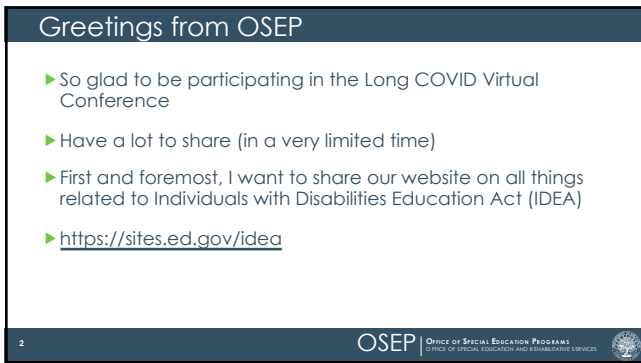


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The Law and Policy Dropdown

- ▶ Has the text of IDEA
- ▶ All of our regulations
- ▶ Our regulatory revisions
- ▶ And all of the guidance and policy letters issued since 2000
- ▶ I'll be relying on may resources from our website most of the presentation

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OSERS Organizational Chart (simplified)

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graph TD
    A["Office of Special Education and Rehabilitative Services  
Katy Neas, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary"] --> B["Office of Special Education Programs  
Valerie Williams, Director"]
    B --> C["Research to Practice  
Larry Wexley, Division Director"]
    B --> D["Monitoring State Improvement Planning  
Gregg Corr, Division Director"]
  
```

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ED's Response to COVID-19

- ▶ First and foremost at the Federal Level DOE=Dept of Energy
- ▶ At the K-12 level Congress has been amazingly supportive of education
- ▶ **\$200 Billion** of COVID-19 grants to:
 - ▶ Governors and State Educational Agencies (approx. 10%)
 - ▶ Local Educational Agencies/school districts (approx. 90%)
- ▶ By comparison IDEA's annual grants to States=\$1.5 billion
 - States received an additional \$2.5 billion in IDEA grants through the ARP Act

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COVID Relief Funds to ED

- ▶ Are essentially block grants where it can be used for virtually any purpose supported by an program administered by the Department
 - This includes for any purpose under IDEA (e.g. personnel costs for special education/related services, purchasing instructional materials and supplies)
- ▶ The Office of Elementary and Secondary Education Programs administers the grant programs
- ▶ See the [FAQs on the uses of funds](#) for more information

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COVID Relief Funds

- ▶ Some of the grant funds have already expired (our grants are usually available for 24-27 months of obligations)
- ▶ ARP Act funds expire September 30, 2024.
- ▶ Link to State and local ARP Act plans are available at
- ▶ <https://oese.ed.gov/offices/education-stabilization-fund/elementary-secondary-school-emergency-relief-fund/stateplans/>

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Final Thoughts on COVID Relief Funds

- ▶ The ARP Act also has specific additional provisions that may assist in responding to Long-COVID (although not directly mentioned by name). See Section 2001(e)(2) of the ARP Act
 - (E) Coordination of preparedness and response efforts of local educational agencies with State, local, Tribal, and territorial public health departments, and other relevant agencies, to improve coordinated responses among such entities to prevent, prepare for, and respond to coronavirus
 - (G) Developing and implementing procedures and systems to improve the preparedness and response efforts of local educational agencies

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Significant Ramping up of Guidance

- ▶ With a new administration, came a different approach:
 - "At the Department of Education, we'll do even better as a service agency," Secretary Cardona
- ▶ Significant shift from straight regulatory requirements to identifying and reporting on best practices
 - <https://www.ed.gov/coronavirus>
 - <https://www.ed.gov/coronavirus/program-information>
- ▶ The Department collaborated with the CDC on guidance (both at CDC and at ED)

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OSEP's Unprecedented Amount of Guidance

- ▶ At OSEP our focus on issuing detailed and compressive guidance on IDEA requirements
 - Return to School Roadmap: Child Find, IEPs and IFSPs
 - Supporting Child and Student Social, Emotional, Behavioral, and Mental Health Needs
 - Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders and Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions
 - Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools

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OSEP and OCR's Guidance on Long COVID

- ▶ Jointly issued by OSERS and OCR in July 2021
 - <https://sites.ed.gov/idea/files/ocr-factsheet-504-20210726.pdf>
- ▶ Government recognition that Long COVID can be a disability under the American with Disabilities Act and Section 504 of the Rehabilitation Act of 1973
- ▶ Students/Children may be eligible for services under Section 504 or IDEA

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ED OCR

- ▶ Both ADA and Section 504 are civil rights laws
 - ED OCR ensures compliance for educational institutions under Section 504
 - ED OCR enforces compliance under Title II of the ADA (prohibiting disability discrimination by public entities, whether or not they receive federal financial assistance)
- ▶ For more information please see OCR's policy guidance portal
- ▶ <https://www2.ed.gov/about/offices/list/ocr/frontpage/faq/r/policyguidance/index.html>

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OSEP/OCR Long COVID Guidance

The Guidance focuses on three major areas:

- ▶ Child Find
- ▶ Evaluations
- ▶ Service provision

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Child Find

- ▶ All States and all LEAs within a State must have policies and procedures to ensure that:
 - All children with disabilities residing in the State, including children with disabilities who are homeless children or are wards of the State, and children with disabilities attending private schools, regardless of the severity of their disability, and who are in need of special education and related services, are identified, located, and evaluated
- ▶ 34 C.F.R. § 300.111 (State requirement) and
- ▶ 34 C.F.R. § 300.201 (LEA requirement)

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Who is a child with a Disability?

- ▶ For IDEA:
 - A child who received an appropriate evaluation
 - Has one or more defined disabilities
 - And requires special education and related services
- ▶ IDEA has 13 disability categories + developmental delay
- ▶ The Department has repeatedly stated that the definitions of disability terms in 34 C.F.R. § 300.8(c) and the disabilities listed are not an exhaustive list

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See Other Health Impairment

- ▶ Having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that—
 - ▶ (i) Is due to chronic or acute health problems **such as (13 examples listed)...**
 - ▶ Adversely affects a child's educational performance
 - ▶ **Long COVID could be an OHI for a child with a disability**

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Under Section 504, Person with a Disability

- ▶ Has a physical or mental impairment that substantially limits a major life activity;
- ▶ Has a record of such an impairment or are regarded as having such an impairment
 - Major life activities include, for example, breathing and concentrating as well as major bodily functions such as functions of the immune system.
 - A student does not need to be substantially limited in their learning to be eligible for protection and services under Section 504.
 - If a student's long COVID substantially limits one or more major life activities, the student would have a disability under Section 504

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Evaluations—IDEA Requirements

- ▶ Must be conducted within 60 days (or State timeline) from obtaining consent
- ▶ Must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child
- ▶ The evaluation is used to determine
 - If a child has a disability
 - The nature and extent of the educational needs of the child

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Medical Diagnosis Under IDEA

- ▶ Not expressly prohibited by IDEA
- ▶ LEA could obtain a diagnosis or a State could require obtaining a diagnosis

However

- ▶ Diagnosis must be obtained at public expense/no cost to the family
- ▶ Cannot be the sole criterion for determining an appropriate educational program for the child

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Evaluations and Section 504

- ▶ Must be individualized
- ▶ Conducted in a timely manner
- ▶ Cannot be based solely on a diagnosis
- ▶ Similar to IDEA a group of individuals reviews the evaluation results and determines necessary supports

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Special Education/504 Services

- ▶ Once eligibility is established an IEP or "504 plan" is developed
- ▶ Must be based on the unique needs of the child
- ▶ For example, a child whose disability meets the definition of other health impairment under IDEA and who is experiencing difficulty concentrating and anxiety symptoms related to long COVID may through an IEP:
 - Receive special education and related services and supplementary aids and services to improve academic engagement during instructional periods,
 - Counseling services to address anxiety
 - A plan for positive behavioral interventions and supports to promote on-task behavior and adaptive responses to stress triggers

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IDEA Section 618 Data

- ▶ We're curious to see how the COVID-19 Pandemic affected our IDEA Section 618 data
- ▶ Our data are publicly available at
 - <https://data.ed.gov/dataset/idea-section-618-data-products-state-level-data-files>
- ▶ Static Tables (data subsets)
 - <https://data.ed.gov/dataset/idea-section-618-data-products-static-tables-part-b>

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Parent Resource

- ▶ Did you know that IDEA includes funding for parent centers? Parent centers:
 - **Work** with families of infants, toddlers, children, and youth with disabilities, birth to 26
 - **Help** parents participate effectively in their children's education and development
 - **Partner** with professionals and policy makers to improve outcomes for all children with disabilities
- ▶ Parent centers are in every State and Territory
- ▶ <https://www.parentcenterhub.org/find-your-center/>

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Let's Keep in Touch!

- ▶ Our OSEP State Contact, Team Lead, and Customer Service contacts can be found at:
 - <https://www2.ed.gov/policy/speced/auid/idea/monitor/state-contact-list.html>
- ▶ For a full listing of our OSEP funded technical assistance centers
 - https://osepideasthatwork.org/sites/default/files/OSEP-Placemat-508_updated%20July%2017-2020.pdf
- ▶ And our main page: <https://sites.ed.gov/idea/>

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Questions?

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