

Special Education

Rules, Regulations and Resources for Schools

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Special Education Rules and Regulations Training

The UFT and NYCPS will jointly create a training on special education rules and regulations, subject to approval by the Chancellor or designee. The training shall be provided to all staff each fall before or on Election Day. It shall be in-person and held at a time students are not in attendance. Staff who cannot attend the in-person training shall have access to a self-paced training.



Memorandum of Agreement **June 13, 2023** **NYCPS and UFT**

Prioritize Special Education Compliance

In June 2023, NYC Public Schools was notified by NYSED that it has been identified as a school district that *Needs Intervention* for the 17th consecutive year due to performance and compliance outcomes for students with disabilities.

During the SY 22-23 school year, NYC Public Schools fielded a 90% increase of complaints through the existing Special Education Escalation Protocol. Intervention by DSISS Special Education Compliance Team, Superintendents and ASEs on these individually filed complaints resulted in 100% of these cases coming to resolution.

Individual complaints are often a symptom of larger compliance issues in the school building. Resolution of one complaint thus does not indicate that the entire building is in compliance.

Many schools exhibit the same compliance issues year to year or have multiple escalations in the same school year.

Actions taken in response to compliance escalations included hiring paraprofessionals, opening additional programs, and more (for example, compensatory services). These actions are covered in today's presentation. The goal of this presentation is to empower schools to leverage these tools locally such that students receive their programs and services without unnecessary delay.

Compliance with special education programs and services is a shared priority for Chancellor Banks and UFT President Michael Mulgrew. NYC Public Schools is proud to partner with the UFT to work towards achieving 100% compliance for every student at the start of the school year.

Purpose and Expectations

Objective: To heighten awareness of special education compliance requirements

Learner Outcomes:

- Participants will know that special education compliance issues can be resolved at the school level.
- Participants will understand and identify special education compliance rules.
- Participants will learn how to resolve compliance issues.

Training Expectations:

- Schools that have dedicated professional development time prior to Election Day, are required to hold in-person training for all-staff on October 30 or November 6. Schools do not have dedicated time for professional development, prior to Election Day, must conduct the training remotely on Election Day.
- For the 2023-2024 school year only, the chapter leader and the Principal will introduce the special education training and the purpose of the training. The principal will take the lead discussing the special education content and the chapter leader will take the lead discussing the special education committee.

01

Special
Education
Committee

Factors that can result in formal escalations

Not creating and filling special education vacancies

Making program recommendations that are not based on students' individual needs

Opening classes in September that are not within mandated class ratios

Underutilization of sub central or not having a cascade of coverage in place. A cascade of coverage should eliminate using mandated service providers to cover absences

Special Education Compliance

New Structure – Non-D75 Special Education Committee

The recent NYC Public Schools and UFT Memorandum of Agreement (MOA) established that all schools shall have a Special Education Committee.

In non-District 75 schools, the school UFT chapter leader(s) shall select a special education committee which shall meet with the principal two times per year fall and spring and as needed. The committee and principal shall discuss special education compliance issues, including but not limited to teacher and paraprofessional programming, and, when possible, resolve special education compliance issues.

New Structure – D75 Special Education Committee

The recent NYC Public Schools and UFT Memorandum of Agreement (MOA) established that all schools shall have a Special Education Committee.

In District 75 schools, the committee shall meet two times per year, once at the beginning of the year and once at the end of the year. The committee shall discuss (a) issues regarding available space and staffing at the main school and each cluster site to support students in crisis and (b) special education compliance issues, including but not limited to teacher and paraprofessional programming, and, when possible, resolving special education compliance issues at the school level. This committee may request assistance from the District Representative and the Superintendent as needed.

MOA Guidance Regarding Professional Activities

To the extent possible, schools should prioritize assigning special education teachers to the following professional activity assignments: (i) perform student assessment activities (including portfolios, performance tests, IEPs, etc.) and (ii) common planning time.

The Role of The Special Education Committee

The Special Education Committee *discusses* special education compliance issues that are not related to individual students.

The Special Education Committee *does not discuss* compliance issues related to individual students – those concerns are resolved by school leadership

Most special education compliance issues can and should be resolved at the school level.

Special Education issues not resolved at the school level and those involving individual students that have not been addressed by school leadership can result in a formal complaint and escalation to the DSISS Special Education Office Compliance Team.

**Special Education
Compliance Issues Not
Related to Individual
Students**

02

Special Education Issues Not Related to Individual Students

**Students are deprived of
mandated instruction and
support or opportunities to be
educated with their non-disabled
peers when:**

ICT/special classes are not properly staffed

ICT teachers are used to provide coverage for absent teachers

Special classes exceed the class size limit and no variance has been approved

Programmatic paraprofessionals are not staffed or are pulled to cover absent paraprofessionals

Special classes are combined for clusters, "specials" and PE

Buses arrive late and/or depart early resulting in a lack of consistent instructional opportunities

Special Education Rule or Regulation

ICT classes are taught by two teachers, one general education or subject area teacher, and one special education teacher, both of whom are appropriately certified.

Special Education Compliance Issue

There is no appropriately certified special education teacher in the ICT class. The position is either vacant or the second teacher is a general education teacher.

The special education teacher is not appropriately certified for the grade band.

Remedy

Reach out to the district office for resumes of appropriately certified teachers. Interview and hire an appropriately certified teacher.

Inform the teacher of the availability of grade band extensions

If possible, recruit and hire a long-term substitute teacher who is appropriately certified, for the interim and enter them as a person not on Galaxy.

Special Education Rule or Regulation

Students recommended for ICT services must receive instruction from two teachers during all instructional periods required by their IEPs.

Special Education Compliance Issue

ICT teachers are pulled from class during periods of mandated ICT instruction to cover for teacher absences, cover each other during preparation periods, and assigned other responsibilities during state assessments.

Remedy

Develop a coverage plan or cascade that does not include ICT teachers in the regular coverage pool.

Ensure that ICT teachers are only used for coverage in extraordinary circumstances.

Special Education Rule or Regulation

Special classes have the correct number of students.

Special Education Compliance Issue

The number of students in a special class exceeds the regulatory limit without an approved variance.

The school was out of compliance with the regulatory class size limit when school opened in September.

Special Education Rule or Regulation

Special classes have the correct number of students.

Remedy

Review the student's IEP and the IEPs of students in the class to determine if they are appropriately placed

In exceptional circumstances, when all options have been exhausted, submit a variance request to the ASE.

Carefully review the IEPs of current and new students in the Spring to determine the special education programs that will be offered at each grade level in each subject area the following school year.

Special Education Rule or Regulation

Classes with programmatic paraprofessionals (12:1:1; 8:1:1; 6:1:1; and 12:1:4) are fully staffed with paraprofessionals for all instructional periods.

Special Education Compliance Issue

There are paraprofessional vacancies in classes that require a programmatic paraprofessional.

Programmatic paraprofessionals are pulled to cover for absent paras and to perform other duties in the school.

Remedy

Call sub-central and secure coverage for the absent paraprofessional.

Special Education Rule or Regulation

Students with disabilities must have access to their general education peers to the greatest extent possible.

Special Education Compliance Issue

Special classes are combined for cluster classes or “specials” depriving students with disabilities of their right to be educated in their least restrictive environment.

Remedy

Students in special classes who do not need specialized instruction in clusters or “specials” are programmed together with non-disabled peers for these classes. The number of students without disabilities should be more than or equal to the number of students with disabilities.

Special Education Rule or Regulation

Bus schedules must ensure that students are in school for the full school day.

Special Education Compliance Issue

School buses regularly arrive late or leave early, resulting in lost instructional time.

Remedy

School administration regularly reviews the arrival and departure times of school buses.

Work with OPT to address irregularities until a satisfactory remedy is in place

03

Special Education Issues Related to Individual Students

Program and service recommendations are based on administrative considerations and budget rather than students' individual needs.

ICT classes exceed the mandated 60/40 ratio and/or the maximum of 12 students with disabilities without an approved variance.

Parent referrals are not automatically and immediately logged into SESIS.

Requests for initial referral made by staff members and other authorized individuals are not given appropriate consideration

Systems and structures to provide RTI are not followed.

Paraprofessionals assigned to provide behavior management support are not provided required training.

Students' specialized transportation needs are not addressed before school opens.

Special Education Issues Related to Individual Students

Special Education Rule or Regulation

The IEP must contain appropriate recommendations for the student based on the student's individual needs, irrespective of the availability of the program or service.

Special Education Compliance Issue

Students are recommended for special education instructional programs or IEPs are amended to reflect what is available in the building or for budgetary reasons.

IEP Teams are directed to recommend ICT programs that do not take the student's individual needs for academic and social/emotional support based on specific performance data.

IEP Teams do not consider individual student's needs in cluster classes and specials.

Special Education Rule or Regulation

The IEP must contain appropriate recommendations for the student based on the student's individual needs, irrespective of the availability of the program or service.

Remedies

Educate school leaders and IEP Team members about the features of the various programs on the Continuum of Services, including specialized programs for students with Autism Spectrum Disorder or students with IEP recommendation for bilingual special education, and how to match students' needs with program and service recommendations.

IEP teams must consider students' individual needs as they relate to each subject area (ELA, Math, Science, Social Studies, etc.) when determining which special education program (SETSS, ICT, Special Class) will be recommended. Schools may not require IEP teams to recommend specific programs, subjects, or number of periods of service on the IEP. Service recommendations are not limited because of school resources, i.e. budget, space, or staffing considerations.

Carefully review the IEPs of current and new students in the Spring to determine the special education programs that will be offered at each grade level in each subject area the following school year.

IEP Teams consider whether students recommended for special class have specific needs that require special education services in "specials" classes, i.e., Art, Music, PE.

Special Education Rule or Regulation

A maximum of 12 students with IEPs may be placed in an ICT class, and the number of students with IEPs may not exceed 40% of the total number of students in the class.

Special Education Compliance Issue

The maximum number and/or percentage of students with IEPs in the ICT class is exceeded.

The school is not “counting” all students with IEPs, including those not recommended for ICT, when programming ICT classes.

Remedy

Special education seats for in ICT classes can only be offered to students with ICT recommendations in their IEP. Students who receive related services only, SETSS only, or related services and SETSS must be placed in a GE classroom.

Special Education Rule or Regulation

All initial referrals must be immediately logged into SESIS.

Special Education Compliance Issue

Failure to immediately log parent referrals into SESIS.

Remedy

Parent referrals are immediately logged into SESIS, and all obligations related to the referral continue without delay unless the principal and parent enter into a written agreement to withdraw the referral.

Parents making oral requests for evaluation to a staff member are assisted in creating an initial referral document, which is immediately logged into SESIS.

Special Education Rule or Regulation

Upon receiving an initial referral for a student, the principal promptly convenes a meeting with the parent and the student's general education teacher to determine whether alternative strategies might be appropriate.

Special Education Compliance Issue

Failure to promptly convene a meeting with the student's parent and GE teacher

Remedy

Follow the procedures in the SOPM for consideration of alternative strategies while the IEP Team carries out its obligations with respect to the special education referral.

Special Education Rule or Regulation

Behavior Support Paraprofessionals must be trained in behavior management generally and specifically on how to implement and monitor the student's BIP with fidelity.

Special Education Compliance Issue

Students are not able to make progress toward managing their behavior because the paraprofessional who supports them is not trained in effective behavior management techniques or how to effectively implement and monitor their behavior intervention plan.

Remedy

Ensure that paraprofessionals have ongoing access to the IEPs and behavior intervention plans of the students they serve and understand their role in implementation. See Chapter 408.

Ensure paraprofessionals receive the behavior management training required by the SOPM.

Special Education Rule or Regulation

Ensure that students' specialized transportation needs are planned for, including students who require paraprofessional or nursing support or limited travel time.

Special Education Compliance Issue

Students with specialized transportation needs are not able to attend school because necessary supports and services have not been arranged prior to the start of school.

Remedy

Proactively identify the need for transportation paraprofessionals and nurses on the IEP.
Review the IEPs of students with specialized transportation in the Spring and again in August to ensure that necessary personnel have been hired and supports are in place.

Rules and Regulations Reference Documents

[Special Education Standard Operating Procedures Manual](#)

https://infohub.nyced.org/docs/default-source/default-document-library/specialeducationstandardoperatingproceduresmanualmarch.pdf?sfvrsn=4cdb05a0_2

[Specialized Programs – Information and Application](#)

<https://www.schools.nyc.gov/learning/special-education/school-settings/specialized-programs>

[NYCPS InfoHub – Special Education](#)

<https://infohub.nyced.org/nyc-doe-topics/specialized-areas/special-education>

[Continuum of Special Education Services](#)

<https://infohub.nyced.org/docs/default-source/doe-employees-only/special-education-continuum-of-services.pdf>

[Special Education Professional Learning Opportunities](#)

<https://nycdoe.sharepoint.com/sites/dsissplo>

[Supports for Students with ASD](#)

[https://nycdoe.sharepoint.com/sites/dsissplo/SitePages/Supporting-Students-with-ASD\(1\).aspx](https://nycdoe.sharepoint.com/sites/dsissplo/SitePages/Supporting-Students-with-ASD(1).aspx)

[Special Education Teaching Assignments and Certification](#)

<https://www.highered.nysed.gov/tcert/pdf/SpecialEducationCertificatesbyAssignment.pdf>

Reflection

Recommended Follow Up Actions:

- Can you name two special education rules?
- What will you do after this presentation to ensure that you fulfill special education rules and regulations and address any compliance issues?

Follow Up Activity for Participants:

- Read the "Special Education Rules and Regulations at a Glance: Checklist handout.
- Identify non-student specific compliance issues that can be addressed by the special education committee.