



March 20, 2020

Navigating the COVID-19 Crisis

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Moderated by: **Phyllis Wolfram**, Executive Director, CASE

Agenda

Welcome and Introductory Comments

Introductions

Current Resources & What's Coming

Quick Takes

School Closures & Special Education

Bucket 1

Bucket 2

Bucket 3

Endrew F. - What's Appropriate?

What's Next

Questions





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Real Talk



Focus on What Is Important Here:

1. **This is a pandemic** - we have not ever been through this and new rules might need to be written.
2. **Take care of yourself and your family** - the impact of this pandemic on mental & physical health should not be forgotten.
3. **CASE and our colleagues will support you** - we are working hard to provide you with the information you need.





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Real Talk



And in the big picture:

Think less about compliance and more about coherence.



- What are you doing to support students with disabilities in a coordinated way?
- Think and worry less about deadlines and paperwork and legal standards and more about providing what's appropriate and reasonable.



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Real Talk



Disclaimer:

The information we are providing today is the best we know at this moment.



- It might change by the end of the webinar based on additional guidance.
- It could change by next week if this worsens and more schools close.



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Current Resources & What's Coming

- CASE has continually updated our resource document bit.ly/CASE-COVID19
- Federal government documents:
 - **OCR Fact Sheet (03/16/2020)**
<http://bit.ly/COVIDOCRFacts>
 - **FERPA Guidance (03/12/2020)**
<http://bit.ly/FERPA-COVID19>
 - **OSEP Guidance (03/12/2020)**
<http://bit.ly/OSEP-COVID>



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Current Resources & What's Coming

- In our contact with the Department of Education, we know that they are working on the following:
 - Guidance for State and Local Education Agencies on timelines (evaluations, annual reviews, evaluations by third birthday, due process complaints, and lots of other items)



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Quick Takes: Questions & Answers

Are IEP Teams required to meet during a school closure?

IEP Teams are not required to meet in person while schools are closed*. (OCR Fact Sheet (03/16/2020)

*Individual definitions of school closure are going to vary state to state.





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Quick Takes: Questions & Answers

Can we proceed with evaluations during a time of school closures?

Evaluations and re-evaluations that do not require face-to-face assessments or observations may take place while schools are closed, so long as a student's parent or legal guardian consents. (OCR Fact Sheet - 03/16/2020)



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Quick Takes: Questions & Answers

Can we conduct IEP meetings via phone, Zoom Meeting, or some other online method?

Yes. The IDEA specifically provides that the district and the parent may agree to use alternative means of meeting participation, such as video conferences and conference calls. Must be done with parent consent (34 CFR 200.328).



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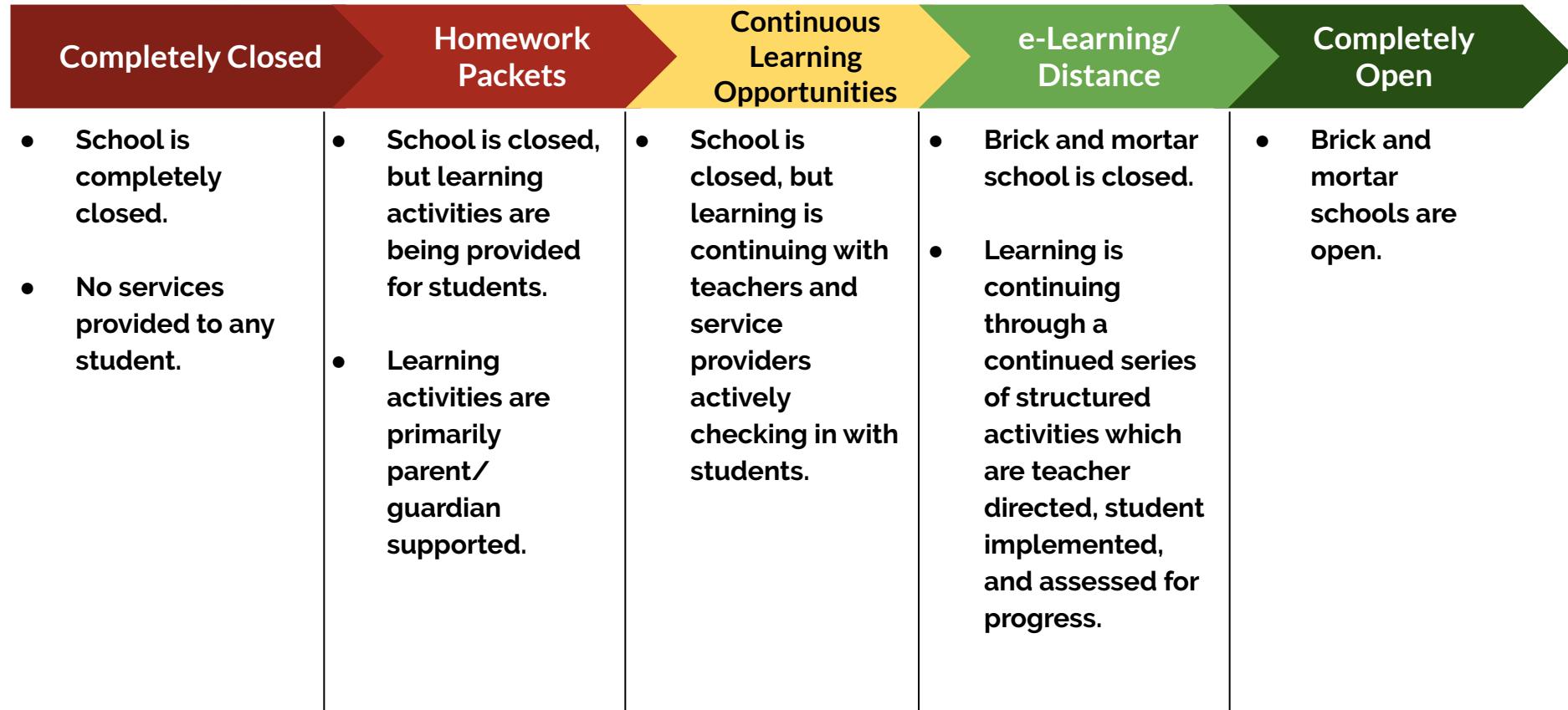


Quick Takes: Questions & Answers

If a public agency (i.e., health department) asks for student records, is the school able to provide them?

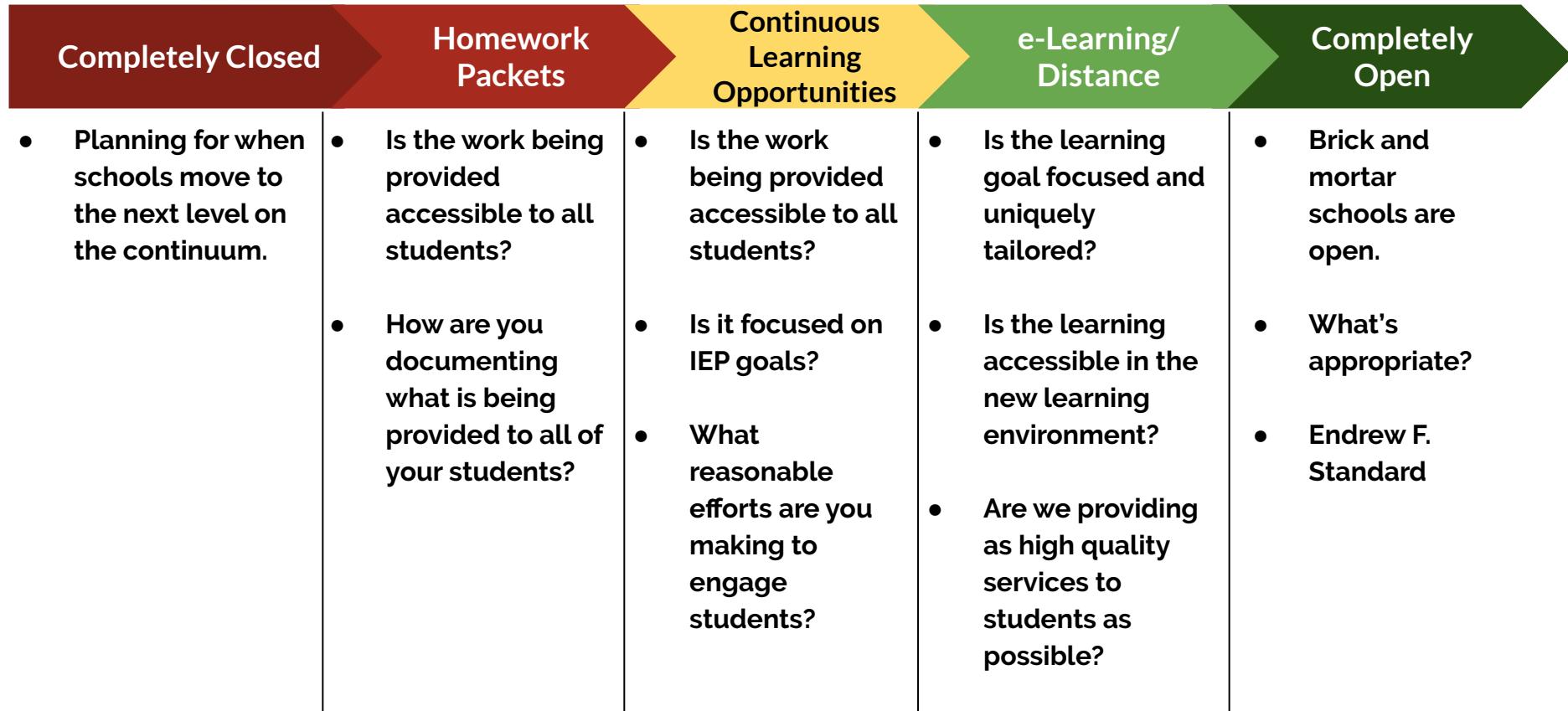
Yes. FERPA permits educational agencies to disclose, without prior written consent, PII from student education records to appropriate parties in connection with an emergency, if knowledge of that information is necessary to protect the health or safety of a student or other individuals. (20 U.S.C. § 1232g(b)(1)(I); 34 C.F.R. §§ 99.31(a)(10) and 99.36).

Identify Where Your School Is Located





Focus of Your Efforts



FAPE Considerations

Completely Closed

Homework Packets

Continuous Learning Opportunities

e-Learning/ Distance

Completely Open

- If no students are receiving services, then there is no obligation to provide FAPE to students with disabilities.
- What's appropriate in light of the current circumstances?
- Compare learning of students with disabilities to other students (i.e. is any student getting appropriate instruction?)

- What's appropriate?
- *Endrew F.* Standard

Items to Consider

Homework Packets

- Ensure efforts to avoid discrimination to the greatest extent possible:
 - Adjusted reading levels
 - Adjusted math levels
 - Focused work for specific classes (i.e. self-contained vs. grade level getting same work)
 - Clarity of written instructions
 - Shorter assignments to account for attention
 - Ability of parent/ guardian / family to support student learning

What to Consider

Continuous Learning Opportunities

- Create programming that provides the level of progress expected of other students in these circumstances.
- Focused work for specific classes (i.e. self-contained vs. grade level getting same work)
- Accommodations and modifications of general education materials
- Ability of parent/ guardian / family to support student learning
- Possible services necessary to access learning opportunities in a way that is nondiscriminatory to the extent possible in these circumstances.

What to Consider

e-Learning/ Distance Learning

- An analysis of FAPE under e-learning will be needed
- Internet access becomes a consideration
- Web accessibility (<https://webaim.org/articles/>)
- Utilizing resources that might already be used in classroom, but now with opened access (i.e. Read 180, Lexia, etc.)
- Captioning videos
- Individualized instruction / Small group instruction in a virtual setting?



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What is an “Appropriate Education”

Let’s not forget what the Supreme Court said in
Endrew F. on March 22, 2017:

“To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress ***appropriate in light of the child’s circumstances.***”





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Compensatory Education

What does compensatory education look like if schools are unable to provide FAPE due to school closures?

A legal remedy for the denial of FAPE

vs.

Determining the student's needs once schools reopen (virtually or otherwise)



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Compensatory Education

What does compensatory education look like if schools are unable to provide FAPE due to school closures?

- When schools are “back in action,” the current needs of every student will be assessed to determine the impact school closure has had on the student, which may require revised services.
- Not necessarily the typical “tit for tat” approach or the provision of all services missed during the closure, over and above what the student needs.



Questions for Presenters



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Thank you for participating in
webinar today.

Connect with CASE the
next two Fridays:



March 27, 2020 - 12:00pm CST

And

April 3, 2020 - 12:00pm CST