

# COVID-19 caused my child to lose special education services. Can we make those services up?

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❖ Read this only if you have a child with who gets special education services in the state of Washington.

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## Introduction

Many students are “recovering” from the school closures of 2020. Some lost skills or valuable instruction time. Some lost loved ones, and/or faced housing, economic or food insecurity, or experienced other trauma that could make being back at in-person school hard. Some students went without behavior supports or therapies and lost needed skills. Some got long COVID or other disabilities, and need new accommodations at school. Now that Washington schools are back to in-person learning, all these students will likely need additional supports, services, and the help of the adults in their lives to get an education.

## My child did not make progress or fell behind in 2020-21 because of school closures from the pandemic. What can be done about that?

There may be **recovery services** available to your child this school year.

## What are recovery services?

If your child did not make progress on their individualized education plan (IEP) goals because of pandemic-related missed or limited educational services, your child may be eligible to get these services.

**Recovery services are a new thing.** They are services and supports for students with disabilities to address the ongoing impact of COVID-19 on schooling in the 2020 – 2021 school year.

Recovery services aim to help a student make the progress they would have made in school if the pandemic had never happened. These services may be provided in-person, online (remotely), or a combination (hybrid) of these.

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- ❖ You can read the state guidance for recovery services at [www.k12.wa.us/sites/default/files/public/specialed/pubdocs/WA-Roadmap-SpEd-Recovery-Services-2021.pdf](http://www.k12.wa.us/sites/default/files/public/specialed/pubdocs/WA-Roadmap-SpEd-Recovery-Services-2021.pdf)
  - ❖ You can also read more at [wapave.org/recovery-services-what-families-need-to-know-as-schools-reopen/](http://wapave.org/recovery-services-what-families-need-to-know-as-schools-reopen/).
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### **Would recovery services literally replace the services my child should have had during the 2020-2021 school year?**

**No.** Recovery services generally address learning loss. They do not replace missed education time. **Example:** one half hour of missed therapy does not mean one half hour of recovery services. Instead, the IEP team looks for (assesses) gaps in your child’s progress and adds special education and related services to address those gaps.

### **What are some examples of recovery services?**

Here are just a few. This is not a complete list:

- An after-school program where students get tutoring or additional supports in social emotional learning
- Extra learning activity packets your child can do at home to catch up in a subject
- Additional speech therapy before school to address goals unmet during the 2020-2021 school year

## What are compensatory education services?

Recovery services can include compensatory education services (**comp ed**). However, **comp ed is different from recovery services**. Comp ed has been around a long time. Recovery services are new.

School districts are required by law to provide a free appropriate public education (“**FAPE**”) to students enrolled or eligible to be enrolled in special education. A school district provides FAPE when it provides an individualized education program (**IEP**) that enables the student to make academic progress tailored to the student’s unique needs.

Historically, if a school district fails to provide a student FAPE, comp ed services may be offered by the school district, or ordered by the state schools superintendent (OSPI) or an administrative law judge, in order to place the student in the position they would have been in if the school district had provided FAPE.

When schools closed and limited in-person schooling due to the pandemic, many students did not get IEP services. While schools struggled at first to figure out remote learning, they were still responsible for FAPE. By summer and fall of 2020, schools were expected to have systems in place to assure FAPE for students with disabilities. **Students who did not get IEP services during the pandemic can ask for comp ed to make up (compensate) for these lost services.**

## What are some examples of comp ed services?

This is not a complete list:

- A special education citizen complaint decision awards 88 hours of comp ed based on specially designed instruction that was in an IEP but didn’t happen.
- During mediation, a district agrees to a specific tutoring program for six weeks due to months of school therapy that the district did not offer during the pandemic.

## What is the difference between recovery services and comp ed?

They might seem like the same thing, but recovery services address gaps and regression. Comp ed assesses lost services or a district failure to provide FAPE.

This can be confusing! Recovery services are new and don't exist in law or rules, only guidance. They are still being shaped. So sometimes compensated services get lumped in with recovery services. If you remember that **recovery services are measured by lack of progress, and compensatory education is measured by IEP services or FAPE that was not provided**, it will help you and your IEP team keep this straight.

## How do I ask for recovery services for my child?

You shouldn't have to ask. **IEP teams should automatically consider recovery services for every student with an IEP from preschool to 21 years old.** The IEP team can address recovery services before or at your child's yearly IEP review date.

## Who decides who gets recovery services, and how much services? And how do they decide?

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- ❖ Recovery services should be considered for every student with an IEP, **but** not every student will get recovery services.
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**Your child's IEP team** will compare your child's current academic level and progress with what their progress would have been if it weren't for school facility closures and other impacts of the pandemic. If there is no difference, your child will probably not get recovery services. See **Would recovery services literally replace the services my child should have gotten during the 2020-2021 school year?** above for more.

## I think my child needs recovery services. What can I do to show this?

You can evaluate the progress for each goal in your child's IEP, or compare the goals of a pre-pandemic IEP to a current IEP. If there is a lack of progress (regression), this may prove your child needs recovery services. You can discuss lack of progress or regression with the IEP team and ask them for recovery services.

## I cannot find any school measurement of progress in my child's IEP goals. How do I show regression?

You can still ask for recovery services if the school did not document (keep written track of) IEP goal progress. You can use the IEPs to show that there is no measurement of progress and include that in your request for recovery services. You can also use whatever personal observations or other proof you have to show skill loss or regression.

## How can I get comp ed services for my child?

There are several ways to do this. You should get advice before choosing or trying mediation or due process. See below for where you can get legal help.

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- ❖ Visit the state [Education Ombudsman \(www.oeo.wa.gov\)](http://www.oeo.wa.gov) to learn more and get help regarding both comp ed and recovery services. Information available in 20 languages.
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- **You can discuss comp ed services with the IEP team or through informal dispute resolution within your district.** The IEP team, school or district may agree that your child needs comp ed services. The specific comp ed services offered and agreed to should be put in writing in an IEP or a prior written notice (PWN). Sometimes they are written formally in a settlement agreement that comes from the school district.
- **You can formally ask for comp ed services** through the school district, or through formal dispute resolution processes. Visit [www.k12.wa.us/student-success/special-education/dispute-resolution](http://www.k12.wa.us/student-success/special-education/dispute-resolution) to learn more.
- **You can file a special education citizen's complaint with the state (OSPI).** OSPI may order the school district to offer comp ed services. This process can take several months. You cannot do this and go through the due process complaint process (see below) at the same time. Read [How to File a Special Education Citizen Complaint](#) at WashingtonLawHelp.org to learn more.
- You can try **mediation or IEP facilitation**. Mediation means trying to reach a compromise with help from a neutral professional. (The mediator does not

argue for any one side.) The school must agree to mediate with you. You cannot make them do it. You can get to a solution quickly if everyone agrees.

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- ❖ If you are worried about an IEP meeting or had a hard time with one in the past, you can **ask for an [IEP facilitator](#)**. A facilitator can help guide the meeting process and make sure everyone is heard. The facilitator will not argue for any one side.
  
  - ❖ **If you want to try mediation**, call [Sound Options Group](#) at 800-692-2540 or 206-842-2298 (Seattle). Washington State relay service numbers: 800-833-6388 (TDD) or 800-833-6384 (voice).
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- If you **file a due process hearing request**, you can ask the court to award comp ed services. Comp ed services may be offered at the conciliation meeting (a meeting to try to settle the case without a hearing), or the judge may award comp ed after a due process hearing. Read [www.k12.wa.us/student-success/special-education/dispute-resolution/request-due-process-hearing](http://www.k12.wa.us/student-success/special-education/dispute-resolution/request-due-process-hearing) to learn more. This process can be complicated.

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- ❖ You make your **due process request** with the school district Superintendent. Send a copy to Administrative Resource Services at the Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200.
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## **I think my child needs comp ed services. What can I do to show this?**

You must show that there has been a denial of FAPE. One way to do this is to show that there were services listed in the IEP that were not provided. Most IEPs have a **Matrix or Summary** of services showing the type of service and minute per week. You can use this to document what service your child did not get, and add up the minutes that were missed. You can share this documentation with your IEP team,

school district officials, or in your formal dispute resolution process, to show your child needs comp ed.

### **My child is or was 21 and in their last year of school transition services. Can they still get comp ed or recovery services?**

**Yes.** Generally, students don't have a right to FAPE after age 21. However, students who were denied FAPE can get comp ed services beyond age 21. Students who have not graduated can get recovery services beyond age 21. Students can get up to a year of additional transition supports, into summer of 2023. You use the same process to ask for recovery services, including comp ed, as described above.

### **I didn't know I could ask for recovery services. My child has graduated. Can I still ask for recovery services?**

**Yes.** You can still ask for comp ed through dispute resolution processes explained above. To learn more, see legal help options, below.

### **I disagree with the recovery services plan the IEP team and school district offered. What can I do?**

You can use IEP facilitation, mediation, file a citizen complaint, or opt for due process. You should probably talk to a lawyer for help deciding which to do. See legal help options, below.

### **Can I ask for Extended School Year (ESY) as part of Recovery Services?**

**No. ESY is not a recovery service.** It provides additional support to help limit any loss of IEP progress caused by long breaks from school. The purpose of ESY is to maintain skills and behavior, not learn new skills or behaviors. [WAC 392-172A-02020](#).

However, recovery services may be offered at the same time ESY is offered to other students. **Example:** when schools are open for summer extended school year, this may be a chance for students needing recovery services to also go to school and catch up on their own academic goals.

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- ❖ Visit [wapave.org/esy-helps-students-who-struggle-to-maintain-skills-and-access-fape/](http://wapave.org/esy-helps-students-who-struggle-to-maintain-skills-and-access-fape/) to learn more.
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## Get Legal Help

- **Apply online** with **CLEAR\*Online** - [nwjustice.org/apply-online](http://nwjustice.org/apply-online)
- **Facing a legal issue in King County** (other than Eviction or Foreclosure)? Call 2-1-1 (or toll-free 1-877-211-9274) weekdays 8:00 am - 6:00 pm. They will refer you to a legal aid provider.
- **Facing a legal issue outside of King County** (other than Eviction or Foreclosure)? Call the CLEAR Hotline at 1-888-201-1014 weekdays between 9:15 am - 12:15 pm or apply online at [nwjustice.org/apply-online](http://nwjustice.org/apply-online).
- **Facing Eviction?** Call 1-855-657-8387.
- **Facing Foreclosure?** Call 1-800-606-4819.
- **Seniors (age 60 and over)** with a legal issue outside of King County can also call CLEAR\*Sr at 1-888-387-7111.
- **Deaf, hard of hearing or speech impaired callers** can call any of these numbers using the relay service of your choice.

CLEAR and 2-1-1 will provide interpreters.

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