

Diapering and Toileting Protocols FAQ



Regulatory Purpose

Q: What is Section 136.10 and why is it being added?

A: Section 136.10 establishes statewide protocols to ensure safe, hygienic, and developmentally appropriate diapering and toileting practices in schools. The goal is to protect students' health, privacy, and dignity while supporting learning and independence. Chapter 361 of the Laws of 2024 adds a new subdivision 62 to section 305 of the Education Law, effective March 27, 2026.

Q: Does Commissioner's Regulations 136.10 apply only to early childhood grade levels?

A: No, this regulation applies to all students across all grade levels (including ungraded).

Q: What schools are affected by these regulations?

A: School districts and public schools, Boards of Cooperative Educational Services (BOCES), special act school districts, approved private residential or nonresidential schools for the education of students with disabilities, State-supported schools for the blind and deaf, and approved preschool special education programs that are not licensed or otherwise regulated by other state agencies. If any of these schools are subject to more than one set of State requirements, it should ensure compliance with the requirement that sets the higher standard.

Q: Do these regulations apply to Community Based Organizations (CBOs) who collaborate with a school district for Universal Prekindergarten programs?

A: Section 136.10 applies to CBOs operating Universal Prekindergarten Programs in collaboration with a school district unless the CBO is also an approved preschool special education program that is licensed or otherwise regulated by another state agency. If a CBO is licensed or otherwise regulated by another State agency, it must follow the requirements of that agency. If the licensing agency's regulations do not address a specific requirement covered in section 136.10, the provisions of section 136.10 apply. If a program is subject to more than one applicable requirement, it is responsible for complying with the higher standard.

Roles and Responsibilities

Q: Who is responsible for assisting a student with toileting and diapering needs?

A: It is the responsibility of the district, BOCES, or executive leadership at the approved private special education school or program to establish clear roles and responsibilities for assisting students with diapering and toileting needs. This may include, but is not limited to, teachers, aides, assistants, administrators, and nurses, as appropriate.

Schools are expected to ensure that staff are prepared to provide assistance in a manner that protects health and safety and upholds the dignity of every student. Supporting students with toileting and diapering needs is a shared responsibility within the school community and must be approached with professionalism, respect, and care.

Q: Should only nurses assist with toileting and changing diapers?

A: No. Toileting and diapering are not nursing functions and may be performed by trained school staff as designated in the school's plan. The staff assigned to provide this support should be identified in the plan, along with backup staff to ensure coverage when needed. If a student has a health care order that requires nursing care during toileting or diapering, a nurse must be present. Schools should not assign routine toileting or diapering tasks to nurses unless required by a student's health care orders, as nurses must remain available to provide other nursing services to students. For additional guidance, please refer to Attachment C of Provision of Nursing Services in School Settings - Including One-to-One Nursing Services to Students with Special Needs.

Q: What is the role of families in diapering and toileting procedures and protocols?

A: Families are partners in supporting toilet learning. Districts and schools should coordinate with families on protocols, routines, and accommodations to ensure continuity between home and school.

Q: Who is responsible for providing supplies such as wipes, diapers, extra clothing, etc.?

A: Responsibility for providing toileting supplies (e.g., wipes, diapers, pull-ups, and extra clothing) is determined at the local level. Schools who provide supplies should be cognizant of potential allergens by choosing products carefully (such as water-based fragrance-free wipes) and inform parents/guardians of the products available at school. Parents/guardians who wish to have specific items should be instructed to send them to school for their use with their child. Toileting assistance may include assistance with menstrual care. Schools serving students in grades 6-12 are required to provide menstrual care products, see Menstrual Products in Schools.

Q: Is a second adult required when assisting a student with toileting?

A: While a second adult is recommended, it is not required. Depending on the students' needs, for example, when lifting a student onto a toilet or changing table—a second adult may be needed and, in some cases, required to ensure the safety of both the student and staff.

In addition, a school's insurance provider may have specific requirements regarding supervision during toileting assistance. Schools should consult their insurance carrier to determine any applicable expectations or mandates.

School Plan and Protocols

Q: According to 136.10(1)(c)(1), all schools are required to establish a plan with protocols for diapering and toileting. What should be included in the school's plan?

A: Each school's plan must:

- Identify staff roles and responsibilities regarding diapering and toileting
- Ensure that appropriate student to staff ratio is maintained in each classroom

- Explain how staff will supervise students during diapering and toileting—whether it is direct or indirect supervision based on each student's needs
- Establish who is responsible for providing supplies and a change of clothes for diapering and toileting
- Describe how the school will respect each student's privacy during diapering and toileting

School plans should be made available to families upon request. The plans do not need to be vetted by or submitted to NYSED.

Q: Do proper ratios need to be maintained when staff are assisting students with toileting and diapering needs?

A: It depends. Some regulations require that student-to-staff ratios always be maintained in the classroom and other regulations allow for special education instructional staff to leave the classroom (and ratio) to perform targeted duties outside of the classroom.

For those programs that are subject to regulations established by the New York State Office of Children and Family Services ([Child Care Regulations](#) | [Division of Child Care Services](#) | [Office of Children and Family Services](#)), the New York City Department of Health and Mental Hygiene under Articles 43 ([Child Care School Based - NYC Health](#)) and 47 ([Child Care Center Based - NYC Health](#)), and New York State Education Department [Subpart 151-1 Universal Prekindergarten Regulations](#), proper ratios must be maintained in each classroom when staff are assisting students with toileting and diapering. Districts and schools must outline in their plan how this will be achieved. Special education student-to-staff ratios under New York State Education Department regulation [Section 200.6 Continuum of Services](#) | [New York State Education Department](#) do not need to be maintained at all times when assigned staff are assisting with diapering or toileting for students in their classroom.

Although this flexibility exists within special education instructional ratios, it is still the responsibility of district and school administrators to ensure each classroom always has adequate staffing and supervision levels to be responsive to student and staff health and safety needs.

Q: What are Standard Precautions?

A: Standard Precautions are infection prevention practices designed to protect both those receiving care and those providing it. The following resources provide detailed information:

- [Centers for Disease Control \(CDC\)– Infection Control – Standard Precautions for All Patient Care](#) explains Standard Precautions and [Clinical Safety: Hand Hygiene for Healthcare Workers | Clean Hands](#) | CDC.
- The CDC also adds guidance on safe diapering practices in childcare: <https://www.cdc.gov/hygiene/pdf/diapering-childcare-508.pdf>
- The Department of Health provides training on hand hygiene, to help prevent the spread of infection. See <https://www.train.org/cdctrain/course/1092743/details>.
- Occupational Safety and Health Administration (OSHA) offers broader workplace safety and infection control standards: <https://www.osha.gov/>.

Q: What are the training requirements for staff on bloodborne pathogens and the use of standard precautions when dealing with blood and bodily fluids?

A: Public school administration must provide annual training for school personnel on bloodborne pathogens and the proper use of Standard Precautions when handling blood and body fluids. This training must be aligned with the school or school district's Exposure Control Plan. Schools may provide local, site-specific training on how to carry out their diapering and toileting plan within their building. The scope and format of this local training is determined at the school or district level. Training is available from BOCES and several organizations that offer health related training such as cardiopulmonary resuscitation (i.e., American Red Cross).

Q: What is an Exposure Control Plan?

A: OSHA's bloodborne pathogens standard applies to all public employees including schools who have occupational exposure to blood or other potentially infectious materials (OPIM). Exposure means contact with skin, eye, mucous membranes or contact with employee blood. Sources of exposure include all body fluids (e.g., urine, feces) regardless of whether blood is visible. An Exposure Control Plan is a written program required by OSHA and Public Employee Safety and Health (PESH) for public employers, including schools. It describes the measures the employer will take to eliminate or minimize employee exposure to bloodborne pathogens and OPIM. The following provides more detailed information on the requirements of this plan: [FAQ Safety and Health Topics | Department of Labor, Bloodborne Pathogens and OSHA's Bloodborne Pathogens Standard](#).

Q: Should staff wear gloves when assisting a child with toileting?

A: Yes. Staff should wear disposable gloves when assisting a child with toileting or diapering. PESH and OSHA require that standard precautions be followed whenever there is potential exposure to body fluids, whether blood is visible or not. To limit exposure staff must use be provided and use gloves, impervious (waterproof) gowns/aprons when splashing may occur, and perform hand hygiene after removing gloves. A sink with soap and hand drying method(s) should be readily accessible in the location where staff change or assist students with toileting. When assisting students, staff should wash their hands before putting on clean disposable gloves, ensure gloves are intact and not damaged prior to use, and remove and discard gloves after each use. Disposable gloves must not be reused, rinsed, or washed, even when assisting the same child.

Q: What health and safety or other training is required for staff related to diapering and toileting assistance?

A: All relevant staff must receive annual training on health and safety procedures related to the maintenance of diapering and toileting areas, the use of standard precautions when dealing with blood and bodily fluids, and training on how to assist students with toilet learning and personal care needs. In addition, staff may require training in safely lifting and transferring students on and off commodes and/or changing tables to ensure both student and staff safety. Consideration should be given to appropriate equipment, such as changing tables, to meet the needs of students and staff.

Q: What guidance and/or training is available on how to assist students with toilet learning and personal care needs?

A: The following is best practice in assisting students:

- Cover diapering surface with a disposable liner.
- Use water based, fragrance free wipes designed for cleaning the perineal area (groin area) or toilet paper wiping front to back. The use of paper towels is not recommended as they can irritate the skin in the perineal area.
- Dispose of the soiled/used wipes, diaper, other incontinence and/or menstrual products and the disposable liner in a trash bag. Seal/tie the trash bag and dispose of it in the regular garbage. Used toilet paper may be flushed.
- After cleaning the student or assisting the student to wipe after using the toilet, staff should remove gloves and dispose of them in a trash bag and wash hands again before assisting students with putting on clean undergarments, or clothing.
- Staff should have the student wash their hands (staff must assist if student is unable to do so independently) after being changed or after using the toilet.
- Wipe down the diapering surface with appropriate disinfectant.
- Wet or dirty clothes should be handled as little as possible and placed in a plastic bag that can be sealed tightly and stored out of reach of children until it is sent home to be laundered. Rinsing children's clothing or laundering soiled clothing at school is not permitted per OSHA standards because it increases the likelihood of contamination.

For additional guidance, please see the following resource:

<https://www.cdc.gov/hygiene/pdf/diapering-childcare-508.pdf>

Student Support

Q: Can a school or district deny enrollment because of concerns about a student's toileting skills?

A: No. Districts and schools cannot impose additional requirements, such as being toilet trained, as a condition for attendance, and must provide support for students who need assistance with toileting.

Q: Should a child be sent home from school when a toileting accident occurs?

A: No. A toileting accident alone is not a reason to send a child home. School personnel should respond to each student's individual needs. A student may be sent home if a clean change of clothing is not available, or if the parent/guardian chooses to take the child home after being notified. Sending a child home should be handled thoughtfully, as it can disrupt learning and may impact the child's social-emotional well-being. If a student is experiencing symptoms such as new onset diarrhea, pain with urination or defecation, or visible blood or sediment in urine or stool, the student should be evaluated by a school nurse (Registered Professional Nurse, RN) when available. If a nurse is not available, the parent/guardian should be notified and advised to follow up with a healthcare provider.

Q: Must students be "toilet trained" to attend school?

A: No. Mastery of self-care skills, including toilet training, cannot be a requirement for student enrollment. Students who are not toilet trained cannot be excluded from school at any grade level, from preschool through Grade 12, and schools must provide appropriate support to meet each student's needs.

Q: If a child breaks the school code of conduct during the process of toileting and diapering, can staff take disciplinary action?

A: Yes, but only if the violation is not related to the student's toileting or diapering status. If a child violates the district or school code of conduct while toileting or diapering, the disciplinary action outlined in the code can be applied. However, districts or schools cannot deny enrollment, suspend, or expel a student because of their toileting or diapering needs or status.

Q: What strategies can staff use if a child refuses toileting/diapering assistance, or if toileting regression occurs?

A: When a student experiences a change in toileting habits, the parent/guardian should be referred to a healthcare provider to rule out any health or mental health issues that may impact the student. The healthcare provider may offer guidance, recommendations, or orders that both the family and school can follow to support the student. Additionally, as part of school efforts to promote healthy and safe learning environments, schools could consider whether the refusal or regression is related to a behavior that impedes the student's learning despite consistently implemented general or school-wide or classroom-wide interventions and determine whether a functional behavioral assessment (FBA) and/or behavioral intervention plan (BIP) is appropriate. The New York State Education Department provides guidance on the use of positive behavioral supports and interventions in its resource, Behavioral Supports and Interventions & Discipline Procedures for Students with Disabilities, which can support schools in addressing these situations for both students with and without disabilities.

Q: Are there specific considerations for multilingual learners regarding toileting and diapering?

A: Yes. It is important to understand each student's cultural background and family expectations around toileting. Building strong relationships with both students and their families helps ensure everyone feels safe and supported. Schools should also create culturally and linguistically responsive, supportive environments by using visuals, translated materials, and language supports to help students understand toileting and diapering routines and to ensure families are informed and comfortable with those practices.

Q: Are there specific considerations for students with disabilities regarding toileting and diapering?

A: These regulations apply to all students, including students with and without disabilities. Some students with disabilities may also have specialized toileting needs and, in those cases, pursuant to Section 200.6 of the Commissioner's Regulations, students with disabilities must receive all special education services specified on their individualized education programs (IEPs), including toileting supports, services, and/or specialized equipment.

Section 504 of the Rehabilitation Act of 1973 is a federal civil rights law that prohibits discrimination based on disability in any program or activity operated by recipients of federal funds. Section 504 is enforced by the U.S Department of Education, Office for Civil Rights (OCR). For students with disabilities with a section 504 plan, diapering and toileting needs can be included in their plan. These are considered reasonable accommodations to ensure these students have equal access to education.

Facilities and Equipment

Q: If a student requires assistance with toileting, is special equipment required?

A: Yes. Schools must provide age- and size- appropriate restroom facilities and equipment to meet the needs of all students while maintaining accessibility requirements. This could include specialized toilets, modified seats, expansion of space, appropriate changing tables, or other support that allow students and staff to manage toileting safely and privately. Equipment for diapering or personal care should be in a private and sanitary location and designed to meet the individual needs of the student, regardless of grade level.

Q: Are there special toileting considerations for prekindergarten and kindergarten students?

A: Yes. Child-size toilets or modified toilet seats with step stools are recommended. The use of separate potty chairs is not recommended for use in prekindergarten or kindergarten classroom settings because sanitary handling of bodily fluids is difficult. Equipment used for diaper changing needs to be appropriate to the size of the child and be in a private location. For guidance or individualized concerns, schools should consult with the director of school health services (medical director), the school nurse, and/or relevant physical or occupational therapists.

Q: Where should diapering and toileting take place if classrooms do not have bathrooms attached?

A: Schools are required to have sufficient toilet and sink facilities to meet the minimum standards set by the Building Code of New York State. These requirements are reviewed by the Office of Facilities Planning for any building modifications. When classrooms do not have adjacent bathrooms, the specific location for diapering and toileting is determined locally based on the building layout and program needs. In making this determination, schools should consider factors such as privacy, hygiene, travel distance, accessibility, and safety.

Q: What should be considered when selecting a changing surface?

A: When selecting a changing surface, schools should consider the height and weight of the students, as well as the ergonomics for staff who will be assisting (e.g., minimizing excessive stretching, reaching, and bending). Changing tables with adjustable heights are recommended to accommodate various staff heights and to help reduce the risk of injury. The type of changing surface selected should be appropriate for the age and developmental needs of the students being served. For example, the changing table used for a preschool student may differ from what is needed for a high school student.

