

SPECIAL EDUCATION VARIANCE REQUESTS

Special education programs may request approval through Special Education Quality Assurance for a variance from the Regulations of the Commissioner of Education in the following instances:

CONSULTANT TEACHER SERVICES

Consultant teacher caseload in excess of 20 students with disabilities (as per Section 200.6(d)(3) of the Regulations of the Commissioner of Education);

RESOURCE ROOM PROGRAMS

Resource room teacher instructional group in excess of five students with disabilities; and/or

Resource room teacher caseload in excess of 20 students with disabilities or 25 students with disabilities enrolled in grades seven through twelve or a multi-level middle school program operating on a period basis (as per section 200.6(f)(6) of the Regulations of the Commissioner of Education).

SPECIAL CLASSES - Refer to November 2004 Memorandum from Rebecca Cort on Special Class Size Variances.

Special class size in excess of fifteen, twelve, eight or six students with disabilities; and/or

The chronological age range in a special class for students with disabilities under the age of sixteen is greater than 36 months (as per Section 200.6(g)(6) of the Regulations of the Commissioner of Education).

If you would like to submit a request for a variance in these indicated areas, please forward the information requested to your Regional Associate.

For Special Education Variance Requests

In order to expedite the review and processing of your variance request, please complete:

- (1) The attached worksheet (duplicate as necessary); and
- (2) A narrative which includes:
 - student(s) name and date(s) of birth;
 - type of variance requested;
 - number of students in class;
 - age range of class;
 - disability classification within class;
 - class size/staffing ratio;
 - related services provided;
 - participation in regular education;
 - description of the class according to the four areas of learning rate and academic performance; social development; physical development; and management needs;
 - description of the student for whom variance is requested according to the four criteria;
 - alternative options available if the variance is not approved; and
 - plan of correction for the next school year.

A sample variance narrative is included as an example.

When completed, forward the variance request to your Special Education Quality Assurance Regional Associate.

SAMPLE - VARIANCE NARRATIVE

| | |
|--------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Student(s) Name(s) – DOB:</u> | Bobby D. (mo/day/yr) |
| <u>Type of Variance:</u> | Age range – The student is the youngest in the class and the three year age limit is exceeded by three months. |
| <u>Number of Students:</u> | 9 |
| <u>Age Range in Class:</u> | 3 years, 3 months (youngest DOB mo/yr – oldest DOB mo/yr) |
| <u>Disability:</u> | All students are emotionally disturbed |
| <u>Class size/Staffing Ratio:</u> | 12:1+1 In addition, one student is assigned a full-time one-to-one aide. |
| <u>Related Services:</u> | The psychologist is available to the students in the program two days per week. Eight students receive individual counseling (one student is being seen privately and is not seen individually by the school psychologist). Nine students receive small group counseling. |
| <u>Participation in Regular Education:</u> | Five students are mainstreamed for two periods; two students are mainstreamed for three periods; two students are mainstreamed for four periods. All students also have two PE periods per week. The student for whom the variance is requested is mainstreamed for four periods. |
| <u>Description of the Class:</u> | |
| | Learning rate and education performance – two students are functioning on grade level; six students are reading between 3 rd and 6 th grade level and retain concepts more readily when subject matter is presented verbally; one student is reading on a 2 nd grade level and has difficulty with all new concepts, needing extra aide or teacher reinforcement. |
| | Social development – All students have difficulty developing appropriate peer relationships, lack self-confidence and have difficulty understanding cause and effect. |
| | Physical development – within normal range for junior HS students. |
| | Management needs – the students require a great deal of adult support and structure in order to maintain appropriate behavior; they still need extra help dealing with social situations. The teacher and psychologist are helping the students learn appropriate behavior. |

Description of the Student:

The student for whom the variance is being requested is one of the higher functioning students academically. He was in this program last year and made progress in his social/emotional growth. It is felt that he is still immature socially and emotionally and needs the extra adult support provided in this program for another year.

Other Available Options:

If the student is denied the variance, he would be placed out of the district in a BOCES program. We feel this would be a less desirable alternative because that would remove this student from his home school and those opportunities to be educated with his non-disabled peers.

Correction of the Problem for the Following School Year:

The oldest student in the class will be moving to the high school program placing the student within the three year age range.

The student will also be considered for placement in a less restrictive environment for the following school year if progress continues at the present rate.

VARIANCE REQUEST WORKSHEET

District/Agency: _____ Building: _____

Class Designation and Room #: _____ Teacher: _____

| Name or ID Numbers of Students | DOB | CSE Classification | Class Size Option | I.Q. Range or Score | Levels of Academic Achievement | Describe Social Skills and Development | Physical Development | Management & Behavioral Needs |
|--------------------------------|-----|--------------------|-------------------|---------------------|--------------------------------|----------------------------------------|----------------------|-------------------------------|
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Rationale for Grouping:

NEW YORK STATE EDUCATION DEPARTMENT
SPECIAL EDUCATION CLASS SIZE VARIANCE NOTIFICATION FORM
(MIDDLE AND SECONDARY CLASSES ONLY)

INSTRUCTIONS

This Class Size Variance Notification Form applies to all special education programs serving public school students whether operated by the local districts, BOCES, State-supported or State-operated school, an approved private school, or State department or agency. This variance procedure does not apply to the City School District of the City of New York.

(1) Name of School

Provide name of the public school district, BOCES, Special Act School District, Private Approved School, State-supported/State-operated School, or State department or agency.

(2) Number of Classes

Indicate the number of classes for which a variance will be implemented. This information should be provided for each regulatory class size which will have a variance.

(3) Class Size with Variance

Indicate the maximum anticipated class size(s) resulting from the variance for the current school year.

(4) Number of Middle School (or Age Equivalent) Classes

Indicate the number of middle school classes affected by the variance for each class size for which a variance is implemented. This pertains to classes for grades 7 and 8 or classes serving students age equivalent to these grades.

(5) Number of Secondary School (or Age Equivalent) Classes

Indicate the number of secondary school classes affected by the variance for each class size for which a variance is implemented. This pertains to classes for grades 9 through 12 or classes serving students.

Provide the name and original signature of the Chief Executive Officer.

SUBMIT TWO COPIES OF THIS FORM TO:

Eileen Borden
Associate
VESID Special Education Quality Assurance
One Commerce Plaza, Room 1623
Albany, NY 12234

NEW YORK STATE EDUCATION DEPARTMENT

SPECIAL EDUCATION CLASS SIZE VARIANCE NOTIFICATION FORM
(MIDDLE AND SECONDARY CLASSES ONLY)

Name of School: _____

| Regulatory Class Size | Total Number of Classes in Variance | Class Size with Variance | Number of Middle School Classes | Number of Secondary School Classes |
|-----------------------|-------------------------------------|--------------------------|---------------------------------|------------------------------------|
| 15:1 | | | | |
| 12:1+1 | | | | |
| 8:1+1 | | | | |
| 6:1+1 | | | | |
| 12:1+(3:1) | | | | |

Please provide a statement regarding the educational justification for the variance(s) _____

The undersigned certifies that:

The special classes for which the class size variance has been implemented will be in compliance with special class size requirements pursuant to 8NYCRR 200.6(g) and 200.13(a)(3) at the start of the school year (for the purposes of this variance, the start of the school year is September 1).

All students affected by the implementation of the class size variance will continue to receive appropriate special education programs and services to meet their individual needs.

The parents of all students who are enrolled in classes affected by the class size variance have been notified of the variance.

Name of Chief Executive Officer

Signature

Date