



COVID-19 EDITION
**COVID-19 SCHOOL CLOSURES AND
SPECIAL EDUCATION IN NEW YORK**
NASSAU AND SUFFOLK COUNTIES

Last updated March 30, 2022. The situation is changing rapidly.
Please [check our website](#) for the latest updates.

For more information about special education issues, please call the Education and Disability Rights Project (EDRP) at (516) 292-8100.

QUESTIONS FOR ALL FAMILIES



Is school attendance still mandatory?

Yes. School attendance is still mandatory, and schools are responsible for collecting attendance and addressing chronic absences.

Is the mask mandate still in effect?

No. NY Governor Hochul recently announced that as of March 2, 2022, individual school districts can decide whether to lift the mask requirement. Individual students and staff members still have the option to wear masks. School districts and private schools can still require face coverings if they want to do so. The governor made the announcement after the CDC declared that, under its new guidelines, Long Island is now a “green zone” where mandatory masking is no longer needed in schools or indoor public places.

Schools that require people to wear a mask should consider the possibility of reasonable accommodation for individuals who are not fully vaccinated and/or who are unable to wear or have difficulty wearing certain types of masks because of a disability.



What about remote learning?

So long as allowed by public health officials, schools should be open for in-person teaching and learning, and students should be in school.

- In case of school closures due to a declared public health emergency, schools must be prepared to provide remote instruction.
- While the Department will not require schools that are open for full-time, in-person instruction to provide on-line or remote instruction, districts may work with students and families to offer remote options if it is deemed to be responsive to a student’s needs.
- Where a student has a **documented** medical condition and is prohibited from in-person learning, remote instruction may be sought.



We make every effort to keep referral information, legal educational materials, and related forms up to date. However, the situation is rapidly evolving, and we do not maintain materials on external sites. We cannot guarantee the accuracy of this information, nor are we responsible for any legal advice, information or assistance that you may obtain from external sources. They are provided for general information only.

What if my family doesn't have access to the technology we need for remote learning?

School districts must determine home access to an appropriate device and reliable high-speed internet. They should work with families to provide devices and internet access as needed and provide students with multiple ways to participate in learning.



My child qualifies for free or reduced-cost meals at school. Will they be available if my child is learning remotely during the 2021-2022 school year?

Yes. School districts are **required** to provide free meals for eligible children, even if those children are learning remotely. Many districts are providing free breakfast and lunch to all students through June 2022. Contact your school district directly for more information.

In addition, all children eligible for free or reduced-cost meals at school are now eligible for special pandemic food benefits **even if they are not eligible for SNAP or other public benefits**. [Check here for more information.](#)



Have the Regents and other examinations changed?

Eligibility

The January 2022 administration of the High School Regents Examination Program was cancelled due to the ongoing COVID-19 pandemic. This cancellation (exemption) applies to all Regents Examinations that had been scheduled for the January 2022 Regents Examination period.

To qualify for the exemption, the student must have met one of the following requirements:

- Been currently enrolled in a course of study that would ordinarily culminate in the taking of a January 2022 Regents Examination and earn credit for such course of study by the end of the first semester of the 2021-22 school year; or
- Between September 1, 2021 and the end of the first semester of the 2021-22 school year, have successfully completed a make-up program for the purpose of earning course credit; or
- Been preparing to take a required Regents Examination in order to graduate at the end of the first semester of the 2021-22 school year.

NYSED developed additional guidance in the form of an FAQ to address topics such as safety net options, mastery, honors, and technical endorsements so that schools are able to determine which diplomas to grant to their graduates. [[Frequently Asked Questions Related to the Cancellation of the January 2022 Regents Examinations \(nysed.gov\)](#)]

Typically, our school's Grade 11 students take the Regents Examination in English Language Arts in January. If this is our standard practice, would these students qualify for an exemption from the January 2022 Regents Examination in English Language Arts?

In order to qualify for an exemption from the January 2022 Regents Examination in English Language Arts, the student must have earned credit for the course of study by the end of the first semester of the 2021-22 school year. If the course of study continued through the end of the second semester of the 2021-22 school year, students would not qualify for an exemption from the Regents Examination requirement for English Language Arts.

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Declination

May the parent/guardian of students who are eligible to graduate in the 2021-22 school year and beyond as a result of having met an assessment requirement through an exemption at any time decline such exemption?

Yes.

- Additional information can be referenced in the Parental Right to Decline Examination Waivers memo ([December 2020](#)) and the Parental Right to Decline Examination Waivers memo ([May 2020](#)).
- **On 1/10/22, the Board of Regents approved emergency regulations allowing students to graduate in January 2022 without the Regents exams** that were scheduled to take place that month.

If parents wish, they can decline the exemption so that their child is not awarded a diploma in January 2022. "Schools must notify parents . . . of the option to decline such exemption . . . prior to the conclusion of the semester in which students are due to receive their high school diploma (10 days prior for those graduating after the first semester of the 2021-2022 school year and 30 days prior to the second semester of the 2021-2022 school year and thereafter)."

If a student did not qualify for a Regents Examination exemption in June or August 2021 because they were unable to earn credit in the course, are they now eligible for an exemption from the January 2022 Regents Examination?

As long as the student completes a make-up program to earn course credit by the end of the first semester of the 2021-2022 school year, the student would qualify for a January 2022 Regents Examination exemption.

Is a student, who passed a Regents Examination with a score of 65 or higher prior to January 2022 and intended to retake the Regents in January 2022 to earn a higher score eligible for a Regents Examination exemption?

No. Any student who passed a Regents Examination with a score of 65 or higher prior to January 2022 is not eligible for the exemption.

Do students need to complete 1,200 minutes of satisfactory laboratory experiences in order to be eligible for an exemption to a Regents Examination in Science?

No waiver for laboratory minutes exists for the 2021-2022 school year. Additional information may be found in the Virtual Laboratory Experiences and the [1,200 Minute Science Laboratory Requirement for the 2021-2022 School Year memo](#).



Have high school equivalency diplomas changed?

Yes. The GED® Test is the new High School Equivalency (HSE) Exam in New York State. The TASC Test™ was discontinued on December 31, 2021. Scores from passing TASC subtests (2014-2021) and passing GED subject tests (2002-2013) can be used toward meeting the requirements for an HSE diploma. GED had previously served as the NYS HSE exam from the 1940's through 2013.



QUESTIONS FOR STUDENTS WITH EXISTING IEPs OR SECTION 504 PLANS

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What help is available for students who are behind?

Students in grades 3-8 at risk of not achieving English Language Arts, Mathematics, Social Studies, and/or Science standards are entitled to **Academic Intervention Services (A.I.S.)**. Schools may, but are not required to, conduct the two-step identification process to determine A.I.S. eligibility for the 2021-22 school year due to the limited administration of State assessments in the 2020-21 school year as a result of the State of emergency declared by the Governor for the COVID-19 crisis. Families concerned that their students have not been appropriately evaluated for intervention services should contact Nassau Suffolk Law Services for additional guidance.

May the parent or guardian of students who are eligible to graduate in the 2021-22 school year and beyond, as a result of having met an assessment requirement through an exemption at any time decline such exemptions?

Yes. If the parent or guardian explicitly declines the exemption of a Regents Examination, a January 2022 NYSED Approved Alternative examination, a Pathway examination or an exemption to the unfinished Career Development and Occupational Studies (“CDOS”) Commencement Credential requirements applied to his/her child as a result of COVID, a diploma will not be conferred on such student until such student meets the applicable diploma requirement.

The text of the emergency regulation is here:

<https://www.regents.nysed.gov/common/regents/files/122p12a2.pdf>



Is my child entitled to receive Compensatory Education?

Possibly. The District's Committee on Special Education ("C.S.E.") should make individual decisions about compensatory or extended school year services, including services to make up for any skills the student lost.

If you think that your child needs compensatory services, document the services your child was receiving before the closure, services offered during the closure, and your child's access to materials and education. Also, document any regression your child experienced. Keep records of the dates and times when services were provided and the dates when they were not provided.



What are the options for special education students who cannot learn well in a virtual environment?

N.Y.S. Department of Education instructed districts to prioritize in-person services for high-needs students with disabilities whenever possible.

Districts must also determine how special education programs and services will be delivered to meet the needs of students with disabilities in both remote learning and in-person instructional models.



Will Committee on Special Education ("C.S.E.") meetings be held if schools are not open for in-person instruction?

Yes. The C.S.E. must meet at least once each school year to conduct an "Annual Review" of each student's I.E.P. 34 C.F.R. §300.324(b)(1). A C.S.E does not have to meet in person. Parents/guardians and the C.S.E. may

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agree to conduct C.S.E. meetings through other means, including videoconferencing or phone calls. 34 C.F.R. §300.328.

Suppose the parent/guardian and District agree to change a child's I.E.P. after the Annual C.S.E. meeting. In that case, they may amend or modify the child's current I.E.P. in writing without meeting again—34 C.F.R. §300.324(a)(4)(i).



I disagree with the I.E.P. Is there anything I can do?

Yes. Parents/guardians can make a Due Process Complaint (D.P.C.) or a State Education Complaint challenging their child's I.E.P. as a denial of a Free and Appropriate Public Education. A State Education Complaint and a D.P.C. may not be brought at the same time. Generally, parents/guardians have two years from when they knew or should have known, of a violation of the IDEA to request a due process hearing [20 U.S.C. §1415(f)(3)(C)] and a State Education Complaint must allege a violation within the past year.



Does the COVID-19 crisis continue to impact special education deadlines?

Yes. "[P]ublic agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate." The New York State Education Department ("N.Y.S.E.D.") announced that several deadlines will not include days schools are closed because of COVID-19:

- **60 Day Deadline to Provide Special Education Program and Services Doesn't Include Closure Days**
New York State Commissioner's Regulation §200.4(d) normally requires a Board of Education to provide appropriate programs and services within 60 school days of receipt of a consent to evaluate or referral for review. The 60-day deadline will not include any days the school is closed due to COVID-19.
- **30 Day Deadline for Private Placement Doesn't Include Closure Days**
New York State Commissioner's Regulation §200.4(e)(1) normally requires a Board of Education to arrange for placement at an approved private school within 30 school days of the C.S.E.'s recommendation. The 30-day time period will not include any days the school is closed due to COVID-19.
- **Impartial Hearings**
An Impartial Hearing Officer (I.H.O.) may receive testimony by video. I.H.O.s may conduct special education due process hearings by video conference. Commissioner's Regulation §200.5(j)(3)(xii)(h).

I.H.O.s may extend cases. Each extension shall be for no more than 30 days; except that if schools are closed pursuant to an Executive Order issued by the Governor pursuant to a State of Emergency for the COVID-19 crisis, an extension may be granted beyond 30 days for the length of time schools are closed but no more than 60 days. Not more than one extension at a time may be granted. The reason for each extension must be documented in the hearing record. Extensions must still be made at the request of the school district or the parent. I.H.O.s may not grant extensions on their own behalf or grant extensions unilaterally. Commissioner's Regulation §200.5(j)(5)(i). Learn more from N.Y. State Department of Education by clicking [here](#) and [here](#).