

# IN PERSON SPECIAL EDUCATION SERVICES AND INSTRUCTION MAY BE PROVIDED DURING SUMMER TERM

*Hodgson Russ Special Education Alert*  
June 6, 2020

Late on June 5, 2020, New York State Governor Andrew Cuomo signed a new Executive Order (EO 202.37) that permits public school districts to provide **in person** special education instruction and services for the 2020 summer term. The Order, reads, in part, as follows:

*Notwithstanding any prior Executive Order to the contrary, special education services and instruction required under Federal, state or local laws, rules, or regulations, may be provided in person for the summer term in school districts. Any district providing such services in person must follow State and Federal guidance.*

This order is a clear modification to Governor Cuomo's earlier announcement on May 21, 2020 that all summer school services and instruction should be provided using remote and distance modalities to help reduce the spread of the COVID-19 virus.

Although school districts are not required to provide in-person special education services and instruction, this EO could be attempting to assuage parent concerns that remote summer learning may not adequately address the needs for some students with disabilities. For this reason, parents may seek in-person services and instruction during the summer term. It is unclear whether the Governor's Order is specific only to Extended School Year Services ("ESY") or includes compensatory education services. Schools should be prepared to receive and respond to these parental requests in collaboration with their Committees on Special Education (CSE).

To the degree that public schools provide in-person special education instruction and services during the summer term, the district must develop and/or adhere to appropriate federal and state infection prevention and control protocols and procedures to assure that instruction is provided in a safe and healthy manner. This includes, but is not limited to, proper social distancing, frequent cleaning and disinfection of surfaces, objects and instructional areas, promotion of good hand hygiene, and wearing masks or other face coverings.

## Attorneys

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## Practices & Industries

Education  
Special Education

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As more information becomes available regarding the EO, including: (1) how to address parent and educator concerns relative to a return to school buildings; (2) whether and to what extent schools are required to provide transportation to students for such summer services and instruction; and (3) whether and to what extent special education teachers and related service providers are required to return during the summer term, the Special Education team at Hodgson Russ will keep you informed. Please feel free to contact Ryan Everhart (716.848.1718), Andrew Freedman (716.848.1332), or Lindsay Menasco (716.848.1214) if you have any questions.

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

If you received this alert from a third party or from visiting our website, and would like to be added to any of our mailing lists, please visit us **HERE**.