

TAKE A DEEP
BREATH:
IDEA implementation
during COVID-19
school closings



In partnership with
COPAA

Thursday, April 9
1:00 PM Eastern



Agenda

- Welcome
- CARES Act and K-12 Education
- US Dept of Education and other resources on COVID and IDEA/ distance learning
- COPAA Frequently Asked Questions on COVID and Parent/Student Rights
- Your Questions

CARES Act K-12 Education

- \$13.5 billion in dedicated aid for K-12 schools, as well as billions more for childcare and nutrition services.
- This stabilization funding will be distributed to districts for all students, including those with disabilities, based on the states Title I aid-no specific earmark for IDEA funding.
- ESSA waivers are much more limited in scope and duration than in original bill, but more expansive than current law.
- No waiver authority for IDEA as was in original bill.
- However, within 30 days of the bill becoming law, Secretary DeVos must report to Congress if she thinks any additional waivers are necessary from IDEA, as well as ESSA, the Rehabilitation Act, and the Carl D. Perkins Career and Technical Education Act, in order to provide schools with "limited flexibility."
- Summary of CARES Act for k-12 (without IDEA info) <https://all4ed.org/wp-content/uploads/2020/03/CARES-Act-SummaryFINAL.pdf>

US Department of Education Resources

- COVID-19 resource page
<https://www.ed.gov/coronavirus>
- OSERS fact sheet on providing services to SWDs
<https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/qa-covid-19-03-12-2020.pdf>
- OSERS supplemental fact sheet
<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

US Department of Education Resources (cont'd)

- OCR webinar
https://www.youtube.com/watch?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=&v=DCMLk4cES6A
- OCR Fact sheet
<https://www2.ed.gov/about/offices/list/ocr/docs/ocr-coronavirus-fact-sheet.pdf>
- Federal Technical Assistance Centers. For Part C of IDEA (birth -age 3), there is the Early Childhood Technical Assistance Center <https://ectacenter.org/>. For Part B of IDEA (3-21+), there is the National Center for Systemic Improvement <https://ncsi.wested.org/>.

Message from US Department of Education



Civil rights and website accessibility rules must be followed



Federal law mandates that students with disabilities have an equal opportunity to participate in everything schools provide, including online learning, but assures districts they will have flexibility in reaching that goal.



If school district provides no educational services to the general student population, then a school would not be required to provide services to students with disabilities during that time frame.



Message from U.S. Department of Education (cont'd)

- FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, online, or telephonically.
- A few examples are provided, but flexibility is given to figure out what works for individual students.
- The OSERS supplemental fact sheet provides a list of regulations related to timelines under IDEA; emphasizes importance of parents and districts coming to consensus on flexibility.

What NDSC is Doing in K-12 Education Area

- Played a key role in ensuring that broad IDEA waiver authority was not included in the CARES Act
- Stephanie Smith Lee has done extensive research on how much flexibility already exists under the law, regulations and guidance documents-using for "behind the scenes" advocacy. Read her analysis here - <https://www.ndsccenter.org/wp-content/uploads/Analysis-IDEA-Waiver-Req.pdf>
- Signed onto a CCD Education Taskforce Letter calling for NO WAIVERS to IDEA rights
- Advocating that any flexibility must be limited in duration and scope, as well as include the protection of civil rights
- Advocating for additional federal funding specifically earmarked for IDEA in next bill.

What Advocates Can Do

- If the district is making policies that are concerning to you, find out whether they are in alignment with state policies.
- Keep records on what your child is getting and not getting and the impact on his/her education for discussions later on compensatory education.
- Share information you find on resources and best practices that your district/classroom teachers may not have seen.
- Advocate with your district regarding how the COVID stimulus stabilization funds will be spent so that students with disabilities are included.
- Take a deep breath and know that you (and likely your child's teachers) are adapting as quickly as possible to a difficult situation.

- TIES Center resources <https://tiescenter.org/>
(see right hand link for distance learning-for students with significant cognitive disabilities)
- AEM webinars
http://aem.cast.org/about/events/2020/03/supporting-accessibility-in-distance-education.html?utm_source=CAST+Newsletter&utm_campaign=093f2ac65a-EMAIL_CAMPAIGN_2018_07_18_02_58_COPY_01&utm_medium=email&utm_term=0_7396dac1a2-093f2ac65a-55680037&fbclid=IwAR0ifgRjvEMy3DN6FgMlt7ek_32VXuTdbbrDAXmqwG7HDroHmlHnTUFsOtQ8

Some Online Learning Resources

- Center on Online Learning and Students with Disabilities
http://www.centeronlinelearning.res.ku.edu/?utm_source=LPI%20Master%20List&utm_campaign=5efefb01f7-LPIMC_COVID-19-Resources_20200319&utm_medium=email&utm_term=0_7e60dfa1d8-5efefb01f7-42305035
- Distance Learning for Special Education
<https://sites.google.com/view/distance-learning-specialied/home?fbclid=IwAR2vOS9UgJHpTMm1RJ2Tm9pIn033RK3srceurfUQgmILb7DtsHz3feKJHVM>
- New website just launched— Educating All Learners
NDSC and COPAA are both partners
<https://www.educatingalllearners.org>

Some Online Learning Resources (cont'd)

NDSC COVID-19 Resources

- NDSC COVID-19 Resource Library: <https://www.ndsccenter.org/programs-resources/covid-19-resources/>
- Collaborative Q&A COVID-19 and Down Syndrome document (both abbreviated and extended versions) <https://www.ndsccenter.org/programs-resources/covid-19-resources/>
- Adjusting to online learning: NDSC 3-part Online Learning Series, Preparing Yourself, Your Family, and Your Home for Online Learning; The ABCs of K-12 Online Learning for Students With Disabilities; and Practical Tips and Tools for Online Learning. <https://www.ndsccenter.org/outreach-education/parent-webinars/>

COPAA COVID FAQ

https://cdn.ymaws.com/www.copaa.org/resource/resmgr/docs/2020_docs/faq_final-3-31-2020.pdf

School closures

- 45 states have closed schools
- 12 states have closed schools for the remainder of the year
- DC, US Virgin Islands. Puerto Rico and American Samoa

COPAA position on school closure and education for students with disabilities

- The policy documents released on March 12, 16 and 21, 2020 in response to COVID 19 are a new position for the Department.

Former policy from 2014

- Office of Special Education and Rehabilitative Services, [*Preparing for Infectious Disease: Ebola: Department of Education Questions and Answers on Providing Services to Children with Disabilities During Extended Student Absence or School Dismissal*](#) (December 2014).
- "If a child with a disability is absent from school for an extended period of time because ... the school has been dismissed at the request of public health authorities, then school administration officials and the child's IEP Team (or appropriate personnel under Section 504), in collaboration with public health authorities, *must* determine whether the child is available for instruction and could benefit from homebound services such as instructional telephone calls, homework packets, Internet-based lessons, and other distance-based learning approaches, to the extent available"

The
Department
has also taken
this position
regarding
charter
schools

- OSERS, [Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools Under the Individuals with Disabilities Education Act](#) (Dec. 28, 2016)

- There is a long line of cases from Ohio, Montana and Hawaii that state that during a teacher's strike students with disabilities are entitled to an education regardless of the fact that no one was receiving an education because the teachers were on strike.

Teacher Strike cases

School district Insolvency



Chester Upland Sch. Dist. v. Commonwealth



(still an obligation to provide education to students with disabilities)

Q: Is the *Endrew F.* standard for appropriateness lessened during the COVID 19 outbreak?

A: No, the Supreme Court case remains valid law that is not superseded by the pandemic. Schools must continue, working under the constraints of the pandemic circumstances, to ensure that students with disabilities are provided with challenging and ambitious goals commensurate with a student's abilities.

Justice Roberts wrote:” The IDEA demands more. It requires an educational program reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” To be clear, this applies to the child’s abilities and potential - not to the closure of schools.

Expectations

COPAA expects that school districts will do all they can to provide FAPE to students at this difficult time.

What are
states
supposed to
do?

Q: Are states required to hold IEP meetings during closures for COVID 19 prior to providing distance learning to students with disabilities? What if my school district does not offer an IEP meeting prior to providing distance learning?



Check your state policies

There are many school districts that are offering, or plan to offer, IEP meetings using technology.

A: In this unprecedented time, you should try and work with your local school district to develop a plan to implement as much of the current IEP that works for your individual student, considering any constraints imposed by your state and locality with regarding to social distancing. If necessary, the team may agree to make temporary changes for a time limited period during the pandemic. In the process of working with your local school district: **document, document, document** services your child had previously, services that have been offered during the school closure, your child's progress, your child's access to the materials and education are a few examples.

Q: What services am I entitled to request for my child during the school closure due to COVID 19?

Q: Am I waiving my rights to challenge the educational services I am offered for my child during this time?

A: Parents should state they want their concerns noted in the Prior Written Notice (PWN) the school district will send out after the IEP meeting. If the concern is NOT in the PWN, then parents should place their concerns and objections in a written letter to the school. If a parent is asked to consent or sign a PWN then, again, note the concerns, note the discrepancy and state clearly, in writing, that once school resumes, there is an expectation that services previously provided resume.

Q: Are districts obligated to provide FAPE?

A: COPAA expects that school districts will do all they can to provide FAPE to students at this difficult time.

OSEP recognizes that once school districts begin to offer distance learning to students, they must offer equitable access and services to students with disabilities (those with IEPs and those with Section 504 Plans). As noted in the March 21, 2020 Guidance: **“To be clear: ensuring compliance with the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act should not prevent any school from offering educational programs through distance instruction.”**(emphasis in the original).

Q: Will my child automatically qualify for compensatory services or Extended School Year (ESY) after schools re-open?

A: Possibly. Some school districts may determine that they will automatically provide compensatory services or ESY to certain students under certain circumstances.

If parents think their children may require compensatory services, they should document which services a child may be missing during this time of school closure due to COVID 19. This documentation would be used to qualify for ESY and/or compensatory services.

Compensatory Education Ideas

Q: What about timelines, do they apply during the closure?

A: According to OSEP, in the March 21, 2020 Guidance: “As a general principle, during this unprecedented national emergency, public agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate.” In light of the emergency situation created by the pandemic, parents may find it necessary or reasonable to agree to some extensions of time. It may be that it would be impossible, for some period of time, for some evaluations that require in-person observation to take place.

THANK YOU AND STAY SAFE!

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