

NYC DOE Special Education Operating Procedures Manual

Special Class and ICT Composition and Variances

Special Class Composition

For special classes with a ratio of 12:1, 12:1+1 or 15:1, students' achievement levels in reading and math should generally not exceed a range of 3 years. If a school operates a class in which the range of both reading and math achievement levels exceeds 3 years, the school must provide the BCO and the parent of each student in the class a description of the range of reading and math achievement levels and the general levels of social development, physical development and management needs by November 1 each year. The parent of any new student offered or entering that class must be provided the same information.

The age range within a special class may not exceed 36 months, except that the age range is not limited within a special class for students age 16 and older, or a special class with a ratio of 12:1+(3:1) (often called 12:1+4).

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

ICT Class Composition

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

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

Variance Procedure

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

The ASE will review the draft variance notification/request and may work with the school to meet all students' needs without exceeding maximums. If the ASE confirms that the class was in compliance at the beginning of the school year and agrees that a variance is warranted, the ASE will submit the draft

notification/request to Variances@schools.nyc.gov. 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.