



Compensatory Education During the COVID-19 Pandemic **A Brief Guide for Parents #5**

Many students with disabilities have not made progress or have lost skills during the COVID-19 pandemic because their individualized education programs (IEPs) have not been implemented fully during virtual learning. These students may qualify for compensatory (make-up) education to get them to where they would have been educationally if they had received services in accordance with their IEPs. If you think your child may need compensatory education, please see the tips below to learn how to navigate this process.

What are compensatory education services?

Compensatory education is special education instruction and/or related services owed to a student with disabilities as a result of a school system's failure to provide them with services in accordance with their individualized education program (IEP). Compensatory education is not unique to the pandemic; a student may be entitled to compensatory education any time the school system fails to provide them with services. At this time, your child may be entitled to compensatory education as a result of services lost because of the shift to virtual learning during pandemic-related school building closures.

What are some examples of when compensatory education could be appropriate?

Example 1: Student A's IEP includes 30 minutes of speech therapy a week, but Student A did not receive this service for 3 months during the pandemic and started speaking in 2-3 word phrases instead of complete sentences. Student A may be entitled to compensatory services as a result of the school system's failure to implement the IEP.

Example 2: Student B is unable to access distance learning without in-person support and was unable to participate in any classroom activities, work assignments, or related services until school buildings reopened on a hybrid basis. Student B's IEP is implemented on the days Student B is in school but not on the days when Student B is home. Student B may be entitled to compensatory education for the lack of IEP implementation when school buildings were closed, and may still be accruing (building up) an entitlement to compensatory education because the IEP is not being fully implemented.

When should I request compensatory education?

Since so many students will likely need compensatory education, each local school system is beginning to develop a plan for how to address this issue on a system-wide basis. At the very least, the decision should not be made until there is enough information about:

- the services your child did and did not receive;
- how your child did academically, functionally, socially and behaviorally during the time out of the school building; and
- how your child is doing once back in a school building full time.

You may have to ask the school to collect data during the remaining period of virtual learning and during a period of time following return to the school building or otherwise receives full IEP implementation in order to determine how the failure to provide a particular service or instruction has affected your child.

How will compensatory education be calculated?

One way of calculating compensatory education is to provide one-for-one services, meaning that for every hour or session of service missed, your child would receive a replacement hour or session. This is NOT how school systems are likely to approach compensatory education for students in Maryland. More likely, there will be a calculation that looks at qualitative issues. How was your child doing before school buildings closed? What happened during the pandemic? What services are needed to make up for the skills your child lost? Some children might need more than one-for-one services because of the regression they have sustained; others might need less. The decision must be individualized and must be based on your child's needs and on information and data.

What if my child's IEP team denies compensatory education to my child or I disagree with the compensatory education offered to my child?

You may file a complaint with the Maryland State Department of Education about the violation of your child's rights and the IEP team's refusal to provide appropriate compensatory services. The violation can reach back to one year from the date of the complaint. Note that DRM filed a complaint on March 30, 2021 on behalf of all students with disabilities in Maryland to preserve the right of students to ask for compensatory education back to March 30, 2020. In addition, DRM has drafted a sample complaint for parents and families to fill out with your child's information and file for yourself. You also have the option of requesting mediation and/or filing a due process hearing request.

For more information on mediation and due process, see [DRM's Special Education Handbook](#).

This is the fifth in a series of brief guides for parents to address education issues during the pandemic. All guides can be found [here](#). Please feel free to contact Disability Rights Maryland's intake line at 410-727-6352 with questions or concerns or if you need this document in an alternative format.