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JUSTICE**

Special Education and COVID-19:

What Parents and Caregivers Need to Know About Compensatory Education, Recovery Services, and Extended School Year Services During and After the COVID-19 Pandemic

My child with a disability received educational services during the school building closures or through remote, hybrid, or blended learning, but I think they need more. What can I do?

Students with disabilities are entitled to a Free Appropriate Public Education ("FAPE") regardless of a school's chosen learning environment. FAPE includes individualized instruction and services to meet a student's unique needs and help them make progress on lessons and their IEP goals.

A parent can ask for additional needed services or an IEP meeting if services provided during a building closure or other remote or hybrid learning are not enough. See our fact sheet- *Special Education and Remote Learning: What Parents & Caregivers Need to Know About Services Now*. See our template letter: *COVID-19 Request for IEP Services (Letter to School)*

If a parent believes their child needs more than what they received during the spring 2020 building closure or during another online learning time, additional types of services may be available:

- Compensatory education services or recovery services OR
- Extended school year ("ESY") services.

What is compensatory education?

Compensatory education is educational services provided to make up for services the school should have provided to a child with disabilities but didn't. This usually happens when:

- the school district does not provide the services listed in the IEP or
- even if the school did provide services, the services and instruction failed to meet the child's unique needs and allow meaningful progress.

Compensatory education is meant to catch the child up to where they were expected to be if the services had been provided. Courts have recognized that some children need compensatory education and ordered it in cases where a child was denied FAPE.

Compensatory education can look like:

- tutoring after school or on weekends,
- summer programs,
- additional counseling or therapy sessions, or
- repayment of parent expenses, among other things.

I hear my school talking about recovery services, what are recovery services?

Recovery services is a new term used by educators for services children with disabilities may need because of the school building closures. They are like compensatory education services, but they are specifically for a child's lack of progress on IEP goals or their school work during the school building closures regardless of the reason why the child did not make progress. Recovery services should close gaps in a child's learning or progress towards IEP goals. Recovery services allow the child to continue learning based on where they were expected to be if the school building had not closed.

What are extended school year ("ESY") services?

ESY services are provided when a child needs continuous teaching or services because of the child's disability. Children who tend to lose skills during breaks or children who may take a long time to relearn things when school starts again may need ESY. ESY is an IEP team decision written in Section 4 of the IEP.

ESY can look like specialized summer school or continuous instruction or therapy during school breaks, including winter and spring break.

What is difference between recovery services, compensatory education, and ESY?

Recovery services, compensatory education, and ESY can look very similar. All three may be provided after school, on weekends, during the summer, or over breaks. The key difference is the standard for determining whether the child is entitled to the service.

Recovery services are designed to close any gaps in learning created as a result of the 2019-2020 school building closures.

Compensatory education is designed to compensate or "make up for" IEP services not provided by the school or the child's lack of progress because services did not meet the child's unique needs and allow meaningful progress.

ESY is about when a child needs ongoing teaching or services because of their disability. ESY does not look at what services your child did not get in the past.

How do I know whether my child is eligible for any of these services?

Students are not automatically eligible for any service except the services included in the IEP. So, documentation and tracking progress are the keys! You may wish to look at:

- *Special Education and Remote Learning: What Parents & Caregivers Need to Know About Tracking Your Child's Services and Progress*

How do I request recovery services, compensatory education, or ESY?

- Make your request in writing to the special education coordinator. Include any documentation or evidence that you have collected. For example, see our template *COVID-19 Request for IEP Services (Letter to School)*
- Keep a copy of your request for yourself.
- Use a calendar to track the date you sent your request and any answers or responses you get from the school.

My child's school offered to give my child some of these additional services. How do I know if they are what my child needs?

You will want to look at a few things:

1. What services has your child received since the building closure and through the beginning of the school year?
 - a. Look at what services your child may have missed. The amount of additional services a child is entitled to is not calculated on a minute for minute basis, but this is a good starting point.

2. Is the school offering services that will meet your child's unique needs?
 - a. For example: Did your child's IEP Team meet to discuss your child's needs? Or, did you receive a letter with a general offer not tied to your child's unique needs? All three services must be designed to meet your child's unique needs.
3. Look at what you have been tracking. Do you think what the school is offering will be enough to make up for lack of progress or lost ground?
 - a. For example: If your child is supposed to get physical therapy (PT) for 40 minutes each week but has not received any PT since the building closure, giving your child 40 minutes each week for each week missed may not be enough PT to make up for any benefit lost. Your child should get the amount of PT that will make up for any lost progress or benefit.

You know your child best. Try to work with the IEP Team to decide and only agree if you think that the services offered are enough for your child.

My child's school says my child cannot get recovery services or compensatory education because my child didn't complete all of their remote learning assignments. What can I do?

Write down all of the reasons that made completion of assignments difficult or impossible. Some reasons might be:

- You don't have a computer or a table that your child could use
- You don't have internet service, or you don't have good, reliable internet service
- You didn't have the school supplies you needed
- You had to work and were not able to help
- You have or had health issues and were not able to help
- Your child's health issues (including mental health) impacted their ability to complete work

The school should not hold these reasons or similar reasons against your child. The school should have talked to you about these things when your child's remote learning plan was created.

My child's school says they are not entitled to recovery services or compensatory education because all students are behind. What can I do?

The decision about whether a child gets recovery services or compensatory education must be based on a child's individual needs and progress. The school must decide on a case-by-case basis for each child.

If the school refuses to provide recovery services or compensatory education, request that they put their refusal and the reason for that refusal in writing in a PR-01 (Prior Written Notice). Creating a paper trail can be very important for settling disputes down the road.

What if the school denies my request for recovery services, compensatory education, or ESY services?

There will be situations where parents are unable to agree with the school about what their child needs. The Ohio Department of Education is open and offers several dispute resolution options, including mediation, facilitation of IEP meetings, state complaints, and due process complaints. Find helpful information at <http://education.ohio.gov/Topics/Special-Education/Dispute-Resolution>.

If you still need help:

CALL
LEGAL AID LINE



TOLL-FREE
(888) 534-1432

APPLY ONLINE



ONLINE
www.LegalAidLine.org