



Failure to Educate Claims During the COVID-19 Pandemic

Generally speaking, most Carriers should honor Failure to Educate Claims during the Pandemic if you have the proper coverage and limits. However, this is a question that should not be delayed. Reaching out to your Insurance Broker for confirmation is imperative.

The United States Department of Education dictates that every child is entitled to a free appropriate public education (FAPE). For many students with disabilities this may not be possible without an Individualized Education Program (IEP), or a 504 Plan. An IEP must be in writing. It will outline specific services to be provided such as modified curriculum, a class aide, smaller classroom occupancy, physical and occupational therapies, and speech intervention. A parent may seek legal advice or retain an

attorney if they perceive that the school is not following the written IEP that has been agreed upon. IEP teams, which may consist of Special Education Staff, Therapists, Teachers, and the School Psychologist are not required to meet with parents in person while the school has been closed as a result of the Covid-19 pandemic. However, if the school is operating on a remote or hybrid educational platform, it is required that meetings be held virtually.

Failure to Educate claims are extremely costly. Litigation fees can quickly become astronomical. Your Insurance Broker is your best resource. A proactive approach in lieu of a reactive approach could save your district significant funds in the future.

Questions for your Broker:

- 🔍 Did I purchase insurance that will provide my school coverage in the event that a Failure to Educate claim is submitted by the family of an IEP student?
- 🔍 What Limits and Deductibles did I purchase?
- 🔍 Will my coverage respond if services such as speech and occupational/physical therapies are not delivered in-person due to a remote learning platform?

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