

Ed Department Cracks Down On Special Ed Failures During COVID-19

by Michelle Diament | April 29, 2022



The U.S. Department of Education's Office for Civil Rights has reached an agreement with the Los Angeles Unified School District over concerns that students with disabilities were not provided appropriate services during the pandemic. (Anne Meadows/Flickr)

Federal officials have reached an agreement with one of the nation's largest school districts after students with disabilities were shortchanged during the COVID-19 pandemic and advocates say the deal should prompt other districts to re-examine their actions too.

The U.S. Department of Education's Office for Civil Rights said this week that it found that the Los Angeles Unified School District failed to provide students with disabilities the services promised in their individualized education programs, or IEPs, and Section 504 plans while classes were offered remotely.

Services were limited for reasons other than the individualized needs of students and the district did not properly track what was provided to students with disabilities, the agency found. In addition, the investigation determined that schools counted emails and phone calls to students and parents as the provision of services, staff were told that the district was not responsible for compensatory education during COVID-19 school closures because they were not at fault for the closure and the district did not develop or implement a plan to address circumstances where students did not receive a free appropriate public education, or FAPE, during remote learning.

Under the agreement, the Los Angeles schools have committed to establish, implement and publicize a plan for providing compensatory education to children who did not receive FAPE during the pandemic. The district will convene IEP and Section 504 teams to assess

whether students were provided with the services to meet their needs and determine whether compensatory education is warranted.

“Today’s resolution will ensure that the more than 66,000 Los Angeles Unified students with disabilities will receive the equal access to education to which federal civil rights law entitles them, including compensatory education for any services the district did not provide during the COVID-19 pandemic,” said Assistant Secretary for Civil Rights Catherine E. Lhamon. “I am deeply grateful for the district’s commitment now to meet the needs of its students with disabilities.”

A spokesperson for Los Angeles Unified said the district “remains dedicated to helping all students, including students with disabilities, recover from the pandemic and achieve their educational goals.”

The Education Department has repeatedly impressed upon schools that the Individuals with Disabilities Education Act and the right to FAPE remain in force despite the challenges of the pandemic, with the agency issuing guidance in February focused on the importance of providing compensatory services.

In addition to Los Angeles Unified, the Education Department’s Office for Civil Rights said in January 2021 that it was investigating the Indiana Department of Education, Seattle Public Schools and Fairfax County Public Schools in Virginia over concerns that they failed to provide appropriate services to students with disabilities during the pandemic. The investigation of the Indiana Department of Education was subsequently dismissed, but the other investigations remain ongoing, the agency said.

Denise Marshall, CEO of the Council of Parent Attorneys and Advocates, or COPAA, which advocates for the rights of students with disabilities and their families, said that the agreement should send a message to school districts nationwide.

“LAUSD and other districts across the country have exacerbated the problems raised by COVID-19 by blocking access to needed compensatory services. We hope today’s decision propels LAUSD and all districts into real-time action to individualize plans for students with disabilities so that each student can access the services they need to make necessary gains,” Marshall said. “Every district in this nation needs to closely review OCR’s resolution agreement, and earlier guidance to do what is right and just by their students and families.”