Protecting Rights of Students with Disabilities
as States and Districts Re-Open Schools

Introduction
The education of public and private school students across the United States has been seriously disrupted in the effort to slow the spread of COVID-19. Currently there are approximately 7 million students with disabilities eligible for special education under the Individuals with Disabilities Education Act (IDEA) and over 700,000 students with 504 plans as provided by Section 504 of the Rehabilitation Act of 1973 (Section 504) whose learning has been interrupted and, in some cases, has stopped altogether. Even where schools have pivoted to distance learning, we know that many students with disabilities have not been able to receive the full complement of educational supports and services necessary to provide them with a free appropriate public education (FAPE) as outlined in their individualized education programs (IEPs) or 504 plans. For students who lack devices or have limited access to the Internet, and for students who disabilities render them unable to benefit from/participate in remote learning, educational progress has stopped.

Schools need to be reopened as quickly as health and safety of students and staff will permit. A number of organizations have released guidance on re-opening schools (see resources below). COPAA believes state, districts, schools and families need to follow advice of public health experts in determining when and how to re-open schools.

Any plan to reopen schools should be guided by the following principles:

1. **Plan with equity and individualization in mind.** Reopening schools safely will require adjustments to when, how, and how many students return to school at one time. Continued distance learning or a hybrid approach of in-school and remote instruction may well be necessary intermediate steps. In creating a path to reopening, we must not develop and implement policies and practices that discriminate against students with disabilities and their families.

   The IDEA requires states, districts, and schools to continue to meet their obligation to provide a FAPE to students with disabilities and that parents maintain their right to be involved in all educational decisions. Nothing in the current emergency waives or undercuts those rights. The IDEA requires that students with disabilities be given access to the general curriculum in the least restrictive environment to the maximum extent appropriate. For the majority of students this should mean going back to school in the regular classroom alongside peers without disabilities. If a student has a medical
condition that makes returning to the school building unsafe, options must exist for students and families to opt-out of in-person instruction and continued to be provided with a FAPE through virtual instruction. Arrangements to receive therapies may need to be made outside of the school building or at times when other students are not present. Flexibility and creativity will be essential both for schools and for parents.

2. **Collaborate and communicate with families.** Since the pandemic hit our nation, COPAA has consistently advocated that, as federal law requires, students with disabilities are best served when schools and families come together and put the needs of the child at the heart of every discussion. Indeed, the collective capacity of state, district and school leaders, teachers, parents, and students to address the complex issues they are facing together has been and is remarkable. Amidst all the turmoil, we have seen phenomenal things occur during distance learning and have faith that when districts and schools commit to re-opening their doors, the same will be true.

Collaboration and communication must be both intentional and ongoing. Schools and districts need to reach into their communities and ask for help engaging with families. Working with the broader parent advocacy community in a transparent and timely manner, at the onset of state or district planning, is essential to protecting rights.

3. **Review, and if necessary, revise IEPs and 504 plans to be responsive to the child’s needs.**

Before, or if necessary, when school reconvenes the child's IEP team will need to meet to determine present levels of performance and any necessary adjustments to specialized instruction, delivery of services, supports or accommodations. The determination must include health status, academic progress and social and emotional needs. Many students faced trauma or have exacerbated anxiety as a result of the closure. Teams must closely examine the student’s progress or regression on all three domains; and make create educational plans based on existing data. For students with 504 plans, it is equally as important to review what accommodations, supports or services are being provided and adjust. Young children receiving early intervening services that were halted or scaled back may need additional services to ensure progress in important developmental milestones. Students who aged out during the period of closure will require an extension of eligibility.

Special considerations may need to be given to students with intellectual, emotional, and/or behavioral disabilities who have struggled significantly to cope at home during the pandemic and who have regressed due to the lack of structure that school provides. Schools and families must work together to determine if adjustments need to be made or additional evidence-based interventions added to provide mental health, behavior, and/or trauma informed care to students. The legal standard is clear: the IEP team must accurately assess the student and then adjust the program to provide the student with the educational benefit that likely would have accrued from the services the district would have provided but for the closure.

[www.copaa.org](http://www.copaa.org)
Conclusion

COPAA members look to the days when schools are able to return to school buildings safely. Through joint efforts among and between states, districts, schools, and families, we believe the transition back can be done well. This is especially true when the needs, rights, capacity, and desire for equity in opportunity for all students, including students with disabilities are thoughtfully and meaningfully accounted for and considered.

Resources

- Learning Policy Institute - The information in this brief compiles health and safety guidelines from five countries that have continued or reopened schools during the COVID-19 outbreak: China, Denmark, Norway, Singapore, and Taiwan.
- American Federation of Teachers, Plan to Safely Reopen America’s Schools and Communities
- UNESCO, UNICEF, the World Bank, the World Food Programme, Framework for Reopening Schools
- CDC – Community Mitigation Strategy