



## SPECIAL EDUCATION STANDARD OPERATING PROCEDURES MANUAL

The SOPM is a “living” resource that is updated on an ongoing basis. Please see [New and Notable](#) for a summary of the most recent changes. To ensure you are viewing the most current version at all times, **please access the SOPM online. Do not print or download and save locally.** [Last Updated November 16, 2021](#)

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## New and Notable

### As of November 16, 2021

- Considerations regarding [long COVID](#) have been added.
- There is new content for [Initial Social History](#) and [Social History Updates](#) regarding Adverse Childhood Experiences.
- There is updated guidance regarding [Amending the IEP](#).

### As of August 24, 2020

- Clarification on [translation and interpretation](#) requirements.

### As of January 30, 2020

- Additional [guidance on making IEP recommendations for specialized transportation](#) and [specialized transportation accommodations](#).
- New guidance to review [IEP recommendations for home instruction](#) within six months.
- Updated information regarding [students in temporary housing](#).
- Reminder to hold an IEP meeting by April 15 if [extended school year \(12-month\) services](#) are being considered.

### As of March 23, 2018

- Updated guidance on holding Manifestation Determination Reviews (MDRs) for students whom the DOE is “[deemed to know](#)” have a disability.
- Expanded information on completing [exit summaries](#) for students who will be graduating with a local or Regents diploma or aging out.
- Updated [Guidance on Initiation or Continuation of an IEP-Assigned Paraprofessional](#).

### As of September 2017

- In general, IEP teams are not constrained from taking any action based on the type of IEP meeting (e.g., annual, reevaluation); however, certain IEP team members may be required to consider and make certain changes to the IEP. Please pay special attention to the [IEP team](#) composition requirements, particularly regarding when a [school psychologist may be a required member](#) of the IEP team for an annual or requested review.
- At the [conclusion of the IEP meeting](#), if the IEP cannot be finalized in SESIS and handed to the parent, the IEP team is to provide the parent with a printed copy of the Recommended Special Education Programs and Services page of the draft IEP from SESIS.
- The process for [intake of parent referrals](#), including date-stamping and faxing into SESIS, has been updated.
- When new assessments are needed for an [annual or requested review](#), a [referral for reevaluation](#) must be made. Treat the date the request for review was received as the date of referral, and follow the procedure for seeking consent for and conducting assessments as part of a reevaluation.
- [The selection of the district representative](#) and the roles/responsibilities of the case manager and district representative have been elaborated. Note additional guidance on the case manager’s preparation in advance of the IEP meeting, including engaging the parent in advance of the meeting.
- The procedures regarding receiving, considering, and responding to a [request for an independent assessment at DOE expense](#) have been updated.

**The SOPM is a “living” resource that will be updated on an ongoing basis to best serve New York City students and families. Please check this page frequently for the latest updates of note.**

# Using the Special Education Standard Operating Procedures Manual (SOPM)

The SOPM reflects current information on major school-age special education processes and procedures in the New York City Department of Education (DOE). It is a “living” document, updated on an ongoing basis as policies change and processes and descriptions are refined. Because it is regularly updated, the **SOPM should not be used as a printed document**. To ensure that you are using its most recent version, the SOPM must be viewed online.<sup>1</sup>

## Navigation and Links

As the SOPM is intended to be viewed online, it features hyperlinks, including a [table of contents](#) from which topics can be accessed directly. Click on any underlined word in blue text to jump to a related portion of the SOPM, or to a resource on the DOE InfoHub<sup>2</sup> or the internet. (Note that once a link has been clicked, it may appear in purple, rather than blue.) At the top of the page are links to the Table of Contents, the top of the current section, and the General Information and Terms section. **Before clicking any link, please note your current location in the document**, as there is no single-click “back” function.

## Questions and Feedback

Your input is welcome and important to our mission of maintaining clear and concise guidance on current policies and procedures. If you have questions regarding special education processes, please contact your supervisor, your school's Administrator of Special Education (ASE) / D75 Field Liaison, or your CSE chairperson. If you have suggested changes/corrections to the SOPM, you may contact your ASE/D75 Liaison/supervisor/chairperson or write to [SpecialEducationSOPM@schools.nyc.gov](mailto:SpecialEducationSOPM@schools.nyc.gov).

## Limitations

This document is intended to provide guidance to the management and staff of the New York City Department of Education. 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.

<sup>1</sup> This SOPM, and the documents it links to, supersedes all previous special education policy manuals, including the 2009 SOPM. If an issue is not specifically addressed in this SOPM or a linked document, schools/CSEs should consult their ASE/D75 Liaison/chairperson for guidance. The ASE/D75 Liaison/chairperson should contact the Special Education Office as needed for additional support.

<sup>2</sup> Some links, such as guidance for DOE staff on the use of the [Special Education Student Information System \(SESIS\)](#), may be accessible only to DOE staff. DOE staff in need of further guidance on SESIS should consult the [SESIS Wiki](#).

## General Information & Terms

### CSE / IEP team

For all purposes in the DOE and in this document, the term “Committee on Special Education” (CSE) refers to one of the [regional offices](#) that manages the special education process for students who are not attending DOE K-12 school programs.

The IEP team is referred to in NYSED regulations and guidance materials as the “Committee on Special Education” (CSE), and an IEP team that is not considering an initial recommendation of a special class, specialized school, State-approved non-public school or home instruction, may be referred to in NYSED regulations as a “Subcommittee on Special Education” (SCSE). **For all purposes in the DOE and in this document, “IEP team” is interchangeable with NYSED’s definition of CSE or SCSE, unless specifically noted otherwise.<sup>3</sup>**

### Days / School Days / Business Days

Throughout this document, the word “days” without modification means calendar days. The term “school day” without modification means a day on which DOE schools are in session for students; when “school days” is used to mean days on which the *student’s* school is in session (for students attending non-DOE schools), that will be specifically noted. During the months of July and August, “school days” means every day except Saturday, Sunday and legal holidays. A “business day” is any weekday other than a New York State or Federal holiday.

## Translation and Interpretation

### Translation (Written)

For parents whose preferred language is one of the DOE’s covered languages (currently Arabic, Bengali, Chinese, French, Haitian Creole, Korean, Russian, Spanish and Urdu), translations of notices of meetings, notices seeking consent, prior written notices, Related Service Authorizations, and Nickerson Letters, must be provided. Translations of most notices are automatically generated in SESIS, and to the extent possible, should be provided to parents at the same time that English-speaking families receive such notices. If a notice is not available in the parent’s language, the English version of the notice must be accompanied by a notice in the parent’s language stating that the English notice is an important educational document that should be translated, and providing a

contact person for any questions.

Additionally, upon parental request, the DOE will translate IEPs and evaluation reports paid for by the DOE. To the extent possible, the translated document should be provided to parents within 30 calendar days of the parent’s request. If the request is made prior to the document being finalized (e.g., prior to the student’s IEP meeting), the 30-day clock begins when the document is finalized in SESIS. For support facilitating translations and to ensure translations are provided in a timely manner, refer to the [Language Access Handbook](#), contact your Language Access Coordinator, email [LACoordinators@schools.nyc.gov](mailto:LACoordinators@schools.nyc.gov), or visit [Translations and Interpretations Unit](#).

### Interpretation (Oral)

Upon request, interpretation will be made available for parents whose preferred language is other than English at IEP meetings (including annual review meetings), meetings to create Behavioral Intervention Plans (BIPs), Manifestation Determination Review (MDR) meetings, meetings to discuss initial referrals or requests for initial referrals, and meetings to develop Suspension Plans. It is best practice that interpretation be provided by a person who is:

- not otherwise participating in the meeting in a different role;
- familiar with special education terminology; and
- familiar with interpreter ethics.

Prior to all meetings that include an interpreter, it is best practice for the DOE staff member facilitating the meeting (e.g., the district representative at the IEP meeting) and the person filling the role of interpreter to review the Best Practices section of the [Language Access Handbook](#). Minors may not serve as interpreters. Any non-DOE interpreters arranged by the DOE must be security-cleared (i.e., PETS-eligible).

For additional guidance on arranging interpretation assistance at the school/CSE, refer to the [Language Access Handbook](#), contact your Language Access Coordinator, email [LACoordinators@schools.nyc.gov](mailto:LACoordinators@schools.nyc.gov), or visit [Translations and Interpretations Unit](#).

Note that bilingual assessments – including a social history meeting and assessment – must follow the [Bilingual Cascade](#).

<sup>3</sup> Note that NYSED guidance on “CSEs” applies to all DOE IEP teams.

## Procedural Safeguards Notice

A copy of the NYSED Procedural Safeguards Notice must be given to parents at least one time a year, and must also be given to parents upon initial referral or parent request for evaluation, upon receipt of a State complaint or due process complaint, and upon parental request. The Procedural Safeguards Notice is available on the [DOE Website](#), under “Your Rights.”

## Timelines for Evaluation and Placement

For a school-age student, initial evaluation or requested reevaluation must be completed<sup>4</sup> within 60 days of provision of parental consent ([initial](#)) or referral ([reevaluation](#)); and “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). Timelines for other scenarios (such as students turning 5 years old) and remedies for non-compliance are included in the relevant sections of this document.

## Chapter 408 Requirements

Schools must ensure that all of those responsible for implementing IEPs are provided with copies of, or SESIS access to, the IEPs for their students, and understand their responsibilities for the implementation of the IEP, prior to the initiation of the recommended programs, services and supports. This obligation includes those who are responsible for implementing the IEPs of preschool students with disabilities in the school.

IEPs are confidential documents and must be kept in locations not accessible by students or staff members who are not responsible for implementing the IEP. IEPs must be kept in a secure, locked location, including those copies in the possession of teachers and providers.

See the [Chapter 408 Requirements](#) for more specific information on these obligations and other Chapter 408 materials.

## School Implementation Team (SIT)

Each school is required to have a School Implementation Team (SIT), which develops a School Implementation Team Action Plan that addresses issues of access as well as the development of quality IEPs. Updated guidance on SITs, including information on required staff members and SIT goals for the 2017–18 school year, can be found [here](#).

## Requirements for Prior Written Notice

The term **Prior Written Notice** (PWN) refers to a notification to a parent that the DOE is proposing (or refusing) to initiate or change the identification, evaluation, IEP, or placement of a student.<sup>5</sup> A form specific to most situations in which a PWN is required is available in SESIS. See [Translation](#) for requirements and best practices regarding translations of notices.

At a minimum, each PWN must include the following:

- Description of the action(s) the DOE is proposing or refusing to take;
- Explanation of why the DOE is proposing or refusing to take the action;
- Description of each evaluation procedure, assessment, record, or report that was used as a basis for proposing or refusing to take the action;
- Description of other options considered and the reasons why those options were rejected (if applicable);
- Description of any other factors relevant to the proposed or declined action;
- Statement that the parent of a student with a disability has protection under the procedural safeguards of federal and State law and that a copy of the New York State Education Department (NYSED) Procedural Safeguards Notice is attached or the means by which the Procedural Safeguards Notice can be obtained; and
- Sources the parent(s) may contact to obtain assistance in understanding special education.

<sup>4</sup> Regulations require that the evaluation be completed within 60 days; however, all efforts should be made to ensure that the [IEP meeting](#) is also completed within the 60-day timeline.

<sup>5</sup> The Final Notice of Recommendation (FNR) is no longer used.



When sending the PWN, the school/CSE must determine whether the Procedural Safeguards Notice must be enclosed. A copy of the [NYSED Procedural Safeguards Notice](#) must be given to parents at least one time a year, and must also be given to parents upon initial referral or parent request for evaluation, upon receipt of a State complaint or due process complaint, and upon parental request.

If the DOE's proposed action requires informed parental consent, the DOE must give prior written notice at the same time it requests the parent's consent.

For more information on issuing a PWN in particular situations, please refer to the SESIS guides available on the [DOE InfoHub](#).

## Informed Consent

"Informed Consent" requires more than simply obtaining a parent's signature. The following steps **must be taken** when seeking informed consent from a parent:

- The parent must be fully informed of all information relevant to the activity for which consent is sought, including, as applicable:
  - which of the student's records will be shared and with whom (e.g., evaluators, service providers); and
  - what testing will be conducted.
- The parent must be notified that consent:
  - can be declined; and
  - may be revoked at any time, but that revocation is not retroactive, meaning it does not negate an action that occurred after consent was given.

The parent must understand the activity for which consent is sought and agree to it in writing.<sup>6</sup>

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<sup>6</sup> If a parent consents to some but not all of the DOE's proposed activities, staff should assist the parent in noting on the consent form the activities to which the parent consents and those to which the parent does not consent. The school social worker must process the consent form as if full consent was granted and consult the supervisor of school psychologists for guidance on proceeding with the case.

## Definition of a Parent

A “Parent” may be:

- A birth or adoptive parent;
- A guardian who is generally authorized to act as the child’s parent or authorized to make educational decisions for the child (but not the State if the child is a Ward of the State);
- A person acting in the place of a birth or adoptive parent (including a grandparent, step-parent, or other relative) with whom the child resides or a person who is legally responsible for the child’s welfare;
- A person in parental relationship to the child, as defined in New York Education Law, including a father or mother (by birth or adoption), a step-father, a step-mother, a legally appointed guardian or a custodian<sup>7</sup>;
- An individual designated as a person in parental relation pursuant to Title 15-A of the General Obligations Law. The General Obligations Law allows parents to voluntarily designate someone else to make educational decisions for their child. The designation must be in writing and can be for no longer than six months at a time. If the designation is for longer than 30 days, it must be notarized and signed by the designee as well as the parent;
- A foster parent; or
- A surrogate parent appointed by the school district or by a judge.

A student’s birth or adoptive parent is presumed to be the parent for special education decision-making purposes unless he or she does not have legal authority to make educational decisions for the child. If the birth or adoptive parent does not have legal authority to make educational decisions for the child, any of the other parties who meet the definition of “parent” may sign consent for evaluations or services. For example, a foster parent, guardian or other party listed above may assume the role of parent if:

- The birth or adoptive parent’s rights have been terminated or surrendered in court (i.e. the child has been freed for adoption);
- The birth or adoptive parent’s rights to make educational decisions have been limited, or a judge has appointed someone other than the birth or adoptive parent to make educational decisions for the child; or
- The birth or adoptive parent is deceased.

If a judicial order or decree identifies a specific person or persons to act as the parent or make educational decisions on behalf of the student, then such person(s) must be determined to be the parent.

The term “parent” does not include the State if the student is a Ward of the State. Therefore, caseworkers employed by the Administration for Children’s Services (ACS) and foster care agencies do not fit the definition of parent and cannot sign consent for special education evaluations or services, even if parental rights have been terminated or surrendered. The person with whom the student resides may not necessarily be the person legally authorized to sign consent. Care must be taken to ensure that consent is obtained from a person entitled to sign consent for evaluation and placement. For example, do not assume that a student is eligible for appointment of a surrogate parent simply because a child does not live with the parent. Also do not assume that the person with whom the child resides has authority to sign for the child, even if the person is a relative.

For students in foster care, the adult with whom the child lives will know whether the child is in foster care and should know the name and telephone number of the caseworker and the foster care agency. The caseworker will be able to provide information about the status of parental rights and may have updated information regarding the parent’s whereabouts.

When parents are divorced, the parent who is the “custodial parent” generally has decision-making authority for educational decisions. There are instances, however, when there are two “custodial parents”, with both parents having education decision-making authority, as well as where non-custodial parents are granted some level of decision-making with regard to the student’s education. If there are questions regarding which parent may make decisions, please consult with the Office of Legal Services at 718-935-4400.

## Surrogate Parents

To ensure the rights of the student are protected, in the following circumstances, a person must be appointed as a “surrogate parent” to act in the place of parents or guardians:

- No parent(s) can be identified;
- After reasonable efforts, the DOE cannot discover the whereabouts of the parent(s);

<sup>7</sup> A custodian is someone who has assumed the charge and care of a child because the parents or guardian have died, are imprisoned, are mentally ill, have been committed to an institution, or because they have abandoned or deserted the child, are living outside the state or their whereabouts are unknown.

- The student is an unaccompanied homeless youth, as defined by the McKinney-Vento Homeless Act; or
- The student is a Ward of the State and does not have a parent who meets the definition of parent. A Ward of the State is a child or youth who has been placed or remanded through a juvenile delinquency, PINS or child protective proceeding; is in the custody of the Commissioner of Social Services or the Office of Children and Family Services; or is a destitute child not being cared for in their home.

**Note:** A surrogate parent is not needed if the child has a parent, foster parent, guardian or other individual who meets the definition of parent and can serve in that role.

## Qualifications of Surrogate Parents

The DOE maintains a list of persons who are eligible and willing to serve as surrogate parents in order to ensure that the rights of the student are protected. Persons selected as surrogate parents are not officers, employees, or agents of the Department of Education or the State Education Department, or other agency involved in the education or care of the student.

A person who is an employee of a nonpublic agency that only provides non-educational care for the student and meets the qualifications may be selected as a surrogate parent.

**Note:** Staff of emergency shelters, transitional shelters, independent living programs and street outreach programs may be appointed as temporary surrogate parents for an unaccompanied homeless youth until a qualified surrogate parent can be found if they:

- Have no other interest which could conflict with their primary allegiance to the student they would represent; and
- Have knowledge and skills that ensure adequate representation of the student. Foster care caseworkers may not serve as surrogate parents because they are employees of an agency involved in the care of the student.

## Determining the Need for a Surrogate Parent

### Students who are in foster care:

For students in the care and custody or custody and guardianship of the Commissioner of the Department of Social Services (including but not limited to children in foster homes, group homes, and residential treatment centers), the foster care caseworker can assist the school/CSE in determining the status of the child. If it is determined that parental rights are still intact, the social worker should contact the foster care caseworker who may have updated information regarding the parents' whereabouts and whether the parent is permitted to know where the student is living. If the foster parent's address is to remain confidential, it is very important that the name and the address of the foster care agency be used as the student's address on all documents sent to the parent. This is crucial, as often the foster parent's address must remain confidential. **If the parent's rights are intact but the social worker cannot discover the whereabouts of the parent, then a surrogate parent must be appointed.**

If it is determined that:

- The birth or adoptive parent's rights have been terminated or surrendered in court (i.e. the child has been freed for adoption); or
- The birth or adoptive parent's rights to make educational decisions have been limited, or a judge has appointed someone other than the birth or adoptive parent to make educational decisions for the child; or
- The birth or adoptive parent is deceased;

then it must be determined whether there is any other individual who meets the definition of parent as described above, such as a foster parent or guardian. If so, that person can sign consent for special education evaluations and services and there is no need to appoint a surrogate parent.

If there is no one who meets the definition of "parent", the school/CSE must assign a surrogate parent within 10 business days. The school/CSE may:

- identify the surrogate parent from a list maintained by the school/CSE;
- identify a foster parent who otherwise meets the qualifications<sup>8</sup>;
- identify the individual appointed by a judge overseeing the child's case; or
- work with the foster care case worker to identify an appropriate person to serve as the surrogate parent, when appropriate.

<sup>8</sup> A foster parent may serve as the parent for a child in their custody without going through the surrogate parent training process or being put on the list of surrogate parents maintained by the school/CSE.

The surrogate parent will represent the student in all identification, evaluation, and placement activities for the student. Accordingly, all notices and correspondence must be directed to the surrogate parent.

**For students who are NOT in foster care:**

If a student is living with a parent or an individual above the age of 18 who is acting in a parental or custodial relationship (i.e., a person who provides food, clothing and shelter for the child), surrogate parents are not to be assigned, as the individual acting in a parental or custodial relationship may act as the parent.

If a student is living alone, with an individual under the age of 18 or in a homeless/shelter situation, and parents' identity or whereabouts are unknown, a surrogate parent is required. This is true even if the student is 18 years or older. In New York, students age 18 and above may make a request for referral for special education evaluations and may obtain records; however, the student may not sign consent for services; therefore, a surrogate parent would be required.

**For students who are unaccompanied homeless youth:**

An unaccompanied homeless youth is any homeless youth not in the physical custody of a parent or guardian. A student is homeless if they lack a fixed, adequate or regular nighttime residence. When determining if an unaccompanied homeless youth needs a surrogate parent, the [Students in Temporary Housing \(STH\) Content Expert](#) must be contacted for assistance in making this determination. If the unaccompanied homeless youth does not know the whereabouts of their parents or refuses to disclose this information, a surrogate parent should be appointed.

For any questions regarding who meets the definition of a parent, please consult your Special Education Attorney or call the Office of Legal Services at (718) 935-4400. For additional information regarding surrogate parents, please refer to [Guidelines and Procedures for the Assignment of Surrogate Parents](#).



## Child Find

New York City has an obligation to identify, locate, and evaluate each child attending a New York City school who has a disability or is suspected of being a child with a disability, regardless of the severity of the disability. This is called the “Child Find” obligation. Child Find is created by the federal Individuals with Disabilities Education Improvement Act and State law. Child Find extends to all children with disabilities – including children who are homeless, wards of the state, not attending a New York City public school, etc. – whether or not the DOE is providing services to the child. This obligation extends to all professional DOE staff members who have the right to [initially refer](#) or [request an initial referral](#) of a student.

When it is suspected that a child may have a disability, the principal should ensure that sufficient consideration has been given to alternatives to special education, including academic intervention services, response to intervention (RtI), and remedial instruction.<sup>9</sup> Discussions of these considerations should happen **in addition to and at the same time as** the special education process, including adherence to its [timelines](#). Considering these alternatives may not delay making or recording the initial referral, obtaining parental consent for initial evaluation, or the initial evaluation process.

## Considerations for Students in Temporary Housing (STH)

Relative to other students, students who experience homelessness<sup>10</sup> (also referred to as students in temporary housing) are more likely to have attended multiple schools or to have had gaps in schooling, resulting in a relative lack of depth of information in the student’s record and less familiarity from current and prior teachers and other professionals. In part as a result of these factors, the need for a referral for initial evaluation may not be as readily apparent. **Schools must make a particular effort to ensure that a referral is not delayed (or further delayed) by a lack of documentation or familiarity with the student.**

Schools should take whatever steps are needed to fill in gaps in information as quickly as possible, including informal conversations with the student and the parent to obtain details about the student’s academic history (including whether the student has ever had an IEP or IESP and whether a special education evaluation has been requested, suggested, or initiated) and current home life, and about the parent’s observations of the student outside school. The [STH Regional Manager, Community Coordinator](#) and/or Family Assistant should also

be consulted. If the student has attended other schools, the enrolling school must contact the prior schools to request all of the student’s records, and discuss the student’s performance, any concerns or academic/behavior issues that were noted, and any interventions that were provided and their outcome. It is the enrolling school’s responsibility to get the records, not the parent’s.

Families in temporary housing often struggle to receive mail because of their housing instability, which poses challenges for schools in obtaining consent for evaluation and services. If the student had been referred for a special education evaluation but the parent did not sign consent for the evaluation or services, the school should continue to seek consent if the case remains open. If the school has any difficulty connecting with a parent, the school should contact the STH Regional Manager. STH Regional Managers supervise shelter-based Family Assistants who can deliver and review consent forms with parents who are living in shelters. If the case was closed, the school should consider making another referral and do so if warranted.

If a student in temporary housing transfers during the [special education evaluation process](#), the receiving school should expedite completion of the evaluation, and reach out to the former school(s), as necessary, for additional information. The student’s transfer does not restart or extend the [timelines](#) for the evaluation or placement process.

Schools must take care to distinguish between school-based issues arising from home life circumstances and those resulting from an educational disability. That analysis requires that school staff consider all information holistically and in context. **Schools must not simply assume that a student’s home life circumstances are the cause of concerns that would otherwise result in a referral.**

While schools must ensure that a referral is not delayed, students in temporary housing may require appropriate general education interventions (i.e., RtI), the need for which must also be identified as quickly as possible. Students exhibiting social/behavioral difficulties should be seen by the guidance counselor, school social worker, school psychologist or other designated staff who can work with the student and family in addressing these difficulties.

See [here](#) for additional information on enrollment and admissions for students in temporary housing. For complete information on policies, procedures and resources for students in temporary housing, see the [Students in Temporary Housing website](#).

<sup>9</sup> A student in a Gifted and Talented (G&T) program must have access to pre-referral services and evidence-based literacy interventions. A student in G&T who is suspected of having a disability must be referred for an evaluation. The student’s school is responsible for conducting the evaluation and holding the IEP meeting. If the student is determined to be eligible for special education in a D1-32 school, the recommended services must be provided in the G&T program. Schools in need of assistance in providing the recommended programs and/or services should contact their ASE.

<sup>10</sup> A student who lives in any of the following situations is considered homeless under the federal McKinney Vento Act: A shelter or transitional shelter; a hotel or motel; a car, bus or train; a park or public place; an abandoned building; with friends or relatives due to inability to find/afford housing (“doubled up”). An unaccompanied youth is a person, under the age of 18, who lives in one of the situations listed above and is not in the physical custody of a parent or guardian.

## Initial Referral Process

The special education process begins with a referral for an initial evaluation (“initial referral”) to the IEP team. The initial referral can only be made by certain authorized individuals, including the student’s parent, the principal of the student’s DOE school, or the chairperson of the student’s CSE.<sup>11</sup>

[Certain other individuals](#), including professional members of DOE staff, are authorized to make a “request for referral” for an initial evaluation to the principal or chairperson.

## The Initial Referral

### DOE Referrals

When the principal/chairperson suspects that a student has a disability by reason of which they may require special education programs and/or related services, the school social worker (or the school psychologist in their capacity as case manager) sends the parent the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice**. See [Translation](#) for requirements and best practices regarding translations of notices.

Once the Notice of Referral has been sent to the parent, the school/CSE must start the [initial consent process](#).

### Parent Referrals

A parent may make an initial referral by submitting a written request for evaluation (a “referral document”) to the student’s DOE school or CSE. The referral document may be hand delivered or sent by mail, email or fax.

A referral document need not contain “magic words”; a written request for evaluation or consideration for special education is sufficient to constitute an initial referral.

If a parent makes an oral request (by phone or in person) for initial evaluation to a DOE professional, the DOE professional must promptly 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. Schools/

<sup>11</sup> Throughout this section, the terms “principal” and “chairperson” refer to those individuals and their designees.

<sup>12</sup> In either scenario, [language support must be provided as needed](#), and the interaction with the parent must be documented in the **SEGIS Events Log**. . If the interaction with the parent is not in English, the DOE staff member should document in the SEGIS Events Log which language was used to communicate during the conversation, or should specify what type of language support was utilized for the communication.]

<sup>13</sup> Including when staff has assisted the parent to create the referral document.

<sup>14</sup> If an initial referral document is received by a DOE school for a student who does not attend that school, or by a CSE that does not serve the student, and the school/CSE is unable to open the case due to lack of access to the student in SEGIS, the referral document must be stamped with the date of receipt and immediately forwarded to the DOE school where the student is registered, or to the appropriate CSE, which completes the steps in this paragraph, recording the date of referral as the date stamped on the referral document (or the date of the email, if the referral document was received by email).

CSEs must make clear to non-professional staff members who regularly interact with parents that, if a parent makes an oral request (by phone or in person) for evaluation, the staff member must connect the parent with a DOE professional who can promptly 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.<sup>12</sup>

Immediately upon receipt of a referral document by hand<sup>13</sup>, mail, or fax, the school or CSE must stamp the referral document with the current date (or the earlier date on which it was in fact received, if, for example, it arrived by fax and was mislaid).

If the initial referral is in the text of an email, the school/CSE must print the email, including the time and date it was received, and treat the printed email as the referral document. If the initial referral is attached to an email, the school/CSE must print the email, including time and date of receipt, along with the attachment, and treat the printed email and attachment as the referral document.

A DOE staff member who receives a referral document must immediately either open the case in SEGIS or convey the referral document to a professional colleague (e.g., the school psychologist or school social worker) who is able to do so. The referral document must be faxed into SEGIS by the conclusion of the following business day. When creating the fax coversheet for the referral document, the date of referral must be recorded as the date the referral document **was received by the school/CSE**; this date should match the date stamped on the referral document (or the date of the email, if the referral document was received by email).<sup>14</sup>

The school psychologist, in their capacity as case manager, ensures that the school social worker has been notified of the referral. The student will automatically appear on the school’s **Status of Initial Referrals in Process** report in SEGIS.

The school social worker or CSE chairperson designee (or the school psychologist in their capacity as case manager) sends the parent the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards**

**Notice** within five school days of the date of the referral. See [Translation](#) for requirements and best practices regarding translations of notices.

Once the Notice of Referral has been sent to the parent, the school/CSE must start the [initial consent process](#).

### Referrals from Other Sources

If a non-DOE person other than the parent attempts to make a referral and claims authority to do so, the referral document must be date stamped and the case opened in SESIS as for a parent initial referral.<sup>15</sup> Contact the NYCDOE Borough/Citywide Offices (BCOs) Director of Special Education or CSE chairperson to confirm that the referral is from an authorized person<sup>16</sup> before proceeding to send the **PWN: Notice of Referral: Initial.** [Certain other](#) non-DOE persons and/or entities are authorized to *request* that the DOE refer a student for initial evaluation; if such a person or entity submits such a written request (including one that mistakenly purports to refer a student for initial evaluation), treat the document as a [request for referral](#).

## Consideration of Alternative Strategies

When considering whether to refer a student for initial evaluation – or upon receipt of a parent's initial referral – the principal should ensure that sufficient consideration has been given to alternatives to special education, including academic intervention services, response to intervention (RtI), and remedial instruction. Considering these alternatives may not delay making or recording the initial referral, obtaining parental consent for initial evaluation, or the initial evaluation process. Discussions of these considerations should happen **in addition to and at the same time as** the special education process, including adherence to its [timelines](#). The principal should:

- Consult with the student's general education teacher(s) and other school professionals familiar with the student to ensure that all alternatives have been considered. These discussions should include a review of the general education supports and services, instructional methodologies and curriculum and classroom accommodations that have been used, as well as those methodologies, accommodations, and interventions that are available in the school but have not yet been implemented.
- Consider previous parental involvement and concerns that may have been brought to the school's attention for the student and/or siblings,

and determine whether strategies exist that may be used to engage the parent's involvement or respond to the parent's concerns.

- Review any medical information about the student, including vision and hearing tests.
- Assess the availability of community-based services that could benefit the student and/or their family (with the shared understanding that their availability does not diminish the DOE's obligation to recommend and provide FAPE if the student is eligible).
- Consider additional professional development and/or supports that could be provided to the student's general education classroom teacher(s).

### Meeting to Discuss General Education Interventions

If a school receives an initial referral for a student who is not yet receiving appropriate and available **general education interventions**, the principal should seek to promptly convene a meeting with the parent (including the student, **at least one of the student's general education teachers**, and other school professionals familiar with the student) to determine whether a plan of alternative strategies might be appropriate, and to provide an opportunity for the school to consult with the parent regarding the student's needs. As appropriate, the principal should seek to convene such a meeting upon receipt of an initial referral for a student who is already receiving general education interventions.

If the parent accepts the offer of a meeting, the meeting must be scheduled for a mutually agreeable time that is **within 10 school days** of the school's receipt of the referral document. ***The IEP team must continue to carry out its special education obligations with respect to the referral, including obtaining parental consent for initial evaluation; the timetable for meeting these obligations is not altered by the scheduling of this meeting.*** The meeting should be scheduled at a time when the school social worker is available so that the social history may be conducted and consent to evaluate obtained from the parent if the outcome of the meeting is to proceed with the referral.

*If the parent rejects or fails to respond to the offer of the meeting, the initial referral must still be processed according to the timelines for [obtaining parental consent](#) for initial evaluation.* As appropriate, the school should implement general education interventions during the process.

Prior to a meeting with the parent to discuss general education

<sup>15</sup> Certain other individuals are authorized to make an initial referral, such as a representative of a public education agency other than the DOE.

<sup>16</sup> The deputy or chairperson should seek guidance from the Special Education Office as needed.

interventions, the principal should:

- Using the **Parent/Principal Written Agreement to Withdraw an Initial Referral** form in SESIS, prepare a **draft agreement** of potential alternatives to the referral that describes, at minimum:
  - Additional appropriate and available general education support services proposed to be provided;
  - Instructional strategies to be used;
  - Student-centered data to be collected to track progress; and
  - Proposed duration of the services.
- Determine whether an interpreter will be required at the meeting. See [Interpretation](#) for requirements and best practices regarding interpretation.

The following is a model agenda for the meeting:

1. *Introduction of all participants;*
2. *Overview of the purpose of the meeting, including a description of the process if the referral goes forward;*
3. *Request for input from the parent on their perspective on the student's functioning in school and at home and their reason for the referral;*
4. *Discussion of the student's current performance from the school's perspective, including discussion of any general education interventions that have been initiated and their perceived impact;*
5. *Sharing and discussion of potential interventions to address the student's area of need that are available in the school and could be initiated to support the student;*
6. *The data that will be collected regarding potential interventions;*
7. *The proposed duration of potential interventions; and*
8. *A determination of whether an agreement between the parent and principal can be reached on implementing general education interventions, and if so, whether the referral will be withdrawn.*

If an alternative agreement is reached:

- Make any needed revisions or amendments to finalize the agreement;
- Determine and memorialize how and when follow-up information will be shared with the parent, and offer the opportunity for a follow-up

conference;

- Collect the signature of the parent and principal on the **Parent/Principal Written Agreement to Withdraw an Initial Referral** form under Case Closing in SESIS; and
- Provide a copy of the agreement to the parent, and to the student, if appropriate.

The parent should not be discouraged from proceeding with the referral. If the parent wishes to proceed, the school social worker obtains parental consent to evaluate and, if possible, conducts the social history at this time. As appropriate, the school should implement general education interventions alongside the evaluation process.

The meeting must be documented in the **SEGIS Events Log**, whether or not an agreement was reached.

## Request for Initial Referral

A written **request** that the DOE refer the student for an initial evaluation may be made by:

- A professional staff member of the school the student attends or is eligible to attend;
- A physician;
- A judicial officer;
- A professional staff member of a public agency with responsibility for welfare, health or education of children; or
- A student who is 18 years of age or older, or who is an emancipated minor.

### Request for Initial Referral by Professional Staff Members

To the extent appropriate, interventions, curriculum accommodations, and remedial services should be considered before a professional staff member requests initial referral of a student experiencing difficulties in school, unless the staff member suspects that the student's difficulties are the result of a disability by reason of which the student may require special education programs and/or related services. Professional staff members are to use their judgment in determining when to request initial referral, and are not to encourage parents to make an initial referral in lieu of requesting referral themselves. Administrators must not discourage professional staff members from requesting initial referrals.



Requests for initial referral initiated by professional staff members must:

- State the reason for the request and include any test results, records, or reports upon which the request is based;
- Describe intervention services, programs, or instructional methodologies used to remediate the student's performance prior to the request, including any supplementary aids or support services provided or the reason why none were implemented; and
- Describe the extent of parental contact or involvement prior to the request.

The **Request for Initial Referral Form** is used for this purpose and must be completed in SESIS. This form provides the opportunity to document interventions that were implemented prior to the request and to consider other intervention strategies and options. If the request for referral form is incomplete, the case manager notifies the individual making the request of the need to resubmit the form with all information to avoid delay in processing. Additional documents can be faxed into SESIS as **Documents Related to Referral**.

If the student is in grades K-5 and is being referred due to a possible learning disability in reading, a description of the strategies and/or interventions used (in accordance with the school's RtI model) must be included in the intervention strategies section of the request form. Any RtI documents with additional information should also be faxed into SESIS, if available.

### Processing the Request for Initial Referral

If not generated in SESIS, the request for initial referral document must be stamped and/or printed as an [initial referral document](#) would. Upon receipt of a request for initial referral, the principal or chairperson should:

- Consult with the individual who submitted the request for initial referral, as well as other school professionals familiar with the student, to confirm that appropriate alternatives have been considered. These discussions should include a review of the general education supports and services, instructional methodologies and curriculum and classroom accommodations that have been used, as well as those that are [available in the school](#) but have not yet been implemented.
- Review any medical information about the student, including vision and hearing tests, if available. If vision tests are not available, the principal or chairperson should confirm whether the student received a vision screening and, if not, the principal or chairperson will comply with the

vision screening requirements of Chancellor's Regulation [A-701](#).

- Consider previous parental involvement and concerns that may have been brought to the school's attention for the student and/or siblings, and determine whether strategies exist that may be used to engage the parent's involvement or respond to the parent's concerns.
- Assess the availability of community-based services that could benefit the student and/or their family.
- Consider additional professional development and/or supports that could be provided to the student's general education teacher(s).

As soon as a determination is made, **and no later than 10 school days** after receipt of a request for initial referral, the principal/chairperson must **either**:

Make an [initial referral](#); or

Take **ALL** of the following steps:

- Provide the parent with the PWN: Refusal of Request to Conduct Initial Evaluation;
- Inform the parent of their right to make an initial referral;
- Provide the parent with a copy of the request for initial referral; and
- Offer the parent an opportunity to have a meeting to discuss the request for initial referral, for the purpose of discussing the concerns raised in the request and, to the extent appropriate, the availability of general education support and intervention services. The meeting should include the principal and the person who made the request for referral; if the request was from a non-DOE person, the parent may invite them, and they must be allowed to attend the meeting.

**If the parent declines the offer of a meeting to discuss the request for initial referral or does not respond after outreach**, the principal must, if appropriate, develop a plan for general education interventions, and, either:

- Make an [initial referral](#); or
- Close the case.

### Meeting to Discuss Request for Initial Referral

If an initial referral has not been made and the parent accepts the offer of a meeting to discuss the request for referral, the meeting must be scheduled for a mutually agreeable time. The meeting should be scheduled at a time when the school social worker is available so that the social history may be

conducted and consent to evaluate obtained from the parent if the outcome of the meeting is a referral.

Prior to the **meeting to discuss the request for initial referral**, the principal/chairperson should:

- Prepare a **draft agreement** that describes, at minimum:
  - Additional appropriate and available general education support services proposed to be provided;
  - Instructional strategies to be used;
  - Student-centered data to be collected to track progress; and
  - Proposed duration of the services.
- Determine whether an interpreter will be required. See [Interpretation](#) for requirements and best practices regarding interpretation.
- Invite the DOE professional who requested the initial referral, or, if the referral was from a non-DOE person, ask that the parent invite him/her.

The following is a model agenda for the meeting:

1. *Introduction of all participants;*
2. *Overview of the purpose of the meeting, including a description of the process that would follow an initial referral;*
3. *Review of the concerns raised in the request for initial referral and interventions that have been implemented and their impact;*
4. *Request for input from the parent on their perspective on the student's functioning in school and at home;*
5. *Sharing and discussion of potential interventions to address the student's area of need that are available in the school and could be initiated to support the student;*
6. *The data that will be collected regarding potential interventions;*
7. *The proposed duration of potential interventions; and*
8. *A determination of whether an agreement between the parent and principal can be reached on implementing new interventions.*

If an agreement is reached:

- Make any needed revisions or amendments to finalize the agreement;
- Determine and memorialize how and when follow-up information will be shared with the parent, and offer the opportunity for a follow-up conference;
- Collect the signature of parent and principal on the agreement and fax it into SESIS as a **Document Related to Referral**, titled "**Agreement on General Education Interventions**"; and
- Provide a copy of the agreement to the parent, to the student (if appropriate), and to the professional staff member who made the request for initial referral (if applicable).

The meeting must be documented in the **SEGIS Events Log**, whether or not an agreement was reached.

## Obtaining Consent for the Initial Evaluation

[Informed consent](#) must be obtained by the DOE from the parent before the DOE may conduct any assessments, including observations, as part of the special education initial evaluation process.<sup>17</sup> Informed consent is explained by the school social worker and sought from the parent at the [social history meeting](#), but may be received at any time.

### Scheduling the Social History Meeting with the Parent

After the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice** have been sent to the parent, the **Notice of Social History Meeting** is sent to the parent. (The notices may be sent together.) The **Notice of Social History Meeting** establishes an appointment date for the meeting that is:

- **as soon as possible;**
- no later than 15 business days from the date of the initial referral;<sup>18</sup> and
- no earlier than seven [business](#) days from the date the **Notice of Social History Meeting** is mailed (unless the parent has agreed to an earlier date).

*Before the school/CSE sends the Notice of Social History Meeting, the parent should be contacted by phone or email to identify the soonest mutually agreeable date and time.*

If the parent contacts the school social worker/designee and indicates that the appointment date is inconvenient, the appointment is rescheduled for the soonest mutually agreeable date and time. The rescheduling of the meeting must be documented in the **SE SIS Events Log**.

**Note:** If English is not the parent's preferred language, arrangements must be made for a bilingual social history and steps noted in the [Bilingual Cascade](#) must be followed.

### Outreach Activities to Schedule a Meeting to Obtain Consent and Conduct the Social History

If the parent has not confirmed the appointment, outreach must begin at least five days before the appointment date, and must include, at a minimum:

- Two attempts at telephone contact at different times of the day; and
- A follow-up letter sent to the parent by mail; and
- If the parent could not be reached by phone and no message was left, a follow-up letter sent home with the student ("backpacked"), if they attend a DOE public school.

All contacts and attempts to contact the parent must be documented in the **SE SIS Events Log**, including the appropriate "**Response Type**" and "**Log Type**".

For parents whose preferred language is other than English, interpretation must be made available when contacting the parent. See [Interpretation](#) for requirements and best practices regarding interpretation.

### Obtaining Consent for the Initial Evaluation at the Social History Meeting

At the meeting to obtain consent and conduct the social history, the **school social worker** takes the actions outlined in the [Initial Social History section](#).

When all of the steps outlined in the **Initial Social History** section have been completed, the school social worker requests that the parent sign the **Consent for Initial Evaluation** form (located in the **Social History Package** in SE SIS).

If consent is provided, the school social worker proceeds to conduct the social history.<sup>19</sup>

Immediately upon receipt of a signed **Consent for Initial Evaluation**, the

<sup>17</sup> Note that the screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation is not considered an evaluation for eligibility for special education and does not require informed parental consent.

<sup>18</sup> For [parent referrals](#) (or initials referrals from other [authorized non-DOE sources](#)), the date of the initial referral is the date the initial referral document was received by the school/CSE. For [DOE referrals](#), the date of the initial referral is the date the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice** were sent to the parent.

<sup>19</sup> Informed consent to evaluate cannot be construed as consent to provide special education services.

school/CSE must stamp the consent document with the current date (or the earlier date on which it was in fact received, if, for example, it arrived by fax and was mislaid), and fax it into SESIS.

If the **Consent for Initial Evaluation** is attached to an email, the school/CSE must print the email, including time and date of receipt, along with the attachment, and fax the email and attachment into SESIS.

When creating the fax coversheet for the **Consent for Initial Evaluation**, the date of consent must be recorded as the date the **Consent for Initial Evaluation was received by the school/CSE**; this date should match the date stamped on the **Consent for Initial Evaluation** (or the date of the email, if the **Consent for Initial Evaluation** was attached to an email).

## If Parent Does Not Consent to Initial Evaluation

**In the event that a parent declines to provide consent or does not respond despite outreach, 25 days after the *Notice of Social History Meeting was sent*, the school/CSE either (a) closes the case, or (b) initiates due process proceedings.**

If the school/CSE suspects that the student has a disability that is adversely impacting their ability to benefit from education and which cannot be addressed through available general education supports and determines that the evaluation is essential to determining the student's needs and recommending appropriate services, the DOE may seek to conduct an initial evaluation of the student by utilizing [mediation or impartial hearing procedures](#).<sup>20</sup> Consult with the supervisor of school psychologists and/or BCO Administrator of Special Education to consider a request for mediation or impartial hearing to obtain parental consent to proceed with new assessments.

If the school/CSE does not initiate due process proceedings following a parent declining to provide consent or not responding to outreach, the school/CSE must send the parent the **Final Notice of Withdrawal from the Evaluation Process- Initial Referrals**. If the parent still does not respond or declines to consent, after five days, the case should be closed in SESIS.

If consent is received after the case has been closed, the case must be re-opened (as though it were a new referral) in SESIS, using the original referral date. A note should be entered in the **SE SIS Events Log** that a new referral has **not** been made, and the evaluation must commence, with the timeline for completion based on the date of consent.

## Withdrawal of Consent for Initial Evaluation

If a parent submits a written withdrawal of consent for an initial evaluation during the evaluation process, no further assessments may be conducted.

If parental consent is withdrawn during an initial evaluation, the school/CSE must terminate the referral process. In that case, the parent should be informed of their right to re-initiate the referral at any time by submitting an initial referral and consenting to the evaluation. The school/CSE should then send the parent the **Final Notice of Withdrawal from the Evaluation Process – Initial Referrals** and, after five days, close the case in SESIS.

Depending on the reason for the initial referral, the school should determine whether there are other general education or community supports that could be considered to address the issues that resulted in the referral.

If a parent withdraws consent during an initial evaluation, the school/CSE may initiate due process proceedings. The considerations are the same as if a parent does not consent.

<sup>20</sup> If a student is enrolled in a private/religious school at private expense, or if a parent is home schooling the student, the DOE may not use due process procedures to conduct an initial evaluation or reevaluation.



## Special Education Evaluation

Special Education Evaluation is the process of gathering information about a student for consideration of eligibility and development of the IEP. Evaluation is an individualized,<sup>21</sup> multidisciplinary process that uses a variety of assessment tools and strategies, including efforts to determine whether there are modifications or services<sup>22</sup> that may enable the student to participate and make appropriately ambitious progress in the general education curriculum and environment. The process includes seeking information from the parent about the student's functioning and development, and involves consideration of both the student's characteristics in the educational environment and, to the extent bearing on their school performance, cultural, linguistic, social, emotional, economic, environmental, and health factors outside the school setting.

### Initial Evaluation

As part of the evaluation process, members of the IEP team must review existing student information, including: any assessment reports or other documents<sup>23</sup> or input provided by the parent; current, classroom-based State and local assessments and, whenever available, 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 prior observations by teachers and other school staff.

### Required Assessments

An initial evaluation must include:

- A social history;
- A [physical examination](#);
- An individual [psychoeducational assessment](#);<sup>\*</sup>
- At least one [observation](#) of the student in the current educational setting;
- For a student age 12 or older, an assessment that includes a review of school records and teacher assessments and parent and student interviews<sup>24</sup> to determine [vocational skills, aptitudes, and interests](#). The [Level I Vocational forms](#) in SESIS are used for this purpose.

21 The special education evaluation process does not include tests or assessments administered to all students in a certain class, grade or school, although tests and other classwork may be reviewed by clinicians as part of the special education evaluation.

22 Both general education and special education services.

23 These must be faxed in to SESIS as documents related to assessment.

24 If English is not the parent's preferred language, steps noted in the [Bilingual Cascade](#) must be followed.

25 Such as: [Speech and Language Assessment](#); [Occupational Therapy Assessment](#); [Physical Therapy Assessment](#); [Functional Behavioral Assessment](#); [Audiological Assessment](#); or [Specialized Assessments](#) such as a [Neuropsychological Assessment](#), [Psychiatric Assessment](#), or [Neurological Assessment](#).

26 If the parent provides a recent psychoeducational or neuropsychological assessment, and upon review of the report the school psychologist believes that conducting an additional psychoeducational assessment would be unnecessary, s/he must follow the same process.

Other assessments<sup>25</sup> must be conducted as needed to explore all areas related to the suspected disability, along with behaviors that impede the student's or others' learning or place the student or others at risk of harm. On the basis of the review of existing student information, the IEP team will determine which additional assessments, if any, will be conducted. The IEP team must also consider the need for additional assessments based on assessment reports as they are received (e.g., the results of an occupational therapy assessment may indicate the need for a physical therapy assessment).

\* While in the vast majority of initial evaluations a psychoeducational assessment must be conducted, a school psychologist may determine that the assessment is unnecessary for a student – for example, because the only suspected disability is orthopedic. If a school psychologist determines that a psychoeducational assessment is unnecessary, they must first consult with their supervisor and then prepare a written report to that effect, including a statement of the reasons, and enter the report in the psychoeducational template in SESIS, providing a copy to the parent.<sup>26</sup>

### Initial Social History

**Professional:** School Social Worker

The social history provides a long-term perspective of the student's development, changes in skill level, family circumstances, and prior intervention strategies. Conditions in the student's home or community can often have a substantial impact on the student's performance in school. Through the social history, valuable information can be obtained about the student's home and community environment and what kinds of strategies have been successful in the past, and other factors that may be affecting the student's learning, such as Adverse Childhood Experiences that may result in trauma-related symptoms. When necessary, the school social worker should refer the family to appropriate community resources.

For students from diverse linguistic or cultural backgrounds, the social

history should also provide information regarding: the family's pattern of contact with the native country or home community; the family's and the student's adjustment and assimilation in the United States, New York City, and the school environment; and patterns of language usage at home and in the community.

In addition, at the social history meeting, the school social worker must do the following:

- Review the **Home Language Identification Survey** (HLIS) to verify the language spoken at home. For a student who does not attend a public school and does not have an HLIS, one must be [completed with the parent](#).
- Confirm the parent's preferred language and mode of communication.
- Confirm that the parent has received a copy of the **Procedural Safeguards Notice** and inform the parent of his/her due process rights. The Procedural Safeguards Notice should be provided to the parent in their preferred language, if it is one of the DOE's 9 covered languages.
- Ensure that the parent has access in the parent's preferred language to the [Family Guide to Special Education Services for School-Age Children](#) (available in English, Arabic, Bengali, Chinese, French, Haitian Creole, Korean, Russian, Spanish and Urdu).
- Inform the parent in the parent's preferred language of the parent's right to have a [trained interpreter](#) at meetings, if necessary, and of the right to request evaluation reports for evaluations paid for by the DOE and the student's IEP translated into the parent's preferred language. The translated document should be made available within 30 calendar days of the parent's request or finalization of the document, whichever is later.
- Explain the reason for the referral, the purpose of the evaluation, and the subsequent steps in the special education process, including that the evaluation is to be completed within [60 days of the date that the DOE receives the parent's informed consent](#), as per State and federal regulations.
- Inform the parent that an IEP meeting will be held after all necessary information is gathered.
- Inform the parent that s/he is a member of the IEP team and serves as a full participant in all decisions regarding eligibility and program and service recommendations.
- Inform the parent of his/her right to examine his/her child's educational record.
- Inform the parent that s/he will receive a copy of all current assessments

and reports prior to the IEP meeting. The parent must be asked how s/he wants to receive copies of the assessment reports (via mail or pick-up at the school/CSE). This must be noted in the **Events Log** in SESIS. If the parent chooses to pick up the assessments, the school social worker must provide the parent with contact information to arrange a time to pick up the assessments.

- Inform the parent that s/he may bring other individuals who have knowledge or special expertise regarding his/her child to IEP meetings.
- Elicit parent inquiries and concerns around elementary/middle/high school, graduation and post-secondary options, responding and engaging in an informal discussion as appropriate; and, if the student is 12 years old or older, interview the parent regarding the student's vocational skills, aptitudes and interests using the [Level 1 Vocational Interview – Parent / Guardian form](#).
- Request that the parent forward the results of the student's most recent physical examination by providing a copy of the **Request for Physical Examination** form. If the parent indicates that the student does not have a physician, the school social worker will provide assistance in contacting a clinic to conduct a [physical examination](#).
- If the parent or school staff suspect that a student has hearing loss, inform the parent that audiological testing may be appropriate; and, if audiological testing has already been conducted, request the results from the parent.
- Inform the parent that s/he may send any information or statement, in writing, or may call the school social worker/designee and provide information orally.
- Describe the non-specialized transportation options that are available to all students with disabilities (i.e., full fare MetroCards; stop-to-school busing, if available), and explain that the IEP team will recommend specialized transportation only if the available non-specialized transportation means are insufficient in light of the student's functioning.
- In the event that the student may require [specialized transportation](#), inform the parent that medical documentation is required for any special transportation accommodations and provide the parent with a copy of the **OSH Physician Review: Medical Requests for Transportation Accommodations Form** for completion by the student's physician and the **Authorization for Release of Health Information Pursuant to HIPAA Form** (located in the **Social History Package** in SESIS) to be completed by the parent and then provided to the IEP team in advance of the IEP meeting. Documentation must describe the medical condition

and its impact on the student during transportation.

- Request that the parent sign the **Request for Release of Records** form (located in the **Social History Package** in SESIS) to obtain any evaluations that were conducted by local hospitals, agencies, etc. (The parent is not obligated to sign the release or to share any outside evaluations. The evaluation must proceed even if the parent elects not to sign the release.)
- Inform the parent that his/her written consent will again be required before special education services can be initiated, and that, at any time after providing consent for the provision of special education services, s/he may withdraw consent for the continued provision of special education services.
- When there is a possibility that the student's recommended program will only be available at a school a long distance from the student's home, the availability of [hardship transportation](#) should be discussed at the social history and IEP meeting.
- When all of these steps have been completed, request that the parent sign the **Consent for Initial Evaluation** form (located in the **Social History Package** in SESIS).

Information gathered from the social history is documented in the **Social History Evaluation** form in SESIS.

## Physical Examination

**Professional:** Family Physician, School Physician, Nurse Practitioner, Physician's Assistant

A physical examination is a required component of the initial evaluation. The **Physical Examination** form must include:

- A signed statement containing a summary of the results of the examination and, if a disease or medical condition is found, recommendations for treatment of the student and/or for separation during instruction or other activities (e.g., lunch, transitions, transportation);
- Results of hearing and vision screenings;
- Any necessary modification to the student's activities; and
- Any need for health supervision of the student.

At the social history meeting, the school social worker gives the parent the **Request for Physical Examination Form** and asks that it be completed by the student's physician and returned to the school social worker.

<sup>27</sup> If none of these steps are effective, contact the supervisor of school psychologists for support in ensuring that a physical examination is arranged.

If the parent is unable to obtain a physical examination, the school social worker must request a copy of the student's medical record from the school nurse to determine whether there is a recent (conducted in the past year) physical examination (a copy of Form CH-205 may be used) on file. If there is no nurse available in the school, the school social worker should contact the appropriate Supervising Nurse. If no recent physical examination is on file, the school social worker must take the following steps to the extent necessary, logging all steps taken in the **SE SIS Events Log**:

- Request records from the student's medical provider using the **Authorization for Release of Health Information Pursuant to HIPAA** form (located in the Social History Package in SESIS).
- Provide guidance and assistance (including assistance in scheduling appointments) to the parent regarding local free or low cost clinics or health care agencies.
- Provide information to the parent regarding Child Health Plus, a State-funded insurance plan for children under the age of 15.<sup>27</sup>

The **Physical Examination** form must be completed in its entirety, including *all information in the hearing and vision screening sections*. If a section of the form is omitted or illegible, the school social worker must follow up with the physician to obtain the information.

## Psychoeducational Assessment

**Professional:** School Psychologist, Licensed Psychologist

The purpose of a psychoeducational assessment is to explore and systematically study the student's academic skill development, intellectual functioning, strengths and weaknesses in cognitive/learning processes and social, emotional, behavioral, and adaptive functioning. Included in this assessment are the student's aptitudes for learning ("IQ"), academic functioning, social skills, self-help skills, physical and motor development, behavior, personality, and emotional functioning.

The school psychologist works with the student and his/her family, with a particular focus on performance in school. The aim of the psychoeducational assessment is to discover and describe how best to help the student progress in school.

This aim is accomplished by systematically gathering data through a variety of sources and methods, including: a review of student records; current classroom-based assessments; observations of behavior across classroom and testing settings; interviews with the student and school staff, including

the student's general education teacher(s), regarding the student's functioning and progress in mastering the curriculum; consultation with the parent; and the use of individual tests and assessment instruments, which provide important information through scores and the content and quality of responses. The results of this data-gathering process must be analyzed and integrated into a report that presents a comprehensive and meaningful description of the student's way of thinking, feeling, acting, and learning.

The psychoeducational assessment contributes information about processes that affect learning, thinking, and behavior, and thereby provides a basis for designing an educational program that builds on the student's individual strengths and helps to support, overcome or compensate for the student's individual weaknesses. The psychoeducational assessment is also important in the prevention of educational, behavioral, and social/emotional difficulties for the student through the timely recognition of the student's needs. The information is documented using the ***Psychoeducational Evaluation Report*** form in SESIS.

The school psychologist may determine based on this data-gathering that additional, [specialized assessments](#) may be needed to identify and understand the student's cognitive/academic functioning or emotional/behavioral issues, or because the psychologists suspects that the student may have a neurological disorder.

## Classroom Observations

**Professional:** School Social Worker, School Psychologist, Special Education Teacher<sup>28</sup>

As part of an initial evaluation, at least one observation of the student in his/her current primary education setting must be conducted and documented in the ***Classroom Observation*** form in SESIS. For initial evaluations, at least one classroom observation is conducted by the school social worker. The classroom observation must be sufficient to report on the student throughout the instructional day.

The classroom observation should include: a comparison of the learning preferences and behavior of the student with other students in the same instructional group or in other relevant settings; teacher-student interactions; patterns of language usage, especially in bilingual/ENL classes; and other issues that impact the student and his/her functioning. Special attention should be given to the academic performance and/or behavioral issues that precipitated the referral for the initial evaluation. The observation of a linguistically and/or culturally diverse student should include an effort to

<sup>28</sup> For initial referrals this may be the school's IEP Teacher (if applicable).

determine and document the effect, if any, of social and cultural or linguistic factors on the student's performance in the educational setting. For observations of students attending bilingual classes, the observation must be conducted by an observer who understands the language of instruction. If necessary for observation of a student in a classroom with a language of instruction other than Spanish, an interpreter must assist the observer.

## Speech and Language Assessment

**Professional:** Teacher of Speech Improvement (DOE), Licensed Speech Pathologist

The goal of the speech and language assessment is to provide a description of the student's communicative competence – the student's ability to comprehend, express and exchange information, and the impact of those abilities on learning. A speech and language assessment may be recommended on the basis of concerns about the student's pattern of communication, noted through formal and/or informal observation.

A linguistically and culturally diverse student may use a mixed linguistic system that reflects use of elements from his/her diverse language background. The speech and language assessment must explore a student's performance in the relevant languages using all the communication strategies with which the student is familiar. Social and cultural factors must be considered in conducting the assessment.

The speech and language assessment should include a review of the student's developmental history in regard to language acquisition and his/her current language and communication skills, including verbal and non-verbal communication. The student's articulation and swallowing functions must also be assessed.

This information is documented using the ***Speech/Language Evaluation*** form in SESIS.

**Note:** A speech and language assessment does not require a physician's prescription.

## Occupational Therapy / Physical Therapy Assessment

**Professional:** Occupational Therapist, Physical Therapist

An OT or PT assessment may be recommended on the basis of information



obtained through observations, results of general education interventions, and from the parent/guardian, teacher or other school personnel.

An occupational therapy assessment should be considered when participation restriction may be related to activities of daily living, functional sensorimotor skills, pre vocational skills, movement/accessibility, visual motor, and/or management of classroom materials/tools (including writing implements).

A physical therapy assessment should be considered when there are concerns about the student's gross motor skills impacting access and participation in various areas of the school, such as hallways, stairs, classroom, lunchroom, playground, gym, bathroom, transportation, and others.

OT and PT assessments should employ a participation-based approach that places overall importance on the student's role, participation, and social engagement within the educational environment. This is referred to as a "top-down" approach (as compared with a "bottom-up" approach, which considers the student's disability and specific deficits and strengths first). The primary focus of the assessment is to identify problems and concerns related to these functional areas. If concerns are identified, the assessment proceeds to determine factors that interfere with the accomplishment of the student's role in the educational environment.

The **OT/PT Evaluation** forms in SESIS are completed by the assigned evaluator.

A physician's prescription is not required to conduct an OT or PT **assessment**. If the IEP team determines that a student requires school-based OT or PT, a physician's prescription is required to recommend the service on the student's IEP. A physician's prescription alone is not sufficient to recommend OT or PT service on the IEP; an assessment must be completed to determine the student's need for each service.

## Vocational Assessment

**Professionals:** The administration of a vocational assessment requires a team approach. Team members are identified by the principal/chairperson, and may include a rehabilitation counselor, guidance counselor, special education teacher, Career and Technical Education (CTE) teacher, school psychologist, and/or school social worker.

A vocational assessment must first be completed for all students with disabilities at age 12 or older (or who will turn 12 by the end of the calendar year in which the evaluation is completed) to help the student, family and

school to begin to discuss the needs, interests and aspirations of the student as she/he prepares for high school, graduation and adult life.

The vocational assessment involves the systematic collection and analysis of information gathered from the student, parent(s), and teacher(s) and a review of school records to explore a student's vocational aptitudes, skills, expressed interests, and occupational exploration history (e.g., volunteer experiences, part-time or summer employment, club activities). The collection of this information should also take into account the student's language, culture, and family. Based on the student's age, abilities, expressed interests and needs, an appropriate vocational assessment may include the review of existing school information and conducting informal interviews (a Level I assessment), the administration of one or more formal vocational assessments (Level II), or job and student performance analyses made in real or simulated work settings as reported by the student, employer, job coach or vocational evaluator (Level III).

Vocational assessments should be updated as the student's interests and needs change. The Level I assessment incorporates information gathered from the student, parent, and teacher relating to a student's goals for graduation, employment, postsecondary education, training, and independent living skills. The Level I assessment must be updated annually, and the IEP team should consider conducting further (Level II and III) assessments when appropriate as transition planning progresses.

Based upon the information gathered from a Level I assessment, the student's age, transition planning needs, and expected exiting credential at the time of the initial evaluation, a Level II assessment may be conducted to determine the level of a student's vocational skills, aptitudes, and interests. The Level II Career Assessment is a formal assessment using a normed/standardized vocational instrument that tests specific skills and abilities. Though it is frequently a trained vocational evaluator or rehabilitation counselor who administers or supervises this level of assessment, a guidance counselor, special education teacher, school psychologist, school social worker, or other trained professional may administer the assessment. Collected data can include: interest inventory, perception (visual/auditory/tactile), motor (dexterity, speed, tool use, strength, coordination), spatial discrimination, verbal (reading, writing, speaking), numerical (measurement, money skills), comprehension (task learning, problem solving), attention (staying on task), and learning preferences.

Similarly, a Level III assessment may be appropriate to facilitate an expansive exploration of a student's vocational abilities, aptitudes, and interests. A Level III assessment (a Functional Vocational Assessment, as referenced in the IEP) is a comprehensive career assessment that utilizes real or simulated work,

as the basis for assessment. It provides additional opportunities to assess a student's work and social skills/habits and considerations and planning regarding the training and support strategies required to develop a student's vocational competence. Level III Assessments are required for all students who are participating in a work-based or volunteer learning experience.

Assessment data should serve as the common thread in the transition process. This data informs the development of academic, social-emotional, physical and functional life skill goals and identification of appropriate transition planning activities and services in the IEP. All assessment data should be faxed into SESIS as a **Document Related to IEP**.

For additional information please refer to [Level 1 Career Assessment for Students with Disabilities: A Manual](#).

## Functional Behavioral Assessment (FBA) and Behavioral Intervention Plan (BIP)

**Professionals:** Team members may include a School Psychologist, School Social Worker, Special Education Teacher, General Education Teacher, Guidance Counselor, and/or other professionals with knowledge and expertise relevant to the student's behavior. Generally, the school psychologist or the school social worker will coordinate the process of conducting an FBA and developing a BIP.

**Overview:** A **functional behavioral assessment (FBA)** is a process for determining why a student engages in certain behaviors, what function the behavior serves, and how the student's behavior relates to the environment. An FBA addresses behaviors that impede the student's learning or that of others or that place the student or others at risk of harm or injury. An FBA includes, but is not limited to, the identification of problem behavior, the description of the behavior in concrete terms, the identification of contextual factors that contribute to the behavior (including cognitive and affective factors) and the formulation of a hypothesis regarding the general condition under which a behavior usually occurs, the setting events, antecedents (triggers) for the behavior, and probable consequences that serve to maintain it.

The FBA must be based on multiple sources of data including, but not limited to, information obtained from direct observation of the student across various setting and times in the classroom and school during instructional and non-instructional time, and when the behavior occurs and does not occur;

information from the student, the student's teacher(s), parent, related service provider(s) and others with whom the student interacts; and a review of available data and information from the student's record and other sources including any relevant information provided by the student's parent. The FBA must be conducted by a team of professionals including those specified above; the principal/CSE chairperson will designate the members of the team and its facilitator, and should seek support from the supervisor of school psychologists as needed. For particularly complicated situations, participants from outside the school should be considered (e.g., behavior specialist, supervisor of school psychologists, outside agencies involved with the student), to ensure that an impartial perspective is available.

The results of an FBA may indicate that a **behavioral intervention plan (BIP)** is warranted. A BIP is based on the results of an FBA and, at a minimum, includes:

- a description of the problem behavior,
- global and specific hypotheses as to why the problem behavior occurs, and
- intervention strategies that include positive behavioral supports and services to address
  - the behavior,
  - antecedents (triggers), and
  - responses to the behavior.
- The goal of these intervention strategies is to decrease the incidence of the problem behavior and increase alternative acceptable behavior(s).

### Determining the Need for a Functional Behavioral Assessment and Behavioral Intervention Plan

An FBA **must be considered** whenever:

- A student who has been referred for an initial evaluation or a student with a disability exhibits behaviors that impede his/her learning or that of others;
- A student who has been referred for an initial evaluation or a student with a disability exhibits behaviors that place the student or others at risk of harm or injury<sup>29</sup>;
- A student who has been referred for an initial evaluation or a student with a disability exhibits non-aggressive or non-violent behaviors which, while not harmful to others, may interfere with the student's education; and/or
- The IEP team is considering more restrictive programs or placements

<sup>29</sup> Including behaviors such as elopement.

as a result of a student's behavior<sup>30</sup>. Whenever an FBA is being considered, the IEP team must complete the "[Considerations of a Student's Need for Positive Behavior Supports, FBA or a BIP](#)" form and fax into SESIS as a **Document Related to IEP** to ensure that the team considered ALL factors in determining the need for an FBA, including whether school-wide and/or classroom supports were consistently implemented and failed to adequately address the student's behavior.

An FBA should be considered (and the "Considerations" form completed) any time a student's behavior is a substantial reason for the referral or for the student's IEP. This refers not only to acting out in the classroom, but to any behavior with an impact on learning, including but not limited to:

- Elopement
- Behaviors injurious to self or others
- School avoidance

If an FBA has been considered and determined unnecessary through use of the form, this must be documented in the student's **Events Log** in SESIS as "FBA Considered, Not Conducted."

When an FBA will be conducted, as with any special education assessment, parental consent is required. When it has been determined that an FBA is warranted and a reevaluation is not currently open, a reevaluation must be requested.<sup>31</sup>

An FBA **must be conducted** and a BIP **must be developed** and implemented immediately whenever a student is [subject to disciplinary action](#) and, at an MDR, a determination has been made that the behavior subject to disciplinary action was a manifestation of the student's disability, if an FBA was not conducted before the behavior occurred.

*If an FBA was conducted before the behavior that is subject to disciplinary action occurred and a BIP was not developed, the FBA must be reviewed and, if appropriate, a new FBA must be conducted and then a BIP must be developed.*

*If a BIP was developed before the behavior that is subject to disciplinary action occurred, the FBA and BIP must be reviewed and modified as necessary to address the behavior.*

Additionally, if the MDR team has determined that the behavior subject to disciplinary action was not a manifestation of the student's disability, the school may still determine that an FBA is Necessary. At a minimum, at the student's next IEP meeting, the IEP team must determine whether the

student's behavior necessitates conducting an FBA and/or developing or reviewing a BIP. See [Students with Disabilities Subject to Discipline: An Overview](#) for more information.

## Content of FBA

The FBA must:

- Provide a baseline of the student's problem behaviors, across [activities](#), [settings](#), [people](#) and [times of the day](#), with regard to:
  - Frequency (how often a behavior occurs);
  - Duration (the length of time the behavior lasts);
  - Intensity (how severe the behavior is); and
  - Latency (how long it takes for a behavior to begin after a specific verbal demand or event has occurred)
- Include a hypothesis on why the student engages in behaviors that impede learning and how the student's behavior relates to the environment in sufficient detail to form the basis for a behavioral intervention plan for the student that addresses:
  - Antecedents / triggers;
  - Reinforcing consequences of the behavior;
  - Recommendations for teaching alternative skills or behaviors; and
  - Assessment of student preferences for reinforcement.

An FBA must be completed using the form found [here](#). Once complete, the FBA must be [faxed into SESIS](#).

## Behavioral Intervention Plan (BIP)

Based on the FBA, the IEP team must determine whether a BIP is necessary. Although the BIP is not part of the IEP, it should be developed at an IEP meeting, unless the urgency of the need for the BIP requires that it be developed sooner than a formal IEP meeting can be scheduled. A draft BIP may be developed in advance of the IEP meeting. The final BIP must be developed with input from the parent considered. The parent has a right to have an interpreter, upon request, at a meeting to develop a BIP. See [Interpretation](#) for requirements and best practices regarding interpretation.

Schools should provide tiered positive behavior supports to all students as part of a school-wide model of behavior support. A BIP does not replace the positive behavior supports provided to all students. Rather, the BIP will identify the skills that a student requires in order to learn replacement behaviors.

<sup>30</sup> If the IEP team will be considering a [Behavior Support Paraprofessional](#), an FBA must be conducted.

<sup>31</sup> The FBA is a special education assessment, and evaluations that include an FBA are subject to the applicable [timelines](#).

The BIP is based on the results of the FBA and includes five elements:

- **Prevention:** What can be changed in the student's environment or experience to reduce the likelihood of the problem behavior and facilitate learning? (e.g., seating arrangements, peer and teacher behaviors, adaptations or accommodations to curriculum or instructional materials, early morning check-in with a trusted adult when student has problems brought in from outside the school, removals of antecedents/triggers)
- **Instruction:**
  - What new, alternative, more appropriate behaviors that serve the same function as the problem behavior can the student be taught to use when antecedents/triggers occur? E.g.,
    - Asking for help or a break instead of running out of the classroom to avoid a non-preferred task;
    - Raising a hand instead of shouting out to gain teacher attention; or
    - Protesting negative comments/interactions appropriately instead of hitting peers.
  - How will these new, alternative, more appropriate behaviors be taught? (e.g., communicating clear expectations, modeling, rehearsing, providing positive feedback)
  - What supports will the school give to the student? (e.g., additional adult support during transitions or challenging instructional periods, breaks, instructional services and supports, sensory supports)
- **Positive Consequences for Alternative, Appropriate Behavior:** How can the positive, alternative behaviors be reinforced so that they increase? (e.g., providing a specific description to student of what s/ he did right; implementing a schedule that provides a preferred activity right after completion of a less preferred activity; providing instructive and constructive feedback; providing a highly preferred reinforcer immediately after alternative behavior)
- **Responses to Inappropriate Behavior:** When problem behavior does occur, how will staff respond in order to prevent the problem behavior from being reinforced? What strategies will staff use to de-escalate behavior while keeping the student engaged and responsive? How will staff prevent behavior from escalating?
- **Progress Monitoring:** How will staff collect data about the frequency, duration, and intensity of the problem behavior at scheduled intervals, in order to monitor the effectiveness of interventions? How will they

document progress and report on it to the parents and the IEP team?  
How often will the school report the progress to the parent?

A BIP must be completed using the form found [here](#). Once complete, the BIP must be [faxed into SESIS](#). Schools must ensure that all staff responsible for implementing a student's BIP understand their responsibilities, including substitute teachers and providers.

## Audiological Assessment

**Professional:** Audiologist

An audiological assessment should be considered when a student is suspected to have hearing loss/impairment. Hearing loss may be caused by a number of factors such as ear infections, medication, heredity, illness, or exposure to high levels of noise. This can occur at any point during a child's development and may interfere with a child's speech development, the ability to learn, and socialization with peers.

Some key indicators of possible hearing loss include:

- Frequently asking for things to be repeated
- Difficulty with paying attention
- Focusing on the speaker's face, lips, gestures, and other visual cues
- Turning one ear toward speaker
- Speaking in excessively soft or loud voice
- Easily distracted or bothered by background noise
- Responds better in a one-on-one or small group setting than in a large group setting
- Lack of participation in classroom activities

While the student is being referred for further testing, teachers and other school staff can take steps to create a classroom environment that promotes and enhances student engagement. Some suggested strategies might include:

- Assigning a front row seat;
- Repeating information;
- Avoid speaking while writing on the board with your back turned to the student;
- Provide written instructions as well as oral instructions; and
- Always ensure that directions, assignments, and instructions are understood before the student begins working.



## Assistive Technology Assessment

The purpose of an assistive technology (AT) assessment is to identify technology tools that may improve the student's performance, participation, independence and access to the curriculum. A student should be considered for AT if he/she has challenges in handwriting, spelling, reading, math, written expression, organization, and communication that prevent or limit the student's access to or progress in the general education curriculum.

In some situations, professionals in the student's school will be able to conduct the AT assessment and determine a student's need for AT without the assistance of AT specialists. In more complex cases, schools will need to request an AT assessment from DSIS AT specialists. The request is completed in SESIS using the **AT Referral Form**. The AT specialists will schedule and conduct the assessment and, if AT may be appropriate, will also submit purchase order information to the requesting school. For information on how to complete the necessary steps in SESIS, see the [SE SIS Quick Reference Guide on Assessment Planning for Initial Referral](#) and other resources on the [SE SIS training page](#).

## Specialized Assessments

The following specialized assessments are requested through SESIS by the supervisor of school psychologists, using the **Request for Assistance (RFA)**. The school psychologist should consult with the supervisor of school psychologists for guidance if s/he believes any of these assessments may be needed.

### Neuropsychological Assessment

A neuropsychological assessment is not typically part of the standard battery used to evaluate a student's level of cognitive and academic functioning. It is an assessment performed by a neuropsychologist, who is a New York State licensed psychologist with specialized training in neuroanatomy and neuropsychological assessments. Neuropsychological assessments are most often needed to examine more closely students who are not making expected progress even after many different special education supports have been attempted; have certain learning disabilities (e.g., dyslexia)<sup>32</sup>; and/or have a traumatic brain injury.

### Psychiatric Assessment

A psychiatric assessment may be appropriate for a child or adolescent experiencing severe emotional and/or behavioral problems when these

difficulties may be impacting success in school. This type of assessment is conducted by a child and adolescent psychiatrist (a physician).

According to The American Academy of Child and Adolescent Psychiatry, a comprehensive psychiatric evaluation frequently includes the following:

- Description of present problems and symptoms
- Information about health, illness and treatment (both physical and psychiatric), including current medications
- Parent and family health and psychiatric histories
- Information about the child's development
- Information about school and friends
- Information about family relationships
- Interview of the child or adolescent
- Interview of parents/guardians
- If needed, laboratory studies such as blood tests, x-rays, or special assessments (for example, psychological, educational, speech and language evaluation)

The psychiatrist will develop a formulation based upon the results, combining biological, psychological and social parts of the problem. The synthesis of information will also consider the child's history, family history, developmental needs, and strengths of the child. The results will assist a school in understanding the underlying problem that will enable the appropriate support to be offered to the student.

### Neurological Assessment

A neurological assessment may be warranted when there is a suspected neurological disorder that may present through problems in daily functioning. A neurological disorder can manifest in a range of symptoms. These symptoms include muscle weakness, poor coordination, blurry vision, loss of sensation, seizures, confusion, and paralysis.

An evaluation will review a child's medical history so that all important and potentially relevant background factors are known and considered. A neurological evaluation is conducted by a neurologist (a physician). When a neurological assessment may be appropriate, the school/CSE must contact the supervisor of school psychologists. A neurological assessment is not conducted by DOE personnel and must be contracted to an outside provider. For further information on arranging a neurological assessment, refer to the [Assessment Resources](#).

<sup>32</sup> A neuropsychological assessment is not required for every student who has certain learning disabilities such as dyslexia, but one may be warranted if the available assessments do not sufficiently describe the student's disability and its impact on the student's ability to learn, and/or if the IEP team does not have the specific assessment tools or expertise needed to adequately survey all suspected areas of disability.



A neurological assessment is divided into several components. These components include:

- **Mental Status:** This is a series of simple, but detailed questions designed to assess a child's state of consciousness, general behavior, mood, content of thought, orientation to time and place, memory, judgment, abstract reasoning, as well as speech and language functioning.
- **Cranial Nerves:** The cranial nerves are a set of twelve nerves that relay messages between the brain and the head and neck. These nerves control motor and sensory functions, including vision, smell and movement of the tongue and vocal cords.
- **Motor System:** The motor system includes the brain and spinal cord motor pathways, as well as the motor nerves and muscles throughout the body. The physician will assess muscle strength and tone, and look for abnormal signs of motor functioning.
- **Sensory System:** This area evaluates sense and sensation that occur as a result of stimulation of receptors that are located in the skin, muscles, and tendons throughout the body. The stimulation of receptors sends impulses along nerve fibers to the central nervous system (brain and spinal cord). A sensory exam involves evaluating different types of sensation, including pain, temperature, pressure and position.
- **Deep Tendon Reflexes:** Reflexes are involuntary responses to impulses sent to the central nervous system, and if impaired, may be the first sign of neurological dysfunction. The neurological evaluation will include an assessment of deep tendon reflexes, or reflexes elicited in response to stimuli to tendons.
- **Cerebellum:** This is a part of the brain that controls voluntary movement and motor coordination, including posture. Testing coordination provides insight into conditions that affect the cerebellum.

## IEP team Interpretation of Individualized Special Education Assessment Scores

Test scores do not, in and of themselves, define a student's intellectual potential or academic achievement. Instead, the score describes the student's performance relative to the normative sample on a particular test. The clinician is responsible for recording the student's performance and must describe the meaning of any scores obtained in the assessment process.

Clinicians should be careful to treat each score from a standardized assessment tool as falling within a confidence interval whose size is determined by the reliability of the assessment tool. Thus, a student may score at the 38th percentile on a given test, but the score may be more accurately interpreted, due to the standard error of measure on that test, as likely to fall within a range between the 30th and 48th percentiles with a 68% degree of confidence. This presents a more accurate description of the student's ability. It also makes a clear statement that we recognize the limitations in the reliability of standardized assessment tools.

Grade and age equivalent scores from a standardized assessment tool, should not be reported. Although they are intuitively appealing, they foster a host of misconceptions and should be avoided. A reading test score derived from the sample of reading behaviors on a standardized assessment tool may be used to compare a student to other students in that test's normative sample. The use of the score to predict a student's ability to succeed in a given curriculum, however, constitutes an inappropriate generalization of test results, as does the use of the score as a comparison for students who were not represented in the normative sample. The correct scores to report from standardized tests are the percentile ranges and confidence levels or standard scores that more accurately describe the student's standing relative to the normative group. In addition, labels such as "high average," "average," "low average," and "borderline," for example, can be helpful in explaining the assessment results, but should generally not be relied on alone to convey those results, absent the percentile ranges and confidence levels or standard scores (except in the circumstances explained below).

For a student who differs linguistically or culturally from the normative population used to construct an assessment instrument, only descriptive statements should be made. The process of interpreting assessment results for such a student is more difficult and clinicians must guard against possible bias in decision making by adequately considering the distinct situational, cultural or linguistic features that could be affecting the student's current performance. A qualitative, descriptive analysis of the student's performance should be used for decision making. This should include looking at the student's performance over time; any potentially significant changes between recent and past assessments may warrant further investigation.

Test scores may not be reported from a bilingual evaluation, whether completed using an interpreter or by a certified bilingual evaluator. The [bilingual evaluation's](#) interpretation of the student's performance must be qualitative and descriptive.

## Completion of Assessment Reports

Reports should be written in descriptive language that can be readily understood by all involved parties. Assessment reports should include, at a minimum:

- The reason for referral;
- A description of the assessment methods selected, including both formal and informal approaches used;
- The assessment findings, including a description of the student's strengths and weaknesses in the areas assessed (scores and descriptive statements should be used when applicable and as discussed above);
- A summary of the student's educational needs;
- A description of the student's ability to meet State performance standards; and
- Information for school staff to modify/adapt the general education curriculum in order for the student to meet academic standards (as applicable).

In addition to the requirements listed above, bilingual assessments must include:

- A description of the extent to which both English and the native language were used during the assessment;
- The impact of cultural issues on the student's performance;
- A description of the utilization of the interpreter/translator (as applicable), including the briefing/assessment/debriefing process; and
- A recommendation for language(s) of instruction.

## Arranging Transportation for Assessments

For a student attending a DOE school, an assessment is typically conducted at the student's school. When an assessment for any student will be conducted at a site other than the student's school, the IEP team must arrange for transportation for the student and the parent, by:

- Providing a MetroCard to the parent (for both the parent and student, if necessary);
- [Reimbursing the parent for a taxi/car service](#);
- Arranging and paying for a car service; or

- [Reimbursing the parent for round-trip gas and tolls](#).

## Assessment Resources

In order to ensure that assessments are conducted in a timely manner, the relevant clinical supervisor is responsible for considering and utilizing all appropriate assessment resources. It is preferred that assessments be conducted during the regular workday by the professionals assigned to the school/CSE. However, situations may arise that require the use of DOE staff on a per session basis, or the use of non-DOE staff. Such situations may include:

- The unavailability of DOE staff during the workday; or
- The need for an assessment for which appropriate DOE staff are not available or qualified (e.g. bilingual, neuropsychological evaluation).

It is the responsibility of the case manager to notify the relevant clinical supervisor if there is an assessment that cannot be completed by staff assigned to the school/CSE. **Planning must begin as soon as possible, as determining who will perform all assessments is not a permissible delay of the 60 day timeline.**

Assessment professionals are selected in the following priority:

|   |   |
|---|---|
| 1. DOE Staff                                | Daytime or per session  |
| 2. Contract Agency                          | Assessments by professionals working for agencies under contract to the DOE are used if DOE staff (school day and per session) are unavailable to conduct the assessment within the timeline.   |
| 3. <a href="#">Assessment Authorization</a> | If no contract agency provider is available to conduct the assessment within the timeline, the parent is authorized and assisted to identify an appropriately licensed and security cleared (i.e., PETS-eligible) non-DOE independent provider, at DOE expense. |

### Requesting an Assessment from an Agency under Contract with the DOE (Applies to Monolingual and Bilingual Assessments)

For students whose cases are managed by a CSE, the supervisor of school psychologists contracts out for assessments.

For students whose cases are managed by a public school, depending on type of assessment, the following parties contract out:

- For Speech assessments, the Office of Related Services, Assessments Operations Team (AOT) in collaboration with supervisors of speech.
- For OT/PT assessments, supervisors of OT or PT.
- Supervisors of school psychologists contract out for all other assessments.

The aforementioned parties serve as the contacts for contract agencies. (The clinical supervisor initiating the request varies by the type of assessment.)

All contracting out is done in SESIS by:

- Initiating the Request for Assistance (RFA).
- Sending a message via SESIS with the appropriate Assessment Planning Document (APD) to the appropriate AOT coordinator or discipline supervisor.
- Documenting in the **Events Log** any assessment-related issues.

The contract agency is notified of the details of the requested assessment via SESIS.

When an assessment that has been sent to a contract agency is no longer needed, the agency must be immediately notified.

## Contract Agency Responsibilities

The contract agency must:<sup>33</sup>

- Notify the DOE of the name of the professional through SESIS, within five business days of receipt of assignment;
- Conduct the assessment and complete the report in SESIS, within fifteen (15) days from its acceptance of the assignment, or notify the DOE of a need for an extension;<sup>34</sup>
- Contact both the school administrator and parent to schedule the assessment at an appropriate time;
- Conduct the assessment at the student's school, unless another location is approved in advance by the DOE responsible party in consultation with the parent.

<sup>33</sup> Contract agency professionals must be entered and activated in the Personnel Eligibility Tracking System (PETS) prior to receiving authorization to provide services. The agency must maintain a file for each provider including names, license numbers/registration and certification, if applicable, as well as evidence that the provider is employed by the vendor or has agreed to be employed if the vendor is awarded a contract. Contractors are required to promptly update and maintain registration certificates as renewed, changed, suspended or revoked for any reason, and/or where revised expiration dates are issued by New York State. **Note:** The DOE reserves the right to verify providers' credentials throughout the evaluation process and thereafter.

<sup>34</sup> When an awarded provider is unable to evaluate students within the fifteen (15) school day allotted timeframe, the DOE, through the Office of Related Services, reserves the right to assign students to another contractor awarded a contract for that discipline. Assignments will be made in order of lowest to highest contracted rate and indicated capacity.

Contracted agencies complete and submit reports in SESIS to be reviewed by the clinical supervisor.

## Supervisor Responsibilities Upon Receipt of Contracted Assessment Report

Upon receipt of the report and required forms, the relevant clinical supervisor reviews the report in SESIS and determines acceptability:

If the report is deemed *acceptable*, s/he:

- Checks the **Approval** button in SESIS in the **Assessment Planning** documents;
- Notifies the case manager;
- Provides a copy of the report to the case manager prior to the IEP meeting.

If the report is deemed *unacceptable*, s/he:

- Checks the **Disapproval** button in SESIS in the **Assessment Planning** documents;
- Completes the **Reason for Disapproval** form in SESIS; and
- Alerts the case manager of the disapproval.

The Assessments Operations Team (AOT) will then work with the agency and the supervisor to ensure that the report is completed appropriately and within the 60-calendar day timeline. Delays in the completion of a contracted assessment report are attributable to the DOE.

\*A report may be unacceptable if, for example, it was completed by an unlicensed individual, includes information regarding a different student, contains factual errors, fails to identify the assessment tools used, or cites age-inappropriate or outdated assessment tools. (This is not a comprehensive list.)

## Assessment Authorization

Assessment Authorization letters will be issued to parents to allow non-DOE independent evaluators to conduct assessments under two circumstances:

- When it is determined that neither DOE (full-time or per session) nor contract agency staff are available to conduct specific assessments; or

- If an assessment cannot be completed within the mandated timeline (other than due to delay not attributable to the DOE).

The Assessments Operations Team (AOT) sends the SESIS generated **Assessment Authorization** form to the parent along with the **AA-2 Form** (student information completed), **AA-4** (information regarding registry of providers) and the **AA-5 Form** (with maximum rate information). The AOT should assist, as necessary, in identifying a professional to conduct the assessment at the standard rate, and in facilitating approval of a higher rate, if needed due to inability to identify a professional at the standard rate. The AOT should indicate why the Assessment Authorization letter is being issued in the **SEGIS Events Log**.

Once a professional is identified, the parent returns the **AA-2** (signed by the professional and parent) to the AOT.

The provider then performs the evaluation and sends the **AA-2 Form**, the assessment report, and the invoice to the AOT. The relevant DOE clinical supervisor must review the report to determine that the assessment report is acceptable, and must follow up with the independent professional as needed to ensure that all needed information is included clearly in the report. When the DOE clinical supervisor has determined that the report is acceptable, AOT sends the assessment report, the **AA-2 Form**, and the invoice to the Bureau of Non-Public School Payables for payment to be processed **within 6 weeks** of the DOE's receipt of the report and invoice. Review of the assessment report must be conducted as soon as possible to ensure time for revision and approval within the 60 day [timeline](#).

### Request for an Independent Assessment at DOE Expense

A parent may request an independent assessment at DOE expense if s/he disagrees with an assessment conducted by the DOE (including an assessment conducted by a contract agency or through an Assessment Authorization issued due to the unavailability of DOE and contract agency professionals).<sup>35</sup> The request must be made in writing to the student's DOE school or CSE. The request document may be hand delivered or sent by mail, email, or fax.

A request for independent assessment need not contain "magic words"; a

written request for an independent assessment is sufficient.

### Intake of a Request for Independent Assessment

Immediately upon receipt of a request document by hand, mail, or fax, the school/CSE must stamp the document with the date it was received.

If the request for independent assessment is in the text of an email, the school/CSE must print the email, including the time and date it was received, and treat the printed email as the request document. If the request is attached to an email, the school/CSE must print the email, including time and date of receipt, along with the attachment.

A request for an independent assessment must be immediately directed to the appropriate clinical supervisor. If it is not apparent from the request, the supervisor should contact the parent to ask why s/he disagrees with the DOE assessment, documenting the conversation in the **SEGIS Events Log**. The following procedures apply whether or not the parent states a reason for disagreement.

Within 10 school days of the school/CSE's receipt of the request, the relevant clinical supervisor must either authorize an independent assessment at DOE expense or determine that the DOE's assessment was satisfactorily completed and that no information (including the parent's concerns, if expressed) exists that would call it into question. If the supervisor so determines, s/he must contact the Impartial Hearing Representation Office if the student attends a DOE school. The Impartial Hearing Representation Office will, upon review, determine either that the parent's request will be granted (in which case the relevant clinical supervisor should authorize the independent assessment) or initiate an impartial hearing. If the Impartial Hearing Representation Office determines that an impartial hearing should be initiated, the school should create a Prior Written Notice informing the parent that the request for an independent assessment is denied. This should be provided within 15 school days of receipt of the parent's request.

If this is a request made of the CSE and the relevant clinical supervisor believes the DOE's assessment was satisfactorily completed and that no information (including the parent's concerns, if expressed) exists that would call it into question, s/he should consult with the CSE chairperson to

In the event the contractor requests an extension of time to complete an assessment beyond 15 business days, a request for extension must be made in SESIS. **Note:** a contractor's request for an extension does not serve to extend the mandated timeline for evaluations to be completed.

<sup>35</sup> This section describes the process for parental requests for independent assessments at DOE expense due to disagreement with the DOE's assessment. If the parent makes a request for an independent assessment but is in fact entitled to an Assessment Authorization due to expiration of the 60 day timeline, the Assessment Authorization must be provided and the associated procedure followed. If no DOE assessment of the requested type has been conducted and: (a) no referral is open, the school/CSE must consider the request a referral for initial evaluation or reevaluation, as applicable, and proceed accordingly; (b) a referral is open and within the 60 day timeline, the school/CSE should seek to arrange a timely DOE assessment, informing the parent that an independent assessment may be requested if s/he disagrees with the DOE assessment's results. If a school/CSE believes an independent assessment should be authorized for any other reason, the supervisor for the relevant discipline must be consulted.



determine whether the CSE will grant the parent's request (in which case the CSE authorizes the independent assessment) or initiate an impartial hearing (in which case a Prior Written Notice informing the parent that the request for an independent assessment is denied must be provided according to the process above).

### Granting a Request for Independent Assessment

When a parent's request for an independent assessment is granted, the Assessment Authorization forms may be used to facilitate payment to the independent professional. The issuer of the Assessment Authorization letter should indicate why the Assessment Authorization is being issued in the **SEIS Events Log**. Unlike for an assessment conducted via Assessment Authorization due to unavailability of DOE and contract agency professionals, the parent's chosen professional is **not** required to have cleared any DOE security checks or be registered in PETS. The parent's chosen independent professional must provide his/her license information to the relevant DOE supervisor for authorization to proceed with the assessment at DOE expense. If the professional is not registered in PETS, but the professional indicates that s/he is interested in being registered in PETS, s/he should be assisted in registering. If the professional does not wish to be registered in PETS, the supervisor must notify the relevant clinical manager, who will notify the parent of this fact in writing, and instruct the parent and professional on how the professional may register. If the parent confirms in writing his/her desire for the assessment to proceed despite the professional's lack of PETS registration, the assessment must be authorized. Before processing payment, the supervisor or manager must [review](#) the assessment report to determine that it was completed professionally and by an appropriately licensed professional, to prevent wasteful exhaustion of the parent's right to an independent assessment and expenditure of DOE funds. The supervisor or manager may **not** reject a professionally completed report for disagreement with its conclusions.

If the parent's chosen independent professional has a problem code in PETS, consult with the central Special Education Office before contacting the parent.

### Requests for Independent Assessment an Extended Time After the DOE Assessment

If the parent's request for an independent assessment comes an extended period of time after the IEP meeting at which the DOE's assessment was considered (e.g., a year or more), it may be unclear whether the parent is

seeking a new evaluation process or disagrees with that prior assessment. In such a case, the relevant clinical supervisor must make outreach to the parent to clarify whether the parent is requesting a reevaluation (or initial evaluation, if the student was found ineligible or declassified).

- If the parent is not requesting an initial evaluation or reevaluation, the request for independent assessment must be considered as described above.
- If the parent is requesting an initial evaluation or reevaluation, the DOE must [process the referral](#), including conducting its own assessments. After the parent has had the opportunity to review the assessment report(s), the supervisor must ask the parent whether s/he disagrees and wishes to request an independent assessment.

### Requests for Reimbursement of Independent Assessment

If the parent has already obtained an independent assessment and requests DOE reimbursement for it, the clinical supervisor should consider whether or not s/he would have granted an independent assessment upon parent request (whether because there is information that calls into question that the DOE's assessment was satisfactorily completed or because the evaluation [timelines](#) have been exceeded). If the supervisor would not have granted such a request, the request for reimbursement should be denied. The parent must be informed in writing of the reason for the denial, provided a PWN rejecting the parent's request, and provided a copy of the procedural safeguards, and the written explanation must be faxed into SESIS as a **Document Related to Assessment**.<sup>36</sup> If the supervisor would have authorized the independent assessment, s/he must consider whether the parent's evaluation was completed professionally and at a reasonable cost; if so, payment is processed. If not, the parent must be informed in writing of the amount that will be paid (if any) and the reason for non-payment of some or all of the amount, and provided a copy of the procedural safeguards. The written explanation must be faxed into SESIS as a **Document Related to Assessment**.<sup>37</sup> Questions regarding the rate or licensing of the independent professional should be addressed to the director of the relevant clinical field.

<sup>36</sup> The DOE does not initiate an impartial hearing in this circumstance.

<sup>37</sup> The DOE does not initiate an impartial hearing in this circumstance.



## Determining Language of Assessment

A student who has been identified as an [Multilingual Learner \(MLL\)](#) must be initially assessed:

- In both their native language and English (to the extent possible), to determine their social communication and academic development in all areas including listening, speaking, reading and writing, etc.; and
- Using input from parents, bilingual/ENL teachers, bilingual clinicians, and others that includes sociocultural information, level and rate of acculturation, skills and rate of language development and acquisition in both languages, and academic/educational test data.

For a student initially referred for evaluation who does not have a **Home Language Identification Survey (HLIS)** (i.e., a student who has not attended a NYC public school), the school social worker must administer an HLIS at the social history meeting. Based on the results of the HLIS, and following the procedures and considerations outlined on pages 20-22 of the [English Language Learner Policy and Reference Guide](#), a determination will be made whether the student is eligible to take the New York State Identification Test for English Language Learners (NYSITELL).<sup>38</sup>

If the student is determined to be an MLL and his/her home language is Spanish, a Spanish LAB will be administered in addition. For additional information regarding this process, please refer to the [English Language Learner Policy and Reference Guide](#).

For a student initially referred for evaluation, whose results on the Home Language Identification Survey suggest that a Spanish LAB and/or NYSITELL should have been administered but was not, arrangements must be made for the relevant exam to be administered and scored by the school. For a student who does not attend a public school, the Spanish LAB and/or NYSITELL is administered and scored by a special education teacher assigned to the CSE. The response documents must be sent directly into ATS through the ATS scanner to ensure official scanning, scoring, and entry into the computerized tracking system.

For students who are identified as non-MLLs, assessments are generally conducted in English. To the extent a non-MLL student demonstrates exposure to a language other than English, the impact of which may suggest the need for a bilingual assessment, the language of the assessment(s) must be determined by the IEP team. The IEP team makes this determination on the basis of an individual inquiry.

The IEP team may determine that one or several assessments are more appropriately conducted bilingually in order to more accurately determine the nature and extent of the student's needs and whether they are related to English language acquisition. The following are examples of factors and circumstances that could lead the IEP team to determine that a non-MLL student requires one or more bilingual assessments:

- Teacher or other school-based reports indicate that the student appears to lack the English language proficiency needed to succeed in the classroom.
- Normal processes of second language acquisition seem to be significantly affecting academic performance including language loss, language transfer, and limited vocabulary.
- The student has spent significant time living in a region where a language other than English is widely used.

Whenever an IEP team is considering a bilingual evaluation for a non-MLL student, the supervisor of school psychologists must be consulted.

### Conducting Bilingual Assessments: The Bilingual Cascade

A bilingual assessment may be conducted by:

- a clinician certified as bilingual in the student's native language (**always preferred**);
- or, *for native languages other than Spanish*:
- a clinician certified as bilingual in a language other than the student's native language, with the assistance of an interpreter; or
  - a monolingual clinician, with the assistance of an interpreter.

### An interpreter may not be used for Spanish assessments.

The Bilingual Cascade details the priority for selecting personnel to conduct bilingual assessments for students whose native language is not English or Spanish. The clinical supervisor must maintain records substantiating the efforts to obtain a clinician in the appropriate language prior to using an

<sup>38</sup> If the student or their teacher, parent or school disagrees with the results of the NYSITELL (and subsequent MLL determination), the school must utilize the MLL Re-identification Process, following the procedures outlined on pp. 30-31 of the [MLL Policy and Reference Guide](#).

interpreter. These efforts must be documented in the **SE SIS Events Log**.

### **\*\*Minimum Requirements for Interpreters Used for Evaluations**

The interpreter must have one or more of the following qualifications to ensure the interpreter's proficiency in English as well as in the second language:

- NY State Bilingual Education Assessment (BEA)
- NY State Education Department Bilingual Extension Certificate (BEC)
- NY State Court Certified Interpreter

- A diploma (minimum high school) from country of origin
- Proof of language proficiency through the following tests:
  - [The Speaking and Listening Assessment](#)
  - [The Interpretation Assessment](#)

When a student is in need of a bilingual assessment and there is no qualified clinician at the school/CSE, the school social worker, school psychologist, or clerical/family worker requests assistance in obtaining a qualified clinician from the supervisor of school psychologists. The school/CSE maintains responsibility for the case.

### **Bilingual Cascade:**

| Option | Assessment Personnel  |
|--------|---|
| 1      | Clinician Certified Bilingual in the Student's Native Language <ul style="list-style-type: none"> <li>• DOE bilingual clinician (daytime or per session)</li> <li>• Contract agency bilingual clinician</li> <li>• Independent bilingual clinician identified through the Assessment Authorization process</li> </ul> |
| 2      | Clinician Certified Bilingual in Another Language with Interpreter  |
| 3      | Monolingual Clinician with Interpreter  |
| Option | Individual Serving as Interpreter** (see next page)   |
| 1      | DOE teacher or clinician certified bilingual in the student's language (per session only)   |
| 2      | Trained interpreter – College Graduate<br>DOE paraprofessional trained interpreter<br>Contract agency trained interpreter   |
| 3      | Trained interpreter – Non-College Graduate<br>DOE paraprofessional trained interpreter<br>Contract agency trained interpreter   |
| 4*     | Bilingual community volunteer   |

\*This option must not be used unless all others have been exhausted. Every effort should be made to identify appropriate resources for rare languages. These may include the United Nations, consulates, community service agencies, and community volunteers.

**Translated Tests and the Use of Interpreters**

It is often necessary for a clinician to develop and to use material in a language other than English. In general, it is not good practice to translate standardized assessments into other languages. The translation of a standardized test can change the nature of the task in unintended ways. While adaptations of a test into another language may permit the examiner to observe the student's abilities in the behavior being sampled, a standardized test that has been translated cannot be interpreted in terms of the standardized scoring.

When using an interpreter, the clinician must choose or create tasks that will collect information on all areas typically covered by the assessment (not only the student's proficiency in English). Any material to be used with the student should be created and discussed with the interpreter before meeting with the student. Spontaneous translation and interpretation of material is poor practice.

Before meeting the student, the clinician should meet with the interpreter to discuss the referral questions, the nature of the assessment tasks, and the examiner's expectations. The interpreter may interact more with the student than the clinician during the course of the evaluation session in order to encourage communication and put the student at ease. The clinician must discuss all responses with the interpreter after the session and use the interpreter's opinion to help form a professional judgment regarding the abilities of the student in the areas assessed. The final report must describe the student's abilities in both languages and indicate the extent to which the interpreter participated in the assessment.

## The IEP Team

### IEP Team Composition

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. If there is uncertainty about the change(s) that will be considered at an IEP meeting, all members who reasonably could be required, should attend. **The changes that an IEP team may make are not limited by the type of IEP meeting.**<sup>39</sup>

The IEP team members required for each IEP meeting type are:

|   | Initial   | Annual / Requested Review  | Reevaluation (Requested or Three-Year)   |
|---|---|--|--|
| <a href="#">Parent</a> <sup>7</sup>       | Must be invited   | Must be invited  | Must be invited  |
| <a href="#">District Representative</a>   | Must attend   | Must attend  | Must attend  |
| <a href="#">School Psychologist</a>       | Must attend   | <a href="#">See below</a>  | Must attend  |
| <a href="#">Special Education Teacher</a> | Must attend <sup>8</sup>  | Must attend unless student is receiving related services only                                | Must attend unless student is receiving related services only                                |
| <a href="#">Related Service Provider</a>  | <a href="#">See When a Related Service Provider Must or Should be an IEP team Participant</a> |  |  |
| <a href="#">General Education Teacher</a> | Must participate, if student is or may be participating in the general education environment  | Must participate, if student is or may be participating in the general education environment | Must participate, if student is or may be participating in the general education environment |
| <a href="#">School Social Worker</a>      | Should attend whenever possible   | <a href="#">See below</a>  |  |
| <a href="#">Parent Member</a>             | Must attend <i>if requested by parent with at least 72 hours' notice</i>                      | Must attend <i>if requested by parent with at least 72 hours' notice</i> <sup>9</sup>        | Must attend <i>if requested by parent with at least 72 hours' notice</i>                     |
| <a href="#">Physician</a>                 | Must attend <i>if requested by parent with at least 72 hours' notice</i>                      | Must attend <i>if requested by parent with at least 72 hours' notice</i> <sup>10</sup>       | Must attend <i>if requested by parent with at least 72 hours' notice</i>                     |

<sup>6</sup> Exception: A reevaluation must be initiated before an IEP team may declassify a student.

<sup>7</sup> Any individual may be invited to the IEP meeting on the basis of the parent's determination that the individual has special expertise or knowledge of the student.

<sup>8</sup> For an initial IEP meeting at which recommendation of a special education program will not be considered (e.g., for a student whose evaluation indicates only physical impairment), a related service provider serves in this role.

<sup>9</sup> The meeting must proceed even if the parent member or physician's participation is not secured, EXCEPT if the IEP team will consider a new recommendation of special class or home instruction or a change to a student's current special class recommendation (other than 12:1/12:1+1 to 15:1 for a student articulating to high school).

<sup>10</sup> See footnote 9, above.

## When a School Psychologist is Required for an Annual or Requested Review IEP Meeting

For **annual or requested review IEP meetings**, a school psychologist is required to attend

- if the parent requests;
- if a new psychological assessment is being considered;
- or if certain changes to the program recommendation are being considered, as follows:

### Annual / Requested Review IEP Meeting – School Psychologist

| Current Program Recommendation                     | Change to Program Recommendation Being Considered   | School Psychologist Required? |
|--|---|-------------------------------|
| General Education with Related Service(s) Only     | Integrated Co-Teaching (ICT)<br>Special Education Teacher Support Services (SETSS)<br>Special Class (Districts 1-32)<br>Special Class in a specialized school (District 75)<br>NYSED-Approved Non-Public School (NPS)<br>Home Instruction   | Yes                           |
| Special Education Teacher Support Services (SETSS) | Related Service(s) Only<br>Integrated Co-Teaching (ICT)   | No                            |
|  | Special Class (Districts 1-32)<br>Special Class in a Specialized School (District 75)<br>NPS<br>Home Instruction  | Yes                           |
| Integrated Co-Teaching (ICT)                       | General Education with Related Service(s) Only<br>Special Education Teacher Support Services (SETSS)  | No                            |
|  | Special Class (Districts 1-32)<br>Special Class in a specialized school (District 75)<br>NPS<br>Home Instruction  | Yes                           |
| Special Class (Districts 1-32)                     | General Education with Related Service(s) Only<br>Special Education Teacher Support Services (SETSS)<br>Integrated Co-Teaching (ICT)<br>Special Class with less intensive staffing ratio, if it will be available in the current school<br>Change in staffing ratio from 12:1/12:1+1 to 15:1 for a student articulating to a special class in high school | No                            |
|  | Special Class that would require a new school (i.e., District 75 or staffing ratio that will not be available in the current school)<br>Special Class with a different staffing ratio (District 1-32) if it does not exist in the current school<br>Special Class in a specialized school (District 75)<br>Non-Public School<br>Home Instruction          | Yes                           |



| Current Program Recommendation                      | Change to Program Recommendation Being Considered  | School Psychologist Required? |
|---|--|-------------------------------|
| Special Class in a Specialized School (District 75) | Special Class in a specialized school with less intensive staffing ratio if it exists in the current District 75 site  | No                            |
|   | Related Service(s) Only<br>Special Education Teacher Support Services (SETSS)<br>Integrated Co-Teaching (ICT)<br>Special Class (Districts 1-32)<br>Special Class in a specialized school with a <i>more</i> intensive staffing ratio<br>Special Class in a specialized school with a less intensive staffing ratio if it does not exist in the current District 75 site<br>Home Instruction<br>NPS | Yes                           |

A school psychologist also must attend when any of the following will be considered:

- Initiation of paraprofessional support;
- Changing student's test category regarding participation in the [NY State Alternate Assessment](#) (NYSAA);
- Initiation of specialized transportation or specialized transportation accommodations;
- Initiation of or change to recommendation of counseling by a school social worker or school psychologist (**changes to other related service recommendations do not require the school psychologist**);
- Changing recommended language of instruction, speech therapy, or counseling; or
- Initial recommendation of Extended School Year for a student attending a non-specialized school.

If the parent unexpectedly seeks consideration of a change that would require the school psychologist, and the school psychologist is unable to join the meeting or is not sufficiently prepared to consider the proposed change, the members present may consider the proposed change and draft an IEP reflecting their discussion, but must consult with the school psychologist before they may finalize the IEP. If the parent and/or the school psychologist is not in agreement with the draft IEP, the IEP meeting must be reconvened with all required members in attendance.

## Members Required at All IEP Meetings

### The Parent

The parent's role on the IEP team is to provide information on the student's development and characteristics, and to participate in the decision-making process for eligibility and IEP recommendations.

### Ensuring Parent's Presence

The parent must be invited to participate in every IEP meeting, and efforts must be made to select a mutually agreeable date for the IEP meeting, when the parent and the mandatory IEP team members can participate. The school must send the **Notice of IEP Meeting** to the parent at least 7 calendar days in advance of the meeting. The school should also provide the parent with all assessment and reports before the IEP meeting by mailing them at least 7 calendar days before the IEP meeting is scheduled to be held.

If the parent requests that the meeting be rescheduled, a mutually agreeable date and time must be set. This request should be documented in the Events Log in SESIS. If the parent indicates inability to attend and cannot reschedule, the parent must be invited to participate in the meeting via telephone.

The IEP team must make appropriate outreach to confirm the attendance of the parent at the IEP meeting:

- At least two attempts at telephone contact at different times of the school day/evening, if the parent has a telephone; and
- A follow-up letter sent to the parent by mail, and sent home with the student if the parent does not have a telephone or if voicemail could not be left.

Attempts must be documented in the **SESI Events Log**, by including the phone number called and addresses used and describing any conversations. If, and only if, efforts were made to arrange a mutually agreed upon date and time for the meeting, and appropriate outreach was conducted and documented in the **SESI Events Log**, the meeting may proceed without the parent.

### Parent Preparation for IEP Meeting

In preparation for any IEP meeting, the parent should be invited and encouraged to:

- Communicate with DOE staff about the date and time for the IEP Meeting;
- Review the current IEP and any assessment data (sent to the parent at least 7 calendar days in advance of the meeting);
- Provide DOE staff with any independent evaluations the parent would like to be reviewed and considered by the IEP team;
- Review the most recent progress reports from teachers and related service providers;
- Notify the DOE staff if additional information (e.g., reports and evaluations) or specific accommodations (e.g., interpreter, accessible site) are needed;
- Determine whether other family members or persons with knowledge or special expertise regarding the student should be invited to attend the conference, and if so notify the rest of the IEP team in advance<sup>44</sup>; and
- Tell the school/CSE about any changes to the IEP the parent would like the IEP team to consider, as additional members may need to participate to consider certain changes (e.g., if a parent of a student recommended for ICT wants a special class setting to be considered, the psychologist must participate; or if a parent of a student in a general education program with related services wants to have SETSS added, a special education teacher must participate).<sup>45</sup>

### Recording the IEP Meeting

A parent may request permission to make an audio recording of an IEP meeting, by writing to the principal or chairperson at least 1 business day before the IEP meeting. If the parent will make an audio recording of the IEP meeting, the school/CSE will also make an audio recording of the meeting.

### Parent Participation in IEP Meeting

During the IEP meeting, the parent should be invited and encouraged to:

- Share comments on the student's strengths, abilities and needs;
- Consider desired educational goals for the student to reach by the end of the year; and
- Discuss the student's development and characteristics and participate in the decision-making process for eligibility and IEP recommendations (including but not limited to program, related services, and placement).

<sup>44</sup> The parent is only obligated to notify the school/CSE if the additional person attending will be an attorney.

<sup>45</sup> Though the parent is encouraged to inform the school/CSE of desired changes in advance of the meeting, the IEP team must [consider](#) requests made at the meeting as much as possible.

## Case Manager and District Representative

Case manager and district representative are roles performed by DOE professionals, rather than permanent titles. In many cases, the same DOE professional will perform both roles.

### The Case Manager

The **school psychologist** typically serves as the case manager when s/he is a [required member](#) of the IEP team.<sup>46</sup>

The **special education teacher** (or, for a student whose only special education service is a related service, the related service provider) typically serves as the case manager when the school psychologist will not be a required member of the IEP team.

The case manager is responsible for ensuring that the evaluation and placement processes are completed within the [required timelines](#). Issues that may put the timely completion of an evaluation or placement process in jeopardy must be reported to the supervisor of school psychologists. If the supervisor is unable to facilitate timely completion of the process, the issue must be escalated to a manager for further assistance in completing the evaluation process within the timelines.

**In addition, when the case manager will serve as the district representative, or when a district representative has not been selected in advance of the IEP meeting, the [case manager prepares](#) for the IEP meeting as noted.**

### District Representative Qualifications

The individual selected to serve as the district representative in any IEP meeting must be knowledgeable about the SOPM and meet the following qualifications:

- Qualified to provide or supervise the provision of special education;
- Knowledgeable about the general education curriculum; and
- Knowledgeable about the availability of DOE resources.

## Considerations when Selecting the District Representative

The district representative is typically chosen by the principal or CSE chairperson.<sup>47</sup>

- For an IEP meeting in a **non-specialized school**, the district representative should be an individual who has a high degree of familiarity with the school's services and curricula. This may be a school psychologist, school social worker, or other experienced special educator. If the IEP team is likely to consider a specialized school (e.g., a District 75 or NYSED-approved non-public school) or a specialized program (e.g., ASD Nest, ASD Horizon, ACES, or bilingual special education), the district representative should be the school psychologist or a knowledgeable person from outside the school, such as the supervisor of school psychologists.
- For an IEP meeting in a **District 75 or District 79 school**, the district representative should be an administrator or educator with a high degree of knowledge regarding the school's services and curricula (and those available outside the school, for students in programs that are typically of limited duration).

As much as possible, the district representative should be a person with whom the family has a positive relationship. When the relationship between the parent and the school is strained, a person outside the school should be considered to serve as the district representative. This should also be considered when the student's IEP-recommended services are not having their desired impact and the student is making less progress than anticipated, or when the IEP team members do not have extensive experience with complex disabilities, behaviors or assessments that will be considered. If an IEP team reconvenes due to parent concerns arising from the first IEP meeting, choosing a different district representative should be considered.

**The principal/chairperson may not select a district representative or identify him/herself as district representative for the purpose of ensuring a particular recommendation or discouraging IEP team members from expressing their opinions on the student's needs.**

<sup>46</sup> The school psychologist also serves as the case manager for IEP meetings for a student who is attending a DOE school and recommended for related services only, if none of the student's related service providers is a DOE employee.

<sup>47</sup> The supervisor of school psychologists (for an IEP meeting at a DOE school) or other central DOE administrator may select the district representative at his/her discretion (typically, in circumstances when additional expertise is required or when personal relationships among the IEP team members may be strained).

### Case Manager / District Representative Preparation for the IEP Meeting

In advance of the IEP meeting, the case manager or district representative should prepare by:

- Selecting an appropriate location for the meeting. **Schools/CSEs should make space available so that IEP meetings may be held in areas that allow for private, quiet discussion.** If members are participating by phone, the speakerphone should be audible for all team members. At least one DOE team member should have the use of a computer with Internet access, so that this document and SESIS can be accessed and the IEP completed as much as possible during the meeting.<sup>48</sup>
- Ensuring that all special accommodations needed by the parent (e.g., interpreter, sign language interpreter, accessible site) are arranged.
  - Ensuring that, if an interpreter is requested, one is arranged. See [Interpretation](#) for requirements and best practices regarding interpretation.
- Ensuring that all mandated participants are available at the suggested time.
- If parent has requested a parent member, and a parent member is required, ensuring that arrangements have been made for a parent member to attend.<sup>49</sup>
- Ensuring that the Notice of IEP Meeting Form and copies of assessment and reports (and any other documents to be reviewed at the meeting) have been sent to the parent at least 7 calendar days prior to the meeting.<sup>50</sup>
- Soliciting [information from the parent](#) to ensure that the IEP team is properly composed and prepared to consider any proposed changes to the IEP or other preferences or concerns.

It is best practice for the district representative to prepare in advance an informal checklist of topics to be discussed at the IEP meeting. This will ensure that critical issues have been covered and all participant input is addressed. Especially for complex IEP meetings, minutes should be taken and faxed into SESIS as a Document Related to IEP.

### Case Manager / District Representative Responsibilities at IEP Meeting

At the IEP Meeting, the district representative has the following responsibilities:

- Facilitating open discussion among all participants regarding issues related to eligibility for services and development of IEP recommendations;
- Ensuring that the parent is a meaningful participant in the IEP process and encouraging the parent to discuss observations, opinions, and/or concerns about the student's education;
- Providing information regarding the continuum of services including supports and services, including those currently and potentially available in the student's current school *and* those available in other schools in the district;
- Explaining that the law requires students with disabilities to be educated with nondisabled students to the maximum extent appropriate and that the team must consider whether the student can make satisfactory progress in the general education setting with supplementary aids and services before recommending other programs;
- Ensuring that all potentially appropriate program and service options are considered, regardless of the programs and services currently provided in a school;
- Ensuring that the student's IEP includes the supports, services, and accommodations s/he needs to meet his/her IEP goals and provides the student the opportunity to progress in the grade level curriculum and on New York State and district assessments to the extent appropriate;
- Working to build consensus among the IEP team members on all issues;
- In the event that consensus cannot be reached regarding the IEP recommendations for a student who is already receiving special education services, determining the IEP recommendations and ensuring that the parent is fully informed of his/her due process rights and that the IEP reflects the disagreement in the "Other Options Considered" section (Summary Page) and in the relevant "Student Needs That Are of Concern to the Parent" section(s) of the [Present Levels of Performance](#); and
- When a parent's preferred language is other than English, the district representative must ensure that key content of relevant documents is explained to the parent and interpretation is provided, upon request; Serving as the chairperson of the meeting;

<sup>48</sup> When using a laptop for internet access, a location with a strong WiFi signal should be chosen; in school buildings, WiFi signal is typically stronger in instructional areas than in administrative areas.

<sup>49</sup> The school/CSE should request most recent list of certified and eligible parent members from the supervisor of school psychologists, as needed.

<sup>50</sup> In order to ensure the timely completion of assessment and progress reports, the professionals responsible for completion of the reports must be notified as early in the process as feasible. Related service providers must be given notice of the need for a progress report no later than 15 school days in advance of the meeting.

- As required by [Chapter 408](#), designating for each student one or, as appropriate, more than one DOE professional with knowledge of the student's disability and IEP to inform the student's general education teacher(s), special education teacher(s), related service provider(s), paraprofessional(s), and other relevant staff, prior to the implementation of any new or changed IEP recommendations, of each individual's responsibility to implement the relevant IEP recommendations, including the responsibility to provide, as applicable, specific accommodations, program modifications, supports and/or services.

**At the conclusion of the IEP meeting, the case manager is responsible for ensuring that the completed attendance sheet is faxed into SESIS (noting any IEP team members who participated by phone)<sup>51</sup> and that:**

- the IEP is finalized and a copy is handed to the parent; or, if that is not possible,
- the Recommended Special Education Programs and Services page of the draft IEP is completed, printed and handed to the parent, AND within 10 business days the IEP is finalized and issued to the parent.

Upon request of the parent, the IEP must be translated into the parent's [preferred language](#). The case manager is responsible for ensuring that the translation is arranged and provided to the parent within 30 calendar days of parent's request or finalization of the IEP, whichever is later. See [Translation](#) for requirements and best practices regarding translations.

When the IEP is finalized and issued to the parent, the case manager creates and issues to the parent the **PWN: Recommendation**. The **PWN: Recommendation** advises the parent of his/her right to visit a program similar to that being recommended, and must include an up-to-date contact name and phone number so that a site visit may be arranged. See [School Location Letters and Initial Consent for the Provision of Special Education Services](#) for additional steps for initial cases and recommendations that require a new school placement.

### Resolving Conflicts at the IEP Meeting

The IEP process can be a stressful event for a family. In order to foster a positive relationship, all participants should keep in mind that the IEP team is meeting for a common purpose: the student. DOE staff are reminded that

the parent is a member of the IEP team and has the right to contribute in a meaningful way.

If tension or disagreements arise, the district representative should consider calling for a break and considering approaches to redirect the meeting back to respectful, open discussion that can result in consensus if possible.

If the IEP team does not reach consensus, the district representative must decide whether to finalize the IEP or postpone its development until further discussion has occurred. For example, the district representative may suggest that the meeting continue on a different date with the supervisor of school psychologists or other outside professional serving as the district representative. If the district representative finalizes the IEP recommendation despite the lack of consensus, the parent must be informed of his/her option to request an additional IEP meeting, mediation, or an impartial hearing. If any DOE professional member of the IEP team is concerned that a recommendation has been made for reasons other than its appropriateness for the student's needs (as determined through consideration of the information available to the IEP team), the professional should contact his/her supervisor or the administrator of special education.

### Special Education Teacher (or [Related Service Provider](#))

At least one of the student's special education teachers must participate in the IEP meeting. A special education teacher's participation is required for the duration of the meeting. For initial referrals, this role is filled by a special education teacher qualified to teach a program in which the student may be placed.<sup>52</sup> *For a student recommended for related services only, one of the student's related service providers serves in this role.*<sup>53</sup>

### Special Education Teacher Preparation for IEP Meeting

The special education teacher prepares for the IEP meeting by:

- Reviewing any new assessment materials or provider reports;
- Identifying instructional and classroom management strategies that have been successful with the student;
- Considering special factors that have impeded or may impede the student's learning;
- Identifying the student's strengths and interests;
- Considering the student's education needs in relation to the general

<sup>51</sup> Only IEP team members who were actually present in the IEP meeting or participated in the IEP meeting by phone may sign or be noted on the attendance page. IEP team members who only participated for a portion of the meeting must sign the attendance sheet.

<sup>52</sup> This may be the school's IEP Teacher (if applicable).

<sup>53</sup> In addition, for an initial IEP meeting at which recommendation of a special education program will not be considered (e.g., for a student whose evaluation indicates only physical impairment), a related service provider may serve in this role.



- education curriculum;
- Sharing information regarding the school's grading and;
- For an annual or reevaluation IEP meeting, consider preparing draft goals (however, a complete discussion of all issues, including annual goals, must occur at the IEP meeting, including considering input from parent);
- Compiling data on levels of English language proficiency for a student from a non-English language background; and
- Consulting with general educators (including bilingual or ENL teacher, if applicable, and cluster or specialty teachers), other special education providers including paraprofessionals and related service providers, and the parent as needed, to ascertain the student's needs in all instructional areas.

When the special education teacher is not a mandatory member of the IEP team, the above preparation is best practice to ensure an effective IEP meeting and quality IEP.

See [Related Service Provider Preparation for the IEP Meeting](#) for information on preparing for the IEP Meeting when the related service provider is a mandatory member.

### Special Education Teacher Mandatory Participation in the IEP Meeting

If the student has more than one special education teacher, it is good practice to request that all of the student's teachers provide relevant information regarding the student's functioning, performance, and behavior for use at the IEP meeting, either through participation in the meeting or in writing. If such information is provided in writing, it must be provided to the parent prior to the IEP meeting.

At all times during the IEP meeting, at least one of the student's current special education teachers must be in attendance. Though it is not required that any one of the student's current special education teachers attend the entire IEP meeting, the special education teacher with the most knowledge of the student should do so whenever possible.

The special education teacher should assist the team in using the assessment results to determine eligibility for special education services and to develop specific IEP recommendations and goals.

The special education teacher may serve as the district representative for IEP meetings that do not include the school psychologist, as long as the

special education teacher is qualified to do so. (See above on the role of the [district representative](#).) For students whose only special education service is a related service, a related service provider may also serve as the district representative, if s/he is a DOE employee (i.e., not a contracted or independent provider) and is otherwise qualified to do so. (See above on the role of the [district representative](#).) See [Related Service Provider](#) on mandatory participation of the related service provider.

### Individual to Interpret Instructional Implications

There must be present at every IEP meeting an individual who is able to interpret the instructional implications of assessments. This individual must be able to describe how the [assessment results](#) relate to the instruction that will be offered to the student and assist the team in determining the instructional modifications, strategies, and/or interventions that may be required. This role is typically fulfilled by an individual serving another role on the IEP team (e.g., school psychologist, special education teacher, general education teacher, district representative, related service provider for a student whose only special education service is a related service).

## Members Who May Be Required at an IEP Meeting

### School Psychologist

The school psychologist must participate in all IEP meetings resulting from initial evaluations, requested reevaluations, and three-year reevaluations; any IEP meeting at which a new psychological assessment is reviewed; at annual and requested reviews as [per above](#); and at any IEP meeting upon request of the parent. Adequate notice should be given to the school psychologist who is requested to attend an annual or requested review meeting.

The student's teacher(s) / related service provider(s) should also consider including the school psychologist when the student's IEP-recommended services are not having their desired impact and the student is making less progress than anticipated.

### School Psychologist Preparation for the IEP Meeting

In advance of the IEP meeting, the school psychologist should prepare by:

- Reviewing any relevant progress or assessment reports, including any provided by the parent;

- Discussing the student's progress with his/her teachers and related service providers; and
- Preparing to serve in the role of the [district representative](#), if applicable.

### School Psychologist Participation in the IEP Meeting

In addition to performing the role of the [district representative](#) if applicable, the school psychologist:

- reviews and interprets assessments; and
- provides information regarding the supports that may be available to the parent in the community.

### General Education Teacher

At least one of the student's general education teachers must be a member of the IEP team if the student is or may be participating in the general education environment (including if the student is or may be recommended for ICT).<sup>54</sup> If general education teacher participation is required, a general education teacher must be present for the entire duration of the meeting. The general education teacher is expected to present information about the student's performance in the general education class and to help the IEP team make decisions about participation in the general education curriculum and other school activities. The general education teacher must, to the extent appropriate, participate in the development of the student's IEP, including assisting in the determination of appropriate positive behavioral interventions and supports and other strategies for the student, and supplementary aids and services, program modifications and supports for school personnel.

Selection of the general education teacher(s) is guided by the following factors and requirements, with the goal of providing the teacher(s) an opportunity for meaningful participation while minimizing the impact on his/her/their instructional responsibilities.

- **For a student participating in general education**, at least one of the student's general education teachers must attend the IEP meeting.
  - For a student who has more than one general education teacher, at all times during the meeting, at least one must be present. It is not necessary for more than one to be present at any time during the meeting, or for any one to attend the entire meeting.
  - All of the student's teachers should provide relevant information regarding the student's functioning, performance, and behavior for

use at the IEP meeting, either through participation in the meeting or in writing. If such information is provided in writing, it must be provided to the parent prior to the IEP meeting.

- **For a student who is not participating in general education but is being considered for participation in general education**, the general education teacher must be qualified to teach the student and must have knowledge of curricular adaptations and the range of available general and special education supports and services appropriate to the age and grade level of the student; if possible, the teacher should be the one who would teach the student if the IEP team recommends participation in general education.
- **For a student attending a private/religious school program and participating in general education**, at least one of the student's general education teachers must be invited to participate at the IEP meeting, **and** the IEP team should identify a DOE general education teacher to participate in the IEP meeting. The general education teacher identified must be qualified to teach the student and must have knowledge of curricular adaptations and the range of available general and special education supports and services appropriate to the age and grade level of the student.

### General Education Teacher Preparation for the IEP Meeting

In advance of the IEP meeting, the general education teacher should prepare by:

- Compiling samples of student work, anecdotal records, and other information helpful in determining the student's potential for learning, rate of learning, and need for specialized instruction, including periodic assessments or progress monitoring from Rtl, if applicable;
- Identifying instructional and classroom management strategies that have been successful with the student;
- Observing the student's learning preferences in the general education classroom;
- Listing or identifying [special factors](#) that may impede the student's learning;
- Compiling information related to the student's attendance and class participation; and
- Considering positive intervention strategies for improving the student's behavior, as necessary, as well as [supplementary aids and services](#), and [program modifications](#) and [supports for school personnel](#) that may be

<sup>54</sup> For a student who is turning 5, the General Education Teacher may be the student's preschool teacher.

necessary for the student to benefit from instruction.

### General Education Teacher Participation in the IEP Meeting

In the IEP meeting, the general education teacher should:

- Share information regarding the student's present level of educational performance in the general education classroom environment;
- Describe the student's behavior and relationship with peers in the general education classroom;
- Suggest positive intervention strategies for improving the student's behavior, as necessary, as well as [supplementary aids and services](#), and [program modifications](#) and [supports for school personnel](#) that may be necessary for the student to benefit from instruction;
- Share information regarding the school's grading and [promotion policies](#);
- Share information regarding the impact and effectiveness of any accommodations and strategies provided for the student in the regular education classroom, and make recommendations for the continuation or modification of those accommodations and strategies; and
- Provide information regarding the course content and behavioral standards at the student's grade level and the student's current performance in relation to those standards in the student's school.

### Related Service Provider

#### When a Related Service Provider Must or Should Be an IEP team Participant

##### Mandatory Participation:

- For a student recommended for related services only, at least one of the student's related service providers *must* be present throughout the duration of the IEP meeting;
- At an initial IEP meeting for a student being considered for related services only, at least one relevant related service provider must be present throughout the duration of the IEP meeting.

*A related service provider who is a mandatory participant in the IEP meeting has the responsibilities noted above, in addition to those that follow.*

**Suggested Participation:** Whenever modification to a related service

recommendation is being considered, or if an assessment indicates the need for an initiation of a related service, the relevant related service provider should participate. The school/CSE must make all efforts to ensure the provider's participation. The provider should be present for discussions that deal with provision of the service, the student's need for the service and associated goals. Every effort should be made to achieve consensus on the related service recommendation while the provider is present.<sup>55</sup>

### Related Service Provider Preparation for the IEP team Meeting

Each of the student's related service provider who is not participating in the IEP meeting must submit a progress report indicating the student's:

- current level of performance.
- progress toward meeting the service's annual goals;
- proposed annual goals (and short-term objectives, if applicable); and
- recommendation for:
  - continuation of the service,
  - change(s) in frequency, duration, group size, location, and/or language, or
  - discontinuation of the service.

Related service providers must be given notice of the need for a progress report at least 15 school days in advance of the meeting.

Related service providers who will be participating in the IEP meeting should prepare in advance by:

- Reviewing any new progress or assessment reports;
- Identifying strategies that have been successful with the student;
- Reflecting on the student's progress toward meeting IEP goals, and considering preparing draft annual goals (however, a complete discussion of all issues, including annual goals, must occur at the IEP meeting, including considering input from parent);
- Considering special factors that have impeded or may impede the student's learning; and
- Identifying the student's strengths and interests.

<sup>55</sup> The related service provider is not required to be present throughout the duration of the IEP meeting (unless the provider is serving as the mandatory participant for a student recommended / being considered for related services only).

### Related Service Provider Participation in the IEP Meeting

The related service provider should assist the IEP team in using assessment results and progress reports to determine the appropriateness of related services and in developing proposed statements of present levels of performance, annual goals (and short-term objectives, if applicable) and recommendations for continuation of the service; change(s) in frequency, duration, group size, location, and/or language; or discontinuation of the service.

### School Social Worker

The school social worker should participate in the IEP meeting if s/he was involved in the evaluation process, especially if s/he conducted a social history.

### Bilingual Professional

At least one licensed bilingual professional must participate in the initial IEP meeting for an MLL (or a non-MLL who was assessed bilingually), and at least one licensed bilingual professional must participate in a subsequent IEP meeting if the student is recommended for a bilingual special education program or related service or if the IEP team will consider initiation of a bilingual special education program or related service.

### The Student

The student is encouraged to participate in the IEP meeting, when appropriate. In general, for a student age 14 or older, one purpose of an IEP meeting is to consider postsecondary goals and transition services needed to assist the student in reaching those goals. A student age 14 or older must be invited to participate in IEP meetings. In these circumstances, the student should be provided with a student-appropriate invitation, which should be faxed into SESIS. This event should also be recorded in the **SE SIS Events Log**. Efforts must be made to schedule the meeting when the student is able to attend. If the student does not attend, the IEP team must take steps to ensure that information on the student's preferences and interests has been collected and is considered at the meeting and reflected in the [Present Levels of Performance](#) section of the IEP. Prior to the IEP meeting, discussions should be held with a parent regarding a student's invitation to the meeting and importance of his/her involvement in future planning. For a student younger than 14, the parent should be consulted regarding the appropriateness of the student's participation.

At the IEP meeting, the student should be encouraged to:

- Discuss educational goals s/he would like to pursue;

- Assist in identifying postsecondary interests, goals, and transition needs;
- Share concerns or questions; and
- Provide input regarding classroom strategies s/he found helpful and those s/he did not.

### Parent Member

The parent has a right to have an additional parent member participate in the IEP meeting in the circumstances in the [chart above](#).

The parent member must be the parent of a student residing in New York City or a neighboring district who has had an IEP within the previous five years. Participation of a parent member may be requested by the parent, the student (if 18 years of age or older), or a member of the IEP team, in writing at least 72 hours prior to the meeting. The request for the participation of a parent member must be documented in the **SE SIS Events Log**.

At the IEP meeting, the additional parent member should be encouraged to:

- Assist the parent in understanding the IEP process from a parent's perspective; and
- Support the parent's participation in and contribution to the meeting.

### School Physician

The Notice of IEP Meeting informs the parent(s) of his/her right to have a physician participate at the IEP meeting to interpret the student's medical information and the relationship between the student's medical and educational needs in the circumstances in the [chart above](#). The participation of a physician may be requested by the parent, the student (if 18 years of age or older), or another member of the IEP team, in writing at least 72 hours prior to the meeting. The request for the participation of a physician must be documented in the **SE SIS Events Log**. **Contact your supervisor of school psychologists immediately upon receiving a parent's request for physician participation to arrange attendance of the physician.**

### Transition Service Agency Representative

To the extent appropriate and with parental consent (or consent of a student 18 years of age or older), a representative of any participating agency that is likely to be responsible for providing or funding out of school and/or post-secondary services must be invited to an IEP meeting at which transition services will be considered and discussed. In advance of the IEP meeting, a member of the IEP team should discuss with the parent whether there



are any appropriate agencies that may provide or fund transition services. If the parent/student is not affiliated with an appropriate agency and it is determined that the student will benefit from such, the parent should be provided with the contact information for the postsecondary provider(s) most appropriate to serve the needs of the student. This may include the Office for People with Developmental Disabilities (OPWDD), Office of Mental Health (OMH), Adult Career and Continuing Education Services (ACCES-VR) and Commission for the Blind. If an appropriate agency is identified, the school should seek written parental consent to invite the representative of the agency to the IEP meeting; the parent's consent must be uploaded to SESIS as a Document Related to IEP. If an agency invited to participate at an IEP meeting does not do so, the IEP team should take additional steps to involve the agency in the planning of any transition services, such as seeking information in writing.

### Teacher of the Deaf and Hearing Impaired / Teacher of the Blind or Partially Sighted

For a student whose vision and/or hearing loss may require additional consideration, a Teacher of the Deaf and Hearing Impaired and/or Teacher of the Blind or Partially Sighted, as appropriate, must attend the IEP meeting. An audiologist should also attend as needed. Contact the District 75 Offices of [Hearing Education Services](#) and/or [Education Vision Services](#) at least two weeks prior to the IEP meeting (or as soon as the meeting is scheduled) to discuss/request.

### Other Members<sup>56</sup>

The following individuals may also serve as members of the IEP team:

- Assessment professionals or service providers involved in conducting the assessments or providing service to the student;
- Supervisory personnel (e.g., supervisor of school psychologists, related service supervisor), should the IEP team want additional assistance in developing IEP recommendations for a student whose current services are not having their desired impact and who is making less progress than anticipated;
- Other school personnel likely to contribute to the decision-making process;

- School nurse, if specialized transportation is being considered for medical reasons, school nursing or health paraprofessional services are being considered, or the student has a health issue that may impact his/her participation and progress in the instructional program; and
- Any individual invited on the basis of the school/CSE's or parent's determination that the individual has special expertise or knowledge of the student.

**An interpreter must attend the IEP meeting if requested**, but is not a member of the IEP team. See [Interpretation](#) for requirements and best practices regarding interpretation.

## Excusal of a Required Member of the IEP Team

Except for an initial IEP meeting, a required IEP team member may be excused from the IEP meeting, in whole or part, only if the parent and school/CSE agree, in writing. A required IEP team member may not be excused from 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).

A school/CSE may not routinely or unilaterally excuse required IEP team members from attending IEP meetings. Schools should carefully consider, based on the individual needs of the student and the issues that need to be addressed at the IEP meeting, whether it would be appropriate to hold the IEP meeting without a particular IEP team member in attendance or whether it would be preferable to reschedule the meeting so that member may attend. While IEP meetings are an appropriate use of teachers' dedicated time for parent engagement, parent engagement time is not the only time appropriate for holding IEP meetings. IEP meetings should be scheduled to best meet the needs of all IEP team members, and as much as possible, all individuals with information bearing on a student's eligibility and appropriate IEP recommendations should attend.

The request for excusal of a required member must be made by the district representative or by the parent. Neither the IEP team member whose excusal is sought, nor a Charter or non-public school, may request that an IEP team member be excused, and no party other than the district representative (or the parent) may seek the parent's consent for excusal of a required member. If an IEP team member or Charter or non-public school believes an IEP team member should be excused, the member or school

<sup>56</sup> When the IEP team will consider a residential recommendation, see [Participation of Outside Agencies in IEP Meetings](#) for required procedures on seeking participation from an outside agency.



may contact the district representative, who can decide whether to request excusal. A parent's consent for excusal is not operative unless obtained through the procedures described in this section.

### **Procedure for Excusal of a Required Member of the IEP team:**

At least five days prior to the IEP meeting date, the school/CSE must request the required IEP team member's excusal in writing to the parent, noting the name and title of the required IEP team member whose excusal is requested, the member's role and expected contribution at the IEP meeting, and whether the required IEP team member's area of curriculum or related services will be discussed or modified at the meeting. If the member's area of curriculum or related services will be discussed or modified, the member must submit a written summary of the information he/she would have presented at the IEP meeting for the purpose of developing the IEP recommendations, and this summary must be provided to the parent at least 5 days prior to the IEP meeting. To agree to the excusal, the parent must sign and return the request to the school/CSE.<sup>57</sup> If the parent does not do so, or if the member's written summary is not provided to the parent at least five days prior to the IEP meeting, the required IEP team member may not be excused from the meeting.

While the request must be made at least five calendar days prior to the meeting date, in order to afford a reasonable time to review and consider the request, it is advisable to request agreement for excusal earlier. This helps to ensure efficiency in scheduling, as a member must participate if a parent does not agree to the excusal.<sup>58</sup>

The parent may request in writing that a required IEP team member be excused from attending a meeting. If the district representative agrees to the parent's request, the member is excused. If the member's area of curriculum or related services will be discussed at the IEP meeting, the member must submit to the IEP team a written summary of the information s/he would have presented at the IEP meeting for the purpose of developing the IEP recommendations.

Notwithstanding the 5-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. The emergency or unavoidable scheduling conflict that led to the excusal must be documented in the **SE SIS Events Log**. When there are fewer than five days before the meeting is scheduled and a required IEP team member is unavailable, the parent must first be notified of his/her right to have the meeting rescheduled until such a time as the required IEP team member may attend, before excusal of the required IEP team member may be sought. If the member's area of curriculum or related services will be discussed at the IEP meeting, and the member is unable to submit to the IEP team a written summary of the information s/he would have presented at the IEP meeting for the purpose of developing the IEP recommendations, the meeting may proceed, but must be adjourned until such time as the excused member may contribute to the meeting through participation or in writing.

If it is requested that a required IEP team member be excused for only part(s) of an IEP meeting, the part(s) of the meeting for which excusal is sought must be noted on the request.

Documentation related to required member excusal must be faxed into SESIS as a **Document Related to IEP**.

<sup>57</sup> If the member's area of curriculum or related services will not be discussed or modified, the parent may also agree to the excusal in the text of an email, which the school/CSE must print and fax into SESIS.

<sup>58</sup> The unavailability of a required member does not extend the evaluation and placement compliance timelines, and a parent's non-response or refusal to agree to a required IEP team member's excusal does not constitute a delay attributable to the parent for the purpose of evaluation and placement compliance timelines.

## Determining Eligibility

The IEP team determines whether a student is eligible for special education. To make this determination, the IEP team draws upon information gathered during the evaluation. This includes a careful consideration of the supports and strategies employed prior to the IEP meeting, to ensure that the student is not classified as student with a disability as a result of limited English proficiency or deficiencies in the general education environment.

The IEP team must:

- Consider the results of assessments, including any independent assessments that are presented by the parent;
- Consider the strengths and needs of the student and his/her present levels of performance, including information provided by the parent; and
- Use more than a single indicator, measurement, or assessment as the basis for determining eligibility.

## Eligibility Criteria

A student is eligible for special education if s/he:

- Meets the criteria for one (or more) of the disability classifications; **and**
- Requires a special education program or related service by reason of at least one of his/her disabilities.<sup>59</sup>

A student is **not** eligible for special education if any of the following apply:

- The student does not meet the criteria for any of the disability classifications;
- The student meets the criteria for one or more of the disability classifications but does not require a special education program or related service by reason of any disability because the student is making the progress anticipated based on the student's individual

strengths and abilities;

- The determinant factor(s) in the student not meeting general education standards is one or more of the following:<sup>60</sup>
  - A lack of appropriate instruction in reading, including explicit and systematic instruction in phonemic awareness, phonics, vocabulary development, reading fluency (including oral reading skills) and reading comprehension strategies;
  - A lack of appropriate instruction in math;
  - Limited English proficiency.

See [Ineligibility](#) for additional steps and considerations regarding students found to be ineligible for special education.

A student who meets the criteria for one or more of the disability classifications does not necessarily require a special education program or related service by reason of that disability. For example, a student who meets the criteria for Other Health Impairment may be receiving medication that allows him/her to make expected progress in the general education curriculum without a special education program or related service. A student who is struggling in school or with homework should be considered for special education if his/her disability is impacting his/her ability to learn and progress, and s/he has been provided with appropriate learning experiences and instruction. Any student, including a student in a Gifted & Talented (G&T) or other enrichment or accelerated program, or a student who is advancing from grade to grade, can be eligible to receive special education programs or related services if s/he is not making the progress anticipated based on the student's individual strengths and abilities.<sup>61</sup>

## Disability Classifications<sup>62</sup>

The IEP team identifies the category of disability (Classification) that most

<sup>59</sup> A student is eligible for special education only if s/he has not graduated with a [local or Regents](#) endorsed diploma and is age-eligible. (Receipt of a CDOS Commencement Credential or Skills and Achievement Commencement Credential does not terminate a student's eligibility.) A student is no longer age-eligible once s/he has attained the age of 21 as of September 1 of the school year. Students who turn 21 on or after September 1 may receive services through June 30 of the school year in which the student turns 21. Students who turn 21 between July 1st and August 31st may receive any recommended ESY special education programs and/or related services, but are ineligible for services beginning September 1.

<sup>60</sup> In this context, "lack of appropriate instruction" refers to the general education instruction the student should be (or should have been) receiving, not any special education service(s) s/he may require.

<sup>61</sup> A student with a disability who attends or qualifies for a G&T program must receive the recommended services in the G&T program. A student's disability is not a bar to access to G&T programming, and G&T programming is not a bar to a student's access to special education services.

<sup>62</sup> "Long COVID" is a term that refers to post-COVID conditions (health problems that people experience more than four weeks after being infected with the virus that causes COVID-19). Symptoms of long COVID may give rise to a student's eligibility for special education and/or the need for new or different special education programs, services, and/or supports appropriate for the student. A student with long COVID may be eligible under the "Other Health Impairment" classification if the student has limited strength, vitality, or alertness due to a chronic or acute health problem that adversely affects the child's educational performance. A student with long COVID may instead be eligible for another classification based on the specific long COVID symptom and/or any other conditions that most affect the student's educational performance. For more information regarding long COVID, see [Long COVID under Section 504 and IDEA: A Resource to Support Children, Students, Educators, Service Providers, and Families](#), by the U.S. Department of Education's Office for Civil Rights and Office of Special Education and Rehabilitative Services.

affects the student's educational performance.<sup>63</sup> There are 13 disability classifications:

### Autism

The disability classification of Autism is characterized by a developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects educational performance and is generally evident before age three.

Other characteristics often associated with autism are:

- engagement in repetitive activities and stereotyped movements,
- resistance to environmental change or change in daily routines, and
- unusual responses to sensory experiences.

The term does not apply to a student whose educational performance is adversely affected primarily by an emotional disturbance. A student who manifests the characteristics of autism after age three may be classified as a student with autism if the above criteria are otherwise satisfied.<sup>64</sup>

### Deaf-Blindness

The disability classification of Deaf-Blindness is characterized by the combination of concomitant hearing and visual impairments, which results in severe communication and other developmental and educational needs that cannot be accommodated in special education programs solely for students with Deafness or students with Visual Impairment or Blindness.

Medical documentation (e.g., audiogram, ophthalmological) is required to make this classification.

### Deafness

The disability classification of Deafness is characterized by a hearing impairment so severe that it impairs the processing of linguistic information through hearing, with or without amplification, and adversely affects educational performance.

Medical documentation (e.g., audiogram) is required to make this classification.

### Emotional Disturbance

An Emotional Disturbance classification has one or more of the following characteristics, exhibited over a long period of time and to a marked degree

that adversely affects educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A generally pervasive mood of unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional Disturbance is the appropriate classification for a student with Schizophrenia.

*Social Maladjustment*, by itself, is not a basis for an Emotional Disturbance classification.

Social Maladjustment refers to behavioral manifestations that negatively affect educational performance, such as where the student has:

- A dysfunctional family background; the tendency to respond more quickly to negative sanctions than to positive rewards; and/or gang involvement and truancy.
- Irritability or anger, which are used manipulatively to control people and situations. Obscene and degrading language and gestures are common. A student who is socially maladjusted will often exhibit explosive verbal and physical aggression toward both peers and adults.
- Unusually high self-esteem but fragile. If distress occurs, it is situational and usually related to being held accountable or experiencing a loss of power or control.
- Refusal to take personal responsibility and tendency to project blame onto others or events. The student sees him/herself as faultless or as having reacted justifiably to perceived transgressions against him/her.
- Values and morality that are determined by the situation and by whatever s/he wants at the moment (i.e. immediate gratification).
- Substance and alcohol abuse.
- Lack of empathy or remorse; may be described as having no conscience.
- Closed thinking pattern; that is, the student is not interested in others'

<sup>63</sup> While a student may exhibit characteristics that fall under more than one disability classification, the classification of [Multiple Disabilities](#) is used only for certain distinct circumstances.

<sup>64</sup> Note that [Parent Counseling and Training](#) must be recommended for a student with a classification of Autism, regardless of the student's recommended special education program.

opinions and judgments in areas such as responsible living. S/he is not able to view himself/herself in any critical way. The student is not responsive to suggestions to change and tends not to learn from experience, mistakes, or consequences.

It is important to examine whether other criteria of Emotional Disturbance have been met. If a student is determined to exhibit the behaviors associated with Social Maladjustment but does not meet the eligibility criteria as a student with an Emotional Disturbance, professional staff should consider general education supports to assist the student. These can include using Multi-Tiered Systems of Support (MTSS), which include staff and environmental supports (e.g., clear delineated expectations, rules and routines in the school and classrooms), more targeted supports (e.g., check in/check out), and individualized supports (e.g., behavior plan).

The IEP team must complete and sign the **Emotional Disability Justification Form** in SESIS to make the initial classification of Emotional Disturbance.

### Hearing Impairment

An impairment in hearing, whether permanent or fluctuating, that adversely affects educational performance but is not included under the definition of *deafness* in this section.

Medical documentation (e.g., audiogram) is required to make this classification.

### Learning Disability

A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that manifests itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

The term does not include learning problems that are primarily the result of limited English proficiency; a visual, hearing, or motor disability; intellectual disability; emotional disturbance; cultural factors; or environmental or economic disadvantage.

### Procedure for Determining That a Student Has a Learning Disability

As for all students referred for evaluation, for a student suspected of having a learning disability, the IEP team must conduct an individualized evaluation that includes a variety of assessment tools and strategies. The IEP team may not

rely on any single procedure as the sole criterion for determining whether or not a student has a learning disability.

The evaluation must include information from an observation of the student in routine classroom instruction and monitoring of the student's performance (both of which may be done either before or after the student was referred). The observation must be conducted by at least one person qualified to conduct individual diagnostic examinations of a student (e.g., school psychologist, teacher of speech improvement or reading teacher).

To ensure that underachievement in a student suspected of having a learning disability is not due to a lack of appropriate instruction unrelated to disability in reading or math, the IEP team must consider:

- data that demonstrates the student was provided appropriate instruction delivered by qualified personnel in a general education setting; and
- data-based documentation of repeated assessments of achievement at reasonable intervals which reflects a formal assessment of student progress during instruction, which was provided to the parent.

### The IEP team may determine that a student has a learning disability if:

- when provided with learning experiences and instruction appropriate for the student's age or State-approved grade-level standards, the student does not achieve in one or more of the following areas:
  - oral expression
  - listening comprehension
  - written expression
  - basic reading skills
  - reading fluency skills
  - reading comprehension
  - mathematics calculation
  - mathematics problem solving

### AND

- The student does not make sufficient progress to meet age or State-approved grade-level standards in one or more of the above-listed areas when considering the student's response to scientific, research-based intervention; **OR**
- The student exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, State-approved grade-level standards, or intellectual development that is determined by

the IEP team to be relevant to the identification of a learning disability, using appropriate assessments;

#### AND

- The IEP team determines that its findings are not primarily the result of:
  - limited English proficiency;
  - a visual, hearing, or motor disability;
  - intellectual disability;
  - emotional disturbance;
  - cultural factors; or
  - environmental or economic disadvantage.

#### Documentation Needed to Make a Classification of Learning Disability

When determining the initial eligibility for a student suspected of having a learning disability, the IEP team must complete and sign a written report in which each IEP team member certifies that they are in agreement with the decision. The **Specific Learning Disability Justification Form** serves as that written report. If the IEP team determines that the student has a learning disability, the IEP team should fill out this form in SESIS and all members of the IEP team must certify in writing either that the report reflects the member's viewpoints or not. If the IEP team member does not agree with this decision, that person must submit a separate statement presenting his/her reasons.

When completed, this form must be uploaded into SESIS; if there are any separate statements, those statements must be faxed into SESIS.

#### Intellectual Disability

An Intellectual Disability is characterized by significantly subaverage general intellectual functioning (reasoning, learning, problem solving), existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects educational performance.

Determining a student's intellectual functioning relies on the use of assessment tools and the [interpretation of scores](#). Where there are significant discrepancies in the results of assessment tools, the results should be viewed with caution and a classification determination should not be solely based upon an outlier low assessment result.

To determine whether there are limitations in adaptive behavior (i.e. to determine a student's conceptual, social, and practical skills), an Adaptive

Behavior Scale must be used.

#### Multiple Disabilities

The disability classification of Multiple Disabilities is characterized by concomitant impairments, the combination of which causes major educational needs that cannot be accommodated in a special education program solely designed to address one of the impairments. Multiple Disabilities does not include Deaf-Blindness.

Typically, the classification denotes a severe Intellectual Disability in addition to another significant area of disability (e.g., Orthopedic Impairment, Emotional Disturbance).

A medical evaluation (e.g., Orthopedic Assessment) and/or an Adaptive Behavior Scale may be required to make this classification, depending on the student's disabilities.

#### Orthopedic Impairment

The disability classification of Orthopedic Impairment is characterized by a severe physical impairment that adversely affects a student's educational performance. Orthopedic Impairment includes:

- impairments caused by congenital anomaly (e.g., clubfoot, absence of some member),
- impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and
- impairments from other causes (e.g., cerebral palsy, neuromuscular disorders, amputation, and fractures or burns which cause contractures).

A medical evaluation (e.g., orthopedic assessment) is required to make this classification.

#### Other Health Impairment

The disability classification of Other Health Impairment is characterized by impaired strength, vitality or alertness (including a heightened alertness to environmental stimuli) that results in limited alertness with respect to the educational environment. The impairment must be due to chronic or acute health problems, including but not limited to:

- a heart condition,
- tuberculosis,
- rheumatic fever,
- nephritis,
- asthma,



- sickle cell anemia,
- hemophilia,
- epilepsy,
- lead poisoning,
- leukemia,
- diabetes,
- attention deficit disorder,
- attention deficit hyperactivity disorder, or
- Tourette syndrome

The impairment must adversely affect educational performance.

## Speech or Language Impairment

The disability classification of Speech or Language Impairment includes communication disorder (such as stuttering, impaired articulation, language impairment, or voice impairment) that adversely affects educational performance.

A speech and language evaluation is required to make this classification.

## Traumatic Brain Injury

The disability classification of Traumatic Brain Injury is characterized by an acquired injury to the brain caused by an external physical force or by certain medical conditions (e.g., stroke, encephalitis, aneurysm, anoxia or brain tumors), with resulting impairments that adversely affect educational performance. The Traumatic Brain Injury classification may include either open or closed head injuries or brain injuries from certain medical conditions resulting in mild, moderate or severe impairments in one or more areas, including:

- cognition,
- language,
- memory,
- attention,
- reasoning,
- abstract thinking,
- judgment,
- problem solving,
- psychosocial behavior,
- physical functions, information processing,
- speech, and
- sensory, perceptual and motor abilities.

Traumatic Brain Injury does not include injuries that are congenital or caused by birth trauma.

A medical evaluation (e.g., [neurological](#)) is required to make this classification.

## Visual Impairment (Including Blindness)

The disability classification of Visual Impairment is characterized by an impairment to vision that, even with correction, adversely affects educational performance. The term includes both partial sight and blindness.

A medical evaluation (e.g., ophthalmological) is required to make this classification.

## Ineligibility

If the IEP team determines that the student is not eligible for special education,<sup>65</sup> the following steps must be taken:

- The IEP team must:
  - Complete the **Student Found Ineligible for Special Education Services Letter** under **IEP: Ineligible for Special Education Services**. This form includes the date of the initial IEP meeting and the reason the student was found to be not eligible for special education services.
  - Complete the following sections of the Ineligible for Special Education Services Letter:
    - Attendance page
    - [Present Levels of Performance](#) (PLOP)
    - Individual Needs
  - Send the **PWN: Ineligible Notice** and Present Levels of Performance to the parent and the principal.
  - Delete the draft IEP in SESIS.
  - Set the status of the case to “Final.”
- Using the Present Levels of Performance provided by the IEP team, the principal must determine whether alternative supports or strategies are appropriate to assist the student in the general education environment.

<sup>65</sup> A student who is ineligible for special education services may still be eligible for accommodations under Section 504.

## Developing the Individualized Education Program (IEP)

### IEP Overview

An IEP memorializes the IEP team's determinations (made at the IEP meeting) regarding the student's eligibility for special education, present levels of performance and individual needs, annual goals, and recommended special education programs and/or related services.

The recommendations must be calculated to provide meaningful educational benefit to the student in light of his/her individual needs. To the maximum extent appropriate for the student, the IEP must be tailored to promote appropriately ambitious progress toward common core standards, proficient performance on State and local assessments, and a Regents diploma.

An appropriate IEP reflects the IEP team's conversation about the results of the student's individual evaluations and describes the student's needs arising from his/her disability that are to be addressed through the provision of special education programs and/or related services, as well as other factors affecting the student's ability to access the school environment and learn. The IEP should also indicate the student's strengths, interests, and the preferences and concerns of the parents. All parts of the IEP should be discussed at the IEP team meeting(s) and the IEP should memorialize the IEP team members' views on the student's needs expressed in those conversations.

### Present Levels of Performance and Individual Needs

The Present Levels of Performance and Individual Needs (Present Levels of Performance or PLOP) section of a student's IEP identifies the areas of specific needs related to the student's disability, his/her current levels of functioning, and his/her strengths. This is the foundation for developing goals and services to address the student's individual needs.

The Present Levels of Performance section has seven components, to be completed as follows:

- **Evaluation Results:** Include the results of the most recent individual evaluation(s) (including the date of the evaluations); results of the student's performance on any general State or district-wide assessments; and instructional implications of those evaluations. This should include the results of DOE and DOE-procured evaluations and any other evaluations provided to the IEP team by the parent. In addition to other data, this

should always include a summary of IQ and academic levels from the last standardized evaluations and include the date of the evaluations.

- **Academic Achievement, Functional Performance and Learning Characteristics:** Clearly describe what makes the student unique, including information about his/her strengths and needs, learning style, daily living skills, adaptive behavior, rate of progress, preferences, and interests.
- **Social Development:** Describe the extent and quality of the student's relationships with peers and adults, feelings about self, and adjustment to school and community. Include relevant information from observations and student self-reports, and details of progress in self-advocacy, extracurricular activities, and transition plan.
- **Physical Development:** Describe the degree and quality of motor and sensory development, health and vitality, and physical skills or limitations related to learning.
- **Management Needs:** Include the nature and degree to which environmental modifications, human resources, or material resources are required to enable the student to benefit from instruction. These must be developed in consideration of the factors identified in other Present Levels of Performance areas.
- **Effect of Student Needs on Involvement and Progress in the General Education Curriculum:** Document how the student's disability affects involvement and progress in the general education curriculum. Describe the effect of the student's specific disability as it relates to instructional content, instructional method, method of assessment, instructional materials, and physical environment.
- **Student Needs Relating to Special Factors:** Complete this section if any of the [special factors listed below](#) apply for the student.

Please see the guidance documents [Developing the Present Levels of Performance](#) and [PLOP Quality Checklist](#) for more information on completing each section.

The Present Levels of Performance section must include (as applicable):

- The student's strengths, abilities, weaknesses and needs, in each area assessed. The identification of a student's strengths can be one of the most significant factors in developing an IEP that builds on a student's interests and abilities.

- The parent's concerns regarding his/her child's education.
- The student's need for a particular device or service (including an intervention, accommodation, or other program modification) to address special factors related to the student's behavior, communication needs, limited English proficiency, visual impairment, and/or the student's need for assistive technology devices/services or accessible educational materials.
- For Multilingual Learners (and students who are not MLLs but were evaluated bilingually), the impact of the student's language development in English and the other than English language, the student's relative strengths in each language and the student's language related needs.
- For students who require an accessible school, a description of the student's level of need in the "Physical Development" section. (In addition, the "Accessible Program" box must be checked "Yes".)

There must be a direct relationship between the Present Levels of Performance and the other components of the IEP. For example, if a deficiency in reading skills is described, this must be addressed by identifying the measurable annual goals (and for a student participating in alternate assessment, short-term instructional objectives/benchmarks) related to this area. If, at an annual/requested review or reevaluation IEP meeting, it is determined that services (e.g. related or supplemental services, specialized transportation, assistive technology, or accommodations) will be changed, removed or reduced, or that there will be a change to the student's program recommendation, the basis for the change(s) must be clearly stated in the Present Levels of Performance.

### Student Needs Relating to Special Factors

This section must be completed if the IEP team determines that the student requires a device or service (including an intervention, accommodation or other program modification) to receive meaningful educational benefit based on one or more of the following special factors (all of which must be considered):

- **Behavioral issues:** If a [Functional Behavioral Assessment](#) has been conducted and a [Behavioral Intervention Plan](#) developed, they must be noted in this section. (Note the circumstances listed in those sections in which a school must conduct or consider conducting an FBA and develop a BIP.)

<sup>66</sup> It may be appropriate to consider measurable postsecondary goals before age 14 if the student identifies a very clear postsecondary goal. An example could be if a student has, from the age of 12, consistently articulated an interest in becoming a doctor and her high school choice and academic programming reflect and support that goal. In addition, if the student will need more time to acquire transition skills, the IEP team should consider including transition activities on the IEP sooner. A parent may also request that the IEP include transition activities earlier.

- **Multilingual Learners:** In the case of a student who is an Multilingual Learner (or who is not an MLL but was evaluated bilingually), the IEP team must consider the student's language needs in relation to the IEP.
- **Blindness or Visual Impairment:** In the case of a student who is blind or visually impaired, this section must provide for instruction in braille and the use of braille, unless the IEP team determines that braille instruction is not appropriate.
- **Deaf or Hard of Hearing:** In the case of a student who is deaf or hard of hearing, the IEP team must determine the student's language or mode of communication and communication needs and language of instruction.
- **Assistive Technology:** The IEP team must consider whether the student requires assistive technology device(s) or service(s), including whether any school-purchased assistive technology device is to be used in the student's home or other non-school settings, and whether specific training is needed for the student, student's parent(s), teacher(s), and provider(s).

## Measurable Postsecondary Goals and Transition Needs

### Measurable Postsecondary Goals

For a student age 14 or older (and at a younger age, if determined appropriate)<sup>66</sup>, the IEP must include measurable postsecondary goals based on age-appropriate transition assessments and the student's preferences and interests as they relate to transition from school to post-school activities. These goals must be updated at least annually. Postsecondary goals are in the areas of:

- **Education/Training** (e.g., 2 or 4 year college, career and technical education and training, continuing and adult education);
- **Employment** (e.g., integrated competitive employment); and
- **Independent living skills (when appropriate)** (e.g., adult services, independent living or community participation).

Postsecondary goals identify the student's long-term goals for living, working and learning as an adult. The projected postsecondary goals in the student's IEP establish a direction for the school, student, student's family

and any participating agencies to work toward in recommending transition activities for the student.

Student and parent involvement in creating these goals is paramount. A student's measurable postsecondary goals should be based on information obtained using a variety of formal and/or informal methods that may vary from student to student, including but not limited to: vocational assessments completed by the student, parent and teacher<sup>67</sup>; assessment of postsecondary education skills; interviews with the student and/or parent; strength-based assessments; and teacher observations.

### Transition Needs and Courses of Study

For a student age 14 or older (and at a younger age, if determined appropriate), the IEP must include a statement of the student's transition needs that focuses on the student's courses of study — taking into account the student's strengths, preferences and interests — as they relate to transition from school to post-school activities.

The IEP should identify the high school curriculum that will prepare the student to meet his/her postsecondary goals. Examples of courses of study include: advanced placement courses; a vocational education program; Regents coursework; and/or a sequence of courses in a career and technical education field related to the student's postsecondary goals. In addition, the IEP team should consider other transition needs related to universal foundation skills aligned to [CDOS standards](#) or academic and personal behaviors.

Examples of additional transition needs include:

- Adult assistance to travel in the community
- Instruction in functional reading and mathematics
- Development of self-advocacy skills
- Independent use of public transportation
- Development of independent living skills
- Completing necessary coursework for graduation with a regular diploma
- Courses in career and technical education

## Annual Goals, Short-Term Objectives and/or Benchmarks

### Annual Goals

The needs described in the Present Levels of Performance drive the development of the student's annual goals. The IEP team must develop the goals *before* determining what special education programs and/or related services will be recommended. Recommended special education programs and/or related services are determined based on what will be required for the student to attain his/her annual goals.

The annual goals must cover the areas (such as math, literacy, speech, behavior) identified in the Present Levels of Performance for which the student requires a special education program or related service to access, participate in and progress through curricula aligned to age-appropriate, grade-level standards. Annual goals must be reasonable in number — e.g., three or four goals targeted to address each area of need — and achievable within one year. The goals must state specific measurable, projected outcomes that, if achieved, would afford the student meaningful educational benefit for that year.

While annual goals addressing academic achievement should be aligned with the Common Core / Next Generation Learning Standards, goals should be skill-based. The content of the curriculum that a school is using to teach the Common Core / Next Generation Learning Standards should not be included in the annual goals.

Annual goals must be based on the student's age; cognitive, social/emotional and physical abilities; rate of learning; and interests.

Beginning with the first IEP in effect when the student is age 14 and older, annual goals also should focus on helping the student to achieve his/her IEP postsecondary goals.

For each annual goal, the IEP must indicate the evaluation criteria, evaluation procedures, and schedules to be used to measure progress toward meeting the annual goal:

- **Criteria:** The evaluation criteria identify how well and over what period of time the student must perform in order to consider the goal met (for example: 85% accuracy over five consecutive trials). The criteria for meeting the goal must be rigorous enough to ensure mastery, as many goals represent foundation skills necessary for subsequent learning.

<sup>67</sup> A [vocational assessment](#) must be completed for all students with disabilities who are age 12 or older (or who will turn 12 by the end of the calendar year in which the evaluation is completed).



- **Method:** The evaluation procedures identify the method that will be used to measure progress and to determine if the student has met the goal.
- **Schedule:** The evaluation schedule states the date(s) or time intervals by which evaluation procedures will be used to measure the student's progress toward mastery.

### Short-Term Instructional Objectives/Benchmarks

Short-term instructional objectives or benchmarks must be written for any school-age student who meets the eligibility criteria to take the New York State Alternate Assessment. Short-term instructional objectives and benchmarks are general indicators of student progress toward achieving the annual goals and should be used as the basis for reporting progress to a parent. (Generally, one annual goal would not include both short-term instructional objectives and benchmarks; which to use for a particular annual goal is up to the IEP team.)

### Short-Term Instructional Objectives

Short-term instructional objectives are the intermediate knowledge and skills that must be learned in order for the student to reach the annual goal. Short-term instructional objectives break down the skills or steps necessary to accomplish an annual goal into discrete components.

### Benchmarks

Benchmarks are the major milestones that the student will demonstrate that will lead to the annual goal. Benchmarks usually designate a target time period for a behavior to occur (i.e., the amount of progress the student is expected to make within specified segments of the year). Generally, benchmarks establish expected performance levels that allow for regular checks of progress that coincide with the reporting periods for informing parents of their child's progress toward the annual goals.

### Reporting Progress to Parents

The IEP must indicate when periodic reports on the student's progress toward the annual goals will be provided to the student's parents. At a minimum, these reports must be provided at the same frequency and timing of reports provided to parents of general education students. They should be provided more frequently to the extent reasonable and beneficial given the specific goals.

## Recommended Special Education Programs and Services

### Continuum of Services: Considerations for Intensity of Services and Least Restrictive Environment

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.

Example of a situation in which a less restrictive level of service should be chosen:

*Discussion at the IEP meeting (which included the parent, classroom teacher and speech teacher) of goals related to vocabulary and comprehension needs described in a speech-language assessment, could result in a determination that the student does not require the related service of speech-language therapy for those specific goals because they could be addressed during ELA or other content level instruction by the classroom teacher. In this situation, speech-language therapy should not be recommended for these goals if addressing them through instruction would enable the student to achieve them and result in greater access to and alignment with the general education curriculum content (although the student may require speech-language therapy for other goals).*

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 in 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 and without disabilities.

There may be more than one recommendation (or combination thereof) that is appropriate for a given student and offers his/her LRE. If that is the case, the recommendation may be determined by the school's preferred service model as long as either recommendation would serve the student's needs equally well. For example, if the IEP team determines that a student would be able to achieve all her goals if she were provided ICT for math or push-in



group SETSS for math, either may be recommended.

However, **an IEP team may not make a recommendation based on the availability or unavailability of a special education program or related service (whether in general or in a particular district or school)**. The IEP must contain appropriate recommendations for the individual student irrespective of the availability of the program or service. The school/CSE must immediately seek support from the BCO as needed in ensuring that the recommendations are provided if any are not currently available at the student's school.

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

## IEP Recommendation Components

### Special Education Program

The continuum of special education programs includes:

- Special Education Teacher Support Services (SETSS) (individually or in groups of maximum size up to 8);
- Integrated Co-Teaching (ICT); and
- Special Class (in a District 1-32 school (12:1/15:1, 12:1+1), in a District 75 (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. 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.<sup>68</sup>

In addition, travel training and adapted physical education are special education **program** recommendations.

When making a program recommendation in SESIS for SETSS, ICT, or special class, a drop-down menu will appear with a list of subjects (e.g., Math, ELA). If you are recommending a service for more than one subject, create a separate row for each subject. Please refer to the [SEGIS/STARS Program Services Guide](#).

## Adapted Physical Education

All elementary and secondary students must receive physical education (PE) as a part of their educational program. For information regarding the PE requirements for all students, see the [Physical Education Requirements](#) at the School Wellness website and [New York State Commissioner's Regulation 135.4](#). Students with disabilities must be allowed to participate in PE with their non-disabled peers to the maximum extent appropriate.

Adapted physical education (APE) is PE that is developmentally appropriate for an individual student. APE provides a student with specially designed Physical Education instruction, which incorporates developmental activities, games, sports and rhythms, suited to the interests, capacities and limitations of a student with a disability who may not safely or successfully engage in unrestricted participation in the activities of the regular PE program. APE teachers adapt, modify, and/or change a physical activity so that it is as appropriate for the individual student. Physical education class and physical activities can be modified and/or changed in numerous ways.

APE may be supplemented by related services, intramural sports, athletics, or other experiences that are not primarily instructional. However, these services cannot be provided in lieu of a PE program.

APE instruction must be provided by a certified physical education teacher. It is recommended that physical educators teaching APE for more than 50 percent of their workload have at least 12 semester hours of teacher preparation in APE.

## Recommending Adapted Physical Education

The IEP team must determine whether a student with a disability can participate in regular physical education (including regular physical education with special equipment<sup>69</sup>), or requires adapted physical education. The IEP team must consider the student's academic/educational achievement and learning characteristics, social development, physical development, and health and management needs. The IEP team must request the participation of a [physician](#) to provide and interpret medical information if needed to assist in determining whether an APE program is appropriate for a student and, if so, to help determine what activities the student's APE program should include.

<sup>68</sup> [District 75 Special Education Inclusive Services](#) offers an opportunity for students to receive services from a District 75 special education teacher (along with related services and support services, as needed) while participating in the general education curriculum at a District 1-32 school.

<sup>69</sup> A student with a disability may be able to maintain or improve his/her functional capabilities through the use of assistive technology devices during PE or APE; see [Assistive Technology](#) for guidance on assistive technology recommendations.

APE can be provided in an integrated program that includes students with and without disabilities.<sup>70</sup> Students who are recommended for services in a specialized DOE school (i.e., District 75) must have an individualized decision made as to their need for APE. A student attending a D75 program in an integrated building must be afforded the opportunity to participate in the school's regular physical education program unless the IEP team determines that the student needs adapted physical education in a separate environment.

The IEP team must document a description of the student's physical development and needs in the [Present Levels of Performance](#) section. This section must also include a description of the student's current physical education program. The IEP must reflect the IEP team's discussion and determination regarding the student's ability to participate in the physical education program determined to be appropriate.

If regular physical education is determined to be appropriate for the student, the **Physical Development** section of the IEP should reflect any needs for accommodations and concerns that should be considered during regular physical education, but which are not serious enough to warrant adaptations, special equipment or APE.

If the student requires APE, the program must be designed to meet the student's unique needs, and the IEP team must:

- Describe in the **Present Levels of Performance** section the student's physical development, including motor and sensory development, health, vitality, and physical skills or limitations;
- Include **Annual Goals** connected with the student's APE program, including, if required, short-term objectives or benchmarks. These should include the evaluation criteria, evaluation method, and schedule to be followed to determine if goals and objectives are met;
- Under **Recommended Special Education Programs and Services**:
  - Specify the class size, frequency, duration and location of the APE program; and
  - Describe any needed special equipment and/or [assistive technology devices](#);
  - Under **Participation with Students without Disabilities**, describe the extent to which the student will participate in specially-designed instruction in physical education, including APE.

<sup>70</sup> To the extent possible, APE should be provided at the same time as regular physical education, and students should not be pulled out of other classes for APE.

## Related Services

Related services are developmental, corrective, and other supportive services that may be required to assist a student with a disability to receive meaningful educational benefit. These include assistive technology services, audiological services, counseling, interpreting services for the deaf and hard of hearing, occupational therapy, orientation and mobility services, parent counseling and training, physical therapy, school nurse services, speech-language therapy, vision and hearing educational services and may include other developmental, corrective or supportive services if required. (Related service options can be selected from the drop-down list in SESIS.)

When considering the need for a specific related service, the IEP team must review the specific needs identified in the [Present Levels of Performance](#) (including non-academic needs related to accessing and participating in the classroom environment) and the [annual goals](#) created to address each specific need. Based on this, the IEP team must determine whether and how a related service will address a particular goal. It is important to seek the input from the related service provider at the IEP meeting or through progress notes and/or clinical review [prior to the meeting](#).

Some goals addressing language, behavior, gross and fine motor skills, can be addressed in a special education program such as SETSS, ICT or special class, without the need for a related service. For example, a goal addressing a student's need to expand his/her vocabulary or to improve his/her pencil grasp can often be addressed in a classroom environment with consultation with a specialized provider and low-tech modifications such as a pencil grip.

A related service must be recommended if it is necessary for the student to have access to or to make progress in his/her educational program. A related service recommendation must be made when specialized skills are required that a general education or special education teacher would not have, even with professional development and/or indirect SETSS, or when the content of the goals to be met cannot be addressed during general or special education classroom instruction. (This determination must be made in consultation with [related service providers](#) and considering the conclusions of assessments.)

Related services must be delivered in the least restrictive environment, and therefore, as much as appropriate for the student, should be integrated into the classroom. If pull-out services are required, they should be scheduled during non-academic times to the greatest extent possible. It may be appropriate to recommend services both in the classroom *and* in a separate location (i.e., push-in and pull-out services) for a student. For example, a student who is having trouble participating in class because of a speech

delay may need some pull-out time to work in a quiet place with the speech therapist, but may also need push-in time for the speech therapist to help the student participate in group discussions.

The location of service delivery must be specified on the IEP. The location can be the general education classroom; the special education classroom; or a separate location, which must be specified.

### **Recommending Occupational Therapy or Physical Therapy**

When the IEP team is initially recommending that a student receive occupational or physical therapy, an assessment by an appropriate professional is required to make the recommendation, and a physician's prescription is required before the service may begin.

If the parent is unable to obtain a physician's prescription for OT or PT, the school social worker must take the following steps as needed to ensure that a prescription is issued (noting them in the **SESIS Events Log**):

- Provide guidance and assistance (including assistance in scheduling appointments) to the parent regarding local free or low cost clinics or health care agencies.
- Provide information to the parent regarding Child Health Plus, a State-funded insurance plan for children under the age of 15.

If the parent remains unable to obtain a physician's prescription for OT or PT, the school/CSE must contact the Office of School Health for assistance.

### **Recommending Parent Counseling and Training**

Parent counseling and training means "assisting parents in understanding the special needs of their child; providing parents with information about child development; and helping parents to acquire the necessary skills that will allow them to support the implementation of their child's individualized education program."

**Parent counseling and training must be recommended and provided to enable a parent to perform appropriate follow-up intervention activities at home, for:**

- a student with a classification of [Autism](#), regardless of the student's recommended special education program; and
- a student recommended for a [special class](#) with a ratio of 8:1+1, 6:1+1 or 12:1+(3:1), regardless of the student's classification.

Parent counseling and training must be indicated on the IEP in the Related Services section and is selected from the drop-down menu in SESIS.

As with all related services, group size, frequency, duration, location, and projected beginning/service dates must be indicated on the IEP.

At the IEP meeting, DOE professionals should explain to the parent the purpose of parent counseling and training and should discuss the anticipated schedule. If there is or will be a calendar of parent counseling and training sessions, it must be shared with the parent at the IEP meeting or as soon as it becomes available. Parent training and counseling must be designed to enable the parent to understand and address the specific needs of the student. The service must be made available to a parent when recommended on the IEP and the parent should be encouraged to partake; however, the parent is not obliged to do so.

### **Supplementary Aids and Services / Program Modifications / Accommodations**

Supplementary aids and services and/or program modifications or supports refers to aids, services and other supports that are provided in general education classes or other education settings to enable students with disabilities to be educated with non-disabled students to the maximum extent appropriate.

The following are examples of supplementary aids and services, accommodations and program modifications:

- A note taker
- Instructional materials in alternative formats (e.g., braille, large print, books on tape)
- Extra time to move between classes
- Special seating arrangements
- Highlighted or color coded work
- Study guide outlines of key concepts
- Use of a study carrel for independent work
- Assignment of supplementary school personnel (e.g., paraprofessional)
- Behavior management/support plan (e.g., BIP)
- Extra time to complete assignments
- Assignment adaptations
- Extended pacing of instruction
- Behavior supports
- Accommodations and/or adaptations to the manner in which content is

presented (e.g., Universal Design for Learning or [Assistive Technology](#)<sup>71</sup>)

- Accommodations and/or adaptations to how students demonstrate learning and/or how progress is measured

For assistance with services/accommodations/modifications not listed above, contact your ASE / D75 Liaison / chairperson.

### Special Considerations: IEP-Assigned Paraprofessionals

[NYSED guidance](#) has been issued summarizing new regulatory requirements regarding recommending paraprofessionals (one-to-one aides). In addition to the information included in this section, please review the [Guidance on Initiation or Continuation of an IEP-Assigned Paraprofessional](#) when considering a recommendation for an IEP-Assigned Paraprofessional.

The IEP must clearly document the need and purpose of any IEP-assigned paraprofessional as well as a process for progress monitoring. The determination that a paraprofessional is appropriate for a student must be based upon a documented need identified in the [Present Levels of Performance](#). When appropriate, the IEP should include goals that, when achieved, will result in increased student independence and the reduction or elimination of the need for the IEP-assigned paraprofessional. The IEP team should discuss the process for progress-monitoring the purpose of IEP-assigned paraprofessionals.

Whenever an IEP-assigned paraprofessional is being recommended, the IEP team must determine the level of service required. This includes consideration of the intensity of service, i.e., the specific times/activities for which an IEP-assigned paraprofessional is required, as well as the ratio of students to staff. The [Management Needs](#) section of the student's IEP must make clear the circumstances during the school day, including related services and non-academic settings such as lunch and transitions, for which the student requires the support of the paraprofessional.

The IEP must specify the type of and responsibilities for a paraprofessional. The following are the functions that a paraprofessional may serve:

- Behavior Support
- Health
- Toileting
- Orientation and Mobility

The IEP team must consider and recommend on the IEP the training that the

paraprofessional will receive in order to serve the student appropriately. For example, when a health paraprofessional is recommended, the IEP could note that the school nurse will provide training to the paraprofessional on the student's health needs in the [Supports for School Personnel](#) section of the IEP.

### Behavior Support Paraprofessional

If the IEP team is considering a Behavior Support Paraprofessional (also known as a Crisis Management Paraprofessional) because the student's behaviors impede the learning of that student or others, the IEP team must first ensure that the student has received a [Functional Behavior Assessment \(FBA\)](#) and has a Behavioral Intervention Plan (BIP) in place. If not, an FBA should be conducted and, as appropriate, a BIP created. If the student already has a BIP, the BIP should be reviewed to determine whether it can be modified so as to provide sufficient behavioral support. Only if the student presents with serious behavior problems that cannot be addressed through a BIP implemented with fidelity (as well as the provision of alternative general education and special education supports and services) should a behavior support paraprofessional be recommended. **The Behavior Support Paraprofessional must be trained in behavior management generally and specifically on how to implement and monitor the student's BIP with fidelity.** The paraprofessional's training needs should be specified in the [Supports for School Personnel](#) section of the IEP.

### Health Paraprofessional

A Health Paraprofessional may be recommended when a student's medical or functional status (e.g., severe orthopedic impairments; multiple sensory deficits; inability to perform self-care activities such as toileting, dressing; uncontrolled seizure disorders) prevent the student from participating in and benefiting from school-based activities with less intensive supports, including school-based nurses, related service providers and programmatic paraprofessionals.

The IEP team may recommend health paraprofessional services without a referral to the Central Nursing Office only if there is no indication that the student has a medical condition that may require urgent care.

A 1:1 health paraprofessional may be recommended to provide a student with assistance in activities of daily living (often including transfers from wheelchair to adaptive equipment, ambulation assistance, oral feeding, observing food intake, dressing, managing orthotics and use of assistive communication or writing devices).

<sup>71</sup> Including training/programming, as needed.



A 1:1 health paraprofessional may also be recommended to monitor the student for specific signs and symptoms related to the student's health or medical condition; to notify the school nurse when indicated; and/or to bring the student to the school nurse at the appropriate times for treatment or medications needed. A 1:1 health paraprofessional may be trained to administer an EpiPen or use Vagus Nerve Stimulation (VNS). A referral for non-1:1 skilled nursing – in addition to a 1:1 health paraprofessional – is required if a student requires a health professional for the above reasons or if the student has any other medical condition that may require urgent care.

A 1:1 health paraprofessional may require instruction or training in performing these tasks safely. When appropriate, such training may be provided by the school nurse or the [Borough Nursing Director](#). Such training needs should be specified in the [Supports for School Personnel](#) section of the IEP.

For support in safely serving students with mobility needs, including safely transferring students into or out of wheelchairs or adaptive equipment, the OT/PT Managers should be consulted and will support as needed.

### Toileting Paraprofessional

Toileting Paraprofessional is a specific category of Health Paraprofessional. The IEP team may recommend paraprofessional services to provide either toilet training or toileting assistance:

Toilet training is a short-term instructional service that prepares a student for independence in toileting and may be recommended when a student has demonstrated all of the following:

- An inability to remain continent with regard to bodily functioning (e.g., wetting, soiling) during the school day and the physiological ability to do so;
- The cognitive ability to respond to a specific behavioral change program that schedules toileting and leads to independent toileting; and
- The physical ability to complete toileting tasks independently after receiving training.

Toileting assistance is appropriate for students who:

- Require help in transferring to or using toilets, commodes, or potties;
- Cannot adjust their clothing or complete related personal hygiene routines; and/or
- Cannot become continent due to physical or cognitive status and require assistance for diaper changing, etc.

Toileting assistance is generally programmatic in special classes in specialized schools (i.e., D75). Where toileting assistance is programmatic, it need not be recommended as a Supplemental Aid/Service on the student's IEP. However, it should be included elsewhere in the IEP, including in the [Present Levels of Performance](#), [Annual Goals and Short-Term Objectives and Benchmarks](#) (as appropriate), and [Management Needs](#).

An IEP-assigned Toileting Paraprofessional may be recommended if that is the only paraprofessional assistance that the student requires (i.e. if the student does not require a health paraprofessional, behavior support paraprofessional, or orientation and mobility paraprofessional) and if the staffing ratio within the student's primary program is insufficient to meet this need. A student with multiple health related needs, including toileting issues that warrant an IEP-assigned paraprofessional, should be recommended for a Health Paraprofessional (i.e., no separate Toileting Paraprofessional recommendation is required and the Health Paraprofessional should also provide the toilet training or toilet assistance). IEP teams should review the guidance document [Consideration for Recommending Toilet Training or Toileting Assistance](#).

### Orientation and Mobility Paraprofessional

Orientation and Mobility instruction is designed for students with visual impairments. Orientation and Mobility Paraprofessionals are mandated for select visually impaired students who receive Orientation and Mobility instruction. They are only recommended for students who are assessed to be "unsafe independent travelers" in the school. These paraprofessionals have had specialized training in order to work with those students who are blind or severely visually impaired and are not to be recommended for students who do not meet that criteria. Specialized training needs should be documented and specified in the "Supports for School Personnel" section of the IEP.

### Assistive Technology Devices and/or Services

The IEP must describe any assistive technology devices and/or services necessary for the student to benefit from instruction, including whether the assistive technology device is required to be used in the student's classroom, home or in other settings in order for the student to receive meaningful educational benefit.

- Assistive technology device means any item, piece of equipment, or product system – whether acquired commercially off the shelf, modified or customized – that is used to increase, maintain or improve the functional capabilities of a student with a disability. Assistive technology



devices can range from “low technology” items like pencil grips or paper stabilizers to “high technology” items such as voice synthesizers, Braille readers or voice-activated computers.

- Assistive technology service means any service that directly assists a student with a disability in the selection, acquisition or use of an assistive technology device.

If an [Assistive Technology Assessment](#) has been conducted, the IEP team must review and discuss that assessment at the IEP meeting. The need for Assistive Technology devices and services must be determined in relation to the student's environment, language and the tasks s/he needs to perform. Prior to recommending assistive technology, the IEP team must consider the information in the [Assistive Technology Reference Guide for Students with Disabilities](#) and document those considerations in the [Present Levels of Performance](#) section (or other relevant section(s)) of the IEP. The use of a device for a trial period without the student/provider(s) receiving training on the use of the device cannot be used as a basis for denying that assistive technology.

For examples of the types of devices that may be appropriate for individual students, see [Appendix B](#) to the [New York State Education Department Guidance Document: Accessing the Common Core for Students with Disabilities](#).

### “Low Tech” Devices

Low Tech devices are simpler in design and use and are more commonly available than High Tech devices. Low Tech devices include such devices as a pencil grip, calculator, adapted grip, tape recorder, spell checker, electronic organizer, slant boards, paper communication boards/cards, and text highlighting, for example.

Low Tech devices may be recommended at an IEP meeting without a formal Assistive Technology assessment having been conducted.

### “High Tech” Devices

High Tech devices include devices such as computers, word processors, tablets, software applications, dynamic display augmentative communication devices, voice synthesizers, speech-to-text programs, Braille readers, voice-activated computers.

If the IEP team believes that a High Tech device may be warranted for a student, it should consult with trained Assistive Technology personnel and/or related service providers as far in advance of the IEP meeting as is feasible. Typically, during an Assistive Technology assessment and before any trial

period, Assistive Technology personnel will provide training to the student, teachers/service providers, and parent (if present) to ensure sufficient support and appropriate use of the device. The IEP should also specify the training in the recommended device that will be provided to the teacher, parent, student, and/or provider prior to and during the student's use of the device. Training needs regarding school personnel or providers should be documented and specified in the [Supports for School Personnel](#) section of the IEP. Training needs for the student and/or parent should be documented and specified in the [Management Needs](#) section of the IEP. If at any point it becomes apparent that the student, teacher/provider, or parent requires additional training or services in the use of the device, the school or CSE should contact the Center for Assistive Technology at [CATteam@schools.nyc.gov](mailto:CATteam@schools.nyc.gov).

### Accessible Educational Materials

Accessible Educational Materials (AEM) are educational or instructional materials (e.g., textbooks and related core materials such as workbooks) that have been converted into a format that is accessible to students with a disability such as blindness, visual impairment, learning disability, or other physical impairments. These alternative formats can include braille, large print, audio, and digital text. (Note that these may also be referred to as Accessible Instructional Materials (AIM).) IEP teams are responsible for identifying students who require AEM, identifying the appropriate accessible format, and for obtaining materials in a timely manner.

### Who qualifies for AEM?

Any student who is blind, visually impaired, or otherwise unable to use standard printed materials may qualify for AEM. In addition, when a student is suspected of having a disability or a temporary medical condition that affects his/her ability to access content in printed material, s/he may qualify for AEM.

When determining a student's AEM needs, a school should consider the following questions:

- Can the student access grade-level standard text without the use of a specialized format?
  - **Yes** » No need for AEM.
  - **No** » AEM may be required.
- If provided with a specialized format, will the student be able to access the same grade-level text as his/her peers?
  - **Yes** » AEM is appropriate.
  - **No** » Consider other modifications or adaptations, including modified

content or alternative materials. Some students may need alternative materials in specialized formats in order to access them.

- What Assistive Technology (AT) (if any) is required for the student to access specialized formats (braille, large print, audio, and/or digital text)?
- In which environments will AEM be used?
- For which tasks will the student require specialized materials?
- How does the student's disability impact his/her AEM needs? Consider the student's cognition and/or any other impairments.
- What resources do the teachers need to use AEM in the classroom?

A variety of sources of evidence can be considered when determining the appropriateness of AEM, including:

- Educational assessments (e.g., psychoeducational, related services

***If school is considering...***

***Assistive technology (e.g., audio or digital text)***

Consult the [DOE's guidance](#) for AT recommendations

***Any AEM for a student who is blind or visually impaired (e.g., braille, large print, audio, text-to-speech)***

Contact the DOE's office of [Education Vision Services](#) for provision of AEM to students who are blind and visually impaired

***AEM for a student who has a disability other than blindness or visual impairment***

Contact the appropriate [Supervisor of School Psychologists](#) for guidance around IEP recommendations

## Documenting AEM on the IEP

When the IEP team, after consultation with the offices/individuals above, has made a determination at an IEP meeting that AEM is appropriate and that a specific format of AEM will be provided, the team should:

- Select "**Instructional materials in alternative formats**" from the "**Supplementary Aids and Services/Program Modifications/Accommodations**" heading of the "**Recommended Special Education Programs/Services**" section in SESIS.
- Indicate details regarding the specific accessible format and how it will be used in the Present Levels of Performance, Management Needs, and wherever else deemed appropriate.

assessments)

- Informal observations by teachers and parents
- Interviews with students, parents, teachers, and related service providers
- Classroom-based assessments
- Curriculum-based assessments
- Academic progress over a period of time
- Medical reports (e.g., pediatric, ophthalmologic, neurologic)

## Making an AEM determination

As soon as the school is aware that a student may qualify for AEM and determines what type of AEM may be appropriate, it **may** wish to consult with the following offices/individuals prior to the IEP meeting:

- Document the student's use of AEM on the IEP with respect to the student's access to the curriculum, grade-level standards, the student's achievement of their individual goals, and/or and as a testing accommodation, as appropriate.
- If assistive technology is required for the student to utilize AEM, it must be documented under "**Assistive Technology Devices and/or Services**" in the "**Recommended Special Education Programs and Services**" section of the IEP in SESIS.
- If the AEM will require the teacher(s) to utilize any additional resources or to change the curriculum in any way, that should be noted in the IEP's "**Management Needs**" section.

## Supports for School Personnel on Behalf of the Student

Supports for school personnel on behalf of the student are recommended when specific training or information could assist professional service providers, paraprofessionals, or other school staff to work more effectively with the student. Examples of supports that may be recommended for school personnel include:

- information on a specific disability and implications for instruction;
- training in use of specific positive behavioral interventions;
- training in American Sign Language;
- assistance with curriculum modifications;
- training in assistive technology devices recommended for the student;
- behavioral consultation with school psychologist, school social worker or other behavioral consultant; and/or
- transitional support services.

School personnel may require in-service training – in particular, in behavioral strategies or instructional techniques, sensory integration activities, progress-monitoring mechanisms, or in the use of assistive technology that has been assigned to the student. Training from a speech therapist, OT, or PT may be needed if a paraprofessional is to engage in activities such as feeding assistance, positioning, sensory diet and support, or assistance with ambulation. If a health paraprofessional is recommended, the IEP should indicate what training, if any, will be provided to the paraprofessional by the school nurse and/or the student's physician. If the paraprofessional is expected to be responsible for the implementation of testing accommodations, training in this process should be indicated.

## Testing Accommodations

Testing accommodations<sup>72</sup> are changes to the test format and/or test administration and are intended to remove barriers and increase access. They are not intended to make tests less rigorous and they do not change the skills or content that the test is designed to measure. Students with testing accommodations should be given a testing environment that allows them to receive their accommodations and is the same or as similar as possible to the environment in which their peers take the test (i.e., the test should not be provided in the gym or auditorium to those students who have testing accommodations when the rest of the class is taking the test in the classroom).

<sup>72</sup> Testing accommodations may be appropriate for a student regardless of the student's placement (e.g., specialized school) or testing category (e.g., NYSAA).

<sup>73</sup> Students who require testing accommodations, including those who have IEPs, IESPs, or 504 Plans, may be eligible to receive accommodations on the Gifted & Talented (G&T) test, as long as the accommodation(s) do(es) not affect what the test is designed to measure.

The IEP team must consider what testing accommodation(s), if any, are appropriate to support the student by considering the student's individual needs. An extensive list of accommodations is available in the [NYCDOE Testing Accommodations Guide](#).

The IEP team should ask the following questions when determining the testing accommodations that are most appropriate for the student and these considerations should be documented in the [Present Levels of Performance](#) section of the IEP:

- How does the student's disability create the need for testing accommodations?
- What types of testing accommodations did the student receive in the past? Were these accommodations effective?
- What data or evidence (documentation) is available to support the provision of these testing accommodations?
- What types of accommodations and/or supports does the student receive in the classroom?
- How will testing accommodations support the student's participation in general education and assessments?

The IEP must clearly specify the recommended testing accommodation(s), if any, to be used consistently by the student in:

- all eligible assessments provided in his or her recommended education program, unless otherwise specified;
- the administration of district-wide assessments of student achievement; and
- where allowable, in State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student.<sup>73</sup>

The IEP must clearly state the testing accommodations mandated for the student. The IEP should not include broad or flexible testing accommodation categories (e.g., *answers recorded in any manner*). Rather, the IEP must indicate specific testing accommodations (e.g., *student records answers in test booklet*).

The IEP team should consider conditions or types of tests that could require particular testing accommodations, for example:

- length (in time) of the test,
- the purpose of the test,

- presentation of test items, and
- the method of response required by the student.

For example, a student with a motor impairment may need a voice-activated word processor for tests requiring extensive essay writing, but not for multiple-choice tests if the student is able to select the answers by hand. In this case a student may need to circle answers in the test booklet and the proctor would transcribe the answers onto the Scantron. In this instance, this student would not require a scribe and is able to complete the test independently.

Similarly, a student may need breaks at certain intervals for tests longer than an hour in length but not for 40 minute classroom tests.

The IEP team should also consider whether particular testing accommodations are needed due to and in conjunction with the provision of another accommodation. For example, a separate setting may be needed when the student has the use of a voice-activated word processor. In such instances, both accommodations must be indicated in the IEP and qualifying conditions must be indicated as appropriate.

If it is determined that the student needs a particular testing accommodation for all tests, then qualifying conditions are not indicated or would indicate “all tests.”

When documenting the following accommodations, the following specifications must be included on the IEP:

- **Extended time:** Specify the amount of extended time (e.g., *time and a half, double time*). Although the NYS grades 3-8 ELA and Math tests are now untimed, students in grades 3-8 may still have extended time listed as an accommodation on their IEP as they take many other assessments. Accommodations are to be provided with all assessments unless otherwise specified and are not only for high stakes tests.
- **Multiple Day Administration:** Some students may require multiple day testing if they have multiple exams scheduled at the same time or day and require testing accommodations, such as extended time and/or frequent breaks. Additionally, some students with severe medical needs may be unable to test for multiple hours at a time. This accommodation requires the *Assurance of Multiple Day Administration of State Assessments* to be completed and submitted to the State. The Borough Assessment Implementation Director can support with the assurance to the State for this accommodation. For more information, reference the [NYSED protocol](#).

<sup>74</sup> It is not acceptable to administer a test to all students with this accommodation in the same room with the directions repeated to all students the same number of times regardless of their individualized accommodation.

- **Breaks:** Specify the duration of break and frequency/intervals of breaks (e.g., *ten-minute break every 40 minutes*).
- **Directions read or signed more than the standard number of times:** Specify the number of times (e.g., *directions read two more times than the standard number of times provided for all students*).<sup>74</sup>
- **Tests Read including or excluding tests of reading comprehension:** Use the [decision-making tool](#) provided by NYSED to determine the appropriateness of the “tests read” accommodation.
  - Specify if the student requires tests read *including or excluding* tests of reading comprehension and how this accommodation will be implemented.
  - The implementation of this accommodation for testing needs to be the same as the implementation during classroom instruction and assessments (e.g., text-to-speech software, human reader, mp3).
  - **Note:** “questions read” is not an available testing accommodation and instead is part of the clarifying text when listing “tests read”. When listing “tests read” as an accommodation, the following clarification is provided: “test passages, questions, items and multiple choice responses.”
- **Separate setting:** When a student requires a different setting from their daily instructional setting for assessments, or when other accommodations the student receives require a different setting, recommend “separate setting” and specify *individual or small group* (and specify the *group size*).
- **Adaptive or special equipment/furniture:** Specify type (e.g., study carrel).

Note that this is not a complete list of testing accommodations.

The IEP testing accommodations may not use non-specific terms, such as “as appropriate” or “when necessary.”

Testing accommodations must not be indicated in a test-specific manner (e.g., *calculator with fraction capability*, not *calculator with fraction capability on Regents examination in mathematics*).

Testing accommodations should not be provided for the first time during a State assessment. Students should have experience in using the recommended testing accommodations during instruction and classroom



tests prior to taking State assessments. However, students can be approved for emergency testing accommodations by the principal if they demonstrate disabilities or temporary impairments within 30 days of a State or NYC assessment. If students are approved for emergency testing accommodations and are expected to continue to need testing accommodations going forward, the school should initiate an [initial referral](#) or a 504 referral, as appropriate.

For further guidance on Testing Accommodations, see:

- [NYCDOE Testing Accommodations Guide](#);
- [Test Access & Accommodations for Students with Disabilities – Policy and Tools to Guide Decision Making and Implementation](#).

## Coordinated Set of Transition Activities

Beginning when the student is age 14<sup>75</sup> (and at a younger age, if determined appropriate<sup>76</sup>) and updated annually, the IEP team must consider the student's strengths, preferences and interests while identifying activities, services, and supports necessary to facilitate the student's movement from school to post-school activities, including, as appropriate:

- **Instruction:** Instruction could include the courses of study the student needs to take to reach his/her postsecondary goals (e.g., Regents classes in English, Biology and a Second Language; 2 semesters of career and technical education classes in Culinary Arts & Hospitality Technology). Instruction could be indicated as skill areas (e.g., instruction in problem solving skills, use of public transportation, and how to balance a checkbook.) Discussion of instruction should include a discussion of information about diploma options available and the student's diploma objectives and progress towards them. See the DOE's [High School Academic Policy Guide](#) for more information.
- **Related services:** The IEP must identify any related services (e.g., rehabilitation counseling services; school social work; orientation and mobility services, assistive technology devices) the student may need as a transition service to support the student in attaining the projected post-school outcomes. (Related services recommended as a transition activity must also be documented under the IEP section [Special](#)

<sup>75</sup> [Vocational assessments](#) must be conducted beginning when the student is 12.

<sup>76</sup> It may be appropriate to consider the coordinated set of transition activities before age 14 if the student identifies a very clear postsecondary goal. An example could be if a student has, from the age of 12, consistently articulated an interest in becoming a doctor and her high school choice and academic programming reflect and support that goal. In addition, if the student will need more time to acquire transition skills, the IEP team should consider including transition activities on the IEP before age 14. A parent may also request that the IEP include transition activities before age 14.

<sup>77</sup> "Travel training" means providing instruction to enable students to develop an awareness of the environment in which they live, and to learn the skills to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community). For information on recommending travel training, see page 15 of the [SESIS training guide](#).

### [Education Program/Services.](#))

- **Community experiences:** The IEP must indicate if a student needs to participate in community-based experiences or learn to access community resources (e.g., after school jobs, use of public library, community recreational activities) to achieve his/her projected post-school outcomes.
- **The development of employment and other post-school adult living objectives:** The IEP must identify what services or activities the student needs to prepare him/her for employment and to assist the student in meeting other post-school adult living objectives (e.g., participation in a work experience program; assistance with completing college or employment applications; practice in interviewing skills; travel training<sup>77</sup>).
- **When appropriate, acquisition of daily living skills and provision of a functional vocational evaluation:** If appropriate to the needs of the student, the IEP must indicate the services or activities that will assist the student in activities of daily living skills (e.g., dressing, hygiene, self-care skills, self-medication). The IEP must also indicate if the student will need a functional vocational assessment as a transition service or activity. A [functional vocational assessment](#) is an assessment to determine a student's strengths, abilities and needs in an actual or simulated work setting or in real work sample experiences.

The statements of necessary transition services, developed in consideration of the student's needs, preferences and interests, must specify the particular activity or service and the "school district/agency responsible" for that activity. Although involvement from the student and family is important, the "school district/agency responsible" field must indicate a specific role or title of the responsible staff member or the outside agency that is involved in providing and/or funding transition services to a student. Any agency mentioned should be [invited to participate](#) in the meeting with the parent's consent. The beginning date for the service must be provided if the date of initiation is different than the date of initiation for the IEP.



## Participation in State and District-Wide Assessments

All students with disabilities must be included in State or district-wide assessment programs. Alternate assessments are used to evaluate the performance of students with severe cognitive disabilities who are unable to participate in general education assessments, even with testing accommodations. If the IEP team determines that the student will participate in an alternate assessment on a particular State or district-wide assessment of student achievement, the IEP must document why the student cannot participate in the regular assessment and why the particular alternate assessment selected is appropriate for the student. The recommended program (e.g., special class) or placement (e.g., specialized school) for a student should not be a consideration in determining whether the student should participate in state and district-wide assessment.

To be eligible to participate in an alternate assessment program, a student must:

- have a severe cognitive disability with significant deficits in communication/language and adaptive behavior;
- require a highly specialized educational program that facilitates the acquisition, application, and transfer of skills across natural environments (i.e., home, school, community, and/or workplace); and
- require educational support systems including assistive technology, personal care services, health/medical services, or behavioral intervention.

Students in grades 3–12 meeting these criteria may be eligible to participate in the New York State Alternate Assessment (NYSAA). Students in grades K–12 meeting these criteria may be eligible to participate in a district alternate assessment, such as the Student Annual Needs Determination Inventory/Formative Assessment of Standards Tasks (SANDI/FAST). This must be indicated on the student's IEP.

As a guideline, in NYC, only approximately 6% of students with disabilities are eligible to participate in NYSA. This percentage represents the *aggregate* of all students with disabilities in NYC, including those in District 75 where the majority of students eligible to participate in NYSA are served.

For more information regarding alternate assessment, see the [New York State Education Department \(NYSED\) NYSA guidance](#) and the New York City Department of Education [Alternate Assessment \(including NYSA\) Frequently Asked Questions](#).

## Participation with Students without Disabilities

### Removal from General Education Classes and/or Extracurricular Activities

The IEP must detail the extent (if any) to which a student will not participate in regular class and/or extracurricular and other nonacademic activities with non-disabled peers. The IEP must include a justification for any removal (including related service recommendations that require the student to be pulled out of the classroom), explaining in particular detail a recommendation for placement in a site that precludes interaction with non-disabled peers (e.g., District 75 school not co-located with a District 1-32 school, NYSED-approved non-public school).

### Recommendations for Adapted Physical Education

If a student will not participate in a regular physical education program, the IEP must indicate the extent to which the student will participate in specially-designed instruction in physical education, including [adapted physical education](#). APE should be provided at the same time as other students receive PE when at all possible. A student should never be pulled out of an academic subject to go to APE.

### Exemption from the Language Other than English (LOTE) Requirement

The IEP must indicate if a student identified as having a disability that adversely affects the ability to learn a language will be exempt from the “language other than English” (LOTE) requirement of the local, Regents, or Advanced Regents diplomas. School/CSE staff, parents, and students should carefully consider the implications of a LOTE exemption on the student achieving his/her postsecondary goals and planning his/her course of study. For students seeking to go on to college, courses in LOTE are often required for admission. If a student who had an IEP is declassified while in grades 9 through 12, and the student's last IEP prior to declassification indicated exemption from the LOTE requirement, the exemption continues upon declassification. For further information, see the NYCDOE [Frequently Asked Questions \(FAQ\): Languages Other Than English \(LOTE\) Requirements](#).

## Placement Recommendation

The IEP must indicate the Placement recommended for the student. Placement refers to the type of school or setting where the student's IEP will be implemented; it does *not* refer to the specific school the student will attend. The range of Placement recommendations to be selected from the drop-down menu in SESIS are:

- NYC DOE School Non-Specialized (District 1-32)
- NYC DOE Specialized School
- NYSED-Approved Non Public School – Day
- NYSED-Approved Non Public School – Residential
- NYSED-Approved Non Public School – Placed by ACS
- NYS Supported Non Public School – 4201 – Day
- NYS Supported Non Public School – 4201 – Residential
- Board of Cooperative Educational Services
- Charter School
- Home/Hospital Instruction

For information regarding referral, evaluation, the IEP meeting, and placement of students in home or hospital settings, contact the DOE's [Office of Home Instruction Schools](#).

### District 75 / NYSED-Approved NPS Consideration Process

#### Preparing for the IEP meeting when Specialized School or “NYSED-Approved Non Public School” (Day or Residential) recommendation is being considered

Whenever the IEP team anticipates considering a new placement recommendation of a District 75 or NYSED-approved non-public school (NPS), the IEP team must complete the Least Restrictive Environment (LRE) checklist to demonstrate that the school has implemented interventions appropriate to address the student's needs. Interventions may include conducting an FBA and creating and implementing a BIP. The LRE checklist must be submitted by the IEP team to the applicable supervisor of school psychologists, who will review the student's case and the completed LRE checklist with the school psychologist prior to the IEP meeting in order to: help identify potential resources available in the school or elsewhere in the DOE to support the student; clarify roles and responsibilities in

<sup>78</sup> If there is no DOE program appropriate for the student, and there is one or more NPS with a program appropriate for the student, NPS must be recommended, irrespective of the availability of seats in the appropriate NPS program(s).

<sup>79</sup> If the IEP team believes that the student would benefit from a community-based mental health service, the school/CSE should assist the parent in making direct referrals to the programs. Specific information about programs and locations can be obtained by calling NYC Well at (888-692-9355).

the IEP decision-making process; and ensure that a recommendation for a specialized school may be appropriate. If necessary, Central Based Support Team (CBST) case managers will be called upon to assist in the consultative process for possible NPS recommendations, with the goal of determining whether there is an NPS with a program appropriate for the student's needs.<sup>78</sup>

As always, the consideration and recommendation of an appropriate program must take place at the IEP meeting within the [timelines](#) and may not occur in any other context. As needed, supervisors of school psychologists will serve as the [district representative](#) for meetings when a specialized school will be considered. At the conclusion of this IEP meeting, if the IEP team recommends an NPS, CBST must commence the [placement process](#).

### NYSED-Approved Non Public Schools

The New York State Education Department (NYSED) grants approval to day and residential programs as potential appropriate settings for a student with a disability. These settings are highly restrictive, generally providing no opportunities for a student's participation with his/her non-disabled peers, and as such are rarely the least restrictive environment appropriate for a student with a disability.

When determining the appropriate setting for a student to receive special education services, the opportunity for the student to be educated with non-disabled peers must be considered. Accordingly, prior to considering a recommendation for a NYSED-approved non-public school, the IEP team must consider all public school settings. This does **not** mean that the student must be **placed** in every possible public school setting before an NPS can be recommended.

When considering a recommendation of an NYSED-approved non-public school, the IEP team must have the following documents, which must be gathered/obtained in advance of the IEP meeting to avoid delay:

- A psychological assessment completed within three years or, if the school psychologist determines that this is unnecessary, a written report by the psychologists indicating the reasons the assessment is not needed.<sup>79</sup>
- An assessment of the specific educational needs of the student completed within the last six months. This assessment does not

necessarily require formalized testing.

- An observation of the student in the current educational setting conducted within the last six months.
- Psychiatric assessment completed within the last six months for students with a classification of Emotional Disturbance unless there is written documentation indicating why it is not needed or not yet available.

The IEP team should refer to the [SESIS training guides](#) regarding the **Defer to Central Based Support Team (CBST) Process for School-based and CSE IEP teams**.

### Considering a Residential Recommendation

Before considering whether a residential recommendation may be appropriate, the IEP team must first review the student's prior recommendation(s), services provided, and progress to ensure that all appropriate, less restrictive recommendations have been considered. The DOE must also ensure that community-based supports have been offered to the family; the school social worker should be involved for this purpose.

If no less restrictive recommendations are appropriate, and community-based supports have been offered to the family, the DOE may consider a recommendation for a residential program based on a review of school, home, and community factors, including those set out below. The existence of home and community factors alone would not warrant a residential school placement. However, the existence of home and/or community factors in combination with school factors may indicate that the student is at risk of a residential school placement. These factors include, but are not limited to:

#### School factors:

- Chronic lack of or inconsistent progress in meeting IEP goals;
- Chronic inability to make meaningful progress;
- Frequent and escalating problems with behaviors that are dangerous to self or others, even with use of supplementary supports and services;
- Self-abusive, violent, or aggressive behaviors;
- Frequent, unexplained absences, pervasive lack of motivation, substance or alcohol abuse, depression, withdrawal, suicidal ideation or suicidal attempts, phobias; and/or
- Multiple referrals to the IEP team for increasingly intensive supports and services.

#### Home Factors:

- Chronic state of crisis that impacts stability of family;
- Abuse or neglect in the home;
- Amount of time primary caregiver caring for student, negatively impacting other members of the family;
- Student with limited capacity for self-care; family functioning cannot support the child with self-care, leaving student unprotected; and/or
- Student showing dangerous behaviors at home and the safety of family members and/or the student is at risk.

#### Community Factors:

- Student's inability to function in social situations or participate in recreational programs (e.g., interacts inappropriately with peers, neighbors; makes unsafe use of leisure time; cannot establish or maintain friendships);
- Court involvement (e.g., person in need of supervision (PINS) or juvenile delinquency);
- Violence directed by the student toward someone or a group in the community;
- Involvement in gang or involvement in gang-like activities; and/or
- Use of community resources has been attempted; resources are either insufficient or unavailable.

### Participation of Outside Agencies in IEP Meeting

Outside agencies are meaningful participants during initial discussions with families and may be able to provide supports to families that would promote the student's ability to succeed in a day school. If an IEP team believes that it may be appropriate to consider a residential placement, then the team is required to invite an outside agency to participate in the IEP meeting, after securing parental consent. To facilitate this participation, the IEP team must review the [list](#) of community support services and identify the appropriate agency (or agencies) that can provide the family with guidance as the residential program is considered.

The team must then send a letter to the parent to obtain consent to invite the identified agency.

- **If parent does not respond**, the IEP team must make outreach to the parent to discuss the purpose of inviting the agency to the IEP meeting and discuss any parental concerns.
- Appropriate outreach consists of:

- At least two attempts at telephone contact at different times of the school day/evening, if the parent has a telephone, and
- A follow-up letter sent to the parent by mail, and sent home with the student if the parent does not have a telephone or if voicemail could not be left.
- Attempts must be documented in the **SESIS Events Log**, by including the phone number called and addresses used and describing any conversations. If no parental contact is made despite appropriate outreach documented in the **SESIS Events Log**, the IEP team may proceed with the meeting without inviting the agency.
- **If the parent refuses consent to invite the agency by checking the “I do not consent” box on the consent form**, the consent form should be faxed into SESIS as a Document Related to IEP. The IEP team may proceed with the IEP meeting without the agency’s participation.
- **If the parent consents to agency participation**, the IEP team must fax the consent form into SESIS as a “Document Related to IEP”, and invite the agency to the IEP meeting.
- **If the agency is invited, but unable to attend**, the IEP team must document that in the **SESIS Events Log**, and then may proceed with the meeting.

All documentation pertaining to parental consent and invitation of the agency must be uploaded into SESIS.

## Completing the IEP and CBST Deferral

The IEP team will select a placement recommendation of “NYSED-Approved Non Public School – Day” or “NYSED-Approved Non Public School – Residential”, as appropriate. The team must then create the **Defer to Central Package** in SESIS. The IEP team should complete the **Assurance Checklist** and **IEP team Efforts to Place Student in LRE** sections of the **Defer to Central Package** in SESIS.

The **IEP team Efforts to Place Student in LRE** section of the **Defer to Central Package** documents:

- The most restrictive public special education placement previously tried and/or considered;
- The specific supplementary aides and supports or services tried and considered as additions to (or components of) the most restrictive public special education program;
- Evidence of a lack of progress in less restrictive public special education settings (or the reasons that such evidence is not relevant);

- For a residential placement, the IEP team must document the reason that residential services are necessary to meet one or more educational needs specified on the IEP; and
- For a residential placement, the timetable for a return to a less restrictive program, the reason that a timetable is not appropriate, or the date that the student’s rate of progress will be assessed and placement reviewed.

The IEP team should then contact the applicable supervisor of school psychologists or CSE chairperson to request that s/he certify in SESIS that the required documentation is complete. If the required documentation is not complete, the supervisor/chairperson must work with the IEP team to ensure that the required documentation is complete and available for CBST within the mandated timeline. If the required documentation is complete, the chairperson or supervisor must certify in SESIS within 5 business days of receipt of the packet.

**Note:** For students in foster care, ACS must be notified that the student may require a residential placement. CBST does not arrange for the residential placement for students in foster care. In such cases, the IEP team should seek the participation of ACS as [described above](#).

## “NYSED-Approved Non-Public School – Placed by ACS”

When ACS informs the IEP team that it has placed a student under its care in a residential setting, the IEP team will change the IEP to reflect a Placement Recommendation of “NYSED Approved Non Public School – Placed by ACS”.

## Recommendations for a Student in a Charter School

A student attending a charter school is subject to the same criteria for eligibility for special education (and evaluation and placement [timelines](#)) as any other New York City-resident student being evaluated by the DOE. If it is determined that the student is eligible for special education, the IEP team must determine the type and intensity of services needed and the type of setting in which they will be provided. As for students attending DOE schools, **the IEP team may not make a recommendation based on the availability or unavailability of a special education program or related service at the charter school (or any other school)**. While the development of an IEP should be a consensus-driven process that considers and values the input of the student’s charter school teacher(s), the IEP team has ultimate responsibility to ensure that the IEP recommends the services that the student needs in order to receive a free appropriate education, irrespective of their availability.



## Recommending Deferred Placement When in the Best Interest of the Student

The IEP team must decide whether the recommended special education program is to commence immediately. Despite the determination that a special education program is appropriate for a student, it may not always be in the student's best interest to implement the recommendation immediately. The decision to postpone ("defer") placement is made at the IEP meeting by the IEP team, and the options should be explained to the parent as an IEP team member. This decision must take into consideration the social/emotional, academic, and management needs of the individual student.

If the school/CSE staff and the parent agree that it would be in the best interest of the student, his/her transition to a different special education program may be recommended to take place at a later date. Typically, this would be the beginning of the following semester or school year, after a vacation period, or timed to coincide with an anticipated change of residence. **The decision to defer placement must not be based on unavailability of the recommended program**, or on an IEP team member's disagreement with or uncertainty as to the appropriateness of the program recommendation. The only consideration is whether deferred placement would be in the best interest of the student.

For example:

- At an IEP meeting in December, a high school student receiving special class services for Math is recommended for a general education Math class with SETSS. It is determined that it is in the student's interest to complete the term in his/her current Math class and commence the new program at the beginning of the next term, in order to ensure the opportunity to earn course credit for the current term.
- A student is recommended for a special class in a specialized school, which would require the student to change schools late in the school year. It may be in the best interest of the student to defer the school transfer until July of the new school year.

If the IEP team decides to defer placement, the IEP is completed in SESIS by recording the date to which placement is postponed in the section entitled "Projected Date of Initiation of IEP". The IEP team must record its rationale in the Summary of Recommendations section of the IEP under Other Options Considered to explain why the service would not begin immediately and why a postponement of the placement is recommended. Written parental consent is required to defer placement.

The DOE must offer the recommended placement at least 20 school days prior to the initiation date, or by August 15 for cases deferred until September.

## Instructional/Functional Levels

The IEP team must discuss the current instructional/functional levels of the student and document that in the appropriate section of the IEP.

## Summary of Recommendations

The majority of the Summary of Recommendations section is based on information previously discussed and determined at the IEP meeting. The IEP team must also note in this section whether the student has a medical condition and/or physical limitation that affects his/her learning, behavior, and/or participation in school activities, along with whether the student requires medical and/or health treatment or procedures during the school day.

## Promotion Criteria

If the student is attending a DOE school in grades 3–8, the IEP team must consider the promotion criteria to which the student will be held, as per [Chancellor's Regulation A-501](#). Refer to the [Promotion Implementation Guide](#), as well as to [Promotion for Students with Disabilities](#) for more information.

For students attending DOE schools in grades K-2 and 9-12, no promotion criteria designation need be completed on the IEP. In these grades, all students are held to the promotion criteria as articulated in Chancellor's Regulation A-501.

## Other Options Considered

During the IEP meeting, the IEP team should discuss other options that are considered but were not offered. Those other options should be listed in the **Other Options Considered** section. The team must then list the **Reason(s) for Rejection**. This should be an explanation of why those other options were not offered to the student. The IEP team should explain in this section why those options were not chosen, and should use more than mere conclusory statements such as "too restrictive" or "not ready for." The IEP team should concisely explain the reasons that those options were not selected.



## Extended School Year (12-Month) Services and/or Program

A student must be recommended for Extended School Year (ESY) services<sup>80</sup> if necessary to prevent substantial regression over the summer. As per NYSED guidance: "A student is eligible for a 12-month service or program when the period of review or reteaching required to recoup the skill or knowledge level attained by the end of the prior school year is beyond the time ordinarily reserved for that purpose at the beginning of the school year. The typical period of review or reteaching ranges between 20 and 40 school days. As a guideline for determining eligibility for an extended school year program, a review period of eight weeks or more would indicate that substantial regression has occurred."

A student must be considered for ESY if he/she:

- has severe multiple disabilities and requires primarily habilitation and treatment;
- requires a residential program;
- is receiving or recommended for home/hospital instruction;
- has highly intensive management needs that require a high degree of individualized attention and intervention, including placement (or consideration of placement) in a special class; or
- because of his/her disability, exhibits the need for 12-month special education programs and/or related services in order to prevent substantial regression.

In developing ESY special education program and related service recommendations, IEP teams should consider that the intensity of service provided during the 10-month school year might not be necessary to achieve the ESY goal of preventing substantial regression. ESY programs or services may be provided in a setting that differs from the one the student attends during the school year, provided that the IEP team determines that the setting is appropriate for the student to benefit from the special education services and to meet his/her IEP goals. A student who is at risk of substantial regression only in a particular area, may be recommended for services that will address only that area.

For example: a student has an ICT program recommendation and two 40-minute sessions of occupational therapy per week for the 10-month

<sup>80</sup> Special education programs and services provided in July and August; also known as "12-month" services.

<sup>81</sup> In very limited circumstances – such as when a student who passed LAB-R/NYSITELL or NYSESLAT years earlier has recently returned to New York after an extended period living in an area where English was not regularly spoken – the IEP team must consider the appropriate language of instruction (and/or speech-language therapy and/or counseling, if applicable) for a student who is not an MLL as per the LAB-R/NYSITELL or NYSESLAT, if a language other than English is affecting the student's ability to benefit from monolingual instruction.

school year, and the IEP team has determined that ESY is necessary only to prevent substantial regression over the summer in progress toward annual goals relating to reading. The IEP team must consider the ESY program and services necessary to prevent substantial regression, and could determine that the student requires three hours per week of SETSS for ELA, without related services. As with recommendations for the 10-month school year, ESY recommendations must be made [based on the student's needs, not the availability of a program or service](#).

The IEP must indicate the frequency, duration and placement recommendation of the recommended ESY program/service, if it differs from the 10-month recommendation.

When addition of ESY will be considered at a student's annual review, **the IEP meeting should be held no later than April 15**, to allow sufficient time for summer planning for families and to facilitate timely planning for ESY placement and transportation.

Students who are recommended for a 10-month program to be initiated in September may remain in their current program for ESY.

Students whose program location will change for ESY must be notified of the new site location by June 15th.

For detailed information on ESY services for the upcoming summer, please check [here](#) beginning in May.

## Determining Language of Instruction and Services for Multilingual Learners (MLLs)<sup>81</sup>

For a student currently identified as an [Multilingual Learner \(MLL\)](#), the IEP team determines and recommends the appropriate language of any recommended special education program (ICT, special class or SETSS), speech-language therapy, and counseling. To do so, the IEP team must consider the student's levels of proficiency (both expressive and receptive) in his/her native language(s) and English, the assessments and Social History, and the concerns and preferences of the parent.

The IEP team must consider the following factors:

- The family's home language and the student's use of his/her native language(s) and English;
- Educational history, including whether the student is currently receiving

bilingual or ENL services, the number of years the student has received bilingual or ENL services, as well as a review of the cumulative record and current report cards;

- Scores on the LAB-R/NYSITELL and NYSESLAT;
- Teacher observations of the student's work over an extended period of time;
- Samples of oral and/or written work in both the native language(s) and English;
- Informal student assessment including language sample interviews in both the native language(s) and English; and/or
- Results of a culturally-responsive **Response to Intervention** plan, if applicable.

Based on this review and analysis, the IEP team will reach one of two determinations:

- Bilingual instructional services are not required, but English as a New Language (ENL) is required to enable the student to continue to develop further English language proficiency and to progress appropriately in an English language instructional program ("ENL only"); or
- Bilingual instructional services are required.<sup>82</sup>

In either case, the IEP team must include a bilingual professional. See [IEP team Composition](#) section for more information.

If the IEP team will be recommending speech-language therapy or counseling, it must also determine the appropriate language of delivery for the service. The IEP team should undertake the review, as described above, in relation to the student's need for each service.<sup>83</sup>

**Recommended language of instruction and services must be determined based on the student's needs, not the availability of a bilingual program or service (whether in general or in a particular district or school).** For placement procedures when a student's recommended bilingual special class or ICT is not available, see [Alternate Placement for Students Recommended for Bilingual ICT or Bilingual Special Classes](#). For additional considerations when a provider is not available for a student's recommended bilingual speech-language therapy, see [Recommending Interim Monolingual Speech-Language Therapy](#).

<sup>82</sup> If the IEP team is recommending bilingual ICT or bilingual Special Class, the school/CSE must email [BSEPrograms@schools.nyc.gov](mailto:BSEPrograms@schools.nyc.gov) (including the student's name and NYCID) so that the recommended placement can be offered if available.

<sup>83</sup> This will often result in a recommendation of the same language for instruction, speech-language therapy and counseling. However, a student's language needs will not necessarily be the same in each setting, and the recommendations may differ as appropriate.

## Recommending Interim Monolingual Speech-Language Therapy for a Student Recommended for Bilingual Speech-Language Therapy

All steps must be taken to assign a bilingual provider to a student recommended for bilingual speech-language therapy. **A student's speech-language therapy recommendation may not be changed from bilingual to monolingual based on the unavailability of a bilingual provider.**

When, despite diligent efforts, a bilingual provider has not been assigned by the 15th school day of the school year (or 15 school days after the date service is to be initiated, if the projected date of initiation is after the beginning of the school year), the IEP team must consider whether to recommend that the student receive monolingual speech-language therapy on an interim basis. In addition to the factors considered to [determine language of service](#), determining whether a student would be able to benefit from interim monolingual speech-language therapy should also include consideration of the student's cultural and experiential background and ability to adapt to different learning situations.

Students who may be appropriately recommended for Interim Monolingual speech-language therapy include:

- Students who do not speak or understand any conventional language and/or those who function at a non-symbolic level (using gestures and facial expressions);
- Students who demonstrate emerging receptive and/or expressive communication skills and knowledge in English while still being dominant in their preferred language.

A student who has some fluency in a language other than English and who does not exhibit basic communication skills in English, either receptively or expressively, may not be appropriate for interim monolingual speech-language therapy.

**As long as a bilingual provider has not been assigned, a student found not appropriate for interim monolingual speech-language therapy should be reconsidered for interim monolingual speech-language therapy throughout the school year (such as at annual/requested reviews and reevaluations), as skills enabling the student to benefit from the service may develop over time.**

To record a recommendation for interim monolingual speech-language on the student's IEP, in the Related Services section, select "Other" and enter **"Interim Monolingual Speech-Language Therapy pending Bilingual availability"** and include frequency, duration and group size (which may vary from the bilingual recommendation, to the extent that the student's ability to make progress in monolingual speech-language therapy so requires). The IEP team must develop appropriate goals for the service.

A waiver to [amend the IEP without a meeting](#) should be sought when the possibility of Interim Monolingual speech-language therapy has been discussed with the parent. The waiver request must include the recommendation and its associated goals.

An interim monolingual speech-language therapy provider is assigned through the cascade of services, subject to certain additional requirements. The provision of interim monolingual speech-language therapy to a student does not mean that the student's bilingual recommendation has been served. The DOE must **continue to seek a bilingual provider (DOE, contracted agency or independent) for a student receiving Interim Monolingual speech-language therapy**, and the RSA(s) associated with the bilingual recommendation must not be invalidated.

A recommendation for interim monolingual speech-language therapy may be modified as appropriate, like any other related service recommendation. Should a student progress to the point that a recommendation may be made for full-time monolingual speech-language therapy, or that speech-language therapy service may be reduced in time/intensity or discontinued entirely, the interim monolingual recommendation and bilingual recommendation should be modified or removed, or replaced with a monolingual recommendation, as appropriate. Only when no unserved bilingual recommendation remains should a bilingual provider no longer be sought and the RSA(s) associated with the bilingual recommendation be invalidated.

### Requirements for Providers of Interim Monolingual Speech-Language Therapy

As a prerequisite to the provision of Interim Monolingual speech-language therapy, a monolingual provider must have the basic 10 hours of training in ENL methodology and an additional 10 hours of specialized training on speech and communication issues specific to MLL students with disabilities. Topics to be covered in such training should include, but are not limited to the following:

- Review of bilingual/bicultural issues, professional literature, methods and materials, working with parents, collaborating with other professionals, etc.; and
- Familiarity with guidelines to assist in identifying strategies for enabling the student to achieve his/her IEP goals.

An additional 5 hours of professional development is required upon the provider's assignment to serve a student recommended for interim monolingual speech-language therapy.

Ongoing technical assistance from and/or consultation with Speech Supervisors and Managers, bilingual speech teachers, ENL teachers, etc., will be made available on an as-needed basis. The Speech Supervisor and the principal will ensure that sufficient time is made available for these professionals to meet (e.g., during common preparation periods, in classroom collaboration).

## Recommending In-School Skilled Nursing Services

The following protocol applies whenever a student is being considered for in-school skilled nursing services. The Central Nursing Office of the Office of School Health (OSH) plays an important role in ensuring the provision of appropriate nursing services. OSH must be consulted as part of the discussion of whether in-school skilled nursing services should be recommended on a student's IEP, and OSH may need to participate in the student's IEP meeting. As with all decision making regarding a student's IEP, decision making regarding in-school nursing services occurs **only at the IEP meeting**.

### Overview of School Nursing Services

Some students have medical needs that require support during the school day from a skilled nurse. Skilled nursing services can be provided either as

a non-1:1 service, whereby the school nurse is responsible for the provision of nursing services, or as a 1:1 service, where the student's needs are sufficiently acute to require continuous support from a nurse. A 1:1 nurse stays with the student throughout the school day and does not service any other students. The 1:1 nurse keeps the student in close proximity in the same room throughout the school day.

The extent and complexity of the student's needs will impact the decision on the type of skilled nursing services that are appropriate for the student's needs. In addition, the size of the building, student population and overall student nursing needs will impact the decision on the type of skilled nursing services that the student needs. Where a student's nursing needs are not full time and can be addressed at set times of the school day or as needed by the school nurse, the student can be recommended for non-1:1 skilled nursing services. Where a student is recommended for non-1:1 skilled nursing services, the school nurse will provide nursing support to the student as needed to administer medication, treatments or other procedures. A health paraprofessional can also be considered and recommended for a student who does not require 1:1 skilled nursing to help address the student's needs and support the nursing recommendation.

A student requires 1:1 skilled nursing services when his/her needs cannot be safely met with non-1:1 skilled nursing services, a 1:1 health paraprofessional, and/or other supports. For example, a ventilator-dependent student or a student who requires frequent treatments or medication administration would need a 1:1 nurse. If a student is assigned a 1:1 nurse, the nurse is expected to address the student's health needs. A health paraprofessional is generally not needed when a 1:1 nurse has been assigned to a student. A paraprofessional may still be appropriate for behavior support, toileting, or orientation and mobility. See [Special Considerations: IEP-Assigned Paraprofessionals](#) for more information on considerations regarding recommending paraprofessional services.

For students with diabetes, asthma, or seizures, or students who need oral medication administration, tube-feeding, catheterization, ostomy care, administration of epinephrine, administration of Diastat, suctioning, provision of oxygen, chest clapping, postural drainage, or dressing change, among other medical conditions and needs, it is necessary to determine, based on the student's needs and the overall medical needs of students in the building, whether a non-1:1 skilled nurse can safely provide the necessary medical care (with or without the support of a health paraprofessional) or whether a 1:1 skilled nurse should be recommended. Examples of support

a 1:1 health paraprofessional<sup>84</sup> may provide include monitoring signs/symptoms of seizures, anaphylaxis, asthma, and diabetes. However, if the student's needs in these areas could not be safely met by a 1:1 health paraprofessional, skilled nursing may be required. For example, a student who requires administration of seizure medication within 3 minutes of the onset of a seizure must have constant access to a nurse who can reach the student in less than 3 minutes.

A skilled nurse should not be recommended to address services related to activities of daily living, such as oral feeding, toileting or gait/safety issues. These needs can be addressed by a paraprofessional or other provider. See [Special Considerations: IEP-Assigned Paraprofessionals](#) for more information on considerations regarding recommending paraprofessional services.

The determination about nursing services is a collaborative effort between the IEP team, OSH, the student's medical provider(s), and the parents.

### Students Entering Kindergarten

Some students entering kindergarten may have been recommended for 1:1 skilled nursing services in preschool because they attend or attended preschool programs that did not have full-time school nurses on site. All DOE elementary schools have daily full-time school nurses. Therefore, for a student entering kindergarten whose preschool IEP has 1:1 skilled nursing services, the IEP team must determine whether the student's needs can be safely managed through non-1:1 skilled nursing services provided by the school nurse. The IEP team should consider the availability of other supports in the school, and whether a 1:1 health paraprofessional may be able to support the student's medical needs during the school day. See [Health Paraprofessional](#) for more information on these services. A 1:1 skilled nurse may be appropriate if the IEP team determines that the student's needs cannot be safely managed considering the location of the student's classroom, location and availability of the school nurse, 1:1 health paraprofessional, and other supports available in the student's school.

For students who are turning 5 and may need nursing services in kindergarten, IEP meetings should be completed as soon as possible, so that the appropriate level of skilled nursing services can be identified and arrangements made in time for the start of the school year. However, if an IEP meeting could be held but for the unavailability of individuals or documents needed for consideration of nursing, an IEP meeting should be held to discuss all other issues, to enable the parent and the DOE to

<sup>84</sup> A 1:1 [health paraprofessional](#) may require instruction or training in performing these tasks safely. When appropriate, such training may be provided by the school nurse or the Borough Nursing Director. Training needs should be specified in the [Supports for School Personnel](#) section of the IEP.



begin planning for the student's placement in the fall. At the IEP meeting, the IEP team should inform the parent of any additional documents that are necessary for the IEP team to consider whether the student needs nursing services. (See **Collect Documentation** below.) The IEP should not be finalized at the conclusion of this meeting. When all needed documentation and individuals are available, a second IEP meeting should be held to consider nursing and any new or outstanding issues, make recommendations and finalize the IEP.

### When Nursing is Being Requested for the First Time for a School-Age Student

For students entering kindergarten or for other students whose IEPs have not previously recommended nursing services, the following steps must be taken to ensure that the request for nursing can be reviewed and assessed in a timely manner.

#### 1. Collect Documentation

As soon as the school/CSE or parent identify a possible need for nursing services, the IEP team must provide the parent with the "[Guidelines for the Provision of Health Services and/or Section 504 Accommodations for Students in New York City Public Schools](#)." The following forms are [available on the DOE website](#) and must be completed by the parent and the student's healthcare provider:

- **HIPAA Form** – This form authorizes members of the IEP team and an OSH physician or nurse to speak to the student's physician or medical providers if review or clarification of the student's medical documentation is needed.
- **Supporting Documentation** – The school/CSE should inform the parent that additional documentation from the physician or health care provider can be submitted, and may be needed, as appropriate, to provide additional background information regarding the student. This documentation may include current medical examinations, current medical summaries, current treatment recommendations, etc. OSH and the school/CSE **must** consider all documentation submitted by the parent.<sup>85</sup>
- **Forms for Prescribed Medication and Treatment** – These forms are required for the current school year. All forms must be completed by a physician/healthcare provider in the tri-state area (NY, NJ or CT). The parent must sign these forms after they are completed by the medical provider. These forms are helpful to the IEP team; however,

**as long as sufficient information is available to the IEP team, an incomplete MAF or Treatment Form will not delay the recommendation of nursing services:**

- **Medication Administration Forms ("MAF")** – An MAF is required to provide precise information on the administration of medication to the student.
- **Request for Provision of Medically Prescribed Treatment (Non-Medication) ("Treatment Form")** – This form must be completed if the nurse must perform procedures (e.g., suctioning, catheterization, oxygen administration, tube feedings) for the student during the school day.

#### 2. Create a Nursing Referral in SESIS

When a possible need for nursing services for the student is identified by the parent or the school/CSE, the school/CSE must create a nursing referral in SESIS for Recommend Nursing Services, as described [here](#), as soon as the school/CSE receives the supporting documentation. In the referral, the school/CSE must specify whether the referral is for 1:1 Skilled Nursing or Non-1:1 Skilled Nursing. If there is no specific request, the referral should specify Non-1:1 Skilled Nursing.

Upon completing the Nursing Referral, the school/CSE must fax the supporting documents into SESIS using the Nursing Referral Fax Coversheet.

After all supporting documentation is faxed into SESIS, the school/CSE must change the status of the nursing referral into "review." The referral will not be reviewed if the referral is in "draft" status. It is recommended that the school/CSE also notify OSH Central Nursing via Outlook email.

#### 3. OSH/Central Nursing Review

The OSH/Central Nursing designee will review the documentation that is attached to the nursing referral in SESIS within 5 school days of receipt by OSH of the nursing referral. The OSH/Central Nursing designee may consult with the student's health care provider and/or the parent to obtain further information and clarification of the request for nursing services, including more details on the student's management needs. Such communications should be memorialized in writing if they result in a change in recommendation. Where relevant, OSH should also take into account the physical size and layout of the student's school, the number of students, and the overall level of need of the student population. For students with seizures, OSH will look at the student's history and the school population to

<sup>85</sup> Supporting documents do not obviate the need for completely filled out Medication and Treatment forms, which are necessary for commencement of services.



ensure timely provision of care. As long as sufficient information is available for OSH to review the request for nursing services, an incomplete MAF or Treatment Form will not delay OSH's review of the request for nursing services. However, it is necessary for a complete MAF or Treatment Form in order for services to be implemented. If the MAF or Treatment Form is not complete or OSH requires additional information in order to review the request for nursing or for nursing to be implemented, OSH (in conjunction with the school/CSE, to the extent helpful under the circumstances) will reach out to the parent and/or medical provider to obtain additional/clarified orders from the medical provider within 5 school days of receipt by OSH of the incomplete forms. If OSH/Central Nursing returns the referral to the IEP team because more information is needed, OSH must also change the status of the referral back to "Draft." Once the IEP team has responded to the request for information, the team must set the status of the referral to "Review," and OSH/Central Nursing will review the referral within 5 school days of the change of status.

The OSH/Central Nursing designee will make a recommendation as to what type and level of nursing service is appropriate for the student. Parent/provider modifications to nursing requests must be documented. If the OSH/Central Nursing recommendation is consistent with the parent's request, OSH will not need to participate in the IEP meeting.

The school/CSE must check the SESIS "**Status of Nursing Referral**" report regularly to see if OSH has made a recommendation about the provision of nursing services for the student. If no response from OSH is received within 5 school days of OSH receiving the nursing referral, the case manager should reach out to OSH to request an update on the status. In some cases, OSH may request additional information from the school/CSE. OSH should email the school/CSE contact person listed on the Nursing Referral if any additional information is necessary and provide updates on the status of the review of the nursing request.

**Whenever additional documentation/communication is needed, all efforts must be made to ensure that the IEP can be completed and services arranged within the required timeline and to avoid any missed school days. The case manager must escalate to the supervisor/chairperson any cases that are not progressing in a timely fashion.**

#### 4. IEP team Meeting and IEP Development

At the IEP team meeting following the receipt of the OSH recommendation, the student's need for skilled nursing services must be discussed. In

scheduling the IEP team meeting, if it appears that OSH disagrees with the request from the parent/student's health care provider, then a medical representative from OSH must participate (in person or by telephone) in the part of the IEP meeting when skilled nursing services are discussed. Every effort must be made to give OSH 10 business days notice to participate in an IEP meeting; OSH should also be provided all medical documentation related to the case. If a representative from OSH does not participate in the meeting, the IEP team may consider and make final recommendations regarding nursing services based upon the discussion and documentation at the IEP meeting. **A recommendation for nursing services should not be delayed based upon the failure of an OSH representative to participate in the IEP meeting or the unavailability of the OSH representative on the day scheduled for the IEP meeting.**

If the parent or a DOE member of the IEP team disagrees with the OSH representative as to the existence or extent of a student's need for skilled nursing services, the discussion should continue with the goal of reaching consensus. If consensus cannot be reached at the meeting, see [Resolving Conflicts at the IEP Meeting](#).

If a student requires skilled nursing services, the IEP team should include the approved nursing service on the IEP by following the steps described [here](#). In the Recommended Programs and Services section of the IEP, select "**School Nurse Services**" from the Related Services drop-down in the Recommended Programs and Services section of the IEP.

#### Periodic Review at IEP Team Meeting

Where a student is recommended for skilled nursing services, the extent of the need should be reviewed at each annual review or any IEP team meeting where there can be a discussion/decision on continuing an existing nursing recommendation. Where a student has been receiving non-1:1 nursing services, the school nurse should provide information about the provision of services and whether any adjustment is needed. Where a student has been recommended for 1:1 nursing services, a review should be done into the extent of the provision of service and whether the service continues to be necessary. As students get older, enroll in DOE schools with on-site nurses, or medical conditions stabilize, it is possible that a student will no longer require 1:1 nursing. If it is anticipated that there will be a discussion to change the recommendation on the student's IEP, OSH must be consulted using the nursing referral process discussed above. If OSH does not agree with the parent's request, a representative from OSH must participate (in person or by telephone) in the part of the IEP meeting when skilled nursing services are discussed. See [IEP team](#) and

[IEP Development](#). Every effort must be made to communicate with OSH at least 10 school days before the scheduled date of the IEP meeting. It is not necessary that an updated MAF or Treatment Form be provided for the IEP team meeting unless there are changes in medical needs that bear on the recommended services on the student's IEP. If a representative from OSH does not participate in the IEP meeting, the IEP team may consider and make final recommendations regarding nursing services based upon the discussion and documentation at the IEP meeting. **A recommendation for nursing services should not be delayed based upon the failure of an OSH representative to participate in the IEP meeting or the unavailability of the OSH representative on the day scheduled for the IEP meeting.**

### Implementation/Requirement of MAF or Treatment Form for Each School Year

A new, complete MAF or Treatment Form is required for each school year (starting in September) for both 1:1 and non-1:1 skilled nursing services. Additionally, if there is a change in the medication needs or treatment during the school year, but which does not require a change to the IEP, a new form must be provided. It is important that the MAF or Treatment Form be filled out completely in order to ensure the safe administration of medication and/or procedures according to the Nurse Practice Act. The nurse cannot rely upon the prior year's form. The provision of an incomplete MAF or Treatment Form may delay the implementation of nursing services; however, it is not a basis to change the IEP recommendation. If a student is recommended to receive Extended School Year services (12-month services), the MAF or Treatment Form from the prior school year can be used during July and August of the current school year. (For example, the 2016/2017 MAF or Treatment Form will be used for July and August 2017 for a student recommended to receive Extended School Year services.)

The parent/provider must provide an updated MAF or Treatment Form prior to the commencement of each school year in September. MAFs or Treatment Forms for the upcoming school year will be available by no later than June 1<sup>st</sup> of the prior school year and are requested to be completed and submitted by mid-August. The new MAF or Treatment Form is necessary to ensure that the assigned nurse has complete and up to date [instructions about the provision of medical services to the student](#). The MAF

or Treatment Form for non-1:1 nursing services may be provided directly to the student's school or the school nurse. The MAF or Treatment Form for 1:1 skilled nursing services should be provided to the contracted nursing agency and to the school nurse. For students with Diabetes, the DMAF must be sent to OSH.

## Transportation

### IEP Transportation Recommendations<sup>86</sup>

#### Non-Specialized Transportation for Students with Disabilities

Non-specialized means of transportation include public transportation (funded by DOE-issued MetroCards) and stop-to-school bus service. To ensure maximum availability of non-specialized means of transportation, all students with disabilities are eligible for a full-fare MetroCard, regardless of age or distance from home to school, and for stop-to-school bus service (if grade eligible and available) regardless of distance from home to school.

The trip to and from school for a student with a disability must take place in the Least Restrictive Environment (LRE) appropriate; therefore, a specialized form of transportation must not be recommended unless it is necessary because of the student's disability, to meet the student's needs.

#### Determining the Need for Specialized Transportation

If there is no available means of non-specialized transportation that would enable a student with a disability to travel to and from school safely and to benefit from instruction, they require a specialized transportation service, which must be recommended on the IEP. Specialized transportation always includes busing from the closest safe curb location to school, but may also include other necessary [transportation accommodations](#), such as a transportation paraprofessional or limited travel time. The IEP team must first consider the student's needs in relation to the non-specialized means of transportation available between their residence and the school they are attending or, if a new placement will be offered, the school they are most likely to attend.<sup>87</sup> Specifically, the IEP team must consider the student's functioning and needs in the following areas, to the extent **affected by a documented impairment**<sup>88</sup>:

<sup>86</sup> The process and considerations for recommending specialized transportation and specialized transportation accommodations on an IESP are the same as for an IEP.

<sup>87</sup> As needed, the IEP team should consult with OPT for information on the details of stop-to-school bus service to the student's school, and should inquire about the possibility of adding additional stops that would enable the student to travel to school using stop-to-school bus service.

<sup>88</sup> Note that a student may be impaired in a way that affects his/her need for specialized transportation but does not relate directly to his/her disability classification or special education program or related services. Any documented, long-term impairment must be considered in assessing whether the student needs specialized transportation. The school/CSE should contact OSH in advance if there are any questions relating to medical documentation presented by the parent. See [Specialized Transportation Accommodations Protocol](#) for more information regarding documentation.

- **Physical / Medical Needs**, including, but not limited to: mobility limitations; need for medical or mobility equipment or assistance; propensity for seizures, fatigue or breathing difficulty; need for assistance walking up/down stairs; need for assistance to maintain a seated position with proper trunk support.
- **Cognition / Communication**, including, but not limited to: hearing, auditory processing, vision, expressive communication skills, ability to understand and safely respond to situations and interactions that may arise while traveling without a parent, guardian, or family member.
- **Social / Behavioral**, including, but not limited to: fear in noisy environments; self-abuse; elopement; tantrums. **Note:** Absent a documented [Emotional Disturbance](#), [Social Maladjustment](#) is not an appropriate consideration in determining a student's need for specialized transportation.

Circumstances that may affect the student's ability to travel to or from school using non-specialized transportation but are not related to a documented impairment or disability – such as the student's age or unavailability of family members to accompany the student to the school or bus stop – are not a basis for a recommendation specialized transportation.

If the IEP team determines that no available non-specialized means of transportation would be appropriate for the student because of the student's disability, it must recommend specialized transportation service(s) on the student's IEP, by checking the box "Student needs special transportation accommodations/services as follows." If the only service needed is busing from the closest safe curb location to school, the IEP team does not enter additional text.

The IEP team must consider the student's present need for specialized transportation at the initial IEP meeting and at all subsequent IEP meetings. If the student's needs, school site or residence – or the availability of non-specialized transportation between the student's residence and school – change in a way that alters the student's need for specialized transportation, the IEP team must amend the IEP accordingly.

During the Social History Interview, the social worker should describe the transportation options that are available to all students with disabilities (e.g., full fare MetroCards and/or stop-to-school busing, when available), and explain that the IEP team will recommend specialized transportation only if the available non-specialized transportation means are not appropriate for the student because of documented impairments. If a student may require

specialized transportation or specialized transportation accommodations, the parent should be provided with copies of the **Request for Medical Accommodations to be Completed by Treating Physician** form for completion by the student's physician, and the **Authorization for Release of Health Information Pursuant to HIPAA** form, to be completed by the parent and then provided to the IEP team. Documentation that simply requests an accommodation without describing the medical condition and its impact on the student during transportation is not sufficient. See [Documentation for Accommodations When Office of School Health Review is Required](#) for more information on documentation.

For concerns or issues regarding the implementation of specialized transportation (including accommodations), schools should reach out to the BCO transportation liaison for assistance.<sup>89</sup>

### Types of Specialized Transportation Accommodations

If the IEP team determines that a student requires specialized transportation accommodations, it must make a recommendation that is tailored to enable the student to travel to and from school in the same manner as their non-disabled peers to the maximum extent appropriate. Once recommended on the IEP, steps must be taken to ensure that the accommodations are provided on the implementation date to ensure that the student is not excluded from school due to the lack of accommodations.

### Transportation Paraprofessionals

All buses used for specialized transportation have an attendant in addition to the driver. The attendant ensures that the students board the bus safely, but the attendant does not act as a personal aide for any individual student.

If the student needs continuous or regular attention on the bus, the student may need a transportation paraprofessional. For example, a transportation paraprofessional may be required for a student who has a documented behavioral issue that requires 1:1 support on the bus to and from school (such as aggression or self-abuse); has a severe cognitive impairment such that continuous management and support on the bus to and from school is necessary; or requires medical support. See [Medical/Nursing Services](#) below.

### Special or Modified Vehicles

If there is a medical or behavioral need for which a modified vehicle or ambulance is warranted, the IEP should describe the particular

<sup>89</sup> Parents may be reimbursed for transportation if a student's IEP-recommended transportation was not provided, and in certain other circumstances; please [click here](#) for guidance and required forms. For additional information on specialized transportation, see the DOE [Office of Pupil Transportation's website](#).

accommodations that are needed. For example, the user should select an accommodation such as “Vehicle and/or Equipment Needs – Lift Bus”, “Vehicle and/or Equipment Needs – Student uses Oxygen” or “Other Accommodations – Route with Fewer Students”. OPT will use this information to identify the appropriate vehicle for the student; except that, if the student requires an ambulance, that should be specified on the IEP.

If a student is non-ambulatory, the IEP should indicate in the Transportation Accommodations section the type of equipment that the student utilizes (e.g. wheelchair, walking aids). **Note:** If a student utilizes a wheelchair, the ambulatory code in STRE should be “W”. The ambulatory code “L” (lift) should ONLY be used if a student uses a seat on the bus, but requires a lift to board. “L” is not appropriate for students who travel in wheelchairs. For information on using STRE, please see [ATS training materials](#).

Students who use therapeutic and/or collapsible strollers/mobility devices may be required to use wheelchairs in order to utilize certain special vehicles. Students who use walkers for ambulation will need to use a wheelchair or boarding chair to board the school bus and then may be transferred to a school bus seat when possible. In such circumstances, parents should be given guidance on how to acquire the necessary equipment.

### Medical/Nursing Services

A student with a disability may require health services (e.g., suctioning, postural drainage) by a skilled nurse or a 1:1 health paraprofessional on the bus to and from school. If the student may require nursing services or a health paraprofessional on the vehicle, OSH must be consulted in accordance with the [Specialized Transportation Accommodations Protocol](#).

### Travel Time Limitations

Limitations on travel time are recommended only when a bus ride exceeding a particular time limitation would not be appropriate due to the student's medical or emotional condition, or would substantially diminish the student's ability to learn. Driving times in New York City are inherently unpredictable. A time limitation does not mean that the student may never be on the bus for longer than the prescribed time, but rather that the route under typical circumstances will not exceed the time limitation.

When a travel time limitation is being considered as a specialized transportation accommodation, the school/CSE should consult with OPT in advance of the IEP meeting to determine the anticipated travel time to/from school and whether a shortened route is feasible to implement in light

of likely traffic conditions and distance between the student's home and school. If a travel time limitation under consideration cannot be practically or consistently implemented due to the distance between the student's residence and school, the IEP team must determine whether the specialized transportation recommendation can be amended while still enabling the student to arrive safely and to benefit from instruction, and if so, must amend the IEP accordingly. If the IEP team determines that no form of specialized transportation would enable the student to arrive safely and benefit from instruction, a school closer to the student's residence must be sought, with [home instruction](#) provided in the interim as needed.

*For example, if a student's family moves, such that a travel time limitation of 60 minutes to the student's current school cannot be consistently implemented, the IEP team must assess whether a different recommendation for specialized transportation accommodations (e.g., addition of a transportation paraprofessional) would enable the student to arrive at the school safely and benefit from instruction. If the IEP team so determines, it must amend the IEP to reflect the appropriate accommodations. If the IEP team determines that no form of transportation would enable the student to arrive at the current school safely and benefit from instruction, an appropriate school closer to the student's residence must be sought.*

### Specialized Transportation Assistant Services (“Porter Service”)

Parents are generally expected to bring the student outside to the curb location where the bus picks up, as needed. However, Specialized Transportation Assistant Services may be recommended for a non-ambulatory student who resides in a building that has been verified by the DOE to be non-accessible (e.g., no elevator and student lives on other than the 1st floor, or multiple stairs for entry into building with no ramp accessibility), such that the student must be carried up and down the stairs to access the sidewalk.<sup>90</sup> These services are generally not appropriate if a building is accessible but no adult is available to bring the student outside; in such cases, the social worker should assist the family to make arrangements for the student to be brought outside.

If Specialized Transportation Assistant Services are being considered, the school/CSE must consult with OPT (in advance of the IEP meeting if possible) to verify the need for and feasibility of implementing the requested service based on the student's housing arrangement.

<sup>90</sup> Assistants may not enter into a student's apartment to provide assistance.



### Specialized Transportation Accommodations Protocol

Consultation with or participation from the Office of School Health (OSH), the Office of Pupil Transportation (OPT) or an administrator such as the supervisor of psychologists or CSE chairperson, is required to recommend certain specialized transportation accommodations, as detailed in this protocol.

Depending on the type of accommodation(s) being considered and the student's needs, one or more of the following offices/supervisors must be consulted:

- [The Office of School Health \(OSH\)](#)
- [Supervisor of school psychologists](#) or [CSE chairperson](#)
- [Office of Pupil Transportation \(OPT\)](#)

If consultation is required, the school/CSE must involve OSH or the supervisor/chairperson **as soon as the potential need for a specialized transportation accommodation is identified**. If it appears that OSH, the supervisor of psychologists/CSE chairperson, or OPT disagrees with a parent's or other IEP team member's request for a specialized transportation accommodation, a representative from OSH, the supervisor of psychologists/CSE chairperson, or a representative from OPT must participate in the IEP meeting, as described below.

*If the student has significant health issues or the IEP team or supervisor/chairperson believes that existing OSH-reviewed accommodations may no longer be appropriate due to a change in circumstances, see OSH Review (below).*

### Documentation for Accommodations When Office of School Health Review is Required

For specialized transportation accommodations when Office of School Health review is required, parents must submit the following documentation to the school/CSE<sup>91</sup>:

1. Request for Medical Accommodation – This must be completed by a licensed medical provider (i.e., M.D., D.O., N.P., P.A.).
2. HIPAA Form – This form authorizes members of the IEP team and an OSH physician or nurse to speak to the student's physician or medical providers if review or clarification of the student's medical documentation is needed.
3. Supporting Documentation – The school/CSE should inform the parent

<sup>91</sup> For district schools, the BCO Transportation Liaison is responsible for working with school staff to ensure completion of the required items.

that additional documentation from the physician or health care provider may be considered, as appropriate, to provide additional background information regarding the student. This documentation may include current medical examinations, current medical summaries, current treatment recommendations, etc. OSH and the school/CSE must consider all documentation submitted by the parent.

These forms are available on the [DOE website](#).

### When Office of School Health Review Is Required

A representative from the Office of School Health (OSH) must review the medical documentation and may be required to participate in the IEP meeting when an IEP team is considering the following types of Specialized Transportation Accommodations:

- Transportation Nursing Services
- Transportation Paraprofessional for reasons other than social-emotional
- Travel Time Limitation, if the maximum travel time stated by the student's physician is less than 60 minutes
- Route with Fewer Students
- Climate Control
- 5-Point Safety Harness / Safety Vest
- Car Seat
- Other accommodations that may impact the type of vehicle for the student.

All required documentation must be submitted to OSH before the IEP meeting.

When OSH review is needed, designated school/CSE staff must upload the completed medical documents into SESIS using the “**OSH Physician Review: Transportation Accommodation**” cover sheet from the “**Create New Document**” menu. The school/CSE must notify the designated Transportation Liaison. Liaisons must download the SESIS materials as a PDF and upload the PDF into the Automated Student Health Record (ASHR) management tool. **Documents containing confidential student medical information cannot be sent to OSH via email.**

The OSH designee will review the documentation that is uploaded into ASHR. The OSH designee may consult with the student's health care provider and/or the parent to obtain further information and clarification of the request for medical services. The OSH designee will make a recommendation as to what type and level of medical service is appropriate



for the student. Parent/provider modifications to medical requests must be documented.

At the IEP meeting following the receipt of the OSH recommendation, the student's need for medical services must be discussed. In scheduling the IEP meeting, if in consultation with the student's health care provider, the requested accommodations are modified or OSH does not recommend approval of the request from the parent/student's health care provider, then a medical representative from OSH must participate (in person or by telephone) in the part of the IEP meeting when specialized transportation accommodations are discussed. Every effort must be made to give OSH 10 business days notice to participate in an IEP meeting; OSH should also be provided all medical documentation related to the case. If a representative from OSH does not participate in the meeting, the IEP team may consider and make final recommendations regarding specialized transportation accommodations based upon the discussion and documentation at the IEP meeting. **A recommendation for specialized transportation accommodations should not be delayed based upon the failure of an OSH representative to participate in the IEP meeting or the unavailability of the OSH representative on the day scheduled for the IEP meeting.**

If the parent or a DOE member of the IEP team disagrees with the OSH representative as to the existence or extent of a student's need for specialized transportation accommodations, the discussion should continue with the goal of reaching consensus. If consensus cannot be reached at the meeting, see [Resolving Conflicts at the IEP Meeting](#).

**OSH Contact Information:** Tel: (718) 310-2918; Fax: (347) 396-8932

Consultation and involvement of OSH is **not** needed for the IEP team to consider or recommend a **wheelchair accommodation**, or a **transportation paraprofessional for social-emotional reasons** for a student who is recommended for an in-school IEP-assigned paraprofessional.

If the IEP team is considering initiation of a transportation paraprofessional for a student who is not recommended for an in-school IEP paraprofessional, the IEP team must **consult with the supervisor/chairperson**. The designated school/CSE staff member must fax all documents into SESIS as **Documents Related to IEP** and inform the supervisor/chairperson that documents are awaiting review.<sup>92</sup>

<sup>92</sup> The supervisor may determine it is necessary to consult with OSH, in which case the OSH Review procedure must be followed.

<sup>93</sup> Schools/CSEs must notify the OPT that Limited Travel Time is being considered to ensure that the limitation is feasible.

<sup>94</sup> Schools/CSEs must notify the OPT as soon as a potential need for porter service is identified. Porter service may not be recommended on a student's IEP unless reviewed by OPT. OPT will consult with OSH if there is a concern that the service may not be appropriate for health reasons. If OSH concludes that such service is not medically appropriate, a representative from OSH must participate in the IEP meeting.

### When OPT Consultation is Required

The Office of Pupil Transportation (OPT) must be consulted when an IEP team is considering the following types of Specialized Transportation Accommodations:

- Travel Time Limitation, if the maximum travel time stated by the student's physician is less than 60 minutes<sup>93</sup>
- Accommodations that may impact the type of vehicle for the student
- Specialized Transportation Assistant Services ("Porter Service")<sup>94</sup>

OPT can provide information that may impact the feasibility of requested accommodations (e.g., whether a limited travel time is feasible). This information should be considered at the IEP meeting, with participation from an OPT representative if needed.

### Preparing the IEP to Reflect Transportation Accommodations

To recommend specialized transportation accommodation(s) in SESIS:

- Select "Yes" for "Does the student need transportation accommodations?" The IEP will then indicate "Transportation from closest safe curb location to school."
- Select the accommodation(s) being recommended.
- Write the "Reason(s) why the student needs special transportation service and/or accommodations" in the text box.

When a recommendation is finalized on the IEP, school/CSE staff must notify the applicable Transportation Liaison, who must check the information in SESIS and enter the specialized transportation accommodations into ATS (STRE).

Specialized transportation accommodations should be revisited at annual reviews and reevaluations, and as appropriate, should be addressed in annual goals. Forms do not need to be resubmitted prior to the IEP meeting if the services are being continued; however, if a student is receiving medical care on the bus or has a nurse, an updated [MAF or treatment form](#) may be needed.

### Non-IEP Transportation for Students with Disabilities

#### Hardship Transportation

A student's need for a special program or school may require the DOE to offer him/her placement in a school that would require an unusually long or

difficult commute from the student's residence. In such a situation, a student who does not otherwise have specialized transportation on his/her IEP may nevertheless be provided additional, "hardship" transportation services, up to and including door-to-door bus service. Hardship transportation is provided to minimize a burden caused by the unavailability of a nearby school to serve the student's needs; **it is not conferred by and does not result in an IEP recommendation.** The availability of hardship transportation should be discussed at the Social History and/or IEP meeting when there is a possibility that the student's recommended program will only be available at a school a long distance from the student's home.

Hardship transportation is provided only to DOE-offered placements; it is not available to private/parochial schools, or to public schools selected by the family through a choice process.

### **Parentally Placed / Unilaterally Placed Students**

A student with a disability who is placed by his/her parent in a private or religious school up to 50 miles from the student's residence, and who will receive a special education program and/or related services similar to those recommended by the DOE, must be provided suitable transportation to and from school.<sup>95</sup> If the student's IEP or IESP recommends specialized transportation, that recommendation will typically be the "suitable" transportation to which the student is entitled. For many students, a non-specialized means of transportation may be suitable.

The program and services provided at a private or religious school are "similar" to the DOE's recommendation if the student's primary classroom setting (general education or special education class)<sup>96</sup> is the same and the type and intensity of special education and related services are comparable. The CSE must determine whether the program and services offered by the student's school are "similar" to those recommended by the DOE. If the student's school is not providing a similar program or services to the DOE's recommendation, the student is not eligible for transportation under this provision. For questions regarding whether a school is providing a "similar" program and services, consult with the chairperson, who can make the determination or seek guidance from the central Special Education Office if needed.

<sup>95</sup> This is regardless of whether or not the parent is seeking tuition reimbursement from the DOE.

<sup>96</sup> A program of resource room and/or consultant teacher may be "similar" to a recommended co-teaching program (and vice versa).

## Annual Reviews and Requested Reviews

A student's IEP must be reviewed at least annually. An IEP meeting must be held within one year of the date of the prior IEP meeting. Schools/CSEs should regularly review the Status of Annual Reviews report in SESIS to ensure that annual review IEP meetings are scheduled and held in a timely fashion. For students whose annual reviews are upcoming, schools/CSEs should check the **Advanced Report - Status of 3-Year Mandated Reevaluations in Process** in SESIS and, if the student's three-year reevaluation is due in the same year, **conduct the [three-year reevaluation](#) by the student's annual review date.**

In addition to required annual reviews, a review of the current IEP must be conducted upon request of the parent.<sup>97</sup>

### Additional Assessments

The IEP team must determine in advance of the annual/requested review meeting whether new assessments are needed. Before scheduling the IEP meeting, school/CSE IEP team members (such as the student's teacher(s) and related service provider(s)) should review existing data (e.g., teacher and related service provider reports, classroom assessments, portfolio assessments, standardized testing, assessment reports, and information provided by the parent). On the basis of that review and input from the parent, the IEP team then must ascertain whether new or updated assessments are needed to in advance of the IEP meeting.

If new assessments are needed, the school/CSE must make a referral for [reevaluation](#), **treating the date the request for review was initially received, as the date of referral**, and follow the procedure for seeking consent for and conducting assessments as part of a [reevaluation](#).<sup>98</sup>

In reviewing the available information, the school/CSE IEP team members should consult with each other on issues that may arise at the IEP meeting, and they may prepare draft annual goals. **However, a complete discussion of all issues, including annual goals, must occur at the IEP meeting, including considering input from the parent.**

### IEP Team Composition for the Annual Review/Requested Review IEP Meeting

Refer to the sections above for information regarding the composition of the [IEP team](#), the role of each member, and the advance preparation each member should take to prepare for the annual review or requested review IEP meeting.

### Scheduling the Annual/Requested Review IEP Meeting

The special education teacher (or related service provider, when a student receives related services only) is responsible for arranging the annual review or requested review IEP meeting. If a student is recommended for related services only *and* is receiving services from a non-DOE employee, the school psychologist will schedule and hold the meeting.

The parent must be invited to participate in every IEP meeting, including every annual review or requested review. See the [Ensuring Parent's Presence](#) for more instructions.

<sup>97</sup> This is called a "requested review." The request must be processed in the same manner as [initial referrals](#) (date stamping, etc.). The IEP team need not conduct a review if the requested review is for a discussion that would not be productive; for example, if there have been repeated requests made to discuss a subject that has already been addressed by the IEP team and no significant new information will be available to consider. If the IEP team rejects the parent's request for a requested review, the school/CSE should issue a PWN in response to the request and should ensure that the parent is aware of due process rights and has been provided a copy of the procedural safeguards notice.

<sup>98</sup> If it is first determined at the annual/requested review IEP meeting that additional assessments are needed, the referral for [reevaluation](#) must be made and parental consent sought at the IEP meeting. The parent must not be directed to submit an additional written request. The date the request for review was initially received, is to be treated as the date for referral, unless the need for new assessments is based on information presented at the IEP meeting that was not available to the school/CSE IEP team members prior to the IEP meeting.

## Reevaluation

A reevaluation must be conducted at least once every three years and when:

- the school/CSE determines that the student's educational or related service needs warrant a reevaluation, including after improved academic achievement and functional performance; or
- upon request of the parent or the student's teacher;

**except** that a reevaluation need not take place more frequently than once a year unless the parent and school/CSE agree otherwise.

A reevaluation:

- must be conducted by a multidisciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of the student's disability; and
- must be sufficient to determine the student's individual needs, educational progress and achievement, the student's ability to participate in instructional programs in regular education and the student's continuing eligibility for special education.

Information gathered as part of the reevaluation will assist the IEP team in determining the student's individual needs, educational progress and achievement, ability to participate in instructional programs in general education, and continuing eligibility for special education services.

## Mandated Three-Year Reevaluation

A reevaluation must be conducted at least once every three years, except if, upon review of existing data and the student's needs, the school/CSE and parent agree in writing that a reevaluation would be unnecessary. The IEP meeting following completion of the assessments must be completed within three years of the IEP meeting following the student's most recent prior evaluation or reevaluation.<sup>99</sup> Schools/CSEs should regularly review the report **Advanced Report - Status of 3-Year Mandated Reevaluations in Process** in SESIS to ensure that three-year mandated reevaluations are commenced and completed in a timely manner. Schools/CSEs should also regularly review the Status of Annual Reviews report in SESIS, and should

<sup>99</sup> Note: If the student's most recent prior evaluation/reevaluation included limited (or no) assessments (e.g., a requested reevaluation in which only a physical therapy assessment was conducted, for a student receiving a special education program and/or multiple related services), the timeline for the three-year reevaluation should be based on the date of the student's most recent evaluation/reevaluation that included comprehensive assessments.

<sup>100</sup> The mandated three-year reevaluation should not be waived for any student recommended for a one-to-one paraprofessional for behavioral reasons.

<sup>101</sup> The school/CSE should ensure that the parent is aware of his/her right to refuse the request, and the request should not be sent if a school/CSE is aware that the parent wishes for the three-year evaluation to proceed.

<sup>102</sup> An additional reevaluation must also be conducted if ordered by a judge or impartial hearing officer.

**conduct the three-year reevaluation by the student's annual review date.**

When a mandated three-year reevaluation is due, the school/CSE, upon review of existing data and the student's needs, may determine that a reevaluation would be unnecessary. In that case, the school may seek the parent's agreement to waive the mandated three-year reevaluation. **A school/CSE should not routinely seek to waive mandated three-year reevaluations.** Any waiver must be based on the individual student's needs.<sup>100</sup>

If the school/CSE determines that the mandated three-year reevaluation would be unnecessary, the **PWN: Request for Waiver of a Mandated Three Year Reevaluation Form** must be completed and sent to the parent. This form must explain the specific reasons for the determination, and that the parent has the right to disagree with the school/CSE.<sup>101</sup> **If the parent does not sign and return the form, the reevaluation must be conducted.** For more information, see SESIS Guide [Waiver of the Mandated Three-Year Reevaluation](#).

## Requested Reevaluation

The school/CSE must conduct a reevaluation when it determines that the student's educational or related service needs warrant a reevaluation, or upon request of the parent or the student's teacher; except that only one reevaluation may take place in a school year, unless the parent and school/CSE agree that an additional reevaluation should be conducted.<sup>102</sup>

### DOE Requests for Reevaluation

The school/CSE must request a reevaluation when it believes that the student's educational or related services needs may have changed. This belief may be based on, among other factors, a lack of anticipated progress, or improved academic achievement and functional performance.

A professional staff member may complete a **Request for Reevaluation Form** in SESIS to request a reevaluation, providing information regarding the student's current needs.



The parent must be sent the **Notice of Request for Reevaluation** letter, along with the **Procedural Safeguards Notice**.

For more information, see SESIS Guide How to Complete a Request for Reevaluation.

### Parent Request for Reevaluation

A parent may request a reevaluation by submitting a written request for reevaluation to the student's DOE school or CSE. The request may be hand delivered or sent by mail, email, or fax. A request for reevaluation need not contain "magic words"; a written request for an evaluation or to reconsider the student's special education needs, program, or services is sufficient.

If a parent makes an oral request (by phone or in person) for a reevaluation to a DOE professional, the DOE professional must promptly assist the parent to create a written request for a reevaluation 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. Schools/CSEs must make clear to non-professional staff members who regularly interact with parents that, if a parent makes an oral request (by phone or in person) for reevaluation to a non-professional member of school or CSE staff, the staff member must connect the parent with a DOE professional who can promptly assist the parent to create a written request for reevaluation that states the request for reevaluation and, if communicated by the parent, the reason(s) for the request and any specific assessment(s) being requested.<sup>103</sup>

Immediately upon receipt of a request for reevaluation by hand, mail, or fax, the school or CSE must stamp the document with the current date (or the earlier date on which it was in fact received, if, for example, it arrived by fax and was mislaid).

If the request for reevaluation is in the text of an email, the school/CSE must print the email, including the time and date it was received, and treat the printed email as the request for reevaluation. If the request for reevaluation is attached to an email, the school/CSE must print the email, including time and date of receipt, along with the attachment, and treat the printed email and attachment as the request for reevaluation.

A DOE staff member who receives a request for reevaluation must immediately either fax the request for reevaluation document into SESIS

or convey the request for referral document to a professional colleague who is able to do so. When creating the fax coversheet for the request for reevaluation document, the date of request must be recorded as the date the request for reevaluation was received by the school/CSE; this date should match the date stamped on the request for reevaluation (or the date of the email, if the request for reevaluation was received by email).

When a request for reevaluation is received, the school/CSE must review the student's record in SESIS to determine whether a reevaluation has been conducted for the student during the current school year. If a reevaluation has not been completed for the student during the current school year the reevaluation must be conducted. The **Notice of Request for Reevaluation** is completed in SESIS and must be sent by the school/CSE to the parent in the parent's preferred language within five (5) school days of the date the request for reevaluation was received. The **Procedural Safeguards Notice** must be sent to the parent along with the Notice of Request for Reevaluation.

### Additional Requests for Reevaluations

If a reevaluation was already conducted for the student during the current school year, the principal/chairperson – in consultation with the student's teacher or other providers, as appropriate – must determine<sup>104</sup> whether an additional reevaluation is likely to provide new or meaningful information, in which case the school/CSE should initiate the reevaluation.

The principal/chairperson must indicate the determination as to whether or not to conduct the additional reevaluation for that school year on the **Additional Request for Reevaluation Form**.

If the request is approved, the school/CSE must send the **Notice of Request for Reevaluation** letter to the parent, along with the **Procedural Safeguards Notice**. The parent must sign and return the **Additional Request for Reevaluation** (Consent for Reevaluation) to the school/CSE for the reevaluation to proceed.

If the request is disapproved, the **Additional Request for Reevaluation** is sent to the parent, stating the reasons why it has been determined that a reevaluation is not warranted.

See the SESIS guides on completing [Additional Requests for Reevaluation](#) for specific instructions.

<sup>103</sup>In either scenario, language support must be provided as needed, and the interaction with the parent must be documented in the **SEGIS Events Log**.

<sup>104</sup>If the additional reevaluation was ordered by a judge or impartial hearing officer, or agreed upon through resolution, settlement or mediation agreement, the additional reevaluation must be conducted; no further approval or agreement is required.

### Requests for Reevaluation from Other Sources

If a non-DOE person other than the parent attempts to request a reevaluation and claims authority to do so, the request for reevaluation must be date-stamped and uploaded into SESIS. This should be documented in the **SE SIS Events Log**. Contact the BCO Director of Special Education, D75 Liaison, or CSE chairperson to confirm that the request for reevaluation is from an authorized person before proceeding.

If a reevaluation is ordered by judicial or impartial hearing order, or agreed upon through resolution, settlement or mediation agreement, the school/CSE must open up the reevaluation in SESIS and document the reason in the **SE SIS Events Log**. The school/CSE need not contact the BCO Director of Special Education, D75 Liaison, or CSE chairperson before so doing.

### Determining Whether New Assessments Are Needed In a Reevaluation

The IEP team must determine whether new assessments are needed as a part of a reevaluation. To do so, the school/CSE IEP team members must review existing data (e.g., teacher and related service provider reports, classroom assessments, portfolio assessments, standardized testing, progress reports, results of district and state assessments, evaluations and information provided by the parent) in order to determine whether there is a need for new assessments. There may be a need to conduct new assessments to determine continued eligibility, special education needs, and whether any additions or modifications to the student's program or services are needed to enable the student to meet the goals on his/her IEP and to participate as appropriate in general education. The review of existing evaluation data can be done by each member of the IEP team and other qualified individuals as appropriate. This review need not take place at an IEP meeting; but the parent must be given the opportunity to participate in the decision-making process regarding whether additional assessment data is needed.

If it is determined that existing information is sufficient and no additional assessments (including classroom observations) are required, the school/CSE creates the **Assessment Planning** document in SESIS and checks "No" in the box "New Testing Needed." This will create the **Notice of No New Testing Needed** document, which must be and sent to the parent. The IEP meeting should then be scheduled.

If it is determined that additional assessment data is required (e.g., classroom observations, social history update), the IEP team should determine which additional assessments will be conducted to explore areas related to the disability and behaviors that impede the student's or others' learning or place the student or others at risk of harm or injury. This determination will be made on the basis of the review of existing data and information. See [Special Education Evaluation](#) for information regarding the types of assessments that may be appropriate during a reevaluation.

A Social History Update should also be considered as a part of the reevaluation. Depending upon the time that has elapsed since the student's last evaluation, there may be significant changes in their family situation and the parent's perceptions of the student's development, changes in skill level, family circumstances, and prior intervention strategies, and other factors that may be affecting the student's learning, such as Adverse Childhood Experiences that may result in trauma-related symptoms. Through the Social History Update, valuable information can be obtained about the student's home and community environment and what kinds of strategies have been used in the past. The Social History Update can also provide an opportunity to clarify the parent's current beliefs, attitudes and expectations for their student and well as their perception of the impact of the special education services that the student has been provided. When necessary, the social worker should refer the family to appropriate community resources. For further information on conducting the Social History Update, see [Initial Social History](#).

#### Note:

- A [Functional Behavioral Assessment \(FBA\)](#) should be conducted if the student's behavior impedes his/her learning or that of others.
- A [vocational assessment](#) must be completed or updated on an annual basis for all students who are 12 years of age or older, or who will turn 12 by the end of the calendar year in which the evaluation is completed. A vocational assessment does not need to be conducted as a part of the reevaluation; however, it may be advisable to conduct it at the same time.

### Obtaining Consent for Additional Assessments in a Reevaluation

If the IEP team determines that additional assessments are needed as a part of a reevaluation, the school/CSE must attempt to obtain [informed](#)

[parental consent](#) prior to conducting those assessments. The school/CSE opens the **Assessment Planning** document in SESIS and creates the **Consent for Additional Assessments** form, which must be sent to the parent.

If the parent has not responded within seven (7) calendar days to the **Consent for Additional Assessments** form, outreach must be conducted. Outreach must include, at a minimum:

- Two attempts at telephone contact at different times of the day; and
- A follow-up letter sent to the parent by mail; and
- If the parent could not be reached by phone and no message was left, a follow-up letter sent home with the student ("backpacked"), if s/he attends a DOE public school.

All contacts and attempts to contact the parent must be documented in the Events Log in SESIS.

**If outreach to obtain consent was conducted and documented and the parent failed to respond**, the IEP team may proceed with assessments without parental consent.

**If the parent refuses or withdraws consent**, no further assessments may be conducted. The school/CSE should determine whether it can proceed with the reevaluation without additional assessments. If it can, the IEP meeting should be scheduled.

If the school/CSE cannot proceed with the reevaluation without additional assessments, it should consider alternatives to the reevaluation in consultation with the parent. If there are appropriate alternatives to the reevaluation, the school/CSE should rescind the referral. If there are not appropriate alternatives to the reevaluation, the school must consult with the supervisor of psychologists or CSE chairperson to consider a request for [mediation or impartial hearing](#) to obtain parental consent to proceed with new assessments.<sup>105</sup>

## The Reevaluation IEP Meeting

The school psychologist is responsible for arranging and facilitating the reevaluation IEP meeting. The parent must be invited to participate in every IEP meeting, including every reevaluation IEP meeting. See the [Ensuring Parent's Presence](#) section for more instructions.

Before the reevaluation IEP meeting, the IEP team members should consult with each other to review the assessment reports and begin drafting

present levels of performance and annual goals.

Refer to the sections above for information regarding the composition of the [IEP team](#), the [role of each member](#), and conducting the IEP meeting.

At every reevaluation IEP meeting, the IEP team must determine whether the student continues to meet the eligibility criteria for special education as well as his/her disability classification. See [Eligibility](#) section for more information. If the IEP team believes the student continues to meet the eligibility criteria for special education, they should proceed with the development of the new IEP.

If the IEP team determines that the student no longer meets the eligibility criteria for special education and can be placed in a general education program on a full-time basis without any special education services or supports, the IEP team will determine that the student should be declassified from special education.

The IEP team must determine whether the student requires declassification services. If declassification services are appropriate, the IEP team will identify the service and indicate the projected date of initiation of such services, the frequency of provision of such services, and the duration of such services. Services may include, but are not limited to instructional support remediation, instructional modifications, and individual and/or group counseling or speech. These services may continue for up to one year after the student enters the full-time regular education program.

In addition, a student who is declassified is eligible to receive testing accommodations if specified on the declassification IEP notice. A student who was declassified in grades 8-12 may be eligible for the Safety Net graduation options if his/her last IEP specifies Safety Net-eligibility. The Safety Net graduation options allow students eligible for the Safety Net to graduate with a local diploma if they meet certain conditions. For more information regarding Safety Net graduation options and eligibility, see [Graduation Options](#) and pages 18-20 of the [High School Academic Policy Guide](#).

To declassify a student, follow the instructions in the SESIS Guide [How to Declassify a Student in SESIS](#). The IEP team must create a **PWN: Declassification** and send to the parent along with the **Recommendations Upon Declassification** from the **Declassification from Special Education Services** document. Record all parent contact and outreach in the **SE SIS Events Log**.

<sup>105</sup> If a student is enrolled in private/religious school at private expense, or if a parent is home schooling the student, the DOE may not use due process procedures to conduct a reevaluation.

## Amending the IEP

An IEP may be changed (“amended”) either with an IEP meeting or, in limited circumstances, without an IEP meeting. In all cases, an IEP recommendation must be appropriate, considering the student’s individual needs.

An IEP may not be amended without an IEP meeting for:

- changes to the IEP that require the participation of the school psychologist on the [IEP Team](#);
- changes to the student’s program recommendation (special class, ICT, SETSS).<sup>106</sup>

Changes to the student’s program recommendation include changes from one special education program recommendation to another, whether moving to a less restrictive recommendation (e.g. special class to ICT) or to a more restrictive recommendation (e.g., ICT to special class). Additionally, the following changes should not be made without an IEP meeting, unless determined appropriate by the teacher and/or relevant related services provider:

- Discontinuation of paraprofessional support;
- Discontinuation of a related services recommendation.

In general, an IEP may be amended in the below circumstances without an IEP meeting, as long as the resulting IEP contains appropriate recommendations for the individual student:

- Changing a staffing ratio from 12:1 or 12:1+1 to 15:1 for a student articulating to a special class in high school
- Removing a subject on the IEP when:
- It is not offered to any student in the school (e.g., removing music from the IEP when no student is receiving music instruction that semester); or
- The high school student has earned all credits in that subject or has completed the requirement and will not have it on their schedule
- Adding a subject to the IEP when the IEP team did not anticipate that the student would be taking that subject, and the student requires a special education program for that subject
- Changing the language of service to English for ELA, when it was recommended in error in another language
- Changing the frequency, duration, and/or projected start date of a

program<sup>107</sup>

- Correcting use of “other” in the SESIS subject drop-down menu
- Correcting a clerical error

An amendment may not be made based on the availability or unavailability of a special education program or related service (whether in general or in a particular district or school). The IEP must contain appropriate recommendations for the individual student, irrespective of the availability of the program or service. The school/CSE must immediately seek support from the BCO as needed in ensuring that the recommendations are provided if any are not currently available at the student’s school.

The amendment process may begin with a request from the school/CSE or from the parent. In either case, **no amendment to the IEP without an IEP meeting may be made without the parent’s written consent** to the amendment.

Before an IEP can be amended without an IEP meeting, the proposed change(s) must be described on the **Waiver of IEP Meeting to Amend IEP** form. This form must clearly and specifically describe all proposed change(s), in language understandable to the parent. The Waiver of IEP Meeting to Amend IEP must be sent to the parent, and a member of the IEP team must discuss the proposed change(s) with the parent to ensure that the parent understands the proposed change(s) in full. See SESIS Guide [Amending an IEP with Waiver of IEP Meeting](#) for more information.

If the parent does not understand the proposed change(s), does not agree with or does not respond to the proposed change(s), or wishes to discuss them with the IEP team, **the changes cannot be made without an IEP meeting.**

If the parent agrees to the changes and returns the signed **Waiver of IEP Meeting to Amend IEP**, the signed Waiver of IEP Meeting to Amend IEP must be faxed into SESIS, and the agreed upon change(s) are made to the IEP in SESIS. As at the conclusion of an [IEP meeting](#), the IEP and **PWN: Recommendation** must be issued to the parent within 10 business days, and all relevant teachers, related service providers and administrators must be notified of the change(s) made to the IEP and informed of any new [implementation responsibilities](#).

An amendment to the IEP without a meeting does not change the date by which the student’s next annual review IEP meeting must be conducted.

<sup>106</sup>If a school/CSE believes an amendment without an IEP meeting is urgently needed for a change to the student’s program recommendation or a change to the IEP that would require the participation of the school psychologist at the IEP meeting, guidance should be sought from the supervisor of psychologists or chairperson on how to proceed.

<sup>107</sup> If the change in the frequency and/or duration of the program is extreme enough to substantially change the student’s access to the program, an IEP meeting is required.



## School Location Letters and Informed Consent for the Provision of Special Education Services

In an initial case only, informed written consent for the provision of special education services must be obtained from the parent before any special education services may be provided to the student. The **Consent for Initial Provision of Services** form, included in the **Prior Notice Package for Placement**, is used for this purpose.

At the conclusion of an initial IEP meeting at which the student has been recommended for a program that will be provided in the student's current school, the case manager must ensure that the **Consent for Initial Provision of Services** form is issued to the parent along with the **PWN: Recommendation** and the student's IEP

- at the conclusion of the IEP meeting, if the IEP has been finalized; or
- within 10 business days of the IEP meeting, if the IEP was not finalized at the conclusion of the IEP meeting.

Following an initial IEP meeting at which the student has been recommended for a program that will require a new school (i.e., for a recommendation of a specialized school, or a specialized program or special class that is not available and cannot be created in the student's current school), a **School Location Letter** must be issued to the parent along with the **Consent for Initial Provision of Services** form. This may be at the conclusion of the IEP meeting (with a copy of the finalized IEP and the **PWN: Recommendation**) if the IEP has been finalized and the new site has already been determined.<sup>108</sup>

The **School Location Letter** indicates the school the student may attend to receive the recommended special education program and services; reminds the parent of his/her right to visit the school;<sup>109</sup> and includes a contact name and phone number so that a visit may be arranged. School Location Letters must be issued by the applicable [timeline for placement](#).

If the parent has not signed and returned the **Consent for Initial Provision of Services** form within seven (7) calendar days of its issuance, outreach must be conducted, including, at a minimum:

- Two attempts at telephone contact at different times of the day; and
- A follow-up letter sent to the parent by mail; and
- If the parent could not be reached by phone and no message was left, a follow-up letter sent home with the student ("backpacked"), if s/he attends a DOE public school.

All contacts and attempts to contact the parent must be documented in the **SEGIS Events Log**, including the appropriate **"Response Type"** and **"Log Type"**.

If the parent signs and returns the **Consent for Initial Provision of Services** form, the case manager ensures that an **Authorization to Attend Letter** is issued to the parent.<sup>110</sup> The **Authorization to Attend Letter** is created through SESIS as described in the [School-Based Parental Notification of Placement Step-by-Step Procedures: Completing the Authorization to Attend Letter](#) instructions.<sup>111</sup>

For cases other than initials, following an IEP meeting at which the student has been recommended for a new program that will require a new school, a **School Location Letter** must be issued to the parent. Upon the parent's acknowledgment<sup>112</sup> that the student will attend the new school, the **Authorization to Attend Letter** is [created](#).

At the conclusion of any IEP meeting at which a recommendation is made that will require a new school site, the parent must be given the contact information for the relevant placement office, to: obtain additional information about the program, local schools where it may be available, and the composition of available classes (range of students' ages and functional levels); facilitate site visits; and discuss any concerns.<sup>113</sup>

<sup>108</sup>As soon as the possible need has been identified, schools/CSEs should contact the relevant placement office to ensure that a site can be offered as soon as possible.

<sup>109</sup>The parent has the right to visit the school and see the proposed class before or after providing consent (initial case) or acknowledging that the student will attend (cases other than initials).

<sup>110</sup>A copy will be available to the sending and receiving school in SESIS.

<sup>111</sup>If the parent does not consent to the provision of special education services within 45 days after appropriate outreach has been conducted and documented, the case may be closed in SESIS. The DOE may not initiate mediation or file a due process complaint to compel the provision of special education services.

<sup>112</sup>For cases other than initials, this acknowledgment does not have to be in writing. Any oral acknowledgment and conversation regarding the placement must be recorded in the **SEGIS Events Log**.

<sup>113</sup>If a DOE member of the IEP team has detailed information about the program and its availability, this conversation may occur at the conclusion of the IEP meeting.

## Withdrawal of Consent for the Provision of Special Education Services

After the parent has provided informed written consent for the initial provision of special education services, the parent has the right to withdraw that consent at any time. The school/CSE does **not** have the right to utilize mediation or due process proceedings to compel the continued provision of special education services.

If the parent indicates the intent to withdraw consent for the provision of services, the parent must be provided the **Parent Withdrawal of Consent** form. If the parent signs and returns the form, the school/CSE must fax it into SESIS using the Case Closing fax coversheet.

Upon receipt of the signed Parent Withdrawal of Consent form, the school/CSE must create the **Parent Revocation – Notice of Termination** document in SESIS. The effective date of the revocation will be 11 school days from the date the notice is sent to the parent. Send the completed **Parent Revocation – Notice of Termination** document to the parent. The school/CSE must arrange for the termination of all IEP-based services as of the effective date indicated in the Notice of Termination.<sup>114</sup>

All steps and communications with the parent regarding the withdrawal of consent and termination of services must be recorded in the **SE SIS Events Log**. For full instructions on this process in SESIS, please see the corresponding [SE SIS guidance](#).

If the parent has withdrawn consent for the provision of services, the student is no longer considered to be a student with a disability, with respect to the protections and services required by the IDEA. This includes the protections afforded during disciplinary removal proceedings, unless the student has a Section 504 plan. If the parent would like the student to resume receiving special education services a new initial referral is required.<sup>115</sup>

<sup>114</sup> Once services have been terminated, the DOE will not be considered to be in violation of the requirement to make available a FAPE to the student because of the failure to provide further special education programs and services; is not required to convene IEP meetings or develop an IEP for the student for further provision of special education programs and services; and is not required to amend the student's education records to remove any references to the student's receipt of special education programs and services, on the basis of the revocation of consent.

<sup>115</sup> Withdrawal of consent does not affect the student's eligibility for Section 504 accommodations.

## Placement

### Provision of Special Education Programs (Special Class, ICT and SETSS)

To the greatest extent possible, students with IEPs attend the same schools and programs they would if they did not require special education services. Students with IEPs may participate in the same admissions processes as students without IEPs, including admissions to zoned, test, audition, and screened schools and programs.<sup>116</sup> These schools and programs must serve students [in accordance with their IEP recommendations](#) whenever possible, and therefore must proactively plan for the provision of recommended special education programs to **both current and incoming students**.<sup>117</sup>

The Checklist for Organizing Resources (CORe) helps school leaders and the [School Implementation Team \(SIT\)](#) to analyze their overall instructional and programming needs, evaluate current resources (e.g., budget, staff, space), and make strategic decisions about how to deploy resources to serve all students in accordance with their IEPs. If a school believes it is unable to fully implement a current or incoming student's IEP, the school must request assistance from the BCO. The BCO will review the CORe and offer recommendations and resources, if needed, to best meet students' needs.<sup>118</sup> The central Special Education Office will review a CORe if the BCO unable to resolve the matter.

When a student recommended for ICT or special class has been admitted to or newly identified by a school that does not have space in the recommended class, the school must immediately notify the parent and, in consultation with the parent, develop and implement a plan for providing appropriate interim supports, as needed.<sup>119</sup> If a school believes it will be unable to provide a student's recommended [special class](#) program, the CORe should be completed immediately. (A student who is not receiving his/her recommended special class program may be eligible for a [P-1](#), which, if required, must be issued [in addition to](#) any interim interventions.)

If the student's IEP was not developed at the school, a multi-disciplinary team should review the student's strengths and needs and, if it appears that there may be other program recommendations that could meet the student's needs, the school should convene an IEP meeting to consider these options, along with any other information, concerns or preferences shared by the parent. As in all situations, IEP recommendations **must be based on their appropriateness for the student's needs**, [not the availability or unavailability of a program or service at the school](#).<sup>120</sup>

### Special Class and ICT Composition and Variances

#### Special Class Composition

For special classes with a ratio of 12:1, 12:1+1 or 15:1, students' achievement levels in reading and math should generally not exceed a range of 3 years. If a school operates a class in which the **range of both reading and math achievement levels exceeds 3 years**, the school must provide the BCO and the parent of each student in the class a description of the range of reading and math achievement levels and the general levels of social development, physical development and management needs by November 1 each year. The parent of any new student offered or entering that class must be provided the same information.

The age range within a special class **may not exceed 36 months**, [except](#) that the age range is not limited within a special class for students age 16 and older, or a special class with a ratio of 12:1+(3:1) (often called 12:1+4).

In exceptional circumstances, when all options have been exhausted without resolution, a variance may be requested from NYSED to allow an additional student beyond the maximum number (e.g., 12 students in a class with a 12:1+1 ratio, 15 students in a class with a 15:1 ratio) to be added to a special class, or to allow the 36-month age range to be exceeded. The school may [not](#) place the student in the class until after the [variance procedure](#) has been followed and the variance has been approved by NYSED.

<sup>116</sup>For more information on enrollment and admissions policies, please see Chancellor's Regulation A-101.

<sup>117</sup>Schools receive access to view an incoming student's IEP in SESIS when an [Authorization to Attend](#) letter is finalized or, for students articulating or Turning 5, the day after list notice or the day after the School Location Letter is generated, respectively.

<sup>118</sup>Schools should contact their ASE with any questions about using the CORe. Please see [CORe resources](#) for more information.

<sup>119</sup>This must include specialized instruction services, and, as needed, may include other supports such as a paraprofessional.

<sup>120</sup>Note procedures for [resolving conflicts at the IEP meeting](#), and for [notifying parent](#) of [due process](#) rights, including [pendency](#), if the parent disagrees with any changes to the IEP.

## ICT Class Composition

A maximum of 12 students with IEPs<sup>121</sup> may be placed in an ICT class, and the number of students with IEPs may not exceed 40% of the total number of students in the class.

NYSED allows one additional student with an IEP to be added to a particular period or class (for a total of 13) after the start of the school year when it receives notification within 10 days of the student joining the class. The 13th student may be added only after the variance procedure (below) has been followed and SEO has approved the placement.

## Variance Procedure

If the school has an appropriate special class or ICT but cannot place the student in the class without exceeding regulatory limits, and no other appropriate options to serve the student or others in the class have been identified, the school should draft a variance notification (ICT) or variance request (special class) and submit it to the ASE for review. The forms can be found [here](#). **Schools and BCOs may not submit variance notifications or requests directly to NYSED.**

The ASE will review the draft variance notification/request and may work with the school to meet all students' needs without exceeding maximums. If the ASE confirms that the class was in compliance at the beginning of the school year and agrees that a variance is warranted, the ASE will submit the draft notification/request to [Variances@schools.nyc.gov](mailto:Variances@schools.nyc.gov). SEO will review the draft, and may either provide further assistance or submit the variance notification/request to NYSED. SEO will inform the ASE of the decision.

Approved variances remain in effect only through the end of the school year. The school is expected to develop plans for the coming school year to ensure compliance with regulatory requirements.

## Monitoring Provision of Special Education Programs: The Program Services Report

Beginning in late August, principals and their designees receive a weekly Program Services Report via SESIS messaging. The Program Services Report lists the recommended special education programs (ICT, SETSS, special class) from each student's most recently finalized IEP, along with data from STARS. Principals should use the report to ensure that all students are fully served (including language of instruction, class type

and subject), and to resolve discrepancies between IEP recommendation (SEIS) and course programming (STARS). For instructions on how to access the report from the SESIS homepage, watch [How to Use the Program Services Report video](#).

BCO academic policy and systems leads and ASEs, should support schools in resolving discrepancies between SESIS and STARS and ensuring that all students are fully served. BCO academic policy and systems leads can access their schools' report in the OPE Data folder in their [R-drive](#); ASEs can access the report in their respective BCO folder in their [R-drive](#). For additional SESIS/STARS Program Services Report resources, including [FAQs](#) and troubleshooting strategies, see the [SEIS wiki](#) and [STARS wiki](#). For additional assistance troubleshooting a Program Services issue, follow this [escalation path](#).

## Arranging SETSS and ICT

For continuing students, schools will make best efforts to provide recommended SETSS services on the first scheduled date of attendance of the new school year. For continuing students or students with placements deferred to the start of the school year in September, schools will identify and assign a DOE SETSS teacher within 2 school days of the start of the school. During the school year, schools will identify and assign a DOE SETSS teacher within 2 school days of receipt of parental consent for initial provision of services.

If a DOE teacher is not available, an authorization for SETSS Services ("P-4") should be provided to the parent by the BCO within an additional 5 school days. The P-4 sets forth the frequency and duration of services, and includes instructions on how to invoke the P-4 and information on whom to contact at the DOE for assistance. The parent will be provided with information on available providers.

If a student is recommended to receive ICT and has not been placed in (or offered placement in) an ICT class within 60 school days of the date of consent (initial) or referral (reevaluation) and the student's current placement is in a more restrictive environment than ICT, the student may remain in the current placement, unless the DOE and the parent agree to place the student in a general education class with two periods of SETSS in the interim. If the student's current placement is in a less restrictive environment (i.e., general education, SETSS, related services only), then the school will provide the student with two periods per day of SETSS as an alternative until the ICT class is available.<sup>122</sup> If two periods per day of SETSS cannot be provided by the student's current school, the parent must

<sup>121</sup> This includes all students with IEPs in the ICT class (not only those students whose IEPs recommend ICT).

<sup>122</sup> The IEP recommendation is not changed.



be provided a P-4 for two sessions of SETSS per day.<sup>123</sup>

If a P-4 has been issued and a provider cannot be identified by the parent, a request for an “enhanced rate” may be made. Parents are informed in the P-4 letter that if they have made good faith efforts to identify a provider and were unsuccessful, they should contact the DOE representative indicated on the letter. Upon receipt of a request for an enhanced rate for SETSS services (which must include: provider information; frequency, duration and intended start and end date of service; hourly rate; Parent’s Affidavit, filled out its entirety and notarized; Provider’s Affidavit, filled out its entirety and notarized; copy of the Resolution Agreement (if applicable)), the BCO/CSE must review the submission and make the final determination whether to approve the request. A selected provider must have the appropriate credentials as defined in the P-4 Letter.<sup>124</sup>

## Identifying and Assigning an ENL Teacher

During the school year, a DOE ENL teacher must be assigned within 2 school days of parental consent for the initiation of services. For continuing students or students deferred to the start of the school year in September, the school will identify and assign an ENL teacher within 2 school days of the start of the school year in September. If a DOE ENL teacher is not available, an authorization for ENL Services (the “ENL Authorization”) should be issued within an additional 5 school days, and the parent notified of available providers, whom to contact at the DOE for assistance, and how to invoke the authorization.

## Arranging Related Services

If monolingual and bilingual counseling, monolingual and bilingual speech, occupational therapy and/or physical therapy are recommended on a student’s IEP, the school will assign a DOE provider within 2 school days of receipt of parental consent for provision of services during the school year. For continuing students or students deferred to the start of the school year in September, the school will identify and assign a DOE provider within 2 school days of the start of the school year in September.

<sup>123</sup> Issuance of the P-4 may be delayed beyond the 60th day to the extent there was substantial documented parental delay (e.g., the parent repeatedly fails to produce the student for evaluation), provided appropriate outreach was made and documented.

<sup>124</sup> An employee of the New York City Department of Education may not serve as an “enhanced rate” provider.

<sup>125</sup> For a student awaiting a provider for bilingual speech therapy, see [Interim Monolingual Speech](#).

<sup>126</sup> The enrollment and admissions rights described here apply to any student who was attending a DOE school at the time s/he became homeless or moved to a different temporary housing situation, even if that new temporary residence is outside New York City. These rights also extend to students currently enrolled in pre-K.

<sup>127</sup> For a student who is recommended for a District 75 program or bilingual special class or ICT, or a student who is receiving services in the ASD Nest or ASD Horizon program, a school serving the student’s

If a DOE provider is not available, the BCO/D75 will request services from agencies under contract with the DOE. If the BCO/D75 is unable to locate a related service provider within an additional 13 days, the BCO/D75 will issue a Related Service Authorization letter (“RSA”) to the parent. The parent will be provided with information on [available providers](#) and instructions on how to invoke the RSA. The school must work with the BCO/D75 to provide assistance to parents in identifying an independent provider, as well as to continue to seek a DOE or contract agency provider for all unserved mandates after an RSA has been issued.<sup>125</sup>

Related service provision must be recorded in [SESIS encounter attendance records](#) and SESIS provider assignment (for [contract](#) and [RSA providers](#)). **Schools should review their weekly SESIS Mandated Services Report to determine current levels of reported compliance and identify any students for whom service provision has not been recorded. Schools in need of assistance assigning providers and accurately reflecting service provision, should contact the BCO/D75.** Additional information on the use of SESIS to manage and record services is available through an [interactive guide](#).

## Students in Temporary Housing

Students in temporary housing<sup>126</sup> must be enrolled immediately with or without documentation normally required for enrollment. This requirement is mandated by the McKinney-Vento Homeless Assistance Act. Students in temporary housing have the right to attend:

- The school the student was attending when last permanently housed (“school of origin”);
- The last school in which the student was enrolled (“school of origin”); or
- A new school the student is eligible to attend.

It is often in the best interest of the student to remain in the school of origin; however, the parent can choose to enroll the student in a new school.

This decision is made by the parent. Students in temporary housing cannot be involuntarily transferred to a new school based on the new residence, even in light of chronic absence or lateness. If the parent chooses to enroll the student in a new school, the student has equal access to the school options available to his/her peers, including zoned and non-zoned schools.<sup>127</sup>

See [Students in Temporary Housing](#) for more information on special education issues related to students in temporary housing.

## Accessible Schools

Accessible schools are located in buildings where an individual with a mobility impairment may enter and access all relevant programs and services, including the science laboratory, library, cafeteria, and gymnasium; there is also at least one accessible restroom. All students with accessibility needs will be provided an accessible school.<sup>128</sup>

When participating in elementary, middle, or high school admissions, families are encouraged to visit each school they intend to list on their application to confirm that the school is located in a building that will meet the student's accessibility needs.

If a student receives an offer to a school that does not meet his or her accessibility needs, is new to New York City and is zoned or assigned to a school that does not meet his or her accessibility needs, or has a new accessibility need that is not met by his or her current school, the parent may request reasonable accommodations (in the current, offered or assigned school) by emailing [Accessibility@schools.nyc.gov](mailto:Accessibility@schools.nyc.gov). The parent may also request a new placement by emailing [ESEnrollment@schools.nyc.gov](mailto:ESEnrollment@schools.nyc.gov) (elementary school) or [MSEnrollment@schools.nyc.gov](mailto:MSEnrollment@schools.nyc.gov) (middle school) or by participating in the appeals process (high school). Alternatively, the parent can visit a Family Welcome Center to discuss the student's accessibility needs and options for placement.

IEP teams document students' specific accessibility needs in the [Present Levels of Performance](#) section of the IEP under "Physical Development." If the student requires an accessible school, the IEP team checks the "Yes" box for "Accessible Program".

## Specialized Programs in District 1–32 Schools

Some students may benefit from uniquely designed classroom environments and service models, called specialized programs. Students are selected for specialized programs based on an application process. For more information on these programs, including applications or family guides,

visit the [specialized programs website](#), or email [specializedprograms@schools.nyc.gov](mailto:specializedprograms@schools.nyc.gov) (for ACES) or [ASDprograms@schools.nyc.gov](mailto:ASDprograms@schools.nyc.gov) (for ASD Nest and Horizon programs).

### Academics, Career, and Essential Skills (ACES)

The ACES program provides a special class in a District 1–32 school for some students who are classified as having an intellectual disability (ID) or multiple disabilities (MD), and who (starting in third grade) will participate in alternate assessment. These programs provide academic instruction and help students learn skills needed for daily living.

### Autism Spectrum Disorder Programs: ASD Nest and ASD Horizon

The ASD Nest program is designed for students on the autism spectrum whose academic abilities are on grade-level and whose primary need for support is in the areas of language and social skill development. ASD Nest programs provide reduced-size Integrated Co-Teaching (ICT) classes in district 1–32 schools, with teachers who are trained to design instruction for students with autism.

The ASD Horizon program is designed for students on the autism spectrum whose academic abilities are approaching or below grade level. ASD Horizon provides a special class with a ratio of 8:1+1 in a district 1–32 school with instructional and interpersonal supports. The principles of Applied Behavior Analysis (ABA) are used in everyday instructional practices.

## Alternate Placement for Students Recommended for Bilingual ICT or Bilingual Special Class

An alternate placement is an interim service provided when a student's recommended bilingual ICT<sup>129</sup> or special class is not available. An alternate placement is a monolingual ICT or special class, with a paraprofessional who is bilingual in the recommended language of instruction of the student(s) awaiting a bilingual class.<sup>130</sup>

The principal is responsible for ensuring that the classroom teacher

new residence and offering the applicable program will be identified if possible.

<sup>128</sup>In some cases, programs may need to be re-located to accommodate access.

<sup>129</sup>An ICT class is considered bilingual if one of the two teachers is a certified bilingual teacher.

<sup>130</sup>One paraprofessional is needed for each language for which student's in the class are awaiting placement.

receives 10 hours of training in English as a second language methodology, techniques and materials, if such training has not already been provided. In order to promote more effective instruction, the DOE must seek to cluster students in need of alternate placement classes according to their functional needs, appropriate age range and language, rather than having individual students with alternate placement paraprofessionals in many different classes – subject to a parent's wishes for the student to remain in his/her current or local/chosen school.

A student in an alternate placement remains “awaiting a site offer” until such time as the student is placed in an appropriate bilingual class, or the IEP team determines that the student no longer requires bilingual ICT or special class services.

The Special Education Office monitors the need for and availability of bilingual ICT and special classes, offering the recommended bilingual programs to awaiting students as the programs become available. **Whenever an IEP team makes a new recommendation for bilingual ICT or bilingual Special Class, or when a new student arrives at a school that does not have the student's recommended bilingual ICT or bilingual special class, the school/CSE must email [BSEPrograms@schools.nyc.gov](mailto:BSEPrograms@schools.nyc.gov) (including the student's name and NYCID) so that the recommended placement can be offered if available.**<sup>131</sup>

## Placement in State-Approved / -Supported / -Operated Programs

### Placement in a State-Approved Non-Public School (NPS) through the Central-Based Support Team (CBST)

When the IEP team makes a recommendation for a NYSED-approved non-public school (NPS), the CBST case manager will identify schools that may be appropriate for the student based on the student's profile, including but not limited to: the student's educational functional level, age, IQ, and disability classification. These factors, coupled with the case manager's knowledge of the school's population, determine the schools to which the student's information is forwarded for consideration. The CBST case manager will contact the parent to explain the application process and discuss schools that may be appropriate.

The NPS then makes a determination regarding whether to interview the student and ultimately, whether to accept the student. CBST will assist the parent with arrangement of transportation to interviews, as needed. Once an NPS has accepted the student, the CBST case manager will receive

<sup>131</sup> The number of students in alternate placements must be reviewed at least twice a year.

a copy of the acceptance letter. A parent may also secure acceptance at an NPS, in which the CBST case manager must continue to assist in the placement process.

For reevaluations and initial cases, once a school has been identified, the CBST case manager will notify the parent of the acceptance and will send the Notice of Securement to the school/CSE. For initial cases, the school/CSE will seek [initial consent](#) for the provision of special education services and notify the CBST case manager when consent has been received.

A new IEP meeting is generally not required for the student to begin attending the NPS. However, if the student's need for [specialized transportation](#) and/or [transportation accommodations](#) may have changed based on the location of the NPS, or if other changes to the IEP may be needed based on the NPS's service delivery model, the school/CSE must immediately convene an IEP meeting or seek a [waiver to amend the IEP without a meeting](#), to ensure that appropriate recommendations are made and transportation arranged so that the student can begin attending the NPS as soon as possible.

### Consideration of State-Supported Schools (4201) and State-Operated Schools

[State-Supported \(4201\) Schools](#) and [State-Operated Schools](#) are special education schools serving students with severe emotional disabilities, students with severe physical disabilities, students who are blind, and students who are deaf. State-Supported and State-Operated Schools offer day programs, and some also offer a five-day residential program.

The parent or the IEP team may submit an application to NYSED for a State-Supported or State-Operated school. The application must be supported by written evidence of blindness, deafness or severe physical or emotional disability. The parent will need to make arrangements with the school for an evaluation. The school will evaluate the student's special education needs and eligibility for its program, and forward the results of the evaluations and the acceptance determination to the DOE school/CSE. If the student is accepted, the DOE school/CSE will convene an IEP team meeting and complete all required documentation before forwarding to NYSED for final approval.

Any recommendation for placement in a State-Supported or State-Operated School must be confirmed by NYSED. For further information regarding the application process, see: <http://www.p12.nysed.gov/specialed/lawsregs/sect2007.htm>.

## IEP Development and Recommendations for Students Admitted to Office of Mental Health (OMH) Programs

The New York State Office of Mental Health certifies nonresidential programs designed for the purpose of providing a comprehensive array of services for students with serious emotional disturbances through integrated mental health and special education services. These programs are commonly known as Day Treatment Programs (DTPs).

A student is admitted by the DTP in accordance with the program's admission criteria. Entry into a DTP can take place through a referral by the IEP team at the school the student attends, by a parent, or by a 45-day [Intensive Day Treatment](#) facility that is serving the student. An IEP team may not recommend that a student receive services in the educational component of the program unless the DTP has accepted the student.

When a DTP is considering admitting a student in accordance with its admission criteria, the DTP must immediately request an initial evaluation/reevaluation to the student's school/CSE. The DTP will make available to the IEP team any relevant assessment materials (e.g., psychiatric assessment). A representative of the DTP Treatment Team must be invited to participate in the IEP meeting (and may participate by telephone). If a DTP Treatment Team representative does not participate in the IEP meeting, the IEP team must seek and consider written input from the DTP.

If, at the IEP meeting, it is determined that the student has a disability and that educational services at the DTP are appropriate to meet the student's special education needs, the IEP is completed as follows:

- Under Recommended Services, enter the special class ratio (e.g., 8:1:1, 15:1:1);
- Under Management Needs, incorporate that Verbal Therapy will be provided "as needed";
- Related services not provided by the DTP must be included as usual (i.e., including frequency, duration, etc.).

## Home and Hospital Instruction

Home and hospital instruction are educational services provided to students who are unable to attend school due to a medical/physical condition, severe emotional/psychological/behavioral disability, or hospitalization.<sup>132</sup> For a student to receive home instruction, the anticipated duration of the student's absence must be at least four weeks. In general, when a student's absence is expected to last less than one school year,

<sup>132</sup> Home instruction may also be provided for a student if the student is the parent of a child who has a medical/physical condition which prevents the child from using LYFE or other day care services.

<sup>133</sup> Note that a [P-1](#) must be issued under these circumstances, if and when the student is eligible, irrespective of the decision provide home instruction.

<sup>134</sup> Review the [SESIS/STARS Program Services Guide](#) for details on submitting this referral.

home instruction should not be recommended as the program on the student's IEP.

When an absence of at least four weeks is anticipated, parents are encouraged to make arrangements for home instruction to begin as soon as possible. Schools/CSEs must inform parents of the availability of home instruction and assist the parent to submit the documentation required by and included in [Chancellor's Regulation A-170](#).

If a student is awaiting placement in a specialized school ([NPS or D75](#)) and cannot be maintained in their current setting, even with the addition of supplementary aids and services, home instruction may be provided on an interim basis. Schools/CSEs should immediately contact their supervisor of psychologists or chairperson for guidance when this situation arises.<sup>133</sup>

Students in a hospital setting receive instruction after a hospital physician makes a determination that a student is medically able to do so. Hospital instruction ends when the student is discharged from the hospital. If the student may still be too ill to return to school upon discharge, parents should be encouraged to proactively submit a request for home instruction before the student is discharged from the hospital to avoid delay in transitioning to home instruction. Schools should provide support to parents throughout this process.

For detailed information about DOE home and hospital instruction policy and procedure, see [Chancellor's Regulation A-170](#), Home and Hospital Instruction Programs: Academic Policy and Systems Guidance, and the [Home Instruction Schools webpage](#).

## Home Instruction IEP Recommendations

Home instruction may be an appropriate IEP program recommendation for a student who has a medical/physical condition or severe emotional/psychological/behavioral disability that is expected to prevent him/her from attending school for an extended period of time (i.e., one year or longer). If the school/CSE believes that home instruction may be an appropriate recommendation, it must submit a referral to the Office of Home Instruction through SESIS prior to the IEP meeting, and consult with the supervisor of psychologists.<sup>134</sup> If consensus cannot be reached on the recommendation, see [Resolving Conflicts at the IEP Meeting](#). If it is determined at the IEP meeting that home instruction is the appropriate recommendation for the student, the IEP must specify the type, location, frequency, duration, and projected beginning service date(s) of home instruction and related services that the student will receive under **Recommended Special Education**



**Programs and Services.** For [example](#):

#### RECOMMENDED SPECIAL EDUCATION PROGRAMS AND SERVICES

| Special Education Program/Services            | Service Delivery Recommendations | Frequency How often provided | Duration Length of session | Location Where service will be provided | Projected Beginning/Service Date(s) |
|---|----------------------------------|------------------------------|----------------------------|---|-------------------------------------|
| Special Education Program: Special class      | Individual home instruction      | 5 days/ week                 | 2 hours / day              | Student's home                          | 9/7/17                              |
| Related Services: Speech and Language Therapy | Individual                       | 5 days/week                  | 30 minutes per session     | Student's home                          | 9/7/17                              |

An elementary school-age student must be recommended for at least 5 hours of home instruction per week. A secondary school-age student (grades 7–12) must be recommended for at least 10 hours of home instruction per week. The IEP team should seek input or participation from the Office of Home Instruction in making an individual determination as to the appropriate number of hours of instruction per week, taking into consideration the student's unique circumstances and ability to tolerate instruction for extended periods, the student's instructional needs, and the intensive, personal, 1:1 nature of home instruction.

If home instruction is being recommended, an IEP meeting should be held within 6 months to review the student's progress and continuing need for home instruction and to ensure that a return to school is considered as soon as it may be possible.<sup>135</sup>

#### Affiliated School Responsibilities for Students Receiving Home Instruction or Hospital Instruction

When a student is receiving home/hospital instruction, the school with which the student is affiliated must participate in shared instruction with the home/hospital instruction provider. Shared instruction means that the school should be in contact with the home instruction provider to provide him/her with the student's curricular materials and other work.

If the student is affiliated with a DOE school, that school remains responsible for the student's case while the student is receiving home/hospital instruction, including conducting [Annual Reviews](#) and [Reevaluations](#), ensuring the participation of the home/hospital instruction teacher.<sup>136</sup>

Students who are enrolled in home or hospital instruction who do not have IEPs at the time of enrollment may be referred for [initial evaluation](#), as needed.

- If the student's affiliated school is a DOE school, the evaluation is conducted by that school, with support from the Office of Home Instruction.
- If the student's affiliated school is not a DOE school, the evaluation is conducted by the applicable CSE, with support from the Office of Home Instruction.

When a student with an IEP recommendation for home instruction is ready to return to school, or when a student receiving home or hospital instruction is returning to school and their educational or related service needs may have changed, the school/CSE must refer the student for [reevaluation](#). In the IEP meeting following the reevaluation, the school/CSE must ensure that the home/hospital instruction teacher participates in the IEP meeting.

<sup>135</sup> [Documents](#) must be submitted to the Office of Home Instruction on a yearly basis, but are not required for every IEP meeting.

<sup>136</sup> The home/hospital instruction teacher may participate in the IEP meeting by phone if they have all documents that may be discussed readily available.

## P-1 / P-2 Procedures

The P-1 (also called a P1-R / P-1R or “Nickerson” letter) entitles the parent to enroll the student in an appropriate NYSED Approved Non-Public School (NPS) at DOE expense, to ensure that the student receives appropriate special class services as needed.

### P-1 Eligibility and Issuance

The P-1 may only be issued by the CSEs, the Impartial Hearing Order Implementation Unit, or the central Special Education Office. Subject to the exceptions that follow, **a P-1 must be issued if and when:**

The student is recommended for a special class for 60% or more of the school week, exclusive of lunch;

#### AND

One of the following circumstances applies:

- The DOE has not offered the student's recommended special class placement on or before the [60th school day](#) from the date of the DOE's receipt of parental consent (initial) or referral (reevaluation), and:
  - Placement was not [deferred with parental consent](#); or
  - If placement was deferred with parental consent until September, the DOE has not offered the student's recommended placement on or before August 15;
- For a student with a continuing special class recommendation who will be articulating to a new school in September, the DOE has not offered the student's recommended special class placement on or before August 15;
- For a preschool student with an IEP turning five years old during the calendar year, the student's recommended placement was not issued by the applicable date in the following chart:

| Turning Five Referral Date                        | Placement Issuance Date                  |
|---|--|
| September 1 <sup>st</sup> – March 1 <sup>st</sup> | June 15                                  |
| March 2 <sup>nd</sup> – April 1 <sup>st</sup>     | July 15                                  |
| April 2 <sup>nd</sup> – May 10 <sup>th</sup>      | August 15                                |
| May 11 <sup>th</sup> – August 31 <sup>st</sup>    | 60 school days from the date of referral |

In addition **a P-1 must be issued** when it is evident that the student's recommendation will be for a special class but the IEP has not yet been finalized, and the applicable due date has passed or will pass without a finalized IEP and placement offer.

Proactive central monitoring of the need for and availability of DOE special classes is necessary to ensure that students are offered appropriate special classes as soon as possible, and that any inability to offer a certain special class is identified so that NPS options may be explored. **A P-1 should be issued at any point prior to the applicable due date when it is evident that the DOE will not be able to offer the student's recommended special class placement on or before the applicable due date.**

A P-1 need not be issued if the delay resulting in the DOE not offering the recommended special class placement on or before the applicable due date is attributable to the parent (e.g., requesting postponement of or not appearing at IEP meetings scheduled with proper notice and attempts to schedule at a time that is [mutually convenient](#)). As always, schools/CSEs must document all interactions and communications with the parent by recording entries in the **SEGIS Events Log** and faxing relevant documents into SEGIS.

To ensure timely issuance of placement offers and P-1s when needed, school/CSE case managers must notify the supervisor of school psychologists / CSE chairperson of students who are awaiting special class placement and are within 10 business days of the applicable due date. The supervisor/chairperson will review the case with the team and work to immediately secure an appropriate public school placement for the student. If no public school placement is available or anticipated to be available by the applicable due date, then:

- the chairperson will issue the P-1;
- the supervisor will send a [Nickerson \(P-1\) Request Form](#) to central SEO ([Nickersons@schools.nyc.gov](mailto:Nickersons@schools.nyc.gov)) for issuance of a P-1.

The P-1 is issued by the authorized user by completing the P-1 in SEGIS. The packet, sent to the parent in full, includes the P-1, P-2, Letter to NPS, [list of NYSED Approved Non-Public Day schools](#) in the metro area, and the current IEP. The list of NYSED Approved Non-Public Day schools in the metro area and the current IEP must be printed separately and included with the P-1, P-2, and Letter to NPS.

When a P-1 has been issued, upon request of the parent, the Central-

Based Support Team (CBST) must assist the parent in identifying an available appropriate NPS placement. **The responsible office (D75, BCO, CSE) must make every effort to identify and offer the recommended public school placement, even after the P-1 has been issued. In cases in which the DOE has not yet offered the recommended public school placement and will not be able to do so imminently, CBST and the responsible office must actively seek appropriate NPS placements for the student, including arranging transportation for the parent to NPS placements when necessary.**

## P-2 Procedures

If an NPS accepts a student pursuant to a P-1, the school completes the P-2, listing the special class ratio and related services that it will provide, and returns the P-2 to the central SEO, as directed in the **Letter to NPS** included in the P-1 packet.

Upon receipt of the completed P-2 from the NPS, the DOE has 15 days to determine whether or not the student's needs can be met by the NPS. If the DOE does not respond to the P-2, after 15 days the P-2 is deemed approved.

If SEO approves the P-2 (including if 15 days expire after the DOE's receipt of the P-2):

- CBST submits the DCERT (STAC approval) online to NYSED.
- The responsible CSE enters the new NPS code in SESIS and arranges transportation.
- If a public school placement had been offered, that placement may be relinquished.

If SEO disapproves the P-2:

- SEO will notify the parent, the NPS, and the issuer of the P-1, detailing the reason for disapproval (e.g., P-1 expired<sup>137</sup>, staffing ratio inappropriate, necessary services not offered<sup>138</sup>).
- The parent may continue to seek an appropriate NPS as long as the P-1 has not expired due to a DOE offer of placement prior to the date noted on the P-1.

Placement in an NPS pursuant to a P-1 is for a limited period, defined by the date on which the P-1 was issued and/or invoked:

- A P-1 issued between July 1 and March 15 will entitle the student to attend an appropriate NPS for the remainder of the current school year only.
- A P-1 issued and invoked between March 16 and June 15 will entitle the student to attend the NPS for the remainder of the current school year and the entire following school year.
- A P-1 issued between June 15 and June 30 entitles the student to attend the NPS for the following school year only.

A student's acceptance/attendance at an NPS as a result of the P-1 process does not mean the student has an educational need for such a setting. At subsequent IEP meetings, the IEP team must pursue a recommendation of the least restrictive environment appropriate, followed by a timely placement offer.

Contact [Nickersons@schools.nyc.gov](mailto:Nickersons@schools.nyc.gov) with any questions on the P-1/P-2 process or a specific case.

<sup>137</sup> Each P-1 has a "guaranteed enrollment period," a date until which the parent may invoke the P-1 even if the student has been offered a DOE placement. The applicable date is automatically populated when the P-1 is generated in SESIS, based on the date the letter is finalized.

<sup>138</sup> NPS class staffing ratios and related service delivery models often vary from the DOE's continuum of special class services. A P-2 will be approved if the class staffing ratio and/or services to be provided are comparable to those recommended for the student. If there are discrepancies of concern, SEO will contact the NPS (and the parent, if needed) to clarify and resolve the issues as much as possible, with the goal of assuring that the student receives appropriate services.

## Students with Disabilities Entering or Returning to NYC

When a student with a disability relocates to New York City, and the family provides a non-DOE IEP (or equivalent document from their city, state, country or territory), a Comparable Service Plan (CSP) must be developed to provide the student with services comparable to those described in the non-DOE IEP. This plan must be implemented until a new IEP has been developed by the DOE. Note that if a non-DOE IEP and/or supporting materials are not immediately available—such is the case with most asylees—self-reported information from the family should be used to create the CSP, as appropriate. Schools should contact their supervisor of school psychologists for support in creating CSPs for students without supporting materials.

### Creating the Comparable Service Plan

When a student moves from another New York State school district to NYC and the family informs the DOE that the student received special education services in the prior district of attendance, the DOE must:

- Immediately (in no more than 5 days), look at whether the student has a profile in SESIS, and request and obtain the student's records from the student's previous school, including the IEP, supporting documents and evaluation materials, and any other records relating to the provision of special education services provided to the student<sup>139</sup>; and
- Meet with the parent to develop a plan to provide the student with services comparable to those described in the non-NYCDOE IEP.<sup>140</sup> This plan is called the **Comparable Service Plan (CSP)**, and it must be implemented until a new DOE IEP has been developed.

Typically the parent will appear at a Family Welcome Center (FWC), which will create the CSP and provide a placement site. The parent may instead appear at the CSE, which should create a CSP. If the student's non-DOE IEP indicates that the student is recommended to attend a specialized school, the FWC will refer the family to the CSE to create the CSP.

Occasionally a student with an IEP will enroll in a DOE school without a CSP already having been created. If no CSP has been created at the time of student's enrollment, the school must create the CSP.

To create the CSP, the FWC/CSE/school should take one of the following courses of action:

- **If the student has a SESIS profile**, the student's External IEP should be faxed into SESIS with the description "Student's External IEP", choosing "IEPs from Outside NYC" in the "category" field and "External IEP" in the "form" field. The Comparable Service Plan (CSP) should be completed in SESIS. After completion, the status of the CSP should be set to "review."
- **If the student does not have a SESIS profile**, and the family appeared at a CSE or appears at a school to register, the school/CSE should create a SESIS profile for the student and fax the External IEP into SESIS with the description "Student's External IEP", choosing "IEPs from Outside NYC" in the "category" field and "External IEP" in the "form" field. The Comparable Service Plan (CSP) should be completed in SESIS. After completion, the status of the CSP should be set to "review."
- **If the student does not have a SESIS profile**, and the family appeared at a Family Welcome Center (FWC), the FWC should not create a SESIS profile. The FWC should create a profile in ATS and should create a CSP on paper. The FWC should provide the CSP and External IEP to the receiving school. The receiving school will then fax the CSP and the External IEP into SESIS after creating a SESIS profile for the incoming student. The receiving school must implement the CSP until a new IEP is created.

The CSP is printed as a **PWN: Recommendation**, showing the services proposed for the student, which includes details regarding service delivery, such as the frequency, duration, location, and projected beginning date of services.

<sup>139</sup>If the student is returning from a New York State Office of Children and Family Services (OCFS) or Administration of Children's Services (ACS) contract facility court-ordered placement, the releasing site should forward documentation to the Office of Student Enrollment ([Reenrollment@schools.nyc.gov](mailto:Reenrollment@schools.nyc.gov)). If a family of a student who will be released from an OCFS placement appears at a CSE, the CSE should email [Reenrollment@schools.nyc.gov](mailto:Reenrollment@schools.nyc.gov) to determine next steps. See the section below for more information regarding [students returning from OCFS placement](#).

<sup>140</sup>If the student is returning to NYC and had an NYCDOE IEP, that IEP should also be referenced when determining the services recommended on the CSP; however, the more recent IEP should be given greater weight.



Once the CSP has been created, a placement will be identified as soon as possible, but no later than five days from the date the family appears at the FWC, CSE, or school for enrollment. The parent will be provided with the CSP and a notice of the school the student will attend. The receiving school will receive the CSP and supporting documentation (e.g., student's records and any other materials received from the student's previous school).<sup>141</sup>

Upon the student's enrollment, the school must immediately program the student according to the CSP. If no CSP has been created at the time of student's enrollment, the school must create and implement the CSP (as per directions above).

## Developing the IEP for Students with Disabilities Entering or Returning to NYC

After a student with a disability enters or returns to New York City and a CSP has been created, the DOE must take the steps below. The steps differ depending on whether the student is coming from another school district in New York State, from out of state, or has been discharged from a court-ordered placement.

### Students Entering NYC from a School District within New York State

The IEP team must develop an IEP in accordance with the procedures set out in this manual. This must be done within 30 calendar days of the student's enrollment at the school. If the IEP team questions the appropriateness of the previous district's service recommendations, the IEP team should consider conducting new evaluations prior to developing the NYCDOE IEP.<sup>142</sup> This determination as to whether to create an IEP or evaluate the student must be made as soon as the student is enrolled in the DOE school or, if the student will not be attending a DOE school, is identified to the CSE to avoid delays.

### Students Entering NYC from Another State

Because each state has its own eligibility requirements, the student's evaluation materials and IEP might not necessarily be consistent with New York State standards. Therefore, the IEP team must determine whether it will adopt the evaluation materials and IEP from the student's prior school.

<sup>141</sup> If the student is currently attending a NYSED-approved Non-Public School, the CSE should determine in conjunction with OPT if it is feasible for the student to be transported from the student's current residence to the Non-Public School. If so, the CSP should indicate the Non-Public School and transportation should be arranged with OPT. The CSE should then proceed with IEP development, which may include consideration of less restrictive placements.

<sup>142</sup> The school/CSE must accept the non-DOE IEP eligibility determination if the IEP was in effect in New York State and the student transferred to an NYC school within the same school year.

This determination as to whether to create an IEP or evaluate the student must be made as soon as the student is enrolled in the DOE school or, if the student will not be attending a DOE school, is identified to the CSE to avoid delays.

- If the DOE agrees with the eligibility determination made by the student's prior school, within 30 calendar days of the student's enrollment at the school, the IEP team at the school in which the student is enrolled must develop a new IEP. If the DOE agrees with the previous eligibility determination but questions the appropriateness of the previous state's service recommendations, the IEP team should consider conducting new evaluations prior to developing the IEP.
- If the DOE does **not** agree with the eligibility determination made by the student's prior school, the IEP team at the student's new school must evaluate the student. The social worker must obtain parental consent to evaluate immediately following the CSP meeting or as soon as possible thereafter.

### Students Discharged from OCFS or ACS Placement Returning to a NYC Public School

To facilitate the transition of students with disabilities returning to New York City Public Schools following placement with the New York State Office of Children and Family Services (OCFS) or Administration for Children's Services (ACS) contract agency placement, the releasing facility will provide certain information to the DOE up to 60 days prior to the student's release. Those materials should be uploaded to SESIS to enable the IEP team to review all relevant materials in developing an IEP.

The school/CSE has 30 calendar days from the date the student is admitted to the school to develop an IEP. If it is determined that new assessments are needed to make an appropriate recommendation, the school/CSE has an additional 30 school days to conduct assessments, hold the IEP meeting, and arrange for the services and program on the IEP.

## Parentally Placed Students

A parentally placed student is a student whose parents have placed him/her in a private or religious school at private expense.<sup>143</sup> The DOE has special education responsibilities for students who are parentally placed in private or religious schools in New York City, including students who reside in New York State outside New York City, and students who reside outside New York State.

For students who reside outside New York City, parental consent must be obtained before any personally identifiable information about the student relating to special education is shared between the DOE and the student's district of residence. The **Request to Share Personally Identifiable Information Form** must be provided to the parent and signed when an initial evaluation or reevaluation is requested.

The school/CSE must determine whether a parent is requesting a Free Appropriate Public Education (FAPE)<sup>144</sup> for the student or:

- “equitable special education services” (for students who reside in New York State); or
- “equitable participation” in special education services (for students who reside outside New York State).

If the parent is requesting FAPE and the student is a New York City resident, the IEP team must develop an IEP and ensure that a placement offer is made for the recommended program.<sup>145</sup> If the parent is requesting FAPE and the student is not a New York City resident, the school/CSE must inform the parent to contact the student's school district of residence for development of an IEP.

If the student is a New York State (including New York City) resident and the parent requests equitable special education services, the IEP team must develop an Individualized Education Services Plan (IESP). An IESP may include services such as related services, Special Education Teacher Support Services, paraprofessionals, and transportation.

If the student resides outside New York State and the parent requests “equitable participation” in special education services, the IEP team must develop a Services Plan (SP). An SP may include services from a list created by the DOE annually.<sup>146</sup>

A representative of the student's school must be invited to participate in the meeting to develop the IESP/SP. If the school representative's participation cannot be obtained, input and documentation from the school must be requested, and considered at the IEP meeting.<sup>147</sup> The CSE is responsible for the case of a student with an IESP/SP, including requested and three-year [reevaluations](#), requested and [annual reviews](#), and arrangement of services (through Provider Assignment).

If the IEP team determines that the student will need [extended school year services](#), an IEP must be developed for the recommended ESY services if the student is a New York City resident. If the student is not a New York City resident, the parent must be informed to contact the student's district of residence for an IEP for ESY.

If a New York City resident student is parentally placed in a school outside New York City, the school/CSE must direct the parent to contact the school district in which the student's school is located for 10-month special education services. If the student requires ESY, the CSE must complete an IEP meeting to recommend ESY services.

<sup>143</sup> This does not apply to students who are: (1) attending private schools via placement by a public agency, (2) enrolled in Charter Schools, (3) in private day care or preschool programs, (4) enrolled by their parents in public schools outside of their district of residence, or (5) parentally placed in drug rehabilitation centers or hospitals.

<sup>144</sup> A parent may request FAPE but “unilaterally place” a student in private school, in which case the parent may seek DOE payment or reimbursement of private school tuition through an impartial hearing. The term “Parentally placed” refers to a student whose parent (or other private party) is funding his/her education in a private or religious school (or approved home schooling program), and is requesting that the DOE provide equitable special education services, not private school tuition.

<sup>145</sup> A parent may request FAPE at any time after having requested equitable services/participation.

<sup>146</sup> The services available through “equitable participation” are determined by DOE consultation with representatives of parents of parentally placed students and representatives of private/religious schools.

<sup>147</sup> For guidance on creating the IESP/SP in SESIS, click [here](#). For additional SESIS steps, click [here](#).

The CSE sends the **Request for Special Education Services** form to parents of students with IESPs by April 1 every year. Parents of students with IESPs must request special education services for the upcoming school year in writing to the CSE by June 1, and may do so by signing and returning the **Request for Special Education Services** form. For a New York State resident student who is initially identified:

- on or after June 1 and before September 1:
  - the parent must request services for the upcoming 10-month school year within 30 days
- on or after September 1 and before April 1:
  - the parent must request services for the current 10-month school year within 30 days
- on or after April 1 and before June 1
  - the parent must request services for the upcoming 10-month school year by June 1.

To promote inclusion of students with disabilities, private/religious schools are encouraged to allow related service and SETSS providers to provide “push-in” services – in the student’s classroom, in coordination with his/her teacher(s) – whenever feasible and appropriate for the student’s needs and goals, as documented in the IESP/SP. Classroom-based services allow for intervention to occur in the student’s natural learning environment. Related service and SETSS providers should plan together with private/religious schools and classroom teachers to integrate and align services with the student’s curriculum, and to schedule service delivery in order to maximize the amount of time students with IESPs/SPs spend in the same setting as their peers, including physical education and recess periods.

## Students with Disabilities Subject to Discipline

Students with IEPs or 504 plans (referred to collectively as students with disabilities or SWDs) who are subject to discipline are afforded specific protections under federal and state law and regulations and DOE policy. Every reasonable effort must be made to correct student behavior through interventions and supports. Such supports and interventions should be used both as a preventative measure, and, where disciplinary action is warranted, in connection with the discipline. If disciplinary action is warranted, a Manifestation Determination Review (MDR) must be conducted in certain circumstances to ensure that a SWD is not being disciplined for behavior (i) that has a direct and substantial relationship to the student's disability and/or (ii) that is a direct result of a school's failure to implement the student's IEP.

This section addresses:

- The circumstances under which an MDR must be conducted for a SWD;
- How to [schedule an MDR meeting](#) and notify parents of such meeting;
- The for conducting an MDR meeting;
- The [procedural requirements](#) steps that a school must take [following an MDR](#); and
- How SOHO,148 the DOE's system of record for suspensions and removals, supports schools in complying with the procedural requirements of conducting an MDR.

### Disciplinary Removals

A student with a disability cannot be removed from his/her classroom for disciplinary reasons, except as a result of a teacher removal, principal's suspension or superintendent's suspension. All procedural due process requirements must be followed when these disciplinary removals are imposed.<sup>149</sup> While these due process procedures (including MDRs) are being implemented, the student must remain in his/her classroom setting and may not be removed until after the suspension hearing/conference and associated MDR have taken place, unless the student was removed prior to the hearing/conference.<sup>150</sup>

All teacher removals, principal's suspensions, and superintendent's

<sup>148</sup>SOHO stands for "Suspensions and Office of Hearings Online."

<sup>149</sup>Superintendent's suspensions, principal's suspensions and teacher removals are referred to collectively herein as "disciplinary removals." For more information regarding how these disciplinary removals are effectuated, see Chancellor's Regulation A-443.

<sup>150</sup>A student may be removed prior to a principal's suspension conference only if the principal/designee has determined that the student's continued presence in school poses a continuing danger or an ongoing threat of disruption. With respect to superintendent's suspensions, students charged with certain infractions of the Discipline Code must remain in school in their classes pending the suspension hearing unless the principal/designee believes that the students' continued presence in school poses an immediate or continuing danger to persons or property or an ongoing threat of disruption to the academic process. Students charged with other more serious infractions of the Discipline Code will be assigned to an alternative site prior to the hearing unless the principal decides that the student will remain in school pending the hearing. Students charged with the most serious infractions must be assigned to an alternative instruction site prior to the hearing.

suspensions must be entered into SOHO at the time the decision is made to remove the student or impose the removal. When the school enters information into SOHO, SOHO will guide the user through the procedural due process requirements for SWDs, including the process to determine whether an MDR must be held and if so, the timing of the MDR.

An MDR must be conducted when a student with a disability is subject to a "disciplinary change of placement." A disciplinary change of placement occurs whenever a student is removed from his/her current educational program for more than 10 consecutive school days in a school year or for more than 10 cumulative school days in a school year as the result of a "pattern of removals." The purpose of the MDR is to determine whether the behavior that led to the disciplinary removal or the proposed disciplinary removal was caused by or had a direct and substantial relationship to the student's disability and/or was the direct result of a failure to implement the student's IEP.

### Students Requiring MDRs

An MDR must be conducted for any student with an IEP or 504 Plan who is subject to a disciplinary change of placement, as defined in this section. If a student does not have an IEP or 504 Plan, but the DOE is "deemed to know" that the student is a student with a disability under the IDEA, the student is entitled to the same due process protections as a student with an IEP who is subject to disciplinary removal. See "[Deemed to Know](#)" below.

### Disciplinary Change of Placement

A disciplinary change of placement occurs if a student with a disability is removed from his/her current education program:

- For more than 10 consecutive school days as a result of a superintendent's suspension; or
- For more than 10 cumulative school days in a school year as a result of multiple disciplinary removals that constitute a "[pattern of removals](#)," as defined below.



The principal/designee must enter all disciplinary removals (teacher removals, principal's suspensions, and superintendent's suspensions) into SOHO at the time the decision is made to impose, or seek to impose, discipline. SOHO is programmed to calculate the total number of days of removal<sup>151</sup> in a school year and to notify the principal by email when the imposition of discipline will result in a disciplinary change of placement.

### Pattern of Removals

There are two types of patterns of removals that may result from the imposition of discipline: Presumptive patterns and Non-presumptive patterns.<sup>152</sup>

#### Presumptive Patterns of Removals

As a matter of DOE policy, a pattern of removals is presumed and an MDR is required whenever a SWD will be removed from his/her educational placement for more than 10 cumulative school days in a 40 school day period as the result of the imposition of at least three disciplinary removals of 10 school days or fewer. Such a pattern is referred to as a "presumptive pattern of removals." When the imposition of a disciplinary removal will result in a presumptive pattern of removals, SOHO is programmed to notify the school by email that an MDR is required. In these instances, the principal/designee does not have to decide whether a pattern of removals will occur if discipline is imposed, as described below. It is presumed to occur and an MDR must be held.

#### Non-presumptive Patterns of Removals

If the imposition of a disciplinary removal will result in the SWD being removed for more than 10 cumulative school days in the school year and does not result in a presumptive pattern of removals, the principal/designee must determine whether a non-presumptive pattern of removals will occur if the discipline is imposed. Once an SWD has been removed for more than 10 cumulative school days in the school year, the non-presumptive pattern determination must be made for every subsequent removal of less than 11 consecutive school days which will not result in a presumptive pattern. This determination must be made regardless of whether prior behaviors have been found to constitute a pattern of behavior or an MDR has previously been conducted for the student.

In determining whether a non-presumptive pattern of removals will occur the principal/designee must consider:

- Whether the behaviors underlying the prior and proposed disciplinary removals are substantially similar, including prior behavior(s) that resulted in positive manifestation determinations during the current school year; and
- If those behaviors are substantially similar, whether the imposition of the removal will result in a pattern of removals, taking into account the nature of the behavior and additional factors including the temporal proximity of the prior and proposed removals to one another, the length of each removal, and the total amount of time the student will have been removed.

SOHO will prompt the school to answer questions (as described in more detail in [Conducting an MDR Meeting](#)) when the principal/designee enters the disciplinary removal into SOHO.

To help the principal/designee, the following information regarding each prior disciplinary removal is available in SOHO:

- The number of days of removal for each disciplinary action;
- The date each removal was imposed;
- The infraction code(s) associated with each disciplinary removal; and
- A link to the associated Online Occurrence Reporting System (OORS) report for each disciplinary removal, which includes a description of the behavior for which the student has been removed.

### Determining Whether a Disciplinary Removal will Result in a Non-Presumptive Pattern of Removals

#### Principal's Suspension/Teacher Removal

The following sets forth the SOHO-assisted process for determining whether the imposition of a teacher removal or principal's suspension will result in a non-presumptive pattern of removals.

The principal/designee must enter the number of days of a teacher removal or of a proposed or imposed principal's suspension into SOHO. SOHO will calculate the cumulative number of days of removal for the student for the school year.

<sup>151</sup> A disciplinary removal of a SWD for any portion of a day is counted as a disciplinary removal for a full day for the purposes of determining the number of days of removal.

<sup>152</sup> SOHO is programmed to prompt a pattern determination by looking at the number of days for which the student has been removed during the current school year, including the time that a student has been removed for a prehearing removal.

If the number of days of the proposed removal, when aggregated with prior removal(s), results in more than 10 cumulative school days of removal in the school year, and a presumptive pattern of removals will not occur, SOHO will prompt the principal/designee to make a determination as to whether a non-presumptive pattern of removals will occur if the removal is imposed by answering the following question(s):

- (1) *Is this behavior substantially similar to the student's behavior in the previous incident(s) that resulted in disciplinary action (removal/suspension) this school year, taking into account what happened in the incidents and the surrounding circumstances, including but not limited to, the precipitating events, the location and time of the incidents and the participants?*

In responding to this question, schools should consider all factors listed in the question, even if the locations, time or events are not the same. In assessing similarity, the incidents do not need to be identical in order to be substantially similar.

If the principal/designee responds “NO” to this question, a pattern of removals will not occur and an MDR will not be required.

If the principal/designee responds “YES” to this question, the principal/designee will be asked to consider additional factors in determining whether a pattern of removals will occur if the discipline is imposed. The following will appear in SOHO:

- (2) *In addition to considering the similarity of behaviors, you must determine whether there is a pattern of removals by considering additional factors such as:*
- (A) *The length of prior disciplinary actions during the current school year;*
  - (B) *The total amount of time the student has been removed from school during the current school year as a result of disciplinary actions; and*
  - (C) *The temporal proximity to one another of the disciplinary actions under consideration.*

The principal/designee must consider these factors and determine whether a pattern of removals will occur if the teacher removal or principal's suspension is imposed and enter his/her decision into SOHO.

If the principal/designee determines that there is a pattern of removals, the principal must answer “YES” to the second question in SOHO. SOHO will then send an email notifying the school that an MDR must be conducted and that the school must take the following steps:

- Schedule the MDR and send the suspension/removal and MDR notification letter generated from SOHO to notify the parent of the MDR. Call the parent to confirm attendance.
- Review the MDR Worksheet and gather the relevant documents to prepare for the meeting.
- Ensure that the appropriate staff members will be present at the MDR.
- Conduct the meeting and complete the Worksheet at the meeting.
- Within 24 hours of the completion of the MDR meeting, enter the MDR Worksheet into SOHO. The Worksheet is accessed in the MDR queue by scrolling to the last column on the right.

Upon request, interpretation must be made available for parents whose preferred language is other than English. See [Interpretation](#) for requirements and best practices regarding interpretation.

### Superintendent's Suspensions of 10 Days or Less

Whenever a superintendent's suspension has been authorized for a SWD, there is the possibility of a disciplinary change of placement following the hearing if the charges are sustained. Therefore, as soon as the suspension is authorized, SOHO preliminarily schedules the MDR and notifies the school by email of the date for the MDR. The Hearing Office will send a letter to the parent notifying the parent of the possible MDR.

If the charges are sustained at the suspension hearing or a plea of no contest is entered, the suspension hearing office will enter the proposed disposition into SOHO.

If the proposed disposition following the hearing or plea of no contest is a continued suspension for fewer than 11 school days and will result in a presumptive pattern of removals, the MDR must be conducted as originally scheduled by SOHO.<sup>153</sup> The principal will receive an email reminding him/her of the scheduled date for conducting the MDR.

If the proposed disposition is for fewer than 11 school days, but the imposition of the discipline will result in more than 10 cumulative school days of removal and will NOT result in a presumptive pattern, the principal/designee will be required to make a non-presumptive pattern of removals determination in SOHO. SOHO will send an email to the principal directing the school to access the “MDR Queue” in SOHO and make a non-presumptive pattern of removals determination, as set forth above.

If the principal/designee determines in SOHO that there is a non-presumptive pattern of removals, an MDR must take place (and the principal will receive an email reminding the school of the deadline for the MDR). If the principal/

<sup>153</sup> Additionally, if the proposed disposition is for greater than ten school days, the MDR will also go forward as planned.

designee determines that no pattern exists, an MDR is not required and an email will be sent to the school notifying the principal of the cancellation of the MDR. The school must notify the parent of the cancellation.

## Timeframes and Notification Requirements

The timeframes and notification requirements for MDRs are set forth below. Timeframes for scheduling MDRs differ depending upon the type of disciplinary removal.

Parents must receive written notification of the MDR. This notice must inform the parent of:

- The date of the meeting;
- The purpose of the meeting;
- The names of all individuals whom the principal/designee expects to attend; and
- The parent's right to request that additional individuals participate.

Schools are required to use the parent notification letters in SOHO to notify the parent of the removal/suspension and the MDR meeting. For superintendent's suspensions, the suspension hearing office will notify parents in writing of the suspension and the MDR date. Copies of these letters are available in SOHO. The procedural safeguards notice must be sent to the parent along with the MDR notice every time a disciplinary change of placement occurs.

### Superintendent's Suspension that Results in a Disciplinary Change of Placement

Whenever a superintendent's suspension has been imposed for a student with a disability, SOHO automatically schedules an MDR for two school days after the hearing date and notifies the school by email of the date of the suspension hearing and the MDR.

The MDR will be canceled by SOHO if, following the suspension hearing or a plea of no contest:

- The charges are dismissed; or
- The imposition of the discipline will not result in a presumptive or non-presumptive pattern of removals.

The suspension hearing office will notify the parent in writing of the suspension and the date of the suspension hearing and the required information about the MDR, described above. The suspension hearing office will also notify the school of any hearing postponements or rescheduled or canceled MDRs and the school must notify the parent of these changes.

### Principal's Suspension that Results in a Disciplinary Change of Placement

The MDR must be conducted no later than five school days after the date scheduled for the principal's suspension conference unless the conference is adjourned by the parent. SOHO will automatically notify the school that an MDR must be scheduled by that date. If the conference is adjourned by the parent, the MDR must be rescheduled (to occur within five days of the rescheduled conference). The school must enter the new date and the reason for holding the meeting after the deadline in SOHO.

The school must notify the parent in writing of the suspension and the MDR by sending the notification letter found in SOHO. This notice must be sent in a manner which assures receipt within 24 hours of the decision to suspend. Any subsequent change to the MDR date or time must be accompanied by notification to the parent.

### Teacher Removals that Result in a Disciplinary Change of Placement

The MDR must be conducted no later than five school days after the date the teacher removal was imposed. SOHO will automatically notify the school that an MDR must be conducted by that date.

The school must notify the parent in writing of the MDR by sending the teacher removal/MDR notification found in SOHO on the same date the removal is imposed. The notice contains the required information about the MDR, as described above. Additionally, any subsequent change to the MDR date or time must be accompanied by notification to the parent.

## Required Members of the MDR Team

The following people must participate in the MDR in person, unless otherwise indicated (this group is referred to as the MDR Team):

- *(Required Member)* A representative of the school district knowledgeable about the student and the interpretation of information about the student's behavior;

- The parent (the parent may participate in person or by phone);<sup>154</sup> and
- Other participants as determined by the school district and/or the parent (other participants may participate by phone, if necessary).

Upon request, interpretation must be made available for parents whose preferred language is other than English. See [Interpretation](#) for requirements and best practices regarding interpretation.

It is recommended that at least two school staff members attend the MDR meeting. Ideally, meeting participants will include clinicians who know the student and his/her disability, individuals who are familiar with the incident (or should be spoken to before the meeting to understand what happened at the incident and any hearing/conference that took place prior to the MDR), individuals the parent brought to the meeting, and/or the student (if appropriate).

## Conducting an MDR Meeting

An MDR Worksheet must be completed by the MDR Team. The MDR Worksheet (updated for the 2016-17 school year) can be found in the MDR queue in SOHO or at <http://ats.nycboe.net/Safety/soho/Suspension/Documents/MDRWorksheet.pdf>. Schools must respond to every question on the Worksheet. The steps that schools must follow in conducting the MDR are set forth below. This section also provides some procedural guidance to the MDR team on the factors to consider in making a MDR determination.

### Procedural Requirements

The MDR should begin with confirmation that the required members are present. The participants must be documented on the MDR Worksheet.

Next, the MDR Team must identify each document present at the meeting. Any document relevant to the MDR discussion must be present and reviewed by the MDR team. At a minimum, this must include:

- IEP or 504 Plan;<sup>155</sup>
- Functional Behavioral Assessment (if it exists);
- Behavioral Intervention Plan (if it exists);
- Teacher anecdotes;

<sup>154</sup>If the parent has been provided with the required [notification](#) and does not attend the meeting or participate by phone, the meeting may still take place. If the parent informs the school that he or she is unavailable on the scheduled date and requests that the school reschedule the MDR, the school should take reasonable steps to reschedule.

<sup>155</sup>If the MDR Team is conducting the MDR based on a 504 Plan, the underlying documentation from the 504 Plan should also be considered, if relevant.

- The OORS report (and any OORS reports for prior related incidents);
- Relevant evaluations; and
- Information provided by the parents.

### Review of Documents and Discussion of Disability

The MDR Team must review the documentation noted above and discuss the student's behavior and disability in order to determine whether behaviors identified in the IEP, the FBA, and/or the BIP are similar to or related to the behavior which is the subject of the MDR. The MDR Team must also consider any information provided by the parent and other relevant documents and information as determined by the school (e.g., OORS reports from prior incidents, report cards, etc.). If an interpreter is present at the meeting, they should explain as needed any documents that are the subject of discussion. The questions on the MDR Worksheet are intended to guide the MDR Team through this analysis.

Each document should be carefully reviewed and discussed, focusing on any behavioral concerns and triggers noted in the documents. This may include consideration of academic factors that are related to the student's behavior. Following the discussion of the documents, the MDR Team must also consider whether there are any behavioral concerns or observations about the student that are not contained in the documents and record the discussion on the Worksheet.

Based on the MDR Team's review of the documents and other information discussed, the MDR Team must describe the student's disability and how it affects the student's behavior ("disability-related behavior"). The MDR Team must look beyond the disability classification and generalizations about the classification to discuss how the specific characteristics of the disability are evidenced with the student.

### Information about the Incident

MDR Teams must review incident-related documents/information and discuss the student's behavior, including:

- OORS Report and charges;
- Sustained charges or findings of fact, if available (for Superintendent's Suspensions);
- Summary of principal's conference, if available (for Principal's Suspensions);



- Notes from teacher conference or parent communication, if available (for Teacher Removals); and/or
- Other information relevant to the MDR discussion.

The MDR Team must describe the behavior and circumstances that resulted in the disciplinary action (e.g., where and when did the incident take place, how did other students and adults behave, the student's role, reaction and any immediate consequences). Next, the MDR Team must determine what prompted the student's behavior and what the triggering events that led to the incident were (e.g., what occurred immediately prior to the incident, motivation behind engaging in the behavior).

### Relationship between the Disability and the Incident

The MDR Team must discuss the relationship between the disability and the incident to determine whether or not the incident was caused by or had a direct and substantial relationship to the student's disability. In answering these questions, the MDR Team must refer to documents, anecdotes, and other observations discussed above. The MDR Team must examine whether or not the behavior that led to the incident is similar to, or related to, the disability-related behaviors and triggering events that have previously been identified in the documents or other observations.

Following this discussion, if the student had a BIP, the MDR Team must re-examine the document and determine whether the behavior focused on was the same as the behavior that led to the incident in question. If the answer is "YES", the MDR Team must determine that the behavior that led to the incident in question was caused by or had a direct and substantial relationship to the student's disability.

For all students, whether or not the student has a BIP, the MDR Team must use the information learned from a review of the documents and discussion during the meeting, to answer the following question: *Was the conduct in question caused by or did it have a direct and substantial relationship to the student's disability?*

A determination must be made as to whether there is a causal link between the conduct for which the student was suspended and the student's disability. The MDR Team must consider all of the student's special education needs, **regardless of whether the behavior is commonly linked to the disability category in which the student has been classified.**

Although the primary focus of the MDR should be on the behavior subject to disciplinary action, the MDR Team must also examine any triggering events or circumstances that may have occurred immediately prior to the behavior subject to disciplinary action. In addition, the MDR team must analyze

the student's behavior across settings and across time when determining whether the conduct in question is a direct result of the disability (e.g., behavior occurring at the same time of the day as previous behaviors, whether the student had been able to control his/her conduct in similar situations or settings in the past, whether there was something different about the circumstances on the day of the behavior subject to the disciplinary action than other similar situations or settings in the past, etc.).

The Team must explain the response and document that explanation on the Worksheet.

### Implementation of Program and Services

The MDR Team must discuss whether the student was receiving the program and all of the services outlined on the IEP and must answer the following question: *Was the conduct in question a direct result of the DOE's failure to implement the student's IEP?*

The MDR Team must consider whether a part of the IEP was not implemented, and if so, whether implementation of that part of the IEP would have prevented this conduct or made it less likely to occur. In determining whether the conduct in question was a direct result of the DOE's failure to implement the student's IEP, the Team must answer "YES" if the IEP was not fully implemented and there was a direct impact on behavior. The Team must answer "No" if:

- The IEP was not fully implemented and there was no impact on behavior; or
- The IEP was fully implemented.

In, the MDR Team must explain and document its response on the Worksheet. The response should include, if applicable, areas of non-implementation and a description of whether and how there was an impact on the student's behavior.

### Meeting Outcomes

If the MDR Team agrees that the answer to either one or both of these questions is "YES," the behavior IS a manifestation of the student's disability.

If the answer to both questions is "NO," the behavior IS NOT a manifestation of the student's disability.

### Enter Meeting Information into SOHO

Enter the following information in the student's MDR record found in the MDR queue: (1) the date the MDR was held; (2) the participants; and (3) the meeting outcome.

If the MDR team has completed a paper copy of the MDR Worksheet, the school must enter all information from the MDR Worksheet into SOHO, maintain the paper copy at the school, and provide a copy of the MDR Worksheet to the parent upon request. Alternatively, the MDR Team must enter and complete the MDR Worksheet directly into SOHO at the meeting and provide a copy to the parent upon request.

## Required Steps Following the MDR Meeting

### Determination of a Manifestation

If the MDR Team finds that the action for which the student was subject to discipline was a manifestation of his/her disability, the student must be immediately returned to school, except as set forth below.

If a student's misconduct is found to be a manifestation of the student's disability, the student may still be assigned to an Alternate Learning Center (ALC) for up to 45 school days by the CEO/designee if charges involving the following offenses were sustained at the superintendent's suspension hearing:

- **Weapons:** The student brought or possessed a weapon<sup>156</sup> in school, on school premises, or at a school function under the jurisdiction of the school or DOE.
- **Drugs:** The student knowingly possessed or used illegal drugs or sold or solicited the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the school or DOE.
- **Serious bodily injury:** The student inflicted serious bodily injury on another person at school, on school premises, or at a school function, meaning bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

The following steps must also be taken if the MDR Team concludes that the action is a manifestation:

- If the student does not already have one, a Functional Behavioral Assessment (FBA) must be conducted and, if appropriate, a Behavioral

Intervention Plan (BIP) must be developed and implemented immediately. For more information about FBAs and BIPs, visit the "[Behavior Supports](#)" page within the [Special Education Resources](#) section on the DOE InfoHub.

- If an FBA has already been conducted, it must be reviewed to determine whether a new FBA is needed and whether a BIP should be created. If a BIP has already been developed, it must be reviewed and modified as necessary to address the behavior that resulted in the removal. Additionally, if appropriate, the BIP should be reviewed to address other behaviors identified in the FBA that impede learning.
- If the student's IEP is not fully implemented, steps must be taken immediately to remedy the deficiencies.

### Determination of No Manifestation

If it is determined that the student's behavior was not a manifestation of his/her disability, the disciplinary removal may be imposed.

The following additional steps must be taken:

- At the next IEP meeting, the IEP team must determine whether the student's behavior necessitates conducting an FBA and/or developing or reviewing a BIP.<sup>157</sup> If the student requires an FBA, one must be conducted, and a decision must be made as to whether the student requires a BIP. If the student requires a BIP, it must be developed and implemented immediately. If the student already has a BIP, it must be reviewed to determine if a new FBA is needed to gather new data or if changes need to be made to the BIP.
- The FBA and BIP must be forwarded to the student's suspension site upon completion.

### For Either Outcome

Regardless of whether the behavior is found to be a manifestation of the student's disability, if any member of the MDR Team determines that the educational or related service needs of the student warrant a change in the student's program or a reevaluation of the student, the member must submit a request for a reevaluation or an IEP review immediately following completion of the MDR.

<sup>156</sup>A weapon for these purposes means a weapon, device, instrument, material or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that this term does not include a pocket or other knife with a blade of less than two and one-half inches in length.

<sup>157</sup>If the student is attending an ALC, the school should work with the ALC staff to gather the relevant information to create or update the FBA/BIP.

## Order from Impartial Hearing Officer to Place a Student in an ALC

In exceptional cases the DOE may also seek an order from a special education impartial hearing officer to place a student in an ALC for up to 45 days when maintaining the student in his/her current educational placement is substantially likely to result in injury to the student or others.<sup>158</sup> The order may be sought without seeking disciplinary action, in which case the student remains in school pending the outcome of the hearing. The student may remain in the ALC regardless of the determination of an MDR Team.

Prior to pursuing this type of removal, the school should consult with relevant supervisors who should contact the central DOE Special Education Office for guidance.

## “Deemed to Know”

The procedural protections of the IDEA apply to a student without an IEP if the DOE is “deemed to know” that the student is a student with a disability. This means that the student is presumed to be a student with a disability for disciplinary purposes.

The DOE is “deemed to know” that a student is a student with a disability if, prior to the conduct at issue:

- The parent expressed concern in writing to a school-based administrator, the district CSE or a teacher of the student advising that he/she thinks his/her child may have a disability;
- The parent has requested in writing to the school principal or the district CSE an evaluation of his/her child to determine whether the student is a student with a disability (request for an initial evaluation); or
- A teacher of the student, or other DOE employee, has expressed concerns directly to the school principal or district CSE or other appropriate supervisory personnel about a pattern of behaviors demonstrated by the student.

The DOE is not “deemed to know” the student is a student with a disability (i.e., the student is not presumed to be a student with a disability for disciplinary purposes), if:

- The parent declined to consent to an evaluation, has not produced the student for an evaluation or has revoked or withdrawn consent;
- The parent refused to allow the provision of special education services; or
- The student was evaluated and determined not to be a student with a disability under the IDEA.

If it is determined that the DOE is “deemed to know” that a student is a student with a disability, the school must determine if there is/will be a disciplinary change of placement. If there is/will be a disciplinary change of placement, an MDR must be conducted for the student.

## Suspension Plan

If a student with a disability is removed from his or her school program for more than 10 consecutive school days, a Suspension Plan must be created. The Suspension Plan provides information regarding the student and delineates the programs and services the student will receive during the removal. A Suspension Plan must be created whenever either: (1) the student is removed for 10 or more consecutive days as a result of a suspension, or (2) the student is removed pre-hearing and an adjournment results in the student being out of his or her regular school program for more than 10 consecutive school days.

A Suspension Plan is a collaborative effort between the student’s school (the home school) and the suspension site<sup>159</sup> to determine the programs and services that will enable the student to make progress toward meeting his/her annual goals during the period of removal. The Suspension Plan must include an explanation of the student’s level of need in math, listening, speaking, writing and reading English, and behavior; IEP goals, strategies, interventions, programs, supports, testing accommodations, promotion criteria (if applicable), and medical alerts; the special education program to be implemented at the suspension site (including related, supplementary, and transition services, if appropriate); and additional transportation support to the suspension site if needed. The Suspension Plan must note the student’s classification and the date of the last IEP conference.

<sup>158</sup> The DOE may request that the impartial hearing officer extend the student’s placement in the ALC for additional 45 day periods if returning the student to his/her current educational placement is substantially likely to result in injury to the student or others.

<sup>159</sup> Suspension site, for students in grades 6–12, refers to an Alternate Learning Center (ALC). For students in grades K–5 or attending a District 75 school, the suspension site will be a “buddy school.” The OSYD Borough Director of Suspensions will arrange for a suspension location for all students serving Superintendents Suspensions.

The Suspension Plan is composed of two parts:

- Part 1 summarizes: the student's skill-based performance; his/her needs, including around transportation, health, and behavior; and the strategies, interventions, programs, services and/or supports employed by the home school. It is designed to obtain current information about the student's academic performance, behavioral issues, and/or instructional supports, with the most up-to-date details about the student's performance.
- Part 2 describes the special education program, related services, accommodations, and other supports the student will receive during the suspension.

For students in grades 6–12 attending District 1-32 schools:

- The home school will complete Part 1 of the Suspension Plan in Suspensions and Office of Hearings On-Line (SOHO), the DOE's system of record for suspensions and removals, within three school days of the student's suspension. The home school must provide the name and contact information of a special education contact in the event the ALC to which the student is assigned requires additional information.
- The Alternative Learning Center (ALC) to which the student is assigned will complete Part 2 of the Suspension Plan no later than 10 school days after the student's arrival at the suspension site. To create Part 2, the ALC will convene an IEP meeting with the parent to discuss the services the student needs while attending the ALC. To the extent necessary, the ALC will reach out to the home school to acquire sufficient information regarding the student to make a program and services recommendation.

For students in grades K–5 or attending a District 75 school, the home school will complete both Parts 1 and 2 of the Suspension Plan, which will be used while the student is attending a "buddy school." Part 2 of the Suspension Plan will be created by the IEP team (including the parent). Both sections of the Suspension Plan must be completed in SOHO within 10 school days of the student's suspension.

If a Suspension Plan is created using an out-of-date IEP, and the IEP is updated while the student is suspended, the Suspension Plan should be adjusted at an IEP meeting based upon the up-to-date IEP.

With the IEP goals attached, the Suspension Plan, forms a comprehensive document with all relevant information on how the Suspension Site will deliver the student's special education services.

The Suspension Plan should be uploaded to SESIS or otherwise made available to the school that the student will attend following the end of the suspension. Detailed instructions on completing the Suspension Plan are available in the [Office of Safety and Youth Development \(OSYD\)](#) Wiki, in the [Suspensions and Office of Hearings Online \(SOHO\) section](#).



## Due Process

### Mediation

Mediation is a method to resolve disagreements involving special education matters that provides an opportunity for immediate improvement in communication between the DOE and the parent. Mediation is conducted by an independent and approved mediator who assists the parties in reaching their own agreeable solutions. Mediation is conducted through a network of Community Dispute Resolution Centers:

| Borough              | Community Dispute Resolution Center  |
|----------------------|--|
| Bronx                | <a href="#">IMCR Dispute Resolution</a><br>Phone: 718-585-1190<br>Fax: 718-585-1962<br>Email: <a href="mailto:imcrmediate@aol.com">imcrmediate@aol.com</a><br>Address: 384 East 149 <sup>th</sup> St, Suite 330<br>Bronx, NY 10455   |
| Brooklyn & Manhattan | <a href="#">New York Peace Institute</a><br>Phone: 718-834-6671x220<br>Fax: 718-834-6681<br>Email: <a href="mailto:chimes@nypeace.org">chimes@nypeace.org</a><br>Address: 210 Joralemon St, Suite 618<br>Brooklyn, NY 11201  |
| Queens               | <a href="#">Community Mediation Services</a><br>Phone: 718-523-6868x268<br>Fax: 718-523-8204<br>Email: <a href="mailto:spetza@mediatenyc.org">spetza@mediatenyc.org</a><br>Address: 89-64 163 <sup>rd</sup> St<br>Jamaica, NY 11432  |
| Staten Island        | <a href="#">NY Center for Interpersonal Development (NYCID)</a><br>Phone: 718-815-4557<br>Email: <a href="mailto:specialeducation@nycid.org">specialeducation@nycid.org</a><br>Fax: 718-876-6068<br>Address: 130 Stuyvesant Place, 5 <sup>th</sup> Fl<br>Staten Island, NY 10301 |

The following issues are **NOT** appropriate for mediation:

- Parent request for non-NYSED-approved private school placement;
- DOE request for mediation (or impartial hearing) for a dispute about initial provision of special education programs and/or services (however, parents may make such a request in mediation or impartial hearing);
- Attorney's fees.

Parents may make a written request for mediation to the Community Dispute Resolution Center or to the student's DOE school or CSE. Advocates/attorneys may submit a request for mediation on behalf of a parent. The Community Dispute Resolution Center will forward the request to the appropriate DOE representative, who should fax a copy into SESIS.

The Community Dispute Resolution Center will coordinate the scheduling and coordination of the meeting including the timing, location, notification, and the presence of interpreters, contacting the DOE's [Translation and Interpretation Unit](#) if needed. Mediations are generally scheduled to take place within 15 to 30 days of the request, and they may take place anywhere convenient for all parties.

For questions regarding Mediation contact the administrator for special education or CSE chairperson. For more information, see <https://nypeace.org/school-youth/> for further info.

### Interaction between Mediation and Impartial Hearings/Resolution Sessions

Mediation may be requested at the same time as an impartial hearing, and may be requested in place of, or in addition to, the resolution session. If mediation is requested at the same time as an impartial hearing, the Community Dispute Resolution Center will attempt to schedule mediation prior to the impartial hearing. The DOE and the parent may seek adjournment of the impartial hearing pending the mediation outcome. If the issues are resolved in mediation, the party that filed the due process complaint will withdraw that complaint.

## Impartial Hearings

The Impartial Hearing is a due process right afforded to a parent by federal and state law. The parent may request an impartial hearing with respect to the identification, placement, evaluation, classification, and appropriateness or timeliness of a recommended program. The school/CSE must make every attempt to resolve disputes with parents, including through meetings, mediation, and escalation to supervisors for support with complex issues.

Both the parent and the DOE may file due process complaints seeking impartial hearings in certain circumstances. Most cases are filed by the parent; see [DOE-Initiated Impartial Hearings](#) for more information about and considerations specific to when the DOE may file for an impartial hearing.

A request for an impartial hearing must be submitted to the DOE's [Impartial Hearing Office](#). If a parent seeks assistance from a school/CSE DOE in requesting an impartial hearing, he/she should be provided with a sample [Due Process Complaint Form](#) and provided with a copy of the [Procedural Safeguards](#). If a school/CSE receives a request for an impartial hearing from a parent, the school/CSE must immediately notify the Impartial Hearing Office and send a copy of the request to the Impartial Hearing Office.

Upon receipt of a due process complaint, the Impartial Hearing Office mails the parent a copy of the [Procedural Safeguards](#).

### School and District CSE interactions with student and parent while due process proceedings are ongoing

While an impartial hearing is pending, the school should attempt to maintain continuity of instruction for the student to ensure he or she receives an appropriate education. To that end, once an impartial hearing has been sought, a student is entitled to remain in “pendency placement,” discussed below. During due process proceedings, a student's right to an annual review or three year re-evaluation continues as usual, also discussed below.

It is also important to maintain professional and typical interactions with the parent as due process proceedings are ongoing. Should the parent or the parent's advocate or counsel contact a school/CSE regarding the subjects at issue in the due process complaint, it is appropriate for the school to reach out to the DOE impartial hearing representative, attorney, or ASE for guidance on how to engage in such interactions.

### Pendency

After a due process complaint has been filed, a student is generally entitled to remain in the last agreed upon program during the pendency of the impartial hearing and any appeals. This is commonly referred to as the

“pendency placement.” Pendency is also referred to as “stay-put” or “status-quo.”

Pendency is in effect from the day that a request is filed until the day that the hearing process has been exhausted, including the appeals process (if applicable). During any hearing or appeal – except an expedited impartial hearing or appeal relating to disciplinary procedures – a school-age student should stay in the last agreed upon placement and may not be moved unless the parent and the DOE have otherwise agreed. The last-agreed-upon placement is generally determined by the last agreed-upon IEP or the last unappealed hearing decision. To the extent possible, field staff should consult with the impartial hearing representative or OLS attorney in order to identify and provide students with the last agreed-upon placement and services as soon as the request is filed.

In certain instances, the impartial hearing officer may hold a pendency hearing and issue an interim order determining pendency. A school may also be instructed to provide certain pendency services by the central Special Education Office or a DOE attorney.

### Pendency Placement For Students Turning Five Years Of Age

If student who is turning five years of age has been receiving preschool special education services through a CPSE, and a due process complaint is filed, the student will be placed in a school-age program that is most similar to the one he/she attended in preschool, if the hearing continues beyond the start of the new school year. If the student attended a special education preschool program which also has a state-approved school-age program, the student may receive services in the school-age program until the end of the Impartial Hearing process.

### Annual Review / Three-Year Evaluation Process during Due Process Proceedings

Due process proceedings – including the scheduling of mediation, resolution meetings and impartial hearings – do not impact the DOE's obligation to recommend a free appropriate public education and to hold an annual review of the student's IEP at least every 12 months. Annual review and three-year evaluation timelines must be maintained even when due process proceedings are ongoing regarding the current or previous IEPs. While a student retains his/her right to remain in the last agreed upon placement, the IEP team should meet to review any needed evaluations and to create an IEP that reflects the student's present levels of performance, to update the annual goals, and to recommend the program and services that the IEP team believes is appropriate for the student.

## Pre-Hearing Issues

### Determination of Sufficiency

The request must contain the following elements to be considered sufficient:

- The name of the student;
- The address of the student's residence (or contact information if the student is living in temporary housing or if the student is homeless);
- The name of the student's school;
- A description of the nature of the problem, including the relevant facts; and
- A proposed resolution of the problem to the extent known and available at the time.

If a request does not contain one or more of the required elements, an insufficiency challenge should be sent through the [Impartial Hearing System](#) (IHS) within 15 calendar days of the request date to the Hearing Office. The parent will be notified that the DOE is challenging the sufficiency of the request by the Impartial Hearing Office. The Impartial Hearing Office will forward the insufficiency request to the hearing officer assigned to the case for review. The hearing officer will make a determination as to the sufficiency of the request. If deemed insufficient, the hearing officer may permit the parent to amend the request. Should an amended request be filed, the timeline for the hearing process will be reset.

**Note:** Under the circumstances discussed below, certain requests may be expedited; and requests for expedited hearings may not be challenged for sufficiency.

### Due Process Response

Within 10 calendar days of the filing of the due process complaint, the DOE must complete and send to the parent and Impartial Hearing Office a Due Process Response Form.

Once completed, the Due Process Response Form must be sent to the parent or the parent's representative and uploaded onto IHS.

### Resolution Meeting

After the parent's due process complaint is filed, the DOE and the parent are provided with an opportunity to meet to discuss possible resolution to the issues of the complaint. This meeting is called a "resolution meeting." A resolution meeting differs from a mediation meeting, and can only occur

after a due process complaint has been filed. (The DOE and parent can, however, agree to hold a mediation session in lieu of a resolution meeting by using the [procedures above](#).)

### Resolution Meeting Requirements

During the resolution meeting, a DOE representative<sup>160</sup> and the parent must meet to discuss the following:

- The due process complaint;
- The facts that form the basis of the complaint; and
- Possible resolution(s) to the complaint.

The DOE staff assigned to schedule the resolution meeting (known in IHS as the Resolution Case Manager, or RCM) must make reasonable efforts to engage the parent in the resolution process in every case and to document all efforts to schedule and hold resolution in both the **SEGIS Events Log** and IHS. Documentation should include detailed records of the DOE's phone calls, copies of written notice and other correspondence, and records of other outreach to arrange the meeting at a mutually agreed upon time and place.

If the parent and the DOE agree, **in writing**, to waive the resolution session, the RCM should notify the Impartial Hearing Office. If the parent seeks to waive the resolution meeting, the DOE does not need to consent. It is strongly recommended that field staff not waive the resolution meeting and participate in resolution for each case.

If the parent withdraws the request for impartial hearing before the meeting date, a resolution does not need to be held.

### Resolution Timelines

#### Standard timeline:

- The resolution meeting must take place within 15 calendar days of receipt of the due process complaint. (Additional meetings or communications may take place following this initial 15 calendar day period.)
- The DOE and the parent have 30 calendar days from receipt of the request to resolve the case to the parent's satisfaction before the case is scheduled for hearing with a hearing officer. That 30 calendar day period is known as the "Resolution Period."

<sup>160</sup>The meeting may not include an attorney of the district unless the parent is accompanied by an attorney. The DOE representative charged with holding the resolution meeting may differ by office.

**Expedited timeline** (only for limited reasons addressed below):

- The resolution meeting must take place within 7 calendar days of receipt of the due process complaint.
- The DOE and the parent have 15 calendar days from receipt of the request to resolve the case before the case is scheduled for a hearing.

**Note:** If a parent amends the impartial hearing request, the parties must hold a new resolution meeting within the mandated timelines unless both parties waive their rights to do so.

### Interpretation Services

Where the parent has limited English proficiency, the DOE representative should ensure that there is an interpreter available during the resolution meeting, whether by phone or in person. If the parent or parent's counsel brings an interpreter, the DOE should also bring an interpreter to ensure that there is full communication between the parties. Contact the [Translation and Interpretation Unit](#) to secure an interpreter.

### Written Resolution Agreement:

If a resolution to the parent's complaint is reached during the resolution period, a resolution agreement should be signed by both the parent and the DOE representative. The agreement is legally binding. Either party may void the agreement within 3 business days from the date that the agreement was signed.

The agreement may reflect a complete resolution of all outstanding issues, in which case the impartial hearing request must be withdrawn by the parent. If there is a partial resolution of some portion of the issues raised in the impartial hearing request, the impartial hearing will move forward with the unresolved issues.

When considering resolution options, be sure to consider the appropriate length of time necessary to secure all necessary components of the resolution agreement. For example, if a resolution agreement is signed that requires the DOE to perform certain assessments, ensure that the agreement contains a timeline that is reasonable for those assessments to be completed. An IEP meeting should also be arranged following the completion of the assessments, and could be agreed to as a specified number of days following receipt by the DOE of the assessments.

When a complete or partial agreement has been reached and the three business days have passed, the DOE representative is responsible for following up with the school or district CSE to make sure the terms of the

agreement are implemented as specified, and to assist with any difficulties. The DOE representative should also contact other administrative offices, as appropriate, to ensure the agreement is implemented in its entirety. If necessary, depending on the terms of the resolution agreement, the IEP team should reconvene or amend the IEP to reflect the agreed upon resolution. A resolution agreement can become "pendency" in future impartial hearings involving the same student.

### Expedited Due Process Complaints

The following issues raised in a due process complaint may require an expedited timeline for the resolution process and for the impartial hearing to be held.

- The parent may request an expedited due process hearing following a determination by the school at a Manifestation Determination Review (MDR) that a student's behavior that led to a disciplinary change of placement was not a manifestation of the student's disability. See [MDR section](#) for more information.
- The parent may also request an expedited due process hearing related to any decision regarding a student's change of placement (in an ALC or otherwise) resulting from a disciplinary removal or suspension, including the disciplinary change of placement without conducting an [MDR](#) in accordance with disciplinary due process rights.

Where a due process hearing is expedited, the resolution meeting must be held within 7 calendar days of the filing of the due process complaint, and the resolution period ends after 14 calendar days of the filing of the due process complaint. The hearing must be held within 20 school days of the filing of the due process complaint, and the impartial hearing officer must make a determination within 10 school days after the hearing. The hearing officer is not permitted to make any extensions or adjournments to the hearing timeline for expedited cases, even if the DOE and parent jointly seek such an extension or adjournment.

### DOE-Initiated Impartial Hearings

The DOE has the right to initiate due process proceedings in certain limited circumstances. Impartial hearing proceedings should only be sought by the DOE when all other options for non-adversarial dispute resolution with the parent – such as an additional IEP meeting or mediation – have been considered and/or exhausted.

The DOE may initiate due process proceedings for the following reasons:



- To defend the appropriateness of a DOE assessment, when the parent has [requested an independent assessment at DOE expense](#);
- To conduct an initial evaluation, when the parent of a student attending or seeking to attend public school is unresponsive or does not consent to an initial evaluation;<sup>161</sup> or
- To request placement in an IAES setting for a student who is substantially likely to injure him/herself or others if the student remains in the current placement.

The DOE may **not** use due process procedures in order to initiate services without consent. If the school/CSE continues to believe that the student requires special education and/or related services in order to receive an appropriate education, it should continue to attempt to engage the parent to promote the goals of involving the parent in educational decisions and ensuring there is trust, cooperation, and understanding between the parent and the school.

If a school/CSE wishes to initiate an impartial hearing, it must consult with the ASE, CSE chairperson, or D75 or D79 hearing representatives. If the BCO director of special education believes a hearing should be initiated, the director must contact the [Impartial Hearing Representation Office](#) with the subject line “Inquiry about DOE-filed Impartial Hearing” prior to taking any steps.

## Preparing for Impartial Hearings

### Impartial Hearing Representation

Depending on the nature of the case and the student's school, the DOE may be represented at an impartial hearing by an attorney from the Office of Legal Services, a CSE or D75/D79 professional, or a trained non-attorney representative from the Impartial Hearing Representation Office.

### DOE Staff Participation in Pre-Hearing Investigation

DOE staff may be contacted by the DOE's impartial hearing representative or attorney and asked to provide information for a due process case. DOE staff must fulfill requests for documents or information in connection with the impartial hearing case. Early and prompt cooperation will ensure that the complaint can be investigated quickly and the representative can make a recommendation regarding the merits of the complaint.

## Impartial Hearing Orders and Implementation

At the conclusion of the impartial hearing, the impartial hearing officer will issue an order containing his or her decision on the merits of the issues presented at the hearing. The DOE's [Impartial Hearing Order Implementation Unit](#) is responsible for ensuring the timely implementation of all impartial hearing orders.

**Schools/CSEs should take no action in response to a hearing order unless and until directed to do so by the Impartial Hearing Order Implementation Unit or the designated school/CSE implementation liaison.**<sup>162</sup>

## Appeals of Impartial Hearing Orders

If the DOE or parent disagrees with the decision of the impartial hearing officer, either may appeal the decision by seeking review by a State Review Officer (SRO). If the DOE or parent disagrees with the findings of the SRO, they may initiate an appeal of the decision in federal court. A student is entitled to remain in the last agreed-upon program during the pendency the appeal. If the DOE is required to take action in connection with a decision by the SRO or a federal court, either OLS or the Impartial Hearing Order Implementation Unit will notify the appropriate DOE offices and staff members to ensure that the decision is implemented.

As used throughout this SOPM, the term “Parent” refers to any individual who is permitted by law to consent to the evaluation and provision of special education services to the student and otherwise make educational decisions on behalf of the student.

<sup>161</sup> If a student is enrolled in a private/religious school at private expense, or if a parent is home schooling the student, the DOE may not use due process procedures to conduct an initial evaluation or reevaluation.

<sup>162</sup> If an Order has been issued and the school/CSE notes its responsibility for ordered actions, the school/CSE may contact the Impartial Hearing Order Implementation Unit for guidance on how to proceed.

## Graduation and Exit

Students with disabilities should be encouraged to pursue the most rigorous diploma option appropriate, which may be a Regents endorsed or local diploma.

### Graduation Options

The “Safety Net” provides additional flexibility to earn a local diploma, for certain students who will not meet or exceed the requirements for an advanced Regents or Regents diploma. The following students are Safety Net eligible:

- Students with an IEP;
- Students who were declassified in grades 8-12 and whose last IEP specifies Safety Net eligibility; and
- Students with a Section 504 Plan specifying Safety Net eligibility.

For information on Graduation Requirements and Options, including Safety Net options, see the [High School Academic Policy Guide](#), the Academic Policy Guide on [Graduation Requirements](#), and [Superintendent's Determination of Graduation with a Local Diploma](#).

When a student with an IEP will graduate from high school with a Regents endorsed or local diploma, the school must provide prior written notice to the parent. This notice informs the parent that the student will no longer be eligible to receive a free appropriate public education after the student's receipt of a Regents endorsed or local diploma. The school/CSE must also provide an exit summary as described below.

### Commencement Credential Options

In lieu of, or in addition to, a Regents endorsed or local diploma, students who meet specific criteria may be eligible to earn the Career Development and Occupational Studies (CDOS) commencement credential or the Skills and Achievement commencement credential (SACC).<sup>163</sup>

#### CDOS Commencement Credential

The CDOS commencement credential option is available to all students. It is designed to recognize students' mastery of the career-readiness skills defined in the [CDOS learning standards](#). The CDOS commencement

credential may be awarded to students as an endorsement to a Regents endorsed or local diploma, or as the student's sole exiting credential from high school. The CDOS commencement credential may also be used towards meeting Regents or Safety Net graduation requirements.

If a student earns the CDOS credential without earning a high school diploma, the school must provide the student with written notice of his/her right to return to high school and work towards earning a diploma, receiving special education services if eligible.

For more information regarding the CDOS credential and sample notices, see the [Career Development and Occupational Studies \(CDOS\) Commencement Credential guide](#).

#### Skills and Achievement Commencement Credential

Students with IEPs who participate in the New York State Alternate Assessment (NYSAA) in place of standardized assessments may be eligible to receive the Skills and Achievement Commencement Credential (SACC).

If a student earns this commencement credential, the school must provide the student with written assurance of his/her eligibility to stay in high school through the school year in which s/he turns 21.

The Skills and Achievement Commencement Credential should be awarded in alignment with the transition planning process for students with IEPs.

For more information, see the [Skills and Achievement Commencement Credential for NYSA-Eligible Students with Disabilities guide](#).

### Exit Summary

When a student with an IEP will no longer be eligible for special education – either because s/he will (a) graduate with a local or Regents endorsed diploma or (b) no longer be age-eligible<sup>164</sup> – the school/CSE must complete an “Exit Summary.” The Exit Summary summarizes the student's academic achievement and functional performance and includes recommendations on how to assist the student in meeting his or her postsecondary goals. NYSED states that the purpose of the Exit Summary is “to provide the student with a written report that provides essential information to consider as the student transitions from secondary school.”

The Exit Summary must be provided to the student prior to the end of the

<sup>163</sup> These exiting credentials are not equivalent to a high school diploma; they do not have credit or exam requirements; and once received, they do not end a student's eligibility to receive a free appropriate public education. They do not guarantee qualification in situations where a high school diploma is required.

<sup>164</sup> A student is eligible for special education only if s/he has not attained the age of 21 as of September 1 of the school year. Students who turn 21 on or after September 1 may receive services through June 30 of the school year in which the student turns 21. Students who turn 21 between July 1st and August 31st may receive any recommended ESY special education programs and/or related services, but are ineligible for services beginning September 1.

school year in which the student will graduate with a local or Regents endorsed diploma or “age out”. The Exit Summary may be developed during the student’s last IEP meeting before exiting. The Exit Summary should be prepared through a team process that includes the student, family and members of the school/CSE who know the student well. If appropriate, and with the parent’s consent, adult agency personnel should be included in discussions regarding the Exit Summary.

The Exit Summary contains two parts: (1) a summary of academic achievement, functional performance, and learning characteristics, and (2) postsecondary goals and recommendations for support. Teams should consult the NYSED Memorandum, [Student Exit Summary as Required by IDEA 2004](#), for in-depth guidance on the information that should be included within each section of the student’s Exit Summary.

