|  |  |
| --- | --- |
| **Compensatory Education** | **Compensatory Services** |
| Awarded as a remedy by a hearing officer or court for a FAPE denial | Determined necessary by an IEP team for to make the child “whole” for losses caused by mandated school closings |
| Typically awarded hour-for-hour: one hour of compensation for every hour of appropriate service denied | *Should* be provided to the extent necessary to restore the student to the position in which he or she would have been but for the closings |
| Not awarded based on “fault,” but on the appropriateness of the student’s program and the progress he or she realized | Not awarded base on “fault,” but on the effect of mandated school closings on the student’s progress |
| Must supplement, not supplant, existing instruction | Same |
| Can be provided as services in kind by LEA staff, but is typically monetized, allowing parents to purchase the awarded hours of compensatory education in the private market at a reasonable hourly rate | Should be services in kind provided by the LEA, unless the parents and the LEA agree otherwise |
| Documented in a hearing officer or court order or in a settlement agreement | Documented in the IEP, NOREP, or both, or in a separate “compensatory education plan,” if the LEA prefers |
| Available beyond the regular school day, week, or year, or beyond the period of school eligibility (graduation or age 21) | Same, but should not be delayed |
| Parent behavior can limit amount awarded, but typically only when that behavior prohibited the LEA from implementing otherwise appropriate programming | Parent or student refusal to participate in “continuity of education” services *might* affect whether, and how much, is owed, but this issue remains an open question |
| Determination is based exclusively on the student’s individual needs and the student’s expected rate of progress | Determination *might* depend on the extent to which the student’s closure-related losses compare to those of *all other students*, but this issue remains an open question |
| Can be the subject of a due process hearing | Same |