



# On The Alert!

**Date:** September 2, 2020  
**Attention:** ASCIP Members with Special Education Programs  
**Affected:** All School Facilities  
**Applicability:** Public K-12 Districts

## IDEA Class Action Lawsuit

On July 28<sup>th</sup>, 2020, a class action lawsuit alleging violation of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400), et seq., was filed against all public school districts in the United States. This suit seeks declaratory and injunctive relief from districts that, due to school closures related to Covid-19, shifted from in-person to remote learning. Such a shift is alleged to have blocked disabled students' access to a Free Appropriate Public Education (FAPE) and interrupted these students' Individualized Education Plans (IEP). While this suit was initially filed in the state of New York, it lists a number of ASCIP districts as defendants and all public schools in the United States.

This suit seeks relief through a variety of methods such as:

- Immediate restoration of programs and placement services outlined in existing IEPs;
- Conducting independent evaluations of affected students' current level of educational performance and provide compensatory education plans addressing any regression that resulted from school closures;
- Compensate parents and guardians for employment or out of pocket expenses incurred as a result of the failure to provide services outlined in students' IEPs; and
- Punitive damages and attorneys' fees.

As with any lawsuit, it must be personally served upon your district in order for your district to be obligated to respond. ASCIP does not recommend your district respond to an email from the plaintiffs' attorneys waiving service or accepting service by any means other than personal service. As an ASCIP member, your district can rely on ASCIP's guidance to assist with next steps. Should your district receive notice of this suit or communications from plaintiffs' counsel, please contact:

Noel Waldvogel, Claims Manager  
(916) 245-3523  
[claims\\_info@ascip.org](mailto:claims_info@ascip.org)

Additionally, ASCIP can offer solutions to address inquiries from the media. Please contact your ASCIP Risk Services staff for further assistance.

