



## **The Think Inclusive Podcast**

### **Bonus Episode**

### **To Waiver or Not to Waiver / Betsy DeVos Gives Her Recommendations to Congress**

#### **Tim Villegas (00:05):**

Hey y'all, welcome to a very special bonus edition of the think inclusive podcast. I'm your host, Tim Vegas, if you aren't familiar with who we are. Our main goal is to build a bridge between parents, educators, and disability rights advocates to promote inclusive education. And we do this by publishing articles, by disabled advocates, parents of children with disabilities and educators who are all in for inclusion. We are a big group and we're only getting bigger and this podcast is an extension of what we try to do every day on the website. For many of us, whether you are an educator or parent or both, the covert 19 pandemic has been a strain on all of us. And in late March of 2020 when word got out that Betsy DeVos, the secretary of education was going to possibly recommend a waving part of the individuals with disabilities education NEC, because of the hardship that the Corona virus was putting on the educational system, we all got nervous. And so today on the podcast I interview Denise Marshall, the executive director of the council of parent advocates and attorneys and Jennifer Lesh, the president of the council for exceptional children. Now since my interview with Denise Devoss has put out her recommendations to Congress. So we keep that in mind as you hear our conversation. And Jennifer was able to respond to some of the things that were in Davos report. So after a short break, my interview with the niece Marshall of Copa and Jennifer lash of CEC.

#### **Tim Villegas (01:49):**

How do you know you are an inclusionist? In 1997 Ellen Brett linger from Indiana university first used the term inclusionist and she defined the word as those who oppose pullout instruction questions, the status quo of a special education and sees the need for the overhaul of the system or discontinuation of special ed as a separate system. If this resonates with you, you're an inclusionist. And guess what? I've got the newsletter for you. The weekly ish is for inclusionists. Subscribe at [Weeklyish.substack.com](http://Weeklyish.substack.com)

#### **Tim Villegas (02:56):**

I'd like to welcome Marshall from the council of parent advocates and attorneys onto the think inclusive podcast. Thank you for taking time to speak with us.

#### **Denise Marshall (COPAA) (03:10):**

Oh, you are most welcome. Thanks for inviting me to be on today.

#### **Tim Villegas (03:15):**

So the reason why I asked you to be on the podcast is there, there are some things going on in the educational landscape. The biggest thing right now is the effect that coven 19 is having on our nation schools and not only schools, but specifically students with disabilities. And before we get into the questions that I had, some of our audience may not know what Copa is or who you are. So could you spend just a little bit of time explaining what Copa is and your role in the organization?

**Denise Marshall (COPAA) (03:56):**

Sure. Copa is the council of parent attorneys and advocates, and we are a national nonprofit organization and we protect the civil and legal rights of students with disabilities. So we have a diverse membership. We have parents and family members, attorneys, advocates, related professionals, brothers and sisters, grandmothers and other family members. We have one restriction on membership and that is that educators can not make more than 50% of their income from the school district directly. And the reason for that is that many of our members are in some level of dispute with the system and use our resources to talk with each other about strategy and about best practice and things like that. So that's just one, one caveat that we were specifically designed for people who were on the parent's side of the table. If there is a dispute over education.

**Tim Villegas (05:07):**

Do you expect that Betsy DeVos will be presenting recommendations to Congress? Do you have any sort of information about that or thoughts about that?

**Denise Marshall (COPAA) (05:23):**

We do expect that she will be submitting the report to Congress. We do not have any information as of yet relating to what kinds of waivers she may be entertaining. We do know what some of the groups have been pushing for. And we have been repeatedly saying in there holding steadfast to the position that the Ida already contains flexibility and it contains the ability to waive some of the requirements or for timelines or to amend the IEP of individual children by mutual agreement of the parents and the district. And so we believe that kind of individual flexibility is much more appropriate than blanket waivers of everything or select provisions of the idea. I don't think anyone would argue with the fact that the coven 19 outbreak has really placed that tremendous strain on, on everyone, on schools and districts, on educators, families, students everyone has been impacted.

**Denise Marshall (COPAA) (06:44):**

And yet we have seen an incredible response from all across the country from educators and from families that are working together and sharing resources and innovation and making things work for students. Now, are there some children or students for whom that isn't working or who for whom distance learning isn't working or you know, that the parents and the district perhaps haven't been talking. Sure. but the fact that so many are less us know that it is possible. So I think that, you know, I, while I understand the natural reaction to say, Oh, we need a waiver from, for example, the timelines around evaluation. Cause once we get back to school, we're never going to be able to catch up with all of the different, you know evaluations that are pending. And that's another reason that we feel that it's very strong and important for teams to continue to work together and to do any pieces of the, either the, the IEP for that student that can be implemented or if they are just at the initial evaluation stage for each student, they might be at a different place in the process.

**Denise Marshall (COPAA) (08:14):**

So if you've already collected all the data, you've already done the observations and all that's left is to re, you know, write a report and hold the eligibility meeting. Then I guess that's done online. As long as everyone's comfortable doing that. So we don't get a backlog. And you know, the other kinds of waivers that people, you know, that I think were specifically mentioned in those letters were, are around the requirements to hold, for example, an annual IEP I think was mentioned. And again, I think it's the, just if everyone's comfortable and I know many are doing it all across the country, holding the IEP meetings

virtually, why not get them done? Why not have the team check in and decide how is the student doing? We may, we're going to find some students are not doing well with the distance learning at all.

**Denise Marshall (COPAA) (09:14):**

And we will find some students who are really thriving and responding to this newer way of, of learning and who may be being educated using online or computers services for the first time ever. So there's also a learning curve. So I think it's a natural process to go through to first say, Nope. Oh gosh, we need a waiver of everything. And then try to, to narrow that down into, well, wait, what does that actually mean and why do we think we need that? And in our business, the mission is, we don't.

**Tim Villegas (09:58):**

I think the last thing I wanted to talk to you about was about funding. Is, is that something that you're advocating for that, for that additional funding would be given to the States to implement special education services during this this time of the, the Coronavirus pandemic. And if, if so, what do you think the money should be spent on?

**Denise Marshall (COPAA) (10:32):**

So yes, we have been advocating for additional resources or perhaps relaxation in funding rules to allow services to continue and to meet students needs. I think that, you know, from our perspective that each district is going to have to figure out where the greatest needs lie. For some of them it's in access to, you know computers and, and technology and, or the internet itself. And that may be on the part of families or perhaps on their teachers. You know, not everybody has the ability to just switch from in-person to online from the word go. Many districts did and many families did, but there were definitely some that were slower. And I know of many districts that had resources already, such as extra computers or laptops or things that they could loan the families. Other districts don't have that.

**Denise Marshall (COPAA) (11:35):**

So they should certainly you know, meet to or have the resources that they need to make sure that there's equitable access. And they may also need things like, you know, a consultant, someone to help them make sure that the programs that choosing and the way that they're structuring the provision of education services online is equitable and is accessible to students with disabilities. They may need additional training for their teachers or for the families. And they may or they may need you know, software or, or those kinds of things. And in fact, they may also need to plan for once the restrictions ease up across the country, you know, for the provision of one-to-one perhaps, you know, individual services and supports for some students, for students with the more complex needs, for example, who may not be able to wait six months before having OT and PT or speech services. Those things may be able to reserve zoom on a one to one basis even though the school buildings themselves may not be open. So I think we have to look creatively and, and as we said earlier, you know, I think this is an opportunity to really look at the intent of the Ida and get us back to how do we work together, what resources do we already have and what do we need and let's make sure that everybody has what they need to make this work.

**Tim Villegas (13:20):**

Is there anything else that you wanted to talk about? LA, I've got you on the phone. Any other, any other part of this coven 19 situation that is, that is on your mind or that that is important for, for COPAA to talk about?

**Denise Marshall (COPAA) (13:39):**

Sure. Well, Coppola's priority through all of this is our children and families and making sure that we can make sure, you know, provide continuity and learning and equitable access and maintain rights. So, you know, in anything that's proposed at the federal or state level, we're encouraging our members and our colleagues to ask that question. Is there anything about this that's going to weaken a student rights or undo, you know, any of the gains they may have realized over the year. And if so, then you need to oppose it and think about, you know, how it can be implemented without weakening their rights or undoing their educational progress. Thanks, Tim. I appreciate you reaching out and not covering this.

**Tim Villegas (14:33):**

Absolutely. All right. Thanks Denise. You too. Okay, bye bye. Hey everyone. It's Tim. Have you ever thought about starting your own podcast? I've got a simple solution. Anchor anchor is the one stop shop for recording, editing, hosting, and your podcasts. Best of all, it's 100% free and easy to use. You can even make money from your podcast with no minimum listenership. Download the free anchor app or go to [anchor.fm](https://anchor.fm) to get started. I'd like to welcome to the podcast Jennifer Lash, the president of the council for exceptional children.

**Jennifer Lesh (CEC) (15:19):**

Thank you Tim. I'm honored and humbled to be here as the president of the 2020 president for council for exceptional children. This is actually the 98th year that the organization has been in existence. So in 2022, we are actually going to have our hundredth anniversary celebration in Orlando, Florida at our, our convention there. But council for exceptional children is actually a professional association of educators dedicated to advancing the success of infants, toddlers, children and youth with exceptionalities. We have three tenants that we, we work around and that's advocacy and standards and professional development. Currently we have over 42,000 members and within those 42,000 members, we also have 17 divisions where people can kind of find their interest home. Anything from a division of early childhood to transition to administrators. And somewhere in between there there isn't a place for everybody that's interested in special education.

**Jennifer Lesh (CEC) (16:32):**

In addition to that, we have units in all 50 States and all of the provinces of Canada. And some of those units are more active than others, but all our members. And so when you become a member of CEC, you become a member of a unit as well and you can have the option of joining of the division. Right now we've sent over 5,000 emails to our members of Congress advocating for emergency funding. So and that's actually free to anybody so you can sign up for that action alert and get our alerts and actually be in the queue to send emails to Congress as well with, with our advocacy pieces. Did you have a question in there about that?

**Tim Villegas (17:18):**

Yeah. And in fact that, cause you were talking about things that were free I know that for the, at least the time being CEC is offering a free is it a 60 day membership? I don't, I don't remember.

**Jennifer Lesh (CEC) (17:34):**

It was, well it's a 60 day members, so yeah, I was going to mention that. So yeah, it's actually, yeah, we have a free membership through May 31st and let me just give you the code. It's all capital letters. It's C E C E D 60. So all you would have to do is go to the web page and go under membership. And when it goes, when it asks you to pay, you would put that code in there and you can get it three til May 31st. And we actually, I think, I want to, I think, and I, I'm hoping I'm bragging in a, in a true fashion here that we were one of the first organizations when every one of the schools started closing across the country.

That we were one of the first organizations that was able to turn on a dime and actually host a free webinar for teaching special education online during COVID-19.

**Jennifer Lesh (CEC) (18:30):**

And I think we probably had over 7,000 soaks. And I know one of our divisions case the council for administrators and special education. They are hosting a series of webinars that has been highly attended. So, and you're continuing, we have little takes and things that people can just click on right on our website that are free. And we also have several resources that are free on the website and as you've mentioned, the membership is free. So we have got a lot of things going on here. We have a brand new executive director who is forward thinking and looking at things differently. We're very excited about all of the things that are happening.

**Tim Villegas (19:12):**

I, I do want to get to some of the questions that, that, that I sent you. And so since, since the news is a little bit different from when I first contacted you let's just talk about some of the, you know, since Betsy DeVos has already given her recommendations to Congress this week. And I was, I was able to preview the report. Now, you know, I'm not expert in policy, so I think you're going to have to, you know, help me understand, help our listeners understand, you know, because the, the reporting on the decision and the recommendations by Devoss is that there are no waivers, but it seems like when I read the report that there is, there are some recommendations about flexibility in timelines. So I know that I know this is a long setup to the question. I believe that you're the one who wrote the letter you know, from your organization recommending flexibility and timelines. So maybe you could walk us through what were you advocating for and then your reaction to the device's report.

**Jennifer Lesh (CEC) (20:22):**

Well, we are strongly against any waivers. I think that term in itself is really a negative term. We never want to waive anything to that piece. I think that this is an unprecedented time and so there needs to be some flexibility you know, with timelines, not, not stating that services negated in any sense of the form and on that all that all parties should do the very best that they possibly can. And and following those, those principles within Ida. And so I, I was pleased at first that the, her, her language in the first part of that was that she was not touching anything within Ida. In fact, we celebrated that piece of it. However, we are with our senior policy advisors. We are watching very closely what's happening with on the Hill and really having some conversations with some of our colleagues on the Hill as to how that goes forward.

**Jennifer Lesh (CEC) (21:33):**

And so I, and I do want to say that we are appreciative of the secretary that she held all of the Ida requirements, including faith in place. And so we know that this is a starting point of the conversation and that at the top it's going to move forward and we will definitely be there with our senior policy team and also our, our policy steering committee as well as the board to make recommendations to our membership and having an action alert to come out based on that. So we are definitely committed work to working with Congress on those next steps and that if something, if something is, is considered to be a waiver that we, it's, it's littered to be designed to be time limited and targeted and very narrow in scope. We are, we, we're not advocates for a waiver.

**Tim Villegas (22:34):**

Some of the concerns from disability rights groups and advocates about the flexibility of timelines was that Ida already has that flexibility built in. So why, why do we need to make anything extra, any sort of language or change to the law going forward, even if it's temporary. Why is that even necessary?

**Jennifer Lesh (CEC) (22:59):**

Well, I mean, you know, IEP is, are we come out of date and, and the evaluations. And so we need to have some flexibility with the services from part C to part B. Those things need to, we need to make sure that are there continued for our students and States then Leh need to have a little bit of guidance and flexibility there. So I don't think that anybody is saying that to waive any piece of Ida at all. Sure. I hope that answers your question. It's one of those things, it's like weaving UN UN UN a very thin thread through a needle. And so I, I have been on both sides of it and I, I see that school, some school districts are really having some difficult times. I was talking to a colleague of mine last night and she was working with a child doing one on one therapy teletherapy and the child kept turning off the computer and the mom was running around trying to get the child back.

**Jennifer Lesh (CEC) (24:13):**

And every time the mom turn the turn, the computer on the child would turn it off. And the the therapist was seeing the child wanting her, the mom running around the house trying to get the child. It's, it's a difficult time. You know, some of our professors at our university are, are asking us in the college of education, give us some kids cause I'm trying to work at home and trying to keep my child engaged or do what he has to do. So it's very, it's, I, it's, I, I don't think any of us has ever experienced any of anything like this and life will be better the next time this happens. But I think we need to work together is really, you know and, and not come down on the side. Let's work together to make this work and figure out to problem solve together how we can make this a better solutions for if, when, and if this happens again.

**Tim Villegas (25:12):**

I appreciate your comments about that. One thing I wanted to ask you it in relation to something else that, that advocates and disability rights groups are concerned about is the, I, I forwarded you a, an article from Huffington post about the new you know, an a district in New Jersey. Have you, had you, and just to clarify, you know, as we're setting up this this particular district was asking for parents to sign and wave away their right to due process or to file any, any lawsuit against the school district before they received services. So if you could just give me your thoughts on that. I would, you know, we would appreciate that.

**Jennifer Lesh (CEC) (25:57):**

You know what, yeah, yeah. That I, you know, I, I to be, to be perfectly honest with you, I had not heard that. But then when I reached out to a couple of my colleagues, cause when I opened up your article, I was like shocked. I was literally shocked. I'm like, how could the district do that? And then I asked some of my colleagues, again, I kinda heard about it, but I didn't really know that. And, you know, and to me when I hear that, it sounds like to me it's a quid pro Crow, you know, really like, and it's not in the spirit of Ida at all. And so I think everybody that's come down with guidance, including the secretary's guidance, makes it very clear that all students should have access to an education even during the COBIT night, 19 crisis. And we shouldn't putting you know, if this, then that type of responses in there.

**Jennifer Lesh (CEC) (26:53):**

And I, and I have to say, I've been a long proponent of building partnerships with parents and families. They've helped make my life easier when working with their child because no one knows their, their

child better than the parents and the families. And so together we can make a difference for their child. So really to me, what this article was stating that, that, that, that, that has occurred, that's a disservice to many of us special educators across the country who are doing our darndest to continue to provide services to our students. And if this is true, this isn't, this is alarming. You know, I, my question is why would you not try to build a relationship with your parents instead of trying to build a wall between the two of you? And so really I have to say this is, this is not what we stand for at CEC. And that's, that's why I'm part of CDC. You know, that's definitely, I was shocked actually when I opened it. I'm like, what? So, yeah.

**Tim Villegas (27:55):**

Well, I appreciate that. I appreciate the thoughts on that. And it's something you had mentioned previously in our conversation was about funding. And I'm not sure if any of us were really expecting, you know Betsy DeVos to explicitly recommend additional funding you know, for Ida or for services that are related to you know, working with students with disabilities. But as moving forward and especially now the Congress has her recommendations. Is that something that CEC is going to be advocating for?

**Jennifer Lesh (CEC) (28:38):**

Absolutely. Well, as I mentioned before, we've already had 5,000 letters in that vein, but we are continuing and that'll action alert is on there. And we will be pushing again for emergency funding for Ida. So I would invite all of your listeners to find our policy advocacy page on [cec.sped.org](http://cec.sped.org) and send it, send a action alert to your representatives and senators.

**Tim Villegas (29:12):**

As, as we look forward to the 2020, 20, 21 school year. You know, what are your biggest concerns in regards to supporting students with disabilities?

**Jennifer Lesh (CEC) (29:26):**

So well well first and foremost, I think the wellbeing of our students and their families, that's, that's most important. And of course the wellbeing being of our special educators. I think this is this, this, this has taken a toll on folks and I don't know that we're actually gonna know that toll until we kind of get back to the new normal. And, and so that, that's my, I think my personal first concern is how, how is everybody you know, are we okay? And then my second is to make sure that our students that the students get what they need to continue to gain academically and behaviorally. And of course, social emotionally and that we as special educators have those resources to do so. And I'm hoping that we as professionals along with our, our parents and families continue to call us around a collaborative effort to do what's right for our kids. Because we are all in this together and only together we are much stronger and making things better for our kids.

**Tim Villegas (30:42):**

I really appreciate taking you taking the time to speak with me. My pleasure.

**Jennifer Lesh (CEC) (30:47):**

It's my pleasure. Thank you for all the work that you do. Thank you Tim. Take care. Bye bye.

**Tim Villegas (31:01):**

If you would like to hear the entire unedited recordings of my interviews with the niece Marshall or Jennifer Lesh, consider becoming a Patron subscriber at [patron.com/think inclusive podcast](http://patron.com/think inclusive podcast). Follow the think inclusive podcast on the web@[thinkinclusive.us](http://thinkinclusive.us) and tell us what you thought of the podcast via Twitter at [inclusive underscore pod](https://twitter.com/inclusive underscore pod) or find us on Facebook or Instagram. You can also subscribe to the

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**Tim's Kids (32:36):**

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