




January 2019

To: District Superintendents
Superintendents of Schools
Public School Administrators
Superintendents of State-Operated and State-Supported Schools
Executive Directors of Approved Private Schools
Charter School Administrators
Nonpublic School Administrators
Directors of Special Education
Directors of Pupil Personnel Services
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Organizations, Parents and Individuals Concerned with Special Education

From: Christopher Suriano 

Subject: Guidelines for Determining a Student with a Disability's Need for a One-to-One Nurse

The purpose of this memorandum is to provide guidance to assist Committees on Preschool Special Education (CPSE) and Committees on Special Education (CSE) in determining if a student requires full-day (continuous) one-to-one nursing services to meet his/her unique individual needs. While some students may need the support of a full-day (continuous) one-to-one nurse to receive a free appropriate public education (FAPE), for other students, based on their specific health needs, assignment of a full-day (continuous) one-to-one nurse may not be necessary. A CPSE/CSE recommendation for a full-day (continuous) one-to-one nurse should only be made after a comprehensive discussion of other nursing options are considered and there is clear documentation as to why those options will not meet the health and medical needs of the student.

School Health Services and School Nurse Services

Section 200.1(ss) of the Regulations of the Commissioner of Education defines "school health services" and "school nurse services" as follows:

- *School health services* means health services provided by either a qualified school nurse or other qualified person (e.g., licensed practical nurse (LPN) or aides) that are designed to enable a student with a disability to receive a free appropriate public education as described in the individualized education program (IEP) of the student.

- *School nurse services* means services provided by a qualified school nurse pursuant to Education Law section 902(2)(b)¹ that are designed to enable a student with a disability to receive FAPE as described in the IEP of the student.

FAPE Responsibility for School Nurse Services

The Individuals with Disabilities Education Act (IDEA) requires that FAPE be made available to students with disabilities through the provision of special education and related services, including school health services and school nurse services. For some students, nursing services, including the assignment of a full-day (continuous) one-to-one nurse, may be a required related service for the student to receive FAPE². Additionally, students may need nursing services to attend school in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. If it is determined that school health services and/or school nurse services, including assignment of a full-day (continuous) one-to-one nurse, are required related services for a student with a disability, those services must be provided at no cost to the parents and are the fiscal and programmatic responsibility of the school district of residence.

Considerations for Determining if a Student with a Disability Needs Full-day (Continuous) One-to-One Nurse Services

The CPSE/CSE determination as to whether a student needs school health services or school nurse services as a required related service to receive FAPE must be made on an individual basis. This decision should include the student's parent. The types and amounts of services to be provided must be individually determined based on each student's unique needs and documented within the student's IEP. In developing an IEP, the CPSE/CSE must consider current evaluation information about the student.

Evaluation information must be obtained in all areas of the student's disability or suspected disability (including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, vocational skills, communicative status and motor abilities) and provide instructionally relevant information as to the unique educational needs of the student. In determining the educational needs of the student, the CPSE/CSE must draw upon information from a variety of sources, including parent input and teacher recommendations, as well as information about the student's physical condition (including the health of the student), social or cultural background, and adaptive behavior and ensure that information obtained from all these sources is documented and carefully considered. This information may include information from a physician, such as a written order to the school nurse from a student's health care provider. Students with disabilities who have a one-to-one nurse at home may require nursing

¹ Section 902(2)(b) of the Education Law: Any such board or trustees may employ one or more **school nurses, who shall be registered professional nurses**, as well as other health professionals, as may be required. Such registered professional nurses and other health professionals shall aid the director of school health services of the district and shall perform such duties, including health instruction for the benefit of the public schools as may be prescribed by such board or trustees, in compliance with each such health professional's practice act.

² Cedar Rapids School District v. Garret F. 526 U.S. 66 [1999].

services in order to attend school. Based on the individual needs of the student, the CPSE/CSE, in consultation with school health professionals, may determine a student's health needs can be appropriately met by the school's building nurse, a shared nurse, or a one-to-one aide who monitors and alerts the school nurse. The CPSE/CSE may also determine that a full-day (continuous) one-to-one nurse in school is necessary for the student to receive FAPE.

The decision to recommend a full-day (continuous) one-to-one nurse must weigh the factors of both the student's individual health needs and what specific school health and/or school nurse services are required to meet those needs. There are a number of important considerations that must be made by the CPSE/CSE in determining if a student needs a full-day (continuous) one-to-one nurse. These include, but are not limited to, consideration of each of the following (also see the attached *School Nursing Decision-Making Tool*):

- The complexity of the student's individual health needs and level of care needed during the school day to enable the student to attend school and benefit from special education;
- The qualifications required to meet the student's health needs;
- The student's proximity to a nurse;
- The building nurse's student case load; and
- The extent and frequency the student would need the services of a nurse (e.g., portions of the school day or continuously throughout the day).

Documentation of School Nurse Services on an IEP

When the student's CPSE/CSE determines that school health services or school nurse services are a required related service for a particular student in order to allow such student to benefit from special education programs and services and enable the student to receive FAPE, those services must be documented within the student's IEP and be provided at no cost to the parents. Depending on the nature of the nursing services, the documentation in the student's IEP could, as appropriate to the individual student's needs, be included as follows:

- **Related Services:** The IEP may specify "school health services" or "school nurse services" as a related service (see [NYSED's Mandatory IEP form](http://www.p12.nysed.gov/specialed/formsnotices/IEP/home.html) (<http://www.p12.nysed.gov/specialed/formsnotices/IEP/home.html>)). "School health services" must be included as the related services recommendation on the student's IEP if such services are provided by an LPN, not a school nurse. If a school district or county is seeking reimbursement for nursing services provided to a Medicaid-eligible student who has an IEP, the IEP must indicate "skilled nursing services." This clarification would be included under the column "Service Delivery Recommendations." Please note that "skilled nursing services" are those services that may only be performed by a licensed nurse (i.e., a registered professional nurse (RN) or an LPN in accordance with their respective scopes of practices). See the [Board for Nursing's website](http://www.op.nysed.gov/prof/nurse/) (<http://www.op.nysed.gov/prof/nurse/>) for more information. For more detailed information about Medicaid billing, see the [Preschool/School Supportive Health Services Program Medicaid-in-Education](#).

[Medicaid Healthcare Provider Policy and Billing Handbook](http://www.oms.nysed.gov/medicaid/handbook/sshsp_handbook_9_march_21_2018_final.pdf) (http://www.oms.nysed.gov/medicaid/handbook/sshsp_handbook_9_march_21_2018_final.pdf).

- **Supplementary Aids and Services/Supports for School Personnel on Behalf of the Student:** As appropriate to the student's needs, IEP recommendations for nursing services could be noted as supplementary aides and services (e.g., for administering and/or monitoring medication needed by the student during school hours) or "medical alerts" (e.g., for nursing treatment or procedures that may be related to certain medical conditions such as allergic reactions); or supports for school personnel (e.g., consultation with staff regarding the effects of medication).
- **Special Transportation:** Additionally, if a student requires nursing services when being transported to and from school, this would be documented under the "Special Transportation" section of the IEP. Transportation personnel should be informed of any special information regarding the student that might impact on the health and safety of the student during transportation. Schools will also need to develop plans for how the student's care will be provided by a nurse while on the school bus/vehicle.

Due to the frequency of changes to orders for nursing treatment and/or medications, the specific nursing service and/or medication to be provided should not be detailed in the IEP. The nursing treatment and/or medication orders are documented on an Individualized Health Plan (IHP), which is a nursing care plan developed by an RN. The IHP is maintained in the student's cumulative health record to direct nursing care provided and is updated as necessary.

As a recommended service, the IEP must include the anticipated frequency, duration, location, and initiation date of such services. Frequency, duration, and location must be stated with enough clarity to be understood by all persons involved in the development and implementation of the IEP. This quantifies the school's commitment of resources to address the student's needs. The frequency and/or duration of services must be specific enough so that the extent to which services will be provided is clear. In terms of providing school health services or school nurse services to a student as a part of his/her IEP, the term "as needed" is not specific enough to provide a clear frequency and/or duration for this service and may result in inconsistent implementation. In consideration of a student's unique needs related to nursing services, the IEP may specify the timing conditions which would result in a need for this service (e.g., "in the event that the student experiences ___"). The same would apply to duration and may include an observable, measurable signal that warrants the end of the service (e.g., "until the student's heart rate measures ___ beats per minute"; or "until the student's blood glucose level reaches ___"). For students whose health conditions require a full-day (continuous) one-to-one nurse, the IEP must specify the frequency, duration, and location for this service. Additional IEP guidance can be found in [Questions and Answers on Individualized Education Program \(IEP\) Development, The State's Model IEP Form and Related Documents](#): Question 1 on page 1; Questions 21 and 22 on page 14; Question 36 on page 36 and Question 13 on pages 52-53 (<http://www.p12.nysed.gov/specialed/formsnotices/IEP/training/QA-411.pdf>).

Provision of School Nurse Services

In order to meet the needs of students for whom school health services or school nurse services are recommended, the school can employ a nurse for these students or contract with a third party (e.g., nursing agency, Board of Cooperative Educational Services, self-employed nurses). The memorandum [School Responsibility in Hiring Self-Employed Nurses](http://www.p12.nysed.gov/sss/documents/selfemployednurses.pdf) (<http://www.p12.nysed.gov/sss/documents/selfemployednurses.pdf>) provides details on school responsibilities related to ensuring appropriate nursing services are provided.

Whether the school employs a full-day (continuous) one-to-one nurse or contracts with a third party for such nurse, the school remains responsible for the health and safety of the student and ensuring the care provided to the student is appropriate and done in accordance with healthcare provider orders. This includes a plan for an appropriately trained and qualified substitute nurse that can meet the needs of the student. This ensures that the student receives the recommended IEP services of a full-day (continuous) one-to-one nurse.

Additional Information

Please see Provision of Nursing Services in School Settings—including One-to-One Nursing Services to Students with Special Needs for specific information on nursing activities/tasks, use of contracted nurses in schools, etc., along with Questions & Answers on nursing services in schools.

For information regarding the CPSE/CSE process specific to school health and school nurse services, please contact the Office of Special Education at 518-473-2878 or speced@nysed.gov.

For information regarding the provision of school health services to students with special health care needs, please contact the Office of Student Support Services at 518-486-6090 or studentsupportservices@nysed.gov.

Frequently Asked Questions

1. Who is responsible for supplying special equipment/supplies for students with disabilities who have special health needs?

In most circumstances, the family is responsible for providing any special supplies and/or equipment for students who have special health needs. If equipment and/or supplies are included in a student's IEP or accommodation plan, pursuant to Part 200 of the Regulations of the Commissioner of Education or Section 504 of the Rehabilitation Act of 1973, respectively, it may be appropriate for the school to provide the necessary equipment/supplies so that a student can benefit from his/her educational program. Such a decision would be made by the CPSE/CSE or the multidisciplinary team pursuant to Section 504.

2. What is a school's responsibility to provide school health services or school nurse services for students with disabilities who participate in nonacademic and extracurricular activities?

Section 504 of the Rehabilitation Act of 1973 and IDEA require schools to ensure that students with disabilities have an equal opportunity to participate in nonacademic and extracurricular activities that are available to other students enrolled in the public schools of the district. To ensure the participation of students with special health needs in these activities, schools must make available appropriate health services to these students.

3. Is additional funding available to schools for the provision of school health services or school nurse services for students with disabilities?

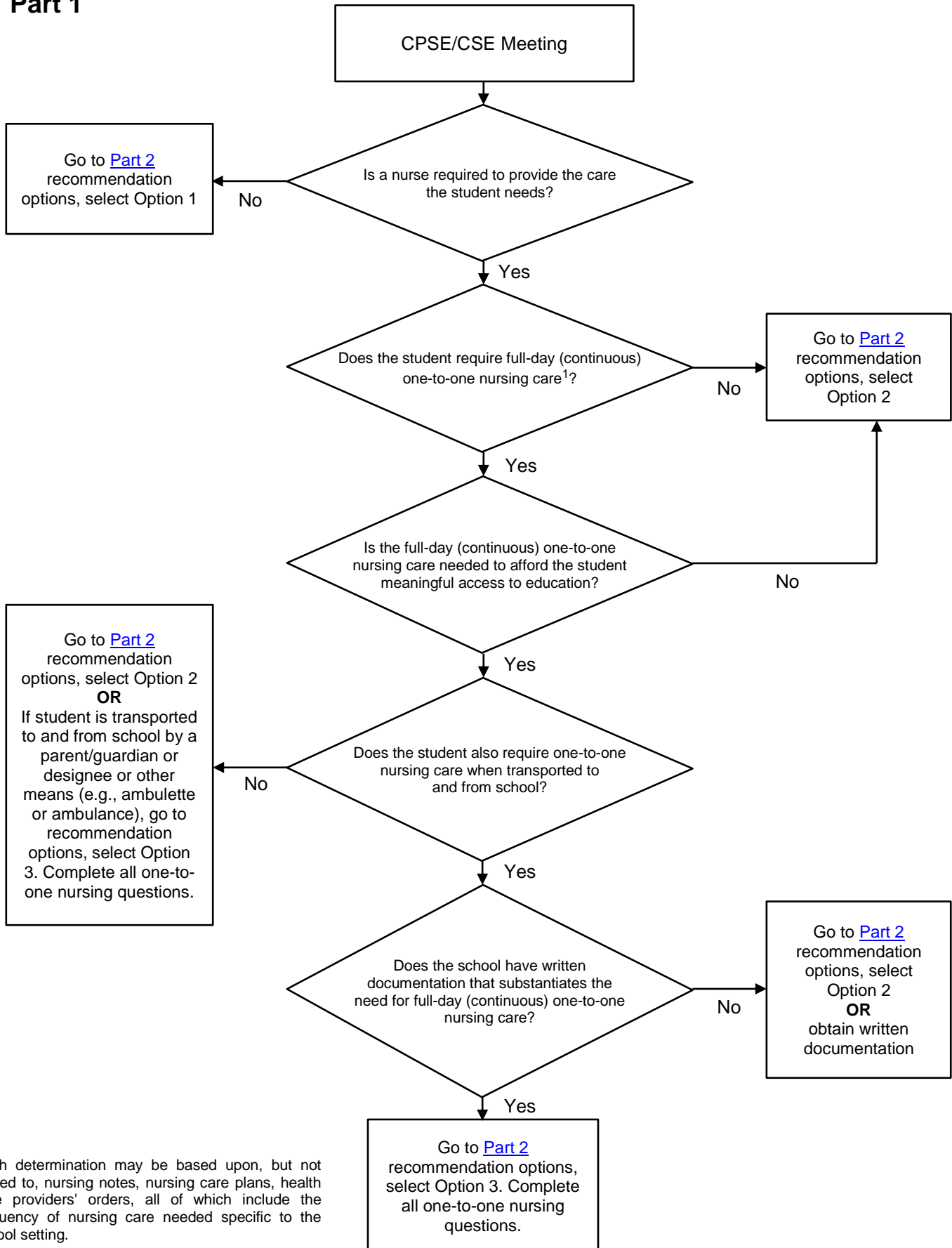
Many students who receive nursing services only require episodic (periodic or intermittent) nursing services during the school day. Episodic nursing services provided to a student with nursing on his or her IEP may be billed to Medicaid in accordance with School Supportive Health Services Program (SSHSP) policies and guidance. More information on what nursing services are eligible for reimbursement, along with other requirements, are available in the [Medicaid in Education Handbook](http://www.oms.nysed.gov/medicaid/handbook/sshsp_handbook_8_nov_25_14.pdf) (Update 8) (http://www.oms.nysed.gov/medicaid/handbook/sshsp_handbook_8_nov_25_14.pdf). Questions should be directed to NYSED's Office of Medicaid in Education at MedinEd@nysed.gov. Additional contact information can be found on the [Medicaid in Education website](http://www.oms.nysed.gov/medicaid/contacts/state_contacts.html) (http://www.oms.nysed.gov/medicaid/contacts/state_contacts.html).

Students whose health conditions require continuous nursing care may need to have a full-day (continuous) one-to-one nurse assigned to him or her to ensure a nurse is continuously available to that student. This type of nursing is referred to as "continuous nursing services (which may be known as private duty nursing or 1:1 nursing)" and is not reimbursable under the SSHSP, per the Department of Health's March 4, 2015 Medicaid in Education Alert bulletin, [Clarification on Medicaid Reimbursement for Nursing Services](http://www.oms.nysed.gov/medicaid/medicaid_alerts/alerts_2015/15_02_clarification_medicaid_reimbursement_nursing_services_3_4_15.pdf) (http://www.oms.nysed.gov/medicaid/medicaid_alerts/alerts_2015/15_02_clarification_medicaid_reimbursement_nursing_services_3_4_15.pdf).

Attachment

Committee on Preschool Special Education (CPSE)/Committee on Special Education (CSE) School Nursing Decision-making Tool

Part 1



¹ Such determination may be based upon, but not limited to, nursing notes, nursing care plans, health care providers' orders, all of which include the frequency of nursing care needed specific to the school setting.

Part 2

Student: _____ Date: _____

Persons Involved in Decision-making: _____

Recommendation Options:

Check one recommendation that is the most appropriate option in meeting the nursing needs of this student:

- 1. The care needs of this student can be met by a trained one-to-one aide, in consultation with the school nurse (RN) as needed.
- 2. Intermittent (periodic) nursing services will meet the needs of this student.
- 3. A *full-day (continuous) one-to-one* nurse will meet the needs of this student and should be recommended, including for transportation to and from school if necessary. Complete the questions below and on the following page.

Full-day (Continuous) One-to-one Nursing Care Funding and Staffing Considerations

| Questions | Yes | No | Comments/Evidence |
|---|--------------------------|--------------------------|-------------------|
| 1 After the school district's medical director and/or school nurse review written documentation, can the school's existing nursing staff fulfill the full-day (continuous) one-to-one nursing care for the student? If yes, skip question 2. | <input type="checkbox"/> | <input type="checkbox"/> | |
| 2 If existing nursing staff cannot be utilized, has the school considered all options for securing full-day (continuous) one-to-one nursing services, such as hiring additional nursing staff, contracting from an authorized third party, or contracting with a self-employed nurse? (see School Responsibility in Hiring Self-Employed Nurses (www.p12.nysed.gov/sss/schoolhealth/schoolhealthservices/selfemployednurses.pdf)). | <input type="checkbox"/> | <input type="checkbox"/> | |
| 3 If seeking Medicaid funding to fund the full-day (continuous) one-to-one nursing care in the school, has the school obtained prior approval from the Department of Health's Office of Health Insurance Programs for one-to-one nursing hours for the school setting? If no, see New York State Medicaid Program Private Duty Nursing Manual Prior Approval Guidelines (https://www.emedny.org/ProviderManuals/NursingServices/PDFS/Private_Duty_Nursing_PA_Guidelines.pdf). | <input type="checkbox"/> | <input type="checkbox"/> | |

For recommendation Option 3 (*full-day (continuous) one-to-one nurse*), the school must complete the following:

- Develop a written plan for how the student's full-day (continuous) one-to-one nursing care will be provided, including substitutes to cover provider absences.
- Provide any necessary professional development to school-employed RNs to ensure they have the necessary knowledge to assess that the nursing care provided by the assigned nurse is properly performed, including access to a student's IEP and being informed of his or her responsibilities for IEP implementation for the student.
- Develop a written supervision plan for how the building school nurse or medical director will supervise the nursing care provided to the student by the assigned nurse including, but not limited to, observation of the delivery of nursing care, review of nursing documentation, and review of healthcare provider's orders. This should also include monitoring progress of the nursing care plan and any goals for reducing the support provided to the student and his or her dependence on the nurse over time (e.g., shared nurse, episodic nursing services).
- Maintain documentation of healthcare provider's orders, nursing notes, and student's individual health plan in the student's cumulative health record.