

JUST THE FACTS:

Home Instruction, Remote Instruction
& Home Schooling in New Jersey

The Special Education Team at
POSTERNOCK || the Law Offices of
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You are not alone if you feel confused about the differences between "temporary home instruction," "home instruction" as a special education placement, and "home schooling," which involves withdrawing a student from public school. The new pandemic-era concept of "remote instruction," further complicates things. We hope the information below clarifies these overlapping concepts. Keep in mind that while we have established state case law and regulations about "home instruction" and "home-schooling," many unanswered questions remain about the parameters of "remote instruction." For right now, we know that the Individuals with Disabilities Education Act (IDEA) remains intact, and that Individualized Education Plans (IEPs) must be implemented to the "greatest extent possible," during remote instruction.

For more information about how the Advo-Kids team can support you, go to www.advo-kids.com.



REMOTE INSTRUCTION

FOR A
GENERAL EDUCATION STUDENT

- Full-time remote learning must "adhere to" the required four hour school day. State guidance does not require a certain amount of "live" instruction.
- All students remain eligible for supports under New Jersey's Tiered System of Supports (NJTSS) and Intervention and Referral Services, as implemented by their school district.
- Parents may seek an initial evaluation through the Child Study Team (CST) where a disability is suspected (even during a school closure).
- school district sets the schedule.

REMOTE INSTRUCTION

FOR A
SPECIAL EDUCATION STUDENT

- "Districts should talk to parents, who are key members of the IEP team, and help them consider how they may best ensure that students with disabilities have the necessary supports, including medical supports, in place during a public health-related school closure." **See** <https://www.nj.gov/education/covid19/sped/guidance.shtml>
- "Consistent with guidance from the United States Department of Education, districts must continue to meet their obligations to students with disabilities to the greatest extent possible." **See** <https://www.nj.gov/education/reopening/NJDOETheRoadBack.pdf>

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HOME OR OUT-OF-SCHOOL INSTRUCTION

due to a
health condition
N.J.A.C. 16-10.1 &
N.J.A.C. 14-4.8

- Parents provide doctor's order of student's need for more than 10 consecutive days, or 20 cumulative days, out of school during school year due to a temporary or chronic health condition.
- Must be approved by the School Physician. School Physician may contact the student's treating provider to verify the request.
- "The teacher shall provide instruction for the number of days and length of time sufficient to continue the student's academic progress and dependent on the student's ability to participate." N.J.A.C. 16-10.1(C)(3)
- Available to all students. If student is classified as special education, instruction must be "consistent" with any existing IEP.
- If will exceed 30 days, then IEP team "shall convene a meeting to review and, if appropriate, revise the student's IEP." N.J.A.C. 16-10.1(c)(4)
- "The school district shall establish a written plan for delivery of instruction...and maintain a record of delivery of instructional services and student progress." N.J.A.C.16-10.1(c)(1)

HOME INSTRUCTION

as appropriate location for
special education/IEP
implementation
N.J.A.C. 14-4.8

- Placement decision made by the IEP team only when "it can be documented that all other less restrictive program options have been considered and have been determined inappropriate." N.J.A.C.14-4.8(a)
- Approved for maximum of 60 days, but can be extended in 60-day increments. N.J.A.C.14-4.8(a)(2)
- A written record of all instruction, including dates and times, shall be maintained. Instruction must be consistent with the student's IEP and continue to provide FAPE.
- Notice of home instruction placement must be sent by school district to the county office for special education. Home instruction is considered a very restrictive education placement.
- Instruction shall include **no less** than 10 hours per week in no less than three visits per week on three separate days. N.J.A.C. 14-4.8(a)(4)

HOME SCHOOLING

Authorized by
N.J.S.A. 18:38-25, allowing
an exception to compulsory
school attendance

- Parents notify local school district in writing to dis-enroll and verify provision of a home education program.
- Parents do not have to be certified teachers. Curriculum for home education program need not be approved by the school district.
- Parents must provide "instruction equivalent to that provided in the public schools."
- No set number of instructional hours or days required.
- Pursuant to IDEA "Child Find" requirements, students on a home education program may seek an **evaluation** for special education eligibility by contacting their resident school district. If the Child Study Team (CST) finds the student eligible for special education, **an in-district program is offered**. The Parents may enroll in the school district to obtain a Free Appropriate Public Education (FAPE) or decline the school district's offer.