

## **State Regulations: 8 NYCRR § 200.6(h)(2),(3) and (6)**

- (h) *Special classes.* The following standards shall be used in the provision of special classes for students with disabilities:
  - (1) A student with a disability shall be placed in a special class for instruction on a daily basis to the extent indicated in the student's individualized education program.
  - (2) In all cases the size and composition of a class shall be based on the similarity of the individual needs of the students according to:
    - (i) levels of academic or educational achievement and learning characteristics;
    - (ii) levels of social development;
    - (iii) levels of physical development; and
    - (iv) the management needs of the students in the classroom.
- (3) A special class shall be composed of students with disabilities with similar individual needs.
- (4) Special class size for students with disabilities. The maximum class size for those students whose special education needs consist primarily of the need for specialized instruction which can best be accomplished in a self-contained setting shall not exceed 15 students, or 12 students in a State-operated or State-supported school, except that:
  - (i) The maximum class size for special classes containing students whose management needs interfere with the instructional process, to the extent that an additional adult is needed within the classroom to assist in the instruction of such students, shall not exceed 12 students, with one or more supplementary school personnel assigned to each class during periods of instruction.
  - (ii) (a) The maximum class size for special classes containing students whose management needs are determined to be highly intensive, and requiring a high degree of individualized attention and intervention, shall not exceed six students, with one or more supplementary school personnel assigned to each class during periods of instruction.

- (b) The maximum class size for special classes containing students whose management needs are determined to be intensive, and requiring a significant degree of individualized attention and intervention, shall not exceed eight students, with one or more supplementary school personnel assigned to each class during periods of instruction.
  - (iii) The maximum class size for those students with severe multiple disabilities, whose programs consist primarily of habilitation and treatment, shall not exceed 12 students. In addition to the teacher, the staff/student ratio shall be one staff person to three students. The additional staff may be teachers, supplementary school personnel and/or related service providers.
- (5) The chronological age range within special classes of students with disabilities who are less than 16 years of age shall not exceed 36 months. The chronological age range within special classes of students with disabilities who are 16 years of age and older is not limited. However, there shall be no chronological age-range limitations for groups of students placed in special classes as described in subparagraph (4)(iii) of this subdivision.
- (6) Upon application and documented educational justification to the commissioner, approval may be granted for variance from the special class sizes and chronological age ranges specified in paragraphs (4) and (5) of this subdivision, respectively, except that, to the extent authorized by the provisions of Education Law, section 4402(2)(d) and (6):
  - (i) Provided that the district is in compliance with the standards specified in paragraph (4) of this subdivision at the start of classes in September of the current school year, a board of education or trustees of a school district, except a city school district in a city with a population of one million or more inhabitants, may for the remainder of the school year exceed the class size standards specified in paragraph (4) of this subdivision by no more than 20 percent for middle/secondary students upon parental notification and written notice to the commissioner on a form prescribed by the commissioner which sufficiently demonstrates educational justification and consistency with continuing an appropriate education for all children affected

- (ii) The board of education of a city school district in a city with a population of 125,000 or more and less than one million inhabitants may establish maximum class sizes in accordance with the provisions of either subparagraph (i) or subparagraph (iii) of this paragraph.
- (iii) The board of education of a city school district with a population of 125,000 or more inhabitants may, except as otherwise provided in clause (a) of this subparagraph, establish maximum class sizes not to exceed one and two tenths times the applicable maximum class size as specified in paragraph (4) of this subdivision rounded up to the nearest whole number for students with disabilities whose chronological age ranges are equivalent to those students in middle and secondary schools, provided that the board of education shall notify parents and shall file with the commissioner a notice stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district in accordance with Education Law section 4402(6).
  - (a) In a city school district having a population of one million or more, special classes that have a maximum class size of fifteen students may be increased by no more than one student.
- (iv) For the purpose of subparagraphs (i)-(iii) of this paragraph, students in middle school shall be defined as students in grades 7 and 8 and

students in secondary schools shall be defined as students in grades 9 through 12.