

Education in the wake of
COVID-19

**Know Your Rights
Manual**

WHO WE ARE

This manual was created by the staff of TeamChild.

We are tenacious problem solvers with legal expertise in all aspects of the law impacting youth. Our primary areas of practice focus on youth rights to education, healthcare, housing and the intersections between the child welfare and juvenile court systems. We find out what matters to youth who ask for our help, and our lawyers champion their solutions to overcome the obstacles to their success. We stand with youth.

At the time this manual was created, there remain many unknowns surrounding the future of education due to the Covid-19 Pandemic. What is known is that all children in Washington State have a constitutional right to education, and it must be met. Furthermore, students with disabilities are protected by federal laws that ensure they receive instruction and related services designed for their specific learning needs. In this time of uncertainty, these rights remain intact, and must be honored by Washington schools.

This manual includes summaries of laws, rules, and guidance in place that we believe relevant to students during the Pandemic. We have also included some tips for parents and students advocating for the enforcement of these rights. Sometimes following these tips may not be enough, and you may feel like talking with someone who can work with you to enforce these rights. TeamChild may be able to help further. **TeamChild currently serves the following areas: King County, Pierce County, Spokane County, and Yakima County.** If you have additional questions, please e-mail knowyourrights@teamchild.org or contact your local office directly: [King](#), [Pierce](#), [Spokane](#), and [Yakima](#).

We have limited this manual to one-page summaries on various issues related to the Pandemic. If you are looking for more detailed information on education issues and rights in Washington, you might want to try our [Education Advocacy Manual](#).

****Please note that things are changing rapidly, and this document may be updated and new issues may be added to address what communities are facing.***

The information in this manual is not legal advice. Legal information is not the same as legal advice. The information in this manual is not a substitute for and does not replace the advice or representation of a licensed attorney.

While TeamChild goes to great lengths to make sure the information in this manual is accurate and up to date, we make no claim as to the accuracy of this information and are not responsible for any consequences that may result from the use of this manual. We recommend that you consult with a licensed attorney for assurance that the information in this manual and your interpretation of it are appropriate for your situation. You should not and are not authorized to rely on this manual as a source of legal advice. The use of this manual does not create an attorney-client relationship between TeamChild and any user.

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Stand With Youth

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Grading

Last Spring, the Washington Office of Superintendent of Public Instruction (OSPI) prohibited districts from issuing “F” grades for that semester. No student may have an F grade from the spring 2020 semester.

The prohibition on F grades has now expired, and OSPI has said that it will not extend it into the 2020-21 school year. School districts are once again left to their own grading policies, subject to the standardized high school grading requirements in Washington Administrative Code (WAC) 392-415-050.

While not yet mandating any change, OSPI has said that districts should reassess their own grading policies, stating that they might be contributing to the inequities in education. Superintendent Chris Reykdal said, “this pandemic is a call to action for our education system to reassess our grading practices. Now is the time for school leaders and educators to make grades meaningfully aligned to fewer specific standards, combined with feedback that gives students multiple opportunities to demonstrate learning and put homework and extra credit in its proper place. Now is the time to decouple behavior and compliance activities from assessing student learning.”

Thus, while state policy on grading has returned to normal, state education leaders are expressing the need for change. If grading is an area where you see inequities in your school district, there is opportunity for changing policy at the district level. At least one school district, Seattle Public Schools, has already made a big change to their grading system, in accordance with OSPI’s recommendations to align grading with learning standards and give opportunities to retrieve missed credits without impacting GPA.

Here are what some bigger school districts are doing for this year:

- **[Seattle Public Schools](#)**: Middle schools and high schools will give out grades on an “A – C-” scale or “incomplete.” Students will get an “incomplete” if they don’t meet the content standard for a C- and must be allowed to complete a learning plan, credit retrieval, or appeal their incomplete mark in order to earn credit.
- **[Highline Public Schools](#)**: Elementary students will receive comments and feedback rather than numbers or ratings. Middle school and high school students will receive letter grades based on mastery of essential standards, with grades of A, B, C or In Progress (IP) and be given time to complete work to convert an IP grade to a C or better.
- **Auburn School District, Federal Way Public Schools, Kent School District, Spokane Public Schools, Tacoma Public Schools, and Yakima School District**: These districts have not passed any 2020-21 grading policy, so their grading is currently as it was before Covid-19, on an A-F scale.

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Technology Access

Many schools are using online education as they reopen. Districts must make sure each student has equipment (like laptops or tablets) and internet access. Schools need to train their staff, students and families on how the system works and make sure that any online class can meet every student's level. **If your school is using online education, call your school or district to make sure you have the equipment and get help on how to use it.**

Most districts have someone appointed to help with technology needs:

- **Seattle Public Schools:** SPS has 3 [technology resource centers](#), where you can get help. You can also contact the [tech support team](#) or your principal and teachers.
- **Tacoma Public Schools:** TPS has a [technology help desk](#) that you can access through your online portal or by phone.
- **Yakima School District:** YSD has various [tutorials](#). You can also contact technical support by phone or email.
- **Spokane Public Schools:** You can contact their [tech support](#) through email or phone.

Many internet providers are continuing to help get people connected:

- [C Spire](#): Free wireless access outside some C Spire stores and businesses.
- [Charter Communications/Spectrum](#): Free WiFi hotspots in certain cities.
- [Comcast](#): Free broadband for 60 days to new Internet Essentials customers and increased speeds for existing customers. Free Xfinity hotspots in businesses or outdoor locations.
- [AT&T](#): Access from AT&T is a low-cost program for home Internet access.
- [Wave](#): Internet First program offers low-cost Internet with free Broadband for 60 days.
- [T-Mobile](#): Project 10Million partners with school districts to give families 100GB of data and a free mobile hotspot for 5 years. Sign up your district.

In addition, the state is launching the [K-12 Internet Access Program](#) to provide free Internet connection to low-income students who didn't have Internet access by August 2020. Families should get information, including a promo/offer code from a provider, from their school district. If you feel you could qualify, contact your district. Drive-In WiFi hotspots are also available for emergency Internet access. You can look for a hotspot close to you [here](#).

Some districts have free WiFi for students. For example, [Seattle Public Schools](#) is offering free WiFi to its students through Comcast or hotspots. [Tacoma Public Schools](#) has some programs that provide a free year of Internet for its students. [Yakima School District](#) is lending mobile WiFi hotspots free of charge. [Spokane Public Schools](#) have wireless Internet available in the parking lots of several schools.

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Students Experiencing Homelessness

Youth experiencing homelessness still have all of their educational rights under federal law. This law is called the McKinney-Vento Act. It requires schools to make sure that students experiencing homelessness can participate fully in school activities, and that schools find and remove barriers to finding, enrolling, and keeping students experiencing homelessness in school. This includes these rights:

- **You have the right to go to school, no matter where you live or how long you have lived there.** You must be given access to the same education, including preschool education, that other children get.
- **You have the right to keep going to the school you attended** before you became homeless or the school you last attended, if that is your choice and is workable.
- **You have the right to be in school programs with youth who are not experiencing homelessness.** You cannot be separated from the regular school program just because you are experiencing homelessness. You have the right to receive the same special programs and services, if needed, that all other students get in these programs.
- **You have the right to enroll in school without giving a permanent address.** Schools cannot ask you for proof of residency that might prevent or delay enrollment.
- **You have the right to be in school while the school is getting your immunization records or any other documents for enrollment.** Even if the school and you are working out a disagreement about enrollment, you can still be in school.

Schools must enroll McKinney-Vento students **immediately**, even during this pandemic. 42 USC 11432(g)(3)(C). Enrollment means “attending classes and participating fully in school activities.” 42 USC 11434a(1). In the pandemic, this means McKinney-Vento students can participate in any and all activities the school is offering at this time, like school meals, virtual classes, social work services outreach, etc.

Students experiencing homelessness should get help from people called **McKinney-Vento liaisons** about COVID-19, and the liaisons should reach out to these students and their families to make sure they are connected to education and other school and/or community-based supports. [Click Here](#) for a list of McKinney-Vento liaisons by county.

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Attendance and Truancy during School Closures

Schools and “taking attendance” during Remote Learning

- Schools must take daily attendance for all students participating in remote and in-person learning. WAC 392-401A-018. Each district has its own policy for taking attendance and what counts as being present.
- Schools will mark all absences from remote learning as a “**non-truancy remote learning absence**” until October 4, 2020. After that, schools will begin to differentiate between excused and unexcused remote absences.

Definition of an “Absence” during Remote Learning

A Remote Learning Absence is defined as: ***When a student is not participating in planned instructional activities on a scheduled remote learning day.*** WAC 392-401A-016 (New Emergency Rule as of August 13, 2020)

The rule (WAC 392-401A-016) provides examples of what student participation could look like in order to be counted as present, including, but not limited to:

- Daily logins to learning management systems;
- Daily interactions with teacher(s) (including messages, emails, phone calls, or video chats); or
- Evidence of participation in a task or assignment.

The rule (WAC 392-401A-020) also provides for more definitions of an **excused absence** due to COVID-19 circumstances, including but not limited to:

- An ill family member;
- Lack of access to necessary instructional tools;
- Parents’ work schedule; or
- A student’s obligations to their family.

Can schools take you to court for “missing” too much school or withdraw your enrollment now?

- Truancy or “Becca Bill” petitions are when schools file court cases against students and families for missing too many classes or school days. Schools will begin counting excused/unexcused absences on **October 5, 2020**, which may trigger truancy petitions in the future.
- In the past, schools would withdraw students missing 20 days or more of school. Schools now are not required to withdraw students for missing days during remote learning. Each School District has its own policy.

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Student Discipline

Even in remote learning, you still have all the rights under the discipline rules, and schools must still follow all of those rules. You can find those rules in [WAC 392-400](#). If you or your student are disciplined, make sure you talk with the school about these rights:

- **If you are kicked out of a virtual class, ask for all the protections you would get if you were disciplined.** For example, if you are kept out of class for many days, ask for the protections that you would get for a suspension. This includes notice about the discipline, education during the discipline, and a chance to challenge the discipline. More information about your rights with different kinds of discipline can be found in the Discipline chapter of our [Education Manual](#).
- **You still have the right to education during remote learning.** Even if you are disciplined, including if you are suspended or expelled, you should be getting education that is similar to what you would get in the classroom. If you are not getting similar education, contact your school immediately.
- **Any discipline from last school year should have ended.** All long-term suspensions and most expulsions should have ended when the last school year was over. Some expulsions might continue into this school year, but this is rare. If you are in this situation, reach out to your local TeamChild office [King](#), [Pierce](#), [Spokane](#), and [Yakima](#) or email knowyourrights@teamchild.org for help.
- **If you are disciplined, you have the right to a reengagement meeting.** You still have the right to meet with the school about how to stay engaged in your education and how to best return. This meeting should happen within 20 days after your discipline started and can happen even sooner if you ask for a meeting. Ask your school to schedule a reengagement meeting as soon as you can.

We are still learning about what discipline looks like now. No matter what, remember that a school cannot stop educating a student as punishment. If you or your student is facing discipline during the shutdown, please contact your local TeamChild office directly [King](#), [Pierce](#), [Spokane](#), and [Yakima](#) or email knowyourrights@teamchild.org for help.

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Special Education – Following IEPs

If schools are offering in-person services, either during school hours or before/after school, students with disabilities should be prioritized to receive these services.

Free Appropriate Public Education (FAPE) is still required!

- Students shouldn't get less IEP services (e.g., specially designed instruction (SDI), related services, supplementary aids) due to how much funding or staffing schools have during reopening.
- Even in remote or hybrid learning models, students still have the right to be educated in the least restrictive environment, meaning they should spend as much time as possible with other students.
- You may benefit from more support services, such as in-person discussions, printed materials, materials on a flash drive, telephone and video conferencing, etc. Ask for support if you need it!
- Special education laws under the IDEA have still not changed. Do not agree to let go of your rights without talking with an attorney.

You may want to consider requesting recovery services.

- **Recovery services** are additional services to help a student who didn't progress like they should have during the closure. Recovery services might also be needed because a school failed to or couldn't provide services in an IEP or 504 Plan. Recovery services include what is typically called compensatory education services.
- To decide if a student needs recovery services, IEP teams should look at the effect of COVID-19 and the special education services provided during spring 2020 closures on the student's overall progress, including progress toward their IEP goals and in the general curriculum.
- Examples of recovery services, provided by OSPI, include:
 - A student who got worse behaviorally during the school closure may need new or different positive behavior interventions during the school day; or
 - A student who didn't have social skills opportunities during the school closure may need extra instruction in social communication.
- You can get recovery services outside the typical school day, through remote and/or hybrid learning models. But they're not typically provided in the same amount that was missed (i.e., minute for minute or hour for hour).

Write down and track what is happening! You should **write down all contacts with the district** about their special education services. You should also **write down how your student is doing**, any progress during school closure, and any regression, or loss of education, you see. You can use video, photograph, notes or logs.

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Special Education – Temporary Changes

Free Appropriate Public Education (FAPE) is still required, but different ways of providing services are allowed.

Limit/avoid official changes to the IEP, which are called IEP amendments!

- **You do not have to agree to amend, or officially change, the IEP goals or services to reflect the school's limitations.** For example, don't allow 300 minutes a week of Specially Designed Instruction (SDI) in math to become 60 minutes a week just because the special education math teacher can only meet with your student for 60 minutes every day during school closure.
- You might need IEP amendments to add services that your student needs now, because of school closure (like additional therapy or social/emotional support). That doesn't mean you have to agree to any cuts to other services.
- Even if the school says changes are just temporary and that they cannot follow the IEP right now, **object to changes to the actual IEP** and ask that your objections be recorded in a prior written notice.

Remote Learning Plans are useful (as long as they are not made into IEP amendments)!

- The IEP team should meet to talk about how to follow the IEP during this time. If your student's IEP team has not reached out to you, you should call them and ask for a virtual meeting.
- **Remote Learning Plans**, or sometimes called **Continuous Learning Plans**, are useful to show how the school plans to meet your student's needs. This document should tell you how often the student will meet with special education teachers or therapists and how those meetings will go.

Technology can help – Be creative and ask for any technology you need!

- The school might not have offered your student all the technological support that they may need. Some resources you may request are:
 - ✓ Speech-to-text software, which takes words that are spoken and changes it to written text (instead of notetakers or peer notes)
 - ✓ Translation services (especially for parents who do not speak English)
 - ✓ Screen reader software that can read text on the screen out loud to the student
 - ✓ Having sign language or captions during any lectures by teachers
 - ✓ Free skill-building software like Kahn Academy

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Special Education – Evaluations

Schools still need to identify, find, and evaluate all children with disabilities under the Child Find Mandate.

- Schools must conduct timely, complete, and multidisciplinary evaluations to figure out the eligibility of each child referred and suspected of having a disability. If the student is found eligible, an assessment should be done to figure out the appropriate services and supports.
- The school should finish these initial evaluations and assessments in 45 days, but sometimes it isn't possible. Two exceptions exist - an "exceptional family circumstance" and lack of parental consent. 34 C.F.R. § 303.310. However, the timeline can't be extended by the school arguing that COVID-19 generally is an "exceptional family circumstance" for all students and families.
- In Fall 2020, districts should prioritize finishing any delayed evaluations and reevaluations that they couldn't complete in spring 2020 as a result of school closures.

Although in-person evaluations may be hard at this time, there are other options to figure out a student's eligibility for special education.

- Schools may use a student's medical records to support eligibility.
- Districts can use the work that is currently being completed for school as a way to assess learning needs, and also look at the student's progress over time to determine how much support they need now. Districts can also monitor the student's progress over a few weeks and use that data to help document eligibility.
- If in-person tests are not available, IEP teams should not use tests that weren't designed to be given remotely.

Students who need additional services due to their experiences or lack of instruction from Spring 2020 should not be falsely identified as having a disability.

- Schools should make sure that students are not being labeled with a disability when the main reason for their needs is not an actual disability. For example, if a student is learning English or experiencing trauma, more services and supports may be needed, but not special education.
- Lack of instruction is not a disability, but it can make challenges worse for a student with a disability. It is important that IEP teams get information from more than one place and consider whether an evaluation could help figure out if a disability exists in addition to a lack of instruction.

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English Language Learners (ELL)

Whether classes are in person or online, schools should give ELL students the support and tools they need to learn. Reach out to your school and make sure they are providing equitable education for ELL students.

- **You should still be in ELL classes.** The quality of your ELL class should not change. If your school is using technology, ask for materials in the student's first language; one on one support or tutoring; and for someone you can call if you have questions about ELL help.
- **Schools should still be finding students who need ELL help.** They should give a Home Language Survey to families at enrollment. Depending on the answers, schools should set up ELL services within 10 days and have the student take a placement assessment within 30 days.
- **You should still be able to learn in your non-ELL classes.** Ask your teachers in non-ELL classes to give you materials or assignments in both languages. Don't be scared to ask for more time or help on work if you need it.
- **Ask your school for a continuous language learning plan.** This plan sets goals and explains how the school will help the student reach those goals. The plan should also say how the school will keep track of progress and how they plan to communicate with you. Don't be afraid to ask for more support, such as breaks during class, special ways to ask for help, or extra technology.
- **The school should use your preferred language.** Ask the school for interpreters. The school should also give you any written information in the language you need. If your school is using technology, ask for translating software and help to use that technology.
- **The school cannot ask about your legal status.** If your school asks about your immigration status, do not answer.

More information found at:

- [OSPI Recommendations to Districts: Reopening Washington Schools 2020: Guidance for supporting multilingual/english language learners](#) (8/20/2020)
- [OSPI Recommendations to Districts on Supporting ELL & Bilingual Students](#) (4/27/2020)
- [OSPI Continuous Learning – Section Focused on ELL students](#) (Pg. 38)
- [English Language Proficiency Standards](#)
- [OSPI English Language Proficiency Testing](#)

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Supporting Non-English Speaking Families

All parents have the right to information about their child's education in a language they can understand. This doesn't change during the coronavirus crisis.

- The Washington Office of Superintendent of Public Instruction (OSPI) recommends that districts use translation services for non-English speaking families. So **if a family does not speak English, the district should communicate using the preferred language.**
- **Districts should send information in community languages.** Schools should consider how to get resources in the families' preferred languages; how they will use interpreters to communicate with families; and what to do if interpreters aren't available.

Work with your school and an interpreter to create a communication plan. Share with the school what you might need, including any translation services or learning materials, to help your child learn at home. Also share when is the best time for you to help with learning and ask the school to adapt lessons and schedules if needed.

- If the school refuses to translate, show them [what the state says](#) and remind them that it is their responsibility to work with you in a way that you can understand.
- You might want to find a family member, friend, or another trusted person who can translate for you to talk with the school.

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