



THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK

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To: School District Superintendents
Charter School Administrators
Special Education Directors

From: David Frank, Charter School Office 
Christopher Suriano, Office of Special Education 

Date: July 15, 2020

Subject: Billing for Students with Disabilities Enrolled in Charter Schools During the Novel Coronavirus (COVID-19) Pandemic

The purpose of this memo is to provide school districts and charter schools with clarification regarding per pupil billing for students with disabilities enrolled in charter schools.

Commissioner's Regulation § 119.1 sets forth the billing requirements pertaining to students enrolled in charter schools, and instructional time requirements are set forth in Education Law § 2851(2)(n) and Commissioner's Regulation § 175.5. Pursuant to [Executive Order 202.4](#) and its extensions, every school in the State of New York, including charter schools, was directed to close no later than Wednesday, March 18, 2020. Recent amendments to both above-cited regulations, combined with the terms of the Executive Order, as extended, effectively waived any financial reduction for missed direct instructional days in the 2019-2020 school year between March 18 and through June 30, 2020.

Furthermore, the New York State Education Department (NYSED) issued [guidance](#) to the field on March 27, 2020 pertaining to the provision of services to students with disabilities during statewide school closures due to the novel coronavirus (COVID-19) outbreak in New York State as required by applicable Executive Orders. That guidance, in part, directs non-district schools "to charge for educational placements based on enrollment. [Non-district] schools should continue to bill their authorized tuition rate and per pupil charge for enrolled students during the period their school program [building] is closed due to COVID-19, or [the] period in which they provide distance learning due to COVID-19, as applicable." This section of guidance is applicable to charter schools to the extent that the school district of residence for the applicable student receives state or federal funding for such services.

During the period of a school program building closure due to COVID-19, charter schools should continue to bill the school district of residence at the same per-student special education rate for students who continue to be enrolled and continue to have the same individualized education program (IEP) requirements prior to school program building closure. In the event that the Committee on Special Education (CSE) implemented a new IEP or amended a student's IEP services during the statewide school closure period, the charter school shall bill as follows:

- If fewer services are mandated in the IEP, then the billing category may need to be reduced.
- Likewise, if additional services are mandated by the CSE in the IEP, then any applicable increase in billing category may commence once such services are able to be delivered in full or to the extent where the percentage of services are delivered such that they are applicable for inclusion in such billing category.

Both charter and district schools should continue to follow applicable laws, Executive Orders, and [NYSED guidance](#) pertaining the provision of services for all students in general and students with disabilities specifically.