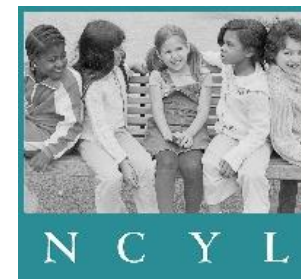


Sacramento City Unified School District's Duty to Complete Special Education Assessments During COVID-19



Welcome!

- All participants will be muted until the Q&A section at the end. During the Q&A section, please mute if you are not speaking.
- Please place questions in the chat box, or wait to ask the question during the Q&A section.
- All questions will be answered during the Q&A section.
- The PowerPoint will be provided by email as well as a recording of the presentation.

Organizations Hosting Today



Disability Rights California (DRC)



Equal Justice Society (EJS)



National Center for Youth Law (NCYL)



Western Center on Law & Poverty (WCLP)

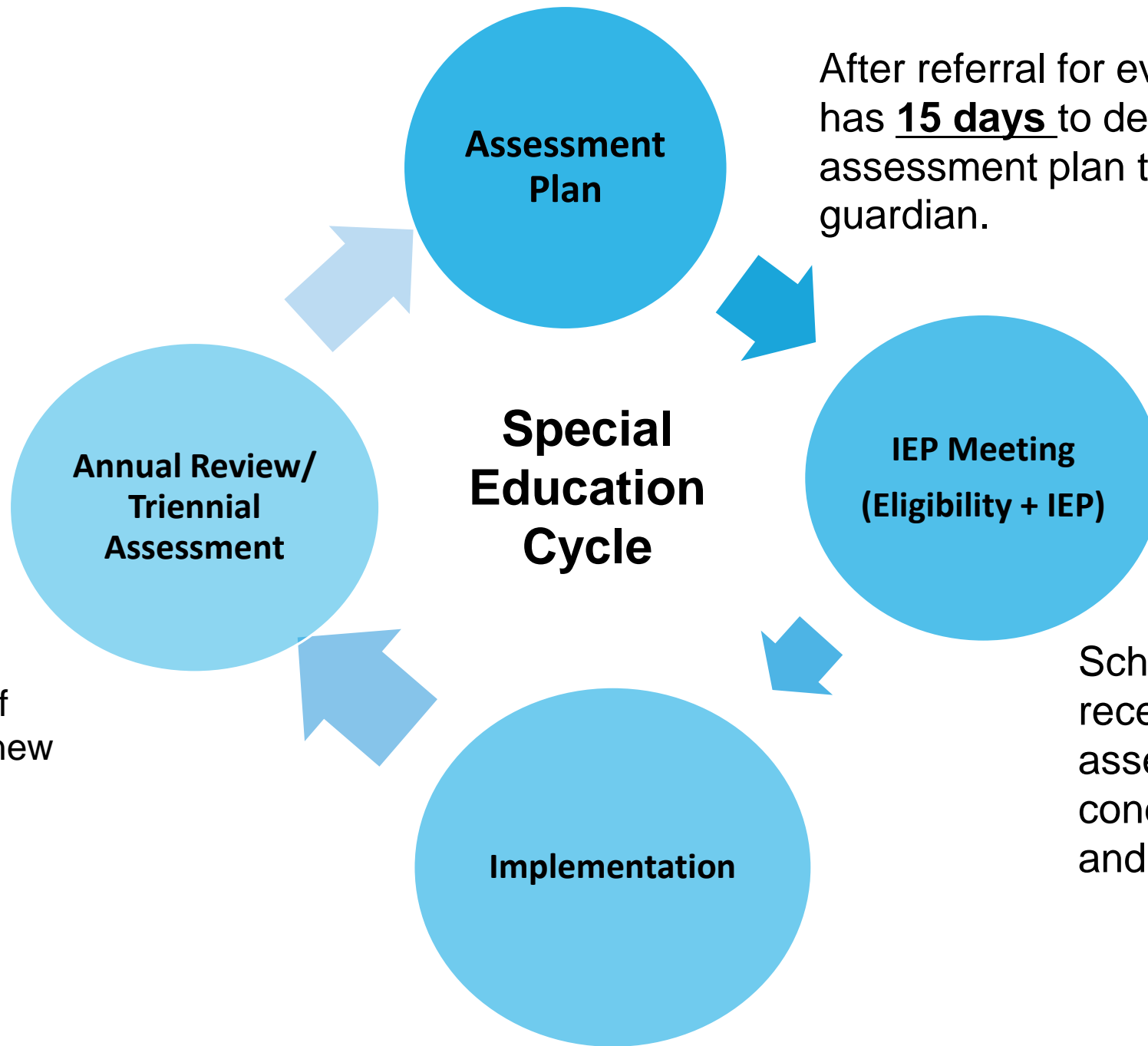
Agenda

1. Special Education Assessments During COVID-19
2. CDE's January 19, 2021 Decision Against SCUSD
3. SCUSD's Actions Since CDE's January 19, 2021 Decision
4. Requesting Compensatory Education if Your Child's Assessment has Been Delayed
5. Filing Compliance Complaints with the CDE Against Other School Districts
6. Q&A

Special Education Assessments During COVID-19

Special Education Assessments

- ❖ Special education assessments are formal evaluations of a student's disability or suspected disability.
- ❖ Special education assessments are critical to identifying a student's needs and providing them with the Free Appropriate Public Education (FAPE) to which they are legally entitled.
- ❖ **Initial Assessments:** Determine eligibility for special education.
- ❖ **Triennial Assessments:** Conducted at least every three years to determine student's continued need for special education.



After referral for evaluation, school has **15 days** to develop and send assessment plan to the parent/guardian.

School has **60 days** from receipt of signed assessment plan to conduct assessments and hold IEP meeting

A triennial review, including a review of eligibility based on new assessments is conducted at least **every 3 years.**

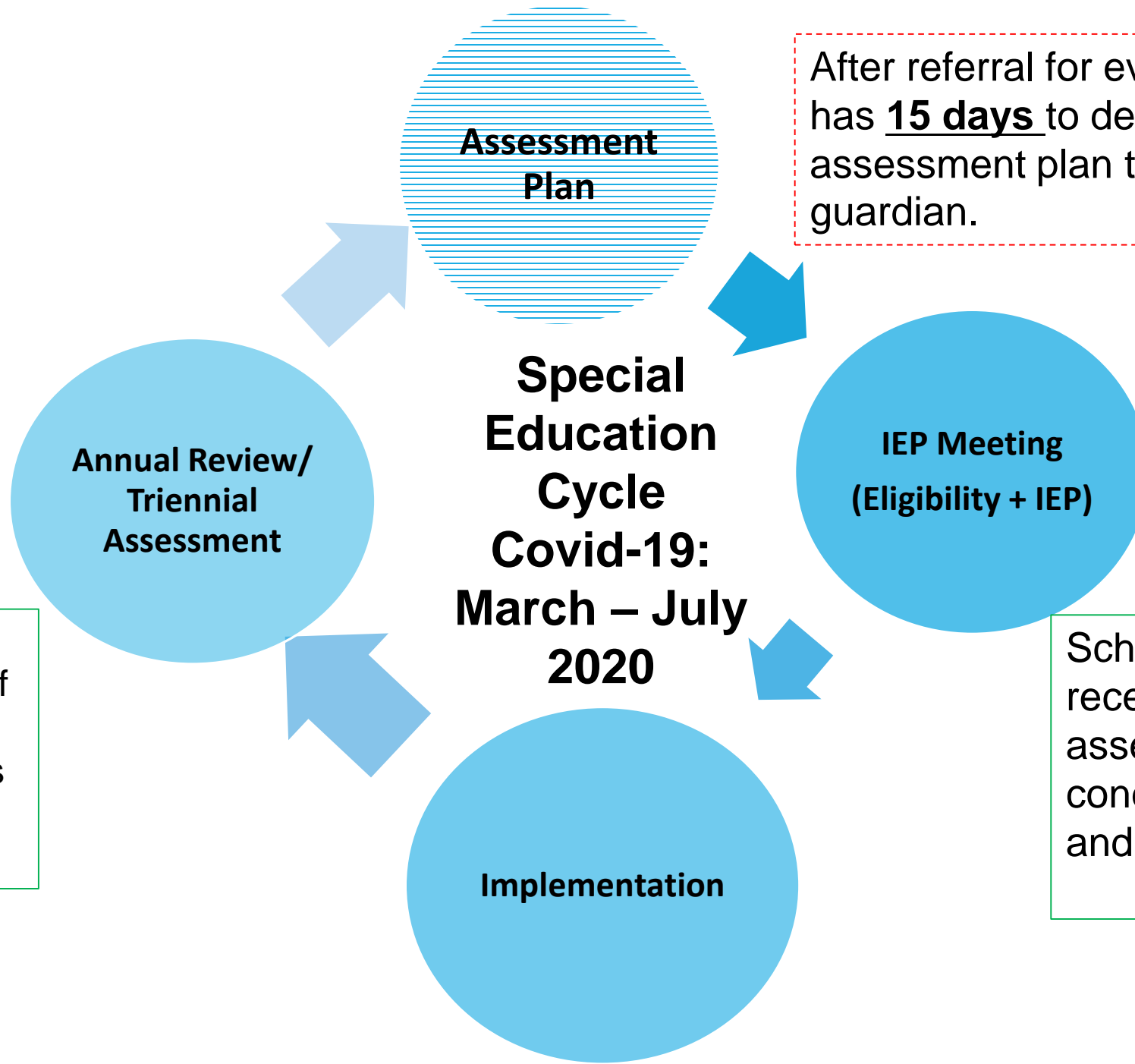
Assessment Plan

**IEP Meeting
(Eligibility + IEP)**

Special Education Cycle

Implementation

**Annual Review/
Triennial Assessment**

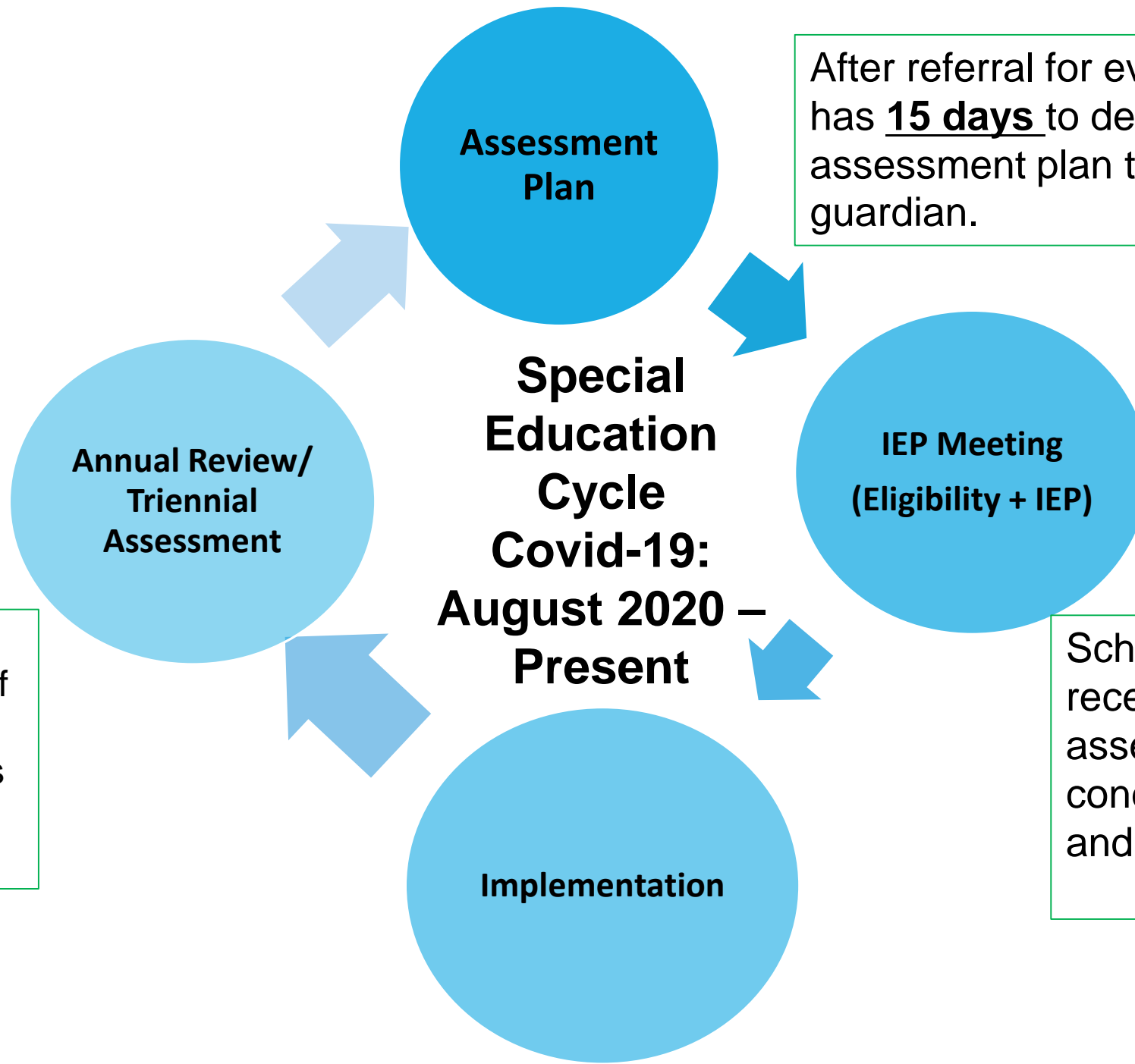


After referral for evaluation, school has **15 days** to develop and send assessment plan to the parent/guardian.

*Senate Bill 117
paused the 15-day
timeline from March
2020 through July
2020.*

A triennial review, including a review of eligibility based on new assessments is conducted at least **every 3 years.**

School has **60 days** from receipt of signed assessment plan to conduct assessments and hold IEP meeting



After referral for evaluation, school has **15 days** to develop and send assessment plan to the parent/guardian.

*Senate Bill 820
reinstated the 15-day
timeline.*

A triennial review, including a review of eligibility based on new assessments is conducted at least **every 3 years.**

School has **60 days** from receipt of signed assessment plan to conduct assessments and hold IEP meeting

Implementation

Special Education Assessment Timelines During Covid-19

In September 2020, the California Department of Education (“CDE”) made clear that school districts must comply with state and federal special education guidelines, and that public health guidance allowed for in-person assessments.

California Department of Education, Special Education Guidance for COVID-19 (Sept. 30, 2020)



Special Education Assessments in SCUSD During Covid-19

- ❖ SCUSD has not conducted special education assessments since March 2020.
- ❖ SCUSD now has 420 initial assessments overdue.
- ❖ CDE found the District has more than 1,000 triennial assessments overdue. The District claims to have 431 triennial assessments overdue.



CDE's January 19, 2021 Decision Against SCUSD

Compliance Complaint Against SCUSD

On November 20, 2020 Disability Rights California (“DRC”) filed a compliance complaint with the California Department of Education on behalf of one SCUSD student **and all similarly situated students** within SCUSD alleging the District was in **violation of its duty to conduct timely special education assessments.**



CDE's January 19, 2021 Order

❖ On January 19, 2021, CDE found that SCUSD was in violation of the law. CDE ordered the District to take the following corrective actions:

By February 2, 2021

- **Train District staff on special education assessment compliance.**
- Provide CDE a **list of all students** with overdue assessments.
- **Develop a plan to complete assessments** overdue from March to November 20, 2020 by July 30, 2021 and provide the CDE with **weekly progress reports.**



CDE's January 19, 2021 Order

By February 19, 2021

- **Provide affected parents and guardians a letter** that describes the District's plan for completing the individual student assessments.

By July 30, 2021

- **Complete overdue assessments** from March to November 20, 2020 and hold an IEP meeting.
- **Provide letters to parents regarding a plan for compensatory services**, if the IEP team determines that compensatory education services are needed.



SCUSD's Actions Since CDE's January 19, 2021 Decision

SCUSD's Actions Since CDE's January 19, 2021 Decision

- ❖ The District has proposed a plan to tackle 20% of the backlog each month.
- ❖ BUT, the District has not reached agreement with the Sacramento City Teachers Association (SCTA) to conduct special education assessments.



SCUSD's Actions Since CDE's January 19, 2021 Decision

❖ On January 27, 2021, Superintendent Aguilar sent SCTA a letter explaining the CDE decision and demanding the following:

“the District and SCTA must reach an agreement on or before February 1, 2021, otherwise the District will make necessary arrangements to have these assessments conducted by independent third party qualified assessors.”

❖ The District and SCTA did NOT reach agreement by February 1, 2021, but the District has continued to negotiate with SCTA.



Requesting Compensatory Education if Your Child's Assessment has Been Delayed

What is Compensatory Education?

- ❖ Compensatory education or “comp-ed” is a legal remedy used as a way to make students whole when the school district has been found not to be providing free appropriate public education (“FAPE”) for a sustained amount of time.
- ❖ Comp-ed must be tailored to a student’s individual needs.
- ❖ Examples include:
 - ❖ Tutoring
 - ❖ Reading Intensive Interventions
 - ❖ Additional Counseling



CDE's January 19, 2021 Order: Compensatory Education

- ❖ The CDE's January 19th order leaves it up to the IEP teams to determine if a student needs compensatory services “over and above the regular IEP services.”
- ❖ The US Department of Education March 16, 2020 guidance also directs IEP or 504 teams to determine if a student needs compensatory education because of services missed due to Covid-19 and “including to make up for any skills that may have been lost.”



How is compensatory education usually calculated?

Many considerations, including:

- Amount of time/duration that the student was denied FAPE.
- What services are required to bring the student to where they would be had the district provided them with FAPE.



Tips for Requesting Comp-Ed

- ❑ When: Here, during the IEP meeting(s) where the District reviews the assessment(s).
- ❑ But, begin documenting student's need for compensatory education now.
- ❑ Request in writing a copy of the assessment *before* the IEP meeting.
- ❑ California law requires that parents be allowed to receive and to examine copies of all school records within five business days from the date the request was made by the parent either in writing or orally.



Tips for Requesting Comp-Ed: Initial

If the District delayed your student's initial special education assessment, consider the following:

- Did the District find your student eligible?
- If yes, consider requesting compensatory services for each of their IEP services in the amount they would have received if the District assessed them on time. Calculate the time from when the District should have completed the assessment through when the District actually completed the assessment.
- Consider whether your student needs extra, intensive services, in addition to their IEP to make up for skills lost. Document the reasons why and be prepared to present this to the IEP team.

Tips for Requesting Comp-Ed: Triennial

If the District delayed your student's triennial evaluation, consider the following:

- Document any missed services; consider requesting compensatory education in the amount of services missed.
- Did the triennial result in any increased services? If yes, consider requesting compensatory education for the increased amount your student would have received if the District would have assessed on time. Calculate the time from when the District should have completed the assessment through when the District actually completed the assessment.
- Consider whether your student needs extra, intensive services, in addition to their IEP to make up for skills lost. Document the reasons why and be prepared to present this to the IEP team.

What if I don't agree with the District's offer or assessment?

- ❖ You do not have to consent to something you do not agree with. You may consent to an IEP for implementation purposes only.
- ❖ If you disagree with the assessment, consider requesting an independent educational evaluation (IEE) at public expense.
- ❖ If you cannot reach agreement with the District on the offer of compensatory education, consider filing a due process complaint with the Office of Administrative Hearings.
- ❖ Consider requesting assistance from DRC or your local Parent Training Information Center (DREDF).

Additional Advocacy Resources

Filing Compliance Complaints with the CDE Against Other School Districts

California Department of Education:

<https://www.cde.ca.gov/sp/se/qa/cmpltproc.asp>

Time Limit: One year

May file as a systemic, “various,” complaint

Submit evidence, including:

- Signed Assessment Plan
- IEPs
- Declarations (written and signed testimony about your experience)
- Systemic information including from board meetings, prior written notices, or communications to families.

The CDE has 60 days to review and render a decision.

Resources

DRC Intake: **1-800-776-5746**

DRC Covid-19 Education Page:

<https://www.disabilityrightsca.org/post/coronavirus-education-frequently-asked-questions>

- How to Request an IEP
- Information on Limited Consent to Distance Learning Plan
- Service Log Template

Disability Rights Education Defense Fund (DREDF) – Parent Training Information center for Sacramento County - (510) 644-2555

Questions?

- FOR INFORMATION, ADVICE, AND REFERRALS ABOUT YOUR CHILD'S SPECIAL EDUCATION: DRC INTAKE: 1-800-776-5746
- FOR QUESTIONS ABOUT CDE COMPLAINT AGAINST SCUSD: LAUREN LYSTRUP – LAUREN.LYSTRUP@DISABILITYRIGHTSCA.ORG