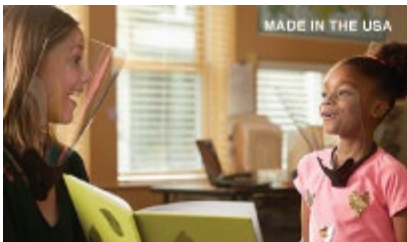


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Special Education Legal Alert

By Perry A. Zirkel

© March 2021

This month's update identifies recent court decisions for "twice-exceptional" students, specifically addressing issues under the IDEA and, alternatively or additionally, Section 504. For related information about these various issues, see perryzirkel.com

In an officially published decision in *Wong v. Bd. of Educ.* (2020), a federal district court in Connecticut addressed the tuition reimbursement claim of the parents of a gifted middle-school child initially identified with the primary classification of SLD and subsequently, upon reevaluation, reclassified as OHI based on ADHD. Concluding that the period at issue was limited to the last month of grade 6 to the end of grade 9, the hearing officer decided that the district provided FAPE during these school years, thus denying the requested reimbursement. The parents appealed on various grounds, which included Section 504 (§ 504) and, on a paired basis, the Americans with Disabilities Act (ADA).

The parents contended that the district violated their right to meaningful participation in the development of the successive IEPs.

Emphasizing that this right is for the opportunity for such participation, the court rejected their claim, finding that even for the meeting held without them, the district had made reasonable efforts for their participation.

The parents also contended that the IEPs did not include all of the services that their outside evaluators recommended and, thus, were not substantively appropriate.

Again agreeing with the hearing officer, the court ruled that the IEP teams sufficiently took into consideration the outside evaluations and—pointing to the student's consistently high grades and the *Endrew F.* standard—that the IEPs were reasonably tailored for the student's progress.

<p>The parents alternatively relied on § 504/ADA, contending that the district’s accommodations were not reasonable and that the district retaliated against their zealous advocacy.</p>	<p>The court concluded that the IDEA FAPE ruling effectively killed two birds with one stone and that their retaliation claim failed in terms of the successive steps of causal connection and legitimate nondiscriminatory reasons. Ultimately, they failed to show bad faith or gross misjudgment.</p>
<p>This decision is largely typical of the uphill slope that parents face under both the IDEA and § 504/ADA, including the non-nuanced treatment of giftedness that makes the slope even steeper against students who are twice-exceptional. Note too that, sadly, the ponderous adjudicative process took almost four years between the hearing officer’s decision and this court’s rulings.</p>	
<p>An unpublished decision in <i>E.P. v. Twin Valley School District</i> (2021) illustrated the interaction of the IDEA, § 504, and giftedness. The complications for the elementary school child in this case included prenatal drug exposure, interracial adoption, and various family traumas. His functioning at school and at home were dramatically different. He entered kindergarten with an IEP from preschool for sensory processing and social-emotional developmental delay. A mid-year reevaluation concluded that the child did not qualify under the IDEA but did qualify for a gifted IEP under Pennsylvania’s strong gifted education law. The next four years included various IEEs yielding diagnoses ranging from intermittent explosive disorder to eating problems. His mother, whom school personnel perceived as “pushy,” shared these various IEEs, and she repeated requests for accommodations and reevaluations. However, based largely on the child’s excellent report cards, the school representatives continued to maintain that he did not qualify for special education. In the second semester of grade 3, the district provided an evaluation for visual skills that resulted in a 504 plan for visual impairment. In grade 4, based on escalated absenteeism, a hospitalization for suicidal ideation, and his mother’s complaints of bullying and reports of paranoia, the school added to his 504 plan accommodations for social skills and transition time limits. At the end of grade 4, in response to a notably worse report card, the school agreed to fund an IEE, which again found dramatic differences between school and parent perceptions. The parents filed for a due process hearing, which in Pennsylvania extends to jurisdiction for Section 504 and GIEPs. The hearing officer ruled for the parents under Section 504. He ordered (a) reimbursement for the previous IEEs and (b) compensatory education as determined by an independent evaluator to place the student in the position he would have been if the district had provided him with § 504 FAPE. The school district appealed.</p>	

First, the district challenged the hearing officer’s ruling of a § 504 child find violation starting in kindergarten, which was that the district failed to evaluate the child under § 504 with reasonable promptness upon various warning signs of eligibility.	The court affirmed the hearing officer, concluding that the district focused solely on the IDEA despite reasonable suspicion of emotional dysregulation and other impairments that limited major life activities of eating or social interaction (but without specifically addressing the “substantially” element though referring broadly to mitigating effects).
Second, the district challenged the hearing officer’s finding of a denial of FAPE under § 504, which was based on the district’s inadequate, “ad hoc” accommodations.	The court affirmed this ruling too, concluding that this failure to provide reasonable and impairment-targeted accommodations “exacerbated his conditions and led to a spiral or worsening outcomes.”
Finally, both parties challenged the hearing officer’s order for compensatory education. The district argued that the parent failed to meet her burden for this remedy, whereas the parent sought a straightforward quantitative calculation for the four years.	The court again affirmed the hearing officer, concluding that the third-party delegated qualitative approach recognized the difference between the IDEA and § 504 and allowed for equitable deductions for any partially compensating effects of the school’s ad hoc accommodations.
A careful reading of the court’s § 504 analysis reveals various questionable conclusions, including the seeming conflation of child find and eligibility and the imprecise interrelationship between the IDEA and § 504 standards for FAPE and remedies.	

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COVID-19 GUIDANCE AND CASE LAW: WINTER UPDATE

Perry A. Zirkel

© Feb. 16, 2021

With re-openings increasing across the country on at least a hybrid basis and vaccinations gradually extending to teachers at least in some districts, the outlines of the nature and extent of the FAPE obligation, including the remedies for its denial, are increasingly emerging in recent legal activity specific to students with disabilities. For this latest period, the activity is almost entirely in the two administrative dispute resolution forums under the IDEA—state complaint investigations and due process hearings. Federal adjustments, either via Congress or OSEP, have taken a back seat during the initial phase of the new Administration. At the other end, court decisions during this latest period have slowed down, subject to parents having to “exhaust” the available due process hearing procedure under the IDEA. The crystallization of the final contours of IDEA obligations during the pandemic await the development of precedents at the judicial level, but courts often defer to hearing officer decisions upon appeal. This latest summary provides an update since the coverage in the late fall update (COVID-19 Special Supplement 7).

State Complaint Decisions

Since COVID-19 Special Supplement 7, several new state complaint decisions have been issued. Here are some available examples, which show that the primary claims continue to be based on the failure to implement (FTI) category of FAPE and that their dispositions vary based on not only the child’s circumstances but the selected FTI standard:

- A November 10 state complaint decision in North Dakota (*In re Student with a Disability*) rejecting the parents' FTI FAPE claim on the basis that the occasional lapses upon moving to distance learning were quickly corrected, thus not amounting to the "material" standard

- A November 12 affirmance of state complaint decision in Virginia (*Fairfax County Public Schools* – summarized in COVID-19 Special Supplement #5) that did not find systemic violations in the school district's move to distance learning

- A November 16 state complaint decision in Indiana (*Greater Clark County Schools*) finding an FTI violation due to lack of documentation for the early part of the new school year – ordering as corrective action (a) IEP team provision of a compensatory education plan and (b) development of a tracking log for proper documentation
- A November 20 state complaint decision in Minnesota (*Roseville Public School District*) finding an FTI violation for the first two weeks of the new school year – ordering compensatory education documented as an amendment to the IEP
- A November 27 state complaint decision in Ohio (*Toledo Public Schools*) finding no FTI violation based on the good faith, best efforts standard but FAPE denial for unjustified reduction in specially designed instruction (SDI) in the September 2020 IEP – ordering prompt IEP meeting to address the frequency and amount of SDI
[\[dnet01.ode.state.oh.us/OECMS/PublicSearch/Search\]](https://dnet01.ode.state.oh.us/OECMS/PublicSearch/Search)
- A December 4 state complaint decision in Minnesota (*South Washington County School District*) finding extended FTI violation, including ESY – ordering IEP team to determine compensatory education
- A December 7 state complaint decision in Minnesota (*Worthington Public School District*) finding that telephone call and follow-up PWN for distance learning served as requisite amendment to the IEP
- A December 8 state complaint decision in Nevada (*Clark County School District*) finding FTI violations per *Van Duyn* materiality standard for both pre- and post-summer 2020 – ordering increased synchronous instruction, at least 92.5 hours of compensatory education and IEP team determination of possible additional compensatory education per regression-recoupment data upon return to in-school instruction
- A December 11 state complaint decision in Colorado (*Douglas County School District RE-1*) finding procedural violation for unreasonable delay in obtaining consent for initial evaluation that was harmless due to ultimate evaluation determination of non-eligibility, resulting in reminder-type corrective action

- A December 22 state complaint decision in Montana (*In re Student with a Disability*) finding systemic violations in inconsistent progress reports – ordering forms, training, and an individualized determination of compensatory education
- A January 8 state complaint decision in Nevada (*Washoe County School District*) finding violations of FTI, regular progress reports, and transition services but not for lack of PWN upon systemwide change to distance learning– ordering compensatory education (160 minutes of SLT, 104 minutes of OT, and 112 hours of SDI) and transition services
[\[doe.nv.gov/Inclusive_Education/ComplaintReports/2020-2021_Complaint_Reports/\]](https://doe.nv.gov/Inclusive_Education/ComplaintReports/2020-2021_Complaint_Reports/)
- A February 1 remand of a state complaint decision in Virginia (*Fairfax County Public Schools*), which had found no violation upon providing 100% distance learning for the student, requiring reconsideration in light of the after-discovered evidence of (a) medical documentation of the child’s motor control and other barriers to virtual learning and (b) an updated progress reports showing negative trend – need to address, per *Andrew F.*, “what additional accommodations might be appropriate for in-person, if not in school, instruction within the confines of the pandemic closures”

Due Process Hearing Decisions

The number of due process decisions has also increased considerably, with more uniform standards for FTI and more frequent orders for specific and direct compensatory education.

- In *Georgetown Independent School District* on November 18, a Texas hearing officer ruled that the district engaged in a material FTI violation and a procedural failure to properly amend the IEP, resulting in 270 minutes of SLT compensatory education and reimbursement for dyslexia tutoring services (\$877)
- In *East Windsor School District* on November 18, a Connecticut hearing officer ruled that the district committed a material FTI for the academic and behavioral components (not the OT and SLT components) of the IEP during the first two months of distance learning but limited the remedy to a prompt IEP meeting to determine whether an amendment is appropriate – not compensatory education due to gross-denial standard and parent’s lack of cooperation
- In *Ringwood Board of Education* on November 19, a New Jersey hearing officer dismissed the FTI compensatory education claim based on mootness – the state changed its policy to allow teleservices without parental consent or waiver, and the district voluntarily provided compensatory services during the summer
- In *Shoreline School District* on November 25, a Washington State hearing officer ruled that the district committed a material FTI violation, including during the ESY period – ordered, as the remedy, reimbursement for the private in-person ABA aide during the summer and for the private ABA school thereafter

- In *Anaheim Elementary School District* on December 1, a California hearing officer granted the district's request for an in-person initial evaluation of the student rather than the parents' insistence on a virtual approach and in-home services
- In *District of Columbia Public Schools* on December 4, a D.C. hearing officer ruled that the district committed a material FTI violation during the new school year – ordering both reimbursement and prospective provision of an in-person aide (at the private ABA school or another suitable location) to support the child with distance instruction
- In *District of Columbia Public Schools* on December 14, a D.C. hearing officer ruled that the district failed to complete the evaluation within the prescribed period and failed to provide the parents with the requested records access – ordering IEEs for any incomplete evaluation components and records access
- In *Clarke County School District* on December 18, a Nevada review officer ruled that the district committed predetermination, *Endrew F.*, and material FTI violations – ordering facilitated IEP meeting, tutoring reimbursement, and OT compensatory education [[doe.nv.gov/Inclusive Education/2020-2021 Due Process Review Decision](https://doe.nv.gov/Inclusive_Education/2020-2021_Due_Process_Review_Decision)]
- In *In re Student with a Disability* on December 22, a Wisconsin hearing officer ruled that the district's private placement virtual instruction was FAPE in the LRE for the child rather than the parents' insistence on providing it only with nondisabled students
- In *Bass Lake Joint Elementary School District* on December 23, a California hearing officer ruled in favor of the parent's material FTI claim – ordering funding for 500 hours of compensatory education for in-home related services, including those arranged by the parent, up to a total maximum of \$75K
- In *District of Columbia Public Schools* on December 23, a D.C. hearing officer ruled that the district's initial distance learning arrangements met the *Endrew F.* standard but the virtual delivery of services during the new school year were a material FTI violation – ordering a district-paid IEE to determine the compensatory education relief
- In *District of Columbia Public Schools* on December 30, a D.C. hearing officer ruled that the private placement did not meet the *Endrew F.* standard but rejected the parent's FTI claim for the private school's provision of virtual instruction – ordering IEP team to order new private placement only
- In *In re Student with a Disability* on December 30, a Nevada hearing officer ruled that the district violated *Endrew F.* by not providing a behaviorally trained adult for in-person assistance with distance learning – ordering reimbursement for the provision of said services at private ABA center

Court Decisions

The court decisions since the last Supplement are relatively infrequent, with the most significant one continuing to be the ongoing New Mexico litigation (listed below in bold font), which is now pending in the U.S. Court of Appeals for the Tenth Circuit.

- Nov. 19 – *C.M. v. Jara* (D. Nev.) – denying the parents’ motion for a preliminary injunction for their IDEA and § 504 claims that sought to require systemwide resumption of in-school instruction in the state’s largest school district (thus, echoing a similar ruling summarized in my COVID-19 Special Supplement #7)
- Nov. 24 and Dec. 1 – *Martinez v. Newsom* and *Brach v. Newsom* (C.D. Cal.) – requiring exhaustion of IDEA and § 504 claims respectively challenging systemwide move to distance learning w/o procedural safeguards (e.g., reevaluation) and tiered reopening system (within broader class action seeking more immediate and complete in-school instruction)
- Dec. 8 – *Jacob v. Iowa Dep’t of Educ.* – state lower court decision affirming the state complaint decision that found no violation during the “voluntary educational enrichment opportunities” transitional phase to distance learning in Iowa (as summarized in my COVID-19 Special Supplement #3)
- **Dec. 18 – *Hernandez v. Grisham*** – dismissing, in the IDEA part of a much broader lawsuit that has been subject to several earlier decisions, (a) the attempted joinder of an additional parent of a child with disabilities because he had failed to exhaust the impartial hearing process before filing in court, and (b) the attempted continuation of the FAPE claim of the original plaintiff-parent of a child with disabilities because the IEP team had met and revised his child’s IEP in response to the court’s earlier order (summarized in my COVID-19 Supplement #7) and exhaustion would apply to any challenge to that revised IEP – read the full decision, which includes several additional conclusions of interest, including a refusal to grant judicial deference to the cited federal guidance [scholar.google.com/scholar_case] – this case is currently on appeal at the Tenth Circuit

Latest Conclusion

Looking through the lenses of the various complaint resolution forums of the IDEA, the contours of school district obligations in the COVID-19 context are emerging as we’ve moved from the tumultuous initial period at the end of the school year to the more experienced period of the first semester of the new school year. The state complaint process has addressed FTI and, to a lesser extent, procedural claims with varying rigor. The majority of cases have resulted in corrective action, although any compensatory education is often delegated to the IEP team. The due process hearings have made increasingly clear that (a) the materiality standard applies to FTI violations and (b) *Endrew F.* provides back-up leverage for obtaining relief for rather blatant denials of FAPE via

virtual instruction. The remedy is often direct compensatory education or reimbursement that covers in-person private arrangements. Districts that insist on systemwide cookie-cutter approaches to virtual instruction are likely to be vulnerable, especially if they are not proactive in identifying those students with disabilities for which this approach is a flagrant failure or in creatively arranging for in-school delivery or at least in-person support. However, for those stakeholders who seek a more definitive, precedential answer, appeals to courts? will ponderously appear in the years ahead.

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Buzz from the Hub

All articles below can be accessed through the following links:

<https://www.parentcenterhub.org/buzz-march2021-issue1/>

<https://www.parentcenterhub.org/buzz-feb2021-issue2/>

8 Things I Wish People Knew About Parenting a Child With ADHD

This parent writes, “Eventually, I realized something that made it a little easier to handle how my son behaves in public and in school sometimes. Most people who judge do it because they just don’t know. So here’s what I’d like them to understand about me, my son, and ADHD.”

Accepting Yourself ADHD and All

This individual writes: “I was diagnosed with ADHD and Auditory Processing Disorder when I was five years of age. By middle and high school, I became more aware of and concerned with others’ perceptions of me. *Rejection Sensitive Dysphoria (RSD)* is a condition that causes extreme emotional sensitivity to being criticized, whether that criticism is real or perceived. Although this mental health condition is gaining more attention, it is still relatively new and is not included in most diagnostic manuals.” Learn more about RSD in this candid resource.

Rare Disorders Fact Sheet Updated!

CPIR has updated its *Rare Disorders* fact sheet, where you can investigate the over 7,000 known rare disorders/diseases, find genetics information, learn about relevant laws and orphan drugs, and more.

How to Grandparent a Child With Special Needs

(Also available in **Spanish**) | Being the grandparent of a child with special needs can bring incredible joy but is also complicated, say grandparents like Oricchio, as well as advocates and other experts. About 17% of children are diagnosed with some kind of disability, which is one reason grandparents are so important. Find out more in this article, which features the voices of many grandparents.

Advocating for Myself

Students with disabilities are learning to advocate for themselves. But advocating for one’s self takes practice. The youth you work with may find it instructive to hear tips from other students with disabilities who have learned to advocate for themselves in high school, at work, and at college. Connect them with PACER’s collection of short videos so they can hear what their peers have to say.

My IEP Owner’s Manual for Transition-Age Students

The “Advocating for Myself” page (just mentioned) also includes a wide range of written materials

for youth, such as the IEP Owner's Manual. Youth can use the manual to learn about the different parts of their IEP that will help them succeed in their plans for life after high school.

A Family Toolkit: Pediatric to Adult Health Care Transition | Webinar

Here's another 1-hour webinar, this one discussing Got Transition's *Family Toolkit*, which was developed for families to use during their young person's transition from pediatric to adult health care.

How to Improve Engagement Efforts

When Child Trends reviewed the literature, four basic themes emerged as ways to improve on youth program recruitment, retention, and engagement. This article discusses their findings.

Youth Advisory Councils | Webinar

This 1-hour webinar is all about integrating authentic youth voice in your organization. Does your organization want to start a youth council or strengthen the way youth voice is utilized in your institution? Check out the webinar! From the National Youth Leadership Council.

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U.S. Secretary of Education Miguel Cardona Provides Puerto Rico Department of Education Access to Pandemic Relief Aid and Other Grant Funds

This month, U.S. Secretary of Education Miguel Cardona sent a letter to The Honorable Pedro Pierluisi, Governor of the Commonwealth of Puerto Rico, informing him that the U.S. Department of Education (Department) has provided the Commonwealth immediate access to \$912 million in Federal education funds, which had not been available to Puerto Rico as a result of previously imposed grant conditions.

These funds include \$390 million under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) Elementary and Secondary School Emergency Relief Fund (ESSER I) and the Governor's Emergency Education Relief Fund (GEER I). The funds also include all fiscal year 2019 Department program grant funds totaling \$522 million, including funds under Title I, Part A of the Elementary and Secondary Education Act of 1965, as amended, and Part B of the Individuals with Disabilities Education Act.

The release of funds marks a commitment from the Department and the Biden Administration in supporting Puerto Rico as the Commonwealth recovers from the COVID-19 pandemic and recent natural disasters that have impacted students, families, and educators across the island.

In the letter to Governor Pierluisi, Secretary Cardona stated:

“As we renew our partnership with the Puerto Rico Department of Education (PRDE), I wish to affirm my commitment, and the Department’s commitment, to supporting Puerto Rico and PRDE in a collaborative and mutually respectful manner, with the shared objective of benefitting the students of the Commonwealth.

“As the Commonwealth of Puerto Rico faces the challenges of the pandemic and continues to recover from the hurricanes and the more recent earthquakes, the Department understands the urgency to access vital Federal education funds to meet the needs of Puerto Rican students who are experiencing compounded trauma.

“The Department is committed to partnering with and supporting Puerto Rico in the efficient and effective use of Department funds to serve Puerto Rico’s students, including to safely reopen schools and maximize in-person instructional time.”

The funds released today are now immediately available for use by the Commonwealth. As part of the Department’s commitment to expand equitable access to education, the Department will work with Puerto Rico to identify how these funds may best be used to address the academic, social, emotional,

and mental health needs of students in Puerto Rico. The Department is also committed to working in partnership with Puerto Rico to put in place enhanced oversight and accountability measures to ensure that these essential resources result in impactful programs and services for the students of the Commonwealth, and are spent in compliance with the applicable laws and other requirements.

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USDA Expansion of SNAP Benefits to Help Students Pursuing Postsecondary Education During Pandemic

As part of its ongoing efforts to ease the economic burden on millions of Americans during the COVID-19 pandemic, the U.S. Department of Education—in collaboration with the U.S. Department of Agriculture (USDA)—issued [guidance](#) to postsecondary institutions to inform them about temporarily expanded Supplemental Nutrition Assistance Program (SNAP) eligibility for students in need.

"Since the onset of this pandemic, college students already living with low incomes have experienced significant life disruptions including increased food insecurity," said Acting Assistant Secretary for Postsecondary Education Michelle Asha Cooper. "No student should have to worry about where their next meal will come from while balancing their studies. Informing eligible students of these benefits can help ease that uncertainty."

The guidance encourages institutions of higher education to coordinate with campus stakeholders to notify eligible students. Today's action follows [Jan. 29 guidance](#) reminding institutions that they have the authority to adjust financial aid packages to account for students' and families' current financial circumstances. These outreach efforts align with President Biden's [Jan. 22 Executive Order](#) directing all federal agencies to address the economic crisis resulting from the pandemic.

"This health and economic crisis has left millions out of work or struggling to cover basic expenses. We are pleased to work with our partners at the Department of Education, to help inform students about the recent expansion of SNAP eligibility for low-income students," said USDA Deputy Under Secretary for Food, Nutrition, and Consumer Services Stacy Dean. "The guidance issued today is part of the Biden Administration's push to act quickly to address hunger and support those who are struggling."

Under regular [SNAP eligibility](#) requirements, students enrolled at least half-time in an institution of higher education are typically ineligible for SNAP benefits unless they meet certain specific exemptions. The *Consolidated Appropriations Act, 2021* [temporarily expands](#) SNAP eligibility to include students who either:

- Are eligible to participate in state or federally financed work study during the regular academic year, as determined by the institution of higher education; or
- Have an expected family contribution (EFC) of 0 in the current academic year. This includes students who are eligible for a maximum Pell Grant.

Beginning Jan. 16, 2021, students who meet one of the two criteria outlined above may receive SNAP benefits if they meet all other financial and non-financial SNAP eligibility criteria. The new, temporary exemptions will be in effect until 30 days after the COVID-19 public health emergency is lifted. More information can be found on the [SNAP benefits for students webpage and Q&A on student eligibility](#).

Because state SNAP agencies administer the SNAP program, process applications, and determine eligibility, students should contact their local SNAP offices to learn how to apply or to ask other questions. Institutions of higher education with questions about student SNAP eligibility, including the temporary expansion, should contact their state SNAP agency.

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National Survey to Gather Critical Data on School Reopening

To help safely reopen America's schools and promote educational equity, the Institute of Education Sciences (IES) at the U.S. Department of Education today announced the largest representative and highest-quality effort yet to gather vital data on the impact of COVID-19 on students and the status of in-person learning.

Currently, there is not enough data to understand the status of school re-opening and how students are learning nationwide. This project, known as the "NAEP 2021 School Survey," will collect high-quality data from a nationally and state-representative sample.

Today's announcement follows President Biden's Jan. 21 [Executive Order](#) to ensure "the collection of data necessary to fully understand the impact of the COVID-19 pandemic on students and educators, including data on the status of in-person learning. These data shall be disaggregated by student demographics, including race, ethnicity, disability, English-language-learner status, and free or reduced lunch status or other appropriate indicators of family income."

IES's National Center for Education Statistics – the highest-quality education data source in the nation – will oversee the survey collection, which is designed to collect vital data with the least possible burden on schools. Data gathered in the survey will include:

- The share of the nation's schools that are open with full-time in-person instruction, open with online and in-person instruction, or fully remote.
- Enrollment by instructional mode by race/ethnicity, socio-economic status, English learner status, and disability status.
- Attendance rates by instructional mode by race/ethnicity, socio-economic status, English learner status, disability status, and housing status.
- Frequency of in-person learning for students.
- Average number of hours of synchronous instruction for students in remote instruction mode. And,
- Student groups prioritized by schools for in-person instruction by selected school characteristics.

"It's critically important to get a sense of how students are learning," said James Lynn Woodworth, commissioner of the National Center for Education Statistics. "NCES will use this data to both provide the most accurate immediate view about school operating statuses and to better interpret the

impact of current school operations on the results of the NAEP assessments scheduled to be conducted in 2022."

"President Biden is committed to the safe reopening of schools and to addressing the educational disparities and inequities that the pandemic has exposed and exacerbated," said Ian Rosenblum, acting assistant secretary of the Office of Elementary and Secondary Education. "To do that, we need more information about how students are learning during this pandemic – and we simply don't have it right now. The administration, educators, parents, and education leaders need meaningful data in order to achieve these critical goals and this survey will give them that."

The survey will collect data from approximately 3,500 schools that enroll fourth-graders and an equal number of schools that enroll eighth-graders. The public will have access to the highest-quality data about school reopenings for in-person instruction and how students are learning. Results will be collected monthly beginning this month and running through June, and key findings will be reported.

The study will maximize the use of federal dollars by utilizing the existing online data collection systems and infrastructure used for the Nation's Report Card, also known as NAEP.

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Guidance to States on Assessing Student Learning During the Pandemic

The U.S. Department of Education (ED) is providing guidance to states emphasizing the importance of flexibility in administering assessments this year as a result of the pandemic and supporting the use of assessment data as a source of information for parents and educators to target resources and support, rather than for accountability purposes this year.

State assessments and accountability systems play an important role in advancing educational equity, identifying student needs, and targeting the resources to address them. At the same time, some schools and districts may not be able to safely administer statewide summative assessments this spring using their standard practices, while others may wish to prioritize learning time during the scant in-person schooling time this year in many communities. The pandemic requires that states have significant flexibility in implementing this work for the 2020-2021 school year and ED's guidance is a practical approach that balances these two priorities.

"The Department of Education is committed to supporting all states in assessing student learning during the pandemic to help target resources and support to the students with the greatest needs," said Ian Rosenblum, acting assistant secretary for elementary and secondary education. "We also recognize that at a time when everything in our education system is different, there need to be different ways that states can administer state tests like moving them to the fall so that precious in-person learning time this year can be spent on instruction. Balancing these priorities is the best approach."

ED's guidance makes clear that states should consider the ways they can do things differently this year. Flexibility available to states includes:

- Extending the testing window and moving assessments to the summer or fall,
- Giving the assessment remotely, where feasible,
- Shortening the state assessment, to make testing more feasible to implement and prioritize in-person learning time.

The Department also recognizes that individual states may need additional assessment flexibility based on the specific circumstances across or within the state. ED is prepared to work with states to address their individual needs and conditions while ensuring the maximum available statewide data to inform the targeting of resources and support.

In addition to encouraging flexibility around assessments, ED is allowing states to request a waiver for the Every Student Succeeds Act's accountability and school identification requirements. This flexibility will explicitly include waiving the accountability provisions relating to having a 95 percent test participation rate.

"States are working hard to respond to the unique circumstances they are facing and maintain their immediate focus on supporting students' social, emotional, and academic development," said Jessica Cardichon, deputy assistant secretary of K-12, Office of Planning, Evaluation, and Policy Development. "In addition to this guidance, the Administration is working with Congress to secure the additional resources in the American Rescue Plan that are needed to support states and districts in safely reopening schools and responding to the long-term impact of COVID on students and educators."

The steps taken today by the Department of Education reflect a practical approach for addressing the immediate crisis at hand. The Department will continue to engage a broad range of stakeholders regarding how the Biden-Harris Administration can best implement its agenda to prepare all students to succeed in the tomorrow's economy, regardless of race, parents' income, zip code, or disability; and to provide educators with the support, respect and dignity they deserve. President Biden's proposed American Rescue Plan calls for \$130 billion in funding to help schools safely reopen and meet the unique needs students and educators are facing during the pandemic, including supporting the academic, social, and emotional needs of students.

<https://www.ed.gov/news/press-releases/us-department-education-releases-guidance-states-assessing-student-learning-during-pandemic>

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5 Things You Should Know About Stress

Stress is how the brain and body respond to any demand. Any type of challenge—such as performance at work or school, a significant life change, or a traumatic event—can be stressful.

Stress can affect your health. It is important to pay attention to how you deal with minor and major stressors, so you know when to seek help.

Here are five things you should know about stress.

1. Stress affects everyone.

Everyone experiences stress from time to time. There are different types of stress—all of which carry physical and mental health risks. A stressor may be a one-time or short-term occurrence, or it can happen repeatedly over a long time. Some people may cope with stress more effectively and recover from stressful events more quickly than others.

Examples of stress include:

Routine stress related to the pressures of school, work, family, and other daily responsibilities.

Stress brought about by a sudden negative change, such as losing a job, divorce, or illness.

Traumatic stress experienced during an event such as a major accident, war, assault, or natural disaster where people may be in danger of being seriously hurt or killed. People who experience traumatic stress may have very distressing temporary emotional and physical symptoms, but most recover naturally soon after.

2. Not all stress is bad.

In a dangerous situation, stress signals the body to prepare to face a threat or flee to safety. In these situations, your pulse quickens, you breathe faster, your muscles tense, and your brain uses more oxygen and increases activity—all functions aimed at survival and in response to stress. In non-life-

threatening situations, stress can motivate people, such as when they need to take a test or interview for a new job.

3. Long-term stress can harm your health.

Coping with the impact of chronic stress can be challenging. Because the source of long-term stress is more constant than acute stress, the body never receives a clear signal to return to normal functioning. With chronic stress, those same lifesaving reactions in the body can disturb the immune, digestive, cardiovascular, sleep, and reproductive systems. Some people may experience mainly digestive symptoms, while others may have headaches, sleeplessness, sadness, anger, or irritability.

Over time, continued strain on your body from stress may contribute to serious health problems, such as heart disease, high blood pressure, diabetes, and other illnesses, including mental disorders such as [depression](#) or [anxiety](#).

4. There are ways to manage stress.

If you take practical steps to manage your stress, you may reduce the risk of negative health effects. Here are some tips that may help you to cope with stress:

Be observant. Recognize the signs of your body's response to stress, such as difficulty sleeping, increased alcohol and other substance use, being easily angered, feeling depressed, and having low energy.

Talk to your health care provider or a health professional. Don't wait for your health care provider to ask about your stress. Start the conversation and get proper health care for existing or new health problems. Effective treatments can help if your stress is affecting your relationships or ability to work. Don't know where to start?

Get regular exercise. Just 30 minutes per day of walking can help boost your mood and improve your health.

Try a relaxing activity. Explore relaxation or wellness programs, which may incorporate meditation, muscle relaxation, or breathing exercises. Schedule regular times for these and other healthy and relaxing activities.

Set goals and priorities. Decide what must get done now and what can wait. Learn to say “no” to new tasks if you start to feel like you’re taking on too much. Try to be mindful of what you have accomplished at the end of the day, not what you have been unable to do.

Stay connected. You are not alone. Keep in touch with people who can provide emotional support and practical help. To reduce stress, ask for help from friends, family, and community or religious organizations.

Consider a clinical trial. Researchers at the National Institute of Mental Health (NIMH) and other research facilities across the country are studying the causes and effects of psychological stress as well as stress management techniques.

5. If you’re overwhelmed by stress, ask for help from a health

You should seek help right away if you have suicidal thoughts, are overwhelmed, feel you cannot cope, or are using drugs or alcohol more frequently as a result of stress. Your doctor may be able to provide a recommendation.

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Helping Children and Adolescents Cope with Disasters and Other Traumatic Events: What Parents, Rescue Workers, and the Community Can Do

Each year, children and adolescents experience disasters and other traumatic events. Parents, rescue workers, and members of the larger community can help children start the process of recovery and overcome these experiences.

What is trauma?

When people think of trauma, they often focus on physical injuries. However, people also can experience psychological trauma after witnessing or experiencing distressing events.

Trauma can be caused by natural disasters such as hurricanes, earthquakes, and floods. It also can be caused by acts of violence—such as terrorist attacks and mass shootings—as well as motor vehicle and other accidents.

Reactions to trauma can be immediate or delayed. Responses may differ in severity and can include a wide range of behaviors and responses, sometimes influenced by culture.

Factors that may make people more sensitive to trauma include:

- Having direct involvement in the trauma, especially as a victim
- Having severe or prolonged exposure to the event
- Having a personal history of prior trauma
- Having a family or personal history of mental illness or severe behavioral problems
- Having limited social support or a lack of caring family and friends
- Having ongoing life stressors such as moving to a new home or new school

Common Responses to Trauma Among Children

Children age five and younger may:

- Cling to parents or caregivers.
- Cry and be tearful.
- Have tantrums and be irritable.
- Complain of physical problems such as stomachaches or headaches.

- Suddenly return to behaviors such as bed-wetting and thumb-sucking.
- Show increased fearfulness (for example, of the dark, monsters, or being alone).
- Incorporate aspects of the traumatic event into imaginary play.

Children age six to 11 may:

- Have problems in school.
- Isolate themselves from family and friends.
- Have nightmares, refuse to go to bed, or experience other sleep problems.
- Become irritable, angry, or disruptive.
- Be unable to concentrate.
- Complain of physical problems such as stomachaches and headaches.
- Develop unfounded fears.
- Lose interest in fun activities.

Adolescents age 12 to 17 may:

- Have nightmares or other sleep problems.
- Avoid reminders of the event.
- Use or abuse drugs, alcohol, or tobacco.
- Be disruptive or disrespectful or behave destructively.
- Complain of physical problems such as stomachaches and headaches.
- Become isolated from friends and family.
- Be angry or resentful.
- Lose interest in fun activities.

In addition, children and adolescents may feel guilty for not preventing injury or deaths. They also may have thoughts of revenge.

Many of these are normal and expected early responses, which for most people will lessen with time. If they last for more than a month, contact a licensed mental health professional.

If You or Someone You Know Is in Crisis and Needs Immediate Help

Some symptoms require immediate emergency care. If you or someone you know is thinking about harming themselves or attempting suicide, seek help right away:

- Call your doctor.

- Call 911 for emergency services or go to the nearest emergency room.
- Call the [National Suicide Prevention Lifeline](#), a 24-hour toll-free hotline, at 800-273-TALK (8255). The deaf and hard of hearing can contact the Lifeline via TTY at 800-799-4889. The Lifeline is available 24 hours a day, seven days a week.
- Contact social media outlets directly if you are concerned about a person's social media updates or dial 911 in an emergency. For more information about how to contact social media outlets, visit the [Suicide Prevention Lifeline](#).

Take any comments about suicide or wishing to die seriously—even those said by children and adolescents. Even if you do not believe your family member or friend will attempt suicide, the person is in distress and can benefit from your help in finding treatment. For more information about suicide prevention, visit www.nimh.nih.gov (search word: [suicide prevention](#)).

Disaster Distress Helpline

The Substance Abuse and Mental Health Services Administration's [Disaster Distress Helpline](#) provides crisis counseling (24 hours a day, 365 days a year) for those experiencing emotional distress due to natural or human-made disasters. This service is provided in more than 100 languages and is confidential. To contact the helpline:

- Call 800-985-5990.
 - Spanish speakers can call 800-985-5990 and press 2.
 - The deaf and hard of hearing can contact the Helpline via TTY at 800-846-8517.
- Text "TalkWithUs" to 66746.
 - Spanish speakers in the continental United States can text "Hablanos" to 66746.
 - Spanish speakers in Puerto Rico can text "Hablanos" to 787-339-2663.
- Visit [Disaster Distress Helpline's website](#).

Help in the First Days and Weeks

After a disaster or other traumatic event, there are steps people can take to help adult trauma survivors cope, making it easier for them to provide better care for children and adolescents. These include creating safe conditions, remaining calm, being friendly, and connecting with others. Being sensitive to people under stress and respecting their decisions is important.

When possible, help people:

- Get food.
- Find a safe place to live.
- Get help from a doctor or nurse.
- Connect with loved ones or friends.
- Find information on where to get help.

Don't:

- Force people to tell their stories.
- Probe for personal details.
- Say things like “everything will be OK” or “at least you survived.”
- Say what you think people should feel or how people should have acted.
- Say people suffered because they deserved it.
- Be negative about available help.
- Make promises that you can't keep, such as “you will go home soon.”

What can parents do to help children and adolescents?

After a traumatic event, parents and family members should identify and address their own feelings—this can allow them to help others. Explain to children what happened and let them know that:

- You love them.
- The event was not their fault.
- You will do your best to take care of them.
- It's okay for them to feel upset.

Do:

- Allow children to be sad or cry.
- Let children talk, write, or draw pictures about the event and their feelings.
- Limit viewing of repetitive news reports about traumatic events. Young children may not understand that news coverage is about one event and not multiple similar events.
- Give extra attention to children who have trouble sleeping. Let them sleep with a light on or let them sleep in your room (for a short time).
- Try to keep your usual routines (or create new routines), such as reading bedtime stories, eating dinner together, or playing games.
- Help children feel in control when possible by letting them make decisions for themselves, such as choosing meals or picking out clothes.
- Contact a health professional if, after a month in a safe environment, children are not able to perform their usual routines.
- Contact a health care provider if new behavioral or emotional problems develop, particularly if these symptoms occur for more than a few weeks:

- Flashbacks (flashbacks are the mind reliving the event)
- A racing heart and sweating
- Being easily startled
- Being emotionally numb
- Being very sad or depressed

Don't:

- Expect children to be brave or tough.
- Make children discuss the event before they are ready.
- Get angry if children show strong emotions.
- Get upset if they begin bed-wetting, acting out, or thumb-sucking.

Children's reactions to trauma are strongly influenced by adults' responses to trauma. Parents can help children by being supportive, by remaining as calm as possible, and by reducing other stressors, such as:

- Frequent moves or changes in place of residence
- Long periods away from family and friends
- Pressures to perform well in school
- Fighting within the family

When monitoring healing, remember:

- Healing takes time.
- Do not ignore severe reactions.
- Pay attention to sudden changes in behaviors, speech, language use, or strong emotions.

What can rescue workers do to help?

During and after a traumatic experience, rescue workers can help by:

- Identifying children, adolescents, and families in need of urgent and immediate medical or mental health services.
- Staying with and helping to calm children and adolescents in acute distress. Signs of acute distress include trembling, rambling, becoming mute, or exhibiting erratic behavior.
- Protecting children and adolescents from physical danger, exposure to additional traumatic sights and sounds, and onlookers and the media.
- Kindly but firmly directing children and adolescents away from the event site.

- Connecting—and keeping—children and adolescents with family and friends.

Rescue workers can reduce survivors' fear and anxiety by using compassionate communication.

When communicating with survivors, rescue workers should:

- Clearly identify themselves and their role in disaster response.
- Communicate calmly, slowly, and with empathy.
- Be factual, avoid answering questions outside their area of expertise, and avoid speculation.
- Acknowledge and be tolerant of strong emotions and behaviors.

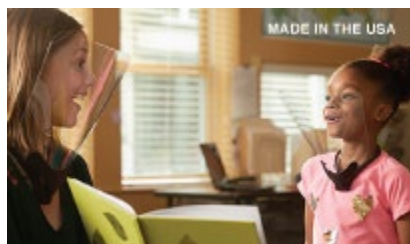
What can community members do after a traumatic event?

After a traumatic event, community members should identify and address their own feelings as this may allow them to help others more effectively.

Community members can help children and adolescents by:

- Offering their buildings and institutions as gathering places to promote support
- Helping families identify mental health professionals who can counsel children
- Helping children develop coping skills, problem-solving skills, and ways to deal with fear
- Holding parent meetings to discuss the event, their child's response, and how parents can help their child
- Being sensitive to different cultural responses to trauma and stress

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Latest Employment Opportunities Posted on NASET

* **Elementary ICT Teacher** - Reporting to the Academic Dean, the Elementary ICT Teacher will be responsible for providing tailored support to students with special education needs, primarily through integrated co-teaching. This is an exciting opportunity for a seasoned educator who is passionate about ensuring all students succeed and thrive in school. To learn more - [Click here](#)

* **[2021-2022] Elementary ICT Teacher** - Reporting to the Academic Dean, the Elementary ICT Teacher will be responsible for providing tailored support to students with special education needs, primarily through integrated co-teaching. This is an exciting opportunity for a seasoned educator who is passionate about ensuring all students succeed and thrive in school. To learn more - [Click here](#)

* **Lower Elementary SPED Teacher** - Reporting to the Academic Dean, the Lower Elementary SPED Teacher will be responsible for providing tailored support to students with special education needs, primarily through integrated co-teaching. This is an exciting opportunity for a seasoned educator who is passionate about ensuring all students succeed and thrive in school. To learn more - [Click here](#)

* **ESE Teacher** - The ESE Teacher position is responsible for coaching, motivating and instructing special education high school students within the company model, with attention given to each student's Individual Graduation Plan (IGP) and Individual Educational Plan (IEP) The ESE teacher collaborates with classroom teachers and support staff to insure that the instructional and social-emotional needs of the special education student are met. To learn more - [Click here](#)

* **New Visions Charter Special Education Teacher** - New Visions for Public Schools is the leading non-profit organization dedicated to the improvement of public education in New York City. Today, we support over 1,050 public schools and thousands of teachers, serving 700,000 students, in their most critical work: deciding what and how to teach, helping keep students on track to graduation, and preparing students for success beyond high school. New Visions directly manages a network of 10 charter high schools across the Bronx, Brooklyn, and Queens. To learn more - [Click here](#)

*** High School Learning Specialist 20-21 and 21-22 - Opportunity Charter School (OCS)**

teachers are trained in cutting-edge, research-based methodology of evaluating students' academic strengths and challenges. To maximize each child's personal development, an individualized education plan is created that is tailored to his or her unique needs. Students receive differentiated instruction in every curricular area with the goal of expanding their higher cognitive thinking. To learn more - [Click here](#)

*** Education Specialist - Mental Health and Behavior** - Willamette Education Service District is accepting applications for two full-time (40 hours per week). (Bilingual Spanish preferred). Successful candidate will work as a member of the Cross-Functional Equity, Inclusion and Achievement Team in the School Improvement Services Department, and will follow a 205-day calendar. To learn more - [Click here](#)

*** Assistant Principal - DC Public Schools** - We are looking for highly motivated and skilled talent to join our team at District of Columbia Public Schools (DCPS). We seek individuals who are passionate about transforming the DC school system and making a significant difference in the lives of public school students, parents, principals, teachers, and central office employees. To learn more - [Click here](#)

*** Special Needs Tutors** - is seeking dynamic, state credentialed special needs teachers to tutor on our virtual platform teaching learners all over the world. This is a perfect second job to earn extra money from the safety of your own home. There is no minimum hourly requirement; all you need is a computer, reliable internet, a quiet space and willingness to teach. To learn more - [Click here](#)

*** SEIS Contract Administrator** - The Collaborative for Educational Services (CES) is seeking an SEIS Contract Administrator to direct the SEIS contract for the benefit of children and youth residing in facilities operated by the Massachusetts Departments of Mental Health, Public Health, Youth Services, and the County Houses of Correction. CES's mission is to develop and foster educational excellence and opportunity for all learners through collaboration and leadership. To learn more - [Click here](#)

*** Intermediate School District 917 is seeking an exceptional leader to serve as Superintendent** - ISD 917 is one of four intermediate school districts in Minnesota created by the Minnesota Legislature in the late 1960s. The ISD 917 School Board was organized in March 1970, and is comprised of one board member from each of the nine member school districts. Currently, member districts include Bloomington, Burnsville-Eagan-Savage, Farmington Area, Hastings, Inver Grove Heights, Lakeville Area, Randolph, South St. Paul, and West St. Paul-Mendota Heights-Eagan Area. To learn more - [Click here](#)

*** Special Education Teacher** - \$60,000/school year (185 days), summers off with year-round pay and year round appreciation. Special Education Teachers needed in Arizona (Phoenix and surrounding cities). Needs are in the self-contained and resource settings serving students with emotional disabilities (ED), Autism (A), Severe/Profound (S/P), and Intellectual Disabilities (ID). STARS is the largest school contract agency in AZ. You will be an employee and receive full benefits. To learn more - [Click here](#)

* **Special Education Teachers - All areas** - We are looking for highly motivated and skilled talent to join our team at District of Columbia Public Schools (DCPS). We seek individuals who are passionate about transforming the DC school system and making a significant difference in the lives of public school students, parents, principals, teachers, and central office employees. To learn more - [Click here](#)

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