



NYC DEPARTMENT OF EDUCATION

GUIDE TO SPECIAL EDUCATION PROCEDURES FOR STUDENTS ATTENDING CHARTER SCHOOLS

A SHARED PATH TO SUCCESS



Department of
Education

GUIDE TO SPECIAL EDUCATION PROCEDURES FOR STUDENTS ATTENDING CHARTER SCHOOLS

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May 29, 2019

Dear Colleagues and Charter School Community Members,

The New York City Department of Education (NYCDOE) is committed to ensuring that all students in New York City receive a high-quality education. One of the core components of the NYCDOE's Equity and Excellence for All agenda is the acceleration of learning and instruction, which includes clear guidelines and supports. Clarity and support are particularly critical to ensuring a high-quality education for students with disabilities.

For this reason, on behalf of the Special Education Office and the Charter Schools' Office, we are pleased to share the Department of Education's **Guide to Special Education Procedures for Students Attending Charter Schools** for implementation in the fall of 2019.

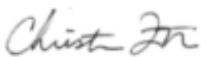
As the Local Educational Agency (LEA) for students with disabilities attending public charter schools, the NYCDOE is responsible for providing oversight to schools in their implementation of IEPs. This guide provides detailed guidance and procedures for how the NYCDOE and charter schools should work together to ensure that students with disabilities attending charter schools receive a free, appropriate public education, in the least restrictive environment appropriate for each individual student.

These procedures could not have been developed without input from New York City charter schools, as well as parent and student advocates. This work began in 2017 because of a shared desire to ensure that CSEs and charter schools are working together collaboratively to maximize supports provided to students and families. Through this collaboration, we have developed a guidance document that clarifies best practices to better serve students with disabilities attending public charter schools in New York City. We are grateful for the opportunity to have had these conversations with partners that have informed the ongoing improvement of our work, and look forward to continuing these conversations about how we can continue working together to serve students, parents, and schools.

We understand that relevant and applicable laws, regulations, and policies may change over time, and we are always working to refine our practices and guidance. Therefore, please think of this guide as a living document that will be updated regularly to remain current and comprehensive. We will send out notifications to schools via the Charter Schools' Weekly e-mail whenever we make updates to this guide. Additionally, this guide should be used in conjunction with the NYCDOE's Special Education Standard Operating Procedures Manual (SOPM). As several sections of the Guide to Special Education Procedures for Students Attending Charter Schools directly reference the SOPM, we encourage you to spend time familiarizing yourself with the content of this guide and the applicable sections of the SOPM.

Your input is instrumental to our goal of creating a more equitable and successful education system in service of all public school students in New York City. Thank you for your support and partnership.

Sincerely,



Christina Foti
Chief Executive Director
Special Education Office



Melissa Harris
Senior Executive Director
Office of School Design and Charter Partnership

Introduction

The New York City Department of Education (DOE) publishes and maintains a Standard Operating Procedures Manual ([SOPM for special education](#)), to provide DOE's schools and Committees on Special Education (CSEs) the procedural framework necessary to deliver supportive, inclusive education programs citywide, based on each student's individual needs. While much of the [SOPM](#) applies to students attending charter schools, the relationship between charter schools and the DOE as the local educational agency (LEA) requires further clarification of roles, responsibilities and procedures.

As such, the DOE has created this Guide as a supplement to the [SOPM](#). Like the [SOPM](#), the Guide is a "living" resource, and will be updated on an ongoing basis to best serve New York City students and families.

For purposes of special education, the DOE is the LEA for students attending charter schools located in New York City, and charter schools are considered to be schools of the LEA. The DOE in partnership with charter schools must offer eligible students with disabilities in charter schools a free, appropriate public education (FAPE) in the least restrictive environment (LRE), with their general education peers to the greatest extent possible, while receiving appropriate supports. Provision of a FAPE requires development of an Individualized Education Program (IEP) that is reasonably calculated to provide a student with meaningful educational benefit using special education and/or related services to meet each student's unique needs and prepare each student for further education, employment, and independent living.

The same criteria for eligibility for special education are used for a student attending a charter school as any other New York City-resident student. As the LEA, the DOE is responsible for evaluation and identification of charter school students for special education eligibility, and for IEP development. If it is determined that a student is eligible for special education, an IEP team — through a process of collaborative decision-making, including the parent, staff from the responsible CSE, and staff from the student's charter school — will develop an IEP and determine the type and intensity of services needed and the type of setting in which the services will be provided. A student who is ineligible for special education services may still be eligible for accommodations under Section 504. Charter schools are expected to work with parents to develop Section 504 plans independent of the CSE.

The DOE does not place students with IEPs in charter schools, as charter schools admit students pursuant to a lottery system. When a student with a disability enrolls at a charter school, the student is entitled to special education programs and services provided in accordance with the student's IEP. The DOE recognizes the varied models of practice in New York City's numerous charter schools, and this Guide sets forth protocols and best practices to ensure that students with disabilities are appropriately served in New York City's charter schools.

Using this Guide

This Guide is to be read in conjunction with the [SOPM](#). Like the SOPM, it is a “living” document, updated on an ongoing basis as policies change and processes and descriptions are added or refined. Because it is updated on an ongoing basis, the Guide should not be used as a printed document. To ensure that you are using its most recent version, the Guide must be viewed online.

Limitations

This document is intended to provide guidance to the management and staff of the New York City Department of Education and the management and staff of charter schools located in New York City. Nothing in this document is intended to, nor does it, create, diminish or alter any current enforceable contractual or other rights, remedies, entitlements, or obligations. The DOE reserves its right to change or suspend any or all parts of this document.

Initial Referral Process

The special education process begins with a referral for an initial evaluation (“initial referral”) to the IEP team. An initial referral can only be made by certain individuals, including the student’s [parent](#) or the [chairperson](#) of the student’s responsible CSE. Please refer to the [SOPM](#) section “Initial Referral Process.”

Under state regulations, charter schools are not able to make an initial referral on their own. However, a charter school may submit a request for referral for a child enrolled in the school to the appropriate CSE chairperson¹ by secure electronic mail to request that the CSE make an initial referral. See [below](#) and the [SOPM](#) section “Request for Initial Referral” for information. To request an initial referral, a charter school should use the **Initial Referral Documentation Form for a Charter School Student** (“**Initial Referral Documentation Form**”) and check the box for **Request for Referral by Charter School**.

DOE Referral

The process for a referral by the CSE chairperson is the same as set forth in the [SOPM](#) section “The Initial Referral.” If a CSE chairperson accepts a charter school’s Request for an Initial Referral, the process will also be the same as set forth in the [SOPM](#).

Charter School Request for Initial Referral

If a charter school suspects that a student may have a disability, the charter school should submit a written request for the CSE to refer the student for an initial evaluation. The same process applies to charter schools as described in the [SOPM](#) section “Request for Initial Referral.” To begin the process, charter schools are expected to submit by secure electronic mail an **Initial Referral Documentation Form**, with the box for **Request for Referral by Charter School** checked, to the CSE chairperson and the CSE case manager assigned to the charter school. The CSE will then open the case in SESIS and upload the request for referral.

If the **Initial Referral Documentation Form** is incomplete, the CSE case manager will notify the individual making the request of the need to resubmit the form with all information to avoid delay. Additional documents referenced in the Initial Referral Documentation Form can be submitted to the CSE by secure electronic mail.

If the student is in grades K-5 and is being referred due to a possible learning disability, a description of the methodology, interventions, and/or strategies used must be included in the intervention strategies section of the request form. Any intervention documents with additional information should also be submitted to the CSE.

¹ Throughout this section, the term “chairperson” refers to those individuals and their designees.

The CSE will process the **Initial Referral Documentation Form** in the same manner as all requests for initial referral, as outlined in the [SOPM](#) section “Request for Initial Referral.”

Following consultation with the charter school, the CSE chairperson should make a determination **no later than 10 school days** after receipt of a completed request for initial referral regarding the **Initial Referral Documentation Form**. The CSE chairperson must either:

- (1) make an initial referral, as outlined in the [SOPM](#) section “Obtaining Consent for Initial Evaluation,” and inform the charter school of the decision to approve the request for initial referral; **OR**
- (2) take ALL of the following all the steps:
 - Provide the parent with the PWN: Refusal of Request to Conduct Initial Evaluation;
 - Provide the parent with a copy of the **Initial Referral Documentation Form**.
 - Inform the charter school of the decision to deny the request for initial referral;
 - Offer the parent the opportunity to meet to discuss the request for referral;
 - Inform the parent of his/her right to make an initial referral; and
 - Inform the parent that the student has the right to remain at the charter school even if the parent does not make an initial referral.

If the charter school has not already met with the parent about the reasons why the charter school submitted the **Initial Referral Documentation Form**, the charter school may offer the parent an opportunity to have a meeting to discuss the concerns raised in the request for referral and the availability of general education support and intervention services. The [SOPM](#) section “Meeting to Discuss Request for Initial Referral” provides guidance on how a charter school might structure a meeting with the parent. The CSE is not involved in such a meeting.

If the parent declines the offer to discuss the **Initial Referral Documentation Form** or does not respond after outreach, the charter school should develop a plan for general education interventions, or interventions under Section 504 if the student qualifies.

Parent Referral

A parent may make an initial referral by submitting a written request for evaluation (a “referral document”) to the student’s charter school or CSE. A parent may also make an oral request to a DOE professional as described in [SOPM](#) section “The Initial Referral.”

If Parent Submits Written Referral to the Charter School

The process for a parent referral for a parent who has a student in a charter school is the same as set forth in the [SOPM](#) section “The Initial Referral.” If a charter school receives a written referral from a parent, the charter school must **immediately** forward the parent’s initial referral by email or fax to the CSE where the charter school is located, indicating the date that the referral was received. If a parent makes an oral request to a charter school (by phone or in person), the charter school may offer to have a professional charter school staff member assist

the parent to create an initial referral document that states the request for evaluation and, if communicated by the parent, the reason(s) for the request and any specific assessment(s) being requested, and must immediately forward the parent's initial referral to the CSE as noted above. Alternatively, the charter school may direct the parent to the CSE to help the parent to create an initial referral document. The CSE has **five (5) school days** from the date of receipt of referral to send the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice** to the parent.

When a parent makes an initial referral, the charter school is expected to provide additional information to the CSE using the **Initial Referral Documentation Form** and checking the box for **Information from a Charter School for a Parent Referral**. The charter school is also expected to submit to the CSE any test results, records, or reports, describe any intervention services, programs, or instructional methodologies used to remediate the student's performance prior to the parent referral, including any supplementary aids or support services provided or the reason why none were implemented; and describe the extent of parent contact or involvement prior to the parent referral. The **Initial Referral Documentation Form** will help the CSE to better understand why the parent has referred the student and prepare for the Social History meeting with the parent. However, regardless of whether the charter school submits the **Initial Referral Documentation Form**, the Social History meeting must not be delayed and should take place as scheduled. See "[Initial Consent Process](#)" below and [SOPM](#) section "Obtaining Consent for the Initial Evaluation."

[If Parent Submits Written Referral to the CSE](#)

When the CSE receives a parent's initial referral, the CSE will follow the process set out in the [SOPM](#) section "The Initial Referral."

In addition, when the student is enrolled in a charter school, the CSE will forward a copy of the initial referral to the charter school within **five (5) school days** of its receipt by the CSE. At the same time, the CSE should also request that the charter school complete and submit the **Initial Referral Documentation Form**. In addition, the CSE has **five (5) school days** from the date of receipt of referral to send the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice** to the parent.

[Initial Consent Process](#)

Once the CSE has received the parent's referral, either directly from the parent or forwarded by the charter school, the CSE will begin the initial consent process, as outlined in the [SOPM](#) section "Obtaining Consent for the Initial Evaluation." This includes the CSE scheduling a social history meeting date that is no later than 15 business days from the date the initial referral was received by the CSE. The **Notice of Social History Meeting** may be sent together with the **PWN: Notice of Referral: Initial**.

Parental consent means informed consent as described in the [SOPM](#) section "Informed Consent," and must be given using the DOE's consent form, which is provided at the Social

History meeting. In accordance with the [SOPM](#) section “Obtaining Consent for the Initial Evaluation,” informed consent should be given by the parent at the Social History meeting, which must take place no later than 15 business days from the date the initial referral was received by the CSE.

Please see the [SOPM](#) section “Obtaining Consent for the Initial Evaluation” for more information about the initial consent process.

[Consideration of Alternative Strategies](#)

When a parent makes an initial referral, the charter school may meet with the parent (and the student, if appropriate) to discuss whether the student would benefit from additional general education support services as an alternative to the special education process. The [SOPM](#) section “Consideration of Alternative Strategies” provides guidance on how to conduct such a meeting and the potential outcomes.

If the parent agrees to additional general education support services instead of special education, the parent may withdraw the initial referral and the charter school should provide written documentation of the agreement to the CSE, including a description of what additional general education support services will be provided to the student. This documentation should be uploaded to SESIS and a note should be included in the SESIS event log.

However, a parent should not be discouraged from proceeding with the initial referral, and may continue with the referral even if additional general education support services are offered or provided. The charter school is still required to immediately forward to the CSE chairperson any referral received directly from a parent. The CSE will continue to conduct a social history evaluation and get informed consent as scheduled, unless the parent formally withdraws the referral. The timeline for a meeting with the parent about general education interventions does not alter the CSE’s timeline to obtain consent.

Special Education Evaluation

Timelines for Evaluation and Placement

As described in the [SOPM](#) section “Timelines for Evaluation and Placement” for all school-aged students, including charter school students, initial evaluation or requested reevaluation must be completed **within 60 calendar days of provision of parental consent (initial) or referral (reevaluation)**. “Placement” (i.e., provision of all recommended special education programs and related services, including transportation) **must be arranged within 60 school days of parental consent (initial) or referral (reevaluation)**.

Regulations require that the evaluation be completed within 60 calendar days, but the CSE should make every effort to ensure that for an initial referral, the IEP meeting is also completed within 60 calendar days of receipt of informed parental consent. Informed consent must be on the DOE’s **Consent for Initial Evaluation** form and is received during the Social History meeting as described in the [SOPM](#) section “Obtaining Consent for the Initial Evaluation.”

Charter School Role in Evaluation and Classification Process

The CSE is responsible for parent outreach and notification in the first instance. However, to assist the CSE in the Evaluation and Classification Process, the CSE may ask the charter school for help with the following:

- Ensure that the parent is aware of all of the evaluations and assessments that need to be conducted;
- Ensure that parents participate in the scheduled evaluations and assessments;
- Communicate with the parent when the CSE is unable to reach the parent;
- Reach out to the parent on behalf of the CSE to facilitate scheduling; document all such efforts in the SESIS Events Log;
- Make available all necessary charter school staff for the initial IEP meeting to determine eligibility.

Special Education Evaluation

The evaluation of charter school students is the same as for all students, and follows the process outlined in the [SOPM](#) “Special Education Evaluation” section. Notably, a student may be evaluated only after informed consent is given by the parent to the DOE at the Social History meeting.

The CSE is responsible for conducting assessments needed in all areas related to the suspected disabilities. The charter school is responsible for providing any existing student information, including any current, classroom-based State and local assessments, detailed teacher reports including information such as baseline data on specific skills the student may be lacking and records of how they were taught and progress monitored; and any prior observations, for consideration of eligibility and development of the IEP.

To facilitate efficient assessment planning, the CSE is expected to discuss, as needed, with the charter school within a reasonable amount of time after the informed consent is given by the parent to determine what information already exists, what additional assessments and evaluations are needed, and determine how the additional assessments should be conducted and by whom. Parents may also provide input to the CSE regarding what additional assessments may be needed by including this information in their letter of referral or by contacting the CSE case manager assigned to the charter school. The CSE case manager must notify the relevant clinical supervisor if there is an assessment that cannot be completed by the staff assigned to the CSE so that alternate arrangement can be made. Planning must begin as soon as possible, as determining who will perform all assessments is not a permissible delay of the 60 day timeline.

The CSE is ultimately responsible for conducting assessments. However, if during the assessment planning, the charter school offers to conduct any of the assessments needed, the CSE may, at its discretion, allow the charter school to conduct the assessment so long as all timelines are met. In such cases, the CSE must immediately notify the charter school of what assessments the charter school may conduct, and that the charter school must conduct those assessments within 15 business days of the notification date to allow the CSE to review and for evaluations to be completed before the 60 day timeline. If the charter school cannot complete the assessment within 15 business days, the charter school must inform the CSE immediately of the need for an extension or so that the CSE may make other arrangements (i.e., either to conduct the assessment by CSE staff, or to outsource to a contract agency).

At the latest, any assessments conducted by the charter school and the completed reports should be provided to the CSE at least 10 business days before the scheduled IEP meeting, so that the CSE has time to review and address concerns before mailing them to the parent with all assessments and reports at least 7 calendar days before the IEP meeting is scheduled to be held. (See [SOPM](#) section “Ensuring Parent’s Presence.”) Upon receipt of the report, the relevant CSE clinical supervisor reviews the report, and must follow up with the charter school professional as needed to ensure that all needed information is included in the report.

[Determining Eligibility and Classification](#)

The IEP team determines whether a student in a charter school is eligible for special education in the same manner as for a student attending a district school, and must follow the procedures and criteria set forth in the [SOPM](#) section “Determining Eligibility.”

A student need not be evaluated more frequently than once a year unless the parent and the CSE agree otherwise. If the IEP team determines that the student is ineligible for special education services, the charter school can determine whether alternative supports or strategies are appropriate to support the student in the charter school environment, including academic intervention services or response to intervention services. The charter school must also

consider whether the student qualifies for reasonable accommodations or other supports provided by the charter school under Section 504.

In the event that there is disagreement about an eligibility determination, the issue should be escalated to the CSE Chairperson for review pursuant to the [Charter School Communication Protocol](#). If the CSE Chairperson cannot resolve the issue, the issue may be escalated to the Charter Chairperson for the CSEs Citywide for review. A parent may always exercise his or her right to due process. See [SOPM](#) section “Due Process.”

[Section 504 Eligibility](#)

A student who is ineligible for special education services may still be eligible for accommodations under Section 504. Charter schools work with parents to develop Section 504 plans independent of the CSE.

Developing the Individualized Education Program (IEP)

The development of an IEP for charter school students follows the same requirements as set forth in the [SOPM](#) section “Developing the Individualized Education Program (IEP).” IEP development should be a consensus-driven process that considers and values the input of the student’s parents, the charter school teacher(s), and the CSE staff. IEP recommendations for charter school students may differ from IEP recommendations for students in DOE schools because charter schools are exempt from State requirements relating to class size and instructional groupings and may use innovative approaches to the delivery of special education services. However, all IEPs must offer the student a free appropriate public education in the least restrictive environment and be implemented as written.

Charter schools are expected to propose programs and services, specially designed instruction, supplementary aids and services, and accommodations and modifications for students at IEP meetings that meet each individual student’s needs and are likely to provide students with meaningful educational benefit in the least restrictive environment. The CSE is expected to consider the special education programs and services, specially designed instruction, supplementary aids and services, and accommodations and modifications proposed by the charter school. If the IEP team determines that the charter school’s proposed programs and services are likely to provide the student with meaningful educational benefit in the least restrictive environment, then the IEP team should recommend those programs and services on the IEP.

If a student either is recommended for or enrolls in a charter school with an IEP program recommendation that is not currently available at the charter school, the charter school and CSE must work together pursuant to this Guide, section “[Resolving Misalignment between IEP Recommendations and Program/Services Provided at the Charter School.](#)”

Special Education

Special education is different from core instructional programs and intervention:

- **Core Instruction** includes instruction in skills and content, using high quality instructional strategies that support all students’ progress in the general education curriculum.
- **Intervention** is additional, more tailored instruction for a student based on a gap in skill or concept; employs evidenced-based instructional strategies that will build fluency with a skill.
- **Special education** includes specially designed instruction memorialized in an IEP, in which the content, methodology, or delivery of the instruction is adapted to address the unique needs of the student resulting from his/her disability.

School-wide Information

Since each individual charter school may have a different model of instruction, charter schools are asked to provide their affiliated CSE teams each year with school-wide information relating

to their core instructional model, intervention model, and school-specific continuum of special education programs and services. This will help the CSE teams to better understand the charter school's model for offering special education programs and services and facilitate better recommendations on IEPs. At a minimum, the charter school is expected to provide the following information:

- A brief description of the school's core instructional model, including a sample school schedule for each grade and school-wide calendar;
- A brief description of the school's academic and behavioral interventions, the interventions typically used, length of interventions, frequency of progress monitoring, and who provides the interventions;
- A brief description of the school's methods and strategies for serving students with disabilities; and
- A brief description of the charter school's specific continuum of special education programs and related services, including a description of each program and service, when and how it is provided, and by whom.

Student Specific Information

In advance of the IEP meeting, CSE teams should follow the guidelines in the [SOPM](#) section "Case Manager/District Representative Preparation for the IEP Meeting." CSE teams are expected to request student specific information from charter schools no later than 20 business days in advance of the meeting.

Charter schools are expected to send via secure electronic mail, the following student-specific information to the assigned CSE teams at least 10 business days before the scheduled IEP meeting. The CSE is expected to review such information, ask questions, and upload the information to SESIS. The CSE is also expected to mail such information to the parent with all assessments and reports at least 7 calendar days before the IEP meeting is scheduled to be held. (See [SOPM](#) section "Ensuring Parent's Presence.")

- Progress Reports
 - Current classroom teacher and related service provider progress reports, including all relevant progress reports regarding the student's annual goals
 - Most recent report card or transcript
- Assessments
 - Current standardized tests, baseline assessments, and interim benchmark assessments
 - Data from classroom assessments
 - A representative sampling of relevant classroom assessments and student work, including writing samples, reading responses and running records, open-ended math problems

- If applicable, intervention data including the data used to determine the intervention, the date the intervention was started, all progress monitoring data and changes in implementation based on progress monitoring
- If applicable, behavioral data (e.g., logs, paraprofessional logs, social skills inventory). To the extent not already in SESIS, existing functional behavioral assessments (FBA) and behavioral intervention plan (BIP) documents.
- If applicable, Occupational Therapy (OT)/Physical Therapy (PT) checklists
- If applicable, vocational data
- Any independent evaluative assessments (e.g., psycho-educational) or other relevant information

IEP Team Membership

The IEP team members required to attend an IEP meeting differ depending on the type of meeting (e.g. initial, annual/requested review, reevaluation) and the change(s) to IEP recommendations being considered. For a more complete overview of the IEP team composition, please see the [SOPM](#) section “IEP Team Composition.” The CSE will always provide an IEP team member who will be the district representative and chair the IEP meeting.

Charter school participation in the development of the IEPs for charter school students is of critical importance. The parent and the DOE have the right to invite charter school personnel as individuals who have knowledge or special expertise concerning the child. Charter schools are expected to cooperate fully with the DOE by assuring that charter school teachers and other personnel participate in IEP meetings for charter school students.

Generally, federal law requires the attendance at an IEP meeting of a special education teacher of the child, a general education teacher of the child, and when appropriate, a special education provider of the child. The charter school is expected to provide the following members, when appropriate:

- A special education teacher of the student (See [SOPM](#) section “Special Education Teacher (or Related Service Provider)”). The special education teacher attending should know the child well and be able to interpret the instructional implications of the assessments conducted at the charter school, such as interim and benchmark assessments.
- A general education teacher of the student (See [SOPM](#) section “General Education Teacher”)
- If appropriate, a related service provider(s) of the student if they work directly for the charter school (See [SOPM](#) section “Special Education Teacher (or Related Service Provider)”). If the related service provider has been placed by a DOE-contracted agency, the charter school should work with the agency to ensure the provider’s participation.

To the extent possible, the IEP meeting should be held at the charter school to facilitate the participation of the student’s teachers. If meetings are held at the charter school, charter schools must provide a private space for the meeting and allow access to internet and printing.

Given that a charter school may use different methods and strategies for serving students with disabilities than available on the DOE's continuum, it may be appropriate for the charter school to provide a charter school representative who is knowledgeable about special education, the general education curriculum, and the availability of charter school resources. The charter school representative may be asked to interpret the instructional implications of the assessments conducted at the charter school, such as interim and benchmark assessments. This role may be fulfilled by one of the above charter school members serving another role on the IEP team.

Excusal of a Charter School Member of the IEP Team

A required IEP team member may not be excused for an initial IEP meeting, and the school/CSE may not request excusal of the parent, the parent member (when requested by the parent), or the student (if the student must be invited to attend). Except for an initial IEP meeting, there may be occasions when a charter school may be unable to ensure that a required member of the IEP team from the charter school is present at an IEP meeting. In those cases, the charter school is expected to request the required IEP team member's excusal in writing to both the CSE and the parent at least 7 calendar days in advance. Excusal is subject to CSE and parent agreement. If the CSE and the parent agree, then the IEP team must follow the procedures set forth in the [SOPM](#) section "Excusal of a Required Member of the IEP Team." Notwithstanding the 7-day minimum, the parent may request and/or agree to excuse a required member at any time, including if the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict. See [SOPM](#) section "Excusal of a Required Member of the IEP Team" for more information.

Drafting the IEP

The CSE should open draft IEPs in SESIS as soon as is practicable, and no later than 20 business days before an IEP meeting so that the CSE and the charter school may review the assessment reports and have sufficient time to begin drafting present levels of performance and annual goals. The CSE is expected to notify the charter school by electronic mail that the IEP is in draft when opened and that the charter school's staff is expected to enter any relevant information that the school has about the student, including the "Present Levels of Performance and Individual Needs" (PLOP) and "Annual Goals, Short-Term Objectives and/or Benchmarks" (Annual Goals) at least 10 business days before a scheduled IEP meeting. Charter schools should reference the procedures in the [SOPM](#) section "Developing the Individualized Education Program (IEP)" for a complete understanding of what is required in each section of the IEP. The PLOP includes a brief description of the core instruction, interventions, and special education services the student is receiving, and relevant outcomes.

Recommended Special Education Programs and Services

At the IEP meeting, the IEP team must follow the procedures outlined in the [SOPM](#) section "Developing the Individualized Education Program (IEP)." As discussed in the [SOPM](#), the

recommended special education programs and related services are based upon an analysis of the student's previously determined Present Levels of Performance and Measurable Annual Goals. Each goal should be evaluated to determine the least restrictive level of service sufficient to support the student such that the goal can be achieved.

The IEP must indicate the special education program(s) and/or related service(s) recommended for the student to advance appropriately toward his/her annual goals and, to the greatest extent appropriate:

- be involved and progress in the general education curriculum;
- participate in extracurricular and other nonacademic activities; and
- be educated and participate in activities with other students with disabilities and nondisabled students.

For all special education programs and services, the IEP team must specify the projected initiation date, and the frequency, location, and duration.

The individualized needs of a student must drive his/her program and service recommendation, and recommendations cannot be based solely on the current offerings or resources of the charter school. Since each charter school offers its own school-specific continuum of special education programs and services, the charter school is expected to propose programs and services that the school reasonably believes will provide the student with meaningful educational benefit in the least restrictive environment. This occurs when the identified needs, present levels of performance, annual goals, short term objectives, accommodations, modifications, program and services on the IEP are clearly connected and enable the student to access, participate and progress in the general education curriculum.

One of the most effective ways for a CSE team and a charter school team to avoid conflict and ensure alignment at an IEP meeting is to pre-conference as needed to discuss any difficult issues that are likely to arise at the IEP meeting. The CSE and charter school teams should take the opportunity prior to an IEP meeting to discuss any general concerns about special education programs and services at the charter school that are likely to be proposed for the student. However, decisions about proposed IEP programs and service recommendations must be discussed and decided by the full IEP team, which includes the parent, at the IEP meeting and cannot be predetermined in advance.

At the IEP meeting, the charter school is expected to explain to the IEP team how the programs and services are calculated to produce appropriate progress so that the parent and the CSE members can understand the reasons for the school's proposal. This should also rely on an analysis of the individual student data provided prior to the IEP meeting, and an explanation of the evidence-based approach. The charter school is also expected to explain how it will implement the proposed recommendations.

To the extent that a student may require other programs and services, the IEP team must also consider the programs and services on the DOE's continuum of special education programs, which includes:

- Special Education Teacher Support Services (SETSS);
- Integrated Co-Teaching (ICT); and
- Special Class (in a District 1-32 school (12:1/15:1, 12:1+1), in a specialized school (12:1+1, 12:1+(3:1), 8:1+1, 6:1+1), or in a NYSED-approved non-public school)

These programs may be provided in combination, so long as they are within the continuum. The services and programs on a student's IEP do not have to be the same for the entire day. For example, a student can receive both ICT and SETSS if that is appropriate. A student can also receive some subjects in ICT and others in a 12:1 or general education setting. The program should be customized to meet the student's needs. CSEs are expected to accommodate charter schools that employ such an approach as long as it meets each student's needs. It is important to keep in mind that the needs of students must match the services delivered.

Also, there may be more than one recommendation (or combination thereof) that is appropriate for a given student and offers his/her LRE. (See [SOPM](#) section "Continuum of Services: Considerations for Intensity of Services and Least Restrictive Environment.") If that is the case, the recommendation may be determined by the charter school's preferred service model as long as the charter school's preferred service model would likely provide meaningful educational benefit. For example, if the IEP team determines that a student would be able to advance appropriately toward attaining the annual goals if she were provided ICT for math or push-in group SETSS for math, either may be recommended. However, the IEP team must recommend a program that will likely provide the student with meaningful educational benefit and cannot determine the IEP recommendation based solely on the programs, services, and resources available currently at the charter school.

If the IEP team determines that the charter school's proposed programs and services are likely to provide the student with meaningful educational benefit in the least restrictive environment, then the IEP team should recommend those programs on the IEP. (See [SOPM](#) section "Continuum of Services: Considerations for Intensity of Services and Least Restrictive Environment.")

If the charter school offers an innovative approach to special education programs and services that is different from the DOE's continuum of special education services, such innovative program must be approved by the charter school's authorizer, by SED, or by the DOE, prior to its use on an IEP. Such approved innovative program may be recommended on a student's IEP if it is reasonably calculated to provide educational benefit to that student. The charter school should provide a brief and clear description of the innovative charter program that can be placed on the IEP's "Present Levels of Performance" and "Recommended Special Education Programs and Services" sections. The innovative charter program should be labeled with "innovative charter program" or "ICP" on the IEP with the accompanying description.

If the nature and severity of the disability of a student enrolled in a charter school is such that the student would not receive meaningful educational benefit from the programs currently available at the charter school, the IEP team must recommend an appropriate program whether or not available at the charter school. However, if the charter school indicates that it does not currently have the program recommendations, the district representative will advise the parents at the meeting that they will receive a School Location Letter offering a DOE school. If the parent does not accept the DOE school offered, the charter school and CSE must work together pursuant to this Guide, section [“Resolving Misalignment between IEP Recommendations and Program/Services Provided at the Charter School.”](#)

The IEP team should indicate on the IEP “Other Options Considered” section what other program or services options were considered and the reasons they were rejected. If a charter school has proposed programs and services that were ultimately rejected by the district representative, the IEP must indicate why the program or services proposed would not provide the student with meaningful educational benefit.

[Resolving Misalignment between IEP Recommendations and Program/Services Provided at the Charter School](#)

The majority of IEP meetings should result in IEP recommendations for programs and services that offer the student a free, appropriate public education in the least restrictive environment, will be implemented by the charter school, and that honor the family’s choice to enroll the student in the charter school. Most issues can be resolved through careful pre-conferencing and discussions at the IEP meeting to identify difficult issues and potential solutions.

However, there may be a small percentage of cases where the IEP program and services recommendations will not be available at the charter school. This includes, but is not limited to, instances where a newly enrolled charter school student has a prior IEP recommendation that was not developed with the knowledge of the new charter school’s continuum of special education programs and services, and cases where the charter school may not have programs to appropriately serve students at the charter school due to the nature and severity of the disability. It is best practice that a charter school consider expanding its continuum of special education programs and services beyond those it currently offers.

If the charter school does not expand its continuum of programs and services to meet the student’s needs, and the parent chooses to maintain the student at the charter school, the charter school is expected to propose to the IEP team alternative special education programs and services, specially designed instruction, supplementary aids and services, and accommodations and modifications it will offer to provide the student with educational benefit in the charter school. The IEP team should consider, discuss, and attempt to reach consensus on any alternative programs and services to determine if the IEP is reasonably calculated to confer educational benefit upon the student in the least restrictive environment. If it is, then

the IEP team should make such recommendations on the IEP and the student should receive such recommended programs and services in the charter school.

If the IEP team does not reach consensus on a special education program and services recommendation that is reasonably calculated to provide the student with meaningful educational benefit at the charter school, then the district representative may follow the procedures in the [SOPM](#) section “Resolving Conflicts at the IEP meeting.” The matter may also be escalated according to the “[Charter School Communication Protocol](#).” If the CSE Chairperson cannot resolve the issue, the issue may be escalated to the Charter Chairperson for the CSEs Citywide for review. The charter school and the CSE must make every attempt to resolve disputes with parents, including through meetings, mediation, and escalations to supervisors for support with complex issues. Parents are also entitled to due process in certain circumstances. See [SOPM](#) section “Due Process.”

If no consensus is reached, and no alternative IEP recommendations are made that will offer the student educational benefit in the least restrictive environment, and the parent continues to choose to remain at the charter school, the charter school must implement the IEP with such requested support from the DOE as is necessary to offer the student meaningful educational benefit. The DOE retains the State or federal aid attributable to services provided by it to implement the IEP.

[Progress Monitoring and Re-Evaluations](#)

The charter school should monitor the progress students with IEPs are making toward meeting their annual IEP goals and toward meeting grade level expectations. The CSE must hold an IEP meeting for each student with a disability at least once per year to review the student’s progress and make any needed changes to the student’s IEP. However, the charter school should contact the CSE case manager assigned to the school in writing if the charter school believes that the CSE should conduct new assessments or hold an IEP meeting prior to the annual review.

[Newly Enrolled Students with IEPs in Charter Schools](#)

When a new student with an IEP enrolls in the charter school, the charter school should review the IEP well in advance of the start of the school year, if possible. The charter school should plan to implement the special education programs and services recommended on the student’s IEP at the start of the school year. If the charter school does not currently offer the special education programs and services recommended on the student’s IEP, the charter school is expected to contact the CSE case manager assigned to the school in writing to request an IEP meeting to consider the charter school’s continuum of special education programs and services. The charter school should also consider the possibility of expanding their continuum to offer the recommended programs and services. As noted above, the IEP team must recommend an appropriate program that meets the student’s individual needs and is likely to provide the student with meaningful educational benefit.

Promotion Criteria for Students with IEPs in Charter Schools

Promotion in New York City Department of Education (DOE) district schools is governed by Chancellor's Regulation A-501. In 2014, A-501 was amended to ensure that promotion to the next grade is based on the integrated use of multiple measures of performance, and that promotion decisions are based on a holistic evaluation of these measures. In 2017, the DOE clarified that most students with IEPs should be held to standard promotion criteria (i.e., the same promotion criteria as their non-disabled peers). Only in exceptional circumstances should students with disabilities have modified promotion criteria. Students with modified promotion criteria are students whose rate of progress is much slower, and who therefore require significant modifications in order to participate and progress in the general curriculum. Modified promotion criteria in district schools is now defined by a student's appropriately rigorous, skill-based literacy and math annual goals. The IEP team carefully considers whether interventions and supports would allow the student to demonstrate sufficient progress using multiple measures and be held to standard promotion criteria, or whether the student's promotion criteria should be modified.

Charter schools may apply their own promotion criteria to students with IEPs. If a charter school and/or the parent of a charter school student seeks to include modified promotion criteria on the student's IEP, the charter school must provide the following documentation for the IEP meeting: the school's promotion policy, the proposed modifications, and the rationale for why the student requires such modifications. Without this information, the IEP team cannot consider promotion criteria in developing the IEP for a charter school student. At the IEP meeting, the charter school is responsible for explaining the school's promotion criteria, including the skills and content mastery required for promotion to the next grade and the school's grading policy, and the proposed modifications for the student. If the IEP team determines that the charter school's promotion criteria should be modified for the student, the IEP team will include the modifications and their rationale in the "Supplementary Aids and Services/Program Modifications/ Accommodations" section of the IEP. If you have questions about promotion criteria and IEPs, please speak to your CSE Chairperson.

CHARTER SCHOOL COMMUNICATION PROTOCOL

CSE EVALUATION TEAMS <ul style="list-style-type: none"> • School Psychologist • School Social Worker • Special Education Teacher • Special Education, Evaluation, Placement, and Program Officer (SEEPPO) • Administrative Support 	<ul style="list-style-type: none"> • Day-to-day scheduling of evaluations and IEP meetings • Coordinating efforts between CSE and families • Obtaining updates on evaluations, school information (e.g. teacher reports, Rtl reports), provision of special education and/or related services • Reviewing caseloads and any outstanding concerns regarding students • Maintaining open lines of communication regarding issues such as progress and patterns of behavior or disciplinary actions taken
CSE CHAIRPERSONS (1-10)	<ul style="list-style-type: none"> • All initial referrals, requested reevaluations, and MDRs • Inquiries regarding evaluation completion within compliance timelines • Inquiries regarding communication between CSE teams, families, and schools • Timely provision of special education and related services
MARIAMA SANDI CSE CITYWIDE CHAIRPERSON (msandi@schools.nyc.gov)	<ul style="list-style-type: none"> • Escalations regarding timeliness of evaluations and provision of special education and related services not resolved at the CSE Team or CSE Chairperson level • Escalations regarding MDRs and exceptional student cases not resolved at the CSE Team or CSE Chairperson level • Additional unresolved escalations
KARYN THOMPSON SENIOR DIRECTOR FOR SPECIAL EDUCATION SERVICES – CHARTER SCHOOLS (kthompson7@schools.nyc.gov)	<ul style="list-style-type: none"> • Escalations not resolved by working with the CSE Chairperson or the CSE Citywide Chairperson • Questions regarding policies and practices • Questions regarding obligations arising under relevant laws and regulations



Corinne Rello-Anselmi, Deputy Chief Academic Officer
Division of Specialized Instruction and Student Support

INITIAL REFERRAL DOCUMENTATION FORM FOR A CHARTER SCHOOL STUDENT

Please check one:

☐ **Request for Referral by Charter School**

- A professional staff member of a charter school may request an initial evaluation of a student attending the school. This is called a “request for referral.” Once complete, the request for referral should be provided to the Committee on Special Education (CSE) chairperson.
- The following information and documents are required as part of the charter school’s request for referral so that the CSE can comprehensively understand the reasons for the request for referral, and make a determination about whether to proceed with an initial evaluation.

☐ **Information from a Charter School for a Parent Referral**

- A referral for an initial evaluation for a student attending your school has been submitted by the parent to the CSE. The CSE requires additional information from the student’s school for the evaluation process.

Date School Submits this Form:	Date Received by CSE Chairperson:
Student’s Last Name:	First Name:
D.O.B.:	NYCID:
Parent/Guardian:	Preferred Written Language of Parent: Preferred Oral Language of Parent:
Address:	Apt. #:
City:	State:
Zip:	
Home Phone:	Cell Phone:
School:	

<p>If the Charter School is making a request for referral, state the reason for request for referral / specific nature of problem.</p> <p>If the Charter School knows why the parent is referring the student, state the specific nature of the problem as the Charter School understands it.</p>	
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Section A. PARENT ENGAGEMENT	
<p>1. Has the charter school discussed this request for referral, the student's need for interventions, or the student's need for special education services with the parent?</p> <p>Alternatively, if the parent made the referral, was the charter school aware of the request?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If yes, indicate date(s):</p>
<p>2. Indicate the extent to which the parent has communicated with the charter school about the student's school-related performance prior to the request for referral, including the dates of any conferences with the parent:</p>	

Section B. BACKGROUND INFORMATION	
<p>1. Grade Level</p>	
<p>a. In what grade is the student currently enrolled?</p>	
<p>b. Is this student age appropriate for this grade level?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If no, check all reasons why the student is not age appropriate for this grade level:</p>

	<input type="checkbox"/> Student has repeated a grade. Indicate grade(s) repeated. <input type="checkbox"/> Student started school late. If known, indicate the date student should have started school and date student actually started. <input type="checkbox"/> Student was held out of school by parent. <input type="checkbox"/> Other (Please specify)
2. English Language Learner Status	
a. Is the student <u>currently</u> identified as an English Language Learner?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, attach the Home Language Identification Survey or Home Language Questionnaire. If no, continue to section 3.
b. Indicate the student's score and level of proficiency on the NYSITELL	
c. Has the student been identified as a Student with Interrupted/Inconsistent Formal Education?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d. If the student has taken the NYSESLAT, indicate the student's most recent score and date taken	Most Recent Score: Date Taken:
e. If the student has been identified as an English Language Learner, has the student received Bilingual instructional services?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what services and how long has the student received them?
f. If the student has been identified as an English Language Learner, has the student received ENL instructional services?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, what services and how long has the student received them?
3. Attendance	
a. Number of cumulative days absent this academic school year	

(excluding suspensions):	
b. Number of cumulative days absent for the previous academic school year (excluding suspensions), if the student attended the same school:	
4. Accommodations	
a. Does the student have a 504 Plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, please provide the most recent agreed upon plan and medical documentation.

Section C. SCHOOL-RELATED PERFORMANCE

Instructional Grade Level at which student is currently functioning (if ELL student, also include grade level in native language). Include/attach any additional relevant information if available.

	Grade Level	Grade Level in Native Language for ELLs
Reading		
Spelling		
Mathematics		
Written Language		
Other		

ACADEMICS

Describe the specific strengths and weaknesses in classroom performance (academic subjects, visual motor development, writing skills, etc.). Please include grade level assessments, benchmark assessments, or standard assessments conducted. For ELL students, describe the student's specific strengths and weaknesses in classroom performance both in his/her native language and in English. (Attach any additional documentation as necessary.)

BEHAVIORS

Describe student's behavior with peers and adults, providing as much detail as possible.

Has the student been subject to any discipline, including suspensions? If yes, include chronology and frequency of behavior and suspensions.

Section D. INTERVENTIONS / RESPONSE TO INTERVENTION

Has the student received any general education intervention services, programs or instructional methodologies to remediate the student's academic or behavioral performance prior to this request for referral, including any supplementary aids or support services provided for this purpose?

☐ Yes ☐ No

If yes, describe what intervention services, instructional methodologies, or supplementary aids or support services were used. Also describe the results of the interventions used, including any data collected in progress monitoring. If using the form below, please copy the table for any additional interventions. If the requested information is available in another format it is not necessary to complete the descriptive information, simply attach the documentation and write "see attached". Include and indicate language(s) used with interventions provided.

Intervention 1 (Please describe the strategy used):	
Date Initiated	
Date Terminated	
Intervention provided by (Name and Title)	
Number of Days Student Received Services	
Description of Intervention and outcome (provide pre- and post- evaluation results)	

Intervention 2 (Please describe the strategy used):	
Date Initiated	
Date Terminated	
Intervention provided by (Name and Title)	
Number of Days Student	

Received Services	
Description of Intervention and outcome (provide pre- and post- evaluation results)	

Intervention 3 (Please describe the strategy used):	
Date Initiated	
Date Terminated	
Intervention provided by (Name and Title)	
Number of Days Student Received Services	
Description of Intervention and outcome (provide pre- and post- evaluation results)	

If the student has not received any instructional/programmatic interventions, please explain why no interventions or supports were provided.

Section E. ADDITIONAL DOCUMENTATION	
Please attach any additional documents that the school has about the student's performance	
Progress Reports	Attached
• Updated or current classroom teacher progress reports	<input type="checkbox"/>
• Updated or current provider progress reports	<input type="checkbox"/>
• Most recent report card or transcript	<input type="checkbox"/>
• Student work samples including writing samples, reading responses and running records, open-ended math problems	<input type="checkbox"/>
Assessments	
• Most current standardized tests, baseline assessments, interim benchmark assessments or state test results, and scoring metrics	<input type="checkbox"/>
• Data from classroom assessments	<input type="checkbox"/>
• Sampling of relevant classroom assessments	<input type="checkbox"/>
Intervention Data	
• Any intervention data including the data used to determine the intervention, the date the intervention was started, all progress monitoring data and changes in implementation based	<input type="checkbox"/>

on progress monitoring. These should be related to the Intervention Strategies discussed in Part D above.	
Behavioral Data	
• Logs and contracts	<input type="checkbox"/>
• FBA/BIP documents	<input type="checkbox"/>
• Social skills inventory	<input type="checkbox"/>
Any outside evaluations or other relevant information (Please specify)	<input type="checkbox"/>

Date	
Printed Name of Person completing this form	
Title	
Signature of Person completing this form	

Thank you!



Corinne Rello-Anselmi, Deputy Chief Academic Officer
Division of Specialized Instruction and Student Support

CHARTER SCHOOL GENERAL AND SPECIAL EDUCATION PROGRAMS AND SERVICES

Charter School Name:

Directions: Describe the school's core instructional model for general education. Describe any intervention models the school uses for academics and/or behavior, including any supplemental instruction that is provided (i.e., enrichment programs, school-wide programs, learning labs). Describe the school's instructional model for serving English language learners. Attach a sample school schedule and calendar.

	WHAT IS IT? (Program Type, What does it target?)	WHEN/HOW IS IT PROVIDED? HOW DOES IT WORK?	WHO BENEFITS FROM IT? (Please include grades served.)	WHO PROVIDES IT?
GENERAL EDUCATION MODEL				
ACADEMIC INTERVENTION MODEL				
BEHAVIORAL INTERVENTION MODEL				
ELL INSTRUCTIONAL MODEL				

Directions: Describe the school’s special education model (i.e., the methods and strategies for serving students with disabilities, including any innovative charter programs). Please list all special education programs and services (including related services) in the charter school’s specific continuum of special education programs and related services, including a description of each program and service, when and how it is provided, and by whom. The school should also describe any innovative approaches to the delivery of special education that are used in the school. If an innovative charter program is not on the DOE’s continuum of services, the charter school should indicate whether the innovative charter program is on the school’s authorized charter and whether it is a research-based approach.

SPECIAL EDUCATION MODEL (PROGRAMS AND SERVICES)	WHAT IS IT? (Program Type? What does it target?)	WHEN/HOW IS IT PROVIDED? HOW DOES IT WORK?	WHO BENEFITS FROM IT? (Please include grades served.)	WHO PROVIDES IT?
[Program/Service 1] /				
[Program/Service 2] /				
/				
/				
/				
/				
/				

If the charter school offers an innovative approach to special education programs and services that is different from the DOE’s continuum of special education services (see Guide at p. 15), has such innovative program been set forth in the charter school’s charter, and approved by the charter school’s authorizer?

☐ YES

☐ NO

Accessibility Report

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