www.cec.sped.org/Tools-and-Resources/Resources-for-Teaching-Remotely>
- Center on Reinventing Public Education. <https://www.crpe.org/>
- National School Board Assn (NSBA). <https://www.nsba.org/>
- Educators Get Creative to Serve Students with Disabilities. <https://www.npr.org/2020/04/15/826798583/educators-get-creative-to-serve-students-with-disabilities>
- This Is Schooling Now for 200,000 N.Y.C. Children in Special Education. <https://www.nytimes.com/2020/04/16/nyregion/special-education-coronavirus-nyc.html?smid=nytcore-ios-share>

Summary: Your child continues to have special education rights during school closures and may be entitled to additional services when schools re-open

- Individualized process.
- Be flexible and cooperative but continue to advocate
- Ask for creative learning strategies
- Promote team communication
- Consider a thirteenth year of IEP services
- Request compensatory education services and an IEP meeting.

BATCHIS NESTLE & REIMANN LLC: THE SPECIAL EDUCATION LAW GROUP

Leah Snyder Batchis, Esq.
Jessica Limbacher, Esq.

Leah and Jessica advocate for the rights of children and adults with special needs to access education. In addition to helping families resolve conflicts with schools through counseling, mediation and litigation, their work includes developing creative solutions to the complicated and sensitive problems involved in developing educational programs under The Individuals with Disabilities in Education Act (IDEA) and Section 504 of The Rehabilitation Act of 1973.

215-550-1760

www.SpecialEdLawGroup.com

