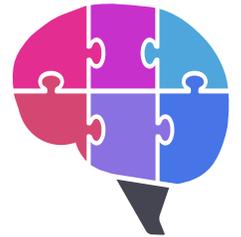


IEPs and IDEA during Distance Learning



October 7, 2020

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Hello!

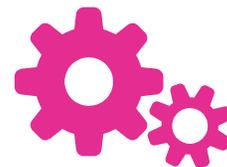
I am Kristin Carpenter, founder of
Linder Educational Coaching.



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Eligibility

The IEP process during COVID



The timeline is clear



15 days



45 days



30 days



Referral and Consent

A referral can be made by an educator or the parents.

Evaluation Decision

The school must notify the parents if refusing to move forward with evaluation or seek consent to evaluate.

IEP Decision

IEP team meets to decide if the evaluations justify an IEP.

IEP Development

The team must meet within 30 days of eligibility to create an IEP which goes into effect immediately.



Closed Loopholes

- **No extended timeline.**
 - “The 45-day timeline cannot be extended for all children within a state under the assumption that COVID-19 is an exceptional family circumstance for all families.” – US DOE July 6, 2020
- **If SPED assessment “cannot be completed,” the answer is not to delay assessment, but instead to use alternative records:**
 - “Thus, the Department highlights the option of using medical records, when appropriate, to establish eligibility without conducting an evaluation.” – US DOE July 6, 2020
- **Most Measures are not Valid Virtually**
 - “, under 34 C.F.R. § 300.304(c)(1)(iii)-(v), tests and other evaluation materials **must be used for the purposes for which the assessments or measures are valid and reliable**, and must be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the assessments.” – US DOE Sep. 28, 2020

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FAPE

IEP changes for a virtual environment



...no matter what primary instructional delivery approach is chosen, SEAs, LEAs, and individualized education program (IEP) Teams remain responsible for ensuring that a free appropriate public education (FAPE) is provided to all children with disabilities. **If State and local decisions require schools to limit or not provide in-person instruction due to health and safety concerns, SEAs, LEAs, and IEP Teams are not relieved of their obligation to provide FAPE to each child with a disability under IDEA.**

- US DOE Sept. 28, 2020

Procedural Safeguards



You have the SAME rights as a parent of a student that you did pre-COVID, including **Prior Written Notice** for any change the school “proposes or refuses to initiate or change the identification, evaluation, and educational placement of the child.”



Core Concepts

Parent Participation

Schools are legally responsible to have a parent participate in the IEP, and must work to find a mutually agreeable time.

Stay Put

”**Stay Put**” rights apply when you dispute a change the school wants to make to your child’s IEP.

The IEP stands “as is” until you as a parent agree to changes.

Present Levels of Performance

Most goals and present levels were written **before** COVID.

Do not adjust goals or services until you have current metrics.

Virtual Demands



No more “push in” services

In a virtual environment, push-in services are impractical. Each push in service hour should be translated to small group, one-on-one, or in-person.

Related Services

Related services (speech, OT, etc.) should be provided in person or through a virtual platform if appropriate.

Accommodations

In order to write effective accommodations, one must understand the exact nature of instruction and assessment proposed.

Common **false** claims



Automatic Service Hour Decreases

- There is no limit on service hours or automatic federal calculation.
- Lack of funding is not an acceptable reason to limit services.

Removal of Accommodations or Services “temporarily”

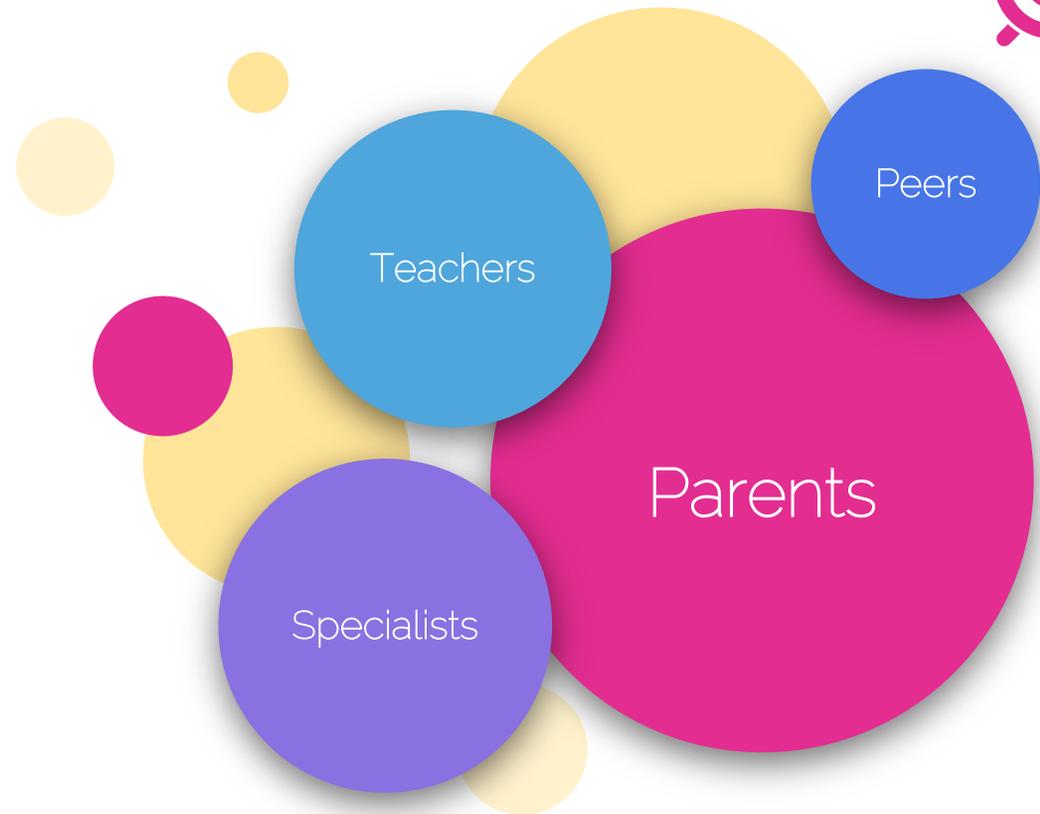
- PLOP matters
- Consider altering service dates instead of changing IEP

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Working together

Finding solutions in a complex time

It truly
takes a
village





Solution Mindset

- **Proposing Solutions**
 - Outlining legal obligations or current DOE guidelines can help all parties
 - Compensatory Services
 - Not just closing the gap, but also compensating for “loss of opportunities” over duration a student did not receive services
 - Can be money for private services or increase in school services
- **Look to the community for phasing and public health guidelines**
 - Seek reimbursement or direct contracting by the school system of private service providers if offering in-person
 - Ten-day notice of intent
- **Consider what can work best for *your* family, and work backwards.**
 - Abbreviated day, one-to-one virtual, homebound, private placement
- **Document, document, document.** It helps them understand your struggles and your child get the help he or she needs.

Next Steps



1. Review the DOE documents posted by NDSS.
2. Consult with an advocate - join COPAA – Council of Parent Advocates and Attorneys
3. Get a present level of performance across all domains (academic, functional, social, etc.).
4. Assess your child through your pediatrician or outside providers with relevant instruments (screeners, scales, etc.).
5. Record meetings – check by state.
6. Do not sign documentation in the moment – understand the power of email agreement, and always compare the proposed IEP to the previous version before signing.
7. Do not be afraid to insist upon your legal rights, the USDOE is on your side.



Thanks!

Any questions?

You can reach me at KristinCarpenter@LinderEC.com