New York State

New York State Law, Regulations and Policy Not Required by Federal Law/Regulation/Policy
Revised January 2014

20 United States Code (USC) § 1407(a)(2) requires that each state identify in writing to local educational agencies (LEAs) located in the state and the Secretary any rule, regulation or policy as a state-imposed requirement that is not required by the Individuals with Disabilities Education Act (IDEA) and federal regulations. The New York State Education Department has taken steps to conduct a comprehensive and thorough review of its laws and regulations that apply to the education of students with disabilities. The following summary provides a list of New York State (NYS) laws and regulations that differ from federal requirements in effect on the date of the analysis. Items are included in the list where there are no comparable federal requirements because the federal statute and regulations are silent on the subject (e.g., provisions governing rate-setting or the payment of State excess cost aid) as well as where NYS requirements go beyond federal requirements. Accordingly, the list includes NYS requirements that, though not technically required by IDEA or the federal regulations currently in place, are necessary for NYS' special education system to function. Requirements that apply equally to disabled and non-disabled students are not included. Statutory requirements are listed first, followed by regulatory requirements.

Key to frequently used acronyms

BOCES	Board of Cooperative Educational Services
BOE	Board of Education
CPLR	Civil Practice Law and Rules
CPSE	Committee on Preschool Special Education
CSE	Committee on Special Education
Ed. L.	Education Law
EI	Early Intervention
FAPE	Free Appropriate Public Education
FBA	Functional Behavioral Assessment
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
IESP	Individualized Education Service Program
IHO	Impartial Hearing Officer
LEA	Local Educational Agency
LRE	Least Restrictive Environment
MDT	Multidisciplinary Team
NYC	New York City
NYS	New York State
SEA	State Educational Agency
SED	State Education Department
SEIT	Special Education Itinerant Teacher
SP	Services Plan
USC	United States Code
8 NYCRR	New York Code, Rules and Regulations (Education)
34 CFR	Code of Federal Regulations
§	Section

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
District superintendents of Boards of Cooperative Educational Services (BOCES) must determine the adequacy and appropriateness of the facilities space available to house special education programs in the geographic area served by the BOCES.	Ed. L. §2215(17) (as added by Chapter 57 of the Laws of 2013) 8 NYCRR §200.2(g)	Federal law does not specify how a state must ensure space in facilities to meet the needs of students with disabilities and least restrictive environment responsibilities.
The school district of residence is the local educational agency (LEA) and develops the individualized education program (IEP) for charter school students.	Ed. L. §2853(4)	Federal law leaves it to the states to decide whether charter schools are LEAs or are schools of a school district.
Requires the Committee on Special Education (CSE), upon a determination that a student no longer needs special education services, to identify and recommend appropriate declassification support services that will be provided to the student for the first year in the general education program.	Ed. L. §3602(1)(i)(2) 8 NYCRR §200.4(d)(1)(iii)	Federal regulations require that the IEP team determine continued eligibility for special education, but there is no federal requirement that requires the IEP team to make recommendations for a student upon declassification.
School districts must have an approved plan for the use of State public excess cost aid in the most educationally advantageous manner.	Ed. L. §3602(10)(a)	Federal law does not impose planning requirements relating to the use of State aid.
School districts must keep on file and make available for public inspection an acceptable plan of service as a condition of receipt of State public excess cost aid.	Ed. L. §3602(8)(b)	Federal law does not impose planning requirements relating to the use of state aid.
State aid formulas for the computation of State public excess cost aid.	Ed. L. §§3602(1); Chapter 53 of the Laws of 2005	Federal law does not prescribe formulas for computing state aid for services to students with disabilities.
Minimum periods of instruction or services to qualify for weightings that generate additional State public excess cost aid (e.g., 20% or more of the school week in a resource room or receiving special services or programs; 60% or more of the school day in a special class or an integrated setting).	Ed. L. §3602 (1)(i)(3); Chapter 53 of the Laws of 2005	Federal law does not prescribe formulas for computing state aid for services to students with disabilities.
Students with disabilities who are residents of the State attending	Ed. L. §3602-c (2)(a) and (b) and	Federal law requires that the school district in which the

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nonpublic schools located in the State are dually enrolled in the public schools for purposes of special education and receive services pursuant to an individualized education service program (IESP) developed by the CSE of the school district of location in the same manner and with the same contents as an IEP. Special education services provided to parentally-placed students with disabilities must be provided on an equitable basis. Parents must request special education services before June 1 preceding the school year for which the request is made subject to certain exceptions. Parents of students attending nonpublic schools may bring an impartial hearing to challenge their IESP. Requires regulations for procedures for the district of location to recover costs for nonresident New York State (NYS) students.	(7) (as amended by Chapter 378 of the Laws of 2007)	nonpublic school is located use a proportionate share of its Individuals with Disabilities Education Act (IDEA) funds to provide services to nonpublic school students, based on consultation with nonpublic school representatives. Districts develop a Services Plan (SP) for a student that does not create an individual right to services. Nonpublic school students do not have an individual right to services under IDEA and therefore are not entitled to a due process hearing. There are no federal procedures for the recovery of tuition costs incurred by the school district in which the nonpublic school is located for nonresident students, where the services required under state law exceed the federal minimum and require a substantial state and local contribution.
Home-schooled students with disabilities are deemed to be nonpublic school students solely for the purpose of receiving special education services during the regular school year. Parents must request special education services before June 1 preceding the school year for which the request is made subject to certain exceptions.	Ed. L. §3602-c (2-c) (as amended by Chapter 217 of the Laws of 2008)	Federal law requires home-schooled students to receive special education services to the same extent that other parentally-placed private school students receive services only if the home schools are recognized under State law as private elementary or secondary schools.
Establishes a timeline of 42 days of the date of receipt of a request by a CSE for evaluative information for the CSE to provide such information and recommendation to the requesting agency. Establishes procedures for the	Ed. L. §4005(1) 8 NYCRR §200.4(h)	There are no comparable federal requirements.

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CSE receiving such a request to obtain parental consent for the evaluation to develop a written recommendation.		
Reimbursement of costs of tuition and maintenance for students attending a State-supported school for the deaf or blind.	Ed. L. Law §§4204,4207; 4204-b; 4211	Federal law does not require that states set tuition or maintenance rates for schools and leaves it to the states to assign fiscal responsibility for special education programs and services among school districts and other public agencies.
Deaf infant definition includes infants who are unable to respond to sounds presented at intensities of 60 decibels sound pressure level.	Ed L §4204-a 8 NYCRR §200.7 (d)(7)(i)(a)	The federal definition of deaf infant does not include a decibel sound pressure standard.
Admission to State-operated schools for the blind and deaf through appointment by the Commissioner.	Ed L §§4308(1)–(2)(a); 4351–4355 (a)(2) 8 NYCRR §200.7(d)(1)	There are no federal requirements regarding appointment to state operated schools.
Requires school psychologist as member of the multidisciplinary team (MDT) at the State-operated schools. Requires a physician and additional parent member to be members of the MDT if requested by the school or parent 3 days before the meeting. Additional MDT members may be appointed by the school district of residence.	Ed L §§4308(2)(b) -(c); 4355(2)(b)-(c); Chapter 276 of the Laws of 2012 8 NYCRR §200.7(d)(1)	Federal law and regulations do not require a school psychologist, additional parent member or physician. 34 Code of Federal Regulations (CFR) §300.118 requires the State educational agency (SEA) to ensure that the least restrictive environment (LRE) requirements in §300.114 are effectively implemented for children in public or private institutions.
Procedures requiring school districts to inform parents at least five days in advance regarding excusal of a member of the MDT or agreement that the attendance of a member is not necessary, except for requests by parents, and emergency and unavoidable scheduling conflicts.	Ed. L. §§4308(2)(f)-(h); 4355(2)(f) -(h) (as amended by Chapter 378 of the Laws of 2007) 8 NYCRR §200.7(d)(1)(i)(c)	There is no comparable federal requirement.
If the State Education Department (SED) proposes an amendment to the IEP without meeting, it must provide the	Ed. L. §§4308(2)(i); 4355(2)(i) (as amended by	There is no comparable federal requirement.

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parent with a copy of the written proposal and the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes.	Chapter 378 of the Laws of 2007) 8 NYCRR §200.4(g)	
The definition of a student with a disability includes a student with a disability who requires related services only, because "special education" is defined in a way that includes related services. For all disabilities, the definition does not include a child whose educational needs are due primarily to unfamiliarity with the English language, environmental, cultural or economic factors.	Ed. L. §§4401(1) and (2); 4410(1)(i)	Federal regulations provide that a student who only needs related services and not special education is not a child with a disability, except that a state may consider related services to be special education, as New York law does. Federal regulations impose limitations on eligibility determinations based on limited English proficiency for all disability categories.
Definition of special services or programs includes transportation as a special education service, transitional support services and related services.	Ed. L. §4401(2) 8 NYCRR §§200.1(ww); 200.1(ddd)	Federal requirement includes transportation as a related service; does not reference transitional support services; and does not include related services as special education.
Identifies individuals who can make a nonbinding request that a student be referred by the school district for an initial evaluation. Establishes procedures school districts must follow upon receipt of a written request for a referral of a student suspected of having a disability.	Ed. L. §4401-a(1) (as amended by Chapter 378 of the Laws of 2007) 8 NYCRR §200.4(a)(2) and (9)	There is no federal requirement that specifies who may request that a student be referred by the school district for initial evaluation and federal regulations do not establish procedures that school districts must follow when such request is made.
A request for referral for an initial evaluation submitted by an individual other than a student or judicial officer must include the reasons for referral and include any test results, records or reports upon which the referral is based, describe prereferral services provided or why no such attempts were made and describe the extent of parental contact or involvement prior to the referral.	Ed. L. §4401-a(2) (as amended by Chapter 378 of the Laws of 2007) 8 NYCRR §200.4(a)(2)(iii)	There is no comparable federal requirement.
A referral from a parent received by the building administrator must be forwarded to the CSE chairperson immediately upon its receipt by the administrator, or, if received by the committee chairperson, to the building	Ed. L. §4401-a(3) 8 NYCRR §§200.4(a)(3) - (5); 200.4(a)(7) - (9)	There are no federal requirements or timelines for forwarding the referral to a school administrator or procedures to withdraw a referral or timelines for obtaining

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administrator within 5 days. Regulations establish procedures for the withdrawal of a referral for special education. If the board of education (BOE) does not obtain parent consent for an initial evaluation within 30 days, it may pursue due process.		consent from the parent from the date of the receipt of the referral.
Requires plan and policies for implementation of school wide approaches and pre-referral interventions.	8 NYCRR §200.2(b)(7)	There are no federal requirements for a plan or policies for implementation of school wide approaches and prereferral interventions.
A student determined ineligible for special education must be referred to the building administration for a determination of general education support services for that student.	Ed. L. §4401-a(6) 8 NYCRR §§200.4(d)(1)(i) and (iii); 100.1(q)	There are no federal requirements for consideration of general education support services when a student is determined ineligible for special education services.
Procedures requiring school districts to inform parents at least five days in advance regarding excusal of a member of a CSE, subcommittee or committee on preschool special education (CPSE) or agreement that the attendance of a member is not necessary, except for requests by parents, and emergency and unavoidable scheduling conflicts.	§4402(1)(b)(1)(b-1) -(b-3); §4402(1)(b)(1)(d); and §4410(3)(a)(3) though (5) (as amended by Chapter 378 of the Laws of 2007) 8 NYCRR §200.3(f)	There is no comparable federal requirement.
Requires school psychologist as a member of the CSE. Requires a physician to be a member of the CSE if requested by the school or parent 3 days before the meeting. Requires an additional parent member to be a member of the CSE if requested by the school, student or parent 3 days before the meeting.	Ed. L. §4402(1)(b)(1)(a) and (b) (as amended by Chapter 276 of the Laws of 2012) 8 NYCRR §200.3(a)(1)	Federal law and regulations do not require a school psychologist, additional parent member or physician.
Subcommittees on Special Education - School districts with more than 125,000 inhabitants must appoint subcommittees to the extent necessary to ensure timely evaluation and placement of students with disabilities. The school psychologist is a required member whenever a new psychological	Ed. L. §4402(1)(b)(1)(d) 8 NYCRR §200.3(c)	The subcommittee membership is the same as the federal mandated IEP team membership, with the exception of the requirements for participation of the school psychologist.

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evaluation is reviewed or a change to a program option with a more intensive staff-to-student ratio is recommended. Subcommittees must submit an annual report to CSE. The parent has the right to disagree with subcommittee and refer to CSE.		
Individual evaluation requires specific assessments to be conducted as part of the initial evaluation: physical examination, individual psychological evaluation, social history and functional behavioral assessment (FBA).	Ed. L. §4402(1)(b)(3)(a) 8 NYCRR §§200.1(aa), (bb), (tt) and (ddd); 200.4(b)(1)(i) – (v); 200.16(c)	Federal requirements do not prescribe specific types of assessments that must be conducted as part of an initial evaluation except that a classroom observation is a federal requirement for students with specific learning disabilities. The terms psychological evaluation, social history and FBA are not defined in federal law or regulation.
Establishes the process for a school psychologist to determine the need to administer an individual psychological evaluation and requires a written report when such evaluation is determined not to be necessary as a component of an initial evaluation.	Ed. L. §4402(1)(b)(3)(a) 8 NYCRR §200.4(b)(2)	There is no comparable federal requirement.
If the school district proposes an amendment to the IEP without meeting, it must provide the parent with a copy of the written proposal and the opportunity to consult with the appropriate personnel or related service providers concerning the proposed changes.	Ed. L. §4402(1)(b)(3)(b) §4410(3)(a)(6) (as amended by Chapter 378 of the Laws of 2007) 8 NYCRR §200.4(g)	Federal regulations do not establish procedures to implement the agreements.
The CSE/CPSE may recommend a placement in a school that uses psychotropic drugs only if such school has a written policy pertaining to such use and the parent is given the written policy at the time the recommendation is made.	Ed. L. §4402(1)(b)(3)(b)(i) 8 NYCRR §200.5(a)(6)(v)	There is no comparable federal requirement.
The school must provide written prior notice to the parents of his/her opportunity to address the committee, either in person or in writing, on the appropriateness of the committee's recommendation on program placement to be made to the BOE or trustees.	Ed. L. §4402(1)(b)(3)(c)	There is no specific federal requirement for this notice to the parent.

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When a child has been placed in a residential program or is at risk of a residential placement, parents must be notified of when their child's right to a free appropriate public education (FAPE) will end.	Ed. L. §4402(1)(b)(3)(c)	There is no comparable federal requirement.
Requires the agreement of the school district and parent that a reevaluation is unnecessary be in writing.	Ed. L. §4402(1)(b)(3)(d) (as amended by Chapter 378 of the Laws of 2007)	There is no specific federal requirement that this agreement be in writing.
Requires the school district to provide a form to parents of certain children with disabilities who are veterans of the Vietnam war for a report to the Division of Veterans' Affairs for research purposes.	Ed. L. §4402(1)(b)(3)(h); Executive Law §353(15)	There is no comparable federal requirement.
Requires BOEs to have plans and policies for appropriate declassification of students with disabilities – regular consideration for declassifying students when appropriate and the provision of educational and support services upon declassification.	Ed. L. §4402(1)(b)(3)(d-2) 8 NYCRR §200.2(b)(8)	There is no comparable federal requirement.
For a child at risk of residential placement, the CSE must provide the parent with information about community support services, including an assessment of the family's community support service needs and the name and address of the agency that can perform the assessment.	Ed. L. §4402(1)(b)(4)(a)	There is no comparable federal requirement.
When a CSE determines that a child in foster care is at risk of a future placement in a residential school, the CSE must notify the local social services district responsible for the child.	Ed. L. §4402(1)(b)(4)(b)	There is no comparable federal requirement.
Procedures are established for CSEs when a child has been determined to be at risk of a future placement in a residential school, including inviting a representative from the appropriate county or State agency participate in CSE meetings concerning the appropriateness of residential placement and other programs and placement alternatives.	Ed. L. §§4402(1)(b)(4)(c) and (d); 4403(19) 8 NYCRR §§200.4(d)(4)(i)(b); 200.5(a)(6)(iv)	There is no comparable federal requirement.

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Authorizes residential schools to provide transitional care to adults who were in residential schools prior to their 21st birthdays and requires the residential school to develop a transfer plan to facilitate the individual's transfer to an adult program.	Ed. L. §4402(1)(b)(4)(e) and (f)	There is no comparable federal requirement.
Establishes procedures and timelines for the CSE to provide written notice to the parents or guardian (or the student if the student is age 18 or older) who are in residential programs, receiving special education services 100% of the school day, receiving individualized attention or intervention because of intensive management needs or a severe disability and/or who may need adult services as determined by the CSE, to inform such students/parents that their eligibility for special education services will end and obtain consent to share information on the student with appropriate adult agencies. Requires the school district to forward information to the adult agencies and prepare an annual report to SED on all students with disabilities aging out or graduating.	Ed. L. §§4402(1)(b)(3)(c); 4402(5) 8 NYCRR §§200.4(i); 200.5(a)(6)(iii)	There are no comparable federal requirements.
Requires school districts to make periodic evaluations of programs, services and facilities for students with disabilities and report at least annually to the BOE.	Ed. L. §§4402(1)(b)(3)(e) and (f); 3602(8) 8 NYCRR §200.2(c)	States and LEAs are required to assure that students with disabilities receive FAPE, but there are no specific federal requirements relating to planning or self-evaluations by LEAs or for annual reports to the BOE.
Establishes timelines and procedures for transfer of information to adult agencies for students transitioning to adult services, including written notice to parents or student and the opportunity to consent to transfer information within 20 days.	Ed. L. §4402(1)(b)(5)	There is no comparable federal requirement.
The CSE/CPSE must provide a copy of the State's handbook for parents of students with disabilities or a locally approved handbook when a student is referred for special education.	Ed. L. §4402(1)(b)(7)	There is no comparable federal requirement.
Written consent of the parent is required prior to initial provision of special	Ed. L. §4402(2)(a)	Federal regulations allow a state to require parental consent for

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education services in a 12-month special service and/or program.	8 NYCRR §200.5(b)(1)(iii)	other services and activities if it ensures that each public agency in the state establishes and implements effective procedures to ensure that a parent's refusal to consent does not result in a failure to provide the child with FAPE.
For students eligible for 12-month services, the IEP must identify the provider of services and for preschool students, the reason for such recommendation.	Ed. L. §4402(2)(a) 8 NYCRR §200.4(d)(2)(x)	Federal law does not require that IEPs include this specific information on providers of 12-month services.
Eligibility of students for 12-month special services and/or programs in accordance with their need to prevent substantial regression. Requires July/August programs to operate for at least 30 days.	Ed. L. §§4402(2)(a); 4403(17); 4410(5)(h) 8 NYCRR §§200.1(aaa); 200.1(eee); 200.6(k); 200.16(i)(3)(v)	Federal regulations require that extended school year be provided where necessary to provide FAPE, but do not contain a specific standard. Federal requirements are silent on the operation of 12-month programs.
Requires the school district to place students in private school programs only after consideration of public school options.	Ed. L. §4402(2)(b)(1) and (2)	Federal law and regulations require placement in the least restrictive environment.
The BOE must provide written notice of its determination if the BOE is inconsistent with the recommendation of the CSE. The notice must provide the reasons for the board's determination and identify the factors considered by the CSE in its evaluations.	Ed. L. §4402(2)(b)(2) 8 NYCRR §§200.2(d); 200.5(a)(6)(ii)	There are no federal requirements relating to notices from the BOE. Federal law and regulations require that parents receive prior written notice of a proposed action or refusal of an action relating to the provision of FAPE to their child.
If the BOE disagrees with the recommendation of the CSE, the BOE may remand the recommendation to the CSE or subcommittee or establish a second CSE or subcommittee to develop a new recommendation for the student.	Ed. L. §4402(2)(b)(2) 8 NYCRR §200.4(e)(2)	There is no comparable federal requirement.
If the board cannot secure an appropriate special service within the State or nonresidential program to meet the needs of the student, it must notify the Commissioner.	Ed. L. §4402(2)(b)(3)	There is no comparable federal requirement.
A BOE (except NYC) may, upon written	Ed. L.	There are no federal

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approval from the Commissioner, exceed the special class size standards for middle and secondary school special classes.	§4402(2)(d)(1) and (2) 8 NYCRR §200.6(h)(6)	requirements for special class sizes.
The total number of students assigned to a resource room teacher cannot exceed 20 students (with a variance for NYC) or 25 students in grades 7-12 or a multi-level middle school program operating on a period basis (with a variance for NYC).	Ed. L. §4403(3) 8NYCRR §200.6(f)(5)	There are no comparable federal requirements.
School districts must provide transportation up to 50 miles to and from a nonpublic school if a student with a disability has been identified by the CSE as receiving services or programs similar to special education programs recommended by the CSE. (Transportation only provision for private school students.)	Ed. L. §4402(4)(d)	There is no comparable federal requirement.
Allows a student with a disability to receive FAPE until the end of the school year in which the student turns age 21.	Ed. L. §4402(5)	Federal regulations require each state to ensure that all children with disabilities aged 3 through 21 residing in the state have a right to FAPE.
BOEs in a city school district with a population of 125,000 or more inhabitants (except for NYC) are permitted to increase class sizes in middle/secondary special classes. The authorization terminates on June 30th of the school year. Districts must implement a study of attendance problems at the secondary level and implement a corrective action plan to increase the rate of attendance to at least the rate for students attending general education classes in secondary schools of the district.	Ed. L. §4402(6) 8 NYCRR §200.6(h)(6)(iii)	There are no federal requirements for special class sizes.
Requires the BOE to establish administrative practices and procedures to provide copies of or electronic access to IEPs to teachers and providers, before the implementation of the IEP. If district policy provides for electronic access to IEPs, such policy must also ensure that individuals responsible for	Ed. L. §4402(7) (Chapter 408 of the Laws of 2002 as amended by Chapter 279 of the Laws of 2012)	Federal law requires each public agency to ensure that the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its

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IEP implementation are notified and trained on how to access such IEP electronically. Chairperson must designate an individual as defined in statute to inform school personnel of IEP responsibilities.	8 NYCRR §§200.1(xx); 200.2(b)(11); 200.4(e)(3)(i) and (ii)	implementation.
The Commissioner must establish standards and procedures for the protection of students in approved in-State and out-of-State private residential schools from abuse, neglect and significant incidents	Ed. L. §4212(a)-(c); §4314(a)-(c); §4358(a)-(c); §4403(11) -(12) Article 20 of Executive Law and Article 11 of Social Services; (as added by Chapter 501 of the Laws of 2012) Social Services Law §483-d; 8 NYCRR §200.15	Federal law does not address procedures for prevention and remediation of child abuse or neglect.
Provides that the burden of proof in an impartial due process hearing is generally placed on the school district (or State agency) providing special education to the student. The law creates an exception for impartial hearings in which the parent seeks tuition reimbursement for a unilateral placement in a private school.	Ed. L. §4404(1)(c) (as amended by Chapter 583 of the Laws of 2007)	There is no comparable federal requirement.
Impartial Hearing Officers (IHOs) are selected from a list through a rotational selection process. Definition of IHO requires IHOs to be attorneys and to have access to support and equipment. Prohibits an IHO from serving for two years following their term of employment in a school district, school or program serving students with disabilities placed there by a school district CSE. Requires the IHO not have participated in any manner in the formulation of the recommendation sought to be reviewed. Requires the IHO to complete a training program and updates. Establishes maximum rates for compensation of IHOs.	Ed. L. §4404(1)(c) 8 NYCRR §§200.1(x); 200.2(b)(9); 200.2(e); 200.5(j)(3); 200.21(a)	Although necessary to comply with federal requirements to implement 20 United States Code (USC) §1415, federal law and regulations do not specify the process for selecting an IHO. §1415(f)(2)(a) and 34 CFR §300.511(c) require that the IHO not be an employee of the SEA or LEA involved in the education or care of the child or be a person who has a personal or professional interest that conflicts with the person's objectivity in the hearing, possess the knowledge and ability to conduct hearings in

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		accordance with appropriate, standard legal practice and ability to render and write decisions in accordance with appropriate, standard legal practice. There are no federal requirements that a state set maximum rates for IHOs.
Two year statute of limitations on commencement of an impartial hearing.	Ed. L. §4404(1)(a) 8 NYCRR §200.5(j)(1)(i)	Federal law applies a two-year statute of limitation, except where the state prescribes an explicit time limitation for requesting a hearing.
Procedures for review of the decision of an IHO.	Ed L §§ 4404(2); 4410(7)(d) 8 NYCRR §§200.5(k); 200.16 (h)(9-10); Part 279	Although necessary to comply with 20 USC §1415(g), federal law does not prescribe specific procedures for the State-level review of the IHO's decision.
Four-month statute of limitations for judicial review under Article 4 of the Civil Practice Law and Rules (CPLR).	Ed. L. §4404(3)(a); CPLR §217(1)	Federal law provides for a 90-day statute of limitations unless the State has an explicit time limitation.
The CSE or CPSE must immediately amend the student's IEP to be consistent with a mediation agreement.	Ed. L.§4404-a (5) 8 NYCRR §200.5(h)(3)	There is no comparable federal requirement.
Reimbursement of costs of tuition and maintenance for students attending an approved private school for students with disabilities, a special act school district or the State-operated schools for the deaf and blind.	Ed. L. §§4405, 4401 (3) and (5) Social Services Law §153(10) 8 NYCRR §§200.9; 200.10	Federal law does not require that states set tuition or maintenance rates for schools and leaves it to the states to assign fiscal responsibility for special education programs and services among school districts and other public agencies
Reimbursement of costs of tuition and maintenance for students attending a State-supported school.	Ed. L. §§4204; 4207; 4204-b; 4211 8 NYCRR §200.10	Federal law does not require that states set tuition or maintenance rates for schools and leaves it to the states to assign fiscal responsibility for special education programs and services among school districts and other public agencies
State aid formula for the computation of State private excess cost aid.	Ed. L. §§4405(3); 4401 (6) and (7); Chapter 53 of the Laws of 2005	Federal law does not prescribe formulas for computing State aid for services to students with disabilities.

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With approval of SED, school districts may contract with educational facilities located outside of the State where there are no appropriate public or private facilities for instruction of the student because of the student's unusual type of disability or combination of disabilities.	Ed. L. §4407(1)	Federal law does not establish a specific standard for out-of-state placements of students with disabilities.
SED must maintain a register of approved out-of-state schools and, to be included on such registry, approved residential schools must meet the core requirements of the out-of-state placement committee established by § 483-d of the Social Services Law (e.g., site visit, licensed or chartered by agency of state of location, appropriate laws and regulation relating to allegations of abuse or neglect, types of services consistent with NYS law).	Ed. L. §4407(2); Social Services Law §483-d(2)(b) 8 NYCRR §200.1(d)	Federal law does not require states to establish registries of approved out-of-state schools and does not prescribe criteria or procedures to be used by states in approving out-of-state schools.
State aid formula for reimbursement of the cost of tuition, maintenance and transportation for students with disabilities receiving services in July and August, including a 10 percent chargeback to a municipality.	Ed. L. §4408, Chapter 53 of the Laws of 2005	Federal law does not prescribe formulas for computing state aid for services to students with disabilities or assign fiscal responsibility for special education programs and services among school districts and other public agencies.
Approved July and August programs must operate for six weeks and shall be funded for 30 days of service.	Ed. L. §4408(1)	Federal law does not prescribe criteria for the approval of programs or the conditions under which State aid is paid.
Preschool evaluators may be private providers or a group of appropriately licensed or certified professionals.	Ed L §§4410(1)(a), (4)(b), (9), and (9-a) 8 NYCRR §200.16 (c)	There is no comparable federal requirement.
Definition of preschool child makes children who turn age 5 on or before December 1 ineligible for preschool services and continues preschool eligibility through August of the year in which the student is first eligible to attend kindergarten. Establishes criteria for the identification of a preschool child with a disability.	Ed L §4410 (1)(i) 8 NYCRR §200.1(mm)	There are no comparable federal requirements.
Related services must be provided at a site determined by the BOE, including but not limited to a child care location or the child's home.	Ed L §4410(1)(j) 8 NYCRR §200.16(i)(3)(i)	There is no specific federal requirement as to the location at which related services must be delivered.

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NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
Special education itinerant teacher (SEIT) services are provided at a site determined by the BOE, including but not limited to a childcare location or the child's home.	Ed L §4410(1)(k) 8 NYCRR §200.16(i)(3)(ii)	Although federal regulations require itinerant teachers in the continuum of services, there is no federal definition of SEIT services and no specific federal requirement as to the location at which special education must be delivered.
Membership of the CPSE includes a municipality representative, except that the attendance of the municipality representative is not required for a quorum. Requires an additional parent member to be a member of the CPSE if requested by the school or parent 3 days before the meeting.	Ed L §4410(3)(a)(1) (as amended by Chapter 213 of the Laws of 2013) 8NYCRR §200.3(a)(2)	There are no federal requirements for an additional parent member or municipality representative on the committee.
Requires the representative of the school district on the CPSE to serve as the chairperson of the CPSE.	Ed L §4410(3)(a)(1) 8NYCRR §200.3(a)(2)	There is no comparable federal requirement.
Written meeting notice must be given to CPSE members 5 business days before meeting.	Ed L §4410(3)(a)(2) 8 NYCRR §200.5(c)(1)	Federal regulations require a meeting notice to parents, not other CPSE members, and parent notice must be early enough to assure opportunity to attend.
BOE must provide parent with list of approved evaluators in the geographic area.	Ed L §4410(4)(b) 8 NYCRR §200.16 (h)(2)	Federal law imposes evaluation responsibilities on the LEA and does not require a list of private approved evaluators.
Parent selects evaluator from list of approved evaluators.	Ed L §4410(4)(b) 8 NYCRR §200.16 (c)(1)	Federal law imposes evaluation responsibilities on the LEA, with parental right to independent evaluation under limited circumstances.
Documentation of the evaluation must include summary report of findings of evaluation.	Ed L §4410(4)(c) 8 NYCRR §200.16(c)(2)	There is no federal requirement for a summary report.
Approved evaluators must transmit documentation of evaluation to all CPSE members and a person designated by the municipality; municipality must notify approved evaluators in the geographic area of the person so designated.	Ed L §4410(4)(d) 8 NYCRR §200.16(c)(2)	The IEP team must review the evaluation, but there is no federal requirement that all documentation be sent to all IEP team members or to a municipality.
Costs of translating summary report and evaluation separately reimbursed.	Ed L §4410(4)(d)	Federal law is silent on method of reimbursement of translation

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
		costs.
CPSE must recommend intensity of services on the IEP and consider single services or half-day programs or related services only or SEIT only or related services plus SEIT only.	Ed L §4410(5)(b)(i) 8 NYCRR §§200.1(p), (q), (u) and (v); 200.4(d)(2)(v)(b)(7); 200.16(e)(3)	IEP must state the special education and related services and specify the frequency, duration and location of such services. There is no explicit reference in federal law or regulation to intensity of services. IEP team is not required to consider single services or half-day programs or related services only or SEIT only for every student.
Where a related service or SEIT is recommended, CPSE must ask parent to identify child care location or other site at which services will be delivered.	Ed L §4410(5)(b)(ii)	Federal law is silent about requesting parent to identify site at which services will be delivered.
CPSE recommendation must include an explanation of why the CPSE did not adopt the parent's expressed preference with respect to frequency, duration or intensity or with respect to more or less restrictive settings.	Ed L §4410(5)(b)(iii) 8 NYCRR §200.16(e)(6)	There is no specific federal requirement that the IEP team respond in writing to parents' expressed preferences.
Establishes procedures if the BOE disagrees with the CPSE recommendation for a preschool student with a disability.	Ed L §4410(5)(d) 8 NYCRR §§200.5(a)(6)(ii); 200.16(e)(6); 200.16(f)	There are no federal requirements relating to the role of the BOE.
The BOE must select related service providers from list maintained by municipality.	Ed L §4410(5)(d) 8NYCRR §200.16(f)(2)	Under federal law, the LEA provides or contracts for related services.
The BOE must provide each related service provider with a copy of the IEP and the name and address of each related service provider.	Ed L §4410(5)(d) 8NYCRR §200.16(f)(2)	Federal law and regulations do not specifically require that related services providers receive a copy of the IEP and do not require sharing of information about other related service providers.
The BOE must designate a related service provider or the SEIT provider to coordinate the provision of services.	Ed L §4410(5)(d) 8 NYCRR §200.16(f)(2)	Federal law and regulations are silent about coordination.
A preschool child must receive services commencing with starting date of program, as soon as possible following the development of the IEP, but no later	Ed L §4410(5)(e) 8 NYCRR §200.16(f)(1)	Federal regulations require that the IEP be implemented "as soon as possible" following the IEP team recommendation, but

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
than 30 days after CPSE recommendation and within 60 school days from receipt of consent to evaluate.		do not specify a specific timeframe for implementation of the IEP.
Role of municipality in contracting with approved programs and related service providers to provide special education programs and services.	Ed L §4410(5)(f) 8 NYCRR §200.16(f)(3)	Municipality rather than LEA contracts for services.
The BOE determines the appropriate municipality based on residence.	Ed L §4410(5)(g) 8 NYCRR §200.16(f)(4)	Rights under federal law are based on the child's school district of residence, not municipality of residence.
Where preschool child moves to another school district within a reasonable distance of the placement, the child may continue in the placement if it is consistent with the child's individual needs.	Ed L §4410(5)(g) 8 NYCRR §200.16(f)(5)	Under IDEA §614(d)(C)(i)(I), a child who transfers to another school district must be provided comparable services until the new LEA adopts the existing IEP or develops and implements a new IEP.
Municipality must provide transportation to and from special services or programs and must request parents to transport their own children at public expense.	Ed L §4410(8); and (13)(a)(ii)	Federal law imposes obligation to provide transportation on the LEA, not a municipality and there is no federal requirement to ask parents to transport at public expense.
Approval of the Commissioner of Education required for transportation beyond 50 miles.	Ed L §4410(8)	There is no federal requirement for approval of transportation beyond a specified distance.
Preschool program may include evaluation component including multi-disciplinary evaluation component.	Ed L §4410(9)(a); and (b) 8 NYCRR §§200.1(nn); 200.16(c)(1)	Federal law imposes responsibility to conduct evaluations on the LEA and is silent about approval of private providers to conduct evaluations.
Reviews of approved programs may be conducted not more than once every 3 years in accordance with procedures developed in collaboration with municipalities and approved programs.	Ed L §4410(9)(a) 8 NYCRR §200.20(c)	Federal law is silent about reviews of approved programs.
Municipalities shall be allowed to participate in reviews of approved programs.	Ed L §4410(9)(a) 8NYCRR §200.20(c)	Federal law is silent about reviews of approved programs.
Multi-disciplinary evaluation programs may rely on formal written agreements or affiliations with appropriately certified or licensed professionals or agencies employing them.	Ed L §4410(9)(b)	Federal law is silent about multi-disciplinary evaluation programs.

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NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
Approved providers may conduct a program that relies on written agreements or affiliations with other approved programs or appropriately certified or licensed professionals.	Ed L §4410(9)(d)	Federal law leaves program approval up to the states.
School districts and groups of appropriately licensed and/or certified professionals may apply for approval as an evaluator, including provision of multi-disciplinary evaluation services.	Ed L §4410(9-a)(a)	Although 20 USC section 1412(a)(11) requires the SEA to exercise general supervision over all educational programs in the State, federal law does not require SEA approval of school districts or groups of professionals to conduct an evaluation.
Commissioner shall establish a billing and reimbursement system for approved evaluators.	Ed L §4410(9-a)(c) 8 NYCRR §200.9	Federal law is silent about reimbursement and billing systems.
Commissioner shall establish a process for reapproval of preschool programs and review of evaluators.	Ed L §4410(9-b) and §4410(9-a)(b) 8 NYCRR §200.20(c)	Federal law is silent about reapproval of an approved program.
Commissioner may require approved programs and evaluators to submit copies of advertising and may revoke approval for false, misleading, deceptive or fraudulent advertising.	Ed L §4410(9-c) 8 NYCRR §200.20(a)(10)	Federal law is silent about advertising by approved programs.
Approved providers were required to submit business plans to the Commissioner by 1/1/97.	Ed L §4410(9-d) 8 NYCRR §200.20(a)(11)	Federal law is silent about business plans.
Commissioner establishes tuition rates for approved programs.	Ed L §4410(10)(a) 8 NYCRR §200.9	Federal law is silent about tuition rates and reimbursement methodologies.
Commissioner provides for reimbursement for evaluation costs and approved costs for transportation by the municipality.	Ed L §4410(10)(b) and (c)	Federal law is silent about tuition rates and reimbursement methodologies.
Commissioner provides for reimbursement of administrative costs incurred by the BOE using federal funds allocated by formula, with the balance billed to the municipality.	Ed L §4410(10)(d)(i) 8 NYCRR §200.17(a)	Federal law allows reimbursement of the LEA's administrative costs, but is silent about reimbursement from State or local funds.
Commissioner provides for reimbursement of a BOE's due process costs by municipality.	Ed L §4410(10)(d)(ii)	Federal law is silent about tuition rates and reimbursement methodologies.

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
	8 NYCRR §200.17(b)	
Commissioner provides for reimbursement of municipality's administrative costs.	Ed L §4410(10)(d)(iii)	Federal law is silent about tuition rates and reimbursement methodologies.
Financial responsibility for approved costs of programs and services is imposed on the municipality in the first instance, with partial reimbursement by the State.	Ed L §4410(11)(a), and (b)	Federal law makes the LEA responsible for providing FAPE, but leaves assignment of fiscal responsibility to the states.
Municipalities may conduct fiscal audits of approved programs and services.	Ed L §4410(11)(c) 8 NYCRR §200.18	Federal law leaves it to the states to determine who conducts audits.
Commissioner must establish advisory committee on tuition rate methodologies.	Ed L §4410(12)(a)	Federal law is silent about development of tuition rate methodologies.
Commissioner must establish regional cost ceilings on average per pupil transportation costs.	Ed L §4410(13)(a)(i) 8 NYCRR §200.9(f)(4)	Federal law is silent about reimbursement methodologies.
Commissioner must require that each approved program apply to provide special education itinerant services.	Ed L §4410(13)(a)(iii)	There is no comparable federal requirement.
Commissioner shall develop clinical practice guidelines to assist evaluators.	Ed L §4410(13)(c)	There is no comparable federal requirement.
Provides reimbursement mechanism for payment of costs for preschool child in foster care or a homeless child or in residential care by municipality and the State.	Ed L §4410-a	Although necessary to implement the requirements of 34 CFR §300.154 to establish responsibility for services, there is no specific federal requirement concerning reimbursement methodologies.
Provides for allocation by LEAs to approved providers of an amount equal to the per capita share of IDEA Part B funds provided to the LEA.	Ed L §4410-b	Federal law provides for allocation of IDEA Part B funds to LEAs, not private providers.
School bus used to transport children with disabilities, with parental consent, must have information on the name of the student, the nature of the student's disability and a contact in case of emergency.	Vehicle and Traffic Law §375(20)(1)	Federal law does not require that information on students with disabilities be maintained on school buses.
Training in cardiopulmonary resuscitation (CPR) is required for school bus attendants who serve	Vehicle & Traffic Law §1229-d(3)	Federal law does not prescribe training requirements for school bus attendants serving students

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
students with disabilities whose IEPs require school bus attendants.		with disabilities.
Establishes training for school bus drivers and attendants relating to the needs of students with disabilities.	Vehicle & Traffic Law §1229-d(4) as amended by Chapter 181 of the Laws of 2007 Ed L §3650	There is no comparable federal requirement.
Prohibits use of aversive interventions except as provided by a child-specific exception. Defines aversive intervention.	8 NYCRR §19.5(b) 8 NYCRR §200.1(lll)	Not defined in federal law or regulation.
Definition of adaptive behavior.	8 NYCRR §200.1(a)	Not defined in federal law or regulation.
Definition of adapted physical education.	8 NYCRR §200.1(b)	Not defined in federal law or regulation.
Definition of annual review.	8 NYCRR §200.1(c)	Not defined in federal law or regulation.
Definition of change in program.	8 NYCRR §200.1(g)	Not defined in federal law or regulation.
Definition of change in placement.	8 NYCRR §200.1(h)	Federal regulations define change of placement for discipline.
Definition of days includes school days during the months of July and August.	8 NYCRR §200.1(n)	Federal regulations do not define school days for July and August.
Definition of medical services includes services provided by "another appropriately licensed or registered health professional in consultation with or under the supervision of a licensed physician."	8 NYCRR §200.1(ee)	Federal regulations define medical services to mean services provided by a licensed physician.
Definition of occupational therapy - means the functional evaluation of the student and the planning and use of a program of purposeful activities to develop or maintain adaptive skills, designed to achieve maximal physical and mental functioning of the student in his or her daily life tasks.	8 NYCRR §200.1(gg) Ed. L. § 7901	Federal regulations define occupational therapy to mean services provided by a qualified occupational therapist and includes improving, developing or restoring functions impaired or lost through illness, injury or deprivation; improving ability to perform tasks for independent functioning if functions are impaired or lost; and preventing, through early intervention, initial or further impairment or loss of function.
Group instruction means instruction of	8 NYCRR	There is no comparable federal

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
students grouped together according to similarity of individual needs for the purpose of special education and requires the curriculum and instruction provided to such groups to be consistent with the individual needs of each student in the group and that the instruction needed to meet the individual needs of any one student in the group shall not consistently detract from the instruction provided other students in the group.	§200.1(ww)(3)(ii)	requirement.
Definition of other health impaired.	8 NYCRR §200.1(zz)(10)	The State's definition includes tuberculosis.
Definition of traumatic brain injury.	8 NYCRR §200.1(zz)(12)	The State's definition includes injuries caused by certain medical conditions; does not exclude degenerative brain injuries and omits from its definition that the injury must result in total or partial functional disability or psychosocial impairment.
Definition of behavioral intervention plan.	8 NYCRR §200.1(mmm)	Not defined in federal law or regulation.
Requires all persons involved in collection of data to have prior training.	8 NYCRR §200.2(a)(3)	Although 20 USC 1416(b)(2)(B) and 1416(i) requires the state to ensure valid and reliable information, there is no specific requirement for staff training.
The BOE must adopt a written policy that establishes administrative policies and procedures to ensure parents have received and understand the request for consent for evaluation of a preschool child.	8 NYCRR §200.2(b)(5)	There is no comparable federal requirement.
Requires plan and policies for implementation of school wide approaches and pre-referral interventions.	8 NYCRR §200.2(b)(7)	There are no federal requirements for a plan or policy for implementation of school wide approaches and prereferral interventions.
The BOE must maintain lists including a surrogate parent list; list of preschool programs.	8 NYCRR §200.2(e)	While necessary to implement the federal requirements for appointment of surrogate parents and placement in preschool programs, there are no federal requirements for specific lists.

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
Requires representative of the school district on the CSE to serve as the chairperson of the CSE and the subcommittee.	8 NYCRR §§200.3(a)(1)(v) and 200.3(c)(2)(iv)	There is no comparable federal requirement.
Establishes the role of the chairperson of the CSE, Subcommittee and CPSE.	8 NYCRR §200.3(e)	There is no comparable federal requirement.
Specifies that the LEA representative who can reach agreement with the parent for reevaluations more frequently than once a year must be the LEA representative appointed to the CSE or CPSEs.	8 NYCRR §200.4(b)(4)	Federal law states that the LEA and the parent can reach agreement that a reevaluation is necessary more than once in a year.
Specifies the four areas to be considered for present levels of academic achievement and related developmental needs of the student.	8 NYCRR §§200.1(ww)(3)(i); 200.4(b)(5)(ii)(b)	Although federal law requires the IEP to report on the student's current level of academic achievement and related developmental needs, it does not specifically require the IEP to include such areas as physical, social and management needs.
The evaluation is made by a multidisciplinary team or group of persons, including at least one teacher or other specialist with certification or knowledge in the area of the suspected disability.	8 NYCRR §200.4(b)(6)(vi)	Federal law or regulation does not specify that a multidisciplinary team must conduct the individual evaluation.
Requires that the evaluation include a description of the extent to which an assessment varied from standard conditions if it was not conducted under standard conditions.	§200.4(b)(6)(ii)	There is no comparable federal requirement.
Requires students age 12 and those referred to special education for the first time who are age 12 and over to receive an assessment that includes a review of school records and teacher assessments, and parent and student interviews to determine vocational skills, aptitudes and interests.	8 NYCRR §200.4(b)(6)(viii)	There is no federal requirement for a vocational assessment at age 12.
The results of the evaluation are provided to the parents in their native language or other mode of communication unless it is clearly not feasible to do so.	8 NYCRR §200.4(b)(6)(xii)	Federal regulations require that the public agency take reasonable efforts to ensure that the parents understand, and are able to participate in, any group discussions relating to the educational placement of their

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
		child, including arranging for an interpreter if needed.
Requires the recommendation of the CSE be provided to the BOE which must arrange for special education programs and services to be provided to the student with a disability within 60 school days of the receipt of consent to evaluate.	8 NYCRR §§200.4(d); 200.4(e)(1)	34 CFR §300.323(c) requires a meeting to develop the IEP be conducted within 30 days of the date of eligibility and for the IEP to be implemented as soon as possible following development of the IEP, but does not specify a specific timeframe for implementation of the IEP.
IEPs developed for the 2011-12 school year, and thereafter, must be on a form prescribed by the Commissioner of Education.	8 NYCRR §200.4(d)(2)	There is no federal law or regulation requiring LEAs to use a state-mandated IEP form.
The IEP must indicate the individual needs of the student in accordance with the four need areas – academic, social, physical and management needs.	8 NYCRR §§200.1(ww)(3)(i); 200.4(d)(2)(i)	Federal law and regulations require a statement of present levels of academic achievement and functional performance but do not specify the need areas that must be addressed.
The IEP must indicate the classification of the disability.	8 NYCRR §200.4(d)(2)(ii)	There is no federal requirement that the classification of the student's disability be indicated in the IEP.
The IEP must include evaluative criteria, evaluation procedures and schedules to be used to measure progress toward meeting the annual goal.	8 NYCRR §200.4(d)(2)(iii)	Although necessary to implement the federal law that requires a description of how the child's progress toward meeting the annual goals will be measured, federal law does not specify documentation of evaluative criteria, procedures and schedules.
The IEP must include short-term instructional objectives and benchmarks for all preschool students.	8 NYCRR §200.4(d)(2)(iv)	Federal law requires short-term objectives and benchmarks only for students who take the alternate assessment.
The IEP must indicate the regular classes in which the student will receive consultant teacher services, the class size, the extent to which the student's parents will receive parent counseling and training.	8 NYCRR §200.4(d)(2)(v)(b)(1), (2) and (5)	There are no comparable federal requirements, except that parent counseling and training is a related service, and for all related services, the IEP must specify the duration, frequency and location of services.
For preschool students, indicate the childcare location arranged by the	8 NYCRR §200.4(d)(2)(v)(b)	There is no comparable federal requirement.

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
parent or other site if the recommendation is for one or more related services or itinerant services.	(8)	
The IEP must include transition services on the student's IEP beginning not later than the first IEP to be in effect when the student is age 15.	8 NYCRR §200.4(d)(2)(ix)	Federal requirements are that transition services must be documented in the student's IEP beginning not later than the first IEP to be in effect when the student is age 16.
The IEP must indicate the projected date of the student's next annual review.	8 NYCRR §200.4(d)(2)(xi)	There is no federal requirement that the projected date of the next annual review be included in the student's IEP.
The IEP must identify the recommended placement of the student (i.e., a public school, BOCES or schools enumerated in articles 81, 85, 87, 88 or 89).	8 NYCRR §200.4(d)(2)(xii)	There is no federal requirement that the IEP identify the public school, BOCES or other school at which special education services will be delivered.
State regulations specify that the individual representing the public agency must be the representative of the school district appointed to the CSE when the parent and public agency agree to use alternative means of meeting participation.	8 NYCRR §200.4(d)(4)(i)(d)	Federal law and regulations only specify public agency.
A report of the evaluation upon which the recommendation is based must be forwarded to the BOE along with the recommendation. In the event that the parent does not choose to participate in the development of the IEP recommendations, the CSE must still forward its recommendation to the BOE and the parents.	8 NYCRR §200.4(d)(5) and (6)	There are no comparable federal requirements.
When consultant teacher services are specified in a student's IEP, the regular 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 consultant teacher to discuss the objectives and determine the methods and schedules for such services following the development of the IEP.	8 NYCRR §200.4(e)(5)	There is no similar federal requirement.
If a participating agency fails to provide transition services, the IEP must be revised, if necessary.	8 NYCRR §200.4(e)(6)	There is no specific requirement that the IEP be revised if a participating agency fails to

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
		provide transition services.
Prior to the annual review, the CSE must notify the parent of its intent to review the student's program and placement (prior written notice).	8 NYCRR §200.4(f)(3)	There is no similar federal requirement. Federal law requires meeting notice.
Prior written notices (notices of recommendation) issued during the 2011-12 school year, and thereafter, must be on a form prescribed by the Commissioner of Education.	8 NYCRR §200.5(a)	There is no federal law or regulation requiring LEAs to use a state-mandated prior notice form.
Prior written notice for initial evaluation or before a reevaluation must identify the uses to be made of the information.	8 NYCRR §200.5(a)(5)(i)	Federal regulations require a description of the action proposed and an explanation of why the district proposes to take the action.
Parent can agree in writing to withdraw a referral for special education.	8 NYCRR §200.5(b)(1)	There are no comparable federal requirements.
Meeting notices issued during the 2011-12 school year, and thereafter, must be on a form prescribed by the Commissioner of Education.	8 NYCRR §200.5(c)(1)	There is no federal law or regulation requiring LEAs to use a state-mandated meeting notice form.
The parent must receive notification in writing at least five days prior to a CSE or CPSE meeting. The meeting notice may be provided to the parent less than five days prior to the meeting to meet the timelines in accordance with Part 201 of this Title and in situations in which the parent and the school district agree to a meeting that will occur within five days.	8 NYCRR §200.5(c)(1)	Federal regulations require a parent be notified early enough to ensure that they will have an opportunity to attend the meeting.
Meeting notice must inform the parent(s) of the names and titles of those persons who will be in attendance at the meeting.	8 NYCRR §200.5(c)(2)(i)	Federal regulations do not require the meeting notice to indicate the names and titles of the persons who will be in attendance.
Notice of meeting to include that the parent(s) has the right to participate as a member of the CSE with respect to the identification, evaluation and educational placement of his or her child.	8 NYCRR §200.5(c)(2)(ii)	Federal regulations require that the public agency take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded to opportunity to participate.
Notice of meeting to inform the parent(s) of his or her right to request, in writing at least 72 hours before the meeting, the presence of the school physician member and additional parent member	Chapter 276 of the Laws of 2012 Chapter 213 of the Laws of 2013	There is no comparable federal requirement.

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
of the CSE or the additional parent member of the CPSE. Parents must also receive proper written notice of their right to have an additional parent member attend any CSE or CPSE meeting along with a statement, prepared by the State Education Department, explaining the role of having the additional parent attend the meeting.	8 NYCRR §200.5(c)(2)(iv)	
If the meeting is being conducted by a subcommittee on special education, the meeting notice must inform the parent(s) that, upon receipt of a written request from the parent, the subcommittee shall refer to the CSE any matter on which the parent(s) disagrees with the subcommittee's recommendation concerning a modification or change in the identification, evaluation, educational placement or provision of FAPE to the student.	8 NYCRR §200.5(c)(2)(vi)	There is no comparable federal requirement.
A school district must use the procedural safeguards notice prescribed by the Commissioner of Education.	8 NYCRR §200.5(f)(1)	Federally required for NYS based on a corrective action monitoring plan. There is no federal law or regulation requiring LEAs to use a state-mandated procedural safeguards notice.
Detailed procedures relating to the conduct of an impartial hearing.	8 NYCRR §200.5(j)(3) and (5)	Except for the general requirements set forth in 20 USC §1415(f) and (h) and 34 CFR §§300.507 –300.518, the federal statute and regulations do not prescribe specific procedures for the conduct of an impartial hearing except for a 45-day limit for decisions, authority to grant extensions of time, a five-day evidence rule, representation by counsel or other persons with special knowledge and training, opportunity to compel and cross-examine witnesses and maintaining a verbatim record.
The IHO may appoint a guardian ad litem to protect the interests of the	8 NYCRR §200.5(j)(3)(ix);	There is no comparable federal requirement.

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
student if the IHO determines that the interests of the parent are opposed to or are inconsistent with those of the student or that for any other reason the interests of the student would best be protected by appointment of a guardian ad litem. Requires guardian ad litem to be appointed from a list of surrogate parents or who is a pro bono attorney.	200.1(s)	
A State complaint must include: a statement that the school district or SED has violated a federal or State law or regulation relating to the education of students with disabilities.	8 NYCRR §200.5(l)(1)(ii)(a)	Federal regulations specify that a state complaint may be filed for a violation of a requirement of Part B of IDEA, but does not include state law or regulations.
Upon receipt of a complaint to SED, SED may require a school district to submit a written reply to the complaint	8 NYCRR §200.5(l)(2)(ii)	Federal regulations provide the public agency the opportunity to respond.
Appointment of a surrogate parent within 10 business days of the date of the determination by the committee of the need for the surrogate parent.	8 NYCRR §200.5(n)(3)(iii)	Federal law requires the appointment of a surrogate parent within 30 calendar days.
Students with disabilities placed together for purposes of special education must be grouped by similarity of individual needs in accordance with the range of academic or educational achievement and learning characteristics, social development, levels of physical development and management needs.	8 NYCRR §§200.1(ww)(3)(ii); 200.6(a)(3)	There are no comparable federal requirements.
Transitional support services must be provided for a teacher upon the recommendation of the CSE. When the provision of transitional support services is under consideration by a CSE, the teachers of the student for whom the service is being considered must be given the opportunity to participate in the CSE meeting for the purpose of advising the CSE of the extent to which such services are needed.	8 NYCRR §§200.6(c); 200.1(ddd)	There are no comparable federal requirements.
Establishes maximum caseload and minimum level of service requirements for consultant teacher services.	8 NYCRR §§200.1(m); 200.6(d)(1)-(3)	There are no specific federal caseload or minimum levels of service requirements.
Establishes a maximum caseload for teachers providing speech and language services, and maximum instructional group size for related	8 NYCRR §200.6(e)(2) and (3)	There are no specific federal requirements on group size for instructional purposes or caseloads for speech and

NYS Requirement	Citation	How NYS Requirement is Different from Federal Requirement
services.		language therapists.
Establishes minimum level of service, maximum amount of time per day, maximum instructional group size and maximum caseload for resource room services. Requires the composition of instructional groups in a resource room program be based on a similarity of needs.	8 NYCRR §§200.1(rr); 200.6(f)(1)-(6); 200.1(i); 200.1(ww)(3)(ii)	There are no specific federal requirements relating to minimum frequency or duration of services, instructional group sizes, or criteria for grouping students receiving resource room services.
Establishes maximum number of students in co-teaching classes, with variance procedures to temporarily exceed the maximum by one or two students.	8 NYCRR §200.6(g)	There is no comparable federal requirement or variances for co-taught classes.
The size and composition of a special class must be based on the similarity of the individual needs of the students and be composed of students with disabilities with similar individual needs. Maximum special class sizes based on learning and management needs of the students. Chronological age range within special classes of students with disabilities who are less than 16 years of age shall not exceed 36 months. Variance approval process for the special class sizes and chronological age range requirements.	8 NYCRR §§200.6(h)(2) – (8); 200.1(i), (uu) and (ww)(3)(ii)	There are no comparable federal requirements for grouping students for instructional purposes, maximum class sizes, chronological age ranges or variances for special classes.
Home and hospital instruction must be provided a minimum of five hours per week at the elementary level, preferably one-hour daily; or a minimum of 10 hours per week at the secondary level, preferably two hours daily.	8 NYCRR §§200.6(i)(1) & (2); 200.1(w)	There are no comparable federal requirements.
Requirements for State approval of private school placements for reimbursement purposes.	8 NYCRR §200.6(j)(1), (2) and (3)	Federal law does not prescribe approval requirements for state aid purposes.
State may require a BOE to take corrective action if it determines that a BOE has engaged in a pattern or practice of placing students with disabilities in private day or residential schools when appropriate placements were available in public facilities or of failing to make residential and/or	8 NYCRR §200.6(i)(5)	While this specific requirement is not stated in federal law or regulations, it is consistent with and necessary to implement federal requirements for ensuring placements in the least restrictive environments and the monitoring and enforcement

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nonresidential private school placements in a timely manner or of failing to submit timely applications for State approval of reimbursement.		responsibilities in federal law.
The commissioner may grant a waiver to a school district from any requirement in sections 200.1 and 200.6 upon a finding that such waiver will enable the school to implement an innovative special education program.	8 NYCRR §200.6(l)	There is no federal requirement that the state must provide an innovative waiver process from its state requirements.
The percent of each instructional school day during which a student is provided any one or combination of the special education programs and services shall be in keeping with the standards established in section 200.6 (i.e., caseloads, minimum levels of service, grouping, class sizes).	8 NYCRR §200.6(m)	There are no comparable federal requirements.
Procedures for approval of private school for reimbursement with public funds.	8 NYCRR §200.7(a)	Although necessary to comply with 20 USC §1412(a)(11)(A), federal law does not prescribe specific requirements for state approval of private schools.
Private, State-operated and State-supported residential schools must establish written procedures to review, evaluate and verify the backgrounds of, and information supplied by, all applicants for employment or voluntary work.	8 NYCRR §200.7(b)(6); 200.15(c)	There is no federal comparable requirement
Requires the evaluation conducted by the State-operated school to be shared with school district of residence.	8 NYCRR §200.7(d)(1)(i)(a)	Federal requirements are silent on the process for State-operated or State-supported schools.
The Commissioner determines the location of the MDT meetings. If there is a tie vote at an MDT meeting, the parent casts the deciding vote.	8 NYCRR §200.7(d)(1)(i)(c)	Federal regulations do not specify who determines the location of an IEP team meeting. Federal regulations do not reference voting or provide the parent with the right to cast the deciding vote.
Procedures for the appointment of students to State-supported schools.	8 NYCRR §200.7(d)(1)(ii) and (iii)	There are no federal requirements relating to appointment to state-supported schools.
Admission to public school of students residing in Office of Mental Health	8 NYCRR §200.11	While consistent with the federal requirement to ensure a

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(OMH), Office for People with Developmental Disabilities (OPWDD) or childcare institutions – the school district's CSE reviews the decision of the recommendation of OMH, OPWDD or the childcare institution's CSE. The school district's CSE determination goes to the BOE.		student's placement in the least restrictive environment for each student and to meet 34 CFR §300.154 regarding interagency coordination, there are no specific comparable federal requirements on admission to public schools.
Mandated regulations relating to classroom instruction of students with autism that include: grouping of students with autism by age and functioning level, length of the instructional day for students with autism, starting school age for students with autism, the instructional program and teacher training. Where a student with autism has been placed in programs containing students with other disabilities, or in a regular class placement, a special education teacher with a background in teaching students with autism must provide transitional support services in order to assure that the student's special education needs are being met.	Section 3 of Chapter 410 of the Laws of 1978 8 NYCRR §200.13	Federal law does not impose specific requirements relating to students with autism and does not prescribe requirements on instructional groupings or class size.
Chronological age range shall not exceed 36 months.	8 NYCRR §200.16(i)(3)(iii)(a)	There are no federal requirements for age ranges for instructional groupings.
Class size shall not exceed 12 preschool students with disabilities with one teacher and one or more supplementary personnel, with a variance process to temporarily exceed the maximum class size by one student.	8 NYCRR §200.16(i)(3)(iii)(b)	Federal law and regulation do not impose class size limitations.
Approved programs shall provide services for not less than 2 1/2 hours a day, 2 days a week.	8 NYCRR §200.16(i)(3)(iii)(c)	Federal law and regulation do not prescribe minimum days or hours of operation of providers.
Approved in-state residential programs shall provide services for a minimum of 5 hours a day, 5 days a week.	8 NYCRR §200.16(i)(3)(iv)	Federal law and regulation do not prescribe minimum days or hours of operation of providers.
Approval of preschool programs.	8 NYCRR §200.20(a)	Federal law leaves approval of schools and providers to the states.
Approved programs shall operate for 180 days each year.	8 NYCRR §200.20(a)(6)	Federal law does not prescribe the number of days a program

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		must operate.
Approved programs must submit calendars of days of operation for approval of the Commissioner by July first of the preceding school year.	8NYCRR §200.20(a)(7)	Federal law is silent about approval of calendars of providers.
Approved programs must make attendance registers available to education department and school district of residence.	8 NYCRR §200.20(a)(8)	Federal law is silent about attendance registers.
Approved program must provide educational progress report to referring school district or agency at least annually.	8 NYCRR § 200.20(b)(2)	Federal law is silent about reporting obligations of providers.
Procedures to suspend/revoke IHO certification on the grounds of incompetence or misconduct.	8 NYCRR §200.21(b)(1) - (5)	§1415(f)(2)(a) and 34 CFR §300.511(c) require that the IHO not be an employee of the SEA or LEA involved in the education or care of the child or be a person who has a personal or professional interest that conflicts with the person's objectivity in the hearing, possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice and ability to render and write decisions in accordance with appropriate, standard legal practice, but there are no federal procedures to suspend or revoke IHO certification on the grounds of incompetence or misconduct.
Program standards for behavioral interventions, including assessment of student behaviors, behavioral intervention plans, use of time out rooms, emergency interventions and aversive interventions.	8 NYCRR §200.22	Federal law requires functional behavioral assessments and behavioral intervention plans, as appropriate, but does not specify standards for such assessments and plans and for specific behavioral interventions.
The team that makes the manifestation determination includes a representative of the school district knowledgeable about the student and interpretation of information about child behavior. The parent must receive written notice of the manifestation determination meeting.	8NYCRR §201.4(b)	Federal law requires the team to include the LEA but does not specify the qualifications of the individual from the LEA. Federal law does not specify that the team must make its decision in a meeting or that the parent receive written notice of

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		the meeting.
An expedited evaluation must be completed no later than 15 school days after receipt of the request for evaluation. The CSE must make a determination of eligibility of such student in a meeting held no later than 5 school days after completion of the expedited evaluation.	8 NYCRR §201.6(b)	There are no federal timelines to complete an expedited evaluation.