Navigating the COVID-19 Crisis

Erin Maguire, CASE President
Myrna Mandlawitz, J.D., CASE Policy and Legislative Consultant
Kevin Rubenstein, Ed. D., CASE Policy & Legislative Chair
Julie Weatherly, Esq., Resolutions in Special Education

Moderated by: Phyllis Wolfram, Executive Director, CASE

May 1, 2020

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Agenda

1. Welcome and Introductory Comments
2. Introductions
3. Four Priorities - Do’s and Don’ts
4. Updates from Washington
5. Moving Forward: ESY, Compensatory Education, Data and Goal Progress
6. Questions

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**Presenters for Today**

- **Erin Maguire**
  - CASE
  - President
  - Vermont

- **Myrna Mandlawitz, JD**
  - CASE
  - Policy & Legislative Consultant
  - Washington, DC

- **Kevin Rubenstein, Ed.D.**
  - CASE
  - Policy & Legislative Chair
  - Illinois

- **Julie Weatherly, Esq.**
  - Resolutions in Special Education
  - Alabama

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@myrnamandlawitz  
@kdruben  
@jweatherlyesq
Real Talk

Disclaimer:

The information we are providing today is the best we know at this moment.

- It might change by the end of the webinar based on additional guidance.
- It could change by next week or if things change.
- States have specific guidance which should be reviewed as well.
Legal Considerations in this "Phase" of COVID-19 Service Implementation

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Phyllis Wolfram
Executive Director
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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.

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Four Priorities for Special Education:

1. Focus on the safety, health, and welfare of students and staff members in your community.

<table>
<thead>
<tr>
<th>Do</th>
<th>Don’t</th>
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<tbody>
<tr>
<td>● Follow CDC and State Guidance Documents even during the summer</td>
<td>● Bring populations of vulnerable children together because it’s easier or because it’s tradition.</td>
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<tr>
<td>as you are planning for ESY and reopening.</td>
<td>● Turn to your special education lawyer for answers as to when students should be brought back on school campuses.</td>
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<tr>
<td>● Plan for possible challenges with health and welfare in the long</td>
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<td>term.</td>
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<tr>
<td>● Focus on mental health for your staff and for students - what</td>
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<td>are you doing to keep balance?</td>
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Four Priorities for Special Education:

**Provide FAPE - Deliver services to as many students as you reasonably can in the best way you know how.**

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| ● Continue to provide as many services as possible through remote learning as you can.  
 ● Provide Extended School Year services as you typically would have (just provide them virtually)  
 ● Make services and supports individualized for students with disabilities. | ● Ask parents to sign “FAPE waivers.”  
 ● Decide you’ll just handle things through “comp. ed” when schools reopen.  
 ● Stop reaching out to families, even if they have disengaged with you.  
 ● Stop reaching out to general ed. folks. |

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## Four Priorities for Special Education:

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

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| ● Assist your teams with staying organized with all of the “paper” and virtual records.  
● Organize yourself and your team over the summer for what the Fall will look like (i.e., evaluations, meetings, etc.) | ● Force yourself to rely on memory during this emotional and challenging time.  
● Count on others to be organized or to have a good plan of organization.  
● Plan to organize yourself “later” when things are back to “normal.” |
### Four Priorities for Special Education:

**Compliance during the pandemic - IDEA wasn’t built for this.**

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<tr>
<td>● Comply with meeting notification requirements in the best way you know how.</td>
<td>● Count on any flexibilities coming from Congress.</td>
</tr>
<tr>
<td>● Attempt to meet timelines as best as possible.</td>
<td></td>
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<tr>
<td>● Follow through with state guidance documents.</td>
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Updates from Washington DC

Myrna Mandlawitz, J.D.
CASE Policy & Legislative Consultant
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How the Federal Government Monitors States

The Need for Flexibilities in Some of the Process Pieces

- Under Section 1416 of IDEA, the U.S. Department of Education is tasked with monitoring compliance of state and local education agencies with all of the “process pieces.”

- Each LEA is required to submit data to the state that reflects process compliance (e.g., timely completion of initial evaluations, annual reviews of IEPs, timely resolution of parent complaints)

- In turn, each state submits this information to the U.S. DOE through its State Performance Plan.
Acting to Support Flexibilities

Temporary and Targeted Flexibility Is Necessary

- CASE sent a letter to Congressional leaders and to others at the Department of Education to support flexibilities under IDEA to address the challenges of COVID-19.
  - Letter is available at: https://bit.ly/LetsBeFlexible
- CASE does not support waivers of IDEA in any way.
Acting to Support Flexibilities

Temporary and Targeted Flexibility Is Necessary

- Secretary DeVos issued recommendations for flexibilities on Monday:
  - No support for “blanket waivers.”
  - Recommended flexibilities in the Part C to B Transition Timelines
Acting to Support Flexibilities

Temporary and Targeted Flexibility Is Necessary

- Senator Cassidy (R-Louisiana) and Senator Murphy (D-Connecticut) offered a plan for narrow, temporary, and targeted flexibilities:
  - **Principle 1:** Preserve the right FAPE
  - **Principle 2:** Engage Parents, Ensure Due Process
  - **Principle 3:** Maintain Oversight and Accountability
  - **Principle 4:** Communicate Current Flexibilities Clearly and Provide Assistance
  - **Principle 5:** Provide Funding to States and School Districts
## CARES Act - K-12 Funding Summary

<table>
<thead>
<tr>
<th></th>
<th>Elementary and Secondary School Emergency Relief Fund</th>
<th>Education Stabilization Fund Discretionary Grants</th>
<th>Governor’s Emergency Education Relief Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Amount</strong></td>
<td>$13.5 Billion</td>
<td>$307 Million</td>
<td>$3 Billion</td>
</tr>
<tr>
<td><strong>Formula</strong></td>
<td>Title I</td>
<td>Application</td>
<td>Population &amp; number of K-12</td>
</tr>
<tr>
<td><strong>Distribution</strong></td>
<td>State Agencies</td>
<td>Governors’ Offices in states hardest hit</td>
<td>By Governors’ Offices</td>
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Additional Asks - Funding

Potential Funding in Another Stimulus

- IDEA Funding - $13 Billion?
- ESEA
- e-Rate
- Other Areas

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Moving Forward:
ESY, Compensatory Education, Data and Goal Progress

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### Considering ESY in Light of COVID-19

**May 1, 2020**

<table>
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<tr>
<th>June 2019 - Point the Schools Closed</th>
<th>March 2020 - June 2020 COVID-19 School Closures</th>
<th>June 2020 - August - 2020</th>
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<tbody>
<tr>
<td>• Analyze the data and determine student progress at the point schools closed.</td>
<td>• Maintain documentation of what services were offered.</td>
<td>• Implement ESY services based on team determinations</td>
</tr>
<tr>
<td>• Consider ESY based on prior regression data at this point. (These students have likely already been identified or decided through a typical IEP meeting)</td>
<td>• Maintain documentation of what services were delivered.</td>
<td>• Analyze COVID Impact</td>
</tr>
<tr>
<td></td>
<td>• Collect solid data on IEP goal progress across the time frame services are delivered under distance learning frameworks.</td>
<td>• Consider addressing COVID Impact for all students including students with disabilities</td>
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<td></td>
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<td>• Plan for the Fall through assessment of student performance and delivery of FAPE</td>
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Thinking Through ESY Logistics

Some Design Principles

- Don’t use ESY as the catch all
- Think about the 4 Priorities
  - In person vs. virtual
  - Beginning of summer vs. end of summer
  - Provide FAPE based on individual needs and student circumstances
  - Classes vs. Group
Compensatory Education

A Legal Analysis:

FAPE is required during the Pandemic

- Compensatory Education is a legal remedy if a district does not provide FAPE
- Ask these questions:
  - What is FAPE under the circumstances?
  - Has the district documented and offered FAPE during the pandemic?
IEP Goal Progress Monitoring

The Importance of the Final Benchmark

Understanding the Success of Distance Learning

- Consider Assessment Possibilities
- What aligns to goals and how could you gather this data?
- Manage the data
- Support Special Educators to analyze data to provide clear COVID impact.
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Questions for Presenters

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To stay up to date on resources and information visit:

www.cec.sped.org

www.casecec.org

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Thank you for participating in the webinar today.

Connect with CASE Again soon!

May 12, 2020 - 4:30pm CST