

FCPS Guidance Document for IEP Teams and Section 504 Plan Knowledgeable Committees for Consideration of Compensatory Education Due to the COVID-19 Pandemic

This document provides guidance and criteria for IEP teams and Section 504 Plan knowledgeable committees for the consideration of compensatory education due to the COVID-19 pandemic. The Pandemic Period is identified as April 14, 2020 to June 10, 2022.

Compensatory Education is special education and related aids or services provided to a student to remedy educational deficits that resulted from the failure to provide services or evaluations during the COVID-19 pandemic.

The IEP team or Section 504 Plan knowledgeable committee will:

- Determine whether each student with a disability received an appropriate education to meet their individual needs during the Pandemic Period
- Determine whether compensatory education and/or related services are owed to a student with a disability as a remedy

I. Criteria for Determining Provision of FAPE and Compensatory Education

A. Each IEP team or Section 504 knowledgeable committee must consider, at a minimum, the following criteria:

1. Did FCPS fail to provide the student with the regular or special education and related aids/services required by the student's Section 504 Plan or IEP that was in effect at the beginning of March 2020?
 - a. Did the student receive the amount and type of the regular or special education, and related aids/services that were required by the Section 504 plan or IEP that was in effect at the beginning of March 2020?
 - i. The services provided by parents or guardians during the Pandemic Period will not be counted as services provided by FCPS that were required by existing IEP/504 Plans.

Note: Parents/guardians will have access to information recorded by FCPS, if any, regarding the amount of special education and/or related aids/services provided to the student during the Pandemic Period, including IEP and Section 504 service logs.

2. Were changes made to the student's IEP or Section 504 Plan during the Pandemic Period (Temporary Learning Plans (TLPs), Virtual IEPs, or other remote learning plans), particularly where changes resulted in lesser services being provided to the student than the Section 504 plan or IEP in effect prior to the changes?
3. For students with IEPs, was goal progress impacted by remote learning? To make this individualized determination, IEP teams will consider, at minimum:
 - a. Present levels of academic achievement and functional performance.
 - b. Previous rate of progress toward IEP goals pre-Pandemic Period.
 - c. Documented frequency and duration of special education and related services provided to the student prior to the service disruptions caused by the COVID-19 pandemic.

B. If a student did not receive the regular or special education and/or related aids/services designed to meet their individual educational needs during the Pandemic Period, the IEP team or Section 504 knowledgeable committee will:

1. Make an individualized determination regarding what compensatory education the student needs to return the student to the position the student would be in if the student received services that met his or her individual needs.
2. State the factors considered in determining any compensatory education owed to the student.
3. Develop a plan for providing timely compensatory education.
 - a. The team may consider recovery services already being provided as a factor in determining compensatory education if those recovery services, based on an individualized determination of the student's compensatory education needs, address the specific individualized needs of the student.
 - b. When the recovery services already being provided do not address the specific, individualized compensatory education needs of the student, the team cannot directly subtract provided recovery minutes from the total amount of compensatory education the team determines is needed.
 - c. The team will include an appropriate and reasonable timeframe for the completion of the agreed-upon compensatory services.
4. Provide the student's parent/guardian notice of the procedural safeguards, including the right to challenge the IEP team or Section 504 committee's determination through an impartial hearing.
5. Provide the student's parent/guardian notice of the process to follow for requesting reimbursement for out-of-pocket expenses incurred by the parent or guardian to provide services required by the student's IEP or Section 504 Plan by private or non-FCPS personnel that were not provided by FCPS during the Pandemic Period.

Considerations for Compensatory Education Services

Pre-Pandemic Period Data Sources and Considerations (PRE)	Pandemic Period Data Sources, Questions and Considerations (DURING)	Post-Pandemic Period Compensatory Education services (POST)
<p>Pre-Pandemic Period (prior to 3/13/20)</p>	<p>Pandemic Period (4/14/20 - 6/10/22)</p>	<p>Post-Pandemic Period (6/11/22 - Current)</p>
<p>To establish a baseline, gather and review data (informal/formal) from prior to the Pandemic Period, to include, but not limited to:</p> <ul style="list-style-type: none"> ● Rate of progress toward IEP goals, objectives and benchmarks ● Observation data from teachers, therapists, parents, and others having direct contact with the student ● Screening, assessment or information maintained on the student, including pretest and post-test data ● Curriculum-based assessment, including pretest and post-test data; and other relevant factors <p><u>Guiding Questions:</u> Did the student make progress on their IEP goals and objectives prior to the ordered school-building closure period?</p> <p>What were the student's baseline measures on his or her IEP goals and objectives prior to the Pandemic Period?</p>	<p>Gather and review data (informal/formal) from the Pandemic Period.</p> <p><u>Guiding Questions:</u></p> <p>Did the student receive the amount and type of regular or special education and related aids and services that were required by the student's IEP or Section 504 Plan that was in effect on April 14, 2020?</p> <p>Were changes made to the student's IEP or Section 504 Plan during the Pandemic Period (e.g., Temporary Learning Plans (TLPs), Virtual IEPs, or other remote learning plans) that resulted in fewer services being provided to the student than the IEP or Section 504 Plan in effect prior to the changes?</p> <p>What special education and related aids and services and accommodations did the student receive during the Pandemic Period?</p> <p>Consider the student's attendance during the Pandemic Period. Was the student able to access instruction in order to receive special education and related aids and services?</p> <p>How was the student's performance and progress impacted by not receiving the individualized special education and related aids and services during the Pandemic Period?</p>	<p>Consider the student's present level of academic and functional performance, rate of progress and skill acquisition (before, during and after the Pandemic Period), as well as the documented frequency and duration of special education and related services that were provided to the student</p> <p>For each student with a disability who did not receive the regular or special education and/or related aids and services designed to meet their individual educational needs during the Pandemic Period, IEP teams or Section 504 committees will do the following:</p> <ul style="list-style-type: none"> ● Make an individualized determination regarding what compensatory education the student needs to <i>return the student to the position the student would be in if the student received services that met his or her individual needs</i> ● State and document the <i>factors considered</i> by the IEP team or Section 504 committee in determining any compensatory education owed to the student ● <i>Develop and document their plan</i> for providing timely compensatory education. ● Document the outcome for each student in the tracking mechanism (complete the IEP or 504 Plan in SEA-STARS) and <i>complete the Prior Written Notice</i> to accompany the determination.

Comparison Chart: COVID-19 Compensatory Education - COVID-19 Recovery Services - Extended School Year (ESY)

	COVID-19 Compensatory Education	COVID-19 Recovery Services	ESY
What are these services and why are they provided?	Compensatory education is special education and related aids and services provided to a student to remedy educational deficits that resulted in a denial of FAPE due to the inability or failure of FCPS to provide services or evaluations during the COVID-19 Pandemic Period. Services are available to students with IEPs and Section 504 Plans.	Recovery services are special education and related services provided in addition to regular school programming to mitigate the impact of COVID-19 pandemic and resulting school closures and virtual instruction on student learning and progress. Services are available to students with IEPs and Section 504 Plans.	ESY services are special education and related services provided beyond the normal school year. An ESY determination is made to address the concern that benefits gained by a student with an IEP during the school year will be significantly jeopardized without ESY. ESY services are available to students with IEPs only.
What period of time needs to be considered?	The Pandemic Period is defined as April 14, 2020 to June 10, 2022. Current data is also relevant to decision-making. Determinations for COVID-19 compensatory education will be conducted mid to late Jan. 2023 - end of the 2022-23 SY.	The Pandemic Period is defined as April 14, 2020 to June 10, 2022. Current data is also relevant to decision-making. Determinations for Recovery Services ends December 31, 2022.	ESY decisions are based on data collected from the last agreed-upon IEP that indicates the student requires services beyond the normal school year to receive FAPE.
What factors will the IEP team/504 Committee consider in determining whether services are required?	Key factors considered for the determination of Compensatory Education include changes made to the student's IEP or Section 504 Plan during the Pandemic Period (TLPs), Virtual IEPs, or other remote learning plans), particularly where changes resulted in lesser services being provided to the student than the IEP or Section 504 Plan in effect prior to the changes.	Key factors considered for the determination of Recovery Services include evidence of impact on learning or educational progress (e.g., regression or reduced rate of skill acquisition) due to COVID-19 school closures, virtual, and/or hybrid learning.	Key factors considered for the determination of ESY for students with IEPs include: regression, skill recoupment, degree of progress, emergent skills, behaviors, severity of disability, and unique circumstances.
What type of data and information should the IEP team/504 Committee consider?	Focus on present level of academic achievement, functional performance data, rate of progress and frequency/duration of services provided (pre, during, post) pandemic period.	Focus is on data that demonstrates the impact of COVID-19 school closures, virtual, and/or hybrid learning on learning and educational progress	Focus is on current data and educational progress toward areas of "critical life skills."
When would services be provided?	Compensatory education may be provided outside of school hours or embedded within the school day if determined appropriate and does not interfere with other required programming or services.	Recovery services may be provided outside of school hours or embedded within the school day if determined appropriate and does not interfere with other required programming or services.	ESY services are an extension of the current school year. Students often access ESY during the summer months but it can be accessed outside of that timeframe.
Addressed by VDOE? Where can I find additional info?	No - OCR Compensatory Education Resolution Agreement		Yes - VDOE ESY Guidance

Roles and Responsibilities for COVID-19 Compensatory Education Determination:

	School Administrator	SPED Dept Chair 504 SBC Case Manager	School Staff	Central Office staff	FCPS Plan Administrator
Initial Outreach to Parents/ Guardians/Students				X	
Schedule IEP/504 meeting		X	X		
Gather and Review Data		X	X		
Collaborate with other schools and/or central office staff	X	X	X		
Participate in and support staffings prior to meetings	X	X	X	X	
Facilitate and lead IEP/504 meeting	X	X			
Complete and send PWN		X	X		
Develop an internal school process to ensure that all meetings are held and a determination is made and documented for each student	X	X			
Add student information into the FCPS Compensatory Education tracking system	X	X			
Provide guidance and support for individual cases				X	X
Process parent reimbursements				X	X
Report information to OCR				X	X
Oversee the implementation of the OCR Resolution Agreement and provision of compensatory education for all FCPS students with disabilities				X	X

Decision Worksheet (Attach to IEP or 504 Plan)

Student Name: _____ Current School: _____ Grade: _____

Present level of performance (data sources):

Mitigating interventions and services provided (data sources):

COVID-19 Pandemic Period (PP) - Impact on student learning/progress (data sources)

	2019-20 (PP started 4/14/20)	2020-21 (PP all year)	2021-22 (PP ended 6/10/22)	2022-23 Current
Area of Eligibility/Primary Service				
Delays in evaluations/eligibility				
Related Services				
Paused Instruction-C19 (dates)				
Ability to Access Instruction and Attendance				
Return to In-Person learning (dates)				
Targeted Instruction (i.e., Mondays, Intervention Block, SOAR)				
Recovery Services (Y/N) and areas addressed				
<ul style="list-style-type: none"> • Recovery services provided/ dates 				
<ul style="list-style-type: none"> • Recovery Progress 				

	Primary Services Gen Ed per week	Primary Services SPED per week	Related Services Gen Ed month	Related Services SPED per month	Identified Areas of Need (list)	Notes
**IEP as of 3/2020						
Temporary Learning Plan (TLP)						
**Changes/Variance from						
Sept 2020 – Virtual Learning						
**Changes/Variance from						
Return to In Person Learning 2020-21 Changes to IEP/504						
**Changes/Variance from						
Return to In Person Learning 2021-22 Changes to IEP/504						
**Changes/Variance from						

Plan for Compensatory Education:

SEA-STARs Updates and Guidance for COVID-19 Compensatory Education Documentation:

How to Complete the IEP using SEA-STARs

IEP Services Page in SEA-STARs

Student Name: [redacted] Student ID: [redacted] Gender: **Female** Birth Date: [redacted] Grade: **K** IEP Status: **Draft IEP**

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** FCPS will provide services on days that school is in session and will not provide or compensate for services missed on days when schools are closed due to holidays, inclement weather, or for reduced services that are the result of a partial day schedule.

Primary Service + Add

✕	Line	Service	Hours			Frequency	Service %	Begin Date**	End Date**	Begin Date**	End Date**
			Special Education in General Education Setting Hours	Special Education Setting Only Hours	Total Hours						
■	1	LD - Learning Disability	10.00	5.00	15.00	week	50.0	12/06/2022	06/09/2023	08/23/2023	12/06/2023

Additional/Related Services + Add

✕	Line	Service	Hours			Frequency	Service %	Begin Date**	End Date**	Begin Date**	End Date**
			Special Education in General Education Setting Hours	Special Education Setting Only Hours	Total Hours						
■	1	APE - Adapted PE	0.00	1.00	1.00	week	3.3	12/06/2022	06/09/2023	08/21/2023	12/06/2023
■	2	PTC - Physical Therapy (C19 COMP SVC) ←	2.00	0.00	2.00	month	1.7	12/06/2022	06/09/2023	08/23/2023	12/06/2023
■	3	WATC - Work Awareness and Transition (C19 COMP SV) ←	3.00	2.00	5.00	month	4.2	12/06/2022	12/09/2022	08/23/2023	12/06/2023

*** COVID-19 Compensatory Education services are indicated in SEA-STARs using a “C” following the service acronym.**

In this example the student will receive 2 hours per month of compensatory Physical Therapy (PT) services in the general education setting and 5 total hours per month (3 in the general education setting and 2 in the special education setting) of compensatory Work Awareness and Transition (WAT) services.

Student Name: [redacted] Student ID: [redacted] Gender: **Female** Birth Date: [redacted] Grade: **K** IEP Status: **Draft IEP**

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Dismissal from Other Service(s) by an IEP Team

Student Total Time

Based on a 30.00 school hour week, the hours below reflect the time the student spends in each applicable environment.

Service Hours

Compensatory Services

Does the student require Compensatory Services?

Yes

Consider and document how compensatory services will be delivered.

requires compensatory services

Indicate the determination for compensatory services

Include a detailed description of how compensatory services will be delivered to the student.

Compensatory Services

Does the student require Compensatory Services?

Yes

Consider and document how compensatory services will be delivered.

requires compensatory services

Dropdown menu to choose either a yes or no option

Student Name: [redacted] Student ID: [redacted] Gender: **Female** Birth Date: [redacted] Grade: **K** IEP Status: **Draft IEP**

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		Services	FBA	Placement	ESY	Agenda	PWN	Consent	History
5	Student's total time in a Special Education Instructional Setting (time spent with only students with disabilities)	1.00		3.3			08/21/2023	08/22/2023	
6	Student's total time of special education services	1.00		3.3			08/21/2023	08/22/2023	
7	Student's total time in a General Education Instructional Setting (time spent with nondisabled peers)	24.00		80.0			08/23/2023	12/06/2023	
8	Student's total time in a Special Education Instructional Setting (time spent with only students with disabilities)	6.00		20.0			08/23/2023	12/06/2023	
9	Student's total time of special education services	16.00		53.3			08/23/2023	12/06/2023	

How to Complete the Section 504 Plan using SEA-STARs

Services

Include Services in 504 Plan

Sample Text to knowledgeable committee. This text can display additional instructions to the users about how to complete services and or compensatory services.

Does the student require Compensatory Services?*

Indicate the determination for compensatory services

Consider and document how compensatory services will be delivered.

Include a detailed description of how compensatory services will be delivered to the student.

Section 504 Related Services

Services + Add

Line	View Order	Service	Hours	Frequency	Special Education Setting Only		Begin Date*	End Date*
					Hour	Frequency		
1		SLC - Speech Language (C19 COMP SVC)	2.00	month	2.00	month	12/19/2022	06/16/2023
2		OT - Occupational Therapy	1.00	week	1.00	week	12/19/2022	06/16/2023
3		SL - Speech Language	1.00	week	1.00	week	12/19/2022	06/16/2023

Total Time

Line	Service Type	Hour	Frequency	BeginDate1	EndDate1	BeginDate2	EndDate2
1	Independent Services	2.50	week	12/19/2022	06/16/2023	08/22/2023	12/19/2023

Sample PWN (note the fields are the same for the IEP PWN and the 504 PWN):



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Fairfax County Public Schools
Individualized Education Program

DRAFT UNTIL IEP
IS SIGNED

Prior Written Notice

Student ID Number Date

School

Dear

The Individuals with Disabilities Education Act requires that a school division provide written notice to parents when the school division proposes or refuses to initiate or change the identification, evaluation, or educational placement of a child, or the provision of a free appropriate public education (FAPE).

During a/an IEP/addendum meeting on , Fairfax County Public Schools (FCPS)

proposed or refused (check one) the following action:

During a meeting on DATE, the IEP team considered available information to determine whether STUDENT received an appropriate education to meet their individual needs during the pandemic period from April 14, 2020, through June 10, 2022.

FCPS proposes/refuses compensatory education services for STUDENT.

FCPS proposes
(list specifically what the student will receive reasonable timeframe for completion)

The process for reimbursement of out-of-pocket expenses incurred to provide the services required by the student's IEP during the Pandemic Period is

FCPS refuses compensatory education services for STUDENT.

The reason FCPS proposes or refuses the action:

FCPS proposes Compensatory Education services because special education and/or related aids/services provided to STUDENT during the Pandemic Period did not provide a free appropriate public education.

FCPS refuses compensatory education services because special education and/or related aids/ services provided to STUDENT during the Pandemic Period did provide a free appropriate public education.

Considerations:

- Determine whether the student received the amount of and the type of regular or special education, and related aids and services that were required by the 504 Plan or IEP that was in effect at the beginning of the Pandemic Period
- Whether changes to the students 504 Plan or IEP that were made during the Pandemic Period, including TLPs, virtual IEPs, or other plans that were developed, were based on the student's individualized educational needs, particularly where changes resulted in lesser services being provided to the student than the 504 Plan or IEP in effect prior to the changes
- For students with IEPs, whether the student's goal progress was impacted by remote learning provided during the Pandemic Period
- What are the student's present levels of academic achievement and functional performance?
- What was the student's previous rate of progress toward IEP goals before the Pandemic Period?
- What was the documented frequency and duration of special education and related services provided to the student prior to the service disruptions caused by the COVID-19 pandemic?
- Were evaluations and/or services delayed during the Pandemic Period? • Other relevant information

Information from the Fairfax County Public Schools student scholastic record is released on the condition that the recipient agrees not to permit any other party to have access to such information without the written consent of the parent or eligible student.



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Fairfax County Public Schools
Individualized Education Program

DRAFT UNTIL IEP
IS SIGNED

Prior Written Notice

Student **STUDENT** ID Number _____ Date _____

School _____

Description of other options considered by FCPS and why they were rejected:

Provide a detailed description of other options considered and rejected.

Description of each evaluation procedure, test, record, or report FCPS used as a basis for the proposed or refused action:

List all data sources used to make the decision

Description of other factors relevant to FCPS proposal or refusal:

List any additional factors discussed by the team.

Parents of a child with a disability have protection under the procedural safeguards including the right to appeal the proposal or refusal of the action described in this notice. A copy of *Your Family's Special Education Rights (Virginia Procedural Safeguards Notice)* (SS/SE-4) has previously been provided to you. Additional copies of this document are available at your child's school or on-line at <https://www.fcps.edu/sites/default/files/medin/forms/se4.pdf>. If you have questions or desire assistance understanding the provisions of these safeguards, please contact Due Process and Eligibility at 571-423-4470.

Sincerely,

Information from the Fairfax County Public Schools student scholastic record is released on the condition that the recipient agrees not to permit any other party to have access to such information without the written consent of the parent or eligible student.

Parent Reimbursement Process:

1. Parents who would like to be reimbursed for services they funded that were provided to their child will need to submit invoices/receipts to the student's case manager for the IEP team or 504 knowledgeable committee to consider.
2. The IEP team or 504 knowledgeable committee will follow procedures to meet and consider whether compensatory education is warranted for the student.
3. The team should consider any requests for reimbursement by the parent/guardian for services required by the student's Section 504 Plan or IEP by private or non-FCPS personnel that were not provided by FCPS during the Pandemic Period. .

Reimbursement Worksheet

Service requested for reimbursement and amount:	
Consideration	Notes
Was the service provided identified in the student's IEP or 504 Plan?	
Was the service provided due to FCPS' failure to provide the service?	
How did this service assist the student with accessing their learning or making progress in the curriculum during the Pandemic Period? Review any available data.	
Has the case manager received receipts/invoices showing payment for this service?	
Team determination regarding parent reimbursement:	

4. If the team determines reimbursement is warranted, the case manager will email the Plan Administrator, copying the parent, to let the Plan Administrator know that the team decided to reimburse the parent, for what, and the amount. Attach receipts/invoices and the completed Reimbursement Worksheet showing payment to the email.
5. The Plan Administrator or designee will contact the parent to obtain an IRS W-9 and any other needed documentation to ensure that the parent will be reimbursed.
6. The parent/guardian will be reimbursed, or directed payment will be made to a provider, by FCPS within 45 days of the Plan Administrator or designee confirming receipt of all required documentation.