



Guidance

Compensatory Education

**Michigan Department of Education Office of Special Education
November 2020**

Purpose

The purpose of compensatory education is to remedy a public agency's failure to provide a child with a disability with "appropriate services" during the time the child is (or was) entitled to a free appropriate public education when it is determined appropriate services were denied. Compensatory education may be awarded as a result of a finding from a state complaint, due process hearing, or monitoring activity.

Compensatory education awards should aim to place disabled children in the same position they would have occupied but for the school district's violations of IDEA. *Bd. of Educ. v. L.M.*, 478 F.3d 307, 317 (6th Cir. 2007).

Compensatory Education Plan

Compensatory education is intended to be a supplement to a student's current instruction and educational opportunities. Therefore, compensatory education is provided outside the course of the regular school day, when instruction will not be supplanted, and a FAPE and the least restrictive environment will not be further compromised. Compensatory education may be provided before school, after school, and/or during the summer and other periods when there are breaks of instruction.

A compensatory education plan must reflect the requirements of a finding to effectively correct identified noncompliance for an individual student. A compensatory education plan which follows the guidelines listed below will help ensure the district's proposal is clearly understood by all relevant parties.

A compensatory education plan must:

- Describe the services which will be provided.
- Indicate who will provide the services.
- Include the time, frequency, location, and start date of services.
- Document transportation arrangements, as appropriate.
- Reflect parent input and input from relevant individualized education program (IEP) team members.

In the event of unforeseen circumstances, a compensatory education plan can be revised with parent input. The district must notify the MDE Office of Special Education (OSE) and provide an updated plan, which addresses all the required components.

Parent Involvement

Compensatory education plans are intended to be developed with input from the parent and IEP team members. Similar to an IEP, the district has the obligation to develop and issue the final offer, based upon the needs of the student, and, if applicable, the findings of noncompliance; parental agreement is not required.

The compensatory education plan should take into consideration the availability of the student, especially as it pertains to the summer months, and other ongoing activities, such as sports, music, clubs, camps, etc. When transportation is required to access compensatory education services, transportation must be provided by the district at no expense to the parent.

Student No Longer Enrolled

When the student exits the district, the district remains responsible for developing and implementing the compensatory education plan. When a student exits the district before all services have been provided, the district may contract with the student's new district or a private agency to provide the required compensatory education.

When a State Educational Agency's (SEA) complaint resolution decision has ordered relief (e.g., compensatory education) that can reasonably be implemented in a new State and the parent does not reject the remaining compensatory services, the SEA must ensure the decision is implemented in the new State. Letter to Anonymous, October 23, 2019 (OSEP).

Documentation

All documentation of the provision of services which are part of a compensatory education plan ordered through a state complaint, due process hearing, or monitoring activity, must be uploaded into Catamaran. Service providers must document evidence the compensatory education plan was implemented with fidelity. Evidence may include, but is not limited to service logs, attendance records, any communication regarding the compensatory education provided, and any applicable receipt(s).

When a district provider cancels a session, a make-up session must occur. When a student does not attend a session, a make-up session is not required. Districts are, however, encouraged to work with families when a student misses scheduled sessions to determine whether there are any access or transportation issues the district needs to address. Documentation of student absences are credited toward the total hours of compensatory education.

When a parent declines all or part of the offer of compensatory education, the district must provide documentation of the communications. Whenever possible, the parent should provide a written statement of their decision to decline services, including signature and date. When the district is unable to obtain a written statement or communication, the district must document all attempts to contact the parent for the delivery of services.

Compensatory Education Model Forms

Included in this guidance are model forms which can be utilized by districts to document the development and implementation of the compensatory education plan. Districts are not required to utilize these forms. Following the guidelines listed above will ensure the district has a comprehensive compensatory education plan.

Model Compensatory Education Plan

Student Name:		Plan Date:	
Date of Birth:		Grade:	

Compensatory education ordered:

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The following individuals participated in the development of this plan:

Student:		District Representative:	
Parent:		General Education Teacher:	
Parent:		Special Education Teacher/Provider:	
Other:		Other:	

NOTE: If the parent does not participate, attach documentation of multiple efforts to obtain parent participation.

The following compensatory education will be provided:

Compensatory Education	Service Provider	Time and Frequency	Location	Start Date

Will the student require transportation to participate in the compensatory education?

No Yes If yes, describe: _____

Describe any other options considered and not selected (not required):

Option considered but not selected:	Basis for not selecting the option:

A copy of this plan is being provide to the parent on (date) _____ by (name) _____ via (mode of delivery) _____.

District representative: _____ **Date:** _____

Model Compensatory Education Service Log

Student Name: _____ Date of Birth: _____

Date	Hours	Service	Provider	Comments/Notes