

New York State Department of Health

Bureau of Early Intervention Electronic Mailing List

Bureau of Early Intervention Program Guidance Regarding the Delivery of Special Instruction Services and Applied Behavior Analysis (ABA) Services

06/18/2026

Dear Colleague,

Section 69-4.1(xv) of the Early Intervention Program regulations defines special instruction as a service type which includes the design of learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction. Special instruction also includes curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the child's individualized family service plan; providing families and any primary caregivers (e.g., child care providers) with information, skills, and support related to enhancing the skill development of the child; and working with the child to enhance the child's development. Providers are required to provide services authorized by their professional scope of practice. Although many early intervention providers work with children on these activities, only teachers should be authorized to deliver special instruction services as a unique service type. Other qualified personnel work on these activities under the service type which aligns with their profession. For example, an occupational therapist working with a child on activities to promote the acquisition of their motor development would be providing an occupational therapy service.

In order to comply with the Medicaid State Plan Amendment #18-0039, special instruction services in the Early Intervention Program must be provided by qualified individuals possessing one of the following teacher certifications issued by the State Education Department:

- special education teachers
- teachers of students with disabilities - birth to grade two
- teachers of the blind and partially sighted
- teachers of the blind and visually handicapped
- teachers of the blind and visually impaired
- teachers of the deaf and hard of hearing
- teachers of the deaf and hearing impaired
- teachers of the speech and hearing handicapped (TSHH)
- teachers of students with speech and language disabilities (TSSLD)

A rendering provider works under their professional license or certification, within the scope of their professional practice, and their individual competence. Individualized

Family Service Plan (IFSP) team members determine the service type to authorize on the IFSP based on the needs of the child and family and the outcomes identified by the family. The IFSP team also identifies who would be the most appropriate qualified personnel to deliver the service based on the service type and the needs of the child/family.

Applied Behavior Analysis (ABA) Services Authorization:

In the historical data system, New York Early Intervention System (NYEIS), Applied Behavior Analysis (ABA) services were authorized as a “Special Instruction” service type with ABA listed as a methodology or technique. The current data system, EI-Hub, enabled the New York State (NYS) Early Intervention Program (EIP) to implement the use of New York State Licensed Behavior Analysts (LBA) and New York State Certified Behavior Analyst Assistants (CBAA) in the Early Intervention Program and assign ABA services as a specific service type. While other EI service providers may use ABA techniques during their service delivery; only New York State licensed behavior analysts (LBAs) and New York State certified behavior analyst assistants (CBAA), working under the direction of a LBA, must be authorized for “ABA services” as a unique service type within the EIP.

NYS licensed behavior analysts and certified behavior analyst assistants (under the direction of a LBA) deliver ABA services, group early intervention services (ABA), parent/child groups, and service coordination. Licensed behavior analysts also provide family education and training services and parent/caregiver groups. ABA services can be delivered in a home/community-based setting or at an approved facility-based setting. At this time, Registered Behavior Technicians (RBT) are not qualified personnel and cannot deliver early intervention services. There are some 1:1 aides assigned to children receiving group developmental services within the Early Intervention Program. A 1:1 aide may have the national certification as an RBT. 1:1 aides assigned to children within group developmental services are supporting the child to enable them to actively participate within the EIP group developmental intervention services as authorized by the IFSP team.

Applied Behavior Analysis as a specific intervention methodology or technique may be utilized by different qualified personnel under the EIP, such as NYS certified special education teachers, licensed social workers, licensed psychologists, licensed speech-language pathologists, and licensed occupational therapists if they are acting within their scope of practice, are appropriately trained, and are competent to provide ABA as a methodology. The rendering provider is always working within their professional scope of practice and the service authorized on the IFSP should always be appropriate based on the needs of the child. For example, if a licensed clinical social worker is using the methodology or technique of ABA during the delivery of their services, the service would be listed in the IFSP as social work, the qualified personnel assigned would be licensed

clinical social worker, and the associated intervention method or technique would be identified on the on the IFSP as ABA.

Transition Timelines:

As of January 2026, statewide roughly eight percent (8%) of active “special instruction” service authorizations were assigned to qualified personnel who are not teachers. To comply with Medicaid State Plan Amendment #18-0039, all special instruction service authorizations must be authorized with the correct service type and qualified personnel combinations, prior to March 31, 2027. Refer to the *Qualified Personnel Matrix* for accurate service type and qualified personnel combinations.

Effective September 1, 2026, all newly created initial IFSPs which include special instruction services must be assigned to teachers with the following New York State issued certifications:

- special education teachers
- teachers of students with disabilities - birth to grade two
- teachers of the blind and partially sighted
- teachers of the blind and visually handicapped
- teachers of the blind and visually impaired
- teachers of the deaf and hard of hearing
- teachers of the deaf and hearing impaired
- teacher of the speech and hearing handicapped (TSHH)
- teachers of students with speech and language disabilities (TSSLD)

For existing IFSPs, to ensure continuity of services for children and families, services authorized in the Program as a “Special Instruction” service but delivered by a professional who is not a teacher, should continue to be delivered by their current rendering therapist. No later than September 1, 2026, at the child’s next IFSP review or IFSP annual meeting, whichever comes first, the special instruction service authorization should be updated to reflect the service type that matches the qualified personnel currently delivering the service. If the rendering provider utilizes ABA as a methodology or technique, the IFSP document should reflect this by making use of the comments section of the written IFSP. An example would be, if a licensed clinical social worker is currently authorized as the rendering provider on a special instruction service authorization utilizing ABA as a methodology, at the child’s **next** IFSP annual or review meeting, the service authorization service type would be authorized as a social work service. The current rendering provider (a licensed clinical social worker in this example) would continue to work with the child and family.

The Department does not recommend providers complete IFSP Amendments to make these corrections. Providers are strongly encouraged to begin making these corrections at regularly scheduled IFSP reviews and annual IFSP meetings currently taking place, thus making the process easier and avoiding the need for IFSP amendments later. If service coordinators and Early Intervention Official-Designees correct service

authorizations at regularly scheduled IFSP review meetings and IFSP annual meetings the service authorizations will naturally align with guidance prior to the March 31, 2027 deadline. If service authorizations are not corrected starting September 1, 2026, an IFSP amendment would be necessary. No later than March 31, 2027, all service authorizations for special instruction must be authorized in the correct manner. Billing for dates of service April 1, 2027, and beyond, authorized inaccurately will result in challenges.

At a glance:

- Beginning now but no later than 9/1/2026, start correcting all service authorizations for special instruction services.
- By 3/31/2027, all service authorizations for special instruction services must be authorized in the correct manner.
- Special instruction service authorizations not authorized correctly as of 3/31/2027 will require an IFSP amendment to correct the service.

Individual licensed behavior analysts and agencies who employ licensed behavior analysts and certified behavior analyst assistants can apply for approval as an Early Intervention Program provider who delivers 'ABA Services.' As more providers are approved for this service type, this specific service type will be more readily available for selection and assignment. The Department is committed to growing capacity for ABA services as a unique service type within the NYS Early Intervention Program.

Questions regarding this communication may be sent by email to the Bureau of Early Intervention Provider Unit at Provider@health.ny.gov.