

# **POLICY ON MAKE-UP SERVICES OF MISSED SPECIAL EDUCATION ITINERANT SERVICES (SEIS) SESSIONS**

## **Effective September 1, 2015**

The purpose of this policy is to provide clarity on a provider's responsibility to ensure that preschool students with disabilities receive SEIS as recommended in their individualized education programs (IEP). This policy is consistent with the policy of the New York State Education Department (NYSED) issued in July 2007 (<http://www.nysed.gov/special-education/special-education-itinerant-teacher-seit-services-and-related-services-preschool>) and has been updated to provide additional clarification as SEIS transitions from a tuition-based to a fee-for-service reimbursement methodology. Make-up sessions are essential to ensure that a student receives a free appropriate public education.

### **Provision of SEIS Sessions**

Providers must arrange for SEIS to be provided to the preschool child to ensure students receive SEIS at the frequency, duration, intensity, location and consistent with other service delivery recommendations (such as bilingual special education services) in the student's IEP. Providers must ensure that their staffing configurations are appropriate to meet the service delivery needs of each student and that appropriately qualified (<https://www.highered.nysed.gov/tcert>) individuals are available to provide instruction to students during staff absences (i.e., substitutes).

Each provider must have a policy and procedures for substitute teacher coverage of special education itinerant teacher absences. This policy must address how the SEIS provider will ensure that substitute teachers are informed (e.g., lesson plans, IEP recommendations) to provide SEIS consistent with the individual needs of the student.

### **SEIS Provider Make-Up Session Plan and Policy**

SEIS providers must arrange to provide students with make-up sessions when the missed sessions were missed due to staff absence and, as appropriate to the needs of the student, any excused student absences consistent with this policy herein. A provider may, but is not required to, make up sessions for unexcused student absences.

Each SEIS provider must have a policy and plan for provision of make-up services for SEIS sessions. The plan and policy must address:

- How the provider will ensure that students with disabilities are provided SEIS sessions missed due to teacher absence(s) when the provider cannot practicably provide a substitute teacher and when the student is absent for such reasons as illness and/or disability (i.e., excused absences). A provider may, but is not required to provide make-up sessions to students for unexcused student absences (e.g., family vacations).

- How the provider will ensure that students with disabilities are provided SEIS sessions missed due to teacher absence(s) when the provider cannot practicably provide a substitute teacher and when the student is absent for such reasons as illness and/or disability (i.e., excused absences). A provider may, but is not required to provide make-up sessions to students for unexcused student absences (e.g., family vacations).
- How the provider will ensure that make-up sessions are provided in a timely manner in accordance with the student's IEP regarding duration, intensity and location, and as practicable, frequency, and in a manner consistent with State policy guidance provided herein.
- Procedures for the SEIS provider to document and communicate with Committees on Preschool Special Education (CPSEs) when students have excessive, frequent and/or regular absences that impact a child's receipt of services as required by their IEPs, including:
  - the reasons for such absences; and
  - the steps the provider agency has taken to address such absences.

### **When, Where and How Make-up Sessions Must be Provided**

Make-up sessions must be provided in a manner and on a schedule that is beneficial to the student. While providers should work to ensure efficient and cost-effective delivery of SEIS to the maximum extent possible, decisions regarding the schedule and manner in which make-up sessions will be provided to students cannot be based primarily on the convenience or monetary benefit to the provider.

SEIS providers must ensure that SEIS make-up sessions are delivered in a timely manner. This means, whenever practicable and except when prevented by extenuating child-specific circumstances, the session must be delivered as close in proximity as possible to the missed session, beginning within the same week as the missed session. When that is not possible, (e.g., when the missed session is on a Friday), the make-up session should be scheduled for the following week; when that is not possible, the make-up session should be scheduled in the subsequent week. Unless there is a documented child-specific reason (e.g., extended illness of the child; natural disaster), the make-up session should be provided within 30 calendar days of the missed session<sup>10</sup>. For students who receive SEIS or SEIS in combination with related services for more than 20 hours per week, the provider should discuss with the CPSE how timely make-up sessions can be provided for the student. Consistent with the above policy, a SEIS provider may not accumulate missed sessions with the intended purpose of providing all or a substantial number of make-up sessions during a block of time, e.g., at the end of a month or year.

The IEP of each student specifies the location for the provision of SEIS. Therefore, a make-up session must be provided to students in the same location as required in the IEP<sup>11</sup>. For example, when SEIS is provided at the site of the regular early childhood provider, make-up sessions must also be provided at that site during the regular early

childhood program. Providers should also consider the schedules and concerns of the regular early childhood settings and the parent when scheduling make-up sessions.

The IEP of each student also specifies a frequency, duration and intensity of SEIS (e.g., 4 x weekly; 30 minute sessions<sup>12</sup>; individual). However, when make-up sessions cannot be provided in the same week as the missed session to meet the IEP recommendations, the frequency of IEP sessions during the make-up week is likely to exceed the IEP frequency for this service. For example, for a student with an IEP recommendation of three SEIS sessions per week, a make-up session provided in a subsequent week would result in a frequency of four sessions in that week.

SEIS make-up sessions must be scheduled in the subsequent week(s) in a manner consistent to the maximum extent possible with IEP frequency, duration and intensity. For example, if a student's IEP indicates 4x weekly; 30 minute sessions to be provided on an individual basis, it would not be appropriate for the SEIS provider to provide an additional session in a group. A "double session", e.g., two back-to-back 30 minute SEIS sessions, may be provided only when there is no contrary child-specific reason why back-to-back sessions would be inappropriate (e.g., attention span or fatigue level of the student) and when no other practicable and appropriate schedule is possible to make up the missed session.

Make-up sessions must be provided in accordance with the enrollment of the student with the provider (i.e., 10-month; two-month) and, unless otherwise authorized by the CPSE, during the year the IEP is in effect.

Make-up sessions cannot be provided when provision of a session would result in the total number of sessions delivered to the student exceeding the maximum number of mandated IEP sessions authorized in the student's IEP for the year the IEP is in effect.

### **Other Missed SEIS Sessions**

In the event a student has missed SEIS sessions, specified in the IEP for the school year in effect, that are caused by such circumstances as a delay in enrollment in a SEIS program by the district, the Committee on Preschool Special Education (CPSE) may direct the provider to deliver additional SEIS sessions to the student for a specified period of time that may result in a change to the frequency, duration, location and/or intensity specified in the student's IEP. In order for the provider to provide these additional sessions, specific written authorization from the CPSE is required with regard to the total number of such additional sessions and the frequency, duration, location and intensity for these additional sessions, as clinically and educationally appropriate to meet the individual student's needs.

### **Documentation**

Providers must maintain student attendance records and accurate and timely documentation of SEIS sessions provided. Records to support all billing for programs

and services, including make-up services, must be provided at the request of the school district, municipality and/or the State.

Documentation of the provision of services, consistent with the IEP, for enrolled preschool children with disabilities must be kept for seven years after the end of the school year in which programs and services are provided. Providers must ensure that these records contain the correct starting and ending dates of programs and services and attendance records of students and dates when sessions were provided, including make-up sessions.

Documentation of make-up sessions must include the reason for the make-up session (student or teacher absence); the date of the missed session and the date of the make-up session; the location, duration and intensity (i.e., group or individual) of the make-up session; and, as applicable, CPSE authorizations for additional sessions.

### **Municipality Responsibility for Reimbursement of Make-Up Sessions and Provision of Missed Sessions**

Municipalities may not include provisions in their contracts, policies or procedures that are inconsistent with or more restrictive than the guidance provided herein to limit or deny reimbursement of SEIS, including make-up SEIS sessions or provision of other missed services authorized by the CPSE, that are provided during the year the IEP is in effect and within the student's period of enrollment with the provider or as otherwise authorized by the CPSE.

If a municipality finds, in its review of SEIS provider records, that a SEIS provider is providing make-up sessions in a manner that is inconsistent with NYSED's policy and not in the best interests of students, municipalities should contact the appropriate NYSED Office of Special Education Special Education Quality Assurance Office (<http://www.nysed.gov/special-education/special-education-quality-assurance-regional-offices>).

#### **Footnotes:**

**10** For students who receive SEIS or SEIS in combination with related services for more than 20 hours per week, the provider should discuss with the CPSE how timely make-up sessions can be provided for the student.

**11** The location of SEIS in the IEP may indicate "regular early childhood program selected by the parent", "home", "hospital", etc. rather than specifically indicate the name of the child care location selected by the parent (e.g., ABC Preschool Program).

**12** While billing is based on half-hour sessions, a CPSE may recommend another session length (e.g., one hour; 40 minutes, etc.) based on the individual needs of the student.