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**To:** District Superintendents  
Superintendents of Schools  
Public School Administrators  
Directors of Special Education  
Directors of Pupil Personnel Services  
Chairpersons of Committees on Preschool Special Education  
Administrators of State-Administered Prekindergarten Programs  
Approved Preschool Special Education Programs  
Organizations, Parents and Individuals Concerned with Special Education

**Subject:** School District Responsibilities for Preschool Inclusion in Publicly Funded  
Prekindergarten Programs

The purpose of this field advisory is to supplement and clarify existing New York State (NYS) and federal

least restrictive environment (LRE). Under the Individuals with Disabilities Education Act (IDEA), the presumption is that students with disabilities will attend the same schools they would have attended if they did not have disabilities and that removal or restriction from their regular schools and classrooms can only occur when the individualized education program (IEP) cannot be satisfactorily implemented in that setting,

must be documented on the child's IEP and may only be considered when the nature or severity of the child's disability is such that education in a less restrictive environment with the use of supplementary aids and services cannot be achieved satisfactorily. The CPSE must coordinate with the appropriate school district PreK administrators to determine where PreK classrooms are approved to provide preschool special education services and consider the total class size and needs of the preschool students with disabilities attending PreK when determining which PreK classroom the preschool student with a disability will attend.

When enrolled in a PreK program, preschool students with disabilities must have equal access to all program benefits. There should be no difference in access to the prekindergarten curriculum to the maximum extent possible, the desired learning results established for all students, length of school day, protocols for Emergent Multilingual Learners, family engagement and parent choice activities, school facilities, and food programs. Equal access will promote the full acceptance of each child as an engaged and participating member of the classroom and better achieve the principles of inclusion.

The effectiveness of school district efforts to ensure preschool inclusion in conformation with FAPE in the LRE for preschool students with disabilities is evaluated by the New York State Education Department (NYSED) in the Special Education Data Collection System Preschool LRE Setting Report<sup>3</sup> and the NYS Prekindergarten Final Report.

PreK programs offer an essential early education foundation by providing high quality, developmentally appropriate, and responsive programs designed to meet the social, cognitive, linguistic, emotional, cultural, and physical needs of children. As this foundation continues to grow, NYSED expects that school districts are ensuring the provision of special education programs and services in the LRE consistent with federal and State requirements and affording preschool students with disabilities with the same program benefits as other resident children.

*Additional Federal and NYS Guidance and Resources:*

[Dear Colleague Letter on Preschool Least Restrictive Environments \(2017\) OSEP:](#)  
Reaffirms the position of the United States Depa



program (such as a PreK program). While there are not specific forms for the agreement, it must include the following factors:

- Description of the shared mission, goals, and outcomes;
- Definition of the programmatic and financial responsibilities of the collaborative partners;
- Delineation of leadership roles and responsibilities by title and/or position;
- Description of services to be provided by each collaborative partner;
- Plan for communication, including schedule for meetings;
- Procedures for conflict resolution;
- Financial plan which clearly allocates costs based on the funding agency for each partner;
- Description of how confidentiality of personally identifiable data, information and records pertaining to the students with disabilities will be ensured; and
- Specified time period of the agreement and the conditions for renewal.

**4. How do school districts determine what to claim regarding funding for dually enrolled students in PreK and SCIS?**

That would be established in the collaborative agreement. 4410 funding is assigned only to the preschool students with disabilities and may be allocated on the basis that the expense is reasonable, necessary, and directly related to the provision of special education or related services (for a center-based program this includes both direct care services and also facility, supplies, administration, etc.). PreK funding may be assigned to both preschoolers with and without disabilities enrolled in the program. Approved

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expenses for which grant funds may be used, such as, but not limited to, program components, professional salaries, professional development, support serv