

*Admissions and Release Committee  
Guide to Free Appropriate Public  
Education and Compensatory Education*

April 15, 2021



**Kentucky Department of Education**

*The following is non-regulatory guidance designed to work in conjunction with the procedural safeguard protections for students with disabilities under the Individuals with Disabilities Education Act (IDEA). Revision to guidance occurs based on feedback the Office of Special Education and Early Learning (OSEEL) receives from the directors of Special Education, state shareholder groups, the Kentucky Department of Education's (KDE) interpretation of law, court cases and guidance from the Office of Special Education Programs (OSEP). The OSEEL also revises guidance based on on-site monitoring visits, desk audits and formal written complaints.*

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## **Purpose**

This guidance is intended to support the Admissions and Release Committee (ARC) with individual decisions regarding the provision of compensatory education services.

## **Free Appropriate Public Education (FAPE)**

The [Kentucky Administrative Regulations](#) define a free, appropriate public education ([FAPE](#)) as “special education and related services that:

- (a) Are provided at public expense, under public supervision and direction, and without charge;
- (b) Meet the standards of the Kentucky Department of Education included in 707 KAR Chapter 1 and the Program of Studies, 704 KAR 3:303, as appropriate;
- (c) Include preschool, elementary school, or secondary school education in the state; and
- (d) Are provided in conformity with an individual education program (IEP) that meets the requirements of 707 KAR 1:320.”

In the initial stages of the COVID-19 pandemic local school districts transitioned quickly to the Non-Traditional Instruction (NTI) model as a way to keep staff and students safe. Throughout the COVID-19 pandemic, local districts have provided various instructional models including small group instruction, in-person, NTI, or a hybrid model that includes both in-person and NTI.

Regardless of the instructional delivery model, local school districts continue to be responsible for providing FAPE to students with disabilities.

Whenever special education and related services are not provided in accordance with an Individual Education Program (IEP), regardless of the reason, this could result in an allegation of the denial of FAPE. The only remedy for failing to provide FAPE is compensatory education services.

## **What is Compensatory Education?**

Although compensatory education is not defined in the Individuals with Disabilities Education Act (IDEA) or [Kentucky Administrative Regulations](#), the definition has been shaped by case law and nonregulatory guidance from the United States Department of Education’s (USED) Office of Special Education Programs (OSEP).

Compensatory education is designed to protect the entitlement of students with disabilities to a FAPE. The purpose of compensatory education is the “aim to place disabled children in the same position they would have occupied but for the school district’s violations of IDEA” (*Reid v. Dist. of Columbia*, 43 IDELR 32 (D.C. Cir. 2005)).

There are times when districts are unable to provide a FAPE to all students for unavoidable reasons. An example of such times might have occurred during the early part of the COVID-19 pandemic when schools were unable to provide in-person instruction and related services due to

the threat to public health. Certain IEP services might have been impossible to implement through NTI, resulting in the failure to implement an IEP as written. This could ultimately have led to a denial of FAPE through no fault of the district. However, regardless of the reason, the only remedy for failing to provide FAPE is to provide compensatory education.

There have been discussions within the education community that using the term “compensatory education” implies that local districts are being blamed for doing something wrong, thus having the potential to jeopardize relationships with families. As a result, alternate terms have been introduced as ways to discuss services impacted by the COVID-19 pandemic without using the term “compensatory education.” Terms such as “unfinished learning,” “lost learning” and “post-COVID instruction” are being used as replacement terms for “compensatory education” in this context.

While OSEEL discourages districts from shying away from using the term “compensatory education,” some district staff may feel more comfortable using alternate language during these conversations. Districts may wish to discuss with their local board counsel whether there is a term preference in this context.

However a district chooses to label the services, it is important to acknowledge that any services designed to place the student in a position he or she otherwise would have been in, but for the lack of educational benefit resulting from a denial of FAPE, are indeed compensatory education services.

### **The Role of the ARC**

ARCs are defined by [707 KAR 1:002, Section 1 \(1\)](#) as a group of individuals “responsible for developing, reviewing, or revising an individual education program (IEP) for a child with a disability.” Required membership of an ARC include the parents of the student, a regular education teacher of the student, a special education teacher knowledgeable of the student or the disability, a district representative, as well as related service personnel and the student when appropriate.

ARCs must review the status of special education and related services and ongoing progress monitoring on a case-by-case basis to make individualized determinations whether, and to what extent, compensatory education is owed. If an ARC determines that compensatory education services are needed, the ARC must also specify the type, location and amount of services to be provided.

### **Parental Input**

Parents are critical members of the ARC. Regulations at [707 KAR 1:320, Section 4 \(1\)](#) require districts to ensure that one or both parents of a student with a disability are present at each ARC meeting or are afforded the opportunity to participate.

Parental input and professional judgment are important when determining the timing of ARC meetings to discuss compensatory education. Should a parent request a meeting to discuss compensatory education, districts should respond promptly to schedule an ARC meeting. When inviting parents to ARC meetings, districts should specify that compensatory education will be discussed in the meeting. This can be accomplished by checking the *Other* box on the ARC Meeting Notice and typing “discuss compensatory education.”

In order to facilitate meaningful parent participation in ARC meetings, districts should consider explaining compensatory education in clear, simple terms at the beginning of the meeting since many parents do not have specialized knowledge in the area of special education. This should happen prior to discussing any student-level data and will allow parents the opportunity to understand what data will be discussed and how decisions regarding compensatory education are made prior to engaging in conversations regarding their children.

The [\*Parent and Family Guide to Compensatory Education\*](#) may be used to support parent participation in deciding whether a denial of FAPE occurred and what type(s) of compensatory education services may be needed to remedy the situation for the student.

Parents must be provided an opportunity to voice their concerns and provide information about their child’s response to NTI.

The [\*Parent and Family Guide to Instructional Delivery Models and Free Appropriate Public Education \(FAPE\)\*](#) may also assist with discussions around FAPE.

### **Determining Compensatory Education Eligibility**

In order for a student to be entitled to compensatory education, a denial of FAPE must have occurred. The ARC shall make an individualized determination as to whether a denial of FAPE occurred and if so, what compensatory education services are required.

Having a working knowledge of the United States Supreme Court cases *Hendrick Hudson v. Rowley*<sup>1</sup> and *Endrew F. v. Douglas County*<sup>2</sup> will help the ARC determine whether a FAPE denial occurred. Beginning with the *Deal v. Hamilton*<sup>3</sup> case in the 6th Circuit, the FAPE standard was set to confer “meaningful educational benefit” to all students with disabilities. The U.S. Supreme Court heightened the standard for FAPE in *Endrew F.* ARCs are required by *Endrew F.* to

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<sup>1</sup> *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist., Westchester Cty. v. Rowley*, 458 U.S. 176, 102 S. Ct. 3034 (1982).

<sup>2</sup> *Endrew F. ex rel. Joseph F. v. Douglas Cty. Sch. Dist. RE-1*, 137 S. Ct. 988, (2017) (holding that to meet its substantive obligation under the IDEA, a school must offer an individual education plan (IEP) reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.)

<sup>3</sup> *Deal v. Hamilton Cty. Bd. of Educ.*, 392 F.3d 840 (6th Cir. 2004) (The IDEA requires an IEP to confer a “meaningful educational benefit” gauged in relation to the potential of the child at issue.)

construct IEPs that are “reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.”

*Andrew F.* points to *Rowley* to help explain how to determine when a denial of FAPE has occurred. *Rowley* discusses a two-part test which must be applied to determine if a FAPE denial occurred. This test considers the following questions:

1. Has the district complied with the procedures set forth in the IDEA?
2. Was the IEP reasonably calculated, and did it enable the student to receive educational benefit?

The first question asks whether there were any procedural violations. District staff and parents should remember the point of this question is not to place blame on the district, but rather to determine what entitlements were not provided to the student.

*Any individual instance* of a procedural violation must prompt the ARC to answer that the district did not comply with the procedures set forth in the IDEA.

The second question is more complex. In order to determine whether a student received educational benefit, the ARC will need to look to other case law. In *Andrew F.*, the U.S. Supreme Court explained, “To meet its substantive obligation under the IDEA, a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child’s circumstances.” A review of data will help the ARC to make this determination.

### ***Review of Data***

Data sources might include, but are not limited to, the following:

- Parental input
- The student’s current IEP
- Documentation of special education and related services that were *and* were not provided to the student
- Grades from before, during and after NTI
- Work samples from before, during and after NTI
- NTI attendance logs
- Information regarding the student’s access to internet, one-to-one technology devices such as a tablet or computer, accommodations, assistive technology and supplementary aids and services
- Progress toward IEP goals before, during and after NTI
- Evaluation, reevaluation and eligibility deadlines
- Informal observations/anecdotal notes

The ARC should also discuss whether the student had an equal opportunity for participation during NTI and any barriers that may have hindered the student’s access to the general

curriculum. Furthermore, the ARC should discuss how the district mitigated the barriers to meet the needs of the individual student.

The ARC should discuss the student's rate of progress prior to long-term NTI. The ARC may ask questions such as:

- Was the student able to maintain a similar rate of progress during NTI?
- Was there a noticeable difference in progress when the student returned to in-person instruction?
- Is there a correlation between an increase in progress and a barrier to learning which was unable to be safely mitigated during NTI?

Additional questions ARC members may consider can be found in an accompanying document titled [Compensatory Education Guiding Questions for the ARC](#).

### **Determining Compensatory Education Service Minutes**

There are two approaches to calculating a compensatory education award. One method is a minute-for-minute, or quantitative, approach. In this approach, districts provide the exact number of instructional minutes that were missed.

Another way to award compensatory education is a qualitative approach. In the qualitative approach, the analysis for determining whether a student needs compensatory education, and the calculation of how much, may be determined by the effect of the loss of educational benefit the student experienced based on their unique situation. This requires the ARC to examine the benefits the student would have received had the student been offered FAPE.

Decisions regarding the need for and types of compensatory education offers must be made on a case-by-case basis. Each student's educational needs are specialized, and each educational program should be uniquely designed for the student. The ARC must determine which approach is most appropriate based on the individual circumstances of each student. Uniform or fixed approaches to the design of compensatory education would be inappropriate and unresponsive to a student's individual needs.

### **Logistical Considerations**

#### ***How to Document Compensatory Education Decisions***

Discussions regarding compensatory education must be thoroughly documented in the ARC Conference Summary.

#### ***Scheduling ARC Meetings***

Some students with disabilities experienced more significant challenges with the shift to NTI than others. Districts may quickly schedule ARC meetings to discuss compensatory education for students who experienced the most significant challenges during NTI.

For students who experienced fewer challenges during NTI, compensatory education may be discussed at annual review meetings.

### ***Scheduling Compensatory Education Services***

When scheduling compensatory education sessions, the ARC must consider several factors. First, a district must consider the content that will be covered in the sessions. Next, the district must determine who will provide the sessions, where and how frequently the sessions will occur.

Specially designed instruction must be provided by a special education teacher. Related services must be provided by appropriately certified school staff, contracted service providers, or private service providers.

Compensatory education sessions must occur outside of the regular instructional day. Services may be provided before or after regular school hours or during school breaks.

Ongoing progress monitoring should be collected and reviewed by the student's ARC.

### ***Outside Providers***

Districts may contract with outside providers to assist in providing compensatory education; however, this is not required. Contracting with outside providers may assist a district with scheduling when faced with staffing difficulties.

When contracting with outside providers, districts should consider developing internal processes to ensure the timely payment for contracted services.

### ***Transportation***

The district must offer transportation for all students who receive compensatory education.

Districts may reimburse parents for the expenses incurred when the parents are willing and able to provide transportation for their children. This can be accomplished through the use of a mileage reimbursement rate.

Transportation provided by the parent is contingent upon a contract arrangement being mutually agreeable to the parents and the district [*Letter to Hamilton* (OSEP 1996); *Letter to Neveldine* (OSEP 1996)]. Parental reimbursement for students with IEPs requires prior approval in writing from the district and must comply with the student's IEP.

Mileage rates are subject to the guidelines of the U.S. General Services Administration (GSA). Districts also need to be aware that if the parents agree to transport a student with a disability, the district must reimburse the parents for their transportation costs in accordance with district policy and the contract arrangements as agreed upon between the district and the parent. ([\*Guidance for Special Transportation in Kentucky\*](#), page 24).

### ***Attendance***

Districts must take attendance during compensatory education sessions. Tracking attendance will assist in determining when all sessions have been completed.

If the district cancels compensatory education sessions for any reason, the cancelled sessions must be rescheduled.

If a student misses scheduled compensatory education sessions, an ARC may need to be scheduled to discuss the reasons for the student's absence. If the ARC determines there is a barrier to student attendance, the ARC should discuss the compensatory education plan and make adjustments to increase attendance.

### ***Financial Considerations***

Cost cannot be a determining factor when deciding the need for and delivery of compensatory education services. Districts must assume all costs associated with providing compensatory education.

Districts may consider reserving a portion of ESSER funding to pay for compensatory education. Additionally, districts should pay careful attention to IDEA Maintenance of Effort (MOE) requirements, which are more thoroughly addressed in [COVID-19 Guidance for Schools: Elementary and Secondary School Emergency Relief Fund II \(ESSER II\)](#).

### ***Class Size***

Compensatory education services may occur in a one-to-one setting or in small groups or classes. Class sizes for compensatory education sessions may not exceed traditional class size requirements. Waivers of class size requirements will not be considered for compensatory education.

For preschool students, if the compensatory education is provided during a different preschool session, the session cannot exceed a class size of 20.

### ***Schoolwide Opportunities***

Many Kentucky schools and districts have designed authentic, engaging, remedial educational opportunities to assist all students who suffered from lost learning opportunities or regression of skills during the COVID-19 pandemic. It is critical to remember that students with disabilities are general education students first and are entitled to these same opportunities. Students with disabilities are also entitled to the additional services described in their IEPs. It would be inappropriate to use a recovery program offered to all students to fulfill compensatory education minutes. General services offered to all students cannot take the place of required compensatory education services determined by the ARC.

## **Documentation of Compensatory Education Services**

Districts should maintain a detailed log of compensatory education services provided along with ongoing progress monitoring data. This should be maintained in the student's due process folder. Districts should consider how to track compensatory education minutes for all students within the district.

An accompanying document titled [\*Compensatory Education Log\*](#) provides a sample form for documenting compensatory education. It also shows what a completed form might look like. Districts are not required to use this log. District-created logs must document the date of services, the name of the provider, the content covered during the session and the number of minutes provided.

Teachers and service providers should be specific when completing compensatory education logs. Detailed logs allow for the ARC to better analyze student progress made in compensatory education sessions.

### **Important Things to Remember:**

- Compensatory education is the remedy provided to a student when a denial of FAPE has occurred. It is designed to put the student in the place they would have otherwise been in had there not been a denial of FAPE.
- The ARC must develop an individualized implementation plan for compensatory education services and document the decisions in the ARC Conference Summary.
- Ongoing progress monitoring must be collected.
- The district is responsible for all costs associated with providing compensatory education services.
- A special education teacher must provide specially designed instruction and the appropriate related service provider must provide related services.
- The district must provide or pay for transportation for the student.
- For preschool students, if the compensatory education is provided during a different preschool session, the session cannot exceed a class size of 20.
- General services offered to all students cannot take the place of required compensatory education services determined by the ARC.
- Districts should maintain a detailed log of compensatory education services as they are provided to the student, including ongoing progress monitoring. This should be maintained in the student's due process folder.

# *Resources for the ARC*

## Compensatory Education Suggested Guiding Questions for the ARC



### **Pre-COVID Performance Levels of the Student:**

- What were the student's present levels of performance?
- Was the student making expected progress on IEP goals?
- What special education and related services were specified in the student's IEP?

### **During NTI:**

- How did the student continue to receive IEP services and supports?
- What IEP services and supports were not provided?
- Were barriers to equity and access present for the student as a result of NTI? How did the district address those barriers? Were any unable to be removed due to public health concerns?
- How was the student's attendance and level of engagement? If lacking, how was this addressed?
- Did the school or district note any new areas of concern for the student? If so, how were they addressed?
- How did the student respond to NTI?
- How did the school or district engage the student's family?



### **Returning to In-Person Instruction:**

- What were the student's present levels upon return to in-person instruction?
- How did the student respond upon return to in-person and/or hybrid instruction? Were there noticeable differences in progress between NTI and in-person instruction?
- Did a review of data show the student needs additional supports and/or services?



### **Determining Compensatory Services:**

- Were there services that were unable to be safely provided to the student during remote instruction?
- Does a review of data show the student needs temporary additional IEP services and/or supports to make up for services that were not able to be safely provided?
- What process will the ARC use to determine compensatory education (qualitative or quantitative)? If qualitative, what calculation will be used?
- What parent input was collected relating to the student's potential need for compensatory services?



### **Logistical Questions:**

- What will the schedule for compensatory services be? Who will provide services? What is the frequency of services? What is the location of services?
- What content will be covered during compensatory education?
- How will transportation be provided?
- How will the district document when services have been provided?



## Example Compensatory Education Log

Adams City Independent School District  
 Marcus DeWitt

Date	Provider Name	Content Covered/Notes	Number of Minutes	Provider Initials
3/5/21	S. Ayad	Direct instruction in number modeling	27	SA
3/6/21	S. Ayad	No session — teacher was sick	0	SA
3/7/21	S. Ayad	Direct instruction in array multiplication	30	SA
3/8/21	J. Hernandez	OT — Worked with student on fine motor strengthening activities.	25	JH
3/8/21	J. Hernandez	OT — Reviewed student's sensory diet-added deep pressure and movement activities	23	JH
3/10/21	S. Ayad	Direct instruction in building array models	29	SA
3/11/21	M. Lanceta	Speech — direct instruction in /r/ blends	30	LL
<b>TOTAL MINUTES THIS PAGE</b>				<b>164</b>
<b>RUNNING TOTAL</b>				<b>564</b>

# *Resources for Parents and Families*

## Parent and Family Guide to Instructional Delivery Models and Free Appropriate Public Education (FAPE)



Local school districts may operate under a variety of delivery models:

Traditional	Hybrid	NTI	*Self-Paced
Monday – Friday, in-person instruction	a mix of in-person and Non-Traditional Instruction (NTI)	Non-Traditional Instruction (NTI) or virtual instruction	work is sent home and student completes with minimal to no teacher involvement

*\* The Self-Paced delivery model may be offered by some districts; however special education cannot be provided without the delivery of specially designed instruction from a special education teacher. Specially designed instruction means adapting as appropriate the content, methodology, or delivery of instruction to address the unique needs of the student with a disability and to ensure access of the student to the general curriculum. Therefore, without the provision of SDI in accordance with the IEP, the student is denied a FAPE.*

Regardless of the location, the Individuals with Disabilities Education Act (IDEA) and its implementing regulations make it clear that all students receiving special education and related services have the right to a free appropriate public education (FAPE). **Special education means instruction that is specially designed to meet the unique needs of the student.** FAPE calls for special education and related services to be provided at no cost to parents. FAPE also includes related services that help the student benefit from their educational program. Some examples of related services include speech, physical or occupational therapy.

The Individualized Education Program, commonly referred to as the IEP, is the educational program that describes your child’s strengths, needs, goals and services needed in order for your child to make progress in the general curriculum. The IEP **is not** your child’s curriculum. All children, including children identified with disabilities are entitled to receive the general education curriculum. The IEP specifies everything that must be implemented, based on your child’s unique needs, in order for your child to make progress. Below are answers to questions that outline what you can expect the implementation of your child’s IEP to resemble in a variety of district delivery models. (*Kentucky Parent Guide for Special Education*, March 2019)

### How will my child receive special education (adaptations to content and delivery of instruction)?

Traditional	Hybrid	NTI
Special education and general education teacher’s direct instruction in the classroom	Special education teacher(s) provides direct instruction in the classroom as well as online or over the phone	Special education teacher(s) provide direct instruction online or over the phone

**How can I expect my child’s progress to be monitored?**

Traditional	Hybrid	NTI
Special education and general education teachers will collect progress data from instruction in the classroom	Special education and general education teachers collect ongoing progress data from instruction in the classroom, online, over the phone, or through paper assignments designed for individual students	Special education and general education teachers collect ongoing progress data from instruction online, over the phone, or through paper assignments designed for individual students

**How will my child receive supplementary aids and services to help them progress in the general curriculum?**

The ARC must determine the supplementary aids and services to be provided to the student. The IEP will describe the types of supplementary aids and services to which the student is entitled and when these services will be provided. Some examples of supplementary aids and services include use of a communication system, large print text, extended time to complete assignments, graphic organizers, visual schedules, visual timers, organization systems, movement breaks, adult assistance, assistive technology devices, etc. (*Kentucky Parent Guide for Special Education*, March 2019)

Traditional	Hybrid	NTI
Student will be provided supplementary aids and services as needed throughout the school day	Student will be provided supplementary aids and services as needed throughout the school day	Student will be provided supplementary aids and services as needed throughout the school day

**How will my child receive accommodations on assignments and tests (e.g., reader, scribe, extended time)?**

Traditional	Hybrid	NTI
Accommodations will be provided as part of the student’s instructional routine within the classroom	Accommodations will be provided as part of the student’s instructional routine within the virtual or traditional classroom	Accommodations will be provided as part of the student’s instructional routine within the virtual classroom

## **More information on the components of your child's IEP:**

### Specially Designed Instruction

- What the teacher does to instruct, assess and re-teach your child
- Includes adaptations to the content, methodology and delivery of instruction
- Systematically designed and implemented to address the assessed needs of your child
- Needed for your child to make progress toward the annual goals
- Planned, designed and initially implemented by a special education teacher and is unique to your child

### Supplementary Aids and Services

- Strategies, devices and services needed to help your child meet IEP goals
- Help your child be involved in and make progress in the general curriculum
- Provide your child equal opportunity to participate in nonacademic and extracurricular activities

### Accommodations Determination

- Explains your child's needs on state and district assessments
- Allows your child's score to reflect what she/he has learned on the general curriculum
- Must be related to your child's disability, with supporting evaluation
- Must be part of your child's regular instructional routine
- Must be determined annually
- Reliance on accommodations should be reduced as your child's skills improve

(*FACT SHEET: IEP*, Human Development Institute)

Resources:

[Parent Involvement Initiative](#)

## Parent and Family Guide to Compensatory Education



*This guidance is meant to support parents and families as Admissions and Release Committee (ARC) members during discussions that include compensatory education services.*

### **What is compensatory education?**

Students with a disability under the Individuals with Disabilities Education Act (IDEA) are entitled to a free appropriate public education (FAPE). When special education services within a student's Individual Education Program (IEP) are not provided, compensatory education services may be needed as a remedy for the inability or failure to provide a FAPE.

Compensatory education should aim to place students with disabilities in the same position they would have occupied had the inability or failure to provide FAPE not occurred.

### **Will all students be provided compensatory education services because they received instruction through the NTI model during the COVID-19 Pandemic?**

No. Compensatory education services must be determined on a case-by-case basis.

### **Can a student receive compensatory education if they are over 21?**

Yes. If the inability or failure to provide a FAPE occurred prior to a student reaching their 21<sup>st</sup> birthday or graduating, compensatory education services may be considered as a remedy by the ARC ([Letter to Riffel](#), August 22, 2000).

### **What information is considered by the ARC when determining whether a student needs compensatory education services?**

The ARC must look at multiple factors when determining if an inability or failure to provide FAPE has occurred. The ARC may consider, but is not limited to:

- Parental input
- The services the individual student received or did not receive
- The progress or lack of expected progress the student made on the IEP goals
- The student's ability to access service

### **How is the amount of compensatory education services calculated?**

There are two approaches to calculating a compensatory education award. One method is a minute-for-minute, or quantitative, approach. In this approach, districts provide the exact number of instructional minutes that were missed.

Another way to award compensatory education is a qualitative approach. In the qualitative approach, the analysis for determining whether a student needs compensatory education, and the calculation of how much, may be determined by the effect of the loss of educational benefit the student experienced based on their unique situation. This requires the ARC to examine the benefits the student would have received had the student been offered FAPE.

Decisions regarding the need for and types of compensatory education offers must be made on a case-by-case basis. Each student's educational needs are specialized, and each educational program should be uniquely designed for the student. The ARC must determine which approach is most appropriate based on the individual circumstances of each student. Cookie-cutter approaches to the design of compensatory education would be inappropriate and unresponsive to a student's individual needs.

### **How are compensatory education services provided?**

When planning compensatory education services provided to a student, the student's ARC, which includes the student's parents, must make decisions regarding the type, location and amount of services to be provided.

Compensatory education services and transportation to receive those services are provided at no cost to the parent or family.

### **Will compensatory education services look the same for all students?**

No. Compensatory education services should be decided on a case-by-case basis. Students may be provided services before or after school, on weekends or over the summer, and will also receive individualized services.

### **Are compensatory education and extended school year services the same?**

No. Compensatory education services and extended school year (ESY) services are different and some students may receive both.

## **Who can provide compensatory education services?**

School staff, a contracted service provider, or a private service provider can provide compensatory education services. The ARC will determine the appropriate provider on a case-by-case basis.

Special education teachers must provide specially designed instruction and the appropriate provider must deliver related services (speech, physical therapy, etc.).

## **What can I do if I disagree with the decision made by the ARC?**

Usually, parents and districts have a good relationship and work together to make decisions. However, there may be times when parents and districts do not agree. Often these disagreements can be resolved by a meeting between the parent and a school representative. By working together informally, parents and districts can maintain a positive relationship and can usually resolve their disagreement more quickly. You can also contact the superintendent to discuss your concerns.

If a disagreement arises, the KDE suggests parents first contact the principal of the student's school or the Director of Special Education (DoSE) in the district to make sure they are aware of the problem. An online directory is available to help parents contact the DoSE.

If these methods do not resolve the disagreement, three other conflict resolution options are available. Parties may resolve IDEA disputes through mediation, a formal written complaint or a due process hearing.

### **Additional Resources:**

[OSEP QA 20-01](#) September 28, 2020

Reid v. Dist. of Columbia, 43 IDELR 32 (D.C. Cir. 2005)

Endrew F. v. Douglas County<sup>4</sup>

[KDE Covid-19 Guidance 2.0](#)

[KDE Dispute Resolution webpage](#)

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<sup>4</sup>*Endrew F., By His Parents and Next Friends, Joseph F., et al. v. Douglas County School District RE-1*, 580 U.S. \_\_\_\_ (S. Ct., March 22, 2017) A district must offer an IEP that is reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances.