

Special Education Class Size Limits in Middle and Secondary Schools

New York State Law relating to special class sizes for students with disabilities (Section 4402(2)(d) of Education Law) was amended to extend the provisions of Sections 4402(2)(d) and 4402(6) until **July 1, 2009**.

SPECIAL CLASS SIZE VARIANCE BY NOTIFICATION

The provisions of Education Law Section 4402(2)(d)(1) and (2) were extended until **July 1, 2009**. This law authorizes all schools, except the school district of the City of New York, to exceed, for the remainder of the school year, the special education class size standards established in regulation for special education classes for middle and secondary school students by no more than 20 percent, rounded up to the next whole number, upon written notice to the Commissioner and parental notification. The variance provision applies to BOCES, State-operated and State-supported schools, approved private schools and state departments or agencies operating education programs. School districts proposing to exceed the standards must begin each school year in September in compliance with the special class size regulatory requirements. The requirements for this variance by notification can be found in Section 200.6 (h)(6)(i) and (ii) of the Regulations of the Commissioner of Education.

OVER ENROLLMENT SPECIAL CLASS SIZE ALLOWANCE

Section 4402(6) of the Education Law was also extended until **July 1, 2009** authorizing a city school district with a population of 125,000 or more inhabitants, except the City School District of New York, to establish maximum class sizes not to exceed one and two-tenths times (20 percent) the applicable maximum class size in regulation for middle and secondary schools due to the rate of attendance in such classes. This over enrollment special class size allowance is applicable only to the large city school districts of Buffalo, Rochester, Syracuse and Yonkers. The requirements relating to this over-enrollment special class size variance can be found in Section 200.6 (h)(6)(iii) of the Regulations.

SPECIAL CLASS SIZE LIMITS FOR MIDDLE AND SECONDARY LEVELS

The chart below describes the allowable class size limits.

Regulatory Requirements	Allowable until July 1, 2009
15:1	18:1
12:1:1	15:1:1
6:1:1	8:1:1
8:1:1	10:1:1
12:1:4	15:1:4

According to Section 200.6 (h)(6)(iv) of the Regulations, students in middle school are defined as students in grades 7 and 8 and students in secondary school are defined as students in grades 9 through 12.

ADVICE TO LOCAL LEADERS

- Ask to see the written notifications informing the State Education Department (SED) and the parents of each child in the affected classroom that the school district will be exceeding special class size limits.
- When appropriate, contact your school district's State Education Department Regional Associate regarding all variances. Request that the Regional Associate or school administrator share a copy of the written notification submitted by the school district to the SED with the affected teacher(s).
- Urge special education teachers to refer any student to the district's Committee on Special Education whose educational needs cannot be met as a result of the larger class size due to a variance. Some students need a small instructional group size, and their needs must be considered.
- Contact your NYSUT Labor Relations Specialist with problems and concerns.