



STATE OF CONNECTICUT
STATE DEPARTMENT OF EDUCATION



TO: Directors of Special Education and Pupil Services

FROM: Bryan Klimkiewicz, Special Education Division Director

DATE: May 24, 2021

SUBJECT: Guidance Regarding Special Education Recovery for Students with Individualized Education Programs (IEPs) due to the COVID-19 Pandemic

This is a working document, which may be updated frequently due to the rapidly changing response to the COVID-19 pandemic and ongoing federal guidance updates. The content presented in this document generally constitutes guidance representing the Connecticut State Department of Education's (CSDE) interpretation of the applicable statutory or regulatory requirements in the context of present circumstances and is not legally binding. The content of this document is not intended to be a replacement for careful study of the Individuals with Disabilities Education Act (IDEA) or consultation with local legal counsel.

It is important to note that the federal Office of Special Education and Rehabilitative Services (OSERS) has not communicated to States any temporary flexibility or waiver from the requirements of the IDEA, and the CSDE reiterates the importance of this message that all schools must comply with all state and federal law related to the provision of special education and related services.

Introduction

The purpose of this guidance is to provide school districts and planning and placement teams (PPTs) with a process to determine whether and to what extent special education recovery is appropriate for students with IEPs. The goal of this process is to revise students' IEPs, when necessary, to address any existing impact of the COVID-19 pandemic, while also establishing a solid foundation from which to move forward as we continue to navigate the pandemic. Of note, COVID-19 related federal funding programs require particular attention to the disproportionate impact of COVID-19 on certain student subgroups, including students with disabilities. Therefore, the CSDE encourages school districts to leverage those resources as they plan to implement this guidance.

The CSDE recognizes the collective and collaborative efforts that school districts and parents have made to support the learning, social-emotional, and safety needs of students, and is proud of how students, families, and educators have navigated a variety of challenges during the 2020-21 school year. This work has been especially complex given the shifting health and safety requirements and multiple modes of instruction utilized over the past year. As highlighted in

previous guidance, meaningful and ongoing communication between school districts and families remains critical to ensuring student success.

Recovery and Reducing the Impact of the COVID-19 Pandemic

Despite these tremendous efforts, some students may not have acquired essential knowledge and skills due to lost learning time as a result of the COVID-19 pandemic and, in some cases, a delay in the provision of services. Additionally, students with IEPs may not have demonstrated expected progress towards mastering the goals and objectives in their IEPs, even if IEP services were delivered in a timely manner. Just as the COVID-19 pandemic caused a change in how special education services were delivered to students with IEPs, the COVID-19 pandemic also, in some cases, disrupted the delivery of educational services. In response to these complex issues and to assess the impact of such disruption on individual students, the CSDE has developed a process to assist school districts in identifying students' current needs and developing plans to address those needs moving forward.

General Education Recovery through AccelerateCT

Over the past few months, the CSDE has engaged with a diverse stakeholder group to develop the [AccelerateCT framework](#), which provides guidance for the acceleration of learning to address the educational impact of the COVID-19 pandemic. The AccelerateCT framework provides a step-by-step process for school districts to ensure the right conditions and resources are in place to accelerate learning for all students. This general education process is a multi-tiered system of support (MTSS) that utilizes the Acceleration Cycle to prioritize strategies and interventions to recover from lost learning time due to the COVID-19 pandemic.

The AccelerateCT framework will assist school districts with positioning academic supports to accelerate learning and facilitate recovery. It is imperative that special education teams are included in planning for the acceleration of learning within the school district to ensure that students with IEPs have access to such opportunities and that IEPs continue to align with the curriculum and content standards being addressed. PPTs may need to consider whether the student requires additional accommodations and/or modifications to access and make progress in the acceleration programming. These supplemental supports must be documented on page 2 and page 8 of the IEP. Accommodations and/or modifications that are designated for general education acceleration activities should be delineated as such in the *"Sites/Activities Where Required and Duration"* column on page 8. If the school district and parent discuss the student's needs outside of the PPT process and are in agreement about what supplemental accommodations/modifications will be provided in order for the student to access acceleration programming, the student's IEP may be revised through the IEP amendment process.

Special Education Recovery

Special education recovery is special education and related services provided to a student to remediate lack of expected progress and/or regression of skills as a result of delayed, interrupted, suspended, or inaccessible IEP services caused by the pandemic. Special education recovery is not intended as a minute-for-minute replacement for disrupted instructional time, but rather aims to make time-limited adjustments to the student's IEP to address lack of expected progress, mastery of essential skills, and prevention of further regression. Special education recovery is distinct and separate from compensatory education, which is an equitable remedy to address situations where a school district has failed to provide a free and appropriate public education (FAPE). See the "Compensatory Education" section on page 6 for more information.

Not all students with IEPs will require special education recovery. In fact, many students have made meaningful progress in the general education curriculum and on their IEP goals and objectives this school year while being educated either in-person or through a hybrid or remote mode of instruction.

Given the complexities involved, it is important that school districts use a data-driven, individualized, and collaborative process when determining if a student requires special education recovery in addition to general education acceleration programming. The CSDE recommends using the steps outlined below to make these determinations.

School districts may have already gone through a special education recovery process. If so, these school districts should review the CSDE's process to assess if their process was adequate.

Individualized Reviews of IEPs and Establishing Accurate Present Levels

Where provision of a student's IEP services was disrupted due to the COVID-19 pandemic (i.e., delayed, interrupted, or suspended) in the last year or where a student could not meaningfully access the services, the student's PPT will need to determine whether the student requires special education recovery. These determinations require comparisons of the student's previous present levels of academic achievement and functional performance (present levels) with the student's current present levels. Therefore, school districts must have current, updated present levels for all students with IEPs. If not done so already, PPTs must convene as soon as possible to update students' present levels to ensure they have the requisite information to make individual determinations regarding special education recovery.

Preparation for Planning and Placement Team Meetings

A parent can request, or the school district can initiate, a PPT meeting to discuss special education recovery. To prepare for these meetings, school districts will need to collaborate with parents and students to gather the following data/information:

<u>Before School Buildings Closed in Spring of 2020</u>	<u>During 2020-21 School Year</u>
<ul style="list-style-type: none"> • What were the student’s present levels? • What was the student’s rate of learning/progress? • What services and supports were in the student’s IEP? • Has the student demonstrated a previous need for Extended School Year (ESY) services? 	<ul style="list-style-type: none"> • What are the student’s present levels? • Has the expected rate of learning/progress of all students in the same grade changed since prior to the school closure? • What is the student’s current rate of learning/progress? • Has the student’s rate of learning changed since prior to the school closure? • What information, if any, did the parent and/or student communicate about the student’s progress and/or meaningful access to services in the IEP? • What, if any, special education or related services were not provided and the reasons for any such gap in services? • Have any goals and objectives not been introduced?

To provide for efficient and productive PPT meetings, the CSDE recommends that school district personnel provide these data to parents prior to the meeting and offer to meet with parents before the PPT meeting to discuss the data and answer any questions. Visuals, such as charts and/or graphs, can be useful tools to aid in understanding this information.

School districts are encouraged to invite students, as appropriate, to PPT meetings when special education recovery is being discussed. Students can share their first-hand experiences with learning throughout the COVID-19 pandemic, articulate social and emotional needs, and provide priorities for their educational experience moving forward.

These preparatory steps will help to support the meaningful participation and authentic engagement of parents and students in this process.

Special Education Recovery Determination

First, using the available data and input from the student and parents/caregivers who may have assisted with the facilitation of their child’s learning from home, the PPT must review and update, as necessary, the student’s present levels and then revise the IEP accordingly. The present levels may reveal area(s) of unexpected growth and newly acquired skills that could affect the content of the student’s special education program and require revision to the IEP. If the PPT identifies

a new concern and there is not adequate data to assess the student's current level of functioning, the PPT will need to discuss administering further targeted assessment(s) in that area.

Next, the PPT should discuss the following questions when making its determination whether and to what extent special education recovery is appropriate for the student:

1. Has the student failed to make expected progress towards IEP annual goals and short-term objectives as a result of pandemic-related closures/disruptions in the educational process?
2. Has the student demonstrated regression in any academic/functional skills as a result of pandemic-related closures/disruptions in the educational process?

If the answer is "No" to both questions above, it is most likely that the student will not require special education recovery at the time of this review. However, it will be important for the school district to more frequently monitor the student's progress and performance if the school district continues to experience unexpected disruptions to the education process due to the ongoing COVID-19 pandemic.

If the answer is "Yes" to one or both of the above questions, the PPT should engage in a discussion about where the student currently is and how to move the student forward through intentional revisions to the IEP. The PPT may determine that there is a need to adjust or temporarily intensify the student's special education and/or related services by revising annual goals and short-term objectives and/or changing the frequency, duration or delivery of services.

When considering revisions to the student's IEP associated with special education recovery, it will be important to identify the essential skills that need to be prioritized in order to minimize the impact that the lack of progress and/or regression in skills is having on the student's ability to participate in the general education curriculum and make further progress. With this in mind, short-term objectives could be written in a hierarchical order to address these skills quickly and aggressively. The school district should monitor and document the student's progress and performance at frequent intervals to determine the effectiveness of IEP revisions associated with special education recovery, as well as the need for any further revisions.

PPTs should also keep in mind that special education recovery can be provided at any time (e.g., during the school day, outside of the school day, during breaks, etc.). School district staff and parents should work together to maintain a balance of a student's placement in general education environments and opportunities to participate in extracurricular/nonacademic activities with the need for special education recovery. Despite the benefit of special education

recovery, it should not be rushed or delivered at the expense of a student's social-emotional well-being.

The CSDE encourages parents and school districts to work collaboratively to reach agreeable solutions during PPT meetings. Nothing in this guidance, however, affects a parent's due process rights available pursuant to the IDEA.

Extended School Year (ESY) Services

The need for ESY and the need for recovery are separate determinations. ESY means special education and related services that are provided to a student with a disability beyond the school district's normal school year in accordance with the student's IEP and at no cost to the parent. Thus, ESY services are distinguishable from summer school, summer programs, and summer day camps.

An individualized determination regarding each student's eligibility for ESY services must be considered annually. The Connecticut standard for determining if a student is eligible to receive ESY services includes both regression/recoupment criteria and non-regression criteria. More detail regarding the federal requirements and the state eligibility criteria can be found in the [ESY topic brief](#).

Compensatory Education

Generally, compensatory education is an equitable remedy available to courts and administrative hearing officers when a school district fails to provide a student with FAPE. A State Education Agency (SEA) may order compensatory education in a complaint investigation report or a hearing officer may order compensatory education in a due process hearing when a school failed to provide a student with FAPE.

The purpose of compensatory education is to put the student in the same position the student would have been if the school district had not violated the IDEA. If a school district becomes aware of a failure to provide FAPE or a failure to implement a student's IEP (e.g., required IEP speech therapy services were not provided to the student from September 2020 through December 2020), the CSDE recommends the school district consider proactively offering compensatory education to the student as an equitable remedy for its failure. If a school district offers compensatory education and the parent disagrees with the school district's offer, the parent has the right to use the dispute resolution options available pursuant to the IDEA.

Funding

Districts may use IDEA Part B Section 611/619 to fund acceleration, recovery, and compensatory education for students with IEPs. These activities are also allowable expenditures to address COVID-19 related matters under the recent April 2021 IDEA Part B stipend opportunity from the

CSDE, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), [CARES Act Elementary and Secondary School Emergency Relief Fund \(ESSER Fund\)](#), [ESSER II funds](#), and the [American Rescue Plan Act](#). Districts must continue to be mindful of the funding sources used to meet the needs of students with IEPs. Finally, school districts must still meet their obligation for maintenance of effort (MOE) under IDEA Part B – see [CT-LEA-MOE-FAQ](#) – which is demonstrated through expending and budgeting the same, if not more, for students with IEPs through the comparison of local and state funds only.

Summary

For the remainder of this school year, summer and the next school year, educators must ensure that students with IEPs have access to the general education learning acceleration activities available to all students. Additionally, some students with IEPs may require special education recovery. The primary focus of school district staff should be seeking authentic engagement of families and students to address students' current needs by reviewing data, updating present levels, examining student progress toward IEP annual goals and short-term objectives, and reviewing, revising, and/or temporarily increasing the intensity of special education and related services as needed.