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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: Frequently Asked Questions and Answers Regarding the Provision of Services to Students with Disabilities During the 2020-21 School Year

The New York State Education Department (NYSED) Office of Special Education has compiled the following answers to questions collected from the field regarding NYSED's July 2020 [Recovering, Rebuilding, and Renewing the Spirit of New York State](#)

[Concerning Implementation of the Individuals with Disabilities Education Act \(IDEA\) Part B Provision of Services in the Current COVID-19 Environment](#) and [Questions and Answers for K-12 Public Schools In the Current COVID-19 Environment](#).

For your reference, some additional resources relating to students with disabilities during 2019-20 school closures and the 2020-21 school year have been published as Guidance from NYSED's Office of Special Education: [Provision of Services to Students with Disabilities During Statewide School Closures Due to Novel Coronavirus \(COVID-19\) Outbreak in New York State.](#)

Classroom Settings

- 1) To promote social distancing and adhere to health and safety requirements, can a school divide a special class into physically separate spaces to provide in-person instruction?

Yes. Per NYSED's [Recovering, Rebuilding, and Renewing the Spirit of New York State Schools Guidance](#) (see Summary of the Guidance Document's Provisions and Facilities sections), schools and school districts should promote social distancing while maintaining existing safety requirements designed to protect students.

number of nondisabled students should be more than or equal to the number of students with disabilities in the class in order to ensure the level of integration intended by this program option. A teaching assistant can be used to enhance but cannot replace one of the required, certified teachers.

- 3) Must schools seek a variance to increase the number of students in a

student does not have a contingency plan, the school district must still ensure the provision of a free appropriate public education (FAPE) as the student transitions, temporarily, to a remote environment.

Approved Programs Serving Students with Disabilities

- 8) When does the period of enrollment begin for tuition billing for the 2020-21 school year for nonpublic schools with approved special education programs, State-supported Schools, State-operated Schools, Special Act School Districts, preschool special class and special class in an integrated setting programs?

For purposes of the tuition to be charged for nonpublic schools with approved special education programs, State-supported Schools, State-operated Schools, Special Act School Districts, preschool special class and special class in an integrated setting programs (hereinafter referred to as approved programs serving students with disabilities), pursuant to section 175.6 of Commissioner's regulations, a student with a disability is deemed to be in attendance during the period of enrollment. The full-time equivalent (FTE) enrollment starts on the first day students are physically present or legally absent from the approved program. Student absences due to school closure per Governor Executive Order due to the COVID-19 pandemic shall not be counted for enrollment purposes.

Schools Guidance, attendance must be recorded for instructional purposes and schools must determine how documentation will be maintained on the instruction and services that were provided to each student so that it may be communicated to the committee on special education or committee on preschool special education for consideration when making any individualized determinations of subsequent student need.

- 9) How will the 180 -day requirement be calculated for approved programs serving students with disabilities?

As with the 2019-20 school year, Executive Orders issued by the Governor pursuant to a State of Emergency for COVID-19 will prevail if different from the Department's interpretation of the 180-session day requirement. Until such time, during the time period of the State of emergency declared by the Governor pursuant to an Executive Order for the COVID-19 crisis, and pursuant to A[(fo)-2 (r)5i12 -m02 Tc 0.002 Tw 6.34 0 Td(l)an

sessions when/ if the district is not.” See also NYSED’s [Guidance on Pupil Transportation for Resident Students Attending Non-District Instruction During Periods of Remote Instruction for District Students](#).

In the event that transportation is not provided by the school district or county as required by law, the absence would be considered a legal absence solely for tuition billing purposes to establish the period of student enrollment pursuant to suants.84(c)(12)(r)1