



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

December 2005

TO: Individuals Interested in the Education of Students with Disabilities

FROM: Rebecca H. Cort 

SUBJECT: Child-Specific Allowance to Temporarily Exceed an Approved Special Class Size for Preschool Students with Disabilities – **Revised 12/05**

The purpose of this memorandum is to describe **revised procedures** to admit one or two additional preschool students with disabilities in a special class or special class in an integrated setting that is at its maximum approved class size capacity. 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 with a disability** beyond the program's approved student-to-staff ratio for a period not to exceed the remainder of the school year. For special classes in integrated settings, it is expected that the number of students with disabilities does not exceed the number of non-disabled students.

**These procedures relate to special classes and special classes 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 (SED) 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 agencies to apply for approval of any new or expanded special class<sup>1</sup> or special class in an integrated setting programs. The application for new preschool special education programs and the preschool modification application are both available at: <http://www.vesid.nysed.gov/publications/preschool/home.html>.**

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

<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 2000-02.



## **Child-Specific Preschool Notification**

After the start of the school year in September, an approved preschool program may enroll up to one additional preschool student with a disability in each of its special classes or special classes in an integrated setting that are at maximum approved class size capacity through a **notification process** without prior approval by SED. This temporary increase applies when it is determined that the placement is needed for a preschool student with a disability to receive FAPE.

To implement this notification process, **within ten (10) business days of the student's enrollment**, the approved program submits a notification to SED on the attached form. One form per student must be submitted.

## **Prior Approval Request**

In the event that an approved program has already enrolled one preschool student with a disability beyond the approved special class size capacity through the "Child-Specific Preschool Notification" process (see item above) and now requests approval to enroll a second preschool student with a disability in the same class, the approved preschool program must submit a request for **prior child-specific approval** to SED. This applies to requests for child-specific approvals to increase the 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 FAPE.

To implement this process, upon consideration of and prior to enrolling the second preschool student with a disability, the approved program submits a request for child-specific approval to SED, on the attached form. One form per student must be submitted.

SED will review the child-specific approval request and respond to the program indicating approval or disapproval of the request. Under no circumstances may the number of preschool students enrolled in the class exceed the maximum class size by more than one student without prior approval by SED and under no circumstances may the class exceed 12 preschool 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 cannot 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 preschool student.

The attached form is used for either: (1) adding one preschool student with a disability when submitting a child-specific preschool notification or (2) adding a second preschool student with a disability when submitting a prior approval request. It 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 in an integrated setting 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 individualized education program (IEP) of the additional preschool student, as well as all other students in the program;
- the temporary increase in class size will not result in noncompliance with any applicable requirement for preschool and program approval, including fire, safety, facility (e.g., Certificate of Occupancy) 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 class size 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 (i.e., June 30 or August 31) in which the preschool student is enrolled.

In some circumstances, based on preschool student needs, programs may need to use the tuition funds generated by the additional preschool 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 Special Education Quality Assurance Regional Office at:

Central New York Regional Office	(315) 428-3287
Eastern Regional Office	(518) 486-6366
Hudson Valley Regional Office	(518) 473-1185
Long Island Regional Office	(631) 884-8530
New York City Regional Office	(718) 722-4544
Western Regional Office	(585) 344-2002

Attachment

**CHILD-SPECIFIC ALLOWANCE TO TEMPORARILY EXCEED AN APPROVED  
SPECIAL CLASS SIZE FOR PRESCHOOL STUDENTS WITH A DISABILITY**

Use this form for either: (1) adding one preschool student with a disability when submitting a child-specific preschool notification or (2) adding a second preschool student with a disability when submitting a prior approval request. Submit one form per student. **All sections of the form must be completed or it will be returned unprocessed.** Any returned forms must be revised and resubmitted within five days.

For enrolling one additional preschool student with a disability, submit one form per student **within 10 business days of the student's enrollment** and keep a copy for your files. For requests seeking approval to add a second preschool student with a disability, submit one form per student prior to enrolling the student. SED will review the request to enroll a second student and notify the program of its decision.

Legal Name of Preschool Agency: \_\_\_\_\_

BEDS Code \_\_\_\_\_

Program Site Name: \_\_\_\_\_

Program Site Address: \_\_\_\_\_

Contact Person for this Notification: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Date submitted: \_\_\_\_\_

**Complete one box below to indicate the type of request:**

Child-Specific Preschool Notification - enrolling one additional preschool student with a disability

**OR**

Prior Approval Request – seeking approval to add a second preschool student with a disability (the program must have already submitted Attachment 1 to notify SED of enrolling one additional preschool student with a disability to the same class)

### Approved Preschool Program

<p>Classroom number or teacher's name for the classroom in which the additional student is enrolled:</p> <p>_____</p> <p><input type="checkbox"/> full-day (more than 2½ hours)</p> <p style="text-align: center;">OR</p> <p><input type="checkbox"/> half-day (2 ½ hours per day)</p> <p style="padding-left: 20px;"><input type="checkbox"/> a.m. session</p> <p style="padding-left: 20px;"><input type="checkbox"/> p.m. session</p> <p><input type="checkbox"/> ten month</p> <p><input type="checkbox"/> two month</p>	<p><input type="checkbox"/> Special class</p> <p>Approved student/staff ratio consistent with program's SED approval letter, as appropriate (prior to enrolling one additional student):</p> <p>_____ : _____ : _____</p> <p>Student: teacher: supplemental school personnel</p>	<p><input type="checkbox"/> Special class in an integrated setting</p> <p>Approved <b>overall</b> student/staff ratio consistent with program's SED approval letter, as appropriate (prior to enrolling one additional student):</p> <p>_____ : _____ : _____</p> <p>Student: teachers: supplemental school personnel</p> <p>Approved <b>special education student/staff</b> ratio consistent with program's SED approval letter, as appropriate (prior to enrolling one additional student):</p> <p>_____ : _____ : _____</p> <p>Student: teacher: supplemental school personnel</p>
--	--	---

The addition of this preschool student to the class will result in hiring additional staff on a temporary basis.  yes  no Specify:

If the special class is in an integrated setting, describe the effect of the increase of one or two additional preschool student(s) with a disability has on the ratio of preschool students with disabilities to nondisabled children in the class:

### Preschool Student Information

<p>Name of the <u>one</u> additional student enrolled:</p> <p>_____</p> <p>Student's DOB _____</p> <p style="text-align: center;">OR</p> <p>Name of the <u>second</u> student requested to be enrolled:</p> <p>_____</p> <p>Student's DOB _____</p>	<p>Date the <u>one</u> additional student entered the class listed above:</p> <p>_____</p> <p style="text-align: center;">OR</p> <p>Date the <u>second</u> student is proposed to enroll in the class listed above:</p> <p>_____</p>	<p>Student's school district of residence:</p> <p>_____</p> <hr/> <p>Student's municipality of Residence:</p> <p>_____</p>
---	--	--

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 or special class in an integrated setting that is not at full capacity;
- the program has the resources to implement the IEP of the additional preschool 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, facility (Certificate of Occupancy) and day care requirements of the State and municipality;
- the parents of the 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 (i.e., June 30 or August 31) in which the preschool student is enrolled.

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For notification of enrolling one additional preschool student with a disability:

➤ Submit the form with an original signature to: SED/VESID, Special Education Quality Assurance, Attention: Preschool Notifications, 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 4410 municipality representative of the student. The NYC municipality copy should be sent to: Central Based Support Team, New York City Department of Education, 52 Chambers Street, Room 220, New York, NY 10007.

For requests for enrolling a second additional preschool student with a disability:

➤ Submit the form with an original signature to: SED/VESID, Special Education Quality Assurance, Attention: Preschool Notifications, Room 1623, One Commerce Plaza, Albany, NY 12234

<p><u>For SED Use</u></p> <p>Date Received: _____</p> <p>For Requests For Adding A Second Student:</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Not approved – Reason: _____</p>	<p>SED Representative:</p> <p>Signature: _____</p> <p>Date: _____</p>
--	---