

CASE webinar, March 27, 2020

Navigating the COVID 19 Crisis

#WeKeepLeading

Four Priorities for Special Education:

1. Focus on the safety, health, and welfare of students and staff members in your community.
2. Provide FAPE - Deliver services to as many students as you reasonably can in the best way you know how.
3. Document your efforts; make sure documentation is focused, consistent, detailed and demonstrates a good faith effort to provide good services.
4. Compliance during the pandemic - IDEA wasn't built for this.

Disclaimer - *Information is the best we know at this moment*

March 12 OSERS released Q&A on providing services

Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak (March 2020)

<https://sites.ed.gov/idea/idea-files/q-and-a-providing-services-to-children-with-disabilities-during-the-coronavirus-disease-2019-outbreak/>

Some states chose to not provide any services – as a response on 3/21, released supplemental fact sheet *Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities*

<https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/rr/policyguidance/Supple%20Fact%20Sheet%203.21.20%20FINAL.pdf>

Federal law should not be used to deny services – school districts MUST provide FAPE consistent with students needs, ensuring....

Laurie VanderPloeg, Director, Office of Special Education Programs (OSEP) Office for Special Education and Rehabilitative Services (OSERS) United States Department of Education

- The Dept. will offer flex where possible, provision of TA and dissemination of resources
- Answering questions
- Will provide more guidance – rural, online, etc.
- Identified (2) TA centers – ECTA, NCSI for K-12, all resources on COVID 19, providing distance learning
- We are collaborating with OESE, for all students, start with general ed first
- Re, access to SWD – prioritized supports to parents and families – working closely with PTIs
- PBIS center – guidance to parents on how to address parents' needs, engage in learning opportunities
- NTACTION – mentioned Tuesday, 3/24 webinar
- IRIS Center
- Visit OSEP website for OSEP resources to provide FAPE to SWD
- On behalf of Mark Schulz – thanks for what you are doing

Myrna Madlawitz, JD, CASE Policy and Legislative Consultant

- CASE has its own resource document – continually updating to add additional pieces – Considerations for Special Education Administrators, March 21, 2020
- <https://Bit.ly/CASE-COVID19>

Department of Education – Student Privacy and Policy Office

- **FERPA Virtual Learning - March 2020** <https://bit.ly/FERPAVirtual>
 - **OSERS/OCR Supplemental Fact Sheet (03/21/2020)** <https://bit.ly/OSERSOCRSupplemental>
 - **OCR Fact Sheet (03/16/2020)** <http://bit.ly/COVIDOCRFacts>
 - **FERPA Guidance (03/12/2020)** <http://bit.ly/FERPA-COVID19>
 - **OSEP Guidance (03/12/2020)** <http://bit.ly/OSEP-COVID>
- Congress poised to finalize stimulus package
 - Working with partners to think about what possibilities might be necessary to work with families to provide SpEd and related services given the circumstances

Allowable expenses – see slide

- Baseline of support to all districts, also state-level funding to target LEAs particularly hard hit by COVID-19
- 30.75 billion for ed stabilization fund
- 3 billion for governors for emergency relief fund
- 308 million to states hardest hit by COVID-19
- Largest portion will be sent to individual school districts based on Title I formula
- State stabilization fund

MoE: Maintenance of effort piece not specific to IDEA – looking at fact states will ensure they will maintain support for Ed and Higher Ed

Report in 30 days of passage – limited flex that may be needed in IDEA, Perkins, and ESEA for the period

Allowable expenses slide – stimulus funding as it relates to IDEA

- No specific line item related to access to tech and internet – CASE is working with some of its partners in next package to provide in its next line item
- Not final amount of money – more coming forward.

The Hill is anxious to hear how you feel about package – Is it sufficiently flexible for use as you need it?

Priority #1 - Focus on the safety, health, and welfare of students and staff members in your community.
[See slide]

Julie Weatherly, Esq., Resolutions in SpEd

- Follow guidelines sent by the CDC for physical distancing – it becomes important to follow guidelines for service providers (not recommended)
- Be a good role model when you are on video – don't touch your face
- Duty as a mandated reporter, even in video calls; be vigilant in online education

Priority #2: Provide FAPE - Deliver services to as many students as you reasonably can in the best way you know how.

Kevin Rubenstein, Ed.D., CASE, Policy & Legislative Chair, Illinois
Erin Maguire, CASE President, Vermont

- Provide FAPE – deliver to as many students as you reasonably can in the best way you know how
- INSERT CASE continuum graphic – refined (use in NTACT state-to-state sharing slide deck, CMG)
- VT just closed schools for remainder of SY – ensure the work is accessible and accommodated

Priority #3: *Document your efforts; make sure documentation is focused, consistent, detailed and demonstrates a good faith effort to provide good services.*

- There is still an obligation to provide something for all students and especially for SWD
- Document your good faith effort
- FAPE school closure slide- insert new CASE continuum slide in NTACT state-to-state sharing slide deck, CMG
- Good faith efforts to tailor instruction?
- Promote activities that can be done in the home setting
- Twitter and Facebook posts – parents are struggling to educate the children in the home
- Consultation with SpEd teachers as appropriate
- FAPE is not just programming – it’s also procedural
- Working with teams to ensure all providers are documenting to greatest extent possible, i.e., new services or temporary discontinuation
- Documenting in a phone call, following up in an email, “this is what I heard” – can’t expect them to run to post office to document in the IEP at this point
- Erin will give us a great model from VT – temporary learning plan there
- **Any FERPA info – consult with your school attorneys for great guidance**
- What is acceptable – providing group services; temporary plans for learning over the next few months

Consultation with parents

- Make a “bite sized” effort – think of this like our parents are going into their own student teaching without ever having the desire to be a teacher, without any knowledge of direct instruction – what level of student support, coaching, consultation is needed for parents to provide for their students in disabilities
- Ensuring we are clear that parents can take on – take care of ourselves and our educators and our families; ensure we understand what they can take on and what they aren’t able to. – empathy and deep listening – **consultation is a new type of service**
- **Consultation as primary mode** – how do families engage with that – keep the pulse of how families are doing; ensuring their primary needs are met
- Use parent input to the extent we possibly can – the process by which we are beginning to move in to new plans need to follow general processes, but maybe not the forms
- As SpEd directors, what we understand to be the intent beyond the law – Parent rights protect for parent input, new plans as it relates to educational programming, role of parents is as important as ever – **parents play a critical role** – documentation of plans as they show FAPE; see it, be present for it – **if parents don’t want to participate, it doesn’t relieve us from responsibility**

Intent behind procedural safeguards

- Attempt to engage with students and how student responds – **there will be a time when we need to know what we did and why we did it**
- Tailored instruction with family – all areas of focus for what we ask of parents, special educators, what you might think about as you have those conversations
- **Be in touch with your state departments**

Example of documentation (elementary-level)

<https://bit.ly/CASEServiceLogS>

Distance Learning or Temporary Learning Plan in addition to the IEP

<https://bit.ly/CASEDistancePlan>

- Template – maintenance time frame, developed in collaboration with parents; provide FAPE, document it, and track what you are doing
- Incorporate parent input and apply parents' rights in these processes
- Not our interest to move away from the IEP – document separately what FAPE will look like under the circumstances

CHANGE IN PLACEMENT

- Approach from a legal perspective – whether or not this is a change of placement, it certainly is
- IDEA didn't contemplate this when it was put into place
- Prior written notice, convening full IEP team – this is a virus forcing a change of placement
- **We don't want this change of placement to be considered a change of placement – work with school board attorney for what distance plans will look like; an amendment to the IEP; keep the IEP intact – it is the current placement for purposes like “stay put”.**
- Can parents ask for Due Process? Of course they can. There isn't anything to prevent them from doing that. **Be careful about this and think about it with procedures; work through with school attorney**

Priority #4: Compliance during the pandemic – IDEA wasn't built for this

- Exercise patience – AL, like VT's; announcement of closure for the rest of the year
- **All schools should continue to make good faith efforts to comply with IDEA (see slide)**
 - 60-day timelines
 - Annual Reviews
 - IEP Meeting Procedures (written notices, meeting participants, meeting procedures)
 - What is the purpose of the procedure and how can we achieve that purpose **“in light of the current circumstances”**?
 - Purpose of 60-day timeline...see slide

ASK: How can we do this in light of the current circumstances? What is the purpose of an annual review?

- Regularly reviewing progress toward IEP goals....reflect good faith reasonable efforts
- Written notice – continue to make good faith efforts; purpose is parents are informed – how will we get that done?
- IEP meeting procedures – to ensure parents are provided the opportunity for meaningful and informed participating in decision-making and are made aware of procedural safeguards
- Think like a hearing officer – Andrew F. and looking at that language; looking at the “substantive grounds” – **What is FAPE in light of COVID-19?**
- See slides related to what would a hearing officer say?

Stay calm cool and collected and we will get through this together

Q&A

Myrna Mandlawitz, JD, CASE DC

Q. What about privacy for staff reaching out, without displaying their personal phone numbers

- A. *67 before you dial a number, will come through as unknown – leave a message, privacy
- Tech trick for iphones, you can hide numbers in settings
 - Encouraged if you are a Gmail district, there is a dialing function in Gmail – Google put out a whole suite of tools; can make calls directly from your computer
 - Can get a free phone number by downloading a Google app, that can give you a private number

Q. What is the recommendation for intervention specialists to conduct virtual groups? Privacy? Who's in the home?

A. Consult with school board attorneys

Family compliance – Letter to Mamas, May 26, 2004

<https://www2.ed.gov/policy/speced/guid/idea/letters/2004-2/mamas052604placement2q2004.pdf>

- Those seeing children in groups; not a FERPA concern, it's not a release of personally identifiable records; don't record; service providers need to be careful about personally identifiable information – family compliance, get that guidance down with attorney for provision of services
- New guidance – Myrna, on slides at very beginning – new piece with link to letter to Mamas (see front-end slides)

Final remarks

Q&A from 3/24 webinar - Continuing to work on those asked last week, will post by middle of next week (week of 3/31)

www.Cec.sped.org

www.Caseceec.org

Weekly update from CASE, will provide info through that avenue

Legislative action center – CEC

We keep leading hash tags - SDs