

A PEATC

Do You Know....



Factsheet for Virginia's Parents Compensatory Education Services in Special Education

What are Compensatory Education Services?

Compensatory Education (Comp Ed) means that the student with an Individualized Education Program (IEP) or 504 Plan receives **make-up services**. Comp ed funds services a student is entitled to if it is found that the school has **not** been providing a **free and appropriate public education (FAPE)**. If the school does not provide services in the IEP or 504 Plan or denies services to which the student is entitled, it may be violating the requirements of FAPE.

Your child **may be entitled** to compensatory education services if:

- **Services in the IEP are not being delivered** (e.g., the student's IEP states that he should be receiving 2 hours a week of physical therapy or some type of assistive technology and it does not provide that service or device).
- **Services in the IEP are provided but not as directed in the IEP** (e.g., the student is supposed to be getting 3 hours a week of speech therapy but has only been receiving 30 minutes a week).
- Parents requested that the student work with a reading specialist, but the **school denies that request**. If it is later found (perhaps by a private evaluation or through a due process hearing or complaint that the student was entitled to that service, comp ed may be in order.

Where Can I Find Information on Comp Ed in the Law?

Compensatory education services are actually **not included** in the Individuals with Disabilities Education Act (IDEA) nor in the Rehabilitation Act. IDEA does authorize the court to grant such relief as it determines appropriate.

Resources on Compensatory Education Services

Virginia Department of Education

[VDOE Considerations for COVID Recovery Services for Students with Disabilities](#) (Word document)

A Day in Our Shoes

<https://adayinourshoes.com/comp-ed-compensatory-education/>

Wrightslaw: Compensatory Education Case Law

<https://www.wrightslaw.com/info/comp.ed.law.htm>

Arizona Center for Disability Law: Tips for Making and Evaluating Compensatory Education Proposals

<https://www.azdisabilitylaw.org/tips-for-making-and-evaluating-compensatory-education-proposals/>

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How Do I Go About Asking for Compensatory Education.

If you believe your child is entitled to compensatory education, you can **ask for it in your regularly scheduled IEP meeting or request an IEP meeting** for that purpose.

Often, **comp ed is awarded as a result of a due process hearing or a settlement agreement** reached before the hearing. Be prepared to present **evidence** that comp ed is required to make up for lost services. If the student is about to graduate or age out of school, but is entitled to comp ed, the IEP team **can extend eligibility for special education** for the duration of comp ed services.

- You may want to ask for an **Independent Educational Evaluation (IEE)**. An IEE can show whether your child would have made more progress if he had been given the services and supports to which he was entitled.
- Keep a **log of the special education or 504 services** your child missed and the impact.

How is the Comp Ed Delivered?

Comp ed is usually provided **outside of the regular school day**. It could be provided before or after school, over the summer, and/or on weekends. Compensatory education during the summer is **not the same as Extended School Year (ESY)**. Your child may need and be entitled to both. For more information on ESY, see PEATC Fact sheet on this topic.

Depending on what the parents and school agree to, or what is ordered by a Hearing Officer, comp ed services **may be provided by school staff or by a private provider/program**. Sometimes a school district will set up a **comp ed fund** with a specific amount of money that parents can use to pay for services. This is more likely if the school can't meet the student's needs with its own staff or contractors.

If you are denied comp ed, you can access **dispute resolution mechanisms**.

How is the Amount of Compensatory Education Determined?

Figuring out how much comp ed is due to a student can be complicated.

- If it is a due process issue, the Hearing Officer will calculate the amount based on his judgement after hearing testimony.
- If it is a settlement agreement, the school and parent attorneys will negotiate what will be provided.

Factors to consider include:

- How long the student was denied FAPE (IDEA or 504)
- Is the comp ed "reasonably calculated" to provide the educational benefit that the student should have received had the services been provided as they should?
- What were the negative effects of not receiving services and what specific services are needed to make up for those impacts?
- What level of services does the student need to catch up to where she should have been?

PEATC's mission focuses on building positive futures for Virginia's children by working collaboratively with families, schools, and communities to improve opportunities for excellence in education and success in school and community life.



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