

Special Education Reform Reference Guide: School Year 2012-13

Introduction

For too long, educating students with disabilities in New York City has meant separating them from their non-disabled peers. We know that this model leads to some schools over-serving students with disabilities, while others under-serve them. Most importantly, we know that not all NYC students are graduating ready for independent living, college and careers. Beginning in September 2012, NYCDOE will implement a set of policy changes intended to:

- Ensure that every school educates and embraces the overwhelming majority of students with disabilities that they would serve if the students did not have IEPs;
- Hold schools and students with disabilities accountable for goals that are standards-based and reflect Common Core Standards and long-term educational outcomes;
- Leverage the full continuum of services and curricular, instructional, and scheduling flexibility needed to meet the diverse needs of students with disabilities;
- Align school accountability measures, funding formulas, and enrollment policies and practices with these principles.

We are confident that the changes outlined in the following set of guidelines will be manageable for schools to implement. In the first year of the citywide roll-out of this reform, schools must first focus their efforts creating more inclusive and innovative programs for students in articulating grades or students entering school “over-the-counter”. We encourage schools to review the special education programs they have established in all grade levels of their school, but anticipate that the greatest impact will occur at points of entry into the school.

Entering Kindergarten

Placement of Kindergarteners with Disabilities

Kindergarten students with Individualized Education Programs (IEPs) are entitled to attend their zoned school or any school to which they received an offer. Final notices of recommendation (FNRs) will be sent to families through a centrally-run process this year.

“Turning 5” Process

The vast majority of students attending Kindergarten in September 2012 were evaluated by the IEP team for their community school. Students referred for special education prior to March 15th must receive a finalized IEP and a final notice of recommendation no later than June 15th. If a principal would like the number of Turning 5 cases assigned to their school to be considered when calculating special education compliance metrics, they may consult their superintendent.

Family Engagement

As students are issued offers, schools will receive lists of the students “Turning 5” who will attend their schools. If a school did not manage the evaluation process for any of these students, the school team should meet with the student’s family prior to the end of the school year to discuss how the school will implement the student’s IEP.

Enrollment & Admissions

Placement of Articulating Students with Disabilities

Schools must serve students in articulating grades from their local communities, regardless of students' IEP program recommendations. Choice, non-zoned, and screened schools will be asked to admit and serve a percentage of students with disabilities equivalent to the percentage of students with disabilities in their district or borough. No schools may turn away students due to IEP recommendation, irrespective of projected percentages. Schools should enroll all students who arrive for admission. If the school has concerns about a placement, they may escalate them through their network leader for review.

School teams will be expected to meet the needs of students identified for special education services within the context of their school. Students with significant needs (i.e., students in need of [specialized programs](#) or barrier-free sites) will continue to be served at schools that provide the appropriate services. See guidance on [ensuring appropriate recommendations](#) to review the process for referring a student to a specialized program.

Schools are expected to meet the needs of students as outlined on their IEPs. When a specific program has not previously existed at a school and the team is in agreement that the program is needed, the school should provide that program. The team, including the family of the student, should always review the IEP to ensure that programs and services match the needs of the student

Placement of OTC Students with Disabilities

Placement in non-articulating grades will maximize zone entitlement and seat availability, with respect to the existing structures to the greatest extent possible.

Acceptable Reasons for Transfer

The same reasons for transfer that have existed in the past still apply under the special education reform. Please reference [Chancellor's Regulation A-101](#) for specific information on acceptable reasons for transfers.

Deferred Placement

Only deferred placements for specialized programs will be facilitated for September. Schools are expected to serve their students with deferred placements, unless students require a specialized program or D75.

Capping

The need to cap a grade arises when a zoned school is physically unable to accommodate all of its zoned students. In order for a cap request to be approved, all of the following conditions must be met:

- All GE/ICT in a given grade have reached the contractual maximum (K = 25; Grades 1-5 = 32; Grades 6-8 Title I = 30/ Non-Title I = 33); and
- There is no mechanism to collapse sections, more efficiently program, or repurpose rooms; and
- There is no other space to open an additional section.

Generally speaking, students with disabilities will be the last to be overflowed. Priority to remain at the zoned school will be given to students with disabilities unless a review of the needs of the students and capacity of the school merits otherwise. A more detailed protocol and escalation path will be outlined in the SY12-13 Capping Memo. It should be noted that, consistent with past practice, capping only applies to GE/ICT sections at **zoned elementary and middle schools**. Choice schools and high schools are NOT considered for capping.

It is critical for schools to schedule and program in a way that optimizes the number of zoned students that can be served. Principals should consult with their network leaders to evaluate internal solutions prior to requesting a cap, which should be viewed as a last resort for alleviating extenuating circumstances.

Impact of Special Education Reform on Capping Protocol

As long as there is sufficient space in the building, zoned schools will be responsible for serving all of their zoned students with IEPs as well as any other students assigned to special programs or classes. If an existing self-contained section is at the mandated ratio, the arrival of the next over-the-counter student may necessitate the opening of a new section. Central to the Special Education Reform is the notion that students with IEPs have the right to attend the same schools as their non-disabled peers.

In order for a cap request for a self-contained section to be considered, all of the following conditions must be met:

- All of the students with self-contained IEP recommendations have been considered for flexible programming, part-time programming, movement to a less restrictive setting; and
- There is no mechanism to collapse classes, reassign space, or repurpose specialty rooms to accommodate students; and
- There is no space to open an additional class; and
- All opportunities for bridging grades have been exhausted; and
- The Network Special Education Achievement Coach and District Placement Officer have both reviewed and confirmed that the school cannot meet the needs of all of the students in the service group; and
- The Cluster Senior Instructional Facilitator and Borough Director of Special Education Enrollment reviewed and confirmed the assertions of the Achievement Coach and Placement Officer; and
- The Cluster is able to identify a receiving school in the Cluster or has negotiated with another Cluster to identify a receiving school for overflowed students with self-contained IEP recommendations where the students will be welcomed and appropriately served.

If a school has reached capacity in both their GE and self-contained sections, but only has one additional room available, evaluation of space and needs will be conducted by the Division of Portfolio Planning.

Final decisions will be made by the Office of Portfolio Management in consultation with the Division of Students with Disabilities and English Language Learners and the Office of Student Enrollment.

Ensuring Appropriate Recommendations

To ensure that recommendations of students to more restrictive programs are appropriate, beginning in spring 2012, schools must adhere to the following protocol for obtaining review of any recommendation to a more restrictive program:

Review Process Prior to Finalizing Recommendations

- IEP teams must consider the least restrictive environment appropriate for a student prior to making any program recommendation. The rationale for the program recommendation must be documented.
- A school psychologist must be part of the IEP team that is recommending a more restrictive program for a student.
- If the IEP team anticipates a more restrictive program may be recommended that would result in a referral outside of the school building (i.e. to a [specialized program](#)), the psychologist must consult with their Supervisor of Psychologists to review whether the recommendation is in conformity with the LRE as required under the IDEA.

Program Recommendation Auditing

- Network, cluster, and central teams will regularly review patterns of referrals for students to ensure that all recommendations are legitimately in the best interest of students and that the recommended program is the least restrictive environment appropriate for each student.
- If patterns of recommended programs suggest inappropriate recommendations that do not seem in the best interest of students, central teams will conduct a more intensive audit of student IEPs. For recommendations that are not in the best interest of students, regular progressive disciplinary measures for school leaders and IEP teams will apply.

Human Resources

Special Education Teacher Caseload

A special education teacher is qualified to teach students with disabilities in a variety of special education programs. If a special education teacher is a full-time SETSS provider, the total number of students with a disability assigned to a resource room (SETSS) teacher in [New York City](#) shall not exceed 30 students at the elementary level. In grades 7-12, this number shall not exceed 38 students with disabilities.

Special Education Teacher Certification

The special education reform does not change the requirements for which certification(s) a teacher must hold to teach students with disabilities. However, there may be more questions that arise as schools flexibly program using the full continuum to meet the needs of their students with disabilities. Note that while most DOE special education teachers hold the same city license – 900B – they generally have different State certifications which may impact eligibility to each certain settings and/or grades. The following is a general overview by special education assignment; if schools have more questions or need support they should contact their CFN HR Director.

SETSS

All teachers who hold some form of special education/Students with Disabilities (SWD) certification are eligible to teach any of the three SETSS assignments: Direct (in a general education classroom, e.g. push-in), Direct (in a separate location outside of the classroom, e.g. pull-out), or Indirect (consultation of a special education teacher with a general education teacher). These services cannot be provided by a teacher who only has general education certification.

ICT

All teachers who hold some form of Special Education/Students with Disabilities certification are eligible to serve as the special education teacher in an inclusion classroom.

Special Class

For teachers with special education certification the following requirements apply:

Elementary: All currently certified Special Education/SWD teachers with a certification in the elementary grades may teach any/all subjects for a special class

Secondary: Teachers who teach students in special education classes grades 7-12 must be certified in both special education and the content area(s) that they intend to teach. Most current certified Special Education/SWD teachers may teach any/all subjects for a special class by virtue of either holding a SWD 5-9 Generalist Certification or provided they pass HOUSSE for each subject outside of their certification area. Teachers only have to pass HOUSSE one time for each subject, not each year. Note that teachers who possess the relatively new SWD 7-12 Generalist certificate are not eligible for HOUSSE. To teach a special class in a subject, teachers with that certificate must have 18 credits in the content area and pass the CST.

Alternative Assessment: Special Classes with children who are alternately assessed may be taught by a teacher who possesses *any* special education/SWD certification (even regardless of the grade level of the certification).

General education teachers cannot teach a special class unless they also hold special education certification. The Incidental Teaching provision does not apply/permit general education teachers to teach one period of a special class.

Teachers are not limited to teaching only one setting a part of their program. They may have a mixed program including any one or more of the above assignments.

Funding

Special Education Proposed FSF Policies

As the reform focuses on providing services based on the needs of students rather than maintaining programs, community schools that have been funded for special education classes² will be funded on a per capita basis beginning in the 2012-13 school year. This allows for supports to follow the student, regardless of where the student is enrolled. The proposed funding changes in this document are subject to approval by the Panel for Education Policy. Information about the final changes to FSF budget policy to support the reform will be communicated when the initial allocations are issued in late May or early June.

Budget Stabilization

School budgets are adjusted for register changes in Fair Student Funding categories (i.e. changes in the number of students in SC versus ICT) from year to year; to the extent that a school's FSF register stays stable, the FSF special education per capita budget should stay stable¹. Changes to enrollment policies for the special education reform apply to students in articulating grades and students enrolling over-the-counter. Given that students in non-articulating grades make up the majority of school registers, we do not expect large scale changes in the special education per capita budgets for schools.

A second avenue for stability is that schools that previously received class funds² will receive a transitional supplement in the 2012-13 school year for special education programs existing in FY13, capped at FY12 levels, net of actual register increases. Register increases will be funded via the FY13 FSF per capita weights. Schools will not receive a transitional supplement for seats beyond the FY12 count of unfilled seats. This will help to ensure that these schools can maintain the level of staffing that supports students with disabilities in non-articulating grades.

Identifying Students in Funding Categories

Each student can be identified for only one category of funding. This category is based on the percent of time of the typical academic day spent in a special education program setting. The percent of time spent in a program setting is calculated using the total number of periods of a school's academic week (representing a fully programmed day, excluding lunch) and identifying the percent of time spent in special education programs and services³. For students who spend more than 60% of their week in special education programs, their funding category would differ depending on the program where they spend the majority of their time. FSF SE needs categories would be funded as follows⁴:

	FY 12	FY 13 ⁵	FY 12	FY 13 ⁵	FY 12	FY 13 ⁵	FY 12	FY 13 ⁵
Special Education Weights	K	K	1-5	1-5	6-8	6-8	9-12	9-12
Less than 20%	0.56	0.56	0.56	0.56	0.56	0.56	0.56	0.56
21-59%	0.68	1.25	0.68	1.25	0.68	1.25	0.68	1.25
Greater than 60% (self-contained)	1.23	1.18	1.23	1.18	1.23	1.18	0.58	0.58
Greater than 60% (integrated)	2.28	2.09	1.9	1.74	1.9	1.74	2.1	1.74
Transitional Supplement	-	0.12	-	0.12	-	0.12	-	0.12

¹ Conditional on the DOE forecast given in the City's Executive Budget.

² Elementary and middle schools that have been open since prior to the 2007-08 school year that are not in Phase 1 of the special education reform.

³ SETSS, SC, and ICT services. % of time does not include Related or Support Services

⁴ Contingent on PEP Approval

⁵ Contingent on PEP Approval

20-60%

The 20-60%, or part-time, weight is ascribed to any special education program that is more than 20% of a student's time per week and less than 60% of a student's time per week, whether that be daily multiple periods of SETSS, part-time self-contained, part-time ICT, or a mix of the three services.

Budget Adjustments Policy

School budgets are adjusted for changes in register at mid-year adjustments, which is tentatively scheduled for the end of fall 2012 and late winter in 2013. If schools are aware of that their actual registers differ from their projections with a net result of more funds needed prior to the mid-year adjustments, the school may request ASA Register Growth from their network. Schools that experience register decline or have changed students' FSF register categories to a category with lower funding values should set aside funds in the register loss Galaxy title. Each school's Children First Network is available to support the school with these transactions.

The Special Education Unfilled Seat transitional supplement will also be adjusted for register increases as of the mid-year.

Teacher Resources

In the instance where schools enroll fewer students with a specific program recommendation than are needed to fully fund necessary staff (for example, five kindergarten students with program recommendations for a special class), the school is expected to take the following steps:

1. **The IEP must be implemented.** A student's IEP is a legal document that outlines what supports and services the student is entitled to in order for them to achieve their goals. Schools must serve students in articulating grades from their local communities, by implementing each student's IEP as written, no matter what the program recommendation may be.
2. **The school and the parent should review the IEP.** IEPs can be reviewed and amended at any time with the parent's participation. In some instances a full time SC recommendation may be appropriate if the student requires services in all of their classes. However, there may be instances where review of the IEP and the unique needs of the student demonstrate that full time services are not warranted, and that the school can address the needs of the student through a program other than what is recommended on the IEP. In these instances, the parent and the school should agree on the services and document these recommendations on the IEP, following required procedures.
3. **Schools should review their resources.** Schools may have available resources in their school that can be used to implement the program. For example, if the school has three teachers providing SETSS services and their schedules are below capacity, the school may be able to rearrange the provision of SETSS to allow for one of the providers to switch to providing SC services in accordance with the student's IEP.
4. **The school should work with their network.** If after completing the three steps above the determination remains that the student requires a program that the school currently does not have *and* the school does not have the resources to implement, the school should work with their Children First Network. The network will work with cluster and central administration to ensure that the school has the resources to meet the mandated needs of the students.

Specialized Programs for Students with Disabilities

A program is considered “specialized” if it requires a specific type of expertise and is geared toward a small percentage of the disabled population, thus cannot be expected to exist in every community school.

Existing New York City special education programs that are considered specialized programs are:

- **ASD Nest:** an integrated class setting (reduced class size) in community schools for high functioning students on the autism spectrum
- **ASD Horizon:** a self-contained class in a community school for students on the autism spectrum
- **ASD Support:** an innovative program for supporting students on the autism spectrum attending a community school
- **Barrier-free:** a school building that is accessible to students who have limited mobility, serious health issues, or use a wheelchair or other mobility device
- **Bilingual Special Education:** a special program for students with disabilities who require bilingual instruction in Spanish, Chinese, Russian, Yiddish, or Haitian Creole
- **Special Program for Students with Intellectual Disability (ID) Classification:** a special class or program in a community schools for students who are classified as ID and who are being alternately assessed
- **District 75 Programs in Community Schools**
- **District 75 Programs in Specialized Schools**

Maintenance of Specialized Programs for Students with Disabilities

Schools that currently host a specialized program will be asked to maintain their programs for SY12-13. The Division of Students with Disabilities and English Language Learners (DSWDELL), in coordination with the Office of School Support (OSS), and the Office of Student Enrollment (OSE), will make the determination as to the viability of any particular specialized program. Zoned schools that provide specialized services are expected to serve zoned students as well as students in need of the specialized service offered.

If a school believes that there is an insufficient demand or resources to maintain a specialized program for students with disabilities, the school must first consult with their network to seek central-level review for whether the program is viable. No programs will be closed without a thorough review by DSWDELL.

Placement of Students with Disabilities in Specialized Programs

To fill citywide needs and to ensure that students requiring a specialized program have access to one, any “empty seats” in a specialized program will be filled as demand is identified.