

# Washington's Roadmap for Special Education Recovery Services: 2021 & Beyond

The purpose of this resource is to help Individualized Education Program (IEP) teams determine recovery services<sup>1</sup> needed for students with disabilities due to the impact of COVID-19 and is supplemental to the Office of Superintendent of Public Instruction (OSPI) general education guidance. As a result of the pandemic, every student in Washington experienced unprecedented interruption to in-person learning. Many students did not make appropriate progress<sup>2</sup> on pre-COVID IEP goals due to school facility closures, missed or delayed services, or barriers accessing remote instruction, despite efforts of school districts, educators, families, and students.

OSPI's expectation, consistent with the need to provide a free appropriate public education (FAPE), is that IEP teams consider the individual need for recovery services for every student with an IEP from preschool to age 21. **Families should not have to make a special request for this process to occur.** IEP teams should review the need for recovery services as part of the IEP process and prioritize individual decisions based on student need. To be clear, OSPI is not requiring districts to immediately schedule and hold IEP meetings for every student with an IEP. These decisions may need to take place prior to the start of the 2021–22 school year, prior to the annual IEP review date, or could happen at the upcoming annual review date if the district and parent agree. Many IEP teams have been engaging in these discussions during the 2020–21 school year and have started implementing processes for determining and providing individualized recovery services.

School district special education director involvement is necessary for development and implementation of the district Academic and Student Well-being Plan, due to OSPI by June 1, 2021. This supplemental guidance provides additional information specific to recovery services for students with IEPs and does not replace those requirements. This guidance was adapted from a variety of sources, including previous OSPI guidance, and other state, federal, and technical assistance resources. References to the OSPI Special Education Q&A are noted in parentheses. The contents of this document address:

- [Priorities for Recovery Services](#)
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- [Determining Recovery Services](#)
- [Documenting Recovery Services](#)
- [Additional Resources to Support Recovery Services](#)
- [Appendix: Progress Monitoring \(is the Key!\)](#)

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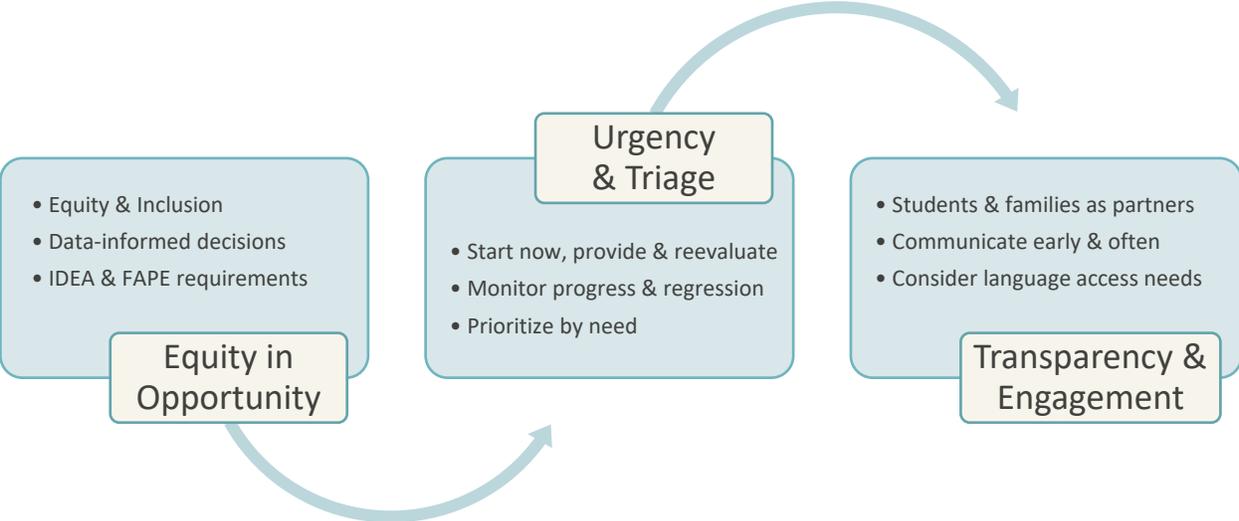
<sup>1</sup> Recovery Services is a term used by OSPI to describe additional services provided to students with disabilities to address the ongoing impact of the COVID-19 pandemic and spring 2020 school facility closures.

<sup>2</sup> For students eligible for special education, IDEA requires school districts to provide students a free appropriate public education (FAPE) by providing each eligible student with an IEP designed to meet that student's unique needs that is "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." 20 U.S.C. 1412(a)(1); *Endrew F. v. Douglas County School District RE-1* 137 S.Ct. 988, 69 IDELR 174 (2017).



# Priorities for Recovery Services

Not every student with an IEP will require recovery services, and recovery services are not necessarily required for the same amount of time that was missed (i.e., minute for minute, hour for hour). Recovery services should focus on helping the student achieve the level of progress on IEP goals expected if the pandemic had not occurred. **These services should not be based on a percentage or formula calculation; the timeline and amount of recovery services should be an individualized decision for every student with an IEP.**



Parents and families are key partners in identifying the need for recovery services, as they generally have current information about the student from the time of the school facility closures and since. As with all special education processes, school districts must provide language access supports, including interpretation and translation as needed, to support decisions about recovery services.<sup>3</sup> School districts must ensure parents have the information and supports necessary to participate in the decision-making process.

## Defining Recovery Services

**Recovery Services:**<sup>4</sup> This term is used by OSPI to describe the special education and related services and supports provided to students with disabilities to address the ongoing impact of the COVID-19 pandemic and spring 2020 school facility closures. Recovery services, which may include compensatory services, provide additional special education and related services to students with disabilities and are designed to address lack of appropriate progress on IEP goals, due to missed or limited special education and related services or for other reasons as a result of

<sup>3</sup> [WAC 392-172A-03100](#) and [WAC 392-172A-05001](#)

<sup>4</sup> Use of the term “recovery services” in this document is not intended to eliminate or reduce obligations to provide compensatory education for special education services that were denied or inaccessible during the school facility closure. Compensatory services could still be ordered for a finding of violation through the special education dispute resolution processes.

the pandemic.<sup>5</sup> **Importantly, recovery services decisions are not the result of a dispute, but rather should be a collaborative response by the IEP team.**

- There is no requirement that recovery services be provided in the same amount that was missed (i.e., minute for minute, hour for hour). (Q&A B-1, B-4)
- For most students with an IEP, OSPI recommends that recovery services generally be provided outside of the school day, which could include services during the summer. If the IEP team determines recovery services will be provided during the school day, teams should ensure this does not lead to a more restrictive placement for the student or contribute to additional general education instruction being missed. (Q&A footnote, Q&A B-1, B-4)
- Examples of how recovery services could be provided outside of the school day include but are not limited to:
  - Additional in-person instruction before or after school.
  - Additional in-person or teletherapy services (e.g., Speech and Language Therapy, Occupational Therapy, Physical Therapy,) before or after school or during school breaks.
  - Additional transition services before or after school or during school breaks.
  - Additional remote services (asynchronous/synchronous) before or after school or during school breaks, if the student has demonstrated adequate progress from services provided remotely.
  - Additional special education services during scheduled school breaks (i.e., summer, winter, spring).
  - Additional special education services on district release days.
  - Additional in-person structured play groups or peer social groups before or after school or during school breaks.

**Compensatory Education/Services:** Districts and parents may be more familiar with the term compensatory education, which is an equitable remedy not specifically defined in the Individuals with Disabilities Education Act (IDEA). Compensatory education has been defined by courts as services that remediate a denial of FAPE. The purpose of compensatory educational services is to remedy a district's inability to provide a student with appropriate special education services during the time the student is or was entitled to a FAPE.<sup>6</sup> An award of compensatory services seeks to place the student in the position they would have been in, had the student not been deprived of special education and related services. Compensatory education is designed to ensure a student is appropriately educated within the meaning of the IDEA and thus, generally, there is no requirement to provide day-for-day or minute for minute compensation for time missed.<sup>7</sup>

- While often associated with a written state complaint or due process decision, the provision of compensatory education does not require a finding of fault on the part of a district; instead, compensatory education remedies an *inability* to provide FAPE in

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<sup>5</sup> Districts should also consider whether students receiving recovery services need other services offered to all students to mitigate the impact of COVID-19, including those to address instructional loss in the general education setting and to support students' overall well-being.

<sup>6</sup> Letter to Lipsitt, OSEP (April 2018).

<sup>7</sup> *Parents of Student W. v. Puyallup School District No. 3*, 31 F.3d 1489 (9th Cir. 1994).

addition to a *failure* to provide FAPE.<sup>8</sup> If an IEP team determines that the loss or lack of access to special education services due to the ongoing COVID-19 pandemic and 2020 spring facility closures resulted in a student not making expected progress on IEP goals, the IEP team should consider what compensatory education services the student requires. OSPI is using the term compensatory services to refer to the type of recovery services provided to remedy an inability or failure to provide FAPE during the pandemic.

- The U.S. Department of Education indicated that upon school reopening, IEP teams can and should begin making individualized determinations about whether students with IEPs require compensatory services to remedy deprivations of FAPE caused by a lack of special education services due to the COVID-19 pandemic and 2020 school facility closures.<sup>9</sup> During COVID school closures, a student may not have received a FAPE due to a delay in the provision of special education services, a failure by the district to provide services, or if a student's needs were so complex and, as such, services could not reasonably be provided through a remote learning platform or other alternative means.
- The amount and type of compensatory education provided must be individualized to meet the student's unique needs and be reasonably calculated to provide the educational benefits that the student would have received from the special education services the district should have provided in the first place.<sup>10</sup>

## Determining Recovery Services

Decisions regarding recovery services focus on what the student's expected progress would have been if the pandemic had not occurred, compared with the student's current present levels and progress. While progress data should be considered from continuous learning plans (CLP) and any services temporarily reduced during or since the spring 2020 school facility closures, IEP teams determine the need for recovery services based on expected progress from the student's pre-COVID IEP.<sup>11</sup> Temporary IEP amendments and impacted services due to the pandemic should not be primary considerations for recovery services.

Parents and families are key partners in identifying the need for recovery services, as they have current information about the student from the time of the school facility closures and since. As with all special education processes, school districts must provide language access supports, including interpretation and translation as needed.<sup>12</sup> School districts must also ensure parents have the information and supports necessary to participate in the decision-making process.

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<sup>8</sup> US Department of Education. (2020). [Supplemental Fact Sheet: Addressing the Risk of COVID-19 in Preschool, Elementary and Secondary Schools while Serving Children with Disabilities](#). "Where, due to the global pandemic and resulting closures of schools, there has been an inevitable delay in providing services—or even making decisions about how to provide services—IEP teams must make an individualized determination whether and to what extent compensatory services may be needed when schools resume normal operations."

<sup>9</sup> US Department of Education. (2020). [Questions and Answers on Providing Services to Children with Disabilities During the Coronavirus Disease 2019 Outbreak](#) and.

<sup>10</sup> *Reid v. District of Columbia*, 401 F.3d 516, 534 (D.C. Cir. 2005).

<sup>11</sup> The IEP team must make an individualized determination as to whether a student needs recovery services, through a review of progress on IEP goals before COVID, during COVID facility closures, and since resuming in-person instruction. (Q&A B-1)

<sup>12</sup> [WAC 392-172A-03100](#) and [WAC 392-172A-05001](#)

## Recovery Services Decision Flow Chart

Decisions regarding recovery services focus on what the student's expected progress would have been, if the pandemic had not occurred, compared with the student's current present levels, progress, and access to special education and related services.<sup>13</sup>

|                                    | Present Levels   | Progress   | Services  |
|------------------------------------|--|--|---|
| <b>Pre-COVID (Baseline)</b>        | <i>What were the student's present levels of performance before COVID?</i>   | <i>What was the student's level of progress (on IEP goals) before COVID?</i>   | <i>What special education and related services were documented on the student's pre-COVID IEP?</i>  |
| <b>From Spring 2020 to Present</b> | <i>What concerns have been raised by the parent(s)?<br/>What is the difference between the student's current present levels of performance, compared with the student's expected level of performance had the pandemic not occurred?</i> | <i>To what extent has the student's level of progress (on IEP goals) decreased or slowed compared to baseline levels?</i>  | <i>What special education and related services were offered to the student in Spring 2020 and during the 2020–21 school year compared to the baseline offer of FAPE?<br/>To what degree did the student access the offered services in Spring 2020 and during the 2020–21 school year?</i>  |
| <b>Recovery Services Decision</b>  | <i>How and when will the student access the recovery services? What options are available for inclusive access, whether recovery services are provided during or outside of the school day?</i>  | <i>Based on the student's current rate of progress, age, and developmental level, what is the timeline for the student to achieve the expected level of progress for the identified recovery services areas?<br/>How and how often will parents be informed of progress on recovery services, including how the IEP team will address any lack of reasonable progress?</i> | <i>Based on the student's present levels of performance and missed or reduced services during the pandemic, what special education or related service areas or IEP goals require recovery services?<br/>For the identified recovery services areas, what amount of services is needed to help the student achieve the level of progress expected had the pandemic not occurred?</i> |

<sup>13</sup> NOTE: While progress data should be considered from continuous learning plans (CLP) and any services temporarily reduced during or since the spring 2020 school facility closures, IEP teams should determine the need for services based on the expected progress from the student's pre-COVID (baseline) IEP.



## Documenting Recovery Services

Recovery services, like compensatory education, are related to the provision of a FAPE for students and are documented in a prior written notice (PWN) as the PWN records an IEP team's proposed action related to the provision of FAPE for a student (Q&A B-5). Because recovery services are most likely to be provided outside the school day, unless determined otherwise by the IEP team, the team must document this in the PWN to make it clear the services will not be impacting the student's least restrictive environment (LRE).

In less common situations where recovery services will be provided during the school day, recovery services should be identified and clearly labeled in the student's IEP, including the frequency, location, and duration of recovery services. Whenever changes are made to the IEP, the team must complete an IEP amendment and issue a PWN.

A clear and thorough PWN is important documentation of the IEP team's decision regarding recovery services. IEP team decisions about recovery services must be documented in a PWN that includes:

- **Proposed Action:** Describe the recovery services the IEP team has determined the student requires (or document a decision that a student does not need recovery services). This should include timelines (start date and end date for services), schedules (frequency, duration, location), areas of service (including specific goals targeted), and considerations for progress monitoring, and LRE.
- **Explanation:** Clearly describe the student's current performance on IEP goals. Explain why recovery services are necessary (or unnecessary) for FAPE in light of the lapse in services caused by COVID-19. The team should identify the rationale behind offering or declining recovery services.
- **Data/Information Considered:** Progress reporting, student participation in remote instruction, benchmark assessments, teacher observations, evaluations, grades, IEP goals, work completion, formative assessments, unit assessments, informal reading and math inventories, parent and student input, etc.
- **Other Options Considered:** If recovery services are provided, other options considered could be not providing recovery services. Provide a rationale for why this option was rejected—for example, student data supported a need for recovery services.
- **Other Factors:** Ideally include a timeline for when the request for recovery services was made and the district's actions taken upon request.

The school district must provide a written offer of FAPE including any need for recovery services. If a parent disagrees with the proposed IEP, recovery service options, or timeline, OSPI recommends the district further engage parents to discuss whether a revision is needed. IEP teams should document parent input in the determination of the need for recovery services, the proposed plan to provide the services, and whether the parent disagrees with the services offered. If the district and parent are unable to come to an agreement, the parent may access dispute resolution options.

While school districts offered special education and related services during the pandemic, some families declined accessing those services for a variety of reasons. In addition, some families chose to remain remote when the district began offering in-person instruction. IEP teams should consider the availability and impact to the student if offered services were not accessed. In traditional compensatory education awards, an administrative law judge or OSPI considers mitigating factors that could reduce a compensatory award, such as a family's refusal of offered services. However, OSPI recommends that the

student's IEP team still consider the student's need, the impact of COVID-19 on the student, and make an individualized, student-centered decision.

## Providing Recovery Services

The IEP team determines a student's need for recovery services, including the schedule, anticipated timeline, areas of service, and amount of services. Several factors will impact when and how a school district schedules and provides recovery services, such as potential impact of amount and type of recovery services on the student's health and well-being, availability of staff and transportation, and considerations for providing transition recovery services to students in preschool and beyond age 21.

### Schedules & Timelines

Schedules and timelines for recovery services are individualized decisions, based on the student's present levels of performance compared with the expected progress if the pandemic had not occurred, along with the student's age, development, and areas of need. Whenever possible, recovery services should be inclusive and aligned to the student's LRE, whether services are provided outside of the school day or during. (Q&A B-5)

For recovery services that will be provided over the summer, it is important to remember that the process for determining need for ESY services is separate and apart from any determination about recovery services initiated due to the pandemic. (Q&A B-4)

### Staffing & Transportation

OSPI recognizes that availability of special education staff is an ongoing challenge; this includes availability for recovery services outside of the school day. IEP teams and school districts have long implemented a variety of service options to support timely and flexible access to special educators and are encouraged to expand these options to support timely access to recovery services. Options could include supplemental contracts for school district employees, contracting with licensed or certificated staff or other educational entities, working with other school district staff to provide additional services under the direct supervision and monitoring of special education staff, collaborating with neighboring school districts and educational service districts (ESDs), and interspersing recovery learning with short breaks.

Transportation may need to be provided for students to access recovery services outside of the school day. Transportation options could include district transportation, regional, shared agreements, private transportation options, or parent reimbursement for travel costs.<sup>14</sup> OSPI recognizes that expansion of transportation services to provide access to recovery services will be an ongoing challenge and recommends proactive and collaborative problem solving between IEP teams and the local and regional transportation departments.

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<sup>14</sup> [WAC 392-172A-02095](#)

## Preschool Recovery Services

Preschool-aged children with disabilities may have experienced delays in services due to school facility closures and/or difficulties accessing remote or virtual learning opportunities. Additionally, “early care and education is a vital factor in families’ abilities to recover financially from the pandemic and is necessary to revitalize the country’s workforce and ensure all parents and caregivers are able to participate<sup>15</sup>”. Recovery services for younger children with IEPs must be designed and scheduled in ways that are developmentally appropriate. For example, school district staff might provide preschool recovery services during school breaks or outside of core instruction. Students may also benefit from preschool recovery services provided by a contracted agency or through a community-based early childhood program (e.g., Head Start, ECEAP). Preschool recovery services might include technology to support remote learning access, staffing, summer and after-school programming, and supports for children and families experiencing homelessness.

## Transition Recovery Services Beyond Age 21

Transition recovery services are additional transition services for students with Individualized Education Programs (IEPs). These extra services can address lack of reasonable progress on IEP goals or the transition plan because of missed or limited special education and related services, or for other reasons due to the COVID-19 pandemic. Students of transition age (generally ages 16 to 21) may have experienced significant disruptions to work-based learning and community access because of the pandemic. IEP teams should consider transition recovery service needs for all students with IEPs of that age who are continuing in school.

Students who turned age 21 during the pandemic may also need transition recovery services. The Washington State Legislature has provided funding for the 2021–22 and 2022–23 school years to support transition recovery services for students who turned age 21 during or after the 2019–20 school year. Transition recovery services can be funded through a combination of federal and state sources. As additional funding information becomes available the Special Education COVID Q&A and OSPI transition webpages will be updated.<sup>16</sup>

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<sup>15</sup> National Head Start Association (NHSA). (2021). [\*The American Rescue Plan: Policy Change Affecting Head Start Families and Programs\*](#) (p. 4).

<sup>16</sup> The [OSPI Secondary Transition webpage](#) will be updated with the latest information on transition recovery services, and the [Special Education COVID Q&A](#) document is also currently being updated with transition recovery services (will be item B-3).

## Additional Resources to Support Recovery Services

- OSPI (2021). *Questions and Answers: Provision of Services to Students with Disabilities during COVID-19 in the 2020–21 School Year* (Q&A Resource – currently under revision)
- OSPI (2020). [\*Reopening Washington Schools 2020: Special Education Guidance\*](#)
- OSPI (2020). [\*Reopening Washington Schools 2020: District Early Learning Planning Guide\*](#)
- [\*9 Recommendations for Inclusive Learning Recovery for Students with Disabilities\*](#)
- Center for Learner Equity (2021). [\*The Rising Tide that Lifts All Boats: Investing Stimulus Dollars with an Equity Focus\*](#)
- [\*COPPA FAQ on Compensatory Education in the time of COVID-19\*](#)
- [\*Considerations for Recovery Services \(Iowa\)\*](#)
- Council of Chief State School Officers (CCSSO) (2020). [\*Restart and Recovery: Considerations for Teaching and Learning\*](#)
- Council of Chief State School Officers (CCSSO) (2020). [\*Restart & Recovery: Considerations for Teaching & Learning: Pre-K to 3rd Grade Recovery in School Year 2020–2021\*](#)
- National Head Start Association (NHSA) (2021). [\*The American Rescue Plan: Policy Change Affecting Head Start Families and Programs\*](#)
- [\*Virginia Department of Education Considerations for COVID Recovery Services for Students with Disabilities\*](#)
- [\*Progress Center: IEP Tip Sheet Present Levels of Academic Achievement and Functional Performance\*](#)

## Appendix: Progress Monitoring (is the Key!)

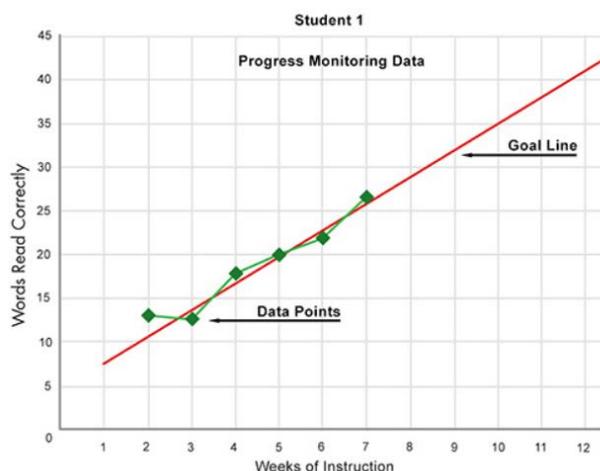
Progress monitoring is an essential component for determining the need for recovery services and how to best provide them. Progress monitoring data is used to determine the extent to which students are demonstrating adequate progress on IEP goals and can also be used to estimate the rates of improvement (ROI), to compare the efficacy of different forms of instruction, and to determine when an instructional change is needed to support students to achieve their goals. Across all areas of need, IEP teams should determine a student's baseline and current ROI to determine what recovery services and instructional changes are needed for the student to make reasonable progress on their IEP goals. Interventions can be intensified to increase the rate of student progress by increasing the intensity, frequency and/or duration of the services and supports provided to the student.

There are several methods IEP teams can use for progress monitoring to determine if a student is responsive to an intervention and to evaluate if the student will require additional supports or instructional changes to be able to achieve their IEP goals. Regardless of method used, IEP goals should always be based on valid and reliable evaluations, diagnostic assessments, progress monitoring, and interventions (provided with fidelity).

### Graphing Progress Monitoring Data

One method of progress monitoring includes creating a graph that identifies the student's present level of performance (baseline) and target for each of the student's IEP goals. These two points are connected to form a goal line which represents the progress a student is expected to make over the course of the annual IEP divided by the progress reporting periods (e.g., quarters or trimesters). IEP teams can then graph repeated measures of progress monitoring to determine whether a student is on track to meet their goals.

When IEP teams review student progress data, the following graphic developed by the IRIS Center<sup>17</sup> is an example of what the team may review:



<sup>17</sup> Source: IRIS CENTER. (2021). [Progress Monitoring: Reading](#).

**This process provides a visual to help the IEP team decide whether to reconvene to address concerns and/or lack of expected progress:**

- If most of the data points are at the goal line, this indicates the student is on track to meet the goal.
- If most of the data points are below the goal line, this indicates that the student is not making adequate progress and that a change in instruction may be needed.
- If most of the data points are above the line, this indicates that the student's performance is exceeding expectations and a more rigorous goal may be needed.
- Some schools may use software programs with embedded tools, Excel or paper pencil graphs to chart student progress monitoring data

## Progress Monitoring Resources

To learn more about these progress monitoring methods, please review the following resources:

- National Center on Intensive Intervention (NCII) at American Institute for Research:
  - [Using Academic Progress Monitoring for Individualized Instructional Planning \(DBI Professional Learning Series Module 2\)](#)
  - [Using Academic Progress Monitoring for Individualized Instructional Planning](#)
  - [Overview of Academic Goal Setting Strategies](#)
- IRIS Center: [Progress Monitoring Module](#)
- Progress Center: [Resources for Educators and Related Service Providers](#)