




OFFICE OF SPECIAL EDUCATION  
ASSISTANT COMMISSIONER  
89 Washington Avenue, Room 301M EB • Albany, NY 12234  
[www.p12.nysed.gov/specialed/](http://www.p12.nysed.gov/specialed/)

Telephone: (518) 402-3353  
Fax: (518) 402-3534

February 24, 2021

TO: BOCES District Superintendents  
School District Superintendents  
Superintendents, Special Act School Districts  
Superintendents, State-Operated Schools  
Superintendents, State-Supported Schools  
School Principals  
School District Business Officers  
Charter School Leaders  
Special Education Directors  
Directors of Pupil Personnel Services  
Chairpersons of Committees on Special Education  
Chairpersons of Committees on Preschool Special Education  
Administrators of Nonpublic Schools with Approved Special Education Programs  
Organizations, Parents and Individuals Concerned with Special Education  
Preschool Providers of Special Education Programs and Services

FROM: Christopher Suriano 

RE: 2020-21 School Year Provision of Preschool Special Education Programs and Services During Closures Due to COVID-19

The New York State Education Department (NYSED) [Recovering, Rebuilding, and Renewing the Spirit of New York State Schools Guidance](#) recognizes that during the 2020-21 school year, due to the health and safety requirements that must be in place, schools may not be able to provide all services in the same manner they are typically provided; however, students with disabilities must continue to receive a free appropriate public education (FAPE). New York State (NYS) Governor Executive Orders will continue to be controlling and it is essential that approved programs and providers remain aware of public health directives from the New York State Department of Health (DOH) and the local health departments (LHD) to determine their impact to the provision of preschool special education. DOH has published [guidance, letters, and updated presentations for schools](#) on their webpage.

This guidance is directed to inform the provision of preschool special education programs and services including the applicable requirements for school building site closures and the standards for when preschool center-based and itinerant in-person services must be suspended and replaced with remote service delivery to ensure the continued provision of FAPE to preschool students with disabilities.

- 1) If the preschool program or service is to be provided at a site located in a zone where in-person services are authorized by DOH or LHD, but the preschool student with a disability resides in a red/orange/yellow zone, are the provision of services impacted or restricted?**

No, applicable zone restrictions are identified by the site/location where the preschool program and/or service are to be provided and not where the student resides. In conformance with NYSED [Guidance on Pupil Transportation for Resident Students Attending Non-District Instruction During Periods of Remote Instruction for District Students](#), preschool students with disabilities continue to be entitled to suitable transportation, as specified in the student's individualized education program (IEP), to the programs and services that are operating in-person regardless of whether the student's school district of residence is operating remotely.

- 2) Due to COVID-19, if a preschool program or service cannot be delivered in-person, must the approved program or service provider continue to offer IEP programs and services remotely?**

Yes. Per NYSED's [Recovering, Rebuilding, and Renewing the Spirit of New York State Schools Guidance](#) (see *IEP Implementation* section), consistent with the September 28, 2020 guidance issued by the United States Department of Education (USDE), Office of Special Education Programs (OSEP), [Question and Answer Document in Response to Inquiries Concerning Implementation of the Individuals with Disabilities Education Act \(IDEA\) Part B Provision of Services in the Current COVID-19 Environment](#), no matter what primary instructional delivery manner is chosen (i.e., in-person, remote or hybrid), school districts and Committees on Preschool Special Education (CPSEs) remain responsible for ensuring that FAPE is provided to all students with disabilities. If NYS and/or local decisions require schools to limit or not provide in-person instruction due to health and safety concerns, schools/programs/providers and CPSEs are not relieved of their obligation to provide FAPE to each student with a disability.

Approved special education preschool programs and related service providers are responsible for keeping CPSEs informed of the manner in which services will be delivered (i.e., in-person, remote, or hybrid) to meet the needs of preschool students with disabilities in accordance with the student's IEP.

- 3) **Does the student’s IEP need to be amended if alternate instructional methodologies or manner of delivery changes (e.g., from in-person to remote delivery or remote delivery to hybrid/in-person delivery)?**

No. NYSED has provided guidance in conformance with OSEP that IEPs do not need to be amended if the manner of delivery changes (e.g., from in-person to remote) to enable the continued provision of FAPE in accordance with IEPs.

- 4) **When must a preschool special class or preschool special class in an integrated setting program (SCIS) close their school building site and cease the delivery of in-person programs and services?**

The DOH and LHD directives may apply differently to approved preschool special class and SCIS programs depending on whether the special class or SCIS site is a licensed childcare program and depending on whether the special class or SCIS site is co-located in a public school building.

*Approved Preschool Programs Licensed by OCFS or DOHMH*

Preschool special class and SCIS programs licensed by the NYS Office of Children and Family Services (OCFS) or the New York City (NYC) Department of Health and Mental Hygiene (DOHMH) must follow the direction and guidance of these licensing agencies, as applicable. Relevant guidance from those agencies may be found at [OCFS’s Division of Child Care Services webpage](#) and [NYC DOHMH’s Child Care webpage](#). If OCFS or DOHMH directs its licensed programs to close or interprets DOH/LHD directives to require its licensed programs to close, approved special class and SCIS programs must follow that directive. If OCFS or DOHMH or applicable DOH/LHD directives do not explicitly require childcare program site closures, an approved preschool special class or SCIS program may voluntarily close per their 2020-21 Reopening Plan.

*Approved Preschool Programs Not Licensed by OCFS or DOHMH*

Approved private preschool special class or SCIS programs not licensed by either OCFS or DOHMH, and approved preschool special class or SCIS programs operated by a public entity (school district, Board of Cooperative Educational Services, or charter school), must follow all direction and guidance from [DOH](#) and LHD.

- 5) **When must preschool special education itinerant service (SEIS) providers and preschool related service providers cease the delivery of in-person programs and services?**

The IEP recommendation for the location of SEIS and/or preschool related services will specify the site determined by the Board of Education for where the itinerant services are to be provided, as identified by the parent. These itinerant

services may be provided at an approved or licensed prekindergarten or Head Start program, a hospital, a State facility, or a childcare location selected by the parent. If the CPSE determines that documented medical or special needs of the preschool child indicate that the child cannot travel to another site, the child may be entitled to receive SEIS and/or preschool related services in the preschool child's home.

SEIS and preschool related services may continue to be provided in-person at all locations that remain open for in-person programs to children. For example, if a childcare center or universal prekindergarten program site is operating in-person programs or services for children, SEIS and related services may also continue to be delivered in-person at these locations. Regular early childhood programs (e.g., licensed childcare centers, Head Start programs, preschool programs, or State Administered Prekindergarten programs) are to consider the delivery of IEP mandated services an essential service and continue to provide approved preschool special education providers with access to enable the provision of FAPE to students attending the early childhood program.

If the regular early childhood program or hospital or facility where the child is attending is closed for in-person services, the SEIS and/or preschool related service provider may arrange to deliver in-person services at an alternative location that remains open (including the student's home) with mutual agreement of the provider and student's parent. Alternatively, the SEIS and/or preschool related service provider may continue service provision remotely via distance learning and telepractice.

SEIS and related services may continue to be delivered at an alternative open location or in the home setting until and unless DOH or the LHD issue a directive that requires the suspension of in-person service delivery applicable to Preschool Special Education Programs and Services, pursuant to Part B of the IDEA.

If in-person SEIS and/or related services are not able to be provided in-person during the 2020-21 school year due to COVID-19, providers will be reimbursed for provision of SEIS and/or related services through distance learning or telepractice at the same rate as if the SEIS or related services were provided in-person to the preschool student with a disability.

**6) When must preschool multidisciplinary evaluators cease conducting in-person assessments of preschool children?**

Preschool multidisciplinary evaluations may continue to be performed in-person until DOH or LHD issues a directive that requires the suspension of in-person evaluations applicable to Preschool Special Education Programs and Services, pursuant to Part B of the IDEA. In the event that preschool evaluations are not able to be conducted in-person, the CPSE is required to continue the evaluation process remotely. For more information see [CPSE Considerations for Conducting](#)

[Preschool Evaluations during COVID-19: A Toolkit for Committees on Preschool Special Education to continue Child Find Responsibilities During the COVID-19 Outbreak](#) and (OSEP), [Question and Answer Document in Response to Inquiries Concerning Implementation of the Individuals with Disabilities Education Act \(IDEA\) Part B Provision of Services in the Current COVID-19 Environment](#) stating that school districts should investigate all appropriate assessment instruments and tools to determine if some can be administered or completed remotely during the pandemic, provided that evaluation of the child is based on personal observation (whether in person or through videoconferencing).

**7) What notification is required if a preschool special education program or provider changes the manner of service delivery to preschool students with disabilities during the 2020-21 school year?**

All preschool providers must continue to document the manner of delivery of all programs and services to the student so that these activities are communicated to the school district responsible for developing students' IEPs.

Additionally, preschool special class and SCIS programs must notify the appropriate county officials responsible for the provision of transportation to resident students and must also complete and submit the NYSED Instructional Models Report and Report of School Closure and Report of School Reopening for Approved Special Education Programs (for more information see the September 9, 2020 memo titled [2020-21 School Reopening – Instructional Models Report and Report of School Closure and Report of School Reopening for Approved Special Education Programs](#)).