



AGENDA 

- State guidance and current landscape;
- Compensatory education, recovery services, and ESY
- ADA reasonable accommodation and IDEA LRE requirements;
- Long-COVID and effects on education;
- Q&A session

Current COVID Guidance Overview 

- What you need to know: Guidance contains very few **requirements**; much heavier on **recommendations**
- Local school districts are being given wide latitude to make decisions on
 - Format of instruction (in-person, blended, remote)
 - Mask requirements
 - Vaccine requirements for staff
 - Social distancing

Ohio Dept. of Health/Ohio Dept. of Edu. Joint Guidance 

- Most recently revised on 7/26/21.
- Guides school districts to encourage vaccines among staff and eligible students.
- Individuals 12 and older are currently vaccine-eligible.
- No current vaccination mandates for students or school staff.

Joint Guidance: Masking 

- ODH/ODE strongly recommend that unvaccinated individuals wear masks in indoor settings or crowded outdoor settings.
- Leaves masking mandates to local school districts.
- Notes that CDC recommends that all individuals wear masks on buses.
- Also notes that individual under 2 and those with certain underlying conditions should not be required to wear a mask (see subsequent discussion on ADA requirements)

Joint Guidance: Distancing 

- CDC recommends at least 3 feet of social distancing between unvaccinated individuals.
- Guidance notes that it is important to layer physical distancing with other mitigation measures (vaccines, masks, testing, etc.)

Joint Guidance: Contact Tracing 

- Guidance directs schools to report confirmed cases of COVID-19 to local health department and notify close contacts while conforming to privacy laws
- Fully vaccinated students are not required to quarantine.*
- Unvaccinated students who have been exposed to COVID-19 in school settings can continue to attend school and participate in sports and extra-curricular activities if both students were wearing masks consistently and correctly, and other layered prevention strategies including appropriate distancing were in place.*

Delta Variant 

- You should note that guidance has not been updated since the outbreak of the Delta Variant.
- Some guidance, particularly around contact tracing for vaccinated/unvaccinated individuals might change, and might be different in your local school district.

Using the Guidance 

- As noted previously, the guidance is not binding on school districts, and districts are setting their own policies.
- You can still use the guidance as a tool to advocate for appropriate measures to protect your child.
- School districts must still make individualized accommodations and modifications for individual students

Delivery of Instruction 

- The choice of in-person, remote, or blended learning remains a district-level decision.
- School districts are not required to provide a remote learning option, but if they do, it must be accessible to students with disabilities.
- If you think your child cannot safely attend school in person and the district does not offer a remote learning option, you will need to make a request for an accommodation of the district's policy due to your child's disability (more on that later).

Remote Learning 

- If your child's school district only provides a remote learning option, the district must still provide your child's IEP services to the maximum extent feasible.
- If this happens, request an IEP meeting to talk about how services will be delivered remotely.

COVID and Special Education 

- As a general rule, all rules and regulations governing special education remain in effect during COVID, meaning school districts are required to
 - Provide a free, appropriate public education (FAPE)
 - Comply with applicable deadlines (for evaluations, IEPs, etc.)
 - Conduct regular and as-needed IEP/504 meetings
 - Provide related services

Interruptions in Services 

- If your child has missed out on IEP services that they were owed for reasons not due to the child’s absence, the child might be entitled to compensatory education.

Compensatory Education 

- Compensatory education services are a remedy awarded to students when a school district fails to provide a free, appropriate public education (FAPE).
- Can be awarded when either (1) the district failed to provide services on the IEP OR (2) when the services provided fail to provide FAPE.
- Compensatory education services should “aim to place [children with disabilities] in the same position they would have occupied but for the school district’s violations of IDEA.” Reid v. Dist. of Columbia, 43 IDELR 32 (D.C. Cir. 2005)

Compensatory Education 

- Note that compensatory education is not always awarded on a minute-for-minute basis.
- You as the parent may need to justify the amount of compensatory education you are requesting and the nature of services requested.

Recovery Services 

- Created by Ohio Department of Education.
- “The term recovery services reflects the need of learners to recover from any educational gaps in learning caused by the unexpected school building closures.”
- “Should be provided to students who had an interruption of services during the ordered school-building closure period in the **2019-2020 school year.**”
- ODE has not updated the language to say that these services are available for interruptions in services for other school years.

Extended School Year (ESY) 

- ESY services are those provided when a child needs additional services beyond a typical school year to receive a FAPE.
- Most often awarded on a **regression/recoupment analysis**—when the child demonstrates significant regression of skills over long breaks (such as over the summer) and cannot recoup those skills in a reasonable amount of time.
- Can also be awarded when a child is working on emerging skills or is working on a breakthrough skill

Understanding the Different Types of Services 

- Compensatory Education - Awarded when child did not receive services owed on the IEP.
- Recovery Services - Awarded when deficits are due to unexpected building closures (maybe only in 2019-2020 school year)
- ESY - Awarded when your child needs services beyond the school year due to the nature of the disability [not dependent on the failure of school to provide services]

ADA



- Americans with Disabilities Act-anti-discrimination law
- Passed in 1990
- Title I covers employees
- Title II of the ADA covers public schools
- Title III covers private schools
- Religious schools are not covered

ADA



- To be covered by the ADA a person must have a disability, have a history of a disability, or be regarded by others as having a disability.
- Disability=a physical or mental impairment that substantially limits one or more major life activity.

ADA



- The Americans with Disabilities Act covers students and school employees with disabilities;
- It provides for reasonable accommodations or modifications of school policies if required for a person with a disability to have access to the program.

ADA and COVID-19 

- The pandemic has raised questions about what is a reasonable accommodation or modification of policy
- Issues include:
 - wearing masks
 - Vaccinations
 - In-person or remote instruction

ADA and COVID-19 

- There are also IDEA issues involved
 - Are program options offered by the school the least restrictive environment (LRE)
 - Do children have access to the program

ADA and COVID-19 

- School districts have wide latitude to determine their own response to the pandemic
- But, they must still comply with IDEA and ADA to the maximum extent possible given the pandemic situation
- Each request for accommodations/modifications depends on the specific conditions and facts of the situation

ADA and COVID-19 

- You should familiarize yourself with the procedures available to you to work with the school to make individual decisions based on the specific facts
- Both the IDEA IEP process and the ADA interactive process of requesting accommodations/modifications can be used to make individualized decisions about services and support for a child

ADA and COVID-19 

- The IEP meeting is the best place to begin these discussions
- The team can both determine FAPE/LRE issues and also discuss what is needed to comply with the ADA

ADA and COVID-19 

- FAPE (free appropriate public education) requires the team to provide services and supports that allow your child to benefit from education
- The ADA requires the school to make sure your child has access to the program and to provide accommodations/modifications as necessary

Accommodations 

- Under the ADA, you must request an accommodation or modification
- You should have a basis or reason for your request
- You should provide support for your request (doctor letter, other provider/expert letter or report, etc.)

Accommodations 

- You should request the accommodation you want, however, the school may offer a different accommodation
- This is ok as long as what the school is offering will allow your child to access the program

What is reasonable 

- A request is likely reasonable unless it would fundamentally alter the nature of the goods, services, or operations of the school, or be a significant difficulty or expense
- But each situation is unique

What is reasonable 

- Health and Safety Exception: A school may set safety requirements that are necessary for safe operation when a student poses a direct threat to the health or safety of others.(e.g., CDC or local health department guidance)
- Safety requirements must be based on actual risks and not on stereotypes

What is reasonable 

- The relationship between a request for an accommodation during COVID-19, and the health and safety exception is what makes this issue complicated
- It will be important to get the support of qualified healthcare providers to help in decision making.

Request an accommodation 

- Tell the school your child has a disability
- Say that you are requesting accommodations under the ADA
- Explain specifically why your child needs an accommodation
- Suggest an accommodation
- Provide medical documentation
- Ask the school to respond to your request in a reasonable amount of time

Long COVID



- The CDC has recognized that some people have lingering symptoms from COVID-19
- Studies have shown that students of all ages can experience long COVID symptoms that can interfere with learning

Long COVID



- Symptoms of Long COVID include:
- Fatigue or tiredness
- Difficulty concentrating
- Mood changes
- Sleep problems
- Breathing problems
- Joint or muscle pain
- Immune system problems

Long COVID



- Long COVID can be a disability under the ADA or Section 504
- Children with Long COVID may become eligible for an IEP or 504 plan
- Children who currently have an IEP or 504 plan can be eligible for additional services and supports needed because of Long COVID

Long COVID 

- Eligibility for an IEP:
- Must qualify under an IDEA category
 - For example:
 - child may be eligible for special education and related services based on having an “other health impairment” if the child has limited strength, vitality, or alertness due to a chronic or acute health problem that adversely affects the child’s educational performance.

Long COVID 

- Eligibility for 504 plan:
- Must have a substantial limitation in one or more major life activity
- For example:
- If a student’s long COVID substantially limits one or more major life activities, the student would have a disability under Section 504.
- Major life activities include breathing and concentrating as well as major bodily functions such as functions of the immune system

Long COVID 

- School districts have a responsibility (Child Find) to locate and evaluate children who have Long COVID that is impacting their learning
- Parents should notify their school if symptoms of Long COVID persist or request an IEP/504 meeting if child already has a plan

Long COVID



- The school/child’s team should consider the need for evaluation/reevaluation and the addition of services and supports on the IEP/504 plan

Long COVID



- Students might experience:
- Missed school time due to increased medical appointments or sick days
- Need for behavioral supports to stay on task (due to poor concentration)
- Need for counseling to help with anxiety caused by Long COVID

Q&A



- Time for Questions and Answers


