

## FALLING SHORT:

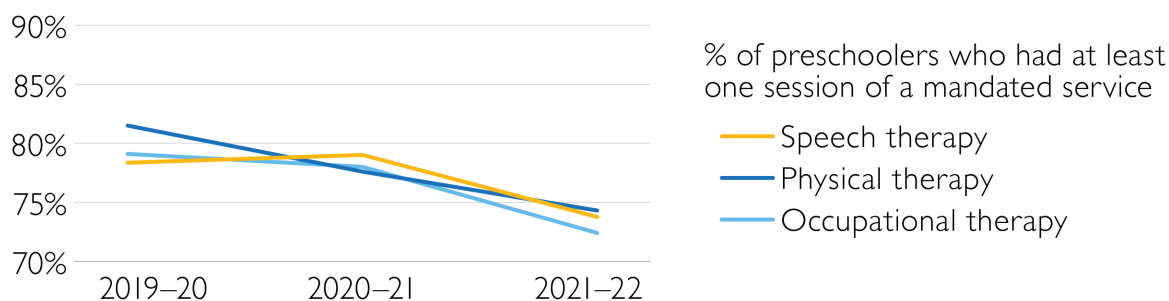
### *NYC's Failure to Provide Mandated Services for Preschoolers with Disabilities*

New York City is legally required to meet the special education needs of 100 percent of its preschoolers with disabilities. When a child's Individualized Education Program (IEP) mandates a service like speech therapy or the support of a part-time special education teacher, the City is obligated to provide those services. Yet data from the New York City Department of Education (DOE) show that the City is falling far short of meeting its responsibilities to its youngest learners. **During the 2021–22 school year, 36.8% of preschoolers with disabilities—a total 9,800 children—went the entire year never receiving at least one of their mandated special education services.\*** For example:

- » **More than 6,500 preschoolers who needed speech therapy did not have a single session** of this service in 2021–22, representing 24.5% of all those recommended for monolingual speech therapy and 33.0% of those who needed bilingual speech services.
- » **More than 5,300 children never received occupational therapy** (27.6% of all those who needed it).
- » **Nearly 2,000 preschool students never had a session of physical therapy** (25.7% of those who had a right to this service).
- » **Roughly 1,300 preschoolers went the entire school year without special education itinerant teacher (SEIT) services** (support to help include a child in a general education preschool class), representing almost one in every five children (19.3%) who had this IEP recommendation.
- » **About 1,015 preschoolers who needed a small special education class were still waiting for a seat** at the end of the 2021–22 school year, as were approximately 310 children whose IEPs called for a special class in an integrated setting (a class with a mix of students with and without IEPs).

Moreover, compliance rates for the three most common related services—speech therapy, physical therapy, and occupational therapy—have been trending in the wrong direction. For example, the proportion of preschoolers who had at least one session of mandated occupational therapy last year (72.4%) was 5.6 percentage points lower than in 2020–21 and a 6.7-point decline relative to 2019–20.

**FIGURE 1** The percentage of preschool students who received mandated speech, physical, and occupational therapies was lower in 2021–22 than in either of the previous two years.

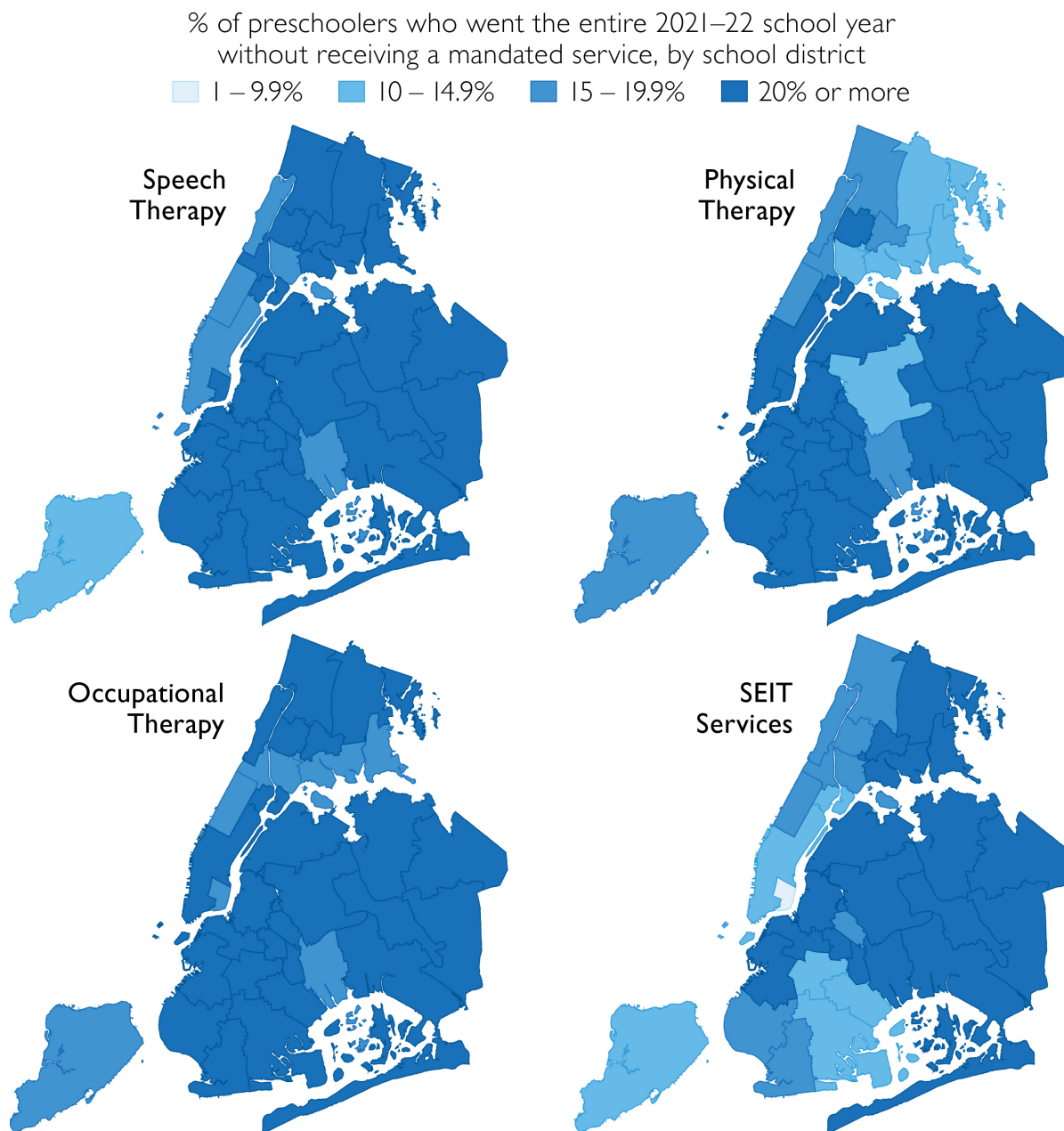


\* Data in this brief come from the DOE's Local Law 21 Annual [Preschool Special Education Data Report](#) (SY 2021–22).

As the maps below show, preschoolers are going without needed services in every neighborhood. **None of the City’s 32 community school districts managed to provide speech, physical, or occupational therapies to even 90 percent of all children who needed them in 2021–22, let alone the 100 percent required by law.** Similarly, there was only one school district (District 1) in which more than 90 percent of children received required SEIT services—and zero districts in which *all* SEIT mandates were fulfilled.

**FIGURE 2** In 26 of the City’s 32 community school districts, 20+% of preschoolers who needed speech therapy never received it. The same was true of occupational therapy in 25 districts, physical therapy in 21 districts, and SEIT services in 16 districts.

*Staten Island not shown to scale. See table in [appendix](#) for detailed data. Except where otherwise noted, percentages reflect both monolingual and bilingual services.*

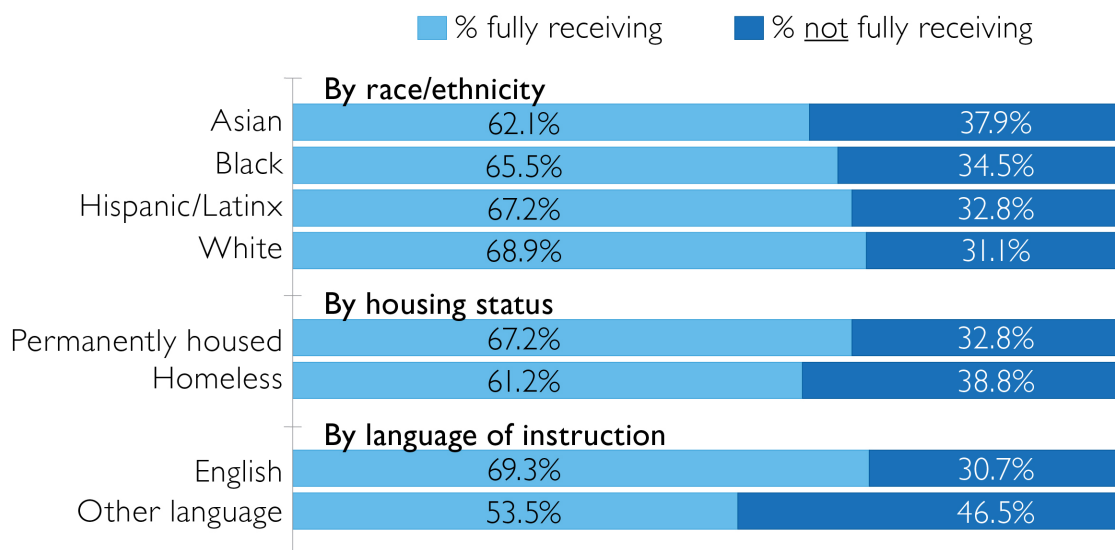


Importantly, **the above numbers likely significantly *understate* the magnitude of the problem.** For reporting purposes, the DOE considers children “fully” served if they had *one session* of a given service at some point during the school year. A child whose occupational therapist quits in November and is never replaced, or a preschooler who waits six months for mandated speech therapy to begin because the DOE is unable to find a provider, is not fully served from the perspective of their parents and teachers, but they are left out of the counts above.

These numbers also only reflect children who had an IEP in place by the end of the school year, and the data show that, for many preschoolers who were referred for evaluation due to concerns about their development, it took months to make it that far into the process. For example, 19.8% of Black children and 21.2% of Hispanic/Latinx children who were found eligible for preschool special education for the first time in 2021–22 waited more than 60 days (the legal deadline) after consenting to evaluations for an IEP meeting to be held to determine what services would be appropriate. Some school districts did an especially poor job holding initial IEP meetings in a timely manner, such as Districts 7, 10, and 32 where more than 30% of children waited more than 60 days. And these numbers mask the full extent of the delays experienced by families, as the timeline only starts at the child’s first evaluation appointment—and AFC has heard from many families who were forced to wait weeks or even months to get that appointment.

Overall, 40.4% of preschoolers with IEPs born in 2017 or 2018 attended 3-K or Pre-K for All programs in 2021–22. However, **only two-thirds (67.0%) of these children were fully receiving their mandated special education services by the end of the 2021–22 school year.** Once again, issues with compliance were widespread: no school district managed to fully serve even 85 percent of 3-K and pre-K students with special education needs, let alone 100 percent. In five Brooklyn districts (14, 17, 20, 22, and 32), over 40% of children in 3-K and pre-K did not receive all their services. There were also notable disparities by race, housing status, and language of instruction.

**FIGURE 3** Of preschoolers with disabilities born in 2017 or 2018 and enrolled in 3-K or Pre-K for All, those who were Asian, Black, or Latinx; living in temporary housing; or recommended for bilingual instruction were less likely to be fully receiving their special education services in 2021–22.



## ONGOING CHALLENGES

*While data for the current school year are not yet available, our on-the-ground experience with families suggests that preschoolers continue to be underserved. The City has taken important steps to address the shortage of seats in preschool special education classes, opening enough new classes to serve nearly 700 children with more significant disabilities who need such a placement.*

*Despite this progress, however, there are still more than 300 preschoolers waiting for a seat in their IEP-mandated special class. And with respect to related services and SEIT, we have had even more difficulty this year getting services in place for preschoolers with disabilities whose parents contact us. In recent months, we have heard from numerous parents who have been told by DOE Committee on Preschool Special Education (CPSE) administrators that there are simply no special education teachers or service providers available to serve their children. This is just a small sample of responses that families have received from the DOE during the 2022–23 school year.*

*“I wish I had better news for you. We have sent [the child’s] information to multiple agencies and lists of independent providers. No one has said that they are available to pick up his case. We will continue to search until we find a provider.”*

*“There has been a shortage of SEITs across the city. [The child] has been included in a weekly blast to SEIT agencies of students who require services.”*

*“We have exhausted the DOE search for a speech provider and there is no provider at this time.”*

*“I explained to [the parent] that we have been emailing independent providers weekly to secure a therapist to service [the child] at his present school. Unfortunately, no one has picked up the case as of today.”*

*“As we discussed there is a shortage of SEITs in NYC. I contact and follow up with agencies each week and at this time they are not responding to my email requests.”*

## A WAY FORWARD

**Providing mandated services is not optional. New York City must ensure that every preschooler with a disability receives their special education services in a timely manner.** The first five years of life are a period of rapid brain development, making it all the more critical that children with developmental delays or disabilities receive intervention and support at the earliest opportunity, when services can have the greatest impact.

**The City currently relies on contracted agencies to conduct most preschool evaluations and provide the vast majority of preschool special education services, but when these agencies are unable to meet the need, the City has a legal obligation to fill the gap.** Yet despite the clear lack of adequate staff at private agencies, the DOE has not taken sufficient steps to address the shortages or to hire its own preschool evaluators, service providers, and teachers directly. There will be long-term ramifications for both individual students and for the City as a whole: when preschoolers with disabilities do not receive the help they need early in life, many will require more intensive—and expensive—interventions once they reach elementary school.

The Mayor’s Executive Budget would cut hundreds of millions of dollars from the DOE budget while doing nothing to address this systemic legal violation of children’s rights. **Instead of cutting funding, the City should be making needed investments in preschool special education so that young children are not left waiting for months for the evaluations and services they need and have a legal right to receive. We recommend that the City add at least \$50 million to the Fiscal Year 2024**

**budget for preschool special education evaluations and related services.** To address the problems illustrated above, the City should take steps such as launching more DOE preschool evaluation teams; hiring more DOE preschool service providers and teachers; increasing payment rates for contracted providers to ensure children, including those who need bilingual services and those in underserved communities, receive their services where they go to preschool; and continuing to open preschool special education classes to ensure there is a seat for every child who needs one.

# APPENDIX

	% of preschoolers with IEPs who did not receive even one session of a mandated service in 2021–22				% of preschoolers with IEPs in 3-K or Pre-K for All who were not fully served in 2021–22 <sup>†</sup>
	<i>Speech therapy</i>	<i>Physical therapy</i>	<i>Occupational therapy</i>	<i>SEIT services</i>	
District 1	20.0%	28.1%	19.4%	8.9%*	25.9%
District 2	19.6%	24.1%	26.9%	12.3%	27.5%
District 3	17.6%	15.6%	19.3%	19.1%*	18.0%
District 4	20.4%	20.4%	23.7%	12.1%*	22.4%
District 5	20.6%	16.2%	16.8%	16.2%*	31.4%
District 6	19.9%	15.4%	20.9%	19.2%	25.9%
District 7	15.8%	12.9%	17.1%	18.7%*	35.9%
District 8	20.1%	13.5%	19.6%	32.1%*	29.1%
District 9	22.9%	20.8%	24.9%	16.7%	27.7%
District 10	22.8%	17.6%	24.4%	15.3%	32.2%
District 11	22.4%	14.9%	22.9%	22.8%*	35.5%
District 12	23.7%	18.9%	28.8%	31.3%	39.2%
District 13	28.7%	20.9%	25.1%	26.2%	26.6%
District 14	49.0%	47.7%	50.8%	23.7%	40.7%
District 15	29.1%	21.0%	28.0%	23.7%	35.4%
District 16	29.1%*	23.4%	28.5%	40.5%	24.2%
District 17	29.1%	35.5%	25.7%	11.1%*	44.6%
District 18	33.5%*	34.4%	34.1%	11.1%	38.3%
District 19	19.9%	15.7%	19.5%	23.2%*	26.6%
District 20	38.4%	46.0%	43.7%	19.5%	42.7%
District 21	29.8%	35.5%	33.5%	18.4%	35.1%
District 22	33.1%	39.2%	35.3%	14.8%	41.4%
District 23	35.3%	20.6%	24.7%	28.0%	37.3%
District 24	27.2%	14.3%	23.5%	33.3%	35.9%
District 25	24.1%	20.6%	20.4%	24.1%	31.7%
District 26	21.7%	30.4%	25.3%	21.6%	25.3%
District 27	32.5%	32.5%	31.8%	31.7%*	33.9%
District 28	21.4%	23.7%	26.9%	20.0%	38.1%
District 29	24.4%	23.7%	26.5%	33.1%*	35.3%
District 30	30.0%	25.1%	26.0%	42.4%	36.5%
District 31	13.4%	17.6%	16.4%	13.2%	22.2%
District 32	30.1%	28.1%	33.0%	18.0%	42.4%
<b>Citywide</b>	<b>26.2%</b>	<b>25.7%</b>	<b>27.6%</b>	<b>19.3%</b>	<b>33.0%</b>

\* Only reflects children recommended for monolingual English services due to the DOE's redactions in data on bilingual services.

† Includes children born in 2017 and 2018; a small number of children born in 2019 were also enrolled in 3-K or pre-K but are not included here due to redactions in district-level data.