



August 17, 2021

## General Guidance for Special Education Recovery Services and Supports

In 2021, the Minnesota Legislature and the governor passed a new law that requires the Minnesota Department of Education, school districts and charter schools to ensure that the impact of the COVID-19 pandemic on in-person instruction and access to a free appropriate public education are addressed ([Minnesota Session Laws – 2021, Chapter 13, Article 5, Section 1](#)). The law has several requirements for school districts and charter schools. This general guidance document briefly lists those requirements for school districts and charter schools and explains funding sources available to school districts and charter schools.

### ***A. Requirements for School Districts and Charter Schools***

#### *1. Individualized Family Service Plan (IFSP) and Individualized Education Program (IEP) Team Meetings*

The law requires that any school district or charter school that serves one or more students with a disability invite parents/guardians to an individualized family service plan (IFSP) or individualized education program (IEP) meeting as soon as practicable. The invitation must be sent no later than December 1, 2021, and the meeting must be held as soon as practicable. This requirement extends to students attending nonpublic schools and receiving special education services from a school district. The purpose of the meeting is to determine if the student has a lack of progress on IFSP or IEP goals, a lack of progress in the general education curriculum, or loss of learning or skills due to disruptions related to the COVID-19 pandemic that need to be addressed with special education services and supports: extended school year services, additional IFSP or IEP services, compensatory services, or other appropriate services. The Minnesota Department of Education has developed the [Updated Guide to Addressing the Impact of the COVID-19 Pandemic on Students with Disabilities](#) to guide school districts, charter schools, and IFSP and IEP teams in this process, including how to plan for services and how to include those services in the IFSP or IEP.

#### *2. Reporting Provided Services*

The law requires that school districts and charter schools report the services and supports they provide to students with disabilities in order to address lack of progress on IFSP or IEP goals, a lack of progress in the general education curriculum, or loss of learning or skills due to disruptions related to the COVID-19 pandemic. The data reported by school districts and charter schools, as well as the procedures for school districts and charter schools to report this data, are to be determined by the Minnesota Department of Education.

The Minnesota Department of Education is designing an online data collection system that will enable school districts and charter schools to meet the requirements of the new law by reporting which types of services they

are providing in the 2021-22 school year to students with disabilities in order to address lack of progress on IFSP or IEP goals, a lack of progress in the general education curriculum, or loss of learning or skills due to disruptions related to the COVID-19 pandemic, i.e., extended school year services, additional IFSP or IEP services, compensatory services, or other appropriate services.

The Minnesota Department of Education will provide more information in its [Special Education COVID-19 Resources](#) when the online data collection system is ready. The Minnesota Department of Education recognizes that although school districts and charter schools will hold IFSP and IEP meetings as soon as practicable, the types of services and actual number of students receiving each type of service will not be known until year-end data finalization.

### *3. Reporting Costs of Provided Services*

The law requires school districts and charter schools to report the costs of the services provided to students with disabilities in order to address lack of progress on IFSP or IEP goals, a lack of progress in the general education curriculum, or loss of learning or skills due to disruptions related to the COVID-19 pandemic. The cost data reported to by school districts and charter schools, as well as the procedures for school districts and charter schools to report this cost data, is to be determined by the Minnesota Department of Education.

The Minnesota Department of Education (MDE) will collect this cost data through current systems for annually collecting special education expenditure data as well as related fiscal data reported by school districts and charter schools to MDE. The Minnesota Department of Education recognizes that although school districts and charter schools will hold IFSP and IEP meetings as soon as practicable and provide those planned services during the 2021-22 school year, expenditures for those provided services may not be finished until July 1, 2022. The costs of services will not be known until data finalization sometime after that date.

### *4. MDE Information Contacts*

For more information concerning the requirement of school districts and charter schools to invite parents/guardians to IFSP or IEP meetings, as well as the requirements and process for these meetings, contact the Assistance and Compliance Division at the Minnesota Department of Education (MDE) by emailing [mde.assistance-compliance@state.mn.us](mailto:mde.assistance-compliance@state.mn.us) or by calling 651-582-8689.

For more information concerning reporting of provided services by school districts and charter schools to the Minnesota Department of Education (MDE), contact the Special Education Division at MDE by emailing [mde.special-ed@state.mn.us](mailto:mde.special-ed@state.mn.us) or by calling 651-582-8616.

For more information concerning reporting the costs of provided services by school districts and charter schools to the Minnesota Department of Education (MDE), contact the Special Education Funding Team in the School Finance Division at MDE by emailing [mde.spedefunding@state.mn.us](mailto:mde.spedefunding@state.mn.us) or by calling 651-582-8864.

## ***B. Compensatory, Recovery and Extended School Year (ESY) Services Funding (State Fiscal Year 2022)***

School districts and charter schools have several funding sources available to them to help cover increased costs due to compensatory, recovery and extended school year (ESY) services for State Fiscal Year 2022. In addition to the standard state and federal special education funding sources available to school districts, there are several new one-time federal sources including:

- Coronavirus Aid, Relief, and Economic Security (CARES) Act
- Coronavirus Response and Relief Supplemental Appropriation (CRRSA) Act
- American Rescue Plan (ARP) Act

Most of these funds flow to school districts and charter schools under the Elementary and Secondary School Emergency Relief (ESSER) fund. These formula funds may be used for special education costs incurred to prevent, prepare for and respond to the coronavirus. These funds may also be used for planning and implementing activities related to summer learning and supplemental after school programs, including providing classroom instruction or online learning during the summer months to address the needs of students with disabilities.

### *1. American Rescue Plan (ARP)*

In addition to the various ESSER funds made available to school districts and charter schools, the American Rescue Plan (ARP) of 2021 issued additional funding under the Individuals with Disabilities Education Act (IDEA) for State Fiscal Year 2022. These additional funds are available from July 1, 2021, through September 30, 2023. In total the Minnesota Department of Education (MDE) received the following additional amounts for each federal funding source:

- Part B Section 611 - \$45,023,838
- Part B Section 619 - \$3,783,339
- Part C - \$3,530,136

School districts and charter schools that receive regular Part B funds will receive these additional ARP IDEA funds. For school districts that are members of cooperatives that act as their fiscal host, these funds will be in addition to the regular Part B funds which flow to the cooperative. The additional Part B Section 611 amount is roughly 25% of what is normally flowed out to schools in a regular year. Therefore, schools can estimate that they will receive roughly 25% more in federal Part B Section 611 funds for SFY 2022. School districts and charter schools will access these additional funds through the State Educational Record View and Submission (SERVS) Financial system. Applications have been loaded for State Fiscal Year 2022. Funds have been loaded into SERVS as of the release of this guidance document. The amounts in SERVS are not final as they were based on prior year data. Amounts will be recalculated in February 2022 when we have final fall Minnesota Automated Reporting Student System (MARSS) data.

American Rescue Plan (ARP) IDEA funds may be used for all allowable purposes under Part B of IDEA and are subject to all requirements and provisions that apply to IDEA funds, including requirements and provisions under IDEA, the Education Department General Administrative Regulations (EDGAR) and the Office of Management and Budget (OMB) Uniform Guidance.

The Office of Special Education Programs has issued general guidance around uses of these funds and reminds school districts and charter schools to consider sustainability. School districts and charter schools should focus on challenges from the pandemic, including:

- School re-entry
- Disruption in the education of children with disabilities
- Mental health services

School districts and charter schools should also focus on equity issues in special education and early intervention services.

The new law states, “if the commissioner determines the costs are eligible for funding using the additional funds set aside under the American Rescue Plan Act (ARP), Section 2014, for the Individuals with Disabilities Education Act (IDEA), the commissioner may allocate the federal funds for 100 percent of the costs of the services provided.” Unfortunately this legislation was passed prior to guidance from the federal Office of Special Education Programs (OSEP). The ARP IDEA Part B additional funds must be fully distributed to school districts and charter schools based on the same calculation as regular Part B funds. Therefore, the commissioner doesn’t have set aside funds available to fulfill the language above. Rather these funds have been allocated to school districts and charter schools as reimbursement for their costs directly related to this law.

## *2. Compensatory Services*

Compensatory services may result from resolution of a special education complaint, due process hearing or focused monitoring corrective action, specifically in cases where a school district or charter school did not comply with federal and state special education requirements, resulting in educational loss and a denial of free appropriate public education (FAPE) for a student with a disability.

Two situations illustrate the circumstances in which state special education aid may pay for compensatory services:

### *Situation #1*

If the judgement was for failure to provide a services and the local educational agency (LEA) had staff employed or contracted for the service over the time period, then services rendered after the judgement would not be eligible for state special education aid since the school district or charter school was already reimbursed for the services, but failed to provide them adequately. The school district or charter school would be able to use their various ESSER funds to pay for the service in this situation.

### *Situation #2*

If the school district or charter school did not employ or contract for the specific service over the questioned time period, then the school district or charter school would be able to claim the cost for state special education aid for the new staff or service provider of the provided compensatory services.

### *3. Maintenance of Effort*

The Minnesota Department of Education (MDE) reminds school districts and charter schools to be mindful of Maintenance of Effort (MOE). Under section 613(a)(2)(A)(iii) of the IDEA, a school or charter school may not reduce the level of expenditures for the education of children with disabilities made by the school or charter school from local funds below the level of those expenditures for the preceding fiscal year. Most recovery, compensatory and even additional extended school year (ESY) services will occur in School Fiscal Year 2022. If the service is new, above and beyond what was provided before (i.e. pre-pandemic), then MDE would suggest that schools and charter schools use their various ESSER or ARP IDEA funds to help cover the new cost. If school districts and charter schools increase their total state special education spending in School Fiscal Year 2022 due to additional compensatory, recovery and extended school year (ESY) costs, they will have to maintain that level of spending for all years thereafter.

### *4. MDE Information Contact*

For more information concerning special education recovery services and supports funding, including application processes, contact the Special Education Funding Team in the School Finance Division at the Minnesota Department of Education (MDE) by emailing [mde.spedfunding@state.mn.us](mailto:mde.spedfunding@state.mn.us) or by calling 651-582-8864.