

The Special Education Journey and MLSS

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Special education students are general education students first, and the MLSS layers of intervention are designed to support all students. Federal IDEA-B regulations and MLSS can simultaneously support a special education student in his/her academic setting. This can occur when the Individualized Education Program (IEP) team can decide what supports, interventions, or strategies are to be used for the student's individual needs.

The journey in special education begins with the eligibility determination meeting, and understanding what happens at this meeting can make the special education process easier for the staff and family. At the meeting, there will be a review of all the evaluation results and other information to determine if the student is eligible for special education and if an IEP is needed. All members have equal participation in this process. During this challenging time of the pandemic, both families and schools have shown there is an effective way to hold eligibility determination meetings virtually or in person to develop a plan to meet the educational needs of the students.

An IEP is a legal document that will show the specific education plan for a student with a disability. The IEP will include the student's strengths and challenges. It will allow all parties to see and understand the plan for addressing a student's educational needs, and review and consider the student's work, behavioral data, teacher observations, insight of parents or guardians, medical diagnosis and information, developmental information, progress data, educational information, testing data, evaluation data, and any other source relevant to determine the student's



eligibility. The information gathered and considered must be from a variety of sources. Once it is determined that the

student is in need of an IEP, the IEP will be created by the IEP team and is individualized to that student's unique learning needs. The general education teacher is a critical partner in the process. There is a decision that all will have to contribute to at this meeting after the team has reviewed the evaluation results and data, and has discussed the eligibility criteria: Is the student eligible for special education services? Has the data shown that he/she has a disability and a need for specialized instruction?

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If a student qualifies for special education, the IEP team will determine the strategies and interventions that will apply to the student through his/her Individual Education Plan (IEP). All IEP team members will be able to discuss what is needed to help that student be successful in his/her school setting. These interventions or strategies could be categorized within any of the three layers of MLSS.

For example, an IEP team might have a special education student who needs both universal design for learning (UDL) and an intensive evidence-based intervention at the same time. This would be possible with MLSS because MLSS is fluid and layered. The IEP team would use data-informed decisions to place specific strategies and interventions in that student's IEP.

If the student does not qualify, then there will be a discussion of ways to support the student's needs.

As you can see, the eligibility determination meeting consists of rich conversation and a review of much data. COVID times have led to many challenges, both for educators and families. With the unique challenges of the time, these meetings have still taken place virtually. As you can imagine, it may take more planning and patience. School staff and families have worked together to be able to discuss evaluation results, different sources of data, medical information, strengths, student's needs, and all other aspects to determine eligibility for special education. The amazing aspect is that all parties have kept their focus on the future educational needs of the student.

PLEASE NOTE: The federal Office of Special Education Programs (OSEP) did not allow for waivers to any special education requirements during the pandemic. It is important to note that parents do not need to wait if they suspect a disability; they can request an evaluation at any time. The federal Office of Special Education Programs (OSEP) did not allow for any waivers to any special education requirements during the pandemic. It is important to note that parents do not need to wait if they suspect a disability; they can request an evaluation at any time.

A Special Education Eligibility Determination Meeting includes:

- » Considerations of the student's strengths and challenges
- » A review of student work
- » Behavioral data
- » Teacher observations
- » Insights of parents or guardians
- » Medical diagnosis and information
- » Developmental information
- » Progress data
- » Educational information
- » Testing data
- » Evaluation data

If a student qualifies,
an Individualized Education Program (IEP)
is developed for specialized instruction.

If a student does not qualify for an IEP,
other possible supports will be discussed
to meet the educational needs.



Photo: New York State PTA

The Individualized Education Program and Remote/Hybrid Learning

Planning for and delivering instruction through remote learning models is no easy task. This reality is compounded when we discuss how we plan, implement, and document the supports we provide to students with IEPs.

It is important to note that students with disabilities are always general education students FIRST. They are entitled to receive supports at any of the layers of the MLSS framework while additionally receiving the specialized instruction obligated to them in the Individualized Education Program (IEP). Therefore, it is crucial to the success of these students that general education teachers, special education teachers and related service providers collaborate with each other and with parents and service providers to ensure that instruction and service delivery for these students is meaningful and efficacious and that these students continue to be included during online classes with their non-disabled peers. Not only is this an obligation for students with IEPs under the Individuals with Disabilities Education Act (IDEA) but it is fully aligned with the spirit of the MLSS Framework.

In a September 28, 2020 memo, the United States Department of Education, Office of Special Education Programs (OSEP) wrote:

“OSEP reminds SEAs and LEAs that no matter what primary instructional delivery approach is chosen, SEAs, LEAs, and individualized education program (IEP) Teams remain responsible for ensuring that a free appropriate public education (FAPE) is provided to all children with disabilities. If State and local decisions require schools to limit or not provide in-person instruction due to health and safety concerns, SEAs, LEAs, and IEP Teams are not relieved of their obligation to provide FAPE to each child with a disability under IDEA.”

The [complete memo](#) is available online.

This directive left special educators across New Mexico with many challenges, starting with these two:



How can we create IEPs for students receiving instruction in remote or hybrid settings? And how do we plan for and deliver instruction for these students?

Regarding the first challenge of creating an appropriate IEP for remote/hybrid learning, the New Mexico Public Education Department (NMPED) Special Education Services Reentry Guidance (July 2020) states the following:

“The schools are responsible for ensuring that the student’s IEP in effect is written and implemented to enable the student to make progress in the general education curriculum and on their IEP goals. In making this determination, schools should consider the following two questions:

1. “Can the IEP in effect be implemented as written through the new service delivery model(s)?
2. “Are there any new student and/or family-specific needs to be addressed resulting from the new service delivery model(s)?”

The entire [re-entry guidance](#) can be found on the NMPED website.

A simple review of the definition of Special Education and Specially Designed Instruction (SDI) from the Code of Federal Regulations will aid in the development of the IEP for remote learning:

“Special education means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability...”
34 C.F.R. § 300.39(a)(1)

“Specially designed instruction means adapting, as appropriate to the needs of an eligible child...the content, methodology, or delivery of instruction—
(i) To address the unique needs of the child that result from the child’s disability; and
(ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.” 34 C.F.R. § 300.39(b)(3)

Guidance for Educators

Lorie Gerkey, a former special education teacher and director, is currently an attorney with the law firm Walsh, Gallegos, Treviño, Russo & Kyle. She also provides training to educators across New Mexico on the topic of special education. We asked her to share some of the guidance she provides for educators as they write their IEPs and plan for instruction for students with disabilities.



Lorie Gerkey

Q. What is specially designed instruction (SDI)?

Gerkey reminds us to remember what the spirit of the words “specially designed instruction” means for students with IEPs:

- **“Specially”** means individualized, personalized and customized.
- **“Designed”** means purposeful, with intention and planned.
- **“Instruction”** means teaching, coaching, and directing.

More specifically, Gerkey adds that specially designed instruction does the following:

- Describes what the teacher will do to assist the student to progress from the present level of performance to the level of the goal;
- Includes instructional practices and methods the teacher uses that address the student’s unique needs;
- Individualizes instruction and supports to meet the student’s needs; and
- Customizes changes to the content, methods and/or instructional delivery based on need.

Q. Are accommodations considered to be part of specially designed instruction?

Gerkey reminds us that accommodations alone are not considered to be specially designed instruction. Accommodations (such as pacing, assignments, materials, equipment, testing structure, etc.) level the playing field. They “accommodate” the disability without changing the mastery level, rigor of the content, or academic standard. However, teachers are responsible for providing accommodations to students in remote/hybrid settings if they are written in the IEP.

Q. How would an IEP team determine the specially designed instruction for a student during remote/hybrid learning?

Gerkey suggests that practitioners ask these two questions:

- What are the student’s barriers to learning at the expected level?
- What does the adult need to do for the student to reach the goal?

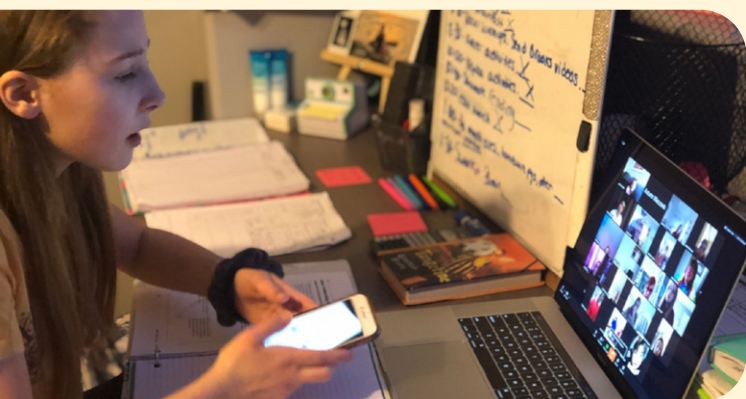
She also reminds us that under IDEA, specially designed instruction is a shared responsibility. A special education teacher has expertise in SDI;

a general education teacher has expertise in curriculum. Special education and general education teachers must work collaboratively to plan, design and implement SDI for students for whom they share responsibility.

Q. What are things that IEP teams should consider when planning specially designed instruction (SDI) for students with disabilities?

Here are some pointers that Gerkey suggests when planning specially designed instruction:

- Students with disabilities are always general education students first.
- Special education is a service, not a place.
- The design and delivery of SDI is the core of special education.
- Special education is always available within differentiated core, supplemental and intensive supports. In other words, special education is available at all layers of the MLSS Framework.
- Being included in general education does not override the provision of the services outlined in the IEP.
- SDI is in addition to or supplemental to core instruction.
- Provision of accommodations alone does not suffice as SDI.
- SDI is what the teacher does—not what we want the student to do.
- SDI is the instruction applied to address academic and functional deficits.
- SDI is individualized to the student.
- SDI is teaching specific skills identified as learning barriers.
- SDI promotes independence and presumed competence.



Q. How can IEP teams and teachers determine the most appropriate remote/hybrid instruction for the students with disabilities whom they serve?

Gerkey suggests that practitioners determine whether the current IEP can be implemented remotely and consider the following:

- Need for hand-over-hand instruction or physical prompts
- Type of goals, i.e., functional or academic
- Reading level
- Communication level
- Ability to work independently
- Behavior
- Differentiated instruction and priority standards (See also the [NMPED Instructional Scope and Sequence](#) for more information on priority standards.)
- Assistive technology, such as e-books, text readers, online dictionaries, speech-to-text, virtual manipulatives
- Embedding instruction into the natural (home) routine when possible for students with significant cognitive disabilities
- Parent training
- The student's technology and internet access AND the training the student will need to use technology as a remote learning tool
- Behavioral supports: first/then-type directions, reinforcement, sensory breaks, use of choice, use of visuals
- Alternative communication: AAC, PECS, sign language
- Data collection

Q. Once the SDI is determined, what should teachers and related service providers do to ensure successful implementation of the IEP?

Gerkey reminds us that a student's learning priorities do not change just because the learning environment changes. Learning priorities are specific to the student. An IEP is not the student's curriculum. The general education curriculum and routines plus the IEP comprise a student's educational program.

Gerkey suggests using resources such as [The TIES Center's rubric for supporting inclusive practices for students with disabilities](#): increasing Time, Instructional Effectiveness, Engagement, and State Support for Inclusive Practices. The TIES Center also recommends their 5C Process for developing

curriculum and creating deliberate and specific plans for students with disabilities ([5C Process: Planning for Instruction both at School and Distance Learning, TIES Center](#)).

The [5C Process](#) “is a five-step process focused on building continuity across a student’s lifelong learning priorities, the annual IEP goals, inclusive environments (at school and at home), and the instructional supports for students with significant cognitive disabilities.”

The 5C process includes:

1. Components of learning
2. Collaboration
3. Continuity
4. Collecting data
5. Capacity-building

(For more information, visit the [TIES Center website](#).)

Q. How do educators select the best methods and materials to match the needs of the students?

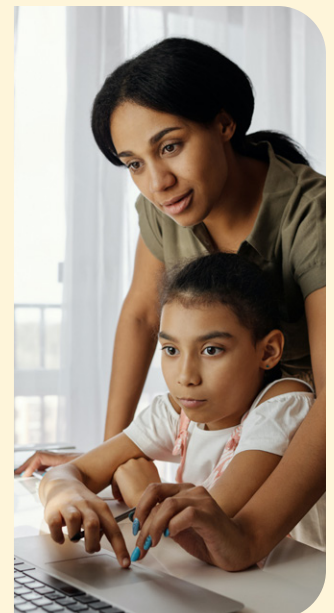
Gerkey recommends that special educators become very familiar with the characteristics of the eligible categories of disability as described in the [NM Technical Evaluation and Assessment \(NMTEAM\) Manual](#).

Once educators or related service providers understand the characteristics of a disability, they can better select the most appropriate methods and materials to work with students with disabilities in any setting. Gerkey also recommends that educators use the Michigan Virtual Learning Research Institute website to find resources and specific pedagogical considerations for many of the eligible disabilities described in the NMTEAM Manual. (More information may be found on the [Michigan Virtual Learning Research website](#).)

Finally, when working with students with disabilities in any setting, Gerkey reminds us to remember these basics of special education:

1. Individualize.
2. Solicit and value parental input.
3. Base decisions on data and professional recommendations.
4. Do not discriminate.
5. Keep good records.
6. Monitor for progress.
7. Make course corrections as needed.

Following these basics will help teachers and related service providers to be on the right track to ensure a successful learning experience for their students.



Meeting the Needs of Students with Disabilities During Remote Learning

2020 was a year full of challenges and “firsts.” For the first time ever, teachers and students were challenged to engage in learning in a fully remote setting, and this method was challenging for many reasons. Teachers were doing their best to plan engaging lessons for delivery on Zoom or Google Meets while posting related assignments on platforms such as Canvas or Schoology. Students had to access their “classrooms” using computers in their homes, which had become their learning environments, while parents and caregivers found themselves in the position of co-teachers.

These situations were tough and stressful for even the most skilled teachers and students. However, these same challenges were intensified for teachers, related service providers and families working with students with disabilities and, especially, for the students themselves. As we move into 2021, we will continue online learning experiences for students with disabilities. However, we now have more experience with methods that work for students in the remote setting and can learn from experts across the state of New Mexico.

One of New Mexico’s experts in the field of Special Education is Joanna Cosbey PhD, OTR/L. Joanna has a rich history working in the field as a researcher, a published author, an invited presenter at conferences in New Mexico and at the national level, an Associate Professor at UNM, and a licensed occupational therapist. She is currently employed as the Special Education Director at the New Mexico International School in Albuquerque and as an Occupational Therapist for other educational sites. Additionally, she continues to provide professional development to educators and related service providers across the state while juggling the responsibilities and joys of being a mom. Cosbey graciously shared some of her experiences, challenges, and expert tips for serving students with disabilities in the online setting.



Special Education Director at the New Mexico International School in Albuquerque and Occupational Therapist Joanna Cosbey

- **There must be a balance between the needs of the student and the demands on the parents/caregivers at home.** Knowing this, the focus of service should be on the effectiveness of time together with the student rather than the amount of time spent with the student. When you consider the student with disabilities in the typical brick-and-mortar general education classroom, you picture that student receiving layer-one instruction with accommodations to access grade-level curriculum. Additional support for this student may include instruction in a small-group setting and increased one-on-one support from the teacher and/or a related service provider. The amount of time needed for the student to make adequate progress is dependent upon the nature of the disability and degree of need.

Providing supplementary, one-on-one support becomes very tricky in an online setting.

However, providing the supplementary, one-on-one support becomes very tricky in an online setting. It requires that extra time be scheduled with that student for face-to-face online learning, which also means that the parent/caregiver must schedule additional time to assist the child at home. This additional time for students with disabilities cannot be ignored, and the scenario illustrates one of the greatest challenges in delivering efficacious online instruction to students with disabilities. As service providers, we will need to recognize the reality that we may not meet the times written into the IEP because family plans will not always align with Zoom schedules.

- **Technology is not the only tool students need for learning.** Students will be using materials such as paper, pens, pencils, markers, white boards, manipulatives, etc. However, these materials may not be available to every child, and this causes another form of inequity in remote learning. To address this, teachers and service providers can encourage students and parents to save items such as cereal boxes or pizza boxes to use at home, or work with their schools to determine how to deliver items such as dry erase markers or paper to families on a frequent basis to ensure that all needed materials are available to students.

- **Teachers and related service providers are working with students to understand how to better access their assignments and to understand how their accommodations work for them during remote learning.**

One teacher at the New Mexico International School is creating a matrix for students to use. This graphic organizer allows students to take a regular assignment given by the general education teacher and determine how accommodations will apply to the assignment. This matrix is individualized for each student with IEP accommodations. Here is an example of how simple this matrix could look:

Classroom Assignment Expectations	[Student's Name] Assignment Expectations
Homework problems 1-10 in math	Complete the odd-numbered math problems 1, 3, 5, 6, 7, 9
Write a three-paragraph expository essay on facts about the Moon.	Write one paragraph on facts about the Moon.

Using a matrix such as this allows the student to take more ownership of learning and results in the student becoming a more independent learner. Of course, the student would need explicit teaching on how to use the matrix, and the categories can be modified to meet the ability level of the student with whom the teacher is working.

- **Teachers and related service providers are tasked with figuring out new ways to give assessments and collect progress data on students with disabilities.** Outside-the-box thinking is critical to making this happen. Additionally, parents/caregivers are equal partners in acquiring this information. Cosbey recommends that educators and related service providers take some time to explain to parents/caregivers how to support their children with work at home and with assessments. We cannot make assumptions about what parents understand about the grade-level or ability-level expectations of students. Here are some recommendations:

1. Set time limits for students to work on assignments at home. Even with shortened assignments and using a matrix like the one above, students with disabilities may have difficulty completing assignments at home. Parents/caregivers cannot be expected to sit with students for long periods of time as they struggle to finish their work. Let parents know that it is OK to set a timer (for example for 20 minutes) and have the child complete as much of the work as he/she can in this time. The outcomes can provide good data for the teacher to determine what work the student can do without overly taxing the caregiver or the learner.

Availability of materials is a form of inequity.



Take time to explain to parents/caregivers how to support their student's work at home.

2. Related service providers may have more of a challenge getting students to participate in online sessions in addition to remote learning sessions. Consider allowing parents to take videos of students working on goals; the videos can then be texted, e-mailed, or uploaded to sites (such as Seesaw). Service providers can watch students performing tasks and use this information for performance assessment and progress documentation.
3. If scheduling online sessions is a challenge, be very thoughtful about the purpose of the online sessions and plan specifically to use the precious time together to work on goals and collect data during the session.
4. Understand that most parents working with children at home are not teachers. They do not know pedagogy or best practices for teaching and learning. They may not know why it is important for students to do assessment or assignments independently. **Parents understand that they want their child to be successful in school.** Be sure that parents know how to best support their children at home. Provide avenues for parents to get assistance, and schedule times for both students and parents connect with teachers and related service providers to get their questions answered.
5. It is important to collect data from parents about how they work with their students with disabilities at home. This will help determine progress on both functional performance and academic performance. Consider providing parents with a SIMPLE checklist to keep track of this data. Ask questions such as, “During a 20-minute assignment, how much time did you spend working one-on-one with your child to help him/her complete the work?” “What help did you provide your child?” “How many minutes is your child able to sit and work on a single task at home?” Tailor the questions to match the goals in the student’s IEP and work with the parent to determine how best to collect this information.
6. Remember that parenting and teaching at home is tough. Parents will be overwhelmed with students who do not sit still for online learning. They may not see the progress a student is making, academically or behaviorally. They are mired in the everyday work with the child and may not understand what progress would look like. Parents may express their frustration with anger or may feel inadequate as home teachers. Make deliberate efforts to connect with parents regularly to give them a forum to ask questions, voice frustrations and talk about the successes and challenges they are having with teaching at home.



Connect with parents regularly and ask questions tailored to the goals in their student’s IEP.



Watch this video from PBS to get a better understanding of the [challenges of parenting and teaching students with disabilities at home](#).

- **Educators and related service providers are experts with hands-on delivery methods for students with disabilities. However, online learning requires that we discover new ways to deliver services to these students.** The good news is that there are many online platforms that offer engaging ways to work with students during remote sessions.

» **Seesaw**—A digital platform that allows teachers to create interactive lessons for students. It also allows students to upload short videos of themselves performing tasks. Teachers or related service providers can watch these videos and make assessments about student progress and performance. ([Learn more about Seesaw.](#) Watch a video about [setting up an account.](#))

» **NitroType**—For students with disabilities, another challenge is learning to keyboard correctly to complete online assignments. NitroType is a way for students to “improve typing skills while competing in fast-paced races with up to 5 typers from around the world.” ([Find out more about NitroType.](#))

» **Jamboard**—An interactive whiteboard system developed by Google as part of Google Workspace. It “makes learning visible” and provides a place for you and your students to collaborate and engage in learning using interactive tools. ([Learn more about Jamboard.](#))

» **GoGuardian**—Some districts and schools have invested in this digital platform as it allows teachers and related service providers to monitor school devices, eliminate distractions and connect with students using video conferencing software. GoGuardian also has a parent app that allows parents to monitor their child’s online activity. ([Learn more about GoGuardian.](#))

» **Zoom**—During your face-to-face sessions, Zoom offers tools such as polls, breakout rooms, annotation tools and a white board that allow teachers to create more opportunities for students to interact during your time together. ([Learn more about these and other Zoom tools.](#))

- **Access to technology and internet will continue to be an issue, and access in the home environment looks different for every child.**

Teachers and related service providers are doing the best they can to meet the service times that are written into Individualized Education Programs (IEPs). Much effort is being made to try to ensure adequate progress is being made. The struggle to meet these service demands and times becomes very real as families juggle online time with their everyday-life activities. Students may need to join sessions using a cell phone while driving in a car with a caregiver. Some may join your sessions with video and audio off because there may not be a quiet, designated learning space in some households.

Remote learning is challenging and becomes especially so when we are working with students with disabilities. However, Cosbey reminds us that we cannot allow these challenges to lower our expectations for our work with these students. As we have learned, there are many innovative, efficacious strategies with which educators, families and students have found success across the state of New Mexico. When we know better, we do better, and New Mexico educators and related service providers are doing better every day working with students with disabilities in online settings.

Don’t allow challenges to lower expectations for work with students with disabilities.

ADDITIONAL RESOURCES

[NMPED’s Checklist for Virtual Learning](#) provides resources for teachers to use while planning instruction for students with disabilities.

The Early Childhood Technical Assistance Center (ECTA) provides [assessment resources and instructional tools](#) for teachers, related service providers and caregivers.

NMPED issued a memo about [providing FAPE and FAQs about delivering instruction to students with disabilities](#) during COVID-19 closures.

WANT TO LEARN MORE ABOUT MLSS?

[View current guidance and access online resources.](#)

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