

THE NEW STANDARD OPERATING PROCEDURES MANUAL : A POWERFUL TOOL FOR CHAPTER LEADERS



UFT Chapter Leader Training II
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AGENDA

- I. Welcome & Introduction
- II. Review Binder Material
- III. Introduction to the New Online Version of SOPM
- IV. Special Education Process
- V. Integrated Co-Teaching
- VI. Paraprofessionals in Special Education
- VII. Addressing Compliance Issues
- VIII. Questions and Special Education Resources

SPECIAL EDUCATION PROCESS

- Referrals and requests for referrals
- Evaluation and placement timelines
- IEP team composition
- Case managers and district representatives
- Special and general education teacher participation in IEP team meetings
- Amending IEPs without a meeting

REFERRALS

- The DOE (Principal or CSE Chair) and parents have a right to refer a child for an initial evaluation
- Professional staff members and certain others can request an initial referral
- Requests for referral must:
 - State the reason for the request and include any test results or records supporting the request
 - Describe interventions and efforts to remediate the student's performance
 - Describe parental contact or involvement prior to the request

DOE AND PARENT REFERRALS

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General Information & Terms

Initial Referral Process

The special education process begins with a referral for an initial evaluation ("initial referral") to the IEP team. The initial referral can only be made by certain authorized individuals, including the student's parent, the principal of the student's DOE school, or the chairperson of the student's CSE.¹⁰

Certain other individuals, including professional members of DOE staff, are authorized to make a "request for referral" for an initial evaluation to the principal or chairperson.

The Initial Referral

DOE Referrals

When the principal/chairperson suspects that a student has a disability by reason of which s/he may require special education programs and/or related services, the school social worker (or the school psychologist in his/her capacity as case manager) sends the parent the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice**.

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

Parent Referrals

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

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

If a parent makes an oral request (by phone or in person) for initial evaluation to a DOE professional, the DOE professional must promptly assist the parent to create an initial referral document that states the request for evaluation and, if communicated by the parent, the reason(s) for the request and any specific assessment(s) being requested. Schools/CSEs must make clear to non-professional staff members who regularly interact with parents that, if a parent makes an oral request (by phone or in person) for evaluation, the staff member must connect the parent

with a DOE professional who can promptly assist the parent to create an initial referral document that states the request for evaluation and, if communicated by the parent, the reason(s) for the request and any specific assessment(s) being requested.¹¹

Immediately upon receipt of a referral document by hand¹², mail, or fax, the school or CSE must stamp the referral document with the current date (or the earlier date on which it was in fact received, if, for example, it arrived by fax and was mislaid).

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

A DOE staff member who receives a referral document must immediately either open the case in SESIS or convey the referral document to a professional colleague (e.g., the school psychologist or school social worker) who is able to do so. The referral document must be faxed into SESIS by the conclusion of the following business day. When creating the fax coversheet for the referral document, the date of referral must be recorded as the date the referral document **was received by the school/CSE**; this date should match the date stamped on the referral document (or the date of the email, if the referral document was received by email).¹³

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

The school social worker or CSE chairperson designee (or the school psychologist in his/her capacity as case manager) sends the parent the **PWN: Notice of Referral: Initial** and a copy of the **Procedural Safeguards Notice** within five school days of the date of the referral.

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

¹⁰ Throughout this section, the terms "principal" and "chairperson" refer to those individuals and their designees.

¹¹ In either scenario, language support must be provided as needed, and the interaction with the parent must be documented in the **SEGIS Events Log**.

¹² Including when staff has assisted the parent to create the referral document.

¹³ If an initial referral document is received by a DOE school for a student who does not attend that school, or by a CSE that does not serve the student, and the school/CSE is unable to open the case due to lack of access to the student in SESIS, the referral document must be stamped with the date of receipt and immediately forwarded to the DOE school where the student is registered, or to the appropriate CSE, which completes the steps in this paragraph, recording the date of referral as the date stamped on the referral document (or the date of the email, if the referral document was received by email).

STAFF REQUESTS TO REFER

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Prior to a meeting with the parent to discuss general education interventions, the principal should:

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

The following is a model agenda for the meeting:

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

If an alternative agreement is reached:

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

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

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

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

Request for Initial Referral

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

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

Request for Initial Referral by Professional Staff Members

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

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Requests for initial referral initiated by professional staff members must:

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

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

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

Processing the Request for Initial Referral

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

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

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

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

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

Make an [initial referral](#); or

Take **ALL** of the following steps:

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

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

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

Meeting to Discuss Request for Initial Referral

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

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

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

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

The following is a model agenda for the meeting:

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

If an agreement is reached:

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

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

EVALUATION AND PLACEMENT TIMELINES

- Initial **evaluation** or requested reevaluation of school age students must be completed within 60 **calendar** days of parental consent (initial) or referral (reevaluation).
- **Placement** of school age students (i.e. provision of all recommended special education programs and services) must be arranged within 60 **school** days of parental consent (initial) or referral (reevaluation).

EVALUATION AND PLACEMENT TIMELINES

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General Information & Terms

CSE / IEP team

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

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

Days / School Days / Business Days

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

Translation

For parents whose primary language is one of the DOE’s covered languages (currently Arabic, Bengali, Chinese, French, Haitian Creole, Korean, Russian, Spanish and Urdu), translations of most notices are automatically generated in SESIS. If a notice is not available in the parent’s language, the English version of the notice must be accompanied by a notice in the parent’s language stating that the English notice is an important educational document that should be translated, and providing a contact person for any questions. Additionally, upon parental request, the DOE will translate IEPs and evaluation reports. School Language Access Coordinators may also contact their district’s [Field Language Access Coordinator](#) for any questions or additional language access related information.

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

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

Procedural Safeguards Notice

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

Timelines for Evaluation and Placement

For a school-age student, initial evaluation or requested reevaluation must be completed⁴ within 60 days of provision of parental consent ([initial](#)) or referral ([reevaluation](#)); and “placement” (i.e., provision of all recommended special education programs and related services, including transportation) must be arranged within 60 school days of parental consent ([initial](#)) or referral ([reevaluation](#)). Timelines for other scenarios (such as students turning 5 years old) and remedies for non-compliance are included in the relevant sections of this document.

Chapter 408 Requirements

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

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

See the [Chapter 408 Memorandum to Principals](#) for more specific information on these obligations; other Chapter 408 materials are available on the [Special Populations intranet page](#).

IEP TEAM COMPOSITION

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The IEP team

IEP team Composition

The IEP team members required to attend an IEP meeting differ depending on the type of meeting (e.g., initial, annual/requested review, reevaluation) and the change(s) to IEP recommendations being considered. If there is uncertainty about the change(s) that will be considered at an IEP meeting, all members who reasonably could be required, should attend. **The changes that an IEP team may make are not limited by the type of IEP meeting.**³⁶

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

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

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

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

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

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

¹⁰ See footnote 9, above.

CASE MANAGER AND DISTRICT REPRESENTATIVE

- The **case manager** is responsible for ensuring that the evaluation and placement process are completed within required timelines.
 - The **school psychologist** usually serves as the case manager when s/he is a required team member.
 - The **special education teacher** (or related service provider if the only special education service the student receives is a related service) usually serves as the case manager when the school psychologist is not a required team member.
- The **district representative**, who must be highly knowledgeable about the school's services and curricula, is usually chosen by the principal.

SPECIAL AND GENERAL EDUCATION TEACHER PARTICIPATION

At all times during the IEP team meeting:

- At least one of the student's current special education teachers must be in attendance
- At least one of the student's current general education teachers must be in attendance
 - Unless the student is not participating or not being considered for participation in general education
- ICT teachers may not tag team each other at IEP team meetings
- No staff member should ever sign an IEP Team attendance sheet unless s/he actually attended the meeting.

AMENDING IEP WITHOUT A MEETING

- IEPs may not be amended without a meeting for
 - Changes that require the participation of the school psychologist on the team
 - Changes to the student's program recommendation
- No amendments can be made without a meeting unless the parent provides written consent to the amendment.

INTEGRATED CO-TEACHING

- Staffing and primary responsibilities
- Coverage
- Ratio/maximum number of students
- Variances
- Functional grouping
- Part-time ICT
- Multiple service delivery options

STAFFING & PRIMARY RESPONSIBILITIES

School personnel assigned to each ICT class must minimally include:

- A teacher certified/licensed and appointed in **special education** whose primary responsibility is delivering specially designed instruction to remediate the learning, behavior, social, communication and other issues identified in the present levels of performance and addressed in the annual goals on the student's IEP.
- A teacher certified/licensed and appointed in **general education** or in a content area whose primary responsibility is delivery of content area instruction.

COVERAGE

- Both teachers must be present for all periods of ICT instruction required by students IEPs.
- At least one special education teacher and one general education teacher of the student must be present for the full duration of the IEP team meeting.
- Co-teachers may not
 - Cover for each other during preparation periods
 - Tag team each other at IEP team meetings
 - Be assigned to other duties (such as exam scoring, coverage for other classes or proctoring) that would prevent them from providing IEP mandated services

RATIO/MAXIMUM NUMBER OF STUDENTS

- The number of students with disabilities in an ICT class may not exceed 40% of the total class register with a maximum of 12 students with IEPs.
 - All students with IEPs “count” for purposes of the 40 and 12 student limit, regardless of whether the student is recommended for ICT.
 - For example, if 2 students receive SETSS, 2 students receive related services only and 8 students receive ICT the 12 student maximum has been reached.
- ICT classes must adhere to the general education class size limits except that classes that have a class size limit of 20 students will increase to 25 students, with a maximum of 10 students with IEPs.

VARIANCES

State regulations allow schools to add

- One additional student (13th student) to an ICT class by notifying the State Education Department
- A 14th student may be added with prior approval by the State Education Department

Schools and FSCs may not submit variance notifications or requests directly to the State Education Department.

Schools and FSCs must follow the DOE's variance approval procedure in the Special Education Operating Procedures Manual.

VARIANCES

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ICT Class Composition

A maximum of 12 students with IEPs¹²⁰ may be placed in an ICT class, and the number of students with IEPs may not exceed 40% of the total number of students in the class.

NYSED allows one additional student with an IEP to be added to a particular period or class (for a total of 13) after the start of the school year when it receives notification within 10 days of the student joining the class. The 13th student may be added only after the variance procedure (below) has been followed and SEO has approved the placement.

Variance Procedure

If the school has an appropriate special class or ICT but cannot place the student in the class without exceeding regulatory limits, and no other appropriate options to serve the student or others in the class have been identified, the school should draft a variance notification (ICT) or variance request (special class) and submit it to the ASE for review. The forms can be found [here](#). **Schools and FSCs may not submit variance notifications or requests directly to NYSED.**

The ASE will review the draft variance notification/request and may work with the school to meet all students' needs without exceeding maximums. If the ASE confirms that the class was in compliance at the beginning of the school year and agrees that a variance is warranted, the ASE will submit the draft notification/request to Variances@schools.nyc.gov. SEO will review the draft, and may either provide further assistance or submit the variance notification/request to NYSED. SEO will inform the ASE of the decision.

Approved variances remain in effect only through the end of the school year. The school is expected to develop plans for the coming school year to ensure compliance with regulatory requirements.

Monitoring Provision of Special Education Programs: The Program Services Report

Beginning in late August, principals and their designees receive a weekly Program Services Report via SESIS messaging. The Program Services Report lists the recommended special education programs (ICT, SETSS, special class) from each student's most recently finalized IEP, along with data from STARS. Principals should use the report to ensure that all students are fully served (including language of instruction, class type

and subject), and to resolve discrepancies between IEP recommendation (SEGIS) and course programming (STARS). For instructions on how to access the report from the SESIS homepage, watch [How to Use the Program Services Report video](#).

FSC academic policy and systems leads and ASEs, should support schools in resolving discrepancies between SESIS and STARS and ensuring that all students are fully served. FSC academic policy and systems leads can access their schools' report in the OPE Data folder in their [R-drive](#); ASEs can access the report in their respective FSC folder in their [R-drive](#). For additional SESIS/STARS Program Services Report resources, including [FAQs](#) and troubleshooting strategies, see the [SEGIS wiki](#) and [STARS wiki](#). For additional assistance troubleshooting a Program Services issue, follow this [escalation path](#).

Arranging SETSS and ICT

For continuing students, schools will make best efforts to provide recommended SETSS services on the first scheduled date of attendance of the new school year. For continuing students or students with placements deferred to the start of the school year in September, schools will identify and assign a DOE SETSS teacher within 2 school days of the start of the school. During the school year, schools will identify and assign a DOE SETSS teacher within 2 school days of receipt of parental consent for initial provision of services.

If a DOE teacher is not available, an authorization for SETSS Services ("P-4") should be provided to the parent by the FSC within an additional 5 school days. The P-4 sets forth the frequency and duration of services, and includes instructions on how to invoke the P-4 and information on whom to contact at the DOE for assistance. The parent will be provided with information on available providers.

If a student is recommended to receive ICT and has not been placed in (or offered placement in) an ICT class within 60 school days of the date of consent (initial) or referral (reevaluation) and the student's current placement is in a more restrictive environment than ICT, the student may remain in the current placement, unless the DOE and the parent agree to place the student in a general education class with two periods of SETSS in the interim. If the student's current placement is in a less restrictive environment (i.e., general education, SETSS, related services only), then the school will provide the student with two periods per day of SETSS as an alternative until the ICT class is available.¹²¹ If two periods per day of SETSS cannot be provided by the student's current school, the parent must

¹²⁰ This includes all students with IEPs in the ICT class (not only those students whose IEPs recommend ICT).

¹²¹ The IEP recommendation is not changed.

DO THE MATH

Doing the “Math” on ICT Variances

Level	Actual Register*	Maximum # SWD using DOE 40% rule & SED Limit of 12	Variance allowed to add 13 th student without violating 40% rule?	Variance allowed to add 14 th student without violating 40% rule?
Pre-K	18	7	No	No
Kindergarten	25	10	No	No
Elementary	32	12	Yes	No
Title I Middle/Junior High	30	12	No	No
Non-Title I Middle/Junior High	33	12	Yes	No
High School	34	12	Yes	Yes

* Numbers used reflect contractual class size limits

** Ask your chapter leader if you don't know whether your school is a Title I school

File a UFT Special Education Complaint if:

- The number of students with IEPs in an ICT class exceeds the above limits
- A 13th student is added to an elementary, middle school/JHS or high school ICT class and the school does not file the notification with the State within 10 business days of the student's placement
- A 14th student is added to a high school ICT class *before* the school has received approval from the State
- The ICT class for which the variance is sought had more than 12 students with disabilities when school opened in September
- The additional student's academic performance or behavior is significantly outside the range of the other students with disabilities in the class
- Adding another student is not consistent with providing an appropriate education for all students in the class, e.g., students (gen ed and special ed) are not making adequate progress to meet grade level standards or annual goals
- There are more students with disabilities than non-disabled students in an ICT class.

FUNCTIONAL GROUPING

- Functional grouping requirements apply to students with disabilities in an ICT class.
- Students with disabilities placed together for purposes of special education must be grouped by similarity of individual needs in the four need areas:
 - Academic achievement, functional performance and learning characteristics
 - Social development
 - Physical development and
 - Management needs

PART-TIME ICT

ICT may be provided for all subjects or on an individual subject basis.

- When ICT is recommended for less than the full school day the students IEP must indicate the specific subjects or instructional areas in which the student will receive ICT services
- Although ICT is "fully funded" when provided for less than a full day, students are eligible for ICT services in any subject based on their individual needs

MULTIPLE SERVICE DELIVERY OPTIONS

Students can also receive SETSS or special class (self-contained) services for the periods when they are NOT in an ICT class.

- SETSS cannot be provided during a period of instruction in which the student is recommended to receive ICT
- When SETSS is provided in addition to ICT, the 3-hour minimum for SETSS still applies.

IEP PARAPROFESSIONALS

There are new state regulations and guidance on recommending individual and group paraprofessionals.

The SOPM now requires that the IEP:

- Clearly document the need and purpose of the individual or group (maximum of 3) paraprofessional as well as a process for progress monitoring
- Include goals, that, when achieved, will result in increased student independence and eliminate or reduce the need for paraprofessional support
- Document the level of service required, i.e., specific times of day/activities, intensity and ratio of student to staff.

IEP PARAPROFESSIONALS

- Specify in the management needs section whether the student requires paraprofessional support during related services and in non-academic settings including lunch and transitions,
- Indicate the training required for the paraprofessional to perform his or her duties in the “supports for school personnel” section
 - For behavior management paras, this must include training in behavior management generally and on how to implement and monitor the student’s BIP with fidelity
 - For health paras, training may be provided by the school nurse or the borough nursing director.

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- Accommodations and/or adaptations to the manner in which content is presented (e.g., Universal Design for Learning or [Assistive Technology](#)⁶⁷)
- Accommodations and/or adaptations to how students demonstrate learning and/or how progress is measured

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

Special Considerations: IEP-Assigned Paraprofessionals

[NYSED guidance](#) has been issued summarizing new regulatory requirements regarding recommending paraprofessionals (one-to-one aides). Schools/CSEs may refer to that guidance, in addition to the below, when considering a recommendation for an IEP-Assigned Paraprofessional.

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

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

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

- Behavior Support
- Health
- Toileting
- Orientation and Mobility

The IEP team must consider and recommend on the IEP the training that the paraprofessional will receive in order to serve the student appropriately. For

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

Behavior Support Paraprofessional

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

Health Paraprofessional

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

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

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

A 1:1 health paraprofessional may also be recommended to monitor the

⁶⁷ Including training/programming, as needed.

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

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

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

Toileting Paraprofessional

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

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

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

Toileting assistance is appropriate for students who:

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

Toileting assistance is generally programmatic in self-contained classes in

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

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

Orientation and Mobility Paraprofessional

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

Assistive Technology Devices and/or Services

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

- Assistive technology device means any item, piece of equipment, or product system – whether acquired commercially off the shelf, modified or customized – that is used to increase, maintain or improve the functional capabilities of a student with a disability. Assistive technology devices can range from "low technology" items like pencil grips or paper

CHAPTER LEADER COMPLIANCE CHECKLIST

1. School Consultation (should include specifics re: SE compliance issue)
2. District Consultation (provide school consultation summary information to UFT DR for escalation to superintendent where not addressed/resolved at the school level)
3. Special Education Complaint Forms (to be filed by someone who supports the affected student(s) in some way, shape or form. This may or may not include you as the UFT Chapter Leader.
 - a. Special Ed. Complaints are not grievances. They are confidential. They are proactive tools used to advocate for the needs of students and should not be filed to resolve ineffective ratings/discontinuances.
4. SLT and School Safety Committee Meetings may also be appropriate vehicles to address and resolve overlapping compliance issues.
5. Special Ed. Complaint Link:
<http://www.uft.org/teaching/special-education-complaint>

FREQUENTLY ASKED QUESTIONS

Q: Can parents record IEP team meetings?

A: Yes. A parent may request permission to make an audio recording of an IEP meeting by writing to the principal or chairperson at least 1 business day before the IEP meeting. If the parent will make an audio recording, the school will also make an audio recording. SOPM, page 10

Q: Are there variance procedures for special classes?

A: Yes. In exceptional circumstances, when all options have been exhausted without resolution, a variance may be requested to allow an additional student beyond the maximum number (e.g., 12 students in a class with a 12:1+1 ratio, 15 students in a class with a 15:1 ratio) to be added to a special class, or to allow the 36-month age range to be exceeded. The school may not place the student in the class until after the variance procedure has been followed and the variance has been approved by NYSED. In District 75, variance requests must be approved by the District 75 placement office.

SOPM LINKS

SOPM Web Link:

<http://schools.nyc.gov/NR/rdonlyres/5F3A5562-563C-4870-871F-BB9156EEE60B/0/03062009SOPM.pdf>

SOPM Intranet Link:

<http://intranet.nycboe.net/SpecialPopulations/SpecialEd/KeyDocuments/default.htm>

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