



**THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK**

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To: School District Superintendents  
Charter School Administrators  
Special Education Directors

From: David Frank, Charter School Office

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Date: August 27, 2020

Subject: 2020-2021 Billing for Students with Disabilities Enrolled in Charter Schools During the Novel Coronavirus (COVID-19) Pandemic

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The purpose of this memo is to provide school districts and charter schools with clarification regarding per pupil billing for students with disabilities enrolled in charter schools during the 2020-2021 school year.

Commissioner's Regulation § 119.1 sets forth the billing requirements pertaining to students enrolled in charter schools, and instructional time requirements are set forth in Education Law § 2851(2)(n) and Commissioner's Regulation § 175.5. [Amendments to the Commissioner's Regulations](#) in July of 2020, as well as [guidance from the United States Department of Education](#), provide added flexibility for the provision of services to students with disabilities during the novel coronavirus (COVID-19) pandemic.

Schools, including charter schools, are required to implement a student's individualized education program (IEP) to the greatest extent possible, whether the student has a newly implemented IEP or an existing one. The school must maintain detailed documentation on the instruction and services that were provided to each student within the context of the IEP. Fundable services directly provided by the charter school may not exceed the minutes or percentage of time as mandated on the IEP. Special education billing categories, as mandated in State guidance, are still in effect.

Special education services, whether synchronous or asynchronous, are required to meet the unique needs of each student pursuant to their IEP. Furthermore, the New York State Education Department (NYSED) has issued [guidance](#) to the field pertaining to the provision of services to students with disabilities during the novel coronavirus (COVID-19) pandemic.

Both charter and district schools should continue to follow applicable laws, regulations, Executive Orders, and [NYSED reopening guidance](#) pertaining the provision of services for all students in general and students with disabilities specifically.