



**THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234**

DEPUTY COMMISSIONER FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES

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**TO:** District Superintendents  
Presidents of Boards of Education  
Superintendents of Schools  
Organizations, Parents & Individuals Concerned with Special Education  
Superintendents of State-Operated and State-Supported Schools  
Executive Directors of Approved Private Schools  
Directors of Special Education  
Chairpersons of Committees on Special Education  
Directors of Pupil Personnel Services  
New York City Department of Education  
Commissioner's Advisory Panel for Special Education Services  
Impartial Hearing Officers  
Community Dispute Resolution Centers  
SETRC Project Directors and Training Specialists  
State and Local Teacher Associations

**FROM:** Rebecca H. Cort

**SUBJECT:** Special Class Size Variances

Section 66 of Chapter 57 of the Laws of 2004 extended the provisions of section 4402.2(d) of the Education Law until July 1, 2005. Section 4402.2(d) authorizes a school district, except the school district of the City of New York, to exceed the special education class size standards established in regulation for special education classes for middle and secondary school students only. The requirements for this variance by notification can be found in section 200.6(g)(6)(i) and (ii) of the Regulations of the Commissioner of Education.

Section 52 of Part C of Chapter 57 of the Laws of 2004 extended the provisions of section 4402.6 of the Education Law until July 1, 2005. Section 4402.6 of the Education Law authorizes a school district with a population of 125,000 or more inhabitants, except the New York City School District, to increase class sizes in special classes containing students with disabilities to obtain relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary levels. The requirements relating to this over-enrollment special class size variance can be found in section 200.6(g)(6)(iii) of the Regulations.



If you have any questions about this information, please contact the VESID Special Education Policy and Partnerships Unit at 518-473-2878 or your Regional Associate at one of the following VESID Special Education Quality Assurance Regional Offices:

Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(914) 245-0010
Central Regional Office	(315) 428-3287
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002, ext. 420