

Family Fact Sheet: COVID-19 Compensatory Services and Recovery Support for Students with IEPs During the COVID-19 Pandemic

On August 17, 2020, the Department of Elementary and Secondary Education (DESE) published guidance for schools and districts to help them work with families to together help students with Individualized Education Programs (IEPs) recover as much as possible from the school disruptions that occurred because of COVID-19. The guidance is called *Coronavirus (COVID-19) Special Education Technical Assistance Advisory 2021-1: COVID-19 Compensatory Services and Recovery Support for Students with IEPs*. You can find the guidance here: www.doe.mass.edu/sped/advisories/2021-1-covid-comp-services.docx.

This Fact Sheet summarizes the main points in DESE's guidance for families. DESE encourages families to keep in touch with your child's educators and administrators, and to talk about what the new guidance means for you and your child. If you belong to your local Special Education Parent Advisory Council (SEPAC), you can also collaborate with your school and district to plan and put in place policies and practices that will help *all* students with IEPs, in addition to your own child.

Your child's right to Implementation of their IEP and a Free and Appropriate Public Education (FAPE)

It is important for you to know that special education laws provide that every student with an IEP must have a Free and Appropriate Public Education (FAPE). The U.S. Department of Education has made clear that students with IEPs must receive FAPE even during the pandemic. However, FAPE may look different because of COVID-19. For example, to protect the health and safety of students and their educators, when schools were closed in the spring your child probably received special education instruction and services by using a computer or phone, instead of being in a classroom.

Definitions

In its guidance to schools and districts, DESE defined three kinds of services to help students with IEPs recover from school disruptions caused by the pandemic when the Governor ordered that in-person education was stopped, beginning in March 2020:

1. General Education Recovery Support

This is support that schools and districts may give to all students, including students with IEPs, to help them regain the skills and knowledge they lost when in-person instruction was suspended in the spring because of the pandemic, and to help them be well emotionally and socially.

2. COVID-19 Compensatory Services

These are special education instruction and services provided in addition to your child's ongoing IEP services. If your child regressed or did not make effective progress in meeting their IEP goals because of the pandemic, these services will specifically address the effects of delayed, interrupted, suspended, or inaccessible IEP services.

3. New IEP Services

Your child may need additional special education services to address new areas of disability-related need. If so, these are called “New IEP Services” and your child’s IEP Team will discuss and include these new services in your child’s IEP.

Prioritizing students

While all students’ education was affected by the sudden shift to remote instruction and service delivery, some students with IEPs experienced more significant challenges than others. DESE is asking schools and districts to prioritize specific students when determining the need for these services. These specific groups of students are:

- Students with complex and significant needs:
 - students already identified as “high needs” through the IEP process on the form entitled “ Primary Disability/Level of Need-PL 3.” What a student’s level of need is depends on (1) where the student receives services (in or out of the general education classroom); (2) whether services are provided by general educators, special educators, paraprofessionals, or related service providers; and (3) the percent of time during the school day that the student receives special education services.
 - students who could not engage in remote learning due to their disability-related needs or lack of technology;
 - students who primarily use aided and augmentative communication (AAC);
 - students who are homeless;
 - students in foster care or congregate care; and
 - students dually identified as English Learners;
- Preschool-aged children whose eligibility evaluations or start of preschool special education services have been delayed or interrupted; and
- Students who turned 22 during the suspension of in-person education or who will turn 22 during the first three months of the 2020-21 school year, and whose transition programs were interrupted or suspended before they aged out.

The Department has recommended that parents and the IEP Team work together to make decisions about COVID-19 Compensatory Services for students in these high priority groups by December 15, 2020.

For students who are not in the high priority groups, school staff will take some time to observe your child to see how they are adjusting to the new educational environment this fall. They will also review data and communicate with you about your child’s learning and emotional needs. Schools and districts will work with you to make sure your child has the services and supports they need.

Starting with data

All decisions about the COVID-19 Compensatory Services your child may need must be individualized and based on information and data. Because your child has spent several months in your full-time company, schools and districts should prioritize collecting data and information from you. You can give your school partners important information about your child's access to learning, engagement, attention, behavior, progress, skills, home experiences, and the effect of the COVID-19 pandemic on them. The Team needs to learn from you whether your child had difficulty accessing services remotely because of their disability, because of problems with the Internet or computer devices, because your child needed to have an interpreter or materials translated, or for any other reason.

After your child's IEP Team (which includes you) looks at all of the information and data on your child's progress toward meeting IEP goals, the Team will determine whether your child needs these services and supports.

Deciding what support your child needs

DESE recommends that you and the other members of the IEP Team use questions like these to guide your conversations during the Team meeting. Not necessarily all of them will need to be asked and answered to decide whether your child needs COVID-19 Compensatory Services.

1. Were some services on your child's IEP not offered? Were there services on the IEP that your child did not access remotely when in-person education was suspended?
2. Did your child lose any skills?
3. Did your child fail to make effective progress toward achieving their IEP goals?
4. Did your child fail to make effective progress in the general curriculum?
5. Does your child need additional supports and/or services temporarily to help recover from the time they did not access services remotely?
6. What kinds of General Education Recovery Supports will your school or district offer? Will the General Education Recovery Support be enough to help your child regain skills and knowledge that were affected when in-person education was postponed because of COVID-19?
7. Will your child need COVID-19 Compensatory Services? What kinds? How much? *It is important to note that these services may not be the exact same number of IEP service hours they missed; however, the services must address your child's individual needs.* The goal of COVID-19 Compensatory Services is to help your child recover from educational disruptions caused by the COVID-19 pandemic. You and the other members of the IEP team will discuss which services will be necessary to do that.
8. Will your child need new IEP Services? What kinds? How much? You may decide with your school partners that your child needs a re-evaluation or a new testing if your child has not yet been tested in the new area of suspected disability.

Having an IEP Team meeting or talking to the district without convening the IEP Team

There are two ways that you and the school district can discuss and decide whether your child needs COVID-19 Compensatory Services. The first is having an IEP meeting. The meeting can be with the full IEP Team, or if you decide that it's not necessary to have an IEP meeting with everybody on the Team, you can meet with only some Team members. For example, you might feel that as long as you have your child's written math assessment, you don't need to speak with your child's math teacher, even though that teacher would normally attend at Team meeting. The school needs to have your permission to have an IEP meeting without the usual members present.

Another option is for you and the school district together to choose not to convene an IEP meeting and discuss your child's need for COVID-19 Compensatory Services with your school more informally. In this case, you may feel that your child's needs can be met fully and efficiently by talking informally with your school. It is the parent's choice whether to skip the IEP meeting and instead discuss their child's need for COVID-19 Compensatory Services with an administrator. If you decide that an IEP meeting is unnecessary, your district will document this with you in writing. Any decision about services or supports will also be documented in writing by the district as is explained below.

Documenting the support your child needs

The different kinds of support your child needs can be documented in different ways.

1. All children can use the **General Education Recovery Support** offered by their school. Schools and districts are *not required* to write down and give you a list of the general education recovery support your child will receive, but it is a good idea to talk about these services with your child's IEP Team. If you have questions about general education recovery support, it is a good idea to reach out to your child's teacher or the school principal to find out more about how the school is helping all students return to learning this fall.
2. If you and the other members of your child's IEP team agree at an IEP meeting or through an informal meeting that your child needs **COVID-19 Compensatory Services**, the district must write down the type and amount of service(s), how often the service(s) will happen and for how long, and how your child's progress will be monitored, and whether transportation is needed in order to access those services. The district should use DESE's form, Notice of Proposed School District Action/N1, or meeting notes, and give you a copy in your home language.

During the current school year, your child might receive COVID-19 Compensatory Services in person or remotely.

3. Any **New IEP Services** needed because your child has new disability-related needs will be documented on the IEP form or IEP Amendment Form.

If you wanted the school to conduct testing to determine whether your child needs special education services, but the process was delayed because of COVID-19

When school buildings unexpectedly closed because of the pandemic, schools were unable to assess students in person. This was true for students of any age, whether in pre-school or older. Going forward, districts must complete evaluations to determine the need for special education services as soon as possible, and talk with you about how best to meet the timelines for testing and holding IEP meetings so that you know whether your child is eligible, and so that students receive the services they need.

If the evaluation shows that your child is eligible for special education services, the IEP Team will develop an IEP for your child. As you and the other members of the IEP Team discuss your child's needs during the IEP meeting, one decision you will make together is whether your child will need COVID-19 Compensatory Services because of the delays in testing and holding an IEP meeting. This is true for all students newly eligible for special education services whose eligibility determination was delayed due to the pandemic, including young children referred by Early Intervention (EI).

If your child has moved from one district to another or is attending a new charter or vocational-technical school

If your child will attend a district, charter school, or vocational technical school in school year 2020-21 that is different from the district or school they attended in Spring 2020, then the new district or school is responsible for convening the IEP Team to decide whether your child needs COVID-19 Compensatory Services and/or New IEP Services. The new district or school might invite a representative from your former district or school to attend, because the former districts will pay for COVID-19 Compensatory Services.

If your child attends a collaborative or approved special education school

If your child is in an out-of-district placement, the district responsible for your child's special education program will convene an IEP meeting. The district will work with the collaborative or the approved special education school to make sure the Team has all the information it needs to consider whether your child needs COVID-19 Compensatory Services or New IEP Services.

Your district should include a representative of the collaborative or approved special education school in any planning conversations even if you decide not to convene an IEP meeting and instead discuss your child's needs with an administrator.

If your child is or will be 22 years old between March 17 and December 23, 2020

If your child is turning 22 by December 23rd or turned 22 when school buildings were closed, you and the other members of the IEP team can work together to make your child's transition to adult life as smooth as possible. DESE's guidance indicates that it will be important to convene an IEP meeting, even if your child's 22nd birthday has already passed, if:

1. Your child was unable to access services during the unexpected suspension of in-person education.
2. Your child regressed or failed to make effective progress during remote learning.
3. Your child has significant difficulty with transitions and changes in routine, and there is concern that the suspension of in-person education will result in an unduly challenging move to adult agency services if no additional school services are provided.
4. No connections, or minimal attempts at connections, have been made to relevant adult agencies such as the Massachusetts Rehabilitation Commission (MRC), the Department of Developmental Services (DDS), or the Department of Mental Health (DMH).
5. You and your child have been unable to follow through on identified transitional services with adult agencies because of COVID-19, or the adult agency(ies) have been unable to follow through with you because of COVID-19.
6. Your child had been expected to fulfill the requirements for the competency determination by their 22nd birthday but was unable to do so because in-person education was suspended.

Since your child is over age 14, your child will be invited to attend the IEP meeting as well. If they will be receiving services from an adult agency, the district will invite a representative from that agency to attend, too. It's important that school staff and agency staff communicate and collaborate with you to help your child.

At the meeting, you, your child, and the other IEP Team members will keep your child's transition needs and plans for adult life in mind when considering whether your child needs COVID-19 Compensatory Services.

Keep in mind that you also have the option to not request an IEP meeting, if you feel that your child's needs can be met through an informal meeting as described above in this Fact Sheet, or if you feel that your child has already successfully transitioned to adult life and has no more need of school services.

Legal rights

If you are interested in learning more about your and your child's rights, please see the [Parent's Notice of Procedural Safeguards](#). If you disagree with the other members of the IEP team, you have the option to choose some next steps. For example, you could file a complaint with DESE's [Problem Resolution System](#). Or, you could contact the [Bureau of Special Education Appeals](#) (BSEA) to ask for a facilitated IEP Team meeting, a [mediation](#), and/or a [due process hearing](#).

If you have questions about DESE's guidance

For questions related to this Fact Sheet or the guidance document *Coronavirus (COVID-19) Special Education Technical Assistance Advisory 2021-1: COVID-19 Compensatory Services and Recovery Support for Students with IEPs*, please contact DESE's Problem Resolution Office at 781-338-3700 or compliance@doe.mass.edu. For more guidance and information related to special education during the COVID-19 pandemic, please visit DESE's Coronavirus/COVID-19 special education [webpage](#).