



| <b>NYS Requirement</b>   | <b>Citation</b>  | <b>How NYS Requirement is Different from Federal Requirement</b>   |
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| 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)<br><br>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)<br><br>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.  |

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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.                                 |
| 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 to 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)<br><br>480NY6()5(SR5(;       |   |



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Public Comment



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(as added by Chapter 501 of the Laws of 2012)  
 Social Services Law §483-d;  
 8 NYCRR §200.15

Public Comment

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| Two-year statute of limitations on |          | federal requirement for IHOs to obtain parent consent to conduct a hearing by video conference or teleconference. There are no federal requirements that a state set maximum rates for IHOs. |

Two-year statute of limitations on

Public Comment

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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)

Public Comment

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Public Comment

Public

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| 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)<br><br>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.

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| education itinerant services (SEIS), and the frequency, duration and location of indirect SEIS, must be identified in a  |  |   |
| For preschool students with disabilities grouped together in a special class the 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.<br>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)(iii)(c)<br><br>8 NYCRR §200.16(i)(3)(iv) | Federal law and regulation do not prescribe minimum days or hours of operation of providers.<br>Federal law and regulation do not prescribe minimum days or |



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