

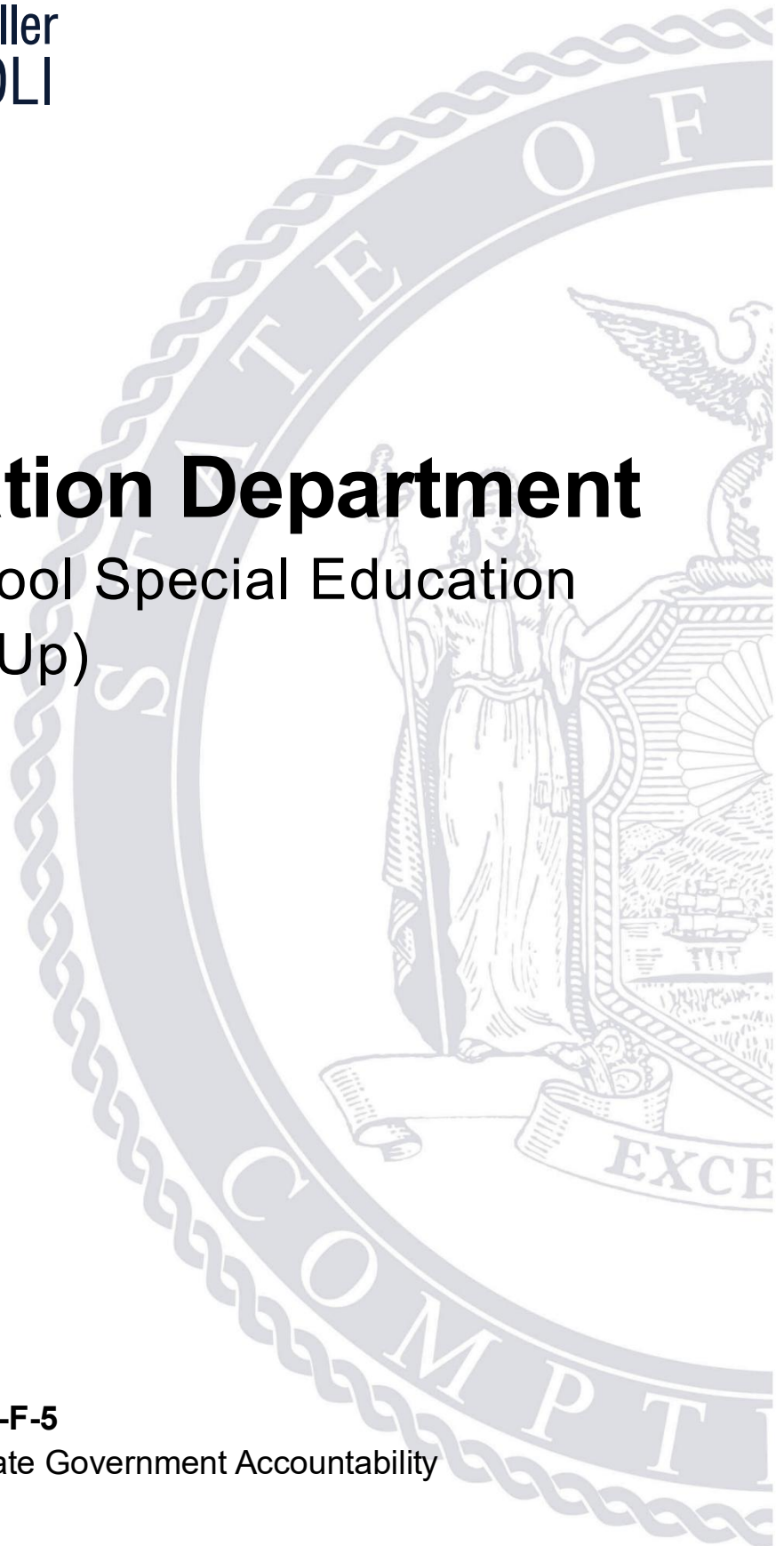
New York State Comptroller
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State Education Department

Access to Preschool Special Education Services (Follow-Up)

October 2026 | Report 2026-F-5

Prepared by the Division of State Government Accountability



Contents

Authority	3
Background, Objective, and Scope	3
Summary Conclusions and Status of Audit Recommendations	4
Reporting Requirements	8

Authority

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the State Education Department (SED) to implement the recommendations contained in our initial audit report, [*Access to Preschool Special Education Services \(Report 2023-S-1\)*](#).

Background, Objective, and Scope

One of the most critical periods of growth in a child's development occurs during the first 5 years of life. Quality early education programs can make a difference and increase a child's opportunity for successful learning and later life accomplishments. Providing special education programs and services at an early age helps prepare a child with a disability to enter school ready to learn.

Preschool special education is overseen by SED's Office of Special Education (OSE), which works to promote educational equity and excellence for students with disabilities. Preschool special education services for children 3 to 5 years of age can include but are not limited to: speech pathology and language therapy, occupational therapy, physical therapy, specialized instruction, parent training, and counseling. For the 2024–25 school year, a total of 82,682 children received programs and services at some point during the school year.

The special education process begins when a child suspected of needing special education services is referred, in writing, to the school district in which the child resides. The child must next be evaluated by an SED-approved agency or a school district's evaluation team after the district receives parental consent. Initial evaluations must be completed within a time frame that allows the Individualized Education Program (IEP), which details recommended services to be provided, to be developed within 60 calendar days of parental consent to evaluate a child not previously identified as having a disability. Every child has the right to receive all the services prescribed in their IEP, and services must begin as soon as possible following the development of the IEP, and within 60 school days of the receipt of consent to evaluate the child.

OSE's Special Education Quality Assurance (SEQA) regional offices conduct reviews of compliance with the 60-day timeline for evaluations of preschool-age children and evaluate whether children transitioning from Early Intervention with an IEP have it implemented by their third birthday. These reviews cover 1/6 of the State's school districts on a 6-year rotational basis to assess compliance with regulation requirements (i.e., every year, 1/6—approximately 118 of the 710 school districts—are reviewed).

The objective of our initial audit, issued in December 2024, was to determine if SED was effectively overseeing preschool special education in compliance with all applicable laws and regulations to promote timely access to services for children across New York State. The audit covered the period from July 2018 through January 2024. The initial audit found preschool special education students may not have been receiving all required services within required time frames or, in some cases, may not have been receiving them at all. Students were waitlisted for services that districts were unable to furnish due to a lack of providers. We conducted a

survey of school districts and found, of the 550 responses received, 455 (83%) school districts reported they maintain a waitlist for services. Of the 40 school districts we visited, 21 (53%) stated they maintain waitlists. Further, SED could not adequately perform its oversight responsibilities to ensure that all preschool students with disabilities have access to their recommended services, as it was not aware of the current number of students enrolled in the preschool special education program, the services those students were receiving in real time, or how many school districts maintained waitlists for services.

The audit also found that while SEQA retroactively reviews compliance with some time frames in the special education process, these reviews address only 1/6 of the State's school districts per year, providing outdated data that may come too late to help students in need of immediate services. Further, discrepancies among various SED data systems and sources resulted in unreliable information regarding services provided, and lack of analysis of the information it did have limited SED's ability to monitor when school districts were having issues such as unserved students or evaluations that were not occurring promptly due to a lack of providers.

The objective of our follow-up was to assess the extent of implementation, as of August 2026, of the seven recommendations included in our initial audit report.

Summary Conclusions and Status of Audit Recommendations

SED made some progress in addressing the problems we identified in the initial audit report. Of the initial report's seven audit recommendations, three were implemented and four were partially implemented.

Follow-Up Observations

Recommendation 1 – Develop a strategy to address the statewide shortage of preschool special education service providers and work with school districts to identify ways to obtain the necessary services.

Status – Partially Implemented

Agency Action – SED is developing enhancements to the special education programs to make them more attractive to new providers and maintain current providers. SED conducted a comprehensive study to create alternative tuition rate-setting methodologies for providers operating approved preschool special education programs. This study considers alternative approaches to reimbursement to ensure preschool students with disabilities receive education and related services in accordance with their IEPs. SED has conducted several stakeholder meetings to discuss the proposed new rate-setting methodology and collected feedback from stakeholders through polling, surveys, and discussions.

Additionally, SED has drafted guidance that will permit the use of preschool special education 4410 funds with Universal Prekindergarten (UPK) funds. This will allow for more financial flexibility by allowing school districts to coordinate both funding streams to enhance UPK classrooms serving special education students. Lastly, the 2025–26 rate-setting methodology

includes an additional 2.9% increase for both special education classrooms and integrated classrooms.

While these two enhancements are designed to make special education programs more attractive to prospective and current providers, SED should continue working toward implementing the new rate-setting methodology.

Recommendation 2 – Review and identify ways to improve the application review process for program approval.

Status – Implemented

Agency Action – SED has streamlined the initial program application process for school districts. Applications can now be submitted online versus completing paper applications. Further, instead of filling out two applications (the Special Education Itinerant Services/Special Class in an Integrated Setting application and the Regional Need application), SED merged the applications, significantly simplifying the process. SED also reduced some of its documentation requirements. SED officials state that application processing time has improved as a result of these changes.

SED also evaluated the process for private program applications and proposed similar changes and is no longer requiring certain health and safety documents if the provider holds a current Office of Children and Family Services license. Additionally, SED plans to move the private program application process online; however, these changes to the private program application process are still in the draft process.

Recommendation 3 – Increase monitoring of school districts, including but not limited to:

- Timeliness of preschool special education events (i.e., evaluations, Committee on Preschool Special Education [CPSE] meetings).
- Resolutions of potential non-compliance (i.e., waitlists and ensuring IEP implementation for all students).
- Determining regional need for providers on a real-time basis.

Status – Partially Implemented

Agency Action – Beginning with the 2025–26 school year, SED based its Individuals with Disabilities Education Act (IDEA) determinations on a Results Driven Accountability (RDA) Matrix Structure. The RDA evaluated school district outcomes on both performance and compliance measures, including timely evaluations and timely and accurate data. The data for all providers is evaluated using this matrix, with each provider's results placed in one of five categories:

- Meets expectations
- Needs assistance Year 1
- Needs assistance Years 2 or more

- Needs intervention Years 1 and 2
- Needs intervention Years 3 or more

Once IDEA determinations are made, school districts that fall short are selected for coordinated intervention, which can include professional development, technical assistance, stakeholder engagement, oversight, and monitoring to facilitate systemic improvement.

SED has also drafted guidance on Compensatory Services for Students with Disabilities, reminding school districts that IEPs must be developed based on student need in accordance with the requirements of the IDEA, not on the availability of education programs, services, or staff. School districts must not disregard their obligations under the IDEA and State law to provide services that are educationally appropriate by recommending programs and services based simply on their availability. They further remind districts that where IEP implementation is delayed due to lack of available programming or services, the school district may elect to offer compensatory services, prospectively, on an interim basis to mitigate the inability to implement the IEP.

According to SED officials, they have not increased monitoring for determining regional need for providers on a real-time basis. SED officials stated they do not have the data infrastructure and data solutions for a system that can collect and integrate data elements necessary to conduct continuous student need assessments, which would be needed to determine regional need for programs and services.

Recommendation 4 – Develop and implement a risk-based method to identify school districts that warrant immediate review.

Status – Implemented

Agency Action – In a March 2025 memorandum sent to schools, SED detailed the new reporting requirements for the 2024–25 school year, requiring school districts to submit special education events data (e.g., evaluations, CPSE meetings) four times a year to SED. SED utilizes this data to monitor school district compliance, including the identification of non-compliance, and verification of the school district’s correction of student-specific and regulatory non-compliance, if applicable. SED also has a monitoring plan that includes school districts with non-compliance, districts that did not report any student records during the submission schedule, and districts that failed to submit or certify timely or accurate special education events data.

Additionally, as mentioned in the agency action for Recommendation 3, beginning with the 2025–26 school year, IDEA determinations for school districts are based on an RDA Matrix Structure to evaluate school district outcomes on both performance and compliance measures—including whether evaluations were conducted in a timely manner. Districts that fall short are selected for coordinated intervention, which can include professional development, technical assistance, stakeholder engagement, oversight, and monitoring to facilitate systemic improvement.

Recommendation 5 – Develop data integrity controls to provide greater assurance of the accuracy and completeness of data.

Status – Partially Implemented

Agency Action – According to the March 2025 SED memo sent to all special education providers, beginning in the 2024–2025 school year, providers are required to submit special education events data four times a year. Data submitted by providers is used by SED to develop the Timely and Accurate data rubric that SED uses in making annual IDEA grant determinations. For example, SED will use student-level data submitted by the school district to calculate the percentage of children evaluated within 60 days of parental consent.

Following the SED review of the applicable report, SED requires each school district on its current-year monitoring cycle to certify the accuracy of information and retain documentation to support its certification. With respect to the special education event verification reports and the subsequent quarterly submissions for those school districts on the monitoring cycle, incomplete data is treated as a non-compliant record that requires further information from the school district to ensure resolution and verification of non-compliance. If non-compliance is not resolved through subsequent data submissions (typically two or three submission updates), then a documentation review of student records is completed for each individual case of remaining non-compliance. While these controls provide greater assurance of the completeness of data, the accuracy of the data still relies on the school district self-certifying.

Recommendation 6 – Remind school districts of the documentation retention requirements.

Status – Implemented

Agency Action – SED sent a memo in March 2025 to all school districts reminding them to retain referral and evaluation information for the required 6 years.

Recommendation 7 – Provide clarification on the available preschool special education programs and reporting mechanisms currently operating in the State.

Status – Partially Implemented

Agency Action – SED is developing an online Program Approvals System, which will create a searchable database of all approved providers, provider locations, and programs offered. SED is working to make this database searchable by county, city, ZIP code, provider, and available program or service, and intends to have an interactive map with pinpoint locations of search results.

Additionally, SED has done multiple presentations detailing the preschool special education reporting requirements and how the data is used to evaluate programs to various groups across the State, including the Boards of Cooperative Educational Services, a group of special education administrators, and school districts.

Reporting Requirements

SED officials are requested, but not required, to provide information about any actions planned to address the unresolved issues discussed in this follow-up within 30 days of the report's issuance. We thank the management and staff of SED for the courtesies and cooperation extended to our auditors during this follow-up.



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