

WHAT'S A COMPLAINT, WHAT'S NOT and WHO ARE WE COMPLAINING TO ANYWAY?

A Guide for UFT Special Education Staff

I. Special Class (15:1; 12:1; 12:1:1; 12:1:4; 8:1:1; 6:1:1)

A. Definition

- ***Special class* means a class consisting of students with disabilities who have been grouped together because of similar individual needs for the purpose of being provided specially designed instruction as defined in subdivision (vv) of this section.**

Commissioner's Regulation 200.1(uu)

B. Class Size

- **Class Size 15:1**
The maximum class size for those students whose special education needs consist primarily of the need for specialized instruction which can best be accomplished in a self-contained setting shall not exceed 15 students

Commissioner's Regulations 200.6(h); NYC Continuum p. 36

- **Class Size 12:1**
Applies to elementary and junior/middle schools in New York City

NYC Continuum of Services, p.36

- **Class Size 12:1:1**
The maximum class size for special classes containing students whose management needs interfere with the instructional process, to the extent that an additional adult is needed within the classroom to assist in the instruction of such students.

Commissioner's Regulations 200.6(h)(4)(i); NYC Continuum p. 36

- **Class Size 12:1:4**
The maximum class size for those students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment, shall not exceed 12 students. In addition to the teacher, the staff/student ration shall be one staff person to three students. The additional staff may be teachers, supplementary school personnel and/or related service providers.

Commissioner's Regulations 200.6(h)(4)(iii); NYC Continuum p. 36

- **Class Size 8:1:1**
The maximum class size for special classes containing students whose management needs are determined to be intensive, and requiring a significant degree of individualized attention and intervention, shall not exceed eight students, with one or more supplementary school personnel assigned to each class during periods of instruction.

Commissioner's Regulations 200.6(h)(4)(ii)(b); NYC Continuum p. 36

- **Class Size 6:1:1**
The maximum class size for special classes containing students whose management needs are determined to be highly intensive, and requiring a high degree of individualized attention and intervention, shall not exceed six students, with one or more supplementary school personnel assigned to each class during periods of instruction.

Commissioner's Regulations 200.6(h)(4)(ii)(a); NYC Continuum p. 36

C. Staffing Requirements

- **Staffing requirements pursuant to Part 80 of this Title.**
Special Education instruction shall be provided by individuals appropriately certified or licensed pursuant to Part 80 of this title.

Commissioner's Regulations 200.6(b)(3)

D. Canceling/Splitting Up Class to Provide Coverage

- **Violates class size regulations and policy listed above.**
- **A student with a disability shall be placed in a special class for instruction on a daily basis to the extent indicated in the student's individualized education program.**

Commissioner's Regulations 200.6(h)(1)

E. Age Range Exceeds 36 Months (except for students over 16 or in 12:1:4 settings)

- **The chronological age range within special classes of students with disabilities who are less than 16 years of age shall not exceed 36 months. The chronological age range within special classes of students with disabilities who are 16 years of age and older is not limited. However, there shall be no**

chronological age-range limitations for groups of students placed in special classes as described in subparagraph (4)(iii) of this subdivision.

Commissioner's Regulations 200.6(h)(5)

- **Each district operating a special class wherein the range of achievement levels in reading and mathematics exceeds three years shall, except for special 6:1:1, 8:1:1 and 12:1:4 classes, provide the committee on special education and the parents and teacher of students in such class a description of the range of achievement in reading and mathematics, and the general levels of social development, physical development and management needs in the class, by November 1st of each year. The parent of each student entering such a class after November 1st shall also be provided a description of the class. A district providing such a description shall also inform the parent of each student in such class that, upon request, the parent shall be afforded the opportunity to discuss the description with an appropriate representative of the district. A copy of such description shall also be included in the district plan.**

Commissioner's Regulations 200.6(h)(5)

- **Age Range:**

The age range within a special class for students under the age of 16 may not exceed 36 months

The age range within a special class for students age 16 or older is not a consideration

The age range within a special class of 12:1:4 is not a consideration

NYC Continuum of Services, p. 112

F. Functional Grouping

- **In all cases the size and composition of a class shall be based on the similarity of the individual needs of the students according to:**
 - (i) **levels of academic or educational achievement and learning characteristics;**
 - (ii) **levels of social development;**
 - (iii) **levels of physical development; and**
 - (iv) **the management needs of the students in the classroom**

Commissioner's Regulations 200.6(h)(2)

- **A special class shall be composed of students with disabilities with similar individual needs**

Commissioner's Regulations 200.6(h)(3)

- **Group instruction means instruction of students grouped together according to similarity of individual needs for the purpose of special education. The curriculum and instruction provided to such groups shall be consistent with the individual needs of each student in the group and the instruction required to meet the individual needs of any one student in the group shall not consistently detract from the instruction provided other students in the group.**

Commissioner's Regulations 200.1(w)(3)(ii)

- To the greatest extent possible, students with disabilities should attend the schools they would normally attend if they did not require special education services to address their learning needs. The following factors must be considered in identifying a special class:

Proximity to the home of the student, with the home-zoned school as the first option for consideration. Consideration must also be given to the school the student is currently attending or the school of articulation

Similarity of the individual needs of the students according to the levels of academic or educational achievement and learning characteristics, levels of social development, levels of physical development, and the management needs of the students in the classroom

The language of instruction

The age/grade appropriateness of the class

- As a general rule, the achievement levels in reading and math should not exceed 3 years, except for special classes organized at 8:1:1, 6:1:1 and 12:1:4. If a school operates a class in which both reading and math achievement levels exceed 3 years, the school must provide the Office of Student Enrollment and the parents of students in the class with the range of reading and math achievement levels and the general levels of social development, physical development and management needs in the class by November 1st of each year. The parents (and teachers if not previously informed) of any new students entering that class must be provided a description of the class by the Office of Student Enrollment as detailed above.

NYC Continuum of Services, p. 112

G. Class Size Variances

- **Upon application and documented educational justification to the commissioner, approval may be granted for variance from the special class sizes and chronological age ranges.**
- **In a city school district having a population of one million or more, special classes that have a maximum class size of fifteen students may be increased by no more than one student.**

Commissioner's Regulations 200.6(h)(6)

NOTE: See NYSUT Information Bulletin regarding variances:

http://www.nysut.org/files/bulletin080919_specialedvariances.pdf

- The Office of Student Enrollment may request a variance from the special class sizes or age range prior to exceeding the requirement from the State Education Department. This is done by completing the **Variance Request Form**, signed by the Office of Student Enrollment Director of Special Education and mailed directly to the State Education Department at 55 Hanson Place, Brooklyn, NY 11217.
- **Please Note:** Special Classes may be increased by no more than one student.

NYC SOPM p. 113

II. Collaborative Team Teaching

A. Ratio of general education students to students with IEPs exceeds 40 % of class register with no more than 12 students.

- The number of students with disabilities in a Collaborative Team Teaching class may not exceed forty percent of the total class register. Collaborative Team Teaching classes must adhere to general education class size limits. Under Collaborative Team Teaching, classes that normally have a class size limit of twenty students will increase to twenty-five students, with a maximum of ten students having disabilities.

NYC Continuum p. 31

- **The maximum number of students with disabilities receiving integrated co-teaching services in a class shall be determined in accordance with the students' individual needs as recommended on their IEPs, provided that effective July 1, 2008, the number of students with disabilities in such classes shall not exceed 12 students.**

Commissioner's Regulations 200.6(g)

NOTE: There is no variance for the limit of 12 students with disabilities in an ICT class.

B. Failure to provide two licensed teachers (one general education and one special education) in elementary CTT class.

- **School personnel assigned to each class shall minimally include a special education teacher and a general education teacher.**

Commissioner's Regulations 200.6(g)

- **Special education instruction shall be provided by individuals appropriately certified or licensed pursuant to Part 80 (of the Commissioner's Regulations).**

Commissioner's Regulations 200.6(b)(4)

- Collaborative Team Teaching provides students the opportunity to be educated alongside their non-disabled peers with the full-time support of a special education teacher throughout the day to assist in adapting and modifying instruction.
- The Collaborative Team Teaching classroom consists of one special education teacher and one general education teacher. . . Together , the general and

special education teacher carry out instruction employing a range of methodologies.

NYC Continuum p. 31

- C. Failure to provide two licensed teachers (one content area and one special education) in middle or high school CTT class.**
- Violates Commissioner's Regulations and NYC policy listed above.
- D. Failure to provide two licensed teachers during preps and non-major subjects when the IEP of one or more students in the class says CTT for "all" or 35 periods.**
- Violates Commissioner's Regulations and NYC policy listed above.
 - Violates CTT arbitration decision.
- E. Failure to maintain staffing by two appropriately licensed teachers when one teacher is absent**
- Violates Commissioner's Regulations and NYC policy listed above
- F. Functional Grouping**
- **Group instruction means instruction of students grouped together according to similarity of individual needs for the purpose of special education. The curriculum and instruction provided to such groups shall be consistent with the individual needs of each student in the group and the instruction required to meet the individual needs of any one student in the group shall not consistently detract from the instruction provided other students in the group.**
 - **Commissioner's Regulations 200.1(w)(3)(ii)**
- G. General education students in CTT class do not represent full range of performance in grade (i.e., most or all general education students are low performing.)**
- Currently, no basis for NYC or State complaint. Just bad practice.
- H. Awaiting Service**
- **Recommendation.** For a student not previously identified as having a disability, the committee on special education shall provide a recommendation to the board of education which shall arrange for the appropriate special education programs and services to be provided to the

student with a disability within 60 school days of the receipt of consent to evaluate. For a student with a disability referred for review pursuant to subdivision (f) of this section, a recommendation shall be provided to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the referral for review of the student with a disability.

Commissioner's Regulations 200.4(d)

- ***IEP Implementation.*** (1) Within 60 school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability, the board of education shall arrange for appropriate special programs and services, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the board shall arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the committee.

(i) There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.

(ii) The school district shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Commissioner's Regulations 200.4(e)

- If CTT is the recommended program for the student on his or her IEP, then an FNR must be issued within 60 school days. If an FNR is not issued within 60 school days, **and** the student's current educational placement is in a **more** restrictive environment (i.e., special class, NPS, home instruction, or residential placement), **then** the student will remain in the more restrictive environment, unless DOE and the parent agree otherwise. If the more restrictive placement is a Special Class, and the Special Class is not available in accordance with the terms outlined in "Untimely Special Class Placement Offer" in this Section, a **P1-R** will be issued.
- If CTT is the recommended program for the student on his or her IEP **and** an FNR offering the student's parent a public school placement for CTT is not issued by the 60th school day, **and** the student's current placement is in a **less** restrictive environment (i.e., general education, SETSS, related services only), **then** the DOE will provide the student with two periods a day of SETSS in the school in which the student is currently enrolled as an alternative.
- If multiple SETSS are not available in the student's current school, the ISC, in consultation with the Office of Student Enrollment, (or the CSE if the student is non-attending, or attending a Charter, private or parochial school) will provide the

student's parent with a **P-3** letter authorizing the parent to identify an appropriately licensed non-DOE provider of SETSS services at public expense for two sessions of SETSS per day. Additionally, the parent will be sent information on available providers, instructions regarding how to invoke the letter, and contact information at the DOE for assistance.

NYC SOPM p. 126

III. Special Education Teacher Support Services (SETSS)

A. Group Size

- **An instructional group which includes students with disabilities in a resource room program shall not exceed five students per teacher except that, in the city school district of the city of New York, the commissioner shall allow a variance of up to 50 percent rounded up to the nearest whole number from the maximum of five students per teacher. (i.e., 8 students)**

Commissioner's Regulation 200.6(f)

- **Group size for the provision of SETSS provided in the general education classroom or in a separate location may not exceed a maximum of eight students.**

NYC Continuum p. 29

B. Caseload

- **The total number of students with a disability assigned to a resource room teacher shall not exceed 20 students or, for the city school district of the city of New York, the commissioner shall allow a variance of up to 50 percent rounded up to the nearest whole number from the maximum of 20 students per teacher (i.e., 30 students); except that the total number of students with a disability assigned to a resource room teacher who serves students enrolled in grades seven through twelve or a multi-level middle school program operating on a period basis shall not exceed 25 students or, for the city school district of the city of New York, the commissioner shall allow a variance of up to 50 percent rounded up to the nearest whole number from the maximum of 25 students per teacher (i.e., 38 students).**

Commissioner's Regulation 200.6(f)

C. Duration, Location and Frequency

- **The student's IEP must indicate the amount of time the student will receive Special Education Teacher Support Services, the distribution of the time between direct and indirect services and the location of services (i.e., the general education classroom or a separate location.)**

NYC Continuum p. 29

- **To enable students with disabilities to be educated with nondisabled students to the maximum extent appropriate, specially designed instruction and supplementary services may be provided in the regular class, including, as**

appropriate, providing related services, resource room programs and special class programs within the general education classroom.

Commissioner's Regulation 200.6(a)(1)

- **[A] student with a disability who also needs consultant teacher services in addition to resource room services may receive a combination of such services consistent with the student's IEP for not less than three hours per week.**

Commissioner's Regulation 200.6(f)

- **[A] student with a disability who also needs resource room services in addition to consultant teacher services, may receive a combination of such services consistent with the student's IEP for not less than three hours each week.**

Commissioner's Regulation 200.6(d)

D. Functional Grouping

- **Group instruction means instruction of students grouped together according to similarity of individual needs for the purpose of special education. The curriculum and instruction provided to such groups shall be consistent with the individual needs of each student in the group and the instruction required to meet the individual needs of any one student in the group shall not consistently detract from the instruction provided other students in the group.**

Commissioner's Regulations 200.1(w)(3)(ii)

- **The composition of instructional groups in a resource room program shall be based on the similarity of the individual needs of the students according to:**
 - **Levels of academic or educational achievement and learning characteristics;**
 - **Levels of social development**
 - **Levels of physical development**
 - **The management needs of the student in the classroom**

Commissioner's Regulations 200.6(f)(4)

E. Canceling Service

- **A student with a disability shall be provided the special education specified on the student's IEP to be necessary to meet the student's unique needs.**

Commissioner's Regulation 200.6(a)(2)

- **The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented.**

Commissioner's Regulations 200.4(e)(3)

- **The school district must provide special education and related services to a student with a disability in accordance with the student's IEP and must make a good faith effort to assist the student to achieve the annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.**

Commissioner's Regulations 200.4(e)(7)

F. Awaiting Service

- ***Recommendation.* For a student not previously identified as having a disability, the committee on special education shall provide a recommendation to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the receipt of consent to evaluate. For a student with a disability referred for review pursuant to subdivision (f) of this section, a recommendation shall be provided to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the referral for review of the student with a disability.**

Commissioner's Regulations 200.4(d)

- ***IEP Implementation.* (1) Within 60 school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability, the board of education shall arrange for appropriate special programs and services, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the board shall arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the committee.**

(i) There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.

(ii) The school district shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Commissioner's Regulations 200.4(e)

- For those continuing students, the Department will make best efforts to provide SETSS services to a student who is recommended to receive SETSS 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, the Department will identify and assign a DOE SETSS teacher within 2 school days of the start of the school year in September. During the school year, the Department will identify and assign a DOE SETSS teacher within 2 school days of acceptance of the FNR to newly recommended students.
- If a DOE teacher is not available, an authorization for SETSS Services (a “ P-3 Authorization”) should be issued within an additional 5 school days. The **P-3** Authorization will set forth the frequency and duration of services. The parent will be provided with information on available providers and instructions on how to invoke the **P-3**. The parent will also be provided with information regarding whom to contact at the DOE for assistance.

NYC SOPM p. 125

IV. Related Services

A. Definition

- ***Related services*** means developmental, corrective, and other supportive services as are required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students.

Commissioner's Regulations 200.1(qq)

- ***Other Support Services:*** School Health Services, and Other Support Services, e.g., Behavior Management Paraprofessional, Awaiting Placement Paraprofessional, Special Transportation Paraprofessional, Sign Language Interpreter, Oral Interpreter, Cued Speech Transliterator, and Orientation and Mobility Paraprofessional are related services in NYC. *See* Paraprofessional Supports and Services for descriptions of services.

NYC Continuum of Services, pp. 27-28

B. Assessment

- ***Individual evaluation*** means any procedures, tests or assessments used selectively with an individual student, including a physical examination in accordance with the provisions of sections 903, 904 and 905 of the Education Law, an individual psychological evaluation, except where a school psychologist has determined pursuant to section 200.4(b) of this Part that a psychological evaluation is unnecessary to evaluate a student of school age, a social history and other appropriate assessments or evaluations as may be necessary to determine whether a student has a disability and the extent of his/her special education needs, but does not include basic tests administered to, or procedures used with, all students in a school grade or class.

Commissioner's Regulations 200.1(aa)

- Unless a referral for an evaluation submitted by a parent or a school district is withdrawn pursuant to paragraph (a) (7) or (9) of this section after parental consent has been obtained or a parental refusal to consent is

overridden, an individual evaluation of the referred student shall be initiated by a committee on special education. The individual evaluation shall be completed within 60 days of receipt of consent unless extended by mutual agreement of the student's parents and the CSE pursuant to sections 200.4(b)(7)(i) and 200.4(j)(1) of this Part. The individual evaluation shall include a variety of assessment tools and strategies, including information provided by the parent, to gather relevant functional, developmental and academic information about the student that may assist in determining whether the student is a student with a disability and the content of the student's individualized education program, including information related to enabling the student to participate and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities). The individual evaluation must be at no cost to the parent, and the initial evaluation must include at least: [1-4 omitted as not relevant] 5) other appropriate assessments or evaluations, including a functional behavioral assessment for a student whose behavior impedes his or her learning or that of others, as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.

Commissioner's Regulations 200.4(b)(1)

- [T]he committee on special education may direct that additional evaluations or assessments be conducted in order to appropriately assess the student in all areas related to the suspected disabilities.

Commissioner's Regulations 200.4(b)(3)

- the student is assessed in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities;

Commissioner's Regulations 200.4(b)(6)(vii)

N.B. The Commissioner's Regulations contain extensive requirements regarding evaluations. The above regulations are the most relevant for related service assessments.

- The mandated timeframe for completing all necessary assessments and convening an IEP meeting is 60 calendar days from the receipt of parental consent to evaluate the student.

NYC SOPM, p. 45

- When a reevaluation is requested, the mandated timeframe for completing all necessary assessments, recommending appropriate services, and arranging for the

provision of all services is within 60 school days of the receipt of referral for a review.

NYC SOPM, p. 46

- **Assessments Required as Part of the Initial Evaluation:** At a minimum, an initial evaluation shall include, at no cost to the parent: (Items 1-4 omitted as not relevant) Other appropriate assessments (e.g., speech and language, functional behavioral assessments for a student whose behavior impedes his or her learning or that of others, etc) as necessary to ascertain the physical, mental, behavioral and emotional factors which contribute to the suspected disabilities.

NYC SOPM, p. 47

- **Speech and Language Assessment:** The goal of speech and language assessment is to provide a description of a student's communicative competence, meaning the student's ability to comprehend, express and exchange information and the impact of those abilities on skill acquisition. A speech and language assessment should be considered when a teacher, parent or other school professional notices difficulties in the student's pattern of communication.
- Linguistically and culturally diverse students may not have a dominant language, but may use a mixed linguistic system. The assessment must explore a student's performance using all the communication strategies with which the student is familiar. Social and cultural factors must be considered in conducting the assessment.

NYC SOPM, p. 47

- **Assessment Requirements for Occupational/Physical Therapy:** When the IEP Team initially recommends a student to receive occupational or physical therapy, an assessment by an appropriate professional must be conducted. Please note that a physician's prescription is not needed to conduct an assessment, but is required in order to make a recommendation.

NYC SOPM, p. 47

- **Assistive Technology Evaluations:** An Assistive Technology evaluation conducted whether IEP Team has determined that a student may need an Assistive Technology device. (p. 51 of SOPM)

C. Participation in IEP Team Meetings

- **The membership of each subcommittee shall include, but not be limited to not less than one of the student's special education teachers or, if appropriate, not less than one special education provider of the student; such other**

persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or the parent shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the subcommittee on special education;

Commissioner's Regulation 200.3(a)(2)(iii) and (vii)

- The principal is responsible for ensuring that related service providers are notified and invited to attend the IEP meeting when their area of curriculum or related services is being modified or discussed.

NYC SOPM p. 20-21

D. Awaiting Service

- ***Recommendation.*** For a student not previously identified as having a disability, the committee on special education shall provide a recommendation to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the receipt of consent to evaluate. For a student with a disability referred for review pursuant to subdivision (f) of this section, a recommendation shall be provided to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the referral for review of the student with a disability.

Commissioner's Regulations 200.4(d)

- ***IEP Implementation.*** (1) Within 60 school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability, the board of education shall arrange for appropriate special programs and services, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the board shall arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the committee.
 - (i) There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.
 - (ii) The school district shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Commissioner's Regulations 200.4(e)

- If monolingual and bilingual counseling, monolingual and bilingual speech, occupational therapy and/or physical therapy are recommended on a student's IEP:
- The ISC (or the CSE if the student is non-attending, attending a Charter, private or parochial school) will identify and assign a DOE provider within 2 school days of parent consent to the Final Notice of Recommendation during the school year. For continuing students or students deferred to the start of the school year in September, DOE will identify and assign a DOE provider within 2 school days of the start of the school year in September
- If a DOE provider is not available, the ISC (or the CSE if the student is non-attending, attending a Charter, private or parochial school) will issue a request for services to an agency under contract with the DOE. If the DOE is unable to locate a related service provider within an additional 13 days, the appropriate ISC or CSE will issue a **Related Service Authorization letter ("RSA")** to the parent. The parent will be provided with information on available providers and instructions regarding how to invoke the RSA. The parent will also be provided with contact information at the DOE for assistance.

NYC SOPM p. 127

E. Underserved

- **There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.**

Commissioner's Regulations 200.4(e)

- **The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented.**

Commissioner's Regulations 200.4(e)(3)

- **The school district must provide special education and related services to a student with a disability in accordance with the student's IEP and must make a good faith effort to assist the student to achieve the annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.**

Commissioner's Regulations 200.4(e)(7)

F. Individual vs. Group Service

- Group Related Services may be recommended when:
Peer relationships support or aid the attainment of IEP goals.
Common interests, values or skills create an optimal context for learning.
Skills can be practiced most effectively in the presence of others.
Students demonstrate the ability to function in a group.
- Individual Related Services may be recommended when:
Specialized techniques that cannot be provided in a group are needed.
The desired skills and their practice require privacy.
Intensive treatment, with maximum opportunities for repetition and learning new skills, is needed.
The student's behavior, attention, and/or other factors are managed most appropriately on an individual basis.
The student has complex conditions that cannot be addressed in a group setting.

NYC Continuum of Services, p. 21

G. Group Size

- **When a related service is provided to a number of students at the same time, the number of students in the group shall not exceed five students per teacher or specialist except that, in the city school district of the city of New York, the commissioner shall allow a variance of up to 50 percent rounded up to the nearest whole number from the maximum of five students per teacher or specialist (i.e., 8 students).**

Commissioner's Regulations 200.6(e)(3)

- If services are provided in a group, the IEP Team must also determine the maximum group size. Related Services may be provided to a group of two or more students, with the maximum group size not to exceed eight students. Where services are provided to a mixed group that consists of both students with disabilities and nondisabled students, the combined group size may not exceed the group size maximum for any individual student with a disability in the group.

NYC Continuum of Services, p. 21

H. Functional Grouping

- **Group instruction means instruction of students grouped together according to similarity of individual needs for the purpose of special education. The curriculum and instruction provided to such groups shall be consistent with the individual needs of each student in the group and the instruction required to meet the individual needs of any one student in the group shall**

not consistently detract from the instruction provided other students in the group.

Commissioner's Regulations 200.1(w)(3)(ii)

I. Language of Service

- The IEP Team must determine the language of service, indicating the language separately for each related service. Occupational Therapy, Physical Therapy and/or School Health Services for a student otherwise entitled to bilingual instructional services may be provided by a monolingual professional if it is determined that the services can meaningfully be provided by such a professional and that the student will be able to benefit from receiving such services from a monolingual professional.

NYC Continuum of Services, p. 21

- After determining that a student has a disability and needs special education services IEP Teams must also determine the instructional language for English Language Learners. The following factors should be considered and discussed when determining the appropriate language of service for students with disabilities:
 - Home language use based on the HLIS responses and follow-up interviews with the parents and student
 - Educational history including whether the student is currently receiving bilingual or ESL services, the number of years the student has received bilingual/ESL services, as well as a review of the cumulative record and current report cards
 - The levels of proficiency, both expressive and receptive, in the home language and English
 - Scores on the LAB/NYSESLAT
 - Teacher observations of the student's work over an extended period of time
 - Samples of oral and/or written work in both the home language and English
 - Informal student assessment including language sample interviews in both the home language and English and
 - The concerns and preferences of the parent.
- Based on their analysis and review of these factors, the IEP Team will reach one of three determinations:
 - Bilingual instructional services are required; or

- Bilingual instructional services are not required, but ESL instructional services are required to enable the student to continue to further develop English linguistic competence and to progress appropriately in an English language instructional program; or
- Bilingual and ESL instructional services are not required since the assessment information reveals that no other language is impacting on the student's language development or the student has appropriate language and social skills in English to progress appropriately in an English language setting.

NYC SOPM p.p. 89-90

- Recommending Interim Speech/Language Therapy in English for ELLs Recommended for Bilingual Speech/Language Therapy

Students recommended to receive Speech/Language Therapy as a Related Service in a language other than English may be considered for interim Speech/Language Therapy in English when a certified bilingual provider is not available. Prior to considering this interim service, all efforts must have been made (i.e. with full time, part-time or per diem NYCPS staff, contract agency staff or independent providers). In addition, all efforts must continue to be made to locate a bilingual provider while implementing interim monolingual Speech/ Language Therapy, including assisting the parent in locating a bilingual independent provider through the Related Service Authorization process.

The decision to recommend interim Speech/Language Therapy in English must be made at an IEP meeting. The team should review the bilingual evaluations, teacher reports, and parental input to determine whether the student has emerging expressive communication skills in English to enable the student to benefit from this service. Consideration should also be given to the student's cultural, linguistic and experiential background, educational experiences, ability to adapt to different learning situations, etc.

ELLs who may be recommended for interim Speech/Language Therapy in English include:

- Students who do not speak or understand any conventional language and/or those who function at a non-symbolic level
- Students who demonstrate emerging expressive communication skills and knowledge in English while still being dominant in their preferred language.

Students who have some fluency in a language other than English and who do not exhibit basic communication skills in English, either receptively or expressively, may not be appropriate for Speech/Language Therapy in English, even on an interim basis.

Please Note: It is inappropriate to change a student's IEP recommendation from bilingual to monolingual due to the absence or unavailability of a bilingual provider.

When an IEP Team recommends that interim Speech/Language Therapy in English be provided to a student recommended for bilingual Speech/Language Therapy, an IEP meeting must be held indicating the recommended service and noting that it will be provided on an interim basis. In the related services section of the IEP, the IEP Team will write “Interim Monolingual Speech pending availability of a bilingual provider” and include frequency, duration and group size, and appropriate goals developed.

NYC SOPM, pp. 90-91

I. Frequency, Duration and Location

- **The frequency, duration and location of each such service shall be in the IEP, based on the individual student's need for the service.**

Commissioner's Regulations 200.6(e)(1)

- **For students with disabilities determined to need speech and language services, such services shall be provided for a minimum of two 30-minute sessions each week, and the total caseload of such students for teachers providing such services shall not exceed 65.**

Commissioner's Regulations 200.6(e)(2)

- **Related services may be provided in conjunction with a regular education program or with other special education programs and services.**

Commissioner's Regulations 200.6(e)(5)

- **A student with a disability may receive one or more periods a week of Related Services. Frequency of services will depend on a student's individual needs, but may range from daily, individual or group sessions to less frequent provision of services.**

The IEP Team must indicate the number of sessions per week and the number of minutes per session for each related service session. The IEP Team's goal in determining frequency and duration is to provide the service while minimizing disruption to the student's school program. In doing so, the IEP Team must also consider the number of different Related Services that a student is recommended to receive and the overlap, if any, of the goals.

Frequency of related services is determined by the IEP Team and with the exception of Speech/Language Services may be scheduled on a weekly, bimonthly or monthly basis. Bimonthly or monthly services may be indicated for students who require maintenance or are moving toward decertification. 200.6(e) of the Regulations of the Commissioner of Education require that for students

with disabilities determined to need speech and language services, such services must be provided for a minimum of two thirty minute sessions per week.

Students who require only the related service of Counseling and/or Speech/Language Therapy for less than 180 minutes (combined or alone) per week should be considered for service within the general education program rather than considered for special education Related Services.

NYC Continuum of Services, p. 21

- The IEP Team must determine whether the related service will be provided in the general education classroom or in a separate location or whether services may be provided within both the general education classroom and a separate location. Location of services should be based on the optimal environment for skill acquisition and may change over time in response to student performance and educational program. *NB. This is in error. Students in special classes can receive services in a location other than their special class.*

This decision should be made in collaboration between the school-based service provider and the classroom teacher or, for initial referrals, between the evaluator (e.g., Speech and Language Evaluator) and the classroom teacher.

Classroom-based services facilitate the generalization of skills and the application of skills or strategies in the classroom. Classroom-based services should be considered for students who do not generalize skills easily from one setting to another. Classroom-based services may also provide an opportunity to integrate related service goals with the curriculum.

NYC Continuum of Services, p. 22

J. Canceling Service

- **A student with a disability shall be provided the special education specified on the student's IEP to be necessary to meet the student's unique needs.**

Commissioner's Regulation 200.6(a)(2)

- **The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented.**

Commissioner's Regulations 200.4(e)(3)

- **The school district must provide special education and related services to a student with a disability in accordance with the student's IEP and must make a good faith effort to assist the student to achieve the annual goals and, if**

appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.

Commissioner's Regulations 200.4(e)(7)

V. Paraprofessional Supports and Services

A. Classroom Program

- **Class Size 12:1:1**

The maximum class size for special classes containing students whose management needs interfere with the instructional process, to the extent that an additional adult is needed within the classroom to assist in the instruction of such students.

Commissioner's Regulations 200.6(h)(4)(i); NYC Continuum p. 36

- **Class Size 12:1:4**

The maximum class size for those students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment, shall not exceed 12 students. In addition to the teacher, the staff/student ratio shall be one staff person to three students. The additional staff may be teachers, supplementary school personnel and/or related service providers.

Commissioner's Regulations 200.6(h)(4)(iii); NYC Continuum p. 36

- **Class Size 8:1:1**

The maximum class size for special classes containing students whose management needs are determined to be intensive, and requiring a significant degree of individualized attention and intervention, shall not exceed eight students, with one or more supplementary school personnel assigned to each class during periods of instruction.

Commissioner's Regulations 200.6(h)(4)(ii)(b); NYC Continuum p. 36

- **Class Size 6:1:1**

The maximum class size for special classes containing students whose management needs are determined to be highly intensive, and requiring a high degree of individualized attention and intervention, shall not exceed six students, with one or more supplementary school personnel assigned to each class during periods of instruction.

Commissioner's Regulations 200.6(h)(4)(ii)(a); NYC Continuum p. 36

- *Supplementary school personnel* means a teacher aide or a teaching assistant as described in section 80-5.6(a) through (d) of this Title.

Commissioner's Regulations 200.1(hh)

B. IEP Driven Paraprofessional

- **School Health Services**
- **School health services means school nurse services provided by a qualified school nurse or other health services provided by a qualified person designed to enable a student with a disability to receive a free appropriate public education as described in the individualized education program of the student.**

Commissioner's Regulations Sec. 200.1(ss)

School Health Services can be provided by a professional registered nurse or a paraprofessional. Those health services that can be provided by a paraprofessional are designed to provide students with assistance in activities of daily living, and usually include, but are not limited to, transfers from wheelchair to adaptive equipment, ambulation assistance, diapering and toileting assistance, feeding, dressing, managing orthotics and use of assistive communication or writing devices.

NYC Continuum of Services, p. 25

- **Instructional Support Paraprofessional**

Some students may require the "other support services" of a paraprofessional either in the general education classroom or in a special class as described in the Related Services Section on pages 27-28 to address specific management needs related to behavior, health, communication or vision needs. Unlike the "other support services" provided by a paraprofessional as a Related Service, support from a paraprofessional assigned to the classroom may be necessary for a student with a disability as a supplementary aid and service in the general education classroom to provide assistance to the student in specific instructional areas. The same level of support may not be necessary in all situations for a student. A student may need support in math class but no additional support during the rest of the day. Paraprofessional support as a supplementary aid and service must be indicated in the IEP in the section on supplementary aids and services and the IEP must specify during what instructional areas paraprofessional support is necessary. Paraprofessional support as a supplementary aid and service is provided by a paraprofessional assigned to the classroom. The paraprofessional provides assistance and support to the student during the instructional period(s) as described in the IEP and as directed by teachers, including but not limited to, adapting tasks and assignments, reinforcing previously instructed concepts and providing small group reinforcement and instruction.

NYC Continuum of Services, p.18

- **Other Support Services Paraprofessionals (Related Services)**

Other support services may include the service of a paraprofessional for some portion of the day to address the student's management needs. The circumstances for which a student is recommended to receive intervention of a constant nature by an individually assigned paraprofessional should be carefully considered.

Other Support Services are designed to provide other developmental, corrective or supportive services that are required to allow a student with a disability to benefit from his/her primary education program or to enhance the student's ability to access a less restrictive environment.

The services recommended as Other Support Services must be different in nature and/or intensity than those provided within the array of services included in the primary educational program.

NYC Continuum of Services, p. 27

- Behavior Management Paraprofessional (Other Support Services)

The assignment of a Behavior Management Paraprofessional should be considered when a student's pattern of behavior is of an acute nature which is hazardous to himself and others, all behavioral interventions have been exhausted and the IEP Team has ensured that the student's service recommendation is, indeed appropriate.

Questions to consider in recommending this service are in the NYC Continuum of Services.

NYC Continuum of Services, p. 27

- Awaiting Placement Paraprofessional (Other Support Services)

The assignment of an Awaiting Placement Paraprofessional should be considered when a student is recommended for a very restrictive service but there is no seat available in the recommended program, as an agreed upon interim placement, or when the student has been recommended for a program and the parents exercise their due process rights via Impartial Hearing or a hearing by the State Commissioner of Education. Again, the pattern of behavior is of an acute nature which is hazardous to himself and others.

NYC Continuum of Services, p. 27

- Special Transportation Paraprofessional (Other Support Services)

The assignment of a Special Transportation Paraprofessional should be considered for a student receiving transportation services by the Office of Pupil Transportation who exhibits a pattern of behavior that is hazardous and

substantially beyond the norm of other students being transported. The behavior must be beyond the ability of transportation staff to manage and unable to resolve by adjusting current transportation service.

NYC Continuum of Services, p. 27

- “Other Support Services” for Students Who Are Deaf/Hard of Hearing or Visually Impaired include: Sign Language Interpreter, Oral Interpreter, Cued Speech Transliterater, and Orientation and Mobility Paraprofessional.

NYC Continuum of Services, p. 28

- Toilet Training (Supplementary Aid and Service)

Toilet Training is a short-term instructional service that prepares a student for independence in toileting. Toilet Training intervention includes planning with the student's teachers and parents. A student may be recommended for Toilet Training when all of the following criteria are demonstrated:

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

Instruction is provided by a paraprofessional who schedules, instructs and assists the student to independence in toileting. Individual differences may affect the length of time necessary for successful instruction. The outcome of instruction is independence in toileting. If toilet training is not accomplished, toileting assistance should be considered.

NYC Continuum of Services, p. 51

- Travel Training Program (Supplementary Aid and Service)

Travel Training is short-term, comprehensive and specially designed instruction that teaches high school age students with disabilities (other than blindness or visual impairments) to negotiate public environments including public transportation vehicles and facilities, safely and independently, from home to a specific destination (usually school or the workplace) and back to home again.

Instruction is provided mornings and afternoons on a daily basis and is usually completed within a three week period. However, differences in student needs may affect the length of time necessary for successful instruction.

Travel training is provided by special education teachers and specially trained paraprofessionals.

The development of autonomy, self-direction and independent functioning is a goal of the educational programs for all students. Reflecting this fact, students should be referred for Travel Training when it is determined that their need for specialized instruction in travel techniques is greater than can be addressed by the curriculum in their primary educational/vocational setting.

NYC Continuum of Services, p. 51

- Alternate Placement Paraprofessional

If a licensed bilingual teacher is no longer available, and the school is unable to find an appropriately licensed replacement, the vacancy may be filled by a non-bilingually licensed teacher until a bilingual teacher is found. The principal is responsible for ensuring that the teacher receives 10 hours of training in English as a second language methodology, techniques and materials, if such training has not already been provided. In these cases, the principal/designee will inform parents of the change and will arrange for each student to have an IEP Meeting. At the meeting, the IEP is amended to reflect the alternate placement.

Additionally, in this situation, a paraprofessional who is bilingual in the language of the student(s) is assigned to the class (if such a person is not already assigned.)

NYC SOPM, p. 119

VI. Bilingual Programs and Services

A. Assessment (Eligibility for Services)

- **School districts shall ensure that:**
 - (i) assessments and other evaluation materials used to assess a student under this section:**
 - (a) are provided and administered in the student's native language or other mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally and functionally, unless it is clearly not feasible to so provide or administer;**
 - (b) are used for purposes for which the assessments or measures are valid and reliable;**
 - (c) are administered by trained and knowledgeable personnel in accordance with the instruction provided by those who developed such assessments; and**
 - (d) are selected and administered so as not to be discriminatory on a racial or cultural basis.**

Commissioner's Regulation 200.4(b)(6)(i)

- **the results of the evaluation are provided to the parents in their native language or mode of communication unless it is clearly not feasible to do so;**

Commissioner's Regulation 200.4(xii)

- General education students attending public school whose home language is not English as determined by the Home Language Identification Survey (HLIS) and who have scored at or below the appropriate cut score (this score is dependent on grade) on the Revised Language Assessment Battery (LAB-R), or have not scored at the appropriate level on the New York State English as a Second Language Achievement Test (NYSESLAT) are considered to be English Language Learners (ELLs).
- Students who have been identified as English Language Learners must be initially assessed:
 - In both their preferred language and in English
 - Using language assessments in both the preferred language and English, where possible, to determine the student's development in all areas including listening, speaking, reading and writing, etc. and

Using information from parents, bilingual/ESL teachers, bilingual clinicians and others which includes socio-cultural information, and academic/educational test data

- For students initially referred for evaluation who do not have a Home Language Identification Survey (i.e. students who have not attended a New York City public school), the social worker will administer an HLIS at the social history. Based on the results of the HLIS, a determination will be made whether the student requires a LAB test.
- For students initially referred for evaluation, whose results on the Home Language Identification Survey suggest that a LAB-R should have been administered and was not, arrangements must be made for a LAB-R to be administered by the school. For students not attending public school, the LAB-R will be administered by a special education teacher assigned to the Committee on Special Education Office.
- The LAB-R must be scored at the school for students attending public school and at the Committee on Special Education Office for students attending non-public schools. The answer documents must be sent to the Senior Assessment Coordinator at the appropriate ISC to ensure official scanning, scoring and entry into the computerized tracking system.

NYC SOPM, p. 54

- If a bilingual assessment is required, the Bilingual Cascade must be followed. The Bilingual Cascade outlines a sequential process that ensures that the most appropriate assessment personnel are involved in assessing culturally and linguistically diverse students. The Bilingual Cascade requires a hierarchy of steps be followed in arranging for bilingual assessments and that an assessment by a bilingual assessment professional (Step One) is always preferred to an assessment conducted with the aid of an interpreter (Steps Two through Five). The steps, and sub-steps, of the Bilingual Cascade, arranged in order of priority, can be found in the SOPM at page 55.
- An interpreter may not be used for Spanish Assessments
- When a student is in need of a bilingual assessment and there is no qualified professional at the school, the school psychologist or clerical/family worker requests assistance in obtaining a qualified professional from the Integrated Service Center by completing both the **Request for Specialized Evaluation** and the **School Psychologist Request for Assistance** Forms. The school psychologist maintains responsibility for the case.

NYC SOPM, p. 55

B. Bilingual Program and Service Recommendations

- After determining that a student has a disability and needs special education services IEP Teams must also determine the instructional language for English

Language Learners. The following factors should be considered and discussed when determining the appropriate language of service for students with disabilities:

Home language use based on the HLIS responses and follow-up interviews with the parents and student

Educational history including whether the student is currently receiving bilingual or ESL services, the number of years the student has received bilingual/ESL services, as well as a review of the cumulative record and current report cards

The levels of proficiency, both expressive and receptive, in the home language and English

Scores on the LAB/NYSESLAT

Teacher observations of the student's work over an extended period of time

Samples of oral and/or written work in both the home language and English

Informal student assessment including language sample interviews in both the home language and English and

The concerns and preferences of the parent.

Based on their analysis and review of these factors, the IEP Team will reach one of three determinations:

- 1) Bilingual instructional services are required; or
- 2) Bilingual instructional services are not required, but ESL instructional services are required to enable the student to continue to further develop English linguistic competence and to progress appropriately in an English language instructional program; or
- 3) Bilingual and ESL instructional services are not required since the assessment information reveals that no other language is impacting on the student's language development or the student has appropriate language and social skills in English to progress appropriately in an English language setting.

A decision to recommend ESL only or no bilingual services can only be made by an IEP Team with at least one bilingual professional participating at the conference. Please note that an IEP Team decision that no bilingual special education services are required does not exit a student from ELL status. These students must participate in the NYSESLAT until they exit out as per the results of the NYSESLAT.

C. Alternate Placements

- If an appropriate bilingual class is not available in the district or neighboring districts, the Office of Student Enrollment must designate an appropriate alternate placement for the student. A Collaborative Team Teaching Class is considered bilingual if one of the two teachers is a certified bilingual teacher. An alternate placement is an interim service provided to an English Language Learner for whom the recommended bilingual class is not available.
- For students scoring at the beginning or intermediate levels on the LAB-R/NYSESLAT, the IEP Team will determine if a bilingual paraprofessional needs to be assigned to the class. This determination will be based on the language proficiency of the student as determined by the language proficiency assessments given as part of the student's evaluation.
- The principal is responsible for ensuring that the classroom teacher 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 Office of Student Enrollment is responsible for clustering alternate placement students according to their functional needs, appropriate age range and language group. To the extent appropriate, the Office of Student Enrollment should form alternate placement classes rather than having individual students with alternate placement paraprofessionals in many different classes.
- The student in an alternate placement remains "awaiting a site offer" until such time as the student is placed in an appropriate bilingual class, or it is determined that the student does not require bilingual services. The number of students in alternate placements should be reviewed regularly, but not less than twice a year. This process will highlight the number of students of specific language groups who can be clustered to form alternate placement classes. In addition, it will assist the Office of Student Enrollment in determining the need to form bilingual classes.
- If a licensed bilingual teacher is no longer available, and the school is unable to find an appropriately licensed replacement, the vacancy may be filled by a non-bilingually licensed teacher until a bilingual teacher is found. The principal is responsible for ensuring that the teacher receives 10 hours of training in English as a second language methodology, techniques and materials, if such training has not already been provided. In these cases, the principal/designee will inform parents of the change and will arrange for each student to have an IEP Meeting. At the meeting, the IEP is amended to reflect the alternate placement.

- Additionally, in this situation, a paraprofessional who is bilingual in the language of the student(s) is assigned to the class (if such a person is not already assigned.)

NYC SOPM p. 118-120

D. Related Services

- The IEP Team must determine the language of service, indicating the language separately for each related service. Occupational Therapy, Physical Therapy and/or School Health Services for a student otherwise entitled to bilingual instructional services may be provided by a monolingual professional if it is determined that the services can meaningfully be provided by such a professional and that the student will be able to benefit from receiving such services from a monolingual professional.

NYC Continuum of Services, p. 21

- After determining that a student has a disability and needs special education services IEP Teams must also determine the instructional language for English Language Learners. The following factors should be considered and discussed when determining the appropriate language of service for students with disabilities:
 - Home language use based on the HLIS responses and follow-up interviews with the parents and student
 - Educational history including whether the student is currently receiving bilingual or ESL services, the number of years the student has received bilingual/ESL services, as well as a review of the cumulative record and current report cards
 - The levels of proficiency, both expressive and receptive, in the home language and English
 - Scores on the LAB/NYSESLAT
 - Teacher observations of the student's work over an extended period of time
 - Samples of oral and/or written work in both the home language and English
 - Informal student assessment including language sample interviews in both the home language and English and
 - The concerns and preferences of the parent.
- Based on their analysis and review of these factors, the IEP Team will reach one of three determinations:
 - Bilingual instructional services are required; or

- Bilingual instructional services are not required, but ESL instructional services are required to enable the student to continue to further develop English linguistic competence and to progress appropriately in an English language instructional program; or
- Bilingual and ESL instructional services are not required since the assessment information reveals that no other language is impacting on the student's language development or the student has appropriate language and social skills in English to progress appropriately in an English language setting.

NYC SOPM p.p. 89-90

- Recommending Interim Speech/Language Therapy in English for ELLs Recommended for Bilingual Speech/Language Therapy

Students recommended to receive Speech/Language Therapy as a Related Service in a language other than English may be considered for interim Speech/Language Therapy in English when a certified bilingual provider is not available. Prior to considering this interim service, all efforts must have been made (i.e. with full time, part-time or per diem NYCPS staff, contract agency staff or independent providers). In addition, all efforts must continue to be made to locate a bilingual provider while implementing interim monolingual Speech/ Language Therapy, including assisting the parent in locating a bilingual independent provider through the Related Service Authorization process.

The decision to recommend interim Speech/Language Therapy in English must be made at an IEP meeting. The team should review the bilingual evaluations, teacher reports, and parental input to determine whether the student has emerging expressive communication skills in English to enable the student to benefit from this service. Consideration should also be given to the student's cultural, linguistic and experiential background, educational experiences, ability to adapt to different learning situations, etc.

ELLs who may be recommended for interim Speech/Language Therapy in English include:

- Students who do not speak or understand any conventional language and/or those who function at a non-symbolic level
- Students who demonstrate emerging expressive communication skills and knowledge in English while still being dominant in their preferred language.

Students who have some fluency in a language other than English and who do not exhibit basic communication skills in English, either receptively or expressively, may not be appropriate for Speech/Language Therapy in English, even on an interim basis.

Please Note: It is inappropriate to change a student's IEP recommendation from bilingual to monolingual due to the absence or unavailability of a bilingual provider.

When an IEP Team recommends that interim Speech/Language Therapy in English be provided to a student recommended for bilingual Speech/Language Therapy, an IEP meeting must be held indicating the recommended service and noting that it will be provided on an interim basis. In the related services section of the IEP, the IEP Team will write "Interim Monolingual Speech pending availability of a bilingual provider" and include frequency, duration and group size, and appropriate goals developed.

NYC SOPM, pp. 90-91

E. Alternate Placement Paraprofessional

- If an appropriate bilingual class is not available in the district or neighboring districts, the Office of Student Enrollment must designate an appropriate alternate placement site for the student. For students scoring at the beginning or intermediate levels on the LAB-R/NYSESLAT, the IEP Team will determine if a bilingual paraprofessional needs to be assigned to the class. This determination will be based on the language proficiency of the student as determined by the language proficiency assessments given as part of the student's evaluation.

NYC SOPM pp. 118-119

- If a licensed bilingual teacher is no longer available, and the school is unable to find an appropriately licensed replacement, the vacancy may be filled by a non-bilingually licensed teacher until a bilingual teacher is found. The principal is responsible for ensuring that the teacher receives 10 hours of training in English as a second language methodology, techniques and materials, if such training has not already been provided. In these cases, the principal/designee will inform parents of the change and will arrange for each student to have an IEP Meeting. At the meeting, the IEP is amended to reflect the alternate placement.

Additionally, in this situation, a paraprofessional who is bilingual in the language of the student(s) is assigned to the class (if such a person is not already assigned.)

NYC SOPM, p. 119

VIII. Referral

A. Prohibit Discourage

- **A student suspected of having a disability shall be referred in writing to the chairperson of the district's committee on special education or to the building administrator of the school which the student attends or is eligible to attend for an individual evaluation and determination of eligibility for special education programs and services. The school district must initiate a referral and promptly request parental consent to evaluate the student to determine if the student needs special education services and programs if a student has not made adequate progress after an appropriate period of time when provided instruction as described in section 100.2(ii) of this Title.**

Commissioner's Regulations 200.4(a)

- **Referral for an initial evaluation. A referral may be made by:**
 - (i) a student's parent as defined in section 200.1(ii) of this Part;**
 - (ii) a designee of the school district in which the student resides, or the public school district the student legally attends or is eligible to attend;**
 - (iii) the commissioner or designee of a public agency with responsibility for the education of the student; and/or**
 - (iv) a designee of an education program affiliated with a child care institution with committee on special education responsibility pursuant to section 4002(3) of the Education Law.**

Commissioner's Regulations 200.4(a)(1)

- **A parent may initiate a referral for their child by:**
Writing directly to the Committee on Special Education Office or
Giving a written referral to the Principal, or the building administrator or professional member of the school staff. In this case, he/she records the date the referral was received, initials it and transmits it within twenty-four (24) hours to the Committee on Special Education Chairperson. If a parent makes an oral request for evaluation to a professional member of the school staff, the school professional must promptly assist the parent in making a written request.

NYC SOPM p. 27

- **Request for referral for an initial evaluation. (i) A written request that the school district or agency refer the student for an initial evaluation pursuant to paragraph (1) of this subdivision may be made by:**

- (a) a professional staff member of the school district in which the student resides, or the public or private school the student legally attends or is eligible to attend;**
- (b) a licensed physician;**
- (c) a judicial officer;**
- (d) a professional staff member of a public agency with responsibility for welfare, health or education of children; or**
- (e) a student who is 18 years of age or older, or an emancipated minor, who is eligible to attend the public schools of the district.**

Commissioner's Regulations 200.4(a)(2); NYC SOPM p. 25

- The building administrator, upon receipt of a referral or copy of a referral, may request a meeting with the parent and the student, if appropriate, to determine whether the student would benefit from additional general education support services as an alternative to special education, including the provision of support services, speech and language services, academic intervention services, and any other services designed to address the learning needs of the student and maintain a student's placement in general education with the provision of appropriate educational and support services.**
 - (i) If a professional staff member requested the referral that person shall attend such meeting. The building administrator shall ensure that the parent understands the proceedings of the meeting and shall arrange for the presence of an interpreter, if necessary. If at such meeting the parent and the building administrator agree in writing that, with the provision of additional general education support services, the referral is unwarranted, the referral shall be deemed withdrawn, and the building administrator shall provide the chairperson of the committee on special education, the person who made the request for referral if a professional staff member of the school district, the parent, and the student, if appropriate, with copies of the agreement.**
 - (ii) The copy of the agreement provided to the parent shall be in the native language of such person. Such agreement shall contain a description of the additional general education support services to be provided, instructional strategies to be used and student centered data to be collected and the proposed duration of such program. A copy of the agreement shall also be placed in the student's cumulative education record file.**
 - (iii) The meeting:**

(a) shall be conducted within 10 school days of the building administrator's receipt of the referral; and

(b) shall not impede a committee on special education from continuing its duties and functions under this Part.

Commissioner's Regulation 200.4(a)9)

- The IDEIA requires the New York City Department of Education to identify, locate and evaluate all children with disabilities and those suspected of having a disability residing in New York City, including students who are homeless or Ward of the State, or not attending a New York City public school. The Child Find provision also applies to all children who may be in need of special education services, and is an obligation that extends to all professional staff members.

NYC SOPM, p. 25

B. Delayed/Not Acted Upon

- **Upon receipt of a request for a referral that meets the requirements of subparagraph (iii) of this paragraph [states reasons for referral, attempted interventions and parental contact] the school district shall, within 10 school days, either:**
 - (a) request parent consent to initiate the evaluation; or**
 - (b) provide the parent with a copy of such request for referral; and**
 - (1) inform the parent of his or her right to refer the student for an initial evaluation for special education programs and/or services; and**
 - (2) offer the parent the opportunity to meet to discuss the request for referral and, as appropriate, the availability of appropriate general education support services for the student, with the building administrator or other designee of the school district authorized to make a referral pursuant to paragraph (1) of this subdivision, and the party making the request for referral if a professional staff member of the school district. Upon request of the parent or school district, any other person making a request for referral shall have the opportunity to attend such meeting.**
- **The *date of receipt of a referral* means the date on which either the committee chairperson or the building administrator receives the referral, whichever is earlier.**

Commissioner's Regulations 200.4(a)(2)(iv) and 200.4(a)(3)

- When a **request for an initial evaluation** has been made to the public school principal, the principal must immediately forward the request to the Committee on Special Education Chairperson. Within 10 school days, the principal (or for non-attending students or students attending nonpublic or charter schools, the CSE Chairperson) must:

Request that the parent consent to initiate the evaluation by following the procedures beginning below under “Date of Initial Referral,” **OR**

Provide the parent with a copy of the request for referral, inform the parent of his/her right to refer the student him or herself, offer the parent an opportunity to discuss the request for referral, and, as appropriate, the availability of appropriate general education support services for the student, with the building administrator or other designee of the school district authorized to make a referral, and the party making the request for the referral if he/she is a professional staff member of the school district. When requested by either the parent or school district, any other person making a request for referral must be allowed to attend the meeting. The **Notice of Request for Initial Referral** which details this process must be sent to the parent within 10 days of receipt of the Request for Referral.

Please Note: If the principal requests the parent to consent to the initial evaluation or the parent chooses to refer the student him or herself, the request for referral becomes an initial referral and the procedures beginning at “Date of Initial Referral” must be followed. When a principal seeks consent from a parent as a result of a request for referral, the date of the initial referral is the date the principal seeks consent.

NYC Continuum of Services, p. 26

- The case is to be opened as of the date of referral. The date of referral is the **date the referral was received by the principal or Chairperson, whichever is earlier**. When a principal seeks consent from a parent as a result of a request for referral, the date of the initial referral is the date the principal seeks consent.

NYC Continuum of Services, p. 27

IX. Awaiting Placement

A. In General

- ***Recommendation.*** For a student not previously identified as having a disability, the committee on special education shall provide a recommendation to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the receipt of consent to evaluate. For a student with a disability referred for review pursuant to subdivision (f) of this section, a recommendation shall be provided to the board of education which shall arrange for the appropriate special education programs and services to be provided to the student with a disability within 60 school days of the referral for review of the student with a disability. Prior to the development of a recommendation, the committee shall ensure that the appropriateness of reading and math instruction and other resources of the regular education program, including support services and academic intervention services, has been considered.

Commissioner's Regulation 200.4(d)

- ***IEP Implementation.*** (1) Within 60 school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability, the board of education shall arrange for appropriate special programs and services, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the board shall arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the committee.
 - (i) There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.
 - (ii) The school district shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Commissioner's Regulation 200.4(e)(1)

- The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented.

Commissioner's Regulation 200.4(e)(3)

- The Office of Student Enrollment will continue to monitor enrollment data in order to determine where new special education classes will be opened. The Office of Student Enrollment will work with the central Office of Portfolio Development, the ISC, or other applicable offices to secure space where needed for special education classes.

NYC SOPM p. 16

- Following the development of a student's IEP and a recommendation for special education services, a site for the student to attend and receive special education services must be arranged. This is accomplished by sending the parent the Final Notice of Recommendation (FNR), indicating the school the student will attend and any special education services they will receive. The FNR must be sent within 60 school days from receipt of initial consent to evaluate, or within 60 school days from receipt of referral for reevaluations.
- Cases may be closed in the placement timeline process for the following reasons:
The student moved out of New York City
For an initial case only:
 - Parental refusal to consent to recommended special education services after appropriate outreach has been conducted and documented
 - Parental non-response for special education services after appropriate outreach has been conducted and documented

NYC SOPM, p. 111

B. SETSS

- New York City public school students initially recommended or currently receiving SETSS or Related Services Only should be offered the services at the New York City public school that they currently attend or the school to which they will be articulating.
- New York City public school students currently receiving Special Class or Collaborative Team Teaching services who are recommended to receive either SETSS or Related Services Only, should be provided the services at the New York City public school that they currently attend or the school to which they will be articulating.
- New York City students currently attending a District 75 or non-public school program who are recommended to receive either SETSS or Related Services Only should be offered the school they would normally attend if not disabled (to the greatest extent possible).

NYC SOPM p. 112

- For those continuing students, the Department will make best efforts to provide SETSS services to a student who is recommended to receive SETSS 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, the Department will identify and assign a DOE SETSS teacher within 2 school days of the start of the school year in September. During the school year, the Department will identify and assign a DOE SETSS teacher within 2 school days of acceptance of the FNR to newly recommended students.
- If a DOE teacher is not available, an authorization for SETSS Services (a “ P-3 Authorization”) should be issued within an additional 5 school days. The **P-3** Authorization will set forth the frequency and duration of services. The parent will be provided with information on available providers and instructions on how to invoke the **P-3**. The parent will also be provided with information regarding whom to contact at the DOE for assistance.

NYC SOPM p. 125

C. Collaborative Team Teaching Service (CTT)

- The Office of Student Enrollment has responsibility for placing public school students in collaborative team teaching and special education classes once they have been recommended for these services and the student cannot be served in his or her current school.

NYC SOPM p. 16

- If CTT is the recommended program for the student on his or her IEP, then an FNR must be issued within 60 school days. If an FNR is not issued within 60 school days, **and**
- The student’s current educational placement is in a **more** restrictive environment (i.e., special class, NPS, home instruction, or residential placement), **then** the student will remain in the more restrictive environment, unless DOE and the parent agree otherwise. If the more restrictive placement is a Special Class, and the Special Class is not available in accordance with the terms outlined in “Untimely Special Class Placement Offer” in this Section, a **P1-R** will be issued.
- If CTT is the recommended program for the student on his or her IEP **and**
An FNR offering the student’s parent a public school placement for CTT is not issued by the 60th school day, **and**
The student’s current placement is in a **less** restrictive environment (i.e., general education, SETSS, related services only), **then** the DOE will provide the student with two periods a day of SETSS in the school in which the student is currently enrolled as an alternative.

- If multiple SETSS are not available in the student's current school, the ISC, in consultation with the Office of Student Enrollment, (or the CSE if the student is non-attending, or attending a Charter, private or parochial school) will provide the student's parent with a **P-3** letter authorizing the parent to identify an appropriately licensed non-DOE provider of SETSS services at public expense for two sessions of SETSS per day. Additionally, the parent will be sent information on available providers, instructions regarding how to invoke the letter, and contact information at the DOE for assistance.
- If the **Collaborative Team Teaching (CTT) Service** recommended by the IEP Team is NOT available at the student's current school then the District Representative must discuss with the parent the schools within the student's district at which the program/service is available. The district representative will inform the Office of Student Enrollment of any preferences the parent expressed at the meeting regarding the school at which the student may be offered Special Class or CTT. The **SC/CTT Preference Form** must be used for this purpose, filled out by the District Representative and forwarded to the appropriate Office of Student Enrollment.

NYC SOPM p. 108

D. Self-Contained in District or District 75

- The Office of Student Enrollment has responsibility for placing public school students in collaborative team teaching and special education classes once they have been recommended for these services and the student cannot be served in his or her current school.
- The Office of Student Enrollment will work with District 75 to identify and place students in need of District 75 programs.

NYC SOPM p. 16

- To the greatest extent possible, students with disabilities should attend the schools they would normally attend if they did not require special education services to address their learning needs. The following factors must be considered in identifying a special class:
 - Proximity to the home of the student, with the home-zoned school as the first option for consideration. Consideration must also be given to the school the student is currently attending or the school of articulation.
 - Similarity of the individual needs of the students according to the levels of academic or educational achievement and learning characteristics, levels of social development, levels of physical

development, and the management needs of the students in the classroom.

The language of instruction

The age/grade appropriateness of the class

NYC SOPM p. 112

- At the completion of the IEP Meeting at which the IEP Team makes a final program recommendation, a **Final Notice of Recommendation** is sent to the parent and principal of the school the student attends. The Final Notice will indicate the school offered to the student and the services they will receive. The type of notice sent will depend on whether the case is an initial, or whether the student has been previously identified as a student with a disability. The Final Notice of Recommendation reminds parents of their right to visit the site before or after providing consent, and must include a contact name and phone number so that a site visit may be arranged should a parent make such a request. Notices must be sent in the preferred language of the parent.
- If the parent consents to the recommendation (for an initial placement), the school psychologist ensures that an **A-1 Authorization to Attend** is issued to the parent, a copy of which must also be provided to the sending and receiving school.
- If the school is not known (for an initial placement) at the time of the meeting, the Case Transmittal Form, the IEP, all reports, letters and other documents are immediately forwarded to the Office of Student Enrollment to secure a site and send the Final Notice of Recommendation and the IEP to the parent and the principal.
- If the parent consents to the recommendation, the Office of Student Enrollment ensures that an A-1 authorization to Attend is issued to the parent, a copy of which must also be provided to the sending and receiving school.
- If the parent does not consent to an initial Final Notice of Recommendation. The DOE may NOT request an impartial hearing to obtain consent for initial provision of special education services.

NYC SOPM p. 113-115

- In some circumstances, placements are deferred with a site or without a site. The parent may disagree with the deferment, in which case the student must be placed within mandated timeframes. A projected service initiation date and a rationale must be provided for placements deferred without a site.

NYC SOPM p. 118

- If the **Special Class** program recommended by the IEP Team is NOT available at the student's current school then the District Representative must discuss with the parent the schools within the student's district at which the program/service is available. The district representative will inform the Office of Student Enrollment of any preferences the parent expressed at the meeting regarding the school at which the student may be offered Special Class or CTT. The **SC/CTT Preference Form** must be used for this purpose, filled out by the District Representative and forwarded to the appropriate Office of Student Enrollment.

NYC SOPM p. 108

- When a **Final Notice of Recommendation** for a **special class** has not been offered to a student on or before the 60th school day from the date of consent for initial referrals or from the 60th school day of receipt of referral for previously identified students, the Department is obligated to provide the parents with a letter (**P1-R**) on the 60th school day that entitles the student to placement in a State approved Non-Public School at public expense. There is an extensive discussion of the procedures for using P1-R letters in the SOPM.

NYC SOPM p. 121-124

E Approved Non-Public School (CBST)

- IEP Teams must consider all options available in the public schools prior to deferring a student to CBST for assistance in identifying an appropriate educational setting. When an IEP Team defers a case to CBST, it is important for parents to understand that a recommendation for a specific setting has not yet been made, and may in fact be a public school setting. In other words, a deferral to CBST is not a recommendation for the student to attend a non-public school.
- For any student that is deferred to the CBST for assistance in identifying an appropriate educational setting, documentation of efforts to place a student in a less restrictive environment is required.
- The CBST must determine within 5 school days of receipt of the student's file whether the student's educational needs can be met in a Department of Education program or whether the student's file will be forwarded to New York State Approved schools for consideration.
- If after reviewing the documentation submitted by the IEP Team and conferring with the IEP Team, the CBST determines that the student's educational needs can be met in a Department of Education program (in a community school, or in a District 75 school), the CBST will send the case back to the school psychologist if the IEP Team is located at a public school, and the CSE if the student attends a non-public or charter school, with their recommendation regarding how the child will be served using the **Securement Form** as a cover sheet. The IEP Team will

immediately reconvene an IEP meeting to complete the IEP and arrange for a Final Notice of Recommendation to be issued.

- If after reviewing the clinical material submitted by the IEP Team located at the committee on Special Education office, or of the student is attending public school, the IEP Team at the school, the CBST determines that the student's educational needs cannot be met in a Department of Education program, the CBST will submit the case to New York State-approved schools.
- The nonpublic school then makes a determination regarding whether they will interview the student and ultimately whether they will accept the student.
- If a student is accepted into a non-public school, the CBST case manager will receive a copy of the acceptance letter and notify the school/Committee on Special Education Office. The IEP Team will immediately reconvene and indicate the recommendation on the new IEP. **A new Final Notice of Recommendation must then be issued indicating the non-public school.** Because the Department has an obligation to provide the parent with an appropriate offer, a Final Notice of Recommendation must be issued regardless of whether the parent agrees with the placement site. Parents who disagree with the placement offer may pursue their due process rights and request an impartial hearing.

NYC SOPM p. 97-98

H. Bilingual Programs and Services

See Section VI B.

I. ESL

See Section VII

X. Assessment and Evaluation

A. Initial Assessment

B. Reevaluation (Requested and Three Year)

XI. Copy of IEP Not Provided (Teacher, Related Service Provider and Parent), Access to IEP Denied (Paraprofessional) or Failure to Inform of IEP Implementation Responsibilities

A. Providing Copies of IEPs to Teachers and Related Service Providers

- The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented, including but not limited to: ensuring that each regular education teacher, special education teacher, related service provider, and/or other service provider, as defined in section 200.2(b)(11)(i)(a) of this Part, who is responsible for the implementation of a student's IEP, is provided a paper or electronic copy of the IEP prior to the implementation of such IEP

Commissioner's Regulations 200.4(e)(3)(i)

B. Providing Access to IEPs to Paraprofessionals

- ensuring that supplementary school personnel, as defined in section 200.1(hh) of this Part, and each other provider responsible for assisting in the implementation of a student's IEP, has the opportunity to review a copy of the student's IEP, prior to the implementation of such program, and has ongoing access to a copy of the IEP, which may be the copy provided to the student's special education teacher or the teacher or related service provider under whose direction such supplementary school personnel or other provider works;

Commissioner's Regulations 200.4(e)(3)(ii)

C. Informing School Personnel of IEP Implementation Responsibilities

- ensuring that each regular education teacher, special education teacher, related service provider, other service provider, supplementary school personnel as defined in section 200.1(hh) of this Part, and other provider and support staff person has been informed, prior to the implementation of the IEP, of his or her responsibility to implement the recommendations on the student's IEP, including the responsibility to provide specific accommodations, program modifications, supports and/or services for the student in accordance with the IEP;

Commissioner's Regulations 200.4(e)(3)(iii)

- The principal is responsible for ensuring that the school has a process to inform staff of their responsibilities in implementing IEPs.

NYC SOPM p.21

D. Providing a Copy of the IEP to Parents

- **ensuring that a copy of the IEP is provided to the student's parents, including a revised copy of the IEP at the parent's request with the amendments developed pursuant to subdivision (g) of this section incorporated, at no cost to the student's parents.**

Commissioner's Regulations 200.4(e)(3)(iv)

XII. IEP Implementation (Other than Program and Service Recommendations)

A. In General

- Within 60 school days of the receipt of consent to evaluate for a student not previously identified as having a disability, or within 60 school days of the referral for review of the student with a disability, the board of education shall arrange for appropriate special programs and services, except that if such recommendation is for placement in an approved in-state or out-of-state private school, the board shall arrange for such programs and services within 30 school days of the board's receipt of the recommendation of the committee.
- (i) There may be no delay in implementing a student's IEP, including any case in which the payment source for providing or paying for special education to the student is being determined.
- (ii) The school district shall ensure that each student with a disability has an IEP in effect at the beginning of each school year.

Commissioner's Regulation 200.4(e)

- The school district shall ensure that the recommendations on a student's IEP, including changes to the IEP made pursuant to subdivision (g) of this section, are implemented,

Commissioner's Regulation 200.4(e)(3)

- The school district must provide special education and related services to a student with a disability in accordance with the student's IEP and must make a good faith effort to assist the student to achieve the annual goals and, if appropriate, short-term instructional objectives or benchmarks listed in the student's IEP.

Commissioner's Regulation 200.4(e)(7)

B. Behavior Intervention Plan

- *Behavioral intervention plan* means a plan that is based on the results of a functional behavioral assessment 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.

Commissioner's Regulations 200.1(mmm)

- in the case of a student whose behavior impedes his or her learning or that of others, consider strategies, including positive behavioral interventions, and supports and other strategies to address that behavior that are consistent with the requirements in section 200.22 of this Part;

Commissioner's Regulations 200.4(d)(3)(i)

- ***Behavioral intervention plan.*** (1) The CSE or CPSE shall consider the development of a behavioral intervention plan, as such term is defined in section 200.1(mmm) of this Part, for a student with a disability when:
 - (i) the student exhibits persistent behaviors that impede his or her learning or that of others, despite consistently implemented general school-wide or classroom-wide interventions;
 - (ii) the student's behavior places the student or others at risk of harm or injury;
 - (iii) the CSE or CPSE is considering more restrictive programs or placements as a result of the student's behavior; and/or
 - (iv) as required pursuant to section 201.3 of this Title.
- (2) In accordance with the requirements in section 200.4 of this Part, in the case of a student whose behavior impedes his or her learning or that of others, the CSE or CPSE shall consider strategies, including positive behavioral interventions and supports and other strategies to address that behavior. If a particular device or service, including an intervention, accommodation or other program modification is needed to address the student's behavior that impedes his or her learning or that of others, the IEP shall so indicate. A student's need for a behavioral intervention plan shall be documented on the IEP and such plan shall be reviewed at least annually by the CSE or CPSE.
- (3) Except as provided in subdivision (e) of this section, a behavioral intervention plan shall not include the use of aversive interventions.
- (4) The behavioral intervention plan shall identify:
 - (i) the baseline measure of the problem behavior, including the frequency, duration, intensity and/or latency of the targeted behaviors. Such baseline shall, to the extent practicable, include data taken across activities, settings, people and times of the day. The baseline data shall be used as a standard to establish performance criteria and against which to evaluate intervention effectiveness;

(ii) the intervention strategies to be used to alter antecedent events to prevent the occurrence of the behavior, teach individual alternative and A adaptive behaviors to the student, and provide consequences for the targeted inappropriate behavior(s) and alternative acceptable behavior(s); and

(iii) a schedule to measure the effectiveness of the interventions, including the frequency, duration and intensity of the targeted behaviors at scheduled intervals.

(5) Progress monitoring. The implementation of a student's behavioral intervention plan shall include regular progress monitoring of the frequency, duration and intensity of the behavioral interventions at scheduled intervals, as specified in the behavioral intervention plan and on the student's IEP. The results of the progress monitoring shall be documented and reported to the student's parents and to the CSE or CPSE and shall be considered in any determination to revise a student's behavioral intervention plan or IEP.

Commissioner's Regulations 200.22

C. Test Accommodations

- **Testing accommodations.** The IEP shall provide a statement of any individual testing accommodations to be used consistently by the student in the recommended educational program and in the administration of districtwide assessments of student achievement and, in accordance with department policy, State assessments of student achievement that are necessary to measure the academic achievement and functional performance of the student.

Commissioner's Regulations 200.4(d)(2)(vi)

D. Promotion Criteria

E. Support for School Personnel (Professional Development and Training on Disability, Implementation of Behavior Supports, Health Related Activities, etc.)

- The recommended program and services shall, to the extent practicable, be based on peer-reviewed research, and as appropriate indicate: a statement of supports for school personnel on behalf of the student;

Commissioner's Regulations 200.4(d)(2)(v)(b)(4)

F. Assistive Technology

- any assistive technology devices or services needed for the student to benefit from education, including the use of such devices in the student's home or in other settings;

Commissioner's Regulations 200.4(d)(2)(v)(b)(6)

- **Consideration of special factors.** The CSE shall: consider whether the student requires assistive technology devices and services, including whether the use of school-purchased assistive technology devices is required to be used in the student's home or in other settings in order for the student to receive a free appropriate public education;

Commissioner's Regulation 200.4(d)(3)(v)

G. Annual Goals, Short Term Objectives (for Students Participating in Alternate Assessment Program) and Progress Reports

- **Measurable annual goals.** (a) The IEP shall list measurable annual goals, including academic and functional goals, consistent with the student's needs and abilities. The measurable annual goals must relate to:
 - (1) meeting the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and
 - (2) meeting each of the student's other educational needs that result from the student's disability.
- (b) Each annual goal shall include the evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal during the period beginning with placement and ending with the next scheduled review by the committee.
- (c) The IEP shall identify when periodic reports on the progress the student is making toward the annual goals (such as through the use of quarterly or other periodic reports that are concurrent with the issuance of report cards) will be provided to the student's parents.

Commissioner's Regulations 200.4(d)(2)(iii)

- **Short-term instructional objectives and benchmarks.** For a student who takes a New York State alternate assessment and for each preschool student with a disability, the IEP shall include a description of the short-term instructional objectives and/or benchmarks that are the measurable intermediate steps between the student's present level of performance and the measurable annual goal.

Commissioner's Regulations 200.4(d)(2)(iv)

H. Transition Services

- **Transition services.** For those students beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), and updated annually, the IEP shall, under the applicable components of the student's IEP, include:
 - (a) under the student's present levels of performance, a statement of the student's needs, taking into account the student's strengths, preferences and interests, as they relate to transition from school to post-school activities as defined in section 200.1(fff) of this Part;
 - (b) appropriate measurable postsecondary goals based upon age appropriate transition assessments relating to training, education, employment and, where appropriate, independent living skills;
 - (c) a statement of the transition service needs of the student that focuses on the student's courses of study, such as participation in advanced-placement courses or a vocational education program;
 - (d) needed activities to facilitate the student's movement from school to post-school activities, including instruction, related services, community experiences, the development of employment and other post-school adult living objectives and, when appropriate, acquisition of daily living skills and functional vocational evaluation; and
 - (e) a statement of the responsibilities of the school district and, when applicable, participating agencies for the provision of such services and activities that promote movement from school to post-school opportunities, or both, before the student leaves the school setting.

Commissioner's Regulations 200.4(d)(2)(ix)

- If the purpose of the meeting is to consider the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals, the school district shall invite the student. If the student does not attend, the district shall take steps to ensure that the student's preferences and interests are considered. To the extent appropriate and with parental consent or consent of a student 18 years of age or older, the school district must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the district should take steps to involve the other agency in the planning of any transition services;

Commissioner's Regulations 200.4(d)(4)(c)

I. Twelve Month School Year

- **Twelve-month services.** For students eligible for 12-month service and/or program, the IEP shall indicate the identity of the provider of services during the months of July and August, and, for preschool students determined by the committee on preschool special education to require a structured learning environment of 12 months duration to prevent substantial regression, a statement of the reasons for such recommendation.

Commissioner's Regulations 200.4(d)(2)(x)

J. Graduation

K. Adaptive Physical Education

- *Adapted physical education* means a specially designed program of developmental activities, games, sports and rhythms suited to the interests, capacities and limitations of students with disabilities who may not safely or successfully engage in unrestricted participation in the activities of the regular physical education program.

Commissioner's Regulations 200.1(b)

- if a student is not participating in a regular physical education program, the extent to which the student will participate in specially-designed instruction in physical education, including adapted physical education.

Commissioner's Regulations 200.4(d)(2)(viii)(d)

XIII. IEP Process

A. Mandated Members of IEP Team (Subcommittees on Special Education)

- **The membership of each subcommittee shall include, but not be limited to:**
 - (i) the parents of the student;**
 - (ii) not less than one regular education teacher of the student whenever the student is or may be participating in the regular education environment;**
 - (iii) not less than one of the student's special education teachers or, if appropriate, not less than one special education provider of the student;**
 - (iv) a representative of the school district who is qualified to provide, administer or supervise special education and who is knowledgeable about the general education curriculum and who is knowledgeable about the availability of resources of the school district, who may also fulfill the requirement of subparagraph (iii) or (v) of this paragraph. The representative of the school district shall serve as the chairperson of the subcommittee;**
 - (v) a school psychologist, whenever a new psychological evaluation is reviewed or a change to a program option with a more intensive staff/student ratio, as set forth in section 200.6(h)(4) of this Part, is considered;**
 - (vi) an individual who can interpret the instructional implications of evaluation results, who may be a member appointed pursuant to subparagraphs (ii) through (v) or (vii) of this paragraph;**
 - (vii) such other persons having knowledge or special expertise regarding the student, including related services personnel as appropriate, as the committee or the parent shall designate. The determination of knowledge or special expertise of such person shall be made by the party (parents or school district) who invited the individual to be a member of the subcommittee on special education; and**
 - (viii) the student, if appropriate.**

Commissioner's Regulation 200.3(a)(2)

- **If the purpose of the meeting is to consider initial placement in**
 - (i) a special class; or**
 - (ii) a special class outside of the student's school of attendance; or**

(iii) a school primarily serving students with disabilities or a school outside of the student's district.

a parent member must participate. A parent member is

an additional parent member of a child with a disability residing in the school district or a neighboring school district and whose child is enrolled in a preschool or elementary level education program, provided that such parent is not a required member if the parent(s) of the child request that the additional parent member not participate;

Commissioner's Regulations 200.3(c)(4) and (a)(2)(v)

B. Parent's Right to Request Review by Full Committee

- Upon receipt of a written request from the parent or legal guardian of a student, the subcommittee shall immediately refer to the committee for its review any recommendation of the subcommittee concerning the identification, evaluation, educational placement or provision of a free appropriate public education to a student that is not acceptable to the parent or person in parental relationship to such student. N.B. Full committee includes parent member.

Commissioner's Regulations 200.3(c)(5)

C. Excusal from IEP Team Meetings

- **Member attendance.** Except as otherwise provided in this section, all members of a committee on special education, a committee on preschool special education, or a subcommittee on special education shall attend a meeting of such committee, except that the parent and the school district may agree that the attendance of a member is not necessary or that a member of the committee may be excused in accordance with the following procedures pursuant to sections 4308(2)(f) through (h), 4355(2)(f) through (h), 4402(1)(b)(1)(b-1) through (b-3), 4402(1)(b)(1)(d), and 4410(3)(a)(3) through (5) of the Education Law:

(1) A member of such committee or subcommittee is not required to attend a meeting of the committee, in whole or in part, if the parent and the school district agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed at the meeting.

(2) A member of such committee may be excused from attending a meeting of the committee or subcommittee, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the

curriculum or related services if the parent to the student and the school district consent, in writing, to the excusal and the excused member submits to the parent and such committee, written input into the development of the IEP, and in particular written input with respect to their area of curriculum or related services prior to the meeting.

(3) Requests for excusal of a member of a committee as provided for in paragraphs (1) and (2) of this subdivision, and the written input as provided for in paragraph (2) of this subdivision, shall be provided not less than five days prior to the meeting date, in order to afford the parent a reasonable time to review and consider the request. Provided however, that a parent shall retain the right to request and/or agree with the school district to excuse a member of the committee or subcommittee at any time including where the member is unable to attend the meeting because of an emergency or unavoidable scheduling conflict and the school district submits the written input for review and consideration by the parent within a reasonable time prior to the meeting and prior to obtaining written consent of the parent to such excusal.

(4) Requests for excusals do not apply to the parents of the student or the appointee of the municipality in the case of a committee on preschool special education.

Commissioner's Regulation 200.3(f)

- During the social history interview, the **School Social Worker** takes the following actions:

Informs the parent that at an IEP Meeting held after the child begins to receive special education services, a request may be made by the DOE or by the parent to excuse a mandated member of the IEP Team if the attendance of that member is not necessary because the member's area of curriculum or related services is not being modified or discussed in the IEP Meeting, and the parent agrees to the excusal of the mandated member. The parent has the right to disagree with the excusal of the member and have the team member whose excusal is sought present at the meeting.

Additionally, the parent must be informed that the a at an IEP Meeting held after the child begins to receive special education services, a request for excusal may be made for a member whose area of curriculum or related services will be discussed only if the parent consents to the excusal and the excused member submits in writing to the parent and the IEP Team input into the development of the IEP meeting prior to the meeting. **The parent must provide consent as defined in Section 1 before the mandated member may be excused.** The parent has the right to refuse to provide consent to the member excusal and have the team member whose excusal is sought present at the meeting.

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C. Decision-Making at IEP Team Meeting

- The District Representative, designated by the principal, will

Facilitate open discussion among all participants regarding issues related to eligibility for services and development or revision of the IEP

Ensure parents are meaningful participants in the IEP process and encourage them to discuss their concerns about the child's education

Provide information regarding the continuum of services, including supports and services available in the child's current school and those which are available in other schools in the district

Ensure all program and service options are considered

Build consensus among team members on all issues before the team

Ensure that the child's IEP includes the supports, services and accommodations the child needs to meet their IEP goals, and provides the child with the opportunity to progress in the grade level curriculum and on New York State and district assessments as appropriate

In the event that consensus cannot be reached regarding program and service recommendation for a student who is already receiving special education services, ensure that parents are fully informed of their due process rights

Interpretation: district representative decides in non-initial cases if consensus not achieved. If the district representative did not fulfill the other responsibilities listed above, we can file a complaint.)

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Amending the IEP

- *Amendments to the IEP.*

(1) Amendments to an IEP made after the annual review may be made by rewriting the IEP or by developing a written document to amend or modify the student's current IEP, provided that:

(i) the parent shall receive prior written notice of any changes to the IEP pursuant to section 200.5(a) of this Part;

(ii) the committee on special education shall be notified of any changes made to the IEP pursuant to paragraph (2) of this subdivision; and

(iii) the parent shall receive a copy of the document that amends or modifies the IEP or, upon request, the parent shall be provided a revised copy of the entire IEP with the amendments incorporated.

(2) In making changes to a student's IEP after the annual review has been conducted, consistent with the procedures established in sections 4308(2)(i), 4355(2)(i), 4402(1)(b)(3)(b) and 4410(3)(a)(6) of the Education Law, the parent and the school district may agree not to convene a meeting of the committee on special education for the purpose of making those changes, and instead may develop a written document to amend or modify the student's current IEP under the following circumstances:

(i) the parent makes a request to the school district for an amendment to the IEP and the school district and such parent agree in writing; or

(ii) the school district provides the parent with a written proposal to amend a provision or provisions of the IEP that is conveyed in language understandable to the parent and in such parent's native language or other dominant mode of communication, informs and allows the parent the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes and the parent agrees in writing to such amendments.

(3) Amendments to an IEP pursuant to paragraph (2) of this subdivision shall not affect the requirement that the committee on special education review the IEP at least annually, or more often if necessary.

Commissioner's Regulation 200.4(g)

D. IEP Decisions Based on Individual Needs of Child, Not Administrative Convenience or Availability of Service or Program

- *Individualized education program* means a written statement, developed, reviewed and revised in accordance with section 200.4 of this Part, which includes the components specified in section 200.4(d)(2) of this Part to be provided to meet the unique educational needs of a student with a disability.

Commissioner's Regulation 200.1(y)

E. Role of the IEP Teacher

- For a minimum of 5 periods a week the IEP teacher:

Prepares for and attends IEP meetings of students initially referred to special education

Conducts classroom observations

In the event of requested review or reevaluation, provides coverage for other special education teachers so that they may attend the IEP meetings for their students.

- The balance of the IEP teacher's schedule is programmed at the discretion of the principal in the following ways:

Instructs students with disabilities, including those in Special Education Teacher Support Services (SETSS), Collaborative Team Teaching (CTT), and part-time special class

Instructs identified general and special education students at risk of academic failure

Administers curriculum-based assessments for at-risk general education students

Participates in Academic Intervention Services and Pupil Personnel Teams

Completes other related duties as determined by the Principal

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F. Alternative Means of Participation in Meeting

When conducting a meeting of the committee on special education, the parent and the representative of the school district appointed to the committee on special education may agree to use alternative means of meeting participation, such as videoconferences and conference calls.

Commissioner's Regulations 200.4(d)(4)(d)

G. Right to Request Review of IEP if No Longer Appropriate

If the student's parent, teacher or an administrator of the school or agency believes that the program or placement recommended in the IEP is no longer appropriate, such party may refer the student to the committee on special education for review, provided that the student shall remain in the current placement pending a new recommendation of the committee on special education, unless the board and parent otherwise agree.

Commissioner's Regulations 200.4(e)(4)

H. Tape Recording IEP Meetings

While a parent may request that the IEP Meeting be audio-taped, 24-hour notice must be provided in writing to the school principal or Committee on Special Education Chairperson. Should such a request be made, the IEP Team may also tape the IEP Meeting.

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