



LAW UPDATE

SCHOOL BUSINESS

PHONE: (661) 636-4830 • FAX: (661) 636-4843
E-mail: sls@kern.org • www.schoolslegalservice.org

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COVID-19 UPDATE

OCR ISSUES A FACT SHEET ON PROTECTING THE CIVIL RIGHTS OF STUDENTS DURING COVID-19

Late on March 16, 2020, OCR issued a fact sheet providing guidance for school districts in addressing protecting the civil rights of students while responding to the COVID 19 outbreak.

OCR emphasized that school administrators should use guidance from the Centers for Disease Control and Prevention (CDC) and local public health authorities, in determining what actions to take to further reduce the potential risk of coronavirus transmission in schools. However, OCR did direct school leaders to be mindful of the requirements of Section 504, Title II, and Title VI during their response work to ensure that all students are able to study and learn in an environment that is safe and free from discrimination.

Denial of Access on the Basis of Race, Color, or National Origin

OCR cautioned that school officials have an obligation to avoid discrimination on the basis of race, color, or national origin while cooperating with public health authorities to ensure that individuals are assessed and treated appropriately based on their actual risk status. In addition, OCR stated that school officials must not rely on assumptions or stereotypes related to race, color, or national origin in identifying students who may have recently traveled to a country with widespread transmission of coronavirus, or who may otherwise be at risk of coronavirus infection.

Students with Disabilities at Elementary and Secondary Schools

OCR emphasized that districts should make provisions to maintain educational services for students with an individualized education program (IEP) or receiving services under Section 504 who are required or advised by public health authorities or school officials for an extended period of time to stay home due to COVID-19.

OCR acknowledged that if a school district closes its schools and does not provide any educational services to the general student population, then a school would not be required to provide services to students with disabilities during that same period of time. However, once school resumes, the school must return to providing special education and related services to students with disabilities in accordance with the student's IEP or, for students entitled to a free appropriate public education under Section 504, consistent with any plan developed to meet the requirements of Section 504.

With regard to compensatory education, OCR guidance provides that although circumstances may affect how a particular service is provided, if a student does not receive required services after an extended period of time, the student's IEP or 504 team must make an individualized determination whether and to what extent compensatory services are needed, including to make up for any skills that may have been lost.

Finally, OCR has confirmed that IEP teams are not required to meet in person while schools are closed due to COVID-19, but may meet telephonically or through alternative means.

A copy of the OCR Guidance is attached for your reference. As always, we will keep our member districts updated on further developments as they occur.

Do not hesitate to contact our office regarding this or other COVID-19-related matters.

- Darren J. Bogie

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