

New York Citywide Council
On Special Education:
2016-17/2017-18 Annual Report

New York Citywide Council on Special Education

28-11 Queens Plaza North

Fifth Floor – Room 522

Long Island City, New York 11101

Telephone: 718 391-8159

Fax: 718 391-8095

Email: ccse@school.nyc.gov

November 2018

Citywide Council on Special Education – 2016-18 Annual Report

INTRODUCTION

The Citywide Council on Special Education (CCSE) was created by the [state law that provided for mayoral control](#) of New York City schools. The council is comprised of 11 voting members, nine of whom are parents of students who have an Individualized Education Program (IEP). These members are chosen in a vote by selected members of the President’s Council for every community school district and borough and for District 75. The New York City Public Advocate selects the two additional voting members. The Public Advocate's two representatives must have extensive experience and knowledge in educating, training or employing individuals with disabilities. A high school senior who has an IEP is selected by the chancellor’s designee to serve as a non- voting member for one year.

The [law establishing the CCSE](#) requires that the council hold at least one public, open meeting per month. The other requirement is that the council issue an annual report assessing the effectiveness of the New York City Department of Education (DOE) in providing special education services to students with disabilities. The report should include recommendations on how these services can be implemented and improved.

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EXECUTIVE SUMMARY

The 2017-18 school year marked the end of Carmen Fariña's four-year tenure as school chancellor and the hiring of Houston school superintendent Richard Carranza to replace her. In his first months as chancellor, Mr. Carranza made few comments on special education and did not issue any new policies in this area.

As he familiarizes himself with the nation's largest school system and determines priorities and policies, we hope he will be guided by the information and recommendations in this report.

Some 20 percent of New York City public school students – about 190,000 children – receive special education services. This is more than the total number of children in the Philadelphia public schools. While many of these New York City students receive exemplary services, the CCSE knows from research, school visits and discussions with parents that special education in New York City falls short in many ways – ways that can affect people for their entire lives.

The CCSE acknowledges the collaborative spirit in which the leadership staff from the Special Education Office (SEO) engages with them, and the progress that has been made in recent years. Specifically, we are encouraged that students fully and partially receiving program services increased to 97 percent in 2017-18, up from 96 percent in 2016-17 and 92 percent in 2015-16. Students receiving full program services increased to 78.4 percent, up from 72.8 percent in 2016-17 and 59.2 percent in 2015-16.

While there is more work to do, there is a commitment to building on the progress that has been made.

In 2016-17, SEO implemented a programmatic service review – reports distributed weekly to schools and Field Support Centers with detailed information on each student with an IEP to ensure that students are programmed for courses correctly. In 2017-18, staff received further training and had more experience with the programmatic services review, and report distribution began earlier in the year than it had in the past.

SEO has hired more staff and is strengthening partnerships with providers and community-based organizations. Since 2013-14, the office has hired approximately 3,000 new special education teachers, 800 speech therapists and 500 occupational therapists.

These initiatives have contributed to significantly improved outcomes for students with disabilities. The four-year August graduation rate increased to 46.7 percent in 2016-17 from 30.5 percent in 2011-12, and the dropout rate decreased to 13.8 percent in 2016-17 from 19.9 percent in 2011-12.

As part of the DOE's commitment to ensure that every student has an appropriate postsecondary plan, the DOE has opened three out of five borough-based Transition and College Access Centers (TCAC). These centers support students with IEPs to plan for their next steps after high school. A fourth center is on track to open this fall in Queens, while the fifth will open next fall in Manhattan. In 2017-18, 2,915 students participated in work-based learning opportunities through the TCACs and more than 500 staff members received training on postsecondary planning.

The SEO has also launched initiatives that promote inclusive practices in schools, including "Just Say Hi," which promotes diversity through the lens of disability in 51 schools across the city. The Cerebral Palsy Foundation (CPF) launched the "Just Say Hi" campaign in collaboration with the city DOE to increase engagement with people with disabilities and address the unnecessary hesitation some people feel around those with disabilities.

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“Just Say Hi” ambassador schools are committed to helping students with and without disabilities in having conversations and building relationships, helping staff members develop truly inclusive classrooms and building a culture that considers disability an aspect of diversity within the school community. All ambassador schools participate in a one-day training on the cross-curriculum resource and professional learning supplement, and attend related events, including but not limited to meetings, celebrations and learning opportunities around inclusion.

OVERVIEW

The idea that students with disabilities have rights is a relatively new concept in the United States. Up until the last third of the 20th century, few students with disabilities went to public schools. Most were taught at home, attended expensive private schools or received little to no education. Then in 1975 Congress passed the [Education for All Handicapped Children Act](#), establishing the rights for all children, disabled or not, to have a public education.

The [Individuals with Disabilities in Education Act](#), (IDEA) enacted in 1990, required that schools provide individualized programs to meet the needs of students with disabilities. In 2004, Congress reauthorized the [Individuals with Disabilities Education Improvement Act](#) (IDEIA). It is this law that governs special education in the United States today.

The law sets out a series of requirements that must be met by schools receiving public funds in the U.S. Schools must evaluate all students with disabilities or who are suspected might have a disability. On the basis of that, the school district must develop an Individualized Education Program (IEP) for a student with a disability, provide the services called for in that program, and monitor and measure progress. The act also calls for students to be educated in the least restrictive environment (LRE) and requires that parents be informed of any special education programs available to their child as well as be allowed to sit on their child's IEP team.

The act recognizes 13 categories of disability. They are:

- Autism
- Deaf-blindness
- Deafness
- Emotional disturbance
- Hearing impairment
- Intellectual disability
- Multiple disabilities
- Orthopedic impairment
- Other health impairment (including ADHD)
- Specific learning disability (including dyslexia, dyscalculia and dysgraphia, and other learning issues)
- Speech or language impairment
- Traumatic brain injury
- Visual impairment, including blindness

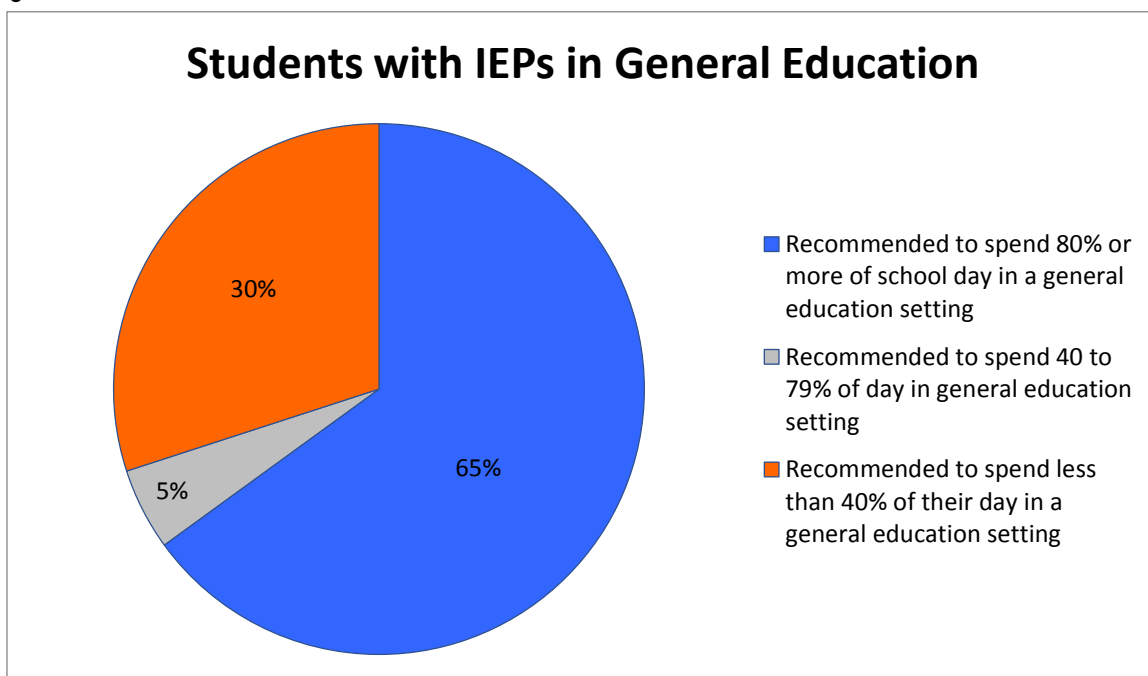
Simply having one or more of these conditions, though, does not qualify a child for special services. For that to happen, the evaluation must establish not only that the child has a disability but that that disability will hamper the child's progress in school unless he/she gets special help.

Schools in New York State provide a [range of services](#) to meet the needs of these students. Starting from the least and going to the most restrictive they are:

- General education program with no special services;
- General education program with some support, such as testing accommodations and management needs;
- General education program with related services such as a Special Education Teacher Support Services (SETSS) for a minimum of 2.5 periods per week. This can mean a special education teacher working with the child or working with the child's teacher so that that teacher can better

meet the child's needs. If the child receives the services directly, he/she may meet with a teacher individually or in a group.

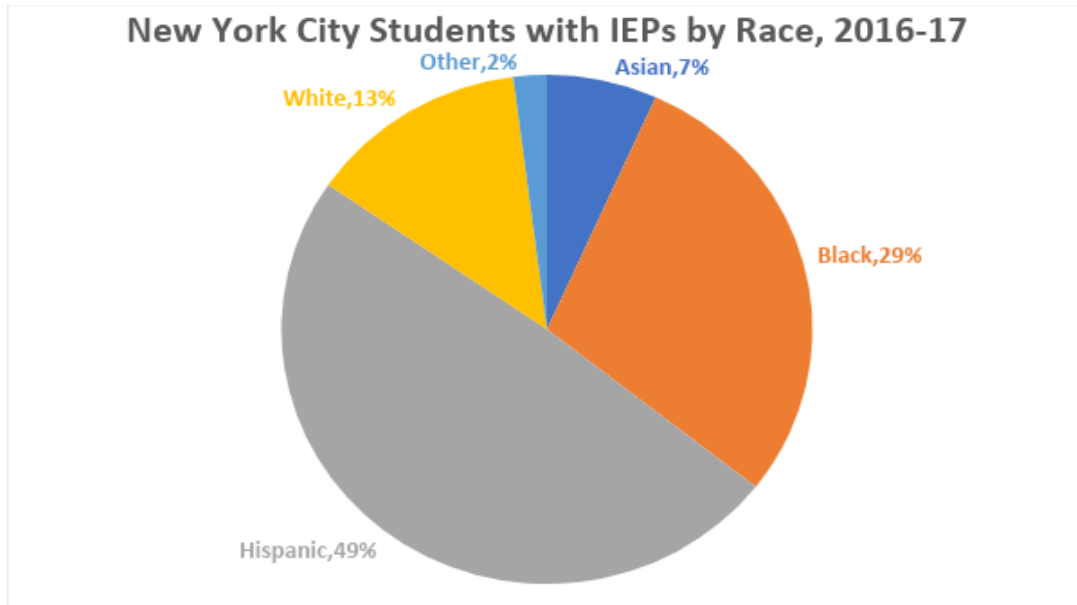
- Integrated co-teaching services. These are classes with two teachers, one of whom is a special education teacher, and a mix of general education students and students with disabilities.
- Self-contained classes in regular schools. All the students have IEPs though they may not have the same disability. These class sizes include 6, 8 and 12 and can include children whose ages span three years.
- Self-contained programs for students with more severe disabilities. Called District 75 programs in New York City, these offer classes for students who are on the autism spectrum, have significant cognitive delays, are severely emotionally challenged, have sensory impairment or are multiply disabled. These programs can be in district school buildings, in specialized schools and, in some cases, in hospitals or other agencies.
- Outside placements. These are given to a small percentage of students whose needs cannot be met by any of the city programs. In these cases, the student will go to a private school or other setting at public expense.
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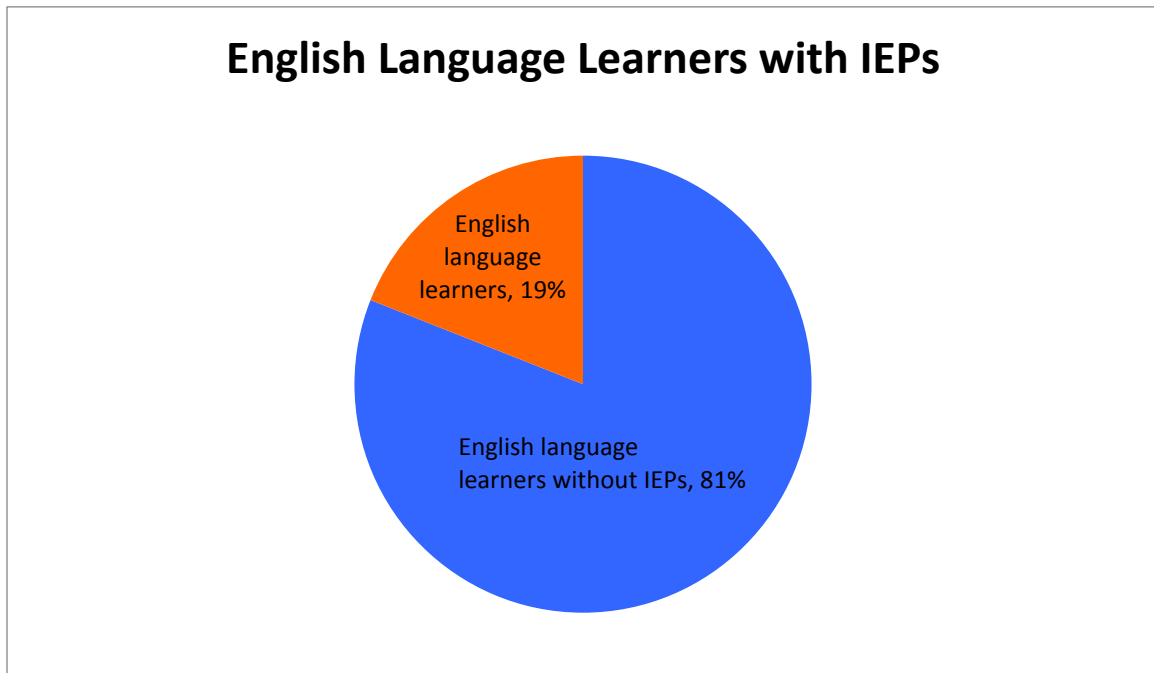
About two thirds of all New York City students are recommended to spend at least 80 percent of their school days in a general education setting. (Source: ["New York City Department of Education Local Law 27 of 2015 Annual Report on Special Education, School Year 2016-2017,"](#) Nov. 1 2017)

Special Education Students in New York City

In the 2016-17 school year, 193,361 New York City public school students, almost 20 percent of all city public school students, had IEPs.

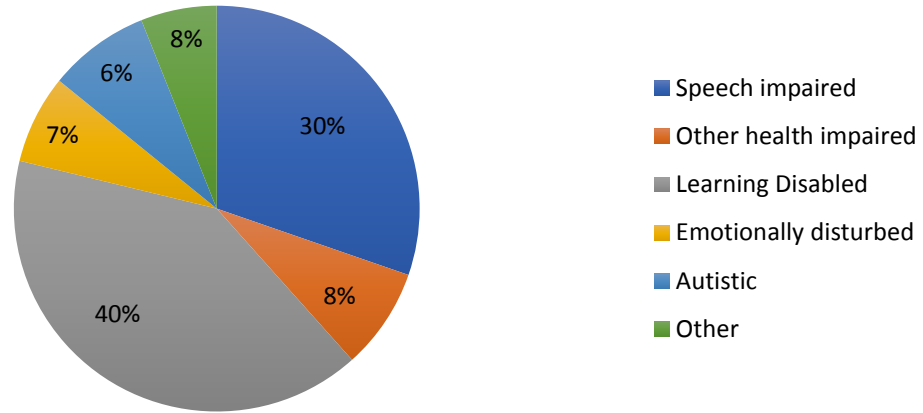


To some extent, the racial breakdown of students with IEPs reflects the city's overall public school demographics. In 2015-16, about 16 percent of all public school students were Asian, 27 percent were Black, 41 percent Hispanic, 15 percent white, and 2 percent other. (Source: New York City Independent Budget Office)



The percentage of English Language Learners with IEPs is similar to the percentage of students with IEPs among the New York City public school population as a whole. (Source: ["New York City Department of Education Local Law 27 of 2015 Annual Report on Special Education, School Year 2016-2017,"](#) Nov. 1 2017)

Students with IEPs by Disability, NYC Traditional Public Schools



Students with learning disabilities and speech or hearing impairments account for more than 70 percent of all New York City school children with IEPs. (Source: New York City Independent Budget Office)

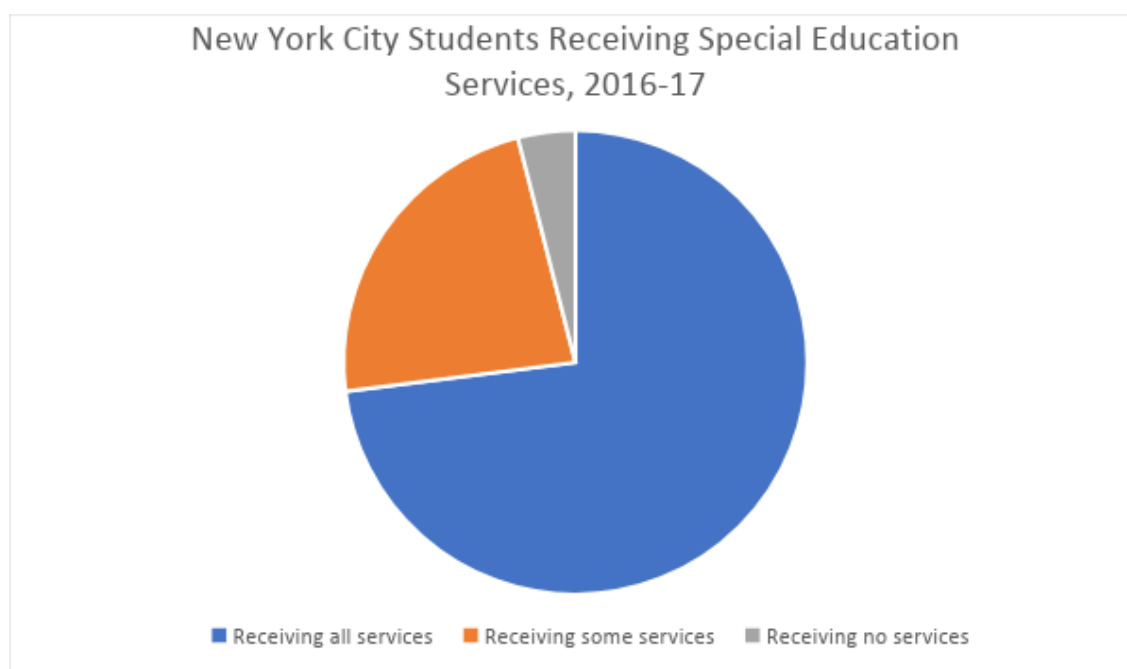
On most measures of student performance and achievement, students with IEPs lag behind the general population. They have lower standardized tests scores and graduation rates than the student population as a whole. (For details, see pages 18-21.)

SPECIAL EDUCATION IN NEW YORK CITY: CREATING BETTER OPPORTUNITIES FOR ALL OUR STUDENTS

The CCSE regularly meets with parents and school leaders, visits schools and attends meetings to assess the strengths and weaknesses of special education in New York City. We have identified a number of challenges that face special education here and affect the ability of all of our children to reach their full potential.

LACK OF SERVICES

While it is well and good for a student's IEP to call for robust and appropriate services, the best plan in the world is of little use if it is not implemented. Although the exact dimensions of the problem are not known because of the shortcomings of SESIS (see page TK), tens of thousands of children in New York City Schools do not get all of the services called for in their IEPs. In 2016-17, more than 7,000 received none of the services to which they were entitled, according to [figures provided by DOE to the City Council](#).

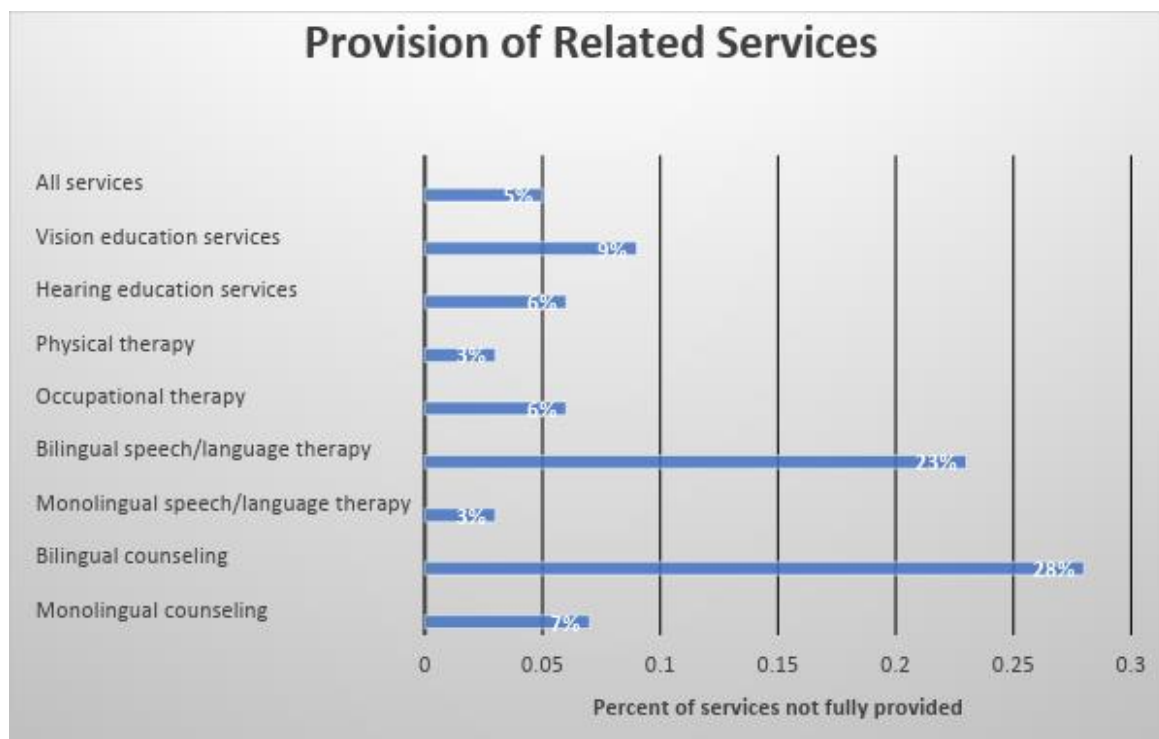


Of the 178,264 students with IEPs in New York City in 2016-17, 7,383 received none of the services recommended in their IEPs. (Source: [New York City Department of Education, Local Law 27 Annual Report on Special Education for the 2016-17 School Year](#))

A gap also exists in provision of related services. These are services, such as speech and language instruction, occupational therapy, physical therapy and counseling, that are provided to students to help support and assist their participation in their school program. These services must be recommended on the student's IEP and are to be provided to the student individually or in groups of no more than five children. DOE can provide these services directly, either with its own staff or the staff of associated agencies. If the department cannot provide the services, parents receive a Related Services Authorization (RSA) that allows them to use a certified independent provider at no cost to them.

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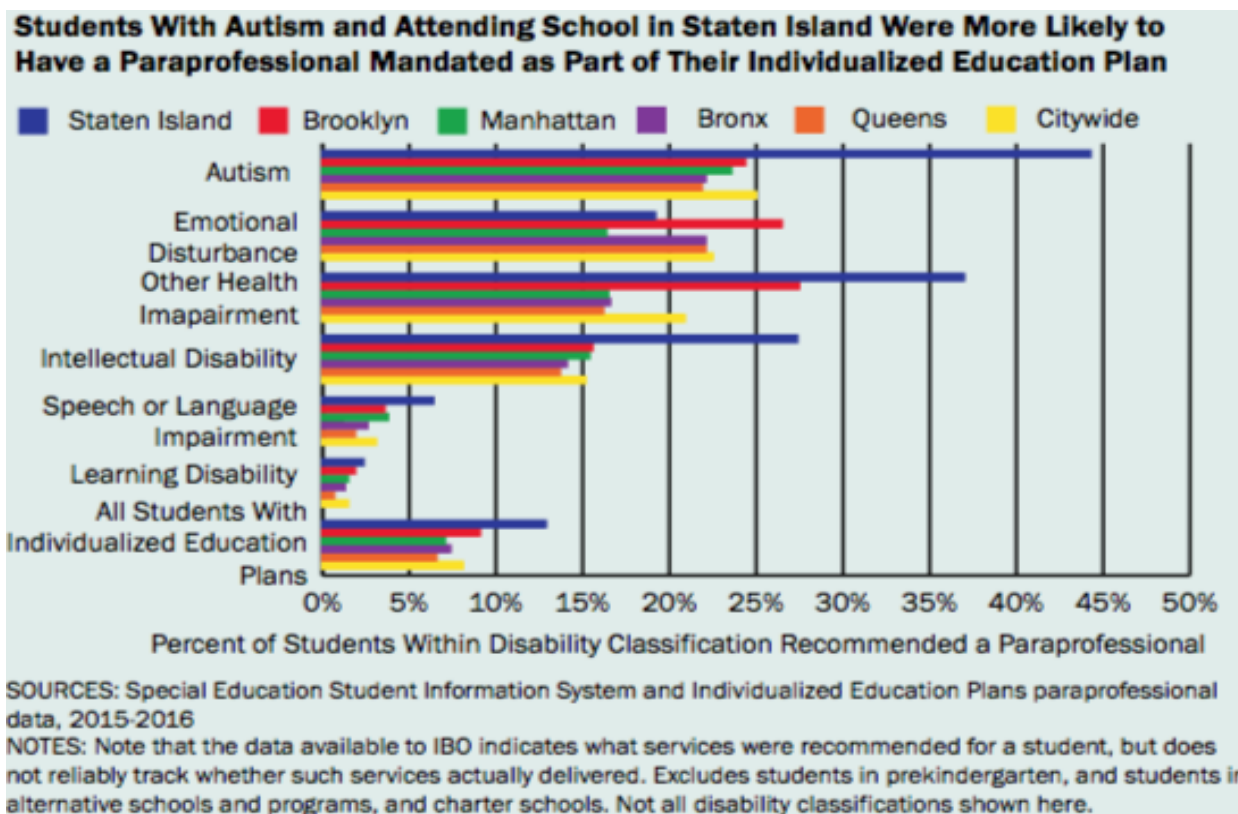
In 2016-17, student IEPs called for a total of 276,217 related services. Of these 13,086 were not provided. Another 1,672 were only partially provided. The gap varied depending upon the type of service. More than 25 percent of students who were supposed to receive bilingual counseling did not receive their full complement of services.



(Source: [New York City Department of Education, Local Law 27 Annual Report on Special Education for the 2016-17 School Year](#))

The report almost certainly understates the problem because DOE counts a service as having been delivered if a child has only one encounter with the provider. CCSE members know that there are frequent disruptions in the provision of these services when a provider becomes ill, goes on maternity leave, is redirected to cover a staff absence by a school principal or is otherwise unavailable. Because the DOE annual report only reflects a single encounter, it does not indicate whether there have been any disruptions in the service.

Discrepancies also exist in which students are recommended for services, such as having a paraprofessional assigned to them. A [study by the Independent Budget Office](#) found the likelihood that a student's IEP would call for a teaching assistant varied according to the student's borough of residence and disability. In general, students from Staten Island were most likely to receive a recommendation for a paraprofessional, with about 13 percent of IEPs for students in that borough having that recommendation. IEPs for Queens students, though, only recommended a paraprofessional in 6.6 percent of cases. In terms of disability, students on the autism spectrum were most likely to receive a recommendation for a teaching assistant.



Source: New York City Independent Budget Office, [“Are Some Students with Disabilities More Likely to Receive a Recommendation for a Paraprofessional?”](#)

Recommendations:

- *DOE must focus on making sure that all students receive all the services they need and are legally obligated to receive.*
- *In light of the persistent shortfall in the provision of services, the council will investigate initiating a lawsuit against DOE or joining or otherwise supporting an existing lawsuit.*
- *IEPs should call for the full array of services the student needs, without regard to his or her disability or where he or she lives.*
- *DOE should continue to provide Program Service Review Reports to each school.*
- *The Program Service Review process should be used to identify and strategically respond to the root causes of lack of services*

SPECIAL EDUCATION REFORMS

In September 2012, DOE instituted special education reforms requiring that every incoming kindergartener, 6th grader and 9th grader -- except for those with the most severe disabilities -- be placed in their locally zoned school or whatever other school their parents chose, without regard to any disability the child might have. This made every school responsible for providing students with disabilities with all legally mandated services outlined on their IEPs.

While DOE has called for all schools to be able to serve most students, many schools remain inaccessible to some children with disabilities. A [report released in 2018](#) by the ARISE Coalition and Parents for Inclusive Education found that 80 percent of New York City public schools are not completely accessible to students with physical disabilities.

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Advocates for Children [has found](#) that three community school districts – 12 in the Bronx and 16 and 21 in Brooklyn -- have no fully accessible elementary school buildings. District 7 in the Bronx and 14, 16 and 32 in Brooklyn have no fully accessible middle schools, and six districts, all in Brooklyn, have no fully accessible high schools. Overall, according to a [2017 report in Chalkbeat](#), 62 percent of city high schools are only partially accessible and only 13 percent are fully accessible. Because of this, parents either cannot select the school they would most like their child to attend or have to grapple with the child's mobility being limited at school. DOE does provide a list of accessible schools.

The city has spent about \$150 million over the last five years to address the problem. But fixing it is expensive: The advocates have projected that investing \$850 million over the next five years, far more than has been spent in the past, would boost the number of accessible schools from 20 percent to only 33 percent.

The implementation of the city's reforms coincided with New York State's efforts to develop policies to move more students with IEPs into less restrictive settings – an area in which New York State has historically lagged behind the rest of the country. While the CCSE generally applauds inclusion of students with disabilities in classes and other school settings with their peers who do not have IEPs, aspects of the reforms raise serious concerns.

There was no testing of the program, and DOE has not conducted a formal evaluation of it. DOE rolled out its special education reforms at 265 pilot schools in 2009-10 and 2010- 11. Despite a glaring lack of data on the results of the pilot programs, DOE then put the reforms into effect across the city in September 2012. The program has now been operating for six years and, as far as anyone can determine, there has been no systematic review to see what is working and what is not working.

The reforms resulted in more children being placed in less restrictive environments. While this is an admirable goal, the city has not examined whether this effort has resulted in students not getting services they need and to which they are legally entitled. In particular, as more children remain in neighborhood schools, there has been an increase in special education students in ICT classes, which have two teachers and a mix of general and special education students. The department has not evaluated this key aspect of the program.

As it implemented the special education reforms, DOE changed its funding formula to provide funds based on the number of students with disabilities in a school instead of the number of classrooms serving students with disabilities. Since funding is no longer tied to a particular setting – a self-contained 12-1-1-class, say – schools have less incentive to provide a more expensive service. As a result, a student's IEP may be altered to fit what is in the school, rather than the school altering its services to comply with the IEP. In fact, because the reforms decreased funding for self-contained classes and increased it for team teaching, principals have an incentive to move a child out of self-contained class and into an ICT setting – whether or not it is best for the child.

Some neighborhood schools may simply not have enough students requiring a service, such as a self-contained class, to offer it. That too can result in the department changing the student's IEP to fit the school's needs rather than having the school adjusting to meet the student's needs.

Recommendation

- *DOE now has five years of data on the reforms. It needs to have an outside review/audit of this and other information to determine the efficacy of the reforms, what the results have been and what needs to be changed. This review should include parents whose children have IEPs.*

PARENTS AND THE IEP PROCESS

Parents are an integral part of the IEP process. A parent, as well as a teacher or other educator, can request that their child be evaluated. After that evaluation, the parent is invited to attend the IEP meeting, along with teachers, a district representative and a school psychologist, to determine if the child is eligible for special education services and, if so, what those services should be. The [Individuals with Disabilities Education Improvement Act \(IDEIA\)](#) sets a specific timeline for completion of the initial evaluation and the offering of services/placement for the child. Under 200.4(b)(7) the initial evaluation must be completed within 60 days of receiving parental consent (because the type of day is not specified, it is calendar days). Under 200.4(d) the district is required to arrange appropriate special education programs and services within 60 school days of receipt of consent to evaluate.

If the child is determined to be eligible for and begins to receive services, the team will meet annually to review and revise the student's plan as needed. A three-year evaluation, also called a triennial, is conducted to determine whether there is a continuing need for special education services.

At its calendar meetings and during one-on-one encounters with parents, the CCSE has learned that parents feel strongly that the IEP teams do not respect their concerns or suggestions regarding their child's services. Meetings often will be scheduled without consulting parents on date or time. It is not until parents are given the [Family Guide to Special Education Services for School Aged Children: A Shared Path to Success](#) (page 7) that they learn that the CSE/IEP team will invite them "to attend a CSE/IEP meeting at a mutually agreeable date and time." In addition, CSE/IEP teams do not regularly provide parents with copies of reports and other vital information unless parents ask for them. This has been a longstanding issue despite the federal regulation [CFR 34 300.613](#) which states, that parents are entitled "to inspect and review any [education records](#) relating to their children" and that the government must comply with parents' requests for those records.

Parents have told the CCSE that this lack of information and support leaves them feeling frustrated, depleted, isolated and unsure of how to ensure that their children receive the education to which they are legally entitled. Parent Counseling and Training, a Related Service to help parents understand their child's needs and "support implementation of their child's individualized education program," can be added to an IEP. We have been unable to ascertain how often this service is recommended on an individual's IEP, but we believe that adding Parent Counseling and Training would be helpful to parents who struggle to understand their child's special needs and who have no/little information regarding the diagnosis

In an effort to ensure that parents have a representative at their IEP/CSE meeting, DOE has contracted with local organizations to train parent members. These parent members are then made available to parents if, and only if, the parent has requested to have the parent member present. That request must be made at least 72 hours before the meetings. As many parents receive notice of the scheduled meeting five business days or less before the meetings are scheduled, asking for a parent member becomes problematic. Although there have been complaints about the quality of these representatives, many parents have told the CCSE that having them as a resource is better than nothing.

Delays plague the IEP process. According to DOE figures, more than 4,500 students had to wait more than 60 days for an IEP meeting after an initial evaluation during the 2016-17 school year. The length of the wait ranged considerably across the city. In Community School District 4, which includes East Harlem, 42 percent of families referred had to wait more than 60 days for a meeting, but in Brooklyn's District 21, 12 percent of families had to wait that long.

Recommendations:

- *Before an IEP can go into effect, DOE should provide parents of students with disabilities with all necessary documents, including, but not limited to, evaluations, observations and assessments performed to determine a child's special education needs in the parents' language of choice.*
- *Before every IEP meeting and attached to the notice of the meeting, DOE should provide parents with all necessary information regarding the child's progress, including but not limited, to any classroom assessments, progress reports, evaluations or observations*
- *Parents and guardians should leave every IEP meeting with the Service Summary Page at the very least.*
- *Before an IEP can go into effect, DOE should provide the parents with a draft copy of their child's IEP in writing, with enough time for the parents to read and review the document before they sign it.*
- *The DOE shall mail a letter to all new public school parents that provides clear, concise information on how to access appropriate supports and services for their children. That letter should be available in all 10 common languages.*
- *DOE should assign parent members to IEP/CSE teams on a rotating basis so that, if requested, parent members can be present at IEP/CSE offices to provide parents with information and referrals as well as attend IEP/CSE meetings.*
- *Parent counseling and training, a Related Service to help parents understand their child's needs and service, shall be offered to every initial IEP developed at the Committee on Preschool Education or the Committee on Special Education.*
- *All schools must send progress reports and other assessments of students with IEPs home along with the student's report card.*

SESIS

DOE's Special Education Students Information System (SESIS) is an electronic system that is supposed to provide information on whether a child is getting services, notes on the child and other records. Launched in 2011, SESIS [cost the city](#) at least \$130 million to develop and millions more to fix, but for many years it did not do what it was supposed to. Parents have not had access to SESIS and even DOE staff could not use it to get needed information.

In DOE's own 2015-16 *Annual Report on Special Education*, the department acknowledged problems with SESIS, stating, "Major deficiencies in SESIS' design for capturing, processing and storing information continue to affect the DOE's ability to reliably report specific compliance metrics (e.g., timeliness of evaluations)." In February 2016, Public Advocate Letitia James [filed suit against the city](#), charging that SESIS had cost the city \$60 million a year in lost Medicaid reimbursements and made it impossible for the city to track whether students with IEPs are receiving the services they are entitled to under law.

In response to the complaints, DOE in 2016 conducted a review of SESIS. It created a number of full-time staff positions for people whose job it would be to fix SESIS and said it would spend \$6.3 million over five years to upgrade and maintain the system.

A [DOE report issued in 2017](#) revealed the magnitude of the problems with the system. For example, searches would time out as often as 3,100 times in a single day and one type of inquiry on IEPs failed about 800,000 times a day. In response to such problems – and a [settlement](#) requiring the city to

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reimburse teachers \$33 million for hours they spent outside the workday trying to use SESIS – the city spent millions of dollars on technical upgrades and staff aimed at fixing SESIS.

DOE believes these efforts have paid off. In its [2016-17 Annual Report on Special Education](#), the department said it had achieved “originally intended SESIS functionality (such as for assignment of related service providers), which will eventually result in automation of ongoing reporting and oversight as well as increased scope and reliability of data.” It conceded, though, that the system was still not functioning entirely as intended and that, in compiling data, the department staff still had to rely, at least partly, on manual, labor-and-time intensive processes.

The progress [brought praise](#) from Public Advocate James. “The new assessment and recommendations from the DOE show a clear trajectory towards fixing this broken system, in line with what my office has called for,” she said in a statement.

In a presentation to the CCSE in April 2018, the department said it has been continuing to improve SESIS’ functioning. It also said it had provided training on how to use the system and has added eight trainers. SEIS can now be used in conjunction with the DOE STAR (Student Transcript and Academic Reporting System), which allows schools to match a student’s academic program with the classes called for in the child’s IEP.

Recommendations:

- *The office of the City Comptroller should conduct a thorough independent audit of SESIS.*
- *DOE should continue to create and install updates to SESIS*
- *SEIS needs to be improved to enable centralized tracking of provision of services.*
- *Parents need to have direct and easy access to SESIS so they can monitor the provision of services at the school level.*
- *DOE currently provides a portal for parents of general education to access information about their children; there needs to be a similar access point for parents of students with IEPs.*

MEDICAID PAYMENTS FOR SPECIAL EDUCATION

Beyond the burden on parents and teachers, the problems with SESIS have affected the city’s ability to get millions of dollars it is owed by the federal government.

Since 1988, under federal law, school districts have been allowed to bill the federal Medicaid program for certain services in a child’s IEP. The services must be medically necessary, documented in the IEP and ordered by a physician, according to the city Independent Budget Office. The city must submit evidence that the services were delivered by a licensed and approved provider and document every instance in which the service was provided.

In the early years of the 21st century, the federal government began subjecting the reimbursement claims to closer scrutiny. After a federal audit, the state had to return \$450 million and the city had to forfeit \$100 million.

SEIS was developed at least partly in response to the need for record keeping. In 2005, the city received the amount of Medicaid reimbursements it had anticipated. In the following years, though, there was a dramatic fall-off, with the city possibly losing hundreds of millions of dollars. A [2016 report by the Independent Budget Office](#) said, “Since 2011 the city’s ability to track, report on and claim federal reimbursement for the delivery of special education services has been limited as the DOE struggled to build and roll out a new software system.”

The IBO found that the problems persisted: “In 2012 through 2015, actual reimbursements have fallen short of the city’s initial projections by a total of \$373 million, as technical obstacles and other implementation problems have stymied efforts to claim more than a small fraction of potential Medicaid reimbursements for services provided to eligible students.” The documentation provided by SESIS simply did not meet federal standards. As late as 2016 – five years later – “Those struggles are still continuing — and compromising the education department’s ability to ensure students are getting necessary services,” the IBO said.

With the fixes to SESIS, the city anticipates an increase in reimbursement from Medicaid. Its goal is to receive reimbursements totaling \$97.5 million for the 2018-19 fiscal year.

Recommendation:

- *DOE needs to conduct an audit of the loss of money in reimbursement from Medicaid and how to remedy the situation.*

DISCIPLINE

Schools suspensions continued to drop in 2016-17, falling to 35,234, a decline of 6.4 percent from the previous year. The number of arrests in schools and summonses issued to students also dropped. With Mayor de Blasio having focused on changing discipline policies, the declines continued a trend. In five years, suspension dropped by 34 percent.

That trend, though, showed signs of ending in 2017-18. In October 2018, the city released [data](#) showing a 4.1 percent increase in the number of suspensions in 2017-18, compared to the previous school year, in the wake of several violent incidents, including the stabbing death of a student at a Bronx school. The bulk of the increase took place during the first half of the 2017-18 year. Despite the increase, suspensions in 2017-18 were down about 32 percent from 2013-14.

A disproportionate number of suspensions continued to go to students with IEPs. These students accounted for 40 percent of suspension in 2017-18, compared with 39 percent the previous year. Black students also are suspended at a disproportionate rate.

Numbers for the first half of 2017-18 showed that the number of students taken from school by emergency personnel because of an emotional or psychological condition increased by 13 percent from the same period the previous year, to 547. The practice of using emergency personnel to deal with students who may misbehave or act out has been criticized for unfairly targeting students with IEPs whose disability may cause them to act out or misbehave. Some staff, particularly those who do not know the student, may overreact and call emergency services.

The high suspension rate for students with IEPs is a national issue. According to the [U.S. Department of Education’s Office for Civil Rights](#), students with disabilities made up 12 percent of U.S. student enrollment in 2015-16, but accounted for 26 percent of out-of-school suspensions and 28 percent of the students who were referred to law enforcement or arrested.

New York State requires that students with IEPs who evidence problem behaviors undergo an assessment, known as a [Functional Behavioral Assessment](#) or FBA. If necessary, the assessment team may develop a [Behavior Intervention Plan](#). According to the state education department, the plan "includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs, and intervention strategies that include positive behavioral supports and services to address the behavior."

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When problems arise, a teacher or other staff member is supposed to follow this plan. Many teachers, however, fail to do that. This is particularly likely when the teacher involved is not the student's classroom teacher but a so-called cluster teacher, such as a music or physical education instructor, or other school staff.

Many city and state policies on discipline do not apply to publicly funded, privately run charter schools, which can adopt their own discipline policies as long as they comply with federal and state law. A February 2015 [report by Advocates for Children](#) found that discipline policies of many charter schools do not meet this requirement. In particular, it noted, the law prohibits charter schools from suspending or expelling a student because of his or her disability. However, the report found, "36 of the 164 NYC charter school discipline policies we reviewed fail to include any additional procedures for suspending or expelling students with disabilities, in violation of federal and state law."

Although some charter schools do not suspend students, [figures](#) compiled by the United University Professions union from 2014-15 New York State Education Department figures found that many suspended far more students than nearby district schools. For example, Bronx Preparatory Charter had a suspension rate of 28 percent compared to a 1 percent rate for the schools in the Community School District where it is located. While Community School District 5 in Manhattan had a suspension rate of 2 percent in 2014-15, Democracy Prep Harlem Charter School, which is located in that district, had a suspension rate of 29 percent. The figures did not provide any breakdown of which students were most likely to be suspended. Critics have charged that at least some of the schools that have high suspension rates use suspensions to push out children who are difficult to deal with or who might lower the school's scores on standardized tests.

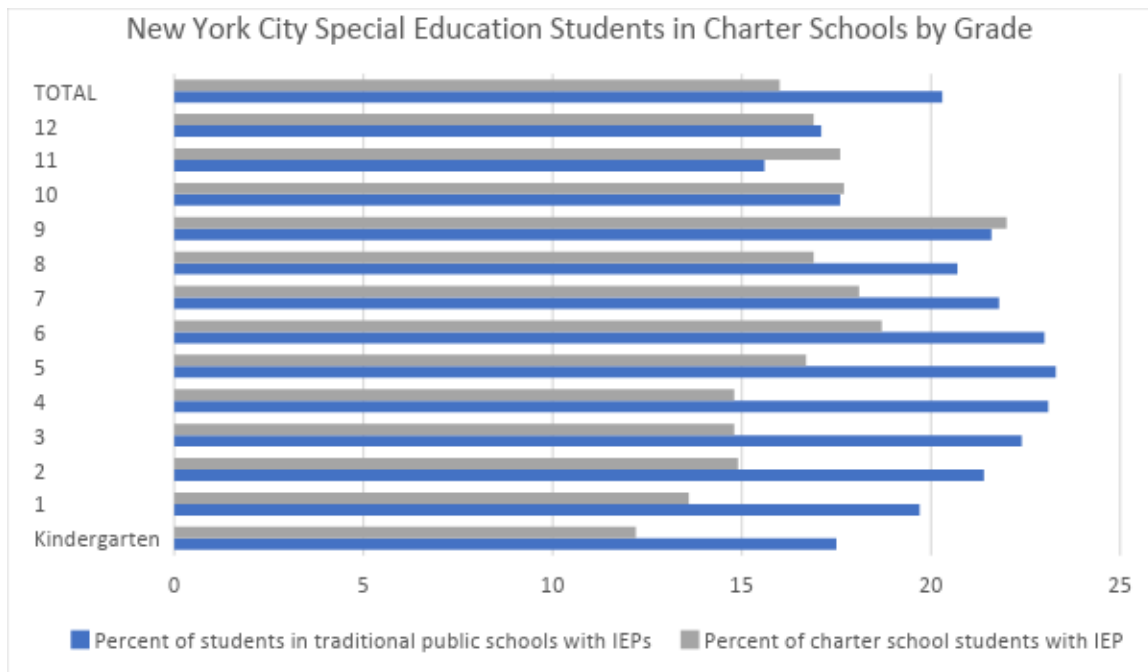
Recommendations:

- *Mental health services and crisis intervention teams should be made available to all public schools.*
- *Training should be provided to school staff, including principals, and to parents concerning de-escalation strategies and social-emotional issues facing students, and the best methods to help students cope.*
- *Mental health services should be made available to students with frequent behavior issues and be provided on an ongoing basis.*
- *Every school should have a crisis intervention plan that must be put into action before the school calls 911 to deal with a student's behavior.*
- *Functional Behavior Assessments and Manifest Determination Reviews must include a mental health professional/clinician, who should be the facilitator, and the parent/guardian of the child in question.*
- *Annual School Safety Meetings should cover de-escalation plans and information on suicide assessments along with clear and concise information on school safety protocols. Community members and relevant community-based organizations should be invited to these meetings and meeting minutes should be publicly posted.*
- *Authorizers of charter schools should ensure that the charter schools follow state and federal law with regard to disciplining students with IEPs.*

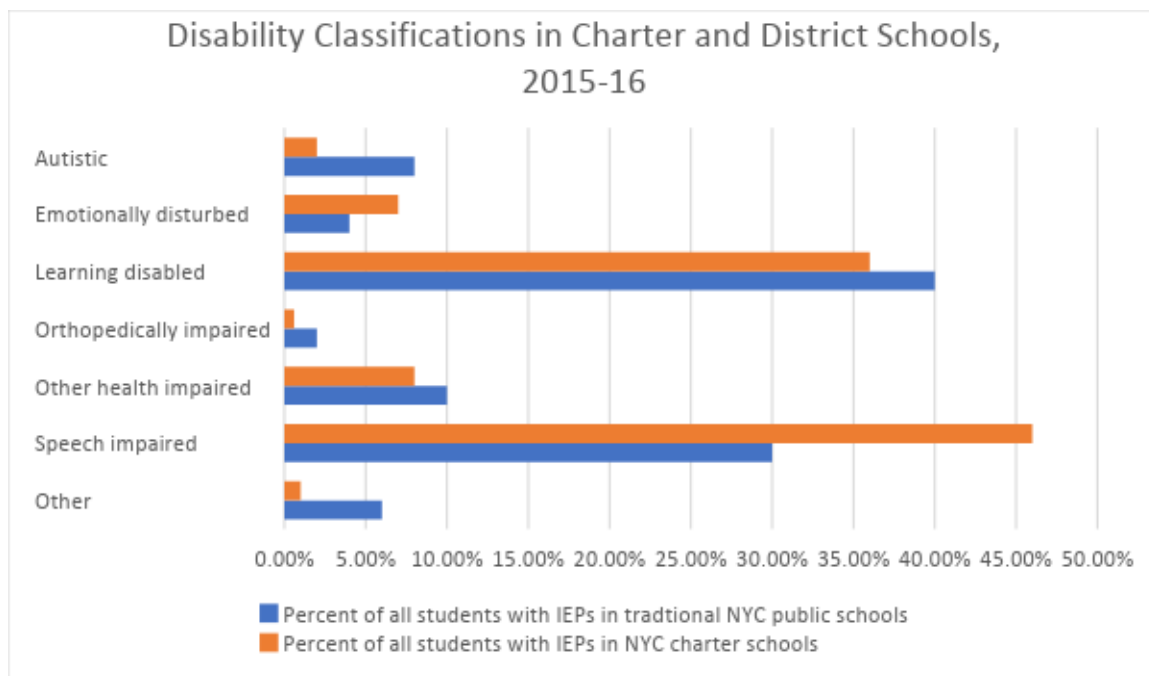
CHARTER SCHOOLS

The growing number of publicly financed, privately run charter schools in the city has raised a number of issues related to children with IEPs. About 114,000 city children [attend](#) 227 charter schools in the five boroughs.

The issue of whether charter schools exclude students with IEPs has been the subject of heated debate and warring statistics. According to the [Independent Budget Office](#), in 2015-16, traditional public schools had a higher percentage of students with IEPs than charter schools did. Slightly more than 20 percent of traditional public school students had IEPs compared to 16 percent of charter school students.



Publicly funded, privately run charter schools generally take fewer students with IEPs than traditional district public schools. These figures are from 2015-16. (Source: [New York City Independent Budget Office](#))



Charter schools not only have a lower percentage of students with IEPs than traditional public schools, but according to some critics, the special education students in charter schools tend to be less severely disabled than those in the traditional public schools. (Source: [New York City Independent Budget Office](#))

There are a number of explanations for why charters could have fewer students with IEPs than their district counterparts. Significantly fewer students with severe disabilities enter the kindergarten lottery to apply to a charter school. Charter schools are less likely than district schools to classify a student who has a disability as needing an IEP.

Although, like traditional public schools, charters are supposed to be open to students with IEPs, many cannot accommodate students with special needs and/or are reluctant to provide the services they need. In addition, some charter schools have policies, such as strict discipline and longer school days, that may have a deleterious effect on some children with special needs.

Unfortunately, Local Law 27, which was passed by City Council in 2015 and requires DOE to provide extensive data about students with IEPs in traditional public schools, does not cover charter schools. As a result, no data is available about charter schools’ compliance with law. Since they are privately managed entities, they are not required to release the same information that traditional public schools do, even though they are publicly funded.

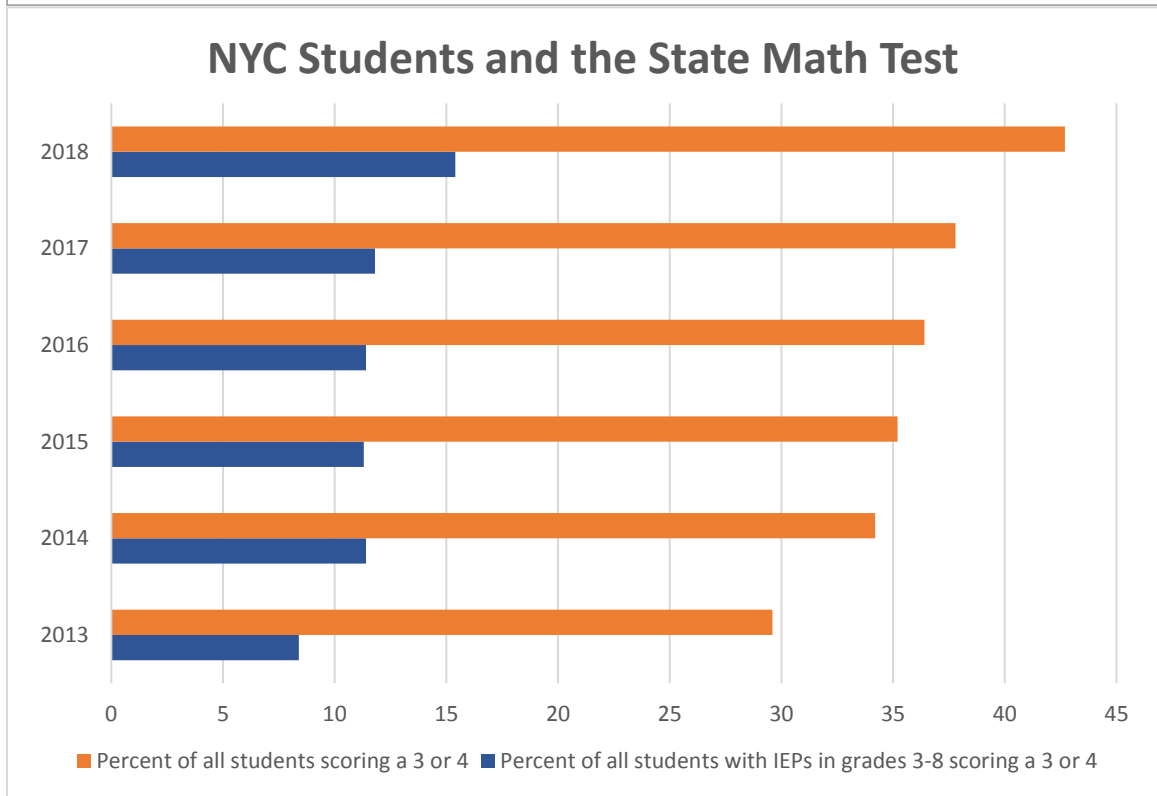
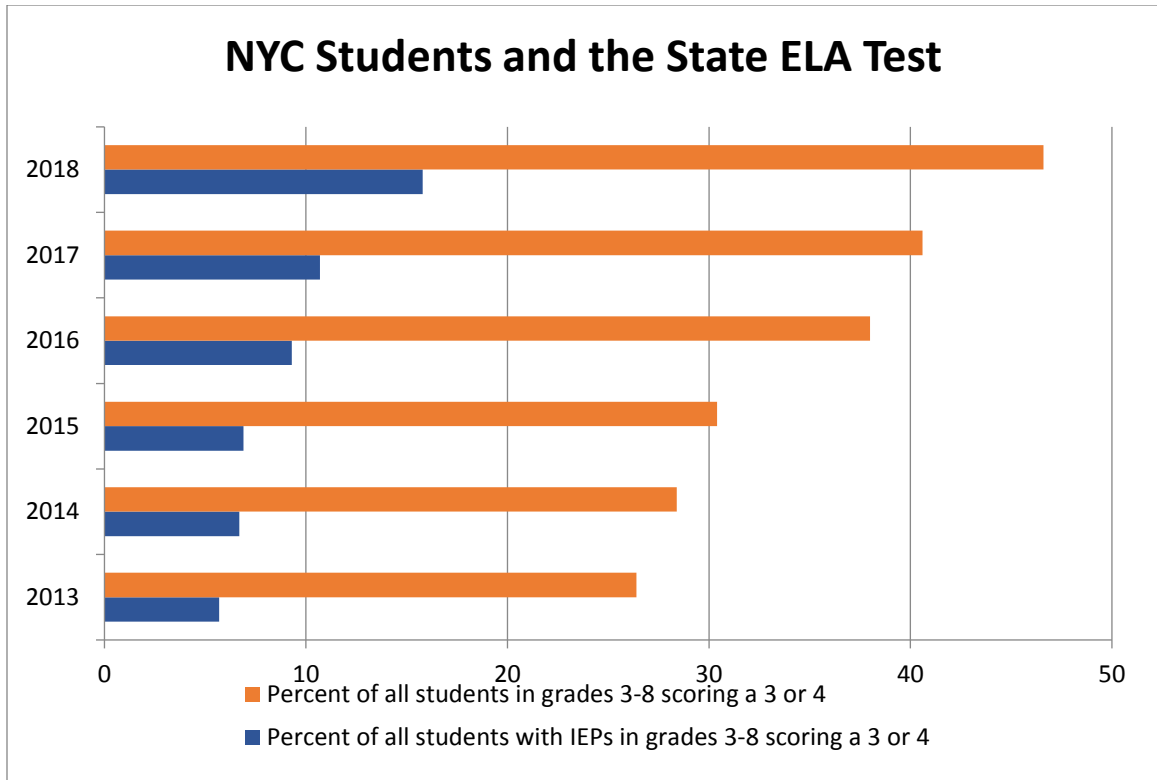
Recommendations:

- *New York State’s charter authorizers should require that, as publicly funded schools, charter schools provide all programs and services mandated in the IEPs of their students.*
- *When charter schools are up for renewal, all New York State charter school authorizers should make public data including but not limited to: the number of applicants to the school with IEPs, diversity of applicants, student attrition, graduation rates and provision of related services, types and number of services and classrooms required and provided (i.e. self-contained versus co-teaching versus general education).*

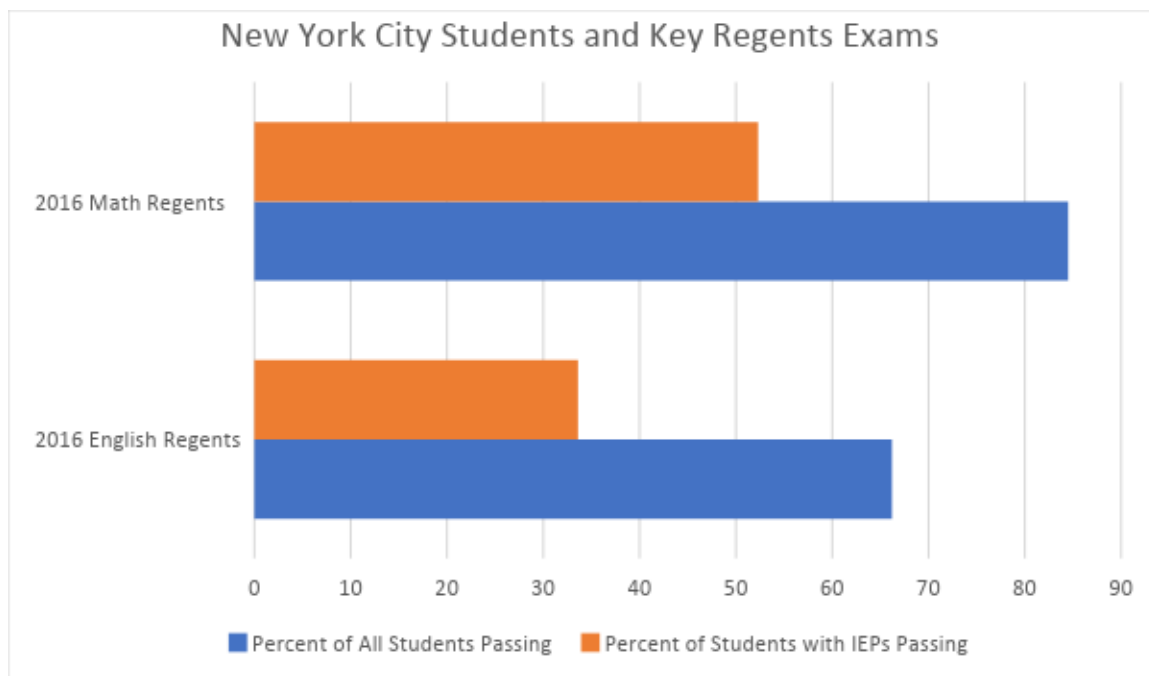
- *In situations where mandated services were not provided, the school in question should be required to thoroughly explain why and detail what steps it took to obtain the services. Schools should compile a list of all students who transfer out of the charter school, why the child transferred and where he/she transferred.*

RAISING TEST SCORES FOR STUDENTS WITH IEPs

Students with IEPs get lower scores on standardized tests and are less likely to graduate on time than the general student population. In 2018, students with IEPs scored significantly lower on the annual New York State standardized tests in English Language Arts (ELA) and Math – administered to students in grades 3 through 8. Just 15.8 percent of students with IEPs met proficiency standards on the ELA exam (a Level 3 or 4). This represented a considerable increase from 2017 when only 10.7 percent of students with IEPs got 3's or 4's, but it still lagged appreciably behind the scores for all city students, 46.6 percent of whom were considered proficient. Only 15.4 percent of students with IEPs were proficient in Math in 2018, compared with 42.7 percent of all students. Although the results for students with IEPs remain low, they have improved in the last five years. In 2013, for example, only 8.4 percent of students with IEPs scored proficient on the state Math test.



Source: New York City Department of Education



Source: New York City Independent Budget Office

One issue that may affect academic performance is attendance. Students with IEPs are more likely to miss class time than other children in New York city schools. In 2016-17, almost 35 percent of students with IEPs were chronically absent, meaning they missed 10 percent or more of all school days. For students without IEPs, the figure was 22.5 percent.

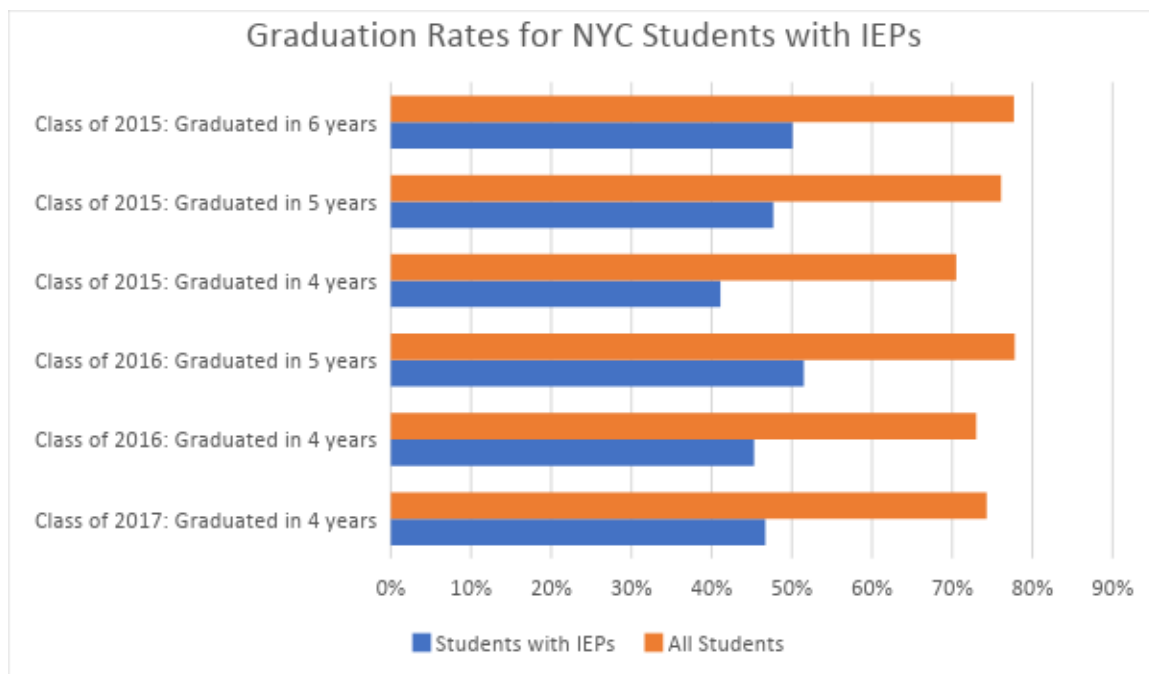
Recommendations

- *The provision of testing accommodations should comply with the [New York State testing accommodations handbook](#).*
- *All students regardless of age – even those as young as kindergarten -- should receive testing accommodations since students are now assessed as early as kindergarten.*
- *Progress reports on the use of testing accommodations mandated on a student's IEP should be provided with every report card. This information should include what does and does not work.*
- *Create a testing accommodations checklist for parents to review.*
- *Consider a reconvening of the IEP meeting to modify testing accommodations as needed prior to the state tests in the spring.*

HIGH SCHOOL GRADUATION

The high school graduation rate for students with disabilities continues to climb, with 47 percent of those who entered high school in 2013 graduating in June or August of 2017. This compares with 38 percent who entered in 2009 and would have been in the class of 2013. At the same time, however, the overall graduation rate has continued to inch up steadily, and so the gap between the four-year graduation rate for all students and for students with IEPs has persisted at around 28 percentage points.

Some students with IEPs benefit from taking more time to graduate. Half of these students who entered high school in 2011 had graduated six years later.



Over the past few years, the state, which had previously tightened graduation requirements, has eased the graduation requirement for some students with IEPs. In December 2017, the Board of Regents [decided](#) that students with disabilities will no longer have to pass Regents exams in English, math and other subjects to earn an alternative diploma, called a local diploma. The local diploma is not the more rigorous diploma earned by most New York graduates but is accepted by colleges, the military and some employers. Previously students with disabilities had needed scores of 55, as opposed to the 65 required of general education students, on their math and English Regents in order to get the alternative diploma. The latest policy changes the low pass option.

To earn a local diploma, the students will still have to take the courses and the tests. But if they do not pass, their superintendent, at the request of the student’s parent, can conduct a review to determine whether the student has knowledge, skills and abilities in the subject. The student will also have to earn a work readiness credential known as the [Career and Development Occupational Studies Commencement Credential](#) (CDOS). The credential, created in 2013, is available to students with IEPs and indicates the recipient is prepared for an entry-level job. It requires a student to have developed a career plan and completed 216 hours of career and technical education classes and/or “work-based learning experience.”

The state also allows students with disabilities to earn the CDOS alone or a "[Skills and Achievement Commencement Credential](#).” Neither of these two credentials alone is "a regular high school diploma in accordance with state standards or for federal accountability purposes," but parents may not be aware of that. Many parents and students do not understand alternate assessments and how getting one of these certifications instead of a diploma could affect a student’s future. The credential, for example, is not considered a diploma by the military and many colleges and employers.

Recommendations:

- *DOE should provide clear information to parents regarding their child’s eligibility for a high school diploma in advance of the student’s enrollment in any alternative assessment program. Parents and students should be aware that students in alternate assessment programs will not*

- receive a high school diploma, and they should be clearly informed of the ramifications that not having a high school diploma could have on the student's future.*
- *DOE should work to ensure that both classroom work and work-related experience required for the CDOS meet the demands of the workplace.*
 - *DOE should be provided guidance counselors and transition experts to address the specific concerns of students with IEPs and to advise those students.*
 - *DOE should expand and implement the Middle School Pilot Program concerning college and career readiness.*

DEPARTMENT OF EDUCATION OPERATIONS

Restructuring: Less than three months after becoming chancellor, Mr. Carranza [announced a substantial restructuring](#) of DOE, creating a new layer of executive superintendents who will oversee the district superintendents and the executive directors of field support centers. Mr. Carranza also created the post of chief academic officer, who will be responsible for special education as well as teaching and learning, and English language learners. This means there will no longer be a deputy chancellor for special education reporting directly to the chancellor. Instead the deputy chief academic officer of special education and student services will be under the department's chief academic officer. In August 2018, Mr. Carranza appointed Linda Chen, a former Baltimore schools chief academic officer and New York City principal, as chief academic officer. Corinne Rello-Anselmi, who had been the deputy chancellor for specialized instruction and student services, will remain at the department and in charge of special education. Her new title is deputy chief academic officer of special education and student services.

Recommendations:

- *Given the large number of students with IEPs, the complexity of the issue and the amount of money involved, the DOE official in charge of special education should have a direct link to the chancellor rather than having to go through another official.*
- *DOE Administration should have ongoing dialog with parents, parent leaders and the community prior to further restructuring.*

Budgeting: New York city spends more than \$4 billion a year on special education, Under the city's fair student funding formula, individual schools receive extra money for students with IEPs. The increment varies, depending on a student's age and the types of special services he/she needs. This money goes into the school's general budget where it funds special education teachers and classroom paraprofessionals. Some other programs, though, such as services delivered outside of school or to several schools, receive [special budget allocations](#). Some of these programs and their FY2018 allocations were:

- [IEP teachers](#): 960 additional special education teachers provided to selected schools to ensure teacher participation at IEP meetings and to provide instruction and intervention when needed -- **\$80,974,688**
- [IEP paraprofessionals](#): Funding for paraprofessional support services mandated by student IEPs -- **\$441,312,538**
- [Related Services](#): Services mandated by a student's IEP designed to help and support students' participation in their school programs. It includes speech, counseling, occupational therapy and physical therapy -- **\$389,475,326**
- [Adaptive physical education](#): Programs designed for students with disabilities who may not be able to safely or successfully participate in a regular physical education program -- **\$12,824,505**
- [Specialized programs](#): Autism Spectrum Disorder programs, such as NEST and Horizon, and bilingual special education -- **\$122,064,751**

Recommendations:

- *The Department of Education should be more transparent and clear as to where the billions of dollars for special education come from and how the money is spent.*
- *District 75 programs must receive the Title 1 money they are entitled to. Many District 75 programs qualify for this money but, as of now, none of them are receiving it.*

Transparency: Since local Law 27, was passed by the City Council and signed into law by the mayor in 2015, DOE has had to provide more information on special education, including the number of students receiving special education referrals, the number of students with IEPs by Community Education District, race, ethnicity and economic status; and the average length of time it takes for a student to be placed in a program with necessary services. However, much information is still not available.

Recommendations:

- *The department does not provide staffing breakdowns for administration, enrollment, classroom teachers, and other service providers including aides, related service providers and various support staff.*
- *Attendance rates for student with IEPs compared to general population are not easily accessible*
- *It unclear what percentage of students with IEPs attend their zoned schools. The placing of more students with IEPs in their neighborhood school is a key goal of the special education reforms, so the public needs to know how successful the reforms have been in achieving this.*

Transportation Issues

All too often students with disabilities cope with long bus rides, unreliable transportation, and uncomfortable or even unsafe conditions on buses. These problems are long-standing and a constant source of stress and concern to many special education students and their families. The New York State Department of Education has [determined](#) that trips as long as one and a half hours are not unreasonable in some situations. This kind of commute clearly puts a huge burden on students and can cause them to miss classroom time or afterschool activities. This is exacerbated by safety concerns.

One issue has been the bus attendants, who are supposed to ensure that student remain safe as they travel to and from school. Although these attendants have personal contact with students in what can be a stressful environment, they may be ill-prepared to deal with crises that can occur. The attendants typically do not have access to student IEPs and may not have the training to deal with specific issues that may arise on long bus trips, such as behavioral issues and medical problems.

Parents of very young children or children who cannot express themselves are understandably anxious that incidents could take place during long bus rides that they would have no way of knowing about. This could include bullying by students or unprofessional behavior by a bus driver or attendant. Although the DOE was supposed to test a program with cameras on buses, progress has been slow.

Students and parents have long complained of overheated buses in the summer but the issue gained prominence in July 2014 when Aljaah Jewett, a District 75 student, said that her bus was so hot she

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needed to go to the hospital for medical treatment. Monitoring after this incident indicated that the problem of overheated buses persisted, with parents [saying](#) some buses were as hot as 91 degrees

Whatever the shortcomings of yellow bus service, though, families rely on it. All students in grades kindergarten through 2, whether or not they have an IEP, get free yellow bus service if they live more than a half mile from school, and those in grades 3 through 6 qualify for school bus service if they live more than a mile away. In 7th grade, however, students living far enough from their schools to qualify for transportation get free or reduced-price Metro Cards instead of yellow bus service. This change often comes as a shock to parents of students with IEPs who can ride a school bus with no problems but cannot navigate public transportation. Parent need to request specialized transportation for their 7th through 12th grade children, but many families do not know that.

Recommendations:

- *DOE should report to the parents of individual children and to the CCSE on the dates and types of mandated training that drivers and attendants have received.*
- *While drivers and escorts should not have unfettered access to children's IEPs, they should be better trained and be informed of any needs or problems regarding individual children as it relates to busing.*
- *The city should require that all buses used in transporting students with IEPs be equipped with cameras.*
- *DOE should make parents aware of changes in transportation arrangements well before students enter 7th grade. This issue should be on the 6th grade IEP meeting checklist for every child who might be affected.*
- *DOE needs to develop a checklist of specific issues by grade to be discussed at IEP meetings, with 7th grade busing being one of them. The form it has developed is not adequate.*
- *All school buses used in the summer should have air conditioning, just as any MTA bus for adults does.*
- *All students with specialized transportation busing services should be offered an attendance check-in meeting in May to review absences or tardiness that might be due to busing issues.*
- *Transportation that includes mandated GPS tracking turned on should be implemented for all buses*

Twice-Exceptional Students

Some children are gifted and talented -- and have IEPs. Although a number of New York City students fall into this category, New York City has no programs targeted specifically toward these students. The absence of such services forces many parents to choose the program that will address one of their child's needs, sometimes at the expense of the other. For example, a gifted student who needs occupational therapy (OT) may attend a gifted and talented program that does not offer OT. Another student may enroll in a special education program that is not geared to an individual with his or her extremely high level of intelligence.

As it stands now, a student's IEP reflects only his or her weaknesses and not strengths. As a result, twice-exceptional students often fail to receive services tailored to their extraordinary intelligence or high-powered reasoning skills. A listserv, [Parents of Twice-Exceptional Kids](#), surveyed parents of these children in 2018, receiving 503 responses. A sizable number said that standard assessments often miss their children's strengths because the child's disability may mask his or her talents. Many parents noted that students with special education needs often do not take the gifted and talented tests, which are used to screen students for elementary and middle school gifted and talented program. In August the CCSE created a 2E subcommittee.

Recommendations:

- *Principals of schools with gifted and talented programs should receive training to more fully understand and better work with twice-exceptional students.*
- *A student's IEP should include goals reflecting his/her strengths as well as problem areas.*
- *DOE should have an active Committee of Experts to develop and define twice-exceptional students. This committee would also identify gifted education opportunities for students with IEPs including but not limited to G&T testing and identification practices for disabled students.*
- *DOE should follow state law and have a handbook for parents concerning gifted students for grades K-5 that includes testing accommodations for students with IEPs and notes twice-exceptional students or, at the very least, acknowledges that students with IEPs may also be gifted.*

English Language Learners

English Language Learners (ELLs) speak a language other than English at home and scored below proficient on an English language assessment they took when they entered the city public school system. These students are sometimes overlooked for IEPs. On the other hand, their lack of knowledge of English can be misdiagnosed as a learning disability.

While all parents face obstacles to becoming involved in the IEP process, the ones facing parents who are not fluent in English are particularly daunting. Parents may go to the IEP meeting only to find it is not in a language the parent can speak or understand. In some cases, even when the parent can communicate with the team, the members do not give adequate consideration to the parent's contributions. Parents who do not speak English find it particularly difficult to advocate for their children because their child's IEP is not available in the family's home language.

In fall 2014, the city signed a memorandum of understanding with the state education department requiring, among other things, that interpretation services be available at IEP meetings and that it translate documents including IEP. The CCSE has heard varying reports on translation of IEPs.

Recommendations:

- *DOE should provide every parent with their child's IEP in the family's home language.*
- *Parents who need or want translation services should be provided with them at the IEP meeting.*
- *The DOE should report the number of Language Proficiency Team (LPT) meetings that take place per year for schools with at least 5 students who have both IEP-ELL identifications.*

Students in Temporary Housing

An increasing number of New Yorkers are struggling to find permanent and stable housing. About 10 percent of all New York City district and charter school students — 111,562 children — were in temporary housing during at some point during the 2016-17, according to the [New York State Education Department in the Student Information Repository System](#) (SIRS).

Many of these students have IEPs. An [analysis of homeless students](#) in 2013-14 issued by the Independent Budget Office in 2016 found that 28 percent of students in shelters received special education services. This compared to 14 percent of students who were doubled up (living with relatives or friends) and 18 percent of those in permanent housing.

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Students in temporary housing, particularly in the shelter system, are far more likely to miss school than their counterparts in permanent housing. An [analysis of 2013-14 data](#) found that more than a third of students in shelters were severely chronically absent, meaning they missed at least 20 percent of all school days. This compares to 10 percent for students not in temporary housing. The report did not break out the numbers for students with IEPs.

The Department of Homeless Services' (DHS) requirement that all family members – including children – attend certain appointments forces children to miss school days. DHS often places families in shelters far from the children's home schools and does not consider proximity to the school when pushing families to move in with relatives. As a result, parents either travel long distances so their child can remain in their old school or transfer their child to a closer school, which can disrupt or delay delivery of services.

Students with IEPs in temporary housing are entitled to busing if it is called for on their IEP. In addition, all children in shelters in grades K through 6 are to be provided with busing so they can remain in their original school at least for the remainder of the school year. Doubled up elementary school students also get busing if a route exists. Any student in temporary housing who is not riding a yellow school bus is entitled to a free MetroCard.

While an uncertain housing situation puts stress on all families, the situation can be even more dire for those that include a student with an IEP. Parents of students requiring special education services must navigate multiple city systems to meet their children's needs and often these city systems do not work well together. This directly affects the services these students receive. In its [report](#), the IBO noted, "The IEP is supposed to travel with the child but there can be a gap in services when a student moves from one school to another and the new school lacks the resources to provide the required services and supports." For example, a student who was in a self-contained class may move to a school where the 12-1-1 classroom is full or the new school may not have a therapist that the student needs.

In 2016, the Institute for Children, Poverty and Homelessness [found](#) that students in temporary housing are overlooked for special education assessments and evaluations. This can be because their unstable housing situation leads to multiple school transfers in a single school year. According to the institute, "Just 41 percent of homeless students with special education needs had an IEP by the end of kindergarten, compared to 55 percent of housed students." The homeless students who were late in getting an IEP were more likely to have to repeat kindergarten than those with IEPs, were more likely to be suspended and scored lower on their 3rd grade state standardized tests than the homeless students who got IEPs before kindergarten. The institute also determined that students in temporary housing with IEPs were likely to do better if they remained in the same school for the entire school year.

Recommendations:

- *City, state and federal officials should provide more funding to address the needs of students living in temporary housing.*
- *DOE has created a new position of the family worker to help provide support services to students/families residing in temporary housing, such as helping students enroll in school, monitoring student attendance and arranging transportation. This person should have training in special education issues, such as the IEP process, placement, related services and busing.*

After-school Activities

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In 2013, the U.S. Department of Education issued a memo reminding schools that they are required to include students with IEPs not only in academic programs but in extracurricular activities and particularly athletics as well. The extent to which New York City schools comply with this mandate varies from school to school.

Recommendations:

- *All schools should include students with IEPs in extracurricular activities, including athletics. Schools should work to make these programs accessible to all students and encourage students with IEPs to participate in them.*
- *Review and publish the number of students with disabilities participating in district-wide afterschool activities*

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