



SPECIAL EDUCATION GUIDANCE

Considerations for Interruptions in IEP Service Delivery

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The Wisconsin DPI (Department of Public Instruction) receives numerous questions about how to address interruptions in service delivery; especially regarding missed or delayed speech and language services due to chronic statewide shortages of speech-language pathologists (SLPs). This document outlines considerations for local education agencies (LEAs) faced with interruptions of a student's individualized education program (IEP) services and clarifies situations in which IEP teams may need to consider compensatory services.

While neither the federal Individuals with Disabilities Education Act (IDEA) nor state special education statute or rules specifically address missed IEP services, states and LEAs are required to ensure that all students with disabilities have available to them a free appropriate public education ([FAPE](#)) in the least restrictive environment ([34 CFR §300.101](#)). An LEA meets this obligation, in part, by providing all of the special education and related services as documented in the student's IEP. [34 CFR §§ 300.320-300.324](#); [Wis. Stat. § 115.78\(2\)](#).

What are Interruptions of Service?

For the purpose of this resource, an interruption of service occurs whenever an IEP service is not provided according to the frequency, amount, or duration documented in the student's IEP. Interruptions may occur due to student or personnel illness, personnel shortages, changes in student or school schedules, school closings, or other reasons. Examples of service interruptions are provided later in this document.

In accordance with state and federal special education law, LEAs must ensure each student's individualized education program (IEP) is implemented as written. Minor interruptions in IEP services do not necessarily result in a denial of a free appropriate public education (FAPE)¹. Minor interruptions in service delivery may include occasional student absences, school sponsored events or state mandated assessments. For example, when a Speech-Language Pathologist is absent for a day due to reasons such as illness, attendance at an IEP meeting, or a continuing education event, and the missed session is made up on another day, it is not likely a denial of FAPE.

At what point do missed services become a FAPE violation?

Whether an interruption in service delivery constitutes a denial of FAPE is a determination that must be made on a case-by-case basis. LEAs should consider:

1. The number of missed sessions or minutes compared to the amount required by the IEP, and
2. the effect on student progress.

When the number of missed sessions or minutes is substantive, and sessions are not made up; and when the student fails to make adequate progress towards the IEP goals targeted by missed service(s), the FAPE requirement to implement the IEP as written has not been met.

When a local education agency has not provided FAPE, a legal remedy may include providing the student with additional or compensatory services.⁴ Compensatory services are intended to make up for the FAPE violation. Such services are not necessarily provided minute-for-minute but are based on what the IEP team determines is needed for the student to make up for missed learning had the student received the services as intended. It is the responsibility of the LEA to ensure compensatory services are provided when indicated. **LEAs should avoid making "blanket policies" regarding making up missed minutes or services.** See the section entitled [Examples of Service Interruptions](#) for common types of service interruptions, actions required, and important points to consider.

As previously stated, the decision to provide compensatory services when a disruption in the provision of services constitutes a FAPE violation is a determination made on a case by case basis in accordance with the requirements in 34 CFR [§§300.320-300.324](#). As with all IEP services, the type, frequency, amount, location, and duration of compensatory services to be provided must be clear.

In a guidance letter to Pergament, the Office of Special Education and Rehabilitation Services states, “The IEP team must determine whether the child was denied educational benefit because of the disruption in educational services and whether compensatory education is needed to “make up” for the denial including addressing any skills that may have been lost.”⁸

General Considerations

Document Interruptions or Other IEP Implementation Variations

LEAs should develop a system of internal control to ensure full implementation of IEPs. As part of this system, administrators are encouraged to require that individuals responsible for implementing IEP services maintain a log or schedule of when services are provided. For example, related service providers should clearly document all sessions in the service provider’s notes. Any deviation from delivering the IEP services and supports as described in the IEP should include the date and reason for interruption in service delivery. In some cases, such as when the service is Medicaid billable, specific documentation is required by law (for more information see the DPI [Medicaid-School Based Services](#) page, in particular [Bulletin 14-01](#), and also [Forward Health Documenting Face-to-Face Sessions](#)).

When a student has not received their services as described in the IEP, the LEA should be able to identify the extent of missed services and describe the reason for the interruption. Such information is important, in part, for determining whether the student may require compensatory services.

Making Decisions About Make-Up Sessions

Decisions about when and how to provide make-up sessions are based on a variety of factors. When considering the need to make up sessions or minutes, the IEP team should consider the student's ongoing needs and goals, the effect on student progress, and consider the type of service delivery model implemented (pull-out vs. integrated supports in the classroom setting or individual vs group sessions). The impact of missed sessions may be lessened when services are provided in the classroom setting and goals are written collaboratively. When services occur in the general education setting, educators work collaboratively. The supports implemented and modeled by the provider can continue throughout the school week and students learn and practice skills in the environment where they need to use them.

When deciding when to schedule make-up sessions or compensatory services, it is also important to consider the impact of missed sessions within the broader context of the student’s academic and social and emotional development. For example, consider scheduling make-up sessions within the student’s and provider’s schedules without causing significant disruption to other educational activities.

When Should Compensatory Services Be Considered?¹⁰

When a student's IEP is not implemented as written, the LEA must consider whether missed or interrupted service is a potential violation of FAPE. In doing so, it must consider whether the interruption affected the student's ability to make progress toward IEP goals to the extent that the student was denied educational benefit². Considerations of the need for compensatory services should be based on a review of the extent and effect of missed services on student progress. This should include a review of ongoing progress monitoring data on affected IEP goals. As mentioned previously, service interruptions that affect student progress, may be considered a denial of FAPE.³ In such cases, the LEA may consider providing compensatory services as a corrective action by doing one of the following:

1. Hold an IEP team meeting
2. With the agreement of a student's parent(s) or guardian, develop a written document to amend or modify the student's current IEP and reflect the compensatory services. The need for compensatory services can be documented in the Present Level, Program Summary and on the Placement page in IEPs. The IEP team should indicate the duration, frequency and amount (e.g., "Compensatory Services for ____"). There may be different start and end dates from the dates on the IEP as well depending on how long the compensatory services will be in place.

This may be accomplished without holding an IEP team meeting by using DPI [form I-10](#) and attaching copy of the revised IEP; or

3. Discuss with the student's parent(s) or guardian and document agreement that no compensatory services are necessary (see [Sample Letter](#)).

Because the repeated failure to provide IEP services can affect the student across school settings, it is required that decisions about compensatory services are made by the IEP team, including, at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate 300.321(a)(6).⁵

The following factors may be relevant to consider when determining the type, frequency, amount, duration, and location of compensatory services:

- the frequency, amount, and duration **of missed** instruction and related services
- whether the special education or related services that were provided were appropriate based on the student's individual needs
- the student's current level of performance and progress
- whether the student is on track to meet their goals within the original timeline of the IEP. Is current progress sufficient to meet the student's IEP goal(s)?

- whether progress in age or grade level standards was made in the area of concern during the interruption of service (e.g. other personnel addressed the area of need or goal during the interruption)
- the results of any updated assessments or recent evaluation
- any other relevant information

In summary, **the student’s IEP team should convene** to address service interruptions and make any needed revisions to the student’s IEP **when:**⁸

- There are patterns of service interruptions that may be a denial of FAPE
- There are service provider vacancies, extended absences, or inconsistent availability; and the student was making progress prior to the pattern of service interruption, but is no longer making sufficient progress toward IEP goals
- Parent(s), guardians, or other IEP team participants believe other changes are needed to the student’s IEP goals or services to ensure FAPE is provided

Examples of Service Interruptions¹¹

The chart below contains examples of service interruptions, actions required, and important points to consider. The examples and actions are based on specific circumstances and are consistent with the US Department of Education Office of Special Education and Rehabilitative Services (OSERS) guidance.^{7,8} These examples may not reflect all appropriate required actions and considerations. Determinations of what action may be required (e.g., compensatory or make-up services), must be made by an IEP team on a case-by-case basis, based on a totality of the circumstances, including the reason for the service interruption. **LEAs should not establish a general policy for making up missed services, nor establish a specific number of missed services that constitute a denial of FAPE as each situation, including the effect on student progress, is unique.**

Event	Action Required
<p>Occasional Student Absences</p> <p>Student absent due to illness or due to parent-initiated activities</p>	<p>No compensatory services required for occasional student absences</p>

Event	Action Required
<p>Frequent or Chronic Student Absences</p> <p>Absences or tardies that continually interrupt service delivery, are consecutive in nature, or rise to the level of truancy.</p>	<p>Generally, if the LEA makes IEP services available to the student at the normally scheduled time, the LEA is not obligated to make other arrangements to provide services if the student is absent from school.</p> <p>However, patterns of chronic absenteeism are often related to a change in the student’s progress and most often require the IEP team to meet to discuss the reasons for the chronic absenteeism and how or if it relates to the student’s disability-related needs and then review and revise the IEP, as appropriate.</p>
<p>Student Not Available Due to Participation in School Sponsored Event</p> <p>(e.g., assembly, field trip, field day, or other school related activities).</p>	<p>Compensatory services may be required if a combination of events lead to chronic interruptions resulting in a denial of FAPE.</p> <p>If patterns emerge, it is recommended that the IEP team convene to determine whether specific actions (such as review and revise the IEP, compensatory services, etc.) are required.</p>
<p>Student Not Available Due to Participation in State Mandated Assessments</p>	<p>No makeup sessions or compensatory services are required for missed services due to a student’s participation in state mandated testing.⁷ “The student has a right to participate in state mandated assessments as part of the IEP.”</p> <p><i>Note: This event is specific to the student’s participation in state mandated assessments and not because the school is conducting assessments, and the service provider is unavailable because of test administration duties.</i></p>

Event	Action Required
<p>School Closed</p> <p>No students in attendance (e.g., ordinary inclement weather, school breaks, holidays).</p>	<p>Generally, no compensatory services are required. The LEA is not required to provide special education services when all students are not provided instruction (i.e., school is closed).</p> <p>Guidance for responding to extended school closures due to extraordinary circumstances (such as public health emergencies or natural disasters) are provided by federal and state government agencies when such circumstances occur. The Wisconsin DPI recommends the use of contingency plans within IEPs to account for potential changes to instructional time and shifts to virtual learning that could arise as a result of extended school closures due to extraordinary circumstances.</p>
<p>Occasional School Personnel Absences</p> <p>Service Provider is absent without qualified substitute (e.g., school personnel, or related services provider absent due to illness, attending IEP meeting, professional conference, etc.).</p>	<p>Compensatory services may be required if a combination of events or absences of school personnel lead to chronic interruptions resulting in a denial of FAPE.</p> <p>If patterns emerge, it is recommended that the IEP team convene to determine whether specific actions (e.g. review and revise the IEP, compensatory services, etc.) are required.</p>

Event	Action Required
<p>School Personnel Vacancies</p>	<p>Compensatory services must be considered. Parent(s) or guardians must be notified when vacancies occur that impact the delivery of services. Progress monitoring of the affected IEP goals should occur at the beginning of the vacancy, throughout the vacancy, and once the vacancy has been filled. These data will form the basis of the IEP team decision regarding whether compensatory services must be provided.</p> <p><i>Note: If personnel or provider shortages are resulting in inconsistent service delivery, the LEA should develop alternative means (emergency contracting, redistributing personnel assignments, etc.) to mitigate the potential scope of compensatory services rather than accruing extended periods without service delivery without intervention by the LEA. Also see question #7 in Information Update Bulletin 18-02, regarding the need to ensure needed services are provided even if not generally available in the district.</i></p>
<p>Combination of Events (e.g., student absences, participation in school sponsored events, school personnel absences)</p>	<p>Compensatory services may be required if a combination of events lead to chronic interruptions resulting in a denial of FAPE.</p> <p>If patterns emerge, it is recommended that the IEP team convene to determine whether specific actions (review and revise the IEP, as appropriate, compensatory services, etc.) are required.</p>

Frequently Asked Questions about Interruptions in Service Delivery

The following are frequently asked questions received by DPI. When addressing service interruptions, readers are reminded to always consider the specific circumstances and impact on the student's educational progress. When there are significant disruptions in a student's services, the IEP team should meet to discuss and determine if and what type of compensatory services are needed to ensure the student continues to receive a Free Appropriate Public Education.

1. A student missed services from the speech-language pathologist for a week while the Speech-Language Pathologist (SLP) was attending a conference or was otherwise absent from school. Must these missed services be made up?

Whether an interruption in services constitutes a denial of FAPE is a determination that must be made on a case-by-case basis. If the student missed a week of services from an SLP due to the SLP's absence, the LEA is generally required to ensure missed sessions are made up so that the student continues to receive the services needed to make progress. When deciding when to schedule compensatory services consider the impact of missed sessions within the broader context of the student's academic and social-emotional development. Consider scheduling make-up sessions within the student's and provider's schedules without causing significant disruption to the student's other educational activities.

It is common practice that when a regular education teacher is absent, a substitute teacher is provided. The same should hold true for providers of special education and related services. **Teacher and provider absence do not excuse an LEA's responsibility to implement the IEP as written.**

2. Due to a personnel vacancy, the Local Educational Agency (e.g. school district) did not provide services from a Speech-Language Pathologist in accordance with student IEPs for the first 3 months of the school year. Is this a FAPE violation that requires compensatory services?

Yes. This is a significant interruption of services and is likely a FAPE violation. Personnel vacancies do not excuse an LEA's responsibility to implement the IEP as written. When the LEA fails to provide any service stipulated in a student's IEP for whatever reason, it results in the student not receiving the necessary support to make educational progress. Failure to provide IEP services for an extended period, such as three months, would typically necessitate compensatory services to make up for the lost instructional time. The IEP team should meet to assess the impact of the provider's absence on the student's progress and performance and determine the extent of compensatory services needed to address gaps in the student's progress and to resume the provision of FAPE. When there is a personnel vacancy, IEP teams may consider providing additional or supplemental support in other formats (e.g. home practice materials, support from classroom teachers and other special education and related service providers) if they are unable to locate a properly licensed substitute. LEAs could also explore the possibility of offering virtual or teletherapy sessions to compensate for missed therapy. In all circumstances, it is critical to communicate plans to address personnel vacancies with parent(s) or guardians.

3. When schools hold a “virtual day” in lieu of snow days and all students are provided with asynchronous or hybrid instruction is it considered a "missed session", if a virtual session from the Speech-Language Pathologist is offered?

It is not considered a missed session if a virtual session or other asynchronous related service or specially designed instruction is provided and made accessible for the student. The key factor is whether the services outlined in the IEP are being delivered in a manner that allows the student to make appropriate progress. If the virtual session is comparable in quality and effectiveness to in-person sessions, and the student can participate and benefit from it, then the session is considered to be provided. However, if the virtual format does not adequately meet the student’s needs or if the student is unable to access or benefit from the virtual session, the IEP team may need to consider whether additional support or compensatory services are necessary to ensure the student’s progress is not hindered.

4. When the district has a maternity leave and a qualified substitute is unable to be found, is this a violation of FAPE?

Yes, this will likely lead to a FAPE violation if no appropriate options are provided to address the student’s need and implement any IEP goal(s) associated with the service. The IDEA requires that all services specified in a student’s IEP are provided, regardless of personnel challenges. If a qualified substitute cannot be found, the district is still responsible for ensuring that the student receives the necessary services. The district may consider contracting with providers outside the school district if there are personnel shortages. This should be done at no cost to the families. Failure to provide IEP services during a maternity leave could hinder the student’s educational progress, thereby necessitating compensatory services. The IEP team should convene to determine the impact and plan for making up the missed services.

5. What should be said to a classroom teacher who asks when missed services will be made up due to a student absence?

Related service providers or others providing IEP services can explain to the classroom teacher that missed services due to a student absence are typically addressed on a case-by-case basis. While some sessions may need to be made up, the decision will depend on the frequency and effect of the absences on the student’s progress. It’s important to ensure that the student receives the necessary support to meet the student’s IEP goals. For intermittent absences, educators should be in communication with the student’s parent(s) or guardians and personnel should collaborate to determine the best course of action. Occasional student absences may not result in the need for make-up services. If there is a

pattern of absences, then the IEP team may need to reconvene to address the absences and missed services.

6. A parent requests minute-for-minute make-up services for the time their child was receiving medical treatment out of state. Is it required to make up services minute-for-minute?

The need to make up services depends on the specific circumstances and the impact on the student's progress. The IEP team should review the student's progress and the effect of the missed services to determine the appropriate amount of compensatory services. While extended or frequent absences may have a greater effect on the student's progress, the goal of compensatory services is for the student to make up lost ground due to the missed services and resume ongoing progress towards meeting their annual IEP goals. This may or may not require minute-for-minute makeup sessions. Work collaboratively with families to determine the best approach for making up missed sessions, if necessary.

7. District policy requires the special education and related service providers to make up services whenever a scheduled session is missed, whether it be for student or provider absence. Is this type of blanket policy appropriate?

While it is good to recommend that missed sessions should generally be made up when practicable, a blanket policy requiring makeup sessions for any missed service, regardless of the extent or reason, may not be appropriate. LEAs should ensure that district policies align with IDEA regulations and the students' best interests. Each case should be considered individually to determine the impact of the missed sessions on the students' progress. While ensuring continuity of services is important, the decision to make up missed sessions should be based on the student's needs and the specific circumstances surrounding the absence. The IEP team should collaborate to make informed decisions that best support each student's educational progress.

References

American Speech-Language-Hearing Association (ASHA). 2003. Missed Speech-language Sessions in Schools. [Missed Speech-Language Sessions in Schools](#)

American Speech-Language-Hearing Association (ASHA). 2023. Code of ethics. [Code of Ethics](#)

[Copenhaver letter dated 03/11/08 re: Free Appropriate Public Education \(MS Word\)](#)
(upholding Letter to Balkman-1995)

IDEA Part B Missed Sessions. ASHA Website. Accessed November 29, 2022
[IDEA Part B: Missed Sessions](#)

[Letter dated 3/8/07 to Clarke re: interpreting IDEA or the regulations that implement IDEA \(PDF\)](#)

Missed Session: What's Really Missing? by Deborah Dixon, MA, CCC-SLP, "School Matters" column, *The ASHA Leader*, April 2016, Vol. 21, pp. 30–31. [Missed Session ... What's Really Missing?](#)

OSEP Reaffirms Guidance on Missed Sessions in Schools. *The ASHA Leader*, March 2016, Vol. 21, pp. 8. [OSEP Reaffirms Guidance on Missed Services in Schools | The ASHA Leader](#)

Providing Students with Disabilities Free Appropriate Public Education During the COVID-19 Pandemic and Addressing the Need for Compensatory Services Under Section 504. [Providing Students with Disabilities Free Appropriate Public Education During the COVID-19 Pandemic and Addressing the Need for Compensatory Services Under Section 504](#)

Wisconsin Department of Public Instruction (WI DPI). 2002. "Information Update Bulletin 18.02: Free Appropriate Public Education." Accessed October 14, 2024 at [Information Update Bulletin 18.02 | Wisconsin Department of Public Instruction](#)

Wisconsin Department of Public Instruction (WI DPI). 2021. "COVID-19 Special Education Question and Answer Document." Accessed October 14, 2024 at [COVID-19 Special Education Question and Answer Document](#)

Wisconsin Department of Public Instruction (WI DPI). 2022. "Providing FAPE During Special Educator Shortages." Accessed October 14, 2024. [Providing FAPE During Special Educator Shortages](#)

Wisconsin Department of Public Instruction (WI DPI). Updated 2023. "The Use of Paraprofessionals to Support Speech-Language Pathologists." Accessed October 14, 2024. [The Use of Paraprofessionals to Support Speech-Language Pathologists](#)

Wisconsin Department of Public Instruction (WI DPI). 2024. "Information Update Bulletin 24.02: Considering Services from a Speech-Language Pathologist for Students with

¹ *Endrew F. v. Douglas County School District Re-1*, 137 S. Ct. 988 (March 22, 2017).

² *Id.* The Court held that 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.

³ *Sumter County School District v. J.H.*, 642 F.3d 478, U.S. Court of Appeals, Fourth Circuit (April 27, 2011)

⁴ 34 CFR 300.151(b) Remedies for denial of appropriate services.

⁵ See, e.g., 34 C.F.R. § 104.35 (c) (explaining who should be included in interpreting evaluation data and in making placement decisions). Compensatory services can also be awarded by a hearing officer, court, or OCR.

⁶ See, e.g., *Reid ex rel. Reid v. District of Columbia*, 401 F.3d 516, 524 (D.C. Cir. 2005) (requiring compensatory education awards to “be reasonably calculated to provide the educational benefits that likely would have accrued from special education services the school district should have supplied in the first place”).

⁷ [Letter to Kane](#) (OSEP 2018)

⁸ [Letter to Pergament](#), Office of Special Education and Rehabilitative Services (OSERS, December 20, 2013)

⁹ For further discussion of the relevant legal requirements, see, e.g., “Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act” at D-5, D-6 (September 2021) [Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment](#) (listing considerations for the delivery of compensatory services). These examples are not meant to be exhaustive and are provided to illustrate various situations that could require consideration of whether, and to what extent, compensatory services are needed.

¹⁰ Ideally, the team of knowledgeable persons will come to a mutually acceptable decision regarding compensatory services to mitigate the impact of the COVID-19 pandemic on the child’s receipt of services. Under Section 504, if a parent or guardian believes that their child has not received or is not receiving FAPE, does not have equal access to other services provided by the school, or did not receive or is not receiving appropriate compensatory services, they may seek a hearing under the school’s Section 504 due process procedures or file a complaint with OCR. A school’s agreement to

provide compensatory services is one way OCR remedies disability compliance issues when appropriate. For information on how to file a complaint with OCR, please see [File a Complaint: Discrimination Form | U.S. Department of Education. COVID - 19 guidance doc](#)

¹¹ Exceptional Children NC Department of Public Instruction; Tip Sheet: Interruptions in Service [Tip Sheet: Interruptions in Service](#)

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