Virtual Related Service Guidance & Resources for Related Service Providers in NC Public Schools

North Carolina Department of Public Instruction
Exceptional Children Division, Supporting Teaching and Related Services Section and the Sensory Support and Assistive Technology Section

In addition to adhering to discipline specific professional standards of practice and ethical guidelines, **everyone** must comply with their LEA, district, state and federal regulation, policy and directive. Related service providers must not initiate any practice without consideration of legal and ethical principles **and** approval from their administration and supervisors. This is not a time to problem-solve on your own. Resources included in this document are provided as information to support planning efforts at the local level. Work within your school district/LEA and administrative structures to ensure compliant, thoughtful, reasoned action or inaction.

- Each student, Individualized Education Program (IEP), situation and intervention must be thoughtfully considered with applied clinical reasoning, there is no single 'answer' which sufficiently addresses all situations. This document will be updated here as new information becomes available.

Please note that the terms telehealth, telepractice, teletherapy, telerehabilitation and the like are used throughout this document. The organizations that support each professional area of related service has adopted its own terminology. There is a misperception that these services are only used in health care settings; however, any of these terms can and do represent services that are provided in educational settings. Virtual Related Service (VRS) is the term that the EC Division will use to encompass service delivery provided virtually by related service providers.

Considerations & Decision-Making	**Per recent guidance from the NCDPI EC Division, whether or not VRS is an appropriate service delivery option should be made on a case-by-case basis.* Each student and context must be assessed through each related service provider's ethical and clinical reasoning to decide if VRS would be appropriate for service delivery. Considerations may include but are not limited to: ● Related service provider competence in providing VRS ● Complexity of the student's needs/disability ● Nature and complexity of the planned intervention ● Requirements of school-based practice ● Appropriate qualification and/or training for on-site e-helper ● Consensus of IEP team, student, family and e-helper ● Competence and fluidity with technology (student, parent/family, e-helper & related service provider) ● Student specific information, environment, context ● Compliance with laws, regulation, and policy at the federal, state, and local level
IEP Team Meeting	If the frequency, duration and intensity of special education and related services will be substantially different during prolonged school closures and the LEA has transitioned to mandatory distance learning for all students, it is highly recommended that IEP Team meetings are held to discuss and document the service delivery and the appropriateness of the revision.
Service delivery	An e-helper is someone who assists during VRS sessions and assists with carry-over of goals. E-helpers are typically paraeducators, teachers, librarians, and other classroom personnel. If VRS will be received at home, e-helpers may be parents or other caregivers. Format ● Synchronous = live, interactive (e.g., video conferencing, telephone) ● Asynchronous = store and forward (e.g., electronic communication, digital files, pre-recorded video, data sharing)

	Mode ● Teleintervention = interventions that are preventative, rehabilitative, or habilitative in nature ● Teleconsultation* = virtual consultation (for on-site e-helper, educational staff, parent or caregiver) which provides expertise (e.g., supplementary aid and service). *Teleconsultation should not be a substitute for the delivery of direct related services. ● Telemonitoring = monitoring functioning and goals
Confidentiality	Updated Joint Guidance on Privacy, Student Education & Health Records_Dec2019 FERPA and Virtual Learning Notification of Enforcement Discretion - Office for Civil Rights *Please note: Despite recent guidance from OCR, related service providers have an ethical obligation to ensure privacy and confidentiality and must consider potential legal/ethical implications if confidentiality and privacy are not maintained* ● Ensure all confidentiality standards are met (for machine, connection and storage) and compliance with both FERPA and HIPAA. Consult with your administrator, supervisor, technology personnel and legal counsel in LEA **prior** to considering VRS service delivery ● Employ authentication and encryption technology ● Ensure both transmission and receiving locations are private, secure and appropriately set up
Evaluations	Regarding all timelines, according to a Supplemental Fact Sheet issued by the U.S. Department of Education, Office for Civil Rights: *"As a general principle, during this unprecedented national emergency, public agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate."* The above guidance was issued as a follow up from a previous Fact Sheet, which stated the following regarding evaluations: "*IEP Teams are not required to meet in person while schools are closed. If an evaluation of a student with a disability requires a face-to-face assessment or observation, the evaluation would need to be delayed until school reopens. 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. These same principles apply to similar activities conducted by appropriate personnel for a student with a disability who has a plan developed under Section 504, or who is being evaluated under Section 504."* If related services providers are requested to provide individual evaluations in an emergency context (school buildings are closed, but academic services are being delivered virtually), it is recommended that these requests are examined through an ethical lens. Related services providers should refer to their discipline specific guidance to navigate these decisions.
Intervention	Tips: ● Employ clinical reasoning to determine need for and type of training required by 'on-site' e-helpers ● Provide or make recommendations for the materials used in a session ● Provide recommendations for space needed and set-up of environment/materials ● Reflect best practices and evidence-base ● Mirror services typically provided at school as much as possible ● Clearly communicate plans for the session, interventions, and carry over strategies; document in the plan of care and/or note from sessions Direct service

	• Develop skills • Create healthy habits and routines • Modify environments, materials, equipment • Educate/train students on adaptive and assistive technology • Model adaptive techniques Indirect services • Modeling interventions to educational staff and parents • Observing the student via live or recorded video and/or consulting, coaching, or collaborating with others (parents, family members, educational staff, etc.)
Video conferencing software	***Disclaimer**: The video conferencing software listed below is not an exhaustive list and NCDPI does not endorse a specific software program. The related service provider/LEA should examine software options and determine which features/supports will best meet VRS needs and both privacy and confidentiality standards according to NC licensure boards. These boards are considering their restrictions on a daily basis in light of the COVID-19 crisis. Please check with your board often to see if these considerations have been relaxed. Video conferencing software MUST be HIPAA and FERPA compliant- additional agreement or type of subscription may be required to ensure compliance (Updated Joint Guidance on Privacy, Student Education & Health Records_Dec2019) Examples of HIPAA compliant software: Zoom for Healthcare, Doxy.me, Vsee Adobe Connect, BlueJeans, Cisco WebEx Citrix Go-to-Meeting, Vidyo NOT HIPAA compliant: FaceTime, Facebook Live, Tik Tok Twitch, Google Classroom, Skype
Medicaid reimbursement for VRS	Currently, Medicaid policy 10-C does not comment on VRS. The NC Division of Health Benefit is working to address in light of the COVID-19 outbreak and federal guidance.
General Resources	US DoE COVID-19 Information and Resources for Schools and School Personnel US DoE Supplemental Fact Sheet Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities US DoE Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak March 2020 US DoE Student Privacy Policy Office FERPA & Coronavirus Disease 2019 Frequently Asked Questions March 2020 CDC COVID-19 Guidance for Schools Talking to Children about COVID-19: A Parent Resource from the National Association of School Psychologists NC DHHS Guidance during COVID-19 Outbreak for Universities, K-12 Schools & Child Care Facilities NC Council on Developmental Disabilities- COVID-19 Resources for People with Disabilities North Carolina Emergency Management Guidance on considerations of people with disabilities and other access and functional needs for COVID-19

Discipline Specific Guidance for OT Practitioners on Telehealth in NC Public Schools

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NC OT Practice Act & Rules of the Board NCBOT & Telehealth	"Occupational therapy practitioner" means an individual licensed by the Board as an occupational therapist or an occupational therapy assistant. N.C.A.C. 38, Rule .0103(14) An occupational therapy practitioner may deliver evaluation, treatment, and consultation through telecommunication and information technologies**. N.C.G.S. 90-270.67.4** An occupational therapy practitioner is required to be licensed in North Carolina if the practitioner provides occupational therapy services to a client who is in North Carolina. An occupational therapy practitioner who is in North Carolina and does not provide occupational therapy services to clients in North Carolina does not need to be licensed in North Carolina. An occupational therapy practitioner who is in North Carolina but provides occupational therapy services to clients in a state other than North Carolina is required to follow the laws and regulations of the state where the client is receiving the services. An occupational therapy practitioner licensed in North Carolina may provide occupational therapy services to a client in North Carolina even if the occupational therapy practitioner is in another state. An occupational therapy practitioner may provide supervision requiring direct contact through video teleconferencing. 21**. N.C.A.C. 38, Rule .0103(21)**
Ethical considerations	AOTA Code of Ethics (2015) AOTA Advisory Opinion for the Ethics Commission: Telehealth ● Client comfort and competence ● Provider competence ● Informed consent ○ Principle 3 (Autonomy) & Principle 4 (Justice) ○ Disclose information about the benefits, risks, potential outcomes, alternatives, service provider, and implications of using technology ○ Principle 3E: client's right to refuse telehealth services ● Privacy and confidentiality (Principle 3H) ○ OT practitioners must "maintain the confidentiality of all verbal, written, electronic, augmentative, and non-verbal communications, in compliance with applicable laws, including all aspects of privacy laws and exceptions thereto" (AOTA, 2015, p. 4) ● Quality of Care and Adherence to standards ○ "A decision to implement telehealth service delivery should be client- centered and based on advocating for recipients to attain needed services (Principle 4B of the Code) rather than on factors related to convenience or administrative directives" (AOTA, 2017, p.5) ○ Impact of technology on the communication process ○ Impact of technology on reliability of assessments ○ Cultural competence ○ Awareness and knowledge of current laws, policies, documents ○ Knowledge and adherence to billing requirements and regulations ○ Keep informed and apply current evidence "Occupational therapists and occupational therapy assistants are obligated to provide services within their level of competence and scope of practice (Principle 1E) and to take

	responsibility for maintaining high standards and continuing competence in practice (Principle 1G)" (AOTA, 2017, p.6)
Supervision of COTAs	(21) "Supervision" is the process by which two or more people participate in joint effort to establish, maintain, and elevate a level of performance to ensure the safety and welfare of clients during occupational therapy. Supervision is structured according to the supervisee's qualifications, position, level of preparation, depth of experience and the environment within which the supervisee functions. Levels of supervision are: a) "General supervision," which is required for all occupational therapy assistants by an occupational therapist. It includes a variety of types and methods of supervision and may include observation, modeling, co- treatment, discussions, teaching, instruction, phone conversations, videoconferencing, written correspondence, electronic exchanges, and other telecommunication technology. Methods of observation include face-to-face, synchronous or asynchronous videoconferencing. The specific frequency, methods, and content of supervision may vary by practice setting and are dependent on the complexity of client needs, number and diversity of clients, demonstrated service competency of the occupational therapist and the occupational therapy assistant, type of practice setting, requirements of the practice setting, and federal and state regulatory requirements. General supervision shall be required at least monthly; and b) "Direct supervision," which is required for all unlicensed personnel and volunteers. It means the Occupational Therapy supervisor must be within audible and visual range of the client and unlicensed personnel and available for immediate physical intervention. Videoconferencing is not allowed for direct supervision. **N.C.A.C. 38, Rule .0103(21)**
OT Resources	AOTA Telehealth Resources (many of the resources below are available here) AJOT: Telehealth in Occupational Therapy AOTA Position Paper on Telehealth. This article provides an overview of the use of telehealth in occupational therapy practice, considerations, supervision, legal and regulatory considerations, and funding and reimbursement. AOTA Webinar on Telehealth Webinar on how OT and telehealth fit together. Information Pertaining to OT in the Era of COVID-19 (AOTA) (collection of resources) Best Practice for Occupational Therapy in Schools (Chapter on Best Practices in Providing Telehealth to Support Participation) (available for purchase) Polichino, J. & Johnston, S. (2019). Telehealth Service Delivery in Schools: Where Science and Creativity Intersect. Texas Occupational Therapy Association Annual Conference.

Discipline Specific Guidance for PT Practitioners on Telehealth in NC Public Schools

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Licensure	NC PT Practice Act NC is a member state of the Physical Therapy Compact (actively issuing and accepting compact privileges, additional information here). The Physical Therapy Compact allows the holder to provide physical therapist services in a remote state under the scope of practice of the state where the patient or client is located, whether the practice is in-person or via telehealth. PTs and PTAs should consult the rules and laws for the state in which they seek to provide services to determine the specific telehealth requirements (links above).
NC Board position on Telehealth News from NC Board of PT Examiners Issue 50, November 2018	The NC PT Practice Act and Board's Rules apply to the delivery of physical therapy services via telehealth. In response to your emailed question below, at its September Board meeting - 2018, NC Board of Physical Therapy Examiners considered some questions regarding the parameters of using telehealth in the provision of physical therapy services in North Carolina; the Board determined the following general principles will apply: ● Telehealth is a delivery model for physical therapy services and as such it is not a question of scope of physical therapy practice. ● PT licensees must comply with the NC PT Practice Act and Board rules when performing physical therapy services using telecommunications. ● In order to provide physical therapy services to a patient geographically located in NC, the provider of telehealth services must possess an active NC PT license. ● To address questions whether a PT licensee or other healthcare provider or non-healthcare individual must be with the patient in the remote location and the level of expertise that person needs, the answer depends on various factors, including the status and safety of the patient, whether it is an initial evaluation or ongoing treatment, and the complexity of the services being provided. ● For questions related to the use of telehealth in physical therapy practice in North Carolina that are not answered by these general principles, the Board will continue to respond to questions on a case-by-case basis. As the use of telehealth in healthcare practice continues to evolve, the Board must keep the protection of North Carolina citizens in mind. To respond to questions from licensees, the Board will utilize current information based on the following Rule: *21 NCAC 48C .0101 (a) Permitted Practice- "Physical therapy is presumed to include any acts, test, procedures, modalities, treatments, or interventions that are routinely taught in educational programs, or in continuing education programs for physical therapists and are routinely performed in practice settings."*
Ethics	Code of Ethics for the Physical Therapist (.pdf) ● **Principle #2**: Physical therapists shall be trustworthy and compassionate in addressing the rights and needs of patients and clients. (Core Values: Altruism, Compassion, Professional Duty) ● **Principle #3**: Physical therapists shall be accountable for making sound professional judgments. 2 (Core Values: Excellence, Integrity) ● **Principle #5**: Physical therapists shall fulfill their legal and professional obligations. (Core Values: Professional Duty, Accountability) ● **Principle #6**: Physical therapists shall enhance their expertise through the lifelong acquisition and refinement of knowledge, skills, abilities, and professional behaviors. (Core Value: Excellence)

	• **Principle #7**: Physical therapists shall promote organizational behaviors and business practices that benefit patients and clients and society. (Core Values: Integrity, Accountability) • **Principle #8**: Physical therapists shall participate in efforts to meet the health needs of people locally, nationally, or globally. (Core Value: Social Responsibility) Guide for Professional Conduct (.pdf) Guide for Conduct of the Physical Therapist Assistant (PTA) (.pdf) Standards of Ethical Conduct for the Physical Therapist Assistant (.pdf)
Supervision of PTAs NC PT Board Rules	21 NCAC 48C .0102 RESPONSIBILITIES ...(f) The physical therapist shall provide all therapeutic interventions that require the physical therapist's expertise and may delegate to a physical therapist assistant or physical therapy aide the delivery of service to the patient when it is safe and effective for the patient. (g) A physical therapist's responsibility for patient care management includes first-hand knowledge of the health status of each patient and oversight of all documentation for services rendered to each patient, including awareness of fees/reimbursement structures. (h) A physical therapist shall be immediately available in person or by telecommunication to a physical therapist assistant supervising a physical therapy aide or student engaging in patient care. (i) A physical therapist who is supervising a physical therapy aide or student shall be present in the same facility when patient care is provided. (j) A physical therapist shall clinically supervise only that number of assistive personnel, including physical therapist assistants, physical therapy aides, and students completing clinical requirements, as the physical therapist determines is appropriate for providing safe and effective patient interventions at all times. (k) If a physical therapist assistant or physical therapy aide is involved in the patient care plan, a physical therapist shall reassess a patient every 60 days or 13 visits, whichever occurs first.... https://www.ncptboard.org/documents/positionstatements/1%20(b)%20Position%20Statement%20-%20Supervision%20and%20Documentation%20(Notes).pdf
PT Resources	APTA Telehealth webpage (most resources below are available here) Research on Telerehabilitation Telehealth in Physical Therapy in Light of COVID-19 (article, webinar and slides) Congress' coronavirus legislation (providing DHHS authority to waive certain Medicare telehealth restrictions) PTs are not included as a provider type that can furnish telehealth as a covered service to Medicare beneficiaries under this legislation. Due to a number of questions related to this legislation, APTA recently issued a news advisory on telehealth Challenges and Opportunities in Telehealth Q&A HIPAA and Telehealth – 02/26/2018 This free APTA Learning Center webinar discusses what PTs need to know to ensure compliance with regulations established by HIPAA and the APTA Code of Ethics when using telehealth and mobile health technology. This webinar is not intended to cover every legal, ethical, or practice consideration. To learn more, check out the additional resources below as well as those offered by APTA's HPA the Catalyst Technology Special Interest Group and American Telemedicine Association

	The next two resources should be reviewed by EC Directors (describes how to individually determine if telehealth is appropriate for PT services and practical implementation) Telehealth Ethics, Best Practice, and the Law: What You Need to Know – 08/28/19 Blog highlighting ethics, best practice, and law considerations for practicing Telehealth. APTA Position Paper on CONNECT for Health Act (.pdf) (provides concise sketch of how PT can be provided virtually) Telehealth in Action: PT Testimonials Academy of Pediatric Physical Therapy News APTA Academy of Pediatric PT Forums (current posts on federal updates, state specific or practice setting resources) Fleming DA, Edison KE. Telehealth ethics. *Telemedicine & E-Health* 2009;15(8):797-803

Discipline Specific Guidance for Audiologists on Telehealth in NC Public Schools

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NC BOE for SLPs and Audiologists	In recognition of the COVID-19 crisis and the potential unavailability of the most secure platform, licensees may follow HHS guidelines if more secure platforms cannot reasonably be accessed AND if the licensee notifies and receives verbal consent from the patient or caretaker that the use of the platform may not be HIPAA compliant. The Board will relax enforcement of non-HIPAA compliant platforms if licensee's use of those platforms is done in good faith within the guidelines given above. https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html Position on Telehealth 21 NCAC 64 .0219 TELEPRACTICE (a) Licensees may evaluate and treat patients receiving clinical services in North Carolina by utilizing telepractice. Telepractice means the use of telecommunications and information technologies for the exchange of encrypted patient data, obtained through real-time interaction, from one site to another for the provision of speech and language pathology and audiology services to patients through hardwire or internet connection. (b) Telepractice shall be obtained in real time and in a manner sufficient to ensure patient confidentiality. (c) Telepractice is subject to the same standard of practice as if the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee and shall not be delegated. (d) Licensees and staff involved in telepractice must be trained in the use of telepractice equipment. History note: Authority G.S. 90-304-(a)(3); Eff. September 1, 2010. March 18, 2020 "Current NC Licensees do NOT need to notify the Board that they are using telepractice and there is no special certification for your license required. Licensees do need to understand the platform they are using and ensure that it is HIPAA compliant."
Code of Ethics and Scope of Practice - ASHA	"Use of telepractice must be equivalent to the quality of services provided in person and consistent with adherence to the *Code of Ethics* (ASHA, 2016a), *Scope of Practice in Audiology* (ASHA, 2018), *Scope of Practice in Speech-Language Pathology* (ASHA, 2016b), state and federal laws (e.g., licensure, Health Insurance Portability and Accountability Act [HIPAA; U.S. Department of Health and Human Services, n.d.-c]), and ASHA policy."
American Speech-language Hearing Association	*Disclaimer: The following information encompasses the scope of a clinical audiologist. An educational audiologist may have more limitations depending on the equipment available in the LEA. An LEA may pursue a partnership with a clinical audiologist to assist in the provision of telehealth services with the educational audiologist as needed.* Telehealth *"Telehealth,* for audiology, is an alternative method of service delivery that encompasses both diagnostics and intervention services. Diagnostic services are provided using either synchronous or asynchronous protocols (i.e., *store and forward,* whereby data are collected, stored within a computer, and forwarded later). Audiologists provide services using an evidence-based standard of care (American Telemedicine Association, 2017). When practicing via telehealth, audiologists provide care consistent with jurisdictional regulatory, licensing, credentialing and privileging, malpractice and insurance laws, and rules for their profession in both the jurisdiction in which they are practicing as well as the

	jurisdiction in which the patient is receiving care. The audiologists providing the service shall ensure compliance as required by appropriate regulatory and accrediting agencies (American Telemedicine Association, 2017)." Areas in which telehealth is a viable option include the following: ● Aural/auditory (re)habilitation ● Auditory evoked potentials ● Hearing aid and cochlear implant fitting/programming ● Hearing screening ● Otoacoustic emissions ● Otoscopy ● Pure-tone audiometry and speech recognition in noise ● Supervision of electrophysiology services (e.g., intraoperative monitoring and diagnostic examinations) ● Supervision of vestibular services (e.g., vestibular diagnostic examinations) ● Tympanometry ● Vestibular rehabilitation
Telepractice Overview and Key Issues - ASHA	Telepractice Overview Telepractice Evidence Map Telepractice Key Issues ● Roles and Responsibilities ● Ethical Considerations ● Licensure and Teacher Certification ● Reimbursement ● Client Selection ● Practice Areas ● Telepractice Technology ● Facilitators in Telepractice for Audiology and Speech-Language Services ● Privacy and Security ● Enlisting Stakeholder Support ● Employment in Telepractice
Audiology Resources and Trainings on Telehealth	Telehealth Resources - ASHA Audiology Online

Discipline Specific Guidance for Speech-Language Pathologists on Telehealth in NC Public Schools

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Telehealth Resources	ASHA Telepractice Overview ASHA Telepractice ASHA Telepractice articles
Licensure	**NC Board of Examiners in Speech-Language Pathology and Audiology** "The practice of speech and language pathology" means the application of principles, methods, and procedures for the measurement, testing, evaluation, prediction, counseling, treating, instruction, habilitation, or rehabilitation related to the development and disorders of speech, voice, language and swallowing for the purpose of identifying, preventing, ameliorating, or modifying such disorders.
NC Board of Examiners in Speech-Language Pathology and Audiology (Telepractice)	**21 NCAC 64 .0219 TELEPRACTICE** (a) For purposes of this Rule, the following words shall have the following meanings: (1) "Patient site" means the patient's physical location at the time of the receipt of the telepractice services. (2) "Provider" means a licensed speech and language pathologist or audiologist who provides telepractice services. (3) "Provider site" means the licensee's physical location at the time of the provision of the telepractice services. 10 (4) "Telepractice" means the use of telecommunications and information technologies for the exchange of encrypted patient data, obtained through real-time interaction, from patient site to provider site for the provision of speech and language pathology and audiology services to patients through hardwire or internet connection. Telepractice also includes the interpretation of patient information provided to the licensee via store and forward techniques. (b) Telepractice shall be obtained in real time and in a manner sufficient to ensure patient confidentiality. (c) Telepractice is subject to the same standard of practice stated in 21 NCAC 64 .0205 and 21 NCAC 64 .0216 as if the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee and shall not be delegated. (d) Providers must hold a license in the state of the provider site and shall be in compliance with the statutory and regulatory requirements of the patient site. (e) Licensees and staff involved in telepractice must be trained in the use of telepractice equipment. (f) Notification of telepractice services shall be provided to the patient and guardian if the patient is a minor. The notification shall include the right to refuse telepractice services and options for alternate services delivery. (g) Telepractice constitutes the practice of speech and language Pathology and Audiology in both the patient site and provider site. History note: Authority G.S. 90-304-(a)(3); Eff. July 1, 2010; Amended Eff. March 1, 2014.
Ethical considerations	ASHA Code of Ethics NC Board of Examiners in Speech-Language Pathology and Audiology Code of Ethics p.10

Speech-Language Pathology Assistants	SECTION .0200 - INTERPRETATIVE RULES 21 NCAC 64 .0219 TELEPRACTICE **(Effective March 27, 2020)** (a) The Board shall temporarily waive the requirement for licensure for telepractice in order to allow speech and language pathologists to delegate telepractice to speech and language pathology-assistants under the same level of direct supervision as required by 21 NCAC 64 .1003(e)(1)(2) and (6). This temporary waiver of licensure shall apply only to speech and language pathology-assistants and shall continue for the duration of the declared emergency as set forth in Executive Order No. 116 issued March 10, 2020.
Confidential networks	In recognition of the COVID-19 crisis and the potential unavailability of the most secure platform, licensees may follow HHS guidelines if more secure platforms cannot reasonably be accessed AND if the licensee notifies and receives verbal consent from the patient or caretaker that the use of the platform may not be HIPAA compliant. The Board will relax enforcement of non-HIPAA compliant platforms if licensee's use of those platforms is done in good faith within the guidelines given above. https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html

Discipline Specific Guidance for School Psychologists on Telehealth in NC Public Schools

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Licensure	**Professional Educator's License - School Psychologist** **North Carolina Department of Public Instruction/State Board of Education** Student Services - A student services license shall entitle the holder to provide specialized assistance to the learner, the teacher, the administrator and the education program in general. Student services licenses shall include school counseling, school social work, school psychology, audiology, speech-language pathology, and media. There shall be three levels of preparation: ● School psychology shall be restricted to the sixth year and doctorate levels
Ethical considerations	**North Carolina Code of Ethics for Professional Educators** **North Carolina Professional School Psychology Standards** **NASP Principles for Professional Ethics** ● Standard II: Professional Competence and Responsibility ○ *Individual practitioners need to consider the limits of their own competence in deciding whether they can ethically provide services remotely and the nature of the services that they can provide in this format.* (NASP 2020) ● Principle IV.1: Promoting Healthy School, Family, and Community Environments ○ *Practitioners must consider the best interests of the children they serve, which includes not abandoning clients in times of need.* (NASP 2020) ● Principle 1.3, 1.3.1: Fairness and Justice ○ *Practitioners must ensure all students have equitable access to mental health and other school psychological services provided remotely.* (NASP 2020) ● Principle IV.2: Respect for Law and the Relationship of Law and Ethics ○ *Practitioners need to know and understand the regulatory and legal limits placed on their practice by their credentialing bodies.* (NASP 2020)
SP Resources	**Considerations for Delivery of School Psychological Telehealth Services** National Association of School Psychologists Virtual Service Delivery in Response to COVID-19 Disruptions National Association of School Psychologists *When One Door Closes and Another Opens: School Psychologists Providing Telehealth Services* (45-minute webinar and companion materials) National Association of School Psychologists *Wading Through a Sea of Ambiguity: Charting a Course for Special Education Services During a Pandemic* (webinar and companion materials, including *Sample Services Log*) National Association School Psychologists Office and Technology Checklist for Telepsychological Services American Psychological Association Owings-Fonner, N. (2020, Winter). Comparing the latest telehealth solutions: A review of Doxy.me, thera-LINK, and Zoom. Good Practice. Available from https://www.apaservices.org/practice/good-practice/winter-2020.pdf

UNITED STATES DEPARTMENT OF EDUCATION
Office for Civil Rights
Office for Special Education and Rehabilitative Services

March 21, 2020

Supplemental Fact Sheet
Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools While Serving Children with Disabilities

We recognize that educational institutions are straining to address the challenges of this national emergency. We also know that educators and parents are striving to provide a sense of normality while seeking ways to ensure that all students have access to meaningful educational opportunities even under these difficult circumstances. No one wants to have learning coming to a halt across America due to the COVID-19 outbreak, and the U.S. Department of Education (Department) does not want to stand in the way of good faith efforts to educate students on-line.

The Department stands ready to offer guidance, technical assistance, and information on any available flexibility, within the confines of the law, to ensure that all students, including students with disabilities, continue receiving excellent education during this difficult time. The Department's Office for Civil Rights (OCR) and the Office for Special Education and Rehabilitative Services (OSERS) have previously issued non-regulatory guidance addressing these issues.[*]

At the outset, OCR and OSERS must address a serious misunderstanding that has recently circulated within the educational community. As school districts nationwide take necessary steps to protect the health and safety of their students, many are moving to virtual or online education (distance instruction). Some educators, however, have been reluctant to provide any distance instruction because they believe that federal disability law presents insurmountable barriers to remote education. This is simply not true. We remind schools they should not opt to close or decline to provide distance instruction, at the expense of students, to address matters pertaining to services for students with disabilities. Rather, school systems must make local decisions that take into consideration the health, safety, and well-being of all their students and staff.

To be clear: ensuring compliance with the Individuals with Disabilities Education Act (IDEA),[†] Section 504 of the Rehabilitation Act (Section 504), and Title II of the Americans with Disabilities Act should not prevent any school from offering educational programs through distance instruction.

School districts must provide a free and appropriate public education (FAPE) consistent with the need to protect the health and safety of students with disabilities and those individuals providing education, specialized instruction, and related services to these students. In this unique and ever-changing environment, OCR and OSERS recognize that these exceptional circumstances may affect how all educational and related services and supports are provided, and the Department will offer flexibility where possible. However, school districts must remember that the provision of

[*] *See* Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students (March 16, 2020); OCR Short Webinar on Online Education and Website Accessibility Webinar (Length: 00:07:08) (March 16, 2020); Questions and Answers on Providing Services to Children with Disabilities During the COVID-19 Outbreak (March 12, 2020); Fact Sheet: Impact of COVID-19 on Assessments and Accountability under the Elementary and Secondary Education Act (March 12, 2020); and Letter to Education Leaders on Preventing and Addressing potential discrimination associated with COVID-19

[†] References to IDEA in this document include both Part B and Part C.

FAPE may include, as appropriate, special education and related services provided through distance instruction provided virtually, online, or telephonically.

The Department understands that, during this national emergency, schools may not be able to provide all services in the same manner they are typically provided. While some schools might choose to safely, and in accordance with state law, provide certain IEP services to some students in-person, it may be unfeasible or unsafe for some institutions, during current emergency school closures, to provide hands-on physical therapy, occupational therapy, or tactile sign language educational services. Many disability-related modifications and services may be effectively provided online. These may include, for instance, extensions of time for assignments, videos with accurate captioning or embedded sign language interpreting, accessible reading materials, and many speech or language services through video conferencing.

It is important to emphasize that federal disability law allows for flexibility in determining how to meet the individual needs of students with disabilities. The determination of how FAPE is to be provided may need to be different in this time of unprecedented national emergency. As mentioned above, FAPE may be provided consistent with the need to protect the health and safety of students with disabilities and those individuals providing special education and related services to students. 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 (as noted in the March 12, 2020 guidance) must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations.

Finally, although federal law requires distance instruction to be accessible to students with disabilities, it does not mandate specific methodologies. Where technology itself imposes a barrier to access or where educational materials simply are not available in an accessible format, educators may still meet their legal obligations by providing children with disabilities equally effective alternate access to the curriculum or services provided to other students. For example, if a teacher who has a blind student in her class is working from home and cannot distribute a document accessible to that student, she can distribute to the rest of the class an inaccessible document and, if appropriate for the student, read the document over the phone to the blind student or provide the blind student with an audio recording of a reading of the document aloud.

The Department encourages parents, educators, and administrators to collaborate creatively to continue to meet the needs of students with disabilities. Consider practices such as distance instruction, teletherapy and tele-intervention, meetings held on digital platforms, online options for data tracking, and documentation. In addition, there are low-tech strategies that can provide for an exchange of curriculum-based resources, instructional packets, projects, and written assignments.

The Department understands that, during this declared national emergency, there may be additional questions about meeting the requirements of federal civil rights law; where we can offer flexibility, we will. OSERS has provided the attached list with information on those IDEA timeframes that may be extended.

OSERS' technical assistance centers are ready to address your questions regarding the IDEA and best practices and alternate models for providing special education and related services, including through distance instruction. For questions pertaining to Part C of IDEA, states should contact the Early Childhood Technical Assistance Center

(ECTA) at ectacenter.org. For Part B of IDEA, states should contact the National Center for Systemic Improvement (NCSI) at ncsi.wested.org.

If you have questions for OCR, want additional information or technical assistance, or believe that a school is violating federal civil rights law, you may reach out through email at OCRWebAccessTA@ed.gov, call your regional office (https://ocrcas.ed.gov/contact-ocr), or visit the website of the Department of Education's OCR at www.ed.gov/ocr. You may contact OCR at (800) 421-3481 (TDD: 800-877-8339), at ocr@ed.gov, or contact OCR's Outreach, Prevention, Education and Non-discrimination (OPEN) Center at OPEN@ed.gov. You may also fill out a complaint form online at www.ed.gov/ocr/complaintintro.html.

Additional information specific to the COVID-19 pandemic may be found online at https://www.ed.gov/coronavirus.

IDEA Timelines

As a general principle, during this unprecedented national emergency, public agencies are encouraged to work with parents to reach mutually agreeable extensions of time, as appropriate.

Part B of IDEA

State Complaints

Absent agreement by the parties, a state may be able to extend the 60-day timeline for complaint resolution if exceptional circumstances exist with respect to a particular complaint. 34 C.F.R. § 300.152(b)(1). Although the Department has previously advised that unavailability of staff is not an exceptional circumstance that would warrant an extension of the 60-day complaint resolution timeline, the COVID-19 pandemic could be deemed an exceptional circumstance if a large number of SEA staff are unavailable or absent for an extended period of time.

Due Process Hearings

When a parent files a due process complaint, the LEA must convene a resolution meeting within 15 days of receiving notice of the parent's complaint, unless the parties agree in writing to waive the meeting or to use mediation. 34 C.F.R. § 300.510(a). While the IDEA specifically mentions circumstances in which the 30-day resolution period can be adjusted in 34 C.F.R. § 300.510(c), it does not prevent the parties from mutually agreeing to extend the timeline because of unavoidable delays caused by the COVID-19 pandemic.

Additionally, although a hearing decision must be issued and mailed to the parties 45 days after the expiration of the 30-day resolution period or an adjusted resolution period, a hearing officer may grant a specific extension of time at the request of either party to the hearing. 34 C.F.R. § 300.515(a) and (c).

Individualized Education Programs (IEPs)

If a child has been found eligible to receive services under the IDEA, the IEP Team must meet and develop an initial IEP within 30 days of a determination that the child needs special education and related services. 34 C.F.R. § 300.323(c)(1).

IEPs also must be reviewed annually. 34 C.F.R. §300.324(b)(1). However, parents and an IEP Team may agree to conduct IEP meetings through alternate means, including videoconferencing or conference telephone calls. 34 C.F.R. §300.328. Again, we encourage school teams and parents to work collaboratively and creatively to meet IEP timeline requirements.

Most importantly, in making changes to a child's IEP after the annual IEP Team meeting, because of the COVID-19 pandemic, the parent of a child with a disability and the public agency may agree to not convene an IEP Team meeting for the purposes of making those changes, and instead develop a written document to amend or modify the child's current IEP. 34 C.F.R. §300.324(a)(4)(i).

Initial Eligibility Determination

An initial evaluation must be conducted within 60 days of receiving parental consent under IDEA, or within the state-established timeline within which the evaluation must be conducted. 34 C.F.R. § 300.301(c). Once the evaluation is

completed, IDEA does not contain an explicit timeline for making the eligibility determination but does require that the IEP be developed in accordance with 34 C.F.R. §§ 300.320-300.324 (34 C.F.R. § 300.306(c)(2)).

Reevaluations

A reevaluation of each child with a disability must be conducted at least every three years, unless the parents and the public agency agree that a reevaluation is unnecessary 34 C.F.R. § 300.303(b)(2). However, when appropriate, any reevaluation may be conducted through a review of existing evaluation data, and this review may occur without a meeting and without obtaining parental consent, unless it is determined that additional assessments are needed. 34 C.F.R. §300.305(a).

Part C of IDEA

State Complaints

Under 303.433(b)(1)(i), the lead agency's state Complaint procedures permit an extension of the 60 day timeline for a written decision if "exceptional circumstances exist with respect to a particular complaint" or the parent or organization and the agency or early intervention services (EIS) provider agree to extend the time for engaging in mediation.

Due Process Hearings

A state may choose to adopt Part B procedures for Due Process resolution under 34 C.F.R. §§303.440 – 303.449 or Part C procedures under 34 C.F.R. §§303.435 – 303.438. Conditions for extending the applicable timelines are similar under both sets of procedures.

Under 34 C.F.R. §303.447(c), the hearing or review officer may grant specific extensions of the Due Process timeline at the request of either party. Under 34 C.F.R. §303.447(d), each hearing and each review involving oral argument must be conducted at a time and place that is reasonably convenient to the parents and child involved.

Section 303.437 (a) and (c) provides similar language regarding scheduling a hearing at a time and place convenient to the parents and hearing officers granting extensions at the request of either party.

Initial eligibility/Individual Family Service Plan (IFSP)

Under 34 C.F.R. §303.310, the initial evaluation and assessments of child and family, as well as the initial IFSP meeting, must be completed within 45 days of the lead agency receiving the referral. However, under 34 C.F.R. §303.310(a), the 45-day timeline does not apply if the family is unavailable due to "exceptional family circumstances that are documented" in the child's early intervention (EI) records.

The Department has previously provided guidance to states indicating that weather or natural disasters may constitute "exceptional family circumstances." The COVID-19 pandemic could be considered an "exceptional family circumstance."