Good afternoon, everyone.

We are thrilled to be here, today, to present this webinar, (Jennifer R. Gavin) on learning for students with disabilities, in the time of COVID-19.

Today's webinar, is sponsored by the ABA Commission on Disability Rights, and the Section of Civil Rights and Social Justice, today's program, we encourage you to ask lots of questions.

It's a 90-minute webinar,
And we have saved about 45 minutes, for questions
We're going to try to provide an overview at the beginning, and provide a lot of time, for questions, because we know this is a confusing time, and folks have a lot of questions.

On the control panel, and there are controls, there, so, you have audio options chat, raise hand and Q&A. We're going to be using the Q&A, not the chat function.

So, please, pay attention to that.

Because, I'm new at this too, and I'm going to be fielding questions so it would be helpful if folks could write in their questions in the Q&A box, if you don't see those controls, please ensure that your screen is not idle. So that we can address your questions.

We will be sharing a recording of this program on the Web site, so that it can be disseminated widely. There are documents, that each of the panelists today, have provided for use for all of our participants, they are also on the Web site.

Please note, also, that there is closed captioning available, I am an attorney representing parents and special education matters in Brookline Massachusetts, I have been representing kids in special ed cases for about 25 years,

I started off at the children’s law center of Massachusetts, a nonprofit here representing children's solely. Since then I've had my own private practice, and I focus, particularly on the needs of teenagers,

With mental health, and comorbid learning disabilities.

In addition, we have Carlton Anne Cook Walker. Carlton is a parent of a blind child,
And a certified teacher of blind, low-vision students, she now heads, BEAR, Blindness Education and Advocacy Resources an education consulting business for parents, attorneys, advocates, and educational providers.

Carlton also serves as the president of the national organization of parents of blind children, and the proud parent division of the national federation of the blind. Also with us today is Kimberly A. Caputo, Kim has been connected to the legal program, and aspects of special education, for school-aged kids for over 20 years.

Through her practice with the firm of McAndrews, Mehalick, Connolly, Hulse, Ryan, and Marone. Prior to joining the firm, she represented a large urban school district where she also held administrative level positions. An active board member, with disability rights Pennsylvania,

And a member of the Pennsylvania Bar Association education on civil rights committee. And also with us today... is Selene Almazan,

Selene is the legal director of the council of parent advocates and attorneys.

I hope you are all aware, of COPAA, it is the largest organization, in the United States, for parent-side attorneys, if you are not aware of it, please, click on Selene's links so that you can check out, COPAA, and become a member, a practicing attorney for over 30 years, she continues to represent parents in Maryland in special education cases in addition to her work at COPAA.

So we're going to be starting today.... by, breaking our discussion, up into three sections.

The first section, will be the current law, and, what is the current law in the time of COVID-19? Do special education students have any rights?
Secondly, we’ll be discussing what the challenges are, at this time. What are some barriers, that have been put up for families? And how dangerous are those barriers? And, our third section today, will be on strategies moving forward. What can we do to help our clients so that, as we move forward, students can get the best education possible?

Okay. And with that, I am going to start, with Selene!

Selene Almazan: Hi, good afternoon, or good morning, depending on where you-all are.

Thank you for this opportunity to do this presentation, COPAA has been, providing, resources for families, since the beginning of the closures of schools, since the beginning of the COVID pandemic.

And we have a lot of resources, on our Web site, at WWW.COPAA.org.

I’m going to start talking today, about the current law, and about, where COPAA believes that the current policies are, and, we have to start, with, the release, from the office of special education programs, OSEP, the United States Department of Education, issued guidance, on March 12th, 2020, about school closures

And in that March 12th guidance to the States, said that "if school districts were not going to be opening, and/or offering education, to the general education population, children who were attending school," they had no obligation to provide education to children with disabilities. This was a grand, and huge departure from their previous guidance, to schools, specifically, the -- their guidance to schools, in 2014, during the Ebola outbreak.

And -- and their 2016, guidance on charter schools, when charter schools,
go bankrupt, or are no longer -- no longer able to operate a charter school system, that, in 2016, the same Department of Education said children with disabilities are still supposed to get an education during that time.

So four years later, we have during -- I realized an unprecedented pandemic a policy change. By our U.S. Department of Education. Telling school districts

Not offering school to anybody, you don't have to offer an education to children with disabilities.

At the time, some school districts, said, "Okay, since we don't have to offer education to anyone, we don't have to offer education to children with disabilities."

And this caused widespread confusion. Some school districts stepped up and started offering distance-learning pretty immediately; other school districts issued statements saying they're not going to be offering any education,

For any child, and, therefore, they don't have to offer education for children with disabilities, whether they're covered under an IEP or Section 504.

In 2000 -- and then on March 21st, 2020, the department issued another guidance to try to clear it up. And basically said, we didn't mean, that you didn't have to offer education to children, with disabilities, that's not really what we meant. You do need to offer, you know, education for children, with disabilities, if you're offering education, to everyone.

Still, did not step back on their policy position, change.

Which as I said, was dramatic

But, did say on -- unequivocally, to States, and school districts, you need to start offering education, to children with disabilities,

So this is -- you know, where we are, the -- the U.S. Department of
Education, thus far has issued three guidances, on March 12th, March 16th, and March 21st.

There are school districts that, are not offering education to anyone, in their school -- in their school system, which, I think, is dangerous.

Because the obligation to provide a free, appropriate public education, remains. The United States Supreme Court, decision in Endrew F., remains good law; and children need to be getting

An education, whether it's through distance-learning, or whatever you want to call it,

They should be getting those kinds of services, to the extent that it can be done,

Certainly, COPAA recognizes that it is an unprecedented time. We are encouraging families, to work with school districts, on behalf of my clients, I have participated in distance learning, meetings, you know, up to 20 people on Zoom -- and it has worked fine, and students, are getting, some programming

Jennifer R. Gavin, thank you Jennifer R. Gavin: Thank you, Selene, and Kimberly A. Caputo

>> Kimberly A. Caputo: Thank you so much, for logging in and participating, it's a real privilege to be part of this panel, and I look forward to answering some questions, Selene did a great job with the framework of the law.

I just have a couple of add-ons, where I practice predominantly is in southeastern Pennsylvania, where I'm happy to share out, that the vast majority.

Of local educational agents, LEAs, are in fact, at least at this point in time, working hard, to engage with parents, and come up with educational continuity plans.

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Similarly in this part of the state, there are a significant number of charters, in Pennsylvania, charters, are their own local educational agents; that is different across the country.

But, again, in PA, those charters function as their own local educational agent; and I also am happy to share,

That at least, in and around the Philadelphia area, many of those charters are also, working, hard, to come up, with plans and systems, to continue to engage and connect with students.

That being said, this is unprecedented. It is challenging.

It is challenging across the board, for everyone.

Parents, who are now home, struggling with work demands or financial demands -- now being asked to connect, remotely, in, quasi-teacher roles, families with multiple children, across multiple grades -- on the flip side: There are teachers who now are also at home, perhaps, helping their own children, and also trying to work with students.

So, the law doesn't talk about this, but it is absolutely an undercurrent in everything that I have read and sign, flexibility, and reasonableness

Everyone has to just kind of take a breath, and take a pause and look at, individual children, certainly, certainly, as Selene said: Endrew F.. is the law.

Students with IEPs, despite the fact that these times are unprecedented -- have individual needs, and those individual needs, do not get suspected; they do not evaporate, because these times are so unprecedented.

If a school and a parent, can at least communicate with one another, about those needs, and try to craft an educational continuity response, in this time.
Then I think that is an absolutely great first step.

Parents should not forget: -- nor should LEAs forget -- that right before schools closed, there were a cohort of students, covered under Section 504,

Those are students, who have a disability,

But they do not require -- or did not require -- especially-designed instruction. They required, however, accommodations

And modifications

To the general education curriculum, and the specific grade standard.

Many of those accommodations may not be applicable now, if the continuity plan focuses on one-on-one instruction, or online learning

However.... some of those accommodations may become even more vital, and more important.

Kimberly A. Caputo: So looking again at the student, at his or her individual needs,

As they existed right before school closed. And now that we are in a completely different environment, how do those needs change? And what supports would be necessary, given the new environment? Evaluations, IEP meetings -- all of these things, are still supposed to be happening.

What they look like, however, is probably going to be very different.

Kimberly A. Caputo: In Pennsylvania, the association of school psychologists, has put together, a document that they have asked, that the Pennsylvania Department of Education, embrace.

Speaking to the idea that evaluations should be suspended

To the extent that they require face-to-face assessment of a child.

Obviously, evaluations that require observation of a child, in a learning
environment, that aspect of an evaluation, is going to be very difficult, if even possible, to be accomplished during this time frame. Because children are not in The typical school environment.

Having said that, however, it is problematic, particularly from a parent perspective, but I would also submit from a school district perspective, to accept the belief that we are just going to sit and pause and wait until September.

No good can come from that, in my way of thinking, because come September -- God willing, schools will be back open, and we will be ready, to just engage and begin learning

But there will be an entire cohort of brand-new children, who have needs, and who have who require, access, to a psychologist for assessment.

And so, again, communication, and flexibility, between the LEA, and a parent, to talk about, well, listen, how can we get some information about my child, who's already in an educational system -- now? During the closure, so that when we reopen, my child is not part of, what's going to be a growing cohort of children, who need to be evaluated and assessed.

In Pennsylvania: Heaven forbid, if LEAs and parents reach an impasse, and they require dispute resolution: Those tools, and mechanisms, remain alive and well during this time. Again, what it looks like, will be very different.

Most hearing officers, or the adjudicators of these disputes, are convening, video, hearing sessions and that's going to take a little bit of extra creativity and effort, on the part of attorneys and on the part of their respective clients in terms of preparation and how the matter should move forward.

My last set of remarks, speaks to that area of the law, under IDEA, that deals with transition. And when I think about "transition", I think about it in a
couple of different ways: I think about it in terms of the really young students, who are in preschool and receiving supports; and for whom kindergarten would begin in September 2020.

Those students
Typically, are connecting with the school-aged local educational agent now,

In the spring of 2020.

So if you are a parent, and you find yourself in that category, you're going to have some concerns in terms of where you should have some concerns.

In terms of your child's transition, from the preschool sections of IDEA, into the school-age sections.

Fast-forward, all the way up to high school, right before the closure, there were a cohort, of students sitting in 12th grade -- or perhaps,

Getting ready to exit, out of IDEA -- maybe that's a different kind of conversation now, given the changed circumstance

So, those types of parents might want to take a minute, take a pause, and rethink hey, where our post-secondary changes, our goal, our plan as of January 2020 -- is that the same plan we want to stick to

Now given the circumstance? And IDEA certainly allows for changed circumstances and teams, and parents to connect, and converse around what now, should happen.

So I look forward to getting your questions, and thank you, again.

(Kimberly A. Caputo)

>> Jennifer R. Gavin: Thank you, Kim, Carlton could you add to that please?
>> Carlton Anne Cook Walker: Absolutely, as Jennifer mentioned, I come from three different worlds: Attorney, parent of a child, child with significant disabilities, multiple, actually, and then a teacher of blind students. I -- so in the trenches, I've found a lot found schools don't necessarily follow the great guidance Selene and Kim have set forth. USDOE, even the new guidance that.

If the school offers educational opportunities, then it must offer FATE in special education, well, schools I'm sure people know, we're just going to offer enrichment. Voluntary worksheets and try to wiggle out of really clear guidance even the more restrictive recent guidance, more restrictive than 2014, 2016, to add to -- and sharing with the USDOE guidance, doesn't necessarily open minds and hearts. I have found that in other regards, to sometimes sharing the state DOE recommendations is really helpful.

The schools are -- have a close relationship with their state DOE, and they are more closely-monitored and supervised by their state DOE, so I think that helps too. The national federation of the blind has collected a -- all of the state guidance, to date, for each of the 50 states, -- I believe District of Columbia, not sure about Puerto Rico, and you can find at www.NFB.org/resources /COVID-19 you can also just go to the search engine, and type in COVID-19, that is a really great, resource you'll find in that resource, that not unlike, other times, federal regulations, some states are not following USDOE guidance. They are giving more loopholes out.

It's unfortunate, it's something that needs to be addressed, but you are better prepared when you know what your school districts are getting from your state Department of Education, also very unfortunately, several of these, this guidance, mentions federal waivers.
And it's very discouraging to see educators, thinking more about how to get out of educating children, than thinking about how to educate children.

But, again, being forewarned -- forewarned is being forearmed. So I really encourage you to seek out those resources, too. Obviously, federal resource -- wins in any -- um -- conflict with states, but it's good to know what your districts are hearing as well.

Jennifer R. Gavin: Thank you, Carlton. The only thing that I would want to add to this topic of what the current law is, is a question that I've been getting a lot, is -- is my child's IEP still effective? And what are these remote learning plans? Does that supersede, my child's IEP?

Is that an IEP amendment? What does happen to the IEP? Anyone?

Selene Almazan: Well, in the guidance, the 2014 and 2016 guidance, the department, at that time, talked about, holding IEP meetings; and so initially, I thought that we would be holding IEP meetings.

I've come to the realization, that, we need to leave the IEPs alone, because the IEPs are frozen in time, from when schools closed.

And that IEP remains in effect when school is going to reopen. I mean, certainly, what we're going to have to do, is look at where children are,

And their present levels of performance, where they were when it -- school closed, and now where they are when school is going to reopen. And talk about how we're going to bring children back up to where they were, when schools closed

Jennifer R. Gavin: So in shorthand the IEP is still there? Selene Almazan: Yes

>> Jennifer R. Gavin the IEP is still the contract with the child's school
district as to what they should be receiving, but for the issues of protecting the
health, of the students, and the health of the providers, Selene Almazan right:

>> Kimberly A. Caputo: Could I think jump in?

>> Jennifer R. Gavin: Yes, please.

>> Kimberly A. Caputo: I would just add -- I have seen, although these are much smaller educational providers, single-charter schools, are the example -- the IEP at a school level -- so, for example, the day before the closure, remains.

And as Selene, indicated, frozen.

Those schools -- and I think, that this is predominantly a function of their size -- have reached out to parents to craft interim IEPs. To deal with the fact that what was offered in the school setting, looked a certain way, and was a certain thing, and now, they are trying, to offer something different, given the changed circumstances

I can't say I have seen that, extensively, I have also seen much like Selene, districts reaching out to parents, asking to convene meetings, Google, Zoom -- some sort of electronic platform -- to review, and discuss, how best to move forward, given the changed circumstance. (Kimberly A. Caputo) but I fully agree with what everyone else has said. That looking at that IEP, the IEP in place the day before the schools closed -- that should be the document that defines a child's present levels.

And then what those present levels are, come September or October -- I think is where the meaty, like the food -- conversation

[LAUGHTER] >> Kimberly A. Caputo: -- is going to happen, because it is everybody's hope, and -- my remarks are, based in fact, but they are also
somewhat aspirational -- I am hoping that, you know, in this time, everybody can work productively and collectively.

But that -- I just lost my train of thought. I lost my train of thought.

>> Jennifer R. Gavin: Thank you, Kim.

>> Carlton Anne Cook Walker: I would like to add just a little bit.

At risk of bleeding into the next topic quite a bit, I actually have seen schools, and actually very wealthy schools make statements like we will offer no more than one week -- 1 hour per week of special ed no matter what your child's disability or disabilities are. That's just -- and there are multiple school districts threatening to withhold any supports, any services, any accommodations -- any modifications -- any assistive technology -- unless parents essentially sign away their children's IEP rights. That's completely, not only is it unethical, I think it could -- I would fight it in court, if a parent did go down that road, but -- it's terrible. And the other thing we have to remember is: IEPs, are not -- so kids get something and schools have to provide something, they're for what the student needs.

And we developed them for a purpose and COVID-19, notwithstanding -- the child, likely still needs those things.

So, the child cannot -- we can't just say oh, well, it wasn't easy to provide so we're not going to do it or not do it until fall. We must keep first and foremost in our minds, the child's needs. Now, and what the child needs to be able to go back to school, in the fall. We need to have that child prepared.

Not six months behind Jennifer R. Gavin: Thank you, Carlton, that's a really important point. The point I wanted to make was to bring together, Carlton's statements about the states, and what guidance they are providing.
With local districts.

And how important that is, that I'm seeing, on this issue of what happens with the IEP.

And whether or not there's a remote-learning plan, is what they're calling them here in Massachusetts, is being provided. Our state Department of elementary and secondary education, has provided a sample, remote learning plan, to districts, to encourage them, to really spell out, what the services are, that they're going to provide; they say repeatedly, on all of their documents, this will not look like the service delivery grid in your IEP.

This is based on what we can provide, while still protecting the health of the providers, and the child, and then oftentimes, the word "feasible", is thrown in, as well.

So I have encouraged the families that I work with, to really -- to jump on that remote learning plan.

And if your state doesn't have a -- remote-learning plan, or distance-learning plan -- that they are proposing, contact your child's school.

And say, "What is it that you are planning to provide so that my child can continue to make progress on the goals of his or her IEP?"

So that leads us into what Carlton was saying, regarding some of the horror stories -- is probably the best thing, I can come up with.

The misinformation, that is out there, that is lowering, the standards for education for students with disabilities.

I would like to start, by going back to Selene...

I didn't mean to catch you offguard there, Selene, without your glasses on. Could you provide us some -- it -- what you've heard regarding misinformation
and what the dangers of that are?

>> Selene Almazan: Sure, so what we’re hearing, from families, and what we’ve seen, in writing from some school -- major school administrator groups -- is that FAPE, is different, FAPE, does not apply. There's been some sort of pause during a pandemic of FAPE, which is inaccurate; that the Endrew F.. standard where Justice Roberts talked about, a child's circumstances, as part of the definition, to how you determine whether or not a child is getting a free, appropriate public education -- that the circumstances -- is -- the pandemic, and so, we've got an altered circumstance, so therefore, the FAPE standard is lower, that is incorrect. Actually, I just heard that as recently as last Friday. On a webinar, that is incorrect.

When chief Justice Roberts is talking about child circumstances they were not talking about the pandemic; they were talking about a child's abilities, and needs, that they present to a school.

And how a school addresses those. So, that is a danger.

We've also heard, anecdotally, from families, that they are asking -- being asked to sign a waiver of their rights, to challenge, the provision of FAPE during this time; that they're being asked to waive those rights.

That they're being asked to waive, any kind of ability, to to say that they want something different; that they do not agree to the distance-learning plan; then, therefore, they have to, you know, they're not going to get anything. I think that the -- actually, the whole theme is that these absolutes, are absolutely inappropriate.

And that's when school districts can get into some trouble. You can't say no one is going to get occupational therapy during this school closure.
IEP, individualized, it has to be tailored to what that student needs.

So when school districts say no one is going to be getting occupational therapy during the school closure.

You're not meeting each individual student's needs, now, I'm not an occupational therapist, but I've had -- a few meetings with clients.

And I know, that there are occupational therapists who are doing therapy remotely.

Three days into statewide closures, I spoke with an Attorney down in Kentucky.

Who was already getting services, who was already getting occupational therapy -- visits -- remotely, by the special educator.

So it can all be done.

Selene Almazan: (Continuing) the other thing that we’re hearing is that there’s going to be no, extended school year.

No, that's also incorrect.

That has to be an individualized determination for students.

So things like that, that are absolutes, are -- are inappropriate.

The issue of compensatory services:

We are all talking about compensatory services.

I would like to propose that we look at it a little differently.

Compensatory services -- means that the school district has done something wrong: That they have failed, to provide a student with something that the student was entitled to.

The school closures are no one's fault.

Except for the virus, right?
So perhaps we can start looking at what are the services that a child is going to need, when schools reopen?

To bring them back to where they were, to Kim’s point, to where they were the day before schools closed? We’re going to have to look at what IEPs. -- we’re going to have to look at present levels of performance for students when schools reopen; but let’s start talking about what are those services that are needed?

Perhaps instead of calling it "compensatory services" because that has a sort of us versus them, kind of connotation, because it is something that schools failed to do.

So I think we need to start looking at services,.

And start looking at what are students going to need. To Kim's point, to Carlton's point, they're going to have those needs when schools start. And they may be even more, profound.... You know, when schools start back up.

>> Jennifer R. Gavin: I agree with you, Selene. The question of compensatory services is one that has gotten a lot of talk.

And the way that I have begun to think about it, that I'm hoping will be helpful.

Is simply a reassessment, of the child, when schools reopen.

And how have their needs changed?

Their needs are likely -- are not the same as they were.

On the last day, prior to the closure. Their needs have probably increased.

And so it's a matter of changing their plan prospectively, to address those increased needs, as opposed to a compensatory services going back.
 Selene Almazan: Right. Right. Yeah, -- Carlton Anne Cook Walker: Additionally if the regular -- if nondisabled students are getting instruction, either enrichment or new instruction -- they are going -- getting ahead of our kids, with disabilities, who have -- for whom IEPs services have not been provided. So we have to not only look at where the child is, but also look at where the child should have been and where the nondisabled children were allowed to get.

 Jennifer R. Gavin: Good point. Thank you,. Carlton, do you have more to provide at this time?

 Carlton Anne Cook Walker: Sure.

 Jennifer R. Gavin: I'm sorry, I was supposed to go to Kim, next, thank you for that look on your face! That was helpful! Kim, your turn!

 Kimberly A. Caputo: Danger, danger signs, it's the same now, on some level as it was before the Closure. When either, participant in this conversation around a child, a parent, and the LEA, collectively -- when they are in a place of no, not ever not -- those negative definitives, are the same.

 And the reaction should be the same.

 So if an individual, is finding themselves in that type of environment, then I would suggest, that should be kind of a red flag.

 I have not seen this frequently, but I have seen it. This idea, that -- and Selene mentioned it under Endrew F., that somehow, the pandemic is the unique circumstance.

 And that gets scaffolded with, the pandemic is a unique circumstance, and regular education, the collective whole -- is being adversely impacted and is not able to fill in the blank -- receive instruction.

 And then that equation, pandemic is a unique circumstance,
Compromise to the collective whole is used by an LEA as a justification, not to individualize

And that is just a wrong equation, it's a misapplication of Endrew F., as Selene suggested; and it's -- it completely sacrifices

The individualization, the I in the IDEA. It's not to say at every single IEP service is going to be replicated exactly in this time of pandemic, but that doesn't mean, that we throw the baby out with the proverbial bathwater. That individualization still has to happen, and that individualization is tied to the child not to the pandemic.

The only other danger kind of warning, Will Robinson for those participants who are old enough to remember "Lost in Space" -- anything that is signing -- if you are being asked to sign to waive -- if you are being asked to sign to give up -- and heaven forbid, if you were being asked to sign to exit -- to exit from service, and I say this with an underscore, to those parents, who have students who are in the 12th grade or who are approaching age 21 -- and for whom, exit from service

Was discussed or contemplated in that IEP, the day before the closure -- those, for me, would be warning -- warning signs to maybe take a pause, seek some advice from family member advocate, attorney, before you affix your John Hancock

>> Thank you, kim, now Carlton.

>> Carlton Anne Cook Walker: I wanted to run over some things, we've seen scapegoating of students with disabilities, with widespread -- with school officials no education can be provided because we can't meet those IEPs.

No! Kids with disabilities aren't to blame. This backlash has a lot of
negative impact.

We are hearing utilitarian arguments, the greatest good for the greatest number, that type of thing is going to set our equitable a century, I've seen parents accepting the schools claim, of course, you can't give physical therapy, via teletherapy. Except, physical therapist have been doing it for years and years and years, in the medical -- with adults,

So it's hard, for me, to accept that it can't be done,

When people are doing it. Like, Kim and Selene have -- talked about

And unfortunately, I believe that these types of, um, absolute statements, are engendering feelings of helplessness in educators. They're buying into it too. Well, yeah, I guess I can't do it. We're abandoning rational thought. We're focusing on the how. Well, I've always passed out worksheets to somebody, so I don't know what I can do. Maybe give them a paper packet? No, we need to focus on the why. Why did you give that worksheet to those children? Was it to keep them from tearing the school apart while you had to go to the bathroom? That's fair, as an educator I get that but that's probably not something we really need to keep, because someone else is taking care of the children.

But what is the purpose? Let's see if we can have some creative ways of having the social interaction, and the learning, meeting those standards that the child needs, for a child -- needing to learn Braille or sign language, making sure the child progresses so that come Fall, they're not another school year behind their peers.

Again, focus on -- education, rather than -- I hear, to focus on educators, rather than students too.

Just yesterday, I was reading an article in Baltimore, talking about how it's
tough for the teachers, who have children to actually -- to teach their students. Well, you know, what? It's tough for nurses who have children,

And it's tough for a computer programmer, who has children, to do the online education, and his or her job also.

Let's think outside the box, we don't need to be confined to 8 to three school hours, because we're not in a building anymore. It might be easier for some teachers, to have a social studies class at 7:00 in the evening, because they might have a

Significant care need for their children, let's think outside the box and not be so wedded to what we can used to do, and embrace this opportunity, we didn't ask for this pandemic.

We did not ask for school closures but this is where we are, so let's embrace it, and look and see if we can find some silver linings!

>> Jennifer R. Gavin: Thank you, one anecdote that I wanted to share, from my experience, is in watching a Zoom, of a local school committee. Meeting.

A couple of weeks ago. The special education Director informed the school committee that town was not going to be providing any speech and language therapy.

Because, the speech-language therapists in her school district had informed her that due to licensing requirements.

They couldn't do it, over Zoom.

And I thought well, that's unusual, what does that mean?

And doing just a little bit of research, just a little bit of a Google search. Came upon the licensing requirements, of my state.
Which, yes, for telepractice, as they call it for speech-language therapy -- been around a long time.

There are licensing requirements that say, that before engaging in telepractice -- speech-language pathologists had to go through ten hours of training

Before they could provide that service.

Interestingly, however, just days after the school closure in my state, the licensing Board had changed their...

Requirements. And had waived the ten hours of training necessary, in order to provide telepractice

So there was no barrier, to providing speech-language services. So I think that it's really important what that taught me -- is to think about, when you're told no, it can't happen -- why is that?

Why can't it happen?

You know, the question of whether whether or not something is "feasible" well, it's not feasible because why?

Because there's not enough staff? The staff isn't trained appropriately?

No, what is it that is the barrier, that we can work on?

Jennifer R. Gavin: The other thing that I just wanted to mention, is in thinking about what services can be provided -- I like to look at the objectives in the IEP.

And really, that's what I'm thinking, will guide me, as to what this child needs,

Where are we trying to get to?

It's not the exact service in the service delivery grid that we need to
provide; but how are we going to make progress towards those objectives?

Okay,... we are now on to our third section, of course, we are a little bit behind.

So -- we can go through this fairly quickly, and we do have lots of questions, looks like 83.

So

[LAUGHTER] -- Jennifer R. Gavin: Let's get through this next section, the next section is what are the steps that we can take to protect the rights of special-needs students at this time?

So how can we be proactive? Selene, would you like to take that first?

>> Selene Almazan: Sure. I'll leave it over to Kim, and Carlton, so several things on our COVID-19 Web Page, has links for resources for distance learning; we have been telling families, to videotape their children, using their telephone, the skills that they have, or, you know, immediately after closure, where they are now, to try to document.

What kind of academic or any other kind of skill loss there may be.

You can have the sample work that was coming home from school at the beginning of March, as a benchmark, perhaps, and then some of the work that they're doing, now -- also, thinking we -- have done a webinar for families, and attorneys, and advocates.

A couple of weeks ago, we're going to be doing another one, we're doing this one, I've done one with national down's Syndrome Congress, and another one with the autism group in Florida, this coming Friday.

Just -- we are constantly updating the Web site, on new resources -- there are links on the Web site, for where your school districts are. What they -- what
your state department of education, has put out; our local chapter of decoding
dyslexia in Maryland has done an awesome job of taking every local school
district learning plan and plans and putting it up on their Web site; so that's been
very helpful for those of us who represent families in more than one school district
here.

At least we know what other -- you know, what they're saying, if you're not
doing a lot of work there, but happen to have one single client in one
jurisdiction -- there's 24 jurisdictions, in Maryland.

So we are in uncharted territory, and I know I keep on saying that. Don't
have all of the answers, I'm still trying to figure out, the evaluation piece.

You know, looking at what kind of data schools might have had before, for
an initial evaluation.

And, you know, determining whether or not that can still go forward, for eligibility.

Selene Almazan: So that's what I've got, about going forward. I know
that Carlton and Kim had -- had much more than I did.

>> Jennifer R. Gavin: Thank you, Selene. And actually go to Kim, next.

>> Kimberly A. Caputo. Sure, sure.

So first, everybody on this call whether you are a principal, a teacher, a
parent -- a foster parent -- a grandparent, an older sister -- take care of you.

Take care of you. This is not, a sprint. It never was a
sprint -- educating children, with differences is never a sprint, it's always a
marathon, and even more acutely so, now.

I agree with all of my colleagues. . Try and find a silver lining.

It may sound, kind of Polyanna-ish I fully recognize there are challenges,
but everybody needs to stay sane, because children watch adults. They watch all of the adults, and they are very connected, emotionally.

And socially to how the adults, around them, are reacting and responding.

Which gets me to my point:

Learning in this time, whether it is through packets, whether it is through online learning -- is a new format. There will be children, who respond very favorably to it; and that's great.

However, one of the reasons those groups of children, may be responding favorably to it, is because the stressor, that brick-and-mortar school represents, is now removed.

And that stressor, in and of itself, is going to be returning.

Come September.

And the fall. And so this idea, this notion, of how does the child present now?

Certainly, in terms of academics, which that frozen-in-time IEP will be helpful.

Certainly, in terms of very specific related service needs -- that IEP, frozen in time, will be helpful.

But there may be some unintended consequences. The unintended consequence of being removed, from the brick-and-mortar school -- being removed from that very structured routine

Being removed from that place, that, in and of itself, may have been a stressor -- and -- and -- the increase in screentime, and electronic learning -- that this -- it's unavoidable. And it's not about finger-pointing or blame. It's just a reality that I would hope,
Educators, and parents, together, would recognize and it's not going to apply to every child, but it will apply to some.

So that's -- something, I -- I see it as solution and I'm putting it in the "solution category" because I think that if we are thinking about these issues now -- we can be addressing them.

And the more robust the program is, I mean, perfection should not be our enemy right now. People should not be afraid, to try, because, they are afraid of liability. Try, for the kid. Be creative.

And it's all going to be assessed, once schools resume. Hopefully, there will be positive impacts

In which case additional services might not be necessary.

Or.... additional services, might be necessary, that were otherwise not necessary once that IEP was frozen in time.

Because of what has happened in the two, three, and four months that instruction, has Lached so different.

Kimberly A. Caputo (continuing): Access, resources, I've been on the COPAA Web Page, a number of times, it's great. There's tremendous amount of information published out there for parents and educators. Access it.

And come to the table, with questions, and suggestions

Do not be afraid, to throw something out, as a suggestion. Because it might be a key, for an individual child.

Jennifer R. Gavin: Thank you, Kim

>> Kimberly A. Caputo: Yes.

>> Jennifer R. Gavin: Comments.

>> Carlton Anne Cook Walker: I echo what Selene is saying about
documenting present -- if you didn't do it in March, fabulous, it's not a problem, do it now! It's okay.

And actually to -- to Kim's point of taking care of yourself. Keeping a journal, a diary, especially when there are frustrations, can be really helpful, it can be helpful to vent on.

On the computer or on paper. But then it also gives you some good information for reflecting back.

In future months. Kim's point about children, perhaps doing better outside the school environment -- is really important data. If we are seeing that it wasn't the educational information, but it was the school environment that causeed some trouble, that helps, the Team determine what other supports might need to be replaced; how might we need to change things? And Kim talked about other resources and I could not agree more! On the Web site, is a lot of the educational resources being provided are badly-not accessible, to students who are blind or have low vision, so I've created a document of things that are accessible. And everything on that document's free, so woot! There are other things that aren't free, but everything there is free. But document those things too. Document your enrichment. If you're going around the house.

And weeding the garden every day -- which -- I wish I were -- document that. That may be good information, for your IEP, team, when you come back.

If you are providing, Braille -- or if you have volunteers providing Braille instruction for the child -- that the school isn't providing -- or the school is providing very little -- you want to document that.

Okay if the school gave us half an hour a week, we've got another five hours a week from the outside. Because otherwise the school can come back

CORRECTED CART FILE
and say oh, my gosh she’s learned so much. Only half an hour a week -- we need to know what we’re actually talking about. And that’s what the documentation is all about.

And find allies. There are some great allies out there, disability-specific and also just educational allies, again, taking care of yourself.


I had just a couple of comments I wanted to add, regarding baseline. Now, where are we at for baseline when we’re moving forward?

And fortunately, here, in Massachusetts, the second quarter, of the school year, ended, in the end of January.

And those progress reports were issued, in February.

So we should have at least here in -- you know, certainly by weeks it would vary -- throughout the country -- but hopefully, there are midyear progress reports on the goals of the IEP.

That should provide data, as to where your child was, at that point, midway through the school year. I think that is really important.

The other piece, is regarding documentation, and everyone has said, document, document, document.

Jennifer R. Gavin: And I’ve attached to the Web site, a form, that I developed, and are giving to my clients, to just ask some specific questions To guide people in documenting. It’s --

Look at that midyear report card. What are the objectives? Where was your child at that time?

And then keep a record, not only of what they’re being provided; is it a live session with the special education teacher? Is it packets that they’re receiving?
The different kinds of teacher-directed learning versus student-directed learning -- keep track of how they're doing it, how much time is being provided and then look at those objectives. Were any of those objectives worked on during that time? If you could just keep track of goals 1 through 4, and here's the 4 objectives under each goal

You know, maybe the teacher is focusing on one objective, under Goal 2, because that's similar for a lot of students,

So they may be focusing on that, and missing out on a couple of the other objectives. So I've been asking families to keep track that way

In addition, Carlton, as you said, keep track of what other private services that you may be bringing in to help your student, but I've also suggested, to my clients, to inform the school district -- that, you are providing services privately, because your child isn’t getting them through the school.

And is not making progress because not receiving those services -- and, you know, just -- it's, like, a unilateral placement letter --

Send in a letter and say, I've had to provide these services and I will be asking for reimbursement when school reopens. Now, whether we ever get to that point -- I don't know.

And it's not likely that we'll be talking in those terms, but I want the school, to know, what are the resources that families are spending, on providing services, like speech and language services -- when the school district says they can't provide it, because it's a violation of licensing.

Carlton Anne Cook Walker: And to add on to that assistive technology is such a big thing. I've heard from parents, who their children only communicate by switches,
And there were no switches that home before closures

That's mind-boggling, that was -- wrong, to begin with, but some schools might double down and say you, obviously, don't need it because we didn't provide it earlier than we should have. We don't want to get into a blaming situation

Don't have a time machine, can't go back, let's move forward

And if you can, get the school to get the tech out of the school building and if not, certainly document

Any other way you've gotten to borrow or purchase it Jennifer R. Gavin:

And, you know, the basic laptop or chromebooks as they use here in Massachusetts -- who the students who don't have one? If the teacher is providing some sort of online services to her class

But your client doesn't have access, to the one laptop at home, with four different brothers and sisters, or whatever the situation may be -- I'm working a client who is in a group home, and the group home had one laptop for nine students

And I asked the school district to please provide a laptop, and their first response was, "Oh, no,

We're not providing laptops"

[LAUGHTER] Jennifer R. Gavin:  Hmmm. So we talked about it a bit, and fortunately in the end, they agreed.

They said okay well, we'll put in a new order for chromebooks but they're not going to come in for six weeks. I said well, that's really too long.

I can get one on Amazon and have it delivered, in -- by the middle of next week, $232. Well, you agree to reimburse me
Yes,

So it was just being creative: How are we going to do this? Does your child really need to wait on that six weeks?

All right. Let's get to our 98 questions now!

[LAUGHTER] Jennifer R. Gavin: I do want to get to -- I'll put it up after we talk about this first one.

The one that seems to have come to the top, at this point.

Is there any legislation, or future plans for legislation.

Addressing compensatory education in your states?

Kimberly A. Caputo: I'll address it in Pennsylvania: There is no specific.

Legislation, in chapter XIV, pertaining to compensatory education, and, in fact, interestingly enough.

On the federal side in IDEA, and its regulations -- compensatory education is not specifically defined. It's -- it's been created.

Through various pieces of litigation, administrative and otherwise -- as a remedy for students.

I can't imagine that that will change as a result of the pandemic. It seems that that.

That legislators in Pennsylvania -- and I don't want to speak on the federal side of it -- but they are more inclined, to be comfortable with how administrative hearing officers, who hear each of these cases, and all of their individual nuances -- come up with an appropriate remedy for a child, one of which is compensatory education, but that's not the only one.

So, I -- my gut tells me that that will not change.

Jennifer R. Gavin: One thing we may want to raise, though, are what are
the potential for federal waivers? How will that change our landscape?

>> Selene Almazan: Yeah, the secretary of education, needs, congressional authority, to waive timelines.

The department does not have the authority, to do so. And that's in the letter to Gary, after hurricane Sandy. You know, there had been other letters from the Department to specific questions, upon natural disasters, like hurricanes -- Louisiana and New York come to mind as most recent. And so there is no authority to do that. You do need the Federal Government, to -- the Congress, to create that waiver.

COPAA has been sending out alerts saying no waivers. We are -- we believe that there is flexibility already in IDEA.

You've all -- always had flexibility since 2004, to have IEP meetings by phone, so some of that early resistance, was futile; that, you know, there was always the --

[LAUGHTER] -- Selene Almazan: -- to do that. You can agree to waive the due process, 45-day timeline, it doesn't have to be completed soup to nuts. In the 45 days it's often impossible in many areas of the country to do that.

And there has always been some flexibility, on -- on... now I caught Kim's --

>> Kimberly A. Caputo: Uh-oh!

>> Selene Almazan: Yeah, some of the timelines on the evaluations, you know, parents can agree to some of those things, it doesn't mean that the district is held at no-fault, but, you know, there's always been some flexibility.

For people, parents and schools, to agree; so we believe that there is flexibility in the IDEA already.
We don’t think that there should be waivers, certainly not the 45 school day waver that some of the groups are asking for. That's 9 weeks into a school year. Which is a long time in the lifetime of a student's education.

Jennifer R. Gavin: Thank you,

>> Carlton Anne Cook Walker: With regard to accommodations and modifications -- I know that I'm concerned that there may be waivers, beyond the procedural and the timelines.

I just really encourage everybody to think about what was being done before schools closed? Certainly, there were processes, in place, there were staff in place, there were procedures in place -- those did not explode when schools closed.

Carlton Anne Cook Walker: It's a new world, but it's not that new.

So before we try -- before schools, to say that oh, we can't do that now because buildings closed. Well, let's think through, and put our creative hats on and see if we can make it work.

Like we did two months ago.

>> Jennifer R. Gavin: Here’s another question that I thought was -- would be helpful for folks to hear the answer to. Q: Should school districts be responsible for providing for instance mailing -- adaptive materials for example tactile alphabets, puzzles, et cetera, to students who are home due to the school closures? A Carlton Anne Cook Walker: If needed for FAPE, sure, and if needed also for blind students don't get the same kind of opportunities, for learning that sighted students do, there's some Braille but it's usually high, for short people it's really hard to reach -- good education, we know -- we envelope children in literacy. And blind students need that literacy.
Incidentally as well, so I would say -- I don't see an educational purpose for withholding it. Let's put it that way.

Jennifer R. Gavin: That brings up from me -- issues regarding children with autism and their communication devices. Whether they use a communication -- a communication board.

At school. Or whether a they use an iPad.

At school -- fortunately, it should have been they had those materials at home, too, prior to the school closure -- because that, then, helps them to generalize, their skills learned in school to the home and community. But in some cases, schools weren't at that point where they were actually providing those services to generalize skills. And now we have a child home without their communication devices.

And how we're going to get those to the students. I would make a strong argument, to contact the special education director, right away and get those materials. And if they can't provide them, you know, is there another way to get the iPad with the software on it? What can you do?

(Pause) Q: Do you have thoughts about students with disabilities in juvenile facilities? And their rights under IDEA? We are hearing push back by the city agency holding them in custody, that they don't have adequate technology with adequate security, and from the LEA, that they can't be held to the same standard as other students, in the city because the students are in a correctional setting?

Clearly there are arguments, and ways to push back on this, but there are also practical and legal hurdles.

Thoughts on navigating these competing interests? Carlton Anne Cook
Walker: I always focus on the student. The student has special -- has needs for a reason, again, it's not -- it's not a cherry on the ice cream Sunday, it's needed. We can talk about hot spots, other types of technology, I think most prisons have electrical outlets.

We just need to focus, on what -- what does the student need and why does the student need it? And is there a really -- is there an educational basis, for saying oh, no, it's really not needed?

>> Jennifer R. Gavin: Why does the student need it to -- to work on those objectives in his or her IEP?

And how can we do that, during this time of closure, while keeping folks safe? Unfortunately, here in Massachusetts, the services that are often provided in these institutional settings.

Like a juvenile facility, or a psychiatric hospital, were often not the focus of the child's care, at that time.

And therefore, are often underresourced. So I can see this question coming up.

We don't have the -- the laptops, the whatever this child needs -- in order to do this. And I think it just takes that creative thinking as to how we can address it.

Jennifer R. Gavin: Let's see... next, so some schools are saying they can't do any classes over the Internet due to FERPA. And that it would violate FERPA, could you discuss that please?

>> Kimberly A. Caputo: I have seen -- I have not seen the "no" meaning we won't do because of issues with -- potential privacy issues with online.

Kimberly A. Caputo: I have seen districts issuing letters, explaining to
parents, that we are using Google Classroom; that we are going to work very hard -- and we've worked with our IT department, to take as many steps as possible, to ensure privacy protections are in place. But they are, in fact, being in my opinion, relatively transparent with families -- that, there may be some glitches.

Kimberly A. Caputo: Whether or not FERPA, in a narrow interpretation, would actually apply -- I'm not so sure, because FERPA speaks to the release of an educational record, which participating in a Google Classroom is not a record. It's not a hard artifact that a district has inappropriately released.

I would also just underscore, at least my interpretation of FERPA -- is that it does not create an individually-enforceable right on behalf of a particular student. I might have that wrong.

But I -- am I right on that? Selene? So I would not see FERPA, as being a barrier, to moving forward, with providing educational continuity through an electronic device.

Selene Almazan: Also the office for civil rights has issued discretionary enforcement policies, in this time.

Regarding HIPAA, regarding the use of Zoom, regarding the use of Facetime, so I -- I was just looking, and those bulletins are on our Web site too. So they're -- you know, there's been some attempt, by the office for civil rights, to address some of these concerns. For FERPA, though, I thought you had to have a policy of practice that was violating the privacy rights. I don't see how FERPA is violated.

But I've only done one FERPA case so maybe I'm not the right person.

>> Jennifer R. Gavin: I had a CPACC chair, ask me to review, a
document, that is typically provided to all parents at the beginning of the school year.

Allowing for your child, ’s name or information, to be put in the newspaper; or a video to be taken -- or whatever.

And asking me if that would apply to something like Google Classroom, and I took a look at it; and the -- the language seemed to me, to be able to be, interpreted rather broadly.

Because they had it broken down into sort of public media, versus private media.

Meaning private media, those things would go around the school. For instructional purposes; and it would seem to me that Google Classroom would be covered there. My suggestion was, you know, they can just have parents sign a new one -- for Google classroom.

>> Exactly.

>> Jennifer R. Gavin:  It would seem to make sense to me!

Jennifer R. Gavin:  This is a good one, will video recordings be a part of a student's educational records? Carlton Anne Cook Walker:  I think that might have been answered -- or, in response to Selene talking about videoing, your child.

Present-level, present level. I think parents are -- are permitted to provide, materials for the child's school record. That would be an example of it was this question maybe talking about the Google classroom video or a video by -- by the parent? Or even by a service provider? In a one-on-one setting?

>> Jennifer R. Gavin:  Or are they asking, you know, is this discoverable? If these are being recorded, do we, then, have that record, as to what the
education was that the student was getting during that time? I would say that's certainly discoverable.

Here's --

>> Selene Almazan: One question that I had yesterday, was whether or not a family can videotape the classes as they're going on.

We have to look at what your consent laws are. If you've got a two-party consent state like Maryland. Two-party consent state -- you have to have the explicit consent of the other part, to record those sessions; so, you need to be careful on that kind of recording of those sessions.

Jennifer R. Gavin: And that would be why if school districts wanted to record them, they just need to send out a notice, and get a new signature, it shouldn't be a no, we can't provide live sessions.

Because if we provide live sessions, then some students who can't make it to the appointed time, will miss out. That's why we can only provide prerecorded video, my response to that you can continue to provide the live sessions and prerecorded videos and record the live sessions so that the student has live access to that.

Also my research, on providing the live -- they call, synchronous, learning opportunities is that those synchronous learning opportunities have a couple of advantages.

One is, they provide, for a class discussion, they provide for what they call collaborative learning, it's not just a lecture, like, in a video; and, and two they also provide for the social interaction, with their other -- their classmates, and why're seeing at least -- seeing all their pictures, they're having a discussion back and forth. And the third that I thought was important in this research that I read, is
that the synchronous learning, provides an increase in motivation.

For students, that's what they found in the study that they had done, and I have learned -- learned, many comments that gee kids aren't really showing up, they're not doing the videos, this -- motivation is a big issue right now. And how are we going to motivate kids to sit in front of their laptop, and listen to their teacher? So I think that that's important when arguing that there should be at least, that synchronous learning as a hybrid with the asynchronous offerings. Okay.

>> Q: The school district of my client offers one hour a day of instruction through an iPad. And wants my Spanish-speaking client, to use her iPhone, to provide two more hours of instruction.

They were also supposed to provide outside OT, and ELA evaluations, that must be done in person.

To make matters worse, my client's son is graduating middle school, at the end of May.

Any advice? Carlton Anne Cook Walker: Well -- I'm assuming the child has an IEP or is being -- I mean, because --

>> Jennifer R. Gavin: OT and ELA evaluations.

>> Carlton Anne Cook Walker: Yeah, hopefully -- because -- the IDEA is really clear, things must be provided at no cost to the parent. Using the parent's iPhone for two hours a day is a cost, and schools should -- a little iPad, eve an little iPad, shoot those on over, to have those extra two hours, with regard to the therapy -- with the evaluations, I really would want to delve in. They're not that many areas, that we can't do evaluation via distance, there are a few. Certainly behavior in the classroom.
Ability to walk between classes -- crossing busy streets, streets aren't busy right now. There are some definitely, but OT, a whole heck of a lot of it is going to be doable via distance, now, OT might need to have an assessment box put together, send it -- drop it off at the parent's door, drop off some sanitary cloths or whatever, whatever you need to do or Lysol spray, whatever, but, we can do this.

Jennifer R. Gavin. My not thought on that was regarding evaluations and getting a blanket no from your school district, that we're not going to do any evaluations during this time of school closure.

You know, we're working on providing some -- some learning opportunities that would provide enrichment to your child, but the last thing they're going to be doing is evaluations.

And in one case that I'm working on, the family who was scheduling, a private evaluation.

Anyway, had been in contact with their private evaluator and their private evaluator said well, you know, "I'm going to be opening up to do some minimal evaluating at this time," we can do as much as we can over Zoom, there are things that we have to do in person. But maybe we can work out how we can do that. And so my response, to the school district was, if your staff isn't available to be able to do these, then why don't you jump on board with our private evaluation now?

And cost-share it with the family. You know, how are we going to get this evaluation done?

And that, to me, seemed to be the goal.

Q: If a child's treating physician prescribes or orders home instruction, for
a child, must the school district provide an instructor, to come to the child's home even in the midst of school closures?

   My answer is... no, (Jennifer R. Gavin).

   >> Kimberly A. Caputo: My answer is the question might be blending instruction in the home, which is an IDEA placement program IEP team decision.

   With at least in Pennsylvania, and I'll only speak in this jurisdiction -- is a provision in, actually, the school -- the Pennsylvania school code in the section of attendance, dealing with home-bound instruction.

   It has nothing to do with IDEA. So I would want to know -- a little more information as to which of the two -- the physician has in mind. It might be, that if it is, home-bound instruction.

   Because that doesn't have an IDEA attachment, it's not a function of an IEP.

   And -- and understanding a little bit more about why the doctor is making that recommendation, would be something I want to know. Instruction in the home, on the other hand which is an IDEA placement -- as a result of the disability, this child cannot be in school to receive his or her FAPE, I think that would have to be something that was discussed, in an IEP capacity, but we're all at home. So what does that actually look like? In terms of physically sending a teacher, outside the door, standing, you know, ringing your doorbell, I don't believe that an IEP, over, you know, a governor's closure, can circumvent that; but, again, as we have said throughout this session, technology could be a key.

   In order to get that instruction, to the child. Put I would want to know whether this was a home-bound instruction conversation, or an instruction in the home conversation.
Jennifer R. Gavin: Thank you, Kim.

Let's see...

Q: Will there be a waiver of challenging the comprehensive investigations during evaluations during this time -- oops. I just lost it -- will there be a waiver of challenging the comprehensive evaluations during this time?

If we don't do it in person? Is it better to just wait, or what guiding questions should we consider? Carlton Anne Cook Walker: From my point of view, I don't know why it would be good to wait necessarily, unless we are assessing things that can't be.

Assessed via distance, honestly, again, this is another one of Carlton's silver linings -- but it's kind of nice to -- let's get some data, let's get some information about what's going on in the home instruction, area,.

And then, when we go back, we can see how things change. I tend to like more information rather than less information, so I'm not sure that anything is really to be gained by doing -- not even trying to do an evaluation at this time.

Jennifer R. Gavin: Here's one, regarding a transition:

Q: In cases of preschool evaluation going into kindergarten, what could evaluation look like to establish eligibility for a specific learning disability or communication impairment?

I am an educational diagnostician, and face to face evaluation could be done during the summer, but we are trying to think outside of the box in my district right now Kimberly A. Caputo: I'm wondering some sort of -- similar to what Carlton was describing, some sort of online assessment, could be done, that's one thought.

A second thought, and I've had a conversation -- a number of
conversations, with neuropsychologists -- in and around southeastern Pennsylvania -- and consistent with social distancing, they are doing a combination of online assessment, but they are also doing face to face -- they’re using Plexiglass screens, so that they can maintain a distance with -- between evaluator, and -- and student.

So I would think that there would be ways, to get in air quote, eyes on kids, for purposes of assessment and have them complete certain aspects of -- of written assessment, -- whether or not the protocols for those testing assessments, are maintained, you know, you want to make sure, obviously, a parent is not in the room. And I think that’s up to the professional, though, in terms of how they are going to maintain, consistency with a testing protocol.

But from related service providers, and neuropsychologists -- I have had experience with both those groups, figuring out alternatives to keep things moving forward for kids.

Jennifer R. Gavin: Thank you, the next QUESTION: Q: In California we are seeing issues with foster youth, with disabilities at risk of losing their placements because their family no longer has respite through the school.

These are youth who might require one-on-one aids when they are in school. Thoughts about what to do for these vulnerable youth?

I think they’re talking about.

>> Interesting.

>> Jennifer R. Gavin: The respite being the period of time, when the child is usually in school, with their aid.

>> Kimberly A. Caputo: So I am not, obviously -- I am not licensed in California. I stick to my place in PA.
My best advice, is, to try to engage on an interagency level. Because I think it's a really great point: That foster mom, foster dad are there and have been there for the child, but 6.75 hours a day that child was in school, that now is flipping to home.

And from a behavioral health perspective -- from a mental health perspective -- additional support is needed.

I would think -- that there could be, some interagency resources, that could be brought to bear to that situation, and I -- and IDEA speaks to interagency collaboration, around mixed needs of education, behavioral health, and mental health. So that's --

That's a pathway, I might think about pursuing. But, again, saying, I'm not in California.

>> Selene Almazan: Yeah, you know, the students, who could experience a crisis, and then be unnecessarily psychiatrically hospitalized during this time -- is a tremendous concern of mine. Those -- I mean, there are a lot of vulnerable students, right now, but students who have already suffered trauma, in their lives.

Are particularly vulnerable right now.

So I -- because the danger could be that they would be unnecessarily hospitalized -- and that's a very, very restrictive setting for -- for a student -- I would agree with what Kim said, and look at interagency resources...

To assist.

>> Jennifer R. Gavin: One other thought that I had, is at least in Massachusetts, it is my understanding that behavioral health providers, those who -- like a P.C.P.A.[as spoken] or an assistant, are -- considered essential
workers and despite the state of emergency, and the closure of nonessential workplaces -- that at least private companies who provide ABA services in the home, are still doing so.

And I thought that was important information to be had, and maybe in some way, that would related to what's going on. We're going to have one last question.

I want to pick the best one.

Q: Okay, I have the IEP meeting, at the beginning of March. Next day, I asked for mediation.

I haven't received the IEP yet, and I haven't heard from the mediator either. What should I do? Kimberly A. Caputo: If the question is coming from Pennsylvania, dispute resolution processes, they all remain intact. Meaning hearing officers are convening. That being said, the office that coordinates all of that activity, is working remotely.

And March is, sort of the -- the -- the point in time, in which all of this started to happen.

My best advice, if -- again, if this is Pennsylvania, would be, for that individual to reach out to the office of dispute resolution to advise, that a mediation request was submitted on, you know, blank date, and to ask for a case manager at the office of dispute resolution, to assist and facilitate assignment to the mediator. It might very well be, given the timing of when that mediation request came in -- that something got lost in the sauce.

Either at the scheduling level; or when a party requests mediation again in Pennsylvania -- the LEA has to be notified and has to agree.

And so that LEA decision on whether or not it wanted to participate -- that
could be sitting in somebody's e-mail queue, and it just didn't get responded to.

So in Pennsylvania, I would recommend shaking the tree, and reminding, the office of dispute resolution, that this request had been made.

And if you have to, resubmit the request, to get it moving forward.

>> Jennifer R. Gavin: And here in Massachusetts, certainly, I would give similar advice, in addition that if there's really no response, from the mediation office, is to reach out to.

You know, a handful of other state offices that are -- that are offering, to step in to help.

You know, we have program quality assurance with the problem resolution system, the office for children is also offering to step in to help mediate problems.

So it would be -- I would say -- to reach out to any of those and maybe they can get in touch with the mediation office and find out what's going on, and why they're not moving forward.

Jennifer R. Gavin: All right. Thank you very much, everyone, it looks like we've gotten to 2:31 so we're or over our time. I appreciate all the panelists, you've done a terrific job, and given terrific information, I appreciate over the thousand people who had tuned in today. I think that is really, telling of the level of importance, that we now, attribute, in the legal community, to the special education needs of children with disabilities, and to me that's quite heartening, to know how important that is in the legal community these days.

. I wanted to end with one final quote:

After Bernie Sanders endorsed Joe Biden over live-streamed video, Jimmy Kimmel said, that's a very powerful message for the country. If two 80-year-old men can successfully log.
Into a Zoom meeting, anything is possible! Kimberly A. Caputo: Very nice.

>> Jennifer R. Gavin: On that note, anything is possible.

>> Thank you so much.

>> Kimberly A. Caputo: Take care everybody, be safe, be well, and be kind!

[Transmission concluded at 2:32:46 p.m., Stenographic court reporter: Anthony Trujillo]