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- Lessons from the Field -

Providing Required Compensatory Services That Help Students with Disabilities in Response to the COVID-19 Pandemic

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Transcript

Cindy Carraway-Wilson: Good afternoon, everyone, and welcome to our 27th Lessons from the Field webinar, Providing Required Compensatory Services that Help Students with Disabilities in Response to the COVID-19 Pandemic. On behalf of the US Department of Education, we're pleased to have you join us today. In fact, over 2,700 people have registered for this webinar, so we expect more people will be joining us shortly. And thank you to all of you who are already online with us.

This webinar is part of our Lessons from the Field webinar series, which were developed in response to the pandemic. The Lessons from the Field webinars highlight effective tools, techniques and strategies, employed by everyday practitioners to address hot topics that are on the top of educators' minds, to strengthen the resilience of students and to provide meaningful supports to staff. Throughout the series, we have addressed a variety of high priority topics facing America's educators. You can access recorded webinars from the series at the website now being shared in chat.

Thank you for being here to consider the approaches to providing compensatory services to help students with disabilities. If you have additional strategies to share, please contact us at bestpracticesclearinghouse.ed.gov. We will post that address in chat now. Please also make note of it, and let us know what you're doing to create safer school climates at your schools. Our work is stronger together, and we all benefit from sharing these strategies.

My name is Cindy Carraway-Wilson, and I'm a training specialist for the National Center on Safe Supportive Learning Environments, or NCSSE. NCSSE is funded by the Office of Safe and Supportive Schools within the Office of Elementary and

Secondary Education. To learn more about NCSSE, and to access a broad range of resources that address school climate and conditions for learning, we encourage you to visit our website. To give you a sense of what the website looks like, and the content it has, we share here an image of the homepage on the right, along with some of our most popular products on the left. We also share the latest resources and events coming out from the field via social media, so please follow us.

Please note that all materials you see today, including slides, any referenced resources and the recorded version of this webinar, will be available on the event webpage within this website. In fact, some of the items, including the slides and the speaker bios, have already been posted to the site. Please also note that you can access various previous Lessons from the Field sessions by visiting the webinar series webpage, which is also listed here and will be posted in the chat.

Now I'd like to let you know a little bit about who is in the room with you. We currently have 1,035 people, and more, coming into the room. When you registered, we ask for you to tell us a little bit about what your role is and coming to this webinar. You can see from this slide that the majority of you selected the other category. For this webinar, the people who identified as other described themselves as advocates of various types, attorneys and legal aid professionals, consultants who work with schools and families, family support professionals, parents and grandparents, parent training staff, and student support providers, just to name a few roles that were listed in that other category. You can also see that there's a distribution of parents and school professionals, and a few students who have joined us today for the webinar. And again, we welcome you and thank you for being here.

Now I'd like to discuss the agenda, and just to give you an idea of how we are going to run through the webinar. We're already working on this first part of the agenda, which is the logistics and introduction. In just a moment, you'll be hearing from Valerie Williams, from the Office of Special Education and Rehabilitative Services, who will provide a welcome, and also an overview of compensatory services. Next, we'll hear about compensatory services from the OCR perspective. And then, we'll move into a panel discussion. At the end of the panel discussion, we'll close out the webinar with your opportunity to provide us feedback and with a tickler for the next Lessons from the Field webinar.

Just a bit about our speakers today. We have a wide variety of individuals coming to you, to provide their expertise on the provision of compensatory services, and to help clarify when the services are required and how we can provide those services. You can see that we have diversity in the places where the speakers are coming from, from various different departments and organizations in the community. And we're also especially honored today by having a parent join us on our panel. You can read more about these folks in the bios that are posted on the event webpage.

Now, it's my pleasure to introduce Ms. Valerie Williams, who's the director of the Office of Special Education Programs. She's going to take us through a series of slides to give us an overview. Valerie?

Valerie Williams:

Thank you, Cindy. I greatly appreciate it.

Good afternoon, welcome, and thank you to everyone who is on for joining us today. My name is Valerie Williams, as she stated. I'm the director of the Office of Special Education Programs, or OSEP, at the US Department of Education. I am absolutely thrilled to be part of the conversation today on such an incredibly important topic.

The COVID-19 pandemic has impacted each and every one of us, and it certainly changed things for children with disabilities. It changed how we deliver special education and related services, how we assess and meet the needs of children with disabilities, and how we work together with families. But it did not change the expectation that, under the Individuals with Disabilities Education Act, or the IDEA, we will continue to set measurable annual goals and provide the services that are necessary to meet each child's needs and make progress. It takes all of us working together, to ensure children with disabilities receive the support they need during and beyond the COVID-19 pandemic.

One critical step in that process is providing compensatory services to those children who are eligible. Today, we'll share with you the guidance that the Department has issued on this topic, our learnings from investigations out of the Office of Civil Rights, and from individuals at the national, state and local levels who have navigated these challenges personally. I'm going to be speaking about the rights of students under IDEA, which is one of the laws that protects the rights of children with disabilities. Later, my colleague will talk about the rights of students with disabilities under Section 504, which is a civil rights law. Either or both of these might apply to a child with a disability.

As part of OSEP's Return to School Roadmap documents last September, the Department issued guidance offering IEP teams clarity on this topic. In that guidance, OSEP builds upon its longstanding policies and guidance documents on compensatory services, and further describes what compensatory services are, who should make determinations as to whether and to what extent compensatory services are provided, the kind of information that can be used in making these decisions, the kind of situations where compensatory services might be necessary, and the obligations of states in this process. Courts have also issued rulings that help us understand the kind of criteria that would be applicable in making decisions about compensatory services.

So, you might ask, when are compensatory services appropriate? So compensatory services can be necessary to address the past failure or inability of the LEA, or local education agency, to provide appropriate services, including those that were identified on the child's IEP. They might also be appropriate where an SEA, or state educational agency, has found a failure or inability to

provide appropriate services under IDEA, in order to address the needs of the child.

So you might wonder, who should be involved in the decision? It's the Department's position, that the same kind of child-centered deliberations that an IEP team engages in are also necessary when making decisions about compensatory services. Therefore, the IEP team is well-positioned to make these decisions, and should seek input from previous teachers and service providers who have knowledge of the child's skill and progress levels, before and during the pandemic. Families, as part of the IEP team, are an integral part of this process as well. If IEP teams are to make these determinations and think comprehensively about the needs of the child before the pandemic and now, families must be partners. Families and parents have struggled alongside students, supporting them throughout the pandemic. Their input into this process, and their assessments of their child's progress and needs, is invaluable.

So, what information should be considered when making decisions about compensatory services? When making decisions, about whether or not they should be provided, and to what extent, IEP team should consider the individual needs of the child, whether the child received appropriate services, and how additional services may support the child to make progress, in light of their unique circumstances. In our guidance, we encouraged IEP teams to consider any adverse impacts The COVID-19 pandemic has had on each child with a disability.

This means, looking at whether the child has new or different needs, compared to their needs before the pandemic. An IEP team might look at things such as lost skills or a lack of expected progress toward IEP goals, updated data that reflect the child's present levels of performance, all areas of need, including new or different areas of need, and previous rates of progress, and the frequency and duration of special education and related services provided prior to the pandemic.

Examples of situations where compensatory services might be necessary. An IEP team might determine that compensatory services are necessary to mitigate the impact of disruptions in services or delays in providing services to the child. So for example, if an initial evaluation, eligibility determination, or development or implementation of the IEP were delayed, if the method through which services were provided, for example, virtual or hybrid, were not appropriate to meet the child's needs, if some or all of the child's IEP could not be implemented using the method of service delivery, if meaningful services to facilitate transition from secondary school were not provided during the pandemic.

This could include the transition to post-secondary education, vocational education, integrated employment, adult education of services, independent living, or community participation. While compensatory services decision might be made at the IEP team level, this responsibility belongs to SEAs and LEAs to ensure the services are being provided where necessary. And one of our

panelists in the panel that's coming up, that you're going to hear from our stellar panel, is going to discuss what in her district they did by reaching out to every student that was on an IEP to determine what was necessary.

Assisting our students in recovering from lost learning opportunities requires that all hands be on deck. We have not encountered anything similar to what has transpired in the last few years, and I'm not sure that we ever will again. But as I stated previously, it takes all of us, in partnership, to ensure that children with disabilities are supported appropriately during this time. Right now, with \$130 billion, that's billion with a B, in ARP funds, that's COVID relief funds available to schools, there are ample resources to dedicate to providing compensatory services to children with disabilities. This webinar is designed to help you, whatever your role may be, whether at the state, local or school level, ensure that the needs of children with disabilities are met, and they receive the services and supports they need to recover, and grow as we navigate a future with COVID.

And now, I would like to hand it back over to Cindy. Thank you very much.

Cindy Carraway-Wilson: Valerie, thank you so much for that valuable information and those really clear examples. I think that helps to demonstrate the importance of the services in some situations where it might be applicable.

Now, please welcome Ms. Jasmine Bolton, the senior counsel in the Office of Civil Rights at the US Department of Education. Ms. Bolton's going to provide us some additional information about the expectations and process for providing compensatory services. Jasmine?

Jasmine Bolton: Thank you so much, Cindy. And, let me reiterate what Valerie stated, I am so excited to be here to speak with you all today.

Much of what I'm going to be speaking about can be found in the fact sheet attached to the invite that you all received. Section 504 and IDEA are overlapping but distinct statutes. As you just heard, IDEA is administered by the Department through the Office of Special Education Programs, within the Office of Special Education and Rehabilitative Services. Within the Department, Section 504 is administered by the Office for Civil Rights. So right now, I am just talking about Section 504.

Now, we know that this was a hard time for schools and families, and that districts worked in good faith under very challenging circumstances. But Section 504 was not suspended during the pandemic. Students with disabilities maintained their right to a free appropriate public education, or FAPE, under Section 504. This is true whether the school provides education virtually, in person, or with a hybrid learning model.

Now, in our enforcement work, and in discussions with stakeholders, we've seen some common situations that raised concerns of violations in the provision of FAPE during the pandemic, such as limiting or eliminating services provided to students with disabilities, based on considerations other than the student's individual educational needs. For example, by reducing speech therapy services, because of the difficulty in administering those services virtually. Or, failing to reevaluate a student prior to changing their education or services during remote learning, not involving the group of knowledgeable persons, or the denial of other procedural safeguards in decisions to change the services offered during remote learning. For example, a school or district administrator making decisions alone about the services provided to a student with disabilities.

And finally, failing to keep accurate records of services provided. A common version of this is counting emails or communications with parents as a service provided, or providing parents with instructions on how and when to provide a particular service. Though these are procedural, each of these examples presents a serious concern, whether a district is providing special education and related aids and services that meet the individual needs of each student with disabilities. Individual is the key word here, and it's one you'll hear a lot this afternoon.

Now, if a school couldn't or didn't provide a student the education and services previously determined to be appropriate, or that would've been found appropriate after a timely evaluation, the school has an obligation to make an individualized determination about that student's need for compensatory education and services. The determination of the need and scope of compensatory education and services must be made by a group of experts knowledgeable about the student, which is sometimes called a 504 team. That group may include school nurses, teachers, counselors, psychologists, school administrators, social workers, doctors, and critically, family members. As Valerie noted, it's particularly important to seek input from family members in this moment, where many parents and guardians were home with their children throughout the period of remote and hybrid learning.

Similar to what you've heard about the IEP team's considerations, the following factors may be relevant for the 504 team to consider in determining the appropriate type and amount of compensatory services: the frequency and duration of missed instruction and related services, whether the services provided were individualized to the student's needs, previous rates of progress, present levels of performance, the results of updated evaluations, whether evaluations were delayed or occurred at all, and any other relevant information.

Again, in our enforcement work, and in discussions with stakeholders, we've seen some common and interrelated misunderstandings about how and when compensatory education and services should be provided, including the following: the good faith effort reasoning. One myth that we've heard is that a good faith effort on the part of schools eliminates the need to provide compensatory services. But, as I mentioned earlier, if a student with a disability

did not receive appropriate evaluations or services, including the services that the school had previously determined the student was entitled to, then the school must convene a group of persons knowledgeable about that student, to make an individualized determination, whether, and to what extent, compensatory services are required.

A good faith effort to provide services is not enough to meet a school's obligation to provide FAPE. We know that schools and districts across the nation did their best to meet students' needs throughout the pandemic. This is not about assigning blame or fault on the part of the school or the district. It's about remedying injuries that students experience when they do not receive the evaluations or services that they need.

Another misunderstanding that we've seen is the one size fits all policy. One way this has shown up is a categorical determination of compensatory education. For example, limiting all compensatory services to after school hours, which may, in turn, prevent students who receive those services from fully participating in extracurricular activities. It could also look like the offer of standard recovery services, as provided to all students, including students without disabilities. Neither of these are sufficiently individualized to each student's needs as required by Section 504. And, there's that word again, individualized.

We've also heard people asking the wrong questions, as it relates to the eligibility for compensatory education. The eligibility for compensatory education is not based on a student's skill loss or regression. Nor is it based on whether a student's parent or guardian filed for due process. Compensatory services are required to remedy any education or other deficits that result from a student with a disability not receiving the evaluations or services to which they were entitled. They're based on a determination of the education and other benefits that the student likely would have received, had they been provided the services according to their IEP or 504 plan in the first place.

Another example of asking the wrong question relates to changes in current services. The compensatory education inquiry is not the same as the ongoing obligation to make an individualized determination, whether a student's current services should be changed due to the effects of the COVID-19 pandemic. Those effects may include the impact of lost services on skills, mental health and trauma concerns, or the physical effects of long COVID. But, unlike the FAPE inquiry, which requires the 504 team to determine appropriate services going forward, the compensatory services inquiry is backwards looking. It is meant to determine the education and other benefits that likely would've accrued from the services the student should have received in the first place.

One final example that we often see is the procedural shortcut. For example, skipping out on the 504 team altogether, or failing to look at data for the individual student in determining what, if any, compensatory education to provide. These are important procedural requirements, that help ensure that

students with disabilities receive special education and services that meet their individual needs.

So, much of what I've talked about today is reflected in a fact sheet that OCR released in February of this year, and which was included in the resources in this invite. Some of this is also reflected in OCR's resolution with Los Angeles Unified School District, which requires that LAUSD develop and implement a plan to appropriately assess and provide compensatory education to students with disabilities who did not receive a FAPE during the pandemic. The plan will require that schools proactively convene IEP and Section 504 teams, to determine whether students were provided regular or special education and related aids and services designed to meet their individual needs during remote learning.

As a result of this agreement, we can ensure that 66,000 LAUSD students with disabilities will receive the equal access to education guaranteed by federal civil rights law, including compensatory education for services the district did not provide during the pandemic. And, in addition to this resolution, we have a number of other investigations pending.

Now that we've discussed with you some of the resources that the Department has provided to assist schools and districts during these challenging times, we would like to turn to the next item on our agenda, a panel discussion with some of our stakeholders. Back to you, Cindy.

Cindy Carraway-Wilson: Jasmine, thank you. That was a lot of wonderful information, and we have lots of good comments and questions coming in. Thank you.

Now it's my pleasure to introduce our panelists. Joining us for our panel discussion is Ms. Cheryl Young-Parran, who is a parent of a son who receives compensatory services from his school, Ms. Wendy Tucker, the Senior Director of Policy at the Center for Learner Equity, Ms. Trinell Bowman, the Associate Superintendent of Special Education at Prince George's County Public Schools in Maryland, and Ms. Candace Hawkins, the Director and General Supervisor of Monitoring for Colorado Department of Education, Office of Special Education. Thank you so much for being here, and we look forward to your conversation.

Jasmine Bolton: Thank you again, Cindy.

Turning to our panelists now, I'd like to start with you, Cheryl. Could you please tell us about your child and what it was like trying to get services, special education and related services for them during the pandemic?

Cheryl Young-Parran: Sure. Greetings to the Department of Education, fellow panelists and all guests.

I'm humbly grateful for this opportunity to discuss the effects of the pandemic, of COVID-19, for my son with disabilities. This has been our life. And you might

hear him in the background, singing a song or two. Please disregard, because he will continue to sing as he is right now.

My son has an acquired disability. He was not born with any disabilities. At the age of three and a half, he had a traumatic brain injury to his left frontal lobe part of the brain. While he is now a young adult, his life skills are that of a 10-month infant to a four year old child. He has a seizure disorder, with five different types of seizures, cognitive and intellectual delays, nonverbal, as well as some physical disabilities.

Once it was announced, the first week in the March of 2020 school year, school would be closed for two weeks, no assignments were sent home, nor any type of instruction for options to use within the home to improvise. Then we moved onto around April 2020 to use our personal electronic devices, with his teacher only and shifts of 20 minutes class lessons, two times per week. In other words, these class lessons were not related to my son's IEP. The education only class time was a general group IEP for all students. He spent his time watching some type of educational video. My son eventually began to do assignments that were all above his level of understanding. For example, doing fractions and learning about the planet system. Immediately as parents, we were able to realize, my son wasn't receiving services, because he had no assignments, and only his teacher to provide educational service as a group, and not as an individual.

There was a major reduction in time for education and related services. My son's education time was looped into group sessions, two times per week, and slowly went to two or three times per day, of the same amount of time of 20 minutes for lesson time. This included an optional time during the day for parents to go online, and reuse some of the material lessons given earlier that day by his teacher. The school's communication was sent initially through email, and later, a discussion with school staff, after I made a request to speak with someone. Unfortunately, there was no formal IEP meeting to discuss changes. In fact, we were scheduled for an IEP meeting, but canceled and not rescheduled due to COVID-19. The school staff or administration did not seek my input with the first phase of virtual learning.

However, as time went on to realize virtual was here to stay, and this was the new way of school time, parent input became valuable. As a parent, you could easily identify what would work best for your child. My son did get a new teacher towards the end of 2020 school year. This teacher was a new school staff member. Because the teacher was new to the school and my son, his teacher was able to realize some things on his IEP was not going to benefit my son. Therefore, we worked together identifying strengths that was more advanced than his goals on the IEP. This was possible because of the 20-minute one-on-one time with the teacher. I often wondered, if we were not in virtual learning, along with my presence, how long would it have taken to recognize this change needed to happen? Now, that's a whole different type of issue.

I didn't ask for compensatory services because I was not made aware that this was an option, or at least, not without legal counsel. I did inquire how would the other time that was missed would be made up. I was not given a concrete answer. No, the school did not volunteer any extra time, other than to reduce the spring break, but this wasn't enough to make up for the hours missed for education in all related services.

Thank you.

Jasmine Bolton: Thank you so much for sharing that with us, Cheryl. And, that tees up my next question. This one for you, Wendy. Why are compensatory services so important to children with disabilities at this time? From a national perspective, can you share what advocates and national organizations are seeing across the country, in terms of whether compensatory services are being provided? And, if so, how?

Wendy Tucker: Yes. Thank you for the question, Jasmine. And I think Cheryl said better than I can articulate part of the why and why it's so critical. But I would say, I mean, there's sort of two reasons. One is legal. The lawyer in me says, "Because the law requires it," and that's the easy answer. But the more powerful answer came from what you just heard, from a parent who lived it, and that is because kids with disabilities really struggled during the pandemic. A lot of people struggled, but kids with disabilities who often need very hands on, repetitive, close contact services and supports, were suddenly in this scenario that Cheryl described from her experience. And, they need to be able to catch up on that, on those lost services and supports that are, again, they're entitled to under the law.

As far as what we're hearing around the country, I mean, I've kept the Q & A open on my computer while everybody's talking, and I think it's a really good summary of a lot of what's happening. There are a lot of families struggling to navigate this to get what their children need. I think there are places in the country that are proactively addressing these needs and attempting to reach out and do the right thing. And there are places where it requires a position of power and privilege that a lot of parents don't have, and a knowledge of what they need to do to be able to get there. And so I think there's a lot of struggling around the country to get the services and supports. It's why our organization was so happy to see that Return to School Roadmap, happy to see the LAUSD, the resolution of that, and that is a message to districts that this is something that the federal government has taken seriously.

Jasmine Bolton: Thank you for that. Turning to you, Trinell, I want to pick up on something that I just heard Wendy mention. A common refrain that we've heard is that, "Well, no students in the district were able to access their education in the manner and to the extent that they were able to, prior to the pandemic." So, how can schools be held to pre-pandemic standards, as it relates to students with disabilities? From your perspective, when and how did your office begin to recognize that some students with disabilities were going to need compensatory

education and services? And, can you describe the plan that you developed, and how you communicated with parents on one hand and school staff in the buildings on another hand?

Trinell Bowman:

Thank you, Jasmine, for that question.

So, in Prince George's County Public Schools, our position, when we closed on March 13th, was that, we knew that, potentially, students would be impacted as we shifted to virtual instruction. We were fortunate that the Maryland State Department of Education required every local district in Maryland to submit a plan to the state, in terms of how we would navigate the decision making process. And so this was really helpful in guiding our planning and our district.

One of the first things that we did right out of the gate is, we convened a cross-functional team that included a variety of stakeholders, from parents, early childhood experts, K-12 experts, curriculum and instruction, our General Counsel's Office, and of course, our financial team. Based on the plan that we developed, we looked at expectations around, what is the decision making process going to look like, what are the variety of data sources at the preschool level, our infants and toddlers program, early childhood, our elementary, middle and secondary, making sure that teams were clear on the data sources that they could consider.

We also wanted to provide guidance to our IEP teams around the communication plan, both looking at the external and internal stakeholders, professional development, our monitoring systems and structures, and then how compensatory services will be funded. We were fortunate right out of the gate that our chief executive officer, Dr. Monica Goldson, recognized the need, and leveraged our federal funds to help support the provision of our compensatory services that we knew that we had to provide.

One of the things that we also did, parents, definitely, we believe are our partners in everything that we did to navigate our COVID pandemic. And so, one of the key things that we did is, not only did we have a parent as part of the planning process, but before our plan was finalized, as well as our professional learning plan, it was shared with my Special Education Citizens Advisory Committee that consists of parents and guardians, who provide input and feedback to me on a continuous basis, so that we can continue to improve services that we provide in our district.

This parent committee was instrumental in providing language, feedback, planning, and considerations back to the district. They also reviewed a video module for me, that was placed on our website, as part of our external communication plan, that was very important that all stakeholders were aware, from our advocates to our parents, to our administrators, to our teachers, that they understood the process that we were going to use in Prince George's County, to make these compensatory services. That parent committee was vital in reviewing that module that is placed on our public website. We also held

parent workshops, to describe the plan we were implementing, so that parents had an opportunity to ask questions. And then my family support center continued to engage parents throughout the past school year.

As part of our implementation and training plan, we trained all principals, related service providers, and IEP teams were trained on the decision making process, with an emphasis on making individualized student-centered decisions. We created data tools and checklists to help support teams in analyzing the various data sources, and to really consider the individual needs of students. Some of the examples that you heard Valerie Williams talk about, were some of the very examples that we emphasized around that individualized decisions, thinking about students who were delayed in the initial eligibility process, thinking through a variety of those scenarios, and providing that guidance through our professional learning.

The other piece that I would share is that, even at the central office level, we monitored those decisions that school teams were making, in terms of making sure that a prior written notice or the meeting minutes from those IEP teams were sent to parents. And so we did random checks to make sure that that was happening. And then I held debriefing meetings with my direct reports, including my compliance office, to monitor and address any questions that was in our plan, because sometimes, we did have to provide additional clarification or additional guidance. And as new teachers or administrators were hired throughout the year, we did a recalibration training throughout the year, to be able to support them in the decision making process.

Jasmine Bolton:

Thank you so much for sharing that very thorough planning effort on the part of you and your staff. Candace, I would like to ask you a similar question. We've seen in our investigations that, despite districts' best efforts, many students simply could not receive certain services in their IEP or 504 plan during remote or hybrid learning. How has your office advised districts within your state to remedy educational or other deficits caused by these missed or truncated services? And, how did your office communicate with parents and guardians about the rights of their students who might have missed these services?

Candace Hawkins:

Thank you so much for the question, Jasmine. And yes, I think you referenced good faith efforts. While trying to do their best, schools just couldn't provide the services that a lot of students required in order to receive a free appropriate public education during this time.

So in Colorado, we informed our schools and our parents and advocacy organizations, that schools must make an individualized determination that includes input and involvement from parents, to determine the need for compensatory services. And although the pandemic has presented educational challenges never before encountered, and so much of our daily lives has changed and may never be the same, our guidance also tried to focus on what we know about serving students with disabilities and what hasn't changed.

So, the law hasn't changed. The obligation to provide FAPE hasn't changed. The I in IDEA and IEP hasn't changed. And it's still the child's IEP team, which includes the parent as an equal partner, that is in the best position to evaluate the need for compensatory services and what those services should look like, all based on the unique strengths and needs of the child. In other words, it's a child's mighty team of experts that is the best vehicle for ensuring FAPE, and that includes consideration of compensatory services as a result of the pandemic.

So our website has a COVID Special Education Q & A on various topics, including compensatory services which was developed in partnership with attorneys who represent schools and attorneys who represent parents and families. And we also include all the federal guidance and resources on COVID-related resources. So through our state guidance, we inform schools and parents that compensatory services should be determined by collecting and examining student-specific data, including information from parents, to determine if the student lost skills or did not make expected progress on IEP goals as a result of COVID-related disruptions in services, or an inability to provide FAPE for a specific student.

So in making these individualized determinations, we gave specific recommendations, that IEP teams consider a variety of information and factors, such as the difference between IEP progress monitoring data, before and during the pandemic, the difference between services identified on the IEP and services offered during any disruption, including amount, frequency, duration, type and delivery, the accessibility of services offered to the student, input and information from parents concerning student performance, the student's present levels of academic achievement and functional performance, and all of this in light of the anticipated levels, without any disruptions related to the pandemic.

Also, the rates of progress, whether student's progress toward IEP goals have slowed or decreased, and considering that, by projecting if the student's current rate of progress will allow them to attain their goals. And also to address whether meaningful transition services were provided during the pandemic. These considerations all emphasize that this is an individualized inquiry, that is based on student-specific data and input from parents.

So in addition to the information on our website, I also did several co-presentations with our partners in the disability advocacy community about compensatory education. We also presented this information to schools, through meetings and listing sessions that Dr. Paul Foster, our state director, conducted. And we continue to offer this type of topic at our special education directors meetings and convenings, and annual special education legal conference. Finally, we have, and we continue to rely on this guidance when making determinations through our state complaint investigations.

Jasmine Bolton:

Thank you so much for that, Candace. Coming back to you, Wendy, can you talk a little bit about the barriers that parents are experiencing in gaining access to

compensatory education and services for their children, either in addition to or in place of the recovery services that may or may not meet their students' needs? And also, could you talk a little bit about how parents can respond when confronted with some of these barriers?

Wendy Tucker:

Sure. I mean, I think for purposes of access to the services, I think the barriers, where there are barriers, are very similar to what they were to get FAPE before the pandemic. I mean, there are knowledge barriers. IDEA is very complicated. 504 is very complicated. And, I'm a lawyer. Understanding the nuances of the law is complicated for me. And so, for parents to be expected to know enough to be able to effectively advocate is hard. I think you have a power differential that parents face. They walk into IEP meetings and feel like the experts are in the room, even though they're the expert in their own child. Sometimes, that power differential happens.

And then sometimes, mostly unspoken before the pandemic, but now, I think you hear it more, you have the financial excuse. Schools will say, "We can't afford that." Most schools didn't say that for a regular IEP meeting, because they know the guidance said you can't say that. But now, I think schools are saying, "We've been in a pandemic. We don't have the money for that." And so, for those first two, I would say, the more advocates that can help empower parents, the more schools, now that parents and schools really had to form partnerships, that the more those relationships are built, which I think was a positive of this whole experience, the more parents, I think, will feel heard and be able to speak up.

And then on the financial part, I think Valerie mentioned, the ARP dollars. Even though there was only a small amount specifically for IDEA, those dollars are certainly for recovery and can be used specifically for students with disabilities to help support them. So, parents knowing, and being able to say, "You just got a bunch of money, so you should be able to do that," would be helpful, I think.

Jasmine Bolton:

Thank you. And, Cheryl, I want to ask you, hearing that, how does that describe your son's experience? And, is there anything else that you'd like to add?

Cheryl Young-Parran:

Sure. Thank you for this opportunity once again. One type of barrier that we faced is, or was, if my son was not able to log in by five minutes of start time, the teacher could sign off and not return. If the student was not logged on within that five-minute window, it could be considered an absence. Of course, this would not calculate towards compensatory services. Although it's clear in my son's IEP, because of medical needs from seizures, to frequent bathroom breaks to work on toilet training skills, allowing wait time was necessary. We established a wait time for my son, and it was included in the IEP.

Do keep in mind that my son does not currently have the ability to speak to you, to let you know he has to use the bathroom, or he may feel like he's about to have a seizure. He cannot do anything without adult supervision or assistance. Please let me not forget the compensatory agreement for my son included, that

we could not request any additional hours for time missed after signing the agreement. Students that were transitioning to the adult program didn't receive any type of transitional support. The majority of the adult centers were on virtual as well, and therefore, leaving the parent without the capability to see the center, and how it worked from day to day.

Another barrier was, no prior communication with us as parents on what to expect and when. There was no initial input from parents on how to alter the IEP. In fact, the school administration requested we waive parts of my son's IEP, in order to participate in the virtual learning. We were notified that related services and physical education would not be available. Once some students returned to the actual school, the students with disabilities were only offered home and hospital tutoring as a new form of virtual learning. Most parents didn't totally understand to what degree these changes would have as an effect on their child long term. Of course, that's still to be determined. We as parents just wanted to make sure our child received something, because initially, our child was not receiving anything at the onsite of the pandemic. Thank you.

Jasmine Bolton:

Thank you again for sharing that, Cheryl. Trinell, I wanted to ask you another question. Earlier today, I described some of the common mistakes that we had observed through our enforcement process. Could you talk us through some of the challenges that you came across, and the development and implementation of your plans, and how you and your team addressed those challenges?

Trinell Bowman:

I'll definitely share two challenges with everyone today. I think one of the challenges that we face, that is not just our issue, but I know it's a national wide issue, was the special education teacher and related service vacancies that impacted the rate in which IEP teams can make compensatory service decisions. So for example, if you have a speech only student that is receiving services is key and fundamental that you have, of course, the general educator, speech and language pathologist there, and other key stakeholders. This was something that really impacted, again, the rate in which compensatory service decisions had to be made. We wanted to make sure that, of course, we had the key experts at the table. And so in some cases, that delayed school team's ability and IEP team's ability to make those decisions with our families.

Based on that challenge, we did develop an action plan for our central office team members, to assist and to step in to support those decisions with families around the compensatory services, because we wanted to make sure that we didn't delay those decisions from being made just because of vacancies. And so, we did integrate some of our central office team members, the service case managers where we had high vacancies, as well as our related service instructional specialists at the central office level to support those related service meetings where we needed those expertise.

Another challenge that we really faced, and again, I know our district was not alone, is, once decisions had been made, we did grapple with compensatory service providers maybe not being available. Our teachers and our related

service providers in our district have done a tremendous job providing compensatory service. But some of them, as we progressed throughout the school year, declined to continue to provide those services, because they're teaching during the day, and then providing services sometimes on the weekends and in the evenings. And so that was very challenging.

The way that we really overcame that challenge is that, we were able, again, to leverage our federal funds to increase the number of contracted service providers. We worked with other local school districts, in Maryland and outside of Maryland, to actually write other local school district contracts to provide those services. And our parents were our partners in helping us to recommend providers that we then vetted and approved through the district to be able to provide the services. So we definitely appreciate our parents as partners, as we had discussions at the IEP team table and we talked about where we saw the area of impact and where we wanted to provide those specific services, that in some cases, parents actually were able to recommend the vendor or the personnel to provide those services. And as we did our vetting, we then were able to bring them on as a contracted service provider for many of our students.

So those are the two challenges that I wanted to share, as it related to the development and implementation of our plan in our district.

Jasmine Bolton:

Thank you. Thank you so much for that. Candace, another concern that has been raised to us relates to the cost of providing compensatory education in this context. And, Wendy alluded to it earlier. Has your office addressed the budgetary concerns at the state level? And if so, how? And, how has that helped alleviate some of those concerns at the district level?

Candace Hawkins:

Great question. So, Colorado received additional funds from the US Department of Education through the American Rescue Plan Act, or ARP, as other states or all other states and entities, to help recover from the impact of the pandemic and to safely reopen our schools and sustain safe operations. So on our website, we advised our local education agencies that the ARP funds are supplemental to the regular allocations that they receive in Colorado, and must be used consistently with IDEA Part B statutory regulatory requirements, but that meant that they could be used to provide compensatory education services.

We also advised our school districts of the requirement to provide these same supplemental funds to our charter schools, in the same manner as they provide funds to their traditional schools. So, if the school district distributes funds to their traditional schools, they must distribute funds in the same manner to charter schools. And if services are provided to traditional schools, then services should be provided to charter schools in the same fashion.

Most of our districts put their funds towards teacher salaries, and we communicated clearly that these dollars could be used for comp ed. And a handful of our districts specifically referenced compensatory services in their

application, but most did not. We're also being really flexible in allowing amendments to budgets, as long as it's an IDEA allowable use.

And then Colorado is actually flowing an extra \$1.8 million in IDEA funds to our LEAs. This was a process that started before the pandemic, that now seems more important than ever. So, CDE, Colorado Department of Education is keeping less of its IDEA funds at the state level, and flowing more of these funds to our schools. We're also extending the life of the grant for our schools, so that funds they receive aren't stale and provide the greatest flexibility. In other words, the department's living off the reserves and freeing up more current year funding, so that schools have the full life of the grant and more flexibility to use the money for compensatory services.

We also have a fiscal stakeholder group, a stake group, Special Education Physical Advisory Committee, that has helped in the area of providing greater flexibility. Now, they work with our state special education dollars, but that has impacted then the use of federal dollars.

Jasmine Bolton:

Thank you so much for that. I know we're running short on time, but we've just got a few more questions. And the next one is for you, Wendy. Why is it important to distinguish between recovery services, recruitment services, et cetera, that are based on lost skills or regression stemming from the pandemic, and compensatory services remedy that results from the student not receiving the evaluation or services to which they are entitled? Could you explain a little bit more about that distinction, and how you've seen it play out in the field, in terms of measurement and implementation?

Wendy Tucker:

Sure. I mean, I think there's just a lot of confusion. There are a lot of terms being used. I think the term compensatory education historically meant fault. And so, places are trying to find other terms to use, and that's just added terms. And you have recovery for all students, and so it's all gotten really confusing. But I think the bottom line is, under the law, if a student with a disability was not provided a free appropriate public education, fault reasons or not, during the course of the pandemic, and they regressed or didn't regress, they didn't make progress or made progress, if they did not make the progress that they would've made, but for, then compensatory services become an issue and should be considered. And I think that's the important thing to take away from all the terms that are used and all the confusion around the terms.

I think the Department did a really good job of trying to clear that up in the Return to School Roadmap, talking about how extended school year is different than comp ed. I think the challenge is, that messaging has not gotten down to the school level. Because I think what's happening in the field, to answer the last part of your question, is, you have places, I think somebody alluded to, I think Cheryl alluded to, places that are saying, "Oh, we're going to give you... Sign a waiver for this and you'll get that." Or, "We're giving all kids something, so you get something." And there's just a lot of confusion, a lot of those myths that you mentioned, Jasmine, earlier are actually playing out in the field.

And again, the question and answers, I'm really glad that the department's going to have an opportunity to look at all the questions that are in the Q & A here, because I think they highlight a lot of what's happening in that area around the country.

Jasmine Bolton: Thank you for that, Wendy. Now, turning back to you, Candace, for students who missed services or received limited services for extended periods of time, it may take years to sufficiently remedy the effects of going without those services. How has your office thought about the timeline for the provision of compensatory services related to the pandemic? And, how have you communicated with districts on that question?

Candace Hawkins: So, another great question. Our COVID guidance, which I mentioned earlier, is still relevant and used by the Department to advise the field and to make our determinations through the state complaint process. We don't have anything, on the website or our COVID-related guidance, with an expiration date. And we know that many of our children are going to be experiencing educational challenges related to the pandemic for quite some time. And again, this could show up as regression or a lack of expected progress or new and emerging disability related needs. So we advised schools to make an individualized determination, and continue to offer compensatory services sufficient to allow the student to make progress on their IEP goals.

I'm going to talk a bit more about our guidance in the area of transition services, and I'll talk really fast. But I'm going to do it because I think it gets at this question in a really profound way, when you consider the purpose of IDEA, which is to prepare children with disabilities for further education, employment and independent living.

So consistent with that position, we've provided some specific guidance related to students who may have aged out during the pandemic. So some students with disabilities, we know, did not receive appropriate transition services to bridge the gap from secondary school to post-secondary education, and adult education, community participation, all those things. So we advised schools that a student aging out does not automatically relieve the school district of its responsibility to provide compensatory services, for an inability or failure to provide FAPE, including transition services during pandemic.

The importance of the provision of transition and pre-employment transition services has not changed. Therefore, the school in which the student was enrolled at the time of the inability or failure to provide FAPE due to COVID-related disruptions, must make an individualized determination whether and to what extent compensatory education services may be needed. And then we have other specific guidance related to those transition requirements and what IEP team should be thinking about as they make this determination.

Jasmine Bolton: Thank you. Thank you so much for that answer. So this is the last question, and I'd like to get everyone's input. I know we're running short on time, so maybe if

you could just spend a couple of minutes each answering. What successes have you seen, either in the implementation of FAPE or in the offer of compensatory services during the pandemic? And, Cheryl, let's start with you.

Cheryl Young-Parran: Sure.

Okay. We were fortunate to have teachers from different schools in his ESY. My son had an excellent teacher in the summer of 2020. The teacher was able to immediately recognize my son learned best with music. His ESY teacher was a formal music teacher, and she would use a guitar, or just sing to him, to get him involved in his lessons. And I don't know if you can still hear, he's making his music right now. He looked forward to seeing his teacher each day, and he was able to make great accomplishments. His ESY teacher agreed to send recommendations for my son's IEP to his school's teacher. Once the school system decided to add some of the regular school day activities like music, art, et cetera, my son was able to do some different type of activities, and he really enjoyed them. Thank you.

Jasmine Bolton: Thanks for that. That's such a beautiful story. Thank you. Trinell, how about you?

Trinell Bowman: So I think one of the successes that we were able to see is that, definitely, our students are resilient. And we were also able to partner with parents to really see progress of our students in different ways, and how we could support them in different ways. So as we navigated the virtual and hybrid and returning face to face, I think even looking at our curriculum frameworks and how we provide scaffolding supports and instruction to our students shifted. I think the other piece that was a success is we now have a virtual online academy option, for students who really were successful. And now, they're able to primarily get their instruction virtually. So those are some of the successes that I've seen, as it relates to the COVID-19 pandemic.

Jasmine Bolton: Okay. Wendy, I want to turn it over to you. Same question.

Wendy Tucker: Sure. It's easy to focus on the challenges, because there are so many of them. And I think I alluded to this earlier, I think one of the positives of the pandemic has been, what I think of as something really critical, is that, there was a window where parents and educators really had to connect and work together as a team. And so, parents became partners, which, under the IDEA, they're equal members of the IEP team, but they really became actual partners, and seeing educators and parents come together and do that hard work on behalf of kids. I often talk about, as a parent of a child with a disability, sending your child to school is kind of like a forced marriage. You either get lucky and you get married to a school that you like, or you don't. And it felt like the pandemic gave an opportunity for, I don't know, some dating. I don't know, the relationships were able to actually grow. And I think that that will benefit kids with disabilities and educators and families moving forward.

Jasmine Bolton: And finally, we'll wrap up with you, Candace.

Candace Hawkins: So, I would add, well, first, I don't usually see the good in my role, but what I have seen is what everybody has just talked about, creativity, innovation, and a real mutual interdependence between parents and educators that I think we're going to see the benefits of for quite some time.

Jasmine Bolton: Okay. Thank you so much to all of our panelists. It's been so great getting to talk with you about what you've experienced and what you've seen. I think it's been really helpful for us here at the Department, and hopefully, for all of you watching. And with that, I will turn it back over to you, Cindy.

Cindy Carraway-Wilson: Can I just say, wow. So all of you shared so much information and gave so many resources out and some examples. I want to say a big thank you to all of you for your expertise, your time and your willingness to share with everybody today.

In addition, I want to do a thank you to our audience. We have over 180 questions and comments in our Q & A box, and those questions and comments are going to be shared with the speakers and the Department of Education. We appreciate your engagement today. You being here is going to help us to address the compensatory services that have to be provided to our students. Thank you.

You can see on this slide that we have opportunities for you to gain more resources, both related to this subject, and also to other subjects related to school climate and learning. Please feel free to visit these websites at your leisure. The resources will be up there, including the recording for this webinar and all the resources that were mentioned.

I'd like to let all of you know that we have another Lessons from the Field webinar scheduled for August 24th, 2022. And it will be at about the same time. And this webinar will be the first in a series focusing in on substance use and mental health, and the impacts on learning.

Finally, I'd like to encourage everybody to take a few minutes to provide us some feedback. In just a moment, the link for our feedback form will go into chat. And we really take the information that you share with us, the additional questions that you ask, to be able to guide the resources that are created for you. So if you could take a few moments to click that Survey Monkey link and provide us that information, we greatly appreciate that. The feedback form will also show up when we end the webinar. So, pop up automatically for you as well.

And again, one final thank you, from all of us to all of you. We appreciate you being here today, and we hope you have a wonderful rest of the day.