



THE STATE EDUCATION DEPARTMENT/THE UNIVERSITY OF THE STATE OF NEW YORK/ALBANY, N.Y. 12234

OFFICE OF VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES
EXECUTIVE COORDINATOR FOR SPECIAL EDUCATION SERVICES

November 1995

TO: District Superintendents
Presidents of Boards of Education
Superintendents of Schools
Organizations, Parents and Individuals Concerned with Special Education
Superintendents of State-Operated and State-Supported Schools
Nonpublic School Administrators and Educators
State and Local Teacher Associations
New York City Board of Education
Developmental and Psychiatric Centers and State Agency Personnel
Executive Directors of Approved Private Schools
Principals of Public Schools
Directors of Special Education
Chairpersons of Committees on Special Education
Chairpersons of Committees on Preschool Special Education
Directors of Pupil Personnel Services
Directors of Approved Preschool Programs and Preschool Evaluators
School Social Workers and School Psychologists
Family Court Judges
Early Childhood Direction Centers
Colleges with Special Education Teacher Training
Commissioner's Advisory Panel for Special Education Services
Preschool Special Education Advisory Committee
Impartial Hearing Officers
SETRC Project Directors and Training Specialists
Head Start Directors
Chief Elected Officials of the Counties
Independent Living Centers

FROM: Thomas B. Nevelidine *Thomas B. Nevelidine*

SUBJECT: Application Procedures for Innovative Waivers for Preschool Special Education Programs

The Board of Regents, at its July 1995 meeting, approved an amendment to Section 200.16 of the Regulations of the Commissioner of Education to allow approved preschool



special education programs to request a waiver from the provisions of Sections 200.1, 200.6 and 200.16 of the Regulations to implement innovative special education programs. The purpose of this memorandum is to provide information on application procedures for requesting approval of a preschool special education innovative program.

An approved preschool special education program is required to submit an application for such a waiver to the Commissioner at least 60 days in advance of the proposed starting date of the innovative program. The application may be approved upon a finding that the innovative program will enhance student development and/or opportunities for interaction between preschool children with and without disabilities. The innovative program must be consistent with applicable Federal and State laws and regulations. An approved preschool special education program which has received a waiver will be required to submit an annual report to the Commissioner regarding the operation and evaluation of the innovative program. When an innovative program has been approved for three consecutive school years and has resulted in improved student development, the Commissioner is authorized to approve a continuation of the waiver(s) without annual application. The Commissioner is also authorized to terminate a waiver upon a finding that the program has failed to meet the objectives established in the application or for noncompliance with Federal and State law or any provision of Part 200 of the Regulations of the Commissioner of Education which has not been specifically waived in the approval granted pursuant to this amendment.

Please direct any questions regarding the preschool innovative waiver program to your special education Regional Associate or the Office for Special Education Services (518) 473-2878. Applications should be sent to:

New York State Education Department
Office for Special Education Services
Attention: Innovative Waivers for Preschool
Special Education Program Application
Room 1624 - One Commerce Plaza
Albany, New York 12234

Attachment

Application for an Innovative Preschool Special Education Program Waiver

A. Introduction

As part of the Board of Regents and State Education Department's ongoing efforts to implement the principles of A New Compact for Learning, the Regents approved an amendment to Section 200.16 of the Regulations of the Commissioner which establishes procedures for the granting of waivers from the provisions of Sections 200.1, 200.6, and 200.16. Such waivers are designed to promote innovative and creative educational approaches, practices, and programs at the local level. While cost effectiveness may be considered an important by-product of an innovative program, the primary goal must be to enhance student development or opportunities for preschool students with and without disabilities to be educated in more integrated settings.

The waiver process is one of many initiatives undertaken by the Board of Regents and the Department to implement the Compact to promote greater flexibility, authority, and accountability at the local level. To this end, the Regents and the Department are committed to promoting this initiative in order to make changes in the preschool special education delivery system and practices that will benefit all preschool students.

B. Application Procedures

Each application for a preschool special education program waiver from the Commissioner's Regulations must be approved and signed by the program's executive director and a representative of the Board of Trustees or Board of Directors. The program director must also submit letters of support from at least two chairpersons of Committees on Preschool Special Education and a representative of the county in which the program is located. (In New York City the program director would not need a letter of support from a representative of the county.) **If a waiver is being sought by a school district's approved preschool special education program, it must be approved by the local Board of Education and signed by the Superintendent of Schools.**

The application must be submitted to the Department at least 60 days in advance of the proposed starting date of the innovative program. In the case of the New York City Board of Education, waiver applications from Community School Districts must be submitted to the Chancellor for review, consultation, and recommendation. The Chancellor's representative would be the designee of the Central Based Support Team. All applications must include a narrative (described in section G below) and Attachments I, or II, III and IV. Upon receipt of the completed application, the Department will issue a decision to the program director within 60 working days. If approved, the waiver will be granted for a period not to exceed three years. An annual report (see section E) must be filed at the end

of each full year that the waiver is in effect. This document will be considered a reapplication for continued approval. The Department reserves the right to terminate a waiver at any point if it is determined that the waiver is not in accord with the requirements of the waiver procedures and the approved application. When a waiver has resulted in improved student results for three years, the Commissioner may approve a continuation of the waiver(s) without the annual application.

C. Application Narrative

The application narrative should be a concise statement which describes the major elements of the innovative program waiver request. The narrative should be no more than eight (8) single-spaced, typewritten pages and should include at least the following information:

1. Approved Program Description: Provide a brief statement which describes the major characteristics of the approved preschool program (school and community demographics, and any unique characteristics).
2. Innovative Program Description: Provide a concise description of the proposed innovative program (e. g., changes in current approaches, practices, and programs). Describe the relationship between the proposed program and A New Compact for Learning (enclosed). [Consortia applications should clearly delineate responsibilities and expectations of each program component.]
3. Student Development: Identify the area of student performance targeted and explain why the approved preschool special education program seeks to make improvement in this area.
4. Accountability Data: Describe the present level of student development; the desired learning goals; and any other related or expected results, such as new methods of operation; uses of technology; linkages with higher education, community institutions and business; and cost savings.
5. Regulatory Impact: Indicate the proposed duration of the waiver (one to three years). **The specific requirement(s) of Sections 200.1, 200.6, and/or 200.16 from which relief is sought must be stated.** The statement must include both a regulatory citation and a brief description including why a waiver from this regulation is desired.
6. Consultations: Describe how information about the preschool special education waiver application was shared with parents, teachers, municipality representatives, administrators, the Committee on Preschool Special Education and others affected by the request. If any of the groups affected by the waiver opposed it, the applicant must complete the appropriate section of Attachment III.

7. Evaluation: Describe the method that will be used to evaluate progress in achieving the desired results. Where appropriate, describe the expected overall effectiveness of the preschool special education waiver in improving the program environment in such areas as communication, parent and teacher participation, school practices and organization and/or enhanced opportunities for placement of students with disabilities in programs serving peers without disabilities. The evaluation must include both formative and summative components.
8. Reporting Procedures: Describe how the progress and results of the waiver will be reported to parents, program staff and appropriate representatives of school districts and municipalities.

D. Review Criteria

Approval of waiver requests will be based primarily on:

- (1) the likelihood that the waiver will enhance student development and/or opportunities for preschool students with disabilities to learn with students without disabilities;
- (2) the extent to which the request identifies the benefits to the targeted population and describes the programs's impact on peers without disabilities (if applicable);
- (3) the potential that the waiver will allow the creation of new teaching and learning structures leading to improvement of educational programs and practices;
- (4) the extent to which the request demonstrates an effective evaluation design to measure achievement of the desired learning outcomes; and
- (5) the degree to which the request confirms consultation with and support by program staff, parents and the municipality in which the program is located.

E. Appeal Process

If an application is disapproved by the Department, the program director may submit an appeal in writing addressed to the **Executive Coordinator of VESID's Office for Special Education Services, Room 1624, One Commerce Plaza, Albany, New York 12234.**

F. Reports

If the application is approved, the program director must submit to the State Education Department an annual report two months prior to the end of the first full school year and each subsequent year until final approval is granted. The report should contain a detailed summary of the program and an assessment of its progress toward the achievement of the desired results, as described in the waiver application. The report should evaluate the effectiveness of the waiver in meeting the original requirement for which it is an alternative. A report format is included in Attachment V.

G. Termination

If it is determined that an innovative program is not achieving the objectives established in the application, or is no longer consistent with Federal or State law or regulation, the waiver may be terminated by the Commissioner. The Commissioner shall provide at least 30 days notice of a proposed termination. A school which receives notice of proposed preschool special education termination may appeal the determination, in writing, no later than five days prior to the date of termination to the Executive Coordinator of VESID's Office for Special Education Services.