

Diapering & Toileting

**Fact Sheet No. 26-13****August 2026**

The Regents adopted permanent regulations at the May 2026 Board of Regents meeting in response to Chapter 361 of the Laws of 2024 which added a new subdivision 62 to section 305 of the Education Law related to statewide protocols for diapering and toileting of students. These new regulations became effective on June 3, 2026. NYSED has also produced Field Guidance which further details the requirements under the new regulatory structure.

The new regulations and underlying statute establish uniform statewide protocols for diapering and toileting of students and the provision of safe and accessible equipment, supplies, and facilities for diapering and toileting to students and staff. It also defines basic procedures to promote a safe and healthy environment.

These regulations apply to all students, both with and without disabilities, and are applicable to all schools. If a school is licensed or regulated by another state agency, they should ensure compliance with the requirement that sets the higher standard.

What Is Diapering/Toileting?

Diapering and toileting encompass the full range of supports related to a student's elimination needs. These supports may include assistance with hygiene, changing diapers or protective undergarments, and systematic instruction in toileting skills (toilet learning) when a student is capable of developing greater independence. Although menstruation is not a form of elimination, it is included within the scope of "toileting" in the new regulations when a student requires assistance to manage menstruation-related needs independently.

School Plan and Protocols for Diapering/Toileting

The regulations require school districts to adopt a plan outlining the protocols and procedures for meeting students' diapering and toileting needs. The plan is developed by the district and does not require consultation with employees or union representatives, nor does it require board approval.

Although the regulations do not specify a deadline for developing the plan, the requirements are in effect at the start of the 2026–2027 school year. Therefore, to ensure compliance, a school district should have a plan in place at the beginning of the school year.

The plan must:

- Identify staff roles and responsibilities related to diapering and toileting, including which personnel may be responsible for providing various types of support.
- Ensure appropriate staffing and supervision levels in each classroom. *Note: The staff-to-student ratios specified in Section 200.6 of the Commissioner's Regulations need not be maintained at every moment when assigned staff are assisting students with diapering or toileting. However, administration remains responsible for ensuring that classrooms maintain adequate staffing and supervision levels to respond appropriately to student needs and to protect the health and safety of both students and staff.*
- Explain how staff will supervise student needs during diapering and toileting, including whether supervision should be direct or indirect based on the individual student's needs.
- Be made available to families upon request.

Schools must also have an Exposure Control Plan as required by OSHA and PESH that describes the measures the employer will take to eliminate or minimize employee exposure to bloodborne pathogens and other potentially infectious materials.

Responsibility for Diapering/Toileting Plans

Pursuant to each local plan several individual may be responsible for providing toileting and diapering support in a school setting. Depending on the individual student's needs and the nature of the support required, this may include teachers, teacher aides, teaching assistants, administrators, nurses, or other appropriately qualified personnel.

In determining which personnel are appropriate to provide toileting or diapering support, it is important to first identify the nature of the student's needs.

These needs may be:

- Instructional, such as toilet learning
- Personal care and hygiene-related, such as assistance with toileting or changing
- Medical, such as care required pursuant to a student's health care needs or medical orders.

The nature of the student's needs should guide the determination of which personnel are appropriate to provide the support.

Any services provided should be consistent with the statutory and regulatory duties associated with the assigned position.

Because the primary role of a teaching assistant is to provide direct instructional service under the supervision of a teacher, assignments involving toileting or diapering should be evaluated in light of the specific duties being performed and the student's individual needs. Where toileting involves instruction or toilet learning, the instructional component should be considered as part of the student's educational program and addressed by appropriately qualified instructional personnel.

Nursing and Medical Needs

NYSED has also issued guidance indicating that routine toileting and diapering should not be assigned to school nurses unless the task specifically constitutes a nursing service. Nursing personnel may appropriately be involved when a student's toileting or diapering needs are medical in nature or require nursing care pursuant to the student's health care orders.

Accordingly, the fact that a task involves a student's personal care does not, by itself, make it a nursing responsibility.

Individualized Student Needs and Documentation

The determination of who should provide toileting or diapering support should be based on the individual student's needs, the nature of the task, and the qualifications and responsibilities of the personnel involved.

Schools should also consider whether the student's toileting or diapering needs should be formally addressed in the student's educational or health-care documentation, including, as appropriate, an Individualized Education Program (IEP), Section 504 Plan, or Individualized Health Care Plan (IHCP).

When toileting involves an instructional need—for example, when a student is physically capable of independently toileting but has not yet acquired the necessary skills—the instructional component should not be overlooked or treated solely as a personal-care accommodation. The student's educational needs, including the need for specially designed instruction when appropriate, should be considered in determining the appropriate supports and services.

Training

All schools must provide annual training to all relevant school personnel. This includes staff who have direct responsibility for or involvement in toileting students, as well as staff who may be responsible for cleaning toileting areas or responding to toileting accidents that occur outside of designated toileting spaces.

The training must include:

- Standard Precautions
- Bloodborne Pathogens
- Toilet Learning
- Health and Safety
- Safe Lifting and Transfer Techniques
- Personal Care and Hygiene

Training should be appropriate to the duties and responsibilities of the personnel receiving it and should provide staff with the knowledge and skills necessary to safely and appropriately meet students' toileting and personal-care needs.

What If I Don't Receive the Required Training?

NYSED has expressed its commitment to ensuring compliance with the mandated training requirements related to diapering and toileting.

If your district is not providing the required training in accordance with the regulations, you may contact NYSED at OEL@nysed.gov for assistance or to raise concerns regarding compliance with the training requirements.

Student Participation in School

A student's lack of independent toileting must not be used as a barrier to school participation.

- Students may not be denied enrollment or attendance because they are not independently toilet trained.
- Students may not be sent home or excluded from school because of a toileting accident.
- There is no requirement that a student be toilet trained in order to attend school.
- Schools must have appropriate procedures and personnel in place to address students' toileting and personal-care needs during the school day.

Facilities and Equipment

Facilities and equipment must provide safe, sanitary, accessible, and developmentally appropriate spaces where students can receive toileting or diapering support in a manner that protects their privacy, dignity, and safety. Facilities and equipment should also support safe working conditions and appropriate ergonomics for staff.

This includes:

- Age- and size-appropriate facilities and equipment, including child-sized toilets or appropriately modified toilet seats with step stools for pre-kindergarten and kindergarten students.
- A private, sanitary, and accessible location that allows staff to provide necessary assistance while maintaining the student's privacy and dignity.
- Changing surfaces that are appropriate for the student's height, size, weight, developmental level, and physical needs, while also allowing staff to perform diapering and personal-care tasks using safe ergonomic practices.
- Equipment that minimizes the need for staff to engage in unsafe lifting, reaching, bending, or transferring and that is appropriate for the student's individual physical needs.
- Adjustable-height changing tables, which NYSED recommends to support both student safety and staff ergonomics.
- Appropriate handwashing facilities, personal protective equipment, cleaning supplies, and waste-disposal equipment that are readily accessible to staff providing diapering and toileting support.

What Should We Do When a Student Is Not Able to Toilet Independently?

When a student is not able to toilet independently, the school should first seek to understand why the student is experiencing difficulty and determine what supports may be appropriate.

Consider the following:

- Referring the parent/guardian to the student's healthcare provider, as appropriate, to rule out health or mental issues that may be contributing to the student's toileting needs.
- Consulting the Committee on Special Education (CSE) to determine whether the student may have a disability that affects toileting or whether specially designed instruction or related services may be necessary.
- Conducting a Functional Behavioral Assessment (FBA) when toileting difficulties may be related to behavioral or other factors that interfere with the student's ability to acquire or demonstrate toileting skills.
- Implementing a Behavior Intervention Plan (BIP) when an FBA identifies behaviors that require a systematic behavioral intervention.

The goal should be to identify and address the underlying reason for the student's difficulty, provide appropriate instruction and supports, and ensure that the student can participate in school without toileting needs becoming a barrier to access or attendance.

Documentation

A student's toileting and diapering needs should be appropriately documented based on the nature of the student's individual needs.

- Consider whether the student's toileting needs should be addressed in the IEP, Section 504 Plan, or Individualized Health Care Plan (IHCP), as appropriate.
- If a student's toileting or diapering needs are instructional in nature, the IEP should include measurable annual goals and, as appropriate, the specially designed instruction, supports, and services necessary to help the student acquire and demonstrate independent toileting skills.
- If a student's toileting or diapering needs are medical in nature, the Individualized Health Care Plan (IHCP) should clearly document the medical supports and procedures required to safely meet the student's needs.
- Specify in the student's IEP or IHCP whether direct or indirect supervision is required during toileting or diapering, based on the student's individual needs, developmental level, safety considerations, and ability to independently manage toileting.
- When toileting or diapering needs involve both instructional and medical components, the appropriate plans should be coordinated to ensure that the student's educational and health-care needs are both addressed.

RESOURCES

- [Regulations of the Commissioner of Education
Section 136.10](#)
- [NYSED Diapering and Toileting Protocols FAQ](#)
- [NYCRR-8 Section 80-5.6 - Supplemental School
Personnel](#)
- [NYSED Guidance Memo: Provision of Nursing
Services in School Settings - Including One-to-One
Nursing Services to Students with Special Needs](#)