

The Crisis

- We are living through one.
- Crisis may include natural disasters or other catastrophic events.
 - Regardless of the origins, research supports a predictable response pattern that also applies to special education and IEP teams.



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The Crisis

- Schools should be well into the "Reconstruction" or REBUILDING stage. What does that mean?
- Understand from the perspective of the other stages.

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Think of the pandemic as a crisis or disaster.

- Early warning signs started the ground-swell of concern. This stage is the "Pre-Disaster" phase.
 - This early stage is not about one's personal beliefs about the pandemic.
 - It is about the HUGE impact on our country's education system.
 - It is about the worry and stress of what happens next if school closes?

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Next is the "Impact" phase.

This is when schools & communities closed.

- The greater the disaster's scope, the greater the psychosocial effects.
- A short-term closure would have had fewer psychosocial effects.
- This is when no one knows what to do because the impact of this crisis is "unprecedented."

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The "Heroic" phase quickly follows.

During this phase, there is a sense of altruism.

- We don't want teachers or other students to get sick.
- We don't want our families to get sick.
- We will figure this out after the crisis passes.

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The "Honeymoon" phase.

Optimism exists that everything will be OK.

- The school closure can't last forever.
- In-person instruction will resume soon.
- I'll do my part to help out during the crisis.



Optimism turns to discouragement.

- Stress took its toll, and negative reactions began to surface.
- "Wait a minute, my child just lost three months of education."
- "I can't let this continue."
- "How are you going to make up for this?"

Now comes the "Disillusionment" phase.



Finally, the "Reconstruction" phase.

Schools resume and are adjusting to a new normal.

- The focus turns to how to provide FAPE when instruction looks different.
- The discussion includes how to make up for time already lost.
- There is a sense of urgency, and sometimes anger, that the reconstruction isn't going fast enough.

Number of Schools	All Schools	Offered to all Students	Offered to Some Students	Not Offered
Remote or online only	1055	70	0	985
School buildings open with both remote/online and in-person instruction (hybrid)	1055	650	0	405
School buildings open with full-time in-person instruction	1055	335	0	720

Utah School Reporting for Instructional Models
 April 2021

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Rebuild the Team

Communicate!

- Now is the time for more frequent communication.
- Convene IEP team meetings telephonically, virtually, or in person.
- Measure and report progress more frequently.
- Openly discuss the effects of different service delivery models.

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Rebuild the Team

Return to team decision-making asap!

- Whether team meetings are in person or virtual should be determined on a case-by-case basis.
- The take away: **MAKE DECISIONS AS A TEAM!**

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Team Decision-making

If face-to-face meetings are not feasible or practicable, the Department encourages the use of the flexibility included in 34 C.F.R. § 300.328 which allows LEAs to conduct initial and annual IEP Team meetings through alternate means.

Such alternate means could include a telephone or video conference call (if feasible and consistent with privacy standards) if acceptable to the parents and other IEP Team meeting participants.

COVID-19 Questions & Answers: Implementation of IDEA Part B Provision of Services, Q6 (OSEP 2020).

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Team Decision-making

No matter the format of the meeting, all required participants AND the parents should be present or appropriately excused from the meeting.

34 C.F.R. §300.321.



Virtual Meeting Tips

Virtual IEP Meeting Tip Sheet



Be patient—technology may not work as intended. Assume that everyone is doing their best.



Test out technology in advance, and make sure all devices are charged.



Have a back-up plan ready in the event technology issues arise.



Join the meeting about 10–15 minutes in advance to troubleshoot any technology issues.



Actively listen and participate in the meeting.



Set up a meeting space that reduces potential distractions to minimize background noise as much as possible.



Ensure the security of confidential information before, during, and after the meeting.



Turn off any notifications on your computer—they may show up on others' screens.



Use headphones or a headset with built-in microphone, when possible.

Virtual Meeting Tips

U.S. Department of Education (2020).

Difficult Discussions


SEAs, LEAs, and schools must ensure that, to the greatest extent possible, each student with a disability can be provided the special education and related services identified in the student's IEP.


DeVos Report to Congress (April 2020).

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The Message: The Student

 The health of the team improves when focused on a student's educational needs and the good faith efforts to meet those needs.

 Work through and come out on the other side of conversations about missed service, lack of progress, virtual service, etc.






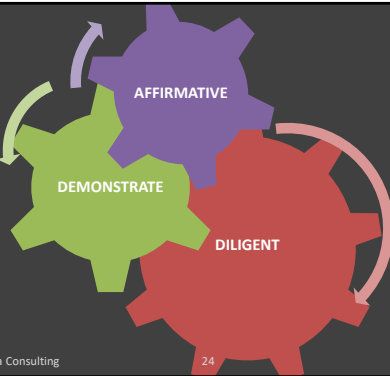
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Rebuilding

Through Good Faith Efforts

-  Diligent – Working diligently to achieve compliance.
-  Demonstrable – Well documented clear actions.
-  Affirmative – Actively working vs. passively allowing circumstances to control.



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03 Restratgeize

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Restratgeize

- Get a clear understanding of the student's CURRENT educational needs after a break in service.
- Probe, probe, probe.
- Collect data on CURRENT educational needs.
- Go back to a robust discussion on present levels.

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How to Restratgeize?

RECONVENE the team.

REVIEW the IEP and educational needs.

RESTRATEGIZE to align services with current needs.

REVISE the IEP.

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Reconvene

- Get the IEP team together, virtually, telephonically, or at the same table.
- Elicit and gather current information.
- Ask what additional information is needed to fully understand the student's current educational needs.
- Develop a plan to gather information or conduct assessment.

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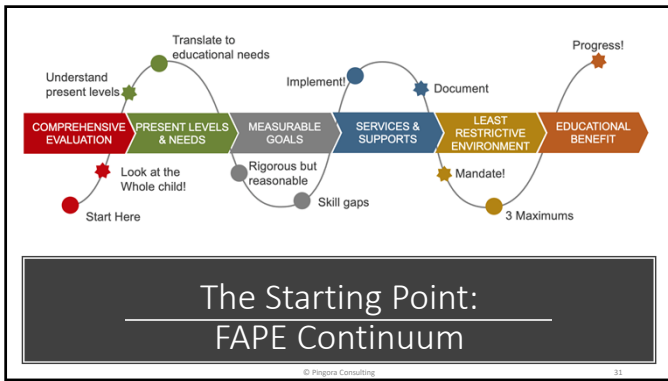
Review

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Review

- The goal: A clear understanding of the student's current functioning.
 - This translates to descriptive present levels.
 - That information can be used to identify skill gaps.
 - Skill gaps translate to measurable goals.

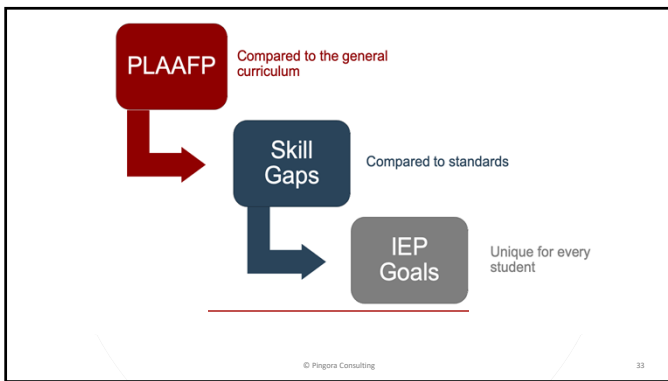
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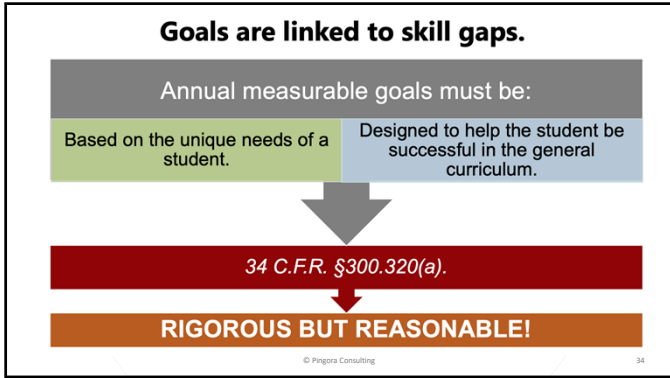


34 C.F.R. §300.320(a)(2)

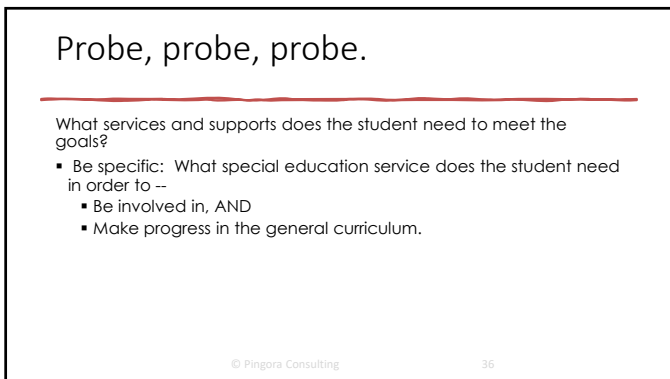
- A statement of measurable annual goals, including academic and functional goals designed to—
 - Meet the child's needs that result from the child's disability to enable the child to **be involved in and make progress in the general education curriculum**; and
 - Meet each of the child's other educational needs that result from the child's disability.

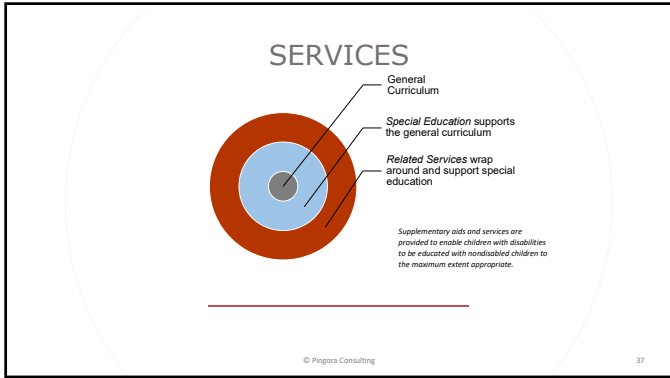
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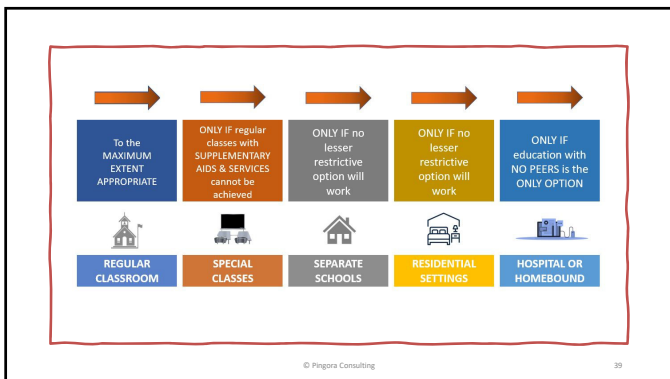







Restratgeize LRE

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LEAST RESTRICTIVE ENVIRONMENT

The 3 maximums!



- 01 EDUCATED WITH NONDISABLED**
To the maximum extent appropriate, students with disabilities are educated with nondisabled children. *34 C.F.R. §300.114.*
- 02 EXTRACURRICULARS**
To the maximum extent appropriate, ensure the student participates with nondisabled children in extracurricular activities. *34 C.F.R. §300.117.*
- 03 SUPPLEMENTARY AIDS & SERVICES**
To the maximum extent appropriate, supplementary aids and services are provided to educate students with nondisabled peers. *34 C.F.R. §300.42.*

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Placement Decisions In Any Environment

- An educational program must be appropriately ambitious in light of the student's unique circumstances, just as advancement from grade to grade is appropriately ambitious for most children in the regular classroom.
- The goals may differ, but every child should have the chance to meet challenging objectives."

Andrew F. v. Douglas County Sch. Dist. RE-1, 69 IDELR 174 (2017).

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Placements in a Virtual Environment

- In deciding whether and how to provide a child's special education services remotely during the pandemic, a district should address whether the method of delivering instruction will enable the child to receive FAPE.
- This may require conducting an assistive technology evaluation and considering whether the child's disability-related characteristics will make the proposed method of providing remote instruction unfeasible. *L.V. v. New York City Dep't of Educ., 77 IDELR 13 (S.D.N.Y. 2020).*
- The District Court reasoned that the district failed explain how delivering the child's Applied Behavior Analysis therapy and other services via a tablet would provide him FAPE.

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Restrategize

- Once you have a CLEAR picture of the student's current educational needs,
 - And a clear plan for how to meet those needs,
 - It is time to revise the IEP.

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04 Recalibrate

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By Revising the IEP

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Document the Changes 46

- The revisions must be documented.
 - A new annual IEP, or
 - An IEP amendment per 34 C.F.R. §300.324(a).

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05 Refocus

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How will you know if its working?

- **Data.** Collect and share data at a high frequency.
- Monitor **progress** toward IEP goals and **progress** in the general curriculum.
- Stay vigilant and communicate with parents.

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What is a reasonable amount of progress?

- The team already determined a reasonable progress amount.
- Link to the measurable goals.
- **Rigorous.** Challenging. Targeted. Unique.
- **Reasonable.** *How much of the skill gap can we expect to close?*



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LACK OF PROGRESS

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What happens if no progress occurs?

The 4 Rs:

- **Who?** The team.
- **When?** A reasonable amount of time.
- **Why?** If the IEP is not recalibrated, a denial of FAPE will result.

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UNEXPECTED PROGRESS



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What happens if unexpected progress occurs?

The 4 Rs:

- **Who?** The team.
- **When?** A reasonable amount of time.
- **Why?** If the IEP is not recalibrated, a denial of FAPE will result.

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Refocus




- If educational needs change, it is time to realign the IEP to address new educational needs in order to provide access and an opportunity to progress in the general curriculum.

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06 Resilient

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Resilient Teams

-  Good Faith
-  Student Focused
-  Forward Facing

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Compensatory Education
vs.
Recovery Service

Things to think about.

 Compensatory Education Term or art used as a remedy for violations in special education legal proceedings.	vs.	 Recovery Services The term used to describe the provision of services missed due to COVID-19.
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Compensatory Education vs. Recovery Services	FAPE must be provided to meet the educational needs of the student, AND Recovery services may need to be provided to make up for missed service during the pandemic.
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Compensatory Education vs. Recovery Services

Where, due to the global pandemic and resulting closures of schools, there has been an **inevitable delay** in providing services - or even making decisions about how to provide services - IEP teams must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations.

Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary, and Secondary Schools While Serving Children with Disabilities, 76 IDELR 104 (OSERS & OCR 2020).

