

Preschool Children Eligible for Special Education Frequently Asked Questions

To better support districts and preschool program providers, the Ohio Department of Education's Office of Early Learning and School Readiness is providing answers to the following frequently asked questions pertaining to [Ohio Administrative Code 3301-51-11](#). This document is divided into sections aligning with each section of the rule. This document will continue to be updated based on additional questions and concerns from the field.

(A) Definitions

1. Do the new classroom definitions change how the Least Restrictive Environment is coded in EMIS?

Least Restrictive Environment codes will not change. Refer to the [Decision Tree for Reporting Educational Environments for Children Ages 3-5 with Individualized Education Programs \(IEPs\)](#) for appropriate EMIS codes.

2. Does the term regular early childhood setting apply to questions in section 11 of the IEP? If not, when would this term be used and in what context?

A **regular early childhood setting** is defined in rule (Ohio Administrative Code 3301-51-11 (A)(1)(g)) "as an educational setting in which 50 percent or less of the students are children with disabilities." This term aligns with the federal reporting requirements for Indicator 6. For further guidance, see the [Preschool Special Education](#) section on Indicator 6: Least Restrictive Environment.

Section 11 of the IEP asks, "Does the child attend a **general education setting**?"

A general education setting is a setting in which the child will be:

- Receiving instruction in the general education curriculum taught by a general education teacher with non-disabled peers in natural proportions; AND
- Receiving instruction at the level required in rule, which is a minimum of 360 hours of programming per year and must include instruction in the general education curriculum.

For further guidance on Section 11, refer to [Preschool Universal Supports](#) IEP Part 3.

The graphic below demonstrates the relationship between the two terms and some of the class types. As defined in rule, the **regular early childhood setting** includes the four classroom types: public school preschool general education class, nonpublic school preschool class, Head Start preschool class and public school preschool integrated class. A **general education setting**, however, only includes three classroom types: public school preschool general education class, nonpublic school preschool class and Head Start preschool class. The integrated class is not considered a general education setting because it does not meet the requirement of less than 50 percent of the students being children with disabilities (Ohio Administrative Code 3301-51-11(J)(2)(a)).

Regular Early Childhood Setting (Federal Reporting)			
General Education Setting (IEP Section 11)			Public school preschool integrated class.
Public school preschool general education class	Nonpublic school preschool class	Head Start preschool class	Public school preschool integrated class

3. Can the teacher of a public school preschool general education class who is dual certified serve as both the general education teacher and the intervention specialist for children on IEP's in that classroom?

No, the lead teacher of a public school preschool general education class shall not serve as the intervention specialist of record or IEP case manager for any children with disabilities (i.e., children with IEPs), even if the individual holds appropriate licensure for those roles (3301-51-11(A)(1)(g)(i)(d)). An itinerant service provider (early childhood intervention specialist and/or related service provider) would be listed as the intervention specialist of record or IEP case manager. Special education services are provided by the itinerant service provider through direct and/or indirect services.

4. In a public school preschool integrated classroom, are teachers that have been previously teaching and will continue to be teaching considered "grandfathered in" if they do not have a general education license?

Ohio Revised Code Section 3323.10 Licensure qualifications for teaching public school preschool integrated class that came into effect June 19, 2020 states "...a teacher who is licensed to teach special education and is employed to teach a public school preschool integrated class on the initial effective date of any rule change prescribing such licensure qualifications may continue to teach a public school preschool integrated class until the teacher retires, resigns, or is reassigned by the employing school, educational service center, or county board of developmental disabilities. Following the retirement, resignation, or reassignment of the teacher, the teacher must meet the licensure qualifications prescribed by administrative rule to teach a public school preschool integrated class. Upon retirement, resignation, or reassignment of the teacher, the school, service center, or county board of developmental disabilities shall employ only a teacher who meets the licensure qualifications prescribed by the rule to teach a public school preschool integrated class."

For additional support please refer to [Preschool Personnel Qualification chart](#) and [Overview of Preschool Special Education Rule 3301-51-11 Presentation](#).

5. Must the public school preschool integrated classroom start at 50/50 and always maintain that ratio? Will there be any flexibility as programs may not start the year off with full rosters as they know identification of new students will change the ratio?

Yes, the public school preschool integrated class must start at 50/50 (50% children with disabilities and 50% children without disabilities) and be maintained at all times. The requirements in new PSE Rule 3301-51-11 state that a public school preschool integrated class must meet the criteria that fifty percent of the students in the class are children with disabilities; therefore, this ratio must be maintained to be considered this class type.

6. What happens if the numbers of students with and without disabilities change and the classroom type does not meet the definition of a public school preschool integrated class?

A public school preschool integrated classroom model is difficult to sustain. If the numbers of students with and without disabilities change, then the LEA must select a different classroom type (See question in section (J) Delivery of services/Least Restrictive Environment about changing classroom type). Not maintaining a ratio of 50:50 (50% children with disabilities and 50% children without disabilities) does change section 11 of the IEP and corresponding EMIS code. Anytime a child's Least Restrictive Environment changes due to children with and without disabilities moving in and out of the classroom, the district is required to report the new Least Restrictive Environment EMIS code and make the necessary changes within the IEP.

(C) Free Appropriate Public Education

7. If the IEP team determines a general education setting is the child's Least Restrictive Environment, is the school district obligated to pay for that program?

The district of residence is required to make a free appropriate public education (FAPE) in the Least Restrictive Environment available for every eligible child ages three to twenty-one. For additional information, see the [Preschool Special Education FAQs for Programs](#).

8. How will community providers become prepared to support children with disabilities (accommodations, curriculum supports, modifications)?

The community provider is not responsible for FAPE. The district of residence remains responsible for FAPE and may coordinate with the community providers to ensure appropriate supports can be provided.

(D) Child Find

9. The Preschool Transition Conference date was previously reported as the Part C referral date. Will this be changed to reflect the meeting invitation date instead?

The Preschool Transition Conference date will continue to be reported and remains to be the identifier that the student is transitioning from Part C to B and requires the IEP to be in effect and implemented by the child's third birthday. For the date of the Part C referral, according to rule (Ohio Administrative Code 3301-51-11 (D)(3)(b)), the date of referral to the school district shall be the earliest of the following:

- One-hundred fifty days prior to the child's third birthday, if the transition planning conference or notification form Part C occurs more than 150 days prior to the child's third birthday; or
- The date the Part C representative first notifies the school district about the child, if this date is within 150 days prior to the child's third birthday; or
- The date of the transition planning conference, if the transition planning conference occurs within 150 days prior to the child's third birthday.

(G) Evaluations

10. Which evaluation planning form is to be used for re-evaluating children with disabilities who may be transitioning to kindergarten?

According to rule (Ohio Administrative Code 3301-51-11(G)(4)(b)(ii)), a child who is eligible for preschool special education under the category of developmental delay and turns six during the school year must have a preschool reevaluation prior to age six to determine eligibility under one of the other eligibility categories.

Otherwise, preschool children who are transitioning to kindergarten are only required to have a re-evaluation if their 3 year evaluation is due. In that case, it is a district decision as to which evaluation process (and planning form) to use. However, if there's any chance that the child may not go to kindergarten, then the preschool evaluation process should be used. (Sometimes the team agrees that a child will go to kindergarten, but then the parent and/or team change their mind and the child remains in preschool.) It is a requirement for preschool special education eligibility to have all developmental areas assessed using the required assessment types (as reflected on the preschool planning form). If the IEP team is confident that the child is going to kindergarten, then the school-age planning form would be appropriate (A child can go on to kindergarten with a preschool planning form).

(J) Delivery of services/Least Restrictive Environment

11. Does the district have to offer all the continuum options in its program?

No, the district does not need to operate all continuum options. However, all options on the continuum must be made available to meet the needs of each child with a disability.

According to rule (Ohio Administrative Code 3301-51-09(C)(1)), “[e]ach school district must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.” While the school district is required to ensure all options are available, the district does not need to *operate* all options.

12. Does the district have to offer a co-taught option?

No, co-taught is a type of general education classroom. The district is required to make the full continuum available, which includes a general education setting.

13. Is a parent able to choose the least restrictive environment for a preschool child with disabilities? For example, can parents choose a special education setting over their current community preschool settings even if the IEP team disagrees?

The district is required to provide a free and appropriate public education (FAPE) in the least restrictive environment (LRE). The placement decision is an IEP team decision with the parent as part of that team. If there is a disagreement, the Dispute Resolution Process outlined in the [Procedural Safeguards](#) should be followed.

14. Are districts allowed to change the classroom type based on enrollment throughout the school year?

There is nothing in the Ohio Administrative Code which prohibits this, but the district should be aware of the implications that are involved with changing the classroom type. The change of classroom type may result in a change of placement on each individual special education student's IEP, therefore an IEP team (includes the parent) meeting must occur to determine if the class type remains each student's LRE. Also, the preschool personnel qualifications and the maximum allowable number of children with and without disabilities may be different for the new classroom type.

15. What is meant by the one hour of general education instruction provided to students who are not in a program that includes instruction in the general education curriculum?

According to rule (Ohio Administrative Code 3301-51-11 (J)(5)(b)), hours of instruction are to be considered as follows:

Unless otherwise specified by the IEP team, services shall be provided for all preschool children eligible for special education services in accordance with the following:

- (i) A child served in the home or service provider location must be provided a minimum of one hour of instruction per week in the general education curriculum that includes specially designed instruction; or
- (ii) From the effective date of this rule children served in any setting other than home or service provider location must be provided a minimum of three hundred sixty hours of programming per year, which

must include instruction in the general education curriculum, and a minimum of one hour of specially designed instruction or related services per week, or a combination of specially designed instruction and related services; and

(iii) For all preschool children receiving special education services “support for school personnel services” must be considered during each IEP meeting. The district would follow their approved preschool curriculum that connects to the child’s identified areas of need.

16. What are the hourly requirements if a child is receiving itinerant services?

According to the new rule, hourly requirements are based on the *location* of services and not *how* services will be provided. For example, if a child is receiving itinerant services in the *home*, then refer to (i) above which states “a minimum of one hour of instruction per week in the general education curriculum that includes specially designed instruction.” If a child is receiving itinerant services in a general education classroom, then refer to (ii) above which states “a minimum of three hundred sixty hours of programming per year, which must include instruction in the general education curriculum, and a minimum of one hour of specially designed instruction or related services per week, or a combination of specially designed instruction and related services.”

17. If a preschool child with a disability receives related services at the district location on Friday but attends a community preschool program the rest of week, are we still required to teach one hour general education curriculum weekly?

How the district reports the LRE environment will determine the hourly requirements that must be met. For example, if the district reports the child's LRE in EMIS IE72 (In service provider location or other location not in any other category), then the district would be responsible for meeting the requirement of a minimum of one hour of instruction per week in the general education curriculum that includes specially designed instruction and related services ((3301-51-11(J)(5)(b)(i))). If the district reports the child’s LRE in EMIS IE55 (at least 10 hours/week of regular EC but majority of special education and related services in some other location), then the district would be responsible for meeting the requirement of a minimum of 360 hours of programming per year in the general education curriculum and a minimum of one hour of specially designed instruction or related services per week, or a combination of specially designed instruction and related services ((3301-51-11(J)(5)(b)(ii))).

18. What service delivery options are available to meet the minimum one hour per week of Specially Designed Instruction (SDI)/related services (RS) when a preschool child with a disability attends a public school preschool general education classroom?

A child eligible for preschool special education is provided SDI/Related services to access, participate, and make progress in the general education curriculum. Questions for the IEP team (includes parent) to consider are:

- What is the educational impact?
- In what settings is the child impacted?
- What other adults should be involved?

Services provided directly to the child as well as indirectly through another adult may be used to address a child’s needs. As one example, a child receives direct instruction from the classroom general education teacher, receives direct instruction from the speech language pathologist in the classroom embedded in the regular routines and activities, receives direct instruction from the speech language pathologist in a therapy room, and the classroom general education teacher receives support for school personnel from the speech language pathologist that adds up to 1 hour of SDI/RS.

19. How does the district document the hourly requirements for a preschool child served in the home or service provider location? Can the general education time be combined with the specially designed instruction/related service time?

For specially designed instruction/related service, the district would document the time within Section 7 of the IEP. General education and specially designed instruction/related service times can be combined if the specific requirements for each are met. Information also needs to be included in IEP Section 11. For further guidance on Section 11, refer to [Preschool Universal Supports](#) IEP Part 3.

20. Is there any flexibility for the requirement of 360 hours of programming per year? For example, a child is in a community preschool program that only runs four days per week. Do the other hours need to be made up? What constitutes programming? Are other events such as parent conferences and special events included in the 360 hours?

Unless otherwise specified in the IEP, the district is required to provide 360 hours of programming per year. If a child attends a community-based program that does not satisfy the 360 hours, the district must provide the remaining instructional hours to meet the 360-hour requirement. Otherwise, the district is required to provide a justification in Section 11 of the IEP. For further guidance on Section 11, refer to [Preschool Universal Supports](#) IEP Part 3

This table applies to all preschool students reported to EMIS regardless of funding source:

Activity	Can count as instruction time *
Nap time	No
Breakfast	Yes
Lunch	Yes
Recess	Yes
Parent Teacher Conference time	2.5 hours can be included twice per year
Professional Development Time	2.5 hours can be included twice per year if the program is closed for professional development for teachers

21. If a child attends a program that is not Step Up To Quality rated or is not highly rated (3-5 stars), does the child have to leave the program?

As stated in rule (Ohio Administrative Code 3301-51-11 (J)(4)), nothing in this rule shall restrict an IEP team from placing a child in a nonpublic preschool environment that does not have a 3-, 4- or 5-star rating in the Step Up To Quality program if the IEP team, which must include the parent, determines the placement is in the best interest of the child.

22. Under the “Regular Early Childhood Setting,” the definition for “Public school preschool general education class” includes a requirement for instruction in a general education curriculum aligned to Ohio’s Early Learning and Development Standards. Since this language is not repeated in any of the other classroom definitions, is this a requirement for those other classroom types?

Although directly stated in the definition of public school preschool general education class, the language provided in rule (Ohio Administrative Code 3301-51-11 (J)(5)(b)) addresses the requirement for instruction

in the general education curriculum for all classroom types. As a reminder, the requirement to provide children ages 3-21 access to the general education curriculum is written in IDEA.

23. If our public school preschool integrated classroom operating 8 half-day sessions (Monday through Thursday) is not full and has 4 children with disabilities and 4 children without disabilities, and 2 of those children are only on the SLP's caseload, can the lead teacher that is an Early Intervention Specialist add an additional itinerant caseload on Fridays?

No. The Intervention Specialist is responsible for teaching a total of 8 half-day sessions (8 Monday-Thursday am and pm sessions); therefore, the intervention specialist would not be able to carry an additional itinerant caseload. Caseload is based on the number of classes the ECIS is responsible for teaching and not the number of students with disabilities enrolled in the class. As outlined in rule (Ohio Administrative Code 3301-51-11 (J)(9)(b)), "An intervention specialist classroom teacher responsible for eight or more half-day class sessions (e.g., four morning and four afternoon sessions per week), or four full-day class sessions shall not carry an additional itinerant caseload".

24. If the IEP team determines the child's placement is a general education class and chooses the specific location of that general education class to be in a specific community preschool, is the district required to provide transportation?

According to Ohio Administrative Code 3301-83-17(A)(6), "resident preschool special needs children are to be transported to school district preschool special education programs within the district and outside the district if assigned by the school district of residence. If transportation is necessary for preschool special needs children to access and receive a free and appropriate education, it must be provided at no cost to the parent or guardian." For additional information, please review [A Guide to Transportation for Preschool Students with Disabilities](#).