

CLASS ACTION LAWSUIT FILED REGARDING SPECIAL EDUCATION INSTRUCTION AND SERVICES DURING COVID-19

Hodgson Russ Special Education Alert
August 7, 2020

On July 28, 2020, a class action lawsuit was filed in Federal District Court for the Southern District of New York, alleging that public school districts have violated federal law by not fully providing special education instruction and services during the COVID-19 pandemic. The plaintiffs, represented by the Brain Injury Rights Group and Patrick Donahue Law Firm, allege violations of the Individuals with Disabilities Education Act (“IDEA”), Section 504 of the Rehabilitation Act (“Section 504”), the Americans with Disabilities Act (“ADA”), and the Equal Protection/Due Process clauses of the U.S. Constitution. Practically every public school district in the United States, and every State Educational agency, are named as defendants in this class action lawsuit. The Mayor, Education Chancellor and NYC School District are individually named as well.

This class action lawsuit seeks an injunction to immediately reopen schools for students with disabilities so that they can fully receive their previously recommended services and instruction. In the alternative, the plaintiffs seek “vouchers” to allow parents to “self-cure” by obtaining these services and instruction from agencies outside the public schools. The lawsuit also seeks re-assessment of all students with disabilities, including Independent Education Evaluations, and monetary damages, both compensatory and punitive.

At this point, all parties are awaiting instruction from the Court regarding how this class action will proceed (including service of the class action lawsuit upon all of the named defendants), so no response is necessary at this time. If you receive any correspondence or documentation regarding this class action by mail, delivery or otherwise, please contact Ryan Everhart (716.848.1718), Andrew Freedman (716.848.1332), Lindsay Menasco (716.848.1214) or any of our other attorneys in the Hodgson Russ Special Education Practice immediately. We are closely monitoring this class action and will advise what actions individual school districts should take as more information becomes available.

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

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Special Education

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