

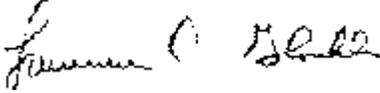


THE STATE EDUCATION DEPARTMENT / THE UNIVERSITY OF THE STATE OF NEW YORK / ALBANY, NY 12234

DEPUTY COMMISSIONER FOR VOCATIONAL AND EDUCATIONAL SERVICES FOR INDIVIDUALS WITH DISABILITIES  
Tel. (518) 474-2714  
Fax (518) 474-8802

January 2003

TO: District Superintendents  
Presidents of Boards of Education  
New York City Department of Education  
Superintendents of Schools  
Superintendents of State-Operated and State-Supported Schools  
Organizations, Parents and Individuals Concerned with Special Education  
Directors of Special Education  
Executive Directors of Approved Private Schools  
Directors of Pupil Personnel Services  
Chairpersons of Committees on Preschool Special Education  
Directors of Approved Preschool Programs and Preschool Educators  
Committee on Preschool Special Education Chairpersons and Administrators  
Early Childhood Direction Centers  
Impartial Hearing Officers  
New York State Community Dispute Resolution Centers  
Commissioner's Advisory Panel for Special Education Services  
SETRC Project Directors and Training Specialists  
Colleges with Special Education Teacher Training  
Municipal Representatives

FROM: Lawrence C. Gloeckler 

SUBJECT: Child-specific Allowance to Temporarily Exceed an Approved Special Class Size for Preschool Students with Disabilities

The purpose of this memorandum is to describe the process to admit one or two additional preschool students in a special class which is at its maximum student-to-staff ratio. The temporary increase in approved special class sizes will be allowed only in those extenuating circumstances when adding a student to a special class is necessary to ensure that the student receives a free appropriate public education (FAPE). Temporary increase means the addition of no more than two preschool students beyond the program's approved student-to-staff ratio for a period not to exceed the remainder of the school year.

These procedures relate to special classes in separate and in integrated settings, which are approved to serve less than 12 preschool students with disabilities. There is no statutory or regulatory authority for the State Education Department to grant a request to exceed the maximum class size of 12 preschool students with disabilities. **Please note that these procedures are for temporary increases only and DO NOT REPLACE procedures**



**for programs to apply for approval of any new or expanded programs that include only preschool students with disabilities<sup>1</sup> or for programs requesting a permanent change in a class approved staff-to-student ratio.**

A preschool program may implement a temporary increase in class size under one of the following procedures:

- “Child-Specific Allowance by Notification:” This form is used in the event the program seeks to expand a special class beyond the approved staff-to-student ratio by one additional student.
- “Prior Approval Request for A Child-Specific Allowance:” This form is used in the event the program has already exceeded the approved staff-to-student ratio through the notification process and subsequently there is a need to add an additional student to that same special class.

**Child-specific Allowance by Notification to Temporarily Exceed an Approved Special Class Size for One Preschool Student with a Disability**

In any one school year, an approved preschool program may enroll up to one additional preschool student with a disability in each of its special classes that are at maximum approved class size capacity through a **notification process** without prior approval of the State Education Department (SED). This temporary increase applies when it is determined that the placement is needed for a preschool student with a disability to receive a FAPE.

To implement this process, upon enrollment of the student, the approved program submits a notification to SED, on the form provided in Attachment 1. The notification form includes information on the specific class affected, the student to be enrolled, the educational justification for the placement and assurances that:

- the Committee on Preschool Special Education (CPSE) has informed the program that no other appropriate placement is available in a special class that is not at full capacity;
- the program has the resources to implement the IEP of the additional student, as well as all other students in the program;
- the temporary increase in class size will not result in non-compliance with any applicable requirement for preschool program approval, including fire, safety and day care requirements of the State and municipality;
- the parents of the other preschool students enrolled in the class have been notified of the temporary increase in special class;

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<sup>1</sup> Procedures for Application and Approval of Any New or Expanded Programs in Settings which Include Only Preschool Children with Disabilities, January 2002, Preschool 00-02

- the increase will not result in the number of preschool students with disabilities in the class exceeding 12 students; and
- the class size will return to its approved student-to-staff ratio no later than the end of the school year in which the student is enrolled.

The notification form must be received by SED within 30 calendar days of the student's enrollment. Upon receipt of the notification form, SED will return an acknowledgement of receipt of the form. No prior approval from SED is needed to enroll the one additional student.

**Prior Approval Request for a Child-specific Allowance to Temporarily Exceed an Approved Special Class Size by Adding a Second Preschool Student with a Disability**

In the event that an approved program has enrolled one student beyond the approved special class size capacity through the "Child-Specific Allowance by Notification" process (above) and now seeks to enroll one additional preschool student with a disability in the same class (resulting in two preschool students beyond class capacity), the approved preschool program must submit a request for **prior child-specific approval** to SED using the form in Attachment 2. This applies to requests for child-specific approvals to increase class size in special classes in separate settings and special classes in integrated settings. This temporary increase applies when such placements are needed for the preschool students to receive a FAPE.

To implement this process, upon consideration of enrolling the student, the approved program submits a request for child-specific approval to SED, on the form provided in Attachment 2. One form per student must be submitted. The application form for prior approval includes information on the specific class affected, the student to be enrolled, the educational justification for the placement and assurances that:

- the CPSE has determined that no other appropriate placement is available in either a special class that is not at full capacity or one that has not exceeded its approved class size through the notification process;
- the program has the resources to implement the IEP of the additional student, as well as all other students in the program;
- the temporary increase in class size will not result in non-compliance with any applicable requirement for preschool program approval, including fire, safety and day care requirements of the State and municipality;
- the parents of the other preschool students enrolled in the class will be notified of the temporary increase in special class upon approval by SED;
- the increase will not result in the number of preschool students with disabilities in the class exceeding 12 students; and

- the class size will return to its approved student-to-staff ratio no later than the end of the school year in which the student is enrolled.

SED will review such requests and respond to the program indicating approval or disapproval of the request. Under no circumstances may the number of students enrolled in the class exceed the maximum class size by more than one student without prior approval by the SED and under no circumstances may the class exceed 12 students with disabilities. SED may deny a program approval to temporarily exceed an approved special class size upon a finding that the form does not provide the required information, if the reason for the temporary increase is determined to be unjustified, and/or if the program can not meet the assurances provided. If the request is not approved, the program must inform the CPSE that an alternate placement must be recommended for the student.

In some circumstances, based on student needs, programs may need to use the tuition funds generated by the additional student(s) to temporarily hire additional staff (e.g., paraprofessionals or related service providers) in order for appropriate services to be provided to all enrolled students. No adjustment in the tuition rate is necessary for this to occur.

Questions regarding the procedures to request a temporary increase in class size should be addressed to your Regional Quality Assurance Office at:

Central New York Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(914) 245-0010
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2112, ext. 420

Attachments

**CHILD-SPECIFIC ALLOWANCE BY NOTIFICATION TO TEMPORARILY  
EXCEED AN APPROVED SPECIAL CLASS SIZE  
FOR ONE PRESCHOOL STUDENT WITH A DISABILITY**

**INSTRUCTIONS**

Submit one form per student. All sections of the notification request must be completed.

<b>Approved Preschool Program</b>		
Name:	Address:	Telephone: ( )
Identification of the special class in which the student is enrolled:  Approved student:staff ratio:	<input type="checkbox"/> Special class  <input type="checkbox"/> Special class in an integrated setting	<input type="checkbox"/> full-day (more than 2½ hours per day)  <input type="checkbox"/> half-day (2 ½ hours per day)  <input type="checkbox"/> ten-month  <input type="checkbox"/> two-month
The addition of this student to the class will result in hiring additional staff on a temporary basis. <input type="checkbox"/> yes <input type="checkbox"/> no <u>Specify</u> :		
If the special class is in an integrated setting, the effect such increase has on the ratio of preschool students with disabilities to nondisabled children in the program:		

<b>Student Information</b>		
Name of the student to be admitted:	Student's date of birth:	Date the student entered the program:
Student's school district of residence:	Student's municipality of residence:	
The educational justification for the placement:		

The undersigned assures that:

- the Committee on Preschool Special Education (CPSE) has determined that no other appropriate placement is available in a special class that is not at full capacity;
- the program has the resources to implement the IEP of the additional student, as well as all other students in the program;
- the temporary increase in class size will not result in non-compliance with any applicable requirement for preschool program approval, including fire, safety and day care requirements of the State and municipality;
- the parents of the other preschool students enrolled in the class have been notified of the temporary increase in special class;
- the increase will not result in the number of preschool students with disabilities in the class exceeding 12 students; and
- the class size will return to its approved student-to-staff ratio no later than the end of the school year in which the student is enrolled.

\_\_\_\_\_  
Name of Chief Executive Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For SED Use:      Date Received:

### **INSTRUCTIONS**

Submit one form per student. All sections of the application must be completed.

- Submit the form with an original signature to the appropriate Regional Office indicated below.
- Send one copy of the form to the Quality Assurance Office, Attention: K. Vincent, Room 1623, One Commerce Plaza, Albany, NY 12234
- Send one copy of the form to the CPSE of the student.
- Send one copy of the form to the municipality of the student.

#### **WESTERN REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
2A Richmond Avenue  
Batavia, NY 14020

#### **HUDSON VALLEY REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
1950 Edgewater St.  
Yorktown Heights, NY 10598

#### **CENTRAL REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
State Office Building  
333 East Washington St., Suite 527  
Syracuse, NY 13202

#### **LONG ISLAND REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
The Kellum Educational Center  
887 Kellum Street  
Lindenhurst, NY 11757

#### **EASTERN REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
Room 1623, One Commerce Plaza  
Albany, NY 12234

#### **NEW YORK CITY OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
55 Hanson Place, Room 545  
Brooklyn, NY 11217-1580

## ATTACHMENT 2

### PRIOR APPROVAL REQUEST FOR A CHILD-SPECIFIC ALLOWANCE TO TEMPORARILY EXCEED AN APPROVED SPECIAL CLASS SIZE BY ADDING A SECOND PRESCHOOL STUDENT WITH A DISABILITY

<b>Approved Preschool Program</b>		
Name:	Address:	Telephone: ( )
Identification of the special class in which the student is to be enrolled:  Approved student:staff ratio:	<input type="checkbox"/> Special class  <input type="checkbox"/> Special class in an integrated setting	<input type="checkbox"/> full-day (more than 2½ hours per day)  <input type="checkbox"/> half-day (2 ½ hours per day)  <input type="checkbox"/> ten-month  <input type="checkbox"/> two-month
Student:staff ratio that will result if student is admitted:		
The addition of this student to the class will result in hiring additional staff on a temporary basis. <input type="checkbox"/> yes <input type="checkbox"/> no <u>Specify:</u>		
If the special class is in an integrated setting, the effect such increase has on the ratio of preschool students with disabilities to nondisabled children in the program:		

<b>Student Information</b>		
Name of the student to be admitted:	Student's date of birth:	Date the student entered the program:
Student's school district of residence:	Student's municipality of residence:	
The educational justification for the placement:		

The undersigned assures that:

- the Committee on Preschool Special Education (CPSE) has determined that no other appropriate placement is available in a special class that is not at full capacity;
- the program has the resources to implement the IEP of the additional student, as well as all other students in the program;

- the temporary increase in class size will not result in non-compliance with any applicable requirement for preschool program approval, including fire, safety and day care requirements of the State and municipality;
- the parents of the other preschool students enrolled in the class have been notified of the temporary increase in special class;
- the increase will not result in the number of preschool students with disabilities in the class exceeding 12 students; and
- the class size will return to its approved student-to-staff ratio no later than the end of the school year in which the student is enrolled.

\_\_\_\_\_  
Name of Chief Executive Officer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

<p><u>For SED Use:</u></p> <p>Date Received:</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Not approved - Reason:</p>	<p>Regional Associate:</p> <p>Signature: _____</p> <p>Regional Supervisor:</p> <p>Signature _____</p>
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### INSTRUCTIONS

Submit one form per student for which the program seeks prior approval. All sections of the application must be completed.

- Submit the form with an original signature to the appropriate Regional Office indicated below.
- Send one copy of the form to the Quality Assurance Office, Attention: K. Vincent, Room 1623, One Commerce Plaza, Albany, NY 12234
- Send one copy of the form to the CPSE of the student.
- Send one copy of the form to the municipality of the student.

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NYS Education Department  
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NYS Education Department  
VESID Special Education Quality Assurance  
1950 Edgewater St.  
Yorktown Heights, NY 10598

**CENTRAL REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
State Office Building  
333 East Washington St., Suite 527  
Syracuse, NY 13202

**LONG ISLAND REGIONAL OFFICE**

NYS Education Department  
VESID Special Education Quality Assurance  
The Kellum Educational Center  
887 Kellum Street  
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