



The Protection and Advocacy System for South Carolina

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FACT SHEET

QUESTIONS AND ANSWERS ON COVID-19 AND 2020/2021 SPECIAL EDUCATION IN PUBLIC SCHOOL

Covid-19 has posed challenging issues for parents and schools districts as districts work to reopen to educate students safely and parents work through returning their children back to school.

Questions and concerns have been and will be raised as students with disabilities eligible for an IEP return to school for the 2020/2021 school year in light of Covid-19. It will be very important for families and school districts to continue to have good communication regarding information, questions, and concerns.

This fact sheet provides general information, suggestions and tips, but cannot account for individualized circumstances. School districts in South Carolina will vary in return to school options, vocabulary, and policies. Be sure to check with your school district for these specifics. This fact sheet does not constitute legal advice. As information changes with Covid-19, the information in this fact sheet is subject to change.

The most important thing you can do is keep the lines of communication open with your school district and raise any questions or concerns you may have.

School Reopening

1. I am not sure what my school district's plan is regarding school reopening?

All school districts in South Carolina had to share their reopening plans with the SC Department of Education for review and approval. If you are unsure of what

your plan says, you can ask your school district for a copy. Approved plans are also being posted online at: <https://ed.sc.gov/newsroom/covid-19-coronavirus-and-south-carolina-schools/school-district-reopening-plans/>.

Keep in mind that school districts are making reopening decisions based on factors specific to their district. There is going to be variability from district to district as they face the challenges of appropriately educating students, while also addressing safety for students and staff.

2. My school district is offering different options for my child to attend school, such as a hybrid and a virtual option. I am concerned about how my child will receive services in his/her IEP. Will my child still be entitled to a free appropriate public education (FAPE)?

Yes! All students who are eligible for an individualized education program (IEP) are entitled to receive a free appropriate public education, also known as FAPE. This school year, South Carolina school districts are opening differently and offering parents options for how their child will return to school. In some districts, parents can change that option after a certain period of time. A student with an IEP is still entitled to a FAPE in any option that a parent chooses.

If a parent chooses a hybrid or virtual option, the student's IEP should be reviewed to determine if any changes are needed to address the new service delivery. If the current IEP can be implemented in the new service delivery method, then changes will not be necessary. If changes are needed, then the IEP team can meet to address any services needed or no longer needed. An agreement to amend an IEP can also be made without an IEP meeting if a parent and district agree to the amendment.

3. Will I need to have an IEP meeting if my child changes service delivery formats (ex: from virtual to hybrid)?

This will depend on the student's IEP and his/her unique needs. Some students may need changes and some will not. For students whose IEP will need changes depending on the service delivery format, some districts may use a new form that will address how the IEP will be implemented in the different service delivery options (ex: in school or hybrid or virtual). This form may be an attachment or addendum to the student's IEP. If the student changes service delivery formats, district staff and parents can refer to the form for changes to the IEP services.

4. Can an IEP team change my choice of virtual schooling to a different option?

No, it cannot. How a student will return to school will be by parent choice given the options provided by the school district. If a parent chooses the virtual option, then it will need to be determined if your child's IEP can be implemented in the virtual setting. If it cannot, the IEP team will need to meet to determine what services the student will need to receive a FAPE in the virtual setting. Keep in mind that there may be instances where an IEP team determines that a student needs in-person services, even when using the virtual platform. If that occurs, then the IEP team will need to determine the location, frequency, and duration of service as well as any safety/health concerns.

5. I'm not sure if my child is making progress, what should I do?

Your child's IEP should state how often you will receive progress reports. Progress reports provide information on how your child is progressing in his/her IEP goals. If you are concerned that your child isn't making progress or regressing, contact your special education department to discuss your concerns. Parents can also request an IEP meeting to discuss concerns.

6. What will happen if there is another school closure or my child's class is in quarantine and the school district does not have an alternative method of educational services for all students, like virtual education?

This will depend on your child's school district. Some districts will be able to switch students to an alternative method of educational services that will provide access to the general education curriculum, like a virtual platform. In this instance, the IEP will need to be reviewed to determine if any changes are needed for a virtual platform.

If your district is not able to do this, we suggest you approach your child's IEP team to discuss how your student will access services remotely during the closure. Some IEP teams in in this scenario may use a "contingency learning plan" to document services in remote delivery. This document does not replace the student's IEP.

7. Is medical homebound an option for my student to return to school?

Medical homebound is not an option that parents can choose as schools are reopening. It can be considered if the student's medical provider's opinion is that the student cannot access any of the instruction delivery models that are being offered by the district due to medical reasons. There is a form that is used

for medical homebound requests. Once a request is made, it is the district that will decide whether medical homebound will be approved. Districts should have information on the medical homebound process, including the form. If you are considering this, we suggest you talk to your student's special education contact to discuss how the student would access the delivery models your district is offering before pursuing medical homebound.

Assistive Technology

If I choose the virtual or hybrid option, will I still be able to get training for assistive technology that my child uses?

Yes, if the IEP team determines that parent training on your child's assistive technology (AT) is needed. During the emergency school closures, some parents had greater involvement with AT as their children used AT at home. If your child will be using AT according to his/her IEP in the home in a virtual or hybrid option and you need training on that AT, let your child's IEP team know about this need.

For more information on AT, please see P&A's "Assistive Technology and Special Education" fact sheet: <https://www.pandasc.org/assistive-technology-and-special-education-2/>.

Behavior

1. I have concerns that my child's behaviors are increasing and are impacting my child's learning at school. Are there any supports or services to address my child's behavioral concerns at school?

Yes. School districts should address the behavior of students with disabilities using positive behavioral supports and services if needed by the student. Contact your child's IEP team to discuss the behaviors and any needed supports or accommodations. You or the district may request a "Functional Behavioral Assessment" (FBA) be done. This assessment can provide information to help the IEP team develop a "Behavior Intervention Plan" (BIP) to address the behavioral concerns. If your child already has a BIP, you can request an IEP meeting to address the behaviors at school in relation to the BIP in place.

For more information, see P&A's fact sheet "Functional Behavior Assessments (FBAs) & Behavior Intervention Plans (BIPs)" at: <https://www.pandasc.org/functional-behavior-assessments-fbas-behavior-intervention-plans-bips/>.

- 2. My child doesn't adjust well to change due to his/her disability. After being out of school for so long, I am worried that my child is not going to transition well back into the school environment and that is going to result in an increase in behaviors. What can I do?**

If you are worried about transition back to school and preparing your child for that transition, contact your school district's special education department to discuss your concerns. It is possible you may need an IEP meeting to help plan for the transition back to school.

Face Masks

Where can I find more information about face masks for students in school?

Refer to your school district reopening plans for information on what requirements your child's school district has on face masks. The South Carolina Department of Education has guidelines on face coverings for K-12 public schools, which can be found at: <https://ed.sc.gov/newsroom/covid-19-coronavirus-and-south-carolina-schools/south-carolina-department-of-education-face-covering-guidelines-for-k-12-public-schools/>. This includes guidelines for school buses, school facilities, and other considerations. This further recognizes there may be situations where adaptations and alternatives should be considered. For instance, a student who is deaf may need staff to wear clear face masks for effective communication. Consult with your child's IEP team if your child has unique needs or concerns related to face masks. For instance, you have concerns about your child's ability to wear a face covering due to disability.

For more information on face coverings, see: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.

Attendance

Do attendance rules apply this upcoming school year if students are in a hybrid or virtual option?

Yes, student attendance will be taken in all school options. You should consult with your school district on how this will be done and/or if have questions or concerns. If you are experiencing problems with attendance, we suggest you document your concerns (you could keep a notebook) and contact your child's IEP team to discuss. This is another area where communication will be important as truancy rules will still apply when there are enough unexcused

absences.

August 4, 2020 "Guidance for Confirming and Documenting Attendance" provided from SC Dept. of Ed. to school districts:

<https://ed.sc.gov/newsroom/school-district-memoranda-archive/guidance-for-confirming-and-documenting-attendance/guidance-for-confirming-and-documenting-attendance-memo/>.

Communication/Virtual Meetings

1. With all these changes, I feel like I am going to have questions about IEP service implementation for my child, what can I do to improve communication this school year?

Good communication with a school district is always important, but especially during this time of change due to Covid-19. If you have questions specific to your child's education, make sure you are addressing them with the school district.

Keep in mind that communication with your child's IEP team doesn't just have to occur at the annual review IEP meeting. You can also establish effective methods of communicating with relevant school staff on a regular or as needed basis from the beginning of each school year. As a parent, you are a member of your child's IEP team and it is important to be knowledgeable about your child's special education services to have effective parent participation. Here are a few ways that a parent can promote effective communication:

- Don't be afraid to ask questions and share concerns: It is okay to ask questions if you are unsure of the answer and share concerns with the school district. There should be an open line of communication with the special education teacher and the parent. If you continue to have concerns, you can contact the special education department at the district level or request an IEP meeting.
- Communication logs: These can be helpful if regular and/or specific communication is needed. This can occur daily, weekly, or as agreed upon. Parents can participate in the development of the communication log, so it captures information that is important to you.
- Parent meetings: These can be in person meetings or calls that can serve multiple functions and can be used to discuss information relevant to your questions/concerns.
- Address communication needs at an IEP meeting: If regular

communication is determined to be needed by the IEP team, the type of communication and details can be documented on the IEP.

For more information on “Advocacy Tips For Meeting With School or District Officials” please see this P&A fact at: <https://www.pandasc.org/advocacy-tips-for-meeting-with-school-or-district-officials/>.

2. I have a virtual IEP meeting scheduled, do you have any tips for virtual meetings?

IEP meetings in person may not be possible currently due to Covid-19, so school districts may suggest meeting virtually. In this event, parents should take steps to ensure the meeting will go smoothly. Ask the district what virtual platform it uses and if there is anything you should know about using it. You should also inquire if it is a secure platform. Participate in virtual meetings in a quiet place where distractions are limited. Have relevant documents, such as the IEP, BIP (behavior intervention plan), progress notes, communication logs, etc. that are going to be discussed available in front of you. Ask the district for a telephone number you can call in the event that you experience technical difficulties. Prepare as you would for any IEP meeting, including making a list of the questions, thoughts, and/or concerns you want to raise. Most of all be patient. Technology may not be working properly and the team members may need some time to fix the issue.

For more tips on virtual meetings, see:

- <https://www.parentcenterhub.org/virtual-iep-meeting-tip-sheets/>
- Virtual IEP Meeting Tips Sheet: https://www.parentcenterhub.org/wp-content/uploads/repo_items/virtual-iep-meeting-tipsheets.pdf

3. My primary language is not English. Can I still get an interpreter for virtual or online IEP meetings?

Yes. School districts have to take action necessary ensure that parents understand IEP team meetings. This includes arranging for an interpreter at an IEP meeting whether held in person or virtually.

Regression/Loss of Education from the Spring 2020 School Closures

I am very concerned that my child experienced regression due to the 2020 spring school closure. I am hearing about supplemental school

closure services and compensatory education services; how do I know if my child is entitled to any of these services?

All public education students were impacted by the 2019/2020 school closures as a result of the Covid-19 pandemic. Generally, districts will need to determine how the loss of learning during the closures impacted all students and how impacts will be addressed. This will be for all students in the school district and may go by different names, like academic recovery. Some districts may use a multi-tier system of supports approach or something similar.

Once the impacts from the Covid-19 school closures have been determined for all students, students with disabilities that have an IEP may need services beyond this. In South Carolina, these are being called “supplemental school closure services.” These services will be determined by the student’s IEP team. If a student is entitled to supplemental school closure services, they will take place during the school day.

Compensatory education services are services typically offered or awarded to a student with an IEP when a district has failed to provide a FAPE. These services take place outside of a school day. If a student with an IEP did not receive a FAPE and was not able to access services during the school closure, the student’s IEP team should determine if the student needs compensatory services. If an IEP team determines the student is entitled to compensatory services, it is not a minute for minute loss calculation. The IEP team will need to determine how the loss of FAPE impacted the student, where the student was expected to have been, and what services are needed to address that loss. Some students may need more services and some students may need fewer services, depending on how the student is expected to recoup the loss.

Problems

1. What steps can I take to protect my child’s rights?

Keep all special education documentation, such as IEPs, progress reports, and prior written notices. Some parents do this with binders and some keep it electronically. Just find a method that works for you. It is also good practice to keep track of communications that you have with your child’s IEP team and the school district, preferably through written documentation. Document concerns you raise as well as the follow-up action that took place to address the concerns. If a problem arises, it can be helpful to have a good paper trail if you ever need to advocate for your child on a formal level.

2. Will I still receive a prior written notice (PWN) if I have a virtual IEP meeting?

Prior written notice, also known as PWN, is a very important document. The school district needs to provide this to you, even after a virtual IEP meeting, before changing or refusing identification, evaluation, placement, or the provision of free appropriate public education (FAPE).

For more information, see P&A's fact sheet on PWN at:
<https://www.pandasc.org/prior-written-notice/>.

3. What can I do if the district and I disagree at the IEP meeting?

The fastest way to resolve a disagreement at an IEP meeting is to try to address the concern and see if the team can work it out. Sometimes that can take more than one meeting and/or providing the team with more information about the concern. It may also help to discuss your concerns with the special education director or coordinator outside of the meeting. If the team cannot come to consensus and you still disagree with the plan, there are formal and informal dispute resolution options in South Carolina. These options include requesting a facilitated IEP meeting or filing a complaint with the SC Department of Education. More information about dispute resolution options can be found at:
<https://ed.sc.gov/districts-schools/special-education-services/parent-resources/dispute-resolution-information/>.

See also P&A Fact Sheet on filing a complaint with the SC Department of Education: <https://www.pandasc.org/filing-a-complaint-with-the-south-carolina-department-of-education/>.

Homeschool and Private School

If I decide to withdraw my child from public school to enroll my child in a private school or homeschool my child, is my child entitled to receive the same IEP services he/she would receive in public school?

In South Carolina, homeschooled students are considered the same as students placed in private schools by parental choice. While it is possible that a homeschool/private school student could get special education and related services, the Individuals with Disabilities Education Act (IDEA) does not provide for an individual right to receive some or all of these services to students in these settings. In public school, IDEA provides for a free appropriate public education (FAPE), so a student would be entitled to the services needed to get a FAPE. If a homeschool/private school student does get services, they may also be of a different amount than in public school. It is important for parents and guardians

to be aware of this in deciding what form of schooling will be best for their child.

Other Resources

- COVID-19 (Coronavirus) and South Carolina Schools:
<https://ed.sc.gov/newsroom/covid-19-coronavirus-and-south-carolina-schools/>
- Information about Covid-19: <https://ed.sc.gov/districts-schools/special-education-services/information-about-covid-19-coronavirus/>
- US Department of Education "COVID-19 ("Coronavirus") Information and Resources for Schools and School Personnel":
<https://www.ed.gov/coronavirus>
- Continuity of Learning During COVID-19:
<https://osepideasthatwork.org/continuity-learning-during-covid-19>
- Family Connection South Carolina – Education:
<https://www.familyconnectionsc.org/education/>

This publication provides legal information, but is not intended to be legal advice. The information was based on the law at the time it was written. As the law may change, please contact P&A for updates.

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