COPAA Statement and Policy Recommendations: Distance Learning   **April 2022**

School closures due to COVID-19 had a significant and disproportionate negative impact on students with disabilities.[i] Some thrived, however they were the minority. At the same time, many school districts struggled to develop means to address the specific needs of students with disabilities, English language learners, and students without good and reliable internet access.[ii] Early elementary children and vulnerable student populations (e.g., students with disabilities, low-income students, English learners) were most at risk for experiencing learning loss, slower than expected progress on educational goals, lost skills (e.g., social, emotional, tactile) among other losses.[iii] They were also the students most likely to be chronically absent. Students with disabilities face new challenges because of Long-COVID health complications, closures, and restricted/segregated learning environments.

Lessons learned from the pandemic are likely to accelerate the pre-existing trend to integrate technology into learning, both in the school environment and remotely.[iv] Distance learning means that the student is accessing curricular materials remotely using a computer or other device, rather than in the classroom having direct contact with a teacher. Some distance learning is synchronous, meaning that education, instruction, and learning occurs at the same time for students and teachers. Some is asynchronous meaning instruction and learning occur in different locations and at different times[v] (e.g., a student logs onto a pre-recorded class at their own convenience and pace). Prior to the pandemic, few schools offered synchronous distance learning especially in the younger grades. The necessary implementation of distance learning due to COVID-19 school shutdowns meant schools and families faced severe challenges as many students did not have reliable internet access, consistent parental oversight, and/or the technology to regularly access education at home[vi]. Elementary and secondary school teachers were not trained to teach virtually. The results of synchronous distance learning [during COVID-19 shutdowns] were generally inferior.[vii]

Distance learning is, however, a critical option for students with medical or emotional conditions that make in-person attendance difficult or harmful. Students with anxiety, school-phobia, attentional issues, depression, or those who have experienced bullying and/or harassment may also benefit from remote instruction. Under the Individuals with Disabilities Education Act (IDEA), the school team developing the student's Individualized Education Program (IEP) can provide for instruction in the home if the program of instruction provides the student with a free appropriate public education (FAPE) and if an in-school program will not provide a FAPE. However, both research and practice continue to show that distance learning reduces opportunities for many crucial social aspects of learning[viii] – in addition to critical social development – which students with disabilities may require as part of their IEPs.

Where schools offer general programs of remote/virtual instruction, such as having one of four history sections taught on-line, students with disabilities must have equal access to the remote course. In cases where the student with a disability has deficient executive functioning skills, the IEP and/or 504 Plan needs to provide the supports the student needs to succeed in the remote instruction environment. We are concerned that remote classes may become a regular vehicle to exclude students with disabilities from challenging educational opportunities.

As schools have re-opened for in-person learning, states like Maryland, Minnesota, Indiana, and others have taken steps to expand distance learning options in K-12 schools.[ix] There exist too few guardrails to ensure protections for students with disabilities. In the rush to manage personnel staffing shortages, family expectations, budget challenges and more, states and districts may be offering new synchronous and asynchronous learning options in K-12 settings without also ensuring they can meet the full requirements of federal law under the IDEA, Section 504 of the Rehabilitation Act of 1973 (Section 504), and the Americans with Disabilities Act (ADA) for all eligible students.

COPAA Call to Action

To ensure states and school districts develop comprehensive plans regarding distance learning options in K-12 schools so that students with disabilities are not adversely impacted or discriminated against, COPAA seeks guidance from the U.S. Department of Education (the Department) regarding programs of remote learning. While the Department's Office for Civil Rights (OCR) and Office of Special Education and Rehabilitative Services (OSERS) issued guidance[x] at the beginning of the pandemic regarding the rights of students with disabilities, COPAA believes updated guidance is also needed on this topic. Specifically, such guidance will:

- Clarify that any state or district-funded program of in-home instruction,[1] service or activity that is offered to the general student population must be available to students with disabilities with the accommodations and modifications necessary to permit students with disabilities to progress in the remote environment.
- Make clear the requirements for distance learning programs for students with disabilities (as required by the IDEA, Section 504, and the ADA) so they can have equal access to the same educational opportunities, participate in and benefit from the same challenging educational opportunities, meet state and district-set academic standards, and assure the student makes progress in the general curriculum as required by IDEA, Section 504 and the ADA. Considerations may include (but are not limited to):
  - Hours of instruction per week
  - Offering of electives
  - Attendance policy
  - Grade calculation policy (e.g., homework, quizzes, tests, project (group or otherwise))
  - Code of conduct policy and discipline procedures
  - Statewide standardized assessments/district assessments as applicable
  - Impact on socialization opportunities (e.g., clubs, sports, other activities)
- Ensure any program of remote instruction should include the opportunity for substantial time with peers in school-based activities.
- Clarify that any school offering a program of remote instruction should also offer in-school programming covering the same material.
- Ensure the student's IEP outlines how the school's distance learning program will provide all other services and supports a student requires[2].

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[1] This should include instruction in a remote location: as an example, California's "independent study" option which requires a student to attend a designated place to receive the independent study/virtual instruction.
[2] Some states may require affirmative parental consent for any remote instruction for any student. COPAA supports such a requirement where it is applied to all students. Where there is not such requirement, however, placing a student with a disability in a program of remote instruction needs to be specified in a student's IEP, subject to the procedural rights of a parent to participate meaningfully in the team meeting and to challenge the determination.

- Specify that any program of remote instruction needs to include clear measurements of student progress to ensure that distance learning does not result in slower academic and social progress than would be available in school.
- Preclude all schools and districts from abrogating their social emotional and nutritional responsibilities to students. This is particularly crucial for students with disabilities who have social skills goals in their IEPs or are food insecure.
- Encourage the use and application of the principles of universal design for learning and support multiple means of instruction designed to anticipate and address barriers to learning.
- Provide access to, purchasing of, and training (for student, teacher, parents) in the use of interoperable assistive technology.
- Provide access to nutrition, health (including for students who are Medicaid-eligible), and other supports for eligible students.

The Department must do all it can through guidance and technical assistance to assure any state or district plan to offer distance learning must comprehensively include students with disabilities. Critical factors must be considered in planning and implementation so that the rights and opportunities of students with disabilities are promoted and protected as states and districts offer and implement distance learning in K-12 settings. COPAA stands ready to work with the Department to develop guidance and any other resources necessary to assure students with disabilities have the same opportunities as their school-age peers.

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[i] *How Has the Pandemic Affected Students with Disabilities: A Review of the Evidence to Date*, Center for Learner Equity, (October 2021) at: https://www.centerforlearnerequity.org/resource/how-has-the-pandemic-affected-students-with-disabilities-a-review-of-the-evidence-to-date/

[ii] H. Gallagher, B. Cottingham, *Improving the Quality of Distance and Blended Learning*, Ed Research for Recovery, Stanford University, (August 2020) at: https://files.eric.ed.gov/fulltext/ED607718.pdf

[iii] Ibid.

[iv] When the Pandemic Ends, Will School Change Forever? - The New York Times (nytimes.com) retrieved 4-8-2022

[v] Definitions: Glossary of Education Reform at: https://www.edglossary.org/synchronous-learning/

[vi] M. Lieberman, *Most Students Now Have Home Internet Access. But What About the Ones Who Don't?*, Education Week, (April 2021) at: https://www.edweek.org/technology/most-students-now-have-home-internet-access-but-what-about-the-ones-who-dont/2021/04

[vii] H. Alix Gallagher as quoted by A. Klein, *Is Remote Learning Here to Stay? Yes, But It Needs to Get Better*, Education Week, (January 2022), at: https://www.edweek.org/technology/is-remote-learning-here-to-stay-yes-but-it-needs-to-get-better/2022/01

[viii] H. Gallagher, B. Cottingham, *Improving the Quality of Distance and Blended Learning*, Ed Research for Recovery, Stanford University, (August 2020) at: https://files.eric.ed.gov/fulltext/ED607718.pdf

[ix] E. Heubeck, *New Teaching Jobs May Emerge With Continued Demand for Virtual Learning*, Education Week (April 2021) at: https://www.edweek.org/teaching-learning/new-teaching-jobs-may-emerge-with-continued-demand-for-virtual-learning/2021/04

[x] See: https://www.ed.gov/coronavirus/program-information