

# Managing Special Education During School Closures

*What Districts Should Do Today to Minimize Challenges Tomorrow and Mitigate the Need for Compensatory Make-Up Services*

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**W**hile school districts have moved rapidly to identify how to serve all students in the midst of the coronavirus pandemic, many are not yet thinking about how best to manage special education services during school closures to mitigate the need for compensatory services (making up missed sessions) next fall. Most of those that are already thinking about this are waiting to take action, unintentionally creating challenges that could extend the detrimental impacts of COVID-19 well into the summer and fall.

The good news is that there are actions districts can take today that will significantly reduce the burden from missed special education services on districts and staff in the future.

## **Minimizing non-compliance during school closures is crucial**

Most districts have found it difficult to provide all IEP mandated services during school closures. Some services such as speech and language have been easier to continue, but others like paraprofessional supports, resource rooms, or co-teaching do not easily switch to remote instruction and support.

Postponing some services is inevitable, but there are steps that districts should consider to prevent future challenges. Parents and advocates are likely to request or demand that all missed services are provided when school resumes in the fall. This will overload many special education departments and potentially foster ill will between the district and parents. The US

Department of Education may provide some relief from compensatory service requirements, but lawsuits are likely in that event and parent expectations are not likely to be changed by such a rule modification.

A number of steps can reduce the impact of missed services. A district of 5,000 students for example, could easily generate \$1,000,000 of compensatory services due next year if schools are shut for 10 weeks. Keys steps to reducing this include:

- Updating IEPs to reflect the services that can be provided remotely to curtail creating a long list of missed services that will be due in the future
- Creating a district-wide conversion from in-school services to remote school services
- Documenting carefully all services provided
- Scheduling and capacity planning thoughtfully for the fall rush of make-up services
- Communicating early and often with parents and staff

## **Waiting to take action will have significant consequences**

Many districts are aware of these emerging challenges but are opting to wait to take action. While this is understandable, it is also problematic. Every day that passes, the list of missed services grows. Moreover, parents' goodwill and flexibility during the shut-down phase will be greater, but as school reopens and expectations for compensatory services are high, the context isn't best for asking for retroactive adjustments.

## Mitigating the need for compensatory services: 9 steps for success

DMGroup has identified a sequence of steps districts can take to meet the needs of students, ensure compliance with legal requirements, and strengthen relationships with parents, thereby reducing the possibility of future legal challenges and, ultimately, improving the long-term quality of education for students with disabilities.

Below, these steps are broken out into three phases: those to be taken immediately, those to be taken over the summer, and those to be taken next fall.

### Take immediate steps this spring to better shape the fall

#### 1. Develop district-level guidance and protocols for converting IEP services to remote contexts

One way for districts to avoid future legal action and avoid upsetting families is to make a formal amendment with family consent to any service or goal that will be interrupted by school closure. Without amending the legal document of an IEP or 504 plan, districts can be held liable for providing compensatory services for any time missed. For example, if a student's IEP commits to pull-out services for 30 minutes per day, five times per week, and the special education teacher can only meet virtually with the student twice per week, the district may be legally required to make up the three sessions per week missed alongside ongoing services when school resumes. Fortunately, the process for such modifications is fairly simple and quick.

A district-wide approach ensures consistency as to which services can be provided remotely and which services need to be modified or postponed. This reduces the burden on special education staff to make independent decisions for each student and develops stronger collaboration among staff for how to provide similar services to students. It also helps set district-wide expectations for parents. Any school providing less than another will likely be required to make up the difference in the fall.

#### 2. Revise IEPs and 504 plans to reflect updated remote services

It is best to update plans by meeting virtually with a student's family, discussing changes, and obtaining family consent (through electronic signatures or recorded verbal agreement). However, if the district is unable to connect with a family,



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there are other valuable steps to be taken such as simply sending a notice of the change in services. This will likely reduce the amount of compensatory services that the district will have to provide to students over the summer or in the fall, and it will keep parents in the loop.

#### 3. Document all family communication and student services provided

Documentation will be the greatest asset for any district that faces legal challenges once schools reopen. Services provided but not adequately documented will likely have to be provided again. The legal system is more likely to be lenient on districts that proved good faith in providing remote services to students and communicating with parents. Moreover, open communication with families ensures greater clarity around current services and future expectations and decreases the likelihood of parents taking legal action. Weekly or bi-monthly updates to families of students with special needs now and throughout the transition back to school will position families as partners and prevent misaligned expectations between districts and families.

### Summer planning will ease the burdens of fall implementation

#### 4. Calculate and share with parents the compensatory services that are owed

Based on updated IEP and 504 plans, determine which services are still owed to students, communicate with parents, and get written agreement. These conversations help the district to understand and finalize the scope of services owed and enable the district to develop a plan for how and when these make-up services will be delivered.

## 5. Create schedules and staff capacity plans for the surge of demand in the fall

While parents may want most of the compensatory services and missed IEP meetings to be delivered right away when school opens, detailed staff capacity planning may suggest that compensatory services need to be spread out throughout the year. Districts can ensure that service delivery is as smooth as possible by developing a detailed plan including developing schedules and assigning staff to meet the increased need for services.

## 6. Communicate plans and policy changes to staff

Districts should communicate with staff on the plan for delivering compensatory services and on any relevant legal or policy updates. Though special education staff are most directly impacted by these plans, students with disabilities are first and foremost general education students, so all staff should be aware of the district approach and be able to communicate a unified message. The district may consider developing resources (e.g. FAQ) to support communication to staff and families.

## 7. Provide compensatory services over the summer to the extent possible

Providing extended year services is a way districts can make up missed sessions with students if families agree to participate and providers can be funded. The more services that are provided over the summer, the fewer compensatory services will have to be made up in the fall, thereby lessening the burden on schools and staff.

## Manage and refine fall implementation

### 8. Create a staff feedback mechanism

Staff may be overloaded, will likely have questions, and even the best of plans will need refining. It is critical to provide staff with a fast, simple way to ask questions and get answers.

### 9. Document service delivery and share with parents

Ensure that staff continue to be detailed in their documentation and proactive in their communication with families as services are delivered. Ongoing communication gives the district an opportunity to identify and allay family concerns before they become district challenges, and documentation protects the district and its staff in the event that issues are elevated. Moreover, tracking service delivery provides important feedback for the district to manage staff workload and capacity.

## Don't wait—get started today to minimize challenges in the future

Taking action now to minimize non-compliance is crucial to setting your district up for success next year. Districts that delay are likely to face increased difficulties when trying to negotiate retroactive adjustments with parents, as well as increased costs.

Taking these nine steps will help you meet the needs of students, ensure compliance with legal requirements, and strengthen the relationship with parents thereby reducing the possibility of future legal challenges and, ultimately, improving the long-term quality of education for students with disabilities.

# DMGroup can provide the capacity, tools, and project management needed to take action now.

Our experts can help your school district implement these nine steps to mitigate the need for compensatory make-up services next fall. Contact us to learn more.



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