

NYSED Topics from LHDs for EI Statewide Meeting

May 19, 2026

Q1: Can the County, as a CPSE member, offer recommendations during IEP meetings? In our region, a new County staff member attended a NYSED-sponsored Preschool Special Education Process training. During a slide on CPSE membership, the presenter stated that it is “not the county’s role to offer opinions” in matters related to eligibility or IEP development. This messaging directly conflicts with guidance from NYSED, which clearly states that the county representative is a participating CPSE member, including in the development of the IEP.

A1: A representative from the county (municipality) is a member of the Committee on Preschool Special Education (CPSE) and can offer recommendations, but the final recommendation to the Board of Education is made by the CPSE. In accordance with section [200.3\(a\)\(2\)\(ix\)](#) of the Regulations of the Commissioner of Education, the membership of the CPSE includes a representative of the municipality of the preschool child's residence, provided that the attendance of the appointee of the municipality shall not be required for a quorum. A Municipal Representative should be knowledgeable about the CPSE process, the services outlined in Section 4410 of Education Law and Part 200, and the required documentation needed to ensure accuracy and timeliness in the county’s role as payee. With this expertise, the representative can provide information at CPSE meetings about the availability of services and transportation arrangements and actively participate in the development of the IEP.

Q2: Can NYSED review the minimum level of SEIT? Currently it is 2x60. In light of the extreme shortage of Special Education teachers in the state and a 3–4-year-old child's attention span, more children could be seen if the minimum rate were reduced. Alternatively, would NYSED consider 45-minute sessions as 30 minutes is not enough time?

A2: NYSED regulations require that the recommended level of special education itinerant services (SEIS) in a preschool student’s IEP may not be less than two hours per week. This requirement is established in section [200.16\(i\)\(3\)\(ii\)\(b\)](#) of the Regulations of the Commissioner of Education and therefore cannot be reduced, even in light of workforce shortages or student attention span considerations. However, the duration of individual sessions may be less than 30 minutes, or 45-minutes, provided that the session length is clearly documented in the student’s IEP and the total weekly service time meets the required minimum of two hours. In accordance with section [200.9\(f\)\(2\)\(ix\)\(c\)](#) of the Regulations of the Commissioner of Education billing by providers to municipalities must be done in half hour blocks of time, at the SEIS rate established by NYSED. If a preschool child with a disability is recommended to receive

SEIS for the duration of 45-minutes, and it is documented in the IEP, a 45-minute session is calculated as 1.5 half-hour units. The provider may also combine sessions to bill at the half-hour rate (e.g., four 45-minute sessions to bill for six half-hour sessions).

Q3: Can NYSED consider guidance around location of services, generally it is considered more productive to perform them in a classroom setting rather than in a room on their own?

A3: NYSED has presented to multiple stakeholder groups regarding SPP/APR Indicator 6a to increase the percentage of students who receive a majority of special education and related services in a regular preschool classroom. For preschool students with disabilities, Speech and Occupational Therapy (OT) are the largest recommended related services. When students are pulled out of the classroom to receive Speech or OT services, they do not count as part of the Indicator 6a data. Pull out services do not meet Least Restrictive Environment (LRE) requirements. Pull out services do not count towards Indicator 6b (separate setting/20% target) data, but it doesn't help school districts to achieve the target of 50% for Indicator 6a. Pull out services are seen as an "other"; not belonging to either percentage. Ensuring that a majority of related services are provided in a regular preschool classroom will allow districts to meet the target.

As for guidance, the [Continuum of Special Education Services for School-Age Students with Disabilities \(rev. 12/2013\)](#) guidance states that special education services should prioritize the Least Restrictive Environment (LRE), favoring the general education classroom over separate locations. "Location" in the context of a student's IEP generally refers to the type of environment that is the appropriate place where a particular service, program modification or accommodation would be provided. A CPSE/CSE should first consider the general education class as the location for the provision of special education services rather than a separate location in order to facilitate the student's maximum participation in general education programs and access to the general education curriculum.

Q4: Programs need to maintain ratios regardless of number of students enrolled in class or attendance. Some programs don't appear to be aware of this, can NYSED clarify this requirement and ensure programs are aware?

A4: Sections [200.6](#) and [200.16](#) of the Regulations of the Commissioner, along with the [Continuum of Special Education Services for School-Age Students with Disabilities \(rev. 12/2013\)](#) guidance, and the [Procedures to Temporarily Exceed an Approved Special Class Size \(rev. 7/2023\)](#) memorandum make clear that integrated special education programs must operate within their approved staff to student ratios. These ratios must be maintained at all times, regardless of fluctuations in student enrollment or daily

attendance, to preserve the integrity of the inclusion model and prevent such programs from effectively becoming segregated settings.

NYSED expects all programs to adhere consistently to these requirements. To support compliance, NYSED will continue to reinforce this expectation through guidance, technical assistance, and oversight activities, and will work to ensure that districts and providers are aware that approved ratios are not flexible based on attendance or enrollment variability. [Special Education Quality Assurance Regional units](#) are also available as resources.

Q5: Can NYSED provide guidelines for parents? At numerous meetings as soon as the parent hears “half-day” they want to know why they can’t attend full-time.

A5: The [Special Education in New York State for Preschool and School-Age Students with Disabilities - A Parent’s Guide](#) identifies both half-day and full-day preschool programs as part of the continuum of services. There is no automatic entitlement to a full-day program; rather, the Committee on Preschool Special Education (CPSE) determines the appropriate program based on the individual needs of each student.

When recommending a half-day or full-day placement, the CPSE considers the student’s developmental levels, learning needs, and whether the program will provide sufficient support for the child to make meaningful progress in the least restrictive environment. A half-day program may be recommended when it is sufficient to meet the child’s needs, while a full-day program is considered when a child requires a more intensive level of support.

These decisions must be discussed with all CPSE members, including the parent, to ensure they understand the rationale for the recommendation. Parents should be informed that the length of the program is not based on preference, but on what is educationally appropriate for their child. A preschool student with a disability enrolled in a full-day UPK program can receive half-day special education services in the full-day UPK program.

Q6: Will the August 2003 *Evaluations of 3 and 4 year old children suspected of having disabilities pursuant to Section 4410 of the Education Law* document be updated soon?

A6: Yes, the [Evaluations of Three- and Four-Year-Old Children Suspected of Having Disabilities Pursuant to Section 4410 of the Education Law \(8/2023\)](#) memo, is on the short list of updated guidance to be issued. In response to the 2024 audit by the NYS Comptroller, NYSED has multiple competing priorities. We have been collaborating with the NYSED Office of Early Learning (OEL) to publish a guide on blending and braiding 4410 and UPK funds. This is in the final stages and is expected to be released very soon. Once this document is released, the memo is scheduled to move through the

revision process and is expected to be released by the end of this year. If there are specific questions that we should address, please email them to SPECED@nysed.gov with the title of the document as the subject.

Q7: Could NYSED provide clarification on Telehealth services? What services can be provided via teleservices? Can formal, written guidance on these services be provided? What guidance on next steps can NYSED offer if telehealth is available and offered but the parent declines?

A7: Preschool special education services do not have the same flexibility related to telepractice services that Early Intervention (EI) services have.

Telepractice services will not satisfy a student's Individualized Education Program (IEP) while the preschool student is on a waiting list for in-person services, except in circumstances permitted by [Section 200.16\(f\)\(7\)\(ii\)](#) of the Regulations of the Commissioner of Education, or [Guidelines for the Use of Speech-Language Telepractice in the Delivery of Related Services to Students with Disabilities](#).

The [Guidelines for the Use of Speech-Language Telepractice in the Delivery of Related Services to Students with Disabilities](#) states that when telepractice services are being considered for a particular student, the CPSE must consider willingness of student and parent to receive services via telepractice. The CPSE must provide information on this service delivery model to parents and should review this information for discussion with parents at the student's CPSE meeting. The [Engaging in Telepractice in the Speech-Language Pathology & Audiology Professions](#) guidance states appropriate documentation, including informed consent for use of telepractice, must be maintained. While telepractice in the delivery of speech and language related services is permitted, parents must consent to this method.

Q8: If a child attends a "program" that is not approved by NYSED, and does not have an OCFS license, and the parent is refusing to accept CPSE recommended services instead as they cannot be provided at this 'program,' what rights does the parent have in this situation?

A8: The CPSE must consider LRE when deciding where each recommended IEP program and/or service will be provided, and the type of setting where the child's IEP will be carried out. The location could be where a preschool child receives informal child care or attends a nursery school that is not required to be licensed by OCFS.

Pursuant to Section [200.5\(b\)](#) of the Regulations of the Commissioner of Education, parents have the right to refuse CPSE-recommended services, but doing so means the school district is not violating FAPE requirements, and the child will not receive public services. Parents have the right to request a due process hearing to challenge the

CPSE's recommended placement or services, as described in the NYSED Procedural Safeguards Notice.

Section [200.3\(2\)\(vii\)](#) of the Regulations of the Commissioner of Education, states that parents have the right to invite "other persons having knowledge or special expertise regarding the child" to the CPSE meeting.

Q9: Has NYSED considered "incentivizing" schools to transport the children from their districts that are in 4410 classrooms?

A9: NYSED does not have the mechanism to incentivize. Counties can contract with school districts to transport preschool special education students, which NYSED strongly encourages but cannot enforce. This would be a local agreement.

Q10: Can NYSED please share what training CPSE chairpersons receive regarding EI to Preschool transition process?

A10: CPSE Chairpersons receive training through NYSED approved CPSE/CSE chairperson training programs, which include EI-to-CPSE transition requirements, and are expected to implement the joint DOH-NYSED [Preschool Transition Guide](#) guidance. NYSED's expectation is that CPSE chairpersons are appropriately trained and knowledgeable regarding EI-to-preschool transition requirements through required chairperson training and ongoing professional learning, and that CPSEs implement transition activities in alignment with State law, regulation, and joint DOH-NYSED guidance. Additional targeted professional development on EI to Preschool transition is offered through [OSE Educational Partnership](#), Family and Community Engagement (FACE) Centers, and NYSED/OSE initiatives. The Preschool Transition Guide is currently being updated through a joint effort between NYSED and NYS Department of Health (DOH).

Q11: Can NYSED describe the process for school districts providing families the opportunity to choose evaluator and how the listing should be provided to families of who is available to provide evaluations?

A11: When a referral for a preschool evaluation is made, the Committee on Preschool Special Education (CPSE) provides the parent with a list of approved preschool evaluation sites. Once parental consent is obtained, the CPSE facilitates the evaluation with the chosen provider. The list of approved providers must be provided consistent with Section [200.5](#) of the Regulations of the Commissioner of Education.

Q12: In relation to timeline for transition conferences. There is conflicting information regarding whether the transition conference needs to be 90 days before the 3rd birthday or 90 days before the first eligibility date. Can NYSED please clarify this?

A12: In accordance with Section [69-4.20\(a\)\(1\)](#) of the Regulations of the Commissioner of Health, the transition conference must occur no later than 90 days before the child's third birthday or 90 days before the child becomes first eligible for CPSE, whichever comes first. If all parties agree, the transition conference may be scheduled as early as nine months prior to the child turning three.

Q13: Can a 4410 program accept a child who may have services in their IEP that required disciplines they did not have?

A13: A 4410 preschool program in New York cannot formally accept a child if it cannot implement the full IEP, as they must provide all recommended services. While providers must follow the IEP, they can contract for missing services (e.g., speech, OT) to ensure the placement is appropriate.

Q14: Does NYSED have any guidelines as to when a double STAC is or isn't appropriate?

A14: The System to Track and Account for Children (STAC) and Medicaid Unit published the [System to Track and Account for Children \(STAC\) Introduction to Preschool Processing](#) guidance and host multiple [webinar events](#) designed to support counties.

Please note, the OSE Preschool Policy Unit does not oversee reimbursements. Questions related to dual STACs or what combination of concurrent placements qualify, please contact the Rate Setting Unit (RSU) at RATEWEB@nysed.gov or (518) 474-3227.