

CONTINUUM OF SPECIAL EDUCATION SERVICES FOR SCHOOL AGE STUDENTS



No. 18 (replaces IB 2008-21)

April 2012

In 2008, the State Education Department (SED) issued a guidance document to the field regarding the continuum of special education services for school-age students with disabilities in Section 200.6 of the Regulations of the Commissioner of Education. The SED memorandum uses a question and answer format to address recent amendments to the regulations relating to consultant teacher services, resource room, integrated co-teaching services and a variety of other topic areas involving the provision of education programs for students with disabilities.

This Fact Sheet details changes resulting from Special Education Mandate Relief efforts and highlights the following topics found in the memorandum:

- The minimum time requirement when combining consultant teacher and resource room services for an individual student with a disability;
- The requirements for the new integrated co-teaching service;
- Appropriately indicating services on a student's individualized education program (IEP);
- The inclusion of school nurse services as a related service;
- The difference among aid and services, program accommodations, and program modifications for students with disabilities;
- The identification of appropriate supports for school personnel;
- The proper listing of consultant teacher services on IEPs; and
- The roles of teacher aides and teaching assistants.

In addition, "Advice to Local Leaders" is included as well as an appendix that contains the complete SED guidance document.

If you have any questions or need further clarification about this information, please contact your NYSUT Labor Relations Specialist or NYSUT Research and Educational Services.

OVERVIEW

Effective July 1, 2007, the Board of Regents approved amendments to section 200.6 of the Regulations of the Commissioner of Education relating to the continuum of special education services. These amendments have raised questions from the field as to the definitions and related requirements for each of the special education services options. The SED has issued the attached document titled "CONTINUUM OF SPECIAL EDUCATION SERVICES FOR SCHOOL-AGE STUDENTS WITH DISABILITIES" (April 2008) to provide guidance on the continuum of special education services for school-age students with disabilities. The document does not describe the continuum of special education services options for preschool students with disabilities.

The amendments to section 200.6 of the Regulations, relating to consultant teacher, resource room and integrated co-teaching services, according to SED, were intended to support research based instructional practices and to maximize the provision of special education services for student with

disabilities in classrooms with their non-disabled peers. The document is organized according to the following topic areas:

- General Information
- Consultant Teacher Services
- Resource Room Program
- Integrated Co-Teaching Services
- Special Class
- Related Services
- Teaching Assistants and Teacher Aides

The Board of Regents have considered a number of Special Education Mandate Relief proposals over the last few years. In November 2010, regulations were amended to implement the following changes that relate to the continuum of special education services:

- Eliminating the minimum requirement for speech and language services of two 30-minute sessions each week; and
- Allowing up to two additional students with disabilities in an integrated co-teaching setting through a variance process.

These changes, as a result of mandate relief, are NOT reflected in SED's field memo which was issued in 2008.

The following are highlights of the guidance document.

COMBINATION OF CONSULTANT TEACHER AND RESOURCE ROOM SERVICES

The amended regulations in July 2007 changed the minimum service requirement for providing a combination of consultant teacher and resource room services for an individual student with a disability. Specifically:

Section 200.6 (d) Consultant teacher services.

*...Each student with a disability requiring consultant teacher services shall receive direct and/or indirect services consistent with the student's IEP for a minimum of two hours each week, except that the committee on special education may recommend **that a student with a disability who also needs resource room services in addition to consultant teacher services, may receive a combination of such services consistent with the student's IEP for not less than three hours each week.***

Section 200.6(f) Resource room programs.

*...Each student with a disability requiring a resource room program shall receive not less than three hours of instruction per week in such program except that the committee on special education may recommend that for **a student with a disability who also needs consultant teacher services in addition to resource room services may receive a combination of such services consistent with the student's IEP for not less than three hours per week.***

Prior to this regulatory amendment, resource room programs recommended for a student needed to be provided for a minimum of three hours per week, and consultant teacher services two hours per week. SED indicated that it was their intent to support increased student time in the general

education classrooms for many students through the combination of these two services in a reduced time requirement.

In addition, if a student is to receive both services, the IEP must specify for each service (resource room and consultant teacher) the frequency, duration and location (see Question #19).

INTEGRATED CO-TEACHING SERVICES

The SED guidance document states that “one of the fastest growing practices nationally is the provision of co-teaching.” “Integrated co-teaching services” as used in the regulations means a general education teacher and a special education teacher jointly providing instruction to a class that includes both students with and students without disabilities to meet the diverse learning needs of all students in a class. The regulations are as follows:

Section 200.6(g) A school district may include integrated co-teaching services in its continuum of services. Integrated co-teaching services means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students.

(1) The maximum number of students with disabilities receiving integrated co-teaching services in a class shall be determined in accordance with the students’ individual needs as recommended on their IEPs, provided that effective July 1, 2008, the number of students with disabilities in such classes shall not exceed 12 students.

(2) School personnel assigned to each class shall minimally include a special education teacher and a general education teacher.

(3) Additional personnel, including supplementary school personnel, assigned to such classes by the district, may not serve as the special education teacher pursuant to paragraph (2) of this subdivision.

It is important to note that this option, unlike other continuum options, is **not required** to be available for all students with disabilities. SED “strongly encourages” districts to phase this practice into its schools.

As of July 1, 2008, “the maximum number of students with disabilities that can be on the class roster of a class where integrated co-teaching services is provided is twelve. The total of twelve students includes any student with a disability in that class, regardless of whether all of the students are recommended for integrated co-teaching services. For example, if two students with disabilities in a class are recommended for resource room and related services and ten are recommended for integrated co-teaching services, there are twelve students with disabilities in that classroom. While the two students in this example may benefit incidentally from the integrated co-teaching services, their IEPs would not need to specify the integrated co-teaching services” (see Question #39).

As a mandate relief measure, the Board of Regents amended regulation to allow for variances to the maximum number of twelve students with disabilities. Districts can add one additional student by submitting written notice to SED, provided that the class began the school year in compliance. If the district seeks to add a fourteenth student, a variance request must be submitted to SED for approval.

SED notes that the determination of whether integrated co-teaching services would be an appropriate recommendation is based upon the individual needs of the student and the similarity of needs in the instructional group. Question 37 provides a listing of other factors to be considered.

There is no regulatory maximum number of non-disabled students in an integrated co-teaching class. However, the number of non-disabled 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 Committee on Special Education (CSE) recommendation for integrated co-teaching services should consider the overall size of the class enrollment (which includes students with disabilities and non-disabled students) and the ratio of students with disabilities to non-disabled students in relation to the individual student's learning needs. An important consideration in determining the number of students with disabilities and non-disabled students on an integrated class roster is that the ratio must not result in a "de facto" segregated class which would undermine the philosophy of inclusive practices.

SED provides the following website in the guidance document for further information on co-teaching practices: www.k8accesscenter.org/index.php.

IDENTIFYING SERVICES ON THE IEP

According to the SED guidance document:

"When recommending special education services in a student's IEP, the CSE must use the special education services terms as used in the regulations, but may add clarifying terms that identify a district-specific program as long as such program meets the specifics of the regulations for that service. As examples, if the school district calls its resource room a "learning lab", then the IEP could indicate resource room (learning lab); or if the district uses the term "collaborative team teaching" to mean the same thing as "integrated co-teaching", then the IEP could indicate "integrated co-teaching (collaborative team teaching)."

In addition, according to SED, school districts are now required to use the terminology "integrated co-teaching," consistent with the regulatory requirements, so that the level of services being provided to a student is clear and consistent among school districts. New York City has used the term "collaborative team teaching" (CTT) to identify a service that meets the regulatory definition of integrated co-teaching services. While other terms, such as "blended" or "inclusion" classes have been used by other school districts, the actual services provided varied among districts (e.g., some districts used the term inclusion class to identify a class where a teaching assistant and a general education teacher were assigned). To clarify for parents that a previously recommended service means the same as integrated co-teaching, terms such as CTT, blended class or inclusion class may also be indicated in the IEP. The following is an example, according to SED, of how such a service should be listed on an IEP:

Special Education Program/Services	Frequency	Duration	Location
Integrated Co-Teaching Services (Collaborative Team Teaching)	5 days a week	40 minute class periods	English class

SCHOOL NURSE SERVICES AS A RELATED SERVICE

The definition of "school health services" under "Related Services" in the continuum was changed to include "school nurse services." These are services provided by a qualified school nurse and are in addition to other health services provided by a qualified person. Any of these services are designed and intended to enable a student with a disability to receive a free appropriate public education as described in that student's IEP.

"Related services", as listed in Question 56 of the SED guidance document, mean developmental, corrective, and other supportive services required to assist a student with a disability.

AIDS & SERVICES, ACCOMMODATIONS, AND MODIFICATIONS

SED provided the following text in their guidance document detailing the differences between program accommodations and modifications:

“The terms program modifications, accommodations and supplementary aids and services are often used interchangeably and are documented together in the same section of the IEP, but they have different meanings requiring different considerations in the development of recommendations for individual students.

- **Supplementary aids and services** means aids, services and other supports to enable students with disabilities to be educated with non-disabled students to the maximum extent appropriate in the Least Restrictive Environment (LRE) (e.g., a note taker; assignment of paraprofessional staff; study guide outlines of key concepts).
- **Accommodations** mean adjustments to the environment, instruction or materials (e.g., instructional materials in alternative format such as large print or Braille, fewer items on each page; extra time to complete tasks) that allow a student with a disability to access the content or complete assigned tasks. Accommodations do not alter what is being taught.
- **Program modifications** may be used to describe a change in the curriculum or measurement of learning, for example, when a student with a disability is unable to comprehend all of the content an instructor is teaching (e.g., reduced number of assignments; alternate grading system).

Supplementary aids and services, accommodations and/or program modifications can be provided in general education classes, special classes or other education-related settings, including extracurricular and non-academic settings.”

SUPPORTS FOR SCHOOL PERSONNEL

According to the SED guidance document:

“The IEP must describe the supports for school personnel that will be provided on behalf of the student in order for the student to advance toward attaining the annual goals, to be involved in and progress in the general curriculum and to participate in extracurricular and other nonacademic activities. Supports for school personnel are those that would help them to more effectively work with the student. These could include, for example, special training for a student’s teacher to meet a unique and specific need of the student. These supports for school personnel are those that are needed to meet the unique and specific needs of the student.”

School personnel to be provided such supports would not only include teachers and related service providers, but also supplementary school personnel such as paraprofessionals. Examples of supports that may be recommended by the district’s Committee on Special Education for school personnel include but are not limited to:

- Information on a specific disability and implications for instruction;
- Training in use of specific positive behavioral interventions;
- Training in the use of American Sign Language;
- Assistance with curriculum modifications;
- Behavioral consultation with school psychologist, social worker or other behavioral consultant; and/or
- Transitional support services.

CONSULTANT TEACHER (CT) SERVICES ON IEPs

The SED guidance document states that:

“If the student’s IEP indicates CT services, the IEP **must** specify the general education class(es) (including career and technical education classes, as appropriate) where the student will receive the services.

If CT services are to be provided to an elementary student, the IEP should indicate the subject areas of instruction when the CT would be providing services to the student (e.g., during reading groups; during math instruction).

- If CT services are to be provided to a middle or secondary student, the IEP must specify the class subject(s) where CT will be provided (e.g., English, math, science, art, music).
- If indirect CT services are to be provided, the IEP must indicate the regular (or general) education class being taught by the teacher receiving the consultation.

The IEP should specify the type of CT services the student will receive (i.e., direct or indirect) so that it is clear to parents and educators the extent to which such services will be provided.”

TEACHER AIDES AND TEACHING ASSISTANTS

There is frequently confusion regarding the role of paraprofessionals, not only in the provision of programs and services for students with disabilities but also in meeting the need of all students in the school setting. Questions 63 and 64 of the SED guidance document provide illustrative examples to distinguish the duties of teaching assistants versus teacher aides.

A point not included in the SED guidance document is that teaching assistants **must be certified** by the State Education Department’s Office of Teaching Initiatives because they provide instruction in a school setting. A teacher aide does not need to be certified because an aide does not provide instruction. See NYSUT’s “New Certification Requirements for Teaching Assistants” for additional information on the job duties of teacher aides and teaching assistants as well as the current certification procedure.

Another point not included in the SED guidance is that, as per Section 100.2(dd)(1)(iii) of the Regulations of the Commissioner, paraprofessionals who work with students with disabilities must be provided with appropriate professional development. Such professional development activities must support the necessary skills and knowledge required to meet the needs of students with disabilities.

ADVICE FOR LOCAL LEADERS

- A student’s IEP indicates the special education programs and services that must be provided in order for the student to obtain a free appropriate public education in the least restrictive environment. If a program or service is not on the IEP, then the district is not obligated to provide it.
- IEPs are developed at meetings of the Committee on Special Education or the Sub-Committee on Special Education. It is important that general education teachers, special education teachers and other instructional staff involved in program planning for a student with a disability attend these meetings.
- It is important to remember that CSE and Sub-CSE members must be provided with adequate training to carry out the functions and responsibilities of membership as required by section 200.2(b)(3) of Commissioner’s Regulations.

- While the federal Individuals with Disabilities Education Act (IDEA) Reauthorization of 2004 allows excusal of certain required members of the CSE, encourage members to report to local union leadership if excusals result in compromised or inappropriate IEPs for students with disabilities.
- Integrated co-teaching services, as a new continuum option, provides some parameters regarding the appropriate ratio of disabled to non-disabled students served in such a setting. However, regulations do not define the maximum number of non-disabled students. Local leaders need to continue to monitor this service option so that these settings are viable instructional settings and address the needs of both students with and without disabilities.
- Local leaders must be vigilant to ensure that instructional support is provided by certified teaching assistants and not teacher aides.
- Local leaders should contact your NYSUT Labor Relations Specialist if there are questions or concerns about the continuum of special education programs and services in your district.

THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY
12234



OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH
DISABILITIES STATEWIDE COORDINATOR FOR SPECIAL EDUCATION
Room 1624 One Commerce Plaza • Albany, NY 12234 www.nysed.gov

Telephone (518) 402-3353 Fax: (518) 473-5769

APRIL 2008

TO: District Superintendents
Superintendents of Schools
Presidents of Boards of Education
New York City Board of Education
Principals of Public Schools
Directors of Pupil Personnel Services
Administrators of Nonpublic Elementary and Secondary Schools
Organizations, Parents and Individuals Concerned with Special Education
Impartial Hearing Officers
Commissioner's Advisory Panel for Special Education Services
SETRC Professional Development Specialists
Regional School Support Centers

FROM: James P. DeLorenzo

**SUBJECT: CONTINUUM OF SPECIAL EDUCATION SERVICES FOR SCHOOL-AGE
STUDENTS WITH DISABILITIES**

The purpose of this memorandum is to provide guidance on the continuum of special education services for school-age students with disabilities. Effective July 1, 2007, the Board of Regents approved amendments to section 200.6 of the Regulations of the Commissioner of Education relating to the continuum of special education services. These amendments have raised questions from the field as to the definitions and related requirements for each of the special education services options. Please note that this field memorandum does not describe the continuum of special education services options for preschool students with disabilities.

To support research based instructional practices and special education services provided to the maximum extent possible in classrooms with their non-disabled peers, in July 2007 the Board of Regents approved amendments to section 200.6 of the Regulations of the Commissioner of Education relating to consultant teacher, resource room and integrated co-teaching services as follows (underlined language is new):

Section 200.6 (d) Consultant teacher services. *Consultant teacher services, as defined in section 200.1(m) of this Part, shall be for the purpose of providing direct and/or indirect services to students with disabilities who attend regular education classes, including career and technical education classes, and/or to such students' regular education teachers. Such services shall be recommended by the committee on special education to meet specific needs of such students and the student's individualized education program (IEP) shall indicate the regular education classes in which the student will receive consultant teacher*

services. Consultant teacher services shall be provided in accordance with the following provisions:

- (1) ...
- (2) Each student with a disability requiring consultant teacher services shall receive direct and/or indirect services consistent with the student's IEP for a minimum of two hours each week, except that the committee on special education may recommend that a student with a disability who also needs resource room services in addition to consultant teacher services, may receive a combination of such services consistent with the student's IEP for not less than three hours each week.

Section 200.6(f) Resource room programs. Resource room programs shall be for the purpose of supplementing the regular or special classroom instruction of students with disabilities who are in need of such supplemental programs.

- (1) Each student with a disability requiring a resource room program shall receive not less than three hours of instruction per week in such program except that the committee on special education may recommend that for a student with a disability who also needs consultant teacher services in addition to resource room services may receive a combination of such services consistent with the student's IEP for not less than three hours per week

The change in regulation to the minimum level of service requirements for students receiving both consultant teacher services and resource room programs authorizes Committees on Special Education (CSEs) to recommend, consistent with the individual needs of the student, a combination of these services that total a minimum of three hours per week. Prior to this regulatory amendment, resource room programs recommended for a student needed to be provided for a minimum of three hours per week, and consultant teacher services two hours per week. The combination of these two services is expected to result in increased student time in the general education classrooms for many students. Questions and answers relating to consultant teacher services and resource room programs are also addressed in pages 6 - 11 of the attachment to this memorandum.

Section 200.6(g) A school district may include integrated co-teaching services in its continuum of services. Integrated co-teaching services means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students.

- (1) The maximum number of students with disabilities receiving integrated co-teaching services in a class shall be determined in accordance with the students' individual needs as recommended on their IEPs, provided that effective July 1, 2008, the number of students with disabilities in such classes shall not exceed 12 students.
- (2) School personnel assigned to each class shall minimally include a special education teacher and a general education teacher.
- (3) Additional personnel, including supplementary school personnel, assigned to such classes by the district, may not serve as the special education teacher pursuant to paragraph (2) of this subdivision.

One of the fastest growing practices nationally is the provision of co-teaching. "Integrated co-teaching services" as used in the Regulations of the Commissioner of Education means a general education teacher and a special education teacher jointly providing instruction to a class that includes both students with and students without disabilities to meet the diverse learning needs of all students in a class. While this option, unlike other continuum options, is not required to be available for all students with disabilities, school districts are strongly encouraged to phase this practice into its schools. Questions and answers regarding integrated co-teaching services can be found on pages 11 - 13 of the attachment to this memorandum. For further information on co-teaching, see www.k8accesscenter.org/index.php.

The attached question and answer document should assist school personnel to understand the regulatory requirements under which each service must be provided and to assist in the determination of which of these special education services might be most appropriate for an individual student. Questions regarding this memorandum may be directed to the Special Education Policy Unit at 518-473-2878 or to the local Special Education Quality Assurance (SEQA) Office at:

Central Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185 or (914) 245-0010
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002
Non-district Unit	(518) 473-1185

Attachment

Continuum of Special Education Services for School-Age Students with Disabilities

April 2008



**The University of the State of New York
The State Education Department
Office of Vocational and Educational
Services for Individuals with Disabilities
Albany, N Y 12234**

FORWARD

Research on specially designed instruction clearly supports high quality instruction provided to the greatest extent possible to meet the student's individualized education program (IEP) in the general education classrooms where students with disabilities have the greatest likelihood of receiving curriculum content delivered by highly qualified teachers. Schools may utilize a variety of combinations of special education supports and services to serve students with disabilities in general education settings and promote meaningful access, participation and progress in the general curriculum, including consultant teacher services, paraprofessional support, resource room services and integrated co-teaching.

Access to and participation in the general education curriculum does not occur solely because a student is placed in a general education classroom, but rather when students with disabilities are actively engaged in learning the content and skills that define the general education curriculum. Meaningful access to the general education curriculum means that a student with a disability has the appropriate supports, services and accommodations to address his or her disability in consideration of the content of the curriculum, instructional materials, how the curriculum is taught to the student, the physical environment and how the student's learning is measured. It is the consideration of the individual needs of the student and the support, services and/or modifications needed to the general education curriculum, instructional methods, instructional materials and/or instructional environment that determine which of the service delivery options would be most appropriate to assist the student to meet his/her annual goals and to meet New York State's (NYS) learning standards.

This document should assist school personnel to understand the regulatory requirements under which each service must be provided and to assist in the determination of which of these special education services might be most appropriate for an individual student. Questions regarding this document may be directed to the Special Education Policy Unit at 518-473-2878 or to the local Special Education Quality Assurance (SEQA) Office at:

Central Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185 or (914) 245-0010
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002
Non-district Unit	(518) 473-1185

New York State's Continuum of Special Education Services for School-Age Students with Disabilities: Question and Answers

Table of Contents	Page
General Information	12
Consultant Teacher (CT) Services	17
Resource Room Program	19
Integrated Co-Teaching Services	21
Special Class	25
Related Services	27
Teaching Assistants and Teacher Aides	29

General Information

1. *How is special education defined in New York State (NYS)?*

Special education means specially designed individualized or group instruction or special services or programs and special transportation, provided at no cost to the parent, to meet the unique needs of students with disabilities.

- 1) Such instruction includes but is not limited to that conducted in classrooms, homes, hospitals, institutions and in other settings.
- 2) Such instruction includes specially designed instruction in physical education, including adapted physical education.

2. *What is specially-designed instruction?*

Specially-designed instruction means adapting, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to address the unique needs that result from the student's disability; and to ensure access of the student to the general curriculum, so that he or she can meet the educational standards that apply to all students.

3. *What special education services and programs are included in NYS' continuum of services?*

The **continuum of special education services** for school-age students with disabilities is an array of services to meet an individual student's needs that includes:

- consultant teacher services (direct and/or indirect);
- resource room services;
- related services;
- integrated co-teaching services; and
- special class.

Additional special education services that may be recommended for students include:

- *Transition Services* are a coordinated set of activities for a student with a disability beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), designed within a results-oriented process that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities.
- *Transitional support services* are those temporary services, specified in a student's IEP, provided to a general or special education teacher to aid in the provision of appropriate services to a student with a disability transferring to a general education classroom or to another special education program or service in a less restrictive environment.
- *Travel training* is instruction, as appropriate, provided to students with significant cognitive disabilities, and any other students with disabilities who require this instruction, to enable them to develop an awareness of the environment in which they live; and learn the skills to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).
- *Adapted physical education* is a specially designed program of developmental activities, games, sports and rhythms suited to the interests, capacities and limitations of students with disabilities who may not safely or successfully engage in unrestricted participation in the activities of the regular physical education program.
- *Twelve-month special service and/or program* is a special education service and/or program provided on a year-round basis for students with disabilities determined to require a structured learning environment of up to 12 months duration to prevent substantial regression.
- *Special transportation* means services and supports necessary for the student to travel to and from school and between schools; in and around school buildings; and includes specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation to a student with a disability. Examples of special transportation include: special seating; vehicle and/or equipment needs; adult supervision; type of transportation; and other accommodations. See www.vesid.nysed.gov/specialed/publications/policy/specialtrans.htm

NOTE: When recommending special education services in a student's IEP, the Committee on Special Education (CSE) must use the special education services terms as used in the regulations, but may add clarifying terms that identify a district-specific program as long as such program meets the specifics of the regulations for that service. As examples, if the school district calls its resource room a "learning lab", then the IEP could indicate resource room (learning lab); or if the district uses the term "collaborative team teaching" to mean the same thing as "integrated co-teaching", then the IEP could indicate "integrated co-teaching (collaborative team teaching).

The **continuum of placement** options in NYS includes: public schools, boards of cooperative educational services (BOCES), private approved day and residential schools and home and hospital instruction.

The district must also include, in its continuum of placement options, interim alternative educational settings (IAES) options for students with disabilities who have been suspended or removed from their current placement for more than 10 school days pursuant to Part 201 of the Regulations of the Commissioner of Education (Discipline Procedures for Students with Disabilities). The IAES, to the extent provided in Part 201, must be an educational setting other than the student's current placement at the time the behavior precipitating the IAES placement occurred. A student placed in an IAES must:

- continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting and to progress toward the goals set out in the student's IEP; and
- receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

4. What is meant by "location" of services which must be documented on the IEP? Does it mean the same as "placement"?

The "location" of services is not the same as "placement" as defined above. "Location" in the context of a student's IEP generally refers to the type of environment that is the appropriate place where a particular service, program modification or accommodation would be provided. The decision as to the location where a service (e.g., in the general education English class; in the special class; in a separate therapy room) will be provided should be made in consideration of the least restrictive environment (LRE) provisions and in consideration of the student's overall schedule and participation in general education classes. The location where services will be provided needs to be stated specifically enough so the CSE's recommendations regarding location of services is clear; however it is not necessary for the room number of the classroom to be indicated. A CSE should first consider the general education class as the location for the provision of special education services rather than a separate location in order to facilitate the student's maximum participation in general education programs and in the general education curriculum.

5. What does LRE mean and how does it relate to the continuum of service options?

LRE refers to the extent special education services are provided to a student in a setting with the student's non-disabled peers and as close to the student's home as possible. The continuum of services identifies different service delivery models to provide specially designed instruction to a student with a disability. Some of the services such as consultant teacher and integrated co-teaching services are directly designed to support the student in his/her general education class. Others may or may not be provided in settings with non-disabled peers, depending on the needs of the student. This is why the documentation of "location" in the IEP is important. The continuum of placement options is also directly related to LRE placement decisions.

6. What rules apply for grouping students with disabilities together for purposes of instruction?

Students with disabilities placed together for purposes of special education (including resource room, special class, consultant teacher services, integrated co-teaching and related services

groups) must be grouped by **similarity of individual needs** in accordance with the four need areas listed below:

- **academic achievement, functional performance and learning characteristics** - the levels of knowledge and development in subject and skill areas, including activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information, and learning style.
 - The range of academic or educational achievement of such students must be
 - limited to assure that instruction provides each student appropriate opportunities to achieve his or her annual goals.
 - For students placed in a special class, except for a 12:1+ (3:1) special class, where the range of achievement levels in reading and mathematics exceeds three years, special notification to the CSE and parents must be provided.
 - The learning characteristics of students in the group must be sufficiently similar to assure that this range of academic or educational achievement is at least maintained (i.e., no students fall behind in academic achievement because their instructional needs are not being addressed due to the range of learning characteristics of students in the class).
- **social development** - the degree and quality of the student's relationships with peers and adults, feelings about self, and social adjustment to school and community environments.
 - The social development of each student must be considered prior to placement in
 - any instructional group to assure that the social interaction within the group is beneficial to each student, contributes to each student's social growth and maturity, and does not consistently interfere with the instruction being provided.
 - The social needs of a student cannot be the sole determinant of such placement.
- **physical development** - the degree or quality of the student's motor and sensory development, health, vitality, and physical skills or limitations which pertain to the learning process.
 - The levels of physical development of such students may vary, provided that each student is given appropriate opportunities to benefit from such instruction.
 - Physical needs must be considered prior to determining placement to assure access to appropriate programs.
 - The physical needs of the student cannot be the sole basis for determining placement.
- **management needs** - the nature of and degree to which environmental modifications and human or material resources are required to enable the student to benefit from instruction.
 - Management needs must be determined in accordance with the factors identified
- for a student in relation to the areas of academic achievement, functional performance and learning characteristics, social development and physical development. ○ The environmental modifications or adaptations and the human or material resources

provided may not consistently detract from the opportunities of other students in the group to benefit from instruction.

7. What does class size mean?

Class size means the maximum number of students who can receive instruction together in a special class or resource room program and the number of teachers and supplementary school personnel assigned to the class.

8. What is meant by "program modifications, accommodations, supplementary aids and services"?

The terms program modifications, accommodations and supplementary aids and services are often used interchangeably and are documented together in the same section of the IEP, but they have different meanings requiring different considerations in the development of recommendations for individual students.

- *Supplementary aids and services* means aids, services and other supports to enable students with disabilities to be educated with non-disabled students to the maximum extent appropriate in the LRE (e.g., a note taker; assignment of paraprofessional staff; study guide outlines of key concepts).
- *Accommodations* means adjustments to the environment, instruction or materials (e.g., instructional materials in alternative format such as large print or Braille, fewer items on each page; extra time to complete tasks) that allow a student with a disability to access the content or complete assigned tasks. Accommodations do not alter what is being taught.
- *Program modifications* may be used to describe a change in the curriculum or measurement of learning, for example, when a student with a disability is unable to comprehend all of the content an instructor is teaching (e.g., reduced number of assignments; alternate grading system).

Supplementary aids and services, accommodations and/or program modifications can be provided in general education classes, special classes or other education-related settings, including extracurricular and non-academic settings.

9. What is meant by "supports for school personnel on behalf of the student"?

The IEP must describe the supports for school personnel that will be provided on behalf of the student in order for the student to advance toward attaining the annual goals, to be involved in and progress in the general curriculum and to participate in extracurricular and other nonacademic activities. Supports for school personnel are those that would help them to more effectively work with the student. These could include, for example, special training for a student's teacher to meet a unique and specific need of the student. These supports for school personnel are those that are needed to meet the unique and specific needs of the student.

Examples of supports that may be provided for school personnel include:

- information on a specific disability and implications for instruction;
- training in use of specific positive behavioral interventions;
- training in the use of American Sign Language;
- assistance with curriculum modifications;

- behavioral consultation with school psychologist, social worker or other behavioral consultant; and/or
- transitional support services.

10. Can the district implement an innovative program for students with disabilities that varies from the regulatory continuum of service options?

Yes. The Commissioner may grant a waiver from the continuum of services options upon a finding that such waiver will enable a local school district, BOCES, approved private school, State-operated school, State-supported school or State department or agency to implement an innovative special education program that is consistent with State law, applicable federal requirements and all other sections of Part 200, and will enhance student achievement and/or opportunities for placement in regular classes and programs. The requirements for submission of such an innovative waiver can be found in section 200.6(l) of the Regulations of the Commissioner of Education.

www.vesid.nysed.gov/specialed/publications/lawsandregs/sect2006.htm

Consultant Teacher (CT) Services

11. What are CT services?

CT services are defined as direct and/or indirect services provided to a school-age student with a disability in the student's general education classes, including career and technical education classes, and/or to such student's general education teachers.

- Direct CT services mean specially designed instruction provided to an individual student with a disability or to a group of students with disabilities by a certified special education teacher to aid the student(s) to benefit from the general education class instruction. Direct CT can be combined with indirect CT services.
- Indirect CT services mean consultation provided by a certified special education teacher to a general education teacher to assist the general education teacher in adjusting the learning environment and/or modifying his/her instructional methods to meet the individual needs of a student with a disability who attends the general education class. Indirect CT can be combined with direct CT services.

12. Can a student with a disability be removed from his or her class in order to receive CT services?

No. CT services are special education services to support a student while he or she is participating in instruction in the general education class. It is not a pull out service. If a student with a disability needs specially designed instruction delivered outside of the general education class (e.g., specialized reading instruction), this service could be recommended on the IEP of the student as special class, related service or resource room services, but not as CT services.

13. How must CT be identified on a student's IEP?

If the student's IEP indicates CT services, the IEP *must* specify the general education class(es) (including career and technical education classes, as appropriate) where the student will receive the services.

- If CT services are to be provided to an elementary student, the IEP should indicate the subject areas of instruction when the CT would be providing services to the student (e.g., during reading groups; during math instruction).
- If CT services are to be provided to a middle or secondary student, the IEP must specify the class subject(s) where CT will be provided (e.g., English, math, science, art, music).
- If indirect CT services are to be provided, the IEP must indicate the regular (or general) education class being taught by the teacher receiving the consultation.

The IEP should specify the type of CT services the student will receive (i.e., direct or indirect) so that it is clear to parents and educators the extent to which such services will be provided.

14. *How are the methods and schedules for CT services determined?*

The effective implementation of CT services requires general and special education teachers to work cooperatively to address the needs of students with disabilities. Section 200.4(e)(5) of the Regulations of the Commissioner of Education requires that, following the development of an IEP in which CT services are recommended, the general education teachers of the student for whom the service will be provided must be given the opportunity to participate in the instructional planning process with the CT to discuss the objectives and to determine the methods and schedules for such services. The methods and schedules for such services should be documented and communicated to the parent of the student.

15. *Who can provide CT services?*

CT services can only be provided by a certified special education teacher - a person certified or licensed to teach students with disabilities. A teaching assistant cannot be assigned as the CT nor can the teaching assistant work under the supervision of a special education teacher to be the provider of this service.

When consultant teacher services are to be provided for the purpose of providing specially designed reading instruction for a student who has significant reading difficulties that cannot be met through general reading programs, such instruction may be provided by a reading teacher qualified under section 80.7 of the Regulations of the Commissioner of Education.

(See www.vesid.nysed.gov/specialed/publications/policy/readguideline.html)

16. *Can students be grouped together for purposes of receiving consultant teacher services?*

Yes. CT services may be provided on an individual or group basis (two or more students), provided that such students are grouped based on similarity of need (see Question #5 above). The maximum number of students who may be assigned to a CT may not exceed 20.

17. *Can the CT be the primary academic instructor for the student?*

No. The definition of CT does not include providing primary academic instruction to a student with a disability. CT services are provided to adapt, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to support the student to successfully participate and progress in the general curriculum during regular instruction, so that he or she can meet the educational standards that apply to all students.

18. Can a CT be assigned to a class full time?

Yes. A CT may be assigned to a class full time to meet the needs of individual students with disabilities enrolled in the general education class who are recommended for CT services. However, there is no requirement that a CT be assigned full time to a class.

19. Does the minimum number of hours for CT include both direct and indirect services?

Yes. The minimum number of hours for CT services, two hours per week, applies to direct and indirect services, in any combination. However, if the student is also recommended to receive resource room services, the minimum number of hours of the combined resource room and CT services is three hours per week. The IEP must specify for each service (resource room and CT) the frequency, duration and location. For example, the IEP of a student receiving a combination of services, based on the individual needs of the student, might indicate:

Resource room services - 3 times a week, 40 minute sessions

Consultant teacher services (direct)- English class - 2 times per week, 40 minute sessions

Resource Room Program

20. What is a resource room program?

Resource room program is a special education program for a student with a disability registered in either a special class or general education class who is in need of specialized supplementary instruction in an individual or small group setting for a portion of the school day. Resource room programs are for the purpose of supplementing the general education or special education classroom instruction of students with disabilities who are in need of such supplemental programs. This means that instruction is not provided in place of the student's regular academic instruction.

21. Must students with disabilities placed in a resource room program be grouped based on similarity of individual needs?

Yes. The composition of instructional groups in a resource room program must be based on the similarity of the individual needs (see Question and Answer #6) of the students according to:

- levels of academic or educational achievement and learning characteristics;
- levels of social development;
- levels of physical development; and
- the management needs of the students in the classroom.

22. Is there a minimum amount of time that a student must receive resource room programs if this service is recommended in the student's IEP?

Yes. Regulations require that each student with a disability requiring a resource room program shall receive not less than three hours of instruction per week in such program. However, if the student is also recommended to receive consultant teacher services, the minimum number of hours of the combined resource room and consultant teacher services is three hours per week. The IEP must specify the frequency, duration and location for each service.

23. Is there a maximum amount of time that a student can spend in a resource room program?

Yes. Regulations prohibit students from spending more than 50 percent of their time during the day in the resource room program.

24. *What are the instructional grouping requirements that pertain to resource room programs?*

An instructional group which includes students with disabilities in a resource room program cannot exceed five students per teacher. The total number of students with disabilities assigned to a resource room teacher cannot exceed 20 students, except that the total number of students with disabilities assigned to a resource room teacher who serves students enrolled in grades seven through twelve or a multi-level middle school program operating on a period basis cannot exceed 25 students. The Commissioner may approve a variance increasing the size of a resource room instructional group and the number of students assigned to a resource room teacher.

In addition, New York City only may increase the number of students in a resource room program up to a maximum of eight students to one teacher; and may increase the maximum number of students with disabilities assigned to an elementary school resource room teacher to 30; and to a multi-level middle or secondary school program resource room teacher to 38.

25. *Can a resource room with one special education teacher assigned include more than five students at any one time period?*

No, except as noted above for variances to resource room instructional group size granted by the Commissioner, when there is only one special education teacher assigned to a resource room, the instruction group size cannot exceed five students.

26. *How can a teaching assistant assist in the delivery of resource room services?*

Each student with an IEP that indicates resource room services must receive such services from the special education resource room teacher. While a teaching assistant, under the general supervision of the special education teacher, can assist in the delivery of the special education services, he or she cannot be the provider of such services in place of the special education teacher. As an example, for each resource room period, while the special education teacher may be instructing three of the students, a teaching assistant, under the supervision of the special education teacher, may be working with the other two students. (Also see Question #63.)

27. *May a resource room program be provided in a general education classroom?*

Yes, provided that the resource room teacher provides specially designed instruction to students grouped together for purposes of the resource room program, which supplements the instruction provided in the general education class.

28. *What is the difference between direct CT services and resource room services located in a general education classroom?*

Direct CT services are services of a special education teacher provided to an individual student or a small group of students with disabilities to adapt, as appropriate to the needs of an eligible student, the content, methodology, or delivery of instruction to support the student to successfully participate and progress in the general curriculum during regular instruction, so that

he or she can meet the educational standards that apply to all students. Consultant teacher services are provided simultaneously with general education content area instruction.

Resource room services are small group supplementary instruction that cannot otherwise be provided during the student's regular instructional time. As examples, a resource room program might be recommended for students who need specialized supplementary instruction in organization skills, reading, the use of an assistive technology device, the use of Braille or the use of a compensatory strategy. However, resource room students must also have access to instruction in all required general education content area learning standards in addition to their resource room supplemental instruction.

29. *May resource room programs be used as the time for the student to complete his/her homework?*

Specialized supplementary instruction (as defined above) must be provided in the resource room program for each student. While the teacher may use classroom related assignments as the vehicle to provide specialized supplementary instruction to address the unique needs of a student with a disability, a resource room program for a student with a disability cannot be treated as a study hall.

30. *Can a resource room include non-disabled students?*

Yes, provided that an instructional group that includes students with disabilities does not exceed five students (or the number approved through the variance provision described in question #23).

31. *Can a student with a disability receive a combination of resource room, special classes and CT services?*

Yes. Based on the individual needs of a student with a disability, the CSE could recommend, for example, that the student receive special class for one or more subjects (e.g., math and English), CT for one or more other subjects (e.g., science and social studies), and resource room services.

Integrated Co-Teaching Services

32. *What is the definition of integrated co-teaching services?*

Integrated co-teaching services, as defined in regulation, means the provision of specially designed instruction and academic instruction provided to a group of students with disabilities and non-disabled students.

33. *Where can school districts access information on integrated co-teaching to support successful implementation in its schools?*

School districts are encouraged to review information that can be found at the following web sites:

www.k8accesscenter.org/index.php
www.ped.state.nm.us/seo/library/qtrly.0404.coteaching.lcook.pdf

These web sites are two of many that identify the research that supports this practice and provides practical information on the various ways in which integrated co-teaching may be provided and provides professional development modules for teachers and supervisors regarding this service.

34. *Must every school district offer integrated co-teaching services on the continuum of services?*

No. However, the use of integrated co-teaching services is strongly encouraged. School districts may strategically determine, based on the needs of its students, to offer such services at certain grade levels, or in certain subjects. Implementation of integrated co-teaching could be gradually phased into a school district.

35. *Can a school district determine that it will offer integrated co-teaching services at some, but not all, of its classes, grade levels or subjects?*

Yes.

36. *Can integrated co-teaching be provided for part of the day (e.g., for one period a day)?*

Yes. The CSE could determine that the student needs integrated teaching, for example, for English and math classes only. To meet the individual needs of a student, the CSE could recommend a combination of services, including, but not limited to, integrated co-teaching for some classes, special class(es) for a portion of the day, CT or other supports in other general education classes for the remainder of the day. The specific recommendations must be indicated in the student's IEP.

37. *What factors should be considered when determining whether to recommend integrated co-teaching services for a student with a disability?*

The determination of whether integrated co-teaching services are an appropriate recommendation for an individual student with a disability must be made on an individual basis. For some students, integrated co-teaching would be an alternative to placement in a special class with the added benefit of having both a special education and a general education teacher deliver the curriculum to the student. For each student, whether the general education classroom is the least restrictive environment for the student to receive his or her special education services should be made in consideration of, but not limited to the following factors:

- the classes in which integrated co-teaching is offered and the match to the students needs;
- the extent of special education services the individual student needs to access, participate and progress in the general education curriculum;
- the similarity of needs of the other students with disabilities in the class;
- the potential effect of the class size on the student's learning needs;
- any potential benefits and harmful effects such services might have for the student or on the quality of services that he or she needs; and
- whether the extent of the environmental modifications or adaptations and the human or material resources needed for the student will consistently detract from the opportunities of other students in the group to benefit from instruction.

A CSE must consider integrated co-teaching services only to the extent such services are available consistent with the district's plan for special education services (see questions 34-36).

38. *May school districts continue to use other terms to identify integrated co-teaching services in a student's IEP?*

No. It is now required that all districts use the terminology "integrated co-teaching," consistent with the regulatory requirements, so that the level of services being provided to a student is clear and consistent among school districts. New York City (NYC) has used the term "collaborative team teaching" (CTT) to identify a service that meets the regulatory definition of integrated co-teaching services. While other terms, such as blended or inclusion classes have been used by other school districts, the actual services provided varied among districts (e.g., some districts used the term inclusion class to identify a class where a teaching assistant and a general education teacher were assigned). To clarify for parents that a previously recommended service means the same as integrated co-teaching, terms such as CTT, blended class or inclusion class may also be indicated in the IEP.

Special Education Program/Services	Frequency	Duration	Location
Integrated Co-Teaching Services (Collaborative Team Teaching)	5 days a week	40 minute class periods	English class

39. *What is the maximum number of students with disabilities that can be included in a class where integrated co-teaching services are provided?*

NOTE: Mandate relief enacted by the Board of Regents has a variance process to exceed the maximum number of students with disabilities, but it is not reflected in this SED document.

Effective July 1, 2008, the maximum number of students with disabilities that can be on the class roster of a class where integrated co-teaching services is provided is 12. The total of 12 students includes any student with a disability in that class, regardless of whether all of the students are recommended for integrated co-teaching services. For example, if two students with disabilities in a class are recommended for resource room and related services and ten are recommended for integrated co-teaching services, there are 12 students with disabilities in that classroom. While the two students in the above example may benefit incidentally from the integrated co-teaching services, their IEPs would not need to specify the integrated co-teaching services.

40. *What is the maximum number of non-disabled students that can be included in a class where integrated co-teaching services are provided?*

There is no regulatory maximum number of non-disabled students in an integrated co-teaching class. However, the number of non-disabled 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 CSE's recommendation for integrated co-teaching services should consider the overall size of the class enrollment (which includes students with disabilities and non-disabled students) and the ratio of students with disabilities to non-disabled students in relation to the individual student's learning needs. An important consideration in determining the

number of students with disabilities and non-disabled students on an integrated class roster is that the ratio must not result in a *de facto* segregated class which would undermine the philosophy of inclusive practices.

41. *In an integrated co-teaching class, must both teachers be highly qualified in the core academic subject area?*

School personnel assigned to each class must minimally include a special education and a general education teacher. However, only one teacher in an integrated co-teaching class would need to be highly qualified in the core academic subject area. For information on the requirements relating to highly qualified teachers, see www.highered.nysed.gov/nclbhome.htm.

42. *May a teaching assistant serve as the student's special education teacher for students receiving integrated co-teaching services?*

No. However, a teaching assistant can be assigned to a class where integrated co-teaching is provided to assist the teachers in providing instruction to the students in the class.

43. *What is the difference between direct CT services and integrated co-teaching services?*

While both direct CT and integrated co-teaching services are provided in a student's general education class, and to the casual observer may appear the same, they differ in the manner and in some circumstances, in the extent to which, such supports are provided to the student. Integrated co-teaching services means students are intentionally grouped together based on similarity of need for the purpose of receiving specially designed instruction in a general education class, usually daily for the identified class. In this model, a general education teacher and a special education teacher share responsibility for the delivery of primary instruction, planning and evaluation for all students.

Direct CT services are specially designed individual or group instruction recommended for an individual student with a disability in his or her general education class, the purpose being to adapt, as appropriate to the needs of the student, the content, methodology, or delivery of instruction to support the student to successfully participate and progress in the general curriculum during regular instruction. The focus of services provided by the CT is to an individual student with a disability.

44. *If a special education teacher is providing integrated co-teaching, for example, to a group of students with disabilities in their English and math classes three days a week and for the remaining two days a week, a teaching assistant is assigned to the student's classes to provide instructional support to the students with disabilities, can the days the teaching assistant is assigned also be considered integrated co-teaching?*

No. In the example provided above, the student would be receiving integrated co-teaching (instruction in the student's math and English classes) for only the days the special education teacher is in those classes. The IEP would indicate integrated co-teaching, three days a week, for math and English classes.

The teaching assistant support the students receive in the general education class for the remaining class periods during the week would be documented in the IEP as a supplementary support and service, provided two days a week to the student for math and English classes.

Special Class

45. What is meant by special class?

Special class means a class consisting of students with disabilities who have been grouped together because of similarity of individual needs (see Question #6) for the purpose of receiving specially designed instruction in a self-contained setting, meaning that such students are receiving their primary instruction separate from their non-disabled peers.

46. What is meant by special class size?

Special class size is defined as the maximum number of students who can receive instruction together in a special class and the number of teachers and paraprofessionals assigned to the special class (e.g., six students to one teacher and one teaching assistant or teacher aide). If the student's IEP indicates special class, the IEP must describe the special class size.

47. What maximum class size ratios are allowed by regulation?

The maximum class size for those students whose special education needs consist primarily of the need for specialized instruction which can best be accomplished in a self-contained setting cannot exceed 15 students (15:1), or 12 students in a State-operated or State-supported school (12:1), except that:

- The maximum class size for special classes containing students whose management needs interfere with the instructional process, to the extent that an additional adult is needed within the classroom to assist in the instruction of such students, cannot exceed 12 students, with one or more supplementary school personnel assigned to each class during periods of instruction (12:1+1).
- The maximum class size for special classes containing students whose management needs are determined to be highly intensive, and requiring a high degree of individualized attention and intervention, cannot exceed six students, with one or more supplementary school personnel assigned to each class during periods of instruction (6:1+1).
- The maximum class size for special classes containing students whose management needs are determined to be intensive, and requiring a significant degree of individualized attention and intervention, cannot exceed eight students, with one or more supplementary school personnel assigned to each class during periods of instruction (8:1+1).
- The maximum class size for those students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment, shall not exceed 12 students. In addition to the teacher, the staff/student ratio shall be one staff person to three students. The additional staff may be teachers, supplementary school personnel and/or related service providers (12:1 + (3:1)).

Upon application and documented educational justification to the Commissioner, approval may be granted for variance from the special class sizes (see section 200.6(h)(6) - www.vesid.nysed.gov/specialed/publications/lawsandregs/sect2006.htm)

48. What is the chronological age range of students placed together for purposes of instruction in a special class?

The chronological age range within special classes of students with disabilities who are less than 16 years of age shall not exceed 36 months. The chronological age range within special classes of students with disabilities who are 16 years of age and older is not limited. There are no chronological age-range limitations for groups of students placed in special classes for those students with severe multiple disabilities, whose programs consist primarily of habilitation (e.g., daily living skills) and treatment. Upon application and documented educational justification to the Commissioner, approval may be granted for variance from the special class chronological age ranges (see section 200.6(h)(7) - www.vesid.nysed.gov/specialed/publications/lawsandregs/sect2006.htm)

49. What factors must the CSE consider in determining the class size (i.e., staff to student ratio) of a special class?

To determine the appropriate class size for an individual student, the CSE must consider the management needs of the student (i.e., the environmental modifications, adaptations, or, human or material resources required to meet the needs of any one student in the group) as well as the student's need for individualized instruction.

50. Are there instructional considerations required for grouping students in a special class?

Yes. Students with disabilities grouped together for purposes of instruction must be grouped in consideration of similarity of needs, including the levels of knowledge and development in subject and skill areas, (e.g., activities of daily living, level of intellectual functioning, adaptive behavior, expected rate of progress in acquiring skills and information, and learning style). The range of academic or educational achievement of such students must be limited to assure that instruction provides each student appropriate opportunities to achieve his or her annual goals. For students placed in a special class, except for a 12:1+ (3:1) special class, where the range of achievement levels in reading and mathematics exceeds three years, special notification to the CSE and parents must be provided. The learning characteristics of students in the group must be sufficiently similar to assure that this range of academic or educational achievement is at least maintained (i.e., no students fall behind in academic achievement because their instructional needs are not being addressed due to the range of learning characteristics of students in the class).

51. Can a special class be provided for a student for a portion of the school day?

Yes. The CSE could recommend, for example, that the student receive special class only for particular subject areas (e.g., English and math classes).

52. Can a special class be located in a general education class?

Because special class is defined in regulations to mean an instructional group consisting of students with disabilities who have been grouped together in a self-contained setting, integrated co-teaching services was added to the continuum of services to identify the special education program for students with disabilities recommended to receive their specially designed instruction by both a general and special education teacher in the general classroom.

53. What specific information must be in the IEP to specify the class size?

When a student is recommended for special class, the IEP must identify the number of students who will be in the special class and the specific ratio of special education teachers and supplementary school personnel (i.e., teaching assistants and/or teacher aides). For example, the IEP could specify: 12 students to one teacher and one teaching assistant (12:1+1).

54. *Who can provide instruction in a special class?*

A certified special education teacher must be assigned to provide specially designed instruction to a special class. A teaching assistant under the general supervision of the special education teacher can assist the special education teacher to provide specially designed instruction. For information on the requirements relating to highly qualified special education teachers, see www.highered.nysed.gov/nclbhome.htm.

55. *Must special classes be provided for the full day or can students be recommended for special classes for separate subjects or for a portion of the day?*

Depending on the needs of an individual student, the CSE, in determining the least restrictive environment for that student, could consider a recommendation for special class for a portion of the day and/or for specific subjects. There is no rule that a special class can only be provided full time.

Related Services

56. *What types of services are included in the definition of related services?*

Related services are those that assist a student in benefiting from other special education services or assist the student in accessing the general curriculum. Related services means developmental, corrective, and other supportive services as are required to assist a student with a disability.

Related services include, but are not limited to speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, evaluative and diagnostic medical services to determine if the student has a medically related disability, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students.

57. *Are services for surgically implanted devices, including cochlear implants, a related service?*

The Individuals with Disabilities Education Act (IDEA) 2004 and federal regulations made it clear that related services are not services that "apply to children with surgically implanted devices, including cochlear implants." This means that the school district is not responsible for maintaining any medical device that is implanted, including optimizing the device's functioning or mapping it (e.g., cochlear implants), or replacing the device. However, this does not limit the right of a student with a surgically implanted device to receive related services that are determined by the CSE or CPSE to be necessary for the student to receive a free appropriate public education.

However, the school district is responsible to routinely check an external component of a surgically implanted device to make sure it is functioning properly. The school district is also responsible for monitoring and maintaining all medical devices that are needed to maintain the child's health and safety in school and during transportation to and from school. This includes devices that are needed to maintain breathing, nutrition, or other bodily functions (e.g., nursing services, suctioning a tracheotomy, urinary catheterization) if the services can be provided by trained personnel and are not the type of services that can only be provided by a licensed physician.

58. *May orientation and mobility services include the use of a service animal?*

Yes. 34 CFR section 300.34(c)(7) was amended to add that orientation and mobility services includes teaching students to use a service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision.

59. *What information must be specified in an IEP for a student with a recommendation for related services?*

Related services as recommended by the CSE to meet specific needs of a student with a disability must be indicated in the IEP and must identify the frequency, duration and location of each service.

60. *Do the requirements relating to grouping by similarity of need (question #5) apply to the provision of related services?*

Yes.

61. *What is the maximum number of students with disabilities that can be grouped together for the purpose of providing a related service?*

When a related service is provided to a number of students at the same time, the number of students in the group can not exceed five students per teacher or specialist except that, in the city school district of the city of New York, a variance of up to 50 percent rounded up to the nearest whole number from the maximum of five students per teacher or specialist is authorized by State law and regulation.

62. *Is there a minimum frequency/duration for related services to be provided to a student with a disability?*

NOTE: Mandate relief enacted by the Board of Regents has eliminated the following speech and language service minimum, but it is not reflected in this SED document. There have been no changes to the caseload requirement.

For students with disabilities determined to need speech and language services, such services must be provided for a minimum of two 30-minute sessions each week. The total caseload of such students for teachers providing such services shall not exceed 65.

Teaching Assistants and Teacher Aides

63. *What roles can a teaching assistant fulfill?*

A teaching assistant, under the general supervision of the special education teacher, can assist in the delivery of special education services but cannot serve in place of a special education teacher. The following description of duties is provided as guidance in determining the appropriate role for **teaching assistants**:

- working with individual students or groups of students on special instructional projects;
- providing the teacher with information about students which will assist the teacher in the development of appropriate learning and behavioral experiences;
- assisting students in the use of available instructional resources and development of instructional materials;
- assisting in the development of instructional materials;
- assisting in providing testing accommodations;
- utilizing their own special skills, and abilities by assisting in instructional programs in such areas as: foreign languages, arts, crafts, music and similar subjects;
- assisting in related instructional work as required; and
- assisting students with specific health related activities as appropriate.

64. What roles can a teacher aide fulfill?

Teacher aides perform non-instructional duties under supervision determined by the local school district in accordance with Civil Service Law. The following description of duties is provided as guidance in determining the appropriate role for teacher aides:

- preparing scripts for recording purposes;
- assisting in physical care tasks and health-related activities as appropriate;
- assisting students with behavioral/management needs;
- assisting in the set up of laboratory equipment, conduct experiments, and performing limited reviews of student laboratory reports;
- assisting in the technical preparation and production of media programs;
- reading to and playing audio-visual materials for children in lower grades;
- assisting in proctoring and other tasks related to the administration of examinations;
- assisting in the correction of test papers, recording of grades, maintaining of files and preparing statistical reports;
- managing records, materials and equipment; and
- supervising students (e.g., watching students during recess, hall transitions, etc.).

65. Can a teacher aide or teaching assistant be the only service provided to a student with a disability?

No. A teaching assistant or teacher aide can assist in the delivery of special education, but cannot be provided as the only special education service the student receives nor can they be the only provider of special education services to a student with a disability. A student who requires only this level of service (e.g., a health aide to assist with mobility and/or toileting) could be eligible for such service pursuant to Section 504 of the Rehabilitation Act.