

Sample Maryland State Department of Education IDEA Complaint

Students with disabilities are entitled to a free, appropriate public education (FAPE), which means individualized special education and related services designed to meet the child's unique needs. Students with disabilities continue to be entitled to FAPE during the COVID-19 pandemic. Many students with disabilities have had difficulty accessing virtual learning or have not received services at all during the pandemic. Students with disabilities may be entitled to compensatory (make-up) education if they have not received a FAPE. During the COVID-19 pandemic, while school buildings were closed or have re-opened only partially, many students may not have received timely assessments or full implementation of their IEPs, or they may not have benefited from distance learning. For example, your child may not have received an appropriate education and may be entitled to compensatory education if they:

- had difficulty accessing virtual learning;
- have not made progress on their IEP goals;
- have not had their IEPs implemented;
- have not had timely assessments;
- have missed related services; and/or
- have lost skills.

Federal and state guidance direct local school systems and public agencies to consider compensatory education when schools have resumed normal operations and there is sufficient data and information to make decisions about the services students need.

There is a one-year deadline to file complaints with the Maryland State Department of Education (MSDE) from the date the violation occurred. In addition, you should consider filing your own complaint with MSDE as soon as possible to preserve your child's rights to receive compensatory education services back to one full year prior to the filing of your complaint. Attached is a sample complaint you may use to fill in specific information about your child and file with MSDE. Replace all *[bracketed italic sections]* with specific information about your child. Also attach any supporting documentation, including recent IEPs, progress reports, PWNs, CLPs, etc. The completed complaint should be sent to Marcella Franczkowski via email at Marcella.franczkowski@maryland.gov or via mail to:

Marcella Franczkowski
Assistant Superintendent
Division of Early Intervention and Special Education Services
200 West Baltimore Street
Baltimore, Maryland 21201

Please also send a copy of the complaint to your local special education director (see the list below) and to Disability Rights Maryland at aartis@disabilityrightsmd.org. If you have any questions regarding this process, please contact Susana Barrios at SusanaB@disabilityrightsmd.org.

Local Special Education Directors

- Allegany County: Debra Metheny: debra.metheny@acpsmd.org
- Anne Arundel County: Diane McGowan and Bobbi Pedrick:
djmcgowan@aacps.org bpedrick@aacps.org
- Baltimore City: Debra Brooks: DBrooks@bcps.k12.md.us
- Baltimore County: kpierandozzi@bcps.org
- Calvert County: Christina Harris: HarrisC@calvertnet.k12.md.us
- Carroll County: NRSHOCK@carrollk12.org
- Caroline County: anthony.elizabeth@ccpsstaff.org
- Cecil County: Sarah Farr: sjfarr@ccps.org
- Charles County: Dr. Arden Sotomayor: asotomayor@ccboe.com
- Dorchester County: Kim Waller: wallerk@dcpsmd.org
- Frederick County: Dr. Linda Chambers and Troy Keller:
linda.chambers@fcps.org troy.keller@fcps.org
- Garrett County: Dr. Chelsie Manges: Chelsie.manges@garrettcountysschools.org
- Harford County: Michael Thatcher: mike.thatcher@hcps.org
- Howard County: Dr. Terri Savage: terrell_savage@hcpss.org
- Kent County: Dr. Wendy Keen: wkeen@kent.k12.md.us
- Montgomery County: Philip A. Lynch: Philip_A_Lynch@mcpsmd.org
- Prince George's County: Trinell Bowman: trinell.bowman@pgcps.org
- Queen Anne's County: Joeleen Smith: joeleen.smith@gacps.org
- St. Mary's County: Scott Saszczerbiak: saszczerbiak@smcps.org
- Somerset County: Brandy Brady: bbrady@somerset.k12.md.us
- Talbot County: Kristin Mentges: kmentges@talbotschools.org
- Washington County: Dr. Jeffrey Gladhill: gladhjef@wcps.k12.md.us
- Wicomico County: Bonnie L. Walston: bwalston@wcboe.org
- Worcester County: Rae Ann Record: rnrecord@worcester.k12.org
- Maryland School for the Blind: Joshua Irzyk: joshuai@mdschblind.org
- Maryland School for the Deaf: Kevin Strachan: kevin.strachan@msd.edu
- JSES: Lindsey Goodrich: Lindsey.goodrich@maryland.gov

[Date]

Marcella Franczkowski
Assistant Superintendent
Division of Early Intervention and Special Education Services
200 West Baltimore Street
Baltimore, Maryland 21201
Marcella.franczkowski@maryland.gov

Re: IDEA Complaint on Behalf of [Student's Name and Date of Birth]

Dear Ms. Franczkowski:

My child, [Student's Name], was a student at [School Name(s)] during the 2019-2020 and 2020-2021 school years, including the time in the spring of 2020 when schools were ordered closed due to the COVID-19 pandemic. Our current address is [Include Child's Address.] [Student's Name] has the disability of [Student's Disability.] This disability affects my child by [explain how it impacts education – review the first page of your child's IEP to help get started]. During the pandemic, my child was not provided a free, appropriate education because:

[Check however many are applicable and add the date]

My child received no special education services from [date to date].

[Include an explanation if checked]

My child only received partial special education services from [date to date].

[Include an explanation if checked]

My child received no related services from [date to date].

[Include an explanation if checked]

My child only received partial related services from [date to date].

[Include an explanation if checked]

My child did not receive any in-person services despite their inability to benefit from distance learning or only received in-person services from [date to date].

[Include an explanation if checked]

My child's IEP was not implemented from [date to date].

[Include an explanation if checked]

[Use this space to provide further explanation for any of the items checked above. Add any specific problems your child experienced during virtual learning such as problems with technology access, instruction, accommodations, or related services.]

Example 1: My child's IEP includes speech therapy 2 times a week for 30 minutes each time, but my child only received 1 session for 15 minutes a month between March, 2020 and September, 2020.

Example 2: My child was able to use language to communicate wants and needs before school buildings closed and now just whines or points to things.

[Student's name] has lost progress during the [2019-2020 and/or 2020-2021] school year because:

[Check however many are applicable]

My child was not provided any special education services from *[date to date]*

[Include an explanation if checked]

My child was only provided some special education services from *[date to date]*

[Include an explanation if checked]

My child was not provided any related services from *[date to date]*

[Include an explanation if checked]

My child was only provided some related services from *[date to date]*

[Include an explanation if checked]

My child was not provided timely assessments from *[date to date]*

[Include an explanation if checked]

[Use this space to provide further explanation for any of the items checked above. Add information on specific problems with technology access, instruction, accommodations, modifications, timelines that further explain the five choices above.]

Example: "Since virtual learning began, my child has basically received no education. Due to her anxiety, she was unable to participate in virtual learning sessions. When I help her sign on to class and walk away, she generally gets upset and slams the laptop shut, throws it down, or just runs out of the room. I shared my concerns with the IEP team several times but they were unable to provide any solutions in helping her access her education."

I am asking that MSDE find that the Local School system did not provide my child with a FAPE between _____ *[date]* and _____ *[date]* and that an individualized determination regarding eligibility for compensatory education for *[Student's Name]* must be made when the IEP team has gathered the information and data necessary for making such determination. Further, in making this determination, IEP teams must look back to March 30, 2020.

Although I appreciate the district's efforts to provide some of my child's special education and related services during the difficult period when schools were closed, the failure to provide a FAPE and special education services contained in my child's IEP has led to a failure of my child to achieve their IEP goals and objectives. For these reasons, I am filing this complaint to preserve *[Student's Name]*'s entitlement to compensatory services for all periods of time when FAPE was not provided from March 30, 2020 until such time as his/her/their IEP is fully implemented.

Sincerely,

[Parent Name]
[Phone Number]
[Email Address]

Cc: *[Local Special Education Director]*

Disability Rights Maryland