

**PROPOSED AMENDMENT OF SECTIONS 200.4, 200.9, 200.16 AND 200.20 OF THE
REGULATIONS OF THE COMMISSIONER OF EDUCATION RELATING TO
PRESCHOOL SPECIAL EDUCATION PROGRAMS AND SERVICES**

The New York State Education Department's (NYSED) Office of Special Education is seeking public comment on the proposed amendment of sections 200.4, 200.9, 200.16 and 200.20 of the Regulations of the Commissioner of Education regarding preschool special education programs and services.

The proposed amendment is the result of recommended policy changes, discussed at the April 2015 Board of Regents meeting, to improve programs and outcomes for students with disabilities:

1. Amend section 200.4(d)(3) to require both Committees on Special Education (CSE) and Committees on Preschool Special Education (CPSE) to consider, prior to determining that a student needs a one-to one aide, the student's individual needs that require additional adult assistance; the skills and goals the student would need to achieve to reduce or eliminate the need for the one-to-one aide; the specific support that the one-to-one aide would provide for the student; other natural supports, accommodations and/or services that could support the student to meet these needs; the extent or circumstances the student would need the assistance of a one-to-one aide; the staff ratios in the setting where the student will attend school; and the potential positive benefits and negative impact of assignment of a one-to-one aide.
2. Amend section 200.9(f)(2)(ix)(c) and (d) and section 200.16(i)(3)(ii) to repeal that special education itinerant services (SEIS) includes indirect services, but retains that a SEIS teacher must assist the child's teacher in adjusting the learning environment and/or modifying his or her instructional methods to meet the individual needs of the preschool child with a disability who attends an early childhood program; provided that effective until September 1, 2016, a preschool student with a disability may continue to receive indirect special education itinerant services which were recommended in the student's individualized education program.
3. Amend section 200.16(i)(3)(ii)(f) to clarify that SEIS must be provided during the regular school day and cannot be provided as individualized or group instruction at the site of the approved SEIS provider, except for extenuating health and safety reasons or when a student needs to receive such services at home, based on the documented medical or special needs of the preschool student.
4. Amend section 200.16(i)(3)(iii) to clarify that special class programs must provide all related services specified in students' Individualized Education Programs (IEPs) during the school day.
5. Amend section 200.20(b) to require that each approved preschool program:
 - Ensure that educational directors hired after September 1, 2016, hold a New York State certificate, license or its equivalent in special education; speech and language; psychology; occupational or physical therapy, or another related

services field; early childhood education; nursery-kindergarten; or elementary education N-6 or K-6, with specialized preparation for teaching in early childhood grades; **and** must hold certification as a School Building Leader or School District Leader or School Administrator/Supervisor.

- Employ substitute teachers for special class and special education itinerant services, and have policies and procedures in place to ensure that the make-up of missed services occurs consistent with duration and location specified in the IEP and within 30 days of the missed session, unless there is documentation of a child-specific reason why the session could not be provided.
- Provide instruction that is aligned with the New York State Prekindergarten Foundation for the Common Core and implement early literacy and engagement reading programs based on effective, evidence-based instructional practices by no later than September 1, 2016.
- Provide instruction based on the ages, interests, strengths and needs of the children, and implement procedures to ensure the active engagement of the children's parents and/or guardians.
- Establish and implement a program-wide system of positive evidence-based practices to support social-emotional competence and teach social-emotional skills to preschool students by no later than September 1, 2016.
- Prohibit the suspension, expulsion or removal of a preschool child from a special education program or services because of behavior, until the appropriate transfer of the child can be arranged by the CPSE, except when maintaining the current placement of the student is likely to result in injury to the student or others.
- Conduct progress monitoring of student achievement data and provide regular reports of students' progress to the students' parents and to the CPSEs.

A Notice of Proposed Rule Making will be published in the State Register on November 10, 2015. It is anticipated that the proposed amendment will be presented to the Board of Regents for adoption at the January 2016 meeting, and would generally become effective on January 27, 2016, with certain requirements delayed for required implementation to provide sufficient time for preschool providers to benefit from professional development offered by the Department and to implement the new instructional and behavioral standards.

Written comments on the proposed amendment will be accepted for 45 days after its publication in the New York State Register (comments must be received on or before **December 28, 2015**) and may be submitted to: James P. DeLorenzo, Assistant Commissioner, Office of Special Education, 89 Washington Avenue, Room 309 EB, Albany, NY 12234, Attention: Proposed Amendment – Preschool Special Education Programs and Services (email: spedpubliccomment@nysed.gov; facsimile: (518) 473-5387.

We request that written public comment regarding the proposed amendment be provided using the **Public Comment Submission Sheet**.

The public hearing sessions are scheduled as follows:

	New York City	Albany	Rochester
Date	November 18, 2015	November 23, 2015	December 1, 2015
Time	2:00 p.m. – 5:00 p.m.	2:00 p.m. – 5:00 p.m.	2:00 p.m. – 5:00 p.m.
Location	<p>ACCES Manhattan District Office 116 West 32nd St. 6th Floor New York, NY 10001</p> <p>Room Capacity: 45 (approx.)</p> <p>Directions: http://www.acces.nysed.gov/vr/manhattan-district-office</p>	<p>New York State Education Department Education Building Seminar Room 5A/B Albany, New York 12234</p> <p>Room Capacity: 45 (approx.)</p> <p>Directions: http://usny.nysed.gov/contact/driving.html</p> <p>Parking: http://ogs.ny.gov/BU/BA/Parking/Visitor/</p>	<p>Monroe I BOCES 15 Linden Park Meeting Room 2 A/B Rochester, NY 14625</p> <p>Room Capacity: 45 (approx)</p> <p>Directions: http://www.monroe.edu/locations.cfm</p>

- Preregistration is not required.
- The meeting rooms are accessible to individuals with disabilities. Individuals who need accommodations for a disability in order to attend the meeting (i.e., interpreting services and/or material in an alternative format) should notify the P-12: Office of Special Education at (518) 473-2878.
- You must bring photo identification and follow sign-in procedures, which may include a security scanning, as required at the door.
- Individuals may register to provide comment at the door on a first-come, first-served basis. Comments can be oral or written. Written comments that accompany oral remarks are optional.
- Participants wishing to provide comment between 4:45 p.m. and 5:00 p.m. must arrive and register no later than 4:45 p.m.
- Please check the following website prior to the meeting dates for additional information and any changes regarding these meetings:
<http://www.p12.nysed.gov/specialed/timely.htm>
- Questions regarding the public hearings or the proposed regulations may be directed to Joanne LaCrosse at (518) 473-2878 or Suzanne Corey at (518) 473-6108.